



EUROPEAN COMMISSION FOR THE EFFICIENCY OF JUSTICE
(CEPEJ)

SCHEME FOR EVALUATING JUDICIAL SYSTEMS 2011

Country: Spain

National correspondent

First Name - Last Name: **GUTIERREZ DEL ALAMO OMS Cristina**

Job title:

Organisation: **Ministry of Justice**

E-mail: **crisrina.gutierrez@mjusticia.es**

Phone Number :

First Name - Last Name: **DARIAS Almudena**

Job title: **Assistant Deputy Director**

Organisation: **Ministry of Justice**

E-mail: **almudena.darias@mjusticia.es**

Phone Number : **+34 91 390 4448**

1. Demographic and economic data

1. 1. General information

1. 1. 1. Inhabitants and economic information

1) Number of inhabitants (if possible on 1 January 2011)

45 989 016

2) Total of annual public expenditure at state level and where appropriate, public expenditure at regional or federal entity level (in €) - (If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP)

	Amount
State level	477 773 000 000
Regional / federal entity level (total for all regions / federal entities)	NA

3) Per capita GDP (in €)

23 100

4) Average gross annual salary (in €)

30 819

5) Exchange rate from national currency (non-Euro zone) to € on 1 January 2011

A.1

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

Q1 Source Eurostat. Population on 1 January 2011 (by age and sex).

Q2 Source Eurostat. Government Finance Statistics, Consolidated General Government. Expenditure at state level includes central, state and local governments and social security funds.

Source OECD. General government expenditure by function. 2009 figures for expenditure of the general government sector and its subsectors:

- General government: 482650000000
- Central government: 210126000000
- Autonomous regions: 182442000000.
- Local administrations: 75428000000
- Social security: 149797000000

Q3 Source Eurostat. GDP in current prices.

Q4 Source National Institute of Statistics. Annual labour cost survey 2010 (2008 data: 29610).

1. 2. Budgetary data concerning judicial system

1. 2. 1. Budget (courts, public prosecution, legal aid, fees)

6) Annual approved public budget allocated to the functioning of all courts, in €(if possible without the budget of the public prosecution services and without the budget of legal aid):

TOTAL annual approved budget allocated to the functioning of all courts (1 + 2 + 3 + 4 + 5 + 6 + 7)	<input checked="" type="checkbox"/> Yes	4 202 016 219
1. Annual public budget allocated to (gross) salaries	<input checked="" type="checkbox"/> Yes	1 329 868 250
2. Annual public budget allocated to computerisation (equipment, investments, maintenance)	<input checked="" type="checkbox"/> Yes	158 163 660
3. Annual public budget allocated to justice expenses (expertise, interpretation, etc), without legal aid. NB: this does not concern the taxes and fees to be paid by the parties.		NA

4. Annual public budget allocated to court buildings (maintenance, operating costs)	NA
5. Annual public budget allocated to investments in new (court) buildings	NA
6. Annual public budget allocated to training and education	NA
7. Other (please specify):	NA

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

There are not separate budgets for legal aid and public prosecution services as they are included in the budget allocated to courts and public prosecution both at national level (budget of the Ministry of Justice) and at the level of Autonomous Regions.

However, since 2010 the Public Prosecutor's Office has a single budgetary line allocated to staff costs, current expenses and current transfers to families and non-profit organizations (total amount=220025).

In Q. 7 of the questionnaire, is explained that since 2010 the Public Prosecution Office (not service) has a single budgetary line allocated to staff costs, current expenses and current transfers to families and non-profit organizations. This line is part of the national budget allocated to courts and public prosecution, is not possible to talk about an autonomous budget for public prosecution services in Spain. And not possible to separate the budget allocated to courts and to public prosecution.

(cf CN 03/07)

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

- for criminal cases?
 for other than criminal cases?

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

According to Law 53/2002, of 30 December, on Fiscal, Administrative and Social Measures (art. 35), parties have to pay a fee for the exercise of jurisdictional authority in civil and contentious-administrative matters. The law provides objective exemptions (regarding succession, family and civil status) and subjective exemptions (natural persons, legal entities total or partially exempted from corporation tax).

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

173 486 000

10) Annual approved public budget allocated to the whole justice system, in €(this global budget does not include only the court system as defined under question 6, but also the prison system, the judicial protection of juveniles, the operation of the Ministry of Justice, etc.)

. NA 4 632 278 011

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

Court system	Yes
Legal aid	Yes
Public prosecution services	Yes
Prison system	No
Probation services	Yes
Council of the judiciary	Yes
Judicial protection of juveniles	No
Functioning of the Ministry of Justice	Yes
Refugees and asylum seekers services	No
Other	

	No
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Comment :

12) Annual approved public budget allocated to legal aid, in €- If one or several data are not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP.

	Total annual approved public budget allocated to legal aid (12.1 + 12.2)	12.1 Annual public budget allocated to legal aid in criminal law cases	12.2 Annual public budget allocated to legal aid in non criminal law cases
Amount (in €)	237898199	NA	NA

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

NA

Comment :

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

	Preparation of the total court budget	Adoption of the total court budget	Management and allocation of the budget among the individual courts	Evaluation of the use of the budget at a national level
Ministry of Justice	Yes	No	Yes	No
Other ministry	No	No	No	No
Parliament	No	Yes	No	Yes
Supreme Court	No	No	No	No
Judicial Council	No	No	No	No
Courts	No	No	No	No
Inspection body	No	No	No	No
Other	Yes	Yes	Yes	Yes

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

The identification of the bodies involved in the budgetary process needs a brief description of the territorial organisation of the Spain. Spain has a decentralized administrative structure divided into Autonomous Regions with wide legislative and executive powers, their own legislative assemblies and governing councils. The distribution of powers may be different among the regions, as laid out in their Statutes of Autonomy.

The State is gradually transferring competences in the field of the administration of justice with the appropriate financial means to the Autonomous Regions, except for matters related to national corps (judges, prosecutors and secretarios judiciales/judicial clerks). The State still holds powers in matters of justice in the Autonomous Regions where competences have not been transferred.

Consequently, the budget allocated to courts within the scope of the Ministry of Justice is prepared by the Ministry itself, adopted by the Parliament, managed by the Ministry and lastly evaluated by the Parliament. In the Autonomous Regions holding powers in matters of justice, the role of the Ministry of Justice and the Parliament are played by the regional ministries and assemblies respectively.

A.2

You can indicate below:

- any useful comments for interpreting the data mentioned in this chapter
- the characteristics of your budgetary system and the main reforms that have been implemented over the last two years
- if available an organisation scheme with a description of the competencies of the different authorities responsible for the budget process

As regards Q6, the total amount equals the sum of the following items:

- Ministry of Justice's budget: 1769985670
- General Council for the Judiciary's budget: 78110790
- Autonomous Regions' budgets: 2353919759

The amounts indicated under categories 1-6 can only be specified for the Ministry of Justice's budget:

1. Gross salaries: 1329868250
2. Computerisation: 158163660
4. Court buildings: 54461090

5. Investments in new court buildings 48928090

6. Training and education: 7707000

7. Other (current transfers to local administrations, families and non-profit organizations; capital transfers to Autonomous Regions; financial expenses, legal aid expenses, etc.): 170857480

With reference to Q11, refugees and asylum' services and the prison system depend on the Ministry of Interior and the judicial protection of juveniles has been transferred to the Autonomous Regions.

Q6 : As we explained in Q15, Spain has got a decentralized administrative structure, which means that the annual approved budget allocated to the courts includes both the budget at national level and at the level of the Autonomous Regions holding powers in matters of justice. The amount indicated in Q6#2#1 (4202016219) equals the sum of the following items:

- General Council of the Judiciary (78110790):

o Governing of the Judiciary: 42615200

o Recruitment and training of judges: 25160330

o Judicial documentation and publications: 10335260

- Ministry of Justice (1769985670):

o Management and justice services: 65481560

o Courts and Public Prosecution: 1611465150

o Public Registers: 45329990

o Training of justice services' staff: 18408970

o Information and communication technologies: 29300000

- Autonomous Regions: 2353919759

As for Q6#2#2 and Q6#2#3, we had no information about these categories at the level of the Autonomous Regions.

For this reason, we answered NA and we specified at the end of the chapter the data required within the scope of the Ministry of Justice:

- Gross salaries (1329868250):

o Management and justice services: 30728810

o Courts and Public Prosecution: 1273572000

o Public Registers: 15203160

o Training of justice services' staff: 10364280

- Computerisation (158163660):

o Management and justice services: 3968770

o Courts and Public Prosecution: 98375410

o Public Registers: 26353040

o Training of justice services' staff: 466440

o Information and communication technologies: 29000000

Question 6#2#3 : On September 2009, the Spanish Government approved the Strategic Plan for Modernising the Justice System 2009-2012, which aim is to achieve a flexible, efficient system that is comparable with the most advanced public services, a very important part of the Plan is the Technologically Advance Justice System. In 2010 the Ministry of Justice 's budget allocated for computerisation was 158 163 660, and in 2008 the Ministry of Justice and General Council of the Judiciary 's budget allocated for the same item was 5953049. The investment of the Spanish Government for modernising the justice system since 2009 justifies the evolution between 2008 and 2010 of the budget allocated to computerisation within the total annual public allocated to the functioning of all courts.

Please indicate the sources for answering the questions 6, 9, 10, 11, 12 and 13.

Q6, Q10: Ministry of the Economy and Finance, Directorate General for Financial Coordination with Autonomous Regions and Local Entities. Ministry of Justice, General Directorate for Relations with the Justice Administration (also for Q 11-13).

Q9: Ministry of Economy and Finance.

2. Access to Justice and to all courts

2. 1. Legal aid

2. 1. 1. Principles

16) Does legal aid apply to:

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

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

Yes

No

If yes, please specify:

In accordance with article 6 of the Act on Legal Aid, the substantive content of the benefit of legal aid encompasses the exemption from payment of the necessary deposits to lodge appeals.

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

Yes

No

If yes, please specify:

Free legal aid covers all stages of legal proceedings, including the lodging of appeals and enforcement, but it may not be applied to different proceedings.

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

	Criminal cases	Other than criminal cases
	Yes	Yes

Comment :

People granted legal aid do not have to pay the following costs:

- Costs of publishing announcements in official journals
- Experts' fees
- Issuance fees

In addition, and solely for cross-border disputes, following the reform of the Legal Aid Act by Law 16/2005 of 18 July 2005 to adapt it to Directive 2002/8/EC, recipients of legal aid do not have to pay the following costs:

- Interpretation services
- Translation of documents
- Travel expenses if the applicant has to appear in person.

20) Number of cases referred to the court and for which legal aid has been granted. Please specify in the "comment" box below, when appropriate. If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP.

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

	Number
Total	NA
in criminal cases	NA

other than criminal cases	NA
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Comment :

In 2010, there were 835190 legal aid applications, of which 633604 were granted legal aid.

21) In criminal cases, can individuals who do not have sufficient financial means be assisted by a free of charge (or financed by a public budget) lawyer? Please specify in the "comment" box below.

Accused individuals	Yes
Victims	Yes

Comment :

In criminal matters, in addition to the rules established in the Legal Aid Act, the guarantees foreseen in the Criminal Procedure Act shall apply in order to ensure, in all cases, the right to defence from the very moment of detention. Moreover, persons declared victims of terrorism who provide evidence of financial eligibility are entitled to free representation and defence by a solicitor and a barrister-at-law in all the administrative processes and proceedings that directly or indirectly arise from the situation caused by that condition. Such benefit shall also apply to the heirs in the case of death of the victim.

In all cases, all victims of terrorist violence who apply shall immediately be provided free specialised legal defence, notwithstanding the fact that, should they subsequently not be recognised the benefit of legal aid, they must pay the solicitor and barrister-at-law the fees accrued for their intervention, as appropriate.

On another point, with the entry into force of the Organic Act of Protection Measures against Gender Violence, women who are victims of gender-based violence are granted full legal aid immediately, not only in all legal proceedings but also in administrative proceedings (police inquiries are therefore included) based on gender-based violence, until any judgment is passed, without being required to apply for legal aid beforehand.

This means that the incidence of legal aid shall never hinder the right to defense and to effective judicial protection, which shall be offered to the victim irrespective of whether the application for legal aid has been filed, this nevertheless on the understanding that such legal aid shall be given only where the party concerned can demonstrate, 'a posteriori' or during the course of the legal proceedings, that the circumstances actually exist for the right to have legal aid granted, as required by the general rules embodied in the Act on Legal Aid and accompanying Regulations, amended to this effect by the Sixth Final Provision of the Organic Act of Protection Measures against Gender Violence.

22) If yes, are individuals free to choose their lawyer within the framework of the legal aid system

Yes

No

23) Does your country have an income and assets evaluation for granting legal aid to the applicant ? Please provide in the "comment" box below any information to explain the figures provided. If you have such a system but no data available, please indicate NA. If you do not have such a system, please indicate NAP.

	amount of annual income (if possible for one person) in €	amount of assets in €
for criminal cases	14910,28	NA
for other than criminal cases?	14910,28	NA

Comment :

Lack of financial means is said to exist where the individual can demonstrate that his resources and income, calculated annually based on all concepts and per family unit, do not exceed double the Public Index of Multiple Purpose Income (IPREM), in effect at the time of the application (the IPREM for 2010 is 7455,14).

For cross-border disputes, even if the individual earns more than the indicated amount, he may be eligible for legal aid if he is unable to meet the costs of the proceeding owing to the differences between the cost of living in his Member State of residence and Spain.

There are exceptions for natural persons based on disabilities and/or other family circumstances that allow the aforementioned income limits to be exceeded.

For legal persons to obtain the right to this assistance, their taxable amount for Corporate Tax must be lower than the amount which is equivalent to three times the annual calculation for the Public Index of Multiple Purpose Income (IPREM).

In any case, other external signs that demonstrate the real financial capacity of the applicant shall be taken into account.

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

- Yes
 No

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

If the Bar Association considers that the applicant does not fulfill the basic requirements, or that the main claim the application contains is manifestly unsustainable or groundless, it shall notify the applicant within the term of five days that it has not performed the provisional appointment of a solicitor and it shall convey the application to the Legal Aid Commission. The relevant dossier and provisional appointments made shall be notified to the Legal Aid Commission within the term of three days, for it to verify and resolve upon. If the Bar Association does not hand down any resolution at all within the term of fifteen days, the applicant may repeat the application before the Legal Aid Commission, which shall immediately obtain the dossier from the Law Society and order, at the same time, the provisional appointment of a solicitor and barrister-at-law.

25) Is the decision to grant or refuse legal aid taken by :

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

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

- Yes
 No

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

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

criminal cases?	Yes
other than criminal cases?	Yes

B.1**You can indicate below:**

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

Regarding Q22, the solicitor and, where necessary, a barrister-at-law, are appointed by the Bar Association on the basis of a rota. In any case, an officially appointed solicitor can act with a freely chosen barrister-at-law, or vice-versa, except when the freely chosen professional issues renounces in writing to his fees or charges before the holder of the benefit of legal aid and before the Association where he is registered.

As for Q23, where the resources exceed double the IPREM, but they do not exceed four times the IPREM, and the Legal Aid Commission resolves to exceptionally grant the right to legal aid, based on the circumstances of the applicant's family, number of children or family members under their charge, state of health, disability, financial obligations, costs arising from the initiation of the proceedings or other circumstances and, in any case, where the applicant holds the status of ascendant relative of a special category large family.

In relation to Q25, a Legal Aid Commission shall be set up in each provincial capital, in the cities of Ceuta and Melilla and on each island where there are one or more judicial districts, as the body responsible, within the relevant area, for recognition of the benefit regulated by this Act. However, the competent body of the Autonomous Region may determine assign to the Commission a different area. Likewise, with regard to the Courts of Law with nationwide competence, a Central Legal Aid Commission reporting to the General State Administration shall be set up in Madrid.

Chapter 3, 3.2; Is said that in 2010 only 8 member states have allowed a free access to all courts, one of them Spain, related to compare the legal aid budgets of these states with the legal aid budget of others. Just to clarify that the Spanish Legal Aid Act establish, as it is said at Q.16, 17 and 18, that legal aid covers criminal cases and other than criminal, covers all the stages of legal proceedings, and covers the exemption of court fees in accordance with the law. On the other hand, by the Act 53/2002, is ruled the court taxes to access to justice in civil and administrative matters. Since 1st of April of 2003, court taxes are compulsory for civil and administrative matters, with the exceptions

provided in the law. There is not for instance a free access to all courts in Spain since 2003. See Q. 9. (Cf CN 03/07)

Please indicate the sources for answering the questions 20 and 23

CGAE: General Council of Bar Associations

2. 2. Users of the courts and victims

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

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

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

- | | | |
|--|---|---|
| <input type="checkbox"/> legal texts (e.g. codes, laws, regulations, etc.)? Internet address (es): | <input checked="" type="checkbox"/> Yes | www.boe.es, www.justicia.es, www.cgae.es, www.fiscal.es |
| <input type="checkbox"/> case-law of the higher court/s? Internet address(es): | <input checked="" type="checkbox"/> Yes | www.poderjudicial.es, www.tribunalconstitucional.es |
| <input type="checkbox"/> other documents (e.g. downloadable forms, online registration)? | <input checked="" type="checkbox"/> Yes | www.justicia.es, www.poderjudicial.es, www.cgae.es |

Comment :

The Ministry of Justice's website leads to the Department's Virtual Head Office, a secure site to carry out electronic procedures via electronic ID, electronic signature or agreed passwords. The most used formalities are the ones related to family matters (marriage, birth and death certificates). Moreover, the Virtual Head Office gives access to the Electronic Register, which allows citizens to submit forms for certain administrative procedures via electronic signature and to check the status of the application.

The General Council of the Judiciary's website provides citizens an online form to submit a claim, make a complaint or a suggestion concerning the running of justice administration.

Finally, the General Council of Bar Associations' website allows any citizen to access an application which calculates moratory interests or compensations. Besides, it is linked to an information portal (www.ventanillaunicaabogados.org) accessible with an electronic ID and a digital certificate. Lawyers and citizens find information about the functioning of the Bars (check annual reports or code of ethics, boards calendar) or carry out procedures such as applying for a discharge from a Bar or making a claim. It is also aimed at bar associates and clients who wish to make a claim or complaint against a lawyer or another bar associate.

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

- Yes
 No

If yes, please specify:

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

- Yes
 No

If yes, please specify:

The regional Justice Departments run the Offices for Attention to Victims, which provide information, integrated social assistance and free legal counsel mainly to victims of violent crimes and crimes against sexual freedom.

31) Are there special favourable arrangements to be applied, during judicial proceedings, to the following categories of vulnerable persons. If "other vulnerable person" and/or "other special arrangements", please specify it in the "comment" box below.

[This question does not concern the police investigation phase of the procedure and does not concern

compensation mechanisms for victims of criminal offences, which are addressed under questions 32 to 34.]

	Information mechanism	Special arrangements in court hearings	Other
Victims of rape	Yes	Yes	Yes
Victims of terrorism	Yes	Yes	Yes
Children (witnesses or victims)	Yes	Yes	Yes
Victims of domestic violence	Yes	Yes	Yes
Ethnic minorities	No	No	No
Disabled persons	No	Yes	No
Juvenile offenders	No	Yes	Yes
Other (e.g. victims of human trafficking)	No	No	No

Comment :

Other special arrangements refer to procedural rights.

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

- Yes
 No

If yes, for which kind of offences

Intentional violent crimes and sexual offences in general and some offences as gender violence and terrorism in particular.

33) If yes, does this compensation consist in:

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

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

- Yes
 No

If yes, please inform about the recovery rate, the title of the studies, the frequency of the studies and the coordinating body:

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

- Yes
 No

If yes, please specify:

Pursuant to article 10 of the Organic Statute of the Public Prosecution Service (Act 50/1981 of 30 December), it falls to the Public Prosecution Service to see to victim protection during legal process by promoting the mechanisms set in place for the receipt of effective victim aid and assistance.

Especially, public prosecutors must inform the victims of their rights, means of assistance, the course of proceedings and the final decision according to Instruction 8/2005 of the Public Prosecution Office.

Besides, article 109 of the Criminal Code provides that the victim may opt to sue for civil liability before the Civil Jurisdiction. This option stems from one of the main characteristics of the Spanish criminal system: any offence entails both criminal and civil responsibility. Regardless whether the victim decides or not to become a formal party represented by a lawyer, the Public Prosecutor will proceed with civil action on his behalf. The only exception is when the victim expressly renounces to civil compensation.

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

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

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

If necessary, please specify:

Only the investigating judge can decide to discontinue a case as he is in charge of criminal investigations. Should the judge decide to file a case, the victim has the right to appeal before a higher court under article 110 of the Criminal Procedural Law. If the prosecutor decides not to bring charges, the victim can exercise criminal actions and ask the judge to continue the case.

Where the public prosecutor has investigating powers to conduct investigations prior to judicial proceedings, he can decide to file the investigations. In that case, the victim has the right to reiterate his complaint before the investigating judge in accordance with article 110 of the aforementioned Law.

2. 2. 2. Confidence of citizens in their justice system

37) Is there a system for compensating users in the following circumstances:

- excessive length of proceedings?
 non execution of court decisions?
 wrongful arrest?
 wrongful condemnation?

Where appropriate, please give details on the compensation procedure, the number of cases, the result of the procedures and the existing mechanism for calculating the compensation (e.g. the amount per day for unjustified detentions or convictions):

The Spanish Constitution enshrines the private parties' right to compensation for damages caused by judicial error as well as those arising from irregularities in the administration of justice (articles 106.2 and 121). Under no circumstances will compensation be awarded when the judicial error or the irregular functioning of the Justice Administration were caused by wilful or unlawful conduct by the affected party. To demand compensation from the Ministry of Justice, the interested party has to submit a financial liability claim. Compensable damages are those caused to any goods or rights, except in cases of force majeure provided by the Organic Act 6/1985 of 1 July, on the Judiciary. Moreover, damages have to meet two requirements: firstly, they must be real, economically calculable and separate for a person or a group of people; secondly, there must be a direct, immediate and exclusive causal relationship between the action of the judicial body and the damage claimed. When claiming damages for judicial error, a judicial decision is first required that expressly recognises it. In any case, the right to claim compensation expires in one year from the moment the event that gave rise to the compensation occurred or the damaging effect was apparent.

In 2010, there were 212 cases of irregular functioning of the Justice Administration and the amount paid by the Ministry of Justice was 4835901 euro. In case of wrongful arrest, the amount of the compensation depends on the time of deprivation of freedom and the personal and family consequences that have arisen.

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

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

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

The Sociological Studies Department of the General Council of the Judiciary elaborates quality surveys aimed at judges, barristers and court users to ascertain assessment of judicial activity and its evolution over time. The General Council of Bar Association also elaborates surveys aimed at lawyers and people granted legal aid. They are available on their websites (see the answer to Q28).

39) If possible, please specify:

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

40) Is there a national or local procedure for making complaints about the functioning of the judicial system (for example the treatment of a case by a judge or the duration of a proceeding)?

Yes

No

41) Please specify which authority is responsible for dealing with such complaints and inform whether there is or not a time limit to respond and/or a time limit for dealing with the complaint (multiple options possible). Please give information concerning the efficiency of this complaint procedure in the "comment" box below.

	Time limit to respond (e.g. to acknowledge receipt of the complaint, to provide information on the follow-up to be given to the complaint, etc.)	Time limit for dealing with the complaint	No time limits
Court concerned	Yes	Yes	No
Higher court	Yes	Yes	No
Ministry of Justice	No	Yes	No
High Council of the Judiciary	Yes	Yes	No
Other external bodies (e.g. Ombudsman)	No	No	No

Comment :

Regarding complaints about the functioning of the courts, the General Council of the Judiciary acknowledges receipt in 48 hours and responds within a month. Those involving a disciplinary responsibility are recorded by the Inspection Service, that submits the corresponding proposals to the Disciplinary Committee so that it may open, where applicable, disciplinary proceedings and apply the relevant penalty to the judge or magistrate who has been liable for conduct subject to a punishment during the responsible exercise of his/her activity.

The Judicial Statistics Department of the Council elaborates an annual report ("Justice point by point"), which shows the state of Justice Administration giving information about key issues such as complaints (number of complaints, reasons, departments for which they are made). Annual information about complaints related to the Charter of Rights of Citizens before Justice is also available on the Council's website.

In relation to complaints about the Ministry of Justice's administrative units, upon receipt of the complaint by the respective department, the citizen will be informed within a period of twenty days of the actions carried out and the relevant measures taken. If the interested party does not receive any response, he may inquire at the General Inspection Service.

3. Organisation of the court system

3. 1. Functioning

3. 1. 1. Courts

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

	Total number
42.1 First instance courts of general jurisdiction (legal entities)	2 243
42.2 First instance specialised Courts (legal entities)	1 433
42.3 All the Courts (geographic locations) (this includes 1st instance courts of general jurisdiction, first instance specialised courts, all second instance courts and courts of appeal and all supreme courts)	749

43) Number (legal entities) of first instance specialised courts (or specific judicial order). If "other specialised 1st instance courts", please specify it in the "comment" box below. If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP.

Total (must be the same as the data given under question 42.2)	1 433
Commercial courts	65
Labour courts	342
Family courts	103
Rent and tenancies courts	NAP
Enforcement of criminal sanctions courts	17
Administrative courts	241
Insurance and / or social welfare courts	NAP
Military courts	NAP
Other specialised 1st instance courts	665

Comment :

348 Penal Courts
 17 Penal Courts specialised in violence against women
 106 Violence against Women Courts
 82 Juvenile Courts
 1 Juvenile Enforcement Court
 50 Prison Courts
 17 Capacity Court
 28 Civil Register Courts
 8 Decanatos Exclusivos
 4 Labour Enforcement Courts
 3 Mortgage Courts
 1 Arbitration Court

44) Is there a foreseen change in the structure of courts [for example a reduction of the number of courts (geographic locations) or a change in the powers of courts]?

Yes

No

If yes, please specify:

The deployment in the entire country of the Judicial Office, the new model for organising courts of law, and the creation of the Instance Courts (Tribunales de Instancia), a new model of collegial courts aimed at replacing local courts belonging to the same judicial district.

45) Number of first instance courts (geographic locations) competent for the following cases. If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP.

	Number of courts
a debt collection for small claims	1450
a dismissal	342
a robbery	1561

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

Oral trials: claims up to 6000 euro

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

Q42, Q43 Ministry of Justice, General Directorate of Relations with Justice Administration

Q45 General Council of the Judiciary

3. 1. 2. Judges and non-judge staff

46) Number of professional judges sitting in courts (if possible on 31 December 2010) (please give the information in full-time equivalent and for permanent posts actually filled for all types of courts - general jurisdiction and specialised courts). If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP.

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

[Please make sure that public prosecutors and their staff are excluded from the following figures (they will be part of questions 55-60). If a distinction between staff attached to judges and staff attached to prosecutors cannot be made, please indicate it clearly.]

Please indicate the number of posts that are actually filled at the date of reference and not the theoretical budgetary posts.]

	Total	Males	Females
Total number of professional judges (1 + 2 + 3)	4689	2422	2267
1. Number of first instance professional judges	3209	1402	1807
2. Number of second instance (court of appeal) professional judges	1401	950	451
3. Number of supreme court professional judges	79	70	9

Comment :

The figures presented refer to the number of professional judges on active service on 1 January 2011, except for those who were on leave. On another point, differences in vertical consistency are due to territorial judges. That is to say, there are 31 territorial judges (23 males and 8 females) who cannot be counted in any instance: they are attached to second instance courts but most of them practice in first instance courts. For this reason, they are included in the total number of professional judges.

Differences in vertical consistency are due to the territorial judges, who depend on second instance courts but usually practice in first instance courts. That's why they were included in the total number of professional judges. Alternatively, we may count them among the number of second instance professional judges and the sum would be as follows: 4689 (total number) = 3209 (first instance) + 1401 (second instance) + 79 (supreme courts).

2422 (total number) = 1402 (first instance) + 950 (second instance) + 70 (supreme courts).

2267 (total number) = 1807 (first instance) + 451 (second instance) + 9 (supreme courts)

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

	Total	Males	Females
Total number of court presidents (1 + 2 + 3)	NA	NA	NA
1. Number of first instance court presidents	NA	NA	NA
2. Number of second instance (court of appeal) court presidents	121	106	15
3. Number of supreme court presidents	6	6	NA

48) Number of professional judges sitting in courts on an occasional basis and who are paid as such (if possible on 31 December 2010). If necessary, please provide in the "comment" box below any information to explain the answer under question 48.

Gross figure Yes 1 357
 If possible, in full-time equivalent NA

Comment :

The number of professional judges who were on active service at the date of reference is not available.

49) Number of non-professional judges who are not remunerated but who can possibly receive a simple defrayal of costs (if possible on 31 December 2010) (e.g. lay judges and "juges consulaires", but not arbitrators and persons sitting in a jury).

Gross figure Yes 7 682

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

Yes

No

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

Article 125 of the Spanish Constitution introduced the jury system in Spain. According to article 1 of Organic Law 5/1995, of 22 may, jury tries the following offences:

- Against the person
- Committed by public officials in the exercise of their duties
- Against liberty and security
- Arson

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

2 828

52) Number of non-judge staff who are working in courts for judges (if possible on 31 December 2010) (this data should not include the staff working for public prosecutors; see question 60) (please give the information in full-time equivalent and for permanent posts actually filled). If "other non-judge staff", please specify it in the "comment" box below.

Total non-judge staff working in courts (1 + 2 + 3 + 4 + 5) NA

1. Rechtspfleger (or similar bodies) with judicial or quasi-judicial tasks having autonomous competence and whose decisions could be subject to appeal Yes 4456

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

3. Staff in charge of different administrative tasks and of the management of the courts (human resources management, material and equipment management, including computer systems, financial and budgetary NA

management, training management)

4. Technical staff

NA

5. Other non-judge staff

NA

Comment :

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

"Secretarios Judiciales" are civil servants who form a hierarchical body of national scope, highly skilled, dependant on the Ministry of Justice and the Government Secretaries of each of the Higher Courts of Justice. The Organic Law for the Judiciary and their own Organic Regulation rule their status and functions.

To qualify as a "Secretario Judicial", candidates must hold a law degree and pass a competitive examination followed by a course at the training college Centro de Estudios Jurídicos (Centre for Legal Studies). In order to guarantee their absolute independence, they are subject to practically the same regime of incompatibilities and prohibition as judges. With reference to their tasks, "Secretarios Judiciales" are public authorities whilst carrying out their duties. Therefore, they must act in subjection to the principles of legality and impartiality. They assist the judges in their functions. They manage the paperwork of court proceeding, keep record of all stages of the proceedings (hearing, trials, etc.) and inform the judge of any documents submitted and the deadlines for the various procedures. Finally, they are the direct head of the staff working in the courts and they have managing responsibilities in the new Judicial Offices.

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

Yes

No

If yes, please specify:

Some courts have delegated IT services, security, archives, cleaning and maintenance services.

C.1

You can indicate below:

- any useful comments for interpreting the data mentioned in this chapter

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

Regarding Q52, Spanish non-judge staff performs tasks that may be included in different categories or do not exactly coincide with the given description. For this reason, it is not possible to distribute them into categories 2 to 5. In addition, the total number of "Secretarios Judiciales" (category 1) equals the sum of 3477 professional +979 occasional.

In relation to reforms of the judicial system, the Council of Ministers approved the creation of 150 new judicial units in 2010: 134 courts, 16 posts for judges (National High Court and Regional High Courts of Justice) and 50 posts for territorial judges. The latter are a new figure foreseen by the Strategic Plan for Modernization of the Justice System to promote coverage of judicial posts by highly qualified professional judges.

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

Q46-49 Source General Council of the Judiciary

Q52 Source Ministry of Justice, General Directorate of Relations with Justice Administration

3. 1. 3. Public prosecutors and staff

55) Number of public prosecutors (if possible on 31 December 2010) (please give the information in full-time equivalent and for permanent posts actually filled, for all types of courts – ordinary and specialised jurisdictions). If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP. Please provide in the "comment" box below any useful information for interpreting the data.

	Total	Males	Females
Total number of prosecutors (1 + 2 + 3)	2 408	963	1 445
1. Number of prosecutors at first instance level	604	180	424
2. Number of prosecutors at second instance (court of appeal) level	1 778	764	1 014
3. Number of			

prosecutors at supreme court level	26	19	7
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Comment :

56) Number of heads of prosecution offices. If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP. Please provide in the "comment" box below any useful information for interpreting the data.

	Total	Males	Females
Total number of heads of prosecution offices (1 + 2 + 3)	114	81	33
1. Number of heads of prosecution offices at first instance level	71	47	24
2. Number of heads of prosecution offices at second instance (court of appeal) level	17	15	2
3. Number of heads of prosecution offices at supreme court level	26	19	7

Comment :

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

Yes

No

Number (full-time equivalent)

NA

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

Substitute prosecutors who may act for a certain period of time, which depends on the cause that leads to their call (illness, maternity leave, etc.).

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

Yes

No

60) Number of staff (non-public prosecutors) attached to the public prosecution service (if possible on 31 December 2010) (without the number of non-judge staff, see question 52) (in full-time equivalent and for permanent posts actually filled).

Number

Yes

1 926

C.2

You can indicate below:

- any useful comments for interpreting the data mentioned in this chapter

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

As regards Q60, the number includes all staff (Ministry of Justice + Public Prosecutor's Office + Autonomous Regions). The 2008 figure excluded the Autonomous Regions. If we do the same to enable comparisons, then the number of staff will be 1926.

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

Public Prosecutor's Office

3. 1. 4. Court budget and new technologies

61) Who is entrusted with responsibilities related to the budget within the court? If "other", please specify it in the "comment" box below.

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

Comment :

This question is not applicable to the Spanish judicial system as there is no public authority entrusted with such responsibilities (see the answer to Q15).

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

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

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

Case registration system	100% of courts
Court management information system	100% of courts
Financial information system	100% of courts
Videoconferencing	-10% of courts

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

Electronic web forms	100% of courts
Website	100% of courts
Follow-up of cases online	0 % of courts
Electronic registers	100% of courts
Electronic processing of small claims	0 % of courts
Electronic processing of undisputed debt recovery	0 % of courts
Electronic submission of claims	-10% of courts
Videoconferencing	-50% of courts
Other electronic communication facilities	+50% of courts

65) The use of videoconferencing in the courts (details on question 65). Please indicate in the "comment" box below any clarification on the legal framework and the development of videoconferencing in your country.

	65.1 In criminal cases, do courts or prosecution offices use videoconferencing for hearings in the presence of defendants or witnesses?	65.2 Can such court hearing be held in the police station and/or in the prison?	65.3 Is there any specific legislation on the conditions for using videoconferencing in the courts / prosecution offices, especially in order to protect the rights of the defence?	65.4 Is videoconferencing used in other than criminal cases?
	Yes	Yes	Yes	Yes

Comment :

Pursuant to Article 731.bis of Criminal Procedure Act, the court, ex officio or ex-parte, may agree on appearance by videoconference to protect the party, especially if he is a minor, or for public order reasons.

Moreover, Article 229(3) of Organic Law on the Judiciary states that statements, interviews, evidence, confrontation of witnesses, questioning, reports, ratification of expert opinions and proceedings can be conducted by videoconference, but this must be in the presence of the judge or court and in the presence of or with the intervention of, where appropriate, the parties. It can take the form of public proceedings, apart from exceptional cases. The restrictions on the type of evidence that can be obtained by videoconference concern fundamental rights or minors.

In accordance with Article 147 of the Law on Civil Procedure, oral proceedings, trial proceedings and appearances before the court can be recorded on a suitable support designed to record and reproduce sound and image. All courts in Spain have audiovisual devices to record trials and hearings. The recordings are therefore stored for a certain period of time. Copies can be issued to the parties, at their expense.

The performance is conducted by the Secretario Judicial (Rechtspfleger) and it takes place in the context of a court. Care must always be taken to ensure that there is two-way, simultaneous transmission of image and sound, as well as visual, auditory and verbal interaction between the persons who are in different geographical locations, and that it is possible at all times for each party to question and counter the other party's evidence, guaranteeing the right to a fair trial.

In those cases in which Spain requires cooperation by a foreign authority (Article 177(1) of Civil Procedure Act), it must first and foremost comply with international treaties and, in their absence only, with the provisions set out in the Spanish Organic Law on the Judiciary. Under this Organic Law, these requests shall be submitted by the President of the Supreme Court, a High Court of an Autonomous Region or a Provincial Court to the Ministry of Justice, which shall forward them to the competent authorities of the requested country.

International treaties also take precedence when a foreign country asks the Spanish authorities to provide assistance (Article 177(2) of the Civil Procedure Act). In the absence of an international treaty, the criterion of reciprocity is applied, the existence of which is determined by the Spanish Government (Article 278(2) of the Organic Law on the Judiciary), following recognition of it or an offer to provide such recognition in future by the requested foreign authority. In any case, even in cases of reciprocity between countries, Spanish courts can refuse assistance in four cases laid down in Article 278 of the Organic Law on the Judiciary. First, when the Spanish court has exclusive jurisdiction to hear the proceedings in relation to which a request for cooperation has been made. Second, when the subject-matter of the request does not lie within the power of the Spanish judicial authority requested, in which case it is forwarded to the competent authority. Third, when the request does not comply with the requirements concerning authenticity or is drafted in a language other than Spanish. Lastly, when the subject-matter of the request is manifestly contrary to Spanish public order.

These rules apply in the case of countries outside the scope of Council Regulation (EC) No 1206/2001 of 28 May 2001 on cooperation between the courts of the Member States in the taking of evidence in civil or commercial matters, as in this case direct requests between courts with territorial jurisdiction is allowed, in line with the permitted languages and with the provisions in this same Regulation, and in accordance with the procedures laid down in it.

C.3**You can indicate below:**

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

Regarding Q63, systems of court management information and financial information are incumbent on the Ministry of Justice. As for Q64, courts are implementing electronic submission of claims at present and "other electronic communication facilities" concern Lexnet and EJIS. Lexnet is a secure document exchange system that facilitates communications between the courts and several legal actors (prosecutors, solicitors, social graduates, etc.). Approx. 22000 users currently access it. EJIS (Judicial Interoperability and Security Programme) is a platform that allows courts of law networking and finding out in real time the information regarding particular matters or persons. The implementation of both facilities is part of the Strategic Plan for Modernising the Justice System 2009-2012, whose aim is to achieve a flexible and efficient justice system.

Besides, other technological improvements are underway to advance towards the "0 paper" target: the deployment of a single computerised, digitised Civil Register of Services and the implementation of the electronic case record in the National High Court.

3. 2. Performance and evaluation**3. 2. 1. Performance and evaluation****66) Is there a centralised institution that is responsible for collecting statistical data regarding the functioning of the courts and judiciary?**

Yes

No

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

National Judicial Statistics Commission, Ministry of Justice. Judicial Statistics Department, General Council of the Judiciary.

67) Are individual courts required to prepare an annual activity report (that includes, for example, data on the number of cases processed or pending cases, the number of judges and administrative staff, targets and assessment of the activity)?

- Yes
 No

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

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

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

If other, please specify:

Number of rogatory letters, enforcements and appeals filed and returned.

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

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

- Yes
 No

Please specify:

The Inspection Service of the General Council of the Judiciary elaborates monitoring reports on the basis of information provided by the Judicial Statistics Department. Information requested from the courts is essentially quantitative and focused on procedural characteristics. Statistical reports are also used to obtain administrative information such as staff organization, staff movements, deposit accounts and appropriations.

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

- Yes
 No

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

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

If other, please specify:

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

- Yes
 No

73) Who is responsible for setting the targets for each judge?

- executive power (for example the ministry of Justice)?
 legislative power
 judicial power (for example a High Judicial Council or a Higher Court)
 other

If other, please specify:

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

- Yes
 No

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

- executive power (for example the ministry of Justice)?
 legislative power
 judicial power (for example a High Judicial Council, Higher Court)
 other

If other, please specify:

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

Being most courts unipersonal, their targets are similar to those set for judges.

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

- High Council of judiciary
 Ministry of justice
 inspection authority
 Supreme Court
 external audit body
 other

If other, please specify:

In addition to the General Council of the Judiciary, the President of every Regional High Court of Justice within its territory.

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

- Yes
 No

If yes, please specify:

The National Quality Commission has approved a new quality system to be implemented in the new Judicial Offices. It comprises verifiable procedural indicators as well as mechanisms for monitoring the number of cases and timeframes for each indicator.

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

- Yes
 No

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

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

81) Do you monitor waiting time during court procedures?

- Yes
 No

If yes, please specify:

The management information system used within the courts allows monitoring waiting time.

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

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

- Yes
 No

Please specify the frequency of the evaluation:

The Inspection Service of the General Council of the Judiciary organises scheduled visits every six months and makes a report based on statistical data provided by courts.

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

- Yes
 No

If yes, please give further details:

The Office of the Public Prosecutor of Spain elaborates an annual report that is made public at the beginning of the judicial year and presented by the Public Prosecutor to the Parliament. Similarly, the Prosecutors Offices at the High Courts of Justice elaborate an annual report within their territory, a copy of which is sent to the government, judicial council and legislative assembly of the Autonomous Region and presented by the High Court Prosecutor before the latter.

C.4

You can indicate below:

- any useful comments for interpreting the data mentioned in this chapter
- the characteristics of your court monitoring and evaluation systems

In relation to Q68, all courts have to prepare a report every three months (statistical bulletin), which is taken into account by High Justice Courts when making their annual report.

4. Fair trial

4. 1. Principles

4. 1. 1. General information

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

NA

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

Yes

No

If possible, number of successful challenges (in a year):

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

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

Please indicate the sources:

The ECHR and the Agent of the Spanish Government before the ECHR (Ministry of Justice)

D.1

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

The ECHR takes most decisions on inadmissibility before communicating the case to the Government and the ECHR does not differentiate between articles of the Convention. Therefore, it is not possible to specify the total number of cases declared inadmissible by the Court regarding Article 6. During 2010, only 1 communicated case related to duration of proceedings (criminal) before the Constitutional Court was declared inadmissible.

4. 2. Timeframes of proceedings

4. 2. 1. General information

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

civil cases?

criminal cases?

administrative cases?

there is no specific procedure

If yes, please specify:

Concerning fundamental rights protection, a procedure for urgent cases can be used when preventive measures are requested to ensure the effectiveness of the sentence.

88) Are there simplified procedures for:

civil cases (small disputes)?

criminal cases (small offences)?

administrative cases?

there is no simplified procedure

If yes, please specify:

- Civil cases: small claims and oral trials
- Criminal cases: flagrant offences given a sentence of less than five years
- Administrative cases up to 13000 euro

89) Do courts and lawyers have the possibility to conclude agreements on arrangements for processing cases (presentation of files, decisions on timeframes for lawyers to submit their conclusions and on dates of hearings)?

- Yes
 No

If yes, please specify:

4. 2. 2. Caseflow management and timeframes of judicial proceedings

90) Comment:

The national correspondents are invited to pay special attention to the quality of the answers to questions 91 to 102 regarding case flow management and timeframes of judicial proceedings. The CEPEJ agreed that the subsequent data would be processed and published only if answers from a significant number of member states – taking into account the data presented in the previous report – are given, enabling a useful comparison between the systems.

91) First instance courts: number of other than criminal cases. If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP.

Note 1: cases mentioned in categories 3 to 5 (enforcement, land registry, business register) should be presented separately in the table. Cases mentioned in category 6 (administrative law) should also be separately mentioned for the countries which have specialised administrative courts or separate administrative law procedures or are able to distinguish in another way between administrative law cases and civil law cases.

Note 2: check if the figures submitted are (horizontally and vertically) consistent. Horizontal consistent data means: "(pending cases on 1 January 2010 + incoming cases) – resolved cases" should give the correct number of pending cases on 31 December 2010. Vertical consistency of data means that the sum of the individual case categories 1 to 7 should reflect the total number of other than criminal law cases.

	Pending cases on 1 Jan. '10	Incoming cases	Resolved cases	Pending cases on 31 Dec. '10
Total of other than criminal law cases (1+2+3+4+5+6+7)*	3 333 617	3 374 149	2 976 712	3 860 756
1. Civil (and commercial) litigious cases (if feasible without administrative law cases, see category 6)*	1 362 790	1 940 277	1 816 559	1 438 719
2. Civil (and commercial) non-litigious cases, e.g. uncontested payment orders, request for a change of name, etc. (if feasible without administrative law cases; without enforcement cases, registration cases and other cases, see categories 3-7)*	77 824	183 448	186 976	68 019
3. Enforcement cases	1 570 042	827 837	540 783	1 840 782
4. Land registry cases**	NAP	NAP	NAP	NAP
5. Business register cases**	NAP	NAP	NAP	NAP
6. Administrative law cases (litigious and non-litigious)	322 961	422 587	432 394	513 236
7. Other cases (e.g. insolvency registry cases)	NAP	NAP	NAP	NAP

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

Non-litigious cases include non-litigious divorces and cases of voluntary jurisdiction and internments as well.

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

94) First instance courts: number of criminal law cases. If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP.

Note: please check if the figures submitted are (horizontally and vertically) consistent. Horizontal consistent data means that: "(pending cases on 1 January 2010 + incoming cases) – resolved cases" should give the correct number of pending cases on 31 December 2010. Vertical consistency of data means that the sum of the categories 8 and 9 for criminal cases should reflect the total number of criminal cases.

	Pending cases on 1 Jan. '10	Incoming cases	Resolved cases	Pending cases on 31 Dec. '10
Total criminal cases (8+9)	660 637	1 336 505	1 324 736	700 911
8. Criminal cases (severe criminal offences)	437 083	345 190	339 832	468 917
9. Misdemeanour and / or minor offences cases	223 554	991 315	984 904	231 994

95) The classification of cases between severe criminal cases and misdemeanour and/or minor criminal cases may be difficult. Some countries might have other ways of addressing misdemeanour offences (for example via administrative law procedures).

Please indicate, if feasible, what case categories are included under "severe criminal cases" and the cases included under "misdemeanour and /or minor criminal cases".

Article 13 of the Spanish Penal Code distinguishes among grave felonies, less grave felonies and misdemeanours. The distinction is established according to the punishment available for each: grave felonies are those punished with a serious punishment; less grave crimes are those punished with a less severe punishment; misdemeanours are those punished with a minor punishment.

Misdemeanours may also be distinguished systematically: They are found in Book III; grave and less grave felonies, meanwhile, are found mixed in Book II. The systematic distinction is based on the legal interest each serves to protect.

Article 33 sets out what are to be considered as severe penalties, less serious penalties and minor penalties. Some penalties are always considered to be severe (e.g. general disqualification). Others are always minor penalties (e.g. permanent localization). In most of the cases, however, it is the length of the sentence that determines the class of severity: A prison sentence is considered to be of great severity if it exceeds five years, or lesser severity otherwise; a community service sentence is considered less serious if it exceeds thirty days but is minor if of shorter duration; a fine is minor if it does not exceed two months and is otherwise considered less serious, etc.

96) Comments on questions 91 to 95. You can indicate, for instance, the specific situation in your country, give explanations on NA or NAP answers or explain the calculation of the total number of other than criminal law cases or differences in horizontal consistency, etc.

97) Second instance courts: total number of "other than criminal law" cases. If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP.

Note: the total of "other than criminal" cases includes all of the following categories (categories 1 to 7).

Total of other than criminal law cases (1+2+3+4+5+6+7)	NA	NA	NA	NA
1. Civil (and commercial) litigious cases (if feasible without administrative law cases, see category 6)*	74 875	144 554	144 861	75 207
2. Civil (and commercial) non-litigious cases, e.g. uncontested payment orders, request for a change of name, etc. (if feasible without administrative law cases; without enforcement cases, registration cases and other cases, see categories 3-7)*	NA	NA	NA	NA
3. Enforcement cases	7 429	4 983	5 271	7 321

4. Land registry cases	NAP	NAP	NAP	NAP
5. Business register cases	NAP	NAP	NAP	NAP
6. Administrative law cases (litigious and non-litigious)	42 429	31 955	37 870	35 847
7. Other cases (e.g. insolvency registry cases)	NAP	NAP	NAP	NAP

98) Second instance courts: total number of criminal law cases. If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP.

	Pending cases on 1 Jan. '10	Incoming cases	Resolved cases	Pending cases on 31 Dec. '10
Total criminal cases (8+9)	28 450	152 458	152 655	27 959
8. Criminal cases (Severe criminal offences)	NA	NA	NA	NA
9. Misdemeanour and/or minor offences cases	NA	NA	NA	NA

Comment :

99) Highest instance courts: total number of "other than criminal law" cases. If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP.

Note: the total of "other than criminal law cases" includes all of the following categories (categories 1 to 7).

	Pending cases on 1 Jan. '10	Incoming cases	Resolved cases	Pending cases on 31 Dec. '10
Total of other than criminal law cases (1+2+3+4+5+6+7)	NA	NA	NA	NA
1. Civil (and commercial) litigious cases (if feasible without administrative law cases, see category 6)	9 062	9 048	10 362	7 748
2. Civil (and commercial) non-litigious cases, e.g. uncontested payment orders, request for a change of name, etc. (if feasible without administrative law cases; without enforcement cases, registration cases and other cases, see categories 3-7)	NA	NA	NA	NA
3. Enforcement cases	8	7	6	7
4. Land registry cases	NAP	NAP	NAP	NAP
5. Business register cases	NAP	NAP	NAP	NAP
6. Administrative law cases (litigious and non-litigious)	13 260	8 924	9 079	14 070
7. Other cases (e.g. insolvency registry cases)	NAP	NAP	NAP	NAP

100) Highest instance courts: total number of criminal law cases. If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP.

	Pending cases on 1 Jan. '10	Incoming cases	Resolved cases	Pending cases on 31 Dec. '10
Total criminal cases (8+9)	2 307	4 509	4 682	2 134
8. Criminal cases (severe criminal offences)	NA	NA	NA	NA
9. Misdemeanour cases (minor offences)	NA	NA	NA	NA

Comment :

101) Number of litigious divorce cases, employment dismissal cases, robbery cases and intentional

homicide cases received and processed by first instance courts. If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP.

	Pending cases on 1 Jan. '10	Incoming cases	Resolved cases	Pending cases on 31 Jan. '10
Litigious divorce cases	35 539	48 622	45 019	37 247
Employment dismissal cases	32 206	111 942	105 293	29 197
Robbery cases	NA	80 882	NA	NA
Intentional homicide	NA	96	NA	NA

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

[The average length of proceedings has to be calculated from the date the application for judicial review is lodged to the date the judgment is made, without taking into account the enforcement procedure. New: the question concerns first, second and third instance proceedings.]

	% of decisions subject to appeal	% pending cases more than 3 years	Average length in 1st instance (in days)	Average length in 2nd instance (in days)	Average length in 3rd instance (in days)	Average total length of the total procedure (in days)
Litigious divorce cases	NA	NA	279	329	NA	NA
Employment dismissal cases	NA	NA	105	236	391	732
Robbery cases	NA	NA	826	NAP	310	1136
Intentional homicide	NA	NA	1006	NAP	333	1339

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

After the reform operated by Law 15/2005, divorce in Spain does not require a previous judicial separation nor the concurrence of causes legally determined. This means that it is possible to sue directly to get a divorce without an invocation of a cause (divorce needs always a judicial decision).

The divorce procedure can be initiated at the request of one of the spouses, at the request of one of them with the consent of the other or at the request of both spouses. For it to be granted, only the following requirements are needed:

o Three months need to have past from the celebration of the marriage if the divorce is interested at the request of both spouses or of one with the consent of the other.

o Three months need to have past from the celebration of the marriage if the divorce is interested at the request of only one of the spouses

o There's no need of some time past from the celebration of the marriage to get a divorce when there is an evidence of risk for the life, physical integrity, freedom, moral integrity or sexual indemnity for the spouse that is the plaintiff in the divorce case or for the children of both spouses or of one of them.

Due to the system described, it can be said that for divorce to be granted, it is enough with the requirements abovementioned so that in principle (and except in the last situation), the defendant cannot oppose divorce based on material reasons

But besides suing directly for divorce, the Spanish legislation also foresees the possibility of asking for a legal separation in which common life is suspended but the marriage is not d

When divorce is asked at the request of only one of the spouses, the claim must include a proposal of the measures that should regulate the effects derived from the divorce or the separation. These measures will be the object of debate during the process, being the Judge the one that decides on them if there's no agreement reached between the spouses.

If the divorce is asked at the request of one spouse with the consent of the other or of both spouses, then the claim must include an agreement reached between the spouses on the measures that are to be adopted. They are those that affect: the common address, the care and support of the children, the division of the common properties, and the possible pensions between the spouses.

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

In relation to litigious divorce and employment dismissal cases, the length of proceedings in first instance is calculated by a mathematic model that takes into account the number of incoming, pending and solved cases at the end of the year and gives an estimate of the average length of cases filed each year. As for other cases and/or instances, a different calculation method is used: a sampling of the judgements of the High Court.

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

- to conduct or supervise police investigation
- to conduct investigations

- when necessary, to demand investigation measures from the judge
- to charge
- to present the case in the court
- to propose a sentence to the judge
- to appeal
- to supervise enforcement procedure
- to discontinue a case without requiring a judicial decision (ensure consistency with question 36!)
- to end the case by imposing or negotiating a penalty or measure without requiring a judicial decision
- other significant powers

If "other significant powers", please specify:

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

- Yes
- No

If yes, please specify:

In relation to civil and administrative cases, the functions of the public prosecutor are as follows:

- He ensures respect for fundamental rights and public freedoms by any measures required to defend them.
- He acts in civil proceedings required by law that affect the public interest of the interests of minors, the disabled or the underprivileged until the normal representation mechanisms are provided.
- He participates in proceedings concerning civil status and any other legally required procedure in defense of legality and the public or social interest.
- He ensures the integrity of the jurisdiction and competence of the courts and tribunals by raising matters of conflicts of jurisdiction or, where applicable, of competence, and intervenes in cases of conflicts of jurisdiction brought forward by others.

107) Case proceedings managed by the public prosecutor: total number of 1st instance criminal cases. If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP.

	Received by the public prosecutor	Cases discontinued by the public prosecutor (see 108 below)	Cases concluded by a penalty or a measure imposed or negotiated by the public prosecutor	Cases charged by the public prosecutor before the courts
Total number of 1st instance criminal cases	4 474 042	4 071 378	NA	NA

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

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

109) Do the figures include traffic offence cases?

Yes No**D.2****You can indicate below:**

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

As regards Q91, 94, 97, 98, 99 and 101, the total number of pending cases on 31 December 2010 is not the outcome of the sum as requested, but a regularized figure. In other words, when inspection services find out that the number of pending cases is not very accurate, they correct it. For this reason, the data provided are not horizontally consistent.

Q91#1#1 : The economic crisis increased significantly the number of civil cases, particularly small claims (38.5%)

Q94#1#1 : The number of incoming misdemeanor cases in first instance Criminal courts increased significantly in 2008 and 2009.

Q100#3#1 : The implementation of some courses of action included in the Strategic Plan for Modernising the Justice System had a positive effect on case-flow management. The deployment of the New Judicial Office, the creation of 150 new judicial units, the full deployment of Lexnet, the secure document exchange system, and other new technologies have proved to be effective measures for the Administration of Justice.

Q100#4#1 : Two elements should be taken into consideration: first, the minor increase in the number of incoming cases and second, the said increase of the resolved cases.

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

Q91-102 General Council of the Judiciary

Q107-108 Public Prosecutor's Office

5. Career of judges and public prosecutors

5. 1. Recrutement and promotion

5. 1. 1. Recrutement and promotion

110) How are judges recruited?

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

If other, please specify:

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

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

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

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

The tribunal that evaluates the tests for admittance to the judicial profession and the career system for prosecutors is composed by the following persons:

- a Supreme Court of High Court Magistrate, or a coordinating prosecutor or prosecutor attached to the Supreme Court, or a prosecutor in the High Court, who will preside over the tribunal
- two magistrates,
- two prosecutors,
- a university law professor,
- a state attorney,
- a lawyer who has been practicing the law for ten years or more,
- a first-category secretario judicial, who will act as rapporteur-secretary.

The authority in charge of nominating judges is the General Council of the Judiciary.

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

- Yes
- No

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

The General Council of the Judiciary

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

There are three categories: "Jueces", "Magistrados" (higher court judges) and "Magistrados del Tribunal Supremo" (judges of the Supreme Court). Promotion to the category of "Magistrado" is by seniority (3 years experience) although it is also possible to take an examination in certain specialized areas of law (administrative, employment or commercial) with 2 years experience. Such exams aim at assessing the abilities and legal knowledge of candidates and their proficiency in the relevant legal fields. They may involve training courses, reports to be defended in front of a tribunal, oral presentations of legal issues, etc.

In addition, a quarter of the places for judges are reserved for lawyers with at least 10 years experience, one third of whom must be "Secretarios Judiciales". Most posts of "Magistrado del Tribunal Supremo" are filled by "Magistrados" with at least 15 years experience (including 10 as a "Magistrado"), although one fifth is reserved for lawyers of recognized standing with at least 15 years experience.

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

- Yes

No

115) Is the status of prosecution services:

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

Please specify:

Public prosecutors are subject to instructions from the Attorney General. They are attached to the Public Prosecutor's Office and to the prosecutors' offices of the regional higher courts.

116) How are public prosecutors recruited?

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

If "other", please specify:

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

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

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

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

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

- Yes
 No

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

The Ministry of Justice on a proposal from the Attorney General

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

Promotion from 3rd (initial) to 2nd category is automatic as based on seniority; promotion to 1st category requires an appointment by the Ministry of Justice on a proposal from the Attorney General after a merit competition among prosecutors with 20 years of service.

120) Is there a system of qualitative individual assessment of the public prosecutors' activity?

- Yes
 No

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

- Yes

No

If yes, are there exceptions? (e.g. dismissal as a disciplinary sanction)? Please specify:
Judges can be removed from office in case of resignation, loss of the Spanish nationality, incapacity, dismissal or prison sentence for an intentional crime.

122) If there is a probation period for judges (e.g. before being appointed "for life"), how long is this period? If the situation is not applicable in your country, please indicate NAP.

	Duration of probation period (in years)
	2

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

Yes

No

If yes, are there exceptions (e.g. dismissal as a disciplinary sanction)? Please specify:
Public prosecutors can be removed from office in case of resignation, loss of the Spanish nationality, incapacity and dismissal.

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

	Duration of the probation period (in years)
	0.75

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

NAP

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

NAP

E.1

You can indicate below:

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

Access to the judicial profession as a judge is granted after passing an open competition and a selection course encompassing practical and theoretical training. Competitions for judges and prosecutors are carried out together and successful candidates can choose, depending on the score obtained and the posts offered, between entering the Judicial School (if they decide to become judges) or the Centre for Legal Studies of the Ministry of Justice (if they decide to become prosecutors).

5. 2. Training

5. 2. 1. Training

127) Training of judges

Initial training (e.g. attend a judicial school, traineeship in the court)	Compulsory
General in-service training	Optional
In-service training for specialised judicial	Compulsory

functions (e.g. judge for economic or administrative issues)	
In-service training for management functions of the court (e.g. court president)	Optional
In-service training for the use of computer facilities in courts	Compulsory

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

General in-service training	Annual
In-service training for specialised judicial functions (e.g. judge for economic or administrative issues)	Annual
In-service training for management functions of the court (e.g. court president)	Annual
In-service training for the use of computer facilities in courts	Annual

129) Training of public prosecutors

Initial training	Compulsory
General in-service training	Optional
In-service training for specialised functions (e.g. public prosecutor specialised on organised crime)	Compulsory
In-service training for management functions of the court (e.g. Head of prosecution office, manager)	Optional
In-service training for the use of computer facilities in office	Optional

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

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

131) Do you have public training institutions for judges and / or prosecutors? If yes, please indicate in the "comment" box below the budget of such institution(s). If your judicial training institutions do not correspond to these criteria, please specify it.

	Initial training only	Continuous training only	Initial and continuous training
One institution for judges	No	No	Yes
One institution for prosecutors	No	No	Yes
One single institution for both judges and prosecutors	No	No	No

Comment :

E.2

You can indicate below:

- any useful comments for interpreting the data mentioned in this chapter
- comments regarding the attention given in the curricula to the European Convention on Human Rights and the case law of the Court
- the characteristics of your training system for judges and prosecutors and the main reforms that has been implemented over the last two years

5. 3. Practice of the profession

5. 3. 1. Practice of the profession

132) Salaries of judges and public prosecutors.

	Gross annual salary in €, on 31 December 2010	Net annual salary in €, on 31 December 2010
First instance professional judge at the beginning of his/her career	47 494	
Judge of the Supreme Court or the Highest Appellate Court (please indicate the average salary of a judge at this level, and not the salary of the Court President)	111 932	
Public prosecutor at the beginning of his/her career	47 494	
Public prosecutor of the Supreme Court or the Highest Appellate Instance (please indicate the average salary of a public prosecutor at this level, and not the salary of the Public prosecutor General)	111 932	

Comment :

The average net annual salary cannot be specified since income taxes deducted from gross salaries depend on the salary and on the individual's family situation.

Source Ministry of Justice, General Directorate of Relations with Justice Administration

133) Do judges and public prosecutors have the following additional benefits?

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

134) If other financial benefit, please specify:

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

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

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

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

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

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

139) Productivity bonuses: do judges receive bonuses based on the fulfilment of quantitative objectives in relation to the delivery of judgments (e.g. number of judgments delivered over a given period of time)?

Yes

No

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

The target-based variable remuneration is linked to individual performance.

5. 4. Disciplinary procedures

5. 4. 1. Disciplinary procedures

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

Citizens

Relevant Court or hierarchical superior

High Court / Supreme Court

High Judicial Council

Disciplinary court or body

Ombudsman

Parliament

Executive power

Other?

This is not possible

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

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

Citizens

Head of the organisational unit or hierarchical superior public prosecutor

Prosecutor General /State public prosecutor

Public prosecutorial Council (and Judicial Council)

Disciplinary court or body

Ombudsman

Professional body

- Executive power
- Other?
- This is not possible

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

142) Which authority has disciplinary power on judges? (multiple options possible):

- Court
- Higher Court / Supreme Court
- Judicial Council
- Disciplinary court or body
- Ombudsman
- Parliament
- Executive power
- Other?

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

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

- Supreme Court
- Head of the organisational unit or hierarchical superior public prosecutor
- Prosecutor General /State public prosecutor
- Public prosecutorial Council (and Judicial Council)
- Disciplinary court or body
- Ombudsman
- Professional body
- Executive power
- Other?

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

As a rule, disciplinary powers on public prosecutors concern Chief Prosecutors and the Inspection Office. However, the authority that imposes the sanction depends on the severity of the sanction. In fact, dismissal is imposed by the Ministry of Justice on a proposal from the State public prosecutor with a prior report from the Public prosecutorial Council.

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

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

	Judges	Public prosecutors
Total number (1+2+3+4)	47	2
1. Breach of professional ethics	10	2
2. Professional inadequacy	33	0
3. Criminal offence	4	0
4. Other	0	0

Comment :

145) Number of sanctions pronounced against judges and public prosecutors. If data is not available,

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

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

	Judges	Public prosecutors
Total number (total 1 to 9)	41	2
1. Reprimand	11	0
2. Suspension	12	0
3. Removal of cases	0	0
4. Fine	17	2
5. Temporary reduction of salary	0	0
6. Position downgrade	0	0
7. Transfer to another geographical (court) location	0	0
8. Resignation	1	0
9. Other	0	0

Comment :

E.3

You can indicate below:

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

Please indicate the sources for answering questions 144 and 145

General Council of the Judiciary and the Public Prosecutor's Office

6. Lawyers

6. 1. Status of the profession and training

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

146) Total number of lawyers practising in your country.

125 208

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

Yes

No

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

44 456

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

Civil cases?

Criminal cases - Defendant?

Criminal cases - Victim?

Administrative cases?

There is no monopoly

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

"Graduados sociales" (consultants on labour and social security matters) may represent the parties in labour law proceedings.

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

a national bar?

a regional bar?

a local bar?

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

Yes

No

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

Law 34/2006, which entered into force on 31 October 2011, sets new requirements to access the profession of lawyer: Law-degree holders have to go through a specialized training (both theoretical and practical) and a qualifying exam. These requirements were not applicable in 2010.

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

Yes

No

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

Yes

No

If yes, please specify:

F.1

Please indicate the sources for answering questions 146 and 148:

Comments for interpreting the data mentioned in this chapter:

General Council of Bar Associations

Regarding Q148, the figure presented refers to the number of non-practising lawyers, those who do not take up the professional practice but have at least 20 years' experience.

As for Q150, the following bodies are responsible for coordinating and supervising lawyers in the exercise of their functions:

- At national level, the General Council of Bar Associations
- In each Autonomous Region, the autonomous Council of Bar Associations
- At local level: Bar Associations.

6. 2. Practising the profession

6. 2. 1. Practising the profession

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

Yes

No

155) Are lawyers' fees freely negotiated?

Yes

No

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

Yes laws provide rules

Yes standards of the bar association provide rules

No, neither laws nor bar association standards provide rules

F.2

Useful comments for interpreting the data mentioned in this chapter:

As regards Q156, there is a new domestic regulation about professional fees, which forbids guidance standards, except for taxation of costs at court, in compliance with European legislation (Directive 2006/123/EC, of 12 December, on Services).

6. 3. Quality standards and disciplinary proceedings

6. 3. 1. Quality standards and disciplinary proceedings

157) Have quality standards been determined for lawyers?

Yes

No

If yes, what are the quality criteria used?

The General Council of Bar Associations has implemented a new quality management system in accordance with Norm UNE-EN ISO 9001:2008.

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

- the bar association?
 the Parliament?
 other?

If "other", please specify:

159) Is it possible to file a complaint about :

- the performance of lawyers?
 the amount of fees?

Please specify:

The client must contact the local Bar or the Bar to which the lawyer belongs. If he does not agree with the decision taken by the Bar, he can appeal to the General Council of Bar Associations. Finally, he could appeal to a judge.

160) Which authority is responsible for disciplinary procedures?

- the judge
 the Ministry of justice
 a professional authority
 other

If other, please specify:

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

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

	Total number of disciplinary proceedings initiated (1 + 2 + 3 + 4)	1. Breach of professional ethics	2. Professional inadequacy	3. Criminal offence	4. Other
Number	17 309	NA	NA	NA	NA

Comment :

162) Sanctions pronounced against lawyers. If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP.

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

	Total number of sanctions (1 + 2 + 3 + 4 + 5)	1.Reprimand	2. Suspension	3. Removal	4. Fine	5. Other (e.g. disbarment)
Number	1 719	NA	NA	NA	NA	NA

Comment :

F.3

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

The data provided in Q161 allude to the disciplinary proceedings undertaken by the different Bars because of a wide range of mistakes. Most of them have nothing to do with the code of ethics and conduct and are not subject to sanction.

7. Alternative Dispute Resolution

7. 1. Alternative Dispute Resolution

7. 1. 1. Alternative Dispute Resolution

163) Does the legal system provide for mediation procedures? If no skip to question 168

[Judicial mediation: in this type of mediation, there is always the intervention of a judge or a public prosecutor who facilitates, advises on, decides on or/and approves the procedure. For example, in civil disputes or divorce cases, judges may refer parties to a mediator if they believe that more satisfactory results can be achieved for both parties. In criminal law cases, a public prosecutor can propose that he/she mediates a case between an offender and a victim (for example to establish a compensation agreement).]

- Yes
 No

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

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

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

- Yes
 No

If yes, please specify:

Legal aid covers all stages of legal proceedings.

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

NA

167) Number of judicial mediation procedures.

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

Total number of cases (total 1+2+3+4+5)		NA
1. civil cases		NA
2. family cases	<input checked="" type="checkbox"/> Yes	2 242
3. administrative cases		NA
4. employment dismissals cases		NA
5. criminal cases		NA

Comment :

General Council of the Judiciary

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

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

Mediation other than judicial mediation?	Yes
Arbitration?	

	Yes
Conciliation?	Yes
Other alternative dispute resolution?	No

Comment :

G.1

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

Please indicate the source for answering question 166:

General Council of the Judiciary

8. Enforcement of court decisions

8. 1. Execution of decisions in civil matters

8. 1. 1. Functioning

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

- Yes
 No

170) Number of enforcement agents

4 456

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

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

Please specify their status and powers:

Secretarios Judiciales (See the answer to Q53)

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

- Yes
 No

173) Is the profession of enforcement agents organised by?

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

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

- Yes
 No

175) Are enforcement fees freely negotiated?

- Yes
 No

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

- Yes
 No

Please indicate the source for answering question 170:

Ministry of Justice, General Directorate of Modernization of Justice Administration

8. 1. 2. Efficiency of enforcement services

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

- Yes
 No

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

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

If other, please specify:

179) Have quality standards been determined for enforcement agents?

- Yes
 No

If yes, what are the quality criteria used?

A control panel is being implemented at the new Judicial Offices to measure case-flow and timeframes.

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

- a professional body
 the judge
 the Ministry of Justice
 other

If "other", please specify:

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

- Yes
 No

if yes, please specify

Public authorities themselves execute this kind of decisions.

182) Is there a system for monitoring the execution?

- Yes
 No

If yes, please specify

Section 104 of the Act on the Jurisdiction for Judicial Review reads as follows:

1.Subsequent to a a ruling's becoming final, the Secretario Judicial shall report the ruling within ten days to the authority that performed the activity at issue in the claim. The recipient is to acknowledge receipt within a period of the same length after receipt and to put the ruling into full and due effect and to do as required by compliance with the declarations contained in the judgement, and in that same period to name the body responsible for compliance with the judgement.

2.Two months after service of the ruling or the period set in the ruling, any of the affected parties and persons may file for enforcement of judgements.

3.In view of the nature of what is demanded and the effectiveness of the ruling, a shorter period for compliance may be set when the provisions of the paragraph above render the ruling ineffective or cause serious injury.

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

- no execution at all?
- non execution of court decisions against public authorities?
- lack of information?
- excessive length?
- unlawful practices?
- insufficient supervision?
- excessive cost?
- other?

If other, please specify:

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

- Yes
- No

If yes, please specify:

A new Inspection Service has recently started up to control execution of decisions. It is ending the first inspection at present.

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

- for civil cases?
- for administrative cases?

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

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

If more, please specify

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

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

Total number of disciplinary proceedings
(1+2+3+4)

number:

7

- | | | |
|--------------------------------------|---|---|
| 1. for breach of professional ethics | <input checked="" type="checkbox"/> number: | 0 |
| 2. for professional inadequacy | <input checked="" type="checkbox"/> number: | 7 |
| 3. for criminal offence | <input checked="" type="checkbox"/> number: | 0 |
| 4. Other | <input checked="" type="checkbox"/> number: | 0 |

Comment :

188) Number of sanctions pronounced against enforcement agents.

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

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

Comment :

H.1

You can indicate below:

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

Law 13/2009, of 3 November, on the new Judicial Office assigns the execution of decisions to Secretarios Judiciales.

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

Ministry of Justice, General Directorate for the Modernization of Justice Administration

8. 2. Execution of decisions in criminal matters

8. 2. 1. Execution of decisions in criminal matters

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

- Judge
 Public prosecutor
 Prison and Probation Services
 Other authority

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

In the Spanish system, there are no enforcement agents for the execution of court decisions, as the responsibility for the execution corresponds to judges themselves. Only in very exceptional cases do solicitors play a role in execution.

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

- Yes
 No

191) If yes, what is the recovery rate?

- 80-100%

- 50-79%
- less than 50%
- it cannot be estimated

Please indicate the source for answering this question:
General Council of the Judiciary

H.2

You can indicate below:

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

9. Notaries

9. 1. Notaries

9. 1. 1. Notaries

192) Do you have notaries in your country? If no go to question 197

- Yes
 No

193) Are notaries:

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

- | | | |
|--|--|-------|
| private professionals (without control from public authorities)? | <input type="checkbox"/> number | |
| private professionals under the authority (control) of public authorities? | <input type="checkbox"/> number | |
| public agents? | <input type="checkbox"/> number | |
| other? | <input checked="" type="checkbox"/> number | 2 986 |

Comment :

Notaries are both civil servants and legal professionals (article 1 of Notarial Regulation).

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

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

If "other", please specify:

Notaries give public effectiveness to all sorts of extra-judicial transactions or private acts. Consequently, they act in different areas:

- facts, authenticating factual situations (giving faith officially authenticated records)
- civil and commercial contracts (giving them executive or declarative effect in proceedings)
- property, by means of the instrumental "tradition" (legal possession) as the documents a notary authorises can convey property and other real rights if the rest of necessary contractual requisites apply
- in the personal sphere, they also intervene in family acts and inheritance law.

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

- Yes
 No

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

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

If other, please specify:

Notaries are directly controlled by the Ministry of Justice and the General Directorate for Registers and Notary Services. This Directorate-General manages, inspects and supervises the body of notaries and resolves any problems or queries that arise regarding the application and enforcement of notarial legislation, appointment of notaries, the notarial system and government of the profession. It also handles and decides on government appeals on matters relating to notaries. Notaries belong to professional associations (Colegios Notariales), which support them in the exercise of their functions and supervise their activities.

I.1

You can indicate below:

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

The organisation and geographical distribution of Notaries is laid down by the Spanish government by means of a Royal Decree (a regulatory provision adopted in the Council of Ministers). The number of posts, investiture, age of compulsory retirement (currently 70) is also governmental. Access to the profession is achieved through a public competition open to any EU citizen with a recognised bachelors diploma in Law. Salaries are fixed by the State and at the same time their activity generates no responsibility for the State neither does it imply any cost. Ownership of the "protocols"-set of documents authorised by notaries- corresponds to the State.

10. Court interpreters

10. 1. Court interpreters

10. 1. 1. Court interpreters

197) Is the title of court interpreters protected?

- Yes
 No

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

- Yes
 No

199) Number of accredited or registered court interpreters:

NA

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

- Yes
 No

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

201) Are the courts responsible for selecting court interpreters? If no, please indicate in the "comment" box below which authority selects court interpreters.

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

Comment :

J.1

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

Court interpreters do not have a protected title, the general education diploma is enough to access the profession as personnel. Their function is regulated in articles 440-441 of the Criminal Procedural Law.

Those Autonomous Regions holding powers in matters of justice also have full competences regarding court interpreters. Within the scope of the Ministry of Justice, the translators/interpreters who work in courts can be either personnel contracted by the Ministry of external professionals.

In relation to Ministry personnel, one can distinguish between permanent and temporary posts. Permanent personnel are appointed through open competitions that include direct and inverse translation exercises. These are presented before a jury who can then assess the candidate's oral skills. Temporary personnel is appointed through Public Labour Services, taking into account the accredited merits of the candidate.

In cases where it is not possible to be assisted by them or when a different language is required, recourse is made to external professionals who accredit a knowledge of the language. Usually contracts are established with private companies that can provide such professionals.

Please indicate the sources for answering question 199:

Ministry of Justice, General Directorate of Relations with Justice Administration

11. Judicial experts

11. 1. Judicial experts

11. 1. 1. Judicial experts

202) In your system, what type of experts can be requested to participate in judicial procedures (multiple choice possible):

- "expert witnesses", who are requested by the parties to bring their expertise to support their argumentation
- "technical experts" who put their scientific and technical knowledge on issues of fact at the court's disposal
- "law experts" who might be consulted by the judge on specific legal issues or requested to support the judge in preparing the judicial work (but do not take part in the decision)

203) Is the title of judicial experts protected?

- Yes
- No

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

- Yes
- No

205) Number of accredited or registered judicial experts (technical experts)

NA

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

- Yes
- No

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

According to article 335 of the Civil Procedure Act, upon issuing an opinion, all experts shall state under oath or promise to say the truth and that they have acted or, as appropriate, shall act as objectively as possible. Should he fail to fulfil his duty as an expert, penalties may be imposed on him.

The expert assigned by the Court shall issue his opinion in writing and remit it to the Court within the time limit notified to him. The said opinion shall be transferred to the parties by the Court Clerk to allow them to decide whether it is necessary for the expert to be present at the trial or the hearing for the purposes of giving the appropriate clarifications or explanations. The Court may at all events, by means of a procedural court order, declare that it considers it necessary for the expert to be present at the trial or the hearing with a view to a better understanding and evaluation of the opinion issued.

207) Are the courts responsible for selecting judicial experts?

If no, please indicate in the "comment" box below which authority selects judicial experts?

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

Comment :

K.1

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

The Civil Procedure Act states that the experts shall hold the official title corresponding to the subject matter and the nature of the opinion. In the case of matters not included in official professional titles, the experts shall be appointed

among individuals well acquainted with the subjects concerned.

The opinion may also be sought of Academies and cultural and scientific institutions dedicated to the study of the subjects corresponding to the expert examination. An opinion may also be issued on specific matters by legal persons legally qualified for these purposes.

The procedure for the court appointment of an expert starts in the month of January of each year. The professional associations as well as the cultural and scientific Academies and institutions shall be requested to forward a list of members or associates willing to act as experts. The first appointment of each list shall be made by drawing lots in the presence of the Court Clerk and, after that, the next appointments shall be made in correlative order.

If a person without official title, experienced or knowledgeable in the subject has to be appointed as an expert, after summoning the parties, the appointment shall be made by the procedure established in the preceding paragraph, using to this end a list of individuals that shall be requested each year from the appropriate syndicates, associations and entities and shall be composed of a minimum of five of such individuals. If, due to the singular nature of the subject matter of the opinion, the name of only one single knowledgeable or experience person is available, the consent of the parties shall be requested and the said individual shall be appointed as expert only if the parties grant their consent.

On another point, experts can be subject to challenge if they incur in any of the following circumstances:

- (i) Being the spouse or a relation by consanguinity or affinity up to the fourth degree of one of the parties or their attorneys or court representatives.
- (ii) Having a direct or indirect interest in the matter or in another similar matter.
- (iii) Being or having been in a situation of dependency or community or conflict of interests in relation to either of the parties or their attorneys or court representatives.
- (iv) Close friendship with or hostility to either of the parties or their attorneys or court representatives.
- (v) Any other duly evidenced circumstance making them unsuitable from a professional point of view.

Please indicate the sources for answering question 205:

Ministry of Justice, General Directorate of Relations with Justice Administration

12. Foreseen reforms

12. 1. Foreseen reforms

12. 1. 1. Reforms

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

- 1. (Comprehensive) reform plans**
- 2. Budget**
- 3. Courts and public prosecution services (e.g. powers and organisation, structural changes - e.g. reduction of the number of courts -, management and working methods, information technologies, backlogs and efficiency, court fees, renovations and construction of new buildings)**
- 4. High Judicial Council**
- 5. Legal professionals (judges, public prosecutors, lawyers, notaries, enforcement agents, etc.): organisation, education, etc.**
- 6. Reforms regarding civil, criminal and administrative laws, international conventions and cooperation activities**
- 7. Enforcement of court decisions**
- 8. Mediation and other ADR**
- 9. Fight against crime and prison system**
- 10. Other**

As a new government was constituted in Spain on 22 December 2010, we cannot confirm which reforms are foreseen at present.