



RESEARCH NOTE

RESEARCH AND DOCUMENTATION DIRECTORATE

Judicial assistants within international and national courts
comparable to the General Court of the European Union

[...]

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[...]

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INTRODUCTION

1. The Research and Documentation Directorate received a request for a research note concerning the existence of judicial assistants¹ within international and national courts comparable to the General Court of the European Union ('the General Court').
2. An analysis in this regard requires that we first define the scope of the research carried out in relation to the courts studied (A), and that we establish what is meant, for the purposes of this note, by 'judicial assistants' (B). This analysis highlights the presence, in the vast majority of the courts studied, of judicial assistants within the courts concerned (C).

A. THE COURTS REFERRED TO IN THE RESEARCH NOTE

3. This study covers national courts comparable to the General Court in 27 EU Member States, as well as the **European Court of Human Rights** ('the ECtHR'). As national courts comparable to the General Court ('the courts'), account is taken of the supreme administrative courts (**Austrian, Bulgarian, Czech, Finnish, German, Lithuanian, Luxembourg, Polish, Portuguese, Slovak and Swedish** courts), which take the form, in certain legal systems, of a Council of State (**Belgian, Dutch, French, Greek and Italian** courts).
4. The supreme administrative courts concerned are the following:
 - the Bundesverwaltungsgericht (Federal Administrative Court, Germany)
 - the Verwaltungsgerichtshof (Supreme Administrative Court, Austria)
 - the Conseil d'État (Council of State, Belgium)
 - the Varhoven administrativen sad (Supreme Administrative Court, Bulgaria)
 - the Korkein hallinto-oikeus/Högsta förvaltningsdomstolen (Supreme Administrative Court, Finland)
 - the Conseil d'État (Council of State, France)
 - the Symvoulío tis Epikrateias (Council of State, Greece)
 - the Consiglio di Stato (Council of State, Italy)

¹ To find out more about the role of judicial assistants in Council of Europe Member States, see the opinion of the Consultative Council of European Judges (CCJE) available at the following link: <https://rm.coe.int/opinion-22-ccje-en/168098eeeb> and Sanders A., *Judicial Assistants in Europe – A Comparative Analysis*, International Journal for Court Administration, 11(3), 2020, <https://iacajournal.org/articles/10.36745/ijca.360>.

- the Lietuvos vyriausiasis administracinis teismas (Supreme Administrative Court of Lithuania)
 - the Cour administrative (Higher Administrative Court, Grand Duchy of Luxembourg)
 - the Raad van State (Council of State, Netherlands)
 - the Naczelny Sąd Administracyjny (Supreme Administrative Court, Poland)
 - the Supremo Tribunal Administrativo (Supreme Administrative Court, Portugal)
 - the Nejvyšší správní soud (Supreme Administrative Court, Czech Republic)
 - the Najvyšší správny súd (Supreme Administrative Court, Slovakia)
 - the Högsta förvaltningsdomstolen (Supreme Administrative Court, Sweden)
5. In addition, in the absence of a supreme administrative court in the national legal system, account is taken of supreme courts, which, without being specialised in administrative law, rule at last instance on cases relating to administrative law.
 6. Some of those courts have a chamber or college specialising in public law (**Croatian, Estonian, Hungarian, Romanian, Slovenian** and **Spanish** courts), while others do not (**Cypriot, Danish, Irish, Latvian** and **Maltese** courts).
 7. The supreme courts referred to, which rule at last instance on disputes relating to administrative law, are the following:
 - the Anotato Syntagmatiko Dikastirio (Supreme Constitutional Court, Cyprus)
 - the Vrhovni sud (Supreme Court, Croatia)
 - the Højesteret (Supreme Court, Denmark)
 - the Tribunal Supremo (Supreme Court, Spain)
 - the Riigikohus (Supreme Court, Estonia)
 - the Kúria (Supreme Court, Hungary)
 - the Supreme Court (Ireland)
 - the Augstākā tiesa Senāts (Supreme Court, Latvia)
 - the Qorti tal-Appell (Court of Appeal, Malta)
 - the Inalta Curte de Casatie si Justitie (High Court of Cassation and Justice, Romania)
 - the Vrhovno sodišče (Supreme Court, Slovenia)
 8. Finally, there are other types of courts which, without being part of the administrative order, have jurisdiction to rule on some administrative law cases.

This is often the case in competition law, tax law, economic administrative law or social security and civil service law.² However, those courts will not be addressed in this research note.

B. THE JUDICIAL ASSISTANTS

9. For the purposes of this note, only assistants who perform duties similar to those performed by legal secretaries within the General Court are considered to be judicial assistants ('judicial assistants' or 'assistants'). In other words, these are lawyers who directly assist judges in the performance of their duties, without having decision-making powers of their own, in particular by helping to draft judgments and orders.
10. Thus, lawyers who have duties with no direct link to the handling of cases, such as ad hoc legal research and the preparation of documentation work, are not taken into account in this note.
11. It should be noted that, in the majority of the national courts studied, there is more than one category of judicial assistant (**Croatian**,³ **Dutch**,⁴ **Estonian**,⁵ **Finnish**,⁶ **French**,⁷ **Greek**,⁸ **Irish**,⁹ **Latvian**,¹⁰ **Lithuanian**,¹¹ **Maltese**,¹² **Polish**,¹³ **Slovenian**,¹⁴ **Spanish**¹⁵ and **Swedish**¹⁶ courts).

² These are, by way of illustration, the Bundesgerichtshof (Federal Court of Justice, Germany), the Bundesfinanzhof (Federal Fiscal Court, Germany), the Oberster Gerichtshof (Supreme Court, Austria), the Cour de cassation (Court of Cassation, Belgium), the Cour de cassation (Court of Cassation, France), the Corte di Cassazione (Court of Cassation, Italy), the Corte dei conti (Court of Auditors, Italy), the Hoge Raad der Nederlanden, Belastingkamer (Supreme Court, Tax Chamber, Netherlands), the College van Beroep voor het bedrijfsleven (Administrative Court of Appeal for Trade and Industry, Netherlands), the Centrale Raad van Beroep (Higher Social Security and Civil Service Court, Netherlands), the Supremo Tribunal de Justiça (Supreme Court, Portugal), the curtea de apel, sectia de contencios administrativ si fiscal (Court of Appeal, Administrative and Tax Division, Romania), and the Patent- och marknadsöverdomstolen vid Svea hovrätt (Court of Appeal, Intellectual Property and Economic Affairs, Sweden).

³ These are 'Sudski savjetnik u Vrhovnom sudu' (judicial advisers in the Vrhovni sud), 'Viši sudski savjetnik u Vrhovnom sudu' (senior judicial advisers in the Vrhovni sud), as well as 'Viši sudski savjetnik – specijalist u Vrhovnom sudu' (specialised senior judicial advisers in the Vrhovni sud).

⁴ These are junior jurists, 'ambtenaren van staat' (State advisers) and senior lawyers.

⁵ These are 'kohtunõunikud' (advisers of the Court) and 'konsultandid' (consultants).

⁶ These are 'oikeussihteeri (FI), justitiesekreterare (SV)' ('junior' legal secretaries) and 'esittelijäneuvos (FI), referendarieråd (SV)' ('senior' legal secretaries).

⁷ These are 'assistants de justice' (legal assistants) and 'juristes assistants' (lawyer-assistants).

⁸ These are 'Dokimoi Eisigites and Eisigites' (confirmed judges with the grade of trainee rapporteur and rapporteur) and 'Dikastikoi ipalliloi Kladou PE Tekmiriosis kai Epikourias dikastikou ergou' (administrative staff of the courts responsible for assisting the judicial function).

⁹ These are 'judicial assistants' and 'research support associates'.

¹⁰ These are 'senatora palīgs(-dze)' (judicial assistants) and 'zinātniski analītiskais' (scientific analytical advisers).

¹¹ These are 'teisēju padējēji' (assistants to the judges) and 'patarēji' (advisers).

12. The same applies to the **ECtHR**, where there are judicial assistants in 'category A' and 'category B'.¹⁷
13. In view of this, we have taken care to clarify in footnotes, where necessary, which category of judicial assistant is concerned in each case. In the absence of such clarification, it must be considered that all the judicial assistants of the courts concerned are covered.

C. THE PRESENCE OF JUDICIAL ASSISTANTS WITHIN THE COURTS CONCERNED

14. 'The judge is not alone in the task of interpreting the law. The work of the court is a composite of many minds laboring together.' This statement of the US Supreme Court judge, Benjamin N. Cardozo, underlines the importance of collaboration between judges, lawyers, legal secretaries and other actors to deliver justice in a fair and equitable manner, thus extolling the benefits of teamwork.
15. Most national and international courts seem to have taken those advantages into account and have therefore chosen to provide their judges with suitably qualified judicial assistants. Thus, almost all the courts studied have provided for the presence within those courts of judicial assistants who assist the judges in the performance of their duties.
16. In some of those courts, despite the existence of a text authorising the recruitment of judicial assistants, that recruitment does not appear to be completed to date (**French**,¹⁸ **Greek**¹⁹ and **Portuguese** courts).
17. However, there are two courts among the courts examined, which do not have judicial assistants entrusted with duties similar to those of legal secretaries within the General Court. This is the case for the **Belgian** and **Cypriot** courts, where the task of drafting judicial decisions lies exclusively with the judges.

¹² These are 'assistent ġudizzjarju' (judicial assistants) and 'court attorney' (court lawyers).

¹³ These are 'asystenci sędziów' (assistants to the judges) and 'starsi asystenci sędziów' (senior assistants to the judges).

¹⁴ These are 'sodniki, dodeljeni na delo na Vrhovno sodišče' (judges seconded to the Supreme Court), 'višji pravosodni svetovalci (PDI) (strokovni sodelavci VS RS)' (senior judicial advisers to the Supreme Court) and 'pravosodni svetniki (PDI) (strokovni sodelavci VS RS)' (scientific assistants at the Supreme Court).

¹⁵ These are 'letrados' (judicial assistants) and 'letrados coordinadores' (coordinating judicial assistants).

¹⁶ These are 'justitiesekreterare' (senior legal secretaries) and 'beredningsjurist' (junior legal secretaries).

¹⁷ Category A judicial assistants are lawyers, permanent agents, while category B judicial assistants are assistant lawyers, temporary agents.

¹⁸ It would appear that the Council of State has not recruited any 'juristes assistants' (lawyer-assistants) since the creation of that function. By contrast, the Council of State does employ 'assistants de justice' (legal assistants).

¹⁹ The assistants to the judges have not to date begun to perform their duties.

18. Within the **Belgian** court, there are, strictly speaking, no judicial assistants at the Council of State.²⁰ The duties of the lawyers employed by that supreme court, namely the 'auditeurs' (auditors), the 'référéndaires' (legal secretaries) and the 'attachés administratifs' (administrative associates), do not correspond, in the light of the duties entrusted to them, to those of a legal secretary at the General Court.
19. 'Auditeurs' (auditors) draw up preliminary reports in complete independence as a third party in relation to judges, whereas 'référéndaires' (legal secretaries) at the Council of State confine themselves mainly to coordinating its legislative database.²¹
20. It is interesting to note, however, that 'attachés administratifs' (administrative associates), who form part of the administrative staff of the Council of State, even if they do not have functions similar to those of the legal secretaries of the General Court, may be responsible, on an ad hoc basis, for assisting in drafting judgments.
21. Within the **Cypriot** court, since the judicial reform that took place in 2023, the Anotato Syntagmatiko Dikastirio (Supreme Constitutional Court) now has jurisdiction to hear administrative cases at last instance. The judges of that court do not appear to be supported by judicial assistants in the performance of their duties.²²
22. Although it is true, as stated above, that there are judicial assistants in almost all the courts studied, their functional organisation varies according to the legal culture and the needs of the court system concerned.
23. This note examines, as regards courts which employ such judicial assistants, the rules applicable to them as regards their status **(I)**, their position within the court **(II)** and the duties they perform **(III)**.

I. THE STATUS OF JUDICIAL ASSISTANTS

24. With regard to the status of judicial assistants, it is necessary to examine in turn their employment arrangements (A), the recruitment procedures applicable to them (B) and the rules governing their professional advancement (C).

²⁰ However, judicial assistants do exist in other Belgian courts.

²¹ When the Council of State functions as a legislative advisory body.

²² It should be noted that judicial assistants do exist at the Anotato Dikastirio (Supreme Court, Cyprus) and are responsible, in particular, for legal research, drafting judgments and documentation work.

A. EMPLOYMENT ARRANGEMENTS

25. As regards the employment arrangements for judicial assistants, it should be noted that, in most of the courts examined, the judicial assistants generally have the status of civil servant (**Croatian, Estonian, Finnish, German, Greek, Hungarian, Irish, Italian, Lithuanian, Luxembourg,**²³ **Romanian, Slovak, Slovenian, Spanish and Swedish**²⁴ courts).
26. However, it is necessary to distinguish cases in which such judicial assistants are 'ordinary' civil servants who are not judges (1) from cases in which they have the status of judges with legal secretary duties (2). It should also be noted, however, that, in some of the courts examined, the judicial assistants may also have the status of contract agent (3).

²³ Judicial assistants within the Luxembourg courts may be either civil servants or contract agents ('State employees').

²⁴ This applies only to 'justitiesekreterare' (senior legal secretaries).

1. 'ORDINARY' CIVIL SERVANTS

27. In the majority of the courts, the judicial assistants are 'ordinary' civil servants who do not have the status of judge (**Croatian, Estonian, Finnish, Greek,**²⁵ **Hungarian,**²⁶ **Irish, Italian, Lithuanian, Luxembourg, Netherlands, Slovak, Slovenian,**²⁷ **Spanish and Swedish** courts).
28. It should be noted, however, that, in certain courts, public employees, who are classified by national law as 'civil servants', may sometimes be appointed for a fixed term (**Estonian, Finnish, Hungarian, Irish, Italian, Slovenian**²⁸ and **Swedish** courts).
29. We should also mention the case of the **Dutch** court, where some of the judicial assistants are subject to a special employment relationship. The ambtenaren van staat (State advisers) have the status of civil servant, but since 2020 they have been employed on the basis of an employment contract, which offers them social protection similar to that of a private-sector worker.

2. JUDGES PERFORMING THE DUTIES OF A LEGAL SECRETARY

30. Among the judges performing the duties of legal secretaries in the courts studied, we find, first, the judges seconded from lower courts and, secondly, the junior judges from the courts studied.
31. Some supreme administrative courts have the possibility of seconding judges attached to lower courts to serve as legal secretaries (**German, Croatian, Spanish, Romanian, Portuguese and Slovenian** courts).²⁹
32. It should also be pointed out that, within the **Spanish** court, prosecutors and the Letrados de Administración de Justicia (clerks), who are not, strictly speaking, judges, may also perform the duties of judicial assistants.
33. In addition, for the **Greek** court,³⁰ certain 'junior' judges, who do not yet have the right to vote and who perform duties within that court, are entrusted with the

²⁵ This applies only to 'Dikastikos ipallilos Kladou PE Tekmiriosis kai Epikourias dikastikou ergou' (court administrative staff responsible for assisting the judicial function).

²⁶ This applies only to 'jogi ügyintézők' (legal administrators).

²⁷ This applies only to 'višji pravosodni svetovalci (PDI) - strokovni sodelavci VS RS' (senior judicial advisors to the Supreme Court) and 'pravosodni svetniki (PDI) - strokovni sodelavci VS RS' (scientific collaborators at the Supreme Court).

²⁸ See footnote 27.

²⁹ This applies only to 'sodniki, dodeljeni na delo na Vrhovno sodišče' (judges seconded to the Vrhovno sodišče).

³⁰ This applies only to 'Dokimoi Eisigites' and 'Eisigites' (senior judges with the rank of 'trainee rapporteurs' and 'rapporteurs').

tasks of legal secretaries. They exercise them under the supervision and control of more experienced judges.

34. Within the **Romanian** court, *magistrați-asistenți* (assistant judges), without being formally members of the judiciary, have a status similar to that of the judiciary and prosecutors in terms of career, rights and obligations, incompatibilities, prohibitions and training.

3. CONTRACT AGENTS

35. Often, judicial assistants have or may have the status of contract agents (**Austrian, Bulgarian, Czech, Danish, French, Latvian, Luxembourg, Maltese** and **Polish**³¹ courts). The same applies to all judicial assistants within the **ECtHR**.
36. It should be noted, in the first place, that in the **ECtHR** there are two types of judicial assistants. On the one hand, there are category A contract agents, who have the status of permanent contract staff. By contrast, category B contract agents are recruited on a fixed-term basis.
37. In the second place, in most of the courts covered by this note, judicial assistants have the status of contract agents employed on a fixed-term basis (**Austrian, Czech, Danish, French, Latvian** and **Maltese** courts). The only exceptions are the **Bulgarian, Luxembourg** and **Polish** courts, which can directly recruit their judicial assistants under permanent contracts.
38. Some of the judicial assistants with contract agent status mentioned above,³² although employed on the basis of an employment contract, have a *sui generis* status due to the particularities of their employment relationship (**Bulgarian** and **Danish** courts).
39. Thus, for the **Bulgarian** court, the employment relationships of the *sadeben pomoshtnik* (judicial assistants) are in principle covered by the Labour Code. However, a series of specific obligations and rights applicable to them are laid down by provisions specific to the judicial system.
40. In the case of the **Danish** court, although the *dommerfuldmægtige* (judge assessors) have the status of contractual employees, they enjoy similar employment protection to that of the judges.

³¹ While it is true that the status of *asystenci sędziów* (judges' assistants) and *starsi asystenci sędziów* (senior judges' assistants) is not clearly defined in the texts, it nevertheless seems possible to consider that they belong to the judicial staff in the broad sense. Their employment arrangements are the subject of debate in legal literature and case law.

³² See point 35 above.

41. Finally, the **Portuguese court** is unique in the way it employs its judicial assistants. In fact, assessores (assessors) do not, strictly speaking, enter into an employment contract, but their status is more akin to that of contract agents. Their appointment is formalised by a decree of appointment, and the terms and conditions of their status are laid down by law. They benefit from the guarantees, duties and remuneration applicable to the deputies of the Office of the President (of the Supreme Courts).

B. RECRUITMENT PROCEDURES

42. The recruitment procedures for the judicial assistants covered by this note vary according to the status of those assistants,³³ as well as the more or less permanent link that those assistants will have with the court concerned.
43. Both the selection criteria (1) and the applicable recruitment procedures (2) are highly varied.

1. SELECTION CRITERIA

44. The diversity of the arrangements applicable to judicial assistants is reflected, in terms of selection criteria, in the variety of conditions required, relating to nationality (a) or training required (b), professional experience required (c) and, where applicable, other criteria (d).

(a) NATIONALITY

45. In all of the courts, one of the criteria for selecting judicial assistants is possession of the nationality of the Member State concerned.
46. In some courts, however, nationality of another EU Member State is sufficient (**Estonian**,³⁴ **Greek**,³⁵ **Irish**³⁶ and **Luxembourg** courts).
47. According to the **ECtHR**, nationality of one of the Member States of the Council of Europe is required.

(b) QUALIFICATIONS

³³ See chapter A. above on 'Employment arrangements'.

³⁴ This applies only to 'kohtunõunikud' (advisors).

³⁵ See footnote 25.

³⁶ In essence, you need to be a national of one of the countries in the European Economic Area or of the United Kingdom.

48. Possession of a degree in law is required in all the courts studied, except in the **Luxembourg** court, which is more flexible as regards that requirement. Within the **Luxembourg** court, the role of judicial assistant is not limited to lawyers alone, but is also open to other specialisations.
49. In addition, some courts require a Master's degree in law (**Czech, Dutch, Finnish, French, Irish,** ³⁷ **Latvian,** ³⁸ **Portuguese, Slovak** and **Slovenian** courts). Sometimes, however, it is accepted that the Master's degree is not in law, but in other related fields (**Italian** and **Luxembourg** courts).
50. By way of example, for the **Luxembourg** court, holders of a Master's degree in economic or financial sciences may also be recruited to perform the duties of a legal secretary.

(c) PROFESSIONAL EXPERIENCE

51. It should be noted that, in some national courts, an appropriate length of professional experience is required, depending on the position to be filled (**Austrian, French,** ³⁹ **Greek,** ⁴⁰ **Latvian, Lithuanian, Maltese, Romanian** and **Slovenian** courts).
52. This also applies to the **ECtHR**, where category A lawyers must have at least two years' professional experience, acquired after graduation, in the legal field (preferably judicial) in the State concerned or in international organisations. By contrast, category B assistant lawyers are required to have no more than two years' professional experience.
53. In this respect, it should be pointed out that assistant lawyers must have two years' professional experience in the legal field (**French** court system), ⁴¹ advisers must have three years' experience in employment involving analytical work in the legal field (**Latvian** court system), ⁴² assistants to basic category judges must have at least one year's professional experience, while assistants to senior category judges must have at least three years' professional experience (**Lithuanian** court system). ⁴³

³⁷ This applies only to 'research support associates'. 'Judicial assistants' do not require a Master's degree in law.

³⁸ It is not compulsory, but desirable.

³⁹ This applies to 'juristes assistants' (assistant lawyers).

⁴⁰ See footnote 30.

⁴¹ See footnote 39.

⁴² This applies only to 'zinātniski analītiskais' (advisers).

⁴³ This applies to 'teisēju padējēji' (assistants to the judges).

54. For the **Austrian** court, legal experience in a court or in administrative authorities, universities, law firms, companies or non-governmental organisations is required, but its duration is not specified in the vacancy notices of the court concerned.
55. Next, within the **Greek** court, it is mandatory for junior judges to have professional experience, either two years as a lawyer or three years as judicial staff. By contrast, it is not necessary for them to have such prior experience when they are magistrates or members of the State Legal Council.
56. Within the **Maltese** court, judicial assistants must have three years' professional experience as a lawyer, while for the **Romanian** court, they must have at least five years' seniority in the legal positions listed in the relevant regulations.
57. Finally, for the **Slovenian** court,⁴⁴ two years' professional experience is required for category III senior judicial advisers, four years for category II senior judicial advisers and five years for category I senior judicial advisers. Professional experience of six years is required for category II scientific assistants, seven years for category I scientific assistants and ten years for senior scientific assistants.

(d) OTHER SELECTION CRITERIA

58. Some courts also require additional training (**Danish** and **Greek** courts), or success in the State's legal examination(s) (**Bulgarian, Croatian, German** and **Slovenian** courts).
59. At the **ECtHR**, judicial assistants must, in order to apply for the posts of judicial assistants, satisfy the conditions for access to the judicial administration or to the legal professions in their respective countries. Furthermore, candidates must not be parents, children, children of the spouse/partner or grandchildren of an active agent in the Council of Europe.
60. The ability to draft a statement of reasons in an administrative case (**Latvian** court system)⁴⁵ or the possession of a licence to practise a profession at higher courts (**Greek** and **Maltese** courts) is sometimes required.
61. The candidate's moral and professional qualities are also taken into consideration in the case of the **Bulgarian, Finnish, German, Polish** and **Romanian** courts.

⁴⁴ See footnote 27.

⁴⁵ This refers only to 'senatora palīgs(-dze)' (assistants to the judge).

62. Knowledge of a foreign language may also be required (**Czech, Greek, Latvian, Lithuanian, Maltese** and **Slovakian** courts) or be an asset (**Austrian** and **Spanish** courts) for the performance of duties.
63. Lastly, as regards the **Bulgarian** and **Estonian** courts,⁴⁶ candidates for the posts of judicial assistants to judges must, in addition, meet the same conditions as candidates for the posts of judges within those courts.

2. RECRUITMENT PROCEDURES

64. As regards the arrangements for recruiting judicial assistants, it is first necessary to examine the types of procedure applicable (a) and then the body responsible for organisation (b) and selection (c).

(a) TYPE OF PROCEDURES

65. A distinction will be made, among the different types of applicable recruitment procedures, between cases in which judicial assistants are recruited by means of a competition (i) and those in which they are selected on the basis of an interview (ii).

(i) COMPETITION

66. In some of the national courts studied, judicial assistants are recruited following a competition involving several stages (**Bulgarian, Croatian, Czech, Greek, Irish, Italian, Lithuanian, Polish, Romanian** and **Slovakian** courts).
67. This is also the case for the **ECTHR**, where competitions concern only one legal system of a Council of Europe Member State. The procedures for those competitions are described in the Staff Regulations and Staff Orders, as well as in the vacancy notices published on the Council of Europe website.
68. It should also be noted that, as far as the **German** court is concerned, the selection procedure for secondment is not the subject of a single competition, but is organised in a heterogeneous manner at the level of the federal States. That competition may or may not include several stages.

(ii) SELECTION ON A BASIS OTHER THAN A COMPETITION

69. In other courts, judicial assistants are recruited following a selection procedure that includes a file check and, where appropriate, an interview (**Danish, Dutch,**

⁴⁶ See footnote 34.

Finnish, French, Hungarian, Italian,⁴⁷ **Latvian,**⁴⁸ **Maltese, Polish, Slovenian, Spanish and Swedish** courts).

70. However, the selection of lower court judges for secondment as legal secretaries does not systematically give rise to the organisation of a competition (**German, Croatian, Romanian and Slovenian** courts).

(b) BODY RESPONSIBLE FOR ORGANISING THE RECRUITMENT PROCEDURE

71. In the majority of the national courts, the procedure for recruiting judicial assistants is organised by the relevant court (i) (**Austrian, Bulgarian, Croatian, Czech, Dutch, Estonian, Finnish, French, German,**⁴⁹ **Hungarian, Latvian, Luxembourg, Maltese, Polish, Romanian, Slovak, Slovenian, Spanish and Swedish** courts). That is also the case with regard to the **ECtHR**.
72. In a minority of the courts studied, however, the recruitment of judicial assistants is organised by another authority (ii), which has an external status vis-à-vis the court (**Danish, Greek, Irish, Italian and Lithuanian** courts).

(i) RECRUITMENT BY THE COURT CONCERNED

73. The organisation of the recruitment procedure is in principle the responsibility of the President of the court or chamber concerned, who often play a central role in the selection of the judicial assistants to be chosen (**French, German, Hungarian, Latvian, Luxembourg, Polish, Portuguese and Spanish** courts).
74. By way of example, the case of the **German** court is, in that regard, characterised by the particular features of the federal system. Since the judicial assistants are seconded, the selection is carried out first at the level of the federal States and the selected candidates must then pass an interview with the President of the Bundesverwaltungsgericht (Federal Administrative Court) and the president of the chamber to which they will be assigned.
75. Within the **Polish** court, the President of the Naczelny Sąd Administracyjny (Supreme Administrative Court) organises the competition for the positions of judicial assistants.

⁴⁷ The Italian selection procedure does not include an interview.

⁴⁸ A practical test is also included in the selection process.

⁴⁹ In the German jurisdiction, the selection by the court in question takes place after the federal States have proposed candidates.

76. That is not the case with the **ECtHR**, where the organisation of the recruitment of judicial assistants is carried out by an internal body of the Council of Europe which is located within the Human Resources Directorate.
77. It is also worth observing that recruitment procedures can vary significantly from one court to another.
78. It should also be noted that, in the **Austrian** court, interested parties may submit an unsolicited application.
79. As regards the **Finnish** and **Swedish** courts, recruitment for both permanent and temporary posts is managed centrally by the Secretary-General ('kansliapäällikkö/kanslichef'), who is responsible for the administration of the court.
80. In the **Czech** court, judicial assistants are recruited following a recruitment procedure organised either by the judge concerned or by the court itself.
81. Lastly, by way of illustration, we may note that, in the **Bulgarian, Croatian, Estonian** and **Romanian** courts, as well as at the **ECtHR**, the competitive examinations to be taken by those wishing to work as judicial assistants are organised by the courts themselves. It is therefore the courts themselves that assess and rank the candidates.

(ii) RECRUITMENT BY AN AUTHORITY OTHER THAN THE COURT
CONCERNED

82. In some of the courts studied, the selection procedure is organised by an authority outside the court (**Greek, Irish, Italian** and **Lithuanian** courts).
83. As regards the **Greek** court, the recruitment procedure for junior judges⁵⁰ is the responsibility of a committee representing the National School for the Judiciary. By contrast, the recruitment of judicial assistants with the status of judicial staff⁵¹ is initiated by the presidents of the supreme courts and organised by ministerial decision.
84. For the **Irish** court, the organiser is the Courts Service, which normally then decides on the assignment of the judicial assistants. However, in cases where there are two potential candidates for a position, it is up to the judge with whom the vacancy is located to choose one of them.

⁵⁰ See footnote 30.

⁵¹ See footnote 25.

85. Within the **Italian** court, the selection of judicial assistants is carried out by a single commission, set up by decree of the Secretary General of Administrative Justice.⁵²
86. In the case of the **Lithuanian** court, the competition is organised by the Public Management Agency, which is a public entity responsible for the centralised organisation of public competitions. That court delegates a representative to sit on the competition selection board.

(c) BODY RESPONSIBLE FOR THE SELECTION OF JUDICIAL ASSISTANTS

87. It is useful, first of all, to note that in many courts (**Austrian, Czech, Estonian, German, Hungarian, Luxembourg, Portuguese** and **Spanish**), the president of the court or chamber concerned is involved in the selection procedure.
88. By way of example, in the **German** court, selection appears to be the result of an interview with the president of the court concerned and the president of the chamber. Similarly, in the **Portuguese court**, judicial assistants are freely appointed by the presidents of the courts concerned.
89. However, it is only very rarely that judges are able to select their own judicial assistants. As a rule, judges can only take part in the recruitment procedure if they are on the panel responsible for selecting the successful candidates (**Bulgarian, Greek, Latvian** and **Maltese** courts).
90. The **Czech** court is an exception to this, in that judges who so wish may directly choose their own judicial assistants.
91. In addition, in most of the courts studied (**Danish, Estonian, Finnish, Greek, Hungarian, Irish, Italian, Latvian, Lithuanian, Maltese, Polish, Slovenian, Spanish** and **Swedish**), the selection is carried out by a panel made up of several members.
92. By way of illustration, in the **Spanish** court, 'letrados' are selected by the President of the Tribunal Supremo (Supreme Court), the Sala de gobierno (Supreme Court panel) and the Comisión Permanente del Consejo General del Poder Judicial (Standing Committee of the National Council of the Judiciary), after hearing the presidents of the chambers and the director of the technical chambers, on the basis of a competition on the basis of qualifications.

⁵² This is a central administrative body that assists the Consiglio di Stato (Council of State) and the administrative courts in Italy. The single commission is made up of a judge from the Council of State and two senior civil servants.

93. In the **Greek** court, the selection committee for junior judges⁵³ is made up of four judges, a law professor and a lawyer. The same does not apply to the committee that organises the recruitment of judicial assistants with the status of judicial staff,⁵⁴ which is made up of two judges from the Council of State and one judge from the Administrative Court of Appeal.
94. It should also be noted that for the **Latvian** court, the panel is made up of the president of the chamber concerned, the judge whose assistant's post is vacant and a member of the human resources unit.
95. This is also the case in the **Dutch** court, where recruitment is carried out centrally by the heads of unit on the basis of the candidate's file, a written test and interviews.
96. In several courts (**Danish, Italian, Lithuanian** and **Spanish**), at least one person from outside the court concerned, from an independent body responsible for managing the judiciary, sits on the jury.
97. Similarly, in several courts (**Greek** and **Italian**), at least one judge from outside the court concerned sits on the jury.
98. In addition, the human resources department of the court concerned is often involved in the selection procedure for successful candidates (**Croatian, Estonian, Latvian, Slovenian** and **Swedish** courts).
99. This is also the case at the **ECtHR**, where that court's human resources department is involved in selecting the lawyers who assist the judges in their judicial work.

C. PROFESSIONAL ADVANCEMENT

100. In most of the courts studied, the judicial assistants covered by this note have the opportunity to progress in their careers. This is the case in the courts of **Croatia, the Czech Republic, Estonia, Greece, Hungary, Latvia, Lithuania, Luxembourg, the Netherlands, Poland, Romania,**⁵⁵ **Slovakia, Slovenia**⁵⁶ and **Spain.**⁵⁷ The same applies to 'category A' judicial assistants at the **ECtHR**.

⁵³ See footnote 50.

⁵⁴ See footnote 51.

⁵⁵ For the specific case of the secondment of judges as judicial assistants to the courts studied, see paragraph 31 above.

⁵⁶ See footnote 55.

⁵⁷ See footnote 55.

101. Career development can take a number of forms, including advancement in grade (1), permanent employment (2) and opportunities for professional advancement (3).

1. ADVANCEMENT IN GRADE

102. In most of the courts, a judicial assistant may be promoted to a higher grade or step after a certain period of time (**Croatian, Dutch, Finnish, Greek, Hungarian, Italian,** ⁵⁸ **Latvian, Lithuanian, Luxembourg, Polish, Romanian, Slovak, Slovenian** and **Spanish** courts).
103. That is also the case for 'category A' judicial assistants within the **ECtHR**. Judicial assistants in 'category A' are permanent staff members and progress in grade according to their length of service.
104. In all the jurisdictions where such a development is possible, a certain degree of seniority is always required. However, in several courts, that development is not automatic, but also depends on other criteria, in particular an assessment of the quality of the work done and conduct in the service (**Dutch, Estonian, Finnish, Greek, Latvian, Lithuanian, Polish** and **Romanian** courts).
105. Given that the majority of judicial assistants have or may have the status of civil servant (**Croatian, Dutch, Estonian, Finnish, German, Greek, Hungarian, Irish, Italian, Lithuanian, Luxembourg, Portuguese,** ⁵⁹ **Romanian, Slovakian, Slovenian** ⁶⁰ and **Spanish** courts), it should be noted that, under civil service rules, advancement in grade automatically corresponds to the granting of a higher level of remuneration. Thus, the acquisition of seniority automatically entitles civil servant judicial assistants to a salary increase through progression in those pay scales.
106. For example, in the **Latvian** court, an experienced judicial assistant who obtained the highest score in the annual assessment may be granted the status of 'senior assistant'.
107. In some courts, however, there is no possibility of advancement in grade or step (**Austrian, Bulgarian, Danish, Estonian, French, Irish, Maltese, Portuguese** ⁶¹ and **Swedish**).

⁵⁸ Provided that the 'funzionari amministrativi' (judicial assistants) are appointed for an indefinite period.

⁵⁹ In cases where the 'assessori' (assessors) are seconded civil servants.

⁶⁰ See footnote 27.

⁶¹ In cases where the 'assessori' (assessors) are not seconded civil servants.

108. This is also the case for 'category B' judicial assistants at the **ECtHR**. Category B judicial assistants retain the same grade for the duration of their service, which may not exceed four years.
109. The exclusion from promotion in those courts is explained in particular by the fact that advancement in grade and the associated salary increase are not, as a general rule, accessible to contract agents. In this respect, it is interesting to note that almost all judicial assistants who have the opportunity to move up in grade are civil servants.⁶²
110. Thus, of the many courts with judicial assistants who have the status of contract agent,⁶³ only the **Czech**, **Latvian** and **Polish** courts offer their judicial assistants seniority grades and a salary increase associated with those grades.
111. It is useful, in that regard, to note that, in rare cases, despite the absence of seniority grades, it is provided that certain judicial assistants with the status of contract agents may claim, on the basis of their length of service, additional length-of-service pay. This is the case in the **Bulgarian** and **Estonian** courts.

2. SUSTAINABILITY OF EMPLOYMENT

112. In some jurisdictions, it is possible to convert the contract or appointment of a judicial assistant recruited on a fixed-term basis into a contract or appointment of indefinite duration after a certain period of time (**Dutch**, **Estonian**,⁶⁴ and **Italian** courts).
113. The same possibility exists for certain judicial assistants of the **ECtHR**. The initial contract of 'category A' judicial assistants may, after they have successfully completed a one-year probationary period, be renewed one or more times up to a total period of service of four years. A fixed-term contract is converted into an open-ended contract at the end of four years of continuous service.

3. OPPORTUNITIES FOR CAREER DEVELOPMENT

⁶² 'Ordinary' civil servants and judges acting as legal secretaries. See above, list of courts with civil servants, paragraphs 25 and 27 to 34.

⁶³ See above, paragraph 35.

⁶⁴ This applies only to 'konsultandid' (consultants).

114. Experience as a judicial assistant can facilitate access to the judiciary (a), as well as other functions inside (b) and outside the court (c).

(a) ACCESS TO THE JUDICIARY

115. It should be noted, first of all, that experience as a judicial assistant does not, as a general rule, guarantee those concerned direct access to the judiciary.
116. The only exception to this concerns the **Greek** court.⁶⁵ In that court, junior judges, who work as legal secretaries at the beginning of their career, may, after several years of service, be promoted to the grade of 'symvoulos Epikrateias' (State Counsellor) and thus become full members of the court.
117. However, experience as a judicial assistant in a court covered by this note is considered an asset or, at the very least, as relevant professional experience for admission to the judiciary.
118. It should thus be noted, by way of example, that the performance of duties as a judicial assistant may be taken into consideration, if other conditions relating to the quality of the work done are met, in the context of an application for the post of ordinary judge (**Finnish** court system), interim judge (**Danish** court system) or substitute judge (**Dutch** court system).⁶⁶
119. By way of example, in the **Finnish** court, a very deserving 'oikeussihteeri' may, in fact, be appointed over the years to the position of 'esittelijäneuvos', which may pave the way for him eventually becoming a member of the court ('oikeusneuvos').
120. In other cases, working with a supreme court judge for a number of years is taken into account as prior training for taking the examination for admission to the judiciary (**Slovak** and **Czech** courts).

(b) ACCESS TO OTHER FUNCTIONS WITHIN THE COURT SYSTEM

121. In some courts, the acquisition of a certain seniority as a judicial assistant also allows the holder to perform specific functions within the court (**Danish** and **Greek** courts).⁶⁷

⁶⁵ See footnote 30.

⁶⁶ This applies only to senior lawyers, who may act as deputy judges several times a year in a lower court and in a field other than that for which they are normally responsible.

⁶⁷ See footnote 25.

122. In the **Danish** court, after a certain number of years' experience, judicial assistants may be appointed as secretary to the appeals committee or as assessor judge to the President of the Supreme Court.
123. In the **Greek** court,⁶⁸ judicial assistants may, from their second promotion in grade, be appointed directors of their department.
124. The situation is similar in the **Irish** court, where the positions of judicial assistant and research support associate are often seen as transitional posts to gain experience and then apply for other positions, particularly in the Court Service.

(c) ACCESS TO POSITIONS OUTSIDE THE COURT SYSTEM

125. Experience as a judicial assistant can also enable judicial assistants to advance their careers rapidly and make it easier for them to find other interesting positions outside the court.
126. By way of illustration, in the **German** court, it would seem that a secondment to the Bundesverwaltungsgericht (Federal Administrative Court) is regarded as an asset for seconded judges and civil servants, which may have a favourable influence on their career development after the end of the secondment.
127. Lastly, in the **Maltese** court,⁶⁹ previous experience as a judicial assistant to a supreme judge is seen as an asset for subsequently becoming a lawyer at the Court.

II. THE POSITION OF JUDICIAL ASSISTANTS WITHIN THE COURT

128. With regard to the conditions under which judicial assistants carry out their duties, we will first describe their administrative assignment in their respective courts (A), and then explain to what extent they may be concerned by a pooling of resources (B).

A. ASSIGNMENT

129. The position of judicial assistants within the court within which they perform their duties is, as a general rule, determined by the respective organisation chart of the court concerned.
130. However, as will be explained,⁷⁰ in several courts, that administrative assignment is, in practice, combined with a functional assignment to a chamber or a judge.

⁶⁸ See footnote 25.

⁶⁹ This applies only to 'assistent ġudizzjarju' (judicial assistants).

131. From a formal point of view, judicial assistants may be attached administratively to the court in the broad sense or to its president (1), to one or more chambers (2), to a judge (3), or to the Registry or another administrative department (4). It is also worth noting that it is rare for judicial assistants to be administratively attached to a department outside the court (5).

1. ATTACHMENT TO THE COURT OR ITS PRESIDENT

132. It is not common for judicial assistants to be attached to the court in the broad sense or to its president.
133. Attachment to the court in the broad sense is found in the **Danish** court, where the judicial assistants, who have the status of assessor judges, are attached to the Højesteret (Supreme Court) in the broadest sense and are placed under the authority of the 'ankeudvalgsformanden' (chairman of the appeals committee) as professional manager and the head of the administration as personnel manager.
134. The same is true of the **Greek** court,⁷¹ where junior judges, who act as judicial assistants, are, like the other judges of the Symvoulío tis Epikrateias (Council of State), attached to the court in the broad sense.

2. ATTACHMENT TO ONE OR MORE CHAMBERS

135. It is interesting to note that, in many courts, the judicial assistants are directly attached to one or more chambers (**Croatian, Dutch,**⁷² **Finnish, French,**⁷³ **German, Romanian** and **Slovenian** courts).
136. By way of example, in the **German** court, although judicial assistants do not appear in its official organisation chart, they are in fact attached to one of the chambers of the Bundesverwaltungsgericht (Federal Administrative Court).
137. In the **Romanian** court, judicial assistants are attached to the chambers. However, there are also judicial assistants who perform their duties in the auxiliary services and are therefore attached to the administrative directorates concerned.⁷⁴
138. In the **Slovenian** court, judicial assistants are in principle assigned to one or more chambers, but may in practice be assigned to a single judge.

⁷⁰ See paragraphs 140 and 143 below.

⁷¹ See footnote 30.

⁷² The judicial assistants report to the Administrative Litigation Department.

⁷³ This applies solely to the 'assistants de justice' (legal assistants).

⁷⁴ Legislation, Case Law and Litigation Directorate, Human Resources and Organisation Directorate, etc.

139. The case of the **Latvian** court ⁷⁵ is similar in this respect, since judicial assistants are administratively subordinate to the president of their department.
140. In other cases, without being formally attached to a chamber, judicial assistants are in fact called upon to work for a specific chamber (**Bulgarian, Estonian, Hungarian** and **Italian** courts) or, where applicable, for several chambers together (**Greek** court system). ⁷⁶

3. ATTACHMENT TO A JUDGE

141. In some courts, judicial assistants are administratively attached to a judge (**Czech, Irish,** ⁷⁷ **Maltese,** ⁷⁸ **Polish** and **Slovakian** courts).
142. By way of example, in the **Slovak** court, each judicial assistant is, in principle, assigned by the president of that court to a specific judge. It is possible for a judicial assistant to be assigned to several judges.
143. In other cases, even if the judicial assistants are not in principle administratively attached to a judge, there is a formal or an informal possibility of assigning them, from a hierarchical or functional point of view, to a judge (**Latvian,** ⁷⁹ **Lithuanian,** ⁸⁰ **Luxembourg, Romanian** and **Slovenian** courts).
144. Finally, it is interesting to note that, in the **Danish** and **Lithuanian** courts, there is a system of rotation of the judges to whom judicial assistants are assigned. In the **Danish** court, judicial assistants are generally not attached to a judge except during their first six months of service. During that period, they assist two judges in turn. In the **Lithuanian court,** ⁸¹ the rotation system requires, as things stand, that judicial assistants be assigned to the judges of the court concerned for a period of six months and that, once that period has elapsed, a new assignment takes place. As that system is automatic, judges have no discretion as to the choice of judicial assistants.

4. ATTACHMENT TO THE REGISTRY OR TO ANOTHER ADMINISTRATIVE DEPARTMENT

⁷⁵ This applies to both assistants to the judges and to the scientific analytical advisers.

⁷⁶ See footnote 30.

⁷⁷ This applies only to the judicial assistants.

⁷⁸ There is, however, the possibility for the judicial assistant to work with several judges, and for the Court lawyer to work as part of a team, if this proves necessary.

⁷⁹ See footnote 45.

⁸⁰ See footnote 43.

⁸¹ See footnote 80.

145. On the one hand, we note that in some courts judicial assistants are administratively attached to the registry (**Slovak** and **Swedish** courts).
146. This is also the case at the **ECtHR**, where lawyers are divided between the filtering section and the units created for each legal order of the States parties to the ECtHR and grouped into five sections (national units). The lawyers then work on cases concerning their national legal order.
147. The case of the **Hungarian** court is similar in that judicial assistants are attached to the deputy secretary general of the Supreme Court. The Secretary General then decides on their assignment to a chamber.
148. On the other hand, it may be observed that, in many courts, judicial assistants are attached to a special department of the court concerned (**Bulgarian, Dutch, Greek,** ⁸² **Irish,** ⁸³ **Lithuanian, Luxembourg, Portuguese** and **Spanish** courts). In those courts, there is a 'pool' of judicial assistants who work, in principle, with all the judges of the court concerned.
149. Often, judicial assistants are attached to an internal department specialising in legal research (**Irish, Greek** ⁸⁴ and **Lithuanian** courts), which in some respects resembles the Research and Documentation Directorate of the Court of Justice.
150. This is the case for the **Irish** court, ⁸⁵ where judicial assistants are attached to the Legal Research Support Office. In the **Greek** court, ⁸⁶ judicial assistants are attached to the Directorate for 'Documentation and Assistance in the judicial function'.
151. The same applies to the **Lithuanian** court, where all judicial assistants are part of the 'Case Law Department' of the Supreme Administrative Court of Lithuania. The 'assistants to the judges' are part of the legal aid department, while 'advisers' belong to the legal research department.
152. In other cases, judicial assistants are attached to a department whose sole task is to assist judges (**Spanish** and **Portuguese** courts).
153. This is the case in the **Spanish** court, where the 'letrados' are attached to the 'Gabinete Técnico del Tribunal Supremo' (Technical Office of the Supreme Court), which is a body providing assistance to the various chambers and whose senior

⁸² See footnote 25.

⁸³ This applies only to research support associates.

⁸⁴ See footnote 25.

⁸⁵ See footnote 25.

⁸⁶ See footnote 25.

management is exercised by the President of the Tribunal Supremo (Supreme Court).

154. This is also the case in the **Portuguese** court, where judicial assistants are attached to the Support Office for Judge-Counsellors and Magistrates of the Public Prosecutor's Office (Gabinete de Apoio dos Juízes Conselheiros e dos Magistrados do Ministério Público).

5. ATTACHMENT TO A DEPARTMENT OUTSIDE THE COURT SYSTEM

155. It is rare for judicial assistants to be attached to a department outside the court concerned (**Italian** and **Maltese** courts).
156. This is the case in the **Italian** court, where the judicial assistants come under a general judicial service, since they are directly attached to the General Secretariat for Administrative Justice.⁸⁷
157. This is also the case in the **Maltese** court, where judicial assistants are administratively attached to the Director General of the Judicial Services Agency. However, they are functionally subordinate to the judges to whom they are assigned.

B. POOLING OF RESOURCES

158. The pooling of judicial assistants refers to the possibility of making their skills available to a number of judges.
159. The majority of the supreme administrative courts have a system of pooling of judicial assistants (**Austrian, Bulgarian, Croatian, Danish, Dutch, Finnish, French,**⁸⁸ **German, Greek, Hungarian, Italian, Maltese, Portuguese, Slovenian, Spanish and Swedish** courts).
160. This is also the case at the **ECtHR**, where judicial assistants are divided between the filtering section and the units created for each legal order of the States parties to the European Convention on Human Rights. Those judicial assistants are therefore expected to work on all cases concerning their legal order.
161. However, in some specific cases, pooling does not concern all the judicial assistants, but is rather limited to certain types of judicial assistant. This is the

⁸⁷ The General Secretariat for Administrative Justice is the central administrative body that assists and supports the Council of State and the administrative courts in Italy. It is responsible for organising and managing the administrative and support activities of the various administrative justice bodies.

⁸⁸ See footnote 72.

case, for example, in the **Austrian** court, where it mainly concerns judicial assistants called upon to work on asylum law cases, and in the **Irish** court, where it concerns only research support associates.

162. By contrast, the pooling of resources is not practised in the **Czech, Latvian, Lithuanian, Polish** and **Slovakian**⁸⁹ courts.

III. THE FUNCTIONS PERFORMED BY JUDICIAL ASSISTANTS

163. With regard to the duties performed by judicial assistants, we will examine the rules governing their activity (A), followed by those applicable to the assignment of cases (B).

A. ACTIVITY

164. The duties performed by judicial assistants vary considerably in the various courts covered by this note.
165. It should be noted at the outset that the regulations do not always specify the exact scope of those judicial assistants' duties, which is largely left to the discretion of their supervisors (**Greek**⁹⁰ and **Portuguese** courts).
166. Nevertheless, the rules applicable to judicial assistants in the courts examined can easily be distinguished according to the degree of involvement of those judges in the drafting of judicial decisions (1). We find no such clear distinction as regards their involvement in the holding of hearings and deliberations (2).

1. INVOLVEMENT OF JUDICIAL ASSISTANTS IN THE DRAFTING OF COURT DECISIONS

167. Judicial assistants are most often involved in the drafting of judicial decisions in the courts studied (a). It is only rarely that they are not usually involved in the drafting of such projects, but only carry out other tasks directly linked to the handling of cases (b).

(a) JUDICIAL ASSISTANTS INVOLVED IN THE DRAFTING OF JUDICIAL DECISIONS

⁸⁹ Although the possibility of pooling resources is provided for in the relevant legislation, it is not currently practised.

⁹⁰ See footnote 30.

168. In almost all the national courts studied, all the judicial assistants are involved in drafting judicial decisions (**Austrian, Bulgarian, Croatian, Czech, Dutch, Estonian, Finnish, German, Greek, Italian, Latvian, Lithuanian, Luxembourg, Maltese, Polish, Romanian, Slovak, Slovenian, Spanish** and **Swedish** courts).
169. The same applies to the **ECtHR**, where judicial assistants are responsible for drafting judgments and preparing files for examination by a judge-rapporteur.
170. It should be observed, however, that sometimes those judicial assistants do not draft decisions on the merits of a case, but only deal with simpler issues. This can happen, in particular, when their involvement is limited to a certain type of case, such as, for example, those involving procedural issues (**Danish** and **French** courts),⁹¹ admissibility (**Spanish** court system) or organisational and management measures (**Hungarian** court system). This may also be the case where their involvement relates only to certain court documents, such as draft orders (**Danish, French,**⁹² **Hungarian** and **Swedish**⁹³ courts).
171. The same applies to the **ECtHR**, where 'category B' judicial assistants are responsible for examining applications that are prima facie inadmissible and applications that can be dealt with in a standard manner.

(b) JUDICIAL ASSISTANTS NOT INVOLVED IN THE DRAFTING OF JUDICIAL DECISIONS

172. Contrary to the situation in almost all the courts studied, in the **Irish** court the judicial assistants do not draft judicial decisions. That task is assigned exclusively to the judges, although there are judicial assistants at the Supreme Court who may, in rare cases, draft judicial decisions, although their contribution is often limited to summarising the facts of the case, the case law or the parties' submissions.

2. JUDICIAL ASSISTANTS INVOLVED IN THE CONDUCT OF HEARINGS AND DELIBERATIONS

173. In addition to their duties relating to the drafting of judgments and orders, judicial assistants are sometimes involved in other aspects of court activity. In particular, to varying degrees, they perform duties relating to hearings and deliberations.

⁹¹ See footnote 72.

⁹² See footnote 72.

⁹³ This applies only to 'beredningsjurister' (junior legal secretaries).

174. With regard to their involvement in hearings, those judicial assistants are often able to attend hearings and facilitate them by carrying out various tasks (**Danish, Dutch, Hungarian, Irish, Maltese,**⁹⁴ **Luxembourg** and **Romanian** courts).
175. By way of illustration, in the **Danish, Dutch and Hungarian** courts, judicial assistants may be called upon to draw up minutes during the hearing. In the **Maltese**⁹⁵ court, judicial assistants may take witness statements and meet with lawyers and prosecutors in order to plan the management of the trial. In the **Danish** court, they help to record evidence. More generally, in the **Romanian** court, judicial assistants are responsible for ensuring, in cooperation with the presiding judge and the court registry, that the hearing is properly conducted, while, in the **Irish** court, they take note, during the hearings, of the evidence and statements submitted by the parties.
176. At the **ECtHR**, judicial assistants are also responsible for attending the Court's sessions and may submit applications.
177. In addition, in several courts, judicial assistants attend the deliberations (**Dutch, German, Finnish, Romanian, Slovenian** and **Swedish** courts).
178. By way of illustration, in the **Slovenian** court, judicial assistants can also submit reports on cases during the deliberations of the Supreme Court. In the **Netherlands** court, a judicial assistant is treated as an interlocutor on an equal footing with the judges of the investigating chamber, the judicial assistant being normally the first person who gives his opinion. The same applies in the **Finnish** court, where the legal secretary first speaks, during the deliberation, to present his report and proposal. The legal secretary is thus an active participant in the deliberations of judges, even if he does not take part in the vote.
179. In addition, in the **Swedish** court, certain judicial assistants⁹⁶ have a consultative vote⁹⁷ in the deliberations.
180. Lastly, in very rare cases, judicial assistants may issue court rulings. However, this is only the case in the **Slovak** court, where judicial assistants are empowered, by

⁹⁴ See footnote 25.

⁹⁵ See footnote 94.

⁹⁶ See footnote 24.

⁹⁷ The term 'consultative vote' refers to the fact that judicial assistants can take part in the discussion and give their opinion, without that opinion being taken into account in the final vote count.

mandate conferred by the judges, to hand down rulings on certain secondary issues.⁹⁸

B. ALLOCATION OF CASES

181. The allocation of cases to judicial assistants varies according to the internal practice of each court.
182. It should be noted at the outset that the regulatory texts do not specify the rules for allocating cases to the judicial assistants; in the majority of the courts covered by this footnote, that allocation is governed by the internal practice of the court concerned (**Austrian, Bulgarian, Czech, Dutch, Estonian, French,**⁹⁹ **Greek,**¹⁰⁰ **Hungarian, Italian, Luxembourg, Portuguese, Slovak, Spanish and Swedish** courts). In those circumstances, it is difficult to identify, in a reliable way, the prevailing approaches to the allocation of cases to the judicial assistants.
183. Subject to this caveat, we will examine in turn who, in the various courts, is responsible for allocating cases (1), whether there is a possibility of reallocation (2), and to what extent specialisation in a particular area of law may be a criterion for allocating cases (3).

1. PERSON OR ENTITY RESPONSIBLE FOR THE ALLOCATION

184. As already mentioned,¹⁰¹ in the courts covered by this note, judicial assistants may be attached to the President of the court, to a department or to one or more chambers, to a judge, to an internal administrative service or even to an external service.
185. However, regardless of their administrative affiliation, the person responsible for assigning cases does not, as a general rule, coincide with the person under whose authority the collaborators perform their duties. Thus, in the courts covered by this note, the person or entity usually responsible for assigning cases to judicial assistants is either the president of a department, chamber or bench (a), a judge (b) or the head of a pool (c).

(a) PRESIDENT OF A DEPARTMENT, CHAMBER OR BENCH

⁹⁸ For example, on costs, fines or administrative fines, remuneration of experts, interpreters and witnesses, court fees, rectification of pleadings, jurisdiction of the court, joinder of cases, authorisation to amend the document instituting proceedings.

⁹⁹ See footnote 39.

¹⁰⁰ See footnote 25.

¹⁰¹ See above, paragraphs 129 to 157.

186. It is common practice in the courts covered by this note for the President of a department, chamber or bench to assign cases directly to judicial assistants (**Bulgarian, Croatian, Finnish, French,**¹⁰² **Greek,**¹⁰³ **Italian, Latvian**¹⁰⁴ and **Romanian** courts).
187. Depending on the organisation of each court, the person responsible for the assignment is either the President of the department (**Latvian** court system), the President of the chamber to which the judicial assistants are assigned (**Bulgarian, Croatian, Finnish** and **French**¹⁰⁵ courts), or the President of the bench (**Greek** and **Romanian** courts).
188. In this respect, it is interesting to note that, in the **Finnish** court, the President of the chamber draws up a work distribution plan in advance, based on a certain number of criteria, and that each new case is assigned to a legal secretary on the basis of that plan.
189. In the **Italian** court, the General Secretariat to which the judicial assistants report may, depending on the needs of the court, assign those judicial assistants to the various sections of the Council of State, which assign them specific individual tasks.
190. In addition, it is worth noting that, in some courts (**Bulgarian** and **Croatian** courts) the allocation is not a monopoly reserved to a president of a chamber, formation or department, but other persons, such as the President of the court or other judges of the chamber (**Bulgarian** court system) or the mentor judge (**Croatian** court system), may also assign a case to a judicial assistant.

(b) JUDGE

191. In some courts, it is the judges who assign tasks to the judicial assistants assigned to them (**Czech, Irish,**¹⁰⁶ **Latvian,**¹⁰⁷ **Lithuanian,**¹⁰⁸ **Luxembourg, Maltese, Polish, Slovak** and **Slovenian** courts).
192. It should be noted that sometimes, even if judicial assistants are not assigned to a single judge, but to an entire chamber, a judge may assign a case to them. This is, for example, the case of the **Croatian** court, where the mentor judge of each

¹⁰² See footnote 72.

¹⁰³ See footnote 30.

¹⁰⁴ See footnote 45.

¹⁰⁵ See footnote 72.

¹⁰⁶ See footnote 76.

¹⁰⁷ See footnote 79.

¹⁰⁸ See footnote 80.

judicial assistant can assign cases to him. This is also the case for the **Bulgarian** court, where judges may, exceptionally and after consulting the President of the Chamber as regards their workload, directly entrust tasks to the judicial assistants.

193. Finally, the **Danish** court is unique in this respect in that cases are distributed to judicial assistants by the secretary of the 'ankeudvalget' (appeals committee), which is made up of three judges and is an internal body of the Supreme Court that oversees the preparation of all types of cases.

(c) HEAD OF A POOL

194. In some courts, it is the line managers of the judicial assistants, most of whom are administrative staff of the court concerned, who are responsible for assigning cases to the judicial assistants (**Austrian, Dutch,** ¹⁰⁹ **Irish, Lithuanian, Spanish** ¹¹⁰ and **Swedish** courts).
195. That is also the case for the **ECtHR**, where cases are assigned to Registry lawyers by the head of the national units.
196. By way of example, in the case of the **Austrian** court, ¹¹¹ the tasks of the judicial assistants are set by the director of the research and documentation department according to the needs of the department, the director being one of the judges of the court concerned who is appointed by the president of the court.
197. In the case of the **Spanish** court, the work of the technical cabinet is coordinated by 'letrados coordinadores' (coordinating judicial assistants).
198. Similarly, in the **Irish** ¹¹² court, the judge submits his request for assistance to the Legal Research Support Office and the director of that office chooses the judicial assistant who will assist him.
199. Finally, within the **Lithuanian** court, ¹¹³ the involvement of a judicial assistant in a specific case is decided from time to time on the basis of a request from the judge-rapporteur to the Director of the Case Law Department.

¹⁰⁹ However, the judicial assistants at the Raad van State (Council of State) may assist the head(s) of unit(s) in assigning cases.

¹¹⁰ This applies only to the 'letrados coordinadores' (coordinating judicial assistants).

¹¹¹ This applies only to 'wissenschaftliche Mitarbeiter' (scientific collaborators) within the Verwaltungsgerichtshof (Administrative Court), in so far as they are assigned to that court's research and documentation department.

¹¹² See footnote 82.

¹¹³ This applies only to 'patarėjai' (advisers).

200. The situation is somewhat different in the **Dutch** court, where the division is carried out by the head of section, with each chamber being divided into several sections. The head of unit is assisted in that task by more experienced judicial assistants (the ‘ambtenaren van staat’ and senior lawyers).

2. REALLOCATION OF CASES

201. In some courts (**Estonian**, **Finnish** and **Swedish** courts) there are express rules on the reallocation of cases.¹¹⁴

202. In the **Estonian** court, a case may be reassigned, against the wishes of the judicial assistant concerned, if the president of the chamber considers it necessary, for example, to equalise the workload of the various judicial assistants.

203. Similarly, in the **Finnish** court, a case may be reassigned only if there is an overriding reason for doing so due to the health or workload of the legal secretary, the delay in the treatment of the case, or any other serious reason of a similar nature. In such a case, the President of the Chamber takes the reassignment decision.

204. In the **Slovenian** court, the cases may be assigned at the same time to a judge-rapporteur and to a judicial assistant. That is the case where the judge decides that the case must also be dealt with by a judicial assistant. By contrast, where the judge decides that he will deal with the case alone, the case is assigned only to the latter.

3. ASSIGNMENT BASED ON SUBJECTS OF SPECIALISATION

205. In some courts, the area of expertise of judicial assistants is a criterion that is taken into account when assigning cases (**Dutch**, **Finnish**, **Greek**,¹¹⁵ **Latvian**,¹¹⁶ **Lithuanian**¹¹⁷ and **Slovenian** courts).

206. The area of expertise is also taken into account at the **ECtHR**, where the national units in the registry organise the allocation of cases to judicial assistants autonomously. Thus, in some national units, incoming cases are sometimes assigned to judicial assistants on the basis of their area of expertise.

¹¹⁴ Reallocation is also practised in other court systems, but, in the absence of express rules, we have chosen to confine ourselves to the court systems mentioned above.

¹¹⁵ See footnote 65.

¹¹⁶ See footnote 42.

¹¹⁷ See footnote 80.

207. As far as national courts are concerned, we may note, by way of illustration, that, in the **Greek**¹¹⁸ court, it is expressly provided that the subject matter of the case is taken into account, among other criteria, in assigning the case to a judicial assistant.
208. In the **Lithuanian**¹¹⁹ court, specialisation is taken into account when assigning a judicial assistant to a specific judge.
209. Furthermore, it is interesting to note that the case allocation system often contributes to judicial assistants specialising in a particular area of law.
210. For example, in the **Finnish** court, the president of the chamber regularly appoints one or more legal secretaries to manage pending cases in specific areas of law.

CONCLUSION

211. In almost all the courts covered by this note, with the exception of the **Belgian** and **Cypriot** courts, there are judicial assistants, whose duties are similar to those of the General Court's legal secretaries.
212. With regard to their employment status, in the majority of courts those judicial assistants are civil servants, who may or may not be judges. However, it is not uncommon for those judicial assistants to have the status of contract staff, usually recruited on a fixed-term basis.
213. The recruitment of those judicial assistants is subject to compliance with certain selection criteria, such as, in most cases, the requirement to be a national of the Member State concerned, as well as the requirement to have a law degree and sometimes a Master's degree. In addition, in several courts, a certain amount of relevant professional experience is required. In addition to those qualifications, candidates' professional skills may also be taken into account during the selection process.
214. The recruitment procedure for those judicial assistants sometimes takes the form of a competition, sometimes another form. In the majority of courts, the selection is carried out by the court itself, and there are few cases in which an external

¹¹⁸ See footnote 30.

¹¹⁹ See footnote 80.

authority is involved in selecting judicial assistants. The recruitment procedure is usually the responsibility of the president of the court or chamber concerned.

215. As far as perspectives for professional advancement are concerned, as a general rule these seems to be greater for judicial assistants with civil servant status, who can benefit from advancement in grade and the associated salary increases. This is rarely the case for judicial assistants with the status of contract agent. It should also be noted that experience as a judicial assistant sometimes facilitates, but does not guarantee, access to the judiciary or other positions of responsibility within and outside the courts.
216. In most of the courts covered by this note, the judicial assistants are administratively attached to one or more chambers, to a judge or to an administrative department of the court, such as the registry. There are very few cases where judicial assistants are attached to the president of the court or to an external service.
217. However, irrespective of their administrative connection, as set out in the organisation chart of the court concerned, judicial assistants are often *de facto* assigned, from a functional point of view, to a chamber or a judge.
218. Thus, when those judicial assistants are not attached to a single judge, it is useful to note that, in the majority of the courts covered by this note, the judicial assistants perform their duties for several judges.
219. Those judicial assistants are generally responsible for a wide range of functions related to the handling of cases. They are often responsible for drafting court decisions and sometimes play an important role during hearings and deliberations.
220. Finally, as regards the assignment of cases to those judicial assistants, that assignment is most often carried out either by the president of a department, a chamber or a formation, or by a judge or a head of pool. It should also be noted that the area of expertise of judicial assistants may sometimes be a criterion taken into account when assigning cases.

IV. COMPARATIVE TABLES

221. The attached tables for each court provide a more detailed overview, including the applicable provisions and practices. [not translated into English]

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