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**EUROPEAN COMMISSION FOR THE EFFICIENCY OF JUSTICE  
(CEPEJ)**

**Cooperation with the European Commission  
Dashboard Western Balkans (HF III)**

**EXPLANATORY NOTE**

## **I. Introduction**

### **Background**

The CEPEJ is a unique body, made up of experienced experts from the 46 Council of Europe member States. It assesses the efficiency of judicial systems and proposes practical tools and measures for states to work towards an increasingly efficient service of justice for the public.

Since 2004, every two years, the CEPEJ is undertaking a process of evaluating the judicial systems of the Council of Europe member States. An Evaluation Scheme has been designed and used by the CEPEJ to identify indicators in line with the principles of the Council of Europe in the field of efficiency and fairness of justice.

Furthermore, CEPEJ conducts annual study for “EU Justice Scoreboard” (concerning European Union member states) which contains a large part of CEPEJ data (extract from CEPEJ Evaluation Scheme), in the framework of an existing service contract between DG-JUST and the Council of Europe.

### **Dashboard Western Balkans– general information**

During 2018, the European Commission (EC) has approached CEPEJ and proposed an action aimed at supporting the EC in achieving an effective, systematic and data-based evaluation of the results of judicial reform efforts in the Western Balkans (Albania, Bosnia and Herzegovina, Montenegro, North Macedonia, Serbia, Kosovo\*) through the annual collection and processing of data on the functioning of the judicial systems of these beneficiaries. In July 2019 the agreement between EC and CEPEJ was signed to that effect.

The proposed action responds directly to the call made in the Western Balkan Strategy for measuring the impact of justice reforms. Accordingly, the Western Balkans Dashboard is aimed at providing quantitative and qualitative data on the functioning of the judicial systems of the beneficiaries (Albania, Bosnia and Herzegovina, Montenegro, North Macedonia, Serbia, Kosovo\*) which will allow for a better measurement of the results of the justice reform efforts supported by the EC in the Western Balkans. The methodology itself was agreed between the CEPEJ Working group on evaluation (CEPEJ-GT-EVAL), EC and the beneficiaries, and has been developed on the basis of the previous CEPEJ work, primarily Evaluation Scheme and EU Justice Scoreboard. Concretely, the exercise will be carried out according to the CEPEJ methodology and in close coordination with the EC. The action also introduces some new indicators and widens the scope of existing schemes to include areas of particular interest for the EC and the beneficiaries, especially in the light of their on-going EU accession process. For that reason, the action expands some of the existing CEPEJ questions and introduces new ones regarding independence of justice, integrity and anti-corruption, training etc.

Part of the questionnaire and explanatory note were prepared in cooperation with the GRECO Secretariat.

In parallel, the action proposes to support each beneficiary with technical expertise and capacity building activities in order to improve the effective and systematic collection, processing and analysis of data on the functioning of the judicial systems and judicial statistics according to the CEPEJ methodology.

### **Data collection and methodology**

The CEPEJ will collect annually data on the functioning of the justice system in each beneficiary. Some of the data to be collected are identical to those used in the general CEPEJ evaluation process, while others are specific to this action only.

The methodology for the collection and verification of data is defined by the CEPEJ Secretariat, under the supervision of the CEPEJ-GT-EVAL. Data collection will be based on reporting by each beneficiary, which will be invited to appoint a CEPEJ correspondent entrusted with the collection and coordination of the replies to the CEPEJ questionnaire, through the internet system: CEPEJ-COLLECT. Extensive work will be carried out by the action team responsible for the data collection within the CEPEJ Secretariat to verify the quality of the data submitted by the correspondents. This quality check process requires a certain time in order to guarantee the reliability of the quantitative and qualitative data to be finally presented to EU. During the whole process, the correspondent will be the unique interlocutor for the CEPEJ Secretariat. No data will be modified by the CEPEJ without specific information from the correspondents.

The CEPEJ shall provide the results of the data collection in time to ensure the timely preparation of the EU Annual reports, subject to the provision of the relevant data in due time by the beneficiaries and proper involvement of the CEPEJ correspondents in the quality check process.

## II. Comments concerning the questions

This explanatory note accompanies the questions in this action's questionnaire and aims to assist the CEPEJ correspondents entrusted with replying to the questions in clarifying the purpose of each question, its idea and definition. In case of more complex questions this document tries to clarify the ambiguities with practical examples of how questions should be interpreted and which replies should be given.

All the relevant information are available on the following webpages <https://www.coe.int/en/web/cepej/cepej-national-correspondents> and <https://www.coe.int/en/web/cepej/towards-a-better-evaluation-of-the-results-of-judicial-reforms-in-the-western-balkans-dashboard-western-balkans->.

**Should you have any question regarding this Scheme and the way to answer it, please send an e-mail to Federica VIAPIANA ([federica.viapiana@coe.int](mailto:federica.viapiana@coe.int)), Enes SEHIC ([enes.sehic@coe.int](mailto:enes.sehic@coe.int)) or Daniela ZOL ([daniela.zol@coe.int](mailto:daniela.zol@coe.int)).**

### a. General remarks

**All replies to the questionnaire (including uploaded documents that accompany replies) should be in English**

#### **NA and NAP answers:**

When answering questions, it may not always be possible to give a number or to choose between different modalities of answers (Yes or No). In these cases you can use NA or NAP respectively.

**NA** (information/data is not available) means that the concept/category referred to in the question exists in your system, but that you do not know the answer/data (e.g. administrative law cases exist in your system, but you cannot quantify their number).

**NAP** (not applicable) means that the question is not relevant in your judicial system (for example, because the category of judicial staff or the type of dispute that constitutes the question does not exist in your system).

The answers NA or NAP are very different from each other, please observe these rules, any mistake will lead to wrong interpretations. The consistency rules (vertical and horizontal) do not apply in the same way in the presence of one or more NA or NAP replies.

**Consistency (horizontal and vertical): in a table having different subcategories and a total, the latter must equal the sum of the different sub-categories (see, for example, questions 4 and question 19).**

#### **Subcategories:**

If the answers of one or more sub-categories are **NA** (not available), the total cannot be equal to the sum of the other sub-categories for which the answers are quantitative data.

- if only one category is NA, the total must necessarily be NA;

- if several subcategories are NA, the total can be either NA or a quantitative data (which will necessarily be greater than the sum of the available sub-categories);

- on the other hand, if one or more subcategories are **NAP** (not applicable), they do not have an impact on the total which can be equal to the sum of the sub-categories since this/these NAP replies indicate that this/these sub-categories do not exist in the legal system.

#### **Examples:**

##### **Example no. 1 - one subcategory is NA:**

	Approved budget (in €)
TOTAL - Annual public budget allocated to the functioning of all courts (1 + 2 + 3 + 4 + 5 + 6 + 7)	NA
1. Annual public budget allocated to (gross) salaries	1000
2. Annual public budget allocated to computerisation	NA

3. Annual public budget allocated to justice expenses (expertise, interpretation, etc.)	1000
4. Annual public budget allocated to court buildings (maintenance, operating costs)	2000
5. Annual public budget allocated to investments in new (court) buildings	5000
6. Annual public budget allocated to training	2000
7. Other (please specify)	1000

This example shows that if one sub-category is replied NA (in this specific situation 2. "Annual public budget allocated to computerisation"), the "Total" should also be NA.

**Example no. 2 - several subcategories are NA:**

	Approved budget (in €)
TOTAL - Annual public budget allocated to the functioning of all courts (1 + 2 + 3 + 4 + 5 + 6 + 7)	10000
1. Annual public budget allocated to (gross) salaries	1000
2. Annual public budget allocated to computerisation	NA
3. Annual public budget allocated to justice expenses (expertise, interpretation, etc.)	NA
4. Annual public budget allocated to court buildings (maintenance, operating costs)	2000
5. Annual public budget allocated to investments in new (court) buildings	NA
6. Annual public budget allocated to training	1000
7. Other (please specify)	1000

This example shows that if more than one sub-category is NA, the "Total" can be either NA, or a number (10 000 as in the example) greater than the sum of the other sub-categories (5 000 in this case) if all three categories are known but cannot be reported separately.

**Example no. 3 - one (or several) subcategory(ies) is/are NAP:**

	Approved budget (in €)
TOTAL - Annual public budget allocated to the functioning of all courts (1 + 2 + 3 + 4 + 5 + 6 + 7)	8000
1. Annual public budget allocated to (gross) salaries	1000
2. Annual public budget allocated to computerisation	1000
3. Annual public budget allocated to justice expenses (expertise, interpretation, etc.),	1000
4. Annual public budget allocated to court buildings (maintenance, operating costs)	2000
5. Annual public budget allocated to investments in new (court) buildings	NAP
6. Annual public budget allocated to training	2000
7. Other (please specify)	1000

This example shows that the reply NAP does not have influence on the "Total" since that sub-category does not exist in the legal system and consequently it is treated as 0 (8000 = sum of the existing sub-categories).

**Comments:** the CEPEJ gives the possibility to insert a comment for every question. We differentiate two types of comments: General comments (in a specific tab of CEPEJ-COLLECT) and specific comments under each question.

In the "specific comments" area, the beneficiary correspondent should provide detailed information on the specificities of the judicial system for **the on-going cycle** as well as explain substantial variations of data from previous evaluation rounds.

The **specific comments under each question** are different from the **general comments** which **apply to all evaluation cycles** and are in a separate tab. Such comments refer to specificities of the judicial system relevant to all evaluation cycles and will be helpful when analysing the replies and processing data. It is not required to fill in this area systematically but only when specifics in the system exist and the interpretation of data should be aware of it. These comments should be as precise and as concise as possible.

When an answer and/or a comment to a specific question remains unchanged from one evaluation cycle to the other, it is possible for national correspondents to "copy and paste" from the previous evaluation round. For the General comment this is done automatically and the user should intervene only in case a change is needed. In the event of an unchanged answer/comment from one cycle to the next, a simple reference to the answers of the previous cycle is not possible.

**Gross figures and full-time equivalent of posts:** the posts in gross figures concern the total number of persons working, independently of their working hours. The posts in full-time equivalent, on the other hand, are aimed at quantifying the posts taking the full time as a reference. The indication of the full-time equivalent implies that the number of part time working persons has to be converted: for instance, one half-time worker should count for 0.5 of a full-time equivalent, two persons working half the standard number of hours count for one "full-time equivalent".

**Check and variations from previous evaluation rounds:** please always check the data inserted. Check the figures inserted (for instance the number of zeros!).

Please also compare the data indicated for the year of reference with the ones provided for the previous evaluation rounds and explain significant variations from one cycle to another. This is possible to see within the CEPEJ-COLLECT system in a separate tab "Previous data". For numerical data, the system will automatically warn you in case of a significant variation and data can only be saved with these variations if a comment is inserted in a specific box that will appear under the concerned data. Indeed, these variations may be explained by specific situations which had a significant impact on data from the reference year (for example, an increase in the number of incoming administrative law cases due to the migration crisis), or by a structural reform, a legislative change, a different methodology or a change in the interpretation of the question by the national correspondent. Please note that this change should be well explained and not only mentioned. For example, if there is a new methodology introduced, the differences with the previous one should be elaborated.

**Euros:** all financial amounts have to be given in Euros except some amounts in question 132, where values in local currency are also required. This is essential to avoid any misinterpretations or problems of comparability. For countries outside the Euro zone, the exchange rate on 1<sup>st</sup> January of the reference year +1 has to be indicated in question 5.

**Rules and exceptions:** Please give answers, if possible, according to the general situation in your country and not according to exceptions. You may indicate exceptions to the rules in the comment area below the question.

**Sources:** Please indicate the sources of your data, where requested. The "source" concerns the institution which has provided the information to answer the question (e.g., the National Institute of the Statistics or the Ministry of Justice). This will help check the reliability of the data.

**Year of reference:** the year of reference for this Scheme is **2023**.

Please note that the questions that are copied from CEPEJ Evaluation Scheme are added in blue between brackets to ease the link between the numbering of these two questionnaires.

## b. Comments question by question

### General Data

These data will enable to determine ratios allowing comparative analysis.

#### Question 1, 2, 3, 14

Data provided in these questions are standardisation variables and must be as precise as possible. If your country reports these data to Eurostat, please contact your national statistical institution to provide you with data already

communicated to Eurostat. In case your country is not delivering data to Eurostat, please use your official national source.

#### **Question 1** ([Question 1 of the CEPEJ Questionnaire](#))

The number of inhabitants should be of 1 January of the reference year +1.

#### **Question 2** ([Question 3 of the CEPEJ Questionnaire](#))

Please indicate the annual Gross domestic product (GDP) at current prices per capita. Gross domestic product (GDP) at current prices is GDP at prices of the current reporting period (i.e. not readjusted for the effects of price inflation) also known as nominal GDP.

Gross Domestic Product (GDP) is an indicator of economic activity which is the most commonly used and is usually measured on an annual or quarterly basis to determine the economic growth of a country from one period to another. GDP is a measure of total consumption, investment, government spending and the value of exports minus imports.

#### **Question 3** ([Question 5 of the CEPEJ Questionnaire](#))

The exchange rate at 1 January of the reference year + 1 should be provided for this question. The exchange rate should be expressed as number of units of national currency required to obtain 1 Euro for all countries outside the Euro zone.

The mid exchange rate published by the Central/National Bank for 1 January of the reference year + 1 is the expected value. In case of big fluctuation of exchange rate between cycles an average annual exchange rate for the reference year could be provided instead.

### **Indicator 1. Budget**

#### **Question 4** ([Question 6 of the CEPEJ Questionnaire](#))

The annual, approved and implemented, public budget allocated to the functioning of all courts has been defined by the CEPEJ (see categories below) and may differ from the beneficiaries' definitions. **For comparability reasons, please observe the CEPEJ definition.**

The **approved** budget is the budget that has been formally approved by the Parliament (or another competent public authority). If the approved budget had been changed (rebalance or amendment) during the year, the latest change should be reported.

The budget (approved) should be reported, if possible, without other sources (e.g. co-financed by EU or other external donor). The latter should be mentioned in comments. The funds from other sources (amount or estimation of the budget) should be provided in Q10 or Q11.

The **implemented** budget corresponds to the observed expenditures during the reference year.

Where appropriate, the annual budget allocated to the functioning of all courts must include both the budget at national level and at the level of regional or federal entities.

**Please note that all amounts used for financing budget(s) in this question should be included irrespective of which ministry or institution is the source of financing.**

Most of the systems define a financial year from 1 January to 31 December which matches the CEPEJ reference year. Exceptionally, some countries have a financial year that does not match the calendar year (for example from 1 April of one calendar year to 31 March of the next year). In this case, the fiscal year which overlaps more with the CEPEJ reference year should be used (in the given example it would be the fiscal year that starts on 1 April of the CEPEJ reference year) and the situation should be explained in the comments.

**Note: If you cannot separate the budget of the public prosecution services and / or the budget of legal aid from the budget allocated to the functioning of all courts, please indicate "NA" and answer to question 5 below.**

## This budget includes:

### Categories 1 to 7:

**1. (Gross) salaries** are those of all judicial and non-judicial staff working within courts, excluding, if appropriate, the public prosecution system (and the staff working for the prosecution services). This amount should include the total salary costs for the employer: if, in addition to the gross salary proper, the employer also pays insurances and/or pensions, these contributions should be included.

**2. Computerisation** includes all the expenses for equipment, investments, installation, use and maintenance of computer systems (including the expenses for outsourced technical staff).

**2.1 Investments in computerisation** should include the amount designated only for the equipment, investments, and installation. More precisely, this category should include only purchase of new or upgrade of the existing hardware and software, as well as development costs.

**2.2 Maintenance of the IT equipment of courts** should include only maintenance costs, such as updates of licences, repairment of software “bugs” etc.

**3. Justice expenses** borne by the state (or by the justice system) refer to the amounts that the courts should pay out within the framework of judicial proceedings, such as expenses paid for expert opinions or court interpreters. Any expenses to be eventually paid by the parties (e.g. individual costs of experts and interpreters to be reimbursed to the court budget or, court fees and taxes paid to cover justice expenses; see questions 8 and 9 of the CEPEJ Questionnaire) should be excluded. The amount to be paid for legal aid and/or coverage or exemption of court fees should also not be indicated here (see questions from 12 to 13-2).

**4. Court buildings'** budget includes all the costs that are related to the maintenance and operation of court buildings (costs for rental, electricity, security, cleaning, maintenance etc.). It does not include investments in new buildings.

**5.** Investments in new (court) buildings includes all the costs that are connected with **investments in new court buildings** (either building of new structure or purchase of existing buildings).

**6.** The annual public budget allocated to **training** includes all training directly covered by the courts for the training of judges and non-judicial staff, excluding, if appropriate, the public prosecution system (and the staff working for the prosecution services). It does not include the specific budget of a separate public training institution for judges and / or prosecutors (see question 142 (question 131-0 of the CEPEJ Questionnaire).

**7. Other** includes all figures that you cannot subsume under categories listed above.

### This budget must not include in particular (they are reported at different questions):

- the budget of the prosecution system (see question 6);
- the budget for legal aid (see questions 12 and 13);
- the budget for the prison and probation systems;
- the budget for the operation of the Ministry of Justice (and/or any other institution (of executive or legislative branch of power) which deals with the administration of justice);
- the budget for the operation of other institutions (other than courts) attached to the Ministry of Justice;
- the budget of the judicial protection of youth (social workers, etc.);
- the budget of the Constitutional courts;
- the budget of the High Judicial Council. State Prosecutorial Council (or similar body (of the judicial branch of power));
- the annual income of court fees or taxes received by the state (see questions 8 and 9),

### Question 5 (Question 7 of the CEPEJ Questionnaire)

If you have answered to question 4, please fill in with “NA” for this question.

If you answer to this question, please note that the **approved** budget is the budget that has been formally approved by the Parliament (or another competent public authority). The **implemented** budget corresponds to the observed expenditures during the reference year.

**Please note that all amounts used for financing budget(s) in this question should be included irrespective of which ministry or institution is the source of financing.**

Most of the systems define a financial year from 1 January to 31 December which matches the CEPEJ reference year. Exceptionally, some beneficiaries have a financial year that does not match the calendar year (for example from 1 April of one calendar year to 31 March of the next year). In this case, the fiscal year which overlaps more with the CEPEJ reference year should be used (in the given example it would be the fiscal year that starts on 1 April of the CEPEJ reference year) and the situation should be explained in the comments.

#### **Question 6** ([Question 13 of the CEPEJ Questionnaire](#))

The *Public Prosecutor* should be understood according to the following definition contained in Recommendation Rec(2000)19 of the Committee of Ministers of the Council of Europe on the role of public prosecution in the criminal justice system: "(...) authorities who, on behalf of society and in the public interest, ensure the application of the law where the breach of the law carries a criminal sanction, taking into account both the rights of the individual and the necessary effectiveness of the criminal justice system".

If you cannot separate the budget of the public prosecution services and / or the budget allocated to the functioning of all courts, please indicate "NA" in question 6 and answer to question 5.

The **approved** budget is the budget that has been formally approved by the Parliament (or another competent public authority).

The **implemented** budget corresponds to the observed expenditures during the reference year.

The budget (approved) should be reported, if possible, without other sources (e.g. co-financed by EU or another external donor). The latter should be mentioned in comments. The funds from other sources (amount or estimation of the budget) should be provided in Q10 or Q11.

The annual public budget allocated to **training** of the public prosecution services includes all costs allocated to training of public prosecutors and the staff working for the prosecution services. It does not include the specific budget of a separate public training institution for judges and / or prosecutors (see question 142 (question 131-0 of the CEPEJ Questionnaire).

**Please note that all amounts used for financing budget(s) in this question should be included irrespective of which ministry or institution is the source of financing.**

Most of the systems define a financial year from 1 January to 31 December which matches the CEPEJ reference year. Exceptionally, some beneficiaries have a financial year that does not match the calendar year (for example from 1 April of one calendar year to 31 March of the next year). In this case, the fiscal year which overlaps more with the CEPEJ reference year should be used (in the given example it would be the fiscal year that starts on 1 April of the CEPEJ reference year) and the situation should be explained in the comments.

#### **Questions 12, 13 and 13-2** ([Questions 12, 12-1 and 12-3 of the CEPEJ Questionnaire](#))

*Legal aid* is defined as the aid provided by the state to persons who do not have sufficient financial means to defend or represent themselves in court or to prevent litigation or to offer access to legal advice or information.

Following two categories should be distinguished:

**Cases brought to court** - legal aid allowing litigants to finance fully or partially their court fees when appearing in court (legal representation and all court fees: to initiate court proceedings and other court fees);

**Cases not brought to court** - to prevent litigation or to offer access to legal advice or information (access to law knowing one's rights and asserting them, but not necessarily through court review), such as legal advice, ADR and some other legal services, or to enforce a judicial decision (for expenses that are not a part of enforcement proceedings in courts).

Total amount should include only the expenses to be covered for those benefiting from legal aid (or their lawyers). Administrative costs resulting from such procedures (e.g. salaries of free legal aid services staff) should be excluded.



The **approved** budget is the budget that has been formally approved by the Parliament (or another competent public authority).

The **implemented** budget corresponds to the actual expenditures during the reference year.

**Please note that all amounts used for financing budget(s) in this question should be included irrespective of which ministry or institution is the source of financing.**

Most of the systems define a financial year from 1 January to 31 December which matches the CEPEJ reference year. Exceptionally, some beneficiaries have a financial year that does not match the calendar year (for example from 1 April of one calendar year to 31 March of the next year). In this case, the fiscal year which overlaps more with the CEPEJ reference year should be used (in the given example it would be the fiscal year that starts on 1 April of the CEPEJ reference year) and the situation should be explained in the comments.

#### **Question 13-2** (Question 12-3 of the CEPEJ Questionnaire)

For the purposes of this question, coverage or exemption of court fees should be considered whenever it is provided by the state regardless of whether it is in the framework of the legal aid system or another system of derogation (e.g. derogation provided for by the Court fees act).

This question refers to the total of all court fees and not only those needed to initiate court proceedings.

The question refers to two different possibilities regarding court fees:

- “Coverage of court fees” exists when beneficiary of legal aid or other system of derogation receives full amount of legal aid in advance and pays the court fees from that amount, or when beneficiary pays the court fees and later is reimbursed for that cost through legal aid or other system of derogation;
- “Exemption from court fees” refers to a situation when beneficiary of legal aid or other system of derogation is freed from obligation to pay court fees.

To make the distinction between these two options clearer, in the first option beneficiary is required to pay the court fees and he/she does pay them, but the expense is at the beginning or at the end born by the legal aid budget (or other public budget), while in the second, he/she is not required to pay the court fees at all.

In most systems that provide coverage of court fees, these fees are calculated since the amount of fees has to be transferred at some point from a public budget to the beneficiary. On the other hand, in the systems that grant exemptions from court fees these amounts are very often not calculated nor presented in financial documents (budgets, reports etc). Nevertheless, some of those systems might still be able to calculate or estimate monetary value of the exemptions granted. The estimation for example might be based on the number of beneficiaries multiplied by the average amount of court fees for certain types of cases.

If the value of covered/exempted fees are calculated or estimated, it should be specified whether this amount is included in the budget of legal aid provided in Q12 (approved budget) and Q13 (implemented budget) or not. The purpose of this information is to better compare different systems.

It is possible that both of these options exist parallelly in one system (coverage of one type of court fees and exemption from others), and then both options should be answered “Yes”.

The answer “No” should be selected when coverage and/or exemption of court fees are provided within the legal aid system, but their amount is not included in the legal aid budgets.

The answer NAP should be selected by the States/entities where legal aid does not include coverage or exemption of court fees. The answer NAP should also be selected by the States/entities that do not require court fees at all.

#### The **Question 10**

Substantial funding for justice system’s budget might come from external donors, such as international organizations (EU, COE, UN, OSCE etc.), other states (foreign state’s agencies for international development and cooperation,

inter-governmental programs, embassies, etc.), NGOs, etc. Considering the significance of such funding, data on the amounts contributed to different elements of different budgets should be reported.

If possible, please provide breakdown of abovementioned funds into the following categories: courts, prosecutors' offices, legal aid, and at the end, the whole justice system. When answering this question, please pay attention to ensure consistency with data provided under earlier questions relating to budgets (Q4, Q6, Q7, Q12 and Q13). If funding of different categories comes from the same external source (e.g. one project finances activities of both courts and prosecutors' offices), please try to separate portions spent for each category. If you cannot make a precise calculation, please answer NA and provide a close estimate in Q11.

The indicated amount should include all external donations received in the reference year. For the purposes of this question, the reference should be made to the **implemented budget**. In case you cannot provide implemented budget, the value of approved budget can be used instead. In that case, please make a note and specify details in the comment box. Considering that this amount will be composed of contributions made by different donors through different programs and projects, it is important to include funds obtained from all external donors irrespective of modalities of those contributions (direct donation to judiciary budget, funding of specific activities within judiciary, implementing projects aimed at improving functioning of judiciary, etc). Please give relevant information in the comment box.

If possible, only amounts spent within the reference year should be reported. In case the funding is obtained within a multi-year project financed by external donors, try to separate funds spent within a reference year from the overall project's budget. If the amount spent in the reference year cannot be extracted from the overall budget, please provide the amount per year that represents average spending and is being calculated based on the following formula:

Amount spent in the reference year = (total project budget/total number of months envisaged for the project implementation) X number of months of project implementation during the reference year

For example: if total project budget is 4,5 million EUR and envisaged timeframe for implementation is 24 months, the project has started on 1 May of the reference year, thus the amount obtained within reference year will be:  
 $(4,500,000.00/24) \times 8 = 1,500,000$

Same formula applies if the project lasted less than a year.

In the comment area, you can explain specific purposes for which donations were given, such as trainings of judges and prosecutors, implementation of new IT solutions in judiciary, etc.

## Question 11

If you cannot provide the exact amount of external contributions to the budgets in question 10, please provide the best estimate of the ratio between external donations and respective budgets. This ratio should be presented as percentage calculated in relation to the total implemented budget of the category in question. When making an estimate, please use the same logics and methodology described under question 10.

### **Indicator 2. Profile of the judiciary**

#### **Indicator 2.0 Organisation of the Court system**

For the purposes of this Scheme, a court means a body established by law to exercise the judicial power of the beneficiary in civil, administrative, and criminal matters and where one or several judge(s) is/are sitting, on a temporary or permanent basis.

#### **Questions 014-0-1, 014-0-2 and 014-0-3 (Question 42,43 and 44 CEPEJ Questionnaire)**

For the reasons of comparability, it is required to use the following categorisations and not the ones used in the beneficiaries' systems.

A court can be regarded as a legal entity or a geographical location. Therefore, it is required to quantify the courts according to both concepts, which allows, in particular, to give information on the accessibility of courts for the citizens.

**For the number of *legal entities***, the possible different divisions of a court shall not be counted individually (for instance, it is not correct to indicate “3” for the same court which includes one civil division, one criminal division and one administrative division. The correct answer is “1”). Besides, the different sites/locations of the courts are not counted in this question (contrary to the question concerning the number of courts as geographic locations, see below).

For the purpose of this question, a court of general jurisdiction is a court which deals with **any** issues which are not attributed to specialised courts owing to the nature of the case.

Please provide the total number of courts of general jurisdiction (legal entities) but also separately the number of first, second and third instance courts of general jurisdiction. If there are only two levels of courts, and consequently the second instance are also the highest courts, please count them under Q014-0-1 category 1.2 “Second instance courts of general jurisdiction” and explain this situation in the general comment.

If some courts in the system serve at the same time as first instance courts for certain categories of cases and second instance for other categories, please count these courts as first or second instance courts based on their prevailing competences or qualification by the national legislation. In case of a doubt, use the number of incoming cases as a decisive indicator (for example if a larger part of the incoming cases consists of first instance cases, count them as first instance courts). In any case, they should not be counted under both categories in the table and the situation should be explained in the general comment.

The total number of courts of general jurisdiction (legal entities) should equal to the sum of the three respective sub-categories.

The total number of specialised courts (legal entities) should include specialised courts of all types and instances.

Please count as *specialised courts* only the courts which are indeed considered as such in your system. It should not be **considered as specialised courts**, for instance:

- chambers responsible for "family cases" or "administrative law cases" that are under the authority of the same court of general jurisdiction,
- a Supreme Court or a High Court dealing with all types of cases; they belong to the ordinary organisation of the judiciary.

In some countries, other bodies can be referred to as courts. When they are not part of the ordinary judicial system, they should not be considered here (e.g., courts of audits). If a constitutional court exists as a separate body in the system, it should be included in the reply only if it is considered part of the ordinary judicial system.

In principle, the number indicated in question 014-0-1. point 2. (“Total number of specialised courts - legal entities”) should correspond to the sum of all (first instance and higher instance) specialised courts in question 014-0-2.

Specialisation of courts should be understood only in terms of legal fields, namely in terms of specific branches of law and not in terms of thresholds defined in respect of the gravity of the sanction or the value of the dispute. Accordingly, courts competent only for minor offences (for example misdemeanour courts, *tribunaux de police*) or courts competent only for the most serious offences (for example assize courts), as well as justices of peace, small claim courts etc. should all be counted as courts of general jurisdiction. Conversely, a court competent only for tax offences or a court competent only for intellectual property law disputes should be qualified as specialized.

#### **Question 014-0-2 (Question 43 CEPEJ Questionnaire)**

This question concerns the number of specialised courts as legal entities. It divides the courts on first and higher instances. The later should include the number of second and third instance specialised courts if they exist in the system.

Courts should be included only if they are actually specialised courts. For example, if family law cases are dealt with by courts of general jurisdiction, the answer to the 4th row of the table should be: "NAP" (not applicable).

In principle, the number indicated in question 014-0-1 point 2. ("Total number of specialised courts - legal entities") should correspond to the sum of all (first instance and higher instances) specialised courts in question 014-0-2.

If one specialised court covers more law fields (e.g., labour court and social welfare court), this should be counted separately in the corresponding categories but once in the total (in this case, vertical consistency is not required).

#### **Question 014-0-3 (Question 44 CEPEJ Questionnaire)**

The purpose of this question is to evaluate the citizens' access to justice. Please indicate the number of first instance **courts geographic locations** (this includes 1st instance courts of general jurisdiction and first instance specialised courts) and total number of all courts geographical locations (geographic sites) where judicial hearings take place counting all the courts (courts of first instance of general jurisdiction, specialised courts of first instance, second instance and appeal courts of general and specialised jurisdiction, as well as the Supreme Court or High Courts).

Please count the different sites/locations (which could be several buildings together), including dispersed courtrooms, of the same court. For example, if the same court operates in two buildings in separate sites/locations, indicate "2" and in case there are two buildings in the same site/location indicate "1".

If different instance courts operate on the same site, they should be counted separately (e.g., a first instance court and a second instance court operate in the same building/site).

### **Indicator 2.1 Average gross salary of judges and prosecutors at the beginning of their career**

#### **Question 14 (Question 4 of the CEPEJ questionnaire)**

Please indicate the average *gross* annual salary and not the *net* salary in your country for all sectors of the economy (public and private). The gross salary is calculated before any social expenses and taxes have been deducted. The data provided should represent the average salary for full-time work. This data must be indicated in Euros. Please note that bonuses that are regularly paid to all employees should be included, as long as they fall under legal regime of salaries (such as 13<sup>th</sup> and 14<sup>th</sup> salary in some countries).

#### **Question 15 (Question 132 of the CEPEJ Questionnaire)**

Two different indicators are analysed: the salary at the beginning of the career (at a first instance court for a judge/public prosecutor; starting salary at his/her salary scale) and the salary at the end of the career (at the Supreme Court or the Highest Appellate Court). These indicators represent the salary for full-time work.

The purpose of this question is to see the evolution of judges' and prosecutors' salaries throughout their carrier - from the very beginning when a person starts working as a judge/prosecutor to the final possible stage of the career (depending on the court level (for most of the countries), years of experience (in Italy for example). In order to understand the system better, please describe in the comment how the salaries progress throughout the career of a judge/prosecutor - what salary grades exist, what factors influence the salary grade (for example court level, years of experience), how judges/prosecutors qualify to pass from one salary grade to another etc.

Please indicate the highest salary of a judge/prosecutor at the highest level but not the salary of the Court President/the Attorney General. The amount indicated should reflect the highest hypothetical salary even if there was no judge/public prosecutor who reached that exact amount in the reference year.

Please note that bonuses linked to personal circumstances (for example family allowances depending on the number of children) should be excluded from the amount, as well as bonuses mentioned under. On the other hand, bonuses that are regularly paid to all judges/public prosecutors irrespective of their personal circumstances should be included (for example 13<sup>th</sup> salary that is paid without exception to all judges/public prosecutors in the court).

The *gross* salary is calculated before any welfare costs and taxes have been paid (see question 14).

The *net* salary is calculated *after* the deduction of welfare costs (such as pension schemes) and taxes (for those countries where they are deducted beforehand and automatically from the sources of income; when this is not the case, please indicate that a judge/public prosecutor has to pay further income taxes on this "net" salary, so that it can be taken into account in the comparison).

## Questions 16 and 17 (Questions 133 and 134 of the CEPEJ Questionnaire)

Please indicate any additional benefits judges and public prosecutors may enjoy in your system. For example, judges and public prosecutors might receive free or subsidised housing, especially if assigned to courts outside of their place of residence.

## Question 18 (Question 139 of the CEPEJ Questionnaire)

Please indicate if there is a possibility for judges' additional remuneration to be in relation to the number of decisions, quality of their work or any other productivity criteria.

## Indicator 2.2 Number of justice professionals - Judges/ Prosecutors/Non-judge staff/Non-public prosecutor staff/Lawyers

## Questions 19 to 27 (Questions 46 to 52-1 of the CEPEJ Questionnaire)

These questions aim at numbering all persons entrusted with the task of delivering or participating in a judicial decision. Please make sure that public prosecutors and their staff are excluded from these figures (if it is not possible, please indicate this clearly). Questions 28 to 32 deal with these professionals.

Please indicate the number of posts that are actually filled (at 31 December of the reference year) and not the theoretical budgetary posts.

Please provide the answer in full-time equivalent which indicates the number of persons working the standard number of hours (whereas the gross figure of posts includes the total number of persons working independently of their working hours). The indication of the full-time equivalent implies that the number of part time working persons has to be converted: for instance, one half-time worker should count for 0.5 of a full-time equivalent, two people that work half the standard number of hours count for one "full-time equivalent".

For the purposes of this Scheme, a *judge* must be understood according to the case law of the European Court of Human Rights. In particular, the judge decides, according to the law and following an organised procedure, on any issue within his/her jurisdiction. He/she is independent from the executive power.

Therefore, **judges deciding in administrative or financial matters (for instance) must be counted** if they are included in the above mentioned definition.

**Professional judges** (see Q19 to Q19-1 (Q46 – 47 of the CEPEJ Questionnaire)) are those who have been recruited, trained and who are paid as such.

**Non-professional judges** (see Q22 and Q23 (Q49 – 49-1 of the CEPEJ Questionnaire)) are those who sit in courts and whose decisions are binding but who do not belong to the professional judges, arbitrators or sit in a jury. This category includes namely lay judges and the (French) "*juges consulaires*".

**Echevinage/mixed bench** (see Q22 and Q23 (Q49 – 49-1 of the CEPEJ Questionnaire)) refers to a system of judicial organisation in which cases are heard and decided by a panel, composed of both, professional judge/s (who preside the panel), and persons who do not belong to the rank of professional judges (non-professional members of echevinage). They are usually chosen amongst a group of pre-selected persons, eligible to participate in panels, for one case or permanently for a period of time (more cases).

**Jury** (see Q24 (Q50 CEPEJ Questionnaire)) – not to be confused with echevinage (Q23 (Q49-1 of the CEPEJ Questionnaire)), this category concerns for instance the citizens who have been drawn/selected to take part in a jury entrusted with the task of judging serious criminal offences (guilty or not guilty) or other cases. They are selected randomly and usually for one case only.

## Question 19 (Question 46 of the CEPEJ Questionnaire)

For the purposes of these questions, *professional judges* are those who have been recruited, trained and who are paid as such. The information should be given for posts that are actually filled (not the theoretical number included in the budget) and in full-time equivalent.

However, judges seconded or temporary assigned to other functions (e.g. to Ministry of Justice), should not be included in the reported figure.

**Please note that court presidents (question 19-1) should be also included under Q19 if they practise as judges.**

*Please give answer in full-time equivalent (see general remarks).*

The data concerns all general jurisdictions and specialised courts.

In order to better understand gender issues in the judiciary, please specify the number of women and men who practice in the different court levels.

Specific attention should be given to courts that serve at the same time as first instance courts for certain categories of cases and second instance for other categories. Concerning judges of those courts, please provide the data in full time equivalent (FTE) for each instance which the judge is attending. If this is not possible, please classify judges according to their main activity.

#### **Question 19-1** (Question 47 of the CEPEJ Questionnaire)

The **court president** must be understood as a judge (or non-judge) who is in charge of the organisation and the management of a court (legal entity). Regarding the countries such as Spain and Turkey where one judge is considered as one legal entity, this definition could be interpreted as a person which receives the title of "President" for the entire court (and not the president of a chamber or a section of a chamber) and who is, for example, responsible for coordinating the work of all the judges of his/her court.

**Please note that court presidents (question 19-1) are also accounted under question 19 if they practise as judges.**

#### **Questions 22 and 23** (Questions 49 and 49-1 of the CEPEJ Questionnaire)

For the purposes of these questions, **non-professional judges** are those who sit in courts (as defined in question 19 (Q46 of the CEPEJ questionnaire) and whose decisions are binding but who do not belong to the categories mentioned in questions 19 and 20 (46 and 48 of the CEPEJ questionnaire) above. This category includes namely lay judges and the (French) "*juges consulaires*". Neither the arbitrators, nor the persons who have been sitting in a jury (see question 24 (Q50 of the CEPEJ questionnaire) are subject to this question.

The answer "Yes" applies to the situation where a non-professional judge performs the function independently, or panel of judges is composed of non-professional judges only.

The "echevinage/mixed bench" is a system of judicial organisation in which cases are heard and decided by a panel, composed of both, professional judge/s (who preside the panel), and persons who do not belong to the professional judges. They can be either chosen randomly or amongst a group of pre-selected persons, eligible to participate in panels.

When choosing between replies "Yes" and "Echevinage / mixed bench" the decisive point should be the possibility for a non-professional judge to make binding decisions independently. If a non-professional judge can make a binding legal decision without a professional judge the answer should be "Yes". If such competence does not exist, the correct answer should be "Echevinage / mixed bench".

#### **Question 24** (Question 50 of the CEPEJ Questionnaire)

This category concerns for instance the citizens who have been drawn/selected to take part in a jury entrusted with the task of judging serious criminal offences or other cases. It may be a jury composed for one case or several cases.

#### **Question 25** (Question 50-1 of the CEPEJ Questionnaire)

If you select "other than criminal cases", please specify in the comment to which types of cases does it refer.

#### **Question 26** (Question 52 of the CEPEJ Questionnaire)

All non-judge staff, working in all courts, must be counted here in full-time equivalent for posts actually filled. In order to better understand gender issues in the judiciary, please specify the total number as well as each category by

gender. Please make sure that the figures presented exclude staff working for the public prosecution services (See question 32 (Q60 of the CEPEJ Questionnaire)) (otherwise mention the situation in the comment).

*Please give answer in full-time equivalent (see general remarks).*

The different categories are:

1. The **“Rechtspfleger”** - Independent judicial officer, performing the tasks assigned by law, who is not a judicial assistant but works within the court and may carry out legal tasks in various areas, e.g. family law and guardianship law, law of succession, and the law on the land register and commercial registers; in some States, may also have competence to make judicial decisions independently such as on the granting of nationality, payment orders, execution of court decisions, auctions of immovable goods, criminal cases, and enforcement of judgements in criminal matters, reduced sentencing by way of community service, prosecution in district courts, decisions concerning legal aid, etc.; in some States may also be competent to undertake administrative judicial tasks. Please indicate how this profession is called in your language.

2. **“Non-judge (judicial) staff whose task is to assist the judges such as registrars”** directly assist a judge with judicial support (assistance during hearings, (judicial) preparation of a case, judicial assistance in the drafting of the decision of the judge, legal counselling - for example court registrars). If data has been given under the previous category (Rechtspfleger), please do not add this figure again under the present category.

3. **“Staff in charge of different administrative tasks and of the management of the courts”** are not directly involved in the judicial assistance of a judge, but are responsible for administrative tasks (such as the registration of cases in a computer system, the supervision of the payment of court fees, administrative preparation of case files, archiving) and/or the organisation of some of the court services (for example staff in court secretariat, management, financial, analytical, and human resources units etc.).

4. **“Technical staff”** includes staff in charge of execution tasks or any technical and other maintenance related duties such as cleaning staff, security staff, staff working at the courts' ICT technicians or electricians.

5. **“Other non-judge staff”** includes all non-judge staff that are not included under the categories 1-4.

**This question should be filled respecting the horizontal and vertical consistency as described in "General remarks" of the explanatory note.**

#### **Question 27** (Question 52-1 of the CEPEJ Questionnaire)

All non-judge staff specified in question 26 should be distinguished by different instances in this question. The totals of course should be identical. Instances should be considered in the same manner as for judges defined in question 19. In case it is not possible to distinguish the staff on some instance, it should be specified in comments.

*Please give answer in full-time equivalent (see general remarks).*

#### **Question 28** (Question 55 of the CEPEJ Questionnaire)

The *Public Prosecutor* should be understood according to the following definition contained in Recommendation Rec(2000)19 of the Committee of Ministers of the Council of Europe on the role of public prosecution in the criminal justice system: "(...) authorities who, on behalf of society and in the public interest, ensure the application of the law where the breach of the law carries a criminal sanction, taking into account both the rights of the individual and the necessary effectiveness of the criminal justice system".

The information should be given in full-time equivalent for posts that are actually filled (not the theoretic number which appears in the budget) (see note on questions 19).

In order to better understand gender issues in the judiciary, please specify the number of female and male staff working at different levels of jurisdiction as well as the number of female and male staff who are heads of public prosecution offices.

All prosecutors must be accounted, including those having specialised functions (e.g. public prosecutor specialised on organised crime, terrorism, economic crime, etc.).

**Please note that the heads of prosecution office (question 28-1) are also counted under question 28 if they practise as prosecutors.**

Specific attention should be given to public prosecutors who have a competence to act at different court instances. Concerning those public prosecutors, please provide the data in full time equivalent (FTE) for each instance in which the public prosecutors acts. If this is not possible, please classify public prosecutors according to their main activity.

#### **Question 28-1** (Question 56 of the CEPEJ Questionnaire)

For the purposes of this question, a **head of public prosecution office** should be understood as a prosecutor (or non-prosecutor) who is in charge of the organisation and management of a prosecution office (legal entity).

For the countries such as Serbia where in one prosecution office, there is one prosecutor and all others are deputy prosecutors, for the purposes of this questionnaire the “prosecutor” is considered as a head of prosecution office and the deputy prosecutors should be considered as prosecutors (whose number should be reported in question 28).

**Please note that the heads of prosecution offices (Q28-1) are also counted under Q28 if they practise as prosecutors.**

#### **Questions 29, 30 and 31** (Questions 57, 57-1 and 59 of the CEPEJ Questionnaire)

In some countries, there are *persons who are specifically entrusted with duties similar to those exercised by public prosecutors*, for instance police officers that are able to bring a case before court or to negotiate sentences. This excludes lawyers that bring charges to a criminal hearing and victims who can go directly to the judge without having the public prosecution services intervene.

Please specify if in your country exist persons having similar duties to public prosecutors. If the answer is positive, please provide more information in the comment of Q29.

*Please give answer in full-time equivalent (see general remarks).*

Please also specify within the question 31 (Q59 of the CEPEJ Questionnaire) whether these persons are included in the data concerning the number of public prosecutors (question 28 (Q55 of the CEPEJ Questionnaire).

#### **Question 32** (Question 60 of the CEPEJ Questionnaire)

For the purposes of this question, please number the non-prosecutor staff working for the prosecution system, even when this staff appears in the budget of the court. This figure should not include the number of staff working for judges. The information should be given in full time equivalent for posts which are actually filled (not the theoretic number included in the budget).

*Please give answer in full-time equivalent. (see general remarks).*

Please describe in the comment which categories of staff exist in your public prosecution services and what are their tasks. If available, please also provide their numbers in the comment.

#### **Question 33** (Question 146 of the CEPEJ Questionnaire)

For the purposes of this question, *lawyers* refer to the definition of the Recommendation Rec(2000)21 of the Committee of Ministers of the Council of Europe on the freedom of exercise of the profession of lawyer, as follows: a person qualified and authorised according to national law to plead and act on behalf of his or her clients, to engage in the practice of law, to appear before the courts or advise and represent his or her clients in legal matters.

#### **Question 34** (Question 147 of the CEPEJ Questionnaire)

*Legal advisors* (for instance, some solicitors) are legal professionals who give legal advice and prepare legal documents but have no competence to represent users in courts.

### **Indicator 3. Efficiency and productivity**

#### **Indicator 3.1 Case flow (Clearance Rate, Disposition Time, Pending cases)**



## Questions 35 to 41 (Questions 91 to 94, Questions 97 and 98 of the CEPEJ Questionnaire)

Information on the **caseload of first and second instance courts** should be provided.

**A court case** is a request (issue or problem), submitted to court, to be resolved by the court within its competence (i.e. jurisdiction). A court case is usually registered separately in the court case register according to the state rules. Court cases typically end with a decision on rights and obligations of parties (e.g. in civil matters) or with a decision on guilt of the defendants (e.g. in criminal matters). Other acts in court jurisdiction as provided by state rules (e.g. registering in land and business registry) should also be counted as court cases. **On the other hand**, administrative tasks in courts such as issuing criminal records certificates, document certification etc. should not be considered as incoming/resolved court cases for the purpose of these questions.

In principle, when one actual and legal situation is regarded in the national system as more than one court case because stages (phases) of proceedings are registered as separate court cases, this should be reported as one case only.

Note: Other procedures related to court cases are within jurisdiction of courts in some systems, while in others they are not (e.g. criminal investigation can be a procedure at the office of the public prosecutor or in court, civil enforcement can be executed by enforcement agents or by courts). Such procedures can be reported as separate cases when they: 1) are in jurisdiction of courts; 2) can be distinguished from the main trial phase by different actual or legal questions to be resolved; and 3) they represent more than just an administrative task to complement the main trial phase. For example, if another procedure in court is required for civil enforcement, after the "main" civil case has already been adjudicated, and the court deals with different questions (e.g. should the enforcement be allowed or not), these two procedures can be reported as two separate cases. If you have situation like this in your system, please give details in the comments.

**Incoming cases** in the reference year are all cases submitted to court (first instance, second instance or Supreme Court) for the first time. Cases which have already been submitted to a court at the same instance level (after an appeal for example) should be counted again.

**Pending cases** are cases which have not been completed at the end of the reference year. Please provide both the number of pending cases on 1 January of the reference year and the pending cases on 31 December of the reference year.

**Resolved cases** include all the procedures which have come to an end at the instance level (first instance, appeal or Supreme Court as applicable) during the year of reference, either through a judgment or through any other decision which ended the procedure (provisional decisions or procedural decisions not ending the case (e.g. on parties, perfection of the claims, allowing or disallowing the evidence, expenses etc.) should not be counted here).

**Pending cases older than 2 years** are pending cases (on 31st December of the reference year) that had first arrived at the court more than 2 years ago (i.e. before 1st January of Ref. year -1). This answer regards only the current instance (e.g. for pending cases at second instance from arrival to second instance only).

## Questions 35 and 39 (Questions 91 and 97 of the CEPEJ Questionnaire)

**Litigious cases** are cases for which the judge decides on disputed case whereas **non-litigious (non-contentious) cases** are other issues in competence of courts (typically, there is no direct dispute between parties). The latter can be for example registration cases (e.g. land registry), where a decision can be taken either by a judge or by another person (e.g. Rechtspfleger).

### Categories included in "other than criminal law cases"

1. **Litigious civil (and commercial) cases** are for instance litigious divorce cases or disputes regarding contracts. In some countries *commercial cases* are addressed by special commercial courts, whilst in other countries these cases are handled by ordinary (civil) courts. Bankruptcy proceedings must be understood as litigious proceedings. Despite the organisational differences between countries in this respect, all the information concerning civil and commercial cases should be included in the same category. If appropriate, litigious civil (and commercial) cases do not include administrative law cases (see category 3). Any other type of litigious cases (e.g. judicial appeal against deeds processed by an enforcement agent) is included in this category.

2.1 **General non-litigious civil (and commercial) cases** concern court cases that are decided in a specific procedure that does not require two or more opposing parties to prove their rights and claims (there is no direct dispute between parties). For example, this includes uncontested payment orders, request for a change of name, cases related to enforcement (when non categorised as litigious – see above), divorce cases with mutual consent

(for some legal systems), etc. One type of cases can be categorised as non-litigious even when the court is required to conduct a substantive examination of evidence, as long as there is no examination of claims and evidence from two or more opposing parties within the same procedure. **If courts deal with such cases, please indicate the different case types included.** Non-contentious register cases (2.2) and/or other non-litigious cases (2.3) are excluded from this category.

2.2 (including 2.2.1, 2.2.2 and 2.2.3) In certain beneficiaries, *registration tasks (business registers and land registers)* are dealt with by special units or entities of the courts. These are to be considered as non-litigious civil cases. Activities related to business registers could be the registration of new businesses or companies in the business register of the court or the modification of the legal status of a company. Changes in the ownership of immovable goods (like land or houses) may be a part of court activities which are related to the land register.

3. **Administrative law cases** (litigious or non-litigious) concern disputes between citizens and (local, regional or national) authorities, for instance: asylum refusals or refusals of construction permit applications. Administrative cases are considered only if processed in court and not when it is only an issue under any administrative body. Administrative law cases are in some countries addressed by special administrative courts or tribunals, whilst in other countries they are handled by the ordinary civil courts. **If countries have special administrative courts/tribunals or separate administrative law procedures or are anyway able to distinguish between administrative law cases and civil law cases, these figures should be indicated separately under “administrative law cases”.**

4. The category “**other**” can be related to other types of cases (not corresponding to the categories above) They can include for example legal aid cases, simplified procedures that can continue as civil etc. Administrative tasks in courts such as issuing criminal records certificates; document certification etc. should not be reported.

**Please check that your figures are vertically consistent (see general remarks).**

**With regard to questions 35, 38, 39 and 40, (Questions 91, 94, 97 and 98 of the CEPEJ Questionnaire) a special formula for horizontal consistency applies:**

**(Pending cases on 1 January + Incoming cases) - Resolved cases = Pending cases on 31 December**

**Questions 38 and 40 (Questions 94 and 98 of the CEPEJ Questionnaire)**

**Criminal law cases:** Are considered here as *criminal cases*, all cases for which a sanction may be imposed by a judge, even if this sanction is foreseen, in some national systems, in an administrative code (e.g. fines or community service). These can include, for example, some anti-social behaviour, nuisance or some traffic offenses.

**Warning:** if these cases are included in the responses to questions 38 and 40 (Q94 et Q98 of the CEPEJ Questionnaire), then they should not be counted a second time as “administrative cases” in the responses to questions 35 and 39 (Q91 and Q97 of the CEPEJ Questionnaire).

The offenses sanctioned directly by the police or by an administrative authority, and not by a judge, should not be counted (e.g. penalty for parking in a closed area not contested before a judge, or failure to comply with an administrative formality not contested before a judge).

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

**Other criminal cases:** are an exception to the general definition of criminal cases, as this category of cases usually includes procedures in which sanction may not be imposed (such as criminal investigation, enforcement of criminal sanctions etc.). This category of cases should help better measure the actual workload of judges as it should include all different procedures handled by judges before or after the main trial. It should be noted that depending on a national legislation, these procedures might be within jurisdiction of courts in some systems, while in others they are conducted by other bodies (e.g. criminal investigation can be a procedure conducted by public prosecutor offices or courts). When such procedures are in jurisdiction of courts, they can be reported as “Other criminal cases”, regardless of the fact that the main case is already reported as a severe or misdemeanour case.

This category could also include other procedures related to criminal cases, such as some cases of enforcement of criminal sanctions (e.g. fines, the change of monetary sanction to imprisonment). Please give details in the comments.

Note: The administrative tasks related to the “main” trial phase should not be reported as separate case in “other cases” or in any other category (as they are only a phase of the main criminal proceeding).

**Please check that your figures are *horizontally* and *vertically* consistent (the total of the criminal cases includes the cases of categories 1, 2 and 3) (see general remarks). If appropriate, please don't forget to comment on the specific situation in your country (including answers NA and the calculation of the total of criminal law cases).**

#### Question 41

The **eight case categories**, which are (mostly) common in Europe, can be defined as follows:

1. **Civil and commercial litigious cases:** see the explanatory note in respect of Q35 and Q39.
2. **Litigious divorce case:** i.e. the dissolution of a marriage contract between two persons, following a judgment of a competent court. The data should not include: divorce ruled by an agreement between the parties concerning the separation of the spouses and all its consequences (procedure of mutual consent, even if they are processed by the competent court) or ruled through an administrative procedure. If your country has a totally non-judicial procedure as regards divorce or if you cannot isolate data concerning adversarial divorces, please specify it and give the subsequent explanations. Furthermore, as regards divorce, if there are in your country compulsory mediation procedures or fixed timeframes for reflection or if the conciliation phase is excluded from the judicial proceeding, please specify it and give the subsequent explanations.
3. **Employment dismissal case:** cases concerning the termination of an employment (contract) at the initiative of the employer (working in the private sector). It does not include dismissals of public officials, following a disciplinary procedure for instance.
4. **Insolvency:** Legal status of a person or an organisation that cannot repay the debts owed to creditors. Data should encompass bankruptcy declaration by a court, as well as all procedures connected with bankruptcy (recovery of credits, liquidation of assets, payment of creditors, etc.).
5. **Robbery** concerns stealing from a person with force or threat of force. If possible these figures should *include* muggings (bag-snatching, armed theft, etc.) and *exclude* pick pocketing, extortion and blackmail (according to the definition of the European Sourcebook of Crime and Criminal Justice). The data should not include attempts. The case should be counted here when the robbery is either the only offence concerned or the main offence concerned in the case.
6. **Intentional homicide** is defined as the intentional killing of a person. Where possible the figures should *include* assaults leading to death, euthanasia, infanticide and *exclude* suicide assistance (according to the definition of the European Sourcebook of Crime and Criminal Justice). The data should not include attempts. The case should be counted here when the intentional homicide is either the only offence concerned or the main offence concerned in the case.
7. **Bribery cases** - these cases should include criminal offences committed intentionally that sanction the promising, offering or giving by any person, directly or indirectly, of any undue advantage to any of the persons performing their official duties (such as public officials, members of parliament, judges etc.), for him or her to act or refrain from any acting in the exercise of his or her functions, as well as the request or receipt by any of persons performing their official duties, directly or indirectly, of any undue advantage or the acceptance of an offer or a promise of such an advantage, to act or refrain from acting in the exercise of his or her functions. The undue advantage might be for oneself or for anyone else. Both cases of active and passive bribery should be included here. The case should be counted here when bribery is either the only offence concerned, or the main offence concerned in the case.
8. **Trading in influence** – these cases should include criminal offences committed intentionally that sanction the promising, giving or offering, directly or indirectly, of any undue advantage to anyone who asserts or confirms that he or she is able to exert an improper influence over the decision-making of any person in performing their official duties (such as public officials, members of parliament, judges etc.), as well as the request, receipt or the acceptance of the offer or the promise of such an advantage, in consideration of that influence, whether or not the influence is exerted or whether or not the supposed influence leads to the intended result. The undue advantage might be for oneself or for anyone else. Both cases of active and passive trading in influence should be included. The case should be counted here when trading in influence is either the only offence concerned, or the main offence concerned in the case.

The average length of cases corresponds to the average length of resolved cases at this instance within the reference year.

If the *average length of proceedings* is not calculated from the lodging of court proceedings, please specify the starting point for the calculation. The average length of proceedings has to be presented in days. If you only have information on the length of proceedings in months (or years), please recalculate the length of proceedings in days.

The average length of the entire procedure (in days) concerns only the cases resolved by a final decision within the reference year. It is a mathematical average of the total duration of all these cases divided by their number. The total length of the procedure for one case finalised in the reference year has to be calculated from the date the case is submitted to a first instance court to the date when the decision becomes final, expressed in days. The final decision should be understood as a decision against which legal remedies have not been used or have been exhausted, irrespective of which instance of courts has rendered this decision (a case can be finally resolved in the first, second or third instance). If possible, cases reopened after the final decision (for example after extraordinary legal remedy) should be excluded from the calculation.

Other calculations are also possible and in case other methods of calculation are used please describe them. Replacing the average duration with the Disposition Time or the mathematical sum of the average lengths in the first, second and third instance are not acceptable alternatives.

### **Indicator 3.1.1 Case flow management – public prosecution**

#### **Question 41-2 (Question 106 of the CEPEJ Questionnaire)**

In civil matters, the public prosecutor can, in some member states, be entrusted for instance with the responsibility of safeguarding the interest of children or persons under guardianship. In administrative matters, he/she can, for instance, represent the interests of children against the state or one of its bodies.

For example the public prosecutor can give his/her opinion regarding a proposal to buy a business that has been declared bankrupt, as well as the guarantees given to the buyer and even oversee the procedure to ensure that the law is respected, to avoid any conflict of interest and to prevent any abuse of power.

This issue is addressed by the Consultative Council of European Prosecutors (CCPE) in its Opinion N° 3 (2008) on the "Role of prosecution services outside the Criminal Law Field" ([www.coe.int/ccpe](http://www.coe.int/ccpe)).

#### **Question 41-3 (Question 107 of the CEPEJ Questionnaire)**

The number of cases in this question refers only to the first instance criminal cases processed by public prosecutors. The data should be presented per case files which means that an event or series of events that give rise to the criminal prosecution should be counted as one case irrespective of the number of alleged offenders or offences (one case file can involve one or several perpetrators and/or can imply one or more criminal offences). However, if data cannot be presented in that manner because cases are counted differently in your system (for example per perpetrators, per criminal offences or per some other criteria), please provide the answer in accordance with your methodology but specify in the comment the criteria used for counting cases.

1. "Pending cases on 1 Jan. ref. year" are cases which have not been completed at the end of the previous year (reference year-1).
2. "Incoming/Received cases" should include cases submitted to public prosecutors by the police and other bodies as well as victims (if applicable) within the reference year.
3. "Processed cases" include all cases that were closed or brought to court between 1 January and 31 of December. They should sum up the following 3 categories (3.1+3.2+3.3).
  - 3.1. Discontinued criminal cases are cases received and processed by the public prosecutor, which have not been brought before the court and for which no sanction or any other measure has been taken. They should sum up the following 4 categories (3.1.1+3.1.2+3.1.3+3.1.4).

(3.1.1) Number of cases discontinued because the case could not be processed since no alleged offender was identified (it should be noted that some systems might require a lapse of time for this type of discontinuation);

(3.1.2) due to the lack or absence of an established offence or due to a specific legal situation (e.g. amnesty, statute of limitation, prescription etc.); or

(3.1.3) for reasons of opportunity, where the legal system allows it;

(3.1.4) discontinued for other reasons. Please note that line 3.3. "Cases closed by the public prosecutor for other reasons", is deleted in the CEPEJ biannual Evaluation questionnaire as of 2024 evaluation cycle based on 2022 data.. The cases previously reported in line 3.3 of the CEPEJ biannual Evaluation questionnaire (2020 data) should be added to the cases in line 3.1.4. If in your system, prosecutors are competent to discontinue/close cases for reasons other than the ones envisaged in the above-mentioned categories, please specify in the comment what are these reasons.

3.2. Cases "Concluded by a penalty or a measure imposed or negotiated by the public prosecutor" refer to proceedings which have not been brought before a judge (for example all transactions not approved by a judge).

3.3. "Cases brought to court" are all those situations in which the public prosecution is presenting a case to a court. The procedures (including guilty pleas, see Q41-4 (Question 107-1 of the CEPEJ Questionnaire)) in which a judge takes the final decision (including if the decision is simply an approval of a previous agreement concluded between the prosecutor and the accused) must also be included in this category.

4. The cases which are still open in the public prosecution at the end of the reference year should be counted in the "Pending cases on 31 Dec. ref. year".

#### **Question 41-4** (Question 107-1 of the CEPEJ Questionnaire)

Regarding guilty plea procedures, there are two options that should be differentiated based on the moment in which a case has been concluded by this procedure. The option "Before the main trial" should be selected always when a guilty plea agreement has been concluded before the official start of the main trial. This option should be selected even if the agreement must be subsequently validated by a judge and/or court as long as this procedure did not involve opening of the main trial. Contrary to that, whenever a guilty plea agreement has been concluded after the official start of the main trial, it should be counted under "During the court case".

#### **Question 41-5** (Question 109 of the CEPEJ Questionnaire)

If traffic cases represent a large volume of cases, please specify whether the data indicated in the frame of Q41-3 (Question 107 of the CEPEJ Questionnaire) includes or not such cases. Relevant analyses based on a comparison of states or entities can be done only by considering clusters of states or entities which have or have not included traffic offences.

### **Indicator 3.2 Monitoring and evaluation of courts, public prosecution services, judges and prosecutors' activities**

#### **Questions 42 and 43** (Questions 66 and 67 of the CEPEJ Questionnaire)

It is important to identify the countries who have implemented at a national level a quality systems in courts and to see if specialised staff working in the courts are also specifically responsible for the quality policy within courts (whether or not it is solely responsible).

When a system/policy exists, but it is not set up on national level, or there are several different systems/policies (e.g. at different courts) the answer should be "No" and the situation should be explained in the comment.

General quality standards/policies (e.g. quality of public services, archiving of documents etc.) should be considered only when applying directly to the work of courts.

For the purpose of these questions, a system based exclusively on monitoring the efficiency of work of courts (e.g. monitoring the number of cases, duration of cases etc.) should not be considered as a quality management system.

See also the reference material on the CEPEJ website concerning court quality such as for example the [Checklist for promoting the quality of justice and the courts \(CEPEJ\(2008\)2\)](#) or the document [Measuring the quality of justice \(CEPEJ\(2016\)12\)](#).

#### **Question 42** (Question 66 of the CEPEJ Questionnaire)

If yes, please add for example who is responsible for setting the standards and what are the details (content, scope) of the standards (e.g. standards for reasoning of decisions).

### Question 43 (Question 67 of the CEPEJ Questionnaire)

In context of this question “personnel” should be understood as either judges or court staff, responsible for implementing and/or monitoring the national level quality standards.

In the comment, please explain briefly their tasks and responsibilities.

### Questions 58 to 71 (Questions 70 to 81-5 CEPEJ Questionnaire)

The aim of questions 70 to 81-5 is to be able to reflect the situation in your country regarding the implementation of performance monitoring tools and evaluation of all courts and public prosecution services. Therefore, if such tools are implemented, for example, in just one or several (pilot) courts, please answer “No”. You can explain the situation in your country and the projects that are carried out in the comment.

### Questions 58 to 57 (Questions 70 to 70-1 of the CEPEJ Questionnaire)

The aim of questions 58 to 57 is to be able to reflect the situation in your country regarding the implementation of performance monitoring tools and evaluation of all court and public prosecution services.

### Questions 58 and 59 (Questions 70 and 70-1 of the CEPEJ Questionnaire)

These questions aim to examine whether there are any performance and quality indicators set/agreed upon for regular monitoring of court and public prosecution activities.

You may select several options when answering these questions. If you select "other", please specify in comment what are the other monitored activities.

For explanation on **Number of incoming, resolved and pending cases** please see Explanatory note to questions 35 to 41 (Questions 91 to 94, questions 97 and 98 of the CEPEJ Questionnaire).

**Length of proceedings (timeframes)** means either monitoring the duration of proceeding from start (e.g. average duration of resolved cases or average age of pending cases), or according to set timeframes (e.g. number or percentage of cases older than X months).

**Backlogs** – are pending cases which have not been resolved within an established timeframe. For example, if the timeframe has been set at 24 months for all the civil proceedings, the backlog is the number of pending cases that are older than 24 months.

**Productivity of judges and court staff** refers to monitoring the extent of work done (e.g. number of resolved cases per judge or per department).

**Satisfaction of court staff and satisfaction of users** refers to evaluation of level of satisfaction among those groups. This can be measured for example by surveys.

**Costs of the judicial procedures** refers to monitoring the overall budget (or some aspects of the budget) regarding judicial procedures (e.g. costs of justice expenses per case).

**Number of appeals** refers to number of all cases, where the appeal against final decision had been lodged within the reference year.

**Appeal ratio** can be calculated for example by dividing the number of all resolved cases, with the number of all cases, where appeal was filed, or by dividing the number of all resolved cases, where the appeal was filed, with the number of cases where appeal was successful or unsuccessful (in some systems the information on successful appeal can be unreliable due to the different reasons for which the decision can be changed at the higher instance or remanded/reversed/quashed to the first instance).

**Clearance rate (CR)** - ratio obtained by dividing the number of resolved cases by the number of incoming cases in a given period, expressed as a percentage:

$$\text{Clearance Rate (\%)} = \frac{\text{Resolved cases in a period}}{\text{Incoming cases in a period}} \times 100$$

A Clearance Rate equal to 100 % indicates the ability of the court or of a judicial system to resolve as many cases as the number of incoming cases within the given time period. A Clearance Rate above 100 % indicates the ability of the system to resolve more cases than those received. Finally, a Clearance Rate below 100 % appears when the number of incoming cases is higher than the number of resolved cases. In this case the number of pending cases will increase.

Essentially, the Clearance Rate shows how the court or judicial system is coping with the in-flow of cases.

**Disposition time** - ratio between pending cases and resolved cases (in days). It shows the theoretical duration for a court to solve all the pending cases.

$$\text{Calculated Disposition Time} = \frac{\text{Number of pending cases at the end of a period}}{\text{Number of resolved cases in a period}} \times 365$$

**Percentage of convictions and acquittals** – can be calculated from the number of the cases, ending with the conviction and number of cases, ending with the acquittal of the defendant. The other categories are defined above.

#### **Questions 48 to 55** ([Questions 73 to 73-6 of the CEPEJ Questionnaire](#))

The regular evaluation refers to monitoring and review of indicators in Q58 and Q59 (Q70 and Q70-1 of the CEPEJ Questionnaire) at the level of individual courts/public prosecution office .

#### **Questions 56 and 57** ([Questions 79 and 79-1 of the CEPEJ Questionnaire](#))

The purpose of these questions is to indicate the persons/institutions responsible for evaluation of the performance. Several answers are possible for this question. If "other", please specify in the comment.

If more than one answer is given, please explain the procedure of evaluation.

#### **Question 60** ([Question 71 of the CEPEJ Questionnaire](#))

The purpose of this question is to see whether the number of pending cases and number of backlogs are monitored.

Pending cases are cases which remain to be resolved by the court concerned at a given point in time (e.g. 31 December). Backlogs are pending cases which have not been resolved within an established timeframe.

Please give details concerning measuring the number of pending cases and backlogs in your system.

#### **Question 61** ([Question 72 of the CEPEJ Questionnaire](#))

The purpose of this question is to see whether additional information on timeline of the proceedings is monitored. This information is important to promote active management of work of courts/public prosecution services, as well as to prevent unnecessary delays in proceedings.

*Waiting time* should be understood as time during which nothing happens in a procedure (for instance because the judge is waiting for an expert's report). It is not the general length of the procedure.

#### **Question 61-1** ([Question 89 of the CEPEJ Questionnaire](#))

This question refers to agreements between parties, their representatives (lawyers) and the courts in order to facilitate the processing of cases, improve communication between the main actors of the proceeding and reduce length of proceedings. The reply should reflect both agreements on a general level that are applicable to all cases (for example communication between parties and court, on-call service for urgent cases, administrative questions etc.) and agreements that are reached in individual cases (for example to set the dates of hearings, define ways in which documents will be exchanged, agree on time-limits, etc.).

#### **Questions 62, 63, 66, 67 and 68** ([Questions 80, 80-1, 81, 81-1 and 81-2 of the CEPEJ Questionnaire](#))

Questions 62, 63, 66, 67 and 68 (Q80 to Q81-2 of the CEPEJ Questionnaire) aim to establish if the final statistics and annual reports of activities concerning each court and public prosecution service are available to the public via

the internet and at which frequency. This gives an idea of the degree of transparency of each court and public prosecution service.

#### **Questions 62 to 65** ([Questions 80 to 80-3 of the CEPEJ Questionnaire](#))

If this centralised institution is the same for both courts and prosecution, the answer should be YES at both questions 62 and 64 (Q80 and Q80-2 of the CEPEJ Questionnaire).

These questions do not regard the monitoring of data on performance of courts for purposes of court management.

#### **Questions 74, 75, 75-1, 78, 79 and 79-1** ([Questions 83, 83-1, 83-1-1, 83-2, 83-3, 83-3-1 of the CEPEJ Questionnaire](#))

These questions address only the quantitative targets to measure the individual work of each judge/prosecutor, participating in the work of the whole court/public prosecution services, e.g. a defined number of cases to be resolved per month or per year. If other than quantitative targets are defined for judges/prosecutors please select “No” and explain the situation in the comment.

#### **Question 75-1** ([Question 83-1-1 CEPEJ Questionnaire](#))

In this question, you should indicate which consequences are envisaged in your system if a judge does not meet quantitative performance targets. These consequences are divided into two groups, depending on whether or not they result from the conduct of disciplinary proceedings.

“Warning by court’s president” should include all measures that represent an official warning of a court president (for example in a form of a note kept in the judge’s file) but have no other immediate and direct consequences for the judge concerned.

“Temporary salary reduction” can be imposed as a consequence in some legal systems. This option should be also selected in a situation when bonuses or other financial benefits of a judge are terminated even though his/her basic salary was not reduced.

“Reflected in the individual assessment” should be selected whenever non-fulfilment of quantitative performance targets is taken into account and affects the individual assessment of the judge concerned (e.g., by lowering a grade given in the assessment).

If some other consequences are possible, please select “Other” and specify them in the comment.

#### **Question 79-1** ([Question 83-3-1 CEPEJ Questionnaire](#))

In this question, you should indicate which consequences are envisaged in your system if a public prosecutor does not meet quantitative performance targets. These consequences are divided into two groups, depending on whether or not they result from the conduct of disciplinary proceedings.

“Warning by head of prosecution” should include all measures that represent an official warning of a head of prosecution (for example in a note kept in the public prosecutor’s file) but have no other immediate and direct consequences for the public prosecutor concerned.

“Temporary salary reduction” can be imposed as a consequence in some legal systems. This option should be also selected in a situation when bonuses or other financial benefits of a public prosecutor are revoked even though his/her basic salary was not reduced.

“Reflected in the individual assessment” should be selected whenever non-fulfilment of quantitative performance targets is taken into account and affects the individual assessment of a public prosecutor (e.g., by lowering a grade given in the assessment).

If some other consequences are possible, please select “Other” and specify them in the comment.

#### **Questions 76, 76-1, 77, 80, 80-1 and 81** ([Questions 114, 114-1 and 120, 120-1 of the CEPEJ Questionnaire](#))



These questions are aimed at finding out more about the systems of individual assessment of the work of judges and public prosecutors. Namely, you should indicate if in your country the assessment/evaluation procedure is based on quantitative, qualitative or both types of criteria. In addition, you are invited to indicate in the comment more specifically what exact criteria are being used, the authority responsible for carrying out the individual assessment of each judge/public prosecutor, and the purposes for which the assessment results are used (do they affect the judge/prosecutor's career and how, can they result in disciplinary proceedings, etc.).

Please also indicate the frequency of the assessment procedure, especially if the assessment periods differ depending on the career progress.

### **Indicator 3.3 Electronic case management system and court activity statistics**

Many questions in the ICT part of the questionnaire refer to the deployment (availability) rate and usage rate. While the deployment rate indicates the functional presence of the devices /tools/services described in the questions within courts, the usage rate is focusing on their usage in practice. Since the methodology to present the Deployment and usage rates is not always straightforward, a specific definition and examples are then given in each question. Please note that both these rates should be based on measurement where possible, but if this is unfeasible, the answer could be your best estimate.

#### **ICT Strategy**

##### **Question 82-0** ([Question 62-01 CEPEJ Questionnaire](#))

An Information and Communication Technology (ICT) strategy is an effective plan for future development in ICT in judiciary in a written and binding form. It usually also includes an action plan, or it is accompanied by one. Planned actions can include the development and/or evolution of the Case Management System (CMS), digitalisation of new branches (e.g. digitalisation of administrative procedures), or development and implementation of new software/tools for specific litigation. In this question, the focus is on the ICT strategy that is specific to the judiciary.

#### **Case Management Systems(CMS)**

##### **Question Q82**

**Case management system:** this question and the following questions relates to business-management software or a suite of integrated applications, Enterprise resource planning (ERP) system, the workflow used by courts to register and manage their cases. Case management system (CMS) as a central tool of each electronic judicial information system is directly or indirectly linked with other existing tools. CMS is essential and this question deals with its deployment rate as well different connectivity and accessibility features of the system.

##### **Question 82-1-0**

Judicial systems may employ a singular, comprehensive Case Management System (CMS) that is used across all case categories and court instances. Alternatively, they may employ distinct CMSs based on various factors, such as case category (e.g., one CMS for civil cases and another for criminal cases), court instance (e.g., a different CMS for the Supreme Court), or geographical location (e.g., a different CMS for courts in the capital city). If multiple CMSs are in use, the description should specify the number of systems employed and delineate where each system is used. It should be also specified if these systems are integrated and or interoperable.

This question should be answered only when you have more than one CMS. In case, you have one, please answer NAP to this question and add comment when needed.

##### **Question 82-1**

The question refers to the time from the moment when the last significant changes the CMS were installed and operational. It does not refer to standard evolutions connected to the proper functioning of the CMS but only major changes with adding functionalities or upgrading of the system.

##### **Question 82-2**

This question should confirm what might already be part of the IT strategy (in case strategy is closely followed) but provide clear statement if there will be changes expected in the CMS or other important system within judiciary in next year.

### Question 83 (Question 062-20 CEPEJ Questionnaire)

This question focuses on the deployment rate and usage rates for the CMS in civil, administrative, and criminal matters. Please note that when NA or NAP is selected, it will be valued as 0 in the calculation of the ICT index.

The **deployment rate** should indicate the level of availability of the CMS across all instances and categories of cases in each matter (civil, criminal, and administrative). It should be calculated as the ratio between the number of cases that could be managed via the CMS and the total number of cases in the reference year.

The **usage rate** should indicate the level of use of the CMS across all instances and categories of cases in each matter (civil, criminal, and administrative). It should be calculated as the ratio between the number of cases that were actively managed via the CMS and the total number of cases that could be managed by the CMS in the reference year.

Example: A judicial system has one or several CMSs installed in all courts of first and second instance in the civil matter, while there is no CMS at the final instance.

In case, this system has a total number of 47 000 incoming cases in the civil matter in all instances in one year. Amongst these cases:

40 000 cases are at 1<sup>st</sup> instance.

6 000 cases are at 2<sup>nd</sup> instance.

1 000 cases are at the final instance.

In this situation, the deployment rate is  $(40\,000 + 6\,000) / 47\,000 = 97\%$ . Thus, 95-100% shall be selected.

The usage rate could be identical to the deployment rate if the system is already deployed in these courts for more years and all pending cases are already included in the CMS. However, if the system is more recent and there are some active cases that have not been migrated in the CMS, the situation will be different.

Example: The same system of the example for deployment rate has a total number of 100 000 active cases in the civil matter at all instances at the end of the reference year. Amongst these cases:

80 000 cases are on 1<sup>st</sup> instance, among which 18 000 insolvency cases were not included in the CMS, and they are handled manually.

18 000 cases are on 2<sup>nd</sup> instance, among which 2 000 insolvency cases were not included in the CMS, and they are handled manually.

2 000 cases are on the final instance.

In this situation, the usage rate is  $(80\,000 - 18\,000) + (18\,000 - 2\,000) / 100\,000 = 78\%$ . Thus, 75-95% shall be selected.

If the calculation methodology described in the example above is not applicable to your system, your best free estimate of the rate could be used instead. In this case, please explain in the comment your method of calculation/estimation of these indicators.

### Question 83-1 (Question 062-21 CEPEJ Questionnaire)

This question lists some possible functionalities of the Case Management System/s irrespective if there is one or more. In case there is more than one system in civil and administrative matters, please select the functionality in case it is present in most of the systems, or it covers the majority of cases and not in case it is part of a pilot project. Below we describe what the CEPEJ understands behind each of the suggested functionalities: the list cannot be exhaustive, but it includes functionalities considered relevant and important at this point of time. If you consider some other functionality of your system important, please select "Other special functionality" and specify it in the comments. The option NAP must be chosen if a CMS does not exist.

**Centralised and/or interoperable CMS databases:** this functionality refers to one system that is centralised and includes all cases for the matter concerned or separate systems that are harmonised and can communicate using harmonised classifications, unique identification of cases in different systems of the same instance, easy consolidation of data and statistics for the whole country for the matter concerned etc.

**Active case management dashboard** includes internal dashboards for daily management of cases used by court presidents and/or judges with visual notifications, early warning signals and other relevant indicators needed to identify actions to be taken. The calendar of scheduled actions could also be included in this dashboard.

**Random allocation of cases:** by random allocation, means an allotment of a case to a judge done by the system that is not biased or influenced.

**Case weighting:** to better evaluate the workload of judges as well as to better distribute the cases among judges, the complexity of the case should be measured. This functionality should be chosen in the situation when case weighting is done within the CMS, irrespective if the process is done by the system using the existing parameters of the case or imputed in the system in consultation with a professional.

**Identification of a case between instances** (unique or linked id number): for the calculation of the duration of a case from its submission to the final decision, a link between the case ID is essential. In case the CMS uses one ID for a case irrespective of the instance, or the IDs at different instances are different, but a link with the previous ID is always available, this functionality should be selected.

**Electronic transfer to another instance/court:** when a case is submitted to a higher instance, the electronic file of the case is transferred to the competent court. If a complete electronic file is transferred automatically when appealed, this functionality should be selected.

**Anonymisation of decisions to be published:** it is important to underline here that the question is if the decisions to be published are anonymised within the CMS or if this is done separately. In the case of the first option, the functionality should be selected.

**Interoperability with other systems** (civil register, tax register, insolvency register): here we are looking for functionality to be able to verify the information from the three main registers directly.

**Access to closed/resolved cases:** the question is if cases that are finalised are still available for the judges and other users of the system to consult before they are stored in archives for final storage.

**Advanced search engine:** this functionality of the CMS includes the possibility of finding a case by applying different filters but also by searching specific text that can be found within the case documents.

**Protected log files:** this functionality refers to the log system that is irreversible, and all actions in the system are registered and cannot be deleted. The logs cannot be altered even by the system administrator.

**Electronic signature:** this option should be checked if the electronic signature or another method of confirmation of identity is embedded in the CMS.

**Other special functionality, please specify:** in case you consider some other functionality of your system important, please select this option and specify details in the comment.

**NAP** - CMS does not exist

#### **Question 83-2** ([Question 062-22 CEPEJ Questionnaire](#))

This question lists some possible functionalities of the Case Management System/s irrespective if there is one or more. In case there is more than one system in criminal matter, please select the functionality in case it is present in most of the systems, or it covers the majority of cases and not in case it is part of a pilot project. Below we describe what the CEPEJ understands behind each of the suggested functionalities: the list cannot be exhaustive, but it includes functionalities considered relevant and important at this point of time. If you consider some other functionality of your system important, please select "Other special functionality" and specify it in the comments. The option NAP must be chosen if there is no CMS at all.

**Centralised and/or interoperable CMS databases:** this functionality refers to one system that is centralised and includes all cases for the matter concerned or separate systems that are harmonised and can communicate using harmonised classifications, unique identification of cases in different systems of the same instance, easy consolidation of data and statistics for the whole country for the matter concerned etc.

**Active case management dashboard** includes internal dashboards for daily management of cases used by court presidents and/or judges with visual notifications, early warning signals and other relevant indicators needed to identify actions to be taken. The calendar of scheduled actions could also be included in this dashboard.

**Random allocation of cases:** by random allocation, we mean the allotment of a case to a judge done by the system that is not biased or influenced.

**Case weighting:** to better evaluate the workload of judges as well as to better distribute the cases among judges, the complexity of the case should be measured. This functionality should be chosen in the situation when case weighting is done within the CMS, irrespective if the process is done by the system using the existing parameters of the case or imputed in the system in consultation with a professional.

**Identification of a case between instances** (unique or linked id number): for the calculation of the duration of a case from its submission to the final decision, a link between the case ID is essential. In case the CMS uses one ID for a case irrespective of the instance, or the IDs at different instances are different, but a link with the previous ID is always available, this functionality should be selected.

**Electronic transfer to another instance/court:** when a case is submitted to a higher instance, the electronic file of the case is transferred to the competent court. If a complete electronic file is transferred automatically when appealed, this functionality should be selected.

**Anonymisation of decisions to be published:** it is important to underline here that the question is if the decisions to be published are anonymised within the CMS or if this is done separately. In the case of the first option, the functionality should be selected.

**Interoperability with the prosecution system:** this option can be selected in case the CMS is receiving and exchanging electronic information with the prosecution's information system.

**Interoperability with other systems** (civil register, tax register, insolvency register): here we are looking for functionality to be able to verify the information from the three main registers directly.

**Access to closed/resolved cases:** the question is if cases that are finalised are still available for the judges and other users of the system to consult before they are stored in archives for final storage.

**Advanced search engine:** this functionality of the CMS includes the possibility of finding a case by applying different filters but also by searching specific text that can be found within the case documents.

**Protected log files:** this functionality refers to the log system that is irreversible, and all actions in the system are registered and cannot be deleted. The logs cannot be altered even by the system administrator.

**Electronic signature:** this option should be checked if the electronic signature or another method of confirmation of identity is embedded in the CMS.

**Other special functionality, please specify:** in case you consider some other functionality of your system important, please select this option and specify details in the comment.

**NAP** – CMS does not exist

## Database of court decisions

### Question 84 ([Question 062-27 CEPEJ Questionnaire](#))

This and the following questions are related to the database of court decisions. This first question focuses on the percentage of decisions that were published on each instance and for each matter.

Example: In first instance in the civil matter, the total number of finalised cases is 10 000 in the reference year.

4 000 of the finalised decisions were published in the database of court decisions.

3 000 were not published, even if the publication was technically and/or legally possible for these cases.

2 000 were not published due to the unavailability of technical tool.

1 000 were not published because publication in the database of court decisions was possible due to legal restrictions (for example, sensitive cases that, according to law, should not be published).

In this situation,

the deployment rate is  $(4\,000 + 3\,000 + 1\,000) / 10\,000 = 80\%$ . Thus, 75-95% shall be selected.

the usage rate is  $4\,000 / (4\,000 + 3\,000 + 1\,000) = 50\%$ . Thus, 25-50% shall be selected.

If the calculation methodology described in the example above is not applicable to your system, your best free estimate of the rate could be used instead. In this case, please explain in the comment your method of calculation/estimation of these indicators.

### Question 084-1 ([Question 062-28 CEPEJ Questionnaire](#))

This question focuses on how a decision is published and whether it is available for public or internal use. The question is divided by matter and by instance.

**Published online (public website):** it refers to the published court decisions on public internet sites accessible to everyone with or without registration, with or without a fee.

**Published in an internal database:** it refers to internally published court decisions within court networks/intranet, accessible to judges and non-judge staff and eventually to some other professionals like prosecutors and/or lawyers.

**Other:** in case the above does not apply, and the court decisions are published online in some way, please check this option and describe in the comment your situation.

**NAP** is equivalent to “There is no database for these decisions” in specific matter and instance.

#### **Question 84-2** ([Question 062-29 CEPEJ Questionnaire](#))

This question lists some possible functionalities of the centralised national database of court decisions. In case there is more than one database, please select all functionalities covered by these databases in case they are available for most and not only as an exception. Below we describe what the CEPEJ understands behind each of the suggested functionalities: the list cannot be exhaustive, but it includes functionalities considered relevant and important at this point. In case you consider some other functionality of your national database of court decisions important, please select “Other” and specify in the comments. The option NAP must be chosen if there is no national database of court decisions at all.

**Automatic anonymisation:** in case an anonymised decision is automatically generated by the CMS or other tool accessing CMS

**Manual anonymisation:** in case each decision is manually anonymised before being published.

**Free online access:** in case the database of court decisions is available publicly and access to this database is free of charge.

**Link with the case law of the European Court of Human Rights (ECHR):** if the decisions registered in the database have hyperlinks which reference to the ECHR judgements in HUDOC database.

**Open data:** according to the CEPEJ “[European Ethical Charter on the use of artificial intelligence in judicial systems and their environment](#)”, the term “open data” *refers to making structured databases available for public download. These data can be inexpensively re-used subject to the terms of a specific licence, which can, in particular, stipulate or prohibit certain purposes of re-use. Open data should not be confused with unitary public information available on websites where the entire database cannot be downloaded. Open data do not replace the mandatory publication of specific administrative or judicial decisions or measures already laid down by certain laws or regulations.*

**Advanced search engine:** this feature includes, apart from the filters that preselect the cases, also free text search that finds a case including certain text.

**Machine-readable content:** this suggests that the data could be downloaded in a format that is readable and understandable by a machine to be further analysed. Decisions are not in the form of pictures/images and formats that do not allow text access but only view.

**Structured content:** different from the filters, this feature is selected if in your CMS the body of the decisions has a standard structure (defined by law or by practice), meaning if it respects a division in specific sections (e.g., parties, facts, decision, etc.) or different sort of pre-defined sequencing.

**Metadata:** this functionality should be selected asks if information about the data are available; they can be either embedded in the file or in a separate file that can be downloaded. Metadata is in a format using a specific vocabulary in order to be machine readable.

**European Case Law Identifier (ECLI):** This functionality should be selected if the cases presented in the database of court decisions contain ECLI identifier. ECLI is the standard that has been developed by the European Union to facilitate the correct and unequivocal citation of judgments from European and national courts ([see](#))

**Other special functionality, please specify:** in case you consider some other functionality of your databases of court decisions important, please select this option and specify details in the comment.

**NAP** – there is no database of court decisions for the matter concerned

#### **Statistical Tool**

#### **Question 085** ([Question 062-30 CEPEJ Questionnaire](#))

This and the following question are related to the statistical tools for analysing data on court cases, usually integrated or connected with the Case Management System. This first question focuses on the deployment rate of this tool/s.

The **deployment rate** should indicate the level of availability of statistical tools for analysing court case data across all instances and categories of cases in each matter (civil, criminal, and administrative). It should be calculated as the ratio between the number of active cases that are electronically retrievable by the statistical tools and the total number of cases in the reference year.

Example: In a judicial system in the civil matter, the statistical tool is deployed at first instance only, and it is not available at the second and the final instances. In this system, there are 100 000 cases in the CMS in the civil matter in all instances in one year. Furthermore:

80 000 cases are at 1<sup>st</sup> instance.

18 000 cases are at 2<sup>nd</sup> instance.

2 000 cases are at the final instance.

In this situation, the deployment rate is  $80\,000 / 100\,000 = 80\%$ . Thus, 75-95% shall be selected.

If the calculation methodology described in the example above is not applicable to your system, your best free estimate of the rate could be used instead. In this case, please explain in the comment your method of calculation/estimation of these indicators.

#### **Question 085-1** ([Question 062-31 CEPEJ Questionnaire](#))

This question focuses on functionalities of the statistical tool(s) and the data available for statistical analysis.

In case there is more than one tool, please select all functionalities and the data available covered by these tools in case they are available for most courts and not only as an exception.

Below we describe what the CEPEJ understands behind each of the suggested functionalities: the list cannot be exhaustive, but it includes functionalities that are considered relevant and important at this point of time. In case you consider some other functionality of your statistical tools for analysing data on court cases important, please select "Other" and specify in the comments. The option NAP must be chosen if there are no statistical tools.

Functionalities:

**Integration/connection with the CMS:** CMS is the main source of statistical data for analysis of the work of the courts. This column refers to the level of integration with CMS and the possibility of extracting and analysing data in real time.

**Business intelligence software:** refers to means, tools and methods allowing collecting, consolidating, modelling and presenting/visualising the data of an organisation, in this case, court/s. It aims at offering to the court president or a court manager an overview of the activities, by cross analysing data from different databases and providing information for fact-based decision-making.

**Generation of predefined statistical reports:** if there are pre-defined reports that are required on a regular basis already available in the system

**Generation of customised statistical reports:** if there are possibilities to create a tailored report using all available data of the system and on an ad hoc basis.

**Internal page and/or dashboard:** if the data/information for the court presidents and/or judges are available in dashboard format for the full overview of the case flow at every point of time.

**External page with statistics (public website):** if different statistical overviews/dashboards are regularly available for the general public.

**Real-time data availability:** if data in the statistical system are available immediately or after a certain time delay of not more than one day

**Automatic consolidation of data at the national level:** the question here is if the data of different courts can be automatically consolidated to be shown as statistics on a national level. This is considered as such in case the system is centralised, and all national case flow data are accessible for the system, or in case of a decentralised system, data is automatically unloadable on a regular, frequent basis.

**Other special functionality, please specify:** in case you consider some other functionality of your tools important, please select this and specify details in the comment.

**NAP** – there are no statistical tools for this matter

Data available:

**Case flow data (number of incoming, resolved, pending):** this modality should be selected if the system is collecting and analysing basic case-flow data at different aggregate level (by court, by judge, by type of case)

**Age of a pending case:** this modality should be selected if the system is able to calculate the age (elapsed time from the case-filing date) of each pending case as well as the average

**Length of the proceedings:** this modality should be selected if the system is able to calculate the length of each resolved case (elapsed time from the case-filing date to the final decision date) as well as the average

**Number of hearings:** this modality should be selected if the system is able to calculate the total number of hearings that took place in a defined period and/or the number of hearings for each case.

**Cases per judge:** this modality should be selected if the system is able to calculate the number of incoming cases and the number of resolved cases for each judge in a defined period and as an average

**Case weights:** this modality should be selected if the system is able to calculate a weight (related to the complexity of the case) for each case in order to prepare statistics on the distribution of cases by case complexity

**Number of parties in a case:** this modality should be selected if the system is able to calculate the number of parties in each case

**Indicator of appeal:** this modality should be selected if the system is able to identify if a case is appealed to the higher instance and can provide the ratio of appealed cases in a defined period of time

**Result of the appeal:** this modality should be selected if the system is able to identify the outcome of the appeal in order to provide statistics by the outcome of the appeal

**NAP** – there are no statistical tools for this matter

#### ***Indicator 4 Access to justice – legal aid***

##### **Question 86-0-0** ([Question 16 of the CEPEJ questionnaire](#))

The legal aid can consist of full or partial exemption or reimbursement of the cost, as well as other measures (e.g. delay of payment).

**Representation in court** includes all forms of representation before all regular and specialized courts (legal aid allowing litigants to finance fully or partially their court fees when appearing before courts).

**Legal advice, ADR and other legal services:** This category includes access to legal services outside the courts, to offer access to legal advice or information or to prevent litigation (access to law knowing one's rights and asserting them, but not necessarily through court review).

##### **Question 86-0** ([Question 16-1 of the CEPEJ questionnaire](#))

In this question, please briefly describe the procedure, eligibility rules, as well as authorities and subjects involved in granting legal aid and delivering legal advice and legal representation in courts. Furthermore, it should be specified if only persons requiring legal aid have the right to submit a request, or lawyers can also do that on their behalf.

#### ***Indicator 4.1 Number of cases for which legal aid has been granted***

These two questions should be linked to questions 12 and 13 (questions 12 and 12-1 of the CEPEJ Questionnaire) regarding the budget allocated to legal aid. The latter will be analysed in relation to the number of cases granted with legal aid on the one hand, and the number of recipients of legal aid, on the other hand.

##### **Question 86** ([Question 20 of the CEPEJ questionnaire](#))

It is important to note that this question concerns only the number of cases for which legal aid has been granted and not the number of decisions to grant legal aid nor the number of recipients of legal aid. The number of recipients of legal aid should be provided in questions 86-1.

If within one case one party is granted legal aid by several decisions (for covering different expenses for example), it should be counted as one case in question 86.

If within one case two parties receive legal aid, this should be counted as one case in question 86 and two recipients in questions 86-1.

If cases could not be counted in this way, the answers in this question should be NA.

When the decision on granting legal aid is taken in respect of a dispute at the earliest stage, as a package that covers the whole procedure, and competent authorities do not have a possibility to know what action the parties have taken on the case (was it brought to court, was it solved before going to court etc.), the reply should be NA.

Legal aid for "**cases brought to court**" covers all actions taken in the frame of court proceedings, whereas legal aid for "**cases not brought to court**" covers all actions in respect of one single legal situation/dispute that are undertaken outside the court proceedings (legal advice, legal counselling, court related mediation or other alternative dispute resolution measures etc).

#### **Question 86-1** ([Question 20-0 of the CEPEJ questionnaire](#))

Please provide the total number of recipients of legal aid in Q86-1, as well as the number of recipients in criminal and other than criminal cases brought to courts and not brought to courts.

If one person received legal aid for more than one case during the reference year, please count this person once for every case in which he/she received legal aid (for example if one person received legal aid for two separate cases, this should be counted as two recipients).

If within one case one party is granted legal aid by several decisions (for covering different expenses for example), it should be counted as one recipient.

### **Indicator 4.2 Amount of legal aid**

#### **Questions 87 and 88** ([Questions 23-0 and 23 of the CEPEJ Questionnaire](#))

It is possible that legal aid is limited according to the economic situation of the applicant. The threshold below which the granting of the legal aid is possible may be different for partial or full legal aid.

If the threshold is the same for full and partial legal aid, and the decision depends on other criteria, the same figures should be entered under "full legal aid" and "partial legal aid" and the situation should be explained in the comments.

Please note that indicated figures should represent values per one person.

Please elaborate in the comment if any other eligibility criteria are taken into account for granting legal aid and provide any other clarification that could explain the data communicated. Furthermore, in some systems the overall economic situation of an applicant is assessed (is she/he employed, does she/he own a real estate, what are her/his fixed monthly obligations, how many household members she/he supports etc.). If this assessment is conducted in your system, please provide more details of what parameters are taken into account.

### **Indicator 4.3 Timeframes for granting legal aid**

#### **Question 88-1** ([Question 20-1 of the CEPEJ Questionnaire](#))

This question concerns timeframes for approving legal aid requests. It should be noted that duration of time should be measured in days from the initial request to the final decision. The answer should address two different aspects:

- **"Maximum duration prescribed in law/regulation"** – the duration should reflect timeframes envisaged in the relevant laws and regulations. If there are timeframes prescribed for each different stage of the procedure for granting legal aid, the answer should represent the sum of timeframes needed for different stages. If the rules set the minimum and maximum duration, only maximum envisaged values should be taken into account. In addition, the comment should specify in which legal instruments these timeframes are envisaged and explain if there are different timeframes set for different types of cases.
- **"Actual average duration"** – the answer in this part should reflect the actual state of play and not the legal requirements, meaning that the average time should be calculated based on the actual duration of time



passed between initial requests and final decisions for all procedures for granting legal aid completed in the reference year.

### **Indicator 5 Appointment/recruitment/mandate of judges/prosecutors**

#### **Questions 89 to 130**

This section should provide information on procedures and criteria for the first recruitment of judges and prosecutors.

There are few specific aspects that should be taken into consideration when answering questions within this section.

For the purposes of this section, Judicial academy should be understood as an institution responsible for training, but also has a role in appointment and recruitment procedure of future judges/prosecutors.

Furthermore, this section follows appointment/recruitment procedure from the beginning to the end, and it divides this process into three subsequent stages: Entry procedure, Selection procedure and Formal decision. At the end, it also examines details of the mandate of those who successfully complete the procedure (subsection Mandate). Therefore, the whole section is divided into four logical parts:

- A. **Entry Procedure** - examines criteria, competent authorities and procedure for entering the process to become a judge or prosecutor. It collects detailed information on how candidates enter judicial academy or some other type of pre-selection for the recruitment procedure.
- B. **Selection** - the second stage of the overall procedure. It focuses on criteria and competent authorities for the selection of judges/prosecutors from the list of candidates that successfully completed the entry procedure.
- C. **Formal decision on appointment** - the last step in the process of appointment and recruitment. It examines competent authorities for formal appointment of judges/prosecutors.
- D. **Mandate** - specific part of this section that deals with details of the probation period (if it exists in the system) and length of the appointment.

It is also very important to note that within the entry and selection procedure, this section differentiate two possible paths for becoming a judge or prosecutor depending on whether candidates for these positions had to graduate from Judicial Academy or not.

The first path follows the recruitment procedure through the Judicial Academy ("Via Judicial Academy").

The second path scrutinizes the recruitment procedure of all other candidates that have not graduated from Judicial Academy ("Without Judicial Academy"). Primarily, this option is intended for "experienced professionals", and therefore, it should include all legal professionals who qualify for the position of a judge/prosecutor on the basis of their years of experience and/or other criteria, not on the basis of graduating from Judicial Academy.

If Judicial Academy does not exist in the system, CEPEJ correspondent should provide answers for just one path – "Without Judicial Academy"; and select NAP for the other path.

If Judicial Academy exists in the system and only a graduate from Judicial Academy can become appointed judge/prosecutor, CEPEJ correspondent should select NAP for the path – "Without Judicial Academy".

If the system provides a possibility to become a judge/prosecutor both for graduates and non-graduates of Judicial Academy, CEPEJ correspondent should provide answers under both options paying particular attention to the differences between these two paths.

If there are some specifics of your system that were not included in the questions and/or could not be visible from the answers to the questions, please explain them in the comment areas under respective questions.

### **Indicator 5.1 Recruitment**

#### **Description of the specific procedure of recruitment (entry procedure/selection/appointment) for a judge:**

## **Question 89** (Question 110 of the CEPEJ Questionnaire)

“Competitive exam” is a possible condition for entering into the judiciary which consists of a predefined, open competition that involves an exam or other similar methods of evaluating candidates’ expertise and skills. This competition is different from the bar exam, which might be a prerequisite to apply for the competitive exam. The candidates for this competitive exam are not required to have previous working experience in the area of law.

“Recruitment procedure for experienced legal professionals (for example experienced lawyers)” - experience and seniority may either be interpreted broadly (for example, jurists, lawyers, notaries, legal consultants, clerks and other occupations that have substantive working experience in the field of law) or narrowly (for example judicial assistants in courts or public prosecution offices). This recruitment procedure should be understood as a competition open only to candidates who have the required working experience.

“Other” – If your system envisages another recruitment procedure that does not correspond to the first two options (e.g., judges are elected by citizens), please select option “Other” and explain the system in the comment.

Some systems might require a combination of several ways of recruitment, and in that case more than one option can be selected

### **A. Criteria for entry into the process to become a judge**

#### **Question 90**

“Entry criteria” are general requirements that candidates need to fulfil to be shortlisted to participate in the exam to enter the Judicial Academy, or to be pre-selected for a procedure of recruitment to become a judge without Judicial Academy. The table in this question provides requirements that are most commonly met in different judicial systems. If there are some additional criteria in your system, you can select other and then specify them in the comment area. The meaning of the “Clean criminal record” might vary in different systems, and therefore, please provide more details in the comment area.

#### **Question 91**

“Authority competent during the entry selection procedure” is an institution in charge for evaluating and deciding which candidates fulfil entry criteria. This institution makes a list of eligible applicants to be selected in the subsequent selection procedure. Please note that term “executive” includes all institutions and bodies that belong to executive power, such as government, public administration, ministries, president of the state, other bodies and committees composed of executive power members etc. If you select executive power, please specify in the comment area which particular body/institution of the executive power is competent. The list of institutions is not exhaustive, so if some other body is in charge for the entry procedure please select “other body” and provide explanation in the comment area.

#### **Question 92**

“Public call for candidates” means that there was an open call for the application published in media, websites, official gazette etc. available to general public and directed to all potential candidates.

#### **Question 93**

This question deals with transparency in the pre-selection process by examining whether the entry criteria are publicly available or not.

“Publicly available” entry criteria means that criteria for entering the competition were known before candidates applied and were published in a way that ensures easy access to the general public (for example, prescribed by the law or published in a vacancy notice).

If answer to this question is positive, please specify whether criteria are announced as part of the public call or announced separately. The option “Yes, announced separately” should be selected when entry criteria are not part of the public call but are published as a separate document. Situations in which criteria are published as part of some other publicly available legal document, such as law or by-law (e.g. Law on Judges, Rulebook on criteria for evaluation of candidates, etc.) should also be reported under this option.

The option “other” should be selected if none of the offered option is fully applicable to your system.

## Question 94

This question deals with transparency in the pre-selection process by examining whether the list of pre-selected candidate is public or not. Please indicate if the list of pre-selected candidates is announced on the internet, available only to the applicants which participated in the process, or not available at all.

## Question 95 and 96

This question examines if non-preselected candidates enjoy the right to an appeal. If the answer is positive, please indicate which institution is competent to decide on appeal in the following question. If you select executive power, please specify in the comment area which particular body/institution of the executive power is competent. If you select court, please specify what kind of court in the comment (eg administrative court, court of general jurisdiction, Supreme court, constitutional court, etc). The list of institutions is not exhaustive, so if some other body is in charge, please select "other body" and provide explanation in the comment area.

## **B. Selection procedure for judges (after exam/interviews, etc.)**

### Question 97

The selection of judges is a process of deciding which individuals from the pool of pre-selected candidates are best suited for becoming judges and filling in the vacant positions. This question aims to explore which criteria are used to make such a decision by the competent authorities.

**Results/score from Judicial Academy training** – is a grade from Judicial Academy studies. It can be average grade from the studies, grade given on a final exam or similar grade that refers to the candidates' performance from the studies. Additional testing for non-Academy graduates is a particular exam/test given to professionals who have not graduated from Judicial Academy and intended to examine their level of legal knowledge, skills, etc.

**Duration of previous work experience** – if competent authorities evaluate previous work experience in terms of its duration, please select this option. This might be the case when priority is, for example, given to the candidates who have more years of work experience.

**Relevance of previous work experience** – if competent authorities evaluate relevance of work experience, please select this option. This might be the case when authorities consider not only duration of work experience, but also analyse type of work which candidates performed in their previous positions (the nature of the work, the field of law which he practiced, etc.).

**Interview evaluation** – some systems set interviews with candidates as a mandatory or facultative requirement for the selection. If evaluation from these interviews is considered within selection procedure, please select this option.

**Performance appraisal from previous employer(s)** – this criterion refers to the situation when competent authorities obtain appraisals from previous employers, analyse them and take them into consideration when making decision on the selection. Performance appraisal includes different forms of grading, narrative reporting on employees' performance and skills, as well as references on the candidates' personal characteristics (for example, mentor's evaluation of a candidate who has worked as a judge's/public prosecutor's assistant or trainee).

**Automatic selection of each successful candidate from Judicial Academy or every pre-selected experienced candidate outside of Judicial Academy** – please select this option if your system provides that all Judicial Academy graduates and/or pre-selected candidates automatically are selected to become judges. This option would mean that process was not divided into two separate stages of pre-selection and selection, but only one integrated process exists at the end of which all candidates are considered selected.

**Other** - If other criteria exist, please select this option and list them in the comment area. You should also provide more details on how these other criteria are used in the selection process.

### Question 98

The list of institutions is not exhaustive, so if some other body/institution is in charge for the selection procedure in your system please select "other body" and provide explanation in the comment area. Please note that term "executive" includes all institutions and bodies that belong to the executive power, such as government, public administration, ministries, president of the state, other bodies and committees composed of executive power members, etc. If you select executive power, please specify in the comment area which particular body/institution of the executive power is competent.

## **C. Formal decision on appointment (including by Parliament)**

### **Question 99**

There are different systems of final appointment of judges. Some systems leave the final appointment within competencies of the judiciary, while others might involve bodies from legislative or executive branches of power. Please select provided options to best reflect your system.

The list of institutions is not exhaustive, so if some other body is in charge for the final appointment procedure, please select “other body” and provide explanation in the comment area.

Please note that term “executive” includes all institutions and bodies that belong to the executive power, such as government, public administration, ministries, president of the state, other bodies and committees composed of executive power members etc. If you select executive power, please specify in the side comment which particular body/institution of the executive power is competent.

### **Question 100**

In the process of making the final decision on appointment, the competent authority may have different competences. It is possible that this authority provides only a formal confirmation of the candidates proposed by the authority which makes selection (option 1). The second option (“Has a right to appoint some and reject some among the selected (proposed) candidates”) should be selected in all situations in which this authority is competent to reject a candidate, irrespective of whether this body, at the same time, might select some other candidate from the list to fill the vacant post (for example there are two proposed candidates for one post) or leave the post unfilled (because only one candidate was proposed for that post). If this institution is also authorized to appoint other candidates that were not proposed by the authority which conducts selection process, please select the third option. If your system provides some other competences that are relevant for the final appointment, please explain them in the side comment area.

### **Question 101**

This question provides information whether non-preselected candidates enjoy the right to appeal. If the answer is positive, please indicate which institution is competent to decide on appeal in the following question.

### **Question 102**

Please select body/bodies competent to decide on appeal. The option “court” in this question refers to any court in which appeal should be decided, including court concerned, higher court, Supreme court or court competent for administrative cases. The list of institutions is not exhaustive, so if some other body is in charge for the final appointment procedure in your system please select “other body” and provide explanation in the comment area.

### **Question 103**

If your system prescribes evaluation of the integrity of new candidates, please describe both process and criteria used in order to explain how the competent authorities conduct such evaluation. The term “integrity” should be considered in line with CCJE Opinion No. 21 (2018) Preventing corruption among judges as well as GRECO Fourth Round reports on your country (available on [www.coe.int/greco](http://www.coe.int/greco) ).

## **D. Mandate of judges**

### **Questions 104 and 105 (Questions 121 and 122 of the CEPEJ Questionnaire)**

*A mandate for an undetermined period* means that judges are appointed for ‘life’ (until their official age of retirement) and cannot be removed from office (unless severe disciplinary proceedings/sanctions against a judge are ordered, knowing that the most severe sanction is a dismissal). It is possible for judges to be appointed for life after a “probation period”. If there is a probation period, after which judges are appointed for life, please answer “yes in question 105 (Q122 of the CEPEJ Questionnaire).

### **Question 106**

Describe which authority is responsible to decide if the probation period (mentioned in the previous question) is successful or not. If you select executive power, please specify in the side comment which particular body/institution of the executive power is competent. The list of institutions is not exhaustive, so if your system puts some other body in charge for the entry procedure please select “other body” and provide explanation in the side comment.

### **Question 107**

In case there is possibility for the candidates to appeal (complain) when the probation is considered unsuccessful please answer "Yes".

**Question 108** ([Question 125 of the CEPEJ Questionnaire](#))

Please select "NAP" if your answer to Question 104 (Question 121 of the CEPEJ Questionnaire) is "yes".

**Question 109** ([Question 125-1 of the CEPEJ Questionnaire](#))

Please select "NAP" if your answer to Question 104 (Question 121 of the CEPEJ Questionnaire) is "yes".

If renewable, please explain how many times, under what conditions, etc.

**Description of the specific procedure of recruitment (entry procedure/selection/appointment) for a prosecutor:**

**Question 111** ([Question 116 of the CEPEJ Questionnaire](#))

For the purposes of these questions, the recruitment procedure should be understood as a process that includes all stages leading to the first appointment to a public prosecutor post in a public prosecution office.

"Competitive exam" is a possible condition for entering into the judiciary which consists of a predefined, open competition that involves an exam or other similar methods of evaluating candidates' expertise and skills. This competition is different from the bar exam, which might be a prerequisite to apply for the competitive exam. The candidates for this competitive exam are not required to have previous working experience in the area of law.

"Recruitment procedure for experienced legal professionals (for example experienced lawyers)" - experience and seniority may either be interpreted broadly (for example, jurists, lawyers, notaries, legal consultants, clerks and other occupations that have substantive working experience in the field of law) or narrowly (for example judicial assistants in courts or public prosecution offices). This recruitment procedure should be understood as a competition open only to candidates who have the required working experience.

"Other" – If your system envisages another recruitment procedure that does not correspond to the first two options (e.g. public prosecutors are elected by citizens), please select option "Other" and explain the system in the comment.

Some systems might require a combination of several ways of recruitment, and in that case more than one option can be selected.

**A. Criteria for entry into the process to become a prosecutor**

**Question 112**

"Entry criteria" are general requirements that candidates need to fulfil to be shortlisted to participate in the exam to enter the Judicial Academy, or to be pre-selected for a procedure of recruitment to become a public prosecutor without Judicial Academy. The table in this question provides requirements that are most commonly met in different judicial systems. If there are some additional criteria in your system, you can select other and then specify them in the comment area. The meaning of the "Clean criminal record" might vary in different systems, and therefore, please provide more details in the comment area.

**Question 113**

"Authority competent during entry selection procedure" is an institution in charge of evaluating and deciding which candidates fulfil entry criteria. This institution makes a list of eligible applicants to be selected in the subsequent selection procedure. Please note that term "executive" includes all institutions and bodies that belong to executive power, such as government, public administration, ministries, president of the state, other bodies and committees composed of executive power members, etc. If you select executive power, please specify in the comment area which particular body/institution of the executive power is competent. The list of institutions is not exhaustive, so if some other body is in charge in your system for the entry procedure please select "other body" and provide explanation in the comment area.

**Question 114**

“Public call for candidates” means that there was an open call for the application published for example in media, websites, official gazette etc. available to general public and directed to all potential candidates.

#### **Question 115**

This question deals with transparency in the pre-selection process and identifying whether the entry criteria are publicly available or not.

“Publicly available” entry criteria means that criteria for entering the competition were known before candidates applied and were published in a way that ensures easy access to the general public (for example, prescribed by the law or published in a vacancy notice).

If answer to this question is positive, please specify whether criteria are announced as part of the public call or announced separately. The option “Yes, announced separately” should be selected when entry criteria are not part of the public call but are published as a separate document. Situations in which criteria are published as part of some other publicly available legal document, such as law or by-law (e.g. Law on Public prosecutors, Rulebook on criteria for evaluation of candidates etc.) should also fall under this option.

The option “other” should be selected if none of the offered option is fully applicable to your system.

#### **Question 116**

This question deals with transparency in the pre-selection process by examining whether the list of pre-selected candidate is public or not. Please indicate if the list of pre-selected candidates is announced on the internet, available only to the applicants which participated in the process, or not available at all.

#### **Question 117 and 118**

This question examines if non-preselected candidates enjoy the right to an appeal. If the answer is positive, please indicate which institution is competent to decide on appeal in the following question. If you select executive power, please specify in the comment area which particular body/institution of the executive power is competent. The list of institutions is not exhaustive, so if some other body is in charge, please select “other body” and provide explanation in the comment area.

### **B. Selection procedure for prosecutors (after exam/interviews, etc.)**

#### **Question 119**

The selection of public prosecutors is a process of deciding which individuals from the pool of pre-selected candidates are best suited for becoming public prosecutors and filling in the vacant positions. This question aims to explore which criteria are used to make such a decision by the competent authorities.

**Results/score from Judicial Academy training** – is a grade from Judicial Academy studies. It can be average grade from the studies, grade given on a final exam or similar grade that refers to the candidates’ performance from the studies. Additional testing for non-Academy graduates is a particular exam/test given to professionals who have not graduated from Judicial Academy and intended to examine their level of legal knowledge, skills, etc.

**Duration of previous work experience** – if competent authorities evaluate previous work experience in terms of its duration, please select this option. This might be the case when priority is, for example, given to the candidates who have more years of work experience.

**Relevance of previous work experience** – if competent authorities evaluate relevance of work experience, please select this option. This might be the case when authorities consider not only duration of work experience, but also analyse type of work which candidates performed in their previous positions (the nature of the work, the field of law which he practiced, etc.).

**Interview evaluation** – some systems set interviews with candidates as a mandatory or facultative requirement for the selection. If evaluation from these interviews is considered within selection procedure, please select this option.

**Performance appraisal from previous employer(s)** – this criterion refers to the situation when competent authorities obtain appraisals from previous employers, analyse them and take them into consideration when making decision on the selection. Performance appraisal includes different forms of grading, narrative reporting on employees’ performance and skills, as well as references on the candidates’ personal characteristics (for example, mentor’s evaluation of a candidate who has worked as a judge’s/public prosecutor’s assistant or trainee).

**Automatic selection of each successful candidate from Judicial Academy or every pre-selected experienced candidate** outside Judicial Academy – please select this option if your system provides that all Judicial Academy graduates and/or pre-selected candidates automatically are selected to become public prosecutors. This option would mean that process was not divided into two separate stages of pre-selection and selection, but only one integrated process exists at the end of which all candidates are considered selected.

**Other** - If other criteria exist, please select this option and list them in the comment area. You should also provide more details on how these other criteria are used in the selection process.

#### **Question 120**

The list of institutions is not exhaustive, so if some other body is in charge for the selection procedure in your system please select “other body” and provide explanation in the comment area. Please note that term “executive” includes all institutions and bodies that belong to the executive power, such as government, public administration, ministries, president of the state, other bodies and committees composed of executive power members, etc. If you select executive power, please specify in the comment area which particular body/institution of the executive power is competent.

### **C. Formal decision on appointment (including by Parliament)**

#### **Question 121**

There are different systems of final appointment of public prosecutors. Some systems leave the final appointment within competencies of the judiciary, while others might involve bodies from legislative or executive branches of power. Please select provided options to best reflect your system.

The list of institutions is not exhaustive, so if some other body is in charge for the final appointment procedure, please select “other body” and provide explanation in the comment area.

Please note that term “executive” includes all institutions and bodies that belong to the executive power, such as government, public administration, ministries, president of the state, other bodies and committees composed of executive power members etc. If you select executive power, please specify in the side comment which particular body/institution of the executive power is competent.

#### **Question 121-1**

In the process of making the final decision on appointment, the competent authority may have different competences. It is possible that this authority provides only a formal confirmation of the candidates proposed by the authority which makes selection (option 1). The second option (“Has a right to appoint some and reject some among the selected (proposed) candidates”) should be selected in all situations in which this authority is competent to reject a candidate, irrespective of whether this body, at the same time, might select some other candidate from the list to fill the vacant post (for example there are two proposed candidates for one post) or leave the post unfilled (because only one candidate was proposed for that post). If this institution is also authorised to appoint other candidates that were not proposed by the authority which conducts selection process, please select the third option. If your system provides some other competences that are relevant for the final appointment, please explain them in the side comment area.

#### **Question 122**

This question provides information whether non-preselected candidates enjoy the right to appeal. If the answer is positive, please indicate which institution is competent to decide on appeal in the following question.

#### **Question 123**

Please select body/bodies competent to decide on appeal. The option “Court/prosecution office” in this question refers to any court/prosecution office in which appeal should be decided, including prosecution office concerned, higher prosecution office or the highest instance prosecution office, courts of general jurisdiction (including Supreme court) or court competent for administrative cases. The list of institutions is not exhaustive, so if some other body is in charge for the final appointment procedure in your system please select “other body” and provide explanation in the comment area.

#### **Question 124**

If your system prescribes the evaluation of integrity of new candidates, please describe both process and criteria used in order to explain how the competent authorities conduct such evaluation. The term “integrity” should be

considered in line with CCJE Opinion No. 21 (2018) Preventing corruption among public prosecutors as well as GRECO documents.

#### **D. Mandate of prosecutors**

##### **Questions 125 and 126 (Questions 123 and 124 of the CEPEJ Questionnaire)**

A *mandate for an undetermined period* means that public prosecutors are appointed for 'life' (until their official age of retirement) and cannot be removed from office (unless severe disciplinary proceedings/sanctions against a public prosecutor are ordered, knowing that the most severe sanction is a dismissal). It is possible for public prosecutors to be appointed for life after a "probation period". If there is a probation period, after which public prosecutors are appointed for life, please answer "yes" in question 126 (Q124 of the CEPEJ Questionnaire).

##### **Question 127**

Please select which authority is responsible to decide if the probation period (mentioned in the previous question) is successful or not. If you select executive power, please specify in the comment area which particular body/institution of the executive power is competent. The list of institutions is not exhaustive, so if your system puts some other body in charge for the entry procedure please select "other body" and provide explanation in the comment area

##### **Question 128**

In case there is a possibility for the candidates to appeal (complain) when the probation is considered unsuccessful, please answer "Yes".

##### **Question 129 (Question 126 of the CEPEJ Questionnaire)**

Please select "NAP" if your answer to Question 125 (Question 123 of the CEPEJ Questionnaire) is "yes".

##### **Question 130 (Question 126-1 of the CEPEJ Questionnaire)**

Please select "NAP" if your answer to Question 125 (Question 123 of the CEPEJ Questionnaire) is "yes".

If renewable, please explain how many times, under what conditions, etc.

#### **Indicator 6 Promotion**

##### **For judges**

##### **Question 132**

In this question please select the institution that decides which judges will be promoted. Please note that term "executive" includes all the institutions and bodies that belong to executive power, such as government, public administration, ministries, president of the state, other bodies and committees composed of executive power members etc. If you select executive power, please specify in the comment area which particular body/institution of the executive power is competent. The list of institutions is not exhaustive, so if your system puts some other body in charge for the entry procedure please select "other body" and provide explanation in the comment area

##### **Questions 133 and 134 (Questions 113 and 113-1 of the CEPEJ Questionnaire)**

Regarding the promotion criteria for judges, it is necessary to refer to Opinion No. 17 (2014) of the Consultative Council of European Judges (CCJE)<sup>1</sup> on the evaluation of judges' work, the quality of justice and respect for the judicial independence.

A promotion should be understood as a procedure of upgrading the rank and/or salary following an application. An automatic promotion, automatic salary increases as well as redistribution of competences are not in the scope of this question.

"Previous individual evaluations" should be understood same as evaluations in Question 76 (Question 114 CEPEJ Questionnaire).

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<sup>1</sup> <https://rm.coe.int/16807481ea>



The details of the promotion procedure should be specified in the comment, namely how it is organised from application to appointment. It should also be explained how the publicity of this process is ensured, for example are vacancies publicly announced, are criteria used transparent, are lists with rankings published etc.

### **Questions 135 and 136**

Those questions examine if a decision on promotion can be appealed. If the answer is positive, please indicate which institution is competent to decide on appeal in the following question. If you select executive power, please specify in the comment area which particular body/institution of the executive power is competent. The list of institutions is not exhaustive, so if some other body is in charge for the entry procedure in your system please select “other body” and provide explanation in the comment area.

### **For prosecutors**

#### **Question 137**

In this question please select the institution that decides which prosecutors will be promoted. Please note that term “executive” includes all the institutions and bodies that belong to executive power, such as government, public administration, ministries, president of the state, other bodies and committees composed of executive power members etc. The list of institutions is not exhaustive, so if your system puts some other body in charge for the procedure of promotion please select “other body” and provide explanation in the comment area.

#### **Questions 138 and 139 (Questions 119 and 119-2 CEPEJ Questionnaire)**

A promotion should be understood as a procedure of upgrading the rank and/or salary following an application. An automatic promotion, automatic salary increases as well as redistribution of competences are not in the scope of this question.

“Previous individual evaluations” should be understood same as evaluations in Question 80 (Question 120 CEPEJ Questionnaire).

The details of the promotion procedure should be specified in the comment, namely how it is organised from application to appointment. It should also be explained how the publicity of this process is ensured, for example are vacancies publicly announced, are criteria used transparent, are lists with rankings published etc.

### **Questions 140 and 141**

Those questions examine if a decision on promotion can be appealed. If the answer is positive, please indicate which institution is competent to decide on appeal in the following question. If you select executive power, please specify in the comment area which particular body/institution of the executive power is competent. The list of institutions is not exhaustive, so if some other body is in charge for the entry procedure in your system please select “other body” and provide explanation in the comment area.

### ***Indicator 7 Training***

### ***Indicator 7.1 Training***

#### **Question 142 (Question 131-0 of the CEPEJ Questionnaire)**

This question only concerns beneficiaries that have public bodies specifically entrusted with the training of judges and/or public prosecutors (judicial training schools, centres, academies). The professions can be trained together (in a single institution) or separately. Training can be only initial, only continuous (in-service) or both initial and continuous (in-service). Several institutions can therefore co-exist, or one may offer all types of training.

Only the implemented budget of these public bodies/institutions for the reference year should be provided. This figure should not include the total public budget for the training of judges and prosecutors (in particular, if part of the training is financed by the court/public prosecution services or provided by a university or private institutes). In case the budget of the public training institution includes both public state budget and substantial donor support (i.e., for beneficiaries in the process of EU integration), please also include in the implemented budget the amount funded by the donors and specify in the comment.

**Please note that all amounts used for financing budget(s) in this question should be included irrespective of which ministry or institution is the source of financing.**

Most of the systems define a financial year from 1 January to 31 December which matches the CEPEJ reference year. Exceptionally, some countries have a financial year that does not match the calendar year (for example from 1 April of one calendar year to the 31 March of the next year). In this case, the fiscal year which overlaps more with the CEPEJ reference year should be used (in the given example it would be the fiscal year that starts on 1 April of the CEPEJ reference year) and the situation should be explained in the comments.

**The total budget of these institutions allocated for training must not be indicated under question 4 (Q6 of the CEPEJ Questionnaire) or question 6 (Q13 of the CEPEJ Questionnaire) and should only be reported here.**

#### **Questions 143 and 144 (Questions 127 and 129 of the CEPEJ Questionnaire)**

These questions aim to better understand the types of training offered to judges and public prosecutors. For example, initial training might be compulsory, or it may be optional. On the other hand, it is possible that training in certain categories is not at all organised within the judiciary of a country, in which case please choose the option “no training proposed”.

“Compulsory” training shall be understood as a training which is set as a precondition/condition to perform certain judicial tasks. If a dual system exists (i.e. training is compulsory for certain categories of judges and not for others), please select the option which most accurately describes the system in general and give an explanation and/or exceptions within the general comments section.

“Initial training” includes all trainings at the beginning of a career aimed at providing fundamental theoretical and practical knowledge and skills for performing a function of a judge/public prosecutor. Depending on the system, the initial training can be organised after the appointment (for already appointed judges/public prosecutors) or before the appointment (for candidate judges/public prosecutors). In some systems, successful finalisation of the initial training is a requirement for applying to a position of a judge/public prosecutor.

“General in-service training” includes all training topics of general nature offered in the annual in-service training calendar/programme to judges and public prosecutors.

“In-service training for specialised judicial functions” refers to trainings organised on specific areas of law for which judges/prosecutors are required to have some specialised knowledge and skills (for example judge for commercial or administrative matters, juvenile judges, judges for family cases, judges for bankruptcy, public prosecutors for working on cases of organised crime and any other specialised judicial function that may exist in your system).

“In-service training for management functions” is training provided to court presidents/managers and heads of prosecution offices or other management functions in the courts and prosecution offices. All training topics dealing with management (budget and human resources), leadership, public relation and alike, shall be understood under management training.

“In service training for the use of computer facilities in courts” besides the basic computer use training, also includes training on applications used by the judiciary like case management system and other.

“In-service training on ethics” should address standards and norms that prescribe how judges/prosecutors should conduct in order to maintain independence and impartiality, as well as to avoid impropriety.

“In-service training on child-friendly justice” relates to all trainings aimed at improving judges’ and public prosecutors’ knowledge and competences to handle cases involving minors, including training on children’s rights and children’s access to justice, as well as on how to communicate with children participating in proceedings adapted to the age and maturity of the child.

“In-service training on gender equality” refers to any trainings that increase knowledge of judges and public prosecutors on the issues relating to inequalities or discrimination based on gender.

#### **Questions 143-1 and 144-1**

This question pertains solely to in-service trainings that are specifically designed for the prevention of corruption and conflict of interest. Please select the “compulsory” option if these courses are mandatory for all judges or prosecutors without exception. If, however, these courses are mandatory for only specific judges or prosecutors and not for

everyone, please select "optional" and provide an explanation in the comment section clarifying the criteria or circumstances under which they are mandatory.

#### **Questions 145 and 146** ([Questions 128 and 130 of the CEPEJ Questionnaire](#))

These two questions refer to the frequency of the trainings specified as in Q143 and Q144 for judges and public prosecutors. Therefore, whatever has been explained about the training specificities above, applies to these questions too.

“Regularly” means that the training is carried out in regular cycles already defined in the programme. The cycle could be every year, or different frequency.

“Occasional” means on an ad-hoc basis: the training is organised because of its relevance at this point of time, but it is not repeated in regular cycles.

#### **Question 146-1** ([Questions 128-1 and 130-1 of the CEPEJ Questionnaire](#))

Please indicate here data on minimum number of compulsory trainings and/or minimum days of compulsory trainings. In some countries, compulsory trainings might be fixed by a minimum number of trainings to be attended by judges and prosecutors or by minimum training days to be met by judges and prosecutors. If mandatory trainings are imposed only to some categories of judges/prosecutors and not to others, this should be noted in the comment section.

“Initial training” includes all trainings at the beginning of a career aimed at providing fundamental theoretical and practical knowledge and skills for performing a function of a judge/public prosecutor. Depending on the system, the initial training can be organised after the appointment (in-service training for already appointed judges/public prosecutors) or before the appointment (for candidate judges/public prosecutors). In some systems, successful finalisation of the initial training is a requirement for applying to a position of a judge/public prosecutor.

In the case of initial training, the total number of the initial trainings and/or days should be included in the initial training programme. If there are different recruitment procedures for judges/prosecutors in your country, involving different training programmes, please indicate this in the comments; the answer in the table should correspond to the training requirements for the main recruitment procedure.

For the in-service training the minimum number of trainings and/or days per year should be provided. If the minimum number of trainings and/or days per year are progressively decreasing with increasing seniority, the number at the beginning of career should be entered, and it should be specified in the comment.

#### **Question 147** ([Question 131-2 of the CEPEJ Questionnaire](#))

This question aims to gather information on the quantity of trainings provided by all public institution(s) responsible for trainings within the reference year.

Columns 1, 2, 3:

“A live” training shall be understood as a training conducted in real time. This means that both trainers and participants are physically present in one location or several locations assisted with information technology (digital tools). The communication and collaboration happen in real time in the same or different place, similarly like synchronous training. All different versions of live trainings, such as in-person (face-to-face), hybrid and videocall trainings should be included in these three columns. The most important characteristic for these trainings is that they take place in real time (live).

The available trainings should reflect different training topics/courses that are offered by the institution(s) planned in their annual calendar, whilst delivered trainings should give the number of implemented/organized trainings.

The first column requires “number of different available live trainings”, while the second “number of delivered live trainings” that includes all repetitions of the trainings of the first column during the reference year. If a live training course is organised more than once within the reference year on a particular subject, each course repetition should be counted in this second column.

In the third column (Number of days of delivered live trainings) the trainings specified in the second column should be quantified in days. A training day shall be understood as one working day. Please include also half-day trainings as half-days in your calculation. Therefore, if a training lasts for two half-days, please calculate as one.

Therefore, a 3-day training which was delivered 10 times during the reference year should be reported as follows: 1 training in the first column ("Number of different available live trainings"), 10 trainings in the second column ("Number of delivered live trainings") and 30 delivered training days in the third column ("Number of days of delivered live trainings").

#### Column 4

"Internet-based" trainings are all trainings that take place over internet, irrespective of the format of the training (such as trainings via specifically designed LMS - Learning Management System platforms, webinars, podcasts and other forms of downloadable lectures and self-learning digital tools). The internet-based training shall be understood as e-training that is implemented according to participant own pace and time of training. Important difference with the trainings of the first 3 columns is that these trainings are not organised in real time (live) and can be used/downloaded by users/participants at any time. These trainings could also be classified as asynchronous e-learning tools.

If a training is organised for more than one category of participants (for example a joint training for judges and prosecutors), it should be counted under each concerned category of participants (as one training for judges and one training for prosecutors). However, it should be counted as 1 training in the total. Consequently, in this question the total doesn't have to be equal to the sum of the sub-categories of participants (vertical consistency is not required).

#### **Question 147-1** ([Question 131-3 of the CEPEJ Questionnaire](#))

Please apply the same interpretation as in Q147 regarding the definition of different training formats when counting the participations to the trainings.

Namely, in the first column (Number of participants in live trainings) only participants in real-time trainings should be counted, corresponding to second column of Q147.

In the second column, the number of participants in internet-based trainings provided by training institutions should be counted.

In case the same person participated in several trainings, please count each of his/her participations.

#### **Question 147-2**

"Unique participants" in this questionnaire shall be understood as number of different persons attending a training. For instance, if a participant attended different trainings in one year, he/she should be counted only once. The aim is to count how many individuals were trained during the reference year.

#### **Question 147-3**

In this Question should be counted the number of "internet-based" trainings completed on other e-learning platforms (HELP, EJTN, UN...), and the number of participants.

These trainings are not organised in real time (live) and can be used/downloaded by users/participants at any time. These trainings could also be classified as asynchronous e-learning tools.

#### **Question 148 and 149**

In-service training includes various forms of trainings provided during the judges'/prosecutors' mandate. The term sanction should be understood in the broadest sense possible, such as a fine, loss in echelon, delay in the ability to apply for promotion, etc.

Compulsory training should be understood as a training that judges/prosecutors are mandatory required to attend by a law/regulation (for example mandatory training for adjudicating cases that involve minors in some countries).

This question refers only to the compulsory trainings that were dedicated exclusively to prevention of corruption and conflict of interest, even if a training addressed only one of these two areas.

If the same training(s) included both judges and prosecutors as participants, please tick both boxes and provide explanation in the comment area.

## The Question 153 (Question 59-1 of the CEPEJ Questionnaire)

In this question, please select the reply “Yes” if general trainings (initial or continuous) for prosecutors are available to address crimes relating to domestic violence on one side, and sexual violence on the other. Furthermore, if such trainings exist in your system and, they are specifically designed for minor victims, please select “Yes, specifically for minor victims”. If both general trainings and specific ones for minors exist, please select both affirmative answers (“Yes” and “Yes, specifically for minor victims”). These answers will help evaluate how different judicial systems take these issues into account.

### **Indicator 7.2 Training in EU Law**

#### **Questions 154, 154-1, 155, and 155-1**

For these four questions, please apply the relevant explanations that are given for Q147 and Q147-1.

For Q154 and Q155, please look at the explanation on the different formats of training that is provided in the Q147.

For Q154-1 and Q155-1 on number of participants, please look at the explanation provided in Q147-1

Also, for the second column in Q154-1 and Q155-1, please also look at the explanation given about “unique participant” under Q147-2.

### **Indicator 7.3 Quality of judicial training**

Questions under the indicator 7.3 “Quality of judicial training” refer/apply only to in-service trainings.

#### **Questions 155-2 and 155-3**

These two questions are related to the process of identifying future training needs. If the data for the training needs assessment (TNA) use other sources of information than the ones given as options, please provide this information in the comments section.

“Frequency of assessing future training needs” shall be understood as the frequency of conducting a “comprehensive training needs assessment (TNA)”. A comprehensive TNA includes the use of at least five quantitative and qualitative research methods, as mentioned under Q155-2.

#### **Questions 155-4, 155-5, 155-6, and 155-7**

The last four questions under the training indicator deal with the impact of trainings or training evaluation.

Q155-4 asks whether an institutionalised system for training evaluation exists or not, i.e. whether a system of training evaluation is regulated, embedded, and implemented or not.

In case the evaluation system is embedded within training institution, Q155-5 asks which training evaluation model is used. The most common training evaluation model (Kirkpatrick) is listed. If other models are used, second or the third option should be ticked, and an explanation should be provided in the comment.

Q155-6 deals with frequency of the evaluation of each training. Multiple answers are possible. In case different trainings have different frequency of the evaluation or if an evaluation of the overall in-service training programme is conducted, this should be mentioned in the comment.

Q155-7 asks the use of the result obtained through the training evaluation process. The answer should be based on the existing experiences rather than on the theoretical possibilities that might appear as a result of evaluation.

Multiple answers are possible, and if the result is different than options given it should be noted under “other” and/or in the comments part.

### **Indicator 8 Accountability and processes affecting public trust**

#### **Indicator 8.1 Confidence and satisfaction of citizens with their justice system**

#### **Question 156** ([Question 37 of the CEPEJ Questionnaire](#))

This question refers to the existence of a procedure which enables users of the justice system to request and obtain a financial compensation in case of malfunctioning of the judicial system (e.g. excessive length of proceedings, non-execution of court decisions, wrongful arrest/detention/conviction or other grounds such as lack of impartiality of a judge or prosecutor etc.). The users' complaints that do not result in a financial compensation should not be included in the reply to this question.

"Excessive length of proceedings" refers to a situation where parties' right to have a trial within reasonable time had been violated.

"Non-execution of court decisions" can refer for example to:

- a situation where the execution is delayed for very long and it is no longer of significance for the party or the substantial damages were taken due to delay,
- cases when execution is denied (for any reason) by the competent authority.

"Wrongful arrest/detention" refers to a situation where a person who was deprived of his/her liberty by arrest or detention requires compensation because his/her arrest/detention was deemed to be in contravention of the law.

"Wrongful conviction" refers to a situation when a person has by a final decision been convicted of a criminal offence and when subsequently it was conclusively shown (for example by the newly discovered facts) that there has been a miscarriage of justice.

The question distinguishes between the number of requests for compensation submitted to the relevant authorities, the number of compensations granted, and the total amount of the compensations granted (in euro).

#### **Question 156-1** ([Question 37-1 of the CEPEJ Questionnaire](#))

This question asks for more details in respect of the authority responsible for receiving and approving/rejecting the request for compensation and if this authority is bound by a legal time limit when dealing with the request. The comment can include any other useful information on the compensation system (e.g. its efficiency, the existence of other possible outcomes of the procedure, etc.).

#### **Question 160** ([Question 85 of the CEPEJ Questionnaire](#))

This question aims to provide information on procedures which allow guaranteeing for the court users that the principle of judges' impartiality is respected, in accordance with Article 6 of the European Convention on Human Rights.

#### **Question 161** ([Question 85-1 of the CEPEJ Questionnaire](#))

If you answered Yes in the Question 85, please indicate separately the total number of initiated recusal procedures and the total number of recusals pronounced within the reference year.

The numbers in these questions, both initiated procedures and recusals pronounced, should relate only to the recusal procedures initiated by the parties and exclude procedures in which a judge recused himself/herself.

#### **Question 162-0** ([Question 115 of the CEPEJ Questionnaire](#))

This question should provide information on the status of public prosecution, which may vary fundamentally from one member state to another.

Please select one of the offered answers which reflects the status of public prosecution services in your system:

"Has an independent status as a separate entity among state institutions" – public prosecution could not be considered a part of any of the three branches of power but represents a separate entity with full independence.

"Is part of the executive power but enjoys functional independence" – public prosecution is within the executive power but has some guarantees that ensure certain level of functional independence; please describe in the comment the extent and guarantees of this independence.

“Is part of the executive power (without functional independence)” – public prosecution is within the executive power without any guarantees of its functional independence.

“Is part of the judicial power but enjoys functional independence” - public prosecution is within the judicial power but has some guarantees that ensure a certain level of functional independence; please describe in the comment the extent and guarantees of this independence.

“Is part of the judicial power (without functional independence)” - public prosecution is a part of the judicial power without any guarantees of its functional independence.

“Is a mixed model” – all the systems that combine elements of at least two models mentioned above should select this option and explain its characteristics in the comment.

“Has other status” – if public prosecution has a status that cannot be described by any of the offered answers, please select this option and explain the system in the comment box.

In addition, if public prosecution enjoys certain level of independence, please provide more details in the comment and specify in particular objective guarantees of this independence. Furthermore, please explain if these guarantees are provided for by the Constitution, laws, or some other regulation.

For definitions, principles and terminology please refer to the CCPE Opinion No.9 (2014) on European norms and principles concerning prosecutors.<sup>2</sup>

#### **Question 162** (Question 115-1 of the CEPEJ Questionnaire)

This question aims to explore how public prosecutors are independent from influences in prosecuting individual cases. The question asks specifically if there is legislation or regulation to prevent these specific instructions.

Public prosecutors can be subject to instructions of general nature, to specific instructions on given cases or are not subject to any instructions.

If the government or other institution can issue general regulations but must not give directions in specific cases please specify “Yes” and explain in more detail the status.

#### **Question 162-1** (Question 115-2 of the CEPEJ Questionnaire)

Irrespective of the general norm that prevents specific instructions, some systems provide exceptions in the laws and regulations that envisage the possibility of their issuance. If this is the case, the answer “Yes” should be selected and the exceptions should be listed and explained in the comment.

#### **Question 162-2-0** (Question 115-3 of the CEPEJ Questionnaire)

Please reply to this and following questions (162-2, 162-3, 162-4 and 162-5) in both situations when specific instructions are not prohibited (you replied “No” in Q162) or they are generally prohibited but exceptionally allowed (your replied “Yes” in question 162-1).

Under this question, it should be indicated which authorities can issue specific instructions and multiple replies are possible. “Executive power” includes all individuals, institutions and bodies that belong to this branch of power, such as government, public administration, ministries, president of the state, other bodies and committees composed of executive power members etc.

#### **Question 162-2** (Question 115-4 of the CEPEJ Questionnaire)

Some systems specifically require that instructions when they exist, take the written form exclusively. Other systems allow oral instructions with or without written confirmation. Depending on the required form in the laws/regulations, the adequate reply should be selected. If no specific form is required, please select “Other” and explain in the comment.

#### **Question 162-3** (Question 115-5 of the CEPEJ Questionnaire)

In order to understand better the nature and characteristics of the specific instructions, please select one or more different replies.

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<sup>2</sup> <https://rm.coe.int/168074738b>

Issued seeking prior advice from the competent public prosecutor” should be selected if the instructions can be issued by an authority only after obtaining a written advice on the matter from a competent public prosecutor.

“Mandatory” means that a prosecutor is not allowed to depart from the instruction or might be held responsible if he/she does.

“Reasoned” refers to a situation where the authority has to explain its written instructions, especially when they deviate from the competent public prosecutor’s advices and to transmit them through the hierarchical channels.

“Recorded in the case file” is an option that should be selected when the advice and the instructions become part of the file so that the other parties may take cognisance of it and make comments.

#### **Question 162-4** ([Question 115-6 of the CEPEJ Questionnaire](#))

The frequency of the specific instructions might provide relevant information on their use in practice which might indicate the level of prosecutors’ independence in their work.

“Exceptional” means that specific instructions generally do not exist in the system but are allowed and can be issued in rare situations.

“Occasional” means that specific instructions exist in the system and are issued from time to time.

“Frequent” means that specific instructions exist in the system and are issued often.

“Systematic” means that specific instructions exist in the system and are issued regularly as part of the everyday work in processing cases.

Please provide more details in the comment.

#### **Question 162-5** ([Question 115-7 of the CEPEJ Questionnaire](#))

If prosecutors are allowed to oppose a specific instruction and report it to an independent body, please provide more details in the comment by specifying what is the body in charge for such reports and what are its competences. Furthermore, it should be described what are the conditions that have to be fulfilled for a prosecutor to oppose/report specific instruction.

#### **Question 163** ([Question 31 of the CEPEJ Questionnaire](#))

This question aims to learn how states protect the groups of people who are particularly vulnerable in judicial proceedings.

It does not concern the police investigation phase of the procedure nor compensation mechanisms for the victims of criminal offences.

Definitions of different categories of offences (sexual violence/rape, terrorism, domestic violence etc.), should be in accordance with national legislation of each state.

*Ethnic minorities* must be addressed in line with the Council of Europe’s framework convention for the protection of national minorities (CETS N° 157). It does not concern foreigners involved in a judicial procedure. Special measures for these groups can be, for instance: language assistance during court proceedings or special measures to protect the right to a fair trial and to avoid discrimination.

Persons with disabilities must be addressed in line with the UN Convention on the Rights of Persons with Disabilities and its Optional Protocol ([A/RES/61/106](#)) which was adopted on 13 December 2006.

*Information mechanisms* might include, for instance:

- a public, free of charge and personalised information mechanism, operated by the police or the justice system, which enables the victims of criminal offences to get information on the follow-up to the complaints they have launched;
- the obligation to inform beforehand the victim of sexual violence/rape, in case of the release of the offender;
- the obligation of the judge to inform the victims of all his/her rights.



*Special arrangements in court hearings* might include, for instance,

- the possibility for a minor to have his/her first declaration recorded so that he/she does not have to repeat it in further steps of the proceedings;
- live audio or videoconferencing of the hearing of a vulnerable person so he/she is not obliged to appear before the accused;
- in camera hearing, excluding the public, of a victim of sexual violence/rape;
- the obligation (or the right to request) that statements of a vulnerable person (e.g. minor) are made in the presence of a probation counsellor;
- the testimony of minors under 16 cannot be received under oath.

The *other specific modalities* can consist in, for instance,

- the possibility of an *in camera* proceeding, excluding the public;
- the language assistance during a court proceeding for ethnic minorities or disabled persons;
- the obligation to hear the opinion of an association protecting the interest of a minor accused of a crime;
- the right for a woman who is a victim of family violence to enjoy the use of the common house;
- the physical protection during the time of the judicial proceeding;
- the right of an association protecting and defending the interest of a group of vulnerable person to exercise the civil rights granted to the plaintiff;
- the prohibition on publishing personal details and photographs of minor defendants and witnesses.

### **Indicator 8.2 Promotion of integrity and prevention of corruption**

Terms in this section should be in line with CCJE Opinion No.21 (2018) Preventing corruption among judges and GRECO Fourth Round Evaluation Reports

The Group of States against Corruption (GRECO) works following evaluation rounds, each dealing with different aspects of the prevention and the fight against corruption. GRECO's Fourth Evaluation Round is dedicated to prevention of corruption among members of parliament, judges and prosecutors and is therefore relevant for this CEPEJ questionnaire in parts that concern judges and prosecutors. Each GRECO member state received a tailor-made set of recommendations in GRECO's Evaluation Report. All the beneficiaries of this project received these recommendations too, except Kosovo which is not a member of GRECO. The level of implementation by the country with each individual recommendation (fully, partly or not implemented) is then assessed in a series of compliance reports, adopted by GRECO at regular intervals until the country has reached an acceptable global level of implementation. The compliance procedure is then closed for that evaluation round. Compliance procedures are currently on-going for all beneficiary countries and GRECO's evaluation and compliance reports should be taken into account when answering relevant questions of this questionnaire. All adopted and public reports are available at [www.coe.int/greco](http://www.coe.int/greco). The list of GRECO country representatives which may be contacted for more detailed information is available at <https://www.coe.int/en/web/greco/structure/member-and-observers>.

#### **Question 164**

Guarantees of the independence of judges might be found in different laws/regulations. Their position in the hierarchy of legal norms vary from system to system. Please indicate where these provisions are prescribed in your legal system. You may select one or more options.

Constitution is the highest law in a state.

Special law refers to the laws that govern status of judges, such as special law on judges or sometimes law on judicial councils.

Bylaws should be understood as different rules and regulations that are positioned below the laws in hierarchy of norms.

#### **Question 166**

Guarantees of the independence of prosecutors might be found in different laws/regulations. Their position in the hierarchy of legal norms vary from system to system. Please indicate where these provisions are prescribed in your legal system. You may select one or more options.

Constitution is the highest law in a state.

Special law refers to the laws that govern status of judges, such as special law on judges or sometimes law on judicial councils.

Bylaws should be understood as different rules and regulations that are positioned below the laws in hierarchy of norms.

### **Question 168, 169 and 170**

Breaches of integrity should be understood in a broader sense and capture all infringements of criminal and disciplinary rules. The questions refer to the infringements committed both in professional capacity and private life of judges/prosecutors. All sanctions prescribed in the system should be provided irrespective of where they have been envisaged.

### **Question 171**

This question focuses only on criminal cases related to the breaches of integrity (such as receiving a bribe or abuse of position). The disciplinary cases concerning breaches of integrity should be addressed in questions 236/237 and 246/247.

Number of sanctions pronounced should include all convictions – courts' decisions by which a defendant was found guilty.

For the purpose of this question, the following definitions should be used:

INITIATED CASE - a case is considered initiated at the moment of submitting a case to the first instance court (a preliminary or investigative procedure should not be counted).

COMPLETED CASE should include all the procedures which have come to an end, either through a judgment or through any other decision which ended the procedure. Only final decisions (legal remedies have not been used or have been exhausted) should be considered.

### **Questions 172 and 174**

Code of ethics should be understood as a set of rules based on moral principles and accepted values that regulate conduct for judges/prosecutors in both professional capacity and private life.

### **Question 172-0**

Measures to prevent corruption are all the measures and tools that are put in place to prevent corruption risk in the judiciary. Measures of prevention can include drawing a risk map, strengthening the internal control function, implementing mandatory staff rotation, establishing safe complaints mechanisms (e.g. whistleblowing), adopting codes of conducts, defining specific policies and rules regarding gifts.

### **Questions 176 to 181-1 ([Questions 138 to 138-5-1 of the CEPEJ Questionnaire](#))**

These questions related to institutions / bodies giving guidelines and /or opinions on ethical questions of the conduct of judges / public prosecutors (in some States and entities they are referred to as codes of conduct, principle of conduct and similar) aim to explore in more detail the institutional capacities of beneficiaries to deal with issues of ethics within the judiciary.

Such a body might be, for example, a separate institution, High Judicial Council or a commission within this institution, or it may take some other form. Such a body may be addressed regarding contentious ethical issues, and it might render opinions of various strengths.

The opinions of these bodies may be considered publicly available if they are published on a website, circulated among judges and public prosecutors, published in the "official gazette" or journal, etc.

The important aspect to evaluate the activity of these bodies is to examine if they issue their guidelines/opinions regularly. For this reason, it is important to indicate how many guidelines/opinions were issued during the reference year. Please also specify in the comment the topics that were addressed in these guidelines/opinions.

### **Question 182**

Please describe all available mechanisms to report attempts on influence/corruption on judges and prosecutors, opened to judges and prosecutors themselves and/or to lawyers, parties, court users, court employees, general public and so on.

#### **Question 183**

In this question, the term transparency refers to the method used for distribution of court cases that is set in advance and known to parties, attorneys and general public.

#### **Question 184**

**Automatic allocation** - there is a predefined list of judges and cases are distributed one by one following the order on the list.

**Random allocation** - cases are distributed randomly by computer algorithm.

**Specific allocation for priority cases** – please select this option if there are rules particularly envisaged for allocation of priority cases (e.g. cases involving detention, cases involving minors etc.) as an exception to the general method of allocation.

**Possibility to exclude a judge from the allocation** – there are different situations that could exclude a judge from the allocation of cases (such as large workload, absence from work, recusal etc.); if such specific possibility is prescribed in your system, please select this option and provide details.

**All interventions in the system irreversibly logged/registered** – to ensure respect for the rules and transparency in distribution of cases, some judiciaries require that any alterations in the established system for allocation of cases are registered (in case management system or different registries). Please select this option if your system envisages such possibility.

#### **Question 186**

Please select “Yes” if reasoned decision of any form is required to reassign case in your system.

#### **Question 189**

This question aims at examining the level of implementation of the recommendations given by GRECO to the country concerned in its Evaluation report within the framework of the 4<sup>th</sup> cycle of evaluation concerning the prevention of corruption. Although this GRECO evaluation relates to members of parliament, judges and prosecutors, for the purposes of this questionnaire, the answer should be limited only to the points concerning judges and prosecutors.

It is important to note that this question should be answered by the CEPEJ/GRECO staff, not the CEPEJ correspondents.

### **Indicator 8.3 Declaration of assets**

Terms in this section should be in line with CCJE Opinion No.21 (2018) Preventing corruption among judges and GRECO Fourth Round Evaluation Reports

The Group of States against Corruption (GRECO) works following evaluation rounds, each dealing with different aspects of the prevention and the fight against corruption. GRECO's Fourth Evaluation Round is dedicated to prevention of corruption among members of parliament, judges and prosecutors and is therefore relevant for this CEPEJ questionnaire in parts that concern judges and prosecutors. Each GRECO member state received a tailor-made set of recommendations in GRECO's Evaluation Report. All the beneficiaries of this project received these recommendations too, except Kosovo which is not a member of GRECO. The level of implementation by the country with each individual recommendation (fully, partly or not implemented) is then assessed in a series of compliance reports, adopted by GRECO at regular intervals until the country has reached an acceptable global level of implementation. The compliance procedure is then closed for that evaluation round. Compliance procedures are currently on-going for all beneficiary countries and GRECO's evaluation and compliance reports should be taken into account when answering relevant questions of this questionnaire. All adopted and public reports are available at [www.coe.int/greco](http://www.coe.int/greco). The list of GRECO country representatives which may be contacted for more detailed information is available at <https://www.coe.int/en/web/greco/structure/member-and-observers>.

#### **For judges**

### Question 190

Declaration of assets as a mandatory duty for all judges/prosecutors is a common practice in some judiciaries, and it is envisaged as an anti-corruptive mechanism.

The offered list of laws and regulations under this question refers to some of the common possibilities encountered in different judiciary systems. The list is not exhaustive, so if your system prescribes obligation to declare assets in some other laws or regulations, please select “other” and specify in the comment area.

### Question 192

Many systems provide a predefined form for declaration of assets that should be filled in by judges and submitted to a competent authority. If this is the case, please attach the form.

### Question 193

**assets**– the judges/prosecutors report on their properties (including real estates, vehicles, boats etc.).

**financial interests** - such as savings, equity, stocks, stock options, bonds, notes, intellectual property rights and the like.

**sources of income** – this includes salaries but also income generated from properties, such as renting out real estate, income from investments or income generated from intellectual property rights etc.

**liabilities** – this includes loans, debts etc.

**gifts** – presents above certain value received by judges/prosecutors.

**others** – please specify in the side comment area if there are other items that should be declared. This may include accessory activities (e.g. consultancy) in the public or private sector, remunerated or not, offers and agreements for any such future activities, or any other interest of relationship that may or does create a conflict of interest.

### Question 194

The duty to declare assets might apply at the beginning and at the end of the term of office. Some systems also envisage an obligation for a judge/prosecutor to declare any significant changes in their reported assets, such as declaration of purchasing a new real estate. If your system requires annual declarations, please specify under “other”.

### Question 195

Many systems require judges/prosecutors to declare the assets of their family members and precisely define the circle of the family members that fall under the scope of this norm.

### Question 196

This question aims to examine if the same rules for declaration of assets apply to judges’ family members in terms of items to be declared, moment of declaration etc.

### Question 201

“Other criminal sanction” includes all sanctions pronounced, including those in misdemeanour proceedings.

### For Prosecutors

### Questions 202 and 215

For the purpose of those questions, the following definitions should be used:

INITIATED CASE is a case received by an authority competent for conducting proceedings and pronouncing a sanction (e.g., High Judicial Council, disciplinary committee for judges or similar body). Only first instance cases submitted for the first time should be counted. A case is considered initiated at the moment of submitting a case to the first instance competent authority (a preliminary or investigative procedure where another authority receives notices, gathers evidence and/or decides to submit the case to the competent authority or not, should not be counted).

COMPLETED CASE should include all the procedures which have come to an end, either through a judgment, disciplinary decision or through any other decision which ended the procedure. Only final decisions (legal remedies have not been used or have been exhausted) should be considered.

### Question 203

Declaration of assets as a mandatory duty for all judges/prosecutors is a common practice in some judiciaries, and it is envisaged as an anti-corruptive mechanism.

The offered list of laws and regulations under this question refers to some of the common possibilities encountered in different judiciary systems. The list is not exhaustive, so if your system prescribes obligation to declare assets in some other laws or regulations, please select “other” and specify in the comment area.

### Question 205

Many systems provide a predefined form for declaration of assets that should be filled in by prosecutors and submitted to a competent authority. If this is the case, please attach the form.

### Question 206

**assets**– the judges/prosecutors report on their properties (including real estates, vehicles, boats etc.).

**financial interests** - such as savings, equity, stocks, stock options, bonds, notes, intellectual property rights and the like.

**sources of income** – this includes salaries but also income generated from properties, such as renting out real estate, income from investments or income generated from intellectual property rights etc.

**liabilities** – this includes loans, debts etc.

**gifts** – presents above certain value received by judges/prosecutors.

**others** – please specify in the side comment area if there are other items that should be declared. This may include accessory activities (e.g. consultancy) in the public or private sector, remunerated or not, offers and agreements for any such future activities, or any other interest of relationship that may or does create a conflict of interest.

### Question 207

The duty to declare assets might apply at the beginning and at the end of the term of office. Some systems also envisage an obligation for a judge/prosecutor to declare any significant changes in their reported assets, such as declaration of purchasing a new real estate. If your system requires annual declarations, please specify under “other”.

### Question 208

Many systems require judges/prosecutors to declare the assets of their family members and precisely define the circle of the family members that fall under the scope of this norm.

### Question 209

This question aims to examine if the same rules for declaration of assets apply to public prosecutors’ family members in terms of items to be declared, moment of declaration etc.

### Question 214

“Other criminal sanction” includes all sanctions pronounced, including those in misdemeanour proceedings.

## **Indicator 8.4 Conflict of interests**

Terms in this section should be in line with CCJE Opinion No.21 (2018) Preventing corruption among judges and GRECO Fourth Round Evaluation Reports

The Group of States against Corruption (GRECO) works following evaluation rounds, each dealing with different aspects of the prevention and the fight against corruption. GRECO’s Fourth Evaluation Round is dedicated to prevention of corruption among members of parliament, judges and prosecutors and is therefore relevant for this

CEPEJ questionnaire in parts that concern judges and prosecutors. Each GRECO member state received a tailor-made set of recommendations in GRECO's Evaluation Report. All the beneficiaries of this project received these recommendations too, except Kosovo which is not a member of GRECO. The level of implementation by the country with each individual recommendation (fully, partly or not implemented) is then assessed in a series of compliance reports, adopted by GRECO at regular intervals until the country has reached an acceptable global level of implementation. The compliance procedure is then closed for that evaluation round. Compliance procedures are currently on-going for all beneficiary countries and GRECO's evaluation and compliance reports should be taken into account when answering relevant questions of this questionnaire. All adopted and public reports are available at [www.coe.int/greco](http://www.coe.int/greco). The list of GRECO country representatives which may be contacted for more detailed information is available at <https://www.coe.int/en/web/greco/structure/member-and-observers>.

## **For judges**

### **Question 216**

When answering this question, please try to provide the full picture in the area of conflicts of interests by capturing all the relevant norms from different law(s)/regulation(s) that concern conflict of interests. The conflict of interest should be understood as any situation in which the official has an interest that affects or may affect the impartial exercise of his public powers or official duties.

### **Question 217**

Any acceptance of a gift by a judge in relation to the performance of his/her judicial duties is likely to give rise to a perception of undue influence. This is why most member states have rules, for example, on the acceptance of gifts and other benefits by judges (and other public officials) within the exercise of their profession. Low (objective) value thresholds, on the one hand, and the definition of what is acceptable hospitality, on the other, can give the judges clear and understandable guidance, especially when combined with recommendations on how to proceed when an improper gift has been given. CCJE Opinion No.21 (2018) Preventing corruption among judges. Conflicts of interest may also occur due to other reasons, such as the exercise of accessory activities, links with a party to a case etc.

### **Question 218 (Question 135 of the CEPEJ Questionnaire)**

*Teaching* includes for instance practising as a University professor, participating in conferences, participating in educational activities in schools, etc.

*Research and publication* include, for instance, publishing articles in newspapers, scientific and legal journals, on-line blogs, etc. Participating in working groups for drafting of legal norms should also be understood within this category.

*Cultural function* includes, for instance, performing in concerts and theatre plays, selling his/her own paintings, etc.

### **Question 219**

The specific nature of the judicial function and the need to maintain the dignity of the office and protect judges from all kinds of pressures mean that judges should behave in such way as to avoid conflicts of interest or abuses of power. This requires judges to refrain from any professional activity that might divert them from their judicial responsibilities or cause them to exercise those responsibilities in a partial manner. In some states, incompatibilities with the function of judge are clearly defined by the judges' statute and members of the judiciary are forbidden from carrying out any professional or paid activity. Exceptions are made for educational, research, scientific, literary or artistic activities (CCJE Opinion No.3 (2002) on the principles and rules governing judges' professional conduct, in particular ethics, incompatible behaviour and impartiality).

Furthermore, some systems require judges to ask for an authorisation to perform these accessory activities. If judges have such obligation in your system, please select yes. If the duty to ask for an authorisation exists only in relation to some accessory activities, and not for all of them, please select yes and specify details in the comment area.

### **Question 221**

Judges might not be required to obtain prior authorisation to exercise an accessory activity, but they might be obliged to inform the hierarchy of the court, the High Judicial Council or another authority about these activities. In this way, the competent authorities will be enabled to keep track of possible risks to the conflicts of interest.

### **Question 222 and Question 223**

Given the variety of possible conflicts of interests, procedures for sanctioning breaches, as well as prescribed sanctions may be found in several laws. For examples, procedure/sanctions for failing to recuse oneself may be found in the criminal or civil procedure codes, procedure/sanction for failure to declare a conflict of interest in the law on the prevention of conflicts of interest, procedure/sanction for unauthorised exercise of an accessory activity in the code of ethics or the law on judges etc.

**law on the prevention of conflict of interests** – a special law that regulates only conflicts of interests and envisages procedure/sanctions for violations of those rules

**criminal procedure code** – the procedure/sanctions is regulated by the criminal procedure code

**civil procedure code** – the procedure/sanctions is regulated by the criminal procedure code

**code of ethics** – some violations of the rules that regulate conflicts of interests might be sanctioned under code of ethics that also provide a special procedure for those cases

**law on judges** – the laws which regulate status of judges sometimes also envisage procedure/sanctions for judges in cases of conflicts of interests

**law on the High Judicial Council** – the law which regulates status and competences of the High Judicial Council might also provide procedure/sanctions for judges in cases of conflicts of interests

**other, please specify** – if some other legal document prescribes rules of procedure/sanctions for judges in cases of conflict of interests please select this option.

#### **Question 224**

This question refers only to number of disciplinary, misdemeanour and criminal cases initiated/completed/sanctions pronounced against judges in a reference year. The number of procedures for recusal of an acting judge within civil or criminal proceedings should not be included under this question.

For the purpose of this question, the following definitions should be used:

**INITIATED CASE** is a case received by an authority competent for conducting proceedings and pronouncing a sanction (e.g. High Judicial Council, disciplinary committee for judges or similar body). Only first instance cases submitted for the first time should be counted. A case is considered initiated at the moment of submitting a case to the first instance competent authority (a preliminary or investigative procedure where another authority receives notices, gathers evidence and/or decides to submit the case to the competent authority or not, should not be counted).

**COMPLETED CASE** should include all the procedures which have come to an end, either through a judgment, disciplinary decision or through any other decision which ended the procedure. Only final decisions (legal remedies have not been used or have been exhausted) should be considered.

#### **For prosecutors**

#### **Questions 225 - 233**

All explanatory notes referring to the conflict of interest in the section for judges apply *mutatis mutandis* in this section.

#### **Question 225**

When answering this question, please try to provide the full picture in the area of conflicts of interests by capturing all the relevant norms from different law(s)/regulation(s) that concern conflict of interests. The conflict of interest should be understood as any situation in which the official has an interest that affects or may affect the impartial exercise of his public powers or official duties.

#### **Question 227 (Question 137 of the CEPEJ Questionnaire)**

*Teaching* includes for instance practising as a University professor, participating in conferences, participating in educational activities in schools, etc.

*Research and publication* include, for instance, publishing articles in newspapers, scientific and legal journals, on-line blogs, etc. Participating in working groups for drafting of legal norms should also be understood within this category.

*Cultural function* includes, for instance, performing in concerts and theatre plays, selling his/her own paintings, etc.

#### Question 228

Some systems require public prosecutors to ask for an authorisation to perform these accessory activities. If public prosecutors have such obligation in your system, please select yes. If the duty to ask for an authorisation exists only in relation to some accessory activities, and not for all of them, please select yes and specify details in the comment area.

#### Question 231

Public prosecutors might not be required to obtain prior authorisation to exercise an accessory activity, but they might be obliged to inform the hierarchy in the public prosecution, the High Judicial/Prosecutorial Council or another authority about these activities. In this way, the competent authorities will be enabled to keep track of possible risks to the conflicts of interest.

#### Question 231 and 232

Given the variety of possible conflicts of interests, procedures for sanctioning breaches, as well as prescribed sanctions, may be found in several laws. For examples, procedure/sanctions for failing to recuse oneself may be found in the criminal or civil procedure codes, procedure/sanction for failure to declare a conflict of interest in the law on the prevention of conflicts of interest, procedure/sanction for unauthorised exercise of an accessory activity in the code of ethics or the law on public prosecutors/public prosecution etc.

**law on the prevention of conflict of interests** – a special law that regulates only conflicts of interests and envisages procedure/sanctions for violations of those rules

**criminal procedure code** – the procedure/sanctions is regulated by the criminal procedure code

**civil procedure code** – the procedure/sanctions is regulated by the civil procedure code

**code of ethics** – some violations of the rules that regulate conflicts of interests might be sanctioned under code of ethics that also provide a special procedure for those cases

**law on public prosecutors/public prosecution** – the laws which regulate status of prosecutors sometimes also envisage procedure/sanctions for prosecutors in cases of conflicts of interests

**law on the High Judicial/Prosecutorial Council** – the law which regulates status and competences of the High Judicial Council might also provide procedure/sanctions for prosecutors in cases of conflicts of interests

**other, please specify** – if some other legal document prescribes rules of procedure/sanctions for prosecutors in cases of conflict of interests please select this option.

### Indicator 8.5 Discipline

#### Question 234 (Question 140 of the CEPEJ Questionnaire)

The body “authorised to initiate disciplinary proceedings” is the one that formally starts disciplinary proceedings by submitting an act to the authority in charge to decide on a disciplinary case. The act starting a proceeding could be a disciplinary lawsuit, disciplinary indictment or similar act. In some systems this can be a separate, autonomous body such as disciplinary prosecutor (not to be confused with public prosecutors in criminal proceedings), disciplinary office, disciplinary inspector and similar.

An “ombudsman” (also known as “ombudsperson”, “ombud”, or “public advocate”) is an official who is charged with representing the interests of the public by investigating and addressing complaints of maladministration or a violation of rights. The ombudsman is usually appointed by the government or by parliament, but with a significant degree of independence. In some countries an “inspector general”, “citizen advocate” or other official may have duties similar to those of a national ombudsman and may also be appointed by the parliament.

#### Questions 235 (Question 142 of the CEPEJ Questionnaire)

“Disciplinary power” in this question should be understood as a power to sanction judges for violating disciplinary rules.



In case “Disciplinary court or body” is within the “High Judicial Council”, and therefore it is not clear which reply should be given, please select “High Judicial Council” if the disciplinary court or body is composed exclusively from all or some members of the Council. If the disciplinary court or body is composed from members of the “High Judicial Council” and other members, please select “Disciplinary court or body”.

#### **Question 236**

When disciplinary proceeding is initiated, a judge may be authorised to present an argumentation to defend him/herself. A judge may have a possibility to present his/her argument in oral hearing and/or in written submission. Depending on the rules of disciplinary procedure, one or both of these options should be selected.

If the rules of disciplinary procedure do not provide the possibility for a judge to present an argument, please select “none”

#### **Questions 237, 238 and 239** ([Question 239 corresponds to Question 145 of the CEPEJ Questionnaire](#))

These questions, which appear as tables, specify the number of disciplinary proceedings against judges that are initiated (question 237), number of disciplinary cases completed (question 238) and number of the sanctions actually pronounced against judges (question 239). If a significant difference between those figures exists in your country and if you are aware of the reasons, please specify.

Initiated case is a case received by an authority competent for conducting proceedings and pronouncing a sanction (e.g., High Judicial Council, disciplinary court, disciplinary committee for judges or similar body). Only first instance cases submitted for the first time should be counted. A case is considered initiated at the moment of submitting a case to the first instance competent authority (a preliminary or investigative procedure where another authority receives notices, gathers evidence and/or decides to submit the case to the competent authority or not), should not be counted.

*Breach of professional ethics (including breach of integrity), professional inadequacy* (e.g. systematic slowness in delivering decisions), *criminal offence* (offence committed in the private or professional framework) refer to cases in which disciplinary proceedings are conducted either before, during or after criminal proceedings for the same facts. Please complete the list where appropriate. The same applies to the type of possible sanctions (e.g. *reprimand, suspension, fine, withdrawal of a case, transfer of the file to another court or department, temporary reduction of salary, position downgrade, resignation, dismissal etc.*). Please note that disciplinary proceedings related to the breaches of integrity (such as breaches of the rules on conflict of interest, accessory activities, partiality, nepotism, tampering with the case allocation system etc.) should be included in the first category *Breach of professional ethics*.

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

Specific comments could in particular be developed, where appropriate, as regards the procedures initiated and the sanctions pronounced in the case of corruption of judges and public prosecutors, namely by taking into account the reports by the Group of States against Corruption (GRECO) and possibly by *Transparency International*.

#### **Question 237-1**

“Professional inadequacy” is envisaged as one of the reasons for initiating disciplinary proceedings in some systems. Which behaviours fall into this category depends on the actual definition of this term in a judicial system and developed practice of its disciplinary bodies. For that reason, the scope of this notion varies in different judiciaries, therefore CEPEJ correspondents are asked to provide more information on this particular category of offences.

#### **Questions 240 and Question 241**

Question 240 tries to examine if judges enjoy the right to appeal disciplinary decision. If the answer is positive, please indicate which institution is competent to decide on the appeal in the following question.

#### **Question 242** ([Question 121-1 of the CEPEJ Questionnaire](#))

This question aims to better understand the status of judges in the beneficiaries by identifying the reasons for transferring a judge without their consent as well as the procedural guarantees in place.

#### **Description of the disciplinary procedure against prosecutors:**

#### **Question 243** ([Question 141 of the CEPEJ Questionnaire](#))

The body “authorised to initiate disciplinary proceedings” is the one that formally starts disciplinary proceedings by submitting an act to the authority in charge to decide on a disciplinary case. The act starting a proceeding could be a disciplinary lawsuit, disciplinary indictment or similar act. In some systems this can be a separate, autonomous body such as disciplinary prosecutor (not to be confused with public prosecutors in criminal proceedings), disciplinary office, disciplinary inspector and similar.

An “ombudsman” (also known as “ombudsperson”, “ombud”, or “public advocate”) is an official who is charged with representing the interests of the public by investigating and addressing complaints of maladministration or a violation of rights. The ombudsman is usually appointed by the government or by parliament, but with a significant degree of independence. In some countries an “inspector general”, “citizen advocate” or other official may have duties similar to those of a national ombudsman and may also be appointed by the parliament.

#### **Questions 244** ([Question 143 of the CEPEJ Questionnaire](#))

“Disciplinary power” in this question should be understood as a power to sanction prosecutors for violating disciplinary rules.

In case “Disciplinary court or body” is within the “Public prosecutorial Council”/ “High Judicial Council”, and therefore it is not clear which reply should be given, please select “Public prosecutorial Council”/ “High Judicial Council” if the disciplinary court or body is composed exclusively from all or some members of the Council. If the disciplinary court or body is composed from members of the “Public prosecutorial Council”/ “High Judicial Council” and other members, please select “Disciplinary court or body”.

#### **Question 245**

When disciplinary proceedings are initiated, a prosecutor may be authorized to present an argumentation to defend him/herself. A prosecutor may have a possibility to present his/her argument in oral hearing and/or in written submission. Depending on the rules of disciplinary procedure, one or both of these options should be selected.

If the rules of disciplinary procedure do not provide the possibility for a prosecutor to present an argument, please select “none”

#### **Questions 246, 247 and 248** ([Question 248 corresponds to Question 145 of the CEPEJ Questionnaire](#))

These questions, which appear as tables, specify the number of disciplinary proceedings against public prosecutors that are initiated (question 246), number of disciplinary cases completed (question 247) and number of the sanctions actually pronounced against public prosecutors (question 248). If a significant difference between those figures exists in your country and if you are aware of the reasons, please specify.

Initiated case is a case received by an authority competent for conducting proceedings and pronouncing a sanction (e.g. High Judicial Council, disciplinary court, disciplinary committee for judges or similar body). Only first instance cases submitted for the first time should be counted. A case is considered initiated at the moment of submitting a case to the first instance competent authority (a preliminary or investigative procedure where another authority receives notices, gathers evidence and/or decides to submit the case to the competent authority or not), should not be counted.

*Breach of professional ethics (including breach of integrity), professional inadequacy* (e.g. systematic slowness in conducting procedural actions), *criminal offence* (offence committed in the private or professional framework) refer cases in which disciplinary proceedings are conducted either before, during or after criminal proceedings for the same facts. Please complete the list where appropriate. The same applies to the type of possible sanctions (e.g. *reprimand, suspension, fine, withdrawal of a case, transfer of the file to another court or department, temporary reduction of salary, position downgrade, resignation, dismissal etc.*). Please note that disciplinary proceedings related to the breaches of integrity (such as breaches of the rules on conflict of interest, accessory activities, partiality, nepotism, tampering with the case allocation system etc.) should be included in the first category *Breach of professional ethics*.

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

#### **Question 246-1**

“Professional inadequacy” is envisaged as one of the reasons for initiating disciplinary proceedings in some systems. Which behaviours fall into this category depends on the actual definition of this term in a judicial system and developed practice of its disciplinary bodies. For that reason, the scope of this notion varies in different judiciaries, therefore CEPEJ correspondents are asked to provide more information on this particular category of offences.

## Question 250 and 251

Question 250 tries to examine if public prosecutors enjoy the right to appeal disciplinary decision. If the answer is positive, please indicate which institution is competent to decide on the appeal in the following question.

### **Indicator 9 Alternative Dispute Resolution**

#### **Question 252** ([question 163 of the CEPEJ questionnaire](#))

*“Court-related mediation”*: Mediation which includes the intervention of a judge, a public prosecutor or other court staff who facilitates, directs, advises on or conducts the mediation process. For example, in civil disputes or divorce cases, judges may refer parties to a mediator if they believe that more satisfactory results can be achieved for both parties. In criminal law cases, a public prosecutor (or a judge) can refer a case to a mediator or propose that he/she mediates a case between an offender and a victim (for example to establish a compensation agreement). Such mediation may be mandatory either as a pre-requisite to proceedings or as a requirement of the court in the course of the proceedings.

#### **Question 253 and Question 254** ([Questions 163-1 and 163-2 of the CEPEJ Questionnaire](#))

For certain types of disputes or certain legal areas, it is possible that the procedure codes require that a mandatory first mediation meeting, or mandatory informative session with mediator, or mandatory full mediation are conducted beforehand in order to be able to go to court. Furthermore, certain procedures give the possibility to the judge to whom a case is addressed to order a mediation procedure at the beginning of judicial proceeding or during this proceeding. If this is the case, please specify in which situations such rules apply.

For example, in Italy, Lithuania and Turkey, for certain types of disputes attending of a mediation information session is a procedural requirement (prerequisite) in order to initiate court proceedings.

#### **Question 255** ([Question 164 of the CEPEJ Questionnaire](#))

Private mediators: locally recognised professionals with a mediation specialisation.

For the purposes of this specific question, "civil cases" exclude family cases, consumer cases and employment dismissal cases, to be separately addressed in the specific rows further in the table.

#### **Question 256** ([Question 165 of the CEPEJ Questionnaire](#))

Please indicate whether a party may benefit from court-related mediation services through a legal aid scheme (as understood in Section 2.1 “Legal Aid”) or whether court-related mediation is offered free of charge to the parties, through other means. For example, in certain countries, mediators might participate in pro-bono mediation programs within the court, in which they offer their services free of charge, or might be compensated by some other means.

Please explain the various possibilities which exist in your system.

#### **Question 257** ([Question 166 of the CEPEJ Questionnaire](#))

Please indicate the number of accredited or registered mediators, either by the court or by another national authority or an NGO. The aim of this request is to have an objective basis for counting the number of mediators.

#### **Question 257-1** ([Question 166-1 of the CEPEJ Questionnaire](#))

Please indicate all legal requirements a person has to fulfil in order to qualify for an accredited or registered mediator. In particular, please describe educational requirements (such as degrees required, special trainings on mediation etc), as well as previous working experience requirements (such as certain number of years of working experience in a specific field). If there are other requirements, please also include them (for example nationality, age, clear criminal record and similar). Furthermore, please explain the procedure for becoming a mediator and particularly describe the different steps of this procedure (such as application, selection, accreditation/registration), as well as responsible institutions involved.

#### **Question 258** ([Question 167 of the CEPEJ Questionnaire](#))

The interest of this question is to understand in which field court-related mediation is more used and considered as a successful process.

For the purposes of this specific question, "civil cases" exclude family cases, consumer cases and employment dismissal cases, to be separately addressed in the specific rows further in the table.

In the category "Number of cases for which the parties agreed to start mediation" please indicate the number of cases in which an agreement to mediate has been concluded in the reference year.

In the category "Number of finished court-related mediations" please indicate the number of cases which terminated in the reference year (whether by a settlement agreement, a party or both parties deciding to stop mediation, a mediator deciding to terminate the mediation, or any other reason).

In the category "Number of cases in which there is a settlement agreement" please indicate the number of mediation cases conducted within the reference year, in which the parties have reached a settlement agreement.

#### **Question 259** (Question 168 of the CEPEJ Questionnaire)

Court Related Mediation should be differentiated from other Alternative Dispute Resolution procedures, in particular:

*Mediation (other than court related mediation):* Structured and confidential process in which an impartial third person, known as a mediator, assists the parties by facilitating the communication between them for the purpose of resolving issues in dispute.

*Conciliation:* Confidential process by which an impartial third person, known as a conciliator, makes a non-binding proposal to the parties for the settlement of a dispute between them.

*Arbitration:* Procedure by which the parties select an impartial third person, known as an arbitrator, to determine a dispute between them, and whose decision is binding.

*"Other ADR":* may refer to, for example, negotiated agreement, collaborative law, collaborative practice, hybrid processes, assistance of an ombudsman, early neutral evaluation, etc. Processes in different countries may vary in both design and terminology.

### **Indicator 10 ECtHR**

#### **Indicator 10.1 ECHR**

#### **Question 260** (Question 86 of the CEPEJ Questionnaire)

Question 260 (Question 86 of the CEPEJ Questionnaire) concerns the monitoring system implemented in a state after the European Court of Human Rights has recognised a violation by the state related to Article 6 of the European Convention on Human Rights, specifying civil (including commercial and administrative law cases) and criminal cases.

*European Convention on Human Rights – Article 6 – Right to a fair trial*

*In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law. Judgment shall be pronounced publicly but the press and public may be excluded from all or part of the trial in the interests of morals, public order or national security in a democratic society, where the interests of juveniles or the protection of the private life of the parties so require, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice*

This monitoring system can consist of actions such as: recognising violations at state and/or court levels (for example the implementation of a condemnations dashboard), actively informing on violations on national or court level, implementation of an internal system to remedy the established violation (for example the setting up of a review procedure – Q260 (Q 86-1 of the CEPEJ questionnaire), the implementation of internal systems to prevent other violations that are similar (for example the establishment of an effective remedy), measuring the evolution of the established violations etc.

For observer beneficiaries, the answer is NAP.

### **Question 261** (Question 86-1 of the CEPEJ Questionnaire)

The purpose of this question is to examine if there is a possibility under domestic legislation to review/reopen a particular case after the European Court of Human Rights found a violation of the European Convention on Human Rights in that case. Furthermore, the replies to this question should indicate if there are differences in this regard between three different areas of law: criminal, civil and administrative.

Please provide more details in the comment.

### **Questions 262 to 264**

These data will be provided directly by the European Court of Human Rights and the department for the execution of judgments of the European Court of Human Rights.

#### **Indicator 11 (Council for the Judiciary/Prosecutorial Council)**

The notion of the Council for the judiciary must be understood in line with Opinion no.10(2007) of the CCJE on the Council for the Judiciary at the service of society.

Extracts from the opinion:

“The Council for the Judiciary is intended to safeguard both the independence of the judicial system and the independence of individual judges.

[...] the Council for the Judiciary has the task to set up the necessary tools to evaluate the justice system, to report on the state of services, and to ask the relevant authorities to take the necessary steps to improve the administration of justice.

Beyond its management and administrative role vis-à-vis the judiciary, the Council for the Judiciary should also embody the autonomous government of the judicial power, enabling individual judges to exercise their functions outside any control of the executive and the legislature, and without improper pressure from within the judiciary.

The relations between the Council for the Judiciary and the Minister of Justice, the Head of State and Parliament need to be determined. Furthermore, considering that the Council for the Judiciary does not belong to the hierarchy of the court system and cannot as such decide on the merits of the cases, relations with the courts, and especially with judges, need careful handling.

The Council for the Judiciary is also obliged to safeguard from any external pressure or prejudice of a political, ideological or cultural nature, the unfettered freedom of judges to decide cases impartially, in accordance with their conscience and their interpretation of the facts, and in accordance with the prevailing rules of the law.

In some member states judiciary councils extend their competences over prosecutors and prosecutorial organization, while in other systems prosecutors have a separate council. Its role, organization and competences are similar to the judiciary councils but modified in such way to reflect differences in prosecutors' status and roles.”

Councils for the Judiciary exist in large number of judiciary systems in Europe. In some of the systems there is only one council competent for judges or prosecutors. Other systems have two separate councils; one is competent only for judges and other for prosecutors. Lastly, some systems have one council competent for both judges and prosecutors. Please indicate your situation based on the present state in your system. Of course, models different from those described might exist, and if situation in your judiciary is such that could not be included under options offered, please provide the explanation in the comment of Question 266.

### **Question 266**

The Council for the Judiciary can be either composed solely of judges or have a mixed composition of judges and non-judges (Opinion no.10(2007) of the CCJE on the Council for the Judiciary at the service of society). The question aims at exploring the composition of the councils. While it is clear that councils could be composed of judges/prosecutors from different instances, it is worth noting that they can also include members from the executive branch (such as Minister of Justice), academia (for example law faculty professors), and other legal professions (representative of the bar chamber) etc. Please note that you should count the members from different institutions on the basis of which body/institution is authorised to propose them as members, irrespective of which body/institution is authorised to make a formal decision on their appointment (for example, in a situation where a university proposes a member and the Parliament formally appoints him/her, you should count this member under category “Academics” not the “Parliament”). If there are “other” members, please describe in the comment from which institutions they are

appointed and what their number is. The number and composition might also depend on whether the system has single council competent for both judges and prosecutors, council for judges only and council for prosecutors only. Therefore, please provide the answer in appropriate field(s) of the table reflecting particular situation that exists in your system.

#### **Question 267**

Please describe the appointment procedure for the members of the council(s) by explaining the eligibility criteria, procedure, competent authorities for different stages of appointment etc. Considering that various procedures might exist for different members of the council(s), please explain specifics of each of these procedures. Furthermore please specify in the answer, which members are *ex officio* appointed. Please note that answer might depend on whether the system has single council competent for both judges and prosecutors, council for judges only and councils for prosecutors only. Therefore, please provide the answer in appropriate field(s) of the table reflecting particular situation that exists in your system.

#### **Question 268**

If your system sets specific selection criteria for appointment of members coming from outside of judiciary, such as years of experience, relevance of previous work etc., please select "Yes" and specify them in the comment area.

#### **Question 269**

Mandate of the members of the Council(s) is usually limited to a certain period of time. Please answer what is the term of office for the members, and please indicate this number in years (for example, if the term of office is 60 months, the answer should be 5 years).

Please note that, consistent with previous questions, there are three options in the table depending on whether the system has single council competent for both judges and prosecutors, council for judges only and councils for prosecutors only. Therefore, please provide the answer in appropriate field(s) of the table reflecting particular situation that exists in your system.

#### **Question 270**

This question refers to all the members of the Council and is applicable to both judges/prosecutors and non-judges/non-prosecutors.

The term of office might be renewable when the laws allow for a member to be appointed more than once. This situation includes possibility to be appointed second time for a shorter term of office (partially renewable).

Non-renewable term of office exists when it is prohibited for a member to be appointed after first term of office has ended.

Full time position in the Council means that a member cannot perform other professional work during the term of office.

If, however, the position is not full time and a member simultaneously performs other professional work during the term of office, please indicate if he/she can be subjected to evaluation of his/her performance in that other work place.

Please note that, consistent with previous questions, there are three options in the table depending on whether the system has single council competent for both judges and prosecutors, council for judges only and councils for prosecutors only. Therefore, please provide the answer in appropriate field(s) of the table reflecting particular situation that exists in your system.

#### **Question 271**

From appointment and promotion of judges to disciplinary proceedings and deciding on budgetary matters, the councils have different competencies in different systems. Please list all the competencies the council(s) have in your justice system.

#### **Question 272**

Judicial and prosecutorial councils have wide-ranging powers over the career of judges and prosecutors, ranging from their appointment to their promotion, transfer, ethics and disciplinary liability. It is therefore possible for the same judicial/prosecutorial council members to be involved in different aspects of a judge's or a prosecutor's professional

life and this may well create conflicts of interests and have an impact on the effective independence in the work of the individual judges/prosecutors concerned. Opinion No. 10(2007) of the Consultative Council of European Judges (CCJE) on the Council for the Judiciary recognizes that there may be conflicts in the different functions performed by judicial councils and that, therefore, it is important provide a proper separation of roles in such cases. As to prosecutors, Opinion No. 13(2018) of the Consultative Council of European Prosecutors (CCPE) on Independence, Accountability and Ethics of Prosecutors calls for the process of appointment, transfer, promotion and discipline of prosecutors to be as close as possible to that of judges. The principle of separation of roles should, therefore, also apply to the different roles performed by the prosecutorial councils.

### **Question 273**

To ensure and strengthen accountability of the Council(s), some judiciaries prescribe that Council(s) have a duty to publish activity reports. These reports usually list activities performed by the councils in all the areas of their respective competences. In addition, some of the systems require councils to publish their decisions, such as decisions on appointment of judges/prosecutors or decisions on pronouncing disciplinary sanctions against judges/prosecutors. Furthermore, sometimes it is mandatory for the councils to publish decisions and/or provide reasoning of their decisions.

### **Question 274**

In some judicial systems, the Council(s) are competent to take certain measures in situations when there is a breach of independence or the impartiality of a judge or a pressure on a prosecutor. Please select the appropriate answer depending on what kind of council(s) exist in your system. Furthermore, please provide detailed explanations in the comment particularly pointing out the norms that regulate Council's competences in these situations, mechanisms available and procedures to be followed.

## **Indicator 12 Gender Equality**

This section focuses on gender equality in the justice system. It aims to identify if there are steps to improve balance between males and females, as well as to discover concrete measures, regulation and competent institutions that should facilitate gender equality on both national and individual court/prosecution office level.

When answering different questions in this section, please indicate and explain measures, regulation and institutions that are specifically designed for facilitating gender equality in the justice system. Exceptionally, if only general measures, regulation and institutions exist in the system, you may explain them in the general or specific comment if they have achieved particularly significant impact in the area of justice.

### **Question 275** ([Question 61-2 of the CEPEJ Questionnaire](#))

A very significant aspect of gender equality is ensuring balanced number of male and female professionals through the procedures of recruitment. Please answer "Yes" only in the situation when legislation provides provisions that are specifically designed for facilitating gender equality within procedures for recruiting of different listed categories (judges, prosecutors, non-judge staff, lawyers, notaries and enforcement agents), such as a system of quotas and/or similar systems of positive discrimination. If such provisions exist, please explain them in the side comment. If there have been recent developments in this area, such as adoption of new or changes of existing regulations, please describe them in the comment. Also, you may add any other relevant information in the comment.

### **Question 276** ([Question 61-3 of the CEPEJ Questionnaire](#))

For gender equality it is not only important how many professionals of different gender take positions, but also which positions they take within the system. Sometimes, in spite of equal number of professionals, there might be an unacknowledged barrier to advancement in a profession for one of the genders, so-called glass ceiling. In order to tackle this issue, some systems introduce specific provisions for facilitating gender equality within procedures for promoting. Please answer "Yes" only in the situation when legislation provides provisions that are specifically designed for facilitating gender equality within the framework of the promotion procedure for the different listed categories (judges, prosecutors, non-judge staff, lawyers, notaries and enforcement agents). The promotion in this question should be understood as an advancement in a career to a position that is higher in organizational hierarchy and/or brings more managerial responsibilities. If such provisions exist, please explain them in the side comment. If there have been recent developments in this area, such as adoption of new or changes of existing regulations, please describe them in the comment. Also, you may add any other relevant information in the comment.

### **Question 277** ([Question 61-3-1 of the CEPEJ Questionnaire](#))

A court president and head of prosecution services are considered particularly important positions of responsibility,

and therefore this type of appointment should be specifically analysed. Please answer “Yes” only in the situation when legislation provides provisions that are specifically designed for facilitating gender equality within the framework of appointing only the two concerned categories: court presidents and head of prosecution services. If such provisions exist, please explain them in the comment.

#### **Question 278** (Question 61-5 of the CEPEJ Questionnaire)

Please answer Yes, only if there is an overarching document that applies specifically to the judiciary. Exceptionally, the question can be answered Yes if there is a broader document that includes other sectors too, but only if there is a special part of the document targeting exclusively judiciary in more details. An overarching document should be understood as any strategic document such as policy, strategy, action plan, program and similar.

If such document exists, please provide more details in the comment and particularly specify the objectives, time frame, budget for implementation, as well as mandate and roles of the competent authorities etc.

#### **Question 279**(Question 61-6 of the CEPEJ Questionnaire)

This question is designed to collect information on existence and important characteristics of a person/institution specifically established to deal with gender issues in the justice system. It only concerns with authorities that have competences on a national level. There are several sub-questions concerning procedures for recruitment and promotion of the three categories: judges, public prosecutors and non-judge staff. There might be a person/institution that doesn't deal with recruitment and promotion procedures, but, has competences over other relevant gender issues in the justice system. In that case, please answer “No” on the sub-questions and provide an explanation in the comment.

In the comment, please specify the status of this person/institution (e.g. is it independent). Please also explain its function and roles, particularly whether its function is consultative, or its opinion/decisions have legal consequences (e.g. to block a decision). Furthermore, you may also indicate which issues are within the competences of this person/institution, what is the duration of its mandate, is the mandate renewable etc.

#### **Question 283** (Question 61-7 of the CEPEJ Questionnaire)

This question requires information on existence of a person/institution specifically established to deal with gender issues in the organisation of judicial work. It only concerns with the authorities that have competences on a court or public prosecution services level.

In the comment, please specify which titles, competences and tasks this person / institution has, as well as what is the duration of its mandate, is the mandate renewable etc. Furthermore, if there have been recent developments in this area, such as adoption of new or changes of existing regulations, please describe them in the comment. Also, you may add any other relevant information in the comment.

#### **Question 285** (Question 61-9 of the CEPEJ Questionnaire)

This question concerns the measures that should improve gender equality when gender imbalance had already been identified in access to different positions and functions of responsibility, as well as in promotion procedures. Such measures include for example work life balance measures, subsidies for childcare, social infrastructure etc.

The two offered answers refer to the following:

- “have been already implemented” - the measures have been implemented or the implementation has started although it hasn't been fully finalised during year of reference +1;
- “are planned” – measures are just at the stage of a proposal, public discussion, drafting a concrete official document (strategy, law etc) or similar.

Once you select the appropriate answer, please explain the measures and provide relevant details in the answer box.

#### **Question 286** (Question 61-10 of the CEPEJ Questionnaire)

This question refers to any official document (study, official report etc.) that identifies the main causes of possible inequalities in the areas of recruitment and promotion, as well as appointment to the positions of court presidents and heads of prosecution services. It should be noted that this is an open-ended question, and therefore, any other study that deals with causes of inequalities should be reported under “Other studies”. The main causes of possible



inequalities might include for example limited pool of qualified candidates of one gender, limited availability of judgeships (at different levels), limited access to professional development opportunities, stringent requirements for judicial appointments, challenges in balancing work and life, appointment process (e.g. discriminatory practices, gender bias, lack of transparency), method of selection, gender-based stereotypes, lack of quotas/targets/positive discrimination etc. Please provide any further relevant information regarding the answer. If answer “Yes” is selected, the main identified causes should be specified as well as the reference documents.

#### **Questions 287** (Question 37-2 of the CEPEJ Questionnaire)

Please indicate if your system collects statistical data on gender in respect of persons who initiate a case in other than criminal matters, victims in criminal proceedings as such by the court and perpetrators of criminal offences. If your answer is positive, please provide more details in the comments on the categories of cases/types of offences for which these data are collected and court instances for which these data are collected. Therefore, for civil cases you can indicate the types of disputes (e.g., family cases, divorces, child custody, bankruptcy, employment dismissal or other). Similarly, for criminal cases you could specify the types of offences for which such statistics exist (e.g., domestic violence, child abuse, human trafficking or other).

### **Overview of reforms**

#### **Question 288** (Question 208 of the CEPEJ Questionnaire)

As a conclusion, this question offers the possibility to indicate general or more specific information on the on-going and planned reforms to be undertaken to improve the quality and the efficiency of justice. Please try to classify the presented reforms in the proposed categories. If strategies on the judiciary are adopted, please provide links to the texts, if available.

The question is structured in such way that for each category, four answers are possible:

1. Yes (planned) – reforms are just at the stage of a proposal, public discussion, drafting a concrete official document (strategy, law etc) or similar;
2. Yes (adopted) – reforms are at the stage in which an official document (strategy, law etc) has been adopted but is still not implemented;
3. Yes (implemented) – the reform has been implemented on the basis of adopted official document; this option could be selected even if implementation has just started and has not been fully finalised
4. No – there is still no official plans of reforms.

If any of the three “Yes” answers have been selected, please provide more details in the comment box. If strategies on the judiciary are adopted or implemented, please provide links to the texts of the official documents, if available.