



EUROPEAN COMMISSION FOR THE EFFICIENCY OF JUSTICE
(CEPEJ)

SCHEME FOR EVALUATING JUDICIAL SYSTEMS 2013

Country: Germany

National correspondent

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1. Demographic and economic data

1. 1. General information

1. 1. 1. Inhabitants and economic information

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

80 233 100

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

	Amount
State or federal level	356 353 000 000
Regional / federal entity level (total for all regions / federal entities)	522 301 000 000

3) Per capita GDP (in €)

32 550

4) Average gross annual salary (in €)

44 991

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

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

Re question 1:

The information refers to the number of inhabitants on 31 December 2012 determined on the basis of the 2011 census.

Re question 3:

Federal Statistical Office, Fachserie 18 Reihe 1.3, edition 2012

Source: Federal Statistical Office, Wiesbaden

1. 1. 2. Budgetary data concerning judicial system

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

TOTAL annual approved budget allocated to the functioning of all courts (1 + 2 + 3 + 4 + 5 + 6 + 7)	<input type="checkbox"/> Yes	8 302 304 846
1. Annual public budget allocated to (gross) salaries	<input type="checkbox"/> Yes	5 038 944 353
2. Annual public budget allocated to computerisation (equipment, investments, maintenance)	<input type="checkbox"/> Yes	173 261 525
3. Annual public budget allocated to justice expenses (expertise, interpretation, etc), without legal aid. NB: this does not concern the taxes and fees to be paid by the parties.	<input type="checkbox"/> Yes	1 777 215 875
4. Annual public budget allocated to court buildings (maintenance, operating costs)	<input type="checkbox"/> Yes	287 130 254
5. Annual public budget allocated to investments in new (court) buildings	<input type="checkbox"/> Yes	65 579 695
6. Annual public budget allocated to training and education	<input type="checkbox"/> Yes	69 721 400
7. Other (please specify):	<input type="checkbox"/> Yes	890 451 744

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:

Bavaria:

The budget of the public prosecution offices cannot be presented separately. In the case of finance courts, the expenditure for legal aid cannot be separated from the budget approved for the finance courts. The information provided under no. 6.7 refers to finance courts (other material administrative expenditure and material investments for finance courts).

Berlin:

Re 6.7 "Other": Civil servants on probation, freelancers, training, aid, supplies, equipment, rent, reimbursement of cash expenses.

Brandenburg:

For information on the approved annual budget for all courts (not including the budget for the public prosecution office, legal aid and legal advice and assistance), the data have been estimated unless shown separately in the budget plan. No. 6.3 shows amongst other things all expenditure for experts, interpreters, witnesses, disbursements in insolvency proceedings and legal matters, accommodation of juveniles in homes in order to avoid remand detention, compensation and damages paid to third parties, as well as remuneration for guardians and custodians. No. 6.5 covers the expenditures budgeted in individual plan 12 for investments in (new) court buildings. No. 6.7 covers all other budget items, such as costs for official trips, expendables, appliances and facilities, vehicles, benefits in accordance with the Act on Rehabilitation and Compensation of Victims of Unlawful Criminal Prosecution Measures in the Acceding Territory (Gesetz über die Rehabilitierung und Entschädigung von Opfern rechtsstaatswidriger Strafverfolgungsmaßnahmen im Beitrittsgebiet, StrRehaG), etc.

Hamburg:

The amount includes expenditure for central directorship; non-monetary resources for central basic training and further training, as well as expenditure for office and business equipment.

Hesse:

The information above does not include the budget for the public prosecution office and legal aid. "Other" includes the non-monetary resources and investments not stated under nos. 2 to 6.

Mecklenburg-Western Pomerania:

Re 6.1: incl. remuneration of civil servants in the enforcement service

Re 6.2: including IT training, not including prisons, Land Office for Community Work with Offenders and Investments, Justice Ministry

No. 6.3 covers compensation for witnesses, experts, other expenditures in legal disputes, expenditures for honorary custodians/guardians/curators as well as professional custodians/guardians/curators incl. curators ad litem

Re 6.4: rent and management costs of buildings

Re 6.5: renovation costs incl. fees

Re 6.6: incl. public prosecution office

Re 6.7: The approved budget comprises the expenditures for the office of the public prosecutor general and the four public prosecution offices. It is not possible to separate these areas.

No. 7, "Other", covers the annual public budget allocated especially to

- compensation for accused persons and persons additionally involved in criminal proceedings in the amount of € 1,137,700 (item 681.01),

- supplies and communication as well as appliances, equipment, and other items in the amount of € 4,847,600 (item 511.01)

- acquisition of appliances and equipment in the amount of € 509,400 (item 812.01),

- see also information provided under question 12.

telecommunication fees (item 511.07), rent and lease for machines and appliances (item 518.02), refunding of travel expenses (item 527.01), expenditures based on contracts of work and services or other types of contracts in the field of victim-offender mediation (item 533.01) and others

North Rhine-Westphalia:

The expenditure for the public prosecution offices is estimated together with the expenditure of the courts. It is not possible to show it separately.

Re 6.2.: IT expenditures are budgeted centrally. The budget plan does not provide for a breakdown of the expenditures among the individual areas of justice.

Re 6.3.: The amounts to be paid by the parties are contained in the indicated amount, since they are collected elsewhere and cannot be calculated separately.

Re 6.5.: The Land's real estate property is owned by the building and real estate management of North Rhine-Westphalia (BLB) and rented by the administrations using it. Therefore, the judicial budget does not provide for investments in new court buildings.

Re 6.6.: Only the costs for basic training at the courts and public prosecution offices are covered. The costs for training provided at basic and further training facilities for the judiciary are budgeted separately. This is also true for costs for further training.

Re 6.7 "Other": Rent and lease of official buildings € 136,599,200; refund of expenses, remuneration for guardians, curators and custodians € 207,205,000:

Communication (largely service/postal costs) € 44,339,000; expenditure for temporary accommodation € 11,100,000; other personnel expenditure

(e.g. honorary judges, compensation of the bailiffs, etc.) € 60,315,100; other administrative expenditure (supplies, books pp) € 41,423,500.

Rhineland-Palatinate:

Under the system applied in Rhineland-Palatinate, it is not possible to separate courts and public prosecution offices. Therefore, the expenditures include those of the public prosecution offices.

Other expenditures include costs of supplies, vehicles, investments in movable objects, and transfers to pension funds. The expenditures do not include expenditure on pensions for former judges and civil servants nor health insurance assistance in the event of sickness.

Saarland:

7.a) Budget for the public prosecution office: Only estimates for the staffing and materials expenditure budget can be shown separately for the office of the public prosecutor general and the public prosecution office (i.e. not including statutory expenditure).

7.b) Legal aid: The budget estimate for legal aid takes place in chapters 10 03 to 10 07 (previously chapters 02 60 to 02 64) under the item no. 532 01, "Expenditure on legal matters"; there under sub-item A. The total estimate for 2012 for the items 532 01 was € 17,653,000; total "as is" expenditure was € 18,059,857.41. The "partial estimates" for sub-item 532 01 A of chapters 10 03 – 10 07, "Legal aid", are not indicated for all chapters of the budget plan. The total actual expenditure in 2012 for sub-item "A" was € 9,296,015.86 (cf. no. 12).

Re 6.3.: Statutory expenditure (incl. legal aid!).

Re 6.4.: Not including telephone costs, rent, central courier service, services of the central data processing centre in Saarland, and the Land office for construction and real estate.

Re 6.7 "Other": Materials expenditure and investment funds (= available expenditure).

Saxony:

Re 6.2.: € 2,970,910 of further expenditures within the justice system that cannot be attributed to one specific area but do, in part, concern the courts.

Re 6.4.: No information can be provided since the needs of courts and public prosecution offices are estimated in total in individual plan 14.

Re 6.6.: No information can be provided since the expenditure is estimated in a general chapter; the expenditures are accounted in part directly by the courts, in part by the State Ministry of Justice and in part by the training centre; it is not possible to itemise these expenditures.

Re 6.7 "Other": Especially compensation to honorary judges and staff, supplies and post fees, acquisition and running of official vehicles, rents and leases, acquisition of appliances/items of equipment, travel costs, administrative expenditure, allocation to the generation fund, compensation to accused persons in criminal matters, etc.

Saxony-Anhalt:

The budget plan data entered under no. 6 only concern the courts. Costs for basic and further training for courts cannot be shown separately.

All other budget plan data for the courts were included in no. 6.7 "Other"; these include: expenditure on pensions and associated costs, material administrative expenditure, rent for court buildings, legal aid, legal advice and assistance. The planned costs indicated, with regard to Saxony-Anhalt, under questions 6 and 10 of the questionnaire cover both the entire juvenile criminal jurisdiction and the costs of all family court proceedings that can, in a broader sense, also be attributed to the protection of children and juveniles.

Schleswig-Holstein:

The information provided under no. 6 refers to the expenditure including legal aid for the courts of ordinary jurisdiction as well as courts of specialist jurisdictions (administrative courts incl. Land constitutional courts, social, finance and labour courts). The expenditure of the public prosecution offices is not included.

The expenditure estimated in other individual plans for maintaining buildings as well as for construction and IT is not included either.

Re 6.2.: No information can be provided because, since 2006, this expenditure has been centrally estimated in individual plan 11, and, as of 2013, it has been centrally estimated in individual plan 14.

Re 6.4.: No information can be provided because, since 2010, this expenditure has been centrally estimated in individual plan 152.

Re 6.7 "Other": Especially remuneration of civil servants in the enforcement service, materials expenditure (main group 5), joint financing and compensation payments (main group 6) and investments - official vehicles/renewal of items of equipment - (main group 8).

Thuringia:

The budget for the public prosecution office cannot be separated; costs for public prosecution offices are included in the numbers provided under question 6.

– The remaining Länder have not provided any information in this regard. –

Federation:

Re question 6.7: Payments prescribed by law are to be made to a fund to form reserves for the pensions of civil servants and judges.

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:

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

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

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

3 567 436 506

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

If your system enables to be granted legal aid for cases which are non litigious or not brought to court, please specify:

	Amount (in €)
Total annual approved public budget allocated to legal aid (12.1 + 12.2)	344,535,431
12.1 Annual public budget allocated to legal aid for cases brought to court	310,062,277
12.1.1 in criminal law cases	88,876,724
12.1.2 in other than criminal law cases	221,185,553
12.2 Annual public budget allocated to legal aid for non litigious cases or cases not brought to court (legal consultation, ADR, etc)	34,473,154

Comment :

In Germany, so-called legal advice and assistance (Beratungshilfe) is granted in such cases. This is a social benefit provided by the state to persons seeking justice who cannot afford the assistance of or representation by a lawyer and who have no other reasonable possibility of obtaining assistance. The Legal Advice and Assistance Act (Beratungshilfegesetz, BerHG) is applicable in this regard. Legal advice and assistance is granted for asserting one's rights outside of court proceedings as well as for obligatory conciliation proceedings pursuant to section 15a of the Act on the Introduction of the Code of Civil Procedure (Einführungsgesetz zur Zivilprozessordnung, EGZPO).

To the extent that the Länder have provided any information in this regard, the amounts indicated under question 12.2 therefore constitute expenditures made in the framework of the Legal Advice and Assistance Act.

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

Amount 523 346 503

Comment :

Bavaria:

The budget of the public prosecution offices cannot be presented separately.

Brandenburg:

Information under question 13 partly estimated, since not shown separately.

Hamburg:

The budget for the justice system in Hamburg is not a double entry, but a governmental one. Therefore, the information provided also includes non-cash expenses and income.

Mecklenburg-Western Pomerania:

The approved budget comprises the expenditures for the courts, the office of the public prosecutor general and the four public prosecution offices together. It is not possible to provide separate information for these areas.

North Rhine-Westphalia:

The expenditure for the public prosecution offices is estimated together with the expenditure for the courts. It is not possible to show it separately.

Rhineland-Palatinate:

The part of the total judicial system expenditure allocated to the public prosecution offices cannot be shown separately.

Saarland:

Budget for the public prosecution office: Only estimates for the staffing and materials expenditure budget can be shown separately for the office of the public prosecutor general and the public prosecution office, i.e. not including statutory expenditure. (2012 estimate: € 8,204,300; 2012 actual: € 7,790,457). Therefore, € 8,204,300 were added to the above indicated sum.

Saxony:

A detailed breakdown of the funds approved in the budget plan and expended in the budget year among individual areas, e.g. courts of ordinary jurisdiction or public prosecution offices, is not possible since some of the expenditure (e.g. for further training or IT matters) is estimated in general chapter 06 02, and is centrally managed in some cases. The budget for these funds is also planned centrally.

The expenditure for investments on construction (major building activities) can be attributed to individual buildings, and hence to the courts or public prosecution offices. Expenditure on the maintenance of the buildings, renting of buildings, etc., cannot be broken down to separate between courts and public prosecution offices.

Saxony did however indicate the predicted expenditure (€ 73,464,658) and the actual expenditure (€ 89,117,461). Therefore, € 73,464,658 were added to the above indicated sum.

Saxony-Anhalt:

Under question 13, all costs for the public prosecution offices are considered in accordance with the system used in question 6.

– The remaining Länder have not provided any information in this regard. –

Federation:

Operating budget of the Office of the Federal Public Prosecutor General

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

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

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

Other Ministry: Federal Ministry of Finance, Federal Ministry of Labour and Social Affairs

Other authority that scrutinises the use of funds: Bundesrechnungshof (German SAI)

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

General:

Saxony:

Except for expenditures for investments on construction and for maintaining/renting justice buildings, the expenditure of Saxony's judiciary is estimated in the budget plan 06. The budget plan 06 contains all expended funds that were available within the remit of the Saxon State Ministry of Justice and for Europe. Its competence goes beyond the courts and public prosecution offices and the prison system, and includes for instance the areas of Europe, modernisation of the State and computer services for the state administration. The individual plan 06 comprises a total of 20 individual chapters. A detailed breakdown of the funds approved in the budget plan and expended in the budget year among individual areas, e.g. courts of ordinary jurisdiction or public prosecution offices, is not possible since some of the expenditure (e.g. for further training or IT matters) is estimated in general chapter 06 02, and is centrally managed in some cases. The budget for these funds is also planned centrally.

The expenditure for construction/buildings is estimated in budget plan 14 for the entire Free State of Saxony. The State Ministry of Finance is responsible for planning and managing these buildings. The expenditure for investments on construction (major building activities) can be attributed to individual buildings, and hence to the courts or public prosecution offices. Expenditure on the maintenance of the buildings, renting of buildings, etc., cannot be broken down to separate between courts and public prosecution offices.

The information provided under no. 1.2, "Budgetary data concerning judicial system", was taken from the 2012 budget plans for the judiciary (individual plan 06) and the state administration for building construction and property (individual plan 14), as well as the accounting data of the Land judicial treasury/main treasury of the Free State of Saxony and the data documented by the State Ministry of Finance in its budget portal.

Re question 8:

The court is not to serve the action on the opposing party in civil disputes until the fee for the proceedings in general has been paid (procedural fee). As a matter of principle, therefore, the proceedings do not become pending through service of the action until the payment has been received. If the motion contained in the action is expanded, no activities are to be carried out

by the court prior to payment of the procedural fee; this also applies to the appeal instance (section 12 (1) of the Court Costs Act [Gerichtskostengesetz, GKG]).

Re question 9:

Brandenburg:

A small amount of other income may also be covered in question 9.

Lower Saxony:

No information can be provided since the court fees are posted together with criminal and regulatory fines in one item (112 01/112 10).

Schleswig-Holstein:

Correction of the information provided re 2010: The information provided with regard to the 2010 cycle (€ 138,150,000) included income from criminal and regulatory fines, court fees and asset recovery by the public prosecution offices. Not including these items, the relevant amount for 2010 would have been € 121,350,000.

Thuringia:

Also includes reimbursement of legal aid.

Re question 12:

Bavaria:

In the case of finance courts, the expenditure for legal aid cannot be separated from the budget approved for the finance courts.

Brandenburg:

The information provided pertains to expenditure on the basis of the Legal Advice and Assistance Act.

Berlin:

a) Incl. legal advice and assistance and court-appointed defence counsel.

b) € 28,634,551 were indicated as total sum; € 15,802,717 were indicated as total sum regarding no. 12.1 including € 9,488,680 of legal aid in criminal matters; € 3,343,154 were indicated regarding no. 12.2. With regard to legal aid in other than criminal cases, NA was indicated. After deducting the amount regarding no. 12.2 and the amount indicated with regard to legal aid in criminal matters from the total sum, the amount of € 15,802,717 remained. Therefore, it was assumed that there has been an error and this amount was added to the amount of legal aid in other than criminal cases. Horizontal coherence is thus achieved.

Bremen:

Pursuant to the Act on Public Legal Assistance (Gesetz über die öffentliche Rechtsberatung), legal assistance is provided by the state in the Free Hanseatic City of Bremen. The tasks provided for in this act were assigned to Bremen's Chamber of Labour. Anybody who is unable to mandate an attorney on account of his income and assets and does not have any other reasonable possibility of obtaining assistance in asserting his rights is entitled to legal assistance from the state. Public legal assistance must not be sought capriciously. It is provided with regard to all areas of law. Representation before a court or other adjudicating body is excluded.

Mecklenburg-Western Pomerania:

Question 12.2 covers the budget for legal assistance based on the Legal Advice and Assistance Act in the version promulgated on 18 June 1980 (BGBl. I p. 689), as last amended by Article 3 of the Act of 23 May 2011 (BGBl. I p. 898).

Rhineland-Palatinate:

a) € 39,750,000 were indicated as total sum, even though the sum of the amounts indicated under nos. 12.1 and 12.2 was € 36,750,000. Since Rhineland-Palatinate provided complete data, it is assumed that there has been a typing error. Therefore, € 36,750,000 were added to the above indicated sum. Horizontal coherence is thus achieved.

b) Expenditures made in the framework of the Legal Advice and Assistance Act have been indicated as costs for legal aid in cases not brought to court.

Saarland:

See information re question 7.

Saxony:

a) The predicted expenditure of € 36,559,500 and the actual expenditure of € 35,474,601 were indicated as total sums for 2012. The predicted amount was added to the above indicated sum.

b) In Germany, so-called legal advice and assistance (Beratungshilfe) is granted in such cases. This is a social benefit provided by the state to persons seeking justice who cannot afford the assistance of or representation by a lawyer and who have no other reasonable possibility of obtaining assistance. The Legal Advice and Assistance Act is applicable in this regard. Legal advice and assistance is granted for asserting one's rights outside of court proceedings as well as for obligatory conciliation proceedings pursuant to section 15a of the Act on the Introduction of the Code of Civil Procedure.

Saxony-Anhalt:

Legal advice and assistance under the Legal Advice and Assistance Act.

Thuringia:

a) Legal advice and assistance.

b) Data as indicated, even if there is obviously no horizontal coherence.

Re question 15.1:

Bavaria:

Justice ministry, courts and public prosecution offices within the remit of the justice ministry, prison system: € 1,903.9 million.

Administrative jurisdiction: € 40 million (expenditure)

Labour, social and finance jurisdiction: NA

Brandenburg:

Question 15.1 contains the entire judicial budget, including planned surface construction expenditure for court buildings of individual plan 12.

Saarland:

Total estimation of individual plan 10, "Ministry of Justice": € 155,377,700.

Total estimation of chapter 17 10, "Central services in the remit of the Ministry of Justice": € 7,159,600.

Saxony:

€ 809,942,782.43 of predicted expenditure were added to the above indicated sum (cf. actual expenditure: € 805,099,572.52).

The indicated sums contain all funds that were available in 2012 and that were actually expended within the remit of the Saxon State Ministry of Justice and for Europe. This ministry's competence goes beyond the courts and public prosecution offices and the prison system, and includes for instance the areas of Europe, modernisation of the State and computer services for the state administration. In addition to the estimates contained in the relevant individual plan 06, the above amount also contains the expenditure carried over from the previous year in 2012. The same applies to the planned expenditure to be attributed to the remit of the Ministry for building activities and building maintenance of properties, which is shown with the corresponding expenditure for the entire state administration in individual plan 14, which is managed by the Saxon State Ministry of Finance and the Saxon State Agency for Real Property Services, which reports to it.

Saxony-Anhalt:

The planned costs indicated, with regard to Saxony-Anhalt, under questions 6 and 15.1 of the questionnaire cover both the entire juvenile criminal jurisdiction and the costs of all family court proceedings that can, in a broader sense, also be attributed to the protection of children and juveniles.

Thuringia:

The sums include the costs of all sorts of building measures in judicial buildings.

– The remaining Länder have not provided any information in this regard. –

Lacking information regarding individual Länder:

Re question 6: *To the extent that data were provided with regard to nos. 6.1 and 6.7, these were added to the total. Since individual Länder were unable to provide data with regard to all questions (NA), the information remains incomplete in this regard. Moreover, some Länder indicated total amounts that were higher than the sum of all data provided under nos. 6.1 to 6.7. This means that a total of € 123,382,583 cannot be attributed to individual items. Therefore, this amount was not included in the amount indicated under "TOTAL".

Re question 9: Berlin, Bremen and Lower Saxony have not provided any information. Where the other Länder have provided data, these were added to the above total. Therefore, this information is incomplete.

Re question 12: Bremen, Saarland and Schleswig-Holstein have not provided any information. To the extent that the other Länder have provided complete data re 12.1 and 12.2, these were added to the total. Since individual Länder were unable to provide data with regard to all questions (12.1 and/or 12.2), but only provided a total sum, the amounts provided by these Länder were not considered. Therefore, this information is incomplete. This means that

another € 304,584,278 were not indicated even though this sum would actually have to be added to the total annual approved public budget allocated to legal aid.

Re question 13: Baden-Württemberg, Bavaria, Mecklenburg-Western Pomerania, North Rhine-Westphalia, Rhineland-Palatinate and Thuringia have not provided any information. To the extent that the other Länder have provided data, these were added to the total. Therefore, this information is also incomplete.

Re question 15.1: Berlin has not provided any information. The information provided by Bavaria does not include the public annual budget approved and granted for labour, social and finance jurisdiction (NA).

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

Budget account 2012, information provided by the federal courts. +++Information provided by the Länder upon request submitted to the Land justice administrations.+++ Rhineland-Palatinate: Budget and contributions to the budget account 2012. Lower Saxony: Budget plan for the budget years 2012 and 2013 - Justice Ministry of Lower Saxony. Schleswig-Holstein: All information refers to the 2012 estimation (prediction) in individual plan 09. - The remaining Länder have not provided any information in this regard. -

1. 1. 3. Budgetary data concerning the whole justice system

15) The following data would be useful for information

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

. NA 13,392,212,369

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

Court (see question 6)	Yes
Legal aid (see question 12)	Yes
Public prosecution services (see question 13)	Yes
Prison system	Yes
Probation services	No
Council of the judiciary	No
Constitutional court	Yes
Judicial management body	Yes
State advocacy	No
Enforcement services	No
Notariat	No
Forensic services	Yes
Judicial protection of juveniles	No
Functioning of the Ministry of Justice	Yes
Refugees and asylum seekers services	No
Other	No

Comment :

2. Access to justice

2. 1. Legal aid

2. 1. 1. Principles

16) Does legal aid apply to:

	Criminal cases	Other than criminal cases
Representation in court	Yes	Yes
Legal advice	No	No

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

- Yes
 No

If yes, please specify:

Civil matters

Pursuant to section 122 of the Code of Civil Procedure, the granting of legal aid has the effect that the Treasury can only assert court costs if the court had ordered payment (in instalments) on account of the financial situation of the person requesting legal aid. Moreover, the recipient of legal aid is not obligated to pay any potential advance on costs.

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:

Civil matters:

Legal aid in compulsory enforcement is granted for the entire enforcement proceedings and not for individual enforcement measures.

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
NAP	Yes

Comment :

Civil matters

The approval of legal aid includes the costs for the taking of evidence (e.g. witnesses, experts), as well as travel expenses of the recipient to attend a court hearing if personal attendance at the hearing is necessary. Expenditure for the preparation of the proceedings (e.g. expert witnesses, interpreters) may be refundable as necessary expenditure of the appointed solicitor.

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

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

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

	Number
Total	715191
in criminal cases	NA
other than criminal cases	

	NA
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Comment :

The information includes approvals of legal aid with instalment payments.

20.1) Number of cases not brought to court (see 12.2 above) for which legal aid has been granted. If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP.

Number of cases
767,278

Comment :

21) In criminal cases, can individuals who do not have sufficient financial means be assisted by a free of charge (or financed by a public budget) lawyer?

Please specify in the "comment" box below.

Accused individuals	Yes
Victims	No

Comment :

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

Yes

No

23) Does your country have an income and assets evaluation for granting legal aid to the applicant ? If you have such a system but no data available, please indicate NA. If you do not have such a system, please indicate NAP.

Please provide in the "comment" box below any information to explain the figures provided.

	amount of annual income (if possible for one person) in €	amount of assets in €
for criminal cases	NAP	NAP
for other than criminal cases?	Yes	Yes

Comment :

Civil matters

Statutory tax allowances (basic personal allowance of € 442; basic allowance for spouses of € 442, if applicable; child tax credit, if applicable; if the income is made from gainful employment: a working person's allowance of € 201 – as of 1 January 2013), housing and heating costs, reasonable insurance contributions and loan instalments as well as extraordinary charges are to be deducted from the net income of the applicant. 50 % of the remaining sum are to be paid as monthly instalments of the costs of the proceedings. The maximum payment period is 48 months, any costs going beyond that period are waived. If the applicant owns assets, the court can order payments to be made from these. The applicant does not have to use up assets that are exempt from income testing, these including a suitable owner-occupied plot of land for a house and a small amount of cash up to approx. € 2,500.

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:

Civil matters

Legal aid is rejected if the right intended to be pursued or defended has no sufficient prospects for success or appears to be frivolous. Such pursuit or defence is deemed to be frivolous if, despite existing prospects of success, a party which would have to fund the action itself would refrain from pursuing the proceedings, for instance because there is a more favourable legal path to pursue or a more favourable form of legal defence, or because subsequent execution appears to be devoid of prospects in the long term.

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

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

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

- Yes
 No

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

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

criminal cases?	No
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

Relating to criminal cases only:

Re question 16:

Accused persons

The participation of defence counsel may be necessary under certain circumstances. In cases of necessary defence, defence counsel is appointed for an accused person who does not yet have defence counsel.

Aggrieved persons

Aggrieved persons, particularly victims of acts of aggression, are entitled in accordance with the list contained in section 395 the Code of Criminal Procedure (Strafprozessordnung, StPO) to join the public charge as a private accessory prosecutor. As private accessory prosecutors, it is possible for counsel for the victim to be appointed to them under certain preconditions regardless of their economic circumstances, or they have a right to approval of legal aid if they are unable to adequately defend their interests themselves, or it is not reasonable to expect them to do so. Pursuant to an amendment to the Code of Criminal Procedure passed by the Bundestag and the Bundesrat, this right is expanded to include victims of sexual offences who were minors at the time of the offence.

Re question 17:

Each judgment, each penal order and each ruling discontinuing an investigation must determine who is to pay the costs of the proceedings. The costs of the proceedings also include court costs.

Accused persons

Where the accused is acquitted, the initiation of the main proceedings against them is rejected or the proceedings against them are discontinued, the expenditure that is incurred by the Treasury, and the necessary expenditure of the accused, is incurred by the Treasury.

The defendant has to pay the costs of the proceedings where they arose through the proceedings because of an offence in respect of which they were convicted or a measure of correction and prevention is ordered against them. This applies regardless of whether or not a case of necessary defence applies.

Aggrieved persons

Where legal aid has been granted to aggrieved persons as private accessory prosecutors, this also includes court costs.

Re question 19:

Accused persons

The accused person does not have to pay costs in advance.

The principle of official investigations applies in criminal proceedings:

The court must include in the investigation of the truth, the taking of evidence ex officio for all facts and evidence which are of significance for the ruling.

Moreover, the accused person can lodge motions for the taking of evidence which the court is only able to reject within narrowly-defined limits.

The costs of the taking of evidence are initially advanced by the Treasury; this applies regardless of the financial circumstances of the accused person.

Aggrieved persons

With private accessory prosecutors – depending on their economic situation – legal aid may also be granted for their necessary expenses, such as the fees for a solicitor. The approval of legal aid entails the costs of the fees for a solicitor initially being advanced by the Treasury.

Re question 20.1:

This is the number of cases where legal advice and assistance was granted by the local courts in 2012, including the certificates issued by the local courts in 2012 entitling the applicant to legal advice and assistance, upon application filed directly by the person seeking redress and/or with the support of a lawyer.

Not including Bremen and Hamburg since these Länder have public legal advice offices.

Re question 21:

Accused persons

As stated above, the assistance of defence counsel is necessary under certain conditions. In cases of necessary defence, defence counsel is appointed for an accused person who does not yet have defence counsel. The incomes and assets of the accused person are immaterial.

Aggrieved persons

Please refer to question 16.

Re question 22:

Accused persons

Prior to appointing defence counsel, the accused person should be afforded the opportunity to name counsel of their choice within a determined period. The presiding judge appoints counsel if no important reasons stand in the way.

Aggrieved persons

The same provisions on the free selection of solicitor apply to private accessory prosecutors as apply to accused persons.

Re question 23:

Accused persons

As stated above, the question of necessary defence does not depend on income and assets. Necessary defence is regulated in sections 140 et seqq. of the Code of Criminal Procedure.

Aggrieved persons

Whether an income and assets evaluation of the applicant is carried out is in line with the preconditions stated in section 397a of the Code of Criminal Procedure.

In accordance with section 397a (1) of the Code of Criminal Procedure, counsel for the victim may be appointed to victims of particularly serious crimes who have joined the proceedings as private accessory prosecutors under the preconditions named therein free of charge and with no income and assets evaluation.

In accordance with section 397a (2) of the Code of Criminal Procedure, legal aid is to be granted to the other private accessory prosecutors upon application for the appointment of a solicitor under the preconditions named therein, their economic means being tested and the extent of the approval of legal aid being in line with the financial situation of the private accessory prosecutors.

Re question 27:

The decision on who is to pay the necessary expenses is taken by the court in the judgment or in the order concluding the proceedings.

Please indicate the sources for answering questions 20 and 23:

Re 20.: Federal Statistical Office (ed.):

Fachserie 10 Reihe 2.1 "Zivilgerichte 2011"

Fachserie 10 Reihe 2.2 "Familiengerichte 2011"

Fachserie 10 Reihe 2.4 "Verwaltungsgerichte 2011"

Fachserie 10 Reihe 2.5 "Finanzgerichte 2011"
 Fachserie 10 Reihe 2.7 "Sozialgerichte 2011"
 Fachserie 10 Reihe 2.8 "Arbeitsgerichte 2011"

Re question 20.1:
 Federal Office of Justice, Beratungshilfestatistik 2012

Re 23.:
 Section 115 of the Code of Civil Procedure (Zivilprozessordnung, ZPO), section 166 of the Code of Administrative Court Procedure (Verwaltungsgerichtsordnung, VwGO), section 73a of the Act on Social Court Procedure (Sozialgerichtsgesetz, SGG); section 142 of the Code of Finance Court Procedure (Finanzgerichtsordnung, FGO)

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:

<p>legal texts (e.g. codes, laws, regulations, etc.)? Internet address(es):</p>	<p><input checked="" type="checkbox"/> Yes</p>	<p>Internet address(es): regarding federal law: www.gesetze-im-internet.de regarding Land law: Baden-Württemberg: http://www.landesrecht-bw.de Bavaria: http://www.gesetze-bayern.de Berlin: http://gesetze.berlin.de Brandenburg: http://www.bravors.brandenburg.de Bremen: http://bremen.beck.de Hamburg: http://www.landesrecht-hamburg.de Hesse: http://www.rv.hessenrecht.hessen.de Mecklenburg-Western Pomerania: http://www.landesrecht-mv.de Lower Saxony: http://www.nds-voris.de North Rhine-Westphalia: https://recht.nrw.de Rhineland-Palatinate: http://www.landesrecht.rlp.de Saarland: http://sl.juris.de Saxony: http://www.recht.sachsen.de Saxony-Anhalt: http://www.landesrecht.sachsen-anhalt.de Schleswig-Holstein: http://www.gesetze-rechtsprechung.sh.juris.de Thuringia: http://landesrecht.thueringen.de</p>
<p>case-law of the higher court/s? Internet address(es):</p>	<p><input checked="" type="checkbox"/> Yes</p>	<p>Internet address(es): www.bundesverfassungsgericht.de www.bundesgerichtshof.de www.bundesverwaltungsgericht.de www.bundesfinanzhof.de www.bundesarbeitsgericht.de www.bundessozialgericht.de www.bundespatentgericht.de</p>
<p>other documents (e.g. downloadable forms, online registration)? Internet address(es):</p>	<p><input checked="" type="checkbox"/> Yes</p>	<p>Internet address(es): Baden-Württemberg: www.justizportal-bw.de Bavaria: www.justiz.bayern.de Berlin: www.berlin.de/sen/justiz Brandenburg: www.mdj.brandenburg.de Bremen: www.landesportal.bremen.de/justiz-und-gesetze Hamburg: www.justiz.hamburg.de Hesse: www.hmdj.hessen.de Mecklenburg-Western Pomerania: http://www.mv-justiz.de Lower Saxony: http://www.justizportal.niedersachsen.de North Rhine-Westphalia: www.justiz.nrw.de/ Rhineland-Palatinate: www.mjv.rlp.de Saarland: www.justiz.saarland.de Saxony: www.justiz.sachsen.de Saxony-Anhalt: www.sachsen-anhalt.de/index.php?id=2953 Schleswig-Holstein: www.justiz.schleswig-Holstein.de Thuringia: http://www.thueringen.de/th4/justiz/</p>

A summary can be retrieved via the link
<http://www.justiz.de/bundlaender/index.php;jsessionid=0087EDFE19862EA593048F0FDBF679CF>

Comment :

The addresses indicated under "other documents" are the above-mentioned federal court documentation services via which

decisions can be requested, and the justice portals of the Länder which, in their capacity as service portals, offer parts of the Land law as well as forms and information brochures. The material on offer is specific to the Land concerned and may include forms used for internal business as well as forms and applications for citizens.

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

- Yes
 No
 Yes only in some specific situations

If yes only in some specific situations, please specify:

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

- Yes
 No

If yes, please specify:

Crime victims are to be informed as quickly as possible, as a rule in writing and where possible in a language which they understand, of their powers and rights in criminal proceedings, as well as of potential support and further claims. As a rule, crime victims are provided on their first contact with public agencies (such as when filing a charge) with a leaflet informing them of their rights and powers, as well as further contact points offering assistance. The leaflet has been translated into many languages.

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

[This question does not concern the police investigation phase of the procedure and does not concern compensation mechanisms for victims of criminal offences, which are addressed under questions 32 to 34.]

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

Comment :

The meaning of the "Information mechanism" column is unclear.

Where they do not have capacity to contract, children are also not capable of suing and being sued, and must be represented in court.

Victims of domestic violence may apply for special measures of the court in accordance with the Violence Protection Act (Gewaltschutzgesetz, GewSchG), such as a ban on coming close and the sole allocation of the joint dwelling.

In accordance with section 184, second sentence, of the Courts Constitution Act (Gerichtsverfassungsgesetz, GVG), Sorbs may speak Sorbian in court. Section 186 of the Courts Constitution Act contains special provisions for hearing impaired or speech impaired persons for communication in court.

Other than that, there are no further special provisions regarding civil proceedings.

31.1) Is it possible for minors to be a party to a judicial proceedings :

- Yes

No

If yes, please specify which procedure can be concerned (civil, criminal, administrative/normal or accelerated procedure) and at which conditions (can children benefit from legal aid, be represented by a lawyer, etc.) :

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

Yes

No

If yes, for which kind of offences

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

- the intentional application of poison,
- the at least negligent bringing about of a risk to life and limb of another by virtue of a felony committed with means that pose a danger to the public (e.g. arson, explosives attack).

33) If yes, does this compensation consist in:

a public fund?

damages to be paid by the responsible person (decided by a court decision)?

a private fund?

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

Yes

No

If yes, please illustrate with available data concerning the recovery rate, the title of the studies, the frequency of the studies and the coordinating body:

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

Yes

No

If yes, please specify:

The guidelines for criminal proceedings and the regulatory fine proceedings, which primarily are to be complied with by public prosecutors, contain considerable discussion as to how the interests and needs of the aggrieved persons of criminal offences are to be taken into consideration in the proceedings where appropriate. The public prosecution office must inform the aggrieved persons in accordance with section 406d (1) of the Code of Criminal Procedure on application of the discontinuation of the proceedings. Also, the public prosecution office must grant inspection of the files to the solicitor of an aggrieved person in accordance with section 406e of the Code of Criminal Procedure or provide information and duplicates from the files. Moreover, the public prosecution office is obliged in accordance with section 406h of the Code of Criminal Procedure to inform aggrieved persons who are victims of a criminal offence of specific entitlements and about victim assistance facilities.

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

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

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

If necessary, please specify:

If the public prosecution office does not comply with an application to prefer public charges, or if it orders the discontinuation of the proceedings after conclusion of the investigations (section 170 (2), first sentence, of the Code of Criminal Procedure), it must notify the applicant, stating the reasons. In the notice, the applicant, who is at the same time the aggrieved person, is to be informed of the possibility of challenge and of the deadline provided for this (section 172 (1) of the Code of Criminal Procedure) (section 171, first and second sentence, of the Code of Criminal Procedure).

If the applicant is at the same time the aggrieved person, they have a right to complain against the notice in accordance with section 171 of the Code of Criminal Procedure within two weeks of notification to the superior official at the public prosecution office (section 172 (1), second sentence, of the Code of Criminal Procedure). The applicant can request a court ruling (proceedings to enforce an action) against the rejection notice of the superior official of the public prosecution office, within one month of the notification. They are to be informed of this and of the form provided for this; the deadline does not run if the information has not been provided (section 172 (2), first and second sentences, of the Code of Criminal Procedure).

The application is not admissible if the proceedings refer exclusively to a criminal offence which can be pursued by the aggrieved person by means of a private action, or if the public prosecution office has refrained from prosecuting the offence for reasons of discretionary prosecution (for instance in accordance with section 153 et seqq. of the Code of Criminal Procedure and 45 (1) of the Youth Courts Act [Jugendgerichtsgesetz, JGG]). The Higher Regional Court has jurisdiction to rule on the application (section 172 (4), first sentence, of the Code of Criminal Procedure). Youth court proceedings can also be discontinued (decision by means of diversion) if adequate supervisory measures have already been taken outside of the criminal proceedings, or if the juvenile, who must have admitted guilt, has voluntarily complied with instructions or conditions of the youth court judge which were proposed by the public prosecution office (section 45 (2) and (3) of the Youth Courts Act). Proceedings to enforce an action are also not admissible against such discontinuation.

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

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):

As a general rule, in the case of excessively long court proceedings, the person concerned has to file a complaint about undue delay (Verzögerungsrüge) with the court at which the proceedings seem excessively long. If necessary, he can then file a complaint for compensation even if the original proceedings have not yet been concluded. Adequate compensation is granted for pecuniary disadvantages. To the extent that an alternative form of redress would appear insufficient, a fixed amount of € 1,200 per year is granted as a general rule for non-pecuniary disadvantages.

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

(a) Provisions of federal law

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

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

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

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

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

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

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

The decision on the fundamental obligation to provide compensation is taken by the court in the judgment or in the order which closes the proceedings, so-called fundamental ruling in accordance with sections 8 and 9 of the Act on Compensation for Criminal Prosecution Measures. If the public prosecution office discontinues the proceedings, the court takes the fundamental ruling on application of the accused persons, who must lodge this within one month of service of the discontinuation ruling with information on the application deadline, its right to apply and the court with jurisdiction. After the fundamental ruling has gained legal force, the claim must be lodged with the investigating public prosecution office within six months. If the deadline is missed, the claim is ruled out. When examining the compensation claim, there is no official investigation. Rather, applicants must explain and substantiate their claims. The Land administration of justice, which however may delegate the powers to the public prosecution offices or the chief public prosecutor, rules on the application.

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

The "Act on Legal Redress for Excessive Length of Court Proceedings and of Criminal Investigation Proceedings" (Gesetz über den Rechtsschutz bei überlangen Gerichtsverfahren und strafrechtlichen Ermittlungsverfahren) came into force on 3 December 2011. No information is yet available regarding case numbers and the outcome of proceedings.

- The Act makes provision for a claim to compensation in cases of excessive length of court proceedings.
- Special provision for criminal proceedings, to take account of the specific aspects applying to such proceedings.
- Compensation can be claimed only by those who, in the original proceedings, have previously complained about the delay in question. The court dealing with the case can then act to redress the matter, in response to this complaint.
- If no redress is forthcoming, a court action for compensation can even be brought while the delayed original proceedings are still pending.
- The highest Federal courts and the Federal Constitutional Court will be included in such provision.

(b) Provisions of Land law

excessive length of proceedings? Yes 1): BE, BY, BB, HB, NI, NW
non execution of court decisions? 2) Yes 1): NI

*) not including information from Mecklenburg-Western Pomerania and Thuringia.

1) Where the Länder specified in the overview have answered "Yes", the other Länder have accordingly answered "No".

2) BB: No, not in criminal law.

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:

Not including information from Mecklenburg-Western Pomerania, Thuringia, Berlin, Brandenburg, Hamburg, North Rhine-Westphalia, Saarland and Rhineland-Palatinate.

Baden-Württemberg:

The members of the judiciary are regularly asked as to their level of satisfaction using questionnaires. The results are evaluated by an independent institute. Solicitors and parties to the proceedings are regularly asked as to their satisfaction with the judiciary; examples can be found here:

<http://www.justiz-intern.bwl.de/servlet/PB/show/1213338/Presseerklrung-RA-Befragung.pdf>

http://www.justiz-intern.bwl.de/servlet/PB/show/1213339/OLG_Anwaltsbefragung-Fragebogen.pdf

Bavaria (not incl. administrative courts):

None.

Bavaria (administrative courts):

Staff questionnaire every five years; implemented by the Bavarian Land Office for Statistics and Data Processing.

Bremen:

Virtually all Bremen courts, as well as Bremen public prosecution office, have taken part in the national and Lower Saxony comparison groups since 2007;

AgIL Performance of the Local Courts compared

LiVe Performance of the Regional Courts compared

OLiVe Performance of the Higher Regional Courts compared

BenStA Benchmarking of the public prosecution offices

ArbPR Quality management of the Northern German labour courts

LOS Performance and organisation comparison in the social courts

VERGIL Administrative Courts in a comparison between the Länder.

The goal of the performance comparisons is to optimise workflows within the courts and public prosecution offices, as well as to improve cooperation with solicitors. To this end, questionnaires have been implemented to ascertain the level of satisfaction and identify potential improvements. The results were intended for internal quality management, but cf. the publications for instance at www.arbeitsgericht.bremen.de,

www.landessozialgericht.niedersachsen.de and www.verwaltungsgericht.bremen.de

Hesse:

None.

Hamburg:

There are only individual questionnaires on the topic of confidence placed in the German judiciary. See for instance

<http://de.statista.com/statistik/daten/studie/167505/umfrage/vertrauen-in-die-deutsche-justiz/>. Moreover, studies exist which devote themselves to the abstract topic of institutional confidence or trust in the judicative, for instance <http://www.nccr-democracy.uzh.ch/publications/workingpaper/pdf/WP28.pdf>.

Lower Saxony:

In the projects "Performance of the Local Courts compared (AGIL)" and "Performance of the Regional Courts compared (LiVe)", the staff of the judicial authorities were asked how satisfied they are with their jobs. The procedure also exists for Higher Regional Courts ("OLiVe") and for public prosecution offices ("BenStA"). Public prosecutors and solicitors are also questioned in each case. Enquiries here relate amongst other things to satisfaction with cooperation with superiors and colleagues, as well as with working conditions, and to identification with the task area. The results were discussed in specialist groups and workshops, and proposals for improvements were worked out.

North Rhine-Westphalia:

As far as can be seen here, there have been such studies. Concrete information is however not available here. These are above all staff and "customer" questionnaires in court comparison groups.

Schleswig-Holstein: ./.

Saxony:

In the social courts:

- questionnaire among honorary judges
- discussions with solicitors

In ordinary courts:

projects "Local and Regional Courts in a comparison" and "Higher Regional Courts in a comparison". Information can be obtained on the website www.justiz.sachsen.de/olg www.justiz.sachsen.de/olg under the keyword "Quality management" ("Qualitätsmanagement").

Saxony-Anhalt:

OLiVe – Performance of the Higher Regional Courts compared,

LiVe – Performance of the Regional Courts compared,

AGIL – Performance of the Local Courts compared,

BenStA – Benchmarking of the public prosecution offices,

ArbOR – Comparison of the labour court organisation.

These are all internal comparison groups which are not publicly accessible. Continuation and review take place in each case according to sector-specific establishments. The group of individuals included over and above the justice staff can deviate in the

individual comparison groups.

39) If possible, please specify:

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

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

- Yes
 No

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

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

Comment :

cf. question 37 on excessively long court proceedings

41.1) Please indicate the number of complaints that are upheld and the amount of compensation given to users in 2012 for complaints about the functioning of the judicial system

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)	765
42.2 First instance specialised Courts (legal entities)	250
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)	1108

43) Number (legal entities) of first instance specialised courts (or specific judicial order). If data is not available, please indicate NA.

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

	Number
Total (must be the same as the data given under question 42.2)	250
Commercial courts (excluded insolvency courts)	NAP
Insolvency courts	
Labour courts	113
Family courts	NAP
Rent and tenancies courts	NAP
Enforcement of criminal sanctions courts	NAP
Fight against terrorism, organised crime and corruption	
Internet related disputes	
Administrative courts	51
Insurance and / or social welfare courts	68
Military courts	NAP
Other specialised 1st instance courts	18

Comment :

Depending on the value at dispute, commercial cases are dealt with at Local or Regional Courts, on application in a chamber established at the Regional Court for commercial cases. There are no separate commercial courts, nor are there any independent rent courts, execution courts or courts for insurance cases. Depending on the caseload, special panels of judges are established for this purpose at the Local and Regional Courts. Family cases are dealt with at first instance in special departments of the Local Courts. The Federal Armed Forces do not have any military courts of their own; its members are subject to civil jurisdiction.

[Q42 : First instance courts (general jur.) 765 (650 local courts / 115 regional courts)

First instance specialised courts 250 (51 administrative courts, 18 finance courts, 113 labour courts, 68 social courts)]

[Q43 : Other specialised 1st instance court 18 finance courts]

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

Yes

No

If yes, please specify:

The possibility of merging courts is being considered by individual Länder in order to reduce costs and because of demographic developments and declining numbers of incoming cases.

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

	Number
a debt collection for small claims	650
a dismissal	113
a robbery	650

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

Claims up to € 600 are regarded as "small claims" (section 495a of the Code of Civil Procedure).

* If a penalty of up to four years' imprisonment is anticipated, a robbery is charged at the Local Court, and at the Regional Court if a longer sentence is anticipated. Germany has a total of 115 Regional Courts.

[Comments in Q45 - deleted

a debt collection for small claims : 650 (Local courts)

a dismissal : 113 (Labour courts)

a robbery : 650*]

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

The data are published by the Federal Ministry of Justice.

3. 1. 2. Judges, court staff

46) Number of professional judges sitting in courts (if possible on 31 December 2012)

(please give the information in full-time equivalent and for permanent posts actually filled for all types of courts - general jurisdiction and specialised courts). If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP.

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

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

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

	Total	Males	Females	NAP
Total number of professional judges (1 + 2 + 3)	19,831.61	NA	NA	
1. Number of first instance professional judges	14,861.13	NA	NA	
2. Number of second instance (court of appeal) professional judges	4,055.58	NA	NA	
3. Number of supreme court professional judges	914.90	NA	NA	

Comment :

The information relates to job shares. There are no absolute figures for the number of persons. The information on the job shares counts a judge working full-time as 1. A judge working part-time is counted as a fraction of 1 which corresponds to the proportion of his/her working hours to full-time (e.g. 0.5 for a judge working half the usual number of hours).

The information from personnel deployment has been used as a basis re 1 and 2. Personnel deployment is ascertained according to a complex calculation scheme as an annual average of the actual personnel deployed.

The total staff from the two-year statistics on judges as per 31 December 2010 has been used as a basis re 3.

The personnel on file of judges at the end of the year, which does not permit a breakdown to be made by first instance and appeal court, shows the following total result in job shares:

Total: 20,410.45, of which: Male 12,562.19, Female 7,848.26.

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

	Total	Males	Females	NAP
Total number of court presidents (1 + 2 + 3)	NA			
1. Number of first instance court presidents				

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

48) Number of professional judges sitting in courts on an occasional basis and who are paid as such (if possible on 31 December 2012).

Please provide in the "comment" box below any information to explain the answer under question 48.

Gross figure NA
If possible, in full-time equivalent NA

Comment :

There are no figures available for this question. Number of professional judges includes the number of part-time occasional judges.

49) Number of non-professional judges who are not remunerated but who can possibly receive a simple defrayal of costs (if possible on 31 December 2012) (e.g. lay judges and "juges consulaires", but not arbitrators and persons sitting in a jury):

If such non-professional judges exists in your country, please specify it in the "comment" box below:

Gross figure Yes 98.107

Comment :

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

- Yes
 No

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

There are no jurors in German criminal procedure, but lay judges participate in a large share of the trial courts (court with lay judges in the Local Courts, grand and small criminal chambers, as well as youth chambers in the Regional Courts). They exercise their honorary judicial office (section 31 of the Courts Constitution Act) in the main hearing in full and with the same voting rights as professional judges (section 30 subs.1 of the Courts Constitution Act). Professional judges and honorary judges rule together on the guilt of the defendant and the amount of the sentence. In accordance with section 240 (2) of the Code of Criminal Procedure, they have the right to directly question defendants, witnesses and experts in the main hearing. They deliberate on the judgment together with the professional judges (section 260 of the Code of Criminal Procedure).

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

NAP

52) Number of non-judge staff who are working in courts for judges (if possible on 31 December 2012) (this data should not include the staff working for public prosecutors; see question 60) (please give the information in full-time equivalent and for permanent posts actually filled). If "other non-judge staff", please specify it in the "comment" box below.

Total non-judge staff working in courts (1 + 2 + 3 + 4 + 5) Yes (among which women) 53 , 6 4 9 .01

1. Rechtspfleger (or similar bodies) with judicial or quasi-judicial tasks having autonomous competence and whose decisions could be subject to appeal Yes (among which women) 8 , 4 6 0 .67

2. Non-judge staff whose task is to assist the judges (case file preparation, assistance during the hearing, court recording, helping to draft the decisions) such as registrars Yes (among which women) 29 , 1 4 3 .84

3. Staff in charge of different administrative tasks and of the management of the courts (human

resources management, material and equipment management, including computer systems, financial and budgetary management, training management)

Yes (among which women) 7 , 4 7 7 .75

4. Technical staff

Yes (among which women) 1 , 2 8 0 .83

5. Other non-judge staff

Yes (among which women) 7 285

Comment :

The information relates to job shares of employees

- who were released for training and further training with no remuneration claim,
- who were released to work in staff representations and representations of persons with serious disabilities, and as equality commissioners,
- in a special facility,
- in the entry and security service,
- in telephone exchanges,
- in the car pool,
- in the area of cleaning and other wage-earners.

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

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

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:

Not including information from Mecklenburg-Western Pomerania and Thuringia. Bremen was the only Land to answer "No"; all other Länder answered "Yes".

Baden-Württemberg:

The judiciary in Baden-Württemberg has outsourced information and communication hardware and standard software since 1998, and has taken part in national calls for tender, which were implemented by the general administration.

The Ministry of Justice signed the currently-running outsourcing contract with "T-Systems GmbH" in 2009 on the basis of such a call for tender with roughly 8,200 workstations for the courts/public prosecution offices, as well as for the Ministry of Justice (185 workstations) and for the prison system (2,350 workstations). "Electronic Data Services (EDS - an HP company)" was the courts' outsourcing partner of the judiciary in the years before that.

The contracts encompass the provision of hardware and standard software, a user helpdesk, the active network components (incl. maintenance), as well as the entire data backups.

The outsourcing partners of the Land and the judiciary provide the information and communication infrastructure for the operation of the specialist judicial applications. Staff further training in information and communication remains in the hands of the judiciary, the support of private companies being bought in for the individual measures.

Bavaria:

Ordinary courts/finance, labour and social courts:

Firstly, this concerns security tasks such as guarding court buildings over night and at weekends/on bank holidays, as well as cleaning services. Secondly, this relates to data processing: provision and operation of the judicial network; delivery, installation and operation – including maintenance and error processing – of all IT jobs, of infrastructure servers and active components for local networks; care of IT users via a User Help Desk when it comes to problems in the fields of hardware, standard software and network.

Administrative jurisdiction:

Cleaning, security, further training, IT maintenance, health management.

Brandenburg:

Cleaning, security.

Berlin:

Partly archiving, janitor services, cleaning.

Hamburg:

Cleaning is very largely entrusted to private companies.

Guarding of the court buildings is partly entrusted to private companies.

Hesse:

Private service-providers work in the security services and in cleaning.

Lower Saxony:

Security: individual courts have commissioned security companies to carry out night patrols (Note: No information can be provided on the other private service-providers mentioned above).

North Rhine-Westphalia:

The cleaning services are provided by external cleaning firms. These contracts are however not put out to tender and awarded by the courts, but by the Construction and Property Agency (Bau- und Liegenschaftsbetrieb, BLB), since the Land Government has centralised this task at this Agency.

Furthermore, entry security at courts is provided by individual private services which can also be found in some areas of the technical maintenance of appliances.

Saarland:

Completely or partly:

- building cleaning
- postal delivery
- occupational healthcare
- security
- maintenance of technical equipment

Saxony:

In various courts, differing individually:

- building cleaning
- postal delivery
- teaching activities in further training
- occupational healthcare
- security
- maintenance of technical equipment
- security service
- operation of mail rooms
- transport of files
- messenger services
- archiving of documents
- storage and administration of forms and office material
- copying
- janitor activities

Saxony-Anhalt:

The cleaning of the courts has been assigned to external cleaning companies almost without exception. Moreover, there are contracts with external service-providers for winter cleaning and driving services amongst other things (framework contracts with taxi companies). Furthermore, the implementation of entry checks has been transferred to external providers in pilot projects.

Schleswig-Holstein:
further training.

C1 You can indicate below:

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

Re no. 52: The information relates to job shares for employees without a judicial office from personnel deployment. The information in personnel deployment is not collected according to key dates. The annual average of four quarters is formed. There are no absolute figures for the number of persons. The information on the job shares counts a judge working full-time as 1. A judge working part-time is counted as the fraction of 1 which corresponds to the proportion of his/her working hours to full-time (e.g. 0.5 for a judge working half the usual number of hours). Figures for the Federal Courts are not included. Baden-Württemberg: Major reforms in the past two years: 1. Reform of the land registry system in Baden-Württemberg On 21 July 2008, the Council of Ministers adopted the fundamentals of a comprehensive reform of the Baden-Württemberg land registry system on the basis of a submission by the Ministry of Justice. In line with the structure that has become the national norm, the management of the land registries is to be assigned successively to the land registry departments of eleven selected Local Courts of the Land from 2011 to 2018. The local authorities are to be relieved of the burden of managing the land registries. In place of the previously predominant extremely small-scale structure, this will enable modern, efficient units to be created with optimum technical equipment. For the citizens, as well as in particular for industry, this promises to shorten the processing times and to bring about a further improvement in the range of services. A major element of the reform concept is also to keep all services relating to the land registry available at grassroots level despite the centralisation plans. This is to be ensured through the complete digitisation of the contents of the land registry and the establishment of land registry viewing units at all notaries and local authorities who so wish. A further aspect of the reform of the land registries is the introduction of electronic justice. The legal framework has recently been created at federal level to enable applications to be submitted in electronic form with the Act on the Introduction of Electronic Justice and the Electronic Title Deed in Land Registry Proceedings (Gesetz zur Einführung des elektronischen Rechtsverkehrs und der elektronischen Grundakte im Grundbuchverfahren) – similar to that existing in the registers of companies. Against this background, the Ministry of Justice would like to implement a register concept in which newly-arriving parts of files are stored electronically from a key date onwards and the old stock remains stored in paper form. Where for procedural or information purposes it is necessary to access paper documents, these documents would be digitised on request, and also provided in electronic form. Since with this kind of "hybrid filing", the existing paper-stored parts of applications are needed less and less frequently as time advances due to electronic submissions, it is planned to retain the paper files at a central location in the Land, in cooperation with the Land archive administration, and to provide them from there when they are needed. This obviates the need for Local Courts which manage land registers in future to put considerable effort into creating space for registers which will no longer be needed in the long term for land registry processing after electronic justice has been introduced. At the same time, the historically-significant documents are placed in the hands of specialists in order to conserve them for the long term. The organisational aspects of the reform process, in which the currently 667 land registry offices of the Land are to be centralised in the eleven future locations within six years, are a major challenge for the justice system. To implement the project, working parties have been established in the Ministry of Justice with the involvement of the Higher Regional Courts and associations of the local authorities. The aim is to guarantee a trouble-free transition to the new land registry office structure. The burdens on the staff affected by the restructuring process are to be minimised. 2. Electronic land registry The introduction of the electronic land registry is one of most significant, largest projects in the Land's justice system. The digital recording of the total of roughly 5.8 million land registry sheets is progressing well in the Württemberg legal territory and in the eleven state land registry offices of Baden. The digitisation of the contents of the land registry is to be pushed in future with a view to the coming comprehensive reform of the land registry system. The Ministry of Justice would like to support the ongoing recording by the staff of the land registry offices, as well as the collection teams, by establishing collection centres which are exclusively responsible for the digitisation of the land registries, and hence are able to work particularly efficiently. A first collection centre started operations at Stuttgart Local Court in January 2009. On the basis of the experience collected here, it is to be examined whether this collection method should be expanded and whether the paper land registries remaining in the local land registry offices in the Baden legal territory can also be included by these means in the course of the reform of the land registry system after they have been taken over by the Land. All land registries in the country will be recorded in electronic form at the latest on completion of the reform of the land registry system at the end of 2017. 3. Assistance for judges The working conditions and the working methods in the field of the administration of the law are changing apace. A large number of young judges and public prosecutors in particular are carrying out more and more tasks themselves on their PCs. The rapid technical developments in the IT field, and above all the automatic specialist procedures and the work savings which these bring, will lead in the medium and long term to lower staff requirements in the service area. Further reductions in workload in the service area can be anticipated to ensue in the years from the introduction of electronic justice and the electronic file. On the other hand, necessary staffing increases among judges and public prosecutors cannot be achieved in the coming years due to the budgetary situation. In order to retain the functionality of the administration of justice and to avoid a loss of quality, therefore, a fair and optimal division of tasks in terms of workflow organisational aspects is necessary between judges, senior judicial officers and service personnel. This is to be achieved with the project entitled "Assistance for judges/senior judicial officers". The Länder Baden-Württemberg, North Rhine-Westphalia and Saxony, under the management of Baden-Württemberg, therefore agreed in the spring of 2008 to further develop the topic "Assistance for judges of the service units" ("Richterassistenz der Serviceeinheiten") together – which had initially been restricted to ordinary courts. In a workshop held in the summer

of 2008, a nationwide project group was commissioned with representatives of judicial practitioners to take stock of the typing conduct of judges and to delegate assistant-type tasks to the service staff, and building on this to name potential other tasks that were suitable for assigning. In carrying out this task, the project group implemented and evaluated a full survey of judges and service staff of the Local, Regional and Higher Regional Courts of the three Länder in the spring of 2009. The tasks which judges can assign to the service staff in the view of the respondents were summarised in a list. Ten pilot courts in Baden-Württemberg have been trialling the delegation of these tasks since April 2011, so that the proposals come "from practitioners for practitioners". Corresponding projects are running at the public prosecution offices and in the specialist courts. Moreover, it is currently being examined whether tasks can also be assigned to senior judicial officers by judges and to service staff by senior judicial officers. This might, firstly, offer service staff a broader range of tasks, and compensate for activities removed. Secondly, assistance for judge/senior judicial officers could enable senior judicial officers to take on tasks from judges which do not fall within core judicial activities, ultimately also reducing burdens on the judges. Hamburg: There have been no major reforms of the legal system or reorganisations in the judicial field in the last two years.

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

Source regarding questions 46 and 52: Federal Office of Justice, staffing overviews of ordinary courts and the specialist jurisdictions 2010, as well as judges' statistics (version: 31 December 2010).

3. 1. 3. Public prosecutors and staff

55) Number of public prosecutors (if possible on 31 December 2012) (please give the information in full-time equivalent and for permanent posts actually filled, for all types of courts – ordinary and specialised jurisdictions). If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP. Please provide in the "comment" box below any useful information for interpreting the data.

	Total	Males	Females	NAP
Total number of prosecutors (1 + 2 + 3)	5 245	3 093	2 152	
1. Number of prosecutors at first instance level	4 769	2 755	2 014	
2. Number of prosecutors at second instance (court of appeal) level	375	263	112	
3. Number of prosecutors at supreme court level	100	75	25	

Comment :

The information relates to the number of job shares for public prosecutors. There are no absolute figures for the number of persons. The information on the job shares count a judge working full-time as 1. A judge working part-time is counted as the fraction of 1 which corresponds to the proportion of his/her working hours to full-time (e.g. 0.5 for a judge working half the usual number of hours).

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

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

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

Comment :

The total number of heads of the public prosecution offices is at least the number of Regional Courts (116) plus the number of Higher Regional Courts (24) at which the chief public prosecution offices are located.

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

Yes

No

NA

Number (full-time equivalent)

942

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

Officials of the public prosecution office:

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

Trainee jurists:

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

Civil party to criminal proceedings:

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

Revenue authorities:

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

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

- Yes
- No

59.1) Do all prosecution offices have specially trained prosecutors in domestic violence and sexual violence etc.?

- Yes

60) Number of staff (non-public prosecutors) attached to the public prosecution service (if possible on 31 December 2012) (without the number of non-judge staff, see question 52) (in full-time equivalent and for permanent posts actually filled).

Number NA 10.322,66
 Among which women NA

C2 You can indicate below:

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

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

Re 55.: judicial statistics (version: 31 December 2010) – information in job shares; re 55, 56, 57, 60: staffing overviews of the Länder on the staff of the public prosecution offices at the Regional Courts and on the staff of the public prosecution offices at the Higher Regional Courts (questions 55, 56, 60: in 2010; question 57: in 2011) - information in job shares -, figures at federal level are only available re question 55. CN 14/05: The data refer to 2012

3. 1. 4. Management of the court budget

61) Who is entrusted with responsibilities related to the budget within the court?

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

	Preparation of the budget	Arbitration and allocation	Day to day management of the	Evaluation and control of the use of the
--	---------------------------	----------------------------	------------------------------	--

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

Comment :

Bavaria

Labour and social courts:

The precise jurisdictions are defined in the respective business schedule of a court.

Other: The budget processing is as a rule a matter for civil servants of the executive level working in court administration.

Administrative jurisdiction:

Commissioners for the budget.

Brandenburg:

If a commissioner for the budget is appointed who is not the head of the court.

Bremen:

The court management is as a rule supported by a budget official.

Hamburg:

The responsibility for the planning, arbitration and allocation of the budget lies with the Authority for Justice and Equality as the competent ministerial level. It is carried out in close coordination with the courts.

The evaluation and verification of the use of the budget is carried out on the basis of the budget accounting by the Court of Audit and Parliament.

North Rhine-Westphalia:

Specially-commissioned staff of the court.

Saxony:

A budget commissioner is appointed for each court in accordance with section 9 of the Saxon Budget Code (Sächsische Haushaltsordnung, SäHO) unless the Court President personally carries out the task. Individual tasks (cf. above table) of budget management can be transferred to other staff of the court by the Court President or the budget commissioner via the business schedule regardless of their function.

Saxony-Anhalt:

Other persons are the party empowered to issue orders and fund managers in the units.

3. 1. 5. Use of Technologies in courts

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

Word processing	100% of courts
Electronic data base of caselaw	100% of courts
Electronic files	-10% 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	+50% of courts
Financial information system	100% of courts
Videoconferencing	-50% of courts

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

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

	100% of courts
Website	100% of courts

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

Comment :

The electronic court and administration pigeon hole (Elektronisches Gerichts- und Verwaltungspostfach, EGVP). Faxing and e-mail (if not ruled out by opposing formal provisions).

65) The use of videoconferencing in the courts (details on question 63).

Please indicate in the "comment" box below any clarification on the legal framework and the development of videoconferencing in your country.

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

Comment :

All in all, the courts, public prosecution offices, prisons and the judicial administration have approx. 160 systems at their disposal. The number has increased considerably in recent years. Essentially, all major judicial locations are adequately equipped.

It is also used in the administrative and finance courts.

The use of the systems is regulated in the respective codes of procedure. The basis for use in the civil and criminal proceedings is defined in section 247a of the Code of Criminal Procedure and section 128a the Code of Civil Procedure. There is now a considerable amount of case-law on the named provisions, including from the supreme courts.

Questioning of undercover investigators can be carried out in a secret location in criminal proceedings by disguising the voice and face.

Child victims and witnesses of violent crime are increasingly questioned in specially-equipped questioning rooms. These questioning rooms are for instance also used in custody cases, particularly if one parent is abroad.

The use of video conferencing has however not yet become implemented across the board in court practice. This is, firstly, because most courts, judicial authorities and law firms do not yet have the requisite equipment, but secondly also because of the codes of procedure requiring the consent of those concerned to the use of video conferencing.

The strict linking of the codes of procedure to the consent of those concerned is to be abolished by the Act to Increase the Use of Video conferencing Technology in Court and Public Prosecution Proceedings of 25 April 2013 (Gesetz zur Intensivierung des Einsatzes von Videokonferenztechnik in gerichtlichen und staatsanwaltlichen Verfahren; BGBl. I S. 935), and the use of video conferencing technology is to be largely placed at the duty-bound discretion of the court. This is also achieved for these jurisdictions by virtue of an amendment of section 128 a of the Code of Civil Procedure and via the reference provisions contained in the codes of procedure of the specialist jurisdictions. In addition, the provisions on interpreters and, in criminal proceedings, the provisions on the questioning of experts, accused persons and of the chair of the Bar, as well as of the defendant in questioning regarding a charge and the questioning of witnesses foregoing their personal presence have been newly regulated in the Courts Constitution Act. The Act brings all the codes of procedure in line with the high-quality technology currently available, whilst at the same time setting the stage in normative terms for the future. The advantages of the intensified use of video conferencing technology in court and public prosecution office proceedings are plain to see:

Where the judicial administration provides this technology, above all lawyers, but also other parties to the proceedings are offered the opportunity, in suitable cases, to attend court proceedings without travelling from their own offices or from video conferencing studios provided by the judicial administrations. The little time required for all concerned and the court makes it easier to schedule oral hearings and discussion appointments, thus helping to accelerate proceedings and increase efficiency, not lastly among professional defence counsel.

The aspect of availability in time is of great importance with examinations, hearings, deliberation and questioning for the rapid processing of the proceedings and the more efficient employment of those concerned by the proceedings. The savings

in travel expenses and reduced time spent will make the process cheaper overall. A further positive aspect can be seen in the possible reduction of prisoner transportation: The risk of prisoners escaping can be minimised by using video transmission technology; transport and surveillance become largely unnecessary.

The increased support of video conferencing at EU level is proving to be helpful. A corresponding proposal is also logical, given that the European Commission categorised the use of video conferencing as a vital pillar in eJustice efforts in Europe at the meeting held in the Slovenian Presidency.

The connection of the technical equipment via ISDN is currently being converted to IP in some Länder.

Increasing use is being made of the possibilities offered by video conferencing technology to reduce travel expenses and to accelerate workflows by the judicial administrations, including the use of desktop video conferencing.

C3 You can indicate below:

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

The equipment with networked computers has taken place across-the-board. The hardware and software are being gradually renewed at intervals (refresh). Specialist procedures have now been developed for almost all applications in the judiciary. Preparations are currently being made for the introduction of electronic justice and the electronic file. A schedule has already been drawn up.

3. 2. Monitoring and evaluation

3. 2. 1. Performance and evaluation

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

Yes

No

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

Not including information from Mecklenburg-Western Pomerania and Thuringia. In Bavaria, the information provided differs according to jurisdiction: "No" was stated for Bavarian ordinary courts; "Yes" was stated for the Bavarian specialist jurisdictions. The other Länder all answered "Yes".

Baden-Württemberg:

Ministry of Justice Baden-Württemberg, Schillerplatz 4, 70173 Stuttgart

Bavaria:

Ordinary courts:

It should be pointed out in general terms that judicial business statistics are kept in the courts and public prosecution offices, with which statistical data on civil cases, family cases, criminal and regulatory fine proceedings, as well as public prosecution office investigation proceedings are recorded. The figures that are recorded permit evaluations to be carried out which however in our view are not to be considered as performance control within the meaning of questions 66 to 69, 78, 79 and 83.

Bavaria:

Finance, administration, labour and social courts:

Bavarian Land Office for Statistics and Data Processing <https://www.statistik.bayern.de/>.

Berlin:

Senate Administration of Justice, division I B (e-mail: statistik@senjust.berlin.de).

Brandenburg:

Ministry of Justice of the Land Brandenburg, Heinrich-Mann-Allee 107, 14473 Potsdam.

Bremen:

Senator of Justice and Constitution, Richtweg 16/22, 28195 Bremen.

Hamburg:

<http://www.statistik-nord.de>.

Hesse:

Hesse Land Statistical Office in Wiesbaden.

Lower Saxony:

Lower Saxony Land Agency for Statistics and Communication Technology (Landesbetrieb für Statistik und Kommunikationstechnologie Niedersachsen, LSKN)

North Rhine-Westphalia:

All Land administrations of justice rely on authoritative, topical data on proceedings and caseloads; verification of the rulings handed down is prohibited here for constitutional reasons.

The Ministry of Justice of North Rhine-Westphalia is supported in carrying out its tasks by a data evaluation centre at Hamm Higher Regional Court, which at the same time also has to perform local tasks within the remit of the judiciary.

Saarland:

Ministry of Justice.

Saxony:

e.g. legal aid, type of proceedings, type of resolution, number of (main) hearings.

Saxony-Anhalt:

Land Statistical Office of Saxony-Anhalt, Merseburger Str.2, 06110 Halle (Saale).

Schleswig-Holstein:

Statistical Office for Hamburg and Schleswig-Holstein (www.statistik-nord.de).

Federation:

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

cf. also C 4 below

66.1) Does this institution publish statistics on the functioning of each court on the internet:

- Yes
 No, only in an intranet website
 No

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

- Yes
 No, only in an intranet website

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

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

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

If other, please specify:

Not including information from Mecklenburg-Western Pomerania, Thuringia, Rhineland-Palatinate, Saarland and Schleswig-Holstein.

Bavaria:

Labour and social courts:

Statistical collections according to the nationally-uniform order.

Administrative jurisdiction:

e.g. verification of the deadlines for the drafting of judgments.

Berlin:

Federal uniform statistics.

Brandenburg:

Figures are also collected on the stock of proceedings at the end of the period under report and on the changes in the number of new cases, with proceedings that have been dealt with and the numbers in comparison with the previous year/previous quarter, as well as on the ratio of finished proceedings as against new cases.

Hamburg:

In addition to the above data, statistics on the nature of resolution are kept (e.g. in civil cases: dealt with by contentious judgment/by acknowledgement/by settlement, etc.).

Within self-administration, the verification of the court's activities is a matter of the Presidiums of the courts, the Presidents of the courts, as well as the Land administration of justice. Judicial independence and the specialist independence of senior judicial officers form constitutional and legal boundaries which naturally are always to be respected.

Hesse:

Allocated among staff (caseload quota).

North Rhine-Westphalia:

cf. also answer re question 66.

Saxony-Anhalt:

Finance benchmarks, e.g. item costs; standardised deployment of person hours related to product.

In other respects:

Provision of the business statistics at the courts for an overall evaluation by all units carrying out service supervision. The compilation of the individual items of data available differs for the individual areas of the proceedings.

Federation:

The collections of proceedings stated at question 66 cover for each procedure included the number of incoming cases, the nature of the proceedings, the nature of the approach taken and the length of the proceedings. Moreover, information is collected on further characteristics of the proceedings (legal aid, value at dispute, field, appeals, etc.). All this information can be related to the evaluation. The regular evaluations can be found in the publications of the Federal Statistical Office. Because these are manual statistics, the data of the business overviews on the case-load as a rule do not contain any further information, particularly not on the duration of the proceedings.

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

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

- Yes
- No

If yes, please specify:

Not including information from Mecklenburg-Western Pomerania and Thuringia. BW, BB, HB, HE, ST stated "Yes"; the remaining Länder answered "No". In Bavaria, the information provided differs according to jurisdiction: "Yes" was stated for Bavarian finance courts; "No" was stated for the remaining Bavarian jurisdictions.

Bavaria

Finance courts:

Nationwide statistics ("Sachsenstatistik").

Brandenburg:

The evaluation only covers the figures stated on incoming cases, cases dealt with, length of the proceedings, number of court staff working, etc., which may be used as indicators for evaluating the performance and/or the quality standard of the courts.

Bremen:

Benchmarking by code numbers.

Hesse:

Judicial statistics with Land comparison feature

Lower Saxony:

A regular check on the activities of the courts and public prosecution offices is carried out by service supervision. A system for a uniform view of the court activities is gradually being established in the shape of "JuMIS". A similar system is already in operation ("InforMIS") at the public prosecution offices.

A qualitative evaluation of court activities is not possible with the introduced statistics, and is also not planned, given the constitutionally-guaranteed judicial independence.

North Rhine-Westphalia:

There is an extensive system of internal business tests; furthermore, there are "management information systems" in some areas with management-relevant statistical core data on incomings, durations of sets of proceedings and numbers of cases dealt with. Verification of the rulings handed down is also prohibited in this respect for court constitutional reasons; cf. in this respect answer re question 66.

Rhineland-Palatinate:

Data are collected, but not evaluated.

Saarland:

Such an evaluation system would in our view not be compatible with judicial independence, which is protected by the Basic Law.

Saxony-Anhalt:

The tool of operative and strategic management of the courts is the management report. This has been orientated in line with the addressee – relating to the special information interests of the management of the authorities, and, within the meaning of the balanced scorecard approach, contains both monetary and process- and customer-orientated code numbers on the basis of judicial products. In a further aggregation level, these code numbers are introduced into the budget plan in output-orientated budgeting on the basis of judicial products/services, and support strategic political planning.

The unit comparison was defined as a central criterion in the conceptual (content) design of the management reports. According to this approach, firstly, a comparison is carried out of the individual unit with the average of all units and, secondly, in compliance with the basic concept of benchmarking, with the average of the best three units.

Concrete measures are agreed with calculable target values in agreed goals that are established between the Ministry of Finance and the Ministry of Justice and Equality, and are shaped within the units respectively budgeted. The foundation for this is formed amongst other things by the indicators of the management reports.

The following applies all over Germany at the level of the Länder:

The statistics collected serve the purposes of the personnel requirements calculation of the judiciary according to "PEBB§Y" in each Land. On the basis of the caseload, an evaluation is carried out according to nationally-uniform base figures. This demand is then compared to the posts and to the average staff deployment in the workload calculation. The judicial activities are depicted by products in "PEBB§Y". Each product has a specific base number expressed in minutes. The performance and output of each court can be established by this system at any time, making it possible to compare one court with another.

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

- Yes
 No

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

- incoming cases
 length of proceedings (timeframes)

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

If other, please specify:

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

- Yes
- No

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

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

If other, please specify:

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

- Yes
- No

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

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

If other, please specify:

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

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

- High Council of judiciary
- Ministry of Justice
- Inspection authority
- Supreme Court

External audit body

Other

If other, please specify :

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

Yes

No

If yes, please specify:

*) not including information from Mecklenburg-Western Pomerania and Thuringia. BW, BB, Ni and SH stated "Yes"; the remaining Länder stated "No".

Baden-Württemberg:

The performance levels achieved by the courts are compared with regard to the number of sets of proceedings and their durations. Benchmarks are formed as to the performance of the courts, and these are compared at Land level.

Brandenburg:

Quality assurance in the judiciary is the part of quality management which is to guarantee that statutory quality requirements set by the judiciary itself are met, as well as those demanded by the plaintiff, whilst making optimum use of resources. A large number of strategies are currently being trialled and implemented in the Länder for quality assurance in the judiciary. Tools of quality assurance are the cost and performance accounting, judicial controlling, staff cost budgeting, benchmark proceedings, the Balanced Scorecard, the EFQM model, various tools of personnel and organisation development, personnel requirements calculation, business process optimisation, questionnaires among lawyers, citizens and staff, as well as evaluation tools both for the individual judicial and public prosecution work, and for the courts and public prosecution offices as organisational units. The increased use of modern technology (e.g. the Internet) enables the judiciary to reach a large number of citizens, and hence to offer to plaintiff an optimum service (register queries, downloads of information and applications or court rulings, information regarding addresses and directions, etc.). Also the ongoing expansion of electronic justice offers new possibilities to improve the quality of the judiciary with regard to the performance characteristics of proximity to citizens and service to citizens.

These developments and models are however not uniform in all Länder. This relates both to the methods used and to the intensity with which they are trialled or used.

Lower Saxony:

There is a quality strategy which was developed from the surveys "Local Courts in the performance comparison (AGIL)" and "Regional Courts in a comparison (LiVe)". This is based on the presumption that a comparison can be made between the courts by the collection of data. The comparison is followed by an analysis of the reasons why better figures are achieved at one court location than at another. This is then discussed in specialist groups, and measures are developed which can promote promising methods for dealing with tasks at all court locations. The surveys serve not to evaluate individual staff, but are intended to uncover performance-enhancing structures which can then be transferred. This quality management concept is carried out in cooperation with the judicial councils and the personnel representations.

Schleswig-Holstein:

A blanket quality management system has been introduced in the courts and public prosecution offices of the Land Schleswig-Holstein. The subject of the quality management can be all fields that are amenable to court administration. Judicial independence and the specialist independence of senior judicial officers form constitutional and legal boundaries which naturally are always to be respected. The quality objectives are defined by the court management itself in mission statements.

CN 14/05:

Some "Länder" answered "yes", but the majority answered "no". Since we cannot answer with "yes" and "no" at the same time, this time we have chosen the answer, that fits to the majority of the "Länder".

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

Yes

No

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

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

81) Do you monitor waiting time during court procedures?

- Yes
 No

If yes, please specify:

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

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

- Yes
 No

Please specify the frequency of the evaluation:

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

- Yes
 No

If yes, please give further details:

Not including information from Mecklenburg-Western Pomerania, Thuringia and Lower Saxony. BW, BE, BB, HB, HE, NW, ST, SN stated "Yes"; the other Länder stated "No".

There is no regular procedure for monitoring and evaluating the activities of the public prosecution offices within the meaning of a normed, and institutionalised procedure with a content-specific testing regime that is to be repeated at certain intervals. The activities of the public prosecution offices are however subject to supervision and direction in accordance with section 147 of the Courts Constitution Act

1. of the Federal Minister of Justice in respect of the Federal Prosecutor General and the federal prosecutors; 2. of the Land agency for the administration of justice in respect of all the officials of the public prosecution office of the Land concerned; 3. of the highest-ranking official of the public prosecution office at the higher regional courts and the regional courts in respect of all the officials of the public prosecution office of the given court's district.

Supervision encompasses how business is dealt with in formal and de facto terms, and is given concrete form in orders of the supreme service supervisory authorities, reports of the public prosecution offices particularly in significant matters to the supreme service supervisory authorities, the implementation of business tests, including the evaluation of business statistics and case-files in particular by the first civil servant of the public prosecution office at the Higher Regional Courts and the Regional Courts, and in the evaluation of the results of the business tests by the supreme service supervisory authorities.

Baden-Württemberg:

The chief public prosecution offices regularly carry out a review of the public prosecution offices in accordance with no. 10 of the Order regarding the Organisation and Service Operations of the Public Prosecution Offices (Anordnung über Organisation und Dienstbetrieb der Staatsanwaltschaft, OrgStA). These obtain for themselves an overview of the state and the development of the service circumstances in the respective public prosecution office, individual investigation proceedings also being subject to checks.

Berlin:

Public prosecution office statistics.

Brandenburg:

Business tests are carried out at intervals of two years in the public prosecution offices of the Land by the chief public prosecutor of the Land Brandenburg. In addition to the evaluation of the business tests carried out by the chief public prosecutor, the result is also passed to the Ministry of Justice for evaluation.

Bremen:

Reports on major investigation proceedings (BeStra).

Hesse:

Examination of the progress of each set of proceedings after six months.

North Rhine-Westphalia:

Regular business tests are implemented at the public prosecution offices.

Saxony:

Yes, with regard to "regular proceedings for testing" within the meaning of question 68 (incoming, dealt with, cases pending, duration of proceedings, etc.); No with regard to "evaluation" within the meaning of question 69; but there is no single procedure to test and evaluate the activities of the public prosecution offices.

Saxony-Anhalt:

Management report, cf. on this the information regarding the courts.

In other respects: evaluation of business statistics in the ongoing performance of service supervision, business tests (cf. also question 68 for courts)

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

Lower Saxony:

Re question 67: The statistics stated at question 66 are recorded in all courts and public prosecution offices.

North Rhine-Westphalia:

Re question 67: for comparisons cf. answer re question 66.

Rhineland-Palatinate:

re questions 66-68: The data are collected to record the "as is" state, but no activity reports are requested; no controlling takes place.

Saxony-Anhalt:

The information regarding questions 68 to 77 and 80 to 82 relates to the ordinary courts.

Federation:

The Conference of Ministers of Justice launched a nationwide Committee for Judicial Statistics for structured data collection and to ensure comparability back in 1965. The standing chair is held by the Bavarian Land administration of justice. The voting members of the Committee include all Land administrations of justice. Representatives of the Federal Office of Justice, of the Federal Statistical Office and of the Land Statistical Offices of Bavaria, Baden Württemberg, Lower Saxony and North Rhine-Westphalia are invited as guests.

The Committee is responsible for introducing and revising the judicial business statistics. These are surveys coordinated nationwide of statistical data of the ordinary courts, of the public prosecution offices and of the special courts. The data collected from the statistics are used for allocating business, personnel requirements calculation, service supervision, bills, verifying efficiency after legal amendments and public relations work. Against this background, it is necessary for the Committee to regularly verify the content of the justice business statistics and adjust them in line with the above concerns and with current information requirements. This hence simultaneously ensures that the statistical surveys are comparable at federal level.

The judicial statistics are nationally uniform. The following are kept as surveys of sets of proceedings:

the survey of statistical data in criminal and criminal fine cases (StP/OWi statistics),

the survey of statistical data in public prosecution offices and lower prosecution authorities (Amtsanwaltschaften) (StA statistics),

the survey of statistical data in family cases (F statistics),

the survey of statistical data in civil cases (ZP statistics),

the survey of statistical data in the administrative courts (Administrative Courts statistics),

the survey of statistical data in the finance courts (FG statistics),

the survey of statistical data in the social courts (SG statistics), and

the survey of statistical data in the labour courts (labour courts statistics).

The survey documents are completed by the courts and public prosecution offices. The evaluation is carried out centrally by the respective Land Statistical Office. The Federal Statistical Office summarises the principal results of the statistics and publishes them annually in Fachserie 10, Reihen 2.1 to 2.8.

In addition to the abovementioned surveys, the case-load of voluntary jurisdiction is collected in the nationwide business overview. The Länder compile the results for the Land in question. The Federal Office of Justice summarises the Länder results at federal level.

All courts and public prosecution offices prepare nationwide personnel overviews. In these, as a fixed-date survey as per 31 December the personnel present is listed by career path, gender and job share. Additionally, personnel deployment in the major branches of the justice system is collected as an average survey. The annual results are compiled by the administrations of justice of the Länder. The Federal Office of Justice creates an overall view of the principal results of the Länder overviews.

4. Fair trial

4. 1. Principles

4. 1. 1. General principles

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

NAP

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

- Yes
 No

Number of successful challenges (in a year):

NA

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

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

Please indicate the sources:

"Analysis of statistics 2012" of the European Court of Human Rights;
 Report of the German Federal Government on the Case-Law of the European Court of Human Rights and on the Execution of its Judgments in cases against the Federal Republic of Germany in 2012

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

North Rhine-Westphalia:

Re question 85: Yes, however information cannot be provided on the number of successful rejections because of a lack of corresponding statistical collections.

The figures re no. 86 relate to proceedings against the Federal Republic of Germany before the European Court of Human Rights in 2012. The precise number of applications declared inadmissible focussing on Article 6 is not known. The ECHR declared a total of 2,468 applications in proceedings against Germany inadmissible in 2012 or removed them from its register. Most rulings of inadmissibility in cases related to Germany are carried out without the involvement of the Federal Government and are not reasoned in detail, nor are they published. Hence, no information is provided on the number of cases declared by the Court to be inadmissible which relate to Article 6 of the ECHR.

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:

Civil matters:

Arrest and injunction in accordance with sections 916 to 945 of the Code of Civil Procedure

Criminal cases

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

Administrative cases:

Emergency rulings in the injunction proceedings

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 matters:

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

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

Criminal cases

Proceedings with penal orders

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

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

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

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

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

Accelerated proceedings

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

Simplified youth proceedings

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

Administrative cases:

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

88.1) For these simplified procedures, may judges deliver an oral judgement with a written order and dispense with a full reasoned judgement?

- Yes
- No

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

- Yes
 No

If yes, please specify:

Criminal cases

The court can agree with those concerned by the proceedings regarding the continuation and the outcome of the proceedings in suitable cases. The obligation of official investigations remains unaffected.

The agreement may only relate to the legal consequences which may form the content of the judgment and of the concomitant orders, other procedural measures in the underlying trial proceedings, as well as the procedural conduct of the parties to the proceedings. An element of any agreement is to be a confession. The guilty verdict, as well as measures of correction and prevention, may not be the subject of an agreement.

4. 2. 2. Case flow management and timeframes of judicial proceedings

90) Comment:

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

91) First instance courts: number of other than criminal and criminal law cases.

Number of other than criminal law cases. If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP.

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

Note 2: check if the figures submitted are (horizontally and vertically) consistent. Horizontal consistent data means: "(pending cases on 1 January 2012 + incoming cases) – resolved cases" should give the correct number of pending cases on 31 December 2012. Vertical consistency of data means that the sum of the individual case categories 1 to 7 should r

	Pending cases on 1 Jan. '12	Incoming cases	Resolved cases	Pending cases on 31 Dec. '12
Total of other than criminal law cases (1+2+3+4+5+6+7)*	4,966,112	3,897,169	3,888,915	4974366
1. Civil (and commercial) litigious cases (if feasible without administrative law cases, see category 6)*	798,265	1,573,220	1,578,891	792594
2. General civil (and commercial) non-litigious cases, e.g. uncontested payment orders, request for a change of name, etc. (if feasible without administrative law cases; without enforcement cases, registration cases and other cases, see categories 3-7)*	NA	NA	NA	NA
3. Non litigious enforcement cases	NA	3,193,022	NA	NA
4. Non litigious land registry cases**				
5. Non litigious business registry cases**	NA	5,604,653	NA	NA
6. Administrative law cases	689,031	686,985	698,569	677447
7. Other cases (e.g. insolvency registry cases)	1,957,181	1,518,404	1,519,898	1955687

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

The value entered was calculated by deducting the contentious judgments from of all sets of proceedings that were resolved before the Local and the Regional Court in civil cases (not including those passed on within the court). Those sets of proceedings that are resolved other than by contentious judgment were particularly resolved by default, acknowledgement or waiver judgments, settlements, withdrawal of the charge or of the motion, staying of the proceedings or non-pursuance and orders in accordance with section 91a of the Code of Civil Procedure.

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

This includes family-court jurisdiction, labour courts (proceedings leading to a judgment or a decision) as well as guardianship and custodianship courts.

The figures do not include 1,426,805 new legal matters related to payment proceedings before labour courts, registry office cases, inheritance cases, custody, agriculture, legal aid, deposit cases and public notice proceedings with regard to which resolution or the number of cases pending at the beginning and at the end of the year are not recorded.

The figures also do not include 202,106 new legal cases related to insolvency proceedings with regard to which only resolution is recorded (292,821).

94) Number of criminal law cases. If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP.

Note: please check if the figures submitted are (horizontally and vertically) consistent. Horizontal consistent data means that: "(pending cases on 1 January 2012 + incoming cases) – resolved cases" should give the correct number of pending cases on 31 December 2012. Vertical consistency of data means that the sum of the categories 8 and 9 for criminal cases should reflect the total number of criminal cases.

	Pending cases on 1 Jan. '12	Incoming cases	Resolved cases	Pending cases on 31 Dec. '12
Total of criminal cases (8+9)	339,572	1,167,769	1,173,860	333,481
8. Severe criminal cases	239,986	784,699	786,762	237,923
9. Misdemeanour and / or minor criminal cases	99,586	383,070	387,098	95,558

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

The category "severe criminal cases" (question 94.8) includes criminal proceedings in accordance with the Criminal Code and ancillary criminal laws. The category "misdemeanour and/or minor criminal cases" (question 94.9) includes regulatory fine proceedings before criminal courts.

96) Comments on questions 90 to 95 (specific situation in your country e.g. NA-answers and the calculation of the total number of other than criminal law cases, differences in horizontal consistency etc.)

97) Second instance courts: total number of cases

Number of "other than criminal law" cases.

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

	Pending cases on 1 Jan. '12	Incoming cases	Resolved cases	Pending cases on 31 Dec. '12
Total of other than criminal law cases (1+2+3+4+5+6+7)	NA	NA	211 134	NA
1. Civil (and commercial) litigious cases (if feasible without administrative law cases, see category 6)*	NA	NA	31 056	NA
2. General civil (and commercial) non-litigious cases, e.g. uncontested payment orders, request for a change of name, etc. (if feasible without administrative law cases; without enforcement cases, registration cases and other cases, see categories 3-7)*	NA	NA	81 309	NA
3. Non litigious enforcement cases	NA	NA	NA	NA
4. Non litigious land registry cases				
5. Non litigious business registry cases	NA	NA	NA	NA
6. Administrative law cases	49 194	44 091	42 797	50 488
7. Other cases (e.g. insolvency registry cases)	22 739	57 167	55 972	23 934

98) Number of criminal law cases. If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP.

	Pending cases on 1 Jan. '12	Incoming cases	Resolved cases	Pending cases on 31 Dec. '12
Total of criminal cases (8+9)	20,634	67,572	67,862	20,344
8. Severe criminal cases	19,867	57,508	57,695	19,680

9. Misdemeanour and/or minor criminal cases	767	10,064	10,167	664
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Comment :

The category "severe criminal cases" (question 98.8) includes criminal proceedings in accordance with the Criminal Code and ancillary criminal laws. The category "misdemeanour and/or minor criminal cases" (question 98.9) includes regulatory fine proceedings before criminal courts.

99) Highest instance courts: total number of cases

Number of "other than criminal law" cases:

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

	Pending cases on 1 Jan. '12	Incoming cases	Resolved cases	Pending cases on 31 Dec. '12
Total of other than criminal law cases (1+2+3+4+5+6+7)	8,867	13,989	13,475	9,381
1. Civil (and commercial) litigious cases (if feasible without administrative law cases, see category 6)	NA	NA	802	NA
2. General civil (and commercial) non-litigious cases, e.g. uncontested payment orders, request for a change of name, etc. (if feasible without administrative law cases; without enforcement cases, registration cases and other cases, see categories 3-7)	NA	NA	2,614	NA
3. Non litigious enforcement cases	NA	NA	NA	NA
4. Non litigious land registry cases**				
5. Non litigious business registry cases	NA	NA	NA	NA
6. Administrative law cases	3,939	7,282	7,289	3,932
7. Other cases (e.g. insolvency registry cases)	1,494	3,350	2,770	2,074

99.1) At the level of the Higher court, is there a procedure of manifest inadmissibility?

Yes. If yes, please indicate the number of cases closed by this procedure?

No

Number

100) Number of criminal law cases. If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP.

	Pending cases on 1 Jan. '12	Incoming cases	Resolved cases	Pending cases on 31 Dec. '12
Total of criminal cases (8+9)	504	3,408	3,390	522
8. Severe criminal cases	501	3,406	3,387	520
9. Misdemeanour and/or minor criminal cases	3	2	3	2

Comment :

The category "severe criminal cases" (question 100.8) includes criminal proceedings in accordance with the Criminal Code and ancillary criminal laws. The category "misdemeanour and / or minor criminal cases" (question 100.9) includes the regulatory fine proceedings before criminal courts.

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

	Pending cases on 1 January 2012	Incoming cases	Resolved cases	Pending cases on 31 December 2012
Litigious divorce cases	NA	NA	190,258	NA
Employment dismissal cases	26,968	101,369	144,293	25,360
Insolvency				
Robbery cases	NA	NA	7,170	NA
Intentional homicide	NA	NA	734	NA

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

NAP.

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

	% of decisions subject to appeal	% pending cases more than 3 years	Average length in 1st instance (in days)	Average length in 2nd instance (in days)	Average length in 3rd instance (in days)	Average total length of the total procedure (in days)
Litigious divorce cases	2.05	5.0	10.0	NA	NA	NA
Employment dismissal cases	3.71	1.8	2.7	5.7	NA	NA
Insolvency						
Robbery cases	NA	NA	NA	NA	NA	NA
Intentional homicide	NA	NA	NA	NA	NA	NA

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

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

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

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

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

In order to agree on an arrangement covering only the ancillary effects of the divorce, mediation proceedings offer an alternative to court proceedings. Mediation seeks to reach an agreed resolution of the conflict over ancillary matters with the aid of a neutral person who is not called on to make a decision – the mediator. Mediation is particularly well suited to take into account the situation and interests of the persons concerned, because their autonomy plays a more central role in mediation proceedings than it does in court proceedings. A mediation proceeding may therefore lead to results which are more readily accepted, and is generally a more sustainable option. Results can include, for example, contractual agreements on maintenance, assets, property, on parental responsibility or on access to the children.

In divorce proceedings, the court can order that the spouses attend, either individually or together, an information meeting, free of charge, about mediation or another possible form of extra-judicial conflict resolution for pending ancillary matters with a person or provider designated by the court, and that they submit confirmation of their attendance. If such a meeting leads to a mediation proceeding, the court proceeding will be interrupted. If the attempt to reach a friendly settlement is made by a judge designated for that purpose and having no decision-making power in the matter (conciliation judge), he or she can apply all methods of conflict resolution including mediation. The divorce itself cannot be the subject of a conciliation hearing, because the granting of a divorce is subject to requirements that cannot be fulfilled by the parties themselves.

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

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

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

duration of proceedings =
 1
 + [date on which processed (number of days + (number of months * 30) + (year * 360))]
 - [date of receipt (number of days + (number of months * 30) + (year * 360))]

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

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

If "other significant powers", please specify:

- to conduct or supervise police investigation
- to conduct investigations

Unless otherwise provided by law (for instance in accordance with section 153 and section 153a of the Code of Criminal Procedure), the public prosecution office is obliged to intervene with regard to all prosecutable criminal offences provided that there are sufficient factual indications (section 152 (2) of the Code of Criminal Procedure). As soon as the public prosecution office receives knowledge of a criminal offence through a criminal information or by other means, it must investigate the facts for its decision on whether public charges are to be preferred (section 160 (1) of the Code of Criminal Procedure).

To this end, the public prosecution office is entitled to demand information from all authorities and to carry out investigations of any kind, either itself or to have them performed by the authorities and officers of the police service unless other statutory provisions particularly regulate their powers. The authorities and officers of the police service are obliged to comply with requests or applications from the public prosecution office, and in this case are entitled to obtain information from all authorities (section 161 (1) of the Code of Criminal Procedure).

- when necessary, to request investigation measures from the judge

If the public prosecution office considers it to be necessary for the court to carry out investigation measures, it makes an application prior to lodging of the public charge to the Local Court in the district in which it or its branch office making the application is located. If, additionally, it considers it to be necessary to issue an arrest or custody order, it can, regardless of section 125 and section 126a, lodge such a motion with the court referred to in sentence 1 (section 162 (1) sentences 1 and 2 of the Code of Criminal Procedure). After preferment of public charges, the court seized of the matter shall be the competent court (section 162 (3) sentence 1 of the Code of Criminal Procedure).

- to charge
- to present the case in the court

It is the public prosecution office which is called on to prefer public charges (section 152 (1) of the Code of Criminal Procedure). The written charge, which the public prosecution office has to present to the court which has jurisdiction for the main hearing, contains the application to open the main proceedings. The files are presented to the court (section 199 (2) of the Code of Criminal Procedure) with the written charge.

- to discontinue a case without requiring a judicial decision (ensure consistency with question 36!)

In accordance with section 153 (1) sentence 2 of the Code of Criminal Procedure (dispensing with prosecution of petty offences), section 153c of the Code of Criminal Procedure (non-prosecution of offences committed abroad), section 153d of the Code of Criminal Procedure (dispensing with court action on political grounds) and section 153f of the Code of Criminal Procedure (dispensing with prosecution of criminal offences under the Code of Crimes against International Law), the public prosecution office can discontinue the proceedings without a court ruling. The same applies in accordance with section 154 (1) of the Code of Criminal Procedure with minor secondary criminal offences, and in accordance with section 154a (1) sentence 1 of the Code of Criminal Procedure with individual severable parts of an offence or some of several violations of the law committed as a result of the same offence if these are not particularly significant in addition to a penalty or measure of reform and prevention that is anticipated or has already been imposed with binding effect.

Moreover, the public prosecution office may dispense with preferment of public charges if the accused is extradited to a foreign government because of the offence or is transferred out of the area of application of the Code of Criminal Procedure (section 154d (1) and (2) of the Code of Criminal Procedure). The same applies if he/she is to be extradited to a foreign government or transferred to an international criminal court of justice because of another offence and the penalty or the measure of reform and prevention which might be the result of the domestic prosecution is negligible in comparison to the penalty or measure of reform and prevention which has been imposed on him with binding effect abroad or which he may expect to be imposed abroad (section 154d (2) of the Code of Criminal Procedure).

If coercion or extortion (sections 240 and 253 of the Criminal Code) was committed by threats to reveal a criminal offence, the public prosecution office may dispense with prosecuting the offence, the disclosure of which was threatened, unless expiation is imperative because of the seriousness of the offence (section 154c (1) of the Code of

Criminal Procedure). If the victim of coercion or extortion (sections 240 and 253 of the Criminal Code) files charges in respect thereof (section 158) and if as a result a misdemeanour committed by the victim comes to light, the public prosecution office may dispense with prosecution of the misdemeanour unless expiation is imperative because of the seriousness of the offence (section 154c (2) of the Code of Criminal Procedure).

If the preferring of public charges for a misdemeanour depends on the evaluation of a question which must be determined according to civil law or administrative law, the public prosecution office may set a time limit to decide the question in civil proceedings or in administrative court proceedings. The person who reported the criminal offence shall be notified thereof. After this time limit has expired without any result, the public prosecution office may terminate the proceedings (section 154d of the Code of Criminal Procedure).

Public charges are not to be preferred for an erroneous suspicion or insult (sections 164 and 185 to 188 of the Criminal Code) as long as criminal or disciplinary proceedings are pending for the reported or alleged offence (section 154e (1) of the Code of Criminal Procedure). If the absence of the accused or some other personal impediment prevents the opening or conduct of the main proceedings for a considerable time, and if public charges have not yet been preferred, the public prosecution office may provisionally terminate the proceedings after it has clarified the facts so far as possible and secured the evidence so far as necessary (section 154f of the Code of Criminal Procedure).

In accordance with section 45 (1) of the Youth Courts Act (Jugendgerichtsgesetz – JGG), section 153 of the Code of Criminal Procedure is also applicable in criminal proceedings against juveniles (14 to under 18 years old at the time of the offence). Section 153 of the Code of Criminal Procedure applies either directly or via section 45 (1) of the Youth Courts Act to young adults (18 to under 21 years old at the time of the offence) if juvenile criminal law applies to them. The other possibilities of ending the proceedings stated above are, by contrast, generally applicable in proceedings against juveniles and young adults (cf. section 2 (2) of the Youth Courts Act).

As a special feature, the public prosecution office dispenses with prosecution in the field of juvenile criminal law in accordance with section 45 (2) of the Youth Courts Act if a supervisory measure has already been enforced or initiated vis-à-vis the juvenile elsewhere and if it considers neither the participation of the judge pursuant to section 45 (3) of the Youth Courts Act, nor the bringing of charges to be necessary. Supervisory measures are to encourage juveniles to gain an insight into the wrong which they have done, and can for instance be initiated by the youth welfare office, the school, the legal guardian or the trainer. Unlike section 45 (1) of the Youth Courts Act and section 153 of the Code of Criminal Procedure, this arrangement applies not only to misdemeanours, but also to felony, and to juveniles in general, to young adults (cf. previous paragraph for age limits) if the adolescent according to his/her level of development on committing the offence was still equivalent to a juvenile or the offence is deemed to constitute youth misconduct (section 105 (1) and section 109 (2) of the Youth Courts Act).

□ to end the case by imposing or negotiating a penalty or measure without requiring a judicial decision

In a case involving a misdemeanour, the public prosecution office may, with the consent of the court which has jurisdiction for the opening of the main proceedings and of the accused, dispense with preferment of public charges and concurrently impose conditions and instructions upon the accused if these are of such a nature as to eliminate the public interest in criminal prosecution and if the degree of guilt does not present an obstacle (section 153a (1) sentence 1 of the Code of Criminal Procedure). In particular, the following conditions and instructions may be applied:

1. to perform a specified service in order to make reparations for damage caused by the offence;
2. to pay a sum of money to a non-profit-making institution or to the Treasury;
3. to perform some other service of a non-profit-making nature;
4. to comply with duties to pay a specified amount in maintenance;
5. to make a serious attempt to reach a mediated agreement with the aggrieved person (perpetrator-victim mediation) thereby trying to make reparation for his offence, in full or to a predominant extent, or to strive therefor;
6. to take part in a social training course or
7. to participate in a course pursuant to section 2b (2) second sentence, or section 4 (8) sentence 4, of the Road Traffic Act (Straßenverkehrsgesetz) (section 153a (1) sentence 2 of the Code of Criminal Procedure).

The consent of the court is not required in cases covered by section 153a (1) sentence 2 Nos. 1 to 6 of the Code of Criminal Procedure in case of a misdemeanour which is not subject to an increased minimum penalty and where the consequences ensuing from the

offence are minimal (section 153a (1) sentence 7 in conjunction with section 153 (1) sentence 2 of the Code of Criminal Procedure).

The public prosecution office sets a time limit within which the accused is to comply with the conditions and instructions, and which, in the cases referred to in numbers 1 to 3, 5 and 7 of the second sentence, is a maximum of six months and, in the cases referred to in numbers 4 and 6 of the second sentence, a maximum of one year. The public prosecution office may subsequently revoke the conditions and instructions and may extend the time limit once for a period of three months; with the consent of the accused it may subsequently impose or change conditions and instructions. If the accused complies with the conditions and instructions, the offence can no longer be prosecuted as a misdemeanour. If the accused fails to comply with the conditions and instructions, no compensation is given for any contribution made towards compliance (section 153a (1) sentences 3 to 6 of the Code of Criminal Procedure).

Section 153a of the Code of Criminal Procedure is regarded as being partly supplanted by the special provisions of section 45 (2) and (3) of the Youth Courts Act (Jugendgerichtsgesetz – JGG) in youth court proceedings (cf. on this the information already provided on the above, as well as on the following item).

Supervisory measures on the discontinuation of proceedings against juveniles or young adults in accordance with section 45 (2) of the Youth Courts Act can in accordance with the Guidelines of the Länder to the Youth Courts Act also be introduced (disputed) by the public prosecution office themselves. It is thus considered that they themselves carry on a supervisory talk with the juvenile, reprimand him/her or for instance suggest compensation in the context of perpetrator-victim mediation. Here, however, the public prosecutor only has the power to suggest, but not to order. This is conditional on the accused person not seriously challenging the offence of which they are accused, being willing to comply with the suggestion made by the public prosecution office and that the legal guardian and statutory representative do not oppose this.

to propose a sentence to the judge

After the taking of evidence has been concluded, the public prosecutor is also afforded the opportunity to present his/her arguments in the main hearing (section 258 (1) of the Code of Criminal Procedure). In his/her final pleading, he/she discusses the overall result of the main hearing and evaluates it in legal and factual terms (No. 138 (1) sentence 1 of the Guidelines for Criminal and Administrative Fines Proceedings – RiStBV). If the public prosecutor considers the guilt of the defendant to be proven, he/she makes a statement on the penalty and other legal consequences which in his/her view should be imposed.

In proceedings before the criminal court judge and in proceedings within the jurisdiction of a court with lay judges, the legal consequences of the offence may, in the case of misdemeanours, be imposed, upon written application by the public prosecution office, in a written penal order without a main hearing. The public prosecution office files such an application if it does not consider a main hearing to be necessary given the outcome of the investigations. The application must refer to specific legal consequences. The application constitutes preferment of the public charges (section 407 (1) of the Code of Criminal Procedure). Where juvenile criminal law is applied against young adults, and in its general application against juveniles, no penal order proceedings may be conducted (section 79 (1) and section 109 (2) of the Youth Courts Act [Jugendgerichtsgesetz – JGG]).

If juvenile criminal law is applied, the public prosecutor may in accordance with section 45 (3) of the Youth Courts Act propose to the youth court judge to issue a reprimand, as well as conditions and instructions, if the accused admits his/her guilt and if the public prosecutor considers that the ordering of such a judicial measure is necessary but the bringing of charges not apposite. The background to this possibility is that the involvement of the judge in the informal ending of proceedings may have greater educational benefit. If the youth court judge agrees to the proposal, and if the juvenile complies with instructions or conditions, the public prosecutor dispenses with the prosecution. Compliance with such instructions or conditions cannot be enforced with coercive means since instructions and conditions do not constitute penalties like sanctions issued in a judgment after a charge and a main hearing. The youth court judge is also not bound to follow the proposal of the public prosecution office, but decides in exercise of his/her duty-bound discretion. Here, he/she may also impose another instruction or condition than the one proposed. Then, in turn, the public prosecutor must decide whether this is considered sufficient or whether to prefer charges after all. It is furthermore conceivable that the youth court judge does not consider the case to be suited to informal conclusion, whereupon the public prosecutor then prefers public charges. The described proceedings are also applicable to young adults, subject to the preconditions of section 109 (2) of the Youth Courts Act.

to appeal

The appellate remedies admissible against court decisions (also an appeal on points of fact and law) are open both to the public prosecution office and to accused persons. The public prosecution office can also make use of them for the benefit of the accused (section 296 (1) and (2) of the Code of Criminal Procedure).

to supervise the enforcement procedure

The sentence in criminal cases against adults and those young adults who are sentenced according to general criminal law is executed by the public prosecution office as the executing authority (cf. section 451 (1) of the Code of Criminal Procedure). In criminal proceedings against juveniles and – where juvenile criminal law is applied to them – also against young adults, the execution of the sentence is incumbent on the youth court judge as the enforcement officer (section 82 (1) sentence 1 and section 110 of the Youth Courts Act [Jugendgerichtsgesetz – JGG]).

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

Yes

No

If yes, please specify:

An application by the aggrieved person or his/her heir making a property claim against the accused with the effect of joining criminal proceedings (section 403 of the Code of Criminal Procedure) can be lodged with the public prosecution office at the same time as the criminal charge, i.e. before the case is pending with the court (cf. Meyer-Goßner, StPO, 54th ed., section 404 marginal no. 4).

In accordance with No. 173 of the Guidelines for Criminal and Administrative Fines Proceedings (RiStBV), the public prosecutor must therefore, as a rule, inform the aggrieved person or his/her heir as early as possible of the possibility to assert a compensation claim in accordance with sections 403 et seqq. of the Code of Criminal Procedure. Here, the aggrieved person is informed of the possibility of legal aid (section 404 (5) of the Code of Criminal Procedure), the form and content of the application (section 404 (1) of the Code of Criminal Procedure) and of the right to attend the main hearing (section 404 (3) of the Code of Criminal Procedure). Also he/she is to be informed that it is recommended as a rule to make the application as soon as possible, that he/she may assert the claim, if it is not awarded to him/her, in the civil courts (section 406 (3) of the Code of Criminal Procedure) and that the court may dispense with a decision on the application for specific reasons (section 406 (1) of the Code of Criminal Procedure).

In accordance with No. 174 (1) of the Guidelines for Criminal and Administrative Fines Proceedings, the public prosecutor only makes a statement on the compensation application if this is necessary in order to classify the offence correctly under criminal law or in order to prevent a delay in the criminal proceedings. In accordance with No. 174 (2) of the Guidelines for Criminal and Administrative Fines Proceedings, the public prosecutor must rapidly transmit any compensation application which it receives to the court because the legal impact of the application (section 404 (2) of the Code of Criminal Procedure) does not begin to apply until it has been received by the court.

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

Yes

No

If yes, please specify:

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	Cases charged by the public prosecutor before the courts

			prosecutor	
Total number of 1st instance criminal cases	4,591,966	2,572,660	197,026	1,079,154

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

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

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)	1 282 314
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	1 282 314

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

Re question 91:

Baden-Württemberg:

Land registry cases: competence of the notaries.

Pursuant to sections 36 and 37 LFGG (Land Act on Non-Contentious Matters), in the District of Stuttgart Higher Regional Court (i.e. the Württemberg part of the Land), competence for cases usually handled by the guardianship courts, i.e. for proceedings concerning the guardianship of adults or minors and for curatorship proceedings, lies mainly with the notaries. Only the individual measures which are adopted within the framework of such proceedings and require judicial authorisation fall under the jurisdiction of the Local Courts.

The number of guardianship and curatorship cases of the Family Court at the start and the end of the period has not been communicated/is not available.

The number of insolvency cases still pending at the end of the year has not been communicated/ is not available.

Bavaria:

The number of guardianship and curatorship cases of the Family Court at the start and the end of the period has not been communicated/is not available.

The number of insolvency cases still pending at the end of the year has not been communicated/ is not available.

Brandenburg:

The number of insolvency cases concerning natural persons (IN) still pending at the end of the year has not been transmitted/ is not available.

Mecklenburg-Western Pomerania:

On account of the introduction of SolumStar in the institutions falling within the remit of the Justice Ministry of Mecklenburg-Western Pomerania, there was no update of the previously used ARGUS software to reflect the statistical data as of 1 January 2010, which means that information on land registry data will only be available as of the beginning of 2013.

Hamburg, Saxony and Schleswig-Holstein

The number of insolvency cases still pending at the end of the year has not been communicated/ is not available.

Re question 101:

The number of resolved litigious divorce cases refers to resolution by divorce decree only. However, the data in respect of the total number of divorce cases (2011) are complete:

- Pending on 1 January 2011: 63,363
- incoming cases: 66,194
- resolved cases: 215,769 (of which 190,258 by divorce decree)

- Pending on 31 December 2011: 58,773.

The data on robbery cases (sections 249 to 250, 316a of the Criminal Code [Strafgesetzbuch, StGB] – robbery, aggravated robbery, robbery resulting in death, theft and use of force to retain stolen goods, attacking a driver for the purpose of committing a robbery) and intentional homicide (sections 211 to 213 of the Criminal Code – murder, attempted murder and manslaughter) relate to the number of persons convicted or discharged throughout Germany. number of persons convicted of robbery in 2011: 5,722; number of persons convicted of intentional killing in 2011: 570.

Re question 102:

- The percentage of 5.0 % given for litigious divorce cases relates to legal matters pending for more than 24 months.
- The percentage of 1.8 % given for dismissals relates to legal matters pending for more than 12 months.
- The information regarding the average duration in the first and second instance is stated in months (not in days).

Correction regarding former response to question 102:

When answering the CEPEJ questionnaire 2012 (data for 2010), it was stated that 0.46 % of decisions in (litigious) divorce cases were subject to appeal. In completing the current questionnaire it was noticed that the percentage given in the previous round was incorrect, which was based on an error in the underlying figures. Instead of the communicated 0.46 %, the data for 2010 should read: 2.99 % of the decisions in divorce cases were subject to appeal. When calculating the percentage value, the number of decisions granting divorce (100%) has to be put in relation to the number of decisions sent to appeal (and not, as had been done erroneously, to the number of divorce cases resolved by the Higher Regional Court) (2011 = 2.05%). The remaining percentage relates to final and binding first-instance decisions granting divorce.

Looking at the figures for 2010 and 2011, the number of divorce decisions sent to appeal has not risen fourfold, but fallen by almost a third.

Re question 103:

The Act on Procedure in Family Matters and in Non-Contentious Matters (FamFG) of 17 December 2008 (Federal Law Gazette I, p. 2586) regulates, inter alia, divorce proceedings before the Family Court. The Act was amended by the Act to Promote Mediation and other Extra-Judicial Conflict Resolution Procedures of 21 July 2012 (Federal Law Gazette I, p. 1577), as has been explained in the answer to question 103.

Re question 108:

The table does not make provision for the proceedings which were terminated by the public prosecutor because the investigations did not offer sufficient reason for preferring public charges (2011: 1,289,063 investigation proceedings terminated pursuant to section 170 (2) of the Code of Criminal Procedure).

The values in the tables in questions 91, 94, 97, 98, 99, 100, 101, 102, 107, 108 relate to data of the year 2011.

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

Re question 91:

Information provided by the Länder upon request submitted to the Land justice administrations.

Re question 94:

Federal Statistical Office, Fachserie 10 Reihe 2.3, "Strafgerichte 2011"

Re question 97:

Federal Statistical Office
 Fachserie 10 Reihe 2.1 "Zivilgerichte 2011"
 Fachserie 10 Reihe 2.2 "Familiengerichte 2011"
 Fachserie 10 Reihe 2.4 "Verwaltungsgerichte 2011"
 Fachserie 10 Reihe 2.7 "Sozialgerichte 2011"
 Fachserie 10 Reihe 2.8 "Arbeitsgerichte 2011"

Re question 98:

Federal Statistical Office, Fachserie 10 Reihe 2.3, "Strafgerichte 2011"

Re question 99:

Federal Statistical Office
 Fachserie 10 Reihe 2.1 "Zivilgerichte 2011"
 Fachserie 10 Reihe 2.4 "Verwaltungsgerichte 2011"
 Fachserie 10 Reihe 2.5 "Finanzgerichte 2011"
 Fachserie 10 Reihe 2.7 "Sozialgerichte 2011"
 Fachserie 10 Reihe 2.8 "Arbeitsgerichte 2011"

Re question 100:

- a) Federal Statistical Office, Fachserie 10 Reihe 2.3 "Strafgerichte 2011";
- b) Overview of the workload at the criminal panels of the Federal Court of Justice 2011

Re question 101:

- a) Information provided by the Länder upon request submitted to the Land justice administrations.
- b) Federal Statistical Office, Fachserie 10 Reihe 3 "Strafverfolgung 2011"; table 2.1 total number of persons sentenced

or discharged

Re question 102:
Federal Statistical Office
Fachserie 10 Reihe 2.2 "Familiengerichte 2011"
Fachserie 10 Reihe 2.8 "Arbeitsgerichte 2011"

Re questions 107 and 108:
Federal Statistical Office
Fachserie 10 Reihe 2.6 "Staatsanwaltschaften 2011"

5. Career of judges and public prosecutors

5. 1. Recruitment and promotion

5. 1. 1. Recruitment and promotion

110) How are judges recruited?

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

If "other", please specify:

Bavaria:

Finance courts:

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

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

- Yes
- No

If "yes", please specify:

Baden-Württemberg, Berlin and Hamburg did not answer yes.

Bavaria:

Article 8 of the Bavarian Act to Promote Equality of Women and Men (Bayerisches Gleichstellungsgesetz - BayGIG) applies to the procedure for appointing judges and public prosecutors.

Brandenburg:

The Act to Promote Equality of Women and Men in the Public Service of the Land Brandenburg (Landesgleichstellungsgesetz - LGG) of 4 July 1994 meets the requirements of gender equality which are laid down in Article 3 para. 2 of the Basic Law and in Article 12 para. 3 of the Constitution of the Land Brandenburg.

In order to ensure equality of women and men in practice in the public sector, the LGG contains the obligation to promote women while having regard to the constitutional priority of aptitude, qualifications and professional achievements. In the context of appointing or promoting judges or public prosecutors, equality is to be achieved by giving preference to women in cases of equal aptitude, qualifications and professional achievements in sectors where women are under-represented, in accordance with the provisions of the LGG.

Bremen:

Section 4 (1) of the Act on Gender Equality of the Land Bremen (Bremisches Landesgleichstellungsgesetz).

Hesse:

Pursuant to sections 1, 2 and 3 of the General Equal Treatment Act (Allgemeines Gleichbehandlungsgesetz, AGG), any direct or indirect discrimination based on gender is prohibited. Under section 24 (1) no. 2 AGG, this prohibition of discrimination also applies in the public service and has to be taken into account when appointing judges. The Hessian Equal Rights Act (Hessisches Gleichberechtigungsgesetz, HGIG) contains more specific regulations. Pursuant to section 4 (2) HGIG, the departments for judicial personnel are required to draw up women's advancement plans. These plans aim to promote equality of women and men and to eliminate under-representation of women (section 5 [1] HGIG). They include binding targets with reference to the proportion of women in appointments and promotions. This is intended to increase the proportion of women in sectors in which women are under-represented (Section 5 [3] HGIG). Section 9 HGIG provides that, in sectors in which women are under-represented, at least as many women as men must be invited to interviews, provided that they meet the requirements for appointment to the post. Questions relating to pregnancy or childcare are forbidden. The selection decision must take into account the applicants' aptitude, qualifications and achievements. Family work can also be taken into account insofar as it is of importance for the selection criteria. Conversely, any delays in completing training as a result of looking after children or family members in need of care must not have a negative effect on the selection decision (section 10 [1] and [3] HGIG). The family status or income of the partner may not be taken into account. The women's officers are involved in the setting up of the plans for the advancement of women and in the appointment of judges. They monitor the implementation of the HGIG (section 16 HGIG).

Mecklenburg-Western Pomerania:

In case of under-representation of women (<50%), sections 4 - 5 of the Mecklenburg-Western Pomerania Equal Treatment Act provide as follows:

- preferential appointment if equally qualified
- upon request by the women's commissioner: re-advertisement of position if no woman has applied
- upon request by the women's commissioner: invitation of an equal number of women and men to the job interview

Lower Saxony:

The relevant provisions are contained in the Lower Saxony Equal Rights Act (NGG), which applies to judges and public prosecutors by virtue of section 2 (1) of the Lower Saxony Judiciary Act and section 3 (1) NGG: Pursuant to section 1 (1) no. 2 NGG, the Act aims to give men and women equal status in public administration. Under section 10 NGG, the personnel and organisation development department has to reduce under-representation in accordance with sections 11 et seqq. NGG by giving priority to the under-represented sex when deciding on appointments, promotions and the assignment of higher-value tasks.

North Rhine-Westphalia:

Pursuant to section 7 (1), first sentence, of the Land Act on Gender Equality in connection with section 15 (3) of the Land Civil Servants Act, women are to be considered preferentially for posts by which judicial tenure is established in cases of

equal aptitude, qualifications and achievements, if in the area for which the appointing authority is responsible there are fewer women than men in the envisaged career bracket.

Rhineland-Palatinate:

Pursuant to section 7 (1) of the Land Act on Gender Equality – LGG RP – women are to be considered preferentially in cases of equal aptitude, qualifications and achievements, inter alia with regard to appointments, if, and as long as, they are under-represented

Saarland:

The Saarland Act on Gender Equality (LGG) of 24 April 1996, last amended by the Act of 4 May 2010 (Official Gazette I, p. 1176) aims to ensure the implementation of equal rights for women and men in reality and take steps to eliminate disadvantages that currently exist (Article 3 para. 2, second sentence, of the Basic Law) by ensuring equal access for women and men to public office, reducing the existing under-representation of women at all functional and pay levels, and avoiding disadvantages caused by the fulfilling of family and care responsibilities.

Pursuant to section 7 LGG every public authority has to prepare for its area of responsibility an advancement plan for women covering a period of three years. Advancement plans for women aim to promote equality of women and men and to eliminate under-representation of women in their areas targeted by the respective schemes.

Moreover, section 10 LGG prescribes that, as a matter of principle, a position has to be advertised:

(1) In all sectors in which women are under-represented, all vacancies must be advertised. In filling the post, the authority concerned has to take into account the advancement plan for women drawn up under section 7.

(2) The advertising of a vacancy can - after the women's officer has been heard - be dispensed with if the respective posts

a) are intended for employees returning after a period of leave or secondment or

b) are to be reserved for civil servants on probation or apprentices of the authority or

c) are intended for employees whose posts have been or will be abolished on account of organisational decisions by the authority or on account of an agreed personnel development concept of the public service employer or

d) if the advertisement seems dispensable on account of a sufficient number of existing applications, in particular by women.

(3) Prior to each advertisement, it must be examined whether the post can be also be advertised with the possibility of part-time work, which would still have to provide a living income.

(4) The advertisement must contain all essential criteria of aptitude, qualification and professional achievements on which the selection is to be based (requirement profile). The criteria must relate exclusively to the requirements of the post to be filled or the office to which the candidate is to be appointed.

(5) Every advertisement must include an explicit statement encouraging women to apply. It must also mention the existence of an advancement plan for women as well as the objective of this Act, i. e. to eliminate an existing under-representation of women. If applicable, it must also mention the possibility of part-time or flexible working hours.

(6) If, after the first advertisement of the position, there are no applications from women who possess the statutory or other requirements for the post to be filled or the office to which the appointment is to be made, the position must, upon request by the women's officer, be re-advertised once.

In respect of the job interview, section 11 LGG provides as follows:

(1) In sectors in which women are under-represented, at least as many women as men must be invited to attend job interviews, if they possess the qualifications laid down by law or in the advertisement.

(2) Questions relating to an existing or planned pregnancy are unlawful, as are questions about how childcare is to be reconciled with professional work.

For the selection decision to be made after the interview, section 12 LGG prescribes as follows:

(1) Aptitude, qualifications and professional achievements shall be assessed in accordance with the requirements of the post to be filled or the office to be conferred in order to ensure equality of women and men in appointments and promotions and to implement the advancement plans for women.

(2) The determining factor for judging aptitude shall be the requirement profile for the post to be filled or the office to be conferred. This shall also apply to the allocation of apprenticeship positions, unless the apprenticeship is provided by the state and is required for an occupation which can also be practised outside the public service.

(3) When qualifications are assessed, capabilities and experience which have been acquired through the performance of family duties are to be taken into account, in so far as they are of importance for the aptitude, qualifications and professional achievements of the applicants.

(4) Seniority, age and the date of the last promotion may be taken into account only insofar as they are of particular importance for assessing aptitude, qualifications and professional achievements.

(5) If, at the end of each three year period for which the advancement plan for women applies, the targets of the plan are not fulfilled, every further appointment or promotion of a male candidate in a sector where women are under-represented shall be subject to the approval of the department that adopted the women's advancement plan, i.e. by the Land government in the case of advancement plans for women drawn up in the ministries and the State Chancellery, and by the municipal council, district council or regional assembly in the areas falling under the responsibility of the municipalities and municipal associations. In the areas falling under the responsibility of legal persons under public law subject to supervision solely by the Land promotions and appointments in these cases must be approved in consultation with the authority exercising legal supervision.

Pursuant to section 13 LGG, women are to be given priority in appointments, promotions and the assignment of higher-value tasks until they represent at least 50% of employees in every wage, salary and remuneration group of the authority concerned, unless reasons specific to an individual male candidate tilt the balance in his favour.

In the case of disputes, section 14 LGG provides as follows:

If, in the case of a dispute, a person alleges facts indicating discrimination on account of gender, the employer shall bear the burden of proving that the difference in treatment is justified for objective reasons unrelated to gender, that the candidate's gender is an indispensable condition for the activity to be performed, or that the aptitude, qualifications and professional achievements of the woman concerned are inferior to those of the male candidate who has been appointed or promoted.

Pursuant to section 21 LGG any authority obliged to draw up an advancement plan for women under section 7 must set up the office of a women's officer, who advises and supports the authority and all its employees in all questions relating to the actual implementation of equal rights. If, half a year after the entry into force of this Act, no women's officer has been elected and appointed, no appointments and promotions of men shall be permitted in sectors in which women are under-represented.

Pursuant to section 23 LGG the women's officer must be comprehensively involved at an early stage in all social measures affecting female employees and in all personnel matters. She shall assist the authority in the implementation and observance of this Act, also and in particular regarding appointments, promotions, transfers and assignments of higher-level tasks, including the wording of job advertisements, throughout the entire selection process, and in job interviews. The women's officer is to be involved in drawing up the advancement plans for women under section 7, and in drawing up all briefing notes, reports and statements relating to women's advancement issues. The senior management of the authority shall inform the women's officer in good time, in particular ahead of final decisions, of all matters related to her task.

The rights of the women's officer are strengthened, in particular, by the right of objection which is granted to her under section 24 LGG:

(1) If the women's officer is not involved in a measure pursuant to section 23 of this Act, or if she is not notified of such a measure in time, the decision about the measure must be suspended for two weeks.

(2) If the the women's officer believes that the taking or omitting of a measure violates this Act or endangers the fulfilment of the advancement plan for women, she can lodge an objection with the senior management of the authority within two weeks; in the case of extraordinary dismissals and terminations without notice, the objection must be lodged immediately. The senior management shall then decide the matter again.

(3) If the authority rejects the objection by the women's officer, a decision by the authority competent under section 8 (1) and (2) must be obtained upon request of the women's officer.

(4) The implementation of the measure shall be suspended until the authority under subsection (1) or the management under subsection (2) makes a new and final decision.

Saxony:

Pursuant to section 8 (1) No. 1 of the Saxon Act on the Advancement of Women, the authorities concerned must increase the proportion of women in accordance with the targets of the advancement plans for women and the corresponding staffing plans when appointing civil servants and judges in sectors in which fewer women are employed than men, in order to counter the under-representation of women.

Furthermore, the advancement of women is one of the priority aims of the Saxony State Ministry of Justice and for Europe. Applications from women are explicitly encouraged.

Saxony-Anhalt:

Pursuant to section 2, second sentence, of the Act on the Advancement of Women in

Saxony-Anhalt (FrFG LSA), the provisions the FrFG LSA apply mutatis mutandis to the judiciary. Since the Judiciary Act of the Land does not provide otherwise, section 4 (2) FrFG LSA applies also to the judiciary. Pursuant to this provision, in filling posts, a female candidate is to be given preference over a male candidate in the case of equal aptitude, qualifications and professional achievements, if the proportion of women at the specific functional level or in the specific remuneration or salary bracket is lower than that of men. This does not apply where reasons specific to an individual male candidate tilt the balance in his favour, even when the obligation to promote equality of women and men in practice is taken into account.

Pursuant to section 3 (1) FFrFG LSA, female candidates whose applications indicate that they possess the qualifications specified in the advertisement for the post, including the required professional experience, must be invited to interview.

Pursuant to section 3 of the Act on Equal Opportunities for People with Disabilities of the Land Saxony-Anhalt, in implementing the principle of equality of women and men the particular needs of women with disabilities must be taken into account and existing disadvantages eliminated. Permissible measures to promote equality for women with disabilities in practice are those that serve to eliminate or compensate for existing inequalities. This legal provision is also applicable to judges.

Schleswig-Holstein:

Pursuant to section 4, first sentence, of the Equal Treatment Act (Gleichstellungsgesetz), in cases of equal aptitude, qualifications and achievements women are to be given priority for posts by which a civil service employment relationship or judicial tenure is established, if within the remit of the authority in charge of personnel selection there are fewer women than men in the career bracket concerned.

Thuringia:

In sectors where women or men are under-represented, applicants belonging to the under-represented sex are to be given priority in the appointment of judges in the case of equal aptitude, qualifications and achievements until the under-representation is eliminated (section 8 (1) no. 1 of the Equal Treatment Act of the Land Thuringia). Under-representation is deemed to exist when women or men hold less than 40 % of posts.

The Länder of Baden-Württemberg, Berlin and Hamburg answered "no".

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:

Baden-Württemberg:

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

Bavaria:

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

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

Brandenburg:

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

Berlin:

Senator for Justice and Judicial Election Committee.

Bremen:

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

Hesse:

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

Lower Saxony:

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

North Rhine-Westphalia:

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

President of the Higher Regional Court,

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

President of the Finance Court,

President of the Higher Labour Court

(respectively for the remit in question).

Rhineland-Palatinate:

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

Saxony-Anhalt:

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

Schleswig-Holstein:

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

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

Yes

No

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

Baden-Württemberg:

The same procedure applies to promotion as to the award of life tenure.

Bavaria:

Finance courts:

In accordance with Art. 15 para. 1 sentence 2 first half-sentence of the Bavarian Judiciary Act (BayRiG) in conjunction with Art. 2 second half-sentence of the Implementing Act to the Code of Finance Court Procedure (AGFGO), the Bavarian State Minister of Finance is responsible for the nomination of judges at the finance courts. In accordance with Art. 15 para. 1 sentence 1 of the Bavarian Judiciary Act in conjunction with Art. 2 first clause of the Implementing Act to the Code of Finance Court Procedure, the Presidents of the finance courts are nominated by the State Government.

Brandenburg:

The President of the Brandenburg Higher Regional Court, but only within the meaning of a right of proposal.

Hesse:

The promotion of judges falls within the sole responsibility of the Hesse Ministry of Justice.

Mecklenburg-Western Pomerania:

No information.

Lower Saxony:

Lower Saxony Ministry of Justice

North Rhine-Westphalia:

Ministry of Justice of North Rhine-Westphalia.

Rhineland-Palatinate:

Minister of Justice and Judicial Election Committee.

Saarland:

The Council of Ministers.

Schleswig-Holstein:

Ministry of Justice, Equality and Integration of the Land Schleswig-Holstein in cooperation with a Judicial Election Committee.

Thuringia:

No information.

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

Yes

No

If "yes", please specify:

Baden-Württemberg, Berlin and Hamburg did not answer yes.

Bavaria:

In addition to Article 8 of the Bavarian Act to Promote Equality of Women and Men (BayGIG), Article 7 BayGIG must also be taken into account.

Brandenburg:

cf. information re Question 110.1.

Bremen:

Section 4 (2) of the Act on Gender Equality of the Land Bremen (Bremisches Landesgleichstellungsgesetz).

Hesse:

The advancement plan for women contains binding targets also for promotion posts (section 5 (3) of the Hessian Equal Rights Act [Hessisches Gleichberechtigungsgesetz – HGIG]). The promotion posts to be filled must be advertised. The advertisement must state that women are particularly encouraged to apply (section 8 (1) HGIG). The provisions of the General Equal Treatment Act (Allgemeines Gleichbehandlungsgesetz – AGG) and the HGIG apply to the selection procedure and the selection decision, as explained under question 110.1. Part-time work, periods of leave and delays in completing training as a result of looking after children or family members in need of care must not have a negative effect on career prospects (section 10 (3) HGIG).

Mecklenburg-Western Pomerania:

Section 5 (3) of the Mecklenburg-Western Pomerania Equal Treatment Act (GIG M-V): In the case of equal qualifications, women shall be given preference in promotions, if under-representation exists.

Lower Saxony:

See response to question 110.1. The Lower Saxony Equal Rights Act (NGG) also applies to promotions.

North Rhine-Westphalia:

Pursuant to section 7 (1), first sentence, of the Land Act on Gender Equality (Landesgleichstellungsgesetz) in connection with section 20 (6) of the Land Civil Servants Act (Landesbeamten-gesetz), women are to be given priority for promotion in the event of equal aptitude, qualifications and professional achievements where, in the remit of the authority in charge of promotions, there are fewer women than men in that particular higher-grade post in the career bracket.

Rhineland-Palatinate:

Pursuant to section 7 (1) of the Land Act on Gender Equality – LGG RP – women are to be considered preferentially in cases of equal aptitude, qualifications and achievements, inter alia with regard to promotions, if, and as long as, they are under-represented (section 4 (3) LGG).

Schleswig-Holstein:

Pursuant to section 5, first sentence, of the Equal Treatment Act (Gleichstellungsgesetz), in cases of equal aptitude, qualifications and achievements women are to be given priority for promotion, where, within the remit of the authority in charge of personnel selection there are fewer women than men in the higher grade post applied for in the career bracket.

Saarland:

See information re question 110.1.

Saxony:

Pursuant to section 8 (1) No. 2 of the Saxon Act on the Advancement of Women (Sächsisches Frauenförderungsgesetz), the authorities concerned must increase the proportion of women in accordance with the targets of the advancement plans for women and the corresponding staffing plans when deciding on promotions, upgrades to higher pay bands, and assignments to higher-paying posts, including senior and managerial posts, in order to counter the under-representation of women.

Saxony-Anhalt:

Pursuant to section 2, second sentence, of the Act on the Advancement of Women in Saxony-Anhalt (FrFG LSA), the provisions the FrFG LSA apply mutatis mutandis to the judiciary. Since the Judiciary Act of the Land does not provide otherwise, section 5 FrFG LSA applies also to the judiciary. Section 5 FrFG LSA provides that section 4 shall apply mutatis mutandis to promotions (cf. information re question 110.1). Section 11 of the Land Judiciary Act provides that part-time work and temporary leave pursuant to sections 9 and 10 must not have a negative effect on career prospects and that any difference in treatment between judges working part-time and judges working

full-time is only permissible if it is justified on compelling and objective grounds.

Thuringia:

In individual sectors where women or men are under-represented, applicants belonging to the under-represented sex are to be given priority in the promotion of judges in the case of equal aptitude, qualifications and achievements, until the under-representation is eliminated (section 8 (1) no. 2 of the Equal Treatment Act of the Land Thuringia). Under-representation is deemed to exist when women or men hold less than 40 % of posts.

The Länder of Baden-Württemberg, Berlin and Hamburg answered "no".

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

Baden-Württemberg:

The selection decision is in line with the constitutional principle of the selection of the best. The requirements for promotion are detailed in requirement profiles for the position to be filled.

Bavaria:

Ordinary courts:

The promotion of judges is based on the criteria of aptitude, qualifications and achievements. The corresponding posts are advertised within the area of the authority. In accordance with Art. 35 of the Bavarian Judiciary Act (BayRiG), the Presidial Council is to be involved in each assignment of a judicial office with a higher final basic salary than that of a starting office.

Finance courts:

The principle of performance applies (Art. 33 of the Basic Law and Art. 94 para. 2 in conjunction with section 71 of the German Judiciary Act (DRiG) and Art. 2 para. 1 of the Bavarian Judiciary Act (BayRiG) in conjunction with section 9 of the Act on the Status of Civil Servants (BeamStG), as well as Art. 16 of the Performance Career Path Act [Leistungslaufbahngesetz]). Accordingly, the most suitable person is to be selected, relevant consideration being given to the official assessment.

Labour and social courts:

Advertisement, decision according to the principle of performance.

Administrative courts:

Aptitude, qualifications and achievements (assessment)

Berlin:

Principle of performance, selection of the best on the basis of current official assessments.

Brandenburg:

Selection procedure in accordance with Article 33 para. 2 of the Basic Law and Article 21 para. 2 of the Constitution of the Land Brandenburg. Further, the General Order on "Probation for Promotion Offices" (Allgemeine Verfügung "Erprobung für Beförderungämter") and specific requirement profiles apply.

Bremen:

Art. 33 of the Basic Law.

Hamburg:

Promotion post advertised, selection among the applicants on the basis of assessments and statements from the court presidents involved.

Hesse:

Promotions are carried out exclusively according to performance and aptitude criteria (selection of the best).

Mecklenburg-Western Pomerania:

No information.

Lower Saxony:

Performance principle, based on assessments.

North Rhine-Westphalia:

Promotion posts are advertised in the Ministry of Justice Gazette for the Land North Rhine-Westphalia. Decisions on promotions are taken according to the report of the President of the respective Higher Court, the selection being made among several applicants according to aptitude, qualifications and professional achievements (Art. 33 para. 2 of the Basic Law).

Rhineland-Palatinate:

Aptitude, qualification and performance.

Saarland:

Selection of the best according to aptitude, qualifications and professional achievements.

Saxony:

Aptitude, qualifications and professional achievements.

Saxony-Anhalt:

Criteria: aptitude, achievements, qualifications, proven in each case by recent (ad hoc) assessments (Art. 33 para. 2 of the Basic Law).

Procedure:

- promotion post advertised.
- applicants' ad hoc assessment drawn up by the President of the respective Higher Court if no sufficiently recent assessment available.
- report of the respective President to the Ministry of Justice and Equality on occupation of the post.
- vote by the Ministry of Justice and Equality.
- vote forwarded to the respective Presidial Council for approval (if not approved, first of all an attempt is made to reach an oral agreement between the Ministry and the Presidial Council. If this does not lead to an agreement, the arbitration unit can be called upon. This body rules by issuing an order. Within one month after the order of the agreement agency, the Minister-President may be seized with a request to make a decision.).

- Once the Presidial Council has approved, with promotions to remuneration group R2 the successful applicant is nominated by the Ministry of Justice and Equality. In case of promotions higher than R2Z, a personnel proposal is made to the Minister-President for approval.

- After the approval of the latter has been given, the nomination is made by the Ministry of Justice and Equality. Should the Minister-President refuse to consent, a new vote must be taken.

Schleswig-Holstein:

Selection of the best according to aptitude, qualifications and professional achievements.

Thuringia:

No information.

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

Yes

No

If yes, please indicate the frequency

115) Is the status of prosecution services:

Independent?

Under the authority of the Minister of justice ?

Other?

Please specify:

Baden-Württemberg:

The Minister of Justice exercises administrative supervision over the public prosecution offices. However, as a rule, no individual instructions which relate to the activities of the public prosecution offices are made in established practice.

Bremen:

cf. sections 141 et seqq. of the Courts Constitution Act (GVG), esp. section 147 No. 2 of the Courts Constitution Act

Hamburg:

The Authority for Justice and Equality carries out administrative supervision over the public prosecution offices.

Mecklenburg-Western Pomerania:

No information.

North Rhine-Westphalia:

The public prosecution offices are subject to the service and specialist supervision of the Ministry of Justice, but they are factually independent with regard to performance of their concrete procedures.

Saarland:

Bound by instructions in accordance with sections 146 and 147 of the Courts Constitution Act.

Saxony-Anhalt:

The public prosecutor general is not a politically-appointed civil servant in Saxony-Anhalt. He/she is therefore not bound by instructions with regard to the investigation activities carried out in his/her district.

In other respects reference is made to sections 147 and 150 of the Courts Constitution Act.

Schleswig-Holstein:

Bound by instructions in accordance with sections 146 and 147 of the Courts Constitution Act.

Thuringia:

No information.

CN 14/05:

Prosecution services are under the authority of the Ministry of Justice but they are factually independent with regard to performance of their concrete procedures (see comments - North Rhine-Westphalia).

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:

Baden-Württemberg:

The Ministry of Justice does not distinguish in appointments between judges and public prosecutors since beginners are deployed both at the public prosecution office and at the court.

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:

Baden-Württemberg:

Appointments and nominations are made by the Minister of Justice. With appointment to life tenure, the main council of public prosecutors, which is a co-determination body of public prosecutors, is involved. The main council of public prosecutors does not have any right of veto, but in practice nominations are made in agreement with the main council of public prosecutors.

Berlin:

as answer re Question 111.

Brandenburg:

The public prosecutor general of the Land Brandenburg within the meaning of a right of proposal. Selections are effected by the judicial selection committee, and nominations are made by the Ministry of Justice.

Bremen:

Senator for Justice and the Constitution, prepared by the public prosecutor general.

Hamburg:

Authority for Justice and Equality, together with a judicial selection committee.

Hesse:

cf. answer re Question 111 analogously.

Lower Saxony:

Lower Saxony Ministry of Justice, selection commission with representatives of the offices of the public prosecutors general.

North Rhine-Westphalia:

Public prosecutor general.

Rhineland-Palatinate:

Ministry of Justice. Public prosecutors are as a rule seconded to the Ministry for a time, where they have a right of co-determination in personnel selection.

Saarland:

Ministry of Justice.

Saxony-Anhalt:

Ministry of Justice and Equality in agreement with the public prosecutor general.

Schleswig-Holstein:

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

117.1) Are there specific provisions for facilitating gender equality within the framework of the procedure for recruiting prosecutors?

- Yes
 No

If "yes", please specify:

Baden-Württemberg, Berlin and Hamburg did not answer yes.

Bavaria:

Article 8 of the Bavarian Act to Promote Equality of Women and Men (Bayerisches Gleichstellungsgesetz – BayGIG) applies to the procedure for appointing judges and public prosecutors.

Brandenburg:

cf. information re Question 110.1.

Bremen:

cf. information re Question 110.1.

Hesse:

The comment made with regard to Question 110.1 applies. The General Equal Treatment Act (AGG) and the Hesse Equal Rights Act (HGIG) apply equally to the courts and public prosecution offices (sections 24 (1) nos. 1 and 2 AGG, section 1 (1) nos. 1 and 5 HGIG).

Mecklenburg-Western Pomerania:

The provisions for judges apply *mutatis mutandis* (see 100.1). In Mecklenburg-Western Pomerania, only judges are appointed on probation; some of them will later obtain life tenure as public prosecutors.

Lower Saxony:

See response to question 110.1. The Lower Saxony Equal Rights Act (NGG) applies directly (section 3 (1) NGG).

North Rhine-Westphalia:

Pursuant to section 7 (1), first sentence, of the Land Act on Gender Equality (Landesgleichstellungsgesetz) in connection with section 15 (3) of the Land Civil Servants Act, women are to be considered preferentially for posts by which a civil service employment relationship is established in cases of equal aptitude, qualifications and achievements, if in the sector for which the appointing authority is responsible there are fewer women than men in the envisaged career bracket.

Rhineland-Palatinate:

Pursuant to section 7 (1) of the Land Act on Gender Equality – LGG RP – women are to be considered preferentially in cases of equal aptitude, qualifications and achievements, *inter alia* with regard to appointments, if, and as long as, they are under-represented.

Schleswig-Holstein:

Pursuant to section 4, first sentence, of the Equal Treatment Act (Gleichstellungsgesetz), in cases of equal aptitude, qualifications and achievements women are to be given priority for posts by which a civil service employment relationship or judicial tenure is established, if within the remit of the authority in charge of personnel selection there are fewer women than men in the career bracket concerned.

Saarland:

The answer is the same as for question 110.1.

Saxony:

Pursuant to section 8 (1) of the Saxon Act on the Advancement of Women (Sächsisches Frauenfördergesetz), the authorities concerned must increase the proportion of women in accordance with the targets of the advancement plans for women and the corresponding staffing plans when appointing civil servants and judges in sectors in which fewer women are employed than men, in order to counter the under-representation of women.

Furthermore, the advancement of women is one of the priority aims of the Saxony State Ministry of Justice and for Europe. Applications from women are explicitly encouraged.

Saxony-Anhalt:

Section 4 of the Act on the Advancement of Women in Saxony-Anhalt (Frauenfördergesetz Sachsen-Anhalt – FrFG LSA) applies also to public prosecutors. Pursuant to this provision, in filling posts, a female candidate is to be given preference over a male candidate in the case of equal aptitude, qualifications and professional achievements, if the proportion of women at the specific functional level or in the specific remuneration or salary bracket is lower than that of men. This does not apply where reasons specific to an individual male candidate tilt the balance in his favour, even when the obligation to promote equality of women and men in practice is taken into account.

Pursuant to section 3 (1) FFrFG LSA, female candidates whose applications indicate that they possess the qualifications specified in the advertisement for the post, including the required professional experience, must be invited to interview.

Pursuant to section 3 of the Act on Equal Opportunities for People with Disabilities of the

Land Saxony-Anhalt, in implementing the principle of equality of women and men the particular needs of women with disabilities must be taken into account and existing disadvantages eliminated. Permissible measures to promote equality for women with disabilities in practice are those that serve to eliminate or compensate for existing inequalities.

Thuringia:

In individual sectors where women or men are under-represented, applicants belonging to the under-represented sex are to be given priority in the appointment of staff to the public prosecution offices in the case of equal aptitude, qualifications and achievements, until the under-representation is eliminated (section 8 (1) no. 1 of the Equal Treatment Act of the Land Thuringia [Thüringer Gleichstellungsgesetz]). Under-representation is deemed to exist when women or men hold less than 40 % of posts.

The Länder of Baden-Württemberg, Berlin and Hamburg answered "no".

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:

Not including information from Mecklenburg-Western Pomerania and Thuringia. BW, BY, BE, BB, HB, HH, NI, RP, SN, ST, SH stated "Yes"; the other Federal Länder answered "No".

Brandenburg:

The public prosecutor general of the Land Brandenburg within the meaning of a right of proposal. Jurisdiction lies with the Ministry of Justice.

Hesse:

The promotion of public prosecutors falls in the exclusive jurisdiction of the Hesse Ministry of Justice.

Lower Saxony:

Lower Saxony Ministry of Justice

North Rhine-Westphalia:

Ministry of Justice of North Rhine-Westphalia.

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

Baden-Württemberg:

The selection decision is in line with the constitutional principle of the selection of the best. The requirements for promotion are detailed in requirement profiles for the position to be filled.

Bavaria:

The promotion of public prosecutors is based on the criteria of aptitude, qualifications and achievements. The corresponding posts are advertised within the remit of the public prosecution office. In accordance with Art. 48 of the Bavarian Judiciary Act, the main council of public prosecutors is to be involved when any office of public prosecutor is conferred with a higher final basic salary than that of a starting office.

Berlin:

as answer re Question 111.

Brandenburg:

Selection procedure in accordance with Article 33 para. 2 of the Basic Law and Article 21 para. 2 of the Constitution of the Land Brandenburg. Further, the General Order on "Probation for Promotion Offices" (Allgemeine Verfügung "Erprobung für Beförderungämter") and specific requirement profiles apply.

Bremen:

Art. 33 para. 2 of the Basic Law.

Hamburg:

Promotion post advertised, selection among the applicants on the basis of assessments and statements from the public prosecution offices involved.

Hesse:

Promotions are carried out exclusively according to performance and aptitude criteria (selection of the best).

Mecklenburg-Western Pomerania:

No information.

Lower Saxony:

Performance principle, based on assessments.

North Rhine-Westphalia:

Promotion posts are advertised in the Ministry of Justice Gazette for the Land North Rhine-Westphalia. Decisions on promotions are taken according to the report of the respective public prosecutor general, the selection being made among several applicants according to aptitude, qualifications and professional achievements (Art. 33 para. 2 of the Basic Law).

Rhineland-Palatinate:

Aptitude, qualification and performance.

Saarland:

Selection of the best according to aptitude, qualifications and professional achievements.

Saxony:

Aptitude, qualifications and professional achievements.

Saxony-Anhalt:

See question 113.

Schleswig-Holstein:

Selection of the best according to aptitude, qualifications and professional achievements.

Thuringia:

No information.

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

Yes

No

If "yes", please specify:

Baden-Württemberg, Berlin and Hamburg did not answer yes.

Bavaria:

In addition to Article 8 BayGlG, Article 7 BayGlG must also be taken into account.

Brandenburg:

cf. information re Question 110.1.

Bremen:

cf. information re Question 112.1.

Hesse:

The provisions of the AGG and the HGlG apply, as stated in the answers to questions 100.1 and 112.1 in respect of judges.

Mecklenburg-Western Pomerania:

See answer re questions 112.1 and 117.1.

Lower Saxony:

See answer re question 110.1. The Lower Saxony Equal Rights Act also applies to promotions.

North Rhine-Westphalia:

Pursuant to section 7 (1), first sentence, of the Land Act on Gender Equality (Landesgleichstellungsgesetz) in connection with section 20 (6) of the Land Civil Servants Act (Landesbeamten-gesetz), women are to be given priority for promotion in the event of equal aptitude, qualifications and professional achievements where, in the sector of the authority in charge of promotions there are fewer women than men in the particular higher grade post in the career bracket.

Rhineland-Palatinate:

Pursuant to section 7 (1) of the Land Act on Gender Equality – LGG RP – women are to be considered preferentially in cases of equal aptitude, qualifications and achievements inter alia with regard to promotions, if, and as long as, they are under-represented in the sector concerned (section 4 (3) LGG).

Schleswig-Holstein:

Pursuant to section 5, first sentence, of the Equal Treatment Act (Gleichstellungsgesetz), in cases of equal aptitude, qualifications and achievements, women are to be given priority for promotion, where, within the remit of the authority in charge of personnel selection there are fewer women than men in the higher grade post applied for in the career bracket.

Saarland:

The information provided re question 110.1 applies equally to public prosecutors as well.

Saxony:

Pursuant to section 8 (1) No. 2 of the Saxon Act on the Advancement of Women (Sächsisches Frauenförderungsgesetz), the authorities concerned must increase the proportion of women in accordance with the targets of the advancement plans for women and the corresponding staffing plans when deciding on promotions, upgrades to higher pay bands, assignments to higher-paying posts, including senior and managerial posts, in order to counter the under-representation of women.

Saxony-Anhalt:

Section 5 FrFG LSA provides that section 4 shall apply mutatis mutandis (cf. information re question 117.1).

Pursuant to section 69 (2) of the Civil Servants Act of the Land Saxony-Anhalt, reducing working hours in accordance with section 64 (part-time work), section 65 (part-time work and leave for family reasons) or section 67 (unpaid leave) of the same Act must not have a negative effect on career prospects. Any difference in treatment between civil servants (public prosecutors) working part-time and civil servants who work full-time pursuant to section 63 (1), first sentence, is only permissible if it is justified on compelling and objective grounds.

Thuringia:

In individual sectors where women or men are under-represented, applicants belonging to the under-represented sex are to be given priority in the promotion of public prosecutors in the case of equal aptitude, qualifications and achievements, until the under-representation is eliminated (section 8 (1) no. 2 of the Equal Treatment Act of the Land Thuringia [Thüringer Gleichstellungsgesetz]). Under-representation is deemed to exist when women or men hold less than 40 % of posts.

The Länder of Baden-Württemberg, Berlin and Hamburg answered "no".

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

- Yes
 No

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

If yes, are there exceptions (e.g. dismissal as a disciplinary sanction)? Please specify in the "comment" box below

Yes. If yes, please indicate the compulsory retirement age	65
No	

Comment :

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

121.1) Can a judge be transferred to another court without his consent:

- For disciplinary reasons
 For organisational reasons
 For other reasons. Please specify modalities and safeguards

Please specify modalities and safeguards

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

	Duration of the probation period (in years)
Yes	5
No	
NAP	

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

If yes, are there exceptions (e.g. dismissal as a disciplinary sanction)? Please specify in the "comment" box below:

Yes. If yes, please indicate the compulsory retirement age	65
No	

Comment :

The service relationship of a public prosecutor ends for instance
– on a criminal judgment gaining legal force by means of which the public prosecutor has been sentenced to at least one year's imprisonment because of an intentional criminal offence (section 41 (1) of the Act on Federal Civil Servants [Bundesbeamtengesetz – BBG] and section 24 (1) of the Act on the Status of Civil Servants [Beamtenstatusgesetz – BeamtStG),
– if the disciplinary measure of removal from civil service employment is imposed on the public prosecutor because of a serious offence committed in office (section 10 of the Federal Disciplinary Act [Bundesdisziplargesetz] and the corresponding provisions of the Länder Disciplinary Acts),

- generally also on changing to a public law employment relationship with another employer (section 31 BBG and section 22 BeamStG)

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

	Duration of the probation period (in years)
Yes	5
No	
NAP	

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

NAP

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

NAP

E.1 You can indicate below:

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

Bremen: re question 114: cf. Article 97 of the Basic Law (apart from the assessment system). Hamburg: The probationary period of a public prosecutor is served in the same way as a judge on probation. Judicial appointments are proposed to the Senate by a judicial selection committee. Hesse: Re question 122: Pursuant to section 10 (1) of the German Judiciary Act (DRiG), the judicial probationary period is generally three years, but was extended by six months to three years and six months by a Hesse circular from 2003 for all judges on probation. Lower Saxony: Regarding questions 122 and 124: including probation as a judge. North Rhine-Westphalia: In all jurisdictions, as well as at the public prosecution offices, appointments are made on the basis of a structured selection procedure which is closely orientated towards the requirement profiles for the starting offices of a judge of the respective jurisdiction or of a public prosecutor which were governed by a general order of the Ministry of Justice from 2005. The concrete design of the selection procedure differs depending on the competent appointment authority or jurisdiction. Rhineland-Palatinate: The basis for the selection decision is formed by the assessments made by the immediate superior authorities. Saxony-Anhalt: To appoint judges and public prosecutors, interviews take place with the applicants in the shape of identically-structured selection talks with the involvement of the President of the respective Higher Court or of the public prosecutor general and the equality officer. The appointment as well as formal nomination is carried out by the Ministry for Justice and Equality. [Q122, Q124] : période de 5 ans, ramenée à 2 (Q122) ou 3 (Q124) exceptionnellement mail NC 22/5/2014]

5. 2. Training

5. 2. 1. Training

127) Training of judges

Initial training (e.g. attend a judicial school, traineeship in the court)	Compulsory
General in-service training	Optional
In-service training for specialised judicial functions (e.g. judge for economic or administrative issues)	Optional
In-service training for management functions of the court (e.g. court president)	Optional
In-service training for the use of computer facilities in courts	Optional

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

General in-service training	Annual / Regular (e.g. every 3 months)
In-service training for specialised judicial functions (e.g. judge for economic or administrative issues)	Annual / Regular (e.g. every 3 months)

	months)
In-service training for management functions of the court (e.g. court president)	Annual / Regular (e.g. every 3 months)
In-service training for the use of computer facilities in courts	Annual / Regular (e.g. every 3 months)

129) Training of public prosecutors

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

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

General in-service training	Annual / Regular (e.g. every 3 months)
In-service training for specialised functions (e.g. public prosecutor specialised on organised crime)	Annual / Regular (e.g. every 3 months)
In-service training for management functions of the court (e.g. Head of prosecution office, manager)	Annual / Regular (e.g. every 3 months)
In-service training for the use of computer facilities in office	Annual / Regular (e.g. every 3 months)

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

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

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

Comment :

Budget of the single institution for both judges and prosecutors: 4 million (Federation)/ NA/ NAP

Not including information from Mecklenburg-Western Pomerania, Thuringia, North Rhine-Westphalia and Bremen

In addition to the German Judicial Academy, which is funded jointly by the Federation and the Länder, some Länder maintain their own judicial academies.

Baden-Württemberg:

Training until the conclusion of the "First Examination in Law" takes place at the Universities. The preparation period for the Second State Examination in Law is carried out in courts, public prosecution offices, lawyers' offices, authorities and other facilities, and is organised by the Higher Regional Courts.

The further training of judges and public prosecutors is carried out nationally by the German Judicial Academy. In other respects, the further training is organised at Land level by the Ministry of Justice and the courts and public prosecution offices of the Land. For all judicial officials (not including prisons and without the contribution towards the funding of the Judicial Academy) an amount of € 1,167,300 is available for this in 2010. The budget for training courses in the IT field was € 1,373,600 for all judicial officials (not including prisons). A breakdown by judges and public prosecutors on the one hand and other judicial officials on the other cannot be provided.

The further training on the use of IT applications is obligatory in some cases and optional in others. It is optional with regard to office communication. Training in specialist applications is however obligatory (but does not entail sanctions).

Brandenburg:

Re question 131:

Only the material costs for training (costs of the trainee jurist working parties at Higher Regional Courts) and further training

(speakers' fees and board and lodging costs for participants at Joint Legal Training Office of the Länder Berlin and Brandenburg) are stated. Including the remuneration of the staff of the administrations of the courts and court panels participating in basic and further training, as well as the trainee jurists themselves, which are not included in the figures above, would lead to a much higher amount.

Hamburg:

The Federation and the Länder operate the Judicial Academy jointly. The finance share of the Free and Hanseatic City of Hamburg in this is € 21,000. In other respects, local further training is offered as needed.

Lower Saxony:

Budget information cannot be provided since the individual basic and further training activities are paid for from different budget areas and no separate statistics on them are kept.

North Rhine-Westphalia:

In North Rhine-Westphalia the further training of all judicial officials, in other words not only that of judges and public prosecutors, is a matter for the Judicial Academy of the Land North Rhine-Westphalia. The share of the budget which is expended only on the further training of judges and public prosecutors is not recorded.

Saxony-Anhalt (from E.2):

An institution for the further training of judges and public prosecutors is the German Judicial Academy, which is jointly funded by the Federation and the Länder. Judges and public prosecutors from all over Germany receive further training at the Academy, with its two conference centres in Trier and Wustrau. The share of the costs for the Land Saxony-Anhalt is € 56,500 (2010). These conferences are organised by the Federal Länder and the Federation.

At Land level, the basic and further training division of the Ministry of Justice and Equality organises further training for judges and public prosecutors, as well as conferences for the other officials at the courts and public prosecution offices.

Family law conferences have taken on a special focus in recent years through the reforms in the pensions settlement and in the Act on the Procedure in Family Cases and in the Matters of Non-Contentious Litigation. A one-day conference took place on European human rights protection in 2010. The conference provided an overview of European human rights protection in accordance with the ECHR, in particular on Art. 6 (excessive length of proceedings).

There is no separate budget for judges' further training (cf. 1.2 Budget data on the Judiciary Question 6.6).

131.1) If there is no initial training for judges and/or prosecutors in such institutions, please indicate briefly how these judges and/or prosecutors are recruited and trained ?

E.2 You can indicate below:

any useful comments for interpreting the data mentioned in this chapter

comments regarding the attention given in the curricula to the European Convention on Human Rights and the case law of the Court

the characteristics of your training system for judges and public prosecutors and the main reforms that have been implemented over the last two years

Brandenburg:

The Joint Legal Training Office of the Länder Berlin and Brandenburg is responsible for the further training of judges and public prosecutors in the Länder Berlin and Brandenburg. The basic training ("Referendariat") takes place separately, for Brandenburg at Brandenburg Higher Regional Court and for Berlin at Berlin Court of Appeal; it is only the Second State Examination in Law after completion of the Referendariat for which the Joint Legal Training Office of the Länder Berlin and Brandenburg is responsible.

Re questions 128 and 130:

The range of further training is regular in the sense that more than 120 of the Land's own further training events are offered annually for judges and public prosecutors. In 2010, a total of 1,730 participants from among judges and public prosecutors from Berlin and Brandenburg attended on a total of 2,626 days of the Land's own further training events which were organised and implemented by the Joint Legal Training Office of the Länder Berlin and Brandenburg.

Bremen:

German legal training is characterised by the fundamental concept of the "uniform lawyer". Anyone passing the Second State Examination has qualification for judicial office and can immediately become a judge, public prosecutor, lawyer or administrative official. Guidance by a "training judge", as well as mentoring programmes (help in departmental work) and "intervision" (collegial mutual support in everyday work) are obligatory for judges on probation in the Land Bremen. Moreover, monthly events take place on specific specialist topics for those starting off in the profession. Furthermore, younger officials may attend further training events in the "Northern Association". Further training for judges in special panels of deciding judges takes place primarily at the German Judicial Academy or at related facilities such as the Federal Finance Academy. Additionally, special further training is provided for administrative tasks, including supervisory tasks, and for IT tasks by the events organised by the Bremen judiciary itself and by the basic and further training centre of the Free and Hanseatic City of Bremen.

Beginners at the public prosecution office have to present all completed work to an appointed experienced public prosecutor for countersigning during their familiarisation period. The public prosecutor general offers specific further training courses twice monthly on topics such as "emergency public prosecution service", "dealing with items of evidence", "telecommunication surveillance" and "the law on appeals on points of law".

5. 3. Practice of the profession

5. 3. 1. Practice of the profession

132) Salaries of judges and public prosecutors.

	Gross annual salary, in €, on 31 December 2012	Net annual salary, in €, on 31 December 2012
First instance professional judge at the beginning of his/her career	41,126.55	
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)	104,711.28	
Public prosecutor at the beginning of his/her career	41,126.55	
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)	104,711.28	

Comment :

Comments: The figure given as the salary of a judge or public prosecutor of the Supreme Court is the basic salary R6 without any allowance for working at one of the highest federal courts and without family allowance.

Source: Act on the Remuneration of Civil Servants (Bundesbesoldungsgesetz)

133) Do judges and public prosecutors have additional benefits?

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

134) If other financial benefit, please specify:

Berlin:

Benefits towards medical expenses.

Mecklenburg-Western Pomerania:

No information.

North Rhine-Westphalia:

not applicable, cf. No. 133.

Saxony-Anhalt:

Re "Special pension": Unlike employees, judges and public prosecutors acquire a claim to pensions in accordance with the Civil Service Benefits Act (Beamtenversorgungsgesetz) and are not insured in the statutory pensions insurance. Re "Other financial benefit": Unlike employees, judges and public prosecutors acquire a claim to benefits towards medical expenses and do not have to take up statutory health insurance. Pensions and benefits towards medical expenses in the Land Saxony-Anhalt largely correspond to the claims to which federal civil servants are entitled.

Thuringia:

No information.

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

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

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

With regard to the obligation to have ancillary activities approved, section 46 of the German Judiciary Act (Deutsches Richtergesetz), sections 99 to 101 of the Act on Federal Civil Servants and the Ordinance on the Ancillary Activities of Judges in the Federal Civil Service (Verordnung über die Nebentätigkeit der Richter im Bundesdienst) apply to federal judges. Sections 71 (1) of the German Judiciary Act and section 40 of the Act on the Status of Civil Servants

(Beamtenstatusgesetz) in conjunction with the provisions of the respective Land law apply to judges in the service of a Land. If no exceptional arrangement applies, non-remunerated ancillary activities do not have to be approved. Taking over care for someone other than a family member is for instance excepted from this. The following activities are also exempt from approval: literary, artistic, academic or lecturing activities, administration of own property or of property of which the judge has the usufruct, freelance expert consultancy work connected with teaching or research at public universities and academic institutions, as well as activities in trade unions, professional organisations or self-help institutions by which professional interests are promoted. All other ancillary activities are subject to approval.

Baden-Württemberg:

Ancillary activities of judges must be reported, and some must be approved. Approval is refused if there is reason for concern that the ancillary activity will impair official interests, or if the ancillary activity will impede the proper performance of official duties.

Bavaria:

Ordinary courts/finance, labour and social courts:

Other tasks can be carried out with or without remuneration if official interests are not impaired. Official interests are impaired particularly if the judge's working capacity is excessively burdened by the nature and the extent of the activity (criteria: remuneration and time) or the exercise of the tasks is harmful to the reputation of the public administration. For the exercise of such tasks there is as a matter of principle a requirement for approval in accordance with Art. 2 para. 1 of the Bavarian Judicial Act in conjunction with Art. 81 of the Bavarian Civil Servants Act (Bayerisches Beamtengesetz – BayBG), unless referring to ancillary activities not requiring approval in accordance with Art. 2 para. 1 of the Bavarian Judiciary Act (Bayerisches Richtergesetz – BayRiG) in conjunction with Art. 82 BayBG or if the activity is carried out at the request of the employer.

Administrative jurisdiction:

An application for approval/report of an ancillary activity is to be lodged in accordance with Art. 2 para. 1 of the Bavarian Judiciary Act (Bayerisches Richtergesetz) in conjunction with Art. 81 and 82 of the Bavarian Civil Servants Act (Bayerisches Beamtengesetz) and sections 6 and 7 of the Bavarian Ancillary Activities Ordinance (Bayerische Nebentätigkeitsverordnung).

Brandenburg:

Judges' Ancillary Activities Ordinance (Richter Nebentätigkeitsverordnung), Land Civil Servants Act.

Berlin:

Ancillary activities must be approved.

Bremen:

Arbitration: A judge may as a matter of principle act additionally as an arbitrator or conciliator if this was approved in advance. As to (non-)remuneration, no more detailed information is available on this (cf. section 40 of the German Judiciary Act).

Consultant: Judges may not draw up expert legal opinions, nor may they give legal advice for remuneration outside the course of their official duties. However, a professor of law or of political science who has civil servant status and who is also a judge may draw up expert legal opinions and give legal advice with the permission of the supreme authority served by the court administration (cf. section 41 of the German Judiciary Act).

Hamburg:

Ancillary activities may be generally carried out if they do not run counter to official interests and are compatible with judicial office. They must however be reported as a matter of principle.

Mecklenburg-Western Pomerania:

No information.

Lower Saxony:

Remunerated, non-official ancillary activities must be reported, and are subject to a reserve of approval, as are some non-remunerated ancillary activities; judges may not draw up expert legal opinions outside the course of their official duties (section 41 (1) of the German Judiciary Act).

North Rhine-Westphalia:

First of all, the provisions of the German Judiciary Act apply, above all: sections 4 (2) and 39 et seqq. In other respects, via the provision on references contained in section 4 (1) sentence 1 of the Land Judiciary Act of North Rhine-Westphalia (LRiG NRW) the Land Civil Servants Act of North Rhine-Westphalia (LBG NRW) and the North Rhine-Westphalia Ancillary Activities Ordinance (Nebentätigkeitsverordnung NRW) apply accordingly to judges as a matter of principle. Ancillary activities subject to approval are regulated in section 49 of the Land Civil Servants Act of North Rhine-Westphalia. Prior approval is accordingly necessary in the following example cases: to take on a guardianship, custodianship or execution of a will; to take on an ancillary office; to take on ancillary employment for a fee, to engage in a commercial activity, to help out in a commercial operation or to exercise a liberal profession; to take up a place on the Board, Supervisory Council, Administrative Council or other body of a corporation or enterprise operated in another legal form if the latter pursues an economic purpose, as well as to take on a trusteeship. Moreover, approval is to be refused if the ancillary activity may impair official interests. This depends on the individual case (e.g. possible influencing of impartiality or independence; excessively high burden on working capacity by the nature and the extent of the ancillary activity; possible damage to the reputation of the public administration).

More conclusive details on "other function" cannot be provided. These include highly varying individual case constellations (e.g. permissible: deputy honorary mayor; not permissible: honorary activity in an ethics commission of the Chamber of Physicians; activities in commercial bodies of local authority enterprises operating under private law).

Rhineland-Palatinate:

Academic activities must be reported; other ancillary activities must be approved. Approval is only given if the performance of the office is not impaired.

Saarland:

Section 4 of the Saarland Judiciary Act in conjunction with sections 84 et seqq. of the Saarland Civil Servants Act (Saarländisches Beamtengesetz).

Saxony:

Via section 3 of the Saxon Judiciary Act (SächsRiG), the provisions on ancillary activities of civil servants apply mutatis mutandis to judges. A requirement of approval may emerge from section 82 (1) of the Saxon Civil Servants Act (SächsBG) for activity as an adviser.

Saxony-Anhalt:

re advisory activities: A judge may not draw up expert legal opinions or give legal advice for remuneration outside of court (section 41 (1) of the German Judiciary Act). He/she may give unremunerated legal advice if this does not constitute an expert legal opinion.

re political activities: With regard to political activities, judges must conduct themselves in and outside office in such a manner that confidence in their independence will not be endangered (section 39 of the German Judiciary Act). Remunerated activity as a professional politician is hence not possible in addition to exercising judicial office. A function as a parliamentarian or member of the Government is ruled out in accordance with the principle of the separation of powers.

On the obligation to obtain approval: Section 17 (2) and (3) of the Judiciary Act of the Land Saxony-Anhalt (Landesrichtergesetz - LRiG) of 28 January 2011 (GVBl. LSA 2011, 30) regulate the obligation to obtain approval as follows:

"(2) The following shall be subject to an obligation to obtain prior approval

1. the following unremunerated ancillary activities:

a) ancillary offices which the judge is not obliged to hold in accordance with subsection (1)

b) guardianships or custodianships of other persons than family members, but not a custodianship in accordance with section 26 (4)

c) execution of wills,

d) commercial activities, the exercise of liberal professions or working in one of these activities, and

e) taking up membership of a body of a company, with the exception of a cooperation, as well as taking on a trusteeship,

2. all other ancillary activities not covered by subsection (3).

(3) Obligation for approval shall not be subject to

1. taking up ancillary activities which the judge is obliged to perform in accordance with subsection (1)

2. the administration of own assets or assets at the disposal of the judge,

3. writing, academic, artistic or lecturing activities of the judge,

4. activities as an examiner in the obligatory state specialist examination of the First Examination in Law, as well as in the first or second State Examination in Law or in a career path examination, as well as giving lessons for basic and further training in the public service,

5. activities to defend professional interests in trade unions or professional associations or in self-help facilities of the public service,

6. unremunerated ancillary activities, unless otherwise determined in subsection (2) No. 1, and

7. activity as a custodian in accordance with section 26 (4)."

Schleswig-Holstein:

Section 6 (1) of the Land Judiciary Act (LRiG) and sections 70 et seqq. of the Land Civil Servants Act (LBG) in conjunction with the Ancillary Activities Ordinance (Nebentätigkeitsverordnung).

Thuringia:

No information.

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

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

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

Baden-Württemberg:

Ancillary activities of public prosecutors must be reported, and some must be approved. Approval is refused if there is reason for concern that the ancillary activity will impair official interests, or if the ancillary activity will impede the proper performance of official duties.

Bavaria:

Other tasks can be carried out with or without remuneration if official interests are not impaired. Official interests are impaired particularly if the public prosecutor's working capacity is excessively burdened by the nature and the extent of the activity (criteria: remuneration and time) or the exercise of the tasks is harmful to the reputation of the public administration. For the exercise of such tasks there is as a matter of principle a requirement for approval in accordance with Art. 2 para. 1 of the Bavarian Judicial Act in conjunction with Art. 81 of the Bavarian Civil Servants Act (Bayerisches Beamtengesetz – BayBG), unless referring to ancillary activities not requiring approval in accordance with Art. 2 para. 1 of the Bavarian Judiciary Act (Bayerisches Richterrechtsgesetz – BayRiG) in conjunction with Art. 82 BayBG or if the activity is carried out at the request of the employer.

Brandenburg:

Land Civil Servants Act (Landesbeamtengesetz).

Berlin:

Ancillary activities must be approved.

Bremen:

The exercise of ancillary activities by public prosecutors falls under the Act on the Status of Civil Servants (Beamtenstatusgesetz – BeamStG). In accordance with section 40 BeamStG an ancillary activity must be reported as a matter of principle. It shall be placed under a reserve of approval or prohibition where it may impair official interests.

Additionally, because of federalism there are separate Civil Servants Acts of the Federal Länder which regulate the nature and the extent of permissible ancillary activities in detail.

Hamburg:

Ancillary activities may be generally carried out if they do not run counter to official interests and are compatible with judicial office. They must however be reported as a matter of principle.

Hesse:

No information.

Mecklenburg-Western Pomerania:

No information.

Lower Saxony:

Remunerated, non-official ancillary activities must be reported, and are subject to a reserve of approval, as are some non-remunerated ancillary activities.

North Rhine-Westphalia:

The provisions of the Civil Servants Act of the Land North Rhine-Westphalia (L BG NRW) and the North Rhine-Westphalia Ordinance on Ancillary Activities (Nebentätigkeitsverordnung NRW) are applicable. Ancillary activities subject to approval are regulated in section 49 L BG NRW. Prior approval is accordingly necessary in the following example cases: to take on a guardianship, custodianship or execution of a will; to take on an ancillary office; to take on ancillary employment for a fee, to engage in a commercial activity, to help out in a commercial operation or to exercise a liberal profession; to take up a place on the Board, Supervisory Council, Administrative Council or other body of a corporation or enterprise operated in another legal form if the latter pursues an economic purpose, as well as to take on a trusteeship. Moreover, approval is to be refused if the ancillary activity may impair official interests. This depends on the individual case (e.g. possible influencing of impartiality or independence; excessively high burden on working capacity by the nature and the extent of the ancillary activity; possible damage to the reputation of the public administration). Additionally, the provisions of the German Judiciary Act (Deutsches Richterrechtsgesetz – DRiG) apply in some cases. In particular section 41, in accordance with which the drawing up of expert legal opinions and the giving of legal advice are not permitted, is also to be applied mutatis mutandis to public prosecutors, section 122 DRiG.

Rhineland-Palatinate:

Academic activities must be reported; other ancillary activities must be approved. Approval is only given if the performance of the office is not impaired.

Saarland:

In accordance with sections 84 et seqq. of the Saarland Civil Servants Act (Saarländisches Beamtengesetz) the performance of the ancillary activity of the public prosecutor falls under the Act on the Status of Civil Servants (Beamtenstatusgesetz – BeamStG). In accordance with section 40 BeamStG an ancillary activity must be reported as a matter of principle. It shall be placed under a reserve of approval or prohibition where it may impair official interests.

Additionally, because of federalism there are separate Civil Servants Acts of the Federal Länder which regulate the nature and the extent of permissible ancillary activities in detail.

Saxony:

Via section 3 of the Saxon Judiciary Act (SächsRiG), the provisions on ancillary activities of civil servants apply mutatis mutandis to judges. A requirement of approval may emerge from section 82 (1) of the Saxon Civil Servants Act (SächsBG) for activity as an adviser.

Saxony-Anhalt:

The right of public prosecutors to exercise an ancillary activity differs from that of judges; it is regulated by the provisions of the law on civil servants:

- Act on the Status of Civil Servants (Beamtenstatusgesetz – BeamStG)

- Civil Servants Act of the Land Saxony-Anhalt (Landesbeamtengesetz - L BG LSA) of 15 December 2009 (GVBl. LSA 2009, 648), most recently amended by Act of 6 October 2011 (GVBl. LSA pp. 680 and 683).

The ancillary activities of public prosecutors are hence not subject to an obligation to obtain approval, but must largely be reported, and are placed under a reserve of prohibition where they may impair official interests:

Section 40 BeamStG – Ancillary activity

An ancillary activity shall be subject to reporting as a matter of principle. It shall be placed under a reserve of approval or prohibition where it may impair official interests.

Section 75 LBG LSA - Ancillary activities exempt from reporting

(1) The following shall not be subject to a duty to report in accordance with section 40 sentence 1 BeamtStG.

1. ancillary activities which the civil servant is obliged to perform in accordance with section 74,
2. the administration of own assets or assets at the disposal of the civil servant,
3. activities to defend professional interests in trade unions or professional associations or in self-help facilities of civil servants, and
4. unremunerated ancillary activities, excepting:
 - a) performance of an ancillary office not falling under number 1,
 - b) taking over execution of a will or of any guardianship or custodianship other than as designated in section 73 (4),
 - c) commercial or freelance activities or working in one of these activities, or
 - d) to take up a place on the Board, Supervisory Council, Administrative Council or similar body of an enterprise, with the exception of a cooperative.

(2) The civil servant shall on request provide information on an ancillary activity carried out which is exempt from reporting, in particular on its nature and extent, as well as on the remuneration and advantages equivalent to money resulting therefrom.

Section 76 LBG LSA - Prohibition of an ancillary activity

(1) An ancillary activity shall also be prohibited after it has been taken up if it may impair official interests. An impairment to official interests shall particularly be deemed to exist if an ancillary activity

1. by its nature and extent burdens the working capacity to such a degree that the proper performance of official duties may be hindered,
2. may bring the civil servant into conflict with the official duties,
3. is exercised in a manner in which the authority to which the civil servant belongs is active or may act,
4. may influence the impartiality of the civil servant in official activities,
5. may lead to a major restriction of the future official useability, or
6. may damage the reputation of the administration.

The prerequisite of sentence 2 no. 1 applies as a rule if the time required per week to perform one or several ancillary activities exceeds one-fifth of the weekly working hours in accordance with section 63 (1) sentence 1.

(2) Literary, academic, artistic or lecturing activities, as well as freelance expert consultancy work connected with teaching or research at public universities and academic institutions by academic staff of universities may only be prohibited where a specific risk exists that the performance of these activities will breach official duties.

re advisory activities:

A remunerated advisory activity may be considered likely to influence the impartiality of the civil servant or public prosecutor in official activities, and is hence to be prohibited as a rule.

re political activities:

A remunerated political activity – as a professional politician – is also likely to influence the impartiality of the civil servant or public prosecutor in official activities, and is hence to be prohibited as a rule. There are specific rules such as on parliamentary mandates of civil servants (sections 34 et seqq. of the Lower Saxony Parliamentarians Act [AbgG LSA]) or on ministerial office (section 5 of the Lower Saxony Ministers Act [MinG LSA]).

Schleswig-Holstein:

Section 6 (1) of the Land Judiciary Act (Landesrichtergesetz) and sections 70 et seqq. of the Land Public Servants Act (Landesbeamtengesetz) in conjunction with the Ancillary Activities Ordinance (Nebentätigkeitsverordnung).

Thuringia:

No information.

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

- Yes
 No

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

5. 4. Disciplinary procedures

5. 4. 1. Disciplinary procedures

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

- Citizens
 Relevant Court or hierarchical superior
 High Court / Supreme Court
 High Judicial Council
 Disciplinary court or body
 Ombudsman

- Parliament
- Executive power
- Other
- This is not possible

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

Not including information from Mecklenburg-Western Pomerania and Thuringia

- 1) Saxon State Ministry of Justice and for Europe as the supreme authority served.
- 2) Citizens can lodge a supervisory complaint, which may lead to the initiation of disciplinary proceedings. The highest disciplinary authority – as a part of the executive – is the Ministry of Justice.
- 3) The immediately superior President, as possibly the next higher superior authority the President of the Higher Court and the Ministry of Justice, can initiate disciplinary proceedings against judges.
- 4) The higher (President of the Higher Regional Court) or the supreme authority served (Hesse Ministry of Justice, Integration and Europe) may take over the disciplinary proceedings at any time.
- 5) The competent disciplinary authority for the initiation of disciplinary proceedings against judges at the finance court is the Bavarian Tax Office in accordance with section 4 of the Ordinance on Jurisdictions to Implement the Disciplinary Act and to Represent the Free State of Bavaria in Disciplinary Matters (Verordnung über die Zuständigkeiten zur Durchführung des Bayerischen Disziplinalgesetzes und zur Vertretung des Freistaates Bayern in Disziplinarsachen). In exceptional cases, in accordance with Art. 67 para. 1 of the Bavarian Judiciary Act in conjunction with Art. 2 of the Bavarian Disciplinary Act, it is possible that a judge applies for the initiation of disciplinary proceedings against him/herself in order to eliminate the suspicion of an official misdemeanour.
- 6) The prosecution office at the Bavarian Administrative Courts is the disciplinary authority (section 2 of the Ordinance on Jurisdictions to Implement the Disciplinary Act and to Represent the Free State of Bavaria in Disciplinary Matters). "Other": the person concerned may also initiate disciplinary proceedings against themselves.
- 7) Judicial service court (cf. sections 40 et seqq. of the Bremen Judiciary Act [BremRiG]).
- 8) Ministry of Justice as the highest official authority.

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:

Not including information from Mecklenburg-Western Pomerania and Thuringia.

- 1) The head of the immediate superior authority, and, as possibly the next highest superior authority, the public prosecutor general and the Ministry of Justice may initiate disciplinary proceedings against public prosecutors.
- 2) Citizens can lodge a supervisory complaint, which may lead to the initiation of disciplinary proceedings. The highest disciplinary authority – as a part of the executive – is the Ministry of Justice.
- 3) Saxon State Ministry of Justice and for Europe as the supreme authority served.
- 4) Ministry of Justice as the highest disciplinary authority.
- 5) The higher (public prosecutor general) or the supreme authority served may take over the disciplinary proceedings at any time.

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:

Not including information from Mecklenburg-Western Pomerania and Thuringia.

- 1) The bodies empowered to initiate disciplinary proceedings (see above) can impose a reprimand by means of a disciplinary order. All further disciplinary measures (including fines, reduction of remuneration, demotion, removal from judicial office) first and foremost require the lodging of a disciplinary action by the Ministry of Justice, on which the judicial service courts then rule.
- 2) The highest disciplinary authority – as a part of the executive – is the Ministry of Justice.
- 3) Saxon State Ministry of Justice and for Europe as the supreme authority served (only imposition of a reprimand possible).
- 4) Ministry of Justice as the highest disciplinary authority.
- 5) The court is a service court within the meaning of section 77 of the German Judiciary Act (DRiG), Art. 67 (1) of the Bavarian Judiciary Act (BayRiG) and Art. 42 et seqq. of the Bavarian Disciplinary Act (BayDG) as a part of the administrative jurisdiction
- 6) superior authority
- 7) reprimand: superior authority, section 60 (3) in conjunction with section 37 (2) of the Hesse Disciplinary Act (HDG); other disciplinary measures: The supreme supervisory authority for administrative matters decides on lodging a disciplinary action, section 60 (4) of the Hesse Judiciary Act (HRiG), the service court rules on the action and on the measures to be imposed, section 50 No. 1 of the Hesse Judiciary Act.
- 8) judicial service court (cf. sections 40 et seqq. of the Bremen Judiciary Act [BremRiG]).

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:

Not including information from Mecklenburg-Western Pomerania and Thuringia.

- 1) Disciplinary power lies partly with the bodies also empowered to initiate disciplinary proceedings (including reprimand, fines, reduction in salary [only by the Ministry of Justice], in some cases – after the disciplinary action has been lodged by the Ministry of Justice – in the judicial service courts (including demotion, removal from the civil service).
- 2) The highest disciplinary authority – as a part of the executive – is the Ministry of Justice.
- 3) Saxon State Ministry of Justice and for Europe as the highest official authority (only imposition of a reprimand possible).
- 4) Ministry of Justice as the highest disciplinary authority.
- 5) Reprimand and fines: superior authority (head of the public prosecution office), section 37 of the Hesse Disciplinary Act (HDG); reduction in salary: supreme authority served (Ministry of Justice) or public prosecutor general, section 37 (3) and (5) HDG; demotion, removal from the civil service: disciplinary action by public prosecutor general, section 38 (1) and (2) HDG; decision on the measure taken by the service court for judges, section 76 (1) of the Hesse Judiciary Act (HRiG).

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)	17	3
1. Breach of professional ethics	1	2
2. Professional inadequacy	10	0
3. Criminal offence	4	1
4. Other	0	0

Comment :

Not including information from Mecklenburg-Western Pomerania and Thuringia. Brandenburg: information only for Qs 1 and 2 of 2010.

Data provided by: BW, BY, BB, RP (NA stated by: BE, HB, HH, HE, NI, NW, SL, SN, ST, SH; BB have not broken down the total and have stated NA on items 1 to 4).

145) Number of sanctions pronounced in 2012 against judges and public prosecutors. If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP.

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

	Judges	Public prosecutors
Total number (total 1 to 9)	10	3
1. Reprimand	8	2
2. Suspension	0	0
3. Removal of cases	0	1
4. Fine	0	0
5. Temporary reduction of salary	1	0
6. Position downgrade	0	0
7. Transfer to another geographical (court) location	0	0
8. Resignation	0	0
9. Other	1	0

Comment :

Not including information from Mecklenburg-Western Pomerania and Thuringia.

Data provided by: BW, BY, RP (NA stated by: BE, BB, HB, HE, NI, NW, SL, SN, ST, SH; HH have stated NA on items 1 to 6 and stated NAP on items 7 to 8).

Baden-Württemberg:

re item 9 (Other): Baden-Württemberg Land law provides for deprivation of pension as a sanction against judges who are already retired. This is the most serious sanction imposable on retired judges; it corresponds to the removal from service of judges who are still in active service. This sanction was imposed once in 2010.

Re Questions 144 and 145: The imbalance between the number of sets of proceedings initiated in 2010 (Question 144) and the proceedings completed in the same year (Question 145) is explained from the fact that the disciplinary proceedings recorded were not completed in the year in which they were initiated.

Lower Saxony:

Disciplinary proceedings are subject to short-term deletion; no authoritative data are available

E.3 You can indicate below:

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

Baden-Württemberg:

re Questions 140 to 143: In Baden-Württemberg disciplinary proceedings against judges and public prosecutors may

be initiated by their superior authorities. These are as a rule the president of the court or public prosecution office to which the judge or the public prosecutor belongs, furthermore the presidents of the Higher Courts and the offices of the public prosecutor general, as well as, finally, the Ministry of Justice as the supreme authority served. These "disciplinary authorities" can issue a reprimand. They only have disciplinary powers in this sense. Serious disciplinary measures can only be imposed by the service court for judges ruling independently, which in this respect has jurisdiction for disciplinary proceedings against judges and public prosecutors.

Bavaria (administrative courts):

There is no separate judicial service court for the administrative courts, but a general one.

North Rhine-Westphalia:

No information is available.

Saxony-Anhalt:

Depending on the judge/public prosecutor concerned, the power of initiation lies with the authority employing the person concerned.

The term "disciplinary power" is understood in this context as the power to take decisions on the imposition of a sanction and the nature of the sanction to be imposed. Depending on the sanction intended to be imposed, this lies with the respective higher Regional Court (in the case of judges), with the office of the public prosecutor general (in the case of public prosecutors) or with the administrative court as the disciplinary court for the imposition of specific sanctions.

No statistics are kept as to the number of sets of disciplinary proceedings initiated and the sanctions imposed, so that no information can be provided on this matter.

Please indicate the sources for answering questions 144 and 145

Baden-Württemberg:

Internal statistics of the Ministry of Justice of Baden-Württemberg

Lower Saxony:

Lower Saxony Disciplinary Act, Lower Saxony Judiciary Act

Rhineland-Palatinate:

Higher Regional Courts and offices of the public prosecutors general

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.

160,880 (as of 01.01.2013)

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

- Yes
 No

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

NA

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

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

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

Civil cases:

Representation by a lawyer is not obligatory before the Local Courts. The parties may either pursue the process themselves there, or may be represented by a lawyer or by one of the agents named in section 79 (2) sentence 2 nos. 1 to 4 of the Code of Civil Procedure (ZPO). Agents can hence be persons employed by the party, adult family members, consumer advice centres and publicly-recognised consumer associations, as well as collection services.

Criminal cases

Accused persons

Lawyers and law lecturers at German universities within the meaning of the Framework Act for Higher Education (Hochschulrahmengesetz) with qualification for judicial office can be selected as defence counsel.

Other individuals may only be selected with the approval of the court. If the person selected in the case of necessary defence is not one of the persons who may be appointed as defence counsel, they may also only be admitted as optional defence counsel together with a party who may be admitted.

Aggrieved persons

The provisions on the group of individuals to be selected as defence counsel apply mutatis mutandis to counsel of the private accessory prosecutor.

Administrative cases:

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

Different arrangements apply before social courts and finance courts.

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 :

There is no special training for lawyers. Lawyers have the same training as the other classical legal professions of judge and public prosecutor (section 4 of the Federal Regulations for Practising Lawyers (Bundesrechtsanwaltsordnung, BRAO): qualification for judicial office in accordance with section 5 of the German Judiciary Act). Qualification for judicial office is acquired by anyone who completes law studies at a university (at least four years) with the First Examination and a subsequent preparatory service (two years) with the second State Examination (sections 5, 5a and 5b of the German Judiciary Act). University and preparatory service training encompasses the requirements of the profession of lawyer.

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:

Lawyers who have acquired special knowledge and experience in a field of law may be empowered to use a specialist lawyer's designation (section 43c of the Federal Regulations for Practising Lawyers [Bundesrechtsanwaltsordnung – BRAO]). The Bar decides on the application after they have examined the documentation which the lawyer must present. There are currently 20 different specialist lawyer's designations. The total number of specialist lawyer's titles was 46,723 on 1 January 2013, although it should be taken into account that a lawyer may acquire up to three specialist lawyer's designations. Anyone who is a specialist lawyer must prove to the Bar on an annual basis that they have attended at least ten hours of further training events; otherwise the specialist lawyer's designation can be withdrawn.

Even lawyers who have not acquired a specialist lawyer's designation can specialise and indicate this in their advertising (cf. section 7 of the Professional Code for Practising Lawyers [Berufsordnung der Rechtsanwälte]).

Please indicate the sources for answering questions 146 and 148:

source re Question 146: <http://www.brak.de/fuer-journalisten/zahlen-zur-anwaltschaft>

F1 Comments for interpreting the data mentioned in this chapter:

Re question 147: All lawyers in Germany are empowered to plead before court. No distinction is made between different groups of lawyers in Germany, such as between solicitors and barristers. The number of 160,880 lawyers stated re Question 146 does not include employee legal advisers. These are those lawyers who in addition to the profession of lawyer are active as a lawyer in a secondary profession with a non-legal employer (cf. section 46 of the Federal Regulations for Practising Lawyers [Bundesrechtsanwaltsordnung – BRAO]). In addition to lawyers, certain other individuals may also appear in court as "legal advisers" (cf. on this answer to Question 149); there are no statistical data on these individuals. Re question 150: Each lawyer is a member of a Bar. There are 28 Bars at the level of the Higher Regional Courts, as well as a Bar at the Federal Court of Justice. This total of 29 Bars form the Federal Bar. Re question 152: Each lawyer is obliged to undergo further training (section 43a (6) of the Federal Regulations for Practising Lawyers [Bundesrechtsanwaltsordnung – BRAO]). For specialist lawyers, moreover, strict requirements apply, cf. answer to Question 153.

6. 2. Practising the profession

6. 2. 1. Practising the profession

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

Yes

No

155) Are lawyers' fees freely negotiated?

- Yes
 No

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

- Yes laws provide rules
 Yes standards of the bar association provide rules
 No, neither laws nor bar association standards provide rules

F2 Useful comments for interpreting the data mentioned in this chapter:

Re question 154:

The amount of the fees of a lawyer is fundamentally defined in the Lawyers' Remuneration Act (Rechtsanwaltsvergütungsgesetz – RVG), and, in line with section 2 of the Lawyers' Remuneration Act, is dependent on the value of the subject of the professional activity (value fee system). The fee regulations in the Lawyers' Remuneration Act thus enable those involved in court proceedings to calculate in advance the legal costs likely to be incurred. Moreover, the lawyer is obliged to inform clients if the fees are in line with the value of the subject-matter prior to accepting the mandate (section 49b (5) of the Federal Regulations for Practising Lawyers [Bundesrechtsanwaltsordnung – BRAO]).

Re question 155:

Lawyers' statutory remuneration can be dispensed with under certain conditions by the lawyer's fee also being freely agreed, such as in the shape of a time fee measured by hours (section 3a of the Lawyers' Remuneration Act [Rechtsanwaltsvergütungsgesetz - RVG]). However, it is not permitted to agree on a remuneration in court proceedings that is lower than the statutory fee (section 4 RVG) In accordance with German law, the agreement of a success-only fee is only possible subject to strict preconditions (section 4a RVG). For the provision of oral or written advice, for drafting a written expert opinion and for work as a mediator the lawyer should, as a matter of principle, try to reach agreement of a fee (section 34 RVG).

Re question 156:

In accordance with the statutory provisions contained in the Federal Regulations for Practising Lawyers (Bundesrechtsanwaltsordnung - BRAO), as a matter of principle a lower fee than that provided for in accordance with the Lawyers' Remuneration Act may only be agreed if the Lawyers' Remuneration Act specifically permits this. Equally, agreements by means of which a remuneration or its amount depends on the outcome of the case or on the success of the lawyer's actions or agreements in accordance with which the lawyer receives a part of the amount obtained as a fee (success-based fee) are only permissible to the extent stipulated in the Lawyers' Remuneration Act (section 49b BRAO)

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?

Fundamental professional obligations are regulated by the Federal Regulations for Practising Lawyers [Bundesrechtsanwaltsordnung – BRAO], which is a state statute. Supplementary regulations are contained in the Professional Code for Practising Lawyers [Berufsordnung der Rechtsanwälte], which is issued on a statutory basis (sections 59b and 191a-e BRAO) by the Statutory Assembly at the Federal Bar as a binding set of regulations. One should also point to the strictly-defined liability law for lawyers, as well as to the possibility to have the quality management of the office organisation certified in accordance with ISO 9001, which is also taken up by law firms.

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

- the bar association?
 the Parliament?
 other?

If "other", please specify:

cf. information re Question 157.

159) Is it possible to file a complaint about :

- the performance of lawyers?
 the amount of fees?

Please specify:

It is possible to lodge both civil actions and complaints with the Bar, whose job it is to supervise lawyers' compliance with professional obligations. If certain professional duties are violated, criminal prosecution can also be considered, for instance in case of breaches of lawyers' obligation of confidentiality (section 203 of the Criminal Code [StGB] violation of private secrets) or in case of demanding excessive fees (section 352 of the Criminal Code); those concerned can then prefer a criminal charge.

160) Which authority is responsible for disciplinary procedures?

- the judge
 the Ministry of justice
 a professional authority
 other

If other, please specify:

Breaches of professional duty are sanctioned by lawyers' courts in the proceedings before the lawyers' court. The initiation of the proceedings is the job of the public prosecution office (sections 113 et seqq. of the Federal Regulations for Practising Lawyers [Bundesrechtsanwaltsordnung – BRAO]).

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

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

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

Comment :

162) Sanctions pronounced against lawyers.

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

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

Comment :

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

7. Alternative Dispute Resolution

7. 1. Mediation and other forms of ADR

7. 1. 1. Mediation and other forms of ADR

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

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

- Yes
- No

163.1) In some fields, does the judicial system provide for mandatory mediation procedures?

If there are mandatory mediation procedures, please specify which fields are concerned in the "comment" box below.

- Before going to court
- Ordered by a judge in the course of a judicial proceeding

If there are mandatory mediation procedures, please specify which fields are concerned:

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

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

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

- Yes
- No

If yes, please specify:

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

NAP

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)	NAP
1. civil cases	NAP
2. family cases	NAP
3. administrative cases	NAP
4. employment dismissals cases	NAP
5. criminal cases	NAP

Comment :

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

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

Mediation other than judicial mediation?	Yes
Arbitration?	Yes
Conciliation?	Yes
Other alternative dispute resolution?	Yes

Comment :

All forms of out-of court conflict resolution are possible as a matter of principle.

Arbitrational jurisdiction; arbitrational conflict resolution is possible in civil and commercial cases and also in family cases; provisions on arbitrational jurisdiction can be found in sections 1025 et seqq. of the Code of Civil Procedure.

G.1 You can indicate below:

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

re Question 164: In criminal matters, there is the possibility of conducting victim-offender reconciliation. This is regulated in sections 155a and 155b of the Code of Criminal Procedure and in section 46a of the Criminal Code as well as in section 10 (1) no. 7 and section 45 (3) of the Youth Courts Act. Victim-offender reconciliation can take place, inter alia, in the form of mediation.

re Question 167: Federal statistics are available only for intra-court mediation. Intra-court mediation was implemented in 2012 in civil, family, administrative, labour, social and finance courts. Judges working in intra-court mediation are however not entitled to hand down rulings, unlike the notes on Question 163. The federal statistics however do not record any cases in which the parties are referred to an out-of-court mediator.

Arbitrational conflict resolution in civil and commercial cases has considerably increased in recent years in terms of their number and of the values at dispute recorded. This kind of alternative conflict resolution is still rare in family cases, and is only selected for special reasons.

Please indicate the source for answering question 166:

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

5,596.45

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:

The enforcement agents are a public facility, namely bailiffs who are tied to the judicial administration of the Länder.

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

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

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

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

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

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:

Source: Federal Office of Justice, staffing overviews of ordinary courts and the public prosecution offices 2012 (counted in full-time positions, not in the number of individuals filling those positions).

Note: The number of enforcement agents includes the number of court bailiffs, prison officers and the number of senior judicial officers working in coercive execution at the local courts.

8. 1. 2. Efficiency of enforcement services

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

- Yes
 No

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:

The bailiffs are subject to the administrative supervision of the Presidents and the Directors of the Local Courts. They are examined, both announced and unannounced, by the superior authorities or examination officials of the Land administrations of justice who are appointed to do so.

Senior judicial officers are also subject to the administrative supervision of the Presidents and Directors of the Local Courts. Senior judicial officers, however, enjoy professional independence and are bound only by law and order (section 9 of the Act on Senior Judicial Officers [Rechtspflegengesetz – RPfIG]. Review of their decisions is ensured by the appeals process. Reference is made to the answer re Question 171 for more details.

179) Have quality standards been determined for enforcement agents?

- Yes
 No

If yes, what are the quality criteria used?

To guarantee uniform enforcement, national uniform provisions of the Länder were created for the bailiff system in the shape of the Bailiffs Code (Gerichtsvollzieherordnung – GVO) and the Procedural Instructions for Bailiffs (Geschäftsanweisung für Gerichtsvollzieher – GVGA), which in each case are supplemented by arrangements specific to the Länder. Both sets of regulations contain clear instructions to the enforcement agents regarding the structure of the employment relationship, competence arrangements, dealing with enforcement requests, performing business operations, files, accounting and cash management, statistics to be kept (Bailiffs Code) and explicit provisions on the service activities which are incumbent on the bailiffs and the procedures they have to comply with (Procedural Instructions for Bailiffs).

In particular, the Procedural Instructions for Bailiffs contain regulations which serve to standardise the procedure and quality assurance.

Senior judicial officers enjoy professional independence are bound only by law and Order (section 9 of the Act on Senior Judicial Officers [Rechtspflegengesetz – RPfG]). Review of their decisions is ensured by the appeals process, cf. answer to Question 171.

In general terms, the Federal Ministry of Justice is the lead authority for the assurance of the quality standards relating to provisions of federal law. Land-specific provisions fall in the competence of the Land administrations of justice.

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:

cf. answer to Question 179

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

In accordance with section 882a the Code of Civil Procedure, unless rights in rem are being pursued, compulsory enforcement for a monetary claim against the Federation or against a Land may commence only four weeks following the time at which the creditor has given notice, to the public authority authorised to represent the debtor, of his/her intention to pursue compulsory enforcement and, to the extent such compulsory enforcement is to be effected against assets managed by another public authority, to the responsible Minister of Finance. Upon this being demanded, the receipt of the notice is to be confirmed to the creditor. Insofar as compulsory enforcement is to be implemented by the court-appointed enforcement officer in such cases, the enforcement officer is to be determined, upon the creditor filing a corresponding petition, by the court responsible for execution.

Compulsory enforcement is not permissible with regard to matters which are indispensable for the performance of public tasks of the debtor or where their sale is not in the public interest. Whether the prerequisites of sentence 1 apply is to be decided in accordance with section 766 of the Code of Civil Procedure in the event of a dispute. The competent Minister is to be heard before the decision is taken.

These provisions are to be applied to compulsory enforcement against corporations, institutions and foundations under public law on condition that the statutory representatives take the place of the authority. The above restrictions do not apply to public-law banks and credit agencies.

The announcement of compulsory enforcement and compliance with a waiting period in accordance with the procedure described is not needed when it comes to the enforcement of an injunction.

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

- Yes
 No

If yes, please specify

There is a system for monitoring the activity. Creditors, debtors and third-party debtors have the procedural appeals at their disposal.

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:

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

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

- Yes
 No

If yes, please specify:

No need for change is considered to exist as to the enforcement of court decisions against authorities. The keeping and administration of the register of debtors, as well as of the property registers, has been newly regulated by the Act to Reform the Clarification of Facts in Compulsory Enforcement (Gesetz zur Reform der Sachaufklärung in der Zwangsvollstreckung) of 29 July 2009 (Federal Law Gazette Part I, p. 2258). This mandates the Länder to appoint one Local Court each as a central enforcement court for the administration of the property registers (section 802k (3) of the Code of Civil Procedure) and the keeping of the registry of debtors (section 882h (2) of the Code of Civil Procedure) by a legal ordinance of the Land Government. Furthermore, the Act provides bailiffs with expanded powers to ascertain the whereabouts of the debtor, as well as rights to information for the bailiffs in the submission of information on assets. The amendments will come into force as per 1 January 2013.

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

- for civil cases?
 for administrative cases?

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

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

If more, please specify

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

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

Total number of initiated disciplinary proceedings (1+2+3+4)	NA
1. for breach of professional ethics	NA
2. for professional inadequacy	NA
3. for criminal offence	NA
4. Other	NA

Comment :

188) Number of sanctions pronounced against enforcement agents.

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

Total number of sanctions (1+2+3+4+5)	NA
1. Reprimand	NA
2. Suspension	NA
3. Dismissal	NA
4. Fine	NA
5. Other	NA

Comment :

H.1 You can indicate below:

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

Re question 170: of which senior judicial officers 1,097,70

Major reform of the enforcement of rulings in civil cases:

Act to Reform the Clarification of Facts in Compulsory Enforcement (Gesetz zur Reform der Sachaufklärung in der Zwangsvollstreckung) of 29 July 2009 (Federal Law Gazette Part I, p. 2258), entered into force on 01.01.2013

- cf. answer to Question 184.

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

No statistical material is available. This is an estimate.

8. 2. Execution of decisions in criminal matters

8. 2. 1. Functioning

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

- Judge
- Public prosecutor
- Prison and Probation Services
- Other authority

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

In adult criminal cases and cases involving young adults sentenced in accordance with general criminal law the penalty is enforced by the public prosecution office as the enforcement authority. In criminal proceedings against juveniles, and against young adults where juvenile criminal law is applied to them, the enforcement of the penalty is incumbent on the youth court judges as the enforcement officer (section 82 (1), first sentence, and section 110 of the Youth Courts Act [Jugendgerichtsgesetz – JGG]); cf. at Question 105 with regard to the age limits relevant for juveniles and young adults.

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

- Yes
 No

191) If yes, what is the recovery rate?

- 80-100%
 50-79%
 less than 50%
 cannot be estimated

Please indicate the source for answering this question:

H.2 You can indicate below:

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

9. Notaries

9. 1. Statute

9. 1. 1. Functioning

192) Do you have notaries in your country? If no please skip to question 197.

- Yes
 No

193) Are notaries:

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

- | | | |
|--|--|-------|
| private professionals (without control from public authorities)? | <input type="checkbox"/> number | |
| private professionals under the authority (control) of public authorities? | <input type="checkbox"/> number | |
| public agents? | <input checked="" type="checkbox"/> number | 7 560 |
| other? | <input type="checkbox"/> number | |

Comment :

number of notaries on 01/01/2013 (source: <http://www.bnotk.de/Notar/Statistik/index.php>).

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:

The duties of a notary are set out in section 20 of the Federal Regulations for Notaries (Bundesnotarordnung – BNotO), which is a state statute, namely to carry out authentication of all kinds, as well as to certify signatures, initials and duplicates. With authentication, which in particular are provided for real estate transactions and certain legal transactions under company law, the authentication is inseparably connected with impartial legal advice for the parties by the authenticating notary.

Further, notaries also carry out other tasks in the field of preventive administration of justice, cf. sections 20-24 of the Federal Regulations for Notaries; e.g. in accordance with section 21 (1) of the Federal Regulations for Notaries they issue certificates of power to represent vis-à-vis a public register and mediate in certain legal matters.

9. 1. 2. Supervision

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

- Yes
 No

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

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

If other, please specify:

The supervision of notaries is carried out by the Land administrations of justice and the court presidents of the Higher Regional Courts and the Regional Courts which report to them.

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 requirement of German nationality as a precondition for appointment as a notary (section 5 BNotO) was abolished at the end of 2011 as a result of ECJ judgment 22 May 2011, C-54/08.

Please indicate the sources for answering question 193:

10. Court interpreters

10. 1. Court interpreters

10. 1. 1. Functioning

197) Is the title of court interpreters protected?

Yes

No

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

Yes

No

199) Number of accredited or registered court interpreters:

11,084

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:

Re question 199: information according to survey www.justiz-dolmetscher.de as to interpreters whose swearing/authorisation/appointment took place (version 22 December 2011).

Please indicate the sources for answering question 199:

www.justiz-dolmetscher.de

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:

In accordance with section 411 (1) of the Code of Civil Procedure, the court sets the experts a deadline within which the written opinion signed by him/her is to be transmitted to the court.

207) Are the courts responsible for selecting judicial experts?

If no, please specify in the "comments" box below which authority selects judicial experts?

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

Comment :

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

Please indicate the sources for answering question 205:

12. Foreseen reforms

12. 1. Foreseen reforms

12. 1. 1. Foreseen reforms

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

1. (Comprehensive) reform plans

2. Budget

3. Courts and public prosecution services (e.g. powers and organisation, structural changes - e.g. reduction of the number of courts -, management and working methods, information technologies, backlogs and efficiency, court fees, renovations and construction of new buildings)

3.1 Access to justice and legal aid

4. High Judicial Council

5. Legal professionals (judges, public prosecutors, lawyers, notaries, enforcement agents, etc.): organisation, education, etc.

6. Reforms regarding civil, criminal and administrative laws, international conventions and cooperation activities

6.1 Personal status

7. Enforcement of court decisions

8. Mediation and other ADR

9. Fight against crim

3. "Discussion of combining the specialist jurisdictions that are governed by public law", "discussion of strengthening electronic legal transactions with the courts"