



EUROPEAN COMMISSION FOR THE EFFICIENCY OF JUSTICE
(CEPEJ)

SCHEME FOR EVALUATING JUDICIAL SYSTEMS 2013

Country: Luxembourg

National correspondent

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1. Demographic and economic data

1. 1. General information

1. 1. 1. Inhabitants and economic information

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

525 000

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	19 082 100 000
Regional / federal entity level (total for all regions / federal entities)	NAP

3) Per capita GDP (in €)

83 600

4) Average gross annual salary (in €)

42 500

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

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

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	73 736 940
1. Annual public budget allocated to (gross) salaries	<input checked="" type="checkbox"/> Yes	58 857 450
2. Annual public budget allocated to computerisation (equipment, investments, maintenance)	<input checked="" type="checkbox"/> Yes	1 000 000
3. Annual public budget allocated to justice expenses (expertise, interpretation, etc), without legal aid. NB: this does not concern the taxes and fees to be paid by the parties.	<input checked="" type="checkbox"/> Yes	3 920 000
4. Annual public budget allocated to court buildings (maintenance, operating costs)	<input checked="" type="checkbox"/> Yes	791 000
5. Annual public budget allocated to investments in new (court) buildings		NAP
6. Annual public budget allocated to training and education	<input checked="" type="checkbox"/> Yes	100 000
7. Other (please specify):	<input checked="" type="checkbox"/> Yes	9 068 490

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:

Note Q 6: mail CN 16/5/14: Concernant l'informatisation, les « justice expenses », les immeubles, les nouveaux immeubles, les chiffres dans le budget n'ont pas beaucoup de signification car ces postes sont essentiellement payés par des administrations autres que le Ministère de la Justice ou par d'autres articles budgétaires. Ainsi la construction d'un nouveau tribunal n'apparaîtra pas du tout dans le budget du Ministère de la Justice. D'un autre côté le

programme pour établir un nouveau système de collecte de données statistiques a été financé par un autre article budgétaire que celui libellé « Informatisation ».

8) Are litigants in general required to pay a court tax or fee to start a proceeding at a court of general jurisdiction:

- for criminal cases?
 for other than criminal cases?

If yes, are there exceptions to the rule to pay court a tax or fee? Please provide comments on those exceptions:

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

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

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

Voir sub. 8.1

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

NA

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)	3500000
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 :

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

mail CN 16/5/14: On ne peut faire la distinction entre les cas qui ont finalement été portés devant un tribunal et les autres.

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 .

NA

Comment :

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

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	No	Yes	No
Other ministry	No	No	No	No

Parliament	No	Yes	No	No
Supreme Court	No	No	No	No
High Judicial Council	NAP	NAP	NAP	NAP
Courts	No	No	No	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):

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

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

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	NAP
Constitutional court	Yes
Judicial management body	NAP
State advocacy	Yes
Enforcement services	Yes
Notariat	No
Forensic services	Yes
Judicial protection of juveniles	Yes
Functioning of the Ministry of Justice	Yes
Refugees and asylum seekers services	No
Other	No

Comment :

Total	NA
in criminal cases	NA
other than criminal cases	NA

Comment :

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 :

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 :

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

- Yes
 No

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

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

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

25) 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?

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

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

criminal cases?	Yes
other than criminal cases?	Yes

B.1 You can indicate below:

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

Please indicate the sources for answering questions 20 and 23:

2. 2. Users of the courts and victims

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

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

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

legal texts (e.g. codes, laws, regulations, etc.)? Internet address(es):	<input checked="" type="checkbox"/> Yes	www.legilux.public.lu
case-law of the higher court/s? Internet address(es):	<input checked="" type="checkbox"/> Yes	www.justice.public.lu
other documents (e.g. downloadable forms, online registration)? Internet address(es):	<input checked="" type="checkbox"/> Yes	www.justice.public.lu www.guichet.lu www.mj.public.lu

Comment :

Whereas the official internet site of the Justice authorities (Courts and prosecution offices) provides more justice-relevant information, the "Guichet" is a general site open both to professional and private users which offers broad access to all necessary administrative steps. The mj.public.lu is the Justice ministry site, giving i.a. general information on the rights of the public.

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:

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

Comment :

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.) :

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

- Yes
 No

If yes, for which kind of offences

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

33) If yes, does this compensation consist in:

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

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

- Yes
 No

If yes, please 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:

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

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

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

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

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):

There is no national system for compensating for excessive length of proceedings.

However compensation is paid in case of condemnation by the CourHR. Non-execution of court decisions rendered in civil matters leis with the parties that obtains a judgment in their favour. Compensation for wrongful arrest can be paid out by application of the law of December 30th, 1981, on compensation in case of an inoperative preventive detention. Wrongful condemnation can, under specific circumstances, i.e. in case of a malfunctioning of a state service, be compensated through the law of September 1st, 1988 on the civil liability of the State and public, collectivities, which covers also the malfunctioning of the judiciary (courts and prosecution offices).

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

- (Satisfaction) surveys aimed at judges
 (Satisfaction) surveys aimed at court staff
 (Satisfaction) surveys aimed at public prosecutors
 (Satisfaction) surveys aimed at lawyers
 (Satisfaction) surveys aimed at the parties
 (Satisfaction) surveys aimed at other court users (e.g. jurors, witnesses, experts, interpreters, representatives of governmental agencies)
 (Satisfaction) surveys aimed at victims

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

39) If possible, please specify:

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

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

Comment :

Complaints against judges and/or prosecutors or their way to handle cases can be brought to the attention of the Public Prosecutor General, as well as of the President of the Superior Court of Justice, which can then initiate disciplinary measures as set out in the law of March 7th, 1980 on the judiciary organization of Luxembourg. This legal situation will probably change with the planned instauration of a High Council of Judiciary, as this council will probably have competence in disciplinary matters, as the project stands now.

Nor the Ministry of Justice, nor the Ombudsman have any competence to deal with complaints about the judicial functioning of the courts.

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

No complaints have been filed and/or upheld and/or finalized in 2012.

3. Organisation of the court system

3. 1. Functioning

3. 1. 1. Courts

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

	Total number
42.1 First instance courts of general jurisdiction (legal entities)	5
42.2 First instance specialised Courts (legal entities)	3
42.3 All the courts (geographic locations) (this includes 1st instance courts of general jurisdiction, first instance specialised courts, all second instance courts and courts of appeal and all supreme courts)	8

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)	13
Commercial courts (excluded insolvency courts)	2
Insolvency courts	NAP
Labour courts	3
Family courts	2
Rent and tenancies courts	3
Enforcement of criminal sanctions courts	NAP
Fight against terrorism, organised crime and corruption	NAP
Internet related disputes	NAP
Administrative courts	1
Insurance and / or social welfare courts	1
Military courts	1
Other specialised 1st instance courts	NAP

Comment :

Commercial and Family courts are organized at the district court level, whereas Labour courts and rent/tenancies courts are set at the justice of the peace level. This explains why the total sub 43, 1st line, is superior to the total in question 42.

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	3
a dismissal	3
a robbery	2

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

Are considered as "small claims" any claim of a value up to 10.000,00 €.

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

law on the judicial organization of March 7th, 1980; civil procedure court, criminal procedure court; law on the organization of the administratiev courtsof November 7th, 1996; military procedure code; social security code

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)	212	NA	NA	
1. Number of first instance professional judges	186	NA	NA	
2. Number of second instance (court of appeal) professional judges	NA	NA	NA	
3. Number of supreme court professional judges	41	NA	NA	

Comment :

mail CN 9/1/14: Q 46: le nombre total de juges professionnels indiqué (212) ne correspond pas à la somme du nombre de juges devant chaque instance (227), pourriez-vous vérifier ces données ? Réponse: 212 est le nombre correct, certains juges siègent en double qualité par exemple les juges de la Cour constitutionnelle qui est composée de magistrats de la Cour de cassation et de la Cour administrative.

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

	Total	Males	Females	NAP
Total number of court presidents (1 + 2 + 3)	8	5	3	
1. Number of first instance court presidents	6	3	3	
2. Number of second instance (court of appeal) court presidents	NAP	NAP	NAP	NAP
3. Number of supreme court presidents	2	2	0	

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 NA

Comment :

Lay judges can be found only at the first instance labor courts (tribunaux du travail). These courts are composed of three judges, one professional judge as president, one representative from the labor unions and one representative from the employers' union.

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) 355

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

2. Non-judge staff whose task is to assist the judges (case file preparation, assistance during the hearing, court recording, helping to draft the decisions) such as registrars Yes (among which women) 191

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) 117

4. Technical staff Yes (among which women) 7

5. Other non-judge staff Yes (among which women) 40

Comment :

With the exception of points 1 (NAP), and 2, all the other persons are executing their work in the interest of the whole judiciary, i.e. both for judges and prosecutors, as do therefore answer directly to the Public Prosecutor General as administrative head of the judiciary administration.

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

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

- Yes
 No

If yes, please specify:

Some IT developments have been out-contracted by way of procurement contracts. Id. for on site security. Training of staff is conducted together with the French EHM and the ERA. The CTIE (national IOT Center) has permanently delegated 2 (now 3) IT-engineers and 2 medium-level technical staff to the Judiciary services (courts and prosecution).

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

law on judiciary organisation of March 7th, 1980, figures given by the HR department

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)	47	25	22	NAP
1. Number of prosecutors at first instance level	34	19	15	NAP
2. Number of prosecutors at second instance (court of appeal) level	NAP	NAP	NAP	NAP
3. Number of prosecutors at supreme court level	13	6	7	

Comment :

56) Number of heads of prosecution offices. If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP.

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

	Total	Males	Females	NAP
Total number of heads of prosecution offices (1 + 2 + 3)	3	3	0	
1. Number of heads of prosecution offices at first instance level	2	2	0	
2. Number of heads of prosecution offices at second instance (court of appeal) level	NAP	NAP	NAP	
3. Number of heads of prosecution offices at supreme court level	1	1	0	

Comment :

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:

In administrative cases heard by the administrative courts, the interests of the state may be represented by a "délégué du Gouvernement" (delegate of the Government) who writes memoranda on behalf of the State to the court and will also plead the case during oral hearings.

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 109
 Among which women NA 46

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

mail CN 2/5/14: - Question 60 : pourriez-vous expliquer l'augmentation considérable de ces données entre 2010 et 2012 ? L'ancien comptage me semble correspondre aux personnes directement rattachées au MP, sans les services annexes qui en font partie.

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

law on the judicial organisation of March 7th, 1980, information collected by the HR management

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.

	Preparation of the budget	Arbitration and allocation	Day to day management of the budget	Evaluation and control of the use of the budget
Management Board	No	No	No	No
Court President	Yes	No	No	No
Court administrative director	No	No	No	No
Head of the court clerk office	No	No	No	No
Other	Yes	No	Yes	Yes

Comment :

Please refer to the comments to question 61 in the 2011 evaluation.

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	0 % of courts
Electronic registers	0 % of courts
Electronic processing of small claims	0 % of courts
Electronic processing of undisputed debt recovery	0 % of courts
Electronic submission of claims	0 % of courts
Videoconferencing	100% of courts
Other electronic communication facilities	100% of courts

Comment :

It should be noted that, although electronic processing of small claims as well as of undisputed debts is not possible, electronic access to a certain number of set formulas is possible through the Justice and the Guichet Internet sites.

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?	No
65.4 Is videoconferencing used in other than criminal cases?	Yes

Comment :

Although both the technical and legal possibility of videoconferencing exist, the practical impact is limited due to the short distances in Luxembourg. Frequent use of the video facilities is, however, made in civil as well as criminal MLA cases.

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

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:

M. le Procureur général d'Etat
 Cité Judiciaire, bâtiment CR
 L - 2080 Luxembourg

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:

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:

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:

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:

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

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

- High Council of judiciary
 Ministry of Justice
 Inspection authority
 Supreme Court
 External audit body
 Other

If other, please specify :

see also the answer to question 76 in the 2011 evaluation questionnaire

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

- Yes
 No

If yes, please specify:

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

- Yes
 No

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

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

81) Do you monitor waiting time during court procedures?

- Yes
 No

If yes, please specify:

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

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

- Yes
 No

Please specify the frequency of the evaluation:

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

- Yes
 No

If yes, please give further details:

it should be noted that the state prosecutor at the district level as well as the General Public prosecutor at the national level are obliged by law to oversee the prosecutors' work and to start disciplinary measures if they are found wanting in their work.

Furthermore, the CMS set up to administer criminal files allows for an individual follow-up of criminal files.

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)?

15

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

Please indicate the sources:

Ministry of Justice / HUDOC data base

D.1 You can indicate below any useful comments for interpreting the data mentioned in this chapter ad 84) medium value of the two district courts (Luxembourg and Diekirch)

4. 2. Timeframes of proceedings

4. 2. 1. General information

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

- civil cases?
 criminal cases?
 administrative cases?
 there is no specific procedure

If yes, please specify:

In civil cases: "référé urgence"

In administrative cases: "référé administratif".

The two procedures are similar, i.e. that the president of the relevant jurisdiction, or his/her delegate(s) can take provisional measures pending a main trial in order to safeguard the litigants rights, avoid disposal of evidence, avoid imminent damage to an object, etc..

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:

see answer to question 88 in the 2011 evaluation

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:

see answer to question 89 in the 2012 evaluation

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)*	NA	NA	NA	NA
1. Civil (and commercial) litigious cases (if feasible without administrative law cases, see category 6)*	5072	4718	8155	1635
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	937	937	0
3. Non litigious enforcement cases	NA	NA	NA	NA
4. Non litigious land registry cases**	NA	NA	NA	NA
5. Non litigious business registry cases**	NA	NA	NA	NA
6. Administrative law cases	NA	1615	1127	NA
7. Other cases (e.g. insolvency registry cases)	NA	NA	NA	NA

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

As for the reply given in the evaluation 2011 (Q. 91), the figures given (with the exception of those for the administrative court) are those of the district court of Luxembourg, as uniform statistics for both courts are not yet available. The district court of Diekirch has rendered 591 decisions and entered 688 new files.

The three justices of the peace totalized 63.651 payment orders, and resolved a total of 8041 cases versus a total of

9310 new files.

Please note also under 91.2 that the figures are relative to "ordonnances de paiement" (paiement orders) emitted by the district court. They are dealt with almost immediately, so that there will be no stock at the end/beginning of the exercise.

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

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)	NAP	NAP	12178	NAP
8. Severe criminal cases	NAP	NAP	6432	NAP
9. Misdemeanour and / or minor criminal cases	NAP	NAP	5746	NAP

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 distinction misdemeanor / minor offenses and serious offenses corresponds in national law to the notions on "contraventions" (case 9) and "crime" as well as "délit" (case 8). The figures include contradictory procedures, procedures in absentiam and cases resolved through "ordonnances pénales", a procedure where the court does not hear the defendant in a first phase. Please consider also D.2 to receive an explanation on the NAP mention.

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.)

mail CN 16/01/2014: sur les différences entre 2010 et 2012: Les chiffres du questionnaire (question 91) agrègent., conformément au libellé de la question, les affaires civiles et commerciales TAD et TAL, tandis que ceux de l'exercice précédent ne reprennent que les chiffres du volet civil du seul TAL (exercice 2010/2011), à l'exclusion du TAD et du volet commercial.

ad 94: Concerning the figures of pending stock of penal affairs at court level, it should be noted that the courts do not have a "stock" of affaires, but that the files are held at the public prosecutors office, and are only transferred to the court a short time before the hearing is scheduled. The only affairs "pending" are those that have been heard and where the court is deliberating its decision. Generally the decision is then rendered in three to four weeks after the hearing took place. Thus it could also be considered for purely statistical reasons that the figures on incoming cases is, allowing for minor and irrelevant differences, identical to the figure on resolved cases.

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)	NA	NA	NA	NA
1. Civil (and commercial) litigious cases (if feasible without administrative law cases, see category 6)*	1 483	1 269	1 312	1 836
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	NA	NA	NA	NA
5. Non litigious business registry cases	NA	NA	NA	NA
6. Administrative law cases	91	292	214	170
7. Other cases (e.g. insolvency registry cases)	NA	NA	NA	NA

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)	NAP	NAP	NAP	NAP
8. Severe criminal cases	NAP	NAP	656	NAP
9. Misdemeanour and/or minor criminal cases	NAP	NAP	NAP	NAP

Comment :

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)	81	111	69	91
1. Civil (and commercial) litigious cases (if feasible without administrative law cases, see category 6)	NA	NA	NA	NA
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**	NA	NA	NA	NA
5. Non litigious business registry cases	NA	NA	NA	NA
6. Administrative law cases	NA	NA	NA	NA
7. Other cases (e.g. insolvency registry cases)	NA	NA	NA	NA

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

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)	NAP	NAP	79	NAP
8. Severe criminal cases	NAP	NAP	NAP	NAP
9. Misdemeanour and/or minor criminal cases	NAP	NAP	NAP	NAP

Comment :

The statistics available do not distinguish, at the level of the Cour de cassation, between criminal and civil/commercial cases in as far as the figures of new and pending files are concerned

There is no cassation possibility against the decisions of the administrative court of appeal.

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 January 2012	Incoming cases	Resolved cases	Pending cases on 31 December 2012
Litigious divorce cases	NA	NA	NA	NA
Employment dismissal cases	NA	2343	1824	NA
Insolvency	NA	NA	1029	NA
Robbery cases	NA	NA	NA	NA
Intentional homicide	NA	NA	NA	NA

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

[The average length of proceedings has to be calculated from the date the application for judicial review is lodged to the date the judgment is made, without taking into account the enforcement procedure.]

	% of decisions subject to appeal	% pending cases more than 3 years	Average length in 1st instance (in days)	Average length in 2nd instance (in days)	Average length in 3rd instance (in days)	Average total length of the total procedure (in days)
Litigious divorce cases	NA	NA	NA	NA	NA	NA
Employment dismissal cases	NA	NA	NA	NA	NA	NA
Insolvency	NA	NA	NA	NA	NA	NA
Robbery cases	NA	NA	NA	NA	NA	NA
Intentional homicide	NA	NA	NA	NA	NA	NA

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

see answer to question 103 in the 2011 evaluation

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

NA

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

- to conduct or supervise police investigation
- to conduct investigations
- when necessary, to 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:

see evaluation 2011, question 105

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

- Yes
- No

If yes, please specify:

ie. question 106

106.1) Does the public prosecutor also have a role in insolvency cases?

- Yes
 No

If yes, please specify:

The public prosecutor assists to all hearings in insolvency matters and his opinion must be given before the court can retire to deliberate.

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	57040	18911	1091	13812

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:	NAP	NAP

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)	18 911
1. Discontinued by the public prosecutor because the offender could not be identified	NA
2. Discontinued by the public prosecutor due to the lack of an established offence or a specific legal situation	NA
3. Discontinued by the public prosecutor for reasons of opportunity	NA

109) Do the figures include traffic offence cases?

- Yes
 No

D.2 You can indicate below:

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

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

annual report of the Judiciary 2012, covering the period from September 16th, 2011 to September 15th, 2012

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:

Recruitment of judges and prosecutors has been reformed since the 2011 evaluation by the law of June 12th, 2012 (see:

<http://www.legilux.public.lu/leg/a/archives/2012/0125/index.html>).

This law sets up a pool of "attachés de justice" common to the ordinary and the administrative jurisdictions as well as to the prosecution. The "attachés" are screened by a specific admission examination organized by the newly created "Commission du recrutement et de la formation des attachés de justice", to which they are administratively attached.

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:

see answer 110: recruitment is done through the Commission de recrutement et de formation des attachés de justice

please note that the Commission is composed only by judges and prosecutors, with the exclusion of any representative of the Ministry of 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 ?

see evaluation 2011

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:

id.

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

id.

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

Yes

No

If yes, please indicate the frequency

115) Is the status of prosecution services:

Independent?

Under the authority of the Minister of justice ?

Other?

Please specify:

The two first options have been ticked, as the prosecution is order bound only to open a prosecution case. There can be no non-prosecution orders nor from the internal hierarchy, neither from the minister of Justice.

The draft constitutional law now being examined by the Parliament will further strengthen the independance of the prosecution from the minister of Justice, as a formal paragraphe stating specifically the principle of independance of the prosecution is envisaged.

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:

As stated under 110, prospective judges and prosecutors are recruited through the same procedure.

mail CN 2/5/14: Il s'agit plutôt d'une question d'appréciation que de changement. Suite à la loi « attachés de justice », il y a un examen de recrutement comme condition première d'admission au stage. Les aptitudes au travail sont cependant prises en considération pour la nomination définitive (voir la même loi).

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:

see 110

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:
see 112

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

see 112

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	for life (68)
No	

Comment :
dismissal as a disciplinary mmeasure is possible

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

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	.1.5
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	yes (68)
No	

Comment :

The "attachés de justice" are recruited for a duration of 18 months, that can be extended once under the specifications of the law of June 7th, 2012. Once nominated as judge or prosecutor, there is no other probation period that is applicable

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	
No	
NAP	see comment to 123

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

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	Optional
In-service training for specialised judicial functions (e.g. judge for economic or administrative issues)	Optional
In-service training for management functions of the court (e.g. court president)	Optional
In-service training for the use of computer facilities in courts	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)	Occasional (e.g. at times)
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	Optional
In-service training for specialised functions (e.g. public prosecutor specialised on organised crime)	Optional
In-service training for management functions of the court (e.g. Head of prosecution office, manager)	Optional
In-service training for the use of computer facilities in office	Compulsory

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)	Occasional (e.g. at times)
In-service training for management functions of the court (e.g. Head of prosecution office, manager)	Occasional (e.g. at times)
In-service training for the use of computer facilities in office	Occasional (e.g. at times)

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	No	No	No	No
One institution for prosecutors	No	No	No	No
One single institution for both judges and prosecutors	Yes	Yes	Yes	Yes

Comment :

Luxembourg has entered into a specific training agreement with the French ENM (Ecole nationale de la Magistrature). A compulsory initial training program has been set up. Judges and prosecutors, once nominated, can attend to specific training programs offered by the ENM, but also to national training seminars at the INAP (Institut national de formations de l'administration publique) and to internal seminars (peer to peer formations). Luxembourg is also a member of the ELA (European Law Academy), and the seminars offered by the ERA are regularly attended by judges and prosecutors. In case of a justified professional need, any other, even private sector organized, training program can be attended to.

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 ?

NAP

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

mail CN 2/5/14: Q 129: il n'y a pour l'heure pas de formation continue obligatoire de droit, seulement de fait eu égard aux réalités du quotidien, d'où la réponse pour les IT.

mail CN 2/5/14: Question 130 : trois formations régulières en 2010 sont devenues occasionnelles dans cet exercice. Y-a-t-il une explication particulière à ces changements ? Il s'agit d'un problème d'interprétation de la question : les formations visées sont offertes annuellement à toute la magistrature, mais les magistrats individuels n'y participent qu'occasionnellement

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	72426	NA
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)	129943	NA
Public prosecutor at the beginning of his/her career	72426	NA
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)	121421	NA

Comment :

No indications can be given on the net salary, as it varies considerably according to the family situation of the persons concerned, whether or not they live in a marital conditions, whether or not, and how many children they have, etc.

133) Do judges and public prosecutors have additional benefits?

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

134) If other financial benefit, please specify:

NAP

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	Yes	Yes
Consultant	No	No
Cultural function	No	No
Political function	No	No
Other function	No	No

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

The "recueil des principes déontologiques des magistrats luxembourgeois" of May 12th, 2013 gives precise indications on the possibilities opened to judges and prosecutors to exercise other functions, remunerated or not. Political (elected) functions are excluded by law (functional ineligibility).

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	No	No
Political function	No	No

Other function	No	No
----------------	----	----

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

see 136

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:

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)	2	0
1. Breach of professional ethics	0	0
2. Professional inadequacy	2	0
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 :

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

Please indicate the sources for answering questions 144 and 145

6. Lawyers

6. 1. Status of the profession and training

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

146) Total number of lawyers practising in your country.

2020

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:

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:

Ordre des avocats de Luxembourg

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:**

L'avocat a l'obligation en vertu du Règlement intérieur des Ordres d'expliquer le mode de calcul des honoraires.

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?

La diligence, la dignité, la conscience, l'indépendance, la probité, l'humanité, l'honneur, la loyauté, la délicatesse, la modération, la courtoisie, le désintéressement, la confraternité, l'infrastructure adaptée, les compétences techniques et linguistiques.

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:

Le Bâtonnier est compétent pour tous les problèmes rencontrés entre le justiciable et l'avocat à l'exception des demandes pour engager la responsabilité professionnelle de l'avocat.

160) Which authority is responsible for disciplinary procedures?

- the judge
 the Ministry of justice
 a professional authority
 other

If other, please specify:

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

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

	Number
Total number of disciplinary proceedings initiated (1 + 2 + 3 + 4)	31
1. Breach of professional ethics	23
2. Professional inadequacy	0
3. Criminal offence	8
4. Other	0

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	2
2. Suspension	2
3. Removal	0
4. Fine	0
5. Other (e.g. disbarment)	4

Comment :

Ad 5: 1 radiation à vie

3 avertissements

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:

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

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

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

- Yes
- No

If yes, please specify:

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

110

167) Number of judicial mediation procedures.

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

Total number of cases (total 1+2+3+4+5)	NA
1. civil cases	NA
2. family cases	NA
3. administrative cases	NA
4. employment dismissals cases	NA
5. criminal cases	NA

Comment :

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

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

Mediation other than judicial mediation?	Yes
Arbitration?	Yes
Conciliation?	Yes
Other alternative dispute resolution?	No

Comment :

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

Q 164: mail CN 14/5/14: La médiation civile et commerciale n'a été introduite qu'au cours de l'année 2012 d'où des chiffres très bas.

Il y a eu 292 médiations en 2012 dont 191 en matière familiale, 76 en matière pénale, 14 en matière de protection de la jeunesse, 1 matière civile et commerciale et une « divers ».

Please indicate the source for answering question 166:

* Loi du 24 février 2012 portant - introduction de la médiation en matière civile et commerciale dans le Nouveau Code de procédure civile. Loi du 6 mai 1999 et le règlement grand-ducal du 31 mai 1999

8. Enforcement of court decisions

8. 1. Execution of decisions in civil matters

8. 1. 1. Functioning

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

- Yes
 No

170) Number of enforcement agents

19

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

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

Please specify their status and powers:

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

- Yes
 No

173) Is the profession of enforcement agents organised by?

- a national body?
 a regional body?
 a local body?
 NAP (the profession is not organised)

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

- Yes
 No

175) Are enforcement fees freely negotiated?

- Yes
 No

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

- Yes
 No

Please indicate the source for answering question 170:

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?

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

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

- a professional body
 the judge
 the Ministry of Justice
 other

If "other", please specify:

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

- Yes
 No

if yes, please specify

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

- Yes
 No

If yes, please specify

Possibilité de saisir le tribunal en cas de contestation ou de difficultés d'exécution.

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:

coûts prétendument excessifs

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:

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

If more, please specify

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

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

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

Comment :

188) Number of sanctions pronounced against enforcement agents.

If "other", please specify it in the "comment" box below. If a significant difference between the number of disciplinary proceedings 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:	1
1. Reprimand	<input checked="" type="checkbox"/> number:	0
2. Suspension	<input checked="" type="checkbox"/> number:	1

3. Dismissal	<input checked="" type="checkbox"/> number:	0
4. Fine	<input checked="" type="checkbox"/> number:	0
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**

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

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:

mail CN 2/5/14: Les établissements pénitentiaires et les services de probation travaillent sous la direction du Parquet général.

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:

H.2 You can indicate below:

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

9. Notaries

9. 1. 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?		NAP
public agents?	<input checked="" type="checkbox"/> number	36
other?		NAP

Comment :

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

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

If "other", please specify:

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:

L'Administration de l'Enregistrement et des Domaines concernant la régularité formelle des actes.

I.1 You can indicate below:

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

Les 36 notaires du Grand-Duché de Luxembourg peuvent exercer sur tout le territoire national.

Please indicate the sources for answering question 193:

Règlement grand-ducal du 17 août 1994 ayant pour objet de déterminer le nombre et la résidence des notaires.

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:

1074

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

- Yes
 No

If yes, please specify (e.g. having passed a specific exam):
 Diplôme de bac+4 en traduction ou interprétation

201) Are the courts responsible for selecting court interpreters?

If no, please indicate in the "comment" box below which authority selects court interpreters.

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

Comment :

mail CN 2/5/14: Q 201: La nomination des traducteurs/interprètes se fait par les tribunaux et à vie. Il peut cependant également avoir une nomination ad hoc pour une affaire en particulier. Donc les deux réponses sont à cocher.

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

Le nombre de 1074 est l'addition des traducteurs-interprètes des différentes langues. Or beaucoup de personnes traduisent plus d'une langue. De plus le nombre total des personnes physiques traducteurs-interprètes se confond avec celui des experts judiciaires. Ce nombre est de 490.

mail CN 2/5/14: Q 199: Il s'agit non pas du nombre total de personnes physiques traducteurs/interprètes mais du nombre total de traducteurs/interprètes dans toutes les langues. Etant donné que certaines personnes assurent plusieurs langues elles sont comptabilisées autant de fois que le nombre de langues dont ils assurent la traduction.

Please indicate the sources for answering question 199:

Loi du 7 juillet 1971 portant, en matière répressive et administrative, institution d'experts, de traducteurs et d'interprètes assermentés et complétant les dispositions légales relatives à l'assermentation des experts, traducteurs et interprètes.

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)

750

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

- Yes
 No

If yes, please specify, in particular the given time to provide a technical report to the judge:
 Le délai est en principe fixé à trois mois.

207) Are the courts responsible for selecting judicial experts?

If no, please 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 :

La nomination des experts se fait par les tribunaux et à vie. Il peut cependant également avoir une nomination ad hoc pour une affaire en particulier. Donc les deux réponses sont à cocher.

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

Le nombre de 750 experts-judiciaires est l'addition des experts dans toutes les branches. Or beaucoup d'experts couvrent plusieurs branches. Le nombre total d'experts judiciaires et traducteurs interprètes personnes physiques ets de 490.

mail CN 2/5/14: Q 202: Les « expert witness » ne correspondent pas à notre système de droit continental et ne sont pas à cocher.

mail CN 2/5/14: Q 205: Le problème et le même que pour les traducteurs/interprètes. Le nombre d'experts personnes physiques est inférieur au nombre total d'experts qui sont également comptabilisés plusieurs fois s'il ont deux spécialités. Il n'y a pas eu de diminution du nombre mais il se peut que le nombre de 750 englobait les experts et les traducteurs/interprètes qui sont nommés selon le même procédé régis par la même loi

Please indicate the sources for answering question 205:

Loi du 7 juillet 1971 portant, en matière répressive et administrative, institution d'experts,

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

Extrait du programme gouvernemental de décembre 2013:

Justice

La politique du Gouvernement visera la modernisation de la Justice et la consolidation de son indépendance, tout en la rendant plus efficace, accessible et compréhensible pour les citoyens. Le Gouvernement soutiendra la création à Luxembourg d'un Institut de formation continue en droit européen pour magistrats. Modernisation de l'Etat de droit

Le Gouvernement poursuivra le processus de consultation avec la Conseil d'État, les autorités judiciaires et la commission des Institutions et de la Révision constitutionnelle de la Chambre des députés au sujet de l'introduction d'une Cour suprême et d'un Conseil National de la justice sur base des deux avant-projets de loi existants.

La Cour Suprême, qui remplacera la Cour Supérieure et la Cour constitutionnelle, fera office de Cour de cassation unique, compétente à l'égard des juridictions de l'ordre judiciaire ainsi que de celles de l'ordre administratif.

L'opportunité de l'introduction d'une saisine directe en dehors de toute procédure après promulgation sera examinée.

Le Conseil National de la Justice (CNJ) aura la mission de veiller à l'indépendance des autorités judiciaires et à une bonne administration de la Justice. Ce nouvel organe sera composé majoritairement de magistrats ainsi que de représentants indépendants de l'ordre des avocats et de la société civile. Ses compétences feront l'objet d'une large concertation.

Le Ministère public sera réformé en vue d'assurer son indépendance vis-à-vis du pouvoir politique.

La réforme engagée de l'organisation des juridictions administratives sera poursuivie, notamment en permettant la mutabilité des magistrats entre les deux ordres judiciaires.

Le Gouvernement améliorera le service aux citoyens et aux praticiens du droit en matière de Justice, notamment en poussant davantage l'utilisation des nouvelles technologies de l'information et de la communication numériques.

Le Gouvernement s'engage à promouvoir la médiation afin d'offrir aux citoyens des voies alternatives pour résoudre un conflit.

La possibilité d'introduire des actions de groupe sera étudiée avec pour objectif une meilleure défense des droits des consommateurs.

- 12 -

Les procédures d'octroi de l'aide judiciaire et son paiement seront simplifiés et accélérés.

Le Gouvernement reverra l'organisation et la procédure devant les juridictions sociales, notamment par l'introduction d'une procédure de référé.

Famille

Le Gouvernement souhaite vivement accélérer la modernisation du droit de la famille afin que les textes juridiques reflètent la réalité de la société luxembourgeoise actuelle.

La réforme sur le droit au mariage pour tous les couples, indépendamment de leur genre ou identité sexuelle sera adoptée au courant du premier trimestre 2014.

Un Juge aux affaires familiales sera mis en place dans le cadre d'une réforme et d'une simplification des procédures applicables à la famille et aux enfants.

Tout en favorisant la médiation, le Juge aux affaires familiales sera en charge de

tous les aspects contentieux du droit civil concernant la famille.

La loi de 1975 sur l'accouchement anonyme sera réformée en vue notamment de permettre à toute personne qui le souhaite de connaître ses origines biologiques.

Le Gouvernement entend ouvrir l'adoption aux couples de même sexe et la question de la distinction entre adoption plénière et adoption simple sera discutée.

Les différences entre filiation naturelle et filiation légitime seront abolies.

La législation relative à l'interruption volontaire de grossesse ne fera plus partie du code pénal et sera intégrée dans la loi du 15 novembre 1978 relative à l'information sexuelle, à la prévention de l'avortement clandestin et à la réglementation de l'interruption volontaire de grossesse.

Cette législation sera réformée afin de rendre la deuxième consultation facultative.

La réforme de la loi sur le divorce sera réalisée. La notion de divorce pour faute sera rayée à l'exception de faits particulièrement graves. Le Gouvernement promeut un traitement équitable des conséquences économiques du divorce.

Les travaux parlementaires seront poursuivis sur le projet de loi 5867 sur la responsabilité parentale qui comprend l'introduction du principe de l'autorité conjointe, de la garde alternée, la disparition des inégalités entre parent gardien ou non et le maintien de la responsabilité partagée pour les enfants après le divorce de leurs parents.

Réforme du droit pénal

Les droits des victimes d'infractions pénales seront renforcés notamment en améliorant leur accès au dossier. Le Gouvernement mettra en place en partenariat avec le Laboratoire National de Santé (service de la médecine légale) et le secteur hospitalier un service d'accueil pour les victimes de violences (« Opferambulanz »).

Les droits de la défense au niveau de la procédure seront améliorés.

Le Gouvernement entamera des réflexions sur le développement des alternatives aux poursuites pénales pour certains types d'infractions.

Le Gouvernement prendra l'initiative d'une modernisation des dispositions pénales de la loi électorale.

Le Gouvernement examinera les possibilités d'accélérer, dans le respect des droits de la défense, certaines procédures pénales.

seront rendues opérationnels dans les meilleurs délais.

Le Gouvernement fera aboutir la procédure législative pour la construction d'une maison d'arrêt dans la commune de Sanem

Réforme du droit des sociétés et des entreprises en difficultés

Le Gouvernement procédera à la modernisation du droit des sociétés et elle comportera une codification de l'ensemble de la législation applicable au droit des sociétés.

La réforme de la législation en matière de faillites et de gestion contrôlée constitue une priorité.

La prévention de faillites à travers la mise en place d'un système de clignotants sera réalisée selon les principes arrêtés par le projet de loi relative à la préservation des entreprises et portant modernisation du droit de la faillite. La collaboration entre l'Administration des contributions directes, l'Administration de l'enregistrement et l'Inspection générale de la sécurité sociale sera essentielle dans ce cadre. Le Comité de conjoncture sera renforcé de façon à pouvoir aider en amont, en collaboration avec les chambres professionnelles, des entreprises en difficultés avant que leur situation économique ne soit irrémédiablement compromise.

Les fonctions de curateur et de liquidateur judiciaires seront professionnalisées de façon à pouvoir améliorer la gestion des faillites et accélérer les procédures de mise en liquidation de sociétés. La lutte contre les faillites frauduleuses sera facilitée par une revue des instruments disponibles aujourd'hui pour intervenir à l'encontre des gestionnaires ou administrateurs de mauvaise foi

De même, la législation du droit des associations et fondations d'utilité publique sera revue dans le sens d'une simplification du régime applicable.