

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



Malta

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

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

### **Objective :**

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

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

### **Instruction :**

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

- User manual
- Explanatory note

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

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

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## **1.General information**

### **1.1.Demographic and economic data**

#### **1.1.1.Inhabitants and economic general information**



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

[ 440433 ]

Comments

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

	Amount
State or federal level	3770239000 <input type="checkbox"/> NA <input type="checkbox"/> NAP
Regional / federal entity level (total for all regions / federal entities)	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP

Comments The expenditure quoted at state or federal level is the actual national expenditure of Malta for 2016.

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

[ 22664 ]

Comments

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

[ 17261 ]

NA

Comments

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

[            ]

Allow decimals : 5

NAP

Comments

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

Sources: The above data has been provided by the National Statistics Office.

**1.1.2. Budgetary data concerning judicial system**



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

Approved budget (in €)	Implemented budget (in €)
------------------------	---------------------------

<b>TOTAL - Annual public budget allocated to the functioning of all courts (1 + 2 + 3 + 4 + 5 + 6 + 7)</b>	13870800 [ ] NA [ ] NAP	13821899 [ ] NA [ ] NAP
<b>1. Annual public budget allocated to (gross) salaries</b>	10650000 [ ] NA [ ] NAP	10098533 [ ] NA [ ] NAP
<b>2. Annual public budget allocated to computerisation (equipment, investments, maintenance)</b>	32700 [ ] NA [ ] NAP	41804 [ ] NA [ ] NAP
<b>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.</b>	1112000 [ ] NA [ ] NAP	1256171 [ ] NA [ ] NAP
<b>4. Annual public budget allocated to court buildings (maintenance, operating costs)</b>	1661000 [ ] NA [ ] NAP	1663909 [ ] NA [ ] NAP
<b>5. Annual public budget allocated to investments in new (court) buildings</b>	[ ] NA [ X ] NAP	275122 [ ] NA [ ] NAP
<b>6. Annual public budget allocated to training</b>	1000 [ ] NA [ ] NAP	749 [ ] NA [ ] NAP
<b>7. Other (please specify)</b>	414100 [ ] NA [ ] NAP	485611 [ ] NA [ ] NAP

Comments - Please indicate any useful comment to explain the figures provided. If the annual public budget allocated to the functioning of all courts actually implemented is different from the approved annual public budget allocated to the functioning of all courts, please indicate the main differences: The expenditure under Sub-section 7 refers to Payment to Criminal Court Jurors and expenses related to their accommodation and transport, payments to transcribers of the civil and criminal courts, payment of overtime to judicial teams, remuneration to mediators in the Family Court, payment to Child Advocates, payments to architects under the reletting of urban property and agricultural leases, and payments related to the Small Claims Tribunal. Regarding "4. Annual public budget allocated to court buildings (maintenance, operating costs)": Prior to the 2014 budget, a financial request was lodged in respect of a major project that involved the renovation of the Sir Thomas Moore building. Hence, the 2014 budget had a dedicated line item for new court buildings. The 2015 and 2016 budgets showed only an implemented budget because no pre-programmed expense was being forecasted at the time of the budget planning. Hence the implemented budget relates to new court building requirements that emerged during the year in question (hence implemented not forecasted) and that required an injection of additional funds specifically for that purpose.

The variations regarding the "annual public budget allocated to justice expenses" might be related to a possible increase in the number of court experts and translators.

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

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

<b>Total annual public budget allocated to all courts, public prosecution services and legal aid together</b>	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP
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Comments: The budget of the court administration is separate from that of the Public Prosecution Services and from that of Legal Aid.

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

	<b>Litigants required to pay a court tax or fee to start a proceeding at a court of general jurisdiction ?</b>
<b>for criminal cases</b>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<b>for other than criminal cases</b>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

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

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

- The Code of Organisation and Civil Procedure (Chp 12 of the Laws of Malta) regulates all court fees and taxes, such as Registry fees and Lawyer's fees, that can arise in the course of any civil procedure. The updated tariffs are set out in Schedules A to K of the COCP.

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

[ 54 ]  
 NA  
 NAP

Comments The correct amount of court fees to be paid for 3000€ debt recovery is €54.40. The amount of E200 quoted in 2014 was based on the tariffs at the time. In 2015, the court tariffs changed, and hence the 2015 and 2016 data (which are the same) reflect the new tariffs following the legal amendment (Tariffs are annexed to the COCP).

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

[ 6904081 ]  
 NA  
 NAP

Comments

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

	<b>TOTAL</b>	<b>Criminal cases</b>	<b>Other than criminal cases</b>
<b>TOTAL - Annual approved public budget allocated to legal aid (12.1 + 12.2)</b>	100000 <input type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP

12.1 for cases brought to court	100000 <input type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP
12.2 for non-litigious cases or cases not brought to court (legal consultation, ADR, etc.)	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP

Comments The Legal Aid budget does not differentiate between the services offered for criminal cases or the services offered for non-criminal cases. However Legal Aid in Malta is offered mainly for litigation purposes, and not for consultation, and hence the NAP response to question 12.2. 2016 was the first year in which the legal Aid Agency had a budget of its' own. The actual financial requirements needed to run the Agency.

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

	TOTAL	Criminal cases	Other than criminal cases
TOTAL - Annual implemented public budget allocated to legal aid (12-1.1 + 12-1.2)	161662 <input type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP
12-1.1 for cases brought to court	161662 <input type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP
12-1.2 for non-litigious cases or cases not brought to court (legal consultation, ADR, etc.)	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP

Comments - If the public budget actually implemented regarding legal aid is different from the annual approved public budget allocated to legal aid, please indicate the main differences: The difference between the approved budget and the implemented budget for the Legal Aid Agency results from additional funds requested in 2016 in order to cover the increase in the honoraria of the lawyers and legal procurators offering their services to the Agency (also see answer to Q208)

It is possible that there will be an additional increase in the budget in the forthcoming evaluations.

It is not possible to differentiate between the budget allocated to criminal and 'other than criminal cases' and that is why it is marked as NAP (There are no means to distinguish between the two).

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

	Approved budget (in €)	Implemented budget (in €)
Total annual public budget allocated to the public prosecution services, in €	2200000 <input type="checkbox"/> NA <input type="checkbox"/> NAP	2340000 <input type="checkbox"/> NA <input type="checkbox"/> NAP

Please indicate any useful comment to explain the figures provided. Moreover, if the annual public budget allocated to the public prosecution services actually implemented is different from the approved annual public budget allocated to the public prosecution services, please indicate the main differences:

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

Preparation of the total court budget	Adoption/approval of the total court budget	Management and allocation of the budget among the courts	Evaluation of the use of the budget at a national level

<b>Ministry of Justice</b>	( X ) Yes ( ) No [ ] NAP	( X ) Yes ( ) No [ ] NAP	( X ) Yes ( ) No [ ] NAP	( ) Yes ( X ) No [ ] NAP
<b>Other ministry</b>	( X ) Yes ( ) No [ ] NAP	( X ) Yes ( ) No [ ] NAP	( ) Yes ( X ) No [ ] NAP	( X ) Yes ( ) No [ ] NAP
<b>Parliament</b>	( ) Yes ( X ) No [ ] NAP	( X ) Yes ( ) No [ ] NAP	( ) Yes ( X ) No [ ] NAP	( ) Yes ( X ) No [ ] NAP
<b>Supreme Court</b>	( ) Yes ( X ) No [ ] NAP	( ) Yes ( X ) No [ ] NAP	( ) Yes ( X ) No [ ] NAP	( ) Yes ( X ) No [ ] NAP
<b>High Judicial Council</b>	( ) Yes ( X ) No [ ] NAP	( ) Yes ( X ) No [ ] NAP	( ) Yes ( X ) No [ ] NAP	( ) Yes ( X ) No [ ] NAP
<b>Courts</b>	( X ) Yes ( ) No [ ] NAP	( ) Yes ( X ) No [ ] NAP	( X ) Yes ( ) No [ ] NAP	( ) Yes ( X ) No [ ] NAP
<b>Inspection body</b>	( ) Yes ( X ) No [ ] NAP	( ) Yes ( X ) No [ ] NAP	( ) Yes ( X ) No [ ] NAP	( X ) Yes ( ) No [ ] NAP
<b>Other</b>	( ) Yes ( X ) No [ ] NAP	( ) Yes ( X ) No [ ] NAP	( ) Yes ( X ) No [ ] NAP	( ) Yes ( X ) No [ ] NAP

Comments - If any other Ministry and/or inspection body and/or other, please specify: 'Other Ministry' is taken to construe the Ministry for Finance

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

Sources: The answers to the above questions were discussed and verified with the Court Administration, the Legal Aid Agency, the Directorate of Corporate Services and the Office of the Attorney General.

### 1.1.3. Budgetary data concerning the whole justice system

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

	Approved budget (in €)	Implemented budget (in €)
<b>Total annual public budget allocated to the whole justice system in €</b>	107856200 [ ] NA [ ] NAP	[ X ] NA [ ] NAP

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

main differences:

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

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

Comments:

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

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

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

Comments - If "other", please specify: - the Malta Arbitration Centre (MAC)

- the Malta Mediation Centre
- the Commission against Corruption
- the Law Commissioner
- the Justice Reform Commission

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

Sources: The budgetary estimates have been drawn from the official Government's Financial Estimates, found at [www.fin.gov.mt](http://www.fin.gov.mt);

## 2. Access to justice and all courts

### 2.1. Legal Aid

#### 2.1.1. Scope of legal aid

016. Does legal aid apply to:

<b>Criminal cases</b>	<b>Other than criminal cases</b>
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<b>Representation in court</b>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NA <input type="checkbox"/> NAP
<b>Legal advice</b>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> NA <input type="checkbox"/> NAP

Comments

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

Yes

No

Comments - If yes, please specify: Litigants benefitting from Legal Aid are exempt from Court Fees.

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

Yes

No

Comments - If yes, please specify: Eligible candidates can enforce foreign judgements in Malta through legal aid as long as the procedure is carried out through court representation.

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

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

Comments - If yes, please specify:

**2.1.2. Quantitative information on legal aid**

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

	<b>Cases brought to court</b>	<b>Cases not brought to court / non-litigious cases</b>
<b>TOTAL</b>	926 <input type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP
<b>In criminal cases</b>	588 <input type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP
<b>In other than criminal cases</b>	338 <input type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP

Comments - Please specify when appropriate: The above data reflects the number of requests (nominations) made for legal aid in both the civil and criminal fields. These figures do not necessarily reflect the number of cases in which legal aid was granted.

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

	Assisted by a free of charge lawyer
Accused individuals	( X ) Yes ( ) No
Victims	( X ) Yes ( ) No

Comments - If yes, please specify: In Malta, all accused persons, as well as victims of crime falling under the category as stipulated by law, can benefit from free legal aid services.

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

( ) Yes

( X ) No

Comments Once eligibility for legal aid is established, the lawyers are assigned according to roster.

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

	Annual income value (for one person), (in €)	Annual assets value (for one person), (in €)
Full legal aid for criminal cases	[ ] NA [ X ] NAP	[ ] NA [ X ] NAP
Full legal aid for other than criminal cases	8736 [ ] NA [ ] NAP	6988 [ ] NA [ ] NAP
Partial legal aid for criminal cases	[ ] NA [ X ] NAP	[ ] NA [ X ] NAP
Partial legal aid for other than criminal cases	[ ] NA [ X ] NAP	[ ] NA [ X ] NAP

Comments - If yes, please indicate if any other criteria are taken into account for the granting of legal aid and any comment that could explain the figures provided above: In other than criminal cases, legal aid is granted to any party whose annual income does not exceed the national minimum wage for persons over 18 years of age (Art. 912 b, Chp 12). Therefore the quoted sum reflects the 2016 weekly minimum wage which was of €168.01, multiplied by 52 weeks. As regards the annual assets value, the COCP (Chp12) stipulates that these should not exceed €6988 (Art. 912) for eligibility for legal aid.

In Malta there is no such evaluation in criminal cases. The means test exists only in civil cases. There is no partial legal aid in the Maltese system.

**024. In other than criminal cases, is it possible to refuse legal aid for lack of merit of the case (for**

**example for frivolous action or no chance of success)?**

Yes

No

Comments - If yes, please explain the exact criteria for denying legal aid: According to Art 912 (a) and Art 914 (1) of the COCP (Chp 12), the options are as follows:

- the court can refuse legal aid

- the court can refer the application to the Head Advocate for Legal Aid who will examine the claim and inform the Court whether there are reasonable grounds for defending proceedings.

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

the court

an authority external to the court

a mixed authority (court and external bodies)

Comments

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

Yes

No

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

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

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

Comments

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

Sources: Legal Aid Malta

**2.2.Users of the courts and victims**

**2.2.1.Rights of the users and victims**



**028. Are there official internet sites/portals (e.g. Ministry of Justice, etc.) for which the general**

public may have free of charge access to the following:

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

Comments - Please specify what documents and information the addresses for “other documents” include: In case of ‘Case-law of the higher courts’, the court administration publishes all judgements of all civil courts at all instances, and these are readily available on the indicated website. In the case of the Criminal Courts, judgements delivered by the Courts of Appeal, as well as by the Court of Magistrates for cases meriting above 2 years of imprisonment, are published.

Apart from the Legal Services listed above, the portal also includes all the Court services such as statistics, online search facilities for civil case judgements, information about hall usage, all applications that can be downloaded, e-forms and other information intended to facilitate access to the Court service by the citizen and the professional.

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

- ( ) Yes, always
- ( X ) No
- ( ) Yes, only in some specific situations

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

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

- ( X ) Yes
- ( ) No

Comments - If yes, please specify: Victims of crime can be assisted through the information available on www.justiceservices.gov.mt portal in respect of court-related matters, and on www.victimsupport.org.mt for all other matters related to getting help and support.

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

	Information mechanism	Special arrangements in hearings	Other specific arrangements
Victims of sexual violence/rape	( X ) Yes ( ) No	( X ) Yes ( ) No	( ) Yes ( X ) No
Victims of terrorism	( ) Yes ( X ) No	( ) Yes ( X ) No	( ) Yes ( X ) No
Minors (witnesses or victims)	( X ) Yes ( ) No	( X ) Yes ( ) No	( ) Yes ( X ) No
Victims of domestic violence	( X ) Yes ( ) No	( X ) Yes ( ) No	( ) Yes ( X ) No

<b>Ethnic minorities</b>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<b>Disabled persons</b>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<b>Juvenile offenders</b>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<b>Other (e.g. victims of human trafficking, forced marriage, sexual mutilation)</b>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

Comments - If “other vulnerable person” and/or “other special arrangements”, please specify: In cases of victims of human trafficking, our courts provide for video-conference facilities.

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

Yes

No

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

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

Yes, please specify for which kind of offences: The types of offences that fall within the criminal injuries compensation scheme are outlined in Subsidiary Legislation 9.12 of 2012.

No

Comments

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

Yes

No

Comments

**033. If yes, does this compensation come from:**

a public fund

damages and interests to be paid by the person responsible

a private fund

Comments

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

Yes

No

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

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

( ) Yes

( X ) No

Comments - If yes, please specify: Proviso: By public prosecution we understand the Office of the Attorney General. Otherwise the court can issue a Protection Order that is followed up by the Police.

**036. Do victims of crime have the right to dispute a public prosecutor's decision to discontinue a case? Please verify the consistency of your answer with that of question 105 regarding the possibility for a public prosecutor "to discontinue a case without needing a decision by a judge". (The answer NAP means that the public prosecutor cannot decide to discontinue a case on his/her own. A decision by a judge is needed.)**

( ) Yes

( X ) No

[ ] NAP

Comments - If necessary, please specify:

### 2.2.2. Confidence of citizens in their justice system

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

	Number of requests for compensation	Number of condemnations	Total amount (in €)
<b>Total</b>	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP
<b>Excessive length of proceedings</b>	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP
<b>Non-execution of court decisions</b>	[ ] NA [ X ] NAP	[ ] NA [ X ] NAP	[ ] NA [ X ] NAP
<b>Wrongful arrest</b>	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP
<b>Wrongful conviction</b>	[ ] NA [ X ] NAP	[ ] NA [ X ] NAP	[ ] NA [ X ] NAP
<b>Other</b>	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP

Comments - Where appropriate, please give details on the compensation procedure and the calculation method for the amount of the compensation (e.g. the amount per day for unjustified detentions or convictions): The above requested data is not available, as in accordance with our system, an individual has to institute constitutional redress proceedings in order for the court to declare that the individual suffered a violation of his fundamental human rights resulting from length of proceedings or arbitrariness through detention. The compensation awarded by the domestic courts depends on the length of proceedings and the gravity of the case, and whilst such cases are instituted in accordance to Maltese law, this data is not available.

**038. (Modified question) Did your country implement surveys aimed at legal professionals and court users to measure their trust in justice and their satisfaction with the services delivered by the**

judicial system? If yes, how frequently and up to what level?

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

Comments - Please, indicate the references and links to the satisfaction surveys you mentioned above: Malta started administering Court User Satisfaction Surveys as from 2016. Given the small population, surveys cannot be administered every year because they would be addressing the same people. Hence, it has been agreed that each year, a different set of user groups will be contacted. In 2016, the identified respondent populations were the court staff, the lawyers, the police and the Probation and Parole Services. The data collected is used internally to inform policy and is not available online.

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

Yes

No

Comments Complaints can be forwarded to the Commission for the Administration of Justice whose proceedings are protected by secrecy. In addition the law stipulates that:

- if a case has been pending before any court for 3 years or more, any party can make recourse to the Chief Justice, without the need of representation, requesting that the case is assigned to another member of the judiciary (Chp 12, Art 195 [5a]); - if a case has been pending for judgement for 18 months or more, any party, again without the need for legal representation, request a change of the presiding judge or magistrate (Chp 12, Art 195 [5b]).

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

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

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

	Number of complaints	Compensations amount granted to users
Court concerned	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP
Higher court	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP
Ministry of Justice	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP
Council of the Judiciary	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP
Other external bodies (e.g. Ombudsman)	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP

Comments - If possible, please give information concerning the efficiency of this complaint procedure and any useful comment: All complaints forwarded to the Commission for the Administration of Justice are protected by secrecy, as a result of which, no information as to the number of complaints referred to on this basis is available.

### 3. Organisation of the court system

#### 3.1. Courts

##### 3.1.1. Number of courts

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

	Number of courts
42.1 First instance courts of general jurisdiction (legal entities)	1 <input type="checkbox"/> NA <input type="checkbox"/> NAP



42.2 First instance specialised courts (legal entities)	7 [ ] NA [ ] NAP
42.3 All the courts (geographic locations) (this includes 1st instance courts of general jurisdiction, first instance specialised courts, all second instance courts and courts of appeal and all supreme courts)	2 [ ] NA [ ] NAP

Comments

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

	Number of courts
Total (must be the same as the data given under question 42.2)	7 [ ] NA [ ] NAP
Commercial courts (excluded insolvency courts)	[ ] NA [ X ] NAP
Insolvency courts	[ ] NA [ X ] NAP
Labour courts	[ ] NA [ X ] NAP
Family courts	1 [ ] NA [ ] NAP
Rent and tenancies courts	1 [ ] NA [ ] NAP
Enforcement of criminal sanctions courts	[ ] NA [ X ] NAP
Fight against terrorism, organised crime and corruption	[ ] NA [ X ] NAP
Internet related disputes	[ ] NA [ X ] NAP
Administrative courts	1 [ ] NA [ ] NAP
Insurance and / or social welfare courts	[ ] NA [ X ] NAP
Military courts	[ ] NA [ X ] NAP
Other specialised 1st instance courts	4 [ ] NA [ ] NAP

Comments - If "other specialised 1st instance courts", please specify: The other specialised 1st Instance courts include:

- the Civil Court, First Hall
- the Land Arbitration Board
- the Rural Leases Control Board
- the Small Claims Tribunal

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

Yes

No

Comments - If yes, please specify: Throughout 2017, work was carried out in order to introduce a commercial division within the Civil Court in order to facilitate cases filed under the Companies Act. The bill is currently undergoing the legislative process that would see it being enacted as law by the end of the year. The Commercial Division will become operative in 2018.

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

	Number of courts
a debt collection for small claims	2 [ ] NA [ ] NAP
a dismissal	2 [ ] NA [ ] NAP
a robbery	2 [ ] NA [ ] NAP

Comments

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

Yes

No, please give your definition for small claims: .....

Comments Chp 380 of the Laws of Malta defines the Small Claims Tribunal as that Tribunal that "... shall have jurisdiction to hear and determine only all money claims of an amount not exceeding five thousand euro (€5,000)".

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

[ 5000 ]

Comments

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

Sources: The above data was obtained from the website: <http://www.justiceservices.gov.mt>

**3.2. Court staff**



### 3.2.1. Judges and non-judge staff

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

	Total	Males	Females
<b>Total number of professional judges (1 + 2 + 3)</b>	45 [ ] NA [ ] NAP	26 [ ] NA [ ] NAP	19 [ ] NA [ ] NAP
<b>1. Number of first instance professional judges</b>	36 [ ] NA [ ] NAP	18 [ ] NA [ ] NAP	18 [ ] NA [ ] NAP
<b>2. Number of second instance (court of appeal) professional judges</b>	9 [ ] NA [ ] NAP	8 [ ] NA [ ] NAP	1 [ ] NA [ ] NAP
<b>3. Number of supreme court professional judges</b>	[ ] NA [ X ] NAP	[ ] NA [ X ] NAP	[ ] NA [ X ] NAP

Comment - Please provide any useful comment for interpreting the data above: Despite the categorical manner in which the Maltese judiciary have been classified for the purpose of this exercise, it is important to note that the roles of some of the judges are very fluid. Hence, some of the 1st Instance judges sit, when the need arises, in 2nd Instance courts, whilst 2nd Instance judges hear cases at 1st Instance such as at the Civil Court, First Hall or the Civil Court, Family Section.

There has been an increase of 3 female judges at 1st instance since 2014. There was an increase from 15 to 17 female judges at 1st instance in 2015 and a further increase of 1 female judge at 1st instance in 2016. Care is being taken in order to ensure an equal gender representation in the appointments of the judiciary.

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

	Total	Males	Females
<b>Total number of court presidents (1 + 2 + 3)</b>	3 [ ] NA [ ] NAP	3 [ ] NA [ ] NAP	0 [ ] NA [ ] NAP
<b>1. Number of first instance court presidents</b>	2 [ ] NA [ ] NAP	2 [ ] NA [ ] NAP	0 [ ] NA [ ] NAP
<b>2. Number of second instance (court of appeal) court presidents</b>	1 [ ] NA [ ] NAP	1 [ ] NA [ ] NAP	0 [ ] NA [ ] NAP
<b>3. Number of supreme court presidents</b>	[ ] NA [ X ] NAP	[ ] NA [ X ] NAP	[ ] NA [ X ] NAP

Comments The 2nd Instance Court President is the Hon. Chief Justice, whilst the 1st Instance Court Presidents are Mr. Justice Noel Cuschieri as Family Court President and Mr. Justice Joseph Azzopardi as General Jurisdiction Court President.

**048. Number of professional judges sitting in courts on an occasional basis and who are paid as**

such (if possible on 31 December of the reference year):

	Figure
Gross figure	20 [ ] NA [ ] NAP
In full-time equivalent	[ ] NA [ X ] NAP

Comments - If necessary, please provide comments to explain the answer provided: In Malta, there is the Small Claims Tribunal, which is presided by a lawyer, not being a judge, acting on a part-time basis and who has a security of tenure for a period of five years. Furthermore, there are Commissioners for Justice, acting on a part-time basis, who hear and decide upon depenalised contraventions, such as traffic contraventions and petty offences.

In 2016, Malta had 5 adjudicators and 15 Commissioners for Justice.

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

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

( ) No

Comments Both the adjudicators sitting on the Small Claims Tribunal and the Commissioners for Justice hear all the cases that are brought to their courts/ tribunals. The Small Claims Tribunal hears cases of a value up to Euro5000, whilst the Commissioners for Justice are regulated by Chp291 of the Laws of Malta. The full list of offences which become infringements and can be heard by the Commissioners for Justice is annexed to Chp 291 as Schedule 2 ([www.justiceservices.org.mt](http://www.justiceservices.org.mt)).

The percentage of the cases heard by the Small Claims Tribunal as a % of the total caseload quoted in Q91 is 9.7%.

The cases heard by the Commissioners of Justice are not part of the total in Q91 and they do not even form part of the official court statistics.

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

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

Comments

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

	Yes	No	Echevinage
in criminal law cases	( )	( X )	( )

- severe criminal cases	( )	( X )	( )
- misdemeanour and/or minor criminal cases	( )	( X )	( )
in family law cases	( )	( X )	( )
in civil cases	( )	( X )	( )
in labour law cases	( )	( X )	( )
in social law cases	( )	( X )	( )
in commercial law cases	( )	( X )	( )
in insolvency cases	( )	( X )	( )
other	( )	( X )	( )

Comments - If "other", please specify:

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

( X ) Yes

( ) No

Comments

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

[ X ] Severe criminal cases

[ ] Misdemeanour cases

[ ] Other cases

Comments

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

[ 36 ]

[ ] NA

[ ] NAP

Comments The reason for the decrease in the number of jurors in 2016 is due to the fact that during this year, there were only 4 trials by jury, each with 9 jurors and 3 reserve jurors.

**052. Number of non-judge staff who are working in courts (on 31 December of the reference year) (this data should not include the staff working for public prosecutors; see question 60) (please give the information in full-time equivalent and for permanent posts actually filled)**

Total	Males	Females

<b>Total non-judge staff working in courts (1 + 2 + 3 + 4 + 5)</b>	383 [ ] NA [ ] NAP	180 [ ] NA [ ] NAP	203 [ ] NA [ ] NAP
<b>1. Rechtspfleger (or similar bodies) with judicial or quasi-judicial tasks having autonomous competence and whose decisions could be subject to appeal</b>	[ ] NA [ X ] NAP	[ ] NA [ X ] NAP	[ ] NA [ X ] NAP
<b>2. Non-judge staff whose task is to assist the judges such as registrars (case file preparation, assistance during the hearing, court recording, helping to draft the decisions)</b>	227 [ ] NA [ ] NAP	69 [ ] NA [ ] NAP	158 [ ] NA [ ] NAP
<b>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)</b>	59 [ ] NA [ ] NAP	36 [ ] NA [ ] NAP	23 [ ] NA [ ] NAP
<b>4. Technical staff</b>	7 [ ] NA [ ] NAP	7 [ ] NA [ ] NAP	0 [ ] NA [ ] NAP
<b>5. Other non-judge staff</b>	90 [ ] NA [ ] NAP	68 [ ] NA [ ] NAP	22 [ ] NA [ ] NAP

Comments - If "other non-judge staff", please specify: Other non-judge staff includes:

- Director Civil Courts and staff
- Director Criminal Court and staff
- Registry Criminal Court
- Chief Marshal
- Senior Marshal
- Marshals
- Judiciary Drivers
- Subasti staff

Concerning "Technical Staff", 2 technical staff were employed. Between 2014 and 2015, there was a decrease in the number of tradesman employed with the court administration.

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

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

Comments - Please briefly describe their status and duties:

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

Yes

No

Comments

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

IT services

Training of staff

Security

Archives

Cleaning

Other types of services (please specify): .....

Comments In case of the IT services, these are carried out in partnership with the Malta Information Technology Agency (MITA).

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

Sources: The information requested was compiled with the assistance of the Court Administration.

**3.3. Public prosecution**

**3.3.1. Public prosecutors and staff**



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

	Total	Males	Females
<b>Total number of prosecutors (1 + 2 + 3)</b>	18 <input type="checkbox"/> NA <input type="checkbox"/> NAP	7 <input type="checkbox"/> NA <input type="checkbox"/> NAP	11 <input type="checkbox"/> NA <input type="checkbox"/> NAP
<b>1. Number of prosecutors at first instance level</b>	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP
<b>2. Number of prosecutors at second instance (court of appeal) level</b>	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP
<b>3. Number of prosecutors at supreme court level</b>	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP

Please indicate any useful comment for interpreting the data above: All the lawyers at the Office of the Attorney General work both in

Court as well as advisers to the various Ministries and Departments. All prosecuting officers at the Office of the Attorney General act at all court levels. Thus, prosecutors are not classified according to the case instance.

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

	Total	Males	Females
<b>Total number of heads of prosecution offices (1 + 2 + 3)</b>	1 [ ] NA [ ] NAP	1 [ ] NA [ ] NAP	0 [ ] NA [ ] NAP
<b>1. Number of heads of prosecution offices at first instance level</b>	[ ] NA [ X ] NAP	[ ] NA [ X ] NAP	[ ] NA [ X ] NAP
<b>2. Number of heads of prosecution offices at second instance (court of appeal) level</b>	[ ] NA [ X ] NAP	[ ] NA [ X ] NAP	[ ] NA [ X ] NAP
<b>3. Number of heads of prosecution offices at supreme court level</b>	[ ] NA [ X ] NAP	[ ] NA [ X ] NAP	[ ] NA [ X ] NAP

Please provide any useful comment for interpreting the data above: The Attorney General is the head of the Office of the Attorney General. His role is that of head of the prosecution as well as principal legal advisor to the government (and its various Ministries and Departments).

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

( X ) Yes, please specify their number (in full-time equivalent):123

( ) No

Comments - If yes, please specify their title and functions: In Malta, the police have the authority to prosecute a case in court, unless the nature of the offence is serious enough to merit prosecution in the higher courts by the lawyers working at the Office of the AG. The figure presented above reflects the number of Police Inspectors and Police Superintendents whose duties include prosecution in court.

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

( ) Yes

( X ) No

Comments The Office of the AG and the Police are two separate entities and whilst both have the powers to prosecute, they should not be construed as one entity. Hence the number of police officers who can prosecute is not being included with the number of lawyers working at the AG Office.

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

( X ) Yes

( ) No

Comments This answer applies specifically to the police officers who prosecute cases in court. The lawyers working at the Office of the AG are specialised in civil or criminal law.



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

	Total	Males	Females
Number of staff (non-public prosecutors) attached to the public prosecution service	22 [ ] NA	9 [ ] NA	13 [ ] NA

Comments This data relates specifically to the staff working in the Office of the AG.

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

Sources: The information was provided by the Office of the AG.

**3.4. Management of the court budget**

**3.4.1. Court budget**

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

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

Comments - If "other", please specify:

**3.6. Performance and evaluation**

**3.6.1. National policies applied in courts and public prosecution services**

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

(X) Yes

( ) No

Comments - If yes, please specify: There exists a Code of Ethics for the Judiciary which, though not providing for the organisation and quality of judicial work, does lay upon the members of the Judiciary, certain obligations which are important in ensuring the transparency

and independence of the judicial process.

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

Yes

No

Comments

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

Yes

No

Comments

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

Annual

Less frequent

More frequent

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

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

Yes

No

Comments - If yes, please give further details:

**3.6.2. Performance and evaluation of courts**



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

number of incoming cases

number of decisions delivered

number of postponed cases

length of proceedings (timeframes)

age of cases

other (please specify): Clearance Rate

Comments

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

civil law cases

criminal law cases

administrative law cases

Comments

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

Yes

No

Comments - If yes, please specify: In Malta, there is no formal monitoring system. However, an “informal” monitoring used to take place. It falls mostly within the remit of the Chief Justice and the respective members of the judiciary.

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

Yes

No

Comments

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

Annual

Less frequent

More frequent

Comments - If "less frequent" or "more frequent", please specify: Court evaluation in terms of performance is carried out on a monthly basis.

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

Yes

No

Comments Court performance evaluation is brought to the attention of both the Minister for Justice, Culture and Local Government as well as to the attention of the Chief Justice. The Chief Justice, who is vested with the authority to effect changes in judicial duties, does make use of such performance data in the better interest of increased efficiency and expediency of the judicial process.

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

Yes

No

Comments

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

to increase efficiency / to shorten the length of proceedings

to improve quality

to improve cost efficiency / productivity

Other (please specify): .....

Comments

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

Executive power (for example the Ministry of Justice)

Legislative power

Judicial power (for example High Judicial Council, Higher Court)

President of the court

Other (please specify): .....

Comments

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

Yes

No

Comments Currently Malta carries out systematic quantitative analysis of the performance of the different courts, based on international standards. We are also addressing measures of quality as defined by recognised international institutions, supplemented by internal reports that are purposely commissioned to focus on specific aspects of the functioning of the justice system. These ongoing efforts at measuring the efficiency and quality of our justice system is compared with past performance, but as yet, not with established targets.

Malta does not have defined 'targets' but assesses its performance in terms of indicators defined by international institutions

**078. If yes, please select the main performance and quality indicators that have been defined:**

incoming cases

length of proceedings (timeframes)

closed cases

pending cases and backlogs

productivity of judges and court staff

percentage of cases that are processed by a single sitting judge

enforcement of penal decisions

satisfaction of court staff

satisfaction of users (regarding the services delivered by the courts)

judicial quality and organisational quality of the courts

costs of the judicial procedures

number of appeals

other (please specify): .....

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

High Council of judiciary

Ministry of Justice

Inspection authority

Supreme Court

External audit body

Other (please specify): .....

Comments The evaluation of the courts is carried out both by the Chief Justice in respect of the judiciary, and the Ministry of Justice in relation to court efficiency, resources, legislative amendments etc ...

**3.6.3. Court activity and administration**



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

Yes (please indicate the name and the address of this institution):MITA/ Department of Justice

No

Comments

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

Yes, on internet

No, only internally (in an intranet website)

No

Comments

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

Yes

No

Comments - If yes, please describe the content of the report and its audience (i.e. to whom the report is intended): All the individual courts with pending cases over 5 years old have to draw an annual report detailing their yearly caseload, the number of pending cases and the age of these cases. This report is an internal report addressed solely to the Chief Justice. It is not made public and it is not even distributed internally to the court administration or to the respective Ministry. The report referenced in this comment is the only 'activity' report that individual courts are expected to submit on an annual basis, and in paper format, to the Chief Justice.

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

Internet

Intranet (internal) website

Paper distribution

Comments

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

Annual

Less frequent

More frequent

Comments

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

Yes

No

Comments - If yes, please specify:

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

Yes

No

Comments - If yes, please specify:

### **3.6.4. Performance and evaluation of judges**

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

Yes

No

Comments The administration of the case load is left in the hands of the individual judge/ magistrate together with the Chief Justice who assigns the particular duties to each judge and magistrate.

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

Executive power (for example the Ministry of Justice)

Legislative power

Judicial power (for example the High Judicial Council, Supreme Court)

President of the court

Other (please specify): .....

Comments

### **New node**

## **4. Fair trial**

### **4.1. Principles**

#### **4.1.1. Principles of fair trial**

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

[            ]

NA

NAP

Comments

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

Yes, number of successful challenges in a year NA

( ) No

Comments - Please could you briefly specify: A party can request the recusal of a judge on ground of impartiality. This data is however not available.

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

	Monitoring system
For civil procedures (non-enforcement)	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> NAP
For civil procedures (timeframe)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NAP
For criminal procedures (timeframe)	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> NAP

Comments - Please, specify what are the terms and conditions of this monitoring system (information related to violations at the State/courts level; implementation of internal systems to remedy the established violation; implementation of internal systems to prevent other violations (that are similar) and if possible to measure an evolution of the established violations: Though not necessarily a monitoring system implementing internal systems and remedial action when violations relating to Article 6 take place, the Civil Court as a Court of Constitutional Jurisdiction as well as the Constitutional Court consider all applications made by aggrieved persons based on violations relating to the European Convention on Human Rights. It is the Civil Court as a Court of Constitutional Jurisdiction, and the Constitutional Court, that provide monitoring by ensuring uniformity in interpretation and enforcement, where possible.

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

Sources: The European Convention Act (Chp 319)

## 4.2. Timeframe of proceedings

### 4.2.1. General information

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

civil cases

criminal cases

administrative cases

There is no specific procedure

Comments - If yes, please specify: In any of the cases, any party may file an application in court requesting a matter to be dealt with, with urgency, and the court may choose to decree accordingly, possibly even after hearing the parties. Furthermore, in civil procedures, a special summary proceeding exists wherein a plaintiff having a debt which is certain, liquid and due may request a judgment within a period of 30 days. Similar summary proceedings exist before the Rent Regulation Board.

#### 088. Are there simplified procedures for:

- civil cases (small disputes)
- criminal cases (misdemeanour cases)
- administrative cases
- There is no simplified procedure

Comments - If yes, please specify: In civil cases, there exists a procedure, regulated by Section 166A of the Code of Organization and Civil Procedure, wherein anyone having a claim, which is certain and due, of up to €23,300, may file a judicial letter and notify it onto the debtor and, should the debtor fail to reply within 30 days, then the amount being requested is considered to have been admitted and the creditor is given an executive title against the debtor without any further act to be filed. In Criminal cases, proceedings up to 6 months imprisonment are heard summarily and are decided in one hearing.

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

- civil cases
- criminal cases
- administrative cases

Comments - If yes, please specify: The judiciary cannot deliver judgements orally. All judgements have to be in writing. In the case of Magistrates, even though written, the Court need not go into much detail as to the reasoning behind the judgement.

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

- Yes
- No

Comments - If yes, please specify: The lawyers of the parties generally appear in front of the president Judge or Magistrate and agree on the way the case should be processed, namely as to how witnesses are to be produced and sittings to be set and this will be recorded in the Court minutes by the Registrar.

**4.2.2. Case flow management – first instance**



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

	Pending cases on 1 Jan. ref. year	Incoming cases	Resolved cases	Pending cases on 31 Dec. ref. year	Pending cases older than 2 years from the date the case came to the first instance court (Please insert NA for category 2)
<b>Total of other than criminal law cases (1+2+3+4)</b>	9459 <input type="checkbox"/> NA <input type="checkbox"/> NAP	6730 <input type="checkbox"/> NA <input type="checkbox"/> NAP	7231 <input type="checkbox"/> NA <input type="checkbox"/> NAP	8843 <input type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP
<b>1. Civil (and commercial) litigious cases (including litigious enforcement cases and if possible without administrative law cases, see category 3)</b>	9041 <input type="checkbox"/> NA <input type="checkbox"/> NAP	6640 <input type="checkbox"/> NA <input type="checkbox"/> NAP	7128 <input type="checkbox"/> NA <input type="checkbox"/> NAP	8430 <input type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP



<b>2. Non litigious cases (2.1+2.2+2.3)</b>	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP
<b>2.1. General civil (and commercial) non-litigious cases, e.g. uncontested payment orders, request for a change of name, non-litigious enforcement cases etc. (if possible without administrative law cases, see category 3; without registry cases and other cases, see categories 2.2 and 2.3)</b>	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP
<b>2.2. Registry cases (2.2.1+2.2.2+2.2.3)</b>	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP
<b>2.2.1. Non litigious land registry cases</b>	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP
<b>2.2.2 Non-litigious business registry cases</b>	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP
<b>2.2.3. Other registry cases</b>	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP
<b>2.3. Other non-litigious cases</b>	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP
<b>3. Administrative law cases</b>	418 <input type="checkbox"/> NA <input type="checkbox"/> NAP	90 <input type="checkbox"/> NA <input type="checkbox"/> NAP	103 <input type="checkbox"/> NA <input type="checkbox"/> NAP	413 <input type="checkbox"/> NA <input type="checkbox"/> NAP	294 <input type="checkbox"/> NA <input type="checkbox"/> NAP
<b>4. Other cases</b>	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP

Comments Horizontal consistency: This is a problem encountered also in previous evaluations. Unfortunately this inconsistency results from the way that the data is logged, and it is practically impossible to resolve it at present. Concerning the variations between cycles: In reality, in 2015 the Administrative Review Tribunal worked real hard to reduce the pending caseload and also resolved one set of interrelated cases that translated in the conclusion of about 150 separate cases. So 2015 was a very good year in which the efficiency parameters of the Tribunal spiked. In 2016, the rhythm by which cases were being resolved went back to 2014 figures, hence the apparent decrease in the number of resolved cases between 2015 and 2016. The reduction in the pending caseload is also the result of the additional 150 odd cases that were resolved in 2015 and that dramatically reduced the pending caseload for good, even if the resolved caseload of 2016 was less than that of 2015. Concerning Administrative cases: These figures reflect the pending balance at the beginning of 2016. Throughout 2015, the Tribunal resolved one batch of related cases that resulted in a drop in the number of pending cases and a spike in the number of resolved cases.

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

. NAP
-------

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

. NAP
-------

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

	Pending cases on 1 Jan. ref. year	Incoming cases	Resolved cases	Pending cases on 31 Dec. ref. year	Pending cases older than 2 years from the date the case came to the first instance court
<b>Total of criminal law cases (1+2)</b>	13625 [ ] NA [ ] NAP	16714 [ ] NA [ ] NAP	16825 [ ] NA [ ] NAP	13541 [ ] NA [ ] NAP	[ ] NA [ X ] NAP
<b>1. Severe criminal cases</b>	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP	[ ] NA [ X ] NAP
<b>2. Misdemeanour and / or minor criminal cases</b>	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP	[ ] NA [ X ] NAP

Comments - If you cannot make a distinction between misdemeanour criminal cases and severe criminal cases (according to the CEPEJ definitions), please indicate the categories of cases reported in the category "serious offences" and cases reported in the category "minor offences": In the Maltese legal system, all proceedings which appear before the Court of Magistrates may be punishable with a fine or imprisonment, bar a few contraventions which still appear before the Court of Magistrates and it is not possible to obtain data relating to these few cases. Nevertheless, all cases which lead to an imprisonment of ten years or more can only be heard by the Criminal Court whilst cases between 2 and 12 years may be heard by the Court of Magistrates only once the procedure before it as a Court of Criminal Inquiry is completed. Since in Malta the vast majority of the cases contemplate the possibility of imprisonment, barring a few contraventions, the cases indicated as misdemeanors/minor offences, are those cases which are heard by the Court of Magistrates (excluding those being heard as a Court of Criminal Inquiry) having a maximum punishment of 2 years imprisonment while the cases indicated as 'severe criminal offences' are those having a punishment of over 2 years (Criminal Court & Court of Criminal Inquiry). This definition of severe/minor-misdemeanor cases is not fully consistent with the definition built by CEPEJ and therefore a comparison is not possible with the previous cycles. According to the Maltese categorization of cases, the number for severe criminal cases in 2016 is as follows: pending on the 1st Jan of Ref Year = 3054; Incoming cases = 827; Resolved cases = 1143; Pending cases on the 31st Dec of Ref Year = 2736. The number for minor/misdemeanor criminal cases is as follows: pending on the 1st Jan of Ref Year = 10571; Incoming cases = 15887; Resolved cases = 15682; Pending cases on the 31st Dec of Ref Year = 10805.

**4.2.3. Case flow management – second instance**



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

Pending cases on 1 Jan. ref. year	Incoming cases	Resolved cases	Pending cases on 31 Dec. ref. year	Pending cases older than 2 years from the date the case came to the second instance court (Please insert NA for category 2)

<b>Total of other than criminal law cases (1+2+3+4)</b>	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	1657 <input type="checkbox"/> NA <input type="checkbox"/> NAP
<b>1. Civil (and commercial) litigious cases (including litigious enforcement cases and if possible without administrative law cases, see category 3)</b>	2015 <input type="checkbox"/> NA <input type="checkbox"/> NAP	867 <input type="checkbox"/> NA <input type="checkbox"/> NAP	917 <input type="checkbox"/> NA <input type="checkbox"/> NAP	1968 <input type="checkbox"/> NA <input type="checkbox"/> NAP	1657 <input type="checkbox"/> NA <input type="checkbox"/> NAP
<b>2. Non litigious cases (2.1+2.2+2.3)</b>	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP
<b>2.1. General civil (and commercial) non-litigious cases, e.g. uncontested payment orders, request for a change of name, non-litigious enforcement cases etc. (if possible without administrative law cases, see category 3; without registry cases and other cases, see categories 2.2 and 2.3)</b>	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP
<b>2.2. Registry cases (2.2.1+2.2.2+2.2.3)</b>	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP
<b>2.2.1. Non litigious land registry cases</b>	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP
<b>2.2.2 Non-litigious business registry cases</b>	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP
<b>2.2.3. Other registry cases</b>	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP
<b>2.3. Other non-litigious cases</b>	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP
<b>3. Administrative law cases</b>	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP
<b>4. Other cases</b>	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP

Comments Regarding Civil (and commercial) litigious cases: 2015 was the best year in terms of number of resolved cases, mainly because the judiciary were trying hard to conclude cases that were ready for sentencing. In fact, our efficiency indicators reflected this effort. As regards to the other data, we do not, as yet, have those statistics at hand and hence, the last 3 evaluations were marked as NAP.

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

	Pending cases on 1 Jan. ref. year	Incoming cases	Resolved cases	Pending cases on 31 Dec. ref. year	Pending cases older than 2 years from the date the case came to the second instance court
<b>Total of criminal law cases (1+2)</b>	1240 [ ] NA [ ] NAP	644 [ ] NA [ ] NAP	495 [ ] NA [ ] NAP	1390 [ ] NA [ ] NAP	[ ] NA [ X ] NAP
<b>1. Severe criminal cases</b>	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP	[ ] NA [ X ] NAP
<b>2. Misdemeanour and / or minor criminal cases</b>	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP	[ X ] NA [ ] NAP	[ ] NA [ X ] NAP

Comments There was an increase in the pending caseload of the Court of Criminal Appeal, Inferior Jurisdiction.

In the Maltese legal system, the definition of severe/minor-misdemeanor cases is not fully consistent with the definition built by CEPEJ and therefore a comparison is not possible with the previous cycles. According to the Maltese categorization of cases, the number for severe criminal cases in 2016 is as follows: pending on the 1st Jan of Ref Year = 26; Incoming cases = 15; Resolved cases = 10; Pending cases on the 31st Dec of Ref Year = 32. The number for minor/misdemeanor criminal cases is as follows: pending on the 1st Jan of Ref Year = 1214; Incoming cases = 629; Resolved cases = 485; Pending cases on the 31st Dec of Ref Year = 1358.

#### 4.2.4. Case flow management – Supreme Court

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

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

<b>2.1. General civil (and commercial) non-litigious cases, e.g. uncontested payment orders, request for a change of name, non-litigious enforcement cases etc. (if possible without administrative law cases, see category 3; without registry cases and other cases, see categories 2.2 and 2.3)</b>	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP
<b>2.2. Registry cases (2.2.1+2.2.2+2.2.3)</b>	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP
<b>2.2.1. Non litigious land registry cases</b>	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP
<b>2.2.2 Non-litigious business registry cases</b>	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP
<b>2.2.3. Other registry cases</b>	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP
<b>2.3. Other non-litigious cases</b>	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP
<b>3. Administrative law cases</b>	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP
<b>4. Other cases</b>	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP

Comments In Malta the 2nd instance courts are the highest instance. Hence the NAP answer to this section.

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

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

( X ) No

Comments

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

	<b>Pending cases on 1 Jan. ref. year</b>	<b>Incoming cases</b>	<b>Resolved cases</b>	<b>Pending cases on 31 Dec. ref. year</b>	<b>Pending cases older than 2 years from the date the case came to the Supreme court</b>
<b>Total of criminal law cases (1+2)</b>	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP

<b>1. Severe criminal cases</b>	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP
<b>2. Misdemeanour and / or minor criminal cases</b>	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP

Comments

#### 4.2.5. Case flow management – specific cases



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

	Pending cases on 1 Jan. ref. year	Incoming cases	Resolved cases	Pending cases on 31 Dec ref. year
<b>Litigious divorce cases</b>	130 <input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	358 <input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	367 <input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	121 <input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP
<b>Employment dismissal cases</b>	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP
<b>Insolvency</b>	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP
<b>Robbery case</b>	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP
<b>Intentional homicide</b>	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP
<b>Cases relating to asylum seekers (refugee status under the 1951 Geneva Convention)</b>	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP
<b>Cases relating to the right of entry and stay for aliens</b>	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP

Comments Litigious cases: the number of incoming and resolved cases has been on the increased every year.

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

. The Office of the Refugee Commissioner (RefComm) is regulated by The Refugees Act, Chp 420 of the Laws of Malta, and its main responsibility is to receive, process and determine applications for international protection in Malta, as stipulated by the Refugees Act, amended by Act VI and VII in 2015 and its Subsidiary Legislation 420.07 on Procedural Standards in Examining Applications for Refugee Status Regulations. This Office is also bound by the obligations assumed by Malta under the 1951 Geneva Convention relating to the status of Refugees and its 1967 Protocol, as well as its obligations under European Directive 2011/95/EU, European Directive 2013/32/EU and the Dublin Regulation.

RefComm implements a single asylum procedure. It first examines whether the applicant fulfils the criteria to be recognised as a

refugee according to law, and in the case of those applicants who do NOT meet the criteria to be recognised as refugees, the Office proceeds to examine whether the applicant fulfils the criteria for subsidiary protection according to law. The applicant is informed in writing about the decision issued by the Office of the Refugee Commissioner. The reasons in fact and in law are stated in the decision. In the case of a negative decision, applicants are informed of their right to enter an appeal against this decision to the Refugee Appeals Board. Information on how to challenge a negative decision is given in writing to those applicants whose application was rejected with regards to refugee status and/or subsidiary protection status. This is an administrative review and involves the assessment of facts and points of law. An asylum seeker has 2 weeks to appeal since the day in which the written negative decision by the Refugee Commission has been received. Whilst the Refugee Appeals Board does not accept late appeals, it does have suspensive effect. An onward appeal is not provided in the law in case of a negative decision from the Refugee Appeals Board. However, judicial review of the decisions taken by the Board is possible before the First Hall of the Civil Court, limited only to an enquiry into the validity of the administrative act. However, such information is not available. Judicial review does not deal with the merits of the asylum claim, but only with the manner in which the concerned administrative authority reached its decision. At this stage, applicants could be granted legal aid if eligible under the general rules for legal aid in court proceedings.

**102. Average length of proceedings, in days (from the date the application for judicial review is lodged). The average length of proceedings has to be calculated from the date the application for judicial review is lodged to the date the judgment is made, without taking into account the enforcement procedure.**

	% of decisions subject to appeal	Average length in 1st instance (in days)	Average length in 2nd instance (in days)	Average length in 3rd instance (in days)	Average total length of the total procedure (in days)	% of cases pending for more than 3 years for all instances
<b>Litigious divorce case</b>	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP
<b>Employment dismissal case</b>	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP
<b>Insolvency</b>	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP
<b>Robbery case</b>	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP
<b>Intentional homicide</b>	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP

Comments

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

. In Malta, till June 2011 there existed no divorce proceedings, whether litigious or non-litigious. On the other hand, there exist separation proceedings, which may be either litigious or non-litigious, as well as annulment proceedings, which are always litigious. Divorce came into force in Malta in October 2011 by means of the Civil Code Act. Eligibility for divorce is based on 3 main premises:

that the couple are legally or de facto separated and have been living apart for a number of years (specified in law depending on the nature of the separation), that the couple is beyond reconciliation and that maintenance is paid to the spouse and/or children when due. Divorce can be applied for in Court either jointly by both spouses, or else individually by either one of the spouses.

**104. How is the length of proceedings calculated for the five case categories of question 102?  
Please give a description of the calculation method.**

. If specific data per case category mentioned above were available, the length of proceedings would be calculated using the CEPEJ formula for Disposition Time.

**4.2.6. Case flow management – public prosecution**

**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 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 (please specify): .....

Comments

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

- civil cases
- administrative cases
- insolvency cases

Comments - If yes, please specify: None of the above.

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



	Received during the reference year	Discontinued during the reference year (see Q108 below)	Concluded by a penalty or a measure imposed or negotiated by the public prosecutor	Cases brought to court
Total number of first instance cases processed by the public prosecutor	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	15887 <input type="checkbox"/> NA <input type="checkbox"/> NAP

Comments The criminal cases brought to court at 1st Instance are prosecuted by the Police and not by the attorneys working in the Office of the AG.

**107-1. (Modified question) If the guilty plea procedures exist, how many cases were brought to court by the prosecutor through this procedure?**

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

Comments

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

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

Comments

**109. Do the figures include traffic offence cases?**

Yes

No

Comments Traffic offences are listed with the 1st instance cases filed in front of the Court of Magistrates, Criminal Jurisdiction.

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

Sources: Data for the above questions has been provided by the Court Administration.  
Quality check answer: The numbers relative to the litigious divorce cases have been provided by the Court administration and reflect the respective caseload in 2016. I confirm that the figures match those provided by the court administration.

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**5. Career of judges and public prosecutors**

**5.1. Recruitment and promotion**

**5.1.1. Recruitment and promotion of judges**



**110. (Modified question) How are judges recruited?**

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

Comments With the coming into force of Act 44 of 2016, entitled Constitutional Reforms (Justice Sector) Act of 2016, the system by which the judiciary are appointed has radically changed. The Act established the Judicial Appointments Committee (Art 96A of the Constitution) that is presided by the Chief Justice and composed of the Attorney General, the Auditor General, the Ombudsman and the President of the Chamber of Advocates. Lawyers having satisfied established eligibility criteria, may file an expression of interest in order to be appointed to the bench. The Committee has to convene to interview and evaluate the candidate, and draw a recommendation within 60 days from the application. Successful candidates are placed on a confidential list, and appointed according to requirement.

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

- Yes
- No

Comments - If yes, please specify:

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

- an authority made up of judges only
- an authority made up of non-judges only
- an authority made up of judges and non-judges

Comments - Please indicate the name of the authority(ies) involved in the whole procedure of recruitment and nomination of judges. If there are several authorities, please describe their respective roles: See comment above regarding the Judicial Appointments Committee. It is important to note that the role of the Committee is to "give advice to the Prime Minister through the Minister responsible for justice about its evaluation on the eligibility and merit of the candidates" (Art 96A, Sec 6d). The actual appointment of the judiciary is carried out by the President acting in accordance with the advice of the Prime Minister.

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

Yes

No

Comments

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

Yes

No

Comments - If yes, please specify:

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

Competitive test / Exam

Other procedure (interview or other)

No special procedure

Comments - Please specify how the promotion of judges is organised (especially if there is no competition or examination): According to Art. 96A (Sec 6e) of the Constitution, the Judicial Appointments Committee, "when requested by the Prime Minister, [is] to give advice on the eligibility and merit of persons who already occupy the offices of the Attorney General, Auditor General, Commissioner for Administrative Investigations (Ombudsman) or of magistrate of the Inferior Courts to be appointed to an office in the judiciary". Therefore in the case of Magistrates, the application process is initiated on the request of the Prime Minister, and not through the filing of an expression of interest, as in the case of lawyers. It is the President of Malta, acting on the advice of the Prime Minister, who then appoints (promotes) a Magistrate to a Judge.

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

Years of experience

Professional skills (and/or qualitative performance)

Performance (quantitative)

Assessment results

Subjective criteria (e.g. integrity, reputation)

Other

No criteria

Comments - Please specify any useful comment regarding the criteria (especially if you have checked the box "performance" or "other"): The criteria adopted by the Judicial Appointments Committee are publicly available at the following website: <https://justice.gov.mt/en/justice/Pages/Criteria-of-Judicial-Appointments-Committee.aspx>.

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

Yes

No

Comments

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

- Annual
- Less frequent
- More frequent

## 5.1.2. Status, recruitment and promotion of prosecutors

### 115. What is the status of prosecution services?

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

Comments - When appropriate, please specify the objective guarantees of this independence (transfer, appointment...). The Office of the Attorney General is independent from the Government of the day and though acting also as an advisor of the Government, manages the prosecution of cases independently from any other authority or Ministry. If the post of Attorney General is independent from the government, the Office of the Attorney general is subject to follow any directives issued by the Minister of Justice. Thus, according to the Attorney General Ordinance, where under any law the Attorney General is to act or exercise any power in his/her individual judgment he/she must not be subject to the direction or control of any other person or authority. However, pursuant to the same law, the Minister responsible for the AG office, subject to the provisions of the law, may be entitled to give directions in writing to the agency and the agency and its head are bound to observe such directives, unless the AG is constitutionally and legally protected to act according to his/her own judgment. Thus when taking into account the dual role of the Attorney General as independent prosecutor but also legal counsel of the government, the most appropriate reply to this question seems to be "Other".

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

- Yes
- No

Comments - If yes, please specify:

### 116. How are public prosecutors recruited?

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

Comments

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

- an authority composed of public prosecutors only
- an authority composed of non-public prosecutors only
- an authority composed of public prosecutors and non-public prosecutors

Comments - Please indicate the name of the authority(ies) involved in the whole procedure of recruitment and nomination of public prosecutors. If there are several authorities, please describe their respective roles: Given that the Office of the Attorney General functions as an Agency, the recruitment procedure is carried out through Jobs Plus, an organisation that seeks to meet the labour market needs of employers, jobseekers and employees.

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

Yes

No

Comments - If yes, please specify:

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

Yes

No, please specify which authority is competent for promoting public prosecutors  
The Office of the AG

Comments The office of the AG requests formal permission from the Ministry of Justice, Culture and Local Government to proceed with the promotion of lawyers working within the Office. Once this permission is granted, the promotion exercise becomes an internal exercise carried out by the Office of the AG.

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

Competitive test / exam

Other procedure (interview or other)

No special procedure

Comments - Please, specify the procedure (especially if it is a procedure different from a competitive test or an exam): The Ministry under which the Attorney General's Office falls is responsible for such promotions. Other than the Attorney General and the Assistant Attorney General, who are appointed by the Government, all other prosecutors are employed on contract, as a result of which, their promotions will be regulated therein.

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

Yes

No

Comments - If yes, please specify:

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

Years of experience

Professional skills (and/or qualitative performance)

Performance (quantitative)

Assessment results

Subjective criteria (e.g. integrity, reputation)

Other

No criteria

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

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

Yes

No

### 5.1.3.Mandate and retirement of judges and prosecutors

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

Yes, please indicate the compulsory retirement age:65

No

Comments - If yes, are there exceptions (e.g. dismissal as a disciplinary sanction)? Please specify: Judges enjoy security of tenure, which means that a Judge can only be removed from office for proved misbehaviour or proved inability to perform the functions of his/her office. The removal is effected by the President of Malta upon an address by the House of Representatives supported by the votes of not less than two-thirds of all the members thereof and praying for such removal. Before any motion for removal is brought before the House it must be sent to the Commission for the Administration of Justice for investigation. The motion must contain definite charges against the Judge or Magistrate, as the case may be, on the basis of which the investigations are to be held by the Commission, as well as a statement showing the grounds on which any charge is based. If the Commission, after investigating, reports that there is no misbehaviour or no inability to perform the functions of office, then no further action can be taken upon the proposed motion. If, on the other hand, the Commission finds that there is a prima facie case of misbehaviour or incapacity, then it will be up to the House of Representatives to discuss the motion and vote upon it.

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

For disciplinary reasons

For organisational reasons

For other reasons (please specify modalities and safeguards): .....

No

Comments It is the Chief Justice's sole prerogative to assign a Magistrate or Judge to a particular Court, therefore he/she may choose to transfer or move around any Judge or Magistrate he/she deems fit.

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

Yes, duration of the probation period (in years): .....

No

NAP

Comments

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

Yes, please indicate the compulsory retirement age:65

No

Comments - If yes, are there exceptions (e.g. dismissal as a disciplinary sanction)? Please specify: The Attorney General is one of the public offices which is provided for in the Constitution, as a result of which, his/her position is protected like that of a Judge and a Magistrate and is subject to the same conditions, thus being pensionable at the age of 65. As to the other members of the Attorney General's office, some of them are Government employees, thus entitled to work up till the age of 61, whilst others, who were employed after the Attorney General's office was changed into an Agency falling under the remit of the Government, were employed by means of a contract of employment, which thus provides for a probation period and a period of employment, nevertheless, should one be employed for more than three years, in terms of EU law, their employment would be deemed to be indefinite, as a result of which, they would be

entitled to work up till pensionable age, namely 61 years.

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

- Yes, duration of the probation period (in years):0.5
- No

Comments Probation period is of 6 months.

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

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

Comments 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?**

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

Comments Public prosecutors do not have a specific mandate in terms of years. Once employed, they are there for life unless they decide to resign to seek an alternative post/ employment, or else are asked to resign on the basis of disciplinary action.

**5.2.Training**

**5.2.1.Training of judges**

**127. Types of different trainings offered to judges**

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

Comments Throughout 2016, the Judicial Studies Committee secured the training of the newly-appointed members of the judiciary in judge craft through EJTN. Given the fact that judicial appointments are neither pre-announced nor given at a fixed schedule, organising a proper initial training course can prove to be very difficult. Hence the Judicial Studies Committee, through EJTN, are sending the newly-appointed magistrates to attend such training courses abroad.

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

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

Comments - Please indicate any information on the periodicity of the continuous training of judges: Judicial training is organised locally every 2 months but all the members of the judiciary also attend occasional training abroad.

## 5.2.2. Training of prosecutors

### 129. Types of different trainings offered to public prosecutors

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

Comments

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

Frequency of the in-service training
--------------------------------------



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

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

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

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

Comments The Judicial Studies Committee is the body responsible for the ongoing training of the members of the judiciary ONLY. It assists judges and magistrates in skills training and continued professional development mainly through seminars conducted by both local and foreign experts and speakers. The JSC is composed of four (4) members, two appointed by the Chief Justice and two members appointed by the Minister responsible for justice, and acts under the general direction of the Chief Justice. It was officially launched on the 17th of October, 2003 and was set up following amendments to Article 9 of the Code of Organisation and Civil Procedure which specifically provides that a judge or magistrate may undertake the administration of activities within the Judicial Studies Committee.

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

	<b>Budget of the institution for the reference year, in €</b>
<b>One institution for judges</b>	9000 <input type="checkbox"/> NA <input type="checkbox"/> NAP
<b>One institution for prosecutors</b>	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP
<b>One single institution for both judges and prosecutors</b>	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP

Comments

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

. Judges are trained in EU law and national law, both locally and abroad (through EJTN). Such training takes place throughout the year, in such a way so as it does not jeopardise the efficiency of the court. Lawyers working at the Office of the AG attend courses and training in their fields of specialisation, also related to EU law, EU directives and national law.

**5.3.Practice of the profession**

**5.3.1.Salaries and benefits of judges and prosecutors**

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

	Gross annual salary, in €	Net annual salary, in €	Gross annual salary, in local currency	Net annual salary, in local currency
First instance professional judge at the beginning of his/her career	68649 <input type="checkbox"/> NA <input type="checkbox"/> NAP	51134 <input type="checkbox"/> NA <input type="checkbox"/> NAP	68649 <input type="checkbox"/> NA <input type="checkbox"/> NAP	51134 <input type="checkbox"/> NA <input type="checkbox"/> NAP
Judge of the Supreme Court or the Highest Appellate Court (please indicate the average salary of a judge at this level, and not the salary of the Court President)	76130 <input type="checkbox"/> NA <input type="checkbox"/> NAP	56422 <input type="checkbox"/> NA <input type="checkbox"/> NAP	76130 <input type="checkbox"/> NA <input type="checkbox"/> NAP	56422 <input type="checkbox"/> NA <input type="checkbox"/> NAP
Public prosecutor at the beginning of his/her career	30628 <input type="checkbox"/> NA <input type="checkbox"/> NAP	23108 <input type="checkbox"/> NA <input type="checkbox"/> NAP	30628 <input type="checkbox"/> NA <input type="checkbox"/> NAP	23108 <input type="checkbox"/> NA <input type="checkbox"/> NAP
Public prosecutor of the Supreme Court or the Highest Appellate Instance (please indicate the average salary of a public prosecutor at this level, and not the salary of the Attorney General).	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP

Comments

**133. Do judges and public prosecutors have additional benefits?**

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

<b>Other financial benefit</b>	( X ) Yes ( ) No	( X ) Yes ( ) No
--------------------------------	---------------------	---------------------

Comments Act 44 Constitutional Reforms (Justice Sector) Act of 2016 also enhanced the independence of the judiciary through the introduction of an adequate pension scheme that respects the service that has been offered by the retired judiciary, as well as their widows/widowers.

The special pension was introduced in 2016 for the judiciary, so it was not present in the previous cycles and it is not applicable to the lawyers working in the Office of the Attorney General.

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

. Apart from the Honoraria (85% of Scale 1 for the Magistrates, and 100% of Scale 1 for the Judges), members of the judiciary receive a non-pensionable allowance, a non-pensionable expense allowance, a non-pensionable training/ work allowance and another non-pensionable expense allowance.

[ ] NAP

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

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

Comments - If rules exist in your country (e.g. authorisation needed to perform these activities), please specify. If “other function”, please specify. The Commission for the Administration of Justice is entrusted, by Art 101A of the Constitution of Malta, to draw up a code of ethics for the judiciary. According to Art 9 of this same code, members of the judiciary cannot hold "... any other office of profit under the Government" (Art 9a), cannot ... "exercise any profession, business or trade (Art 9B) and "... shall not hold any office or post, even though of a temporary or voluntary or honorary nature, and may not perform any activity, which in the opinion of the Commission for the Administration of Justice may compromise or prejudice their position or their duties or functions" (Art 9d).

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

With remuneration	Without remuneration
-------------------	----------------------

<b>Teaching</b>	( X ) Yes ( ) No	( X ) Yes ( ) No
<b>Research and publication</b>	( X ) Yes ( ) No	( X ) Yes ( ) No
<b>Arbitrator</b>	( ) Yes ( X ) No	( ) Yes ( X ) No
<b>Consultant</b>	( ) Yes ( X ) No	( ) Yes ( X ) No
<b>Cultural function</b>	( ) Yes ( X ) No	( ) Yes ( X ) No
<b>Political function</b>	( ) Yes ( X ) No	( ) Yes ( X ) No
<b>Other function</b>	( ) Yes ( X ) No	( ) Yes ( X ) No

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

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

- ( ) Yes
- ( X ) No

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

**5.4. Disciplinary procedures**

**5.4.1. Authorities responsible for disciplinary procedures and sanctions**

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

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

Comments

**141. Who is authorised to initiate disciplinary proceedings against public prosecutors: (multiple**

**options possible):**

- Citizens
- Head of the organisational unit or hierarchical superior public prosecutor
- Prosecutor General /State public prosecutor
- Public prosecutorial Council (and Judicial Council)
- Disciplinary court or body
- Ombudsman
- Professional body
- Executive power (please specify): .....
- Other (please specify): .....
- This is not possible

Comments

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

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

Comments Whilst prior to 2016 the Commission for the Administration of Justice could either reprimand a defaulting judiciary or advice Parliament for impeachment, following the coming into force of Act 44 Constitutional Reform (Justice Sector) Act of 2016, this Commission was given a broader range of disciplinary actions that could be more appropriately used in order to discipline members of the judiciary.

**143. Which authority has disciplinary power over public prosecutors? (multiple options possible):**

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

Comments

## 5.4.2. Number of disciplinary procedures and sanctions

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

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

Comments - If "other", please specify:

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

	Judges	Prosecutors
<b>Total number (total 1 to 9)</b>	1 <input type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> NA <input type="checkbox"/> NAP
<b>1. Reprimand</b>	1 <input type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> NA <input type="checkbox"/> NAP
<b>2. Suspension</b>	<input type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> NA <input type="checkbox"/> NAP
<b>3. Withdrawal from cases</b>	<input type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> NA <input type="checkbox"/> NAP
<b>4. Fine</b>	<input type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> NA <input type="checkbox"/> NAP
<b>5. Temporary reduction of salary</b>	<input type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> NA <input type="checkbox"/> NAP
<b>6. Position downgrade</b>	<input type="checkbox"/> NA <input type="checkbox"/> NAP	<input type="checkbox"/> NA <input type="checkbox"/> NAP

<b>7. Transfer to another geographical (court) location</b>	<input type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP
<b>8. Resignation</b>	<input type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP
<b>9. Other</b>	<input type="checkbox"/> NA <input type="checkbox"/> NAP	<input checked="" type="checkbox"/> NA <input type="checkbox"/> NAP

Comments - If “other”, please specify. If a significant difference exists between the number of disciplinary proceedings and the number of sanctions, please indicate the reasons. The only case mentioned above is know because it was leaked to the local media. The magistrate in question was reprimanded by the Commission for the Administration of Justice for breaching the judicial code of ethics.

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

Sources: The data is not available.

## **6.Lawyers**

### **6.1.Profession of lawyer**

#### **6.1.1.Status of the profession of lawyers**



#### **146. Total number of lawyers practising in your country:**

[ 1327 ]

NA

NAP

Comments The number of lawyers quoted in this answer refers to the number of warranted lawyers who are also members of the Chamber of Advocates, at the end of 2016. Throughout 2016, the Chamber of Advocates has been updating their list of members in order to clear the names of the lawyers who have either retired or have passed away. Furthermore, it is important to note that at present membership with the Chamber of Advocates, which is the sole Bar Association in Malta, is not mandatory. Hence over the past few months, the Department of Justice is drawing up the first complete list of warranted and non-warranted lawyers in Malta. Work is still underway so it is important to note that the figure quoted above, which is less than that submitted in the previous evaluation, reflects a more faithful representation of the number of warranted lawyers in Malta.

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

Yes ( )

No ( X )

Comments

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

[ 76 ]

NA

Comments

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

	First instance	Second instance	Highest instance court (Supreme Court)
<b>Civil cases</b>	( X ) Yes ( ) No [ ] NAP	( X ) Yes ( ) No [ ] NAP	( ) Yes ( ) No [ X ] NAP
<b>Dismissal cases</b>	( X ) Yes ( ) No [ ] NAP	( X ) Yes ( ) No [ ] NAP	( ) Yes ( ) No [ X ] NAP
<b>Criminal cases - Defendant</b>	( X ) Yes ( ) No [ ] NAP	( X ) Yes ( ) No [ ] NAP	( ) Yes ( ) No [ X ] NAP
<b>Criminal cases - Victim</b>	( X ) Yes ( ) No [ ] NAP	( X ) Yes ( ) No [ ] NAP	( ) Yes ( ) No [ X ] NAP
<b>Administrative cases</b>	( X ) Yes ( ) No [ ] NAP	( X ) Yes ( ) No [ ] NAP	( ) Yes ( ) No [ X ] NAP
<b>There is no monopoly</b>	( ) Yes ( ) No [ X ] NAP	( ) Yes ( ) No [ X ] NAP	( ) Yes ( ) No [ X ] NAP

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

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

	First instance	Second instance	Highest instance court (Supreme Court)
<b>Civil society organisation</b>	( ) Yes ( ) No [ X ] NAP	( ) Yes ( ) No [ X ] NAP	( ) Yes ( ) No [ X ] NAP
<b>Family member</b>	( ) Yes ( ) No [ X ] NAP	( ) Yes ( ) No [ X ] NAP	( ) Yes ( ) No [ X ] NAP
<b>Self-representation</b>	( ) Yes ( ) No [ X ] NAP	( ) Yes ( ) No [ X ] NAP	( ) Yes ( ) No [ X ] NAP
<b>Trade union</b>	( ) Yes ( ) No [ X ] NAP	( ) Yes ( ) No [ X ] NAP	( ) Yes ( ) No [ X ] NAP
<b>Other</b>	( ) Yes ( ) No [ X ] NAP	( ) Yes ( ) No [ X ] NAP	( ) Yes ( ) No [ X ] NAP

Comments - If "other", please specify. In addition, please specify for the categories mentioned, the types of cases concerned by this/these



representation(s):

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

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

Comments

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

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

Comments

**150. Is the lawyer profession organised through:**

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

Comments The national bar association is the Malta Chamber of Advocates.

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

- Yes
- No

Comments - If not, please indicate if there are other specific requirements as regards diplomas or university degrees: In order to practice as a lawyer in Malta, one has to successfully complete an academic degree of Doctor of Law (LL.D) at the University of Malta or any other recognised academic institution. Furthermore, a graduate who wants to practice law has to be in possession of a Warrant issued by the President of Malta under the Public Seal of Malta. Sections 79 to 81A of the Code of Organisation and Civil Procedure (Chapter 12, Title V, of the Legal Profession, The Laws of Malta) outlines the necessary requirements, codified in law, entitling one to exercise the profession of advocate in the Malta.

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

- Yes
- No

Comments

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

- Yes

( X ) No

Comments - If yes, please specify:

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

Sources: Questions 146 and Question 148 were answered thanks to the Department of Justice.

**6.1.2. Practicing the profession**



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

( X ) Yes

( ) No

Comments Lawyers' fees are regulated by the COCP, and made available online at [www.justiceservices.gov.mt](http://www.justiceservices.gov.mt).

**155. Are lawyers' fees freely negotiated?**

( X ) Yes

( ) No

Comments

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

[ X ] Yes laws provide rules

[ ] Yes standards of the bar association provide rules

[ ] No neither laws nor bar association standards provide rules

Comments

**6.1.3. Quality standards and disciplinary procedures**



**157. Have quality standards been determined for lawyers?**

( X ) Yes

( ) No

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

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

[ X ] the bar association

[ X ] the Parliament

[ ] other (please specify): .....

Comments

**159. Is it possible to file a complaint about:**

the performance of lawyers

the amount of fees

Comments - Please specify:

**160. Which authority is responsible for disciplinary procedures?**

the judge

the Ministry of Justice

a professional authority

other (please specify): .....

Comments

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

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

Comments - If "other", please specify: Given that proceedings are confidential, such data is not available.

**162. Sanctions pronounced against lawyers.**

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

<b>3. Withdrawal from cases</b>	[ X ] NA [ ] NAP
<b>4. Fine</b>	[ X ] NA [ ] NAP
<b>5. Other</b>	[ X ] NA [ ] NAP

Comments - If "other", please specify. If a significant difference between the number of disciplinary proceedings and the number of sanctions exists, please indicate the reasons. Given that proceedings are confidential, such data is not available.

## 7. Alternative dispute resolutions

### 7.1. Mediation

#### 7.1.1. Details on mediation procedures and other ADR

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

( X ) Yes

( ) No

Comments

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

[ X ] Before going to court

[ ] Ordered by a judge in the course of a judicial proceeding

Comments - If there are mandatory mediation procedures, please specify which fields are concerned: Mandatory judicial mediation is possible only in Family Civil cases. In such cases, as soon as the parties file a case in court, they have to undergo mediation procedures before professional mediators appointed either by the mediation co-ordinator or directly by the judge. In all cases, the judge, whilst honouring the confidentiality of the mediation process, is following the process that might either lead to a peaceful resolution of the family dispute, or might then be taken up in court. As from the October 2017, compulsory mediation will be enforced in one specific area of civil cases (cases filed in front of the Rent Regulation Board).

In Malta, to date, they have mandatory judicial mediation in family cases. Mediation occurs in the initial phase of the judicial proceedings, before contentious proceedings are initiated, in that whilst it is managed by the mediation co-ordinator, the judge oversees the process. If mediation fails, then the case proceeds in open court. Technically the above criteria do not match the Maltese context because it is at the initial phase of the court procedure but given that it is mandatory, the judge does not need to 'order' it. Having said this, he oversees it.

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

	<b>Court annexed mediation</b>	<b>Private mediator</b>	<b>Public authority (other than the court)</b>	<b>Judge</b>	<b>Public prosecutor</b>
<b>Civil and commercial cases</b>	( ) Yes ( X ) No	( ) Yes ( X ) No	( ) Yes ( X ) No	( ) Yes ( X ) No	( ) Yes ( X ) No
<b>Family law cases (ex. divorce)</b>	( X ) Yes ( ) No	( X ) Yes ( ) No	( ) Yes ( X ) No	( X ) Yes ( ) No	( ) Yes ( X ) No

<b>Administrative cases</b>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<b>Employment dismissals</b>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<b>Criminal cases</b>	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

Comments

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

- Yes  
 No

Comments - If yes, please specify:

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

- [ 66 ]  
[ ] NA  
[ ] NAP

Comments The data regarding the number of mediators was provided by The Malta Mediation Centre, quoting the number of mediators duly accredited and registered in terms of the provisions of the Mediation Act, 2004 (Cap. 474 of the Laws of Malta).

**167. Number of judicial mediation procedures.**

	<b>Number of judicial mediation procedures</b>
<b>Total number of mediation cases (total 1 + 2 + 3 + 4 + 5)</b>	1896 [ ] NA [ ] NAP
<b>1. Civil and commercial cases</b>	[ ] NA [ X ] NAP
<b>2. Family cases</b>	1896 [ ] NA [ ] NAP
<b>3. Administrative cases</b>	[ ] NA [ X ] NAP
<b>4. Employment dismissal cases</b>	[ ] NA [ X ] NAP
<b>5. Criminal cases</b>	[ ] NA [ X ] NAP

Comments - Please indicate the source:

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

- [ X ] mediation other than judicial mediation  
[ X ] arbitration  
[ X ] conciliation

[ ] other ADR (please specify): .....

Comments

**G1. Please indicate the source for answering question 166:**

Source: The Malta Mediation Centre

**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?**

( X ) Yes

( ) No

Comments

**170. Number of enforcement agents**

[ 22 ]

[ ] NA

[ ] NAP

Comments

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

[ ] judges

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

[ X ] bailiffs working in a public institution

[ ] other

Comments - Please specify their status and powers:

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

( X ) Yes

( ) No

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

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

Option

<b>Seizure of movable tangible properties</b>	( X ) Yes with monopole ( ) Yes without monopole ( ) No [ ] NAP
<b>Seizure of immovable properties</b>	( X ) Yes with monopole ( ) Yes without monopole ( ) No [ ] NAP
<b>Seizure from a third party of the debtor claims regarding a sum of money</b>	( X ) Yes with monopole ( ) Yes without monopole ( ) No [ ] NAP
<b>Seizure of remunerations</b>	( X ) Yes with monopole ( ) Yes without monopole ( ) No [ ] NAP
<b>Seizure of motorised vehicles</b>	( X ) Yes with monopole ( ) Yes without monopole ( ) No [ ] NAP
<b>Eviction measures</b>	( X ) Yes with monopole ( ) Yes without monopole ( ) No [ ] NAP
<b>Enforced sale by public tender of seized properties</b>	( ) Yes with monopole ( ) Yes without monopole ( ) No [ X ] NAP
<b>Other</b>	( X ) Yes with monopole ( ) Yes without monopole ( ) No [ ] NAP

Comments

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

- [ X ] Service of judicial and extrajudicial documents
- [ X ] Debt recovery
- [ ] Voluntary sale of moveable or immoveable property at public auction
- [ X ] Seizure of goods
- [ X ] Recording and reporting of evidence
- [ X ] Court hearings service
- [ ] Provision of legal advice
- [ ] Bankruptcy procedures
- [ X ] Performing tasks assigned by judges
- [ ] Representing parties in courts

Drawing up private deeds and documents

Building manager

Other

Comments

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

Yes

No

Comments

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

Yes

No

Comments

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

a national body

a regional body

a local body

NAP

Comments Enforcement agents are court employees and as such they are organised along the terms and conditions of employment outlined by the Public Service Commission.

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

Yes

No

Comments

**175. Are enforcement fees freely negotiated?**

Yes

No

Comments

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

Yes

No

Comments

**H0. Please indicate the sources for answering question 170**

Source: The Court Administration



## 8.1.2. Efficiency of enforcement services



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

Yes

No

Comments

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

a professional body

the judge

the Ministry of Justice

the public prosecutor

other (please specify): The Court Administration

Comments

**179. Have quality standards been determined for enforcement agents?**

Yes

No

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

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

a professional body

the judge

the Ministry of Justice

other (please specify): .....

Comments

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

Yes

No

Comments - If yes, please specify: The same procedures available for the enforcement of court decisions against private citizens apply to public authorities.

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

Yes

No

Comments - If yes, please specify:

**183. What are the main complaints made by users concerning the enforcement procedure? Please**

**indicate a maximum of 3.**

- no execution at all
- non execution of court decisions against public authorities
- lack of information
- excessive length
- unlawful practices
- insufficient supervision
- excessive cost
- other (please specify): .....

Comments

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

- Yes
- No

Comments - If yes, please specify:

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

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

Comments There is no such system for neither civil nor administrative cases.

**186. As regards a decision on debt collection, please estimate the average timeframe to notify the decision to the parties who live in the city where the court sits (one option only):**

- between 1 and 5 days
- between 6 and 10 days
- between 11 and 30 days
- more (please specify): .....

Comments

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

Number of disciplinary proceedings initiated
--

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

Comments - If "other", please specify:

### 188. Number of sanctions pronounced against enforcement agents:

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

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

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

Source: The Court Administration

## 8.2. Execution of decisions in criminal matters

### 8.2.1. Functioning of execution in criminal matters



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

- Judge
- Public prosecutor
- Prison and Probation Services
- Other authority (please specify):The Police

Comments - Please specify his/her functions and duties (e.g. initiative or monitoring functions).

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

- Yes
- No

Comments

**191. If yes, what is the recovery rate?**

- 80-100%
- 50-79%
- less than 50%

Comments - Please indicate the source for answering this question:

**9. Notaries**

**9.1. Profession of notary**

**9.1.1. Number and status of notaries**

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

	Number of notaries
<b>TOTAL</b>	316 <input type="checkbox"/> NA <input type="checkbox"/> NAP
<b>Private professionals (without control from public authorities)</b>	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP
<b>Private professionals under the authority (control) of public authorities</b>	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP
<b>Public agents</b>	316 <input type="checkbox"/> NA <input type="checkbox"/> NAP
<b>Other</b>	<input type="checkbox"/> NA <input checked="" type="checkbox"/> NAP

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

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

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

Comments To become a Maltese Notary one must first have completed the prescribed university course according to Law. Following this, one must register as a Trainee for a period of at least two years with a Notary who has practiced for at least ten years and approved by Council. After this traineeship period, one would be eligible to sit for the Notarial Warrant Examination held in March of every year.

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

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

Comments

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

- within the framework of civil procedure
- in the field of legal advice
- to certify the authenticity of legal deeds and certificates
- in the field of mediation
- other (please specify): .....

Comments Conveyancing (property sales, purchase, leasing etc.), financial collateral (hypothecation of immovables), succession (wills, trusts, etc) and matters pertaining to civil status (matrimonial regimes, personal separations, etc) are all within the remit of the profession and form the portfolio of a Notary's day-to-day work. Notaries can also function as mediators, but they have to undergo specified training and be registered as mediators with the Malta Mediations Centre.

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

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

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

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

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

Other

Comments

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

Yes

No

Comments

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

a professional body

the judge

the Ministry of Justice

the public prosecutor

the Ministry of Interior

other (please specify): .....

Comments

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

Yes

No

Comments Continuous training is not mandatory but the Professional Development Committee within the Notarial Council, in coordination with the Institute for Legal Studies (ILS), the University of Malta and other academic bodies, designs information seminars aimed specifically at Notaries.

**I1. Please indicate the sources for answering question 192:**

Sources: The Notarial Council. The number of practising notaries quoted at Q192 was derived from the list of notaries exercising their profession in Malta, published in the Government Gazette dated 20th January, 2017.

**10. Court interpreters**

**10.1. Details on profession of court interpreter**

**10.1.1. Status of court interpreters**

**197. Is the title of court interpreters protected?**

Yes

No

Comments

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

Yes

No

Comments Art 596 of Chapter 12 (the Code of Organisation and Civil Procedure) speaks about the employment of court interpreters and the requirements relative to the oath they take upon entering the duties of the office. Apart from this, the Criminal Code (Chp 9 of the Laws of Malta) makes several references to the employment of interpreters, such as when one is under arrest, during court proceedings (when the accused does not understand the language in which proceedings are carried out), in respect of the language of a witness or even if accused is deaf-mute. This right to interpretation at all stages of criminal proceedings is important to enable the accused to adopt the best defence possible and also to ensure the fairness of criminal proceedings.

### 199. Number of accredited or registered court interpreters:

[ 213 ]

NA

NAP

Comments The drastic increase in the number of interpreters follows a detailed exercise carried out by the Department of Justice. Calls for expression of interest to serve as court interpreters have been issued and a comprehensive list of interpreters/ translators for both the civil and criminal courts have been drawn. This list continues to be updated frequently in order to reflect the needs and exigencies of the various courts.

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

Yes

No

Comments - If yes, please specify:

### 201. Are the courts responsible for selecting court interpreters?

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

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

No, please specify which authority selects court interpreters .....

Comments

### J1. Please indicate the sources for answering question 199

Sources: Department of Justice

## 11. Judicial experts

### 11.1. Profession of judicial expert

#### 11.1.1. Status of judicial experts

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

"expert witnesses", who are requested by the parties to bring their expertise to support their argumentation,

"technical experts" who put their scientific and technical knowledge on issues of fact at the court's disposal,

"legal experts" who might be consulted by the judge on specific legal issues or requested to support the judge in preparing the judicial work (but do not take part in the decision).

Other (please specify): Court Attorneys

Comments Court Attorneys are legal experts that assist the judge in drafting the sentence. However the responsibility of the sentence still resides with the judiciary.

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

Yes

No

Comments - Please, indicate any useful comment regarding these lists of experts if they do exist (e.g. : who decide of the registration on the list ? Is the registration limited in time ? does the expert take the oath ? how is his/her skill evaluated ? by whom ?) In 2016, the Department of Justice has been entrusted to re-organise the court expert system and, as a result, be responsible for the administrative aspect of running this system. The court experts are now recruited following a bi-annual public expression of interest that is published in all major newspapers. Interested parties are requested (but not obliged) to submit their CV and undergo a due diligence process. An updated list of all experts is provided to the judiciary who are then free to nominate the experts according to the exigencies of the case.

### 203. Is the title of judicial experts protected?

Yes

No

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

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

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

Comments Any obligation for training emanates from the requirements of the professional title carried by the expert and not specifically from the role as judicial expert.

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

the proceeding

the profession of expert

other

Comments There are no official training being provided or having been provided to court experts to fulfil their role in court

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

Yes

No

Comments



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

Yes

No

Comments

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

915 ]

NA

NAP

Comments The above figure is composed of:

- members of boards that assist the judge in technical matters = 222;
- experts such as architects, auctioneers, accountants, forensic experts, etc = 681;
- court attorneys, who assist the judge with the drafting of the judgements = 12.

It is important to note that this data is all the time being reviewed and updated and that an exact figure of experts at the end of 2016 is not available. Furthermore, some experts are listed under different areas of expertise and hence their name features under different lists. Thus, the above quoted figure is the closest approximation to the number of court experts at the end of 2016, available at present.

**205-1. Who sets the expert remuneration?**

- Experts' remuneration is laid out in the Code of Organisation and Civil Procedure (Chp 12) of the Laws of Malta, Schedule A.

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

Yes

No

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

**207. Are the courts responsible for selecting judicial experts?**

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

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

No, please specify which authority selects judicial experts .....

Comments

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

Yes

No

Comments

**K1. Please indicate the sources for answering question 205**

## 12.Reforms in judiciary

### 12.1.Foreseen reforms

#### 12.1.1.Reforms

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

1. (Comprehensive) reform plans Building on the reforms already implemented in the previous years, the present administration has continued to work on legislative and operational reforms that are intended to improve the efficiency of justice. Throughout 2017, work was carried out in order to introduce a commercial division within the Civil Court in order to facilitate cases filed under the Companies Act. A bill was presented to parliament for the 1st reading on July 2017, and is currently undergoing the legislative process that would see it being enacted as law by the end of the year. The Commercial Division will become operative in 2018. This bill, entitled Code of Organisation and Civil Procedure (Amendment) (No. 2) Act of 2017, also laid out provisions for another 2 major innovations that will translate into more expedited proceedings within the Civil Courts. The first innovation relates to the establishment of a Civil Court, First Hall in Gozo. Up to this day, Magistrates serving the Gozo courts were given a special concession to hear cases normally presided over by a Judge. Following this amendment, the Court of Magistrates (Gozo) in its superior jurisdiction will be abolished, and the jurisdiction of the Civil Court (First Hall), the Civil Court (Family Section) and the Civil Court (Voluntary Jurisdiction) will be extended to the islands of Gozo and Comino. Secondly, the Bill also introduces a legal amendment that will address, once and for all, an issue with efficiency being experienced in the 2nd instance civil courts. The Civil Court of Appeal (Superior Jurisdiction) is composed of two chambers, presided over by the Chief Justice, in order to ensure consistency of sentencing. Current legislation also dictates that certain types of cases should be fast-tracked, and this is creating a backlog with the remaining cases that do not fall within the 'fast-track' criteria. The Bill proposes the setting up of multiple chambers, in such a way that all cases at the 2nd instance court are initiated within a short period of time since filing. Once implemented, it is envisaged that the clearance rate and the disposition time of these courts would drastically improve.

#### 2. Budget NAP

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) 2017 saw further structural works being carried out in the law courts. 3 additional halls are being added to the court complement, with the first of these halls being finalised within the 1st quarter of 2017. By the end of 2017, the structural works on the

other 2 halls would be ready and these halls would be available for use. These additions would see the total hall complement increase from 24 to 27, thereby facilitating the increase in the number of sittings, as well as their scheduling. Ultimately, this structural measure would also be contributing towards a decrease in the pending caseload of the civil and criminal courts.

In addition to these works, the court administration also invested in a new court training room and a library. The new training room will cater for the training of the judiciary and other court staff, whilst the modern library provides adequate space to be used by lawyers and students alike.

3.1. Access to justice and legal aid Following the establishment of the Legal Aid Agency, the attention was directed at improving the conditions of the lawyers offering their services therein. The honoraria of the lawyers and legal procurators was tripled towards the end of 2016 and this has served as an incentive in order to improve the efficiency of the service being offered to the clients of the Agency. Furthermore, this year the post of Head Advocate of Legal Aid has been filled, and hence the Agency now has the organisational structure needed to take it forward.

#### 4. High Judicial Council NAP

5. Legal professionals (judges, public prosecutors, lawyers, notaries, enforcement agents, etc.): organisation, education and training, etc. The Department of Justice has embarked on a Court Expert Reform exercise that will see court experts being appointed following a bi-annual expression of interest to serve in the different areas of expertise required by the courts. All interested candidates are invited to undergo a due diligence process in order to ensure that court experts reflect the professional capabilities being requested. Whilst the administrative aspect of the new procedure lies within the remit of the Department of Justice, the Judiciary are still the only authorities that can appoint an expert to serve in their court. This has been done in order to safeguard the independence of the judiciary whilst facilitating procedure by providing the courts with a vetted list of experts from which they might opt to choose. In respect of non-Maltese lawyers who wish to apply to be warranted to practise their profession in Malta under their home title, the Department of Justice has further facilitated this process by upgrading this service electronically. Non-Maltese lawyers can now apply online through an e-form, thereby facilitating the process of application and widening accessibility.

6. Reforms regarding civil, criminal and administrative laws, international conventions and cooperation activities Commercial Law: Together with the Malta Financial Services Authority (MFSA), the current administration is working on setting up a National Insolvency Register and interconnect this register on the EU e-Justice Portal for the good functioning of cross-border insolvency proceedings. The project will allow Courts and the MFSA to align the Maltese National Insolvency Registers to the requirements of the Insolvency Regulations.

Criminal Law: During 2016, the Government also enacted Act 51 of 2016, entitled 'Criminal Code (Amendment No. 2) Act', which passed through Parliament on the 23rd November 2016. The amendments further built on the recommendations of the Bonello Commission Report (of 30th November 2013) and transposed the Access to a Lawyer Directive (Directive 2013/48/EU). The Act provides for the rights of suspects and accused persons in criminal proceedings and of persons subject to proceedings to have access to

a lawyer, to have a third party informed of the deprivation of liberty and to communicate with third persons and with consular authorities while deprived of liberty.

With reference to Insolvency Law, by way of Act XI of 2017, the legislator introduced legislative amendments to the Companies Act which reflect inter alia important Commission recommendation principles as introduced and drafted in the Commission Recommendation document on a new approach to business failure and insolvency of March 2014. Act XI of 2017, features important principles of envisaging early restructuring, creating space before enforcement, access to new finance, allowing for a discharge period and second chance principles.

#### 7. Enforcement of court decisions NAP

8. Mediation and other ADR Efforts have also been directed at extending the services related to mediation. The Mediation (Amendment) Act of 2017 lays out provisions for the introduction of compulsory mediation before any Courts, Tribunals or Boards as ordered by the Minister. In effect, the same law pilots this new system within the Rent Regulation Board with the right of any party to opt out if it results that mediation would be unsuccessful. Nonetheless, the compulsory mediation process cannot extend beyond 120 days from its commencement and the cost of applying for mediation remained minimal (Euros 50) whilst lawyers remain entitled to their professional fees according to the taxed bill of costs. Furthermore, where a dispute is settled in full during the compulsory mediation process, the parties will be reimbursed in part.

The Act also provides for the introduction of video conferencing and distance communication technology within the mediation process, as well as for the possibility of promoting mediation through targeted incentives and schemes.

The Act will come into force in October 2017.

#### 9. Fight against crime NAP

##### 9.1. Prison system NAP

##### 9.2 Child friendly justice NAP

##### 9.3. Violence against partners The Department of Justice is also a project partner in an EU funded project named, 'Full Cooperation,

'Zero Violence' being led by the Ministry for Social Dialogue, Consumer Affairs and Civil Liberties (MSDC). Following the ratification of the Istanbul Convention in 2014, Malta committed itself to strengthen national legislation and reorganize current services in the field of violence against women (VAW) and gender-based violence (GBV). The aim of this project is precisely to develop and implement multi-sectorial and multi-disciplinary cooperation that will enable professionals to cooperate effectively and respond in a more coordinated manner to these types of violence. In practice, this project involves the training of professionals and first-liners in responses to VAW and GBV across the whole professional spectrum, including justice professionals such as the police, lawyers and members of the judiciary. In addition a manual of procedures and standard operating procedures will be drawn in order to streamline intervention practices. The project will also launch an information campaign to 'train' and encourage victims, witnesses or bystanders to report violence and seek help through the upgraded services. The ultimate outcome of this project will see a more coordinated and integrated response from relevant professions at the national level, an upgrade of current services being offered and heightened awareness of these types of violence amongst the general public.

10. New information and communication technologies In addition to the host of ICT initiatives undertaken over the past few years, 2017 also saw the Court Administration working to extend the possibility of e-filing to the Court of Magistrates, as another important step in the process of e-justice initiatives being undertaken.

11. Other Throughout the 4th quarter of 2016, the first Court User Satisfaction Survey was carried out in line with CEPEJ methodology. The surveys were conducted on four identified professional court users, and have provided valuable feedback on various areas of the functioning of the courts. These surveys will be carried out every year on different professional court user categories in order to ensure that the opinions and feedback of all stakeholders on the justice system, can be captured.