

1. Evaluation of the judicial systems (2016-2018 cycle)



Germany

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Reference data 2016 (01/01/2016 - 31/12/2016)

Start/end date of the data collection campaign : 01/06/2017 - 31/12/2017

Objective :

The CEPEJ decided, at its 28th plenary meeting, to launch the seventh evaluation cycle 2016 – 2018, focused on 2016 data. The CEPEJ wishes to use the methodology developed in the previous cycles to get, with the support of its national correspondents' network, a general evaluation of the judicial systems in the 47 member states of the Council of Europe as well as two observer states (Israel and Morocco). This will enable policy makers and judicial practitioners to take account of such unique information when carrying out their activities.

The present questionnaire was adapted by the Working group on evaluation of judicial systems (CEPEJ-GT-EVAL) in view of the previous evaluation cycles and considering the comments submitted by CEPEJ members, observers, experts and national correspondents. The aim of this exercise is to increase awareness of judicial systems in the participating states, to compare the functioning of judicial systems in their various aspects, as well as to have a better knowledge of the trends of the judicial organisation in order to help improve the efficiency of justice. The evaluation questionnaire and the analysis of the results becomes a genuine tool in favour of public policies on justice, for the sake of the European citizens.

Instruction :

The ways to use the application and to answer the questions are guided by two main documents:

- User manual
- Explanatory note

While the explanatory note gives definitions and explanations on the CEPEJ evaluation questionnaire and the methodology needed for replying, the User manual is a tool to help you navigate through this application. You can download the Explanatory note as a whole on the CEPEJ website. The specific explanations are also accessible for each question within this application under the tab "Explanatory note". This will serve as immediate consultation tool when answering questions. The user manual is accessible in the "Documentation" tab of the application.

In case you have any questions related to these documents or on the use of the application, please do not hesitate to contact the Secretariat.

1.General information

1.1.Demographic and economic data

1.1.1.Inhabitants and economic general information



001. Number of inhabitants (if possible on 1 January of the reference year +1)

[82175684]

Comments

002. Total of annual public expenditure at state level and where appropriate, public expenditure at regional or federal entity level (in €)

	Amount
State or federal level	362651000000 <input type="checkbox"/> NA <input type="checkbox"/> NAP
Regional / federal entity level (total for all regions / federal entities)	612444000000 <input type="checkbox"/> NA <input type="checkbox"/> NAP

Comments

003. Per capita GDP (in €) in current prices for the reference year

[37997]

Comments The circumstances have changed since the last campaign.

004. Average gross annual salary (in €) for the reference year

[50352]

NA

Comments The circumstances have changed since the last campaign

005. Exchange rate of national currency (non-Euro zone) in € on 1 January of the reference year +1

[]

Allow decimals : 5

NAP

Comments

A1. Please indicate the sources for answering questions 1 to 5

Sources: On question 1:

Federal Statistical Office (Wiesbaden); intercensal population updates on basis of 2011 census, subject-matter series 1, series 1.3 (2015) [no more recent figures available].

On question 2:

Federal Statistical Office (Wiesbaden); tax and finance (subject-matter series 14, series 2, 2016, Q1-4 2016).

On question 3:

Federal Statistical Office, national accounts (subject-matter series 18, series 1.2, Q1 2017, table 1.4)

On question 4:

This figure refers to the average gross income of private households per month (€4196) in 2015 (x12). Source: Federal Statistical Office, Statistical Yearbook (Germany and abroad) 2017, table 6.1.2.

1.1.2. Budgetary data concerning judicial system



006. Annual (approved and implemented) public budget allocated to the functioning of all courts, in € (without the budget of the public prosecution services and without the budget of legal aid). If you cannot separate the budget allocated to the courts from the budgets of public prosecution services and/or legal aid, please go to question 7. If you are able to answer this question 6, please answer NAP to the question 7.

	Approved budget (in €)	Implemented budget (in €)
TOTAL - Annual public budget allocated to the functioning of all courts (1 + 2 + 3 + 4 + 5 + 6 + 7)	[X] NA [] NAP	[X] NA [] NAP
1. Annual public budget allocated to (gross) salaries	[X] NA [] NAP	[X] NA [] NAP
2. Annual public budget allocated to computerisation (equipment, investments, maintenance)	[X] NA [] NAP	[X] NA [] NAP
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.	[X] NA [] NAP	[X] NA [] NAP
4. Annual public budget allocated to court buildings (maintenance, operating costs)	[X] NA [] NAP	[X] NA [] NAP
5. Annual public budget allocated to investments in new (court) buildings	[X] NA [] NAP	[X] NA [] NAP
6. Annual public budget allocated to training	[X] NA [] NAP	[X] NA [] NAP
7. Other (please specify)	[X] NA [] NAP	[X] NA [] NAP

Comments - Please indicate any useful comment to explain the figures provided. If the annual public budget allocated to the functioning of all courts actually implemented is different from the approved annual public budget allocated to the functioning of all courts, please indicate the main differences: The budget of the courts cannot be separated from budget from the public prosecution.

007. (Modified question) If you cannot answer question 6 because you cannot isolate the budget allocated to courts from the budget allocated to public prosecution services and/or legal aid, please fill only the appropriate line in the table according to your system:

	Approved budget (in €)	Implemented budget (in €)
Total annual public budget allocated to all courts and the public prosecution services together	9290453279 [] NA [] NAP	9132888596 [] NA [] NAP
Total annual public budget allocated to all courts and legal aid together	[X] NA [] NAP	[X] NA [] NAP

Total annual public budget allocated to all courts, public prosecution services and legal aid together	<input checked="" type="checkbox"/> NA	<input checked="" type="checkbox"/> NA
	<input type="checkbox"/> NAP	<input type="checkbox"/> NAP

Comments:

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

	Litigants required to pay a court tax or fee to start a proceeding at a court of general jurisdiction ?
for criminal cases	() Yes (X) No
for other than criminal cases	(X) Yes () No

Comments - If there are exceptions to the rule to pay a court tax or fee, could you please provide comments on those exceptions?

008-1. Please briefly present the methodology of calculation of court taxes or fees:

- In criminal proceedings, fees related to the proceedings will arise in an amount stipulated by law, while the amounts of fees charged in other court proceedings will be primarily oriented by the amount in dispute or the transaction value.

008-2. The amount of court fees to commence an action for 3000€ debt recovery:

[324]

NA

NAP

Comments plus expenditures

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

[4336886963]

NA

NAP

Comments Discrepancy with previous cycle is not explained. Data without the Laender Mecklenburg-Vorpommern and Schleswig-Holstein.

Bremen:No information

North Rhine-Westphalia:It is not possible to provide separate statistics on court fees alone. This is because income from court fees in criminal/regulatory proceedings is captured as part of a consolidated estimation and accounting system, which also includes income from criminal/regulatory fines as well as monetary payments by accused persons in return for the provisional non-preferment of public charges in the case of misdemeanours.

Lower Saxony:No information can be provided since court fees are accounted for as one item together with criminal and regulatory fines (11210).

Thuringia:These are legal fees, including repayments of legal aid (installment payments).

012. Annual approved public budget allocated to legal aid, in €.

	TOTAL	Criminal cases	Other than criminal cases
TOTAL - Annual approved public budget allocated to legal aid (12.1 + 12.2)	725056049 [] NA [] NAP	[X] NA [] NAP	[X] NA [] NAP
12.1 for cases brought to court	[X] NA [] NAP	[X] NA [] NAP	[X] NA [] NAP
12.2 for non-litigious cases or cases not brought to court (legal consultation, ADR, etc.)	[X] NA [] NAP	[X] NA [] NAP	[X] NA [] NAP

Comments

012-1. Annual implemented public budget allocated to legal aid, in €.

	TOTAL	Criminal cases	Other than criminal cases
TOTAL - Annual implemented public budget allocated to legal aid (12-1.1 + 12-1.2)	676027512 [] NA [] NAP	[X] NA [] NAP	[X] NA [] NAP
12-1.1 for cases brought to court	[X] NA [] NAP	[X] NA [] NAP	[X] NA [] NAP
12-1.2 for non-litigious cases or cases not brought to court (legal consultation, ADR, etc.)	[X] NA [] NAP	[X] NA [] NAP	[X] NA [] NAP

Comments - If the public budget actually implemented regarding legal aid is different from the annual approved public budget allocated to legal aid, please indicate the main differences:

013. Total annual (approved and implemented) public budget allocated to the public prosecution services, in €.

	Approved budget (in €)	Implemented budget (in €)
Total annual public budget allocated to the public prosecution services, in €	[X] NA [] NAP	[X] NA [] NAP

Please indicate any useful comment to explain the figures provided. Moreover, if the annual public budget allocated to the public prosecution services actually implemented is different from the approved annual public budget allocated to the public prosecution services, please indicate the main differences: The budget of the courts cannot be separated from budget from the public prosecution.

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

	Preparation of the total court budget	Adoption/approval 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	(X) Yes () No [] NAP	() Yes (X) No [] NAP	(X) Yes () No [] NAP	(X) Yes () No [] NAP

Other ministry	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No [] NAP	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No [] NAP	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No [] NAP	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No [] NAP
Parliament	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No [] NAP	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No [] NAP	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No [] NAP	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No [] NAP
Supreme Court	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No [] NAP	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No [] NAP	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No [] NAP	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No [] NAP
High Judicial Council	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No [] NAP	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No [] NAP	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No [] NAP	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No [] NAP
Courts	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No [] NAP	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No [] NAP	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No [] NAP	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No [] NAP
Inspection body	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No [] NAP	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No [] NAP	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No [] NAP	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No [] NAP
Other	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No [] NAP	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No [] NAP	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No [] NAP	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No [] NAP

Comments - If any other Ministry and/or inspection body and/or other, please specify: Other Ministry: Federal Ministry of Finance, Federal Ministry of Labour and Social Affairs

Other authority auditing the use of funds: Bundesrechnungshof (German supreme audit institution)

A2. Please indicate the sources for answering questions 6 to 14:

<p>Sources: Information provided by the Länder upon request submitted to the Land justice administrations. Budgetary laws, budget plans, individual plans, budget accounts from the Länder. Budget accounting for the year 2016. Information from federal courts.</p>

1.1.3. Budgetary data concerning the whole justice system

015-1. Annual (approved and implemented) public budget allocated to the whole justice system, in € (this global budget includes the court system as defined under question 6 and also the prison system, the judicial protection of juveniles, the operation of the Ministry of Justice, etc.).

	Approved budget (in €)	Implemented budget (in €)
Total annual public budget allocated to the whole justice system in €	16190630224 [] NA [] NAP	15943075304 [] NA [] NAP

Please indicate any useful comment to explain the figures provided above and specify if a large portion of the budget allocated to the whole justice system comes from an international organisation. Moreover, if the annual public budget allocated to the whole justice system actually implemented is different from the approved annual public budget allocated to the whole justice system, please indicate the

main differences: Bavaria

The figure provided covers the budget for the justice system and the administrative jurisdiction

Fiscal, labour and social jurisdictions: NA

Administrative jurisdiction: Question 15-1 includes the overall allocation for the administrative jurisdiction incl. further-training costs Berlin

Consumer-protection matters, Bar Examinations Office

Brandenburg

Budget plan for 2015/2016 assumed greater expenditure. Total budget calculation for EPL 04 did not include chapter for Europe and consumer-protection departments, Land Office for Occupational Health and Safety, Consumer Protection and Health (LAVG) and INTERREG. Budget indicated includes Land and federal funds only.

Bremen

Figures take account of expenditure in product plan justice as well as justice expenditure in product plan 96, IT budget, of the Free Hanseatic City of Bremen.

Actual expenditure over the financial year fell behind the approved funds.

Lower Saxony

No information

Rhineland-Palatinate

Rhineland-Palatinate Constitutional Court

Saarland

NO INFORMATION

Saxony

Expenditure for the justice system in the Free State of Saxony is estimated in section 06 of the Land budget, with the exception of building and maintenance works/management and rental of real estate. This section thus accounts for all expenditure falling within the portfolio of the Saxony State Ministry of Justice. This portfolio includes the courts and public prosecution offices, prisons, Bobritzsch Training Centre, the Central Office for Information Technology of the Saxon Justice System, and (up until 31 December 2016) the Land Commissioner for the Records of the State Security Service of the Former GDR.

Section 06 is split into various chapters, including chapters for each individual jurisdiction and for the public prosecution offices en bloc. However, it is not possible to provide a detailed breakdown of the funds approved in the budget plan and those actually spent over the financial year on each individual branch of the justice system. This is because part of the expenditure earmarked for each branch is estimated in a central chapter and parts of these funds are centrally managed. Budget planning for these funds is also centralised.

Expenditure on building and maintenance, as well as management and rental of real estate, is estimated in section 14 of the Land budget for the entire of Saxony. Any such expenditure falling within the remit of the Saxony State Ministry of Justice is consolidated into a single chapter within this section. Offices within the remit of the Saxony State Ministry of Finance are responsible for planning and managing funds under section 14. Investment-related expenditure for major building works (i.e. those entailing total building costs exceeding 1 million euros) can be attributed to individual facilities and thus, as a rule, to courts or public prosecution offices. However, investment-related expenditure for minor building works cannot be separated according to courts/public prosecution offices. At each individual court and public prosecution office, as well as at the Central Office for Information Technology in the Saxon Justice System and the Saxony State Ministry of Justice, budget planning, administration and execution fall within the purview of the head of office and the budget commissioner. In total – graded according to the volume of funds – more than 50 offices are involved in planning and managing budgetary resources. It is therefore not possible to draw up an organisational diagram. Expenditure is dependent on the number and scale of court/criminal proceedings as well as the number of inmates, all of which are beyond the control of the judicial administration. Moreover, human resources management entails a certain degree of employee fluctuation (newly hired staff, parental leave, long-term sickness etc.); potential salary increases under collective bargaining agreements can only be estimated; IT projects and planned building works are subject to ongoing amendment. Target figures are based on forecasts and usually differ from actual expenditure.

Saxony-Anhalt

The ministry's remit includes the Land Commissioner for the Records of the State Security Service of the Former GDR. The expenditure for this is estimated in Chapter 1114. Expenditure for building maintenance is not included.

Schleswig-Holstein: No information

Thuringia

The information includes all expenses estimated or incurred by the courts, prosecutors, the Judiciary, the Ministry and the JPA Auditing Office, including personnel expenses, benefits, out-of-pocket expenses, investments and IT. It does not include expenditure on construction and maintenance of state justice buildings, as well as expenditure on migration and consumer protection.

015-2. (Modified question) Please indicate the budgetary elements that are included in the whole justice system by specifying on the one hand the elements of the judicial system budget (please check the consistency with questions 6, 12 and 13). (Note: NAP means that the element does not exist in your system):

	Included
Court (see question 6)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NAP
Legal aid (see question 12)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NAP
Public prosecution services (see question 13)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NAP

Comments:

015-3. (Modified question) On the other hand, please specify the other budgetary elements included in the whole justice system budget. (Note: NAP means that the element does not exist in your system):

	Included
Prison system	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NAP
Probation services	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NAP
Council of the judiciary	<input type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> NAP
Constitutional court	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> NAP
Judicial management body	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NAP
State advocacy	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> NAP
Enforcement services	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NAP
Notariat	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> NAP

Forensic services	() Yes (X) No [] NAP
Judicial protection of juveniles	() Yes (X) No [] NAP
Functioning of the Ministry of Justice	(X) Yes () No [] NAP
Refugees and asylum seekers services	() Yes (X) No [] NAP
Immigration Service	() Yes (X) No [] NAP
Some police services (e.g. : transfer, investigation, prisoners' security)	() Yes (X) No [] NAP
Other	(X) Yes () No [] NAP

Comments - If "other", please specify: Training centres for the administration of justice, such as the German Judicial Academy, the Northern German College for the Administration of Justice and educational / further training centres.

A3. Please indicate the sources for answering questions 15-1, 15-2 and 15-3:

Sources: Budgetary laws, budget plans, individual plans, budget accounts from the Länder

2. Access to justice and all courts

2.1. Legal Aid

2.1.1. Scope of legal aid

016. Does legal aid apply to:

	Criminal cases	Other than criminal cases
Representation in court	() Yes () No [] NA [X] NAP	(X) Yes () No [] NA [] NAP
Legal advice	(X) Yes () No [] NA [] NAP	(X) Yes () No [] NA [] NAP

Comments

017. Does legal aid include the coverage of or the exemption from court fees?

Yes

No

Comments - If yes, please specify:

018. 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

Comments - If yes, please specify: Legal aid in compulsory enforcement is granted for the entire enforcement proceedings and not for individual enforcement measures.

019. Can legal aid be granted for other costs (different from those mentioned in questions 16 to 18, e.g. fees of technical advisors or experts, costs of other legal professionals (notaries), travel costs etc.)?

	Criminal cases	Other than criminal cases
Legal aid granted for other costs	<input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NA <input type="checkbox"/> NAP

Comments - If yes, please specify: If granted, legal aid covers all of the costs of the legal dispute. In particular, this includes the cost of a court-ordered taking of evidence, as well as the costs for compensating witnesses or obtaining expert reports.

2.1.2. Quantitative information on legal aid

020. (Modified question) Please indicate the number of cases for which legal aid has been granted:

	Cases brought to court	Cases not brought to court / non-litigious cases
TOTAL	573869 <input type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP
In criminal cases	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP
In other than criminal cases	573869 <input type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP

Comments - Please specify when appropriate:

021. 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?

Assisted by a free of charge lawyer

Accused individuals	(X) Yes () No
Victims	() Yes (X) No

Comments - If yes, please specify: The assistance of defence counsel is necessary under certain conditions. In cases of necessary defence, defence counsel is appointed for an accused person who does not yet have defence counsel. The incomes and assets of the accused person are immaterial.

022. If yes, are individuals free to choose their lawyer within the framework of the legal aid system?

- () Yes
(X) No

Comments

023. (Modified question) Does your country have an income and assets evaluation for granting (full or partial) legal aid to the applicant? The answer NAP means that there is no income and/or assets evaluation system for granting legal aid.

	Annual income value (for one person), (in €)	Annual assets value (for one person), (in €)
Full legal aid for criminal cases	[] NA [X] NAP	[] NA [X] NAP
Full legal aid for other than criminal cases	[X] NA [] NAP	[X] NA [] NAP
Partial legal aid for criminal cases	[] NA [X] NAP	[] NA [X] NAP
Partial legal aid for other than criminal cases	[X] NA [] NAP	[X] NA [] NAP

Comments - If yes, please indicate if any other criteria are taken into account for the granting of legal aid and any comment that could explain the figures provided above: Section 114 (1), first sentence, of the Code of Civil Procedure (Zivilprozessordnung, ZPO), applies: Any parties who, due to their personal and economic circumstances, are unable to pay the costs of litigation, or are able to so pay them only in part or only as instalments, will be granted assistance with the court costs upon filing a corresponding application, provided that the action they intend to bring or their defence against an action that has been brought against them has sufficient prospects of success and does not seem frivolous.

In accordance with section 115 (1) ZPO, the parties are to use their income.

Section 115

Use of income and assets

(1) The parties are to use their income. The term “income” comprises all earnings in money or in money’s worth. The following are to be deducted in determining the parties’ income:

1.

a) The amounts designated in section 82 (2) of Book XII of the Social Code (Sozialgesetzbuch Teil XII, SGB XII);

b) For parties earning an income from economic activities, an amount of 50 percent of the maximum standard rate initially assessed or later updated for the single, or single-parent, beneficiary of benefits granted under stage 1 standard support needs pursuant to the annex to section 28 of Book XII of the Social Code (SGB XII);

2.

- a) For the party and the party's spouse or partner under a civil union, the amount of the maximum standard rate initially assessed or later updated for the single, or single-parent, beneficiary of benefits granted under stage 1 standard support needs pursuant to the annex to section 28 of Book XII of the Social Code (SGB XII), increased in each case by 10 percent;
- b) In the event of further maintenance payments being made based on a statutory obligation to pay such maintenance, for each person entitled to maintenance, in each case the amount of the maximum standard rate initially assessed or later updated for the person of the corresponding age entitled to benefits granted under standard support needs of stages 3 to 6 pursuant to the annex to section 28 of Book XII of the Social Code (SGB XII), increased in each case by 10 percent;
3. The costs of residential accommodation and heating costs, insofar as they are not obviously disproportionate to the general life circumstances of the party concerned;
4. Extra allowances for additional needs pursuant to section 21 of Book II of the Social Code (SGB II) and pursuant to section 30 of Book XII of the Social Code (SGB XII);
5. With a view to special obligations to which the party is subject, further amounts as appropriate; section 1610a of the Civil Code (Bürgerliches Gesetzbuch, BGB) shall apply mutatis mutandis.

The amounts in force at the time at which assistance with court costs is approved shall govern. The Federal Ministry of Justice publishes, in the Federal Law Gazette (Bundesgesetzblatt, BGBI.), the amounts initially assessed or later updated in accordance with the third sentence hereinabove at number 1 lit. b and with number 2. Where these amounts are not full amounts in euros, they are to be rounded down where they are equal to 0.49 euros and less, and shall be rounded up where they are equal to 0.50 euros and higher. The maintenance allowance amounts stipulated by the third sentence hereinabove at number 2 shall be reduced by the income earned by the person entitled to maintenance. Should an annuity be paid, it is to be deducted instead of the allowance amount wherever reasonable. According to the 2017 announcement on legal aid, from 1 January 2017 onwards the determinative amounts to be deducted from the party's income in accordance with section 115 (1), third sentence, no. 1 letter b and no. 2 of the Code of Civil Procedure (Zivilprozessordnung, ZPO) are: 1. for parties earning an income from economic activities (section 115 (1), third sentence, no. 1 letter b ZPO): 215 euros;

2. for the party and the party's spouse or partner under a civil union (section 115 (1), third sentence, no. 2 letter a ZPO): 473 euros;
3. for each additional person who receives maintenance from the party due to statutory support obligations, depending on their age (section 115 (1), third sentence, no. 2 letter b ZPO): a) adults: 377 euros;
- b) children from the age of 14 up until their 18th birthday: 359 euros;
- c) children from the age of 6 up until their 14th birthday: 333 euros;
- d) children up to their 6th birthday: 272 euros.

For determining the instalments, the following applies in accordance with section 115 (2) ZPO:

Out of that part of the monthly income remaining after deductions ("income to be used"), monthly instalments are to be assessed in the amount of half of the income to be used; such monthly instalments are to be rounded down to a full amount in euros. Where the amount of a monthly instalment is lower than 10 euros, the assessment of monthly instalments is to be desisted from. Where the income to be used is greater than 600 euros, the monthly instalment shall amount to 300 euros plus that part of the income to be used that is in excess of 600 euros. As a maximum, and regardless of the number of court instances in which the proceedings are pursued, a maximum of 48 monthly instalments are to be paid.

In accordance with section 115 (3) ZPO, the party is to use its assets to the extent this can reasonably be expected of it. The details are regulated by law.

024. 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

Comments - If yes, please explain the exact criteria for denying legal aid: Please refer to the answer to question 23. In accordance with section 114 (1), first sentence, of the Code of Civil Procedure (Zivilprozessordnung, ZPO), parties in need will be granted assistance with the court costs upon filing a corresponding application, provided that the action they intend to bring or their defence against an action that has been brought against them has sufficient prospects of success and does not seem frivolous. However, the requirements for determining the prospects of success cannot be excessive. In general, it must merely seem possible based on a summary examination of the factual and legal situation that the applicant can successfully pursue his case. The approval procedure is explicitly not designed for taking decisions on contentious legal matters. Furthermore, there is no mandatory taking of evidence on the facts relevant to a decision on the merits. In

accordance with section 118 (2), second sentence, ZPO, no witnesses or experts are examined, unless it cannot be established by any other means whether or not the action brought by a party, or the defence against an action brought by others against it, holds out sufficient prospects of success and does not seem frivolous.

025. In other than criminal cases, is the decision to grant or refuse legal aid taken by (one option only):

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

Comments

026. 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

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

027. Can judicial decisions direct how legal costs, paid by the parties during the procedure, will be shared:

	Judicial decisions direct how legal costs will be shared
in criminal cases	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
in other than criminal cases	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

Comments In the German judicial system, judicial decisions can direct how legal costs, paid by the parties during the procedure, will be shared. According to section 467 of the Criminal Procedural Code, the court has to decide in its final judgement if and how the necessary expenses paid by the parties during the procedure (as well as the process costs) are to be paid/shared between the state and the defendant.

B1. Please indicate the sources for answering questions 20 and 23 :

Sources: Re question 20: Federal Statistical Office: Special publication series (Fachserie) 10, Series (Reihe) 2.1 "Civil Courts 2015" Special publication series (Fachserie) 10, Series (Reihe) 2.2 "Family Courts 2015" Special publication series (Fachserie) 10, Series (Reihe) 2.4 "Administrative Courts 2015" Special publication series (Fachserie) 10, Series (Reihe) 2.5 "Financial Courts 2015" Special publication series (Fachserie) 10, Series (Reihe) 2.7 "Social Courts 2015" Special publication series (Fachserie) 10, Series (Reihe) 2.8 "Labour Courts 2015" Re question 20.1: Federal Office of Justice, Geschäftsübersichten der Amtsgerichte in der freiwilligen Gerichtsbarkeit 2014 (2014 Summary reports on the proceedings concerning non- contentious matters before the local courts) (Matters terminated and dealt with pursuant to the Beratungshilfegesetz (Act on Legal Advice and Representation Granted to Consumers of Legal Services))

Re question 23.:

Section 115 of the Code of Civil Procedure (Zivilprozessordnung, ZPO), section 166 of the Code of Administrative Court Procedure (Verwaltungsgerichtsordnung, VwGO), section 73a of the Act on Social Court Procedure (Sozialgerichtsgesetz, SGG); section 142 of the Code of Finance Court Procedure (Finanzgerichtsordnung, FGO)

Re Questions 23, 24, 25: sections 114 et seqq. of the Code of Civil Procedure (<https://www.gesetze-im-internet.de/zpo/index.html#BJNR005330950BJNE157201311>)

Re Question 27: sections 379, 402 ZPO (advance payment to cover expenditures); sections 91 et seqq. ZPO (bearing of litigation costs).

2.2. Users of the courts and victims

2.2.1. Rights of the users and victims

028. 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:

	Yes, please indicate the internet adresse(es)	No
legal texts (e.g. codes, laws, regulations, etc.)	(X)	()
case-law of the higher court/s	(X)	()
other documents (e.g. downloadable forms, online registration)	(X)	()

Comments - Please specify what documents and information the addresses for "other documents" include: legal texts: regarding federal law: www.gesetze-im-internet.de regarding the law of the states ("Bundesländer"):

<http://www.justiz.de/onlinedienste/bundesundlandesrecht/index.php>

Case-law of the higher court/s:

www.rechtsprechung-im-internet.de www.bundesverfassungsgericht.de

www.bundesgerichtshof.de

www.bundesverwaltungsgericht.de

www.bundesfinanzhof.de

www.bundesarbeitsgericht.de

www.bundessozialgericht.de

www.bundespatentgericht.de

<http://www.justiz.de/onlinedienste/rechtsprechung/index.php>

other documents:

www.justiz.de/bundlaender/index.php

029. (Modified question) Is there an obligation to provide information to the parties concerning the foreseeable timeframes of proceedings?

() Yes, always

(X) No

() Yes, only in some specific situations

Comments - If yes, only in some specific situations, please specify:

030. Is there a public and free-of-charge specific information system to inform and to help victims of crime?

(X) Yes

() No

Comments - If yes, please specify:

031. Are there special favourable arrangements to be applied, during judicial proceedings, to the following categories of vulnerable persons:

	Information mechanism	Special arrangements in hearings	Other specific arrangements
Victims of sexual violence/rape	(X) Yes () No	(X) Yes () No	(X) Yes () No
Victims of terrorism	(X) Yes () No	() Yes (X) No	() Yes (X) No
Minors (witnesses or victims)	(X) Yes () No	(X) Yes () No	(X) Yes () No
Victims of domestic violence	(X) Yes () No	(X) Yes () No	() Yes (X) No
Ethnic minorities	() Yes (X) No	() Yes (X) No	() Yes (X) No
Disabled persons	() Yes (X) No	(X) Yes () No	() Yes (X) No
Juvenile offenders	(X) Yes () No	(X) Yes () No	(X) Yes () No
Other (e.g. victims of human trafficking, forced marriage, sexual mutilation)	(X) Yes () No	(X) Yes () No	(X) Yes () No

Comments - If "other vulnerable person" and/or "other special arrangements", please specify: Where they do not have capacity to contract, children are also not capable of suing and being sued, and must be represented in court (e.g. by their parents). Under the law, children are entitled to legal aid. In parent and child matters concerning the child the court shall appoint a suitable guardian ad litem for minors to the extent necessary for representing the child's interests. The guardian ad litem for minors shall determine the interests of the child and shall assert these in the court proceedings. He shall inform the child of the object, course, and potential result of the proceedings in a suitable manner."

Victims of domestic violence may apply for special measures of the court in accordance with the Violence Protection Act (Gewaltschutzgesetz, GewSchG), such as a ban on coming close and the sole allocation of the joint dwelling. In accordance with section 184, second sentence, of the Courts Constitution Act (Gerichtsverfassungsgesetz, GVG), Sorbs may speak Sorbian in court. Section 186 of the Courts Constitution Act contains special provisions for hearing impaired or speech impaired persons for communication in court. The entitlement to join criminal proceedings as private accessory prosecutor opens up the opportunity, pursuant to section 397a (1) of the Code of Criminal Procedure (Strafprozessordnung, StPO), to appoint counsel who is to provide assistance to the aggrieved person at no charge, as well as the right to be present, pursuant to section 406h (1), first sentence, of the Code of Criminal Procedure (StPO), during the course of the entire main proceedings of the trial. Other special arrangements of protection have been provided for by the Code of Criminal Procedure (StPO), such as the audio-visual transmission or recording of testimony during the main hearing (section 247a of the Code of Criminal Procedure (StPO)) or the removal of the defendant from the courtroom during an examination of a witness (who may be a victim) (section 247 of the Code of Criminal Procedure (StPO)). Inasmuch as, in various instances, there is the concern of the witness being placed at risk, any assessment of such risk by the court and the public prosecutor's office will have to consider the age of a juvenile or child. In some instances, the group of witnesses under the age of 16 is given particular consideration: inter alia, the removal of the defendant from the courtroom during their examination by the court is facilitated (section 247, second sentence, of the Code of Criminal Procedure (StPO)); it is permissible to have their examination conducted solely by the presiding judge (section 241a of the Code of Criminal Procedure (StPO)); or the showing of an audio-visual recording of a witness examination before the court is facilitated (section 255a (2) of the Code of Criminal Procedure (StPO)); the same applies to the exclusion of the public from the hearing (section 172 number 4 of the Courts Constitution Act (GVG)).

In addition, psychosocial assistance in proceedings (psychosoziale Prozessbegleitung) is embodied in law in order to allow victims of serious criminal offences to receive support before, during and after the main hearing. Child and juvenile victims will generally be legally

entitled to free psychosocial assistance in proceedings. As regards other victims of violent or sexual offences, need for such psychosocial assistance will be determined on a case-by-case basis by the court. The latter was included within German law by implementing the Victims Rights Directive (EU) 2012/29 with the Third Act on Reforming the Laws Governing Victims' Rights (3. Opferrechtsreformgesetz).

031-1. Is it possible for minors to be a party to a judicial proceeding:

Yes

No

Comments - If yes, please specify which procedures 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.):

032. Does your country allocate compensation for victims of crime?

Yes, please specify for which kind of offences: Compensation in accordance with the Act on Compensation for Victims of Violent Crime (Opferentschädigungsgesetz, OEG) is not contingent on the nature of the criminal offence. It is also not conditional on the offenders being prosecuted. It is, rather, conditional on a person having suffered harm to their health by an intentional, unlawful violent act within German state territory. Equally, surviving dependants of persons who died as a result of the health damage also have a right to benefits. Medical and healthcare benefits are provided, as are pensions to compensate for the health and economic consequences of the damage to health caused by the violent act, as well as benefits to ensure a person's livelihood. Pension payments are made if the damage to health is permanent and reaches a certain minimum level. Psychological damage is recognised as constituting health damage. Additionally, (restricted) benefits have also been provided since 1 July 2009 for damage caused by violent acts committed abroad. The criminal offences which are normally connected with an intentional, unlawful violent at-tack and can cause damage to health, for instance include grievous bodily harm, murder/intentional manslaughter, rape and sexual coercion. Also, deprivation of liberty may constitute a physical attack. According to the law, the following are deemed to be equivalent to a physical attack the intentional application of poison, the at least negligent bringing about of a risk to life and limb of another by virtue of a felony committed with means that pose a danger to the public (e.g. arson, explosives attack).

No

Comments

032-1. (New question) Is a court decision necessary in the framework of the compensation procedure?

Yes

No

Comments

033. If yes, does this compensation come from:

a public fund

damages and interests to be paid by the person responsible

a private fund

Comments

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

Yes

No

Comments - 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:

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

Yes

No

Comments - If yes, please specify:

036. 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". (The answer NAP means that the public prosecutor cannot decide to discontinue a case on his/her own. A decision by a judge is needed.)

Yes

No

NAP

Comments - If necessary, please specify: If the public prosecution office does not comply with an application to prefer public charges, or if it orders the discontinuation of the proceedings after conclusion of the investigations (section 170 (2), first sentence, of the Code of Criminal Procedure), it must notify the applicant, stating the reasons. In the notice, the applicant, who is at the same time the aggrieved person, is to be informed of the possibility of challenge and of the deadline provided for this (section 172 (1) of the Code of Criminal Procedure) (section 171, first and second sentence, of the Code of Criminal Procedure). If the applicant is at the same time the aggrieved person, they have a right to complain against the notice in accordance with section 171 of the Code of Criminal Procedure within two weeks of notification to the superior official at the public prosecution office (section 172 (1), second sentence, of the Code of Criminal Procedure). The applicant can request a court ruling (proceedings to enforce an action) against the rejection notice of the superior official of the public prosecution office, within one month of the notification. They are to be informed of this and of the form provided for this; the deadline does not run if the information has not been provided (section 172 (2), first and second sentences, of the Code of Criminal Procedure). The application is not admissible if the proceedings refer exclusively to a criminal offence which can be pursued by the aggrieved person by means of a private action, or if the public prosecution office has refrained from prosecuting the offence for reasons of discretionary prosecution (for instance in accordance with section 153 et seqq. of the Code of Criminal Procedure and 45 (1) of the Youth Courts Act [Jugendgerichtsgesetz, JGG]). The Higher Regional Court has jurisdiction to rule on the application (section 172 (4), first sentence, of the Code of Criminal Procedure). Youth court proceedings can also be discontinued (decision by means of diversion) if adequate supervisory measures have already been taken outside of the criminal proceedings, or if the juvenile, who must have admitted guilt, has voluntarily complied with instructions or conditions of the youth court judge which were proposed by the public prosecution office (section 45 (2) and (3) of the Youth Courts Act). Proceedings to enforce an action are also not admissible against such discontinuation.

2.2.2. Confidence of citizens in their justice system

037. (Modified question) Is there a system for compensating users in the following circumstances:

	Number of requests for compensation	Number of condemnations	Total amount (in €)
Total	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP
Excessive length of proceedings	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP

Non-execution of court decisions	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP
Wrongful arrest	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP
Wrongful conviction	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP
Other	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP

Comments - Where appropriate, please give details on the compensation procedure and the calculation method for the amount of the compensation (e.g. the amount per day for unjustified detentions or convictions): As a general rule, in the case of excessively long court proceedings, the person concerned has to file a complaint about undue delay (Verzögerungsrüge) with the court at which the proceedings seem excessively long. If necessary, he can then file a complaint for compensation even if the original proceedings have not yet been concluded. Adequate compensation is granted for pecuniary disadvantages. To the extent that an alternative form of redress would appear insufficient, a fixed amount of € 1,200 per year is granted as a general rule for non-pecuniary disadvantages.

The law of state liability is only partly regulated by national law (see below). There are in addition provisions of Land law, as well as common and judges' law.

Provisions of federal law

If the parties to a legal dispute suffer damage because of excessive length of proceedings, a damage claim may ensue from section 839 of the Civil Code (Bürgerliches Gesetzbuch, BGB) in conjunction with Article 34 of the Basic Law (Grundgesetz, GG) if a case of culpable refusal or delay of execution of the office in breach of duty applies, section 839 (2), second sentence, of the Civil Code. However, the manner in which a judge pursues the proceedings within the scope of section 839 (2), second sentence, of the Civil Code may only be examined for justifiability because of the constitutional principle of judicial independence.

A creditor's first port of call in procedural terms against the non-execution of court decisions by a bailiff is to lodge a reminder in accordance with section 766 (2) of the Code of Civil Procedure. The execution court rules on the reminder. If a senior judicial officer of the execution court rejects a creditor's motion completely or in part to issue a compulsory enforcement measure, the creditor may lodge an immediate complaint (section 567 (1) no. 2 of the Code of Civil Procedure). If the execution organ has delayed compulsory enforcement culpably and in breach of duty, there may be a compensation claim under section 839 (1) of the Civil Code in conjunction with Article 34 of the Basic Law.

A claim may also exist under section 839 of the Civil Code in conjunction with Article 34 of the Basic Law in the case of wrongful arrest if the acting official can be accused of a culpable breach of official duty. With rulings of the judge responsible for matters of custody, as well as with discretionary decisions of the public prosecution office in the investigation proceedings, the decision may only be examined for its justifiability.

In the case of a wrongful judgment, there is an official liability claim under section 839 of the Civil Code in conjunction with Article 34 of the Basic Law if the breach of duty consists of a criminal offence, section 839 (2), first sentence, of the Civil Code.

The claim under section 839 of the Civil Code in conjunction with Article 34 of the Basic Law is to be asserted in the courts of ordinary jurisdiction.

Distinct from these claims are compensation claims under provisions of special statutes, which as a rule are not intended to compensate for the entire damage, but provide lump sums.

Section 2 (1) of the Act on Compensation for Criminal Prosecution Measures (Gesetz über die Entschädigung für Strafverfolgungsmaßnahmen, StrEG) provides in cases of acquittal, discontinuation of the proceedings or refusal to initiate the main proceedings for compensation for the damage suffered by remand detention or temporary arrest that have been carried out. Where the proceedings are discontinued in accordance with a discretionary provision, compensation can be granted ex bono, section 3 of the Act on Compensation for Criminal Prosecution Measures. The subject of the compensation is the property damage caused by the criminal prosecution measure, in the case of deprivation of liberty on the basis of a court ruling also immaterial damage, section 7 (1) of the Act on Compensation for Criminal Prosecution Measures. The immaterial compensation is € 25 for each day of deprivation of liberty commenced.

The decision on the fundamental obligation to provide compensation is taken by the court in the judgment or in the order which closes the proceedings, so-called fundamental ruling in accordance with sections 8 and 9 of the Act on Compensation for Criminal Prosecution

Measures. If the public prosecution office discontinues the proceedings, the court takes the fundamental ruling on application of the accused persons, who must lodge this within one month of service of the discontinuation ruling with information on the application deadline, its right to apply and the court with jurisdiction. After the fundamental ruling has gained legal force, the claim must be lodged with the investigating public prosecution office within six months. If the deadline is missed, the claim is ruled out. When examining the compensation claim, there is no official investigation. Rather, applicants must explain and substantiate their claims. The Land administration of justice, which however may delegate the powers to the public prosecution offices or the chief public prosecutor, rules on the application.

Anyone who has suffered damage from a criminal conviction is refunded by the Treasury if the conviction is quashed or reduced in the resumption proceedings or otherwise in criminal proceedings after having taken on legal force, section 1 (1) of the Act on Compensation for Criminal Prosecution Measures. The same applies if a measure of correction and prevention or an ancillary measure has been ordered without a conviction, section 1 (2) of the Act on Compensation for Criminal Prosecution Measures. The above information applies accordingly in other respects. The implementation of the Act is incumbent on the Länder.

The “Act on Legal Redress for Excessive Length of Court Proceedings and of Criminal Investigation Proceedings” (Gesetz über den Rechtsschutz bei überlangen Gerichtsverfahren und strafrechtlichen Ermittlungsverfahren) came into force on 3 December 2011. The “Erfahrungsbericht über die Anwendung des Gesetzes über den Rechtsschutz bei überlangen Gerichtsverfahren und strafrechtlichen Ermittlungsverfahren,” a report on the application of said act, provides information on case rates and the outcome of proceedings (Official Record of the German Parliament (Bundestagsdrucksache) 18/2950).

038. (Modified question) Did your country implement surveys aimed at legal professionals and court users to measure their trust in justice and their satisfaction with the services delivered by the judicial system? If yes, how frequently and up to what level?

	National level	Court level
1. (Satisfaction) surveys aimed at judges	<input type="checkbox"/> Annual <input type="checkbox"/> Other regular <input type="checkbox"/> Ad hoc	<input type="checkbox"/> Annual <input type="checkbox"/> Other regular <input type="checkbox"/> Ad hoc
2. (Satisfaction) surveys aimed at court staff	<input type="checkbox"/> Annual <input type="checkbox"/> Other regular <input type="checkbox"/> Ad hoc	<input type="checkbox"/> Annual <input type="checkbox"/> Other regular <input type="checkbox"/> Ad hoc
3. (Satisfaction) surveys aimed at public prosecutors	<input type="checkbox"/> Annual <input type="checkbox"/> Other regular <input type="checkbox"/> Ad hoc	<input type="checkbox"/> Annual <input type="checkbox"/> Other regular <input type="checkbox"/> Ad hoc
4. (Satisfaction) surveys aimed at lawyers	<input type="checkbox"/> Annual <input type="checkbox"/> Other regular <input type="checkbox"/> Ad hoc	<input type="checkbox"/> Annual <input type="checkbox"/> Other regular <input type="checkbox"/> Ad hoc
5. (Satisfaction) surveys aimed at the parties	<input type="checkbox"/> Annual <input type="checkbox"/> Other regular <input type="checkbox"/> Ad hoc	<input type="checkbox"/> Annual <input type="checkbox"/> Other regular <input type="checkbox"/> Ad hoc
6. (Satisfaction) surveys aimed at other court users (e.g. jurors, witnesses, experts, interpreters, representatives of governmental agencies)	<input type="checkbox"/> Annual <input type="checkbox"/> Other regular <input type="checkbox"/> Ad hoc	<input type="checkbox"/> Annual <input type="checkbox"/> Other regular <input type="checkbox"/> Ad hoc
7. (Satisfaction) surveys aimed at victims	<input type="checkbox"/> Annual <input type="checkbox"/> Other regular <input type="checkbox"/> Ad hoc	<input type="checkbox"/> Annual <input type="checkbox"/> Other regular <input type="checkbox"/> Ad hoc
8. Other not mentioned	<input type="checkbox"/> Annual <input type="checkbox"/> Other regular <input type="checkbox"/> Ad hoc	<input type="checkbox"/> Annual <input type="checkbox"/> Other regular <input type="checkbox"/> Ad hoc

Comments - Please, indicate the references and links to the satisfaction surveys you mentioned above: Baden-Württemberg
 A large number of courts in Baden-Württemberg have conducted "customer satisfaction surveys" in the past. All of these courts commissioned and carried out those surveys on their own initiative. The results of customer satisfaction surveys are published regularly under the list of projects available on the intranet of the Ministry of Justice and European Affairs.

Bavaria
 Staff surveys are carried out at the Bavarian courts and public prosecution offices every six years as part of a regular audit; in addition to the latter, stand-alone staff surveys are largely carried out three years after the most recent regular audit. Hamburg
 No customer satisfaction surveys or reports were carried out in Hamburg in 2015.

Saxony
 Follow-up surveys are conducted within the remit of Dresden Higher Regional Court as part of the "Local and Regional Courts in Comparison" project, as well as at Leipzig Social Court.

Saxony-Anhalt
 Confidential internal satisfaction surveys are carried out on a discretionary basis by the court/prosecution offices as part of ongoing quality management programmes.

040. 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

Comments

041. (Modified question) If yes, please specify certain aspects of this procedure:

	Authority responsible for dealing with the complaint	Time limit for dealing with the complaint
Court concerned	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Higher court	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Ministry of Justice	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Council of the Judiciary	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Other external bodies (e.g. Ombudsman)	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

041-1. (Modified question) Please specify further certain aspects of this procedure:

	Number of complaints	Compensations amount granted to users
Court concerned	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP
Higher court	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP
Ministry of Justice	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP

Council of the Judiciary	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP
Other external bodies (e.g. Ombudsman)	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP

Comments - If possible, please give information concerning the efficiency of this complaint procedure and any useful comment: NA as to the number of complaints and the annual compensation amounts granted.

3. Organisation of the court system

3.1. Courts

3.1.1. Number of courts

042. Number of courts considered as legal entities (administrative structures) and geographic locations

	Number of courts
42.1 First instance courts of general jurisdiction (legal entities)	761 <input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP
42.2 First instance specialised courts (legal entities)	247 <input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP
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)	1102 <input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP

Comments

043. Number (legal entities) of first instance specialised courts (or specific judicial order)

	Number of courts
Total (must be the same as the data given under question 42.2)	247 <input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP
Commercial courts (excluded insolvency courts)	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP
Insolvency courts	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP
Labour courts	110 <input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP
Family courts	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP

Rent and tenancies courts	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP
Enforcement of criminal sanctions courts	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP
Fight against terrorism, organised crime and corruption	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP
Internet related disputes	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP
Administrative courts	51 <input type="checkbox"/> NA <input type="checkbox"/> NAP
Insurance and / or social welfare courts	68 <input type="checkbox"/> NA <input type="checkbox"/> NAP
Military courts	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP
Other specialised 1st instance courts	18 <input type="checkbox"/> NA <input type="checkbox"/> NAP

Comments - If "other specialised 1st instance courts", please specify: Other specialised 1st instance courts: Finance Courts

044. 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

Comments - If yes, please specify: The possibility of combining courts is being considered by individual Länder in order to reduce costs.

045. Number of first instance courts (geographic locations) competent for a case concerning:

	Number of courts
a debt collection for small claims	646 <input type="checkbox"/> NA <input type="checkbox"/> NAP
a dismissal	110 <input type="checkbox"/> NA <input type="checkbox"/> NAP
a robbery	761 <input type="checkbox"/> NA <input type="checkbox"/> NAP

Comments

045-1. (New question) Is your definition for small claims the same as the one in the Explanatory note?

Yes

() No, please give your definition for small claims:

Comments Claims up to EUR 600 are regarded as “small claims” (section 495a of the Code of Civil Procedure [Zivilprozessordnung, ZPO]).

045-2. (New question) Please indicate the value in € of a small claim:

[600]

Comments The data is published by the Federal Ministry of Justice and Consumer Protection.

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

Sources: The data are published by the Federal Ministry of Justice.

3.2. Court staff

3.2.1. Judges and non-judge staff



046. Number of professional judges sitting in courts (if possible on 31 December of the reference year). Please give the information in full-time equivalent and for permanent posts actually filled for all types of courts - general jurisdiction and specialised courts

	Total	Males	Females
Total number of professional judges (1 + 2 + 3)	19867 [] NA [] NAP	[X] NA [] NAP	[X] NA [] NAP
1. Number of first instance professional judges	15385 [] NA [] NAP	[X] NA [] NAP	[X] NA [] NAP
2. Number of second instance (court of appeal) professional judges	4018 [] NA [] NAP	[X] NA [] NAP	[X] NA [] NAP
3. Number of supreme court professional judges	464 [] NA [] NAP	328 [] NA [] NAP	136 [] NA [] NAP

Comment - Please provide any useful comment for interpreting the data above: The information provided counts the number of full-time equivalent staff. There are no absolute figures for the number of persons making up this staff. A judge working full hours is counted as a full-time equivalent (i.e. 1). A judge working part-time is counted as a fraction of 1. This fraction corresponds to the number of hours worked in relation to a full-time equivalent (e.g. 0.5 for a judge working half the usual number of hours). Re 1 and 2: Information based on staffing overviews. These data are ascertained according to a complex calculation mechanism as an annual average of the actual personnel deployed (for example: minus the number of staff absent for more than 20 working days in a single quarter for reasons other than vacation and/or further-training). Re 3: The number of supreme court professional judges is based on judicial statistics. These data are collected and collated every two years (last updated 31/12/2016).

047. Number of court presidents (professional judges). Please give the information in full-time equivalent and for permanent posts actually filled for all types of courts - general jurisdiction and specialised courts

	Total	Males	Females
Total number of court presidents (1 + 2 + 3)	[X] NA [] NAP	[X] NA [] NAP	[X] NA [] NAP
1. Number of first instance court presidents	[X] NA [] NAP	[X] NA [] NAP	[X] NA [] NAP
2. Number of second instance (court of appeal) court presidents	[X] NA [] NAP	[X] NA [] NAP	[X] NA [] NAP
3. Number of supreme court presidents	[X] NA [] NAP	[X] NA [] NAP	[X] NA [] NAP

Comments

048. Number of professional judges sitting in courts on an occasional basis and who are paid as such (if possible on 31 December of the reference year):

	Figure
Gross figure	[X] NA [] NAP
In full-time equivalent	[X] NA [] NAP

Comments - If necessary, please provide comments to explain the answer provided: There are no figures available for this question. Number of professional judges includes the number of part-time occasional judges.

048-1. (New question) Do these professional judges sitting in courts on an occasional basis deal with a significant part of cases?

() Yes, please give specifications on the types of cases and an estimate in percentage.

(X) No

Comments

049. (Modified question) Number of non-professional judges who are not remunerated but who can possibly receive a simple defrayal of costs (if possible on 31 December of the reference year) (e.g. lay judges and “juges consulaires”, but not arbitrators and persons sitting in a jury):

	Figure
Gross figure	91717 [] NA [] NAP
In full time equivalent	[] NA [X] NAP

Comments Data without the Laender Mecklenburg-Vorpommern and Schleswig-Holstein.

049-1. If such non-professional judges exist in first instance in your country, please specify for which types of cases:

	Yes	No	Echevinage
in criminal law cases	(X)	()	()
- severe criminal cases	(X)	()	()
- misdemeanour and/or minor criminal cases	(X)	()	()
in family law cases	()	(X)	()
in civil cases	()	(X)	()
in labour law cases	(X)	()	()
in social law cases	(X)	()	()
in commercial law cases	(X)	()	()
in insolvency cases	()	(X)	()
other	(X)	()	()

Comments - If “other”, please specify: Others e.g.: Administrative law cases, finance law cases, in matters subject to the laws governing agriculture, as well as in the Notarsenat, a senate of the court responsible for matters involving notaries, and in the Anwaltsgerichtshof (appellate instance of the disciplinary court for lawyers (Anwaltsgericht))

050. Does your judicial system include trial by jury with the participation of citizens?

() Yes

(X) No

Comments

050-1. (New question) If yes, for which type of case(s)? (Please, for severe criminal cases and misdemeanour cases refer to the CEPEJ definitions)

[] Severe criminal cases

[] Misdemeanour cases

[] Other cases

Comments

051. Number of citizens who were involved in such juries for the year of reference:

[]

[] NA

[X] NAP

Comments

052. Number of non-judge staff who are working in courts (on 31 December of the reference year) (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)

	Total	Males	Females
Total non-judge staff working in courts (1 + 2 + 3 + 4 + 5)	53181 [] NA [] NAP	[X] NA [] NAP	[X] NA [] NAP
1. Rechtspfleger (or similar bodies) with judicial or quasi-judicial tasks having autonomous competence and whose decisions could be subject to appeal	8720 [] NA [] NAP	[X] NA [] NAP	[X] NA [] NAP
2. Non-judge staff whose task is to assist the judges such as registrars (case file preparation, assistance during the hearing, court recording, helping to draft the decisions)	28069 [] NA [] NAP	[X] NA [] NAP	[X] NA [] NAP
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)	6524 [] NA [] NAP	[X] NA [] NAP	[X] NA [] NAP
4. Technical staff	1866 [] NA [] NAP	[X] NA [] NAP	[X] NA [] NAP
5. Other non-judge staff	8002 [] NA [] NAP	[X] NA [] NAP	[X] NA [] NAP

Comments - If "other non-judge staff", please specify: This figures denotes the number of staff (full-time equivalent) who are:

- granted unpaid leave for training/further-training purposes,
- released to work in staff representation bodies, as representatives for staff with disabilities, and as gender equality commissioners,
- employed in a special facility,
- employed as reception/security staff,
- employed by the court switchboard,
- motorpool staff,
- cleaners and other non-salaried personnel

Comments:

These are personnel-deployment figures denoting the number of full-time equivalent employees not exercising judicial office. Personnel-deployment figures are not collected according to reference date. Instead, an annual average is calculated over four quarters. There are no absolute figures for the number of persons making up this staff. An employee working full hours is counted as a full-time equivalent (i.e. 1). An employee working part-time is counted as a fraction of 1. This fraction corresponds to the number of hours worked in relation to a full-time equivalent (e.g. 0.5 for an employee working half the usual number of hours). Figures for the federal courts are not included.

053. (Modified question) If there are Rechtspfleger (or similar bodies) in your judicial system, please specify in which fields do they have a role:

[X] legal aid

- family cases
- payment orders
- registry cases (land and/or business registry cases)
- enforcement of civil cases
- enforcement of criminal cases
- other cases not mentioned (please describe in comment)
- non-litigious cases

Comments - Please briefly describe their status and duties: Senior judicial officers are civil servants of the executive judicial service who have completed three years of legal training at a university of applied sciences and have passed the state senior judicial officers' examination. As the "second pillar of the third power", they primarily take on tasks in the field of "voluntary jurisdiction" (including in inheritance cases, care cases, parent-and-child and adoption cases, land registry cases, commercial, cooperative and partnership register cases, cases related to associations, cases related to the marriage property register, ship register cases, etc.), but are also responsible for a large number of further court activities, e.g. in the field of the court payment demand proceedings, legal aid, compulsory enforcement, forced sales and coercive administration, insolvency cases, in the field of cost setting, execution of penalties, in the proceedings before the Federal Patent Court, as well as in international legal transactions. The number of senior judicial officers in the Local Courts is already higher today than the number of judges. The scope of the activities of senior judicial officers is regulated in the Act on Senior Judicial Officers (Rechtspflegengesetz, RPfLG). Senior judicial officers are factually independent and bound only by law and order in performing their tasks and in their rulings in the same way as judges (section 9 of the Act on Senior Judicial Officers). Admissible appeals exist against their decisions in accordance with the general rules of procedure (section 11 of the Act on Senior Judicial Officers).

054. Have the courts outsourced certain services, which fall within their powers, to private providers?

- Yes
- No

Comments

054-1. (New question) If yes, please specify which services have been outsourced:

- IT services
- Training of staff
- Security
- Archives
- Cleaning
- Other types of services (please specify):see comments

Comments In certain Länder, the fields of IT, building cleaning, medical services, janitor services and security are outsourced to external firms.

C1. Please indicate the sources for answering questions 46, 47, 48, 49 and 52

Sources: Surveys; annual reports and statistics from individual Länder

3.3. Public prosecution

3.3.1. Public prosecutors and staff



055. Number of public prosecutors (on 31 December of the reference year). Please give the information in full-time equivalent and for permanent posts actually filled for all types of courts - general jurisdiction and specialised courts.

	Total	Males	Females
Total number of prosecutors (1 + 2 + 3)	5505 [] NA [] NAP	2976 [] NA [] NAP	2529 [] NA [] NAP
1. Number of prosecutors at first instance level	4986 [] NA [] NAP	2632 [] NA [] NAP	2354 [] NA [] NAP
2. Number of prosecutors at second instance (court of appeal) level	403 [] NA [] NAP	266 [] NA [] NAP	137 [] NA [] NAP
3. Number of prosecutors at supreme court level	116 [] NA [] NAP	78 [] NA [] NAP	38 [] NA [] NAP

Please indicate any useful comment for interpreting the data above: Figures indicate the number of full-time equivalent staff (not the number of individuals). A prosecutor working full hours is counted as a full-time equivalent (i.e. 1). A prosecutor working part-time is counted as a fraction of 1. This fraction corresponds to the number of hours worked in relation to a full-time equivalent (e.g. 0.5 for a prosecutor working half the usual number of hours).

056. Number of heads of prosecution offices (on 31 December of the reference year). Please give the information in full-time equivalent and for permanent posts actually filled, for all types of courts – ordinary and specialised jurisdictions.

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

Please provide any useful comment for interpreting the data above: There is no evidence of how many heads of prosecutors there are. However, since the structure of the public prosecutor's offices (public prosecutor's offices, Attorney General's Office and General Prosecutor's Office) is the same as that of the courts (District Court, Higher Regional Court, Federal Supreme Court), there are at least as many senior prosecutors as there are courts. The total number of heads of the public prosecution offices is at least the number of Regional Courts (116) plus the number of Higher Regional Courts (24) at which the chief public prosecution offices are located. These are currently 140.

057. Do other persons have similar duties to public prosecutors?

Yes, please specify their number (in full-time equivalent):996

No

Comments - If yes, please specify their title and functions: The number cited concerns exclusively associate public prosecutors at a local court (Amtsanwälte). This figure as well reflects job shares (not a number of heads). Besides these associate public prosecutors, there are trainee jurists, civil parties to criminal proceedings, and revenue authorities. However, their number is not known (NA) and therefore was not included in the answer to question 57.

Officials of the public prosecution office:

The office of the public prosecution office at the Local Courts can also be exercised by officials of the public prosecution office with a right of audience before the local courts (section 142 (2) of the Courts Constitution Act). The jurisdiction of the officials of the public prosecution office does not encompass preparing public charges in local court proceedings in criminal matters falling under the jurisdiction of courts other than the local courts. In accordance with the Order regarding the Organisation and Service Operations of the Public Prosecution Offices (Anordnung über Organisation und Dienstbetrieb der Staatsanwaltschaft, OrgStA) issued by some Land administrations of justice, officials of the public prosecution office are only assigned criminal matters in which the criminal court judge rules, and then only the criminal matters designated in a list. Trainee jurists:

Responsibility may be assigned to trainee jurists for discharging the duties of an official of the public prosecution office with a right of audience before the local courts and, in an individual case, for discharging the duties of a public prosecutor under the latter's supervision (section 142 (3) of the Courts Constitution Act).

Civil party to criminal proceedings:

Under certain preconditions, some criminal offences can be prosecuted by aggrieved persons by means of a private charge without needing to first call on the public prosecution office. A private charge can also be filed by someone who is entitled to file a request to prosecute in addition to or in place of the aggrieved person.

Revenue authorities:

Tasks comparable to those of the public prosecution office are performed by the revenue authorities in the fiscal criminal proceedings: If the revenue authority conducts the investigation independently in accordance with section 386 (2) of the Fiscal Code (Abgabenordnung, AO), it has the same rights and obligations as the public prosecutor's office has in an investigation (section 399 (1) of the Fiscal Code).

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

Yes

No

Comments

059-1. Do prosecution offices have specially trained prosecutors in domestic violence and sexual violence etc.?

Yes

No

Comments

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

Total	Males	Females

Number of staff (non-public prosecutors) attached to the public prosecution service	11490 [] NA	3191 [] NA	8299 [] NA
--	-----------------	----------------	----------------

Comments This figure indicates the number of full-time equivalent staff (not the number of individuals).

- It includes the number of associate prosecutors (i.e. officials of the public prosecution office with a right of audience only before the Local Courts – in German: "Amtsanwälte" – see question 57).

- It covers the public prosecution offices and associate prosecutors' offices based at the Regional Courts (1st instance), the public prosecution offices based at the Higher Regional Courts (2nd instance), and the Office of the Federal Prosecutor General (in this case: number of individuals).

C2. Please indicate the sources for answering questions 55, 56 and 60

Sources: Re Questions 55 and 60:

Federal Office of Justice, personnel overviews, staffing numbers, as at 31 December 2015

3.4. Management of the court budget

3.4.1. Court budget

061. Who is entrusted with responsibilities related to the budget within the court?

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

Comments - If "other", please specify: Bavaria

Labour and social courts:

Exact responsibilities are set out in the business roster of each individual court.

Others: Budget management is usually the responsibility of civil servants of the higher intermediate service working in the court administration.

Administrative courts:

Budget commissioners.

Brandenburg:

Information provided applicable where a budget commissioner is appointed who is not the head of the court.

Bremen:

The court management is usually supported by a budget officer.

Hamburg:

Responsibility for budget planning, arbitration and allocation lies with the Authority for Justice and Equality as the competent ministerial office. This is done in close coordination with the courts.

Budget evaluation and control is based on revenue and expenditure accounting by the Court of Audit and Parliament.

North Rhine-Westphalia:

Specially commissioned court staff.

Saxony:

A budget commissioner is appointed for each court in accordance with section 9 of the Saxon Budget Code (SäHO), unless the court president carries out this task him/herself. Individual budget-related tasks (see table above) can be transferred by the court president or budget commissioner to other court staff, regardless of their function, by including these in the roster allocating court business.

Saxony-Anhalt:

"Other" refers to authorising officers and budget managers within each court.

3.6.Performance and evaluation

3.6.1.National policies applied in courts and public prosecution services

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

Yes

No

Comments - If yes, please specify:

067. Do you have specialised court staff that is entrusted with these quality standards?

Yes

No

Comments

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

Yes

No

Comments

068-1. (New question) If yes, please specify the frequency of this evaluation:

Annual

Less frequent

More frequent

Comments - If "less frequent" or "more frequent", please specify:

069. Is there a system for monitoring and evaluating the performance of the public prosecution service?

Yes

No

Comments - If yes, please give further details:

3.6.2.Performance and evaluation of courts

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

- number of incoming cases
- number of decisions delivered
- number of postponed cases
- length of proceedings (timeframes)
- age of cases

other (please specify):Some of the Länder did mention a monitoring system concerning other court activities such as statistics on the nature of resolution are kept (e.g. in civil cases: dealt with by contentious judgment/by acknowledgement/by settlement, etc.).

Comments other: Some of the Länder did mention a monitoring system concerning other court activities such as statistics on the nature of resolution are kept (e.g. in civil cases: dealt with by contentious judgment/by acknowledgement/by settlement, etc.).

071. Do you monitor backlogs and cases that are not processed within a reasonable timeframe for:

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

Comments

072. Do you have an evaluation process to monitor waiting time during court procedures?

- Yes
- No

Comments - If yes, please specify:

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

- Yes
- No

Comments

073-0. (New question) If yes, please specify the frequency:

- Annual
- Less frequent
- More frequent

Comments - If "less frequent" or "more frequent", please specify:

073-1. Is this evaluation of the court activity used for the later allocation of means to this court?

- Yes
- No

Comments

074. Are there performance targets defined at the level of the court?

- Yes

No

Comments

075. (Modified question) Please specify the main targets applied to the courts:

- to increase efficiency / to shorten the length of proceedings
- to improve quality
- to improve cost efficiency / productivity
- Other (please specify):

Comments

076. Who is responsible for setting the targets for the courts?

- Executive power (for example the Ministry of Justice)
- Legislative power
- Judicial power (for example High Judicial Council, Higher Court)
- President of the court
- Other (please specify):

Comments NAP

077. Concerning court activities, have you defined performance and quality indicators (if no, please skip to question 79)

- Yes
- No

Comments

078. If yes, please select the 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
- number of appeals
- other (please specify):

079. Who is responsible for evaluating the performance of the courts (multiple options possible) :

- High Council of judiciary
- Ministry of Justice
- Inspection authority
- Supreme Court
- External audit body
- Other (please specify):

Comments

3.6.3. Court activity and administration

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

- Yes (please indicate the name and the address of this institution):
- No

Comments Federation:

Federal Statistical Office, Wiesbaden (www.destatis.de), rechtspflegestatistik@destatis.de.

See also C.4 below.

080-1. Does this institution publish statistics on the functioning of each court:

- Yes, on internet
- No, only internally (in an intranet website)
- No

Comments

081. Are individual courts required to prepare an 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

Comments - If yes, please describe the content of the report and its audience (i.e. to whom the report is intended):

081-1. If yes, please specify in which form this report is released:

- Internet
- Intranet (internal) website
- Paper distribution

Comments

081-2. (New question) If yes, please, indicate the periodicity at which the report is released:

- Annual
- Less frequent
- More frequent

082. (Modified question) Is there a process or structure of dialogue between the public prosecutor service and courts as regards the way cases are presented before courts (for example the organisation, number and planning of hearings, on-call service for urgent cases, selection of simplified procedures of prosecution...)?

Yes

No

Comments - If yes, please specify: In general, it is up to the presiding judge to plan and organize the main hearing (trial). However, sections 202a and 212 of the Code of Criminal Procedure allow the court to communicate with both the prosecution service and defence counsel on these matters. In major proceedings, the presiding judge is obliged to do so (section 213 (2) of the Code of Criminal Procedure).

082-1. (Modified question) Is there a process or structure of dialogue between lawyers and courts as regards the way cases are presented before courts in other than criminal matter (e.g. organisation, number and planning of hearings, on-call service for urgent cases)?

Yes

No

Comments - If yes, please specify:

3.6.4. Performance and evaluation of judges



083. Are there quantitative performance targets (for instance a number of cases to be addressed in a month) defined for each judge?

Yes

No

Comments

083-1. Who is responsible for setting the targets for each judge?

- Executive power (for example the Ministry of Justice)
- Legislative power
- Judicial power (for example the High Judicial Council, Supreme Court)
- President of the court
- Other (please specify):

Comments

New node



4. Fair trial

4.1. Principles

4.1.1. Principles of fair trial



084. 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

[X] NAP

Comments

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

(X) Yes, number of successful challenges in a year NA

() No

Comments - Please could you briefly specify:

086. Is there in your country a monitoring system for the violations related to Article 6 of the European Convention on Human Rights?

	Monitoring system
For civil procedures (non-enforcement)	() Yes (X) No [] NAP
For civil procedures (timeframe)	() Yes (X) No [] NAP
For criminal procedures (timeframe)	() Yes (X) No [] NAP

Comments - Please, specify what are the terms and conditions of this monitoring system (information related to violations at the State/courts level; implementation of internal systems to remedy the established violation; implementation of internal systems to prevent other violations (that are similar) and if possible to measure an evolution of the established violations: If the ECHR finds a violation of Article 6, the Human Rights Division in the Federal Ministry of Justice and Consumer Protection coordinates any measures (individual/general) necessary to execute the judgment with the federal and Länder ministries concerned. The Human Rights Division is responsible for the Action Plans to be submitted to the Committee of Ministers of the CoE. This may also include general measures aimed at the prevention of similar violations.

There is no specific monitoring system for Art. 6 violations; these violations are dealt with under the same principles as other violations. The low number of violations found with respect to Germany does not indicate any need for such a specific mechanism.

D1. Please indicate the sources for answering questions in this chapter.

Sources: The data are based on information of the Bund and the Länder.

4.2. Timeframe of proceedings

4.2.1. General information



087. Are there specific procedures for urgent matters as regards:

civil cases

criminal cases

administrative cases

There is no specific procedure

Comments - If yes, please specify: Civil matters:

e.g. arrest and injunction in accordance with sections 916 to 945 of the Code of Civil Procedure

Criminal cases

The principle of acceleration applies to each set of criminal proceedings.

Administrative cases:

Emergency rulings in the injunction proceedings

088. Are there simplified procedures for:

civil cases (small disputes)

criminal cases (misdemeanour cases)

administrative cases

There is no simplified procedure

Comments - If yes, please specify: Civil matters:

Proceedings in accordance with section 495a of the Code of Civil Procedure with a value at dispute of up to € 600 (The court may determine the course of proceedings within its reasonably exercised discretion. An oral hearing has to be conducted following a party's request.)

Proceedings for small claims in accordance with Regulation (EC) No 861/2007.

Criminal cases:

Proceedings with penal orders

In proceedings before the criminal court judge and in proceedings which belong to the jurisdiction of the court with lay judges, on written application of the public prosecution office the legal consequences of the offence with misdemeanours may be settled by a written penal order without a main hearing (not admissible when criminal law relating to young people is applied to juveniles and adolescents). The public prosecution office lodges such an application if it does not consider a main hearing to be necessary according to the outcome of the investigations. The application is to target specific legal consequences. It serves to prefer public charges.

Only the following legal consequences of the offence, solely or together, may be imposed by penal order:

1. monetary fine, warning with sentence reserved, a driving ban, forfeiture, confiscation, de-destroying or making an item unusable, announcement of the decision, and imposition of a regulatory fine against a legal person or an association,
2. withdrawal of permission to drive, where the bar does not exceed two years, as well as
3. dispensing with punishment.

Where the indicted accused has defence counsel, imprisonment not exceeding one year may also be imposed, provided its execution is suspended on probation.

In case of an admissible objection being lodged in good time, the main hearing is scheduled.

Accelerated proceedings

In the proceedings before the criminal court judge and the court with lay judges the public prosecution office makes in writing or orally the application for a ruling in accelerated proceedings if the case is suited for an immediate hearing because the facts are simple or the evidence is unambiguous. No greater penalty than imprisonment of one year or a measure of correction and prevention may be imposed in such proceedings. The deprivation of the right to drive is permissible. Accelerated proceedings are not permissible against juveniles.

Simplified youth proceedings

In the simplified youth proceedings against juveniles, in the interest of simplification and accelerated proceedings, as well as proceedings suited to young people, it is permissible to deviate from the general procedural provisions if this does not impair the search for the truth and only sanctions below youth custody are anticipated. Accelerated proceedings are not permissible against juveniles. Administrative cases:

The court can rule by court order without an oral hearing if the case does not show any particular difficulties and the facts are clarified (section 84 of the Code of Administrative Court Procedure).

088-1. (Modified question) For these simplified procedures, may judges deliver an oral judgement with a written order and dispense with a full reasoned judgement?

civil cases

criminal cases

administrative cases

Comments - If yes, please specify: In administrative cases pursuant to § 84 (1), third sentence, § 117 (5) of the Verwaltungsgerichtsordnung, the administrative court may justify its decision in abbreviated form insofar as the administrative court follows the grounds of the (contested) administrative act or opposition decision and states this in its decision. However, the judicial decision must also contain a minimum level of substantive reasoning, even though the reasons for the decision must be clear and therefore a complete replacement of the grounds for the decision by reference is not permitted. The same applies in the area of financial jurisdiction in accordance with § 90a (3), § 105 (5) of the Finance Court Rules and in the field of social justice pursuant to § 105, § 136 (3) of the Social Court Act. "

089. 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

Comments - If yes, please specify:

4.2.2. Case flow management – first instance



091. (Modified question) First instance courts: number of other than criminal law cases.

	Pending cases on 1 Jan. ref. year	Incoming cases	Resolved cases	Pending cases on 31 Dec. ref. year	Pending cases older than 2 years from the date the case came to the first instance court (Please insert NA for category 2)
Total of other than criminal law cases (1+2+3+4)	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP
1. Civil (and commercial) litigious cases (including litigious enforcement cases and if possible without administrative law cases, see category 3)	754864 <input type="checkbox"/> NA <input type="checkbox"/> NAP	1308135 <input type="checkbox"/> NA <input type="checkbox"/> NAP	1343337 <input type="checkbox"/> NA <input type="checkbox"/> NAP	719662 <input type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP
2. Non litigious cases (2.1+2.2+2.3)	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP

2.1. General civil (and commercial) non-litigious cases, e.g. uncontested payment orders, request for a change of name, non-litigious enforcement cases etc. (if possible without administrative law cases, see category 3; without registry cases and other cases, see categories 2.2 and 2.3)	<input type="checkbox"/> NA <input type="checkbox"/> NAP	2639044 <input type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> NA <input type="checkbox"/> NAP
2.2. Registry cases (2.2.1+2.2.2+2.2.3)	<input type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> NA <input type="checkbox"/> NAP
2.2.1. Non litigious land registry cases	<input type="checkbox"/> NA <input type="checkbox"/> NAP	5551746 <input type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> NA <input type="checkbox"/> NAP
2.2.2 Non-litigious business registry cases	1657420 <input type="checkbox"/> NA <input type="checkbox"/> NAP	122206 <input type="checkbox"/> NA <input type="checkbox"/> NAP	87843 <input type="checkbox"/> NA <input type="checkbox"/> NAP	1691795 <input type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> NA <input type="checkbox"/> NAP
2.2.3. Other registry cases	<input type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> NA <input type="checkbox"/> NAP
2.3. Other non-litigious cases	<input type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> NA <input type="checkbox"/> NAP
3. Administrative law cases	644890 <input type="checkbox"/> NA <input type="checkbox"/> NAP	739325 <input type="checkbox"/> NA <input type="checkbox"/> NAP	682617 <input type="checkbox"/> NA <input type="checkbox"/> NAP	701598 <input type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> NA <input type="checkbox"/> NAP
4. Other cases	1468300 <input type="checkbox"/> NA <input type="checkbox"/> NAP	1348599 <input type="checkbox"/> NA <input type="checkbox"/> NAP	1355615 <input type="checkbox"/> NA <input type="checkbox"/> NAP	1463852 <input type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> NA <input type="checkbox"/> NAP

Comments Source: Federal Statistical Office (DESTATIS)

092. If courts deal with “civil (and commercial) non-litigious cases”, please indicate the case categories included:

. NAP

093. Please indicate the case categories included in the category "other cases":

- . -Local Court family cases
- guardianship and curator cases at the family court
- custodianship cases
- curator cases at the custodianship court
- proceedings regarding judgments and orders at the labour court

094. (Modified question) First instance courts: number of criminal law cases.

	Pending cases on 1 Jan. ref. year	Incoming cases	Resolved cases	Pending cases on 31 Dec. ref. year	Pending cases older than 2 years from the date the case came to the first instance court
Total of criminal law cases (1+2)	314590 [] NA [] NAP	1012943 [] NA [] NAP	1005116 [] NA [] NAP	322417 [] NA [] NAP	[X] NA [] NAP
1. Severe criminal cases	224784 [] NA [] NAP	683304 [] NA [] NAP	675372 [] NA [] NAP	232716 [] NA [] NAP	[X] NA [] NAP
2. Misdemeanour and / or minor criminal cases	89806 [] NA [] NAP	329639 [] NA [] NAP	329744 [] NA [] NAP	89701 [] NA [] NAP	[X] NA [] NAP

Comments - If you cannot make a distinction between misdemeanour criminal cases and severe criminal cases (according to the CEPEJ definitions), please indicate the categories of cases reported in the category "serious offences" and cases reported in the category "minor offences":

4.2.3. Case flow management – second instance 

097. (Modified question) Second instance courts (appeal): Number of “other than criminal law” cases.

	Pending cases on 1 Jan. ref. year	Incoming cases	Resolved cases	Pending cases on 31 Dec. ref. year	Pending cases older than 2 years from the date the case came to the second instance court (Please insert NA for category 2)
Total of other than criminal law cases (1+2+3+4)	[X] NA [] NAP	[X] NA [] NAP	[X] NA [] NAP	[X] NA [] NAP	[X] NA [] NAP
1. Civil (and commercial) litigious cases (including litigious enforcement cases and if possible without administrative law cases, see category 3)	68430 [] NA [] NAP	99151 [] NA [] NAP	100324 [] NA [] NAP	67257 [] NA [] NAP	[X] NA [] NAP
2. Non litigious cases (2.1+2.2+2.3)	[X] NA [] NAP	[X] NA [] NAP	[X] NA [] NAP	[X] NA [] NAP	[X] NA [] NAP

2.1. General civil (and commercial) non-litigious cases, e.g. uncontested payment orders, request for a change of name, non-litigious enforcement cases etc. (if possible without administrative law cases, see category 3; without registry cases and other cases, see categories 2.2 and 2.3)	[X] NA [] NAP	[X] NA [] NAP	[X] NA [] NAP	[X] NA [] NAP	[X] NA [] NAP
2.2. Registry cases (2.2.1+2.2.2+2.2.3)	[X] NA [] NAP	[X] NA [] NAP	[X] NA [] NAP	[X] NA [] NAP	[X] NA [] NAP
2.2.1. Non litigious land registry cases	[X] NA [] NAP	[X] NA [] NAP	[X] NA [] NAP	[X] NA [] NAP	[X] NA [] NAP
2.2.2 Non-litigious business registry cases	[X] NA [] NAP	[X] NA [] NAP	[X] NA [] NAP	[X] NA [] NAP	[X] NA [] NAP
2.2.3. Other registry cases	[X] NA [] NAP	[X] NA [] NAP	[X] NA [] NAP	[X] NA [] NAP	[X] NA [] NAP
2.3. Other non-litigious cases	[X] NA [] NAP	[X] NA [] NAP	[X] NA [] NAP	[X] NA [] NAP	[X] NA [] NAP
3. Administrative law cases	50298 [] NA [] NAP	43468 [] NA [] NAP	41891 [] NA [] NAP	51849 [] NA [] NAP	[X] NA [] NAP
4. Other cases	21860 [] NA [] NAP	47031 [] NA [] NAP	49058 [] NA [] NAP	19833 [] NA [] NAP	[X] NA [] NAP

Comments

098. (Modified question) Second instance courts (appeal): number of criminal law cases.

	Pending cases on 1 Jan. ref. year	Incoming cases	Resolved cases	Pending cases on 31 Dec. ref. year	Pending cases older than 2 years from the date the case came to the second instance court
Total of criminal law cases (1+2)	20515 [] NA [] NAP	63015 [] NA [] NAP	62006 [] NA [] NAP	21524 [] NA [] NAP	[X] NA [] NAP
1. Severe criminal cases	19635 [] NA [] NAP	52112 [] NA [] NAP	51133 [] NA [] NAP	20614 [] NA [] NAP	[X] NA [] NAP
2. Misdemeanour and / or minor criminal cases	880 [] NA [] NAP	10903 [] NA [] NAP	10873 [] NA [] NAP	910 [] NA [] NAP	[X] NA [] NAP

Comments The category “severe criminal cases” (line 2) includes criminal proceedings in accordance with the Criminal Code (Strafgesetzbuch, StGB) and ancillary criminal laws. The category “minor criminal cases” (line 3) includes regulatory fine proceedings



4.2.4. Case flow management – Supreme Court

099. (Modified question) Highest instance courts (Supreme Court): number of “other than criminal law” cases.

	Pending cases on 1 Jan. ref. year	Incoming cases	Resolved cases	Pending cases on 31 Dec. ref. year	Pending cases older than 2 years from the date the case came to the Supreme court (Please insert NA for category 2))
Total of other than criminal law cases (1+2+3+4)	10558 [] NA [] NAP	15591 [] NA [] NAP	15664 [] NA [] NAP	10485 [] NA [] NAP	[X] NA [] NAP
1. Civil (and commercial) litigious cases (including litigious enforcement cases and if possible without administrative law cases, see category 3)	[X] NA [] NAP	[X] NA [] NAP	[X] NA [] NAP	[X] NA [] NAP	[X] NA [] NAP
2. Non litigious cases (2.1+2.2+2.3)	[X] NA [] NAP	[X] NA [] NAP	[X] NA [] NAP	[X] NA [] NAP	[X] NA [] NAP
2.1. General civil (and commercial) non-litigious cases, e.g. uncontested payment orders, request for a change of name, non-litigious enforcement cases etc. (if possible without administrative law cases, see category 3; without registry cases and other cases, see categories 2.2 and 2.3)	[X] NA [] NAP	[X] NA [] NAP	[X] NA [] NAP	[X] NA [] NAP	[X] NA [] NAP
2.2. Registry cases (2.2.1+2.2.2+2.2.3)	[X] NA [] NAP	[X] NA [] NAP	[X] NA [] NAP	[X] NA [] NAP	[X] NA [] NAP
2.2.1. Non litigious land registry cases	[X] NA [] NAP	[X] NA [] NAP	[X] NA [] NAP	[X] NA [] NAP	[X] NA [] NAP
2.2.2 Non-litigious business registry cases	[X] NA [] NAP	[X] NA [] NAP	[X] NA [] NAP	[X] NA [] NAP	[X] NA [] NAP
2.2.3. Other registry cases	[X] NA [] NAP	[X] NA [] NAP	[X] NA [] NAP	[X] NA [] NAP	[X] NA [] NAP
2.3. Other non-litigious cases	[X] NA [] NAP	[X] NA [] NAP	[X] NA [] NAP	[X] NA [] NAP	[X] NA [] NAP

3. Administrative law cases	3837 [] NA [] NAP	6755 [] NA [] NAP	7200 [] NA [] NAP	3392 [] NA [] NAP	[X] NA [] NAP
4. Other cases	1449 [] NA [] NAP	2305 [] NA [] NAP	2136 [] NA [] NAP	1618 [] NA [] NAP	[X] NA [] NAP

Comments

099-1. At the level of the Highest court (Supreme Court), is there a procedure of manifest inadmissibility?

(X) Yes, please indicate the number of cases closed by this procedure:NA

() No

Comments

100. (Modified question) Highest instance courts (Supreme Court): number of criminal law cases.

	Pending cases on 1 Jan. ref. year	Incoming cases	Resolved cases	Pending cases on 31 Dec. ref. year	Pending cases older than 2 years from the date the case came to the Supreme court
Total of criminal law cases (1+2)	663 [] NA [] NAP	3044 [] NA [] NAP	2942 [] NA [] NAP	765 [] NA [] NAP	[X] NA [] NAP
1. Severe criminal cases	[X] NA [] NAP	[X] NA [] NAP	[X] NA [] NAP	[X] NA [] NAP	[X] NA [] NAP
2. Misdemeanour and / or minor criminal cases	[X] NA [] NAP	[X] NA [] NAP	[X] NA [] NAP	[X] NA [] NAP	[X] NA [] NAP

Comments It is not possible to differentiate between "severe criminal cases" and "minor criminal cases" (NA). The total number of cases means the number of appeals on points of law, including referrals and regulatory offences pursuant to the Act on Regulatory Offences (OWiG) as well as regulatory offences pursuant to the Act Against Restraints of Competition (GWB) and the Energy Act (EnBW) before the criminal panels (including antitrust panel).

4.2.5. Case flow management – specific cases



101. (Modified question) Number of litigious divorce cases, employment dismissal cases, insolvency, robbery cases, intentional homicide cases, cases relating to asylum seekers and cases relating to the right of entry and stay for aliens received and processed by first instance courts.

	Pending cases on 1 Jan. ref. year	Incoming cases	Resolved cases	Pending cases on 31 Dec ref. year
Litigious divorce cases	[X] NA [] NAP	[X] NA [] NAP	184025 [] NA [] NAP	[X] NA [] NAP
Employment dismissal cases	[X] NA [] NAP	[X] NA [] NAP	192161 [] NA [] NAP	[X] NA [] NAP

Insolvency	<input type="checkbox"/> NA <input type="checkbox"/> NAP	159395 <input type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	293924 <input type="checkbox"/> NA <input type="checkbox"/> NAP
Robbery case	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	5877 <input type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP
Intentional homicide	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	717 <input type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP
Cases relating to asylum seekers (refugee status under the 1951 Geneva Convention)	35328 <input type="checkbox"/> NA <input type="checkbox"/> NAP	181996 <input type="checkbox"/> NA <input type="checkbox"/> NAP	107408 <input type="checkbox"/> NA <input type="checkbox"/> NAP	109916 <input type="checkbox"/> NA <input type="checkbox"/> NAP
Cases relating to the right of entry and stay for aliens	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	17283 <input type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP

Comments Employment dismissal cases: The variation between this cycle and the previous cycle for resolved cases is not explained.

101-1. (New question) Could you briefly describe the system in your country dealing with judicial remedies relating to asylum seekers (refugee status under the 1951 Geneva Convention) and the right of entry and stay for aliens:

. Asylum seekers can avail themselves of judicial protection against a notice of rejection from the public authorities, both in proceedings on the merits and, if necessary, in proceedings for provisional court relief (interim relief): They can bring an action before the Administrative Court (first instance) in proceedings on the merits. Judgments by the Administrative Court in asylum cases that dismiss an action as manifestly inadmissible or manifestly unfounded are incontestable (section 78 subsection (1), first and second sentences, of the Asylum Act [Asylgesetz, AsylG]). To contest other judgments by the Administrative Court, it is possible to file a request for appeal to the Administrative Court, pursuant to section 78 subsection (2), first sentence, and subsection (4), first sentence, AsylG. The request is decided on by the Higher Administrative Court (second instance) in a court order (section 78 subsection (5), first sentence, AsylG). If such a request is rejected by the Higher Administrative Court, the judgment handed down by the Administrative Court is final (section 78 subsection (5), second sentence, AsylG). If the Higher Administrative Court grants the request for appeal, the application procedure is continued in the form of appellate proceedings before the Higher Administrative Court (section 78 subsection (5), third sentence, AsylG). To contest an appellate judgment by a Higher Administrative Court, an appeal on points of law may be filed to the Federal Administrative Court (supreme federal court, third instance) – if this has been admitted by the Higher Administrative Court, or by the Federal Administrative Court in response to a complaint against non-admission (section 132 subsection (1) of the Code of Administrative Court Procedure, [Verwaltungsgerichtsordnung, VwGO]). With the entry into force of the now adopted "Act to Improve the Enforcement of the Obligation to Leave Federal Territory," it will be possible in future (unlike under the existing law, cf. section 78 subsection (2), second sentence, AsylG in the version of 2 September 2008) to contest first-instance judgments of the Administrative Court in asylum cases (with the exception of qualified dismissals of actions within the meaning of section 78 subsection (1) AsylG) by filing an "immediate appeal on law in lieu of an appeal on facts and law" with the Federal Administrative Court in accordance with section 134 VwGO. A requirement for this will be that the "immediate appeal on law in lieu of an appeal on facts and law" is admitted by the Administrative Court in the judgment or on request by order, and that the claimant and defendant agree to the submission in writing. In certain cases, in particular where an asylum application has been rejected as inadmissible or manifestly unfounded, the action before the Administrative Court does not have a suspensive effect; the asylum seeker bringing the action is still enforceably required to leave the Federal territory. In such cases, the asylum seeker can request the Administrative Court to grant interim relief in the form of an order recognising the suspensive effect of the action, in accordance with section 80 subsection (5) VwGO (cf. section 36 subsection (3), first sentence, AsylG, section 34a subsection (2), first sentence, AsylG). The Administrative Court decides on the request by order. Until the Administrative Court has reached its decision, the applicant may not be deported (cf. section 36 subsection (3), eighth sentence, AsylG and section 34a subsection (2), second sentence, AsylG). In certain cases, interim relief is governed by section 123 VwGO (for example in inadmissible follow-up asylum

proceedings where no new deportation decision is issued). No ordinary legal remedy is available against a decision by the Administrative Court in summary proceedings (cf. section 80 AsylG).

Administrative court proceedings relating to (general) law concerning foreigners are governed primarily – in the main case and in interim relief – by the general provisions of the VwGO: If a foreigner wishes to contest a measure by the foreigners authority (for example an order terminating residence), he may bring an action before the Administrative Court. If the measure taken by the authority is an administrative act (such as an expulsion pursuant to section 53 of the Residence Act [Aufenthaltsgesetz]), then as a rule (administrative) appeal proceedings must be conducted before the action is brought, provided this is not ruled out by (Land) statute (cf. section 68 subsection (1) VwGO). To contest the Administrative Court's judgment, an appeal on fact and law may be filed to the Higher Administrative Court, if such an appeal is admitted by the Administrative Court in its judgment or by the Higher Administrative Court on application (see section 124 subsection (1) VwGO). To contest an appellate judgment by the Higher Administrative Court, an appeal on points of law only may be filed to the Federal Administrative Court (under the preconditions enumerated in section 132 VwGO), if the Higher Administrative Court, or the Federal Administrative Court in response to a complaint against non-admission, has admitted it (section 132 subsection (1) VwGO). Judgments of the Administrative Court may be contested in an "immediate appeal on law in lieu of an appeal on facts and law" to the Federal Administrative Court, if this is agreed upon in writing by the claimant and the defendant, and admitted by the Administrative Court (section 134 subsection (1) VwGO). If necessary, interim court relief may be available on request in accordance with sections 80, 123 VwGO.

102. Average length of proceedings, in days (from the date the application for judicial review is lodged). 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	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)	% of cases pending for more than 3 years for all instances
Litigious divorce case	2 [] NA [] NAP	291 [] NA [] NAP	[X] NA [] NAP	[X] NA [] NAP	[X] NA [] NAP	[X] NA [] NAP
Employment dismissal case	3 [] NA [] NAP	79 [] NA [] NAP	182 [] NA [] NAP	[X] NA [] NAP	[X] NA [] NAP	[X] NA [] NAP
Insolvency	[X] NA [] NAP	[X] NA [] NAP	[X] NA [] NAP	[X] NA [] NAP	[X] NA [] NAP	[X] NA [] NAP
Robbery case	[X] NA [] NAP	[X] NA [] NAP	[X] NA [] NAP	[X] NA [] NAP	[X] NA [] NAP	[X] NA [] NAP
Intentional homicide	[X] NA [] NAP	[X] NA [] NAP	[X] NA [] NAP	[X] NA [] NAP	[X] NA [] NAP	[X] NA [] NAP

Comments

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

. The family court has exclusive jurisdiction for marriage cases and other family cases. The family court is a department of the Local Court.

Anyone wishing to bring a marriage case to court, that is anyone wishing to divorce, must be represented by a lawyer. Also the respondent needs representation by lawyer if motions are to be lodged. As a rule, the spouses are to pay half the court costs of the divorce case and the ancillary cases; plus, each spouse pays their own legal costs.

It is possible to apply for legal aid. Spouses wishing to divorce can reduce the costs of the proceedings by the respondent agreeing to the divorce for the record of the court registry or in the oral hearing without appointing a lawyer.

The family court deliberates on the divorce application and the ancillary cases to the divorce made pending in good time together, and also rules on them as a matter of principle at the same time (comprehensive divorce proceedings). The divorce is hence as a rule not to be issued until clarity has been reached regarding all the ancillary cases. The purpose of the comprehensive divorce proceedings is to ensure for those concerned that nothing remains unresolved or uncertain after the divorce. The advantage of this is that those concerned are informed of all the consequences entailed by the divorce, particularly of the economic consequences. This is particularly significant for the economically weaker spouse, given that their rights are to be safeguarded before the divorce is granted. By virtue of the fact that all proceedings are placed in the hands of one single judge and dealt with at the same time, the family court also obtains a more profound insight into the situation of the marriage and the family and is able to help to bring about proper, coordinated rulings. Aspects that are deliberated on and ruled on by the family court in the comprehensive divorce proceedings include: pension settlement cases, maintenance cases, spousal home and budget cases, as well as property cases and parent-and-child cases.

In order to agree on an arrangement covering only the ancillary effects of the divorce, mediation proceedings offer an alternative to court proceedings. Mediation seeks to reach an agreed resolution of the conflict over ancillary matters with the aid of a neutral person who is not called on to make a decision – the mediator. Mediation is particularly well suited to take into account the situation and interests of the persons concerned, because their autonomy plays a more central role in mediation proceedings than it does in court proceedings. A mediation proceeding may therefore lead to results which are more readily accepted, and is generally a more sustainable option. Results can include, for example, contractual agreements on maintenance, assets, property, on parental responsibility or on access to the children. In divorce proceedings, the court can order that the spouses attend, either individually or together, an information meeting, free of charge, about mediation or another possible form of extra-judicial conflict resolution for pending ancillary matters with a person or provider designated by the court, and that they submit confirmation of their attendance. If such a meeting leads to a mediation proceeding, the court proceeding will be interrupted. If the attempt to reach a friendly settlement is made by a judge designated for that purpose and having no decision-making power in the matter (conciliation judge), he or she can apply all methods of conflict resolution including mediation. The divorce itself cannot be the subject of a conciliation hearing, because the granting of a divorce is subject to requirements that cannot be fulfilled by the parties themselves.

104. How is the length of proceedings calculated for the five case categories of question 102?

Please give a description of the calculation method.

. The judicial business statistics include in each case the day of the receipt of the proceedings and the date on which they are dealt with, recorded in the DD.MM.YYYY format.

On the basis of this information, the duration of the proceedings is calculated as follows:

duration of proceedings =

1 + [date on which processed (number of days + (number of months * 30) + (year * 360))

- [date of receipt (number of days + (number of months * 30) + (year * 360))]

4.2.6. Case flow management – public prosecution



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

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

Comments other: to conduct or supervise police investigation; to conduct investigations

•to conduct investigations: Unless otherwise provided by law (for instance in accordance with section 153 and section 153a of the Code of Criminal Procedure), the public prosecution office is obliged to intervene with regard to all prosecutable criminal offences provided that there are sufficient factual indications (section 152 (2) of the Code of Criminal Procedure). As soon as the public prosecution office receives knowledge of a criminal offence through a criminal information or by other means, it must investigate the facts for its decision on whether public charges are to be preferred (section 160 (1) of the Code of Criminal Procedure). To this end, the public prosecution office is entitled to demand information from all authorities and to carry out investigations of any kind, either itself or to have them performed by the authorities and officers of the police service unless other statutory provisions particularly regulate their powers. The public prosecutor shall ascertain not only incriminating but also exonerating circumstances, and shall ensure that evidence, the loss of which is to be feared, is taken (section 160 (2) of the Code of Criminal Procedure). •to conduct or supervise police investigation: The authorities and officers of the police service are obliged to comply with requests or applications from the public prosecution office, and in this case are entitled to obtain information from all authorities (section 161 (1) of the Code of Criminal Procedure). •when necessary, to request investigation measures from the judge: If the public prosecution office considers it to be necessary for the court to carry out investigation measures, it makes an application prior to lodging of the public charge to the Local Court in the district in which it or its branch office making the application is located. If, additionally, it considers it to be necessary to issue an arrest or custody order, it can, regardless of section 125 and section 126a, lodge such a motion with the court referred to in sentence 1 (section 162 (1) sentences 1 and 2 of the Code of Criminal Procedure). After preferment of public charges, the court seized of the matter shall be the competent court (section 162 (3) sentence 1 of the Code of Criminal Procedure). •to charge It is the public prosecution office which is called on to prefer public charges (section 152 (1) of the Code of Criminal Procedure). The written charge, which the public prosecution office has to present to the court which has jurisdiction for the main hearing, contains the application to open the main proceedings. The files are presented to the court (section 199 (2) of the Code of Criminal Procedure) with the written charge. •to present the case in the court: During the main hearing the public prosecutor has to read out the charges, may ask questions and file applications and finally presents his arguments in the closing speech. •to discontinue a case without requiring a judicial decision: In accordance with section 153 (1) sentence 2 of the Code of Criminal Procedure (dispensing with prosecution of petty offences), section 153c of the Code of Criminal Procedure (non-prosecution of offences committed abroad), section 153d of the Code of Criminal Procedure (dispensing with court action on political grounds) and section 153f of the Code of Criminal Procedure (dispensing with prosecution of criminal offences under the Code of Crimes against International Law), the public prosecution office can discontinue the proceedings without a court ruling. The same applies in accordance with section 154 (1) of the Code of Criminal Procedure with minor secondary criminal offences, and in accordance with section 154a (1) sentence 1 of the Code of Criminal Procedure with individual severable parts of an offence or some of several violations of the law committed as a result of the same offence if these are not particularly significant in addition to a penalty or measure of reform and prevention that is anticipated or has already been imposed with binding effect. Moreover, the public prosecution office may dispense with

preferment of public charges if the accused is extradited to a foreign government because of the offence or is transferred out of the area of application of the Code of Criminal Procedure (section 154d (1) and (2) of the Code of Criminal Procedure). The same applies if he/she is to be extradited to a foreign government or transferred to an international criminal court of justice because of another offence and the penalty or the measure of reform and prevention which might be the result of the domestic prosecution is negligible in comparison to the penalty or measure of reform and prevention which has been imposed on him with binding effect abroad or which he may expect to be imposed abroad (section 154d (2) of the Code of Criminal Procedure). If coercion or extortion (sections 240 and 253 of the Criminal Code) was committed by threats to reveal a criminal offence, the public prosecution office may dispense with prosecuting the offence, the disclosure of which was threatened, unless expiation is imperative because of the seriousness of the offence (section 154c (1) of the Code of Criminal Procedure). If the victim of coercion or extortion (sections 240 and 253 of the Criminal Code) files charges in respect thereof (section 158) and if as a result a misdemeanour committed by the victim comes to light, the public prosecution office may dispense with prosecution of the misdemeanour unless expiation is imperative because of the seriousness of the offence (section 154c (2) of the Code of Criminal Procedure). If the preferring of public charges for a misdemeanour depends on the evaluation of a question which must be determined according to civil law or administrative law, the public prosecution office may set a time limit to decide the question in civil proceedings or in administrative court proceedings. The person who reported the criminal offence shall be notified thereof. After this time limit has expired without any result, the public prosecution office may terminate the proceedings (section 154d of the Code of Criminal Procedure). Public charges are not to be preferred for an erroneous suspicion or insult (sections 164 and 185 to 188 of the Criminal Code) as long as criminal or disciplinary proceedings are pending for the reported or alleged offence (section 154e (1) of the Code of Criminal Procedure). If the absence of the accused or some other personal impediment prevents the opening or conduct of the main proceedings for a considerable time, and if public charges have not yet been preferred, the public prosecution office may provisionally terminate the proceedings after it has clarified the facts so far as possible and secured the evidence so far as necessary (section 154f of the Code of Criminal Procedure). In accordance with section 45 (1) of the Youth Courts Act (Jugendgerichtsgesetz – JGG), section 153 of the Code of Criminal Procedure is also applicable in criminal proceedings against juveniles (14 to under 18 years old at the time of the offence). Section 153 of the Code of Criminal Procedure applies either directly or via section 45 (1) of the Youth Courts Act to young adults (18 to under 21 years old at the time of the offence) if juvenile criminal law applies to them. The other possibilities of ending the proceedings stated above are, by contrast, generally applicable in proceedings against juveniles and young adults (cf. section 2 (2) of the Youth Courts Act).

•to supervise the enforcement procedure: The final judgment has to be executed by the public prosecution office.

106. (Modified question) Does the public prosecutor also have a role in:

- civil cases
- administrative cases
- insolvency cases

Comments - If yes, please specify:

107. Cases processed by the public prosecutor - Total number of first instance criminal cases:

	Received during the reference year	Discontinued during the reference year (see Q108 below)	Concluded by a penalty or a measure imposed or negotiated by the public prosecutor	Cases brought to court
Total number of first instance cases processed by the public prosecutor	5210124	3080862	174155	1007229
	<input type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> NA <input type="checkbox"/> NAP

Comments These figures include first-instance criminal cases led by the public prosecution offices based at the Regional Courts (investigations with a "Js" file number) and the public prosecution offices based at the Higher Regional Courts (investigations with an "OJs" file number). Regarding the latter ("OJs" investigations), figures only exist for the number of cases newly received by the prosecutor generals' offices.

107-1. (Modified question) If the guilty plea procedures exist, how many cases were brought to

court by the prosecutor through this procedure?

	Number of guilty plea procedures
Total	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP
Before the court case	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP
During the court case	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP

Comments

108. Total cases which were discontinued by the public prosecutor:

	Number of cases
Total cases which were discontinued by the public prosecutor (1+2+3)	3080862 <input type="checkbox"/> NA <input type="checkbox"/> NAP
1. Discontinued by the public prosecutor because the offender could not be identified	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP
2. Discontinued by the public prosecutor due to the lack of an established offence or a specific legal situation	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP
3. Discontinued by the public prosecutor for reasons of opportunity	3080862 <input type="checkbox"/> NA <input type="checkbox"/> NAP

Comments The data was taken from the statistics of the prosecutor. Concerning the category "discontinued by the public prosecutor for reasons of opportunity", the increase between 2014 and 2016 data is mainly attributable to the minority shareholdings pursuant to Section 153 (1) StPO, which are to be determined nation-wide, but especially in Bavaria.

109. Do the figures include traffic offence cases?

Yes

No

Comments

D2. Please indicate the sources for answering questions 91, 94, 97, 98, 99, 100, 101, 102, 107, 107-1 and 108.

Sources: Question 91:
 Federal Office of Justice: Local Court case-load overviews for 2016
 Federal Statistical Office:
 Subject-matter series 10, series 2.1 (civil courts 2016)
 Subject-matter series 10, series 2.2 (family courts 2016)
 Subject-matter series 10, series 2.4 (administrative courts 2016)
 Subject-matter series 10, series 2.5 (fiscal courts 2016)

Subject-matter series 10, series 2.7 (social courts 2016)

Subject-matter series 10, series 2.8 (labour courts 2016)

Question 94:

Federal Statistical Office: Subject-matter series 10, series 2.1 (civil courts 2016)

Question 97:

Federal Statistical Office:

Subject-matter series 10, series 2.1 (civil courts 2016)

Subject-matter series 10, series 2.2 (family courts 2016)

Subject-matter series 10, series 2.4 (administrative courts 2016)

Subject-matter series 10, series 2.7 (social courts 2016)

Subject-matter series 10, series 2.8 (labour courts 2016)

Question 98:

Federal Statistical Office: Subject-matter series 10, series 2.3 (criminal courts 2016)

Question 99:

Federal Statistical Office:

Subject-matter series 10, series 2.1 (civil courts 2016)

Subject-matter series 10, series 2.4 (administrative courts 2016)

Subject-matter series 10, series 2.5 (fiscal courts 2016)

Subject-matter series 10, series 2.7 (social courts 2016)

Subject-matter series 10, series 2.8 (labour courts 2016)

Question 100:

Federal Court of Justice: Overview of the case-load at the criminal panels of the Federal Court of Justice 2016; annual statistics 2016

Question 101:

Federal Statistical Office:

Subject-matter series 10, series 2.1 (civil courts 2016)

Subject-matter series 10, series 2.2 (family courts 2016)

Subject-matter series 10, series 2.4 (administrative courts 2016)

Subject-matter series 10, series 2.8 (labour courts 2016)

Subject-matter series 10, series 3 (criminal prosecution 2016)

Question 102:

Federal Statistical Office:

Subject-matter series 10, series 2.2 (family courts 2016)

Subject-matter series 10, series 2.8 (labour courts 2016)

Question 107/108:

Federal Statistical Office: Subject-matter series 10, series 2.6 (public prosecution offices 2016)

5. Career of judges and public prosecutors

5.1. Recruitment and promotion

5.1.1. Recruitment and promotion of judges

110. (Modified question) How are judges recruited?

[X] mainly through a competitive exam (open competition)

mainly through a recruitment procedure for experienced legal professionals (for example experienced lawyers)

a combination of both (competitive exam and working experience)

other (please specify):

Comments Bavaria:

Finance courts:

The posts in the finance courts are not occupied externally. Especially well-suited civil servants of the tax administration are selected to work as a judge in a finance court after an unspecified period spent working in the administration. There is hence no special appointment procedure.

110-1. Are there specific provisions for facilitating gender equality within the framework of the procedure for recruiting judges?

Yes

No

Comments - If yes, please specify: Rules are in place in the Federal Länder on the equal treatment of men and women that result in some cases in differing procedures (for example, re-advertising positions if no women have applied; inviting an equal number of men and women to interviews).

111. Authority(ies) responsible for recruitment. Are judges initially/at the beginning of their career recruited and nominated by:

an authority made up of judges only

an authority made up of non-judges only

an authority made up of judges and non-judges

Comments - 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: Baden-Württemberg:

Ministry of Justice and Presidial Council: The Minister of Justice decides on the appointment of judges on probation. Their employment beyond a period of 24 months must be approved by the Presidial Council, which is a judicial co-determination body. The Minister of Justice decides on life tenure in agreement with the Presidial Council. If no agreement is reached, a decision is taken by the Judicial Election Committee to which members of the Land parliament as well as judges belong.

Bavaria:

Labour and social courts: Bavarian State Ministry of Labour and Social Affairs, Family and Women and respective "Chief President".

Administrative jurisdiction: appointment by the Bavarian State Ministry of the Interior, judicial career path however only with the consent of the President of the respective Administrative Court (= 2 interviews).

Brandenburg:

Ministry of Justice, as well as right of proposal by the President of the Brandenburg Higher Regional Court for ordinary courts. The election is carried out by the Judicial Election Committee.

Berlin:

Senator for Justice and Judicial Election Committee.

Bremen:

Senator for Justice and the Constitution, prepared by the President of the Higher Court.

Hesse:

Nominated by the Minister of Justice after consultation of the Judicial Election Committee, which is made up of judges and non-judges.

Lower Saxony:

Lower Saxony Ministry of Justice, Selection Commission with representatives of the intermediate authorities.

North Rhine-Westphalia:

President of the Higher Administrative Court for the Land North Rhine-Westphalia,

President of the Higher Regional Court,

President of the Higher Social Court of North Rhine-Westphalia,

President of the Finance Court,
President of the Higher Labour Court
(respectively for the remit in question).

Rhineland-Palatinate:

As a rule judges are seconded for a time to the Ministry of Justice and have a right of co-determination in personnel selection.

Saxony-Anhalt:

Ministry of Justice and Equality in agreement with the President of the respective Higher Court.

Schleswig-Holstein:

Ministry of Justice, Equality and Integration of the Land Schleswig-Holstein.

112. Is the same authority (Q111) competent for the promotion of judges?

Yes

No

Comments

112-1. Are there specific provisions for facilitating gender equality within the framework of the procedure for promoting judges?

Yes

No

Comments - If yes, please specify: Rules are in place in the Federal Länder on the equal treatment of men and women that result in some cases in differing procedures (for example, re-advertising positions if no women have applied; inviting an equal number of men and women to interviews).

113. What is the procedure for judges to be promoted? (multiple answers possible)

Competitive test / Exam

Other procedure (interview or other)

No special procedure

Comments - Please specify how the promotion of judges is organised (especially if there is no competition or examination):

Advertisement of a position that may be filled by an in-house promotion, selection from among the female and male candidates based on the current assessments, appointment report provided by the President of the respective higher court, statement of position by the Presidial Council, decision on the appointment by the competent member of the Senate together with the judicial selection committee.

113-1. Please indicate the criteria used for the promotion of a judge? (multiple answers possible)

Years of experience

Professional skills (and/or qualitative performance)

Performance (quantitative)

Assessment results

Subjective criteria (e.g. integrity, reputation)

Other

No criteria

Comments - Please specify any useful comment regarding the criteria (especially if you have checked the box "performance" or "other"): Pursuant to Article 33 paragraph 2 of the Basic Law (Grundgesetz, GG) the criteria are: aptitude, qualifications, and achievements as determined on the basis of up-to-date assessments (Article 33 paragraph 2 of the Basic Law (Grundgesetz, GG))

114. (Modified question) Is there a system of qualitative individual assessment of the judges' work?

- Yes
- No

Comments

114. If yes, please specify the frequency of this assessment:

- Annual
- Less frequent
- More frequent

5.1.2. Status, recruitment and promotion of prosecutors

115. What is the status of prosecution services?

- statutory independent
- under the authority of the Minister of justice or another central authority
- other (please specify):

Comments - When appropriate, please specify the objective guarantees of this independence (transfer, appointment...). The Minister of Justice exercises administrative supervision over the public prosecution offices. However, as a rule, no individual instructions which relate to the activities of the public prosecution offices are made in established practice; cf. sections 141 et seqq. of the Courts Constitution Act (GVG), esp. section 147 No. 2 of the Courts Constitution Act.

115-1. Does the law or another regulation prevent specific instructions to prosecute or not, addressed to a prosecutor in a court.

- Yes
- No

Comments - If yes, please specify:

116. How are public prosecutors recruited?

- mainly through a competitive exam (open competition)
- mainly through a recruitment procedure for experienced legal professionals (for example experienced lawyers)
- a combination of both (competitive exam and working experience)
- other (please specify):

Comments

117. Authority(ies) responsible for recruitment. Are public prosecutors initially/at the beginning of their career recruited by:

- 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

Comments - 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: Recruitment and appointments are done by the Minister of Justice, in some cases in cooperation with a committee for the selection of judges, a gender equality officer and the general prosecutors' offices.

117-1. Are there specific provisions for facilitating gender equality within the framework of the procedure for recruiting prosecutors?

- Yes
- No

Comments - If yes, please specify: Rules are in place in the Federal Länder on the equal treatment of men and women that result in some cases in differing procedures (for example, re-advertising positions if no women have applied; inviting an equal number of men and women to interviews).

118. Is the same authority (Q.117) formally responsible for the promotion of public prosecutors?

- Yes
- No, please specify which authority is competent for promoting public prosecutors

Comments

119. What is the procedure for prosecutors to be promoted? (multiple answers possible)

- Competitive test / exam
- Other procedure (interview or other)
- No special procedure

Comments - Please, specify the procedure (especially if it is a procedure different from a competitive test or an exam): Promotion post advertised, selection among the applicants on the basis of current assessments and report from the general prosecutors' offices on occupation of the post.

119-1. Are there specific provisions for facilitating gender equality within the framework of the procedure for promoting prosecutors?

- Yes
- No

Comments - If yes, please specify: Rules are in place in the Federal Länder on the equal treatment of men and women that result in some cases in differing procedures (for example, re-advertising positions if no women have applied; inviting an equal number of men and women to interviews).

For the others see Question 117.1.

119-2. Please indicate the criteria used for the promotion of a prosecutor:

- Years of experience
- Professional skills (and/or qualitative performance)
- Performance (quantitative)
- Assessment results
- Subjective criteria (e.g. integrity, reputation)
- Other
- No criteria

Comments - Please, specify any useful comment regarding the criteria (especially if you have checked the box "performance" or "other"): See Question 113.1.

120. Is there a system of qualitative individual assessment of the public prosecutors' work?

Yes

No

Comments

5.1.3.Mandate and retirement of judges and prosecutors

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

Yes, please indicate the compulsory retirement age:65-67

No

Comments - If yes, are there exceptions (e.g. dismissal as a disciplinary sanction)? Please specify: In accordance with section 48 of the German Judiciary Act Judges for life retire at the end of that month in which they reach the retirement age applicable to them. They generally reach retirement age on their sixty-seventh birthday (standard retirement age). However, Judges for life who were born before 1 January 1947 reach standard retirement age on their sixty-fifth birthday. The retirement age for judges for life who were born after 31 December 1946 and before 31 December 1963 shall be raised gradually.

In accordance with section 64 (2) of the German Judiciary Act (Deutsches Richtergesetz), only the disciplinary measure of removal from office can be imposed on a judge of one of the supreme courts of the Federation. This ends the service relationship, cf. section 10 (1) sentence 1 of the Federal Disciplinary Act (Bundesdisziplinalgesetz). The respective provisions of Land law apply to judges in the service of a Land.

121-1. Can a judge be transferred (to another court) without his/her consent:

For disciplinary reasons

For organisational reasons

For other reasons (please specify modalities and safeguards):

No

Comments For other reasons:

Section 30 of the German Judiciary Act stipulates the following: "Transfer and discharge from office (1) A judge for life or for a specified term can only be transferred to another office or discharged from office without his own written consent 1. in judicial impeachment proceedings (Article 98 paragraphs 2 and 5 of the Basic Law), 2. in formal disciplinary proceedings, 3. in the interests of the administration of justice (section 31), 4. on changes being made in the organisation of the courts (section 32). (2) Save in the case of subsection (1) number 4, a transfer or discharge from office can only be ordered on the strength of a judicial decision that has entered into final and binding effect."

122. Is there a probation period for judges (e.g. before being appointed "for life")? If yes, how long is this period?

Yes, duration of the probation period (in years):up to 5

No

NAP

Comments

123. Are public prosecutors appointed to office for an undetermined period (i.e. "for life" = until

the official age of retirement)?

Yes, please indicate the compulsory retirement age:65-67

No

Comments - If yes, are there exceptions (e.g. dismissal as a disciplinary sanction)? Please specify: The service relationship of a public prosecutor ends for instance on a criminal judgment gaining legal force by means of which the public prosecutor has been sentenced to at least one year's imprisonment because of an intentional criminal offence (section 41 (1) of the Act on Federal Civil Servants [Bundesbeamten-gesetz – BBG] and section.

124. Is there a probation period for public prosecutors? If yes, how long is this period?

Yes, duration of the probation period (in years):up to 5

No

Comments

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?

Yes, what is the length of the mandate (in years)?

No

Comments See question 121: The mandate is for an undetermined period.

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?

Yes, what is the length of the mandate (in years)?

No, what is the length of the mandate (in years)?

Comments See question 123: The mandate is for an undetermined period.

5.2.Training

5.2.1.Training of judges

127. Types of different trainings offered to judges

	Compulsory	Optional	No training proposed
Initial training (e.g. attend a judicial school, traineeship in the court)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
General in-service training	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
In-service training for specialised judicial functions (e.g. judge for economic or administrative issues)	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
In-service training for management functions of the court (e.g. court president)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
In-service training for the use of computer facilities in courts	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

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

	Frequency of the judges training
General in-service training	<input checked="" type="checkbox"/> Regularly (for example every year) <input type="checkbox"/> Occasional (as needed) <input type="checkbox"/> No training proposed
In-service training for specialised judicial functions (e.g. judge for economic or administrative issues)	<input checked="" type="checkbox"/> Regularly (for example every year) <input type="checkbox"/> Occasional (as needed) <input type="checkbox"/> No training proposed
In-service training for management functions of the court (e.g. court president)	<input checked="" type="checkbox"/> Regularly (for example every year) <input type="checkbox"/> Occasional (as needed) <input type="checkbox"/> No training proposed
In-service training for the use of computer facilities in courts	<input checked="" type="checkbox"/> Regularly (for example every year) <input type="checkbox"/> Occasional (as needed) <input type="checkbox"/> No training proposed

Comments - Please indicate any information on the periodicity of the continuous training of judges:

5.2.2. Training of prosecutors**129. Types of different trainings offered to public prosecutors**

	Compulsory	Optional	No training proposed
Initial training	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
General in-service training	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
In-service training for specialised functions (e.g. public prosecutors specialised on organised crime)	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
In-service training for management functions in the courts (e.g. Head of prosecution office, manager)	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
In-service training for the use of computer facilities in office	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

Comments

130. Frequency of the in-service training of public prosecutors :

Frequency of the in-service training

General in-service training	<input checked="" type="checkbox"/> Regularly (for example every year) <input type="checkbox"/> Occasional (as needed) <input type="checkbox"/> No training proposed
In-service training for specialised functions (e.g. public prosecutor specialised on organised crime)	<input checked="" type="checkbox"/> Regularly (for example every year) <input type="checkbox"/> Occasional (as needed) <input type="checkbox"/> No training proposed
In-service training for management functions in office (e.g. Head of prosecution office, manager)	<input checked="" type="checkbox"/> Regularly (for example every year) <input type="checkbox"/> Occasional (as needed) <input type="checkbox"/> No training proposed
In-service training for the use of computer facilities in office	<input checked="" type="checkbox"/> Regularly (for example every year) <input type="checkbox"/> Occasional (as needed) <input type="checkbox"/> No training proposed

Comments - Please indicate any information on the periodicity of the in-service training of prosecutors:

131. Do you have public training institutions for judges and / or prosecutors?

	Initial training only	Continuous training only	Initial and continuous training
One institution for judges	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
One institution for prosecutors	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
One single institution for both judges and prosecutors	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>

Comments

131-0. (Modified question) If yes, what is the budget of such institution(s)?

	Budget of the institution for the reference year, in €
One institution for judges	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP
One institution for prosecutors	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP
One single institution for both judges and prosecutors	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP

Comments

131-1. If judges and/or prosecutors have no compulsory initial training in such institutions, please indicate briefly how these judges and/or prosecutors are trained?

. They have compulsory initial training.

5.3. Practice of the profession

5.3.1. Salaries and benefits of judges and prosecutors



132. Salaries of judges and public prosecutors on 31 December of the reference year:

	Gross annual salary, in €	Net annual salary, in €	Gross annual salary, in local currency	Net annual salary, in local currency
First instance professional judge at the beginning of his/her career	47469 <input type="checkbox"/> NA <input type="checkbox"/> NAP	36403 <input type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP
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)	81565 <input type="checkbox"/> NA <input type="checkbox"/> NAP	55642 <input type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP
Public prosecutor at the beginning of his/her career	47469 <input type="checkbox"/> NA <input type="checkbox"/> NAP	36403 <input type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP
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 Attorney General).	81565 <input type="checkbox"/> NA <input type="checkbox"/> NAP	55642 <input type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP

Comments The salaries calculated were based on the following assumptions:

Outset of the career (judge / public prosecutor): remuneration pursuant to R1, salary bracket 1, single, no children

The average was formed as a simple average of the Länder, without weighting the numbers based on the number of judges active in them, since the corresponding data are not known. The figure given as the salary of a judge or public prosecutor of the Supreme Court is the basic salary R6 without any allowance for working at one of the highest federal courts and without family allowance.

No Information on annual net salary is available on the Basis of the personal circumstances of judges and public prosecutors.

133. Do judges and public prosecutors have additional benefits?

	Judges	Public prosecutors
Reduced taxation	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Special pension	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Housing	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Other financial benefit	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

Comments

134. If “other financial benefit”, please specify:

. Unlike contracted employees, judges and public prosecutors acquire pension claims in accordance with the Civil Service Benefits

Act (Beamtenversorgungsgesetz) and are not included in the statutory pensions insurance scheme.

Other financial benefit:

Unlike contracted employees, judges and public prosecutors acquire a right to claim assistance with medical expenses and are not required to join the statutory health insurance scheme. Furthermore, married judges and prosecutors receive family allowances, and those with children receive child allowances.

[] NAP

135. Can judges combine their work with any of the following other functions/activities?

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

Comments - If rules exist in your country (e.g. authorisation needed to perform these activities), please specify. If “other function”, please specify. With regard to the obligation to have ancillary activities approved, section 46 of the German Judiciary Act (Deutsches Richtergesetz), sections 99 to 101 of the Act on Federal Civil Servants and the Ordinance on the Ancillary Activities of Judges in the Federal Civil Service (Verordnung über die Nebentätigkeit der Richter im Bundesdienst) apply to federal judges. Sections 71 (1) of the German Judiciary Act and section 40 of the Act on the Status of Civil Servants (Beamtenstatusgesetz) in conjunction with the provisions of the respective Land law apply to judges in the service of a Land. If no exceptional arrangement applies, non-remunerated ancillary activities do not have to be approved. Taking over care for someone other than a family member is for instance excepted from this. The following activities are also exempt from approval: literary, artistic, academic or lecturing activities, administration of own property or of property of which the judge has the usufruct, freelance expert consultancy work connected with teaching or research at public universities and academic institutions, as well as activities in trade unions, professional organisations or self-help institutions by which professional interests are promoted. All other ancillary activities are subject to approval.

137. Can public prosecutors combine their work with any of the following other functions/activities?

	With remuneration	Without remuneration
Teaching	(X) Yes () No	(X) Yes () No

Research and publication	(X) Yes () No	(X) Yes () No
Arbitrator	(X) Yes () No	(X) Yes () No
Consultant	(X) Yes () No	(X) Yes () No
Cultural function	(X) Yes () No	(X) Yes () No
Political function	() Yes (X) No	() Yes (X) No
Other function	(X) Yes () No	(X) Yes () No

Comments - If rules exist in your country (e.g. authorisation needed to perform these activities), please specify. If “other function”, please specify. see qu. 135 which applies accordingly

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) or cases examination?

- () Yes
(X) No

Comments - If yes, please specify the conditions and possibly the amounts:

5.4. Disciplinary procedures

5.4.1. Authorities responsible for disciplinary procedures and sanctions

140. Who is authorised to initiate disciplinary proceedings against judges (multiple options possible)?

- [] Court users
 [X] Relevant Court or hierarchical superior
 [X] High Court / Supreme Court
 [] High Judicial Council
 [X] Disciplinary court or body
 [] Ombudsman
 [] Parliament
 [X] Executive power (please specify):
 [X] Other (please specify):
 [] This is not possible

Comments

141. Who is 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 (please specify):
- Other (please specify):
- This is not possible

Comments 1) The head of the immediate superior authority, and, as possibly the next highest superior authority, the public prosecutor general and the Ministry of Justice may initiate disciplinary proceedings against public prosecutors.

2) Citizens can lodge a supervisory complaint, which may lead to the initiation of disciplinary proceedings. The highest disciplinary authority – as a part of the executive – is the Ministry of Justice.

142. Which authority has disciplinary power over judges? (multiple options possible)

- Court
- Higher Court / Supreme Court
- Judicial Council
- Disciplinary court or body
- Ombudsman
- Parliament
- Executive power (please specify):
- Other (please specify):

Comments 1) The bodies empowered to initiate disciplinary proceedings (see above) can impose a reprimand by means of a disciplinary order. All further disciplinary measures (including fines, reduction of remuneration, demotion, removal from judicial office) first and foremost require the lodging of a disciplinary action by the Ministry of Justice, on which the judicial service courts then rule.

2) The highest disciplinary authority – as a part of the executive – is the Ministry of Justice.

143. Which authority has disciplinary power over 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 (please specify):
- Other (please specify):

Comments 1) Disciplinary power lies partly with the bodies also empowered to initiate disciplinary proceedings (including reprimand, fines, reduction in salary [only by the Ministry of Justice], in some cases – after the disciplinary action has been lodged by the Ministry of

Justice – in the judicial service courts (including demotion, removal from the civil service).

2) The highest disciplinary authority – as a part of the executive – is the Ministry of Justice.

5.4.2. Number of disciplinary procedures and sanctions

144. Number of disciplinary proceedings initiated during the reference year against judges and public prosecutors. (If a disciplinary proceeding is undertaken because of several reasons, please count the proceedings only once and for the main reason.)

	Judges	Prosecutors
Total number (1+2+3+4)	9 <input type="checkbox"/> NA <input type="checkbox"/> NAP	7 <input type="checkbox"/> NA <input type="checkbox"/> NAP
1. Breach of professional ethics	1 <input type="checkbox"/> NA <input type="checkbox"/> NAP	1 <input type="checkbox"/> NA <input type="checkbox"/> NAP
2. Professional inadequacy	5 <input type="checkbox"/> NA <input type="checkbox"/> NAP	3 <input type="checkbox"/> NA <input type="checkbox"/> NAP
3. Criminal offence	3 <input type="checkbox"/> NA <input type="checkbox"/> NAP	3 <input type="checkbox"/> NA <input type="checkbox"/> NAP
4. Other	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP

Comments - If “other”, please specify:

145. Number of sanctions pronounced during the reference year against judges and public prosecutors:

	Judges	Prosecutors
Total number (total 1 to 9)	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP
1. Reprimand	4 <input type="checkbox"/> NA <input type="checkbox"/> NAP	0 <input type="checkbox"/> NA <input type="checkbox"/> NAP
2. Suspension	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP
3. Withdrawal from cases	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP
4. Fine	1 <input type="checkbox"/> NA <input type="checkbox"/> NAP	1 <input type="checkbox"/> NA <input type="checkbox"/> NAP
5. Temporary reduction of salary	0 <input type="checkbox"/> NA <input type="checkbox"/> NAP	1 <input type="checkbox"/> NA <input type="checkbox"/> NAP

6. Position downgrade	<input type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> NA <input type="checkbox"/> NAP
7. Transfer to another geographical (court) location	<input type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> NA <input type="checkbox"/> NAP
8. Resignation	<input type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> NA <input type="checkbox"/> NAP
9. Other	4 <input type="checkbox"/> NA <input type="checkbox"/> NAP	0 <input type="checkbox"/> NA <input type="checkbox"/> NAP

Comments - If "other", please specify. If a significant difference exists between the number of disciplinary proceedings and the number of sanctions, please indicate the reasons.

E3. Please indicate the sources for answering questions 144 and 145:

Sources: Information provided by the Länder.

6.Lawyers

6.1.Profession of lawyer

6.1.1.Status of the profession of lawyers

146. Total number of lawyers practising in your country:

[164393]

NA

NAP

Comments

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

Yes ()

No (X)

Comments

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

[]

NA

NAP

Comments

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

	First instance	Second instance	Highest instance court (Supreme Court)
Civil cases	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> NAP	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> NAP	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> NAP
Dismissal cases	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> NAP	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> NAP	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> NAP
Criminal cases - Defendant	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> NAP	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> NAP	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> NAP
Criminal cases - Victim	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> NAP	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> NAP	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> NAP
Administrative cases	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> NAP	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> NAP	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> NAP
There is no monopoly	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NAP

Comments - Please, indicate any useful clarifications regarding the content of lawyers' monopoly: Civil cases

Section 78 of the Civil Procedure Act: Proceedings in which the parties must be represented by counsel

(1) The parties to disputes before the regional courts (Landgerichte, LG) and the higher regional courts (Oberlandesgerichte, OLG) must be represented by an attorney. Where, based on section 8 of the Introductory Law of the Courts Constitution Act (Einführungsgesetz zum Gerichtsverfassungsgesetz), a Land has established a supreme court for its territory, the parties to a dispute must likewise be represented by an attorney before this court as well. In proceedings before the Federal Court of Justice (Bundesgerichtshof, BGH), the parties to the dispute must be represented by an attorney admitted to practice before said court.

(2) Public authorities and legal persons under public law, including the co-operation groupings they may form by way of fulfilling their tasks as governed by public law, may have themselves represented by their own employees who are qualified to hold judicial office, or by employees who are qualified to hold judicial office and who are working with other public authorities or legal persons under public law, including the co-operation groupings they may form by way of fulfilling their tasks as governed by public law.

(3) These rules are not to be applied to proceedings before a judge correspondingly delegated or requested, nor are they to be applied to actions in the proceedings that may be taken before the records clerk of the court registry.

(4) Any attorney authorised to represent parties before the courts in accordance with the stipulations of subsections (1) and (2) may represent himself.

Section 138 of the Code of Criminal Proceedings

(1) Attorneys admitted to practice before a German court, as well as professors of law at German institutions of higher education as defined in the Framework Act for Higher Education who are qualified to hold judicial office, may be engaged as defence counsel.

(2) Other persons may be engaged only with the approval of the court. In cases where the assistance of defence counsel is mandatory and the person chosen is not among the persons who may be appointed as defence counsel, such person may additionally be admitted as counsel of the accused's own choice only together with one who may be so appointed.

(3) If witnesses, private prosecutors, private accessory prosecutors, persons entitled to private accessory prosecution and aggrieved persons can avail themselves of the assistance of an attorney or representation by an attorney, they may, in accordance with subsection (1) and subsection (2), first sentence, also choose the other persons designated therein.

Administrative cases:

In addition to the (general) Administrative Jurisdiction, in Germany there are two specialised public-law jurisdictions: the Fiscal Jurisdiction and the Social Jurisdiction. Only the Administrative and Social jurisdictions have three tiers. The Administrative Courts form

the first instance of the Administrative Jurisdiction, the second instance comprises the Higher Administrative Courts/Administrative Courts of Appeal, while the Federal Administrative Court is the supreme court. The Social Courts form the first instance of the Social Jurisdiction, the second instance comprises the Higher Social Courts, while the Federal Social Court is the supreme court. The Fiscal Jurisdiction has two tiers. It comprises the Finance Courts of the Länder as courts of first instance, and the Federal Finance Court as supreme court. In all three jurisdictions, parties may at least represent themselves before the courts of first instance. Details in this regard are set out in section 67 VwGO, section 73 of the Social Courts Act and section 62 of the Code of Finance Court Procedure.

149-0. (New question) If there is no monopoly, please specify the organisations or persons that may represent a client before a court:

	First instance	Second instance	Highest instance court (Supreme Court)
Civil society organisation	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NAP
Family member	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NAP	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> NAP	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> NAP
Self-representation	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NAP	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> NAP	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> NAP
Trade union	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NAP
Other	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NAP

Comments - If "other", please specify. In addition, please specify for the categories mentioned, the types of cases concerned by this/these representation(s): Administrative cases: 1. Employees of the party or of an enterprise affiliated with them (section 15 of the Companies Act [Aktiengesetz]); authorities and legal entities under public law, including the associations formed by them to perform their public tasks, can also be represented by employees of other authorities or legal entities under public law, including the associations formed by them to perform their public tasks,

2. adult family members (section 15 of the Fiscal Code (Abgabenordnung, AO), section 11 of the Civil Partnership Act, persons with qualification for judicial office and joined parties if the representation is not connected with a remunerated activity,
3. tax advisers, tax representatives, certified public accountants, sworn auditors, persons and associations within the meaning of section 3a of the Tax Consulting Act (Steuerberatungsgesetz), as well as companies within the meaning of section 3 Nos. 2 and 3 of the Tax Consulting Act acting via persons within the meaning of section 3 No. 1 of the Tax Consulting Act, in tax-related matters,
4. professional agricultural associations for their members,
5. trade unions and associations of employers, as well as combinations of such associations for their members or for other associations or combinations with a comparable orientation and their members,
6. associations whose statutory tasks largely encompass joint representation of interests, advice and representation of benefit recipients in accordance with social compensation law or persons with disabilities and which, taking account of the nature and the extent of their activities, as well as of the group of their members, offer an assurance of proper representation in the proceedings, for their members in matters of welfare of victims of war and of the law on persons with serious disabilities, as well as concomitant matters,
7. legal entities whose shares are all in the economic ownership of one of the organisations designated in numbers 5 and 6 if the legal entity exclusively provides legal advice and representation in proceedings of this organisation and of its members or of other associations or combinations with a comparable orientation and their members in accordance with their statutes, and if the organisation is liable for the activity of the agents.

Different arrangements apply before social courts and finance courts.

149-1. In addition to the functions of legal representation and legal advice, can a lawyer exercise

other activities?

- Notarial activity
- Arbitration / mediation
- Proxy / representation
- Property manager
- Real estate agent
- Other law activities (please specify):

Comments The lawyer is adviser and representative in all legal matters (section 3 (1) of the Federal Regulations for Practising Lawyers (Bundesrechtsanwaltsordnung, BRAO). Inasmuch as particular prerequisites exist pursuant to other legislation that govern the provision of legal services, these must also be observed by lawyers. In particular, lawyers may pursue notarial activities only if they have been appointed as a notary in accordance with the stipulations of the Federal Regulations for Notaries (Bundesnotarordnung, BNotO) (so-called lawyers commissioned as notaries (Anwaltsnotar) and must do so in the premises of the combined law firm / notarial office (Anwaltsnotariat)).

149-2. What are the statuses for exercising the legal profession in court?

- Self-employed lawyer
- Staff lawyer
- In-house lawyer

Comments

150. Is the lawyer profession organised through:

- a national bar association
- a regional bar association
- a local bar association

Comments

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

- Yes
- No

Comments - 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

Comments

153. Is the specialisation in some legal fields linked to specific training, levels of qualification, specific diploma or specific authorisations?

- Yes
- No

Comments - If yes, please specify:

F1. Please indicate the sources for answering questions 146 and 148:

Sources: The data are based on information of the Bund.

6.1.2. Practicing the profession

154. Can court users establish easily what the lawyers' fees will be (i.e. a prior information on the foreseeable amount of fees)?

Yes

No

Comments

155. Are lawyers' fees freely negotiated?

Yes

No

Comments

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

Comments

6.1.3. Quality standards and disciplinary procedures

157. Have quality standards been determined for lawyers?

Yes

No

Comments - If yes, what are the quality criteria used?

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

the bar association

the Parliament

other (please specify):

Comments

159. Is it possible to file a complaint about:

the performance of lawyers

the amount of fees

Comments - Please specify:

160. Which authority is responsible for disciplinary procedures?

- the judge
- the Ministry of Justice
- a professional authority
- other (please specify):

Comments

161. Disciplinary proceedings initiated against lawyers. (If a disciplinary proceeding is undertaken because of several reasons, please count the proceedings only once and for the main reason.)

	Number of disciplinary proceedings
Total number of disciplinary proceedings initiated (1 + 2 + 3 + 4)	<input type="checkbox"/> NA <input type="checkbox"/> NAP
1. Breach of professional ethics	<input type="checkbox"/> NA <input type="checkbox"/> NAP
2. Professional inadequacy	<input type="checkbox"/> NA <input type="checkbox"/> NAP
3. Criminal offence	<input type="checkbox"/> NA <input type="checkbox"/> NAP
4. Other	<input type="checkbox"/> NA <input type="checkbox"/> NAP

Comments - If "other", please specify:

162. Sanctions pronounced against lawyers.

	Number of sanctions
Total number of sanctions (1 + 2 + 3 + 4 + 5)	<input type="checkbox"/> NA <input type="checkbox"/> NAP
1. Reprimand	<input type="checkbox"/> NA <input type="checkbox"/> NAP
2. Suspension	<input type="checkbox"/> NA <input type="checkbox"/> NAP
3. Withdrawal from cases	<input type="checkbox"/> NA <input type="checkbox"/> NAP
4. Fine	<input type="checkbox"/> NA <input type="checkbox"/> NAP

5. Other

NA
 NAP

Comments - If "other", please specify. If a significant difference between the number of disciplinary proceedings and the number of sanctions exists, please indicate the reasons.

7. Alternative dispute resolutions

7.1. Mediation

7.1.1. Details on mediation procedures and other ADR

163. Does the judicial system provide for judicial mediation procedures? If this is not the case you will go directly to question 168.

Yes

No

Comments

163-1. In some fields, does the judicial system provide for mandatory mediation procedures?

Before going to court

Ordered by a judge in the course of a judicial proceeding

Comments - If there are mandatory mediation procedures, please specify which fields are concerned: There are no mandatory mediation procedures before going to court or ordered by a judge in the course of a judicial proceeding in Germany

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	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Family law cases (ex. divorce)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Administrative cases	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Employment dismissals	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Criminal cases	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

Comments

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

Yes

No

Comments - If yes, please specify:

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

[]

NA

NAP

Comments Germany does not have a system of accreditation or registration for mediators. In addition, there is no statistical data available on the number of court annexed mediation cases. For these reasons, Germany cannot provide information on the number of accredited or registered mediators who practice judicial mediation.

167. Number of judicial mediation procedures.

	Number of judicial mediation procedures
Total number of mediation cases (total 1 + 2 + 3 + 4 + 5)	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP
1. Civil and commercial cases	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP
2. Family cases	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP
3. Administrative cases	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP
4. Employment dismissal cases	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP
5. Criminal cases	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP

Comments - Please indicate the source:

168. Does the legal system provide for the following alternative dispute resolutions (ADR):

mediation other than judicial mediation

arbitration

conciliation

other ADR (please specify): All forms of out-of court conflict resolution are possible as a matter of principle.

Comments

G1. Please indicate the source for answering question 166:

Source: The data are based on information of the Bund and the Länder.

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

Comments

170. Number of enforcement agents

5084]

NA

NAP

Comments

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

judges

bailiffs practising as private professionals under the authority (control) of public authorities

bailiffs working in a public institution

other

Comments - Please specify their status and powers: The enforcement agents are a public facility, namely bailiffs who are tied to the judicial administration of the Länder.

The bailiff is responsible for coercive enforcement of monetary claims in moveable property (by pledging and public auction (section 808 et seqq. of the Code of Civil Procedure), as well as for compulsory enforcement because of other acts or omissions, namely the surrender of moveables and real estate (sections 883-885 the Code of Civil Procedure).

The enforcement court (a department of the Local Court) is responsible for the coercive enforcement of monetary claims in moveable property insofar as these are rights against third-party debtors. Coercive enforcement takes place in this case by means of pledging and transfer for seizure or instead of payment in accordance with sections 829 et seqq. and 835 et seqq. of the Code of Civil Procedure.

The land registry office (a department of the Local Court) is responsible for coercive enforcement of monetary claims on immoveable property if an equitable mortgage is to be entered (section 867 of the Code of Civil Procedure).

Compulsory enforcement of monetary claims on immoveable property by forced auctioning or forced administration is carried out by the enforcement court (a department of the Local Court) in accordance with the provisions contained in sections 15 et seqq. or 146 et seqq. of the Forced Sale Act (Zwangsversteigerungsgesetz).

As a rule senior judicial officers act at the enforcement court and at the land registry office. These are not enforcement agents in the strict sense of the word, but special court bodies which carry out special court tasks as the "second pillar of the third power" in addition to judges, largely in the field of "voluntary" jurisdiction (including in inheritance cases, custodianship cases, parent-and-child and adoption cases, in land registry cases, commercial, co-operative and partnership register cases, in insolvency cases, association-related cases, cases related to the marriage property register, ship register cases, etc.). Moreover, they carry out a large number of other judiciary activities, such as in the field of court payment demand proceedings, legal aid, setting of costs, execution of penalties, etc., and in proceedings for which the enforcement court has jurisdiction (pledging of receivables, forced auctioning, forced administration). The scope of the activities of senior judicial officers is regulated in the Act on Senior Judicial Officers (Rechtspflegergesetz, RPfIG). Senior judicial officers enjoy professional independence in performing their tasks and in their rulings in the same way as judges and are bound only by law and order (section 9 RPfIG). In this respect, they are not subject to any instructions. Admissible appeals exist against their decisions in accordance with the general rules of procedure (section 11 of the Act on Senior Judicial Officers).

171-1. Do enforcement agents have the monopoly in exercising their profession?

Yes

() No

Comments - Please indicate any useful clarifications regarding the content of the enforcement agents' monopoly or on the opposite regarding the competition they have to deal with: The right to use coercive measures in enforcing claims is a right exclusively enjoyed by the state and, in areas in which a court-appointed enforcement officer is responsible, by said officer. Every court-appointed enforcement officer pursues his or her activities in an administrative district allocated to him or her. Private parties (collection agencies) are also active in the field of recovering debts (without using coercive measures); they are not allowed to use coercive measures.

171-2. Can the enforcement agent carry out the following civil enforcement proceedings:

	Option
Seizure of movable tangible properties	<input checked="" type="checkbox"/> Yes with monopole <input type="checkbox"/> Yes without monopole <input type="checkbox"/> No <input type="checkbox"/> NAP
Seizure of immovable properties	<input type="checkbox"/> Yes with monopole <input type="checkbox"/> Yes without monopole <input checked="" type="checkbox"/> No <input type="checkbox"/> NAP
Seizure from a third party of the debtor claims regarding a sum of money	<input type="checkbox"/> Yes with monopole <input type="checkbox"/> Yes without monopole <input checked="" type="checkbox"/> No <input type="checkbox"/> NAP
Seizure of remunerations	<input type="checkbox"/> Yes with monopole <input type="checkbox"/> Yes without monopole <input checked="" type="checkbox"/> No <input type="checkbox"/> NAP
Seizure of motorised vehicles	<input checked="" type="checkbox"/> Yes with monopole <input type="checkbox"/> Yes without monopole <input type="checkbox"/> No <input type="checkbox"/> NAP
Eviction measures	<input checked="" type="checkbox"/> Yes with monopole <input type="checkbox"/> Yes without monopole <input type="checkbox"/> No <input type="checkbox"/> NAP
Enforced sale by public tender of seized properties	<input checked="" type="checkbox"/> Yes with monopole <input type="checkbox"/> Yes without monopole <input type="checkbox"/> No <input type="checkbox"/> NAP
Other	<input type="checkbox"/> Yes with monopole <input type="checkbox"/> Yes without monopole <input type="checkbox"/> No <input checked="" type="checkbox"/> NAP

Comments

171-3. Apart of the enforcement of court decisions, what are the other activities that can be carried out by enforcement agents?

Service of judicial and extrajudicial documents

Debt recovery

Voluntary sale of moveable or immovable property at public auction

Seizure of goods

Recording and reporting of evidence

Court hearings service

Provision of legal advice

Bankruptcy procedures

Performing tasks assigned by judges

Representing parties in courts

Drawing up private deeds and documents

Building manager

Other

Comments

172. Is there a specific initial training or exam to become an enforcement agent?

Yes

No

Comments

172-1. Is there a system of mandatory general continuous training for enforcement agents?

Yes

No

Comments

173. Is the profession of enforcement agents organised by (the answer NAP means that the profession is not organised):

a national body

a regional body

a local body

NAP

Comments

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

Yes

No

Comments

175. Are enforcement fees freely negotiated?

Yes

No

Comments

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

Yes

No

Comments

H0. Please indicate the sources for answering question 170

Source: Source: Federal Office of Justice, staffing overviews of ordinary courts and the public prosecution offices, 2015 (counted in full-time positions, not in the number of individuals filling those positions). Note: The number of enforcement agents includes the number of court bailiffs, prison officers and the number of senior judicial officers working in coercive execution at the local Courts.

8.1.2. Efficiency of enforcement services



177. Is there a body entrusted with supervising and monitoring the enforcement agents' activity?

Yes

No

Comments

178. Which authority is responsible for supervising and monitoring enforcement agents?

a professional body

the judge

the Ministry of Justice

the public prosecutor

other (please specify):

Comments Reference is made to the answer re Question 171 for more details.

179. Have quality standards been determined for enforcement agents?

Yes

No

Comments - If yes, what are the quality criteria used?

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

a professional body

the judge

the Ministry of Justice

other (please specify):cf. answer to Question 179

Comments

181. Is there a specific mechanism for executing court decisions rendered against public

authorities, including supervising such execution?

Yes

No

Comments - If yes, please specify:

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

Yes

No

Comments - If yes, please specify:

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

no execution at all

non execution of court decisions against public authorities

lack of information

excessive length

unlawful practices

insufficient supervision

excessive cost

other (please specify): All the complaints listed are likely to arise in practice. However, there is no current statistical material on the number of complaints in each case.

Comments

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

Comments - If yes, please specify:

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

	Existence of the system
for civil cases	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
for administrative cases	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

Comments

186. As regards a decision on debt collection, please estimate the average timeframe to notify the

decision to the parties who live in the city where the court sits (one option only):

between 1 and 5 days

between 6 and 10 days

between 11 and 30 days

more (please specify):

Comments

187. Number of disciplinary proceedings initiated against enforcement agents. (If a disciplinary proceeding is undertaken because of several reasons, please count the proceedings only once and for the main reason.)

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

Comments - If "other", please specify:

188. Number of sanctions pronounced against enforcement agents:

	Number of sanctions pronounced
Total number of sanctions (1+2+3+4+5)	<input type="checkbox"/> NA <input type="checkbox"/> NAP
1. Reprimand	<input type="checkbox"/> NA <input type="checkbox"/> NAP
2. Suspension	<input type="checkbox"/> NA <input type="checkbox"/> NAP
3. Withdrawal from cases	<input type="checkbox"/> NA <input type="checkbox"/> NAP
4. Fine	<input type="checkbox"/> NA <input type="checkbox"/> NAP

5. Other

NA

NAP

Comments - If "other", please specify. If a significant difference between the number of disciplinary proceedings and the number of sanctions exists, please indicate the reasons:

H1. Please indicate the sources for answering questions 186, 187 and 188:

Source: The data are based on information of the Bund and the Länder.

8.2.Execution of decisions in criminal matters

8.2.1.Functioning of execution in criminal matters



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

Judge

Public prosecutor

Prison and Probation Services

Other authority (please specify):

Comments - Please specify his/her functions and duties (e.g. initiative or monitoring functions). cf. at Question 105 with regard to the age limits relevant for juveniles and young adults.

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

Yes

No

Comments

191. If yes, what is the recovery rate?

80-100%

50-79%

less than 50%

Comments - Please indicate the source for answering this question:

9.Notaries

9.1.Profession of notary

9.1.1.Number and status of notaries



192. Number and type of notaries in your country. If you do not have notaries skip to question 197.

	Number of notaries
TOTAL	7088 [] NA [] NAP
Private professionals (without control from public authorities)	[] NA [X] NAP
Private professionals under the authority (control) of public authorities	[] NA [X] NAP
Public agents	7088 [] NA [] NAP
Other	[] NA [X] NAP

Comments - If "other", please specify the status:

192-1. What are the access conditions to the profession of notary:

- diploma
- payment of a fee (e.g. purchasing office)
- co-opting of peers
- other

Comments

192-2. (Modified question) What is the duration of appointment of a notary?

- Limited duration, please indicate it in years:
- Unlimited duration

Comments

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
- in the field of mediation
- other (please specify):

Comments

194-1. Do notaries have the monopoly when exercising their profession:

- in civil procedure
- in the field of legal advice
- to authenticate deeds/certificates
- in the field of mediation

other

Comments - Please indicate any useful clarifications regarding the content of the notaries' monopoly or on the opposite regarding the competition they have to deal with:

194-2. As well as these activities, what are the other ones that can be carried out by notaries?

- Real estate transaction
- Settlement of estates
- Legality control of gambling activities
- Authentication of documents
- Translations
- Signatures
- Other

Comments

195. Is there an authority entrusted with supervising and monitoring the notaries' work?

- Yes
- No

Comments

196. If yes, which authority is responsible for supervising and monitoring notaries?

- a professional body
- the judge
- the Ministry of Justice
- the public prosecutor
- the Ministry of Interior
- other (please specify):

Comments

196-1. Is there a system of general continuous training mandatory for all notaries?

- Yes
- No

Comments

I1. Please indicate the sources for answering question 192:

Sources: www.bnotk.de/Notar/Statistik/index.php

10.1.Details on profession of court interpreter

10.1.1.Status of court interpreters

197. Is the title of court interpreters protected?

Yes

No

Comments

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

Yes

No

Comments

199. Number of accredited or registered court interpreters:

[23806]

NA

NAP

Comments The data are taken from the online interpreter and translator database. There is also the "total stock" indicated <http://www.justiz-dolmetscher.de/start.jsp> It can be assumed that the entries in the database are made by the Länder. A guarantee for the data is therefore not to be assumed. According to the estimates, the number of interpreters and translators ordered has increased significantly in recent years as a result of the wave of refugees. Both due to the corresponding demand and due to increased availability. In addition, the list automatically grows with new orders, as orders do not automatically expire. According to the estimate, many inactive persons are also present in the database.

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

Yes

No

Comments - If yes, please specify:

201. Are the courts responsible for selecting 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, please specify which authority selects court interpreters

Comments

J1. Please indicate the sources for answering question 199

Sources: www.justiz-dolmetscher.de

11.Judicial experts

11.1.Profession of judicial expert

11.1.1.Status of 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,

"legal 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).

Other (please specify):

Comments

202-1. Are there lists or databases of technical experts registered?

Yes

No

Comments - Please, indicate any useful comment regarding these lists of experts if they do exist (e.g. : who decide of the registration on the list ? Is the registration limited in time ? does the expert take the oath ? how is his/her skill evaluated ? by whom ?)

203. Is the title of judicial experts protected?

Yes

No

Comments - If appropriate, please explain the meaning of this protection:

203-1. Does the expert have an obligation of training?

	Obligation of training
Initial training	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Continuous training	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

Comments

203-2. If yes, does this training concern:

the proceeding

the profession of expert

other

Comments

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

() Yes

(X) No

Comments

204-1. On the occasion of a mission entrusted to him/her, does the expert have to report any potential conflicts of interest?

() Yes

(X) No

Comments

205. Number of accredited or registered judicial / technical experts:

[]

[X] NA

[] NAP

Comments

205-1. Who sets the expert remuneration?

- The remuneration of experts has been provided for by law (Act on the Remuneration of Experts, Interpreters and Translators as well as the Compensation of Honorary Judges, Witnesses and Third Parties, Justizvergütungs- und –entschädigungsgesetz, JVEG). It is permissible to conclude fee agreements with experts who are involved on a recurrent basis. The amount of the remuneration agreed may not exceed the amount of the remuneration provided for by said Act.

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

(X) Yes

() No

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

207. Are the courts responsible for selecting judicial experts?

[] Yes, for recruitment and/or appointment for a specific term of office

[X] Yes, for recruitment and/or appointment on an ad hoc basis, according to the specific needs of given proceedings

[] No, please specify which authority selects judicial experts

Comments

207-1. Does the judge control the progress of investigations?

(X) Yes

() No

Comments

K1. Please indicate the sources for answering question 205

Sources: The data are based on information of the Bund and the Länder.

12.Reforms in judiciary

12.1.Foreseen reforms

12.1.1.Reforms

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

1. (Comprehensive) reform plans The Federal Ministry of Justice and Consumer Protection is conducting a research project into how the Act on Compulsory Auctions and Compulsory Administration (Gesetz über die Zwangsversteigerung und Zwangsverwaltung – ZVG) needs to be reformed.

As of 1 January 2018, all courts of the Federation and the Länder in the ordinary jurisdiction and the specialized courts should, as a matter of principle, be reachable electronically for the citizens, the lawyers, the authorities and the other process participants. At the same time, all courts will generally be subject to uniform technical framework conditions, which are regulated in the Electronic Rights Directive (ERVV) of 24 November 2017. From 1 January 2022, lawyers and authorities will be required to communicate electronically with the authorities.

2. Budget no foreseen reforms.

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) Since the 2015 review, the Act on the amendment of the laws governing experts and on the further amendment of the Act on Proceedings in Family Matters and in Matters of Non-contentious Jurisdiction (Gesetz über das Verfahren in Familiensachen und in den Angelegenheiten der freiwilligen Gerichtsbarkeit - FamFG) was adopted by legislative bodies and entered into force on 15 October 2016. This amendment stipulates, inter alia, that the expert is under obligation to immediately review the matter as to conflicts of interest and to report them, along with any delays that may arise, and establishes measures serving to accelerate evidence as provided by an expert. However, the initial legislative proposal by the federal government, as laid out in Germany's 2015 report, to require mandatory hearing of the parties prior to appointing an expert, was changed by legislators. In point of fact, the law establishes that the hearing of the parties shall be the general rule, thereby giving the court more flexibility in the matter at hand with a view to discouraging unnecessary delay in proceedings.

In accordance with recent European Court of Human Rights rulings, German legislators, in the context of debate on the above amendments have implemented special measures aimed at accelerating family proceedings concerning the place of residence of a child, the right of contact, or the surrender of the child, as well as proceedings based upon endangerment to the welfare of the child. In such vital cases, in addition to the right to compensation (see question 37), participating parties have the right to complain about delays (Beschleunigungsrüge) and, if no remedy is achieved, to bring the matter before the second instance court for evaluation of the timeliness of proceedings (Beschleunigungsbeschwerde). The court of second instance may advise on binding measures to accelerate proceedings before the first instance court.

In a separate amendment to the FamFG and the German Real Estate Registry Act (Grundbuchordnung – GBO) German legislators have further strengthened the role of notaries in the process of updating entries into court-based public registries, such as the Land and Commercial Registries, with the objective of maintaining the public faith in said registries. Henceforth, notaries are explicitly obligated to submit to legal review any declaration of the participants in proceedings, thus supporting further eligibility of the proposed entry.

3.1. Access to justice and legal aid On 2 June 2017, the "Act to Adjust the Environmental Appeals Act and other Provisions to Requirements under European and International Law" entered into force. This new legislation significantly extends the possibilities for recognised environmental associations to bring court actions concerning environmental law.

4. High Judicial Council no foreseen reforms.

5. Legal professionals (judges, public prosecutors, lawyers, notaries, enforcement agents, etc.): organisation, education and training, etc. no foreseen reforms.

6. Reforms regarding civil, criminal and administrative laws, international conventions and cooperation activities no foreseen reforms.

7. Enforcement of court decisions The Federal Ministry of Justice and Consumer Protection is conducting a research project into how the Act on Compulsory Auctions and Compulsory Administration (Gesetz über die Zwangsversteigerung und Zwangsverwaltung – ZVG) needs to be reformed.

8. Mediation and other ADR no foreseen reforms.

9. Fight against crime no foreseen reforms.

9.1. Prison system no foreseen reforms.

9.2 Child friendly justice no foreseen reforms.

9.3. Violence against partners no foreseen reforms.

10. New information and communication technologies no foreseen reforms.

11. Other no foreseen reforms.