



EUROPEAN COMMISSION FOR THE EFFICIENCY OF JUSTICE
(CEPEJ)

SCHEME FOR EVALUATING JUDICIAL SYSTEMS 2013

Country: Portugal

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)

10 487 289

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	80 869 200 000
Regional / federal entity level (total for all regions / federal entities)	9 862 800 000

3) Per capita GDP (in €)

15 607

4) Average gross annual salary (in €)

19 800

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:

Sources for questions 1, 2 and 3 -National Statistics Institute (Instituto Nacional de Estatística)

Sources for question 4 - Ministry of Solidarity, Employment and Social Security (Ministério da Solidariedade, Emprego e Segurança Social)

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	453 077 390
1. Annual public budget allocated to (gross) salaries	<input checked="" type="checkbox"/> Yes	396 291 048
2. Annual public budget allocated to computerisation (equipment, investments, maintenance)	<input checked="" type="checkbox"/> Yes	7 965 991
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	10 310 000
4. Annual public budget allocated to court buildings (maintenance, operating costs)	<input checked="" type="checkbox"/> Yes	31 220 522
5. Annual public budget allocated to investments in new (court) buildings		NA
6. Annual public budget allocated to training and education	<input checked="" type="checkbox"/> Yes	7 289 829
7. Other (please specify):		NA

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

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

for criminal cases?

for other than criminal cases?

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

According to the Regulation of Procedural Costs, the following persons are exempt from costs:

- a) The Public Prosecutor in actions, proceedings and appeals, when acting on his own behalf, in the defense of the rights and interests that the law confers to him;
- b) Any citizen, association or foundation, that takes part in procedures concerning the defense of values and assets protected by the Constitution;
- c) Magistrates and vowels of the High Superior Council that are not judges, in any actions which they are party by the exercise of their functions;
- d) Members of government, general-directors, secretaries-general, chief inspectors and similar and other public servants, as well as responsables for mission structures, committees and working groups, when personally demanded in the exercise of their functions, whatever the form of the process;
- e) Political parties, whose benefits are not suspended;
- f) Legal persons with public administrative purposes;
- g) Victims of working accidents and carriers of professional illness, in the procedures of accident or illness, when represented by the Public Prosecutor or by the syndicate;
- i) Persons in minors' jurisdiction procedures, should the costs be at their charge;
- j) Defendants arrested, in custody or serving a sentence of imprisonment in prison;
- l) Adults lacking legal capacity, absentees (ausentes e incapazes) when represented by the prosecutor, even if the procedures are carried in the Civil Registry Registries;
- m) The plaintiff and the defendant sued in civil claims for damages filed in criminal proceedings, when their value is less than certain amount;
- n) The Motor Guarantee Fund (Fundo de Garantia Automóvel), when it acts in its right of subrogation under the legal regime of compulsory motor vehicle liability;
- o) The Wage Guarantee Fund (Fundo de Garantia Salarial) in insolvency proceedings;
- p) Social Security Financial Stabilisation Fund (Fundo de Estabilização Financeira da Segurança Social) in proceedings concerning the rights of workers, taxpayers and the assets of the Fund;
- q) Certificate of Retirement Fund (Fundo dos Certificados de Reforma) in proceedings concerning the rights of members, beneficiaries and the assets of the Fund;
- r) Municipalities, when proposing the judicial declaration of annulations provided for in the legal system for the conversion of the urban areas of illegal origin, in substitution of the Public Prosecutor;
- s) In cases of value inspection for counting effects in what concerns the tax justice;
- t) Civil or commercial companies, cooperatives and limited liability individual establishments that are insolvent or in the recovery process of the company;

The following are also exempt:

- a) The mandatory pension redemptions;
- b) Urgent administrative proceedings related to some electoral processes;
- c) All processes that run before the Court of Execution of Punishment (Tribunal de Execução de Penas), where the prisoner is in a situation of economic failure;
- d) In the procedures concerning the liquidation and partition of assets belonging to social welfare institutions and to syndicate bodies;
- f) Children proceedings, such as guardianship, adoption and others;
- g) Inventory proceedings initiated under Law No. 29/2009 of 29 June.

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

In Portugal courts costs and official fees are not, in general, neither related to the nature of the case, neither to the volume of activity, but are related to the value of the disputed claim. There are exceptions when certain classes are involved such as the Government or entities recognized to have social utility, e.g. mercy houses or charitable institutions.

Portuguese law utilizes the concept of value for purposes of calculating the justice tax and this calculation is based on a unit of cost (UC) which varies according to a table and is actualized yearly. In 2012 its value was 102 Euros.

The fixed costs for litigants in civil proceedings are set out in articles 5-7 and in the attached tables I and II of the Decree Law 34/2008 of 26th February 2008.

The fixed costs for litigants involved in criminal proceedings are set out in article 8 and in the attached table III of the Decree Law 34/2008 of 26th February 2008.

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

To commence an action for 3000€ the court fee would correspond to 204 Euros.

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

207 899 840

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)	55184100
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 :

Yes, in Portugal is possible to obtain legal aid for non litigious cases. According to Portuguese Law legal protection consists of two types of assistance: Legal information, which seeks to inform of one's rights and the legal system, providing for the optimum exercise of those rights and the fulfillment of the legally established duties, in particular by means of the gradual creation of services providing access to the courts and judicial services, and

Legal protection, which includes

a) Legal advice, through law firms which it is intended will cover the entire national territory and which citizens may visit in order to receive free legal advice from legal professionals. Legal advice may involve carrying out extra-judicial steps or informal mechanisms of reconciliation;

b) Legal aid, which takes the following forms:

- Total or partial exemption from court fees and other charges relating to the proceedings;
- Deferment of payment of court fees and other charges relating to the proceedings;
- Appointment and payment of the legal representative's fees, or alternatively, payment of fees to the legal representative chosen by the applicant.

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

Amount 97 551 326

Comment :

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

	Preparation of the total court budget	Adoption of the total court budget	Management and allocation of the budget among the courts	Evaluation of the use of the budget at a national level
Ministry of Justice	Yes	Yes	Yes	Yes
Other ministry	No	No	No	No
Parliament	No	Yes	No	No
Supreme Court	No	No	No	No
High Judicial Council	No	No	No	No
Courts	No	No	No	No
Inspection body	No	No	No	No
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
- mail CN 20/01/14: Q 6 (justice expenses) explication de la différence 2010/12: In the previous exercise under 6.3 we included, by mistake, also the costs with computerization. This year's value includes only costs with expertise and interpretation.

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

Question 6, 9, 12 and 13 - Directorate-General for Justice Administration (Direcção-Geral da Administração da Justiça); Financial and Equipments Institut (Instituto de Gestão Financeira e Equipamentos da Justiça)

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 1744093667

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)	No
Public prosecution services (see question 13)	

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

Comment :

"Other" includes Criminal Investigation Police (Policia Judiciária).

2. Access to justice

2. 1. Legal aid

2. 1. 1. Principles

16) Does legal aid apply to:

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

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

- Yes
 No

If yes, please specify:

Portuguese law foresees the total or partial exemption from court fees and other expenses related to the case.

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

- Yes
 No

If yes, please specify:

Portuguese law foresees the total or partial exemption from court fees and other expenses related to the case.

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

Criminal cases	Other than criminal cases
Yes	Yes

Comment :

Portuguese law foresees the total or partial exemption from court fees and other expenses related to the case.

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

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

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

	Number
Total	166919
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
1359

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 :

Legal protection may be granted for the resolution of any type of legal dispute or litigation and legal aid does not depend on any prior assessment of the purpose and complexity of the action to be commenced or already brought, its merit or the type of proceedings.

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 :

It is not possible to give the exact amount because several factors, other than the income, are also taken into consideration, namely the ones related to other expenses of the person requesting legal aid.

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:

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

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

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

- Yes
 No

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

The court proceedings expenses are included in the legal expense insurance coverage, in particular defense and representation of the policy holder, as well as expenses originating in a judicial or administrative proceeding.

The legal expense insurance legal framework is established by articles 167 to 172 of Decree-Law 72/2008, of 16 April, which came into force on the 1st January 2009.

The legal framework results from the transposition of Council Directive 87/334/EEC of 22 June 1987, on the coordination of laws, regulations and administrative provisions relating to legal expenses insurance.

This insurance legal framework has reached a high degree of maturation on the technical point of view, its market has stabilized in terms of the Portuguese insurance market. This is also associated with the subscription of other major risks, particularly in the context of motor vehicle insurance.

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:

Question 20 - Ministry of Solidarity and Social Welfare (Ministério da Solidariedade e Segurança Social)

Question 23 - Directorate-General for Justice Policy (Direcção-Geral da Política da Justiça)

2. 2. Users of the courts and victims

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

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

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

legal texts (e.g. codes, laws, regulations, etc.)? Internet address(es): Yes

www.dre.pt
www.dgsi.pt
www.dgpj.mj.pt;
www.pgdlisboa.pt;

www.citius.mj.pt

case-law of the higher court/s? Internet address(es): Yes

www.pgdlisboa.pt
www.dgsi.pt

other documents (e.g. downloadable forms, online registration)? Internet address(es): Yes

www.citius.mj.pt

Comment :

The Citius website includes several on line services, downloadable forms and a case-management system.

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:

The Commission for the Protection of Crime Victims notifies the victims of violent crimes on requests for reimbursement by the State, and on requests for compensation in advance to victims of domestic violence. Such is done without any charge to the victims. There are also private associations that give support to crime victims.

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

Comment :

Victims of trafficking in persons are afforded special protection through a number of procedural arrangements, such as the exclusion of trial publicity, restrictions to the revelation of their identity in the media or pro memoriam statements, also allowed when a witness is seriously ill or is going abroad.

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.) :

Minors don't have legal capacity, therefore they also don't have judiciary capacity (article 9 of the Civil Procedural Code - CPC). However they can be parties in judicial proceedings if they are represented by their parents or other legal representative (Article 10 CPC).

In guardianship proceedings, the court can appoint a special guardian to represent the minor.

In case of conflict of interests among children and parents whose resolution depends on public authority, minors are represented by one or more special trustees appointed by the court (Article 1881, paragraph 2 and article 1956 a) from the Portuguese Civil Code).

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

- Yes
 No

If yes, for which kind of offences

It applies to all cases in which intentional crimes occur that cause grievous bodily harm or death. Should any of these situations occur, the persons who have access to the compensation fund are the victim himself and his/her legal heirs.

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:

The public prosecutor has a duty to provide information concerning victims about the rights they have and how to use their rights. In particular, in the Penal Procedural Code and with respect to the inquest phase, there are mandatory rules for the public prosecutors. These rules concern the information due to victims of any type of crime and the information regarding the victims' compensation rights and the way they can bring them into effect.

In fact, the mechanisms for victim information that go beyond the aforementioned civil nature derive from the Public Prosecutor's own organisational structure which encompasses public attendance done, in great part, by the prosecutors themselves. In addition, at police level, specific units/services/departments have been set up to help victims of certain crimes and in particular of violent crimes, namely mistreatment, domestic violence and sexual abuse.

On the other hand and as regards the assistance provided to victims of crime during the proceedings, it should be noted the taking of evidence for future use (to be done in the presence of an instruction judge and especially designed for situations of serious illness or transfers abroad and in cases of victims of sexual crimes).

Besides, there are specific forms of hearing witnesses (including victims of crimes) such as the concealment of the witness, the taking of evidence in the absence of the defendant and the videoconference, all of them determined by the judge in the proceedings and on the basis of the circumstances or facts revealing threat and/or a high risk of coercion. To this effect, particular attention is given to their vulnerability in connection to their age.

As concerns the criminal procedure and the enforcement measures, attention should be drawn to the specific protection measure, applied by the courts, to victims of crimes, by reason of which the defendant cannot dwell in the area where the crime has occurred or where resides the victim or his/her family or even anyone upon whom new crimes may be committed against (see article 200, n. 1, indent c) of the Penal Procedural Code), another enforcement measure, applicable to the cases where the defendant does not remain in preventive custody, is his/her withdrawal from the victim's residence (see article 16 of the Law n. 61/91, of 13 August).

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:

At the inquest phase (and even at the judicial phase of the proceedings), the crime victim can always suspend/stop the criminal proceedings whenever the facts of the investigation relate to certain types of crimes foreseen in law.

He/she may do it in relation to semi-public nature crimes or even private crimes, that is, those crimes in which the criminal procedure requires a complaint or a personal charge. In these cases, the criminal procedure depends on a complaint lodged by the victim and immediately stops whenever the victim so decides and clearly says so in the procedure. Notwithstanding, the victim cannot interfere in the ongoing investigation, contest the public prosecutor's decision in relation to the conduct of the criminal proceeding, or suspend or disrupt the procedure in order to, later on, request its proceeding. Once the investigation is finished, the Public Prosecutor files the procedure if no evidence of the crime is found, if there is evidence that the defendant has not committed the crime, if the proceeding is not legally admissible or if it has not been possible to obtain enough evidence of the crime or of its perpetrators.

When the Public Prosecutor decides to file the procedure, the victim may always "contest" the decision, once certain assumptions are observed, bearing in mind the progression of the proceedings.

Hence, the victim may:

- request hierarchical intervention in order to determine the charge or to proceed with the investigation (article 278 of the Penal Procedural Code);
- request the opening of the instruction phase, conducted by a judge, in order to judicially reaffirm the decision to file the inquiry (or to bring charges) with the purpose either to put, or not, the case before a court (article 286 and forth of the Penal Procedural Code);
- request the reopening of the inquiry, once new elements of proof occur which may annul the grounds invoked by the public prosecutor in the decision to file (article 279 of the Penal Procedural Code).

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):

Article 22 of the Constitution establishes the principle of liability of public bodies stating that «jointly with their officeholders, staff and agents, the state and all other public bodies shall be civilly liable for such actions or omissions in the performance of their functions as result in a breach of rights, freedoms or guarantees or in any loss to others». This principle constitutes the constitutional legal basis for answering affirmatively to the 3 questions above.

The Portuguese Constitution foresees, in article 20, nr. 4 that «everyone shall possess the right to secure a ruling in any suit to which he is a party, within a reasonable period of time and by means of fair process».

The Law 67/2007 (of the 31st December 2007) establishes the extra contractual liability of the state and other public bodies. Its article 12 expressly foresees compensation in case of illegal damages caused by the administration of justice, namely for excessive length of procedures.

Articles 159 and 166 of the Code of Procedure in the Administrative and Tax Courts also foresees a compensation when a judicial decision is (legally or illegally) non executed.

In accordance with n. 1, article 225 of the Penal Procedure Code (once carried out the dispositions foreseen in n. 5, article 27 of the Constitution of the Portuguese Republic) states that whoever has suffered an illegal arrest or has been under an obvious illegal preventive custody, may require, to the competent court, a compensation for the damages suffered due to the deprivation of liberty.

The second number of the same article defines that the number 1 applies to those who have been under preventive custody, which, not being by itself illegal, may turn unjustified due to gross error in the appreciation of the submitted facts from which the decision depended. This does not apply to the cases in which the convicted person may have contributed, by fraud or negligence, towards that error.

The compensation for «wrongful condemnation» is imposed by n. 6, article 29 of the Constitution of the Portuguese Republic, and carried out by article 462 of the Penal Procedure Code, and determines that if a revised sentence has been condemnatory and the court that has revised the sentence acquits the defendant, that decision is considered null and the defendant returns to the previous legal situation prior to the condemnation. This sentence provides the defendant with compensation due to the damages suffered and orders the refunding of all the amounts related to the costs and fines he, the defendant, may have supported, the compensation is paid by the State, which will be responsible, in what concerns the defendant's rights, towards those that are accountable for the facts that may have determined the revised sentence.

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	Yes
Surveys at court level	No	Yes

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

Comment :

The majority of the complaints to the H.C.J. (70%) are unfounded.

The Portuguese Ombudsman is an independent State agency with the primordial function of defense and promotion of the citizens' fundamental rights, according to the n. 1 article 1 of the Statute, approved by Law n. 9/91, from 9 April (amended by the Laws n. 30/96, from 14 August, Law n. 52-A/2005 from 10 September and Law n. 17/2013 from 18 February).

The intervention of the Portuguese Ombudsman in the complaint procedure is ruled by the compliance with informality in order to efficiently ensure justice and legality of public powers. The efficiency of the intervention of the Portuguese Ombudsman is also emphasized by short investigation periods of the complaint procedures whose decision must be pronounced in no more than one year, after its inception.

Although the Statute of the Portuguese Ombudsman does not provide a deadline (to reply to the complainant or to conclude the analysis of the complaint), there are internal regulations that provide:

- Immediate preliminary assessment;
- 8 days for computer processing of data;
- Immediate dispatch to the complainant of a letter acknowledging receipt of the complaint;
- 30 days to hear the entity addressed;
- Review the matter within 30 days from receipt of the explanations of the appropriate entity;
- Maximum period of 12 months for a final decision, unless otherwise authorized.

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

The High Council for Judiciary received 300 complaints.

There are no data available regarding the amount of compensation given to users in 2012.

In 2012, 467 complaints concerning only the sector of judicial administration were filed in the Portuguese Ombudsman, from which 270 had a decision favorable to the claimant (58% of total).

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)	231
42.2 First instance specialised Courts (legal entities)	102
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)	318

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)	102
Commercial courts (excluded insolvency courts)	4
Insolvency courts	0
Labour courts	47
Family courts	19
Rent and tenancies courts	0
Enforcement of criminal sanctions courts	0
Fight against terrorism, organised crime and corruption	0
Internet related disputes	0
Administrative courts	20
Insurance and / or social welfare courts	0
Military courts	0
Other specialised 1st instance courts	12

Comment :

Other specialised 1st instance courts include: Criminal Instruction Courts, Maritime Courts; Intellectual Property and Competition Court; Enforcement Courts.

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:

There is an ongoing reform of the judiciary chart.

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	1
a dismissal	56
a robbery	229

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

This procedure applies whenever a party wishes to confer an enforceable status on a request for fulfillment of pecuniary obligations arising from contracts amounting to no more than €15 000.

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

Question 42 and 43 –Directorate-General for Justice Administration (Direcção-Geral da Administração da Justiça).

Question 45 - Directorate General for Justice Policy (Direcção-Geral da Política da Justiça)

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)	2009	864	1145	
1. Number of first instance professional judges				

	1480	507	973	
2. Number of second instance (court of appeal) professional judges	445	282	163	
3. Number of supreme court professional judges	84	75	9	

Comment :

Includes total number of 1st, 2nd and 3rd instance courts, except Constitutional Court.

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

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

Comment :

mail CN 20/01/14: in fact NAP is the correct answer because we don't have any non-professional judges

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

- Yes
 No

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

Whenever a trial by jury is required by the Public Prosecution, the plaintiff or the defendant, it is up to a jury panel court to judge cases that refer to crimes against cultural identity and personal integrity and crimes against the State security or to those crimes in which the sanction, abstractedly applied, is greater than 8 years of imprisonment and which are not or cannot be judged by a singular court.

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

NA

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) 6 11 0 (39 10)

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) 5 60 1 (36 35)

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) 2 5 6 (96)

4. Technical staff Yes (among which women) 2 5 1 (1 79)

5. Other non-judge staff Yes (among which women) 2

Comment :

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

NAP

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:

The courts have partially delegated services such as cleaning and IT services.

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

Questions 46, 47, 48, 49, 52 – Directorate General for Justice Policy (Direcção-Geral da Política da Justiça)

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)	1 565	606	959	
1. Number of prosecutors at first instance level	1 465	551	914	
2. Number of prosecutors at second instance (court of appeal) level	84	46	38	
3. Number of prosecutors at supreme court level	16	9	7	

Comment :

The data above includes the number of magistrates of the Public Prosecution Service in courts of first instance, second instance and high superior courts, except Constitutional Court. [Mail from the NC sent on 14 April 2014:

We can confirm the increase on the number of female prosecutors compared to data of 2010. This growth is due to the general tendency of increase of female prosecutors in the last decade at first instance courts. It is natural that gradually the proportion of female prosecutors in the higher courts will tend to grow as a result of their career progression.

We can also confirm the increase number of prosecutors at third instance courts, in the High Judicial Court and in the High Administrative Court. In particular, in the High Administrative Court there was a strong reinforcement of these professionals in the year 2011 in order to respond to a pressing need of prosecutors in this court.]

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

Comment :

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

- Yes
 No
 NA

Number (full-time equivalent)

NA

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

These persons are recruited to face problems arising from lack or insufficiency of staff of judges in certain services/towns where you can not name any prosecutor. They are substitutes for Deputy Prosecutors, commonly known and designated as "representantes".

According the Prosecutors Statute, Deputy Prosecutors, in their absence, may be replaced by substitutes who are not magistrates, to hold office for more than 15 days. These substitutes are entitled to remuneration, between one third and the total salary of the Prosecutors salary. Substitutes to Deputy Prosecutors, though not prosecutors, are appointed to exercise the functions that are legally assigned to them. According article 74, n.2 from the Statute, the provisions of the Statute shall apply, mutatis mutandis, to the substitutes for the prosecutors.

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 1672
 Among which women NA 1022

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

Question 59.1 No, but most of the prosecution offices have special prosecutors in domestic violence and sexual violence and other criminal matters.

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

Directorate-General for Justice Policy (Direcção-Geral da Política de Justiça)

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

Comment :

3. 1. 5. Use of Technologies in courts

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

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

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

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

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

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

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

Comment :

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?	

65.3 Is there any specific legislation on the conditions for using videoconferencing in the courts / prosecution offices, especially in order to protect the rights of the defence?	Yes
65.4 Is videoconferencing used in other than criminal cases?	Yes

Comment :

In Portugal, videoconferencing is widely used in the courts.

In civil cases, the Portuguese Civil Procedure Code establishes in article 621 that witnesses testify at the final hearing in person or by videoconferencing except in the following circumstances:

- When evidence is taken at an earlier stage (this can be done when there is a well founded fear that it may be impossible or very difficult to collect testimony from a certain person);
- Evidence is taken by rogatory letters sent to a Portuguese consulate which does not have technical means for evidence to be given through videoconferencing;
- Evidence is taken in a person's residence or service headquarters (prerogative granted to the President of the Republic and foreign diplomatic agents under conditions of reciprocity);
- It is impossible for them to appear in court;
- The prerogative to testify first in writing is used or the judge authorises testimony to be given in this way in light of the impossibility or serious difficulty in appearing in court. The parties must agree to this.

Also, witnesses resident outside the legal district, or the respective island in the case of the autonomous regions, are presented by the parties when the witnesses themselves have stated they will be available. Alternatively, they can be heard by videoconferencing in the courtroom from the district court of their area of residence or, if that court does not have the necessary means for videoconferencing, from the main court of the legal district of their area of residence.

When witnesses reside outside the country they can also be heard by videoconferencing if the court abroad has the necessary means for videoconferencing.

In criminal proceedings, experts from official entities, laboratories or other official entities can be heard by videoconferencing at their place of work if it's technically possible (article 158, article 317 and 350 Penal Procedure Code)

The use of teleconference is also allowed for other special cases, such as protection of witnesses (Law n.93/99, July 14) and domestic violence (Law n.º 112/2009, September 16).

Within the European Union, Member States have agreed that work on facilitating videoconferencing should continue. In the future, where appropriate, other tools should be placed in the European e-Justice Portal for that purpose.

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:

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:

Every month a data collection of all courts is assembled. In addition, in first degree courts the electronical procedures allow a daily basis analysis. The website is very exhaustive and can be consulted in http://www.siej.dgpj.mj.pt/webeis/index.jsp?username=Publico&pgmWindowName=pgmWindow_633918141195530467.

Every 4 years we have a complete analysis to the work of all courts, with the local inspectors made by judges appointed by the Judicial Council.

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

- Yes
 No

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

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

If other, please specify:

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 :

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:
 Every four years.

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

- Yes
 No

If yes, please give further details:

The Public Prosecution Council has a staff of inspectors responsible for inspections, inquiries and investigations into the prosecution service and instruction of disciplinary proceedings in accordance with the resolutions of the Public Prosecution Council or initiative of the Attorney General.

In addition, the Attorney General's Office publishes an annual report on the activities that fall under its jurisdiction. The Superior Council of the Public Prosecution Service is in charge of approving an annual plan of inspections aiming at collecting information on the service and on the merits of its prosecutors. The inspections to the services aim mainly at giving a better knowledge of the state and organization of the inspected services (namely regarding their installation, the procedural movement, the adequacy and efficiency of the magistrates and supporting personnel) and to collect indicators indications as to the way in which the inspected services worked during the period covered by the inspection, recording the needs and deficiencies and presenting proposals to resolve them, if that is the case.

Regarding the inspections made to the services and to the merit of the public prosecutors they aim at evaluating the professional merit and to obtain information on the way in which they perform their duties.

The parameters for the evaluation of the service are the intellectual ability, the way in which their duties are performed, namely during the court hearings, the juridical and technical quality of their work, the urbanity, the impartiality and exemption, the common sense, maturity and sense of justice, the relationship with the other legal agents, the capacity to articulate their work with the organs of criminal police.

Besides the ordinary inspections, there are also extraordinary inspections, in result of deliberation from the Superior Council of the Public Prosecution Service or the Attorney General, the respective scope and finality being established case by case.

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

Regarding question 80, in Portugal backlogs are only monitored in superior courts and by initiative of the parties following a proper legal procedure.

Question 81 - We generally do not monitor waiting time during court procedures, but in some courts this is an usual procedure.

4. Fair trial

4. 1. Principles

4. 1. 1. General principles

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

NA

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

- Yes
 No

Number of successful challenges (in a year):

NA

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

	Cases declared inadmissible by the Court	Friendly settlements	Judgements establishing a violation	Judgements establishing a non violation
Civil proceedings - Article 6§1 (duration)	0	10	13	2
Civil proceedings - Article 6§1 (non-execution)	0	0	0	0
Criminal proceedings - Article 6§1 (duration)	0	1	3	0

Please indicate the sources:

Portuguese Government Agent for the Court of Human Rights

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

4. 2. Timeframes of proceedings

4. 2. 1. General information

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

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

If yes, please specify:

The Civil Procedure Code, in several precepts, refers to the urgent character of certain acts and procedures. In accordance with article 382, the preventive proceedings are as such considered urgent.

The Penal Procedure Code equally addresses urgent procedures, namely those procedures with defendants held in custody.

The Title IV of the Administrative Courts Procedure Code (article 97 and forth) also refers to urgent procedures, being these applicable to electoral disputes, pre-contractual disputes and to summons.

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:

The Decree-Law n. 269/98, of 1 September (amended several times) approves the proceedings related to pecuniary obligations arising out of contracts whose value does not exceed the ceiling set for the courts of first instance. As such it establishes a simplified regime for "small claims".

The Penal Procedure Code foresees summary and summary and fast proceedings. These are simplified procedures applicable to less serious crimes. In accordance with articles 255 and 256, those "detainees caught in the act for crimes punishable by a maximum term of imprisonment no greater than five years, even in case of misdemeanors" are tried in summary proceedings (n. 1). For that matter a judicial or police authority has to proceed with the detention [indent a)]: "the detention may also be effected by any other person if, within no more than two hours, the detainee is entrusted to one of the above mentioned authorities and these have drafted a summary notice related to the handover" [indent b)]. Within the terms of the previous number, are also tried in summary proceedings, the "detainees caught in the act for crimes punishable by a maximum term of imprisonment greater than 5 years, even in case of misdemeanors, whenever the Public Prosecutor, in the accusation, decides that it should not be applied an imprisonment sentence greater than 5 years" (n. 2).

In the terms of article 391-A (summary and fast proceedings) "in cases of crimes punishable with a fine or with a prison sentence no greater than 5 years, and if there is plain and enough evidence of the crime and its agent, the Public Prosecutor in the police report or after the summary inquiry, may decide on the charge to bring before a summary and fast proceeding" (n.1). Number 2 of the same precept refers that "are also tried in summary and fast proceedings, in the terms of the previous number, the crimes punishable by a maximum imprisonment sentence greater than 5 years, even in case of misdemeanors, whenever the Public Prosecutor, in the accusation, decides that it should not be applied a prison sentence greater than 5 years". In the crimes punishable with a prison sentence no greater than 5 years or only with a fine, "the Public Prosecutor, on the defendant's initiative or after this one has been heard and when it decides that it should be applied a sentence or a non-custodial security measure, may require the court a summary and fast proceeding" (article 392, n. 1). Nonetheless, when the procedure is not subject to a private charge, the approval of the privy must take place (n. 2).

The Administrative Courts Procedure Code also foresees simplified proceedings. Thus, unless the Code provides for otherwise, to the common administrative actions as well as to their conduct the civil procedure forms will be applied (article 35). Hence, to the administrative procedures and within the scope of a common procedure, the summary and fast proceedings shall apply (article 461 of the Civil Procedure Code). These forms of procedures are characterised as holding a procedural "iter" much more simplified and of having time limits other than the ones foreseen in the common ordinary ones.

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:

[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)*	1595259	718369	689351	1624277
1. Civil (and commercial) litigious cases (if feasible without administrative law cases, see category 6)*	355821	369178	360694	364305
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	1239438	349191	328657	1259972
4. Non litigious land registry cases**	NAP	NAP	NAP	NAP
5. Non litigious business registry cases**	NAP	NAP	NAP	NAP
6. Administrative law cases	NA	NA	NA	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:

Civil (and commercial cases) litigious cases include the case flow of civil justice, labour justice and juvenile justice.

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)	94371	112482	117703	89150
8. Severe criminal cases	86190	104473	107328	83335
9. Misdemeanour and / or minor criminal cases	8181	8009	10375	5815

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 privation 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":

On question 94 "severe criminal cases" includes all criminal processes. "Misdemeanour and minor criminal cases" includes civil and criminal transgressions.

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.)

[Q94 Mail from the NC sent on 14 April 2014: The number of "misdemeanour and / or minor criminal cases" has decreased in respect of the categories "pending cases on 1 January 2012" and "pending cases on 31 December 2012". This was due to the fact that the number of misdemeanour/minor criminal resolved cases in 2011 and 2010 presented a number significantly superior to the cases filed on both those years, thus resulting in a decrease of pending cases in 2012. This decrease of pending cases also follows the decreasing trend of the last years concerning these specific categories of 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)	5 493	19 056	19 319	5 230
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	NAP	NAP	NAP	NAP
5. Non litigious business registry cases	NAP	NAP	NAP	NAP
6. Administrative law cases	NA	NA	NA	NA
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)	2783	11686	11585	2884
8. Severe criminal cases	2783	11686	11585	2884
9. Misdemeanour and/or minor criminal cases	NAP	NAP	NAP	NAP

Comment :

Question 97 includes the civil and labour case flow in second instance courts.

Question 98 includes criminal proceedings case flow in second instance courts.

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)	599	2524	2608	515
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		
4. Non litigious land registry cases**	NAP	NAP	NAP	NAP
5. Non litigious business registry cases	NAP	NAP	NAP	NAP
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
NA

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)	85	936	924	97
8. Severe criminal cases	85	936	924	97
9. Misdemeanour and/or minor criminal cases	NAP	NAP	NAP	NAP

Comment :

Question 99 includes civil and labour proceedings case-flow (litigious and non-litigious cases before the higher instance court.
 Question 100 includes criminal proceedings case-flow before the higher instance court.

[Mail from the NC sent on 14 April 2014: The number of pending cases has decreased between 1 January 2010 and 1 January 2012 due to the fact that the number of resolved cases in that period was superior to the number of incoming cases.

In the period between 31 December 2010 and 31 December 2012 the number of incoming cases was superior to the number of resolved cases, which resulted in the increase of pending cases.

In the year 2010, the number of resolved cases was very superior to the number of incoming cases, and these values were taken into account in the first period (1 January 2010 and 1 January 2012) but not in the second one (31 December 2010 and 31 December 2012).

In addition, the number of pending cases at 1 January 2010, as well as the number of incoming cases in 2010 benefited from the effect of the change of the Criminal Procedure Code (Law n.48/2007) that narrowed the access to the High Judicial Superior Council.

In the years 2011 and 2012, this effect was diluted, leading to a slight increase of the pending cases in 31 December 2012.]

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

	Pending cases on 1 January 2012	Incoming cases	Resolved cases	Pending cases on 31 December 2012
Litigious divorce cases	7627	9638	9975	7290
Employment dismissal cases	6448	7897	8659	5686
Insolvency	3568	20776	19969	4375
Robbery cases	NA	NA	2850	NA
Intentional homicide	NA	NA	131	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	300	90	60	NA
Employment dismissal cases	NA	NA	330	120	120	NA
Insolvency	NA	NA	60	60	60	NA
Robbery cases	NA	NA	300	90	60	NA
Intentional homicide	NA	NA	330	90	60	NA

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

Separation and divorce by mutual consent (non-litigious) are applied for at the civil registry office for the area in which either of the spouses is resident or at another office chosen and expressly designated by both spouses.

Other applications are submitted to the Family Proceedings Court or, if no such court exists, to the district court having territorial jurisdiction. This territorial jurisdiction is defined according to the domicile or residence of the applicant (the person bringing the action).

A contested divorce (litigious) involves an application known as an initial application, which sets out the facts deemed to point to the need for the dissolution of the marriage. The evidence may be submitted immediately. The marriage certificate and the birth certificates of joint children must accompany this application.

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

The average duration of completed cases corresponds to the time between the entry of the proceedings and the date of the final decision (judgement or order) at the respective instance, regardless of "res judicata". In the area of criminal justice, only the trial duration is considered.

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:

The Public Prosecution Service is the organ responsible for the penal action. Its intervention in the penal area, always guided by the principle of lawfulness, occurs in all the procedural stages.

It is the Service's responsibility to receive denunciations; to decide on the follow up of the denunciations/complaints/penal notifications (even those that are brought before the different police forces); to lead the stage of inquest (of compulsory nature and which management is of its sole responsibility – except for the occasional intervention of the judge for the practice of certain acts whenever the rights, freedoms and guaranties of the citizens are at stake -, and that comprises the set of diligences that aim at investigating the commission of a crime, to determine its agents and respective responsibility, regarding the decision on the accusation); to deduce accusation and to support it in trial; to present appeals (even if in the exclusive interest of the defendant); to promote the enforcement of the applied sentences.

As to the possibility of the Public Prosecution Service to close a case without a judicial decision, we must point out that the management of the inquest is of its sole responsibility (the intervention of the judge, at this stage, is exceptional and is limited to the practice of certain acts concerning the rights, freedoms and guaranties of the citizens). The case should, therefore, be filed whenever enough proof as been collected as that the crime was not committed nor the defendant has committed it, that the procedure is legally admissible (namely due to the prescription of the penal procedure), or in the cases where it was not possible to obtain enough evidence that the crime occurred or of who committed it.

However, the decision to file is liable of being verified judicially whenever the defendant or the assistant request the opening of the stage of finding of facts (optional), which falls under the jurisdiction of the judge.

In what concerns the impossibility of the Public Prosecution to close the case, without a court decision, due to the imposition of a penal measure, we point out that once the investigation has ended and once enough evidence has been collected as to the fact that a crime has been committed, there are alternative mechanisms to the deduction of the accusation. In effect, once enough evidence has been collected as to the fact that a crime has been committed and as to who was the perpetrator, the Public Prosecution Service may decide on the temporary suspension of the case (conditioned to the fulfillment by the defendant of several payment orders) but that always depends on the agreement of the defendant, of the assistant (in case there is one) and of the judge.

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

- Yes
- No

If yes, please specify:

In the civil area the Public Prosecution Service, in accordance to the provisions of its Statute (Law 60/98, of 27 August, art. 3, 5 and 6) and in the civil law (Code of Civil Procedure, art. 15, 16, 17 and 20) has the responsibility of representing, at the courts, the State, the Autonomous Regions, the autarchies, the incapable (including minors and interdicted), the uncertain, the absent, the workers and their families. Regarding the area of minors and family, we point out the promotion and protection cases, the tutelary cases, the civil tutelary cases (including paternity regulation actions, tutelary actions, adoption, and judicial delivery of minors), special cases of divorce by mutual consent/paternity regulation, unofficial inquiry actions (paternity, maternity or others).

Concerning the labor area, we stand out the relevant and irreplaceable intervention of the Public Prosecution Service in the cases of work accidents and professional diseases. Besides these, it also intervenes in the labor executive cases (for judicial costs or not) and, as representative of the workers, in the proposition of labor actions. It also intervenes in the appeals of impugnation of decisions issued by administrative authorities in cases of labor actions.

In the administrative field, the Public Prosecution Service (according to the provisions of Law 60/98, of 27 August, art. 1 and 3, in the Statute of the Administrative and Tax Courts, art. 51, and in the Procedural Code of the Administrative Courts, art. 9, n.2, art.11, n.2, art. 62, 73, ns. 3 and 4 and art. 85) represents the State in the courts (presenting and contesting actions) and intervenes in the public actions, that is, in the propositions in defense of diffuse interests and of the community.

Besides having the power and in some cases the duty, of requiring the unlawfulness with legal force, it also has legitimacy to propose and to intervene in cases where the defense of property, assets or interests protected by the Constitution is at stake, such as public health, quality of life, environment, urbanism, planning of the national territory, cultural patrimony and assets belonging to the State, to the Autonomous Regions and to the local autarchies.

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

- Yes
- No

If yes, please specify:

The public prosecutor may lodge a claim after the insolvency procedures, participate in the meeting of creditors; and participate in qualifying insolvency as intentional or accidental, for the purpose of criminal prosecution.

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	551252	NA	NAP	77350

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

	Before the court case:	During the court case:
If possible, please distinguish the number of guilty plea procedure:	NA	NA

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

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

109) Do the figures include traffic offence cases? Yes No**D.2 You can indicate below:**

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

Question 107 - includes inquiries proceedings received by the public prosecutor and inquiries proceedings completed with charges proposed by the public prosecutor.

Question 109 - the figures include traffic offences if criminally punished.

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

Directorate-General for Justice Policy (Direcção-Geral da Política de Justiça)

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:

Other::Via an open competition announced in the official gazette "Diário da República" and the process by which applicants are chosen involves various methods of selection. - "Admission based on academic qualifications" means that the requisites for admission essentially regard the applicants' academic qualifications.

"Admission based on professional experience" means that the requisites for admission concern, especially, the applicants' professional experience.

In order to apply for "admission based on professional experience" the applicant must also have court experience or experience in related areas which are relevant to the performance of the duties of a judge or public prosecutor, and which took place for not less than five years.

http://www.cej.mj.pt/cej/conheca-cej/fich-pdf/legislacao/Lei_2_2008_14_jan_Versao_Atualizada.pdf

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:

The Centre for Judicial Studies (Centro de Estudos Judiciários) is the entity in charge of the recruitment procedure, in this procedure not only judges are involved but also other persons, such as psychologists, law professors and prosecutors.

The High Council for Judiciary (Conselho Superior da Magistratura) is involved in the nomination of judges.

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

- Yes
- No

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

The High Council of the Judiciary (Conselho Superior da Magistratura)/The High Council of the Administrative and Tax Courts (Conselho Superior dos Tribunais Administrativos e Fiscais).

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

- Yes
- No

If "yes", please specify:

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

In Portugal, the professional merit of his Magistrates is the prevalent criterion regarding career development; seniority comes across as a subsidiary criterion in such a way that, in case of equal classifications, seniority shall prevail for the tiebreaker and in the case of equal seniority, is the higher classification that is decisive.

The High Council of Judiciary has a body of 20 judicial inspectors, charged to carry out the procedures on evaluation and disciplinary matters. At the end of the procedure, the inspector makes his report on his assessment and proposes a specific classification to the High Council.

Classification must consider the way the judges fulfill their duties; the amount, difficulty and management of the work assigned; his capacity to simplify the procedures; the conditions how the work is done; his technical preparation; his intellectual ability; published legal works; and civic capacity.

Recent developments are imposing new rules to the recruitment of judges of Superior Courts. This new procedure imposes an open discussion by jury composed by members of the Judicial Council, or indicated by the Council, but also by a prosecutor, an academic teacher and a lawyer.

(Law 21/85 de 30/07 (Statute of Judicial Magistrates and Inspection Services Regulation)
http://www.pgdlisboa.pt/leis/lei_mostra_articulado.php?nid=5&tabela=leis
<http://www.csm.org.pt/ficheiros/legislacao/regulamento-inspeccoesjudiciais2013.pdf>

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

- Yes
 No

If yes, please indicate the frequency
 Every 4 years.

115) Is the status of prosecution services:

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

Please specify:

According to the Constitution, the Attorney General's Office is the highest office of the Public Prosecution and is chaired by the Attorney General's Office. (article 220, n.1 and 2 of the Portuguese Constitution and article 9 of the Statute of the Public Prosecution).

116) How are public prosecutors recruited?

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

If "other", please specify:

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

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

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

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

The Centre for Judicial Studies (Centro de Estudos Judiciários) is the entity in charge for prosecutors' recruitment, in the recruitment not only judges are involved but also other persons, such as psychologists, law professors and judges.

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:
 The High Council of the Prosecutors (Conselho Superior do Ministério Público)

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

Access to the higher ranks of the Public Prosecution Service is made by promotion, which occurs by merit and by seniority.

While the promotion to Deputy Attorney General is made only by merit, the category of Attorney General can only be achieved through both merit and seniority.

In order to achieve a promotion by seniority one has to have a classification of non less than Good and in the case of the promotion by merit the requirement is the classification of Very Good or Good with distinction.

In case there is more than one prosecutor in conditions to be promoted for merit, the openings are occupied, successively in the proportion of three for the classifications of Very Good and one for the classifications of Good with distinction and, in case of equal classifications, the preference goes to the one with longer service time.

On the other hand the promotion to public prosecutor can be made by competition or according to the list of seniority, seeing that the public prosecutors can only be promoted in this way in case they have a minimum of 10 years of service.

The openings are occupied, by order of vacancy, successively in the proportion of three by way of competition and two according to the order of list of seniority. The candidates to the competition that are not promoted in that way can also be promoted according to the order of the list of seniority, in case they did not present a declaration of waiver.

The promotion by competition is attributed to the candidate with the highest classification and, in case of equality, to the one with longer service time.

In the cases where an opening must be occupied by competition and there are no candidates, the promotion is made according to the order of the list of seniority.

When there is place to a promotion according to the order of the list of seniority, the openings are occupied successively, in the proportion of three by merit and one by seniority.

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	70
No	

Comment :

There are exceptions. According to Statute of Judicial Magistrates (art. 85 and 95), judges can be subject to penalties such mandatory retirement or dismissal: the penalty of mandatory retirement, consists of the imposition of retirement and the penalty of dismissal consists of definitively removing the magistrate from office and the termination of all ties to magistracy.

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	2
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	70
No	

Comment :

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	2
No	
NAP	

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

NAP

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

NAP

E.1 You can indicate below:

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

Question 115- According to the Constitution, the Attorney General's Office is the highest office of the Public Prosecution and is chaired by the Attorney General's Office. (article 220, n.1 and 2 of the Portuguese Constitution and article 9 of the Statute of the Public Prosecution).

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)	Compulsory
In-service training for management functions of the court (e.g. court president)	No training offered
In-service training for the use of computer facilities in courts	Optional

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

General in-service training	Annual / Regular (e.g. every 3 months)
In-service training for specialised judicial functions (e.g. judge for economic or administrative issues)	Annual / Regular (e.g. every 3 months)
In-service training for management functions of the court (e.g. court president)	No training proposed
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)	No training proposed
In-service training for management functions of the court (e.g. Head of prosecution office, manager)	Optional
In-service training for the use of computer facilities in office	No training proposed

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

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

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

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

	Initial training only	Continuous training only	Initial and continuous training	2012 budget of the institution, in €
One institution for judges	NAP	NAP	NAP	No
One institution for prosecutors	NAP	NAP	NAP	No
One single institution for both judges and prosecutors	No	No	Yes	Yes

Comment :

Budget -5076495 Euros

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 ?

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

[Q129 & 130 : Mail from the NC sent on 14 April 2014: Due to the present financial constraints training proposed to prosecutors has decreased.]

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	28703.04	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)	66203.64	NA
Public prosecutor at the beginning of his/her career	28703.04	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)	66203.64	NA

Comment :

Directorate-General for the Administration of Justice

133) Do judges and public prosecutors have additional benefits?

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

134) If other financial benefit, please specify:

For judges and prosecutors "other financial benefit" can include:

- Remuneration Supplement for Performing Urgent Services
- Residence Subsidy
- Representation Expenses
- Travel Expenses
- Per diem/expense allowance

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

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

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

Teaching or scientific research of a judicial nature shall be subject to authorisation by the Higher Council of the Bench and cannot be prejudicial to their service.

Other function can include administration duties at judicial magistracy union organisations.

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

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

The Public Prosecution Statute provides that the Prosecutors' work cannot be combined with any other function (public or private), except teaching, scientific research, or managerial functions in representative organizations of the Public Prosecutor judiciary.

The exercise of teaching duties or scientific research may be authorised by the Public Prosecutorial Council, provided it is not remunerated and without prejudice to the service.

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)	47	21
1. Breach of professional ethics	NA	17
2. Professional inadequacy	NA	0
3. Criminal offence	NA	0
4. Other	NA	4

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)	30	24
1. Reprimand	5	12
2. Suspension	5	1
3. Removal of cases	0	0
4. Fine	16	9
5. Temporary reduction of salary	0	0
6. Position downgrade	0	0
7. Transfer to another geographical (court) location	0	0
8. Resignation	1	2
9. Other	3	0

Comment :

Other: mandatory retirement - consists of the imposition of retirement.

Sanctions indicated at number 2 and 4 imply salary reduction.

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

The High Council of the Judiciary (Conselho Superior da Magistratura), the High Council of the Prosecutors (Conselho Superior do Ministério Público) and the High Council of Administrative and Fiscal Courts (Conselho Superior dos Tribunais Administrativos e Fiscais).

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.

28341

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

- Yes
 No

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

NAP

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

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

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

In Portugal, lawyers are mandatory for every law case except:

- Labour cases - the employees can be represented by the Public Attorney;
- Public Law (Administrative Court Cases) - legal representation in lawsuits against the State that refers to contracts or to tort, is carried on by the Public Attorney's Office, according to Administrative Procedure Code. Article 11, n. 2 of the Administrative Procedure Code also foresees the possibility of a lawyer or even a law graduate counsel, to represent public departments or associations.

There is no monopoly when it comes to civil law cases, solicitors can also represent their clients. However, according to the Portuguese Civil Procedure Code, petitioners must be represented by a lawyer in the following cases:

- Proceedings that exceed a specific value and that admit appeal; in proceedings that always admit appeal regardless of their value; and proceedings in superior courts (article 32 of the Civil Procedure Code).
- Some credit injunctions require representation by a lawyer;
- In certain execution proceedings, depending on their value, representation by lawyer can be mandatory (article 60 of the Portuguese Civil Procedure Code).

There is a kind of court proceeding named "Peace Court" that allows petitioners to represent themselves before court, without legal representation. However there are some exceptions: if an appeal of the procedure is admissible; when the petitioner is foreign and has no understanding of Portuguese language; if the petitioner is illiterate or has some kind of disability - in this cases lawyers or solicitors are mandatory.

Mediation and Conflict Resolution Alternative issues that run in local "Peace Court" don't depend of any lawyer assistance (article 38.º of Law n.º 78/2001 of 13th of July).

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

- a national bar?
 a regional bar?
 a local bar?

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

- Yes
 No

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

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

- Yes
 No

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

- Yes

No

If yes, please specify:

The Portuguese Bar Association delivers titles within several areas of law, under Regulation n.º 204/ 2006 of 30th October.

Please indicate the sources for answering questions 146 and 148:

Portuguese bar Association - The Portuguese Bar Association is a national Bar, ruled by professional statute approved by Law 15/2005 of January 26th, divided in seven regional district councils

F1 Comments for interpreting the data mentioned in this chapter:

In Portugal, only registered lawyers are allowed to carry legal practice and represent people in courts, according to Law 49/2004 of August 24th , thus the registration at the Portuguese Bar Association (OA) is mandatory – number one, article 61.º of the Statute.

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:

Lawyers fees are regulated in articles 95, indent a), 100, 101 and 102 of the Portuguese Bar Association Statute - Law 15/2005, 26 January. Fees are also addressed in the CCBE Code of Conduct for European Lawyers http://www.ccbe.org/en/documents/code_deonto.htm applicable to cross-border activities – see articles 3.3. and following. The general rule concerning Lawyers fees is that they are freely negotiated between lawyer and client. However fees can also be established previously, in the beginning of instructions as expressly foreseen, by written agreement (article 100 number 2 of the Statute).

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?

Lawyers have no quality standards as such but follow professional duties (article 83, number 2 of the Statute) and a Code of Conduct, that if broken, may rise disciplinary responsibility (on account of professional misconduct) and even tort (civil professional) responsibility covered by professional insurance (article 99).

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:

Yes, it is possible to complain on fees, as already explained in comments to 156, within the Superior Councils' jurisdiction.

When it comes to the lawyers conduct itself, the Bar has exclusive jurisdiction upon them, there are 7 Ethics Councils (Deontology Councils) which, according to each lawyer professional domicile, analyse and apply disciplinary measures (article 109 and forth).

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)	4 773
1. Breach of professional ethics	4 773
2. Professional inadequacy	
3. Criminal offence	
4. Other	

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)	NA
1. Reprimand	NA
2. Suspension	NA
3. Removal	NA
4. Fine	NA
5. Other (e.g. disbarment)	NA

Comment :

[Mail from the NC sent on 14 April 2014: During 2012, there were sanctions pronounced against lawyers; however, we couldn't present any numbers due to the fact that there are only partial data available that do not reflect the totality of the situation.]

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

Article 139 of our Statute states two different disciplinary procedures: a preliminary proceeding and a proper disciplinary procedure. The total number of cases initiated in 2012 includes data from all ethics councils and the appeal, the Superior Council, altogether (source Relatório e Contas 2012).

Question161 - In Portugal, lawyers' criminal offences are an exclusive of the Court and police investigation, however, prosecutions and condemnations are communicated to the Bar that can open misconduct or professional adequacy procedures.

Question 162 - During 2012, there were sanctions pronounced against lawyers; however, only partial data is available and therefore does not reflect the totality of the situation.

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

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

- Yes
 No

If yes, please specify:

Whenever a party doesn't have sufficient financial means (Law 47/2007, 28 August).it is possible to benefit from legal assistance by making use of legal aid.

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

255

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)	<input checked="" type="checkbox"/> Yes	3 391
1. civil cases	<input checked="" type="checkbox"/> Yes	3 270
2. family cases	<input checked="" type="checkbox"/> Yes	72
3. administrative cases		NA
4. employment dismissals cases		NA
5. criminal cases	<input checked="" type="checkbox"/> Yes	49

Comment :

Directorate General for Justice Policy, Ministry of Justice

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

In Portugal, mediation is admissible in a number of areas, as such it has adopted public measures to increase recourse to public mediation systems in specific areas of law: namely, family, employment, criminal, civil and commercial matters. Family, employment and criminal mediation have their own structures, with specialist mediators in these areas. Civil and Commercial mediation takes place as part of a judicial process at the Courts of Peace (julgados de Paz).

Please indicate the source for answering question 166:

Directorate General for Justice Policy, Ministry of Justice.

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

1097

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:

In 2012, Enforcement Agents can be both:

- a) Court Officials – bailiffs working in public institution – controlled by the Ministry of Justice through the Court Officials Council;
b) Private Enforcement Agents - other enforcement agents: Solicitors and Lawyers – controlled by the Commission for the Efficiency of Enforcement Procedures (CPEE), a public, independent and democratic entity who began its functions on 21 March 2009.

These agents are submitted to rigorous legal system regarding the impeachments and incompatibilities with other professions, in order to assure the impartiality and ethical profile of these professionals, supervised by the CPEE.

These enforcement agents have the following powers:

The Private Enforcement Agents take control of court processes and have the powers to use information and communication technologies (IT) concerning:

- 1- Electronic/direct access to public database with information on the identification of the defendant/his assets;
- 2- Electronic/direct access do public register of all court processes with the information of the defendant/the assets that were seizure;
- 3- Online disclosure of the name of the defendants without goods – 58 860 – public List of Enforcement Processes;
- 4- Electronic Seizure (especially bank accounts assessments – according to the Position Paper of the UIHJ);
- 5- Electronic notification of public creditors (tax administration and social security);
- 6- Online Publications;

The judge only:

- Examines the enforcement title in some cases;
- Decides the oppositions to the enforcement procedure or the seizure (in 3 months);
- Decides the lodge claims and the graduation of credits;
- Decides de claims regarding the acts of the Enforcement Agent (within 10 days).

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:

Commission for the Efficiency of Enforcement Procedures (CPEE)

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:

In 2012, the supervision of "bailiffs working in a public institution" remained under the control of the Ministry of Justice, but the supervision and control of the Private Enforcement Agents is a task of the Commission for the Efficiency of Enforcement Procedures (Comissão para a Eficácia das Execuções), a public independent body that started its activity on 31st March 2009 and was created:

- a) To implement the Recommendations of CEPEJ (Rec (2003)17 of the Committee of Ministers to Member States on Enforcement, especially Recommendations numbers 3, 4, 6 and 8);
 b) To implement the "Guidelines for a Better Implementation of the Existing CEPEJ Recommendations on Enforcement" - Rec (2009)11 of the Committee of Ministers to Member States on Enforcement, December 2009, namely Recommendations numbers 75 to 81);
 c) After a rigorous and in-depth analysis, made from 2005 to 2007, of all legal constraints found in enforcement procedures after the reform of 2003 entered into force, and is based on a legal resolution after a wide spread political and parliamentary consensus, thus originating Decree-Law nr. 226/2008, November 20th, approved in the use of the legal authorization granted by the Parliament, through Law nr 18/2008, of 21st of April.

The CPEE is responsible for:

- a) Issuing recommendations towards the efficiency of enforcement procedures;
 b) Issuing recommendations towards the training of Private Enforcement Agents;
 c) The increasing of the quality of the access and final evaluation demands and procedures of training period to become a Private Enforcement Agents;
 d) Analyzing the fulfilment of legal rules and upholding of the incompatibilities and impeachments of Private Enforcement Agents;
 e) The initiation of disciplinary proceedings and the application of proper penalties/sanctions to Private Enforcement Agents;
 f) Performing regular inspections to Private Enforcement Agents.

CPEE works as a Plenary composed by:

- a) The President of the Commission – who was elected unanimously by all members;
 b) One member appointed by the Supreme Judicial Council;
 c) One member appointed by the government member responsible for justice;
 d) One member appointed by the government member responsible for finance;
 e) One member appointed by the government member responsible for social security;
 f) One member appointed by the President of the Solicitor`s Chamber;
 g) One member appointed by the president of the Bar Association;
 h) The President of the Enforcement Agents College;
 i) One member appointed by the associations of consumers or users of justice services;
 j) Two members appointed by confederations with a seat on the Permanent Committee for Social Dialogue of the Economic and Social Council.

And also works as an Executive Board which comprises:

- a) President of the Commission for the Efficiency of Enforcement Procedures;
 b) President of the Specialty Enforcement Agents College, inherently;
 c) Three members chosen by the President and voted in favour by the Plenary.

179) Have quality standards been determined for enforcement agents?

- Yes
 No

If yes, what are the quality criteria used?

To issue the annual recommendations, the Commission for the Efficiency of Enforcement Procedures followed the criteria of the CEPEJ Recommendation number 75 (see Guidelines for a Better Implementation of the Existing CEPEJ Recommendations on Enforcement - Rec (2009)11):

- the number of pending cases;
- the number of incoming cases;
- the number of executed cases;
- the clearance rate;
- the time taken to complete the enforcement;
- the success rates (recovery of debts, successful evictions, remittance of amounts outstanding, etc.);
- the services rendered in the course of the enforcement (attempts at enforcement, time input, decrees, etc.);
- the enforcement costs incurred and how they are covered;
- the number of complaints and remedies in relation to the number of cases settled;

The Commission for the Efficiency of Enforcement Procedures also added appropriate criteria concerning:

a) Handling Procedure:

- Incoming and Resolved- Clearance rate;
- Geographical distribution;
- Case average time during procedures stage;
- Case turnover time.

b) Judicial Organization:

- Geographical Distribution;
- Resources by processes density;

c) Enforcement Agents

- Nr. of Enforcement Agents
- Enforcement Agents geographical distribution
- Nr. of enforcement procedures per Enforcement Agent

d) Enforcement Agents stage analysis

- Nr. of Lawyers and Solicitors admitted
- Program during training (10 months)
- Middle Exam results
- Final Exam (by the external entity)

e) Enforcement Agents disciplinary behaviour analysis + supervision analysis

- Most common procedural errors / complaints;
- Most common disciplinary procedures;
- Management of the accounts;
- Verification of the structures and the use of ICT;

In November of 2011, the Commission for the Efficiency of Enforcement Procedures issued 72 Recommendations towards the training of Enforcement Agents, available at

http://www.cpee.pt/media/uploads/pages/ELENCO_DAS_105_RECOMENDACOES_DA_CPEE_SOBRE_A_EFICACIA_DAS_EXECUCOES_E_A_FORMACAO_AGENTES

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:

The Commission for the Efficiency of Enforcement Procedures (Comissão para a Eficácia das Execuções).

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

- Yes
- No

if yes, please specify

The Procedural Code for Administrative Courts has a special part dedicated to the enforcement of decisions against public authorities (articles 157 to 179). The regulation differs according to what is at stake. The Civil Procedure Code is applied to when some procedural rule is not specifically in the Procedural Code for Administrative Courts.

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

- Yes
- No

If yes, please specify

Please see question 179.

The Commission for the Efficiency of Enforcement Procedures evaluates the execution of the legal system entered into force with Decree-Law nr. 226/2008, November 20th (31/03/2009) to issue the annual recommendations towards the efficiency of enforcement procedures and the training of Enforcement Agents, with the cooperation of the data of all the Plenary Members of the CPEE, especially the Ministry of Justice data and analysis elaborated by the General Cabinet of Legislative Policy (from Decree-Law nr. 123/2007, April 27th), the Solicitor's Chamber, the associations of consumers or users of justice services and the confederations with a seat on the Permanent Committee for Social Dialogue of the Economic and Social Council.

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:
 Failure to return the amounts/ goods.

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

- Yes
 No

If yes, please specify:

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

- for civil cases?
 for administrative cases?

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

NA

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

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

Total number of initiated disciplinary proceedings (1+2+3+4)	<input checked="" type="checkbox"/> number:	255
1. for breach of professional ethics		NA
2. for professional inadequacy		NA
3. for criminal offence	<input checked="" type="checkbox"/> number:	22
4. Other	<input checked="" type="checkbox"/> number:	35

Comment :

Other includes:

violation of duty of diligence and zeal - 23
 Failure to keep the customers accounts according to law -7
 Evidence of irregularities in handling of customer accounts - 5

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:	18
1. Reprimand	<input checked="" type="checkbox"/> number:	3
2. Suspension	<input checked="" type="checkbox"/> number:	2
3. Dismissal	<input checked="" type="checkbox"/> number:	6
4. Fine	<input checked="" type="checkbox"/> number:	3
5. Other	<input checked="" type="checkbox"/> number:	4

Comment :

Other sanctions:

Sanction of refund amounts -2
 Penalty of loss of fees - 2

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**

Question 187 – the number of disciplinary proceeding increased significantly in relation to previous report because all incidents and proceedings are included in these data.

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

Source of Questions 187 and 188 - Commission for the Efficiency of Enforcement Procedures (Comissão para a Eficácia das Execuções).

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:

The Enforcement of Criminal Sanctions Court is the entity in charge of imprisonment orders, according to article 91 of the Law on the Organization and Functioning of the Judicial Courts (Law 3/99, of the 13rd January, amended several times).

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?	<input checked="" type="checkbox"/> number	370
public agents?	<input checked="" type="checkbox"/> number	72
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:

Notaries are one of the entities in Portugal that can legalize contracts and documents in general and authenticate signatures, either because the law requires it or at the parties' request. However, in most cases, even when the law requires a certain level of authenticity in the documents, it is possible for other legal professionals to do it, such as registers, lawyers or solicitors.

9. 1. 2. Supervision

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

- Yes
 No

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

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

If other, please specify:

I.1 You can indicate below:

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

Due to the special nature of the notary activity, there is a double supervision and control by the Notaries Order, the professional body of notaries in Portugal, and by the Ministry of Justice, through the Institute of Registries and Notary. Both entities have disciplinary jurisdiction and regulation power over the notaries.

Until 2005, the notaries were exclusively public officials. The reform introduced completely changed its status and continue to be public officials exercising but the activity in the context of a liberal profession. Notaries compete for licenses and take office before the Minister of Justice and the president of the Chamber of Notaries.

Please indicate the sources for answering question 193:

The Institute of Registry and Notary (Instituto dos Registos e do Notariado), Ministry of Justice.

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:

NA

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

- Yes
 No

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

201) Are the courts responsible for selecting court interpreters?

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

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

Comment :

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

Question 198 - There are no specific rules for court interpreters. However, the rules applicable to experts are "mutatis mutandis", also valid for interpreters.

The function of court interpreters is regulated, namely, by articles 139,141 and 568 and following of the Civil Procedure Code, and by "inter alia", articles 47, 91, 92, 153 and 162 of the Penal Procedure Code, as well as by article 17 of table IV of the Regulation of Judicial Fees.

Please indicate the sources for answering question 199:

Directorate-General for the Administration of Justice (Direcção-Geral da Administração da Justiça)

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)

NA

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:
When the investigation doesn't end with the immediate presentation of the technical report, the judge will establish the timeframe for the conclusion of the report; this period may not exceed 30 days (article 585 of the Civil Procedure Code).

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 :

The function of judicial expert is regulated by articles 568 and following of the Portuguese Civil Procedure Code. Judicial experts are designated by the judge among persons of recognized competence in the matter in questions.

However, parties are consulted and can suggest an expert to perform these duties. If the parties agree on the choice of the expert, the judge shall designate the expert chosen, unless there are doubts about his capacity and competence.

As from 2013, Directorate-General for the Administration of Justice (Direcção-Geral da Administração da Justiça) can also select judicial experts (Ordonnance n. 860/2012, 30 November., DR II Série n.º 11 de 16 January 2013).

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

Please indicate the sources for answering question 205:

12. Foreseen reforms

12. 1. Foreseen reforms

12. 1. 1. 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

1. After the setting up of the new judicial map, 2014 will mark the beginning of the operation of the new justice organization. Some steps still need to be taken, such as the approval and implementation of the Law of the Reorganization of the Judicial System (Lei de Organização do Sistema Judiciário).

3.1 There are plans to introduce some changes in the legal aid regime in order to improve transparency and more equality in the access to justice system.

5. The government intends to alter the professional statutes of some legal professions, such as judges, prosecutors, bailiffs and enforcement agents.

6. After the reform in the civil procedural laws that took place in 2013, it is time to assess and evaluate the implementation of the new Civil Procedural Code; There are also ongoing reforms on the revision of the Administrative Procedural Code, the Code of Procedure in Administrative Courts, in the Statute of administrative and tax courts, and the Expropriations Code.

6.1 The revision of the Civil Code regime governing disqualifications (suspension of civil rights, incapacitation), especially with regard to the elderly;

9. A revision of the Penal Code (CP) and the Code of Criminal Procedure (CPP) in such a way as to broaden the application of, and effectively implement, the summary procedure in the case of persons who are detained in flagrante delicto, and broaden the imposition of remand in custody for crimes that are punishable by prison terms of more than three years;

- Improve the Conditions of Criminal Police with the revision of its professional status and change to a new headquarter.

- Strengthen the fight against corruption and economic crimes;

- Adoption of the law against unjust enrichment;

9.1 Implementation of the Investment Plan for the rehabilitation and expansion of prisons and educational centers (2012-2016).

10. Implementation of the National Plan for rehabilitation and reintegration 2013 -2015 and National Plan for rehabilitation and reintegration - juvenile justice -2013-2015.