



EUROPEAN COMMISSION FOR THE EFFICIENCY OF JUSTICE
(CEPEJ)

SCHEME FOR EVALUATING JUDICIAL SYSTEMS 2013

Country: Estonia**National correspondent**

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1. Demographic and economic data

1. 1. General information

1. 1. 1. Inhabitants and economic information

1) Number of inhabitants (if possible on 1 January 2013)

1 286 479

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 or federal level	6 977 616 000
Regional / federal entity level (total for all regions / federal entities)	NAP

3) Per capita GDP (in €)

13 495

4) Average gross annual salary (in €)

10 644

5) Exchange rate of national currency (non-Euro zone) to € on 1 January 2013

NAP

A1. Please indicate the sources for questions 1 to 4 and give comments concerning the interpretation of the figures supplied if appropriate:

Source for Q 1-4 - Statistics Estonia

1. 1. 2. Budgetary data concerning judicial system

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	29 728 350
1. Annual public budget allocated to (gross) salaries	<input checked="" type="checkbox"/> Yes	22 560 006
2. Annual public budget allocated to computerisation (equipment, investments, maintenance)	<input checked="" type="checkbox"/> Yes	812 487
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	326 259
4. Annual public budget allocated to court buildings (maintenance, operating costs)	<input checked="" type="checkbox"/> Yes	4 970 552
5. Annual public budget allocated to investments in new (court) buildings	<input checked="" type="checkbox"/> Yes	0
6. Annual public budget allocated to training and education	<input checked="" type="checkbox"/> Yes	177 645
7. Other (please specify):	<input checked="" type="checkbox"/> Yes	881 401

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:

Other: Cost of health care, postal service, equipment etc; membership fees of international organizations; pensions of

former Supreme Court justices.

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 are exceptions to the rule to pay court a fee (called state fee in Estonia). The law provides persons or institutions that are exempt from it and acts for which the state fee is not charged. In addition, the state grants procedural assistance for bearing procedural expenses, including state fee. When granting the procedural assistance, it is the court that decides whether a person should be released in part or in full from payment of the state fee.

According to the State Fees Act, a state fee is not charged for the following acts in court cases:

- 1) hearing of an action or appeal concerning wages, reinstatement in employment or service, or amendment of the written legal basis for termination of a contract of employment or for release of a person from service;
- 2) review of an action of claim for maintenance support for a child and an application of payment order in a claim for maintenance support for a child;
- 3) hearing of a claim for compensation for financial damage caused by unlawful conviction, unlawful criminal prosecution, unlawful preventive detention, other unfounded deprivation of liberty or unlawful imposition of punishment for a misdemeanour;
- 4) initial issue of court documents related to a criminal matter;
- 5) conduct of proceedings for placement of a person in a closed institution;
- 6) hearing of a claim for the restitution of property expropriated or abandoned in the course of unlawful repression and concerning compensation for the corresponding damage;
- 7) hearing of a matter concerning certification of years of pensionable service;
- 8) hearing of a protest in an administrative matter;
- 9) hearing an application for procedural assistance and filing an appeal against court ruling in this matter;
- 10) review of an application for exemption from payment of notary fees and filing an appeal against court ruling in this matter;
- 11) hearing of an action or appeal for compensation for damage caused by bodily injury, another health disorder or the death of a provider;
- 12) making transcripts up to five pages of procedural documents in an administrative matter.

According to the Sate Fees Act, the following are exempt from payment of state fees in court cases:

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

8.1) Please briefly present the methodology of calculation of courts fees?

In administrative court proceedings, the state fee is a set sum. In civil proceedings it usually depends on the value of the action, but it can also be a set sum. The state fee is a set sum in such civil cases when it is complicated to determine the value of the action (e.g divorce, non-proprietary claim). The law provides always a set sum for non litigious civil cases.

8.2) Please indicate, if possible, the amount of court fees to commence an action for 3000€ debt recovery?

The state fee to commence an action for 3000 euros debt recovery is 225 euros.

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

7 219 348

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. (Question modified)

If your system enables to be granted legal aid for cases which are non litigious or not brought to court, please specify:

	Amount (in €)
Total annual approved public budget allocated to legal aid (12.1 + 12.2)	3835000
12.1 Annual public budget allocated to legal aid for cases brought to court	NA
12.1.1 in criminal law cases	NA
12.1.2 in other than criminal law cases	NA
12.2 Annual public budget allocated to legal aid for non litigious cases or cases not brought to court (legal consultation, ADR, etc)	NA

Comment :

The legal aid can be granted for cases which are not brought to court but the budget allocated to it cannot be specified.

CN 21/04:

The numbers we are available for the budget of legal aid are following:

1) total approved budget including (the following parts cannot be separated in the total budget):

- the fees of lawyers for the provision legal aid
- costs incurred by the lawyers or the law offices due to the provision of legal aid
- administrative costs incurred by the Bar Association for coordinating and managing the provision of legal aid (e.g costs of personnel, management, etc)
- costs of the IT system

2) according to the executed budget: the fees of lawyers for the provision of legal aid together with the costs incurred by the lawyers or the law offices due to the provision of legal aid

3) according to the executed budget: the fees of lawyers for the provision of legal aid (the difference can be made according the type of case, e.g the fees paid for lawyers who provided legal aid in criminal cases)

4) according to the executed budget: administrative costs incurred by the Bar Association for coordinating and managing the provision of legal aid (e.g costs of personnel, management, etc)

5) according to the executed budget: costs of the IT system

According to the explanatory note, the figures given should include only the sums to be paid to those benefiting from legal aid or their lawyers, excluding administrative costs resulting from such procedures, and figures must be of the budget that has been formally approved but not the one effectively executed.

In 2012 – total approved budget with all administrative costs was 3 835 000 euros, the sums paid to lawyers were 2 857 850 euros.

In 2012, the notable difference between the total approved budget and the sums paid to lawyers comes from the fact that IT costs included in the total approved budget were especially high due to the implementation of an information system.

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 .

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☒ Amount

9 256 322

Comment :

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

	total court budget	court budget	allocation of the budget among the courts	the budget at a national level
Ministry of Justice	Yes	Yes	Yes	Yes

Other ministry	Yes	Yes	No	Yes
Parliament	No	Yes	No	No
Supreme Court	Yes	Yes	Yes	Yes
High Judicial Council	Yes	No	No	No
Courts	Yes	No	Yes	No
Inspection body	No	No	No	Yes
Other	No	No	No	No

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

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

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

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

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

CN 21/04:

In the column "Preparation of the total court budget" the answer is "yes" for the "high judicial council" as the Council for Administration of Courts has to give its opinion on the principles of the formation of annual budgets of courts of I and II instance and on the conformity of the funds allocated to courts of the I and II instance in the budget of the Ministry of Justice with the principles of the formation of annual budgets of courts.

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

mail 9/1/14: - Q 6 (annual public budget allocated to computerization): 812 487 (271 414 for the previous exercise)
The budget allocated to computerization has increased a lot due to the large IT development projects like digital court file project, the new court information system that brought along the need to develop other information systems and registers connected to it, and many others projects.

- Q 6 (annual public budget allocated to justice expenses): 326 259 (841 964 for the previous exercise)
The budget allocated to justice expenses has decreased a lot due to the fact that before the expenses of expertise were included in the budget allocated to the functioning of courts, now they are in the budget of Estonian Forensic Science Institute.

mail cn 9/1/14: Q9: The decrease in income of court taxes can be explained by the fact that in 2012 state fees regarding court procedures have been reduced significantly (the fees were reduced from 1-2% to almost 500%).

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

Source for Q 6 - Supreme Court, Ministry of Justice; for Q 9 - Ministry of Finance; for Q 12 - Bar Association; for Q 13 - Ministry of Justice.

1. 1. 3. Budgetary data concerning the whole justice system

15) The following data would be useful for information

15.1) (Former question 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

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

Court (see question 6)	Yes
Legal aid (see question 12)	Yes
Public prosecution services (see question 13)	Yes
Prison system	Yes
Probation services	Yes
Council of the judiciary	Yes
Constitutional court	Yes
Judicial management body	Yes
State advocacy	NAP
Enforcement services	NAP
Notariat	NAP
Forensic services	Yes
Judicial protection of juveniles	Yes
Functioning of the Ministry of Justice	Yes
Refugees and asylum seekers services	NA
Other	Yes

Comment :

Other - Centre of Registers and Information Systems (agency that provides e-services in the jurisdiction of the Ministry of Justice)

2. Access to justice

2. 1. Legal aid

2. 1. 1. Principles

16) Does legal aid apply to:

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

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

☒ Yes

☐ No

If yes, please specify:

Legal aid does not include coverage of or the exemption from court fees but there is another procedure for it in civil and administrative cases – procedural assistance. A person can request procedural assistance for bearing procedural expenses. As a result of it, court may release a person, in part or in full, from payment of the state fee or enable to pay it in instalments.

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:

Legal aid cannot be granted for fees related to the enforcement of judicial decisions (except representing a person in enforcement proceedings), but procedural assistance can be granted to release a person from all or a part of the expenses related to enforcement proceedings.

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
Yes	Yes

Comment :

Legal aid cannot be granted for other costs than representing, drawing up legal documents and legal counselling, but procedural assistance is granted for other costs, e.g costs related to witnesses, experts, interpreters and translators.

20) Number of cases referred to the court for which legal aid has been granted. If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP.

Please specify in the "comment" box below, when appropriate.

[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 :

The number of cases referred to court for which legal aid has been granted and number of cases for which legal aid has been granted for legal advice only cannot be separated. The total number of cases for which legal aid has been granted in 2012 is 17031.

20.1) Number of cases not brought to court (see 12.2 above) for which legal aid has been granted. If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP.

Number of cases
NA

Comment :

21) In criminal cases, can individuals who do not have sufficient financial means be assisted by a free of charge (or financed by a public budget) lawyer?

Please specify in the "comment" box below.

Accused individuals	Yes
Victims	Yes

Comment :

If a person is a suspect or an accused person in criminal proceedings a lawyer will be appointed to assist him and his financial means are not taken in to consideration. Legal aid (a lawyer financed by the state) is also provided to victims, civil defendants and third parties on their request if they unable to pay for the lawyer due to the financial situation. If a court finds that the essential interests of a victim, civil defendant or third party may be insufficiently protected without an lawyer, the court may decide to grant legal aid to the person on its own initiative.

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 ? If you have such a system but no data available, please indicate NA. If you do not have such a system, please indicate NAP.

Please provide in the "comment" box below any information to explain the figures provided.

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

Comment :

As a rule, a person may receive state legal aid if he or she is unable to pay for competent legal services due to the person's financial situation at the time the person needs legal aid or if the person is able to pay for legal services only partially or in instalments or if the person's financial situation does not allow for meeting basic subsistence needs after paying for legal services.

A proper notice concerning financial situation must be annexed to the application for state legal aid. The law provides rules for assessing the financial situations (which assets, income and expenses must be taken into account) and circumstances on which the legal aid is not granted (e.g when the costs of legal services do not presumably twice exceed the applicant's average monthly income that is calculated on the basis of the average monthly income in the last four months preceding the submission of the application, from which taxes and compulsory insurance payments, amounts earmarked for fulfilment of a maintenance obligation arising from law and also reasonable housing and transport costs have been deducted).

In criminal proceedings, a suspect or accused natural person who has not chosen a criminal defence counsel by agreement and in whose criminal case the participation of a criminal defence counsel is required by law or who applies for the participation of a criminal defence counsel may receive state legal aid regardless of their financial situation.

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:

State legal aid is not granted if

- the applicant cannot have the right for the protection of which he or she is applying for state legal aid;
- the possibility of the applicant to protect his or her rights is clearly unlikely due to the circumstances;
- the possible gains of the applicant upon adjudication of the case are unreasonably small in comparison with the estimated legal aid expenses of the state.

The applications are submitted to the court that decides if there is sufficient ground for legal aid.

25) In other than criminal cases, is the decision to grant or refuse legal aid taken by:

- ☒ the court?
☐ an authority external to the court?
☐ a mixed 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?

The possibility of legal expense insurance is not very well-known yet but it is a growing phenomenon.

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

criminal cases?	Yes
other than criminal cases?	Yes

B.1 You can indicate below:

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

For interpreting the above-mentioned data it is useful to know that in Estonia there are two types of aid/assistance:

- 1) state legal aid for all types of cases that is granted for defence, for representing a person in different proceedings (court proceedings but also in pre-trial proceedings, in re-litigation proceedings, in extrajudicial proceedings, in administrative proceedings, in enforcement proceedings, in judicial review proceedings), for drawing up legal documents and for other legal counselling;
- 2) procedural assistance for civil and administrative cases that allows the court to release a person for example from payment of the state (court) fees or expenses related to mandatory pre-trial proceedings, to conciliation proceedings, to enforcement proceedings or to essential costs of the proceedings (costs related to witnesses, experts, translations, evidence, inspections, delivery, determination of the value of the civil matter etc).

The state legal aid is financed by the state budget but the procedural assistance is not granted on account of the state (with some exceptions). It means that the grant of procedural assistance does not preclude the obligation to bear the procedural expenses on the bases of the court judgment.

The state legal aid is financed by the state budget but the procedural assistance is not granted on account of the state (with some exceptions). It means that the grant of procedural assistance does not preclude the obligation to bear the procedural expenses on the bases of the court judgment.

CN 21/03 :

q. 22

The process of having a free lawyer within the framework of the legal aid system is following: the application for legal

aid is adjudicated by an order of a court conducting the proceeding or by the Prosecutor's Office or by the investigative body when granting of legal aid to a suspect or accused in criminal proceedings. The court, Prosecutor's Office or investigative body must submit the request to the Bar Association. The Bar Association must then promptly appoint an advocate to provide state legal aid. The Bar Association uses an information system to distribute randomly the requests between the lawyers on the list of the legal aid providers (lawyers who have . It means that as a rule, the individual cannot choose freely their lawyer within the framework of the legal aid as it is chosen automatically by the system. However, if a individual has the consent of a lawyer regarding the provision of legal aid in a certain case, it is possible to add the consent to the application for legal aid. In this case, the lawyer from who the individual wishes to receive legal service is appointed in the framework of the legal aid system.

The previous answer could have been given due to the fact that before 2010 it was not the Bar Association that distributed the requests randomly by using the information system but the lawyer who provided legal aid was named in order of the court, prosecution office or investigative body who decided granting of legal aid.

Please indicate the sources for answering questions 20 and 23:

Source for Q 20 - Bar Association, for Q 23 - Ministry of Justice.

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.)?

☒ Yes <https://www.riigiteataja.ee/>; <https://www.riigiteataja.ee/tutvustus.html?m=3>

Internet

address(es):

case-law of

the higher

court/s?

☒ Yes <http://www.nc.ee/?id=11>;
<http://www.nc.ee/?id=823>;
https://www.riigiteataja.ee/kohtuteave/maa_ringkonna_kohtulahendid/main.html.

Internet

address(es):

other

documents

(e.g.

downloadable

forms, online

registration)?

☒ Yes <http://www.kohus.ee/et/kohtumenetlus/dokumentide-vormistamisest>;
https://www.riigiteataja.ee/kohtuteave/kohtuistungija_ja_toimumiskoha_otsing.html;
https://www.riigiteataja.ee/kohtuteave/kohtulahendite_analyysid.html;
<http://www.juristaitab.ee/>;

Internet

address(es):

Comment :

"Other documents" include:

- downloadable forms;

- online search for the date, time and place of the court hearings;

- summaries of the case-law (Supreme Court of Estonia and European Court of Human Rights);

- practical information about legal issues.

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

☐ Yes

☒ No

☐ Yes only in some specific situations

If yes only in some specific situations, 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:

There is no specific information system but this information is published on following webpages:

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

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

[http://www.ensib.ee/ohvriabi-ja-lepituskeskus/.](http://www.ensib.ee/ohvriabi-ja-lepituskeskus/)

Soon a hand-out for victims will be published (on paper and online) describing their rights and obligations, course of the proceeding, services of victim support and giving other useful information.

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 sexual violence/rape	Yes	Yes	No
Victims of terrorism	No	Yes	Yes
Children (witnesses or victims)	Yes	Yes	Yes
Victims of domestic violence	Yes	Yes	Yes
Ethnic minorities	No	No	Yes
Disabled persons	Yes	Yes	No
Juvenile offenders	Yes	Yes	No
Other (e.g. victims of human trafficking, forced marriage, sexual mutilation)	Yes	Yes	Yes

Comment :

We have special information mechanism for victims of human trafficking (including victims of forced marriage).

31.1) Is it possible for minors to be a party to a judicial proceedings :

☒ Yes

☐ No

If yes, please specify which procedure can be concerned (civil, criminal, administrative/normal or accelerated procedure) and at which conditions (can children benefit from legal aid, be represented by a lawyer, etc.) :

A minor can be a suspect and accused in the criminal proceeding. However in this case the participation of a counsel is mandatory. A minor can be a party to the judicial proceeding in civil and administrative cases (e.g to be a plaintiff in the claim for the maintenance support) but has to be represented by legal representative, usually his or her parent.

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

☒ Yes

☐ No

If yes, for which kind of offences

Compensation is paid to victims of crimes of violence. A crime of violence is an act committed against the life or health of a person which is punishable pursuant to criminal procedure and as a result of which the injured person dies, sustains serious damage to his or her health or sustains a health disorder lasting for at least six months.

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 illustrate with available data concerning 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:

An investigative body or a Prosecutor's Office explains to the victim his or her rights, the procedure, term, requirements for filing a civil action and the conditions and procedure for receipt of legal aid ensured by the state.

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 decision by a judge".

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

If necessary, please specify:

A victim has the right to contest the refusal to commence criminal proceeding filing an appeal with a Prosecutor's Office, and the termination of criminal proceedings, filing an appeal with the Public Prosecutor's Office. If the appeal for termination of criminal proceedings is dismissed by an order of the Public Prosecutor's Office, the victim may contest the order in the second instance court.

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):

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:

A survey of the satisfaction of the parties to the proceeding with the court system has been carried out in summer 2013. The survey aimed to measure the satisfaction with various factors (access to information, costs and speed of the proceedings, confidence etc) . Among the informants were:

- persons who had had a recourse to the court
- persons who had attended the court hearing
- persons who had got the judgment
- lawyers and public prosecutors.

The survey can be found online: http://www.riigikohus.ee/vfs/1545/Menetlusosaliste%20uuring_kokkuv6te_2013.pdf.

Another survey about the victims and witnesses in criminal and misdemeanour proceeding was carried out in 2012. The survey can be found online:

<http://www.just.ee/orb.aw/class=file/action=preview/id=56671/Kannatanud+ja+tunnistajad+s%FC%FCteomenetluses.pdf>

39) If possible, please specify:

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

40) Is there a national or local procedure for making complaints about the functioning of the judicial system(for example the handling 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
Court concerned	Yes	Yes
Higher court	Yes	Yes
Ministry of Justice	No	No
High Council of the Judiciary	No	No
Other external bodies (e.g. Ombudsman)	No	No

Comment :

On 1 September 2011, the regulation of the expedition of the proceedings for civil and criminal cases entered into force. The regulation allows the parties to the proceeding to request the court to take a suitable measure for expediting the completion of the court proceeding if the court fails to perform a necessary procedural act without good reason in order to ensure the conducting of the court proceeding within a reasonable period of time. If the court considers the application reasoned, it orders, within 30 days from receipt of the application, the implementation of such a measure which is presumed to enable to complete the court proceeding within a reasonable period of time. The court is not bound by the application upon choosing a measure. Refusal to satisfy the application or implementation of a measure other than that stated in the application for expediting the court proceeding is formalised by a reasoned ruling within 30 days. An appeal may be filed against the ruling made upon reviewing the application for expedition of the court proceeding. The appeal has to be resolved within 30 days. A ruling made by a second instance court concerning an appeal against a ruling of the first instance court is not subject to appeal to the Supreme Court. Upon adjudication of an appeal against a ruling, the court may order the implementation of such a measure which is presumed to enable to complete the court proceeding within a reasonable period of time. According to this regulation it is not possible to award compensation for the violation of the right to a hearing within reasonable time. The same regulation entered into force on 1 January 2012 for administrative cases.

41.1) Please indicate the number of complaints that are upheld and the amount of compensation given to

users in 2012 for complaints about the functioning of the judicial system

There are not official statistics available about the number of requests for the expedition of the proceedings.

3. Organisation of the court system

3. 1. Functioning

3. 1. 1. Courts

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

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

43) Number (legal entities) of first instance specialised courts (or specific judicial order). If data is not available, please indicate NA.

If the situation is not applicable in your country, please indicate NAP.

	Number
Total (must be the same as the data given under question 42.2)	2
Commercial courts (excluded insolvency courts)	NAP
Insolvency courts	NAP
Labour courts	NAP
Family courts	NAP
Rent and tenancies courts	NAP
Enforcement of criminal sanctions courts	NAP
Fight against terrorism, organised crime and corruption	NAP
Internet related disputes	NAP
Administrative courts	2
Insurance and / or social welfare courts	NAP
Military courts	NAP
Other specialised 1st instance courts	NAP

Comment :

Estonia does not have any specialised court of first instance other than administrative court. All these cases are dealt with by ordinary courts of first instance.

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
a debt collection for small claims	16
a dismissal	16
a robbery	16

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

There are several meanings for small claims:

- claims with a value not more than 2000 euros. In this case the court may adjudicate the case by way of simplified proceedings, taking account of only the general principles of civil procedure. All courts of general jurisdictions are competent to solve these cases.
- claims with a value not more than 6400 euros in payment order proceedings. It means that a claim against another party arising from a private law relationship directed at the payment of a certain sum of money can be adjudicated by way of expedited procedure of payment order. In 2008, claims of payment order proceedings could be filed to any general court. Since 2009, these claims can only be filed electronically and are resolved only in one courthouse.

Comment to explain the numbers given: The number of courts competent for small claims is given according to the first definition of small claims (claim of 2000 euros adjudicated in simplified procedure). In Estonia there is 4 courts of general jurisdiction of first instance that have 17 courthouses. As one of these courthouses resolves only the applications of payment order proceedings, all types of cases, including debt collection for small claims, dismissal and robbery are adjudicated in 16 courthouses.

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

Sources for Q 42, 43 and 45 - Ministry of Justice

Comment for Q 42.3 - The number 22 reflects all different geographical locations of all the courts. There are:

- 4 courts of general jurisdiction of first instance that are divided in 17 courthouses that actually have 18 different locations;
- 2 specialised courts of first instance that are divided in 4 courthouses with 4 geographical locations;
- 2 courts of second instance with 2 geographical locations;
- 1 court of third instance (Supreme Court that reviews court judgements by way of cassation proceedings but is also the court of constitutional review).

As some of these courts have the same geographical location (for example the county court, administrative court and circuit court in Tartu), the total number of geographical location is not 25 but 22.

CN 21/04:

q. 42:

The right number should be 24 as we have 17 courthouses of county courts, 4 courthouses of administrative courts, 2 courthouses of circuit courts and 1 courthouse of the Supreme Court. However, as some of the courts are situated in the same house (e.g Tallinn Administrative Court and Tallinn Circuit Court) and taking into account the fact that Pärnu County Court has a courthouse that is divided between two locations, there are 22 actual geographical locations of Estonian courts.

3. 1. 2. Judges, court staff

46) Number of professional judges sitting in courts (if possible on 31 December 2012)

(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	NAP
Total number of professional judges (1 + 2 + 3)	228	83	145	
1. Number of first instance professional judges	167	49	118	
2. Number of second instance (court of appeal) professional judges	42	17	25	
3. Number of supreme court professional judges	19	17	2	

Comment :

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

Total number of court presidents (1 + 2 + 3)	9	4	5	
1. Number of first instance court presidents	6	2	4	

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

48) Number of professional judges sitting in courts on an occasional basis and who are paid as such (if possible on 31 December 2012).

Please provide in the "comment" box below any information to explain the answer under question 48.

Gross figure

NAP

If possible, in full-time equivalent

NAP

Comment :

49) Number of non-professional judges who are not remunerated but who can possibly receive a simple defrayal of costs (if possible on 31 December 2012) (e.g. lay judges and "juges consulaires", but not arbitrators and persons sitting in a jury):

If such non-professional judges exists in your country, please specify it in the "comment" box below:

Gross figure

☐ Yes

802

Comment :

Lay judges can participate in the administration of justice in criminal cases (only matters concerning criminal offences in the first degree) in the courts of first instance. The local government councils present the candidates for lay judges. An Estonian citizen with active legal capacity from 25 to 70 years of age who resides in Estonia, has proficiency of the Estonian language at the level C1 is of suitable moral character for the activity of a lay judge may be appointed as a lay judge. Lay judges are appointed for four years. The regulation of the Minister of Justice determines the number of lay judges for each court. The total number of lay judges determined by the Minister of Justice is 802.

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

☐ Yes

☒ No

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

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

NAP

52) Number of non-judge staff who are working in courts for judges (if possible on 31 December 2012) (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)

☒ Yes (among which women) 95 7 (8 28)

1. Rechtspfleger (or similar bodies) with judicial or quasi-judicial tasks having autonomous competence and whose decisions could be subject to appeal

☒ Yes (among which women) 6 3 (58)

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

☒ Yes (among which women) 22 0 (1 86)

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)

☒ Yes (among which women) 48 9 (4 66)

4. Technical staff

☒ Yes (among which women) 1 3 8 (75)

5. Other non-judge staff ☒ Yes (among which women) 47

Comment :

Other non-judge staff - court interpreters (among which 43 women)

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

Rechtspfleger in Estonia are called assistant judges. An assistant judge is a court official who performs the duties specified by law. Upon performance of his or her duties, an assistant judge is independent but complies with the instructions of a judge to the extent prescribed by law. Assistant judges are competent to make entries in a register and enter rulings concerning the maintenance of a register therein, including rulings which impose a fine. These registers involve land register, marital property register, succession register, commercial register, non-profit associations and foundations register, commercial pledge register and ship register. Assistant judges are also competent in civil cases to assist judges in preparing the case for hearing and in some non-litigious cases when prescribed by law.

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

☒ Yes

☐ No

If yes, please specify:

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

C1 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

Source for Q 46, 47 and 52 - Ministry of Justice and Supreme Court, Q 48 - Ministry of Justice.

3. 1. 3. Public prosecutors and staff

55) Number of public prosecutors (if possible on 31 December 2012) (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	NAP
Total number of prosecutors (1 + 2 + 3)	168	52	116	
1. Number of prosecutors at first instance level				NAP
2. Number of prosecutors at second instance (court of appeal) level				NAP
3. Number of prosecutors at supreme court level				NAP

Comment :

CN 21/03 (a):

In Estonia there is not such a system where prosecutors are divided between different levels or instances. However, this system was used in Estonia 1998-2004.

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 number of heads of prosecution offices (1 + 2 + 3)	7	3	4	

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

Comment :

The number of heads of prosecution offices includes 1 Prosecutor General, 2 Deputies of Prosecutor General, 4 Chief Prosecutors.

CN 21/03 (a):

In Estonia there is not such a system where prosecutors are divided between different levels or instances. However, this system was used in Estonia 1998-2004.

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

☒ Yes

☐ No

☐ NA

Number (full-time equivalent)

7

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

Advisors who prepare the documents and cases.

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

☐ Yes

☒ No

59.1) Do all prosecution offices have specially trained prosecutors in domestic violence and sexual violence etc.?

☒ Yes

60) Number of staff (non-public prosecutors) attached to the public prosecution service (if possible on 31 December 2012) (without the number of non-judge staff, see question 52) (in full-time equivalent and for permanent posts actually filled).

Number ☐ NA 84

Among which women ☐ NA 67

C2 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.

Source for Q-s 55, 56, 60 - Prosecutor's Office

3. 1. 4. Management of the court budget

61) Who is entrusted with responsibilities related to the budget within the court?

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

	budget	allocation	management of the budget	of the use of the budget

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

Comment :

Other - Ministry of Justice is also monitoring the budget of I and II instance courts.

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

3. 1. 5. Use of Technologies in courts

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

Word processing	100% of courts
Electronic data base of caselaw	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 ?

Si "autres moyens de communication électronique", veuillez le préciser dans la boîte de commentaires ci-dessous.

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

Comment :

The everyday-tool of the judges and other court staff, Courts Information System, is connected to different electronic registers and information systems that are used by the state authorities or by the parties of the proceeding (prosecutors, lawyers etc). There is a special online information system for citizens and their representatives, public portal of E-File, which is connected to the court information system and allows electronically submit procedural documents to courts and to observe the progress of the proceeding.

65) The use of videoconferencing in the courts (details on question 63).

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 or victims?	Yes
65.2 Can such court hearing be held in the police station and/or in the prison?	Yes
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?	Yes
65.4 Is videoconferencing used in other than criminal cases?	Yes

Comment :

In criminal proceedings, videoconference is used to organise hearings of the witnesses. It does not have specific regulation with regard to the rights of the defence. As regards telephone conference, in order to protect the suspect and accused person, their consent is necessary.

C3 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

The number of videoconference devices has increased lately. At the moment, in every Estonian courthouse and prison there is at least one videoconference device. CN 21/04: q. 63 :As a rule, all Estonian courts use automatic system for allocating incoming cases. However, there are a few small courthouses that do not use the automatic system for allocating incoming cases due to the fact that there are few judges. In this case, the allocation of cases is not done manually but instead of the system it is the court official who chooses the judge (proposed automatically by the system who corresponds to the criteria) to whom give the incoming case.

3. 2. Monitoring and evaluation

3. 2. 1. Performance and evaluation

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

☒ Yes

☐ No

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

Ministry of Justice

66.1) Does this institution publish statistics on the functioning of each court on the internet:

☒ Yes

☐ No, only in an intranet website

☐ No

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, only in an intranet website

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

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

☒ number of incoming cases?

☒ number of decisions delivered?

☒ number of postponed cases?

☒ length of proceedings (timeframes)?

☒ other?

If other, please specify:

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

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

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

☒ Yes

☐ No

If yes, please specify:

The president (chairman) of the court gives once a year a statistical overview about the performance of the court to the Minister of Justice during the session of the Council for Administration of Courts.

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, Higher Court)
- ☐ President of the court
- ☐ other

If other, please specify:

NAP

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

☒ Yes

☐ No

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

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

☐ legislative power

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

☒ President of the court

☒ other

If other, please specify:

The targets are set individually for each court (of first or second instance) in a form of an agreement ("agreement of the objectives of the development of the court") between the court and the Ministry of Justice. The objectives are set in cooperation with the president (chairman) of the court, director of the court and the Ministry of Justice.

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

The main targets concern the length of the proceeding in different categories of cases.

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

☒ High Council of judiciary

☒ Ministry of Justice

☐ Inspection authority

☐ Supreme Court

☐ External audit body

☐ Other

If other, please specify :

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:

The quality standards for the management of the court were approved by the the Council for Administration of Courts in December 2012 and introduced to the Court en banc in February 2013. In addition to the quality standards concerning the management of the court, the quality standards for the administration of the court were prepared and approved by the the Council for Administration of Courts in December 2013 and are waiting to be introduced to the Court en banc in February 2014.

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:

Not yet, but the new Courts Information System (that will be implemented in 2014) enables to monitor easily the waiting time during court procedures.
mail cn 9/1/14: Q 81 – According to the explanatory notes the “waiting time means time” during which nothing happens in the procedure and “monitoring” is related to the day-to-day activity of the courts. The Court Information System used by the Estonian courts at the moment does not enable the monitoring of waiting time. However, the system measures the overall length of the procedure.

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:

The performance of the public prosecution offices is evaluated twice a year according to the following criteria:

- performance regarding prioritized crimes (prioritized crimes are agreed upon by the Ministry of Justice and the Ministry of Interior) and juvenile offence matters;
- overall number of resolved cases.

The results are taken into account when allocating the fund of the performance-related bonus of the remuneration by the Prosecutor General.

Within this system only the general results of the prosecution offices are evaluated, not the performance of the individual public prosecutors.

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 principles

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 lawyer)?

NA

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

☒ Yes

☐ No

Number of successful challenges (in a year):

NA

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

	Cases declared inadmissible by the Court	Friendly settlements	Judgements establishing a violation	Judgements establishing a non violation
Civil proceedings - Article 6§1 (duration)	0	0	0	0
Civil proceedings - Article 6§1 (non-execution)	0	0	0	0
Criminal proceedings - Article 6§1 (duration)	2	0	0	0

Please indicate the sources:

Ministry of Foreign Affairs

D.1 You can indicate below any useful comments for interpreting the data mentioned in this chapter

4. 2. Timeframes of proceedings

4. 2. 1. General information

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

☒ civil cases?

☒ criminal cases?

☒ administrative cases?

☐ there is no specific procedure

If yes, please specify:

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

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

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

88) Are there simplified procedures for:

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

If yes, please specify:

In civil cases there are different types of simplified procedure. Firstly, in justified cases, claims with a value not more than 2000 euros can be adjudicated by way of simplified proceedings at the discretion of the court, taking account of only the general principles of civil procedure. Secondly, claims against another party arising from a private law relationship directed at the payment of a certain sum of money with a value not more than 6400 euros can be adjudicated way of expedited procedure of payment order. The court adjudicates the claim in written proceeding within ten days of the receipt. If the court satisfies the claim, the court makes a ruling to propose payment. If the debtor files an objection to a proposal for payment on time, the case has to be heard in the proceeding of action, unless the claimant has expressed his or her will that the proceeding has to be terminated in the case of an objection. Thirdly, at the request of the plaintiff, an action for payment of money arising from a bill of exchange or cheque, or an action for compulsory execution arising from a mortgage or maritime mortgage can be heard by way of documentary proceedings if all the facts in proof of the claim can be supported by documents and all necessary documents are annexed to the action or the plaintiff is able to submit them to the court within the term set thereby.

In administrative cases, the court may hear a matter in simplified proceedings if the infringement of the right for which the action seeks protection is a minor one. The infringement of rights is deemed to be minor in particular when the disputed legal value has a money value and that money value does not exceed 200 euro. The court may also hear the matter in simplified proceedings if the parties and third parties expressly consent to this.

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

88.1) For these simplified procedures, may judges deliver an oral judgement with a written order and dispense with a full reasoned judgement?

☒ Yes

☐ No

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:

mail cn 9/1/14: in practice many judges actually try to reach an agreement with the parties concerning the course of the proceeding (dates of hearings etc). It is not regulated at all by the law and the judges are not forced to reach an agreement.

4. 2. 2. Case flow 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 and criminal law cases.

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 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 2012 + incoming cases) – resolved cases" should give the correct number of pending cases on 31 December 2012. Vertical consistency of data means that the sum of the individual case categories 1 to 7 should r

	Pending cases on 1 Jan. '12	Incoming cases	Resolved cases	Pending cases on 31 Dec. '12
Total of other than criminal law cases (1+2+3+4+5+6+7)*	66242	265301	295674	35558
1. Civil (and commercial) litigious cases (if feasible without administrative law cases, see category 6)*	10418	16336	18370	8393
2. General 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)*	13554	44136	46041	11434
3. Non litigious enforcement cases	NA	NA	NA	NA
4. Non litigious land registry cases**	3782	91218	92043	2957
5. Non litigious business registry cases**	37335	110756	136207	11884
6. Administrative law cases	1153	2855	3013	890
7. Other cases (e.g. insolvency registry cases)	NAP	NAP	NAP	NAP

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

- 1) expedited procedure in matters of payment order;
- 2) calling proceedings;
- 3) declaration of a person dead and establishment of time of death of a person;
- 4) establishment of custody over property of an absent person;
- 5) appointment of a guardian for an adult with restricted active legal capacity;
- 6) placing of a person in a closed institution;
- 7) imposition of a restraining order and other similar measures for the protection of personality rights;
- 8) certain family matters (e.g adoption, establishment of paternal filiation);

- 9) application of estate management measures;
- 10) registry matters (different from non litigious land registry and business registry cases marked above);
- 11) appointment of a substitute member of a management board or supervisory board, auditor, auditor for special audit or liquidator of a legal person;
- 12) determination of the amount of compensation payable to the partners or shareholders of a company;
- 13) compulsory dissolution of a legal person;
- 14) initiation of a bankruptcy proceeding, declaration of bankruptcy and matters related to bankruptcy proceedings which cannot be adjudicated in actions;
- 15) apartment ownership and common ownership matters;
- 16) matters of access to public road and tolerating utility works;
- 17) recognition and enforcement of decisions of foreign courts;
- 18) matters in arbitration proceedings to be adjudicated by the court;
- 19) complaints against decisions of bailiffs;
- 20) appeals against decisions of the Industrial Property Committee;
- 21) adjudication of an application for performance of a notarial act;
- 22) deciding on the grant of state legal aid on the basis of an application submitted in extrajudicial proceedings and determination of the state legal aid fee and state legal aid costs in extrajudicial proceedings pursuant to the State Legal Aid Act;
- 23) other civil matters provided by law as matters on petition.

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

NAP

94) 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 2012 + incoming cases) – resolved cases" should give the correct number of pending cases on 31 December 2012. 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. '12	Incoming cases	Resolved cases	Pending cases on 31 Dec. '12
Total of criminal cases (8+9)	2122	16046	15086	2109
8. Severe criminal cases	1390	9129	9183	1083
9. Misdemeanour and / or minor criminal cases	732	6917	5903	1026

95) To differentiate between misdemeanour / minor offenses and serious offenses and ensure the consistency of the responses between different systems, the CEPEJ invites to classify as misdemeanour / minor all offenses for which it is not possible to pronounce a sentence of deprivation of liberty. Conversely, should be classified as severe offenses all offenses punishable by a deprivation of liberty (arrest and detention, imprisonment). If you cannot make such a distinction, please indicate the categories of cases reported in the category "serious offenses" and cases reported in the category "minor offenses":

The category of "severe criminal cases" includes all criminal offence for which the principal punishment is a pecuniary punishment or imprisonment.

The category "misdemeanour and / or minor criminal cases" includes misdemeanours (offences) for which principal punishment is a fine or detention.

CN 21/03 (a):

The definition is given in 2010 is not entirely accurate. However, the numbers given in 2010 and in 2012 for severe criminal cases and misdemeanor and/or minor criminal cases are comparable. Both in 2010 and 2012 the numbers given for the category of "severe criminal cases" includes all criminal offence for which the principal punishment is a pecuniary punishment or imprisonment. The category "misdemeanour and / or minor criminal cases" includes misdemeanours (offences) for which principal punishment is a fine or detention.

The not accurate definition given in 2010 may be caused by the fact that in Estonia the criminal cases can be divided into the criminal offences of first degree (severe offences for which the maximum punishment prescribed is imprisonment for a term of more than five years or life imprisonment) and criminal offences of second degree (offence for which the punishment prescribed is imprisonment for a term of up to five years or a pecuniary punishment). In despite of the definition, the numbers given in 2010 correspond to the definition given in 2012 as explained above.

96) Comments on questions 90 to 95 (specific situation in your country e.g. NA-answers and the calculation of the total number of other than criminal law cases, differences in horizontal consistency etc.)

The differences in the horizontal consistency of the answer of the question nr 91 can be explained by the joinder and severance of claims and of the question nr 94 by the joinder and severance of criminal matters.

The land register (together with the marital property register) and the commercial register (together with the non-

profit associations and foundations register, commercial pledge register and ship register) are in the composition of the county courts (first instance courts). The categories "land registry cases" and "business registry cases" include the registration procedures (entries in the respective registry). The category "business registry cases" includes also supervisory proceedings over undertakings. The judicial disputes arising from the registration procedure are adjudicated in the non-litigious proceedings and are included in the category "general civil (and commercial) non-litigious cases".

CN 21/03 (a), 2/04 :

q. 94

The main reason for horizontal inconsistency is the joinder and severance of criminal matters.

It means, for example, that in a criminal case where there are different accused persons is divided into two criminal cases (reasons can be varied, e.g because one of the accused is declared to be a fugitive), then the data in the information system can be inaccurate (e.g the new, severed case is not in the list of the "resolved cases" but on the other hand is on the list of the "pending cases"). When these inaccuracies appear, we usually do not correct the data of the previous years in the information system. The other reason for the horizontal inconsistency are the development of the information system that can cause a few inaccuracies. When collecting the judicial statistics we do pay attention to the correctness of the number of the incoming and resolved cases because we measure the efficiency with these indicators but we do not pay such attention to the pending cases at the beginning and at the end of the year.

The differences between 2010 and 2012 concerning "misdemeanor and/or minor criminal cases" can be explained by the fact that there was a law amendment regarding the right to contest the enforcement of the misdemeanour decisions. According to the case law, it was possible to contest the enforcement of these decisions in the court. It was the court to resolve these cases and it contributed in the number of cases. After the law amendment these claims have to be brought before the bailiff, not to the court. The bailiffs got the right to terminate these proceedings. The amendment entered into force in March 2011.

The Code of the Enforcement Proceeding provides now that the bailiff has the right to terminate enforcement proceedings in misdemeanour matters (court judgements or claims for the payment of a fine imposed pursuant to a decision of an extra-judicial body) due to expiry of the limitation period if the fine has not been collected within the term provided for the Penal Code (one year from entry into force of a judgment or decision made with regard to a misdemeanour).

97) Second instance courts: total number of cases

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.

	Pending cases on 1 Jan. '12	Incoming cases	Resolved cases	Pending cases on 31 Dec. '12
Total of other than criminal law cases (1+2+3+4+5+6+7)	1 284	4 143	4 048	1 374
1. Civil (and commercial) litigious cases (if feasible without administrative law cases, see category 6)*	533	1 825	1 822	536
2. General 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)*	115	898	899	114
3. Non litigious enforcement cases	NA	NA	NA	NA
4. Non litigious land registry cases	NAP	NAP	NAP	NAP
5. Non litigious business registry cases	NAP	NAP	NAP	NAP
6. Administrative law cases	636	1 420	1 327	724
7. Other cases (e.g. insolvency registry cases)	NAP	NAP	NAP	NAP

98) 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. '12	Incoming cases	Resolved cases	Pending cases on 31 Dec. '12
Total of criminal cases (8+9)	81	926	935	73
8. Severe criminal cases	76	800	811	64
9. Misdemeanour and/or minor criminal cases	5	126	124	7

Comment :

The category of "severe criminal cases" includes all criminal offence for which the principal punishment is a pecuniary punishment or imprisonment.

The category "misdemeanour and / or minor criminal cases" includes misdemeanours (offences) for which principal

punishment is a fine or detention.

99) Highest instance courts: total number of cases

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.

	Pending cases on 1 Jan. '12	Incoming cases	Resolved cases	Pending cases on 31 Dec. '12
Total of other than criminal law cases (1+2+3+4+5+6+7)	58	273	263	68
1. Civil (and commercial) litigious cases (if feasible without administrative law cases, see category 6)	41	183	187	36
2. General 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. Non litigious enforcement cases	NA	NA	NA	NA
4. Non litigious land registry cases**	NAP	NAP	NAP	NAP
5. Non litigious business registry cases	NAP	NAP	NAP	NAP
6. Administrative law cases	17	90	76	32
7. Other cases (e.g. insolvency registry cases)	NAP	NAP	NAP	NAP

99.1) At the level of the Higher court, is there a procedure of manifest inadmissibility?

☒ Yes. If yes, please indicate the number of cases closed by this procedure?

☐ No

Number

Total number
of applications
declared
inadmissible in
civil and
administrative
law cases on
31 December
2012 is 1687.

100) 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. '12	Incoming cases	Resolved cases	Pending cases on 31 Dec. '12
Total of criminal cases (8+9)	23	143	119	47
8. Severe criminal cases	19	123	100	42
9. Misdemeanour and/or minor criminal cases	4	20	19	5

Comment :

Data given for the Supreme Court in the answers to Q-s 99 and 100 is the number of cases that were accepted for proceedings in the Supreme Court.

CN 21/03 (b):

The bigger numbers in criminal cases in 2012 compared to 2010 can simply be explained by the fact that there was a bigger number of cases where the decision of the lower court was appealed and this influenced the number of the cases in the Supreme Court as well. Regarding the number of misdemeanour cases, the number of cases that arrived to the Supreme Court was not much lower compared to 2010 but the number of the cases accepted by the Supreme Court was lower (in 2010 the Supreme Court accepted 35% of the appeals, in 2012 the Supreme Court accepted 21% of the appeals). As the Supreme Court is not required to give reasons in its ruling of the non-acceptance of the appeal, it is not possible to give objective explanation why the Supreme Court accepted more appeals in 2010 than in 2012.

101) Number of litigious divorce cases, employment dismissal cases, insolvency, 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. '12	Incoming cases	Resolved cases	Pending cases on 31 Dec. '12
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	January 2012		December 2012	
Litigious divorce cases	263	652	598	316
Employment dismissal cases	283	331	320	277
Insolvency	289	1152	1099	312
Robbery cases	65	193	212	39
Intentional homicide	4	15	17	2

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.]

	% 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	1,2	0,9	180	56	NA	NA
Employment dismissal cases	19,6	0.2	295	143	NA	NA
Insolvency	13,6	1,6	100	48	NA	NA
Robbery cases	36,3	0	93	61	NA	NA
Intentional homicide	52,9	0	132	58	NA	NA

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

Divorce cases are litigious cases. Upon granting a divorce, the court can settle disputes concerning a child and disputes concerning support or division of joint property. However, divorce can be granted by the vital statistics official or by the notary when the spouses agree about the divorce and there is no dispute at all concerning the circumstances relating to the divorce.

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

The length of the proceeding is calculated for all of the five categories by the same method. The period measured is the time between the acceptance of the case by the court and the final decision made by the court of the respective instance. Then the arithmetic mean is calculated taking into account all proceedings of the category.

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 request 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 the enforcement procedure
- ☒ to discontinue a case without needing a decision by a judge (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:

to participate in the planning of surveillance necessary to combat and detect criminal offences

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

- ☐ Yes
- ☒ No

If yes, please specify:

106.1) Does the public prosecutor also have a role in insolvency 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	30915	1705	8829

107.1) Among cases charged by the public prosecutor before the courts, how many were brought to court under a guilty plea procedure or similar ?

	Before the court case:	During the court case:
If possible, please distinguish the number of guilty plea procedure:	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)	30 915
1. Discontinued by the public prosecutor because the offender could not be identified	16 788
2. Discontinued by the public prosecutor due to the lack of an established offence or a specific legal situation	11 231
3. Discontinued by the public prosecutor for reasons of opportunity	2 896

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**

mail CN: Q 91-97-99: The differences in the horizontal consistency are not due to the statistical mistakes but simply due to the fact during the proceedings, some cases are joined and some are disjoined (joinder and severance of the claims in civil and administrative proceedings and joinder and severance of criminal matters).

mail cn 9/1/14: Q91: total of pending cases on 1/1/2012: 66 242 (36 716 for the previous exercise); total of incoming cases: 265 301 (75 865 for the previous exercise); total of resolved cases: 295 674 (84 136 for the previous exercise) The differences come from the fact that in the previous answers no data was given about business registry cases (NA) and no data was given on the pending cases of the land registry (NA) but we provided these data regarding 2012.

mail 9/1/14: Q101: employment dismissal cases: The decrease in the numbers of pending, incoming and resolved cases are supposedly related to the fact that more cases are effectively resolved by the labour dispute committees and less cases arrive to the courts.

mail cn 9/1/14: Q102: The average length in days in many categories is decreased due to the fact that from 2010 on

Estonia has paid a lot of attention to make the court proceedings more efficient and in 2012 some results can already be seen.

The percentage of pending cases more than 3 years is decreased in almost all cases except litigious divorce categories where the difference is minimal ((0,9 % compared to 0,4 %). The reduction of the number of pending cases for a long time has been one of the objectives of the efficient administration of justice.

The number of decisions subject to appeal is increased in some cases and decreased in other cases. The exact reasons cannot be given.

The overall comment for differences in the percentage of pending cases more than 3 years and the percentage of decisions subject to appeal: the absolute numbers of court cases in Estonia are relatively small therefore even a small change have influence on the percentages.

The differences in the horizontal consistency of the answers of the questions 97, 98 and 99, 101 can be explained by the joinder and severance of claims or criminal matters.

Comment for Q 99 - In 2010, the number of cases regarding the judicial disputes of enforcement proceedings and registration proceeding was given for the categories nr 3, nr 4 and nr 5. In conformity with the explanatory notes these cases are now included in the category nr 2 (civil and commercial non-litigious cases).

Comment for Q 107 - Figures given for "Cases charged by the public prosecutor before the courts" is not comparable with the data in 2010 (In 2010 figures for settlement proceedings were provided instead). 2012 data includes only cases that were terminated by a prosecutor in case of lack of public interest in proceedings and in case of negligible guilt. The number of cases is also included under "Cases discontinued by the public prosecutor". "Cases charged by the public prosecutor before the courts" includes cases where a person has been sent to court in order to impose coercive psychiatric treatment by a court and cases which have been sent to court in order to request termination of criminal proceedings (the latter was not taken into account in previous reports).

Comment for Q 107.1 - The total number of guilty plea procedures was 4980, the numbers before the court case and during the court case cannot be given.

CN 21/03 (a):
q. 108

The reason for the difference of 2010 and 2012 in respect of "Discontinued by the public prosecutor because the offender could not be identified" and "Discontinued by the public prosecutor due to the lack of an established offence or a specific legal situation" is technical. Until 2010 (included) a part of all terminated cases were not included in centrally gathered statistics (cases which were terminated due to the fact that limitation period for the criminal offence had expired). Although those cases were included in Police statistics, for technical reasons they were not included in statistics of the Ministry of Justice.

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

Source for Q 91, 94, 97, 98, 101, 102, 107 and 108 - Ministry of Justice.

Source for Q 99 and 100 - Supreme Court

5. Career of judges and public prosecutors

5. 1. Recruitment and promotion

5. 1. 1. Recruitment 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:

According to the Estonian constitution - for first and second instance courts the judges are nominated by the President of the Republic on the proposal of the Supreme Court en banc (General Assembly); the justices of the Supreme Court are nominated by the Parliament on the proposal of the Chief Justice. The Chief Justice is elected by the Parliament, on the proposal of the President of the Republic.

Judges are appointed to office on the basis of a public competition. The Estonian Minister of Justice announces public competitions for judicial positions in the Official Announcements journal (Ametlikud Teadaanded). The Ministry, as well as the Supreme Court informs public about the vacant post.

Any person who fulfils the eligibility criteria may put him/herself forward as a candidate for judicial office. The judge's examination committee, which is composed mostly of judges (the judge's examination committee is a judges self-government body formed by Estonian Courts Act, it has ten members and it is formed for five years. The judge's examination committee is comprised of two judges of the court of first instance elected by the Court en banc, two appellate court judges, two justices of the Supreme Court, and a representative of the Law Faculty of the University of Tartu, the Ministry of Justice, the Bar Association and the Prosecutor's Office. The examination committee is technically supported by the Supreme Court), assesses the legal knowledge of the applicants and invites them to attend an interview. The judge's examination committee may also consider other information concerning the candidate for judicial office which is relevant for the performance of judicial functions, make inquiries and ask for the opinion of the candidate's supervisor.

Successful candidates who want to become first instance court judges are obliged to undergo initial training called the "preparatory service", which lasts for two years and prepares the candidates for judicial office. The preparatory service has a practical focus and is carried out in the first instance courts (county court and administrative court) and in the appellate court (circuit court), and part of it may be carried out in the Supreme Court, a prosecutor's office or the Bar Association, or in a body of the executive power or a local government authority. During the period of initial training, a supervisor is assigned to every candidate and trainees are involved in the preparation of cases and may perform the duties of a court clerk and law clerk.

The duration of the preparatory service may be reduced, by up to one year, if the person has been employed for at least two years as an advocate or prosecutor, consultant of the court, law clerk or judge. A person who is an experienced and recognized lawyer may be exempt from preparatory service by a reasoned decision of the judge's examination committee if it believes without a doubt that the individual's previous professional experience enables him/her to assume the office of judge without undergoing preparatory service. It should also be noted that a person who has worked as a judge directly before appointment is excused from the judge's exam.

Judge's exam consists of an oral and a written part. The oral part means the assessment of the theoretical knowledge of a candidate for judicial office. The written part is case analysis. The judge's examination will be taken during preparatory service but not earlier than four months before the end of service. If unsuccessful, it is possible to pass the examination again, in which case the preparatory service shall be extended, but for a maximum of six months. If the candidate is successful but not immediately appointed as a judge, it is possible to extend the preparatory service until appointed but not for more than three years. If a person has not been appointed as a judge within five years after passing the examination, he or she will be required to pass the examination again in order to be appointed.

Anyone who has successfully completed the judge's preparatory service and has passed the examination (unless he/she is exempt from it) may be appointed as a judge of the first instance court (county court or administrative court). Candidates for judicial office must pass a security check, which may take three months, before being appointed as a judge. The judge's examination committee forwards its decision and the information obtained as a result of the security check to the Supreme Court en banc and notify the examinee thereof. Judges of first and second instances are appointed by the President of the Republic on the proposal of the Supreme Court en banc. A person who is an experienced and recognized lawyer and who has passed the judge's examination may be appointed directly as a judge of an appellate court (circuit court).

110.1) Are there specific provisions for facilitating gender equality within the framework of the procedure for recruiting judges?

☐ Yes

☒ No

If "yes", please specify:

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

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

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

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

Judge's examination committee: 2 first instance, 2 second instance and 2 third instance courts' judges, one lawyer nominated by the Council of the Tartu University law faculty, representative of Ministry of Justice, nominated by Minister of Justice, attorney-at-law, nominated by the bar association, state prosecutor, nominated by state prosecution office. Final choice between eligible candidates and proposal of nomination to the President of the Republic is made by the General Assembly of the Supreme Court: 19 justices, including the Chief Justice.

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

- ☐ Yes
- ☒ No

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

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

112.1) Are there specific provisions for facilitating gender equality within the framework of the procedure for promoting judges?

- ☐ Yes
- ☒ No

If "yes", please specify:

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

There is not special procedure for "promoting". If a position of judge is vacant, a public competition for a vacant position of judge is announced. The judges will apply on the same basis as other candidates, except - a person who worked as a judge directly before appointment is excused from the judge's exam for position of a judge of an appellate court (circuit court).

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

- ☒ Yes
- ☐ No

If yes, please indicate the frequency

Regular qualitative individual assessment mainly concerns newly appointed judges (up to 3 years of tenure as a judge). Assessment consists of annual reports about the newly appointed judge composed by the president of the court, information about the judge's performance is collected from the second instance court, the Bar Association and State Prosecutor's Office (twice during first 3 years) as well as from Chancellor of Justice and Ministry of Justice (once during first 3 years). All reports are gathered and analyzed by judge's examination committee.

Statistical data, including information about abolished judgments of first instance judges is gathered annually by the Ministry of Justice.

115) Is the status of prosecution services:

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

Please specify:

The Prosecutor's Office is a government agency in the area of government of the Ministry of Justice. The Prosecutor's Office is independent upon performance of its duties assigned by the law, and its actions are based on laws and on legal acts adopted on their basis.

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:

The authority entrusted with the responsibility to recruit public prosecutors is the prosecutors' competition committee that comprises the Prosecutor General, one prosecutor of the Office of the Prosecutor General, two prosecutors from the District Prosecutor's Offices, one judge elected by the Court en banc, a jurist designated by the Dean of the Law Faculty of the University of Tartu and an official of the Ministry of Justice designated by the Minister of Justice.

117.1) Are there specific provisions for facilitating gender equality within the framework of the procedure for recruiting prosecutors?

☐ Yes

☒ No

If "yes", please specify:

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

☒ Yes

☐ No

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

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

Specialised Prosecutors, District Prosecutors and Assistant Prosecutors are appointed to office by Prosecutor General on the basis of the public competition. The proposal is made by the prosecutors' competition committee. The prosecutors' competition committee assesses whether the persons applying for the prosecutor's office meet the requirements for the prosecutor. The detailed requirements are laid down in the regulation of the Minister of Justice.

However, Senior Prosecutors are appointed to office by Prosecutor General on the proposal of Chief Prosecutor and Chief State Prosecutors, State Prosecutors and Chief Prosecutors are appointed to office by the Minister of Justice on the proposal of Prosecutor General.

119.1) Are there specific provisions for facilitating gender equality within the framework of the procedure for promoting prosecutors?

☐ Yes

☒ No

If "yes", please specify:

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)?

If yes, are there exceptions (e.g. dismissal as a disciplinary sanction)? Please specify in the "comment" box below

Yes. If yes, please indicate the compulsory retirement age	68
No	

Comment :

As of 1 July 2012, the Supreme Court en banc may, upon the consent of the Council for Administration of Courts and the judge and on the proposal of the president of the court, in exceptional cases increase the maximum age of the judge of a court of the first instance and of a court of appeal up to two years at a time. The maximum age of the judge may be increased in case of substantial public interest for proper functioning of the court.

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

A judge who is convicted for a criminal offence is removed from office. The judge can be removed from office also by a decision of the Disciplinary Chamber of Judges.

121.1) Can a judge be transferred to another court without his consent:

- ☐ For disciplinary reasons
- ☐ For organisational reasons
- ☒ For other reasons. Please specify modalities and safeguards

Please specify modalities and safeguards

The transferring of a judge to another courthouse to permanent service of the same first instance court in another city takes place only on the consent of the judge himself/herself. A judge can be transferred to another courthouse of the same court within the same settlement without judge's consent. In these cases the judge has the right to file a complaint concerning service-related issues to an administrative court.

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 the probation period (in years)
Yes	3
No	
NAP	

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

If yes, are there exceptions (e.g. dismissal as a disciplinary sanction)? Please specify in the "comment" box below:

Yes. If yes, please indicate the compulsory retirement age	65
No	

Comment :

A prosecutor is released from office if he or she is declared bankrupt or as a result of the disciplinary penalty imposed on him or her for a disciplinary offence.

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

	Duration of the probation period (in years)
Yes	0,3
No	
NAP	

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

NAP

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

NAP

E.1 You can indicate below:

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

Comment for Q 124 - The probation period is only for Assistant Prosecutors. Comment for 123 and 126 - Public prosecutors are appointed to office for an undetermined period with the exception of Prosecutors General and Chief Prosecutors who are appointed for 5 years.

5. 2. Training

5. 2. 1. Training

127) Training of judges

Initial training (e.g. attend a judicial school, traineeship in the court)	Compulsory
General in-service training	Compulsory
In-service training for specialised judicial functions (e.g. judge for economic or administrative issues)	Compulsory
In-service training for management functions of the court (e.g. court president)	Optional
In-service training for the use of computer facilities in courts	Optional

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

General in-service training	Annual / Regular (e.g. every 3 months)
In-service training for specialised judicial functions (e.g. judge for economic or administrative issues)	Annual / Regular (e.g. every 3 months)
In-service training for management functions of the court (e.g. court president)	Occasional (e.g. at times)
In-service training for the use of computer facilities in courts	Occasional (e.g. at times)

129) Training of public prosecutors

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

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

General in-service training	Annual / Regular (e.g. every 3 months)
In-service training for specialised functions (e.g. public prosecutor specialised on organised crime)	Annual / Regular (e.g. every 3 months)
In-service training for management functions of the court (e.g. Head of prosecution office, manager)	No training proposed
In-service training for the use of computer facilities in office	No training proposed

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

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

	Initial training only	Continuous training only	Initial and continuous training	2012 budget of the institution, in €
One institution for judges	NAP	NAP	NAP	NAP
One institution for prosecutors	NAP	NAP	NAP	NAP
One single institution for both judges and prosecutors	NAP	NAP	NAP	NAP

Comment :

One of the servicing departments of the Estonian Supreme Court Judicial Training Department of the Supreme Court is organizing the judges training in Estonia. Therefore, there is no separate judicial training institution in Estonia but the Department acts as an institutional whole. The budget is 314788 euros and it includes all the operational expenses of the department, including budget allocated to (gross) salaries.

CN 19/05:

“The training for judges is organised by the Court Judicial Training Department of the Supreme Court. Therefore, there is no separate training institution in Estonia but the Court Judicial Training Department of the Supreme Court acts as an institutional whole. The budget of this department in 2012 was 314 788 euros (it includes all the operational expenses of the department, including budget allocated to gross salaries).

The training for prosecutors is organised by the Office of the Prosecutor General. There is no special training department as in the Supreme Court. The budget allocated to the training of prosecutors in 2012 was ca 60 000 euro (it does not include the operational expenses or administrative costs). “

131.1) If there is no initial training for judges and/or prosecutors in such institutions, please indicate briefly how these judges and/or prosecutors are recruited and trained ?

In Estonia, the judges' candidates get more on-the-job training (2 years period in different courts, see previous answers to the recruitment question). The Supreme Court with its Judicial Training Department didn't provide in 2012 specific programme for initial training. The trainees were allowed to attend the courses within the continuous training programme. As of 2013, there is targeted training for young judges and judges' candidates about managing the hearings. As of 2014, the courses about judges' ethics, EU legal information and stress management will be provided.

The Office of the Prosecutor General organises the training of public prosecutors (initial and continuous training) together with the universities and practising professionals.

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 public prosecutors and the main reforms that have been implemented over the last two years

Comment for Q 127 - According to the Courts Act, a judge is required to develop knowledge and skills of his or her speciality on a regular basis and to participate in training. The Training Council determines annually a part of the training program, the completion of which is mandatory to judges. As of 2014 the Training Council has determined that trainings of certain judges' skills are compulsory for judges on probation (judges with experience less than three years).

Comment for Q 128 - There were no trainings planned for court managers and for the use of computer facilities in 2012 but there are trainings planned for those issues in 2014.

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 2012	Net annual salary, in €, on 31 December 2012
First instance professional judge at the beginning of his/her career	35321	27376
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)	48077	37924
Public prosecutor at the beginning of his/her career	16620	12972
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)	39733	30526

Comment :

133) Do judges and public prosecutors have additional benefits?

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

134) If other financial benefit, please specify:

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

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

The Courts Act provides that judges may not be employed other than in the office of judge, except for teaching or research. A judge has to notify of his or her employment other than in the office to the chairman of the court. Employment other than in the office of judge may not damage the performance of official duties of a judge or the independence of a judge upon administration of justice.

The Courts' Act refers directly to some functions that the judges cannot perform:

- 1) a member of the Parliament or member of a rural municipality or city council;
- 2) a member of a political party;
- 3) a founder, managing partner, member of the management board or supervisory board of a company, or director of a branch of a foreign company;
- 4) a trustee in bankruptcy, member of a bankruptcy committee or compulsory administrator of immovable;
- 5) an arbitrator chosen by the parties to a dispute.

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

The code of ethics provides that a judge can participate in the activities with the purpose of earning profit, taking into account the good morals and fair business practices. According to the code of ethics, the judge can participate in the social and cultural life pursuant to good morals but has to pay attention that it does not damage his or her professional honour and dignity and is not in contradiction with his or her professional duties.

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

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

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

The public prosecutor may take up an ancillary activity with remuneration if the activity is in accordance with the professional ethics of the public prosecutor. The permission of the appointing authority is needed.

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 has been authorised to initiate disciplinary proceedings against judges (multiple options possible)?

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

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

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

- ☐ Citizens
- ☒ Head of the organisational unit or hierarchical superior public prosecutor
- ☒ Prosecutor General /State public prosecutor
- ☐ Public prosecutorial Council (and Judicial Council)
- ☐ Disciplinary court or body
- ☐ Ombudsman
- ☐ Professional body
- ☒ Executive power
- ☐ Other
- ☐ This is not possible

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

Ministry 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:

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

- ☐ Supreme Court
- ☐ Head of the organisational unit or hierarchical superior public prosecutor
- ☐ Prosecutor General /State public prosecutor
- ☐ Public prosecutorial Council (and Judicial Council)

- ☒ Disciplinary court or body
- ☐ Ombudsman
- ☐ Professional body
- ☒ Executive power
- ☐ Other

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

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

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

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

Comment :

145) Number of sanctions pronounced in 2012 against judges and public prosecutors. If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP.

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

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

Comment :

In 2012, one disciplinary proceeding against judges was initiated but the sanction has not been pronounced yet.

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 public prosecutors and the main reforms that have been implemented over the last two years

Comment for Q 133

The salary of the judges was increased on 1 January 2013. On the same time the special pension was abolished for judges who are appointed to office after 30 June 2013. The judges appointed to office before 1 July 2013 will retain their special pension.

Comment for Q 140 - The right to commence disciplinary proceedings belongs to the Chief Justice of the Supreme Court (against all judges); the Chancellor of Justice/ ombudsman (against all judges); the chairman of an appellate court (against judges of courts of first instance in his territorial jurisdiction); the chairman of a first instance court (against the judges of the same court) and the Supreme Court en banc (against the Chief Justice of the Supreme

Court). Disciplinary proceeding is commenced if elements of a disciplinary offence become evident. The information about the elements of a disciplinary offence often originates in the complaints of the parties to the proceedings.

Comment for Q 142 - The Supreme Court comprises the Disciplinary Chamber which is comprised of five justices of the Supreme Court, five circuit court judges and five judges of courts of the first instance.

Please indicate the sources for answering questions 144 and 145

Source for Q-s 144 and 145 - Supreme Court and Office of the Prosecutor General

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.

846

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

☐ Yes

☒ No

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

NA

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

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

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

In civil proceedings of the first and second instance court and in all administrative court proceedings, a participant in the proceeding may participate in the proceeding in person or through a representative. The representative may be:

- a lawyer
 - a person who has acquired Master's Degree in law (in civil proceedings) or who possesses a higher legal education (in administrative court proceedings)
 - procurists in all court proceedings related to the economic activities of a participant in a proceeding;
 - one plaintiff on the authorisation of the co-plaintiffs or one defendant on the authorisation of the co-defendants;
 - ascendants, descendants and spouses of participants in proceedings;
 - a public servant or employee of a participant in the proceeding if the court considers him or her to have sufficient expertise and experience to represent the participant in the proceeding.
 - other persons whose right to act as a contractual representative is provided by law.
- When the state legal aid is granted for the representation in the civil or administrative court proceeding, the representative is always a lawyer (appointed by the Estonian Bar Association).

In civil proceedings in the Supreme Court, the representation of a sworn lawyer is mandatory. However, it is possible to participate personally or through an lawyer in a non-litigious civil proceedings in the Supreme Court.

In criminal proceedings, an accused person can have a contractual counsel or an appointed counsel. A contractual counsel can be a lawyer or with the permission of the body conducting the proceedings, any other person has acquired Master's Degree in law. An appointed counsel can be only a lawyer. He or she is appointed by the Estonian Bar Association at the request of an investigative body, Prosecutor's Office or court. Victims and civil defendants may participate in the criminal proceeding personally or through a representative. The representative can be contractual (a lawyer or any other person who has acquired Master's Degree in law) or provided by the state by granting legal aid (a lawyer appointed by the Estonian Bar Association).

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:

Please indicate the sources for answering questions 146 and 148:

Source for Q 146 - Bar Association, for Q 148 - Ministry of Justice.

F1 Comments for interpreting the data mentioned in this chapter:

6. 2. Practising the profession

6. 2. 1. Practising the profession

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

☒ Yes

☐ No

155) Are lawyers' fees freely negotiated?

☒ Yes

☐ No

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

☐ Yes laws provide rules

☐ Yes standards of the bar association provide rules

☒ No, neither laws nor bar association standards provide rules

F2 Useful comments for interpreting the data mentioned in this chapter:

Comment for Q 156 - There are rules established by the Bar Association on the lawyers' fees of state legal aid.

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?

Basic quality standards for lawyers are provided by the law. For example, the Bar Association Act provides that in the provision of legal services, a lawyer is required to use all means and methods which are in conformity with law in the interests of a client while preserving his or her professional honour and dignity. Further quality standards - the requirements for the professional ethics of lawyers - are adopted by the Bar Association.

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

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

If "other", please specify:

159) Is it possible to file a complaint about :

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

Please specify:

These matters can be complained about to the court of honour of the Bar Association, which hears matters concerning disciplinary offences committed by lawyers and other matters which are placed within the competence of the court of honour by the law.

160) Which authority is responsible for disciplinary procedures?

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

If other, please specify:

Disciplinary offences committed by lawyers are heard by the court of honour of the Bar Association. Any interested person has recourse to the court of honour or the Board of the Bar Association for the commencement of proceedings of the court of honour. An interested person may file an action with an administrative court against a decision of the court of honour.

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

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

	Number
Total number of disciplinary proceedings initiated (1 + 2 + 3 + 4)	42
1. Breach of professional ethics	NA
2. Professional inadequacy	NA
3. Criminal offence	NA
4. Other	NA

Comment :

162) Sanctions pronounced against lawyers.

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.

	Number
Total number of sanctions (1 + 2 + 3 + 4 + 5)	8
1.Reprimand	6
2. Suspension	1
3. Removal	0
4. Fine	1
5. Other (e.g. disbarment)	

Comment :

Significant difference between the number of disciplinary proceedings initiated in 2012 and the number of sanctions imposed in 2012 can be explained by following: in 24 cases the disciplinary proceeding was terminated because the elements of a disciplinary offence were not found (however, in 7 cases the attention was drawn by the court of honour concerning compliance with requirements for professional ethics), in 1 case the complaint was withdrawn, in 1 case a compromise was concluded and 8 cases the decision was not made in 2012 but in 2013.

F3 You can indicate below any useful comments for interpreting the data mentioned in this chapter:

7. Alternative Dispute Resolution

7. 1. Mediation and other forms of ADR

7. 1. 1. Mediation and other forms of ADR

163) Does the judicial system provide for judicial 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

163.1) In some fields, does the judicial system provide for mandatory mediation procedures?

If there are mandatory mediation procedures, please specify which fields are concerned in the "comment" box below.

☐ Before going to court

☒ Ordered by a judge in the course of a judicial proceeding

If there are mandatory mediation procedures, please specify which fields are concerned:

Mandatory mediation procedure is possible in civil proceeding. The court may order the parties to participate in the mediation proceeding if, in the opinion of the court, it is necessary in the interests of adjudication of the matter, considering the circumstances of the case and the process of the proceedings.

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

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

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

☒ Yes

☐ No

If yes, please specify:

In civil proceedings, the court can order procedural assistance (assistance by the state for covering procedural expenses) for the costs of mediation proceedings on account of the Republic of Estonia when the court orders the parties to participate in the mediation proceeding.

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

NAP

167) Number of judicial mediation procedures.

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

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

NA

1. civil cases

NA

2. family cases

NA

- | | |
|--------------------------------|----|
| 3. administrative cases | NA |
| 4. employment dismissals cases | NA |
| 5. criminal cases | NA |

Comment :

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

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

Mediation other than judicial mediation?	Yes
Arbitration?	Yes
Conciliation?	Yes
Other alternative dispute resolution?	Yes

Comment :

* All the answers given in this chapter regarding the mediation procedure is called "conciliation" according to the translations of Estonian procedural laws. However, the content of Estonian "conciliation" corresponds more to the definition of "judicial mediation" given in the explanatory note.

CN 9/02:

It is very difficult to answer to the questions regarding mediation because of the different interpretations of the legal terms as well as differences in legal systems. In Estonia, a system of conciliation for civil cases was created in 2010. It is officially translated as "conciliation" but it rather corresponds to the "mediation" defined in the explanatory note of CEPEJ. This mediation (conciliation) can be applied only in exceptional cases without the involvement of the court (e.g settlement agreement that concerns a property claim and is reached between the parties as a result of conciliation proceedings conducted by a sworn lawyer or a notary has an enforceable title without the involvement of the court only when it is authenticated by a notary at the request of the parties).

G.1 You can indicate below:

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

In civil proceedings, mediation procedure usually needs the consent of the parties but the court may order the parties to participate in the mediation proceeding if it is necessary in the interests of adjudication of the matter, considering the circumstances of the case and the process of the proceedings. A mediator can be a person whom the parties have entrusted the task of carrying out the mediation or a sworn lawyer, a notary or a mediation body of the government or a local authority. The judge is not a mediator but the role of the judge is very important in the mediation. The judge has to take all possible measures to settle a matter by a compromise or in another manner by agreement of the parties. For such purpose, the court may, among other, present a draft of a compromise contract to the parties or request that the parties appear before the court in person, or propose that the parties settle the dispute out of court or call upon the assistance of a mediator. In the family cases regarding the access to the child, the court directs the parties to the family mediators. In administrative court proceedings, the court may conduct mediation proceedings in which participants of the proceedings, with the assistance of a judge, settle their dispute by way of negotiations. The consent of the parties to the proceeding and the consent of the third parties is needed. For collective labour disputes there are public and local mediators (conciliators) who help the parties to labour disputes reach mutually satisfactory resolutions. The public and local mediators are impartial experts appointed to office by the Government of the Republic. In criminal proceedings a Prosecutor's Office or court may send a suspect or accused and the victim to mediation proceedings. The consent of the suspect or accused and the victim is necessary. The provision of mediation service is ensured by the Social Insurance Board (government authority under the jurisdiction of the Ministry of Social Affairs) and mediation is carried out by victim support workers who have received relevant training. Comment for Q 166 - As explained, the mediation procedure differ significantly in civil, criminal and administrative court proceedings and no profession of accredited or registered mediators exists.

mail cn 9/1/14: Q 164: there is some differences in comparison with the previous exercise, is there a change concerning the organisation of judicial mediation?

"The differences regarding judicial mediation in administrative cases are related to the fact that in 2012 new Code of Administrative Court Procedure entered into force and it regulates the judicial mediation as described in the comment G.1.

Regarding the differences in other categories, the new answers specify the previous answers.

In criminal cases mediators are not private but public authorities (victim support workers of the Social Insurance Board, a government authority under the jurisdiction of the Ministry of Social Affairs). This has been so from 2007.

In civil, commercial, family and employment dismissal cases the mediator can be private (a person whom the parties have entrusted the task of carrying out the mediation, a lawyer, in family cases also a family mediator) but it can also

be public authority because the parties can entrust the task of carrying out the mediation also to a notary or a mediation body of the government or a local authority.

To be clear, I give also the exact wording of the article 2 of the Conciliation Act that governs conciliation (mediation) proceeding in civil matters:

For the purposes of this Act, a conciliator is:

- 1) a natural person whom the parties have entrusted the task of carrying out the activity described in section 1(2) of this Act. A conciliator may act through a legal person, being employed by the legal person or holding a contract of another type of with the legal person;
- 2) a sworn advocate in the case specified in section 17 of this Act;
- 3) a notary in the case specified in section 16 of this Act;
- 4) in the cases provided by law, a conciliation body of the government or a local authority."

mail CN 9/1/14: Q 166: in Estonia there are no accredited or registered mediators. The number could be given only regarding to some categories, for example the number of social support workers or the number of registered family mediators. But in all civil cases (family and employment cases included) the private mediator can be any person whom the parties have entrusted the task of carrying out the mediation according to the Conciliation Act.

Please indicate the source for answering question 166:

NAP

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

49

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

- ☐ judges?
☒ bailiffs practising as private professionals under the authority (control) of public authorities?
☐ bailiff working in a public institution?
☐ other enforcement agents?

Please specify their status and powers:

A bailiff engages in liberal profession and holds office in public law in his or her own name and at own liability. Bailiffs are not proprietors but in the taxation of professional activities of bailiffs, provisions applying to sole proprietors are applied. Bailiffs are appointed to office by the Minister of Justice according to the number of bailiffs' offices and their corresponding territorial jurisdiction determined by the Minister of Justice. The Ministry of Justice also supervises the professional activities of bailiffs.

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:

Source for Q 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:

179) Have quality standards been determined for enforcement agents?

- ☒ Yes
☐ No

If yes, what are the quality criteria used?

The basic quality standards for bailiffs are provided by the law. For example, the Bailiffs Act provides that a bailiff shall be impartial in the performance of professional activities and appear trustworthy to all persons for whose benefit or with regard to whom he or she performs acts. In addition, bailiffs are required to develop professional knowledge on a regular basis and pass the periodical legal in-service training.

Further quality standards are provided in the Code of Conduct for bailiffs that is adopted by the Chamber of Bailiffs and Trustees in Bankruptcy. The standards laid down in the Code of Conduct are for example independence and impartiality, confidentiality, honor and dignity, quality of professional competency, prohibition of advertisement, obligation of giving explanations, abiding by the laws, requirements for the professional ethics, good morals and conscience.

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:

Parliament by passing the law.

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

- ☐ Yes
☒ No

if yes, please specify

182) Is there a system for monitoring how the enforcement procedure is conducted by the enforcement agent?

- ☐ 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 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 length of enforcement procedures:

- ☒ for civil cases?
☒ for administrative cases?

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

NA

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

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

Total number of initiated disciplinary proceedings (1+2+3+4)	<input checked="" type="checkbox"/> number:	3
1. for breach of professional ethics	<input checked="" type="checkbox"/> number:	2
2. for professional inadequacy	<input checked="" type="checkbox"/> number:	1
3. for criminal offence	<input checked="" type="checkbox"/> number:	0
4. Other	<input checked="" type="checkbox"/> number:	0

Comment :

188) Number of sanctions pronounced against enforcement agents.

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

Total number of sanctions (1+2+3+4+5)	<input checked="" type="checkbox"/> number:	2
1. Reprimand	<input checked="" type="checkbox"/> number:	1
2. Suspension	<input checked="" type="checkbox"/> number:	0
3. Dismissal	<input checked="" type="checkbox"/> number:	0
4. Fine	<input checked="" type="checkbox"/> number:	1
5. Other	<input checked="" type="checkbox"/> number:	0

Comment :

H.1 You can indicate below:

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

mail cn 9/1/14: Q 185: The bailiffs use an information system as a day-to-day tool where the beginning and the end of the enforcement proceeding can be established and thus the length of the proceeding can be measured. However, this system is technically not very well developed and does not enable to get statistical overviews about the enforcement proceedings. A new system is in the phase of development that should facilitate collecting statistical data.

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

Source for Q 187 and 188 - Ministry of Justice

8. 2. Execution of decisions in criminal matters

8. 2. 1. Functioning

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

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

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

Judge - A court judgment or ruling which has entered into force is enforced by the court.

The court sends the judgement or ruling to necessary institutions.

Prison - if the punishment is imprisonment.

Probation Services - if the punishment is probation, community service or electronic surveillance

Other - The State Shared Service Centre has the monitoring function when the pecuniary punishment has been imposed.

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%
- ☐ cannot be estimated

Please indicate the source for answering this question:

The recovery rate is about 78%. Source - State Shared Service Centre

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**

The statistics has been collected on recovery rates of the fines decided by the police together with the courts but the fines decided by criminal courts cannot be separated.

9. Notaries

9. 1. Statute

9. 1. 1. Functionning

192) Do you have notaries in your country? If no please skip 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)?		NAP
private professionals under the authority (control) of public authorities?	<input type="checkbox"/> number	95
public agents?		NAP
other?		NAP

Comment :

A notary is an independent holder of office in public law, to whom the state has delegated the duty of ensuring the security of legal relationships and prevention of legal disputes. A notary executes his or her office as a liberal profession in his or her own name and at his or her own responsibility. Notaries are not proprietors but for accounting and taxation purposes, provisions applying to sole proprietors are applied. Notaries are appointed to office by the Minister of Justice according to the number of notaries and their corresponding territorial jurisdiction determined by the Regulation of the Minister of Justice. The Ministry of Justice supervises the professional activities of notaries.

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

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

If "other", please specify:

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

9. 1. 2. Supervision

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

- ☒ Yes
☐ No

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

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

If other, please specify:

I.1 You can indicate below:

any useful comments for interpreting the data mentioned in this chapter

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

Please indicate the sources for answering question 193:

Source for Q 193 - Chamber of Notaries

10. Court interpreters

10. 1. Court interpreters

10. 1. 1. Functioning

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 profession of court interpreters is not regulated in Estonia. The courts are responsible for recruitment of the interpreters . In 2012, there were 47 interpreters working in the courts of first and second instance. However, the profession of sworn translators is regulated. Sworn translators are competent to make certified translations but they often offer interpreting services (including for the courts) as an ancillary activity.

Please indicate the sources for answering question 199:

NAP

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)

138

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:

The exercise of the function of judicial experts is regulated by the Forensic Examination Act and by the procedural laws. The time-limit to provide expert assessment is not regulated by law. The expert assessment is given as soon as possible, taking into account the incoming requests. The exceptions are made in the normal waiting list for prioritized cases where the expert assessment is needed urgently.

207) Are the courts responsible for selecting judicial experts?

If no, please specify in the "comments" 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 :

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

According to the Forensic Examination Act, expert is a person who uses non-legal expertise in forensic examination, and legal expertise in the cases provided by law. Experts may be forensic (judicial) experts, officially certified experts and other persons who have the knowledge and experience necessary to provide an opinion. Forensic (judicial) expert is a person employed by Estonian Forensic Science Institute (state agency that is administered by Ministry of Justice) whose duty is to conduct examinations. Officially certified expert is a person who is entered in the list of officially certified experts. The list is kept by Estonian Forensic Science Institute. Upon ordering expert assessment, the court shall prefer forensic (judicial) experts. If the required class of expert assessment is not on the list of the expert assessments conducted by Estonian Forensic Science Institute, the court shall choose an expert from the list of officially certified expert but other persons with the relevant knowledge may also be appointed as experts. The number of accredited or registered judicial experts given for question nr 205 includes the number of forensic (judicial) experts

and officially certified experts.

Please indicate the sources for answering question 205:

Source for Q 205 - Estonian Forensic Science Institute

12. Foreseen reforms

12. 1. Foreseen reforms

12. 1. 1. Foreseen 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 at this stage. 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)**
- 3.1 Access to justice and legal aid**
- 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**
- 6.1 Personal status**
- 7. Enforcement of court decisions**
- 8. Mediation and other ADR**
- 9. Fight against crim**

3. Estonia has lately introduced quality system of the courts.

For this purpose, a working group was formed in 2012 consisting of judges, experts of audit and other experts. The objective of the working group was to elaborate a 3-phase quality standards – quality standards for the management of the court, quality standards for the administration of the court and quality standards of the court proceeding. In addition, a system to grant the functioning of the quality standards (external evaluation system) had to be created. The general aim of the quality standards was formulated as follows: ensure that the judge can make the best quality judgment within a reasonable period of time, granting the dignity of the court staff and the satisfaction of the parties to the proceeding.

The quality standards for the management of the court have been approved by the Council for the Judiciary and introduced to the Court en banc. The quality standards for the management of the court describe activities related to the chairman of the court that contribute to the good administration of justice.

The quality standards for the administration of the court have been approved by the Council for the Judiciary but are waiting to be introduced to the Court en banc in February 2014. The quality standards for the administration of the courts concentrate on the different roles of the parties involved in the administration of the courts – directors of the court (responsible for the performance of quotidian administrative tasks), Ministry of Justice (responsible for the administration and development of the first and second instance courts) and the Council for the Judiciary (guiding and advisory role). The quality standards for the administration of the court are guided by the principle that the parties involved in the administration of the courts do not interfere with the administration of justice.

The working group has also finished the preparation of the principles of the external evaluation system and the motions to amend of the Courts Act in order to enable the implementation of the external evaluation system.

3. Estonia is making preparations to implement new Court Information System (KIS2) on 1 July 2014.

The current Court Information System (KIS1) has been an information system for the first and second instance courts. Supreme Court has its own information system. Due to the use of two systems there have been problems of communication. The current Court Information System is also outdated and does not meet the users' needs. The new system connects two systems and all Estonian courts are going to use the same Court Information System (KIS2).

The main aim is to create a user-friendly system which will simplify the work of courts and enable the better administration of justice. The new system will probably reduce the workload of courts, the amount of time spent on the implementation of procedural acts and thus help to reduce the length of proceedings. In addition to the functionalities of the current system, the new system will have several functionalities, for example the possibility of obtaining a quick review of the information required for the judge's work, including the review of judicial practice by different court instances. The new system can generate the forms for court documents where the system adds automatically all information available (contact details, case number, date etc). It also has a new automated court case dividing system that takes into consideration case type, capacity of case, its influence on judges' workload and other factors. Based on that information the system will automatically divide the incoming cases between the judges.

The objectives of KIS2 as the program are:

- 1) to decrease the load of technical work which will assure shorter proceeding times ;
- 2) to optimize courts work processes which will allow the proceeding to become faster and raise the quality of the proceedings due to the fact that there are less human errors;
- 3) to optimize the administrative costs of courts.

KIS2 is also interfaced with other systems via E-File (central database) like Population Register, Business Register,

electronic Land Register, Criminal Case Management Register (Information system for prosecutors), Punishment Register, Public Portal of E-File etc.

In addition, the Ministry of will start a new IT-project in 2014 – The Digital Court File. The Digital Court File will replace old paper file and hopefully with that project Estonian courts can go over to paper-free proceeding.

5. 1 January 2013 the amendment to the Courts Act entered into force establishing a new position among the court staff – judicial clerk (kohtujurist). The judicial clerks make part of the non-judge staff along with the assistant judges (working mainly in the registration department and land registry department) and consultants. The position of judicial clerks was created to raise the qualification level of the non-judge staff working in the courts and thus improve the quality of the performance of the courts, make the court proceeding more efficient and ensure the reasonable length of the proceedings. Judicial clerks have to have acquired at least an officially certified Master's degree or a corresponding qualification in the field of law. Judicial clerks assist judges in the administration of justice. They participate in the preparation of the court cases for the proceedings and in the court proceedings to the extent prescribed by court procedure law independently or under the supervision of the judge.

The first judicial clerks were appointed to office at the beginning of 2013 within the pilot project of Harju County Court (the biggest first instance court that has territorial jurisdiction in Tallinn and around it). The number of judicial clerks is increased gradually according to the availability of the budgetary funds. The sufficient number of judicial clerks for the whole court systems should be reached by 2018.