European Network of Councils for the Judiciary (ENCJ)

Réseau européen des Conseils de la Justice (RECJ)

Response questionnaire project group Timeliness

Bundesministerium für Justiz (Austria)

1. The Court System and Available Statistics

1.1. The Court System

The judicial system is separate from the administrative system on all levels. Austria's judicial system comprises ordinary courts, the departments of public prosecution, the prisons and the facilities of the probationary system. The courts are state institutions which decide on civil-law claims and penal-law charges in a formal procedure. They are set up by force of law and run by judges, who are independent, cannot be removed or transferred from office, who are impartial and only bound to the legal system. Public prosecutor's offices are special bodies that are separate from the courts. In particular, they safeguard the public interest in the administration of penal justice by heading the preliminary proceedings, the indictment and acting for the prosecution in criminal proceedings. Prisons are responsible for the enforcement of sentences. The facilities of the probationary services are also part of the judicial system. The Federal Minister of Justice is at the top of the judicial administration. The Federal Ministry of Justice is her competence.

Tasks
Austrian courts are primarily responsible for civil-law cases, labour and social law matters, non-litigious matters, execution matters, bankruptcy and debt recomposition cases, as well as penal matters. Keeping the land register and the commercial register are also a responsibility of the courts.

Principles
The respective higher court generally decides on legal remedies. In civil-law cases a further appeal against the ruling of the appellate court is possible to the Supreme Court in certain circumstances. In penal-law matters there is generally only a two-tier procedure.

In addition to decisions by professional judges, Austria's federal constitution also provides that citizens participate in the administration of justice. In penal proceedings, lay judges rule on cases carrying a maximum punishment of more than five years. Lay juries are responsible for offences that carry a life sentence or a minimum prison term of five years and a maximum prison term of more than ten years, as well as for political offences. In civil law cases lay judges can be found in labor and social-law matters, as well as in commercial-law disputes. Together with professional judges they form panels that take joint decisions.

Courts and public prosecution - structure and organization
The ordinary courts are organized on four levels. At present, 141 district courts, 20 regional courts, four courts of appeal and the Supreme Court are responsible for adjudicating legal cases. 17 Offices of Public Prosecution, four offices of senior public prosecutors and the General Procurator's Office take care of public interests. 28 prisons are in charge of enforcing court sentences.

District courts
The district courts are the first instance to decide civil-law cases with a maximum amount in dispute of EUR 10,000, as well as to rule on certain types of cases (irrespective of the amount in dispute, mainly family and rent-law cases). In addition, the district courts rule on penal-law matters in case of offences carrying merely a fine or a maximum prison term of one year.

Regional courts (first-instance courts)
The regional courts (first-instance courts) are responsible for a first-instance ruling on all legal matters that are not reserved to district courts. In addition, they are responsible as second-instance courts to rule on appeals against district court decisions.

Courts of Appeal (second-instance courts)
Four courts of appeal have been set up on the third organizational level. These second-instance courts are appellate courts for all civil and penal-law cases. In addition, these courts play a special role in the administration of the judicial system. The president of a court of appeal is the director responsible for the administration of all courts in his/her court district. In this function, his/her only and immediate superior is the Federal Minister of Justice.

The Supreme Court
The Supreme Court in Vienna is the highest instance in civil and penal-law cases. Together with the Constitutional Court and the Administrative Court it is referred to as the Highest Court. This means that no further (domestic) remedy is possible against its decisions. The jurisdiction of the Supreme Court is a major contribution towards preserving the uniform application of the law throughout the national territory. Although the lower courts are not bound by law to its decisions, as a rule they will be guided by the case law of the highest court.

Public prosecutors
Public prosecutor's offices are special bodies separate from the courts that safeguard the public interest in the administration of penal justice. This primarily involves laying charges against persons and representing the indictment in penal proceedings. In criminal proceedings they are also in charge of preliminary proceedings. Public prosecutor's offices are judicial authorities but not independent. They have a hierarchical structure and are bound by the instructions of the offices of senior public prosecutors and ultimately of the Federal Minister of Justice.

The General Procurator's Office, set up with the Supreme Court, holds a special position. The General Procurator's Office is directly responsible to the Federal Minister of Justice and does not have the right to issue any instruction to the offices of public prosecution and the offices of senior public prosecutors. Nor does it issue any indictments, but it is in charge of supporting the Supreme Court. In order to comply with this task, it is especially authorized to lodge so-called "nullity appeals for observance of the law" in penal matters in which the parties have no (further) possibility of appeal. It thus serves an important function in preserving the uniformity of the law, as well as legal certainty in penal-law matters.

Public-Law Courts of Justice
The "public-law courts of justice", i.e. the Constitutional Court and the Administrative Court, hold a special position within Austria's judicial system. Although they are also independent courts, they

are not part of the justice department, but enjoy organizational autonomy. The primary task of the Constitutional Court is to check for compliance with the constitution, which also contains the fundamental rights. The Administrative Court is called upon to review the entire public administration for its lawfulness, with the exception of ordinances, which only the Constitutional Court may examine and repeal.

The Federal Minister of Justice – the supreme administrative body

The judicial administration is headed by the Federal Minister of Justice. The Federal Ministry of Justice is subordinate to the Federal Minister of Justice. She is responsible for the political management, coordination and supreme supervision of the judicial system (including the penitentiary system), together with all associated service units. An important task of the Federal Ministry of Justice is to prepare the legislative acts. This task primarily includes the civil and the penal law.

1.2. Statistic information on Courts, judges and cases

Statistic Information on Courts and judges (2009)

	Judges (full-time equivalents)	
1 Supreme Court:	65,00	(Judicature: 54,67; Administration: 10,33)
4 Courts of Appeal	179,80	(Judicature: 155,73; Administration: 24,07)
20 Regional Courts	696,34	(Judicature: 658,70; Administration: 37,64)
141 District Courts	695,50	(Judicature: 663,01; Administration: 32,49)

Statistic Information on cases (2009)

Court Cases	District Courts	Regional Courts	Courts of Appeal	Supreme Court
Civil cases	576.741 1)	95.758 *		
Non-litigious matters	421.243 2)	18.421 *		
Land register	697.536 **			
Commercial register		16.374 **		
Execution matters	1.076.946 3)			
Insolvency cases	12.329 4)	14.978 *		
Appeals in civil cases		24.043 *	8.937 *	2.657 *
Penal cases	39.220 *	54.659 *		
Appeals in penal cases		3.742 *	7.908 *	907 *

* Handled only by judges

** Handled only by "Rechtspfleger"

1) Handled by judges: 123.005

2) Handled by judges: 71.992

3) Handled by judges: 24.566

4) Handled by judges: 405

Rest of the cases is handled by "Rechtspfleger" and other staff.

1.3. Statistic information on processing time

An annual statistic of the duration of proceedings has been compiled since 2005 which includes civil proceedings. The duration of proceedings is the time between the date of filing an action at court and the date of the last step registered in the Court automation system. The duration of proceedings is stated in months. The 'neutral period' is the time between the stay of proceedings and the interruption of proceedings. The median is the exact mean value of an array of figures arranged according to value.

Below are the figures for the Federal territory. In the national statistics the figures are broken down to the level of the district courts. In addition, civil procedures are divided into categories (e.g. general litigation, rent cases, traffic cases). A statistic of the duration of proceedings in penal-law matters is currently in planning.

a) Duration of proceedings in civil-law cases up to a value of 10,000 Euros:

2009 (573,289 cases) median: 1.6, average: 2.7

Of these 56,520 contested cases (the opposing party enters an appearance) median: 6.1 average: 8.6

Of 56,520 cases in total, 49.4 % were disposed of within six months, 29.1 %, between 6 and 12 months, 16.2 % between 12 and 24 months and 3.5 % between 24 and 36 months. 1.8 % of cases were pending at court for more than 36 months.

Of 56,520 cases in total 5.9 % included 'neutral' periods.

If an appeal is lodged against a decision (14.0 % of cases), the median of the duration of proceedings increases to 12.2 and the average to 15.9. Moreover, a statistic shows how these proceedings are distributed between the various periods (within 6 months, between 6 and 12 months, between 12 and 24 months, between 24 and 36 months and more than 36 months).

If there is a connection with a foreign country (6.6 % of cases), the median of the duration of proceedings increases to 8.6 and the average to 11.6. Moreover, a statistic shows how these proceedings are distributed between the various periods (within 6 months, between 6 and 12 months, between 12 and 24 months, between 24 and 36 months and more than 36 months).

If during the proceedings an expert witness is appointed (in 25.1 % of cases), the median of the duration of proceedings increases to 10.0 and the average to 12.7. Moreover, a statistic shows how these proceedings are distributed amongst the various periods (within 6 months, between 6 and 12 months, between 12 and 24 months, between 24 and 36 months and more than 36 months).

b) Duration of proceedings in civil-law cases with a value of more than 10,000 Euros:

2009 (34,405 cases) median: 2.5, average: 7.7

Of these 12,490 contested cases (the opposing party enters an appearance) median: 11.4, average: 16,3

Of 12,490 cases in total, 24.0 % were disposed of within 6 months, 28.6 %, between 6 and 12 months, 27.9 % between 12 and 24 months and 10.4 % between 24 and 36 months. 9.1 % of cases were pending at court for more than 36 months.

Of 12,490 cases in total 7.6 % included ‘neutral’ periods.

If an appeal is lodged against a decision (28.2 % of cases), the median of the duration of proceedings increases to 18.4 and the average to 25.0. Moreover, a statistic shows how these proceedings are distributed between the various periods (within 6 months, between 6 and 12 months, between 12 and 24 months, between 24 and 36 months and more than 36 months).

If there is a connection with a foreign country (14.4 % of cases), the median of the duration of proceedings increases to 14.5 and the average to 20.3. Moreover, a statistic shows how these proceedings are distributed between the various periods (within 6 months, between 6 and 12 months, between 12 and 24 months, between 24 and 36 months and more than 36 months).

If during the proceedings an expert witness is appointed (in 35.2 % of cases), the median of the duration of proceedings increases to 19.5 and the average to 25.0. Moreover, a statistic shows how these proceedings are distributed amongst the various periods (within 6 months, between 6 and 12 months, between 12 and 24 months, between 24 and 36 months and more than 36 months).

c) Duration of proceedings in labour-law matters:

2009 (21,286 cases) median: 2.0, average: 4.2

Of these 7,531 contested cases (the opposing party enters an appearance) median: 5.3, average: 8.0.

Of 7,531 cases in total, 56.4 % were disposed of within 6 months, 26.0 %, between 6 and 12 months, 12.8 % between 12 and 24 months and 2.9 % between 24 and 36 months. 1.9 % of cases were pending at court for more than 36 months.

Of 7,531 cases in total 6.0 % included ‘neutral’ periods.

If an appeal is lodged against a decision (12.1 % of cases), the median of the duration of proceedings increases to 12.2 and the average to 16.4. Moreover, a statistic shows how these proceedings are distributed between the various periods (within 6 months, between 6 and 12 months, between 12 and 24 months, between 24 and 36 months and more than 36 months).

If there is a connection with a foreign country (6.0 % of cases), the median of the duration of proceedings increases to 7.2 and the average to 10.5. Moreover, a statistic shows how these proceedings are distributed between the various periods (within 6 months, between 6 and 12 months, between 12 and 24 months, between 24 and 36 months and more than 36 months).

If during the proceedings an expert witness is appointed (in 4.9 % of cases), the median of the duration of proceedings increases to 13.0 and the average to 17.3. Moreover, a statistic shows how these proceedings are distributed amongst the various periods (within 6 months, between 6 and 12 months, between 12 and 24 months, between 24 and 36 months and more than 36 months).

d) Duration of proceedings in social law matters:

2009 (39,243 cases) median: 6.0, average: 7.7

Of these 35,629 contested cases (the opposing party enters an appearance) median: 6.3, average: 8.1

Of 35,629 cases in total, 46.8 % were disposed of within 6 months, 37.5 %, between 6 and 12 months, 13.1 % between 12 and 24 months and 1.9 % between 24 and 36 months. 0.7 % of cases were pending at court for more than 36 months.

Of 35,629 cases in total 2.0 % included 'neutral' periods.

If an appeal is lodged against a decision (3.5 % of cases), the median of the duration of proceedings increases to 11.1 and the average to 15.6. Moreover, a statistic shows how these proceedings are distributed between the various periods (within 6 months, between 6 and 12 months, between 12 and 24 months, between 24 and 36 months and more than 36 months).

If there is a connection with a foreign country (1.9 % of cases), the median of the duration of proceedings increases to 8.6 and the average to 12.9. Moreover, a statistic shows how these proceedings are distributed between the various periods (within 6 months, between 6 and 12 months, between 12 and 24 months, between 24 and 36 months and more than 36 months).

If during the proceedings an expert witness is appointed (in 84.7 % of cases), the median of the duration of proceedings increases to 6.3 and the average to 8.1. Moreover, a statistic shows how these proceedings are distributed amongst the various periods (within 6 months, between 6 and 12 months, between 12 and 24 months, between 24 and 36 months and more than 36 months).

2. Statistics, Requirements and Transparency

2.1. What statistics are provided for on a regular basis?

The multiplicity of IT-applications covers the complete scope of Austrian justice. This results in a comprehensive, nationwide data pool that proves highly advantageous for a multitude of necessary statistics. Statistics can be roughly classified as follows:

- Performance statistics, monitoring judicial workload
- Statistics assisting efficient staff deployment
- Statistics assisting supervision
- Documentation of specific legal facts (e. g. convictions, duration of proceedings …
- Ad hoc statistics on behalf of the Austrian parliament and science
- Statistics evaluating IT-strategies

The data mentioned above originates from the applications´ database or is generated by means of data warehouse technology. In the long run statistics, especially those needed periodically and with foreseeable focus will be generated by means of data warehouse technology. This technology provides more flexible and cheaper statistics avoiding interference with the original application. Statistics of broader interest are published via a specific Intranet statistics database. That database features user rights management, allowing customized views for specific user groups. In addition the modern instrument of data warehouse offers the option of individual user defined reports.

2.2. Are provided statistics published?

If not published, to whom are they available?

Is bench marking encouraged?

Basically the statistics are published on the Justice Intranet. The presence of the Justice in the intranet is as an internal information portal for all employees of the Austrian justice system. The intranet is based on the same concepts and technologies as the internet; however, the categories are preset and the content available only to employees. The intranet is therefore a hub for all internal and selected external web applications and provides staff with information. Access to statistics which relate to individual court departments can be obtained with the relevant authority.

In the Internet of Justice (www.justiz.gv.at) under the heading „Justice – data and facts“ general data are provided to the general public (number of cases collected in groups, number of personnel working in the administration of justice and brief information about the duration of proceedings).

Data are provided on request (regularly from Universities).

“Statistik Austria” publishes statistics every year (e.g. security report, Austrian yearbook, divorces) for which the raw data is made available by the administration of justice.

Bench marking is increasingly performed.

2.3. Is processing time of individual cases transparent?

The duration of every case can be checked electronically for official reasons through the Court automation system.

2.4. Are requirements for processing time stipulated?

Specific time requirements for proceedings are not stipulated. The Criminal Procedure Code (StPO) provides, however, that every suspect is entitled to have his proceeding finalized within a proportionate time and that proceedings have to be conducted promptly and without undue delay.

2.5. What are the consequences of exceeding required/reasonable processing time according to national rules or practice?

If the parties have suffered damage as a consequence of a delay in processing a file, damages may be claimed within the scope of public liability. In addition, it is possible to apply for setting a time limit pursuant to § 91 Court Organisation Act (GOG) at the competent court. More details to this at par. 2.6.

According to the Criminal Code (StGB) it constitutes a mitigating circumstance if a criminal proceeding took unreasonably long due to reasons for which the suspect or his lawyer are not responsible.

2.6. Can the parties and others make a complaint about the processing time?

If so to whom?

If a court fails to act or fails to act within a reasonable period of time the application for setting a time limit pursuant to § 91 GOG enables every party to obtain an order from the superior court which sets an appropriate time limit for that court to perform the required procedural actions. This remedy has also been recognized as a remedy (which needs to be exhausted) against delay in proceedings in complaints against the unduly long duration of proceedings at the ECHR in Strasbourg. The application for setting a time limit is filed at the prevaricating court. If the procedural action the court has failed to take, is taken within 4 weeks after the application for setting a time limit has been received, the application is deemed to be withdrawn, if the party does not state that it wants to maintain it.

During the pre-trial phase in criminal procedures and others can make a complaint for violation of a subjective right, including the violation of their right for a proportionate processing time. The public prosecutor has to examine whether the complaint is justified and accordingly to take appropriate measures to remedy the violation. The complainant is notified of these measures by the public prosecutor. If the public prosecutor is of the opinion that the complaint is not justified or if the complainant insists on a court decision the complaint is transmitted for decision to the competent court. Against the decision of the court the complainant and the public prosecutor can enter an appeal to the appeal court.

2.7. Are user surveys on processing time carried out?

If so how often?

No, see par. 2.3

3. Reduction of Caseload and Facilitating Court Procedures

3.1. Which means of reduction of caseload are used?

a) „Small claims appeal“ (§ 501 Civil Procedure Code – ZPO):

If the court of first instance has decided on a subject matter the value of which does not exceed 2,700 Euros of money or monetary value, only nullity [serious procedural errors which in the abstract must result in setting aside of the decision] and an error in the evaluation of the law, can be asserted in the appeal, but not procedural errors. This restriction does not apply to certain cases (e.g. family proceedings).

The possibility of appealing against decisions where the value does not exceed 2,700 Euros is also limited.

b) Model of appeal against refusal of leave of appeal (§ 502 ZPO):

A further restriction exists in the access to the highest court. An appeal [remedy in the Supreme Court against a decision of the court of second instance on the substance] is in any case inadmissible, where the value of the subject matter which the appeal court has decided upon does not exceed 5,000 Euros in money or monetary value. Furthermore, an appeal is inadmissible where the subject matter exceeds 5,000 Euros but not 30.000 Euros in total and the appeal court has not declared the ordinary appeal as admissible.

The leading model for this restriction on appeals in the ZPO is that of an appeal on the principle and an admission appeal. The normal appeal is therefore only admissible, if the decision is dependent on the answer to a legal question of substantive law or of procedural law, which is of significant importance for the maintenance of legal consistency, legal certainty or development of the law, if the appeal court possibly deviates from the rulings of the Supreme Court or if such rulings are absent or not uniform.

c) Inadmissibility of new evidence (§ 482 ZPO):

In the Austrian civil procedure law there is a strict prohibition of new evidence in the appeal procedure. The prohibition of new evidence is in its nature a means of concentration of proceedings that is very effective against delays in appeal cases and the resulting cost increase and goes hand in hand with the general duty of facilitating proceedings. New evidence includes any material relevant to a decision that has not already been pleaded or considered. This includes also facts and evidence which were known to the parties (or the court) at that time and could have been used but were for any reason not pleaded or introduced during the proceedings.

d) The Austrian courts may in any situation ex officio or on application attempt to achieve an amicable settlement of the dispute or a compromise (§ 204 ZPO). In addition, there is the possibility of a 'praetorian compromise' whereby the party intending to issue proceedings may apply for a summons of the opposing party to appear in court for an attempt to achieve a compromise.

Finally in certain disputes concerning the interests of occupiers of adjoining properties there is a duty to attempt a settlement out of court before issuing proceedings, before recourse to the courts may be sought.

Furthermore, there are several other offices established by the Federal Ministry of Justice dedicated to the settlement of disputes.

Means for the reduction of the caseload in criminal cases are for example the transferring of individual cases (or even of all cases except a single case that merits the full attention of one judge or prosecutor) to other prosecutors. A few prosecutors and judges are not appointed to specific prosecution authorities or courts but for a certain district and can therefore be sent to a prosecution authority or court where additional manpower is needed.

3.2. Are any special easy procedures available?

Compulsory order for payment procedure (§§ 244 ff, § 448 ZPO):

The most important measure in the court practice for expedition of proceedings is the compulsory order for payment procedure. In Austria they are organized as single-tier proceedings and obligatory as written preliminary proceedings for claims for payment of money up to and including 75,000 Euros. With this order for payment procedure a speedy and cost efficient enforcement title would be obtained in undisputed money claims. This also enables the efficient disposal of preferential claims in insolvency proceedings where from experience objections are only raised in very few cases.

Similarly to the European order for payment procedure, forms for an order of payment procedure are available. The employment of automated data processing and the responsibility of the judicial

officer achieve efficient processing. It is obvious that this results in a substantial relief of the courts and also a speedier conclusion of proceedings in comparison to earlier proceedings. This relief and expedition effect is further increased by Electronic Legal Communication (ERV). ERV dispenses to a large extent with the time-consuming and error prone entry of the claim details at court.

3.3. What simplifications of ordinary procedures are applied?

Interrogation via video conference (§ 277 ZPO):

According to the technical means and in consideration of the efficiency of proceedings the court may hear evidence directly by the use of technical voice and image transmission facilities instead of interrogation by a judge requested to perform this task.

Discretionary decisions (§ 273 ZPO):

§ 273 ZPO allows the judge discretion in proceedings by giving the judge the opportunity to determine „at its discretion“ the amount of an existing money claim that has already been established as to the entitlement (par. 1). Paragraph 2 goes even further; it allows the judge also to determine the existence of a claim, if some of the individual claims asserted in the same action are insignificant in relation to the total amount or if each of the individual claims does not exceed 1,000 Euros.

The precondition in each case is that the evidence for the disputed amount or the claim can only be produced with great effort and expense. § 273 ZPO is therefore to be regarded as a consequence of the principle of the efficiency of proceedings.

The provisions on the use video conferences in the Code of Criminal Procedure (StPO) have recently been extended. The possibility for the suspect to apply for a suspension of proceedings because of insufficient evidence is excluded during the first three months of an investigation and during the first 6 months in case of a crime punished with more than three years imprisonment. A complaint for violation of a subjective right is inadmissible once the pre-trial phase is finalized.

3.4. Give examples of practices used within ordinary procedures to speed up ordinary procedures.

I. Duty of the parties to facilitate proceedings:

As the speedy conduct and conclusion of civil proceedings is not only in the hands of the judge the Austrian ZPO imposes duties also on the parties which are designed to ensure a speedy conduct of proceedings. If the parties fail to perform their duty, sanctions are provided. In particular:

a) Duty to facilitate proceedings in the stricter meaning (§ 178 par. 2 and § 179 ZPO):

The parties are obliged to file their submissions early and concentrated, so that the proceedings can be conducted as speedily as possible. In principle the parties may adduce new allegations and evidence until the end of the hearing. Their submissions may however, be dismissed on application or ex officio if they were not adduced earlier due to their gross negligence and if their admission would significantly delay the conclusion of the proceedings. It has to be taken into account whether the relevant facts have already been at issue during the consideration of the submissions of fact and law during the preliminary hearing. A significant delay would occur if the discussion of the new

submissions would delay the conclusion of the hearing, thus requiring a further hearing which would otherwise not be necessary.

b) Time limit for evidence (§ 279 par. 1 ZPO):

In addition to the possibility of rejecting assertions of fact and offers of evidence or the production of evidence on the grounds of causing a delay of proceedings and the possibility to refuse taking the evidence offered on the grounds of delaying and protracting proceedings (§ 275 par. 2 ZPO), a time limit can be imposed on the taking of evidence, if there the taking of evidence is prevented for an uncertain period of time, if the practicability is doubtful or if it is to be taken abroad.

c) Furnishing documents in an organised and clearly arranged manner (§ 297 ZPO):

A further duty imposed on the parties by the Civil Procedure Amendment Act 2002 (ZVN 2002) serving expedition of proceedings is the requirement of furnishing documents in an organised and clearly arranged manner. The relevant offices must be specifically stated or highlighted. This should make it easier for the court and the parties to evaluate the relevance of the evidence.

II. Judicial control of proceedings (§§ 180 et seq. ZPO):

The marked judicial control of proceedings in the Austrian civil procedure is appropriate to achieve a tight conduct of proceedings. The strong position of the judge in the conduct of the case is particularly evident in §§ 180 to 203 ZPO:

a) Judicial duty of clarification and instruction (§ 182 ZPO):

During the hearing the judge has to ensure that the facts relevant to the decision are stated or insufficient statements of the circumstances necessary for establishing or disputing the claim are complemented (completed?), that the evidence for these statements is identified or the adduced evidence is supplemented and all information is provided which appears to be necessary to establish the facts regarding the rights and claims asserted by the parties.

b) Discussion of submissions of fact and law (§ 182a ZPO):

The judge has to discuss with the parties their submissions of fact and law for the purpose of preparing the programme for the proceedings and to establish disputed issues of law and fact and the evidence to be considered. This is not primarily a matter for the judge to announce his legal opinion, but to introduce all facts relevant for the decision into the proceedings. The court may rely in its decision on legal aspects which a party has obviously overlooked or considered as irrelevant, if they have been discussed with the parties and he has therefore provided them with an opportunity to make comments.

During the pre-trial phase in criminal cases the police is obliged to report in writing to the prosecutor within three months since the start of the investigations or since the last report has been submitted. Since 2008 police reports are transmitted exclusively electronically which facilitates the creation of the court files and the granting of access to files for defense and other lawyers.

4. Increase of Capacity and Improvement of Processing

4.1. Do you try to limit processing time by an increase of courts or increase or reallocation of judges or cases?

To begin with the deployment of district judges has to noted, which has proved very successful in practice. § 65a RStDG (Service of Judges and Public Prosecutors Act) standardises: The number of district judges of a court of appeal district must not exceed 3 % of the permanent posts for judges at the district courts and the courts of justice of first instance. The deployment of district judges in the jurisdiction is to be determined by the external division of the Higher Regional Court and it can only deploy them at its subordinate courts for the following functions: 1. Substitution of judges absent due to illness or holidays 2. substitution of judges in respect of responsibilities which they are unable to perform due to processing exceptionally large files, 3. relief of judges where a backlog of cases exists or is threatened in their court departments, 4. substitution of suspended or dismissed judges.

4.2. Do you try to limit processing time by taking on assistance from deputy judges, trainee judges, or juridical assistants?

Trainee judges who have already passed their exam for the judicial office are allocated, in particular for relief in substantial proceedings but also for the prevention and processing of file backlogs. In rare cases they are assisted by economics experts.

4.3. Do you try to limit processing time by facilitating processing of cases?

A specialisation of judges is taking place at larger district courts and at the regional courts and above. See par. x

4.4. Do you try to limit processing time by giving secretary or juridical assistance to individual judges?

See par. 4.1.

4.5. Do you try to improve court proceedings or increase the capacity of courts by any scientific, experimental or technical project?

The use of IT plays a very important role in the Austrian justice. In fact IT applications are rolled out for the various demands (e.g. court automation system, electronic legal communication, edicts database, land book, business register) and help to compensate the reduction of the number of court clerks.

5. Other initiatives

5.1 Have other initiatives concerning timeliness been undertaken or are they contemplated?

The Federal Ministry of Justice is constantly working on integrating new measures for the expedition of proceedings in the Civil Procedure Code. In particular, the employment of IT can no longer be dispensed with. A review of the Code of Criminal Procedure and other laws with the aim of simplifying proceedings is undertaken on a yearly basis in the context of the a Law supplementing the Budgetary Law (*Budgetbegleitgesetz*).