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**Answer to the
REVISED SCHEME
FOR
EVALUATING JUDICIAL SYSTEMS
2004 Data**

**Réponse à la
GRILLE REVISEE
POUR
L'ÉVALUATION DES SYSTÈMES JUDICIAIRES
Données 2004**

ALBANIA/ALBANIE

REVISED SCHEME FOR EVALUATING JUDICIAL SYSTEMS

COUNTRY: ALBANIA

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I. Demographic and economic data

I. A. General information

1. Number of inhabitants: : 3 069 275 (Three million and sixty nine thousand and two hundred seventy five)

Source: Albanian Institute of Statistics (INSTAT)

2. Total of annual State public expenditure-where appropriate public expenditure at regional or federal entity level

State level 1742 €

Regional/Entity level

Source: Ministry of Finance

3. Per capita GPD (year 2004) 1920 €

Source: Ministry of Finance

4. Average gross annual salary (for public sector) 2440 € (it is not included the part of social insurance paid from employer)

Source: Albanian Institute of Statistics

1.B. Budgetary data concerning judicial system

**5. Total annual budget allocated to all courts:
= 10 486 065 € (Ten million and four hundred and eighty- six thousand and sixty five euros).**

Source: Office of Judicial Budget Administration

6. Within this budget, can you isolate the following budgets and specify, if appropriate, their amount:

	Yes	Amount
. Salaries in total (for judges and non-judges staff)?		= 5 714 560 €
. IT ?		
. Justice expenses borne by the State?		

Source: Office of Judicial Budget Administration

7. Annual public budget spent on legal aid:

On the year 2004 for legal aid has been spent **= 130 550 €**

Source: Office of Judicial Budget Administration

8. If possible, please specify

. the annual public budget spent on legal aid in criminal cases	= 130 550 €
. the annual public budget spent on legal aid in other court cases	N/A

Source: Office of Judicial Budget Administration

9. Annual public budget spent on prosecution system (2004)

= 8 498 900 €

Source: Law nr. 9165, dated 23.12.2003

10. Bodies formally responsible for budgets allocated to the courts:

	Preparation of the budget	Adoption of the budget	Management and allocation	Evaluation of the use of the
--	---------------------------	------------------------	---------------------------	------------------------------

	(Yes/No)	(Yes/No)	of the budget among courts (Yes/No)	budget (Yes/No)
Ministry of Justice				
Ministry of Finance				
Parliament		YES		
Supreme Court				
Judicial Council				
Courts	YES			
Inspection body. Please specify.				
Office of the Judicial Budget Administration	YES		YES	YES

You can indicate below:

- any useful comments for interpreting data mentioned above
- the characteristics of your budgetary system

The office of Judiciary Budget Administration was created based on the law no.8363, dated 1.07.1998. The purpose of the office is to draft and plan detailed annual budget for the courts (first instance courts; courts of appeals and the High Court) and also managing the funds allocated by the Albania Parliament to the judiciary.

Each court drafts its own budget and then sent it to the Office of Judicial Budget Administration, the last one prepares the final draft budget of the whole judiciary.
Adoption of the budget: The final draft budget is sent by the Office of Judicial Budget Administration to the Government and then to the Parliament.

II. Access to Justice and to all courts

II.A. Legal aid

11. Does legal aid concern:

	Criminal cases	Other than criminal cases
Representation in court (Yes/No)	yes	
Legal Advice	yes	
Other		

There are some Albanian NGOs, which provide free representations to the court for civil and administrative cases for any individual who does not have sufficient financial funds.

12. Number of legal aid cases

- . total
- . criminal cases
- . other than criminal cases

Source

Answer: Not reflected in the statistics

13. In criminal case, can any individual who does not have sufficient financial means be assisted by a free of charge (or financed by public budget)

Yes No

Albanian constitution has assured the right of free defense when the person does not have sufficient means (junior and other persons can request free legal presentation to the court only in criminal cases).

14. Does your country have an income and asset test for granting legal aid:

- . for criminal cases? No Yes/ Amount
- . for other than criminal cases?

Any body that cannot afford a lawyer to defend himself on a criminal case, asks in the court for free defense (advocate/ barrister).

15. In other than criminal cases, is it possible to refuse legal aid for lack of merit of the case (for example for frivolous action)?

Yes No

Answer: Legal aid means that any individual who does not have sufficient financial means be assisted by a free of charge lawyer. So the question (15) above it is not applicable.

16. If yes, is the decision taken by:

- . the court? Yes
- . a body external to the court
- . a mixed decision- making body (court and external) ?

Please see the answer for question 15.

17. In general are litigants required to pay a court tax or free start a proceeding at a court of general jurisdiction:

- | | | |
|---------------------------------|-------------------------------------|-------------------------------------|
| | Yes | No |
| . for criminal cases ? | | <input checked="" type="checkbox"/> |
| . for other than criminal cases | <input checked="" type="checkbox"/> | |

If yes, are there exceptions? Please specify:

18. Is there a private system of legal expense insurance for individuals in order to finance a legal proceedings to courts?

No

Yes

Please specify

19. Do judicial decisions have an impact on who bears the legal costs which paid by the parties during the procedure in:

- | | | |
|----------------------------|-------------------------------------|----|
| | Yes | No |
| - criminal cases | | |
| - other the criminal cases | <input checked="" type="checkbox"/> | |

You can indicate below:

- any useful comments for interpreting the data mentioned above
- the characteristics of your legal aid system

The judge in the judicial decision states clearly which party bears the legal cost.

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II. B. Users of the courts and victims
II. B. 1. Rights of the users and victims

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

Yes No

. legal texts (ex. codes, laws, regulations etc.) ? YES

Internet address(es): <http://www.legjislacionishqiptar.gov.al>

. case law of the higher court/s ? YES

Internet address(es): <http://www.gjykataelarte.gov.al>

. Other documents (for examples legal forms) YES

Internet address(es): <http://www.justice.gov.al>
<http://gjykata.altirana.com>
<http://fier.gjykata.info>
<http://shkoder.gjykata.info>

21. Is there an obligation to provide information to the parties concerning the foreseeable time frame of the proceeding?

Yes No

If yes, please specify:

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22. Is there a public and free- of- charge specific information system to inform and to help victims of crimes?

Yes No (except a telephone number)

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

	Information Mechanism	Hearing modalities	Procedural rights	Other (Yes/No) Please specify
--	------------------------------	---------------------------	--------------------------	--------------------------------------

	(Yes/No)	(Yes/ No)	(Yes/ No)	
Victims of rape				
Victims of terrorism				
Child/Witness/Victim				
Victims of domestic violence				
Ethnic minorities				
Disabled persons				
Juvenile offenders				
Other				

In order to protect the witnesses or the defendant, and during the questioning of juveniles the court can decide when necessary to have closed hearings. The law specifies clearly the cases of closed hearings otherwise the hearing shall be public.

24. Does your country have compensation procedure for victim crimes?

Yes **No**

There is not a specific law on the compensation for victim of crimes. But the court in the judicial decision determines the compensation for the victim/s. **It is decided from the court, case by case the amount of the compensation.**

25. If yes does this compensation procedure consist in :

Yes

- . **a public found ?**
- . **a court order ?**
- . **private found ?**

26. If yes, which kind of cases does this procedure concern?

Including victims of criminal offences.

27. For victims, are there studies to evaluate the recovery rate of the compensation awarded by courts?

Surveys at national level		
Surveys at court level		Yes

31. Is there a national or local procedure for making complaints about the performance of the judicial system?

Yes No

The issues related with the performance of the judiciary in general can be addressed to the High Council of Justice and in some cases to the Ministry of Justice also. If the complain is related with the decision of a court, that decision can be changed only by appealing to a higher level court.

32. If yes, please specify:

	Time limit to respond (Yes/No)	Time limit for dealing with the complaint (Yes/ No)
Court concerned		
Higher court		
Ministry of Justice		
Other external organizations (e.g. Ombudsman)		

Can you give information elements concerning the efficiency of this complaint procedure?

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III. Organization of the court system
III. A. Functioning

33. Total number of courts (administrative- geographic structure):

- first instance courts of general jurisdiction **29**
- appeal court **6**
- High Court **1**

Source: Ministry of Justice

- specialized first instance courts **1 (for serious crime)**
- specialized appeal court **1 (for serious crime)**
+ 1 military court

Source: Ministry of Justice

Please specify the different areas of specialization (and, if possible the number of courts concerned):

The judicial power is exercised by the High Court, as well as the courts of appeal and courts of first instance, which are established by law. The Assembly may establish by law courts for particular fields, but in no case an extraordinary court.

There are 29 first instance courts throughout Albania, 6 appeal courts, 1 military appeal court, 1 first instance court for the serious crimes, 1 appeal court of the serious crimes and the High Court.

As per the military system, it is part of the criminal judicial system. Which means that military cases are taken from the first instance courts (criminal sections).

Appeal of the military cases is reviewed by the Military Appeal Court, which is located in Tirana.

33. Total number of courts (administrative - geographic locations)

= 39 courts all over Albania (first instance courts, courts of appeal and the high courts)

Please refer to the answer of question 32.

Source: Ministry of Justice

35. Number of first instance courts competent for a case concerning

- **a debt collection for small claims**

Please specify what is meant by small claims in your country:

All district courts can handle small claims in Albania. It does not exist any definition for small claims because there is not any distinction between small and big claims.

- **a dismissal**
- **a robbery**

All district courts can handle a dismissal and a robbery case in Albania.

36. Number of professional judges sittings in courts

(present the information in full time equivalent and for permanent posts)

In total for the year 2004 there are 366 judges for the first instance and appeal courts plus 17 judges of the High Court. In total = 383 judges.

Source: Ministry of Justice

37. Number of professional judges sitting in courts on an occasional basis and who are paid as such:

N/A

- gross figure
- if possible, in full time equivalent

Source

Please specify:

38. Number of non professional judges (including lay judges) who are not remunerated but who can possibly received a simple defrayal of cost.

Source: Ministry of Justice

Please specify:

N/A

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

No

Yes

For which type of case(s)?

If possible number of citizens who were involved in such juries for the year 2004

40. Number of non-judge staff who are working in courts
(present the information in full time equivalent and for permanent posts)

For the year 2004, in total there are 808 (eight hundred eight) employees/ non- judge staff working in the first instance courts, courts of appeal and High Court.

Source: Office of Judicial Budget Administration

41. If possible, could you distribute this staff according to the 3 following categories:

- Non-judge staff whose task is to assist the judges (case file preparation, assistance during the hearing, keeping the minutes of the meetings, helping to prepare the decisions) such as registrars.

= 388 (three hundred and eighty eight)

- Staff in charge of different administrative tasks as well as of the management of the courts (human resources management, material and equipment management including computer systems, financial and budgetary management):

= 276 (two hundred and seventy six)

- Technical staff:

= 144 (one hundred and forty four)

42. In courts, do you have non judge staff entrusted with judicial or quasi judicial tasks having autonomous competence and whose decision could be subject to appeal (such as German and Austrian Rechtspfleger):

No

Yes

Number of staff

43. Number of public persecutors

(present the information in full time equivalent and for permanent posts)

For the year 2004, in total there are 267 prosecutor (permanent posts).

Source: The Office of General Prosecutor

44. Do you have persons who have similar duties as public persecutors?

No

Yes

Please specify:

The office of the prosecutor exercises criminal prosecution and represents the accusation in court in the name of the state. The prosecutor does not play any role in the civil cases. The role of the prosecutors in the civil cases is carried out (replaced) by the "Advocate

of State”. The role and function of the last one are defined in the law for “Advocate of State” nr. 8551, date 18.11.1999.

There are some other persons who also have some similar duties as the prosecutor, per instance carry out some investigation under the supervision of the prosecutor, like the judicial police. However in no case they (the judicial police or other persons) can represent the accusation in the court. The last one can be carried out only by the prosecutor.

45. Is the status of persecutors:

- Independent within judiciary ?
- Independent from the judiciary ?
- Under the authority of the Ministry of Justice?

46. Number of staff (non prosecutors) attached to the public prosecution service (2004)

(present the information in full time equivalent and for permanent posts)

Answer: Judicial Police Officers 129
 Administrative Staff 368

Source: The Office of General Public Prosecutor

47. Who is entrusted with the individual court budget

	Preparation of the budget (Yes/ No)	Arbitration and allocation (Yes/ No)	Day to day management of the budget (Yes/ No)	Evaluation and control of the use of the budget (Yes/ No)
Management Board				
Court President	YES	YES		
Court administrative director				
Head of the court clerk office	YES	YES		
Court Chancellor				
Budget Unit of the court	YES	YES	YES	
Office of	YES	YES	YES	YES

Judicial Budget Administration				
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48. In general, do the courts in your country have computer facilities

Yes **No**

Source: Ministry of Justice

49. What are the computer facilities used within the courts?

Functions	Facilities	100% of courts	+50% of courts	-50% of courts	-10% of courts
Direct assistance to the judge/court clerk	Word processing	X			
	Electronic data base of jurisprudence				
	Electronic files				
	E-mail				
	Internet connection				
Administration and management	Case registration system			X	
	Court management information system				
	Financial information system				
Communication between the court and the parties	Electronic forms				X
	Special Website				
	Other electronic communication facilities				

Source: Ministry of Justice of Albania

50. Is there a centralized institution which is responsible for collecting statistical data regarding the functioning of the courts and judiciary?

No
Yes

Ministry of Justice of Albania

Please specify the name and the address of this institution:

Ministry of Justice of Albania
Blvd. "Zogu I", Tirana,
Albania

You can indicate below:

- any useful comments for interpreting the data mentioned
- the characteristics of your judicial system

Law nr. 8678, dated 2.11.2000 "For the Organization and Functioning of the Ministry of Justice".

The Ministry of Justice directs the unified statistical service in the field of Justice. It takes care for the collection, working, and keeping of the unified statistical data, procedural, administrative, investigative, and legislative, as well as for the methodic and manner of keeping the judicial statistics, penal and civil.

III.B. Monitoring and evaluation

51. Are the courts required to prepare an annual activity report?

Yes

No

52. Do you have a regular monitoring system of court activities concerning the:

Yes

No

- number of incoming cases ?
- number of decisions ?
- number of postponed cases?
- length of proceedings?
- other? etc

Please specify:

On quarterly bases the courts report to the Ministry of Justice datas related with number of incoming cases, number of cases in process, number of judicial decisions, etc. Through these statistics can be monitored the activities of the courts.

53. Do you have a regular evaluation system of the performance of the court?

No

Yes

Please specify:

The body entrusted with the task of evaluation of judges is the Inspectorate of the High Council of Judges and the Department of Inspection at the Ministry of Justice.

Law on the organization and functioning of the High Council of Justice, Nr. 8811, dated 17.05.2001, says: Article 1: The High Council of Justice is the state authority responsible for the protection, appointment, transfer, dismissal, education, moral and professional evaluation, career, as well as for the control of the activity of judges of first instance courts and the courts of appeal. This body is not depended from any branch of the government.

54. Concerning court activities, have you defined:

- performance indicators? Yes No

Please specify the 4 main indicators for a paper functioning of justice:

- targets? Yes No

Please specify who is the responsible for setting the targets:

Yes

- executive power ?
- legislative power ?
- judicial power ?
- other ?

Please specify

Please specify the main objectives applied:

Source

55. Which authority is responsible for the evaluation of the performances of the courts:

- the High Council of judiciary? Yes

- the Ministry of Justice?
- an Inspection Body?
- the Supreme Court?
- an external body?
- other?

Please specify

Law on the organization and functioning of the High Council of Justice, Nr. 8811, dated 17.05.2001

Article 1: The High Council of Justice is the state authority responsible for the protection, appointment, transfer, dismissal, education, moral and professional evaluation, career, as well as for the control of the activity of judges of first instance courts and the courts of appeal. This body is not depended from any branch of the government.

56. Does the evaluation system include quality standards concerning judicial decisions?

No

Yes

Please specify:

57. Is there a system enabling to measure the backlogs and to detect the cases which are not processed within an acceptable timeframe for.

Yes

It is not a statutory one but the judicial administration has implemented the evaluation system of judges whose component is also the timing of cases.

- Civil cases
- Criminal case
- Administrative cases

58. Do you have e way of analyzing queuing time during court procedures.

No

Yes

Please specify:

59. Do you monitor and evaluate the performance of the prosecution service.

No

Yes

Please specify

Art 42 of the Law on “The Organization and Functioning of the Prosecutor’s Office in the Republic of Albania” says:

1. For evaluation of the professional abilities of prosecutors, the Directorate of Personnel and Inspection must carry out a planned inspection no less than once every two years.
2. The evaluation is done based on the volume or work, the quality and speed of performing it, disciplinary measures given and the publication of juridical works.
3. The Council of the Office of the Prosecutor examines the work evaluation and submits its opinion to the General Prosecutor, who shall express himself within 15 days.
4. The levels of evaluation are:
 - Very good;
 - Good;
 - Sufficient;
 - Incompetent.
5. The system of work evaluation of prosecutor is set by the General Prosecutor, after having received the opinion of the Council of the Office of the Prosecutor.
6. An evaluation of ‘incompetent’ constitutes causes for the initiation of a disciplinary proceeding.

You can indicate below:

- any useful comments for interpreting the data mentioned above
- the characteristics of your court monitoring and evaluation system

IV: Fair trial

IV. A. Fundamental principles

60. Is there in your judicial system:

- a right for an interpreter for all those within your jurisdiction who cannot understand or speak the language used in court?

Yes No

- The right to have given for all prison sentences?

Yes No

- For all cases, an effective remedy to a superior jurisdiction?

Yes No

61. Which is the percentage of judgments in first instance criminal cases in which the suspect is not actually present or represented?

Not reflected in the Statistics.

Source: Ministry of Justice

62. Is there a procedure to effectively challenge a judge if a party consider he/she is not impartial.

Yes
No

The law lists when parties can ask the challenge of the judge (e.g when during the exercise of the functions and before the decision is rendered he has given his opinion about the facts or circumstances subject to proceedings).

More over the law specify the cases when a judge has to resign from a concrete case (e.g when he / she has an interest in the proceedings or when one of the private parties or a defense lawyer is a debtor or creditor of his, of his spouse or of his children).

63. Please give the follow data 2003 and 2004 concerning the number of cases regarding the violation of Article 6 of the European Convention of Human Rights:

	Cases communicated by the Court		Cases declared inadmissible by the Court		Friendly settlements		Judgments establishing a violation		Judgments establishing a nonviolation	
	2003	2004	2003	2004	2003	2004	2003	2004	2003	2004
Article 6 & 1 (equity)										

Criminal proceedings	Article 6 & 1 (duration)					
	Article 6 & 2					
	Article 6 & 3a					
	Article 6 & 3b					
	Article 6 & 3c					Balliu v. Albania No violation of article 6 (3) (c) from Albania
	Article 6 & 3d					Balliu v. Albania No violation of article 6 (3) (d) from Albania
	Article 6 & 3e					
Civil proceedings	Article 6 & 1 (equity)					
	Article 6 & 1 (duration)					
	Article 6 & 1 (non execution only)				Qufaj Co. Sh.P.K. v. Albania	

1- Balliu v. Albania 16.06.2005 Article 6 (3) (c)

Absence of defense lawyer for certain parts of trial.

The Court in Strasbourg concluded that has been **no violation of the article 6 (3) (c) and (d)** by Albania.

2- Qufaj Co. Sh.p.k v. Albania 18 November 2004

The Court in Strasbourg concluded that has been **violation of Article 6&1** (non execution only) of the Convention.

Source: European Center in Tirana

IV. B Timeframes of proceeding
IV. B. General

64. Are there specific procedures for urgent matters in:

Yes

No

- a. Civil cases?
- b. Criminal case?
- c. Administrative cases?

65. Are there simplified procedures for:

Yes No

- d. Civil cases (small claims)?
- e. Criminal case (petty offences)?
- f. Administrative cases?

The competent body for the administrative settlement of disputes hears the bodies in conflict and takes a decision within a time limit of 30 days.

In the criminal case the law has foreseen also the accelerated trial.

66. Is it possible for a second instance court to send back a case to a first instance Court for a new examination?

Yes No

67. Do courts and lawyers have the possibility to conclude agreements on modalities for processing cases (presentation of files, binding timeframes for lawyers their conclusions and dates of hearings).

Yes
No

Please specify

The judge in the court session after hears the parties or their representations, their claims, announces the date of the next session, either for presenting evidences or presenting the conclusions.

But they do not sign any agreement.

IV. B. 2.Civil and administrative cases

68. Total number of civil cases in courts (litigious and not litigious):

Please specify the main types of cases.

During the year 2004 has been 41755 civil judgments, out of this number 13445 are with litigious and 28310 without litigious.

Out of 13445 judgments (with litigious):

Civil cases in general 58%

Family cases (including divorce cases) 28%

Administrative cases 14%

Out of 28310 judgments (without litigious):

Civil cases in general 47%

Family cases (including divorce cases) 13%

Commercial cases 40%

Source: The Annual Statistical Book, published by the Ministry of Justice

69. Litigious administrative and civil cases in court - please complete this table concerning the number of cases length of proceedings pending cases and specify definitions of incoming cases, starting and ending point of length and pending cases:

	Civil cases	Administrative cases	Divorce	Employment dismissal¹ / Sue for relationship at work
Incoming cases	24960	2603	3670	809
	Incoming cases: In total 47469 civil case for the year 2004			
Percentage of decisions subject to appeal in a higher court	2451 cases = around 9 %	733 cases = around 28 %	149 cases = around 4%	329 cases = around 40 %
Pending cases by 1 January 2005²	3386 cases	697cases	548 cases	122 cases

¹ It is not reflected in the statistics separately. There are data on “sue for relationship at work”, which includes more than just employment dismissal.

² Cases which have not been completed in 2004.

	Percentage of pending cases of more than 3 years	0	0	0	0
Average length (from date of court proceedings)	1st instance decisions	2-6 months (average)			
	2nd instance decision	For majority of the cases the average length is two month (around 49%). There is a considerable number of other cases for which the average length it is more than 6 months (around 31%).			
	Total procedure				

*** If you calculate the average length from the date of lodging of court proceedings, how do you calculate length of proceedings?**

Where appropriate, please specify the specific procedure as regards divorce.

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Source: The Annual Statistical Book, published by the Ministry of Justice

IV.B. Criminal cases

70. Please describe the role and powers of the prosecutor in the criminal procedure:

The office of the prosecutor exercises criminal prosecution and represents the accusation in court in the name of the state. The office of the prosecutor also performs other duties set by law.

- | | Yes | No |
|--|------------|-----------|
| • To conduct or supervise police investigation? | X | |
| • To conduct investigation? | X | |
| • When necessary, to demand investigation measure from the judge? | X | |
| • To charge? | X | |
| • To present the case in the court? | X | |
| • To propose a sentence to the judge? | X | |
| • To appeal? | X | |
| • To supervise enforcement procedure? | X | |

Art 463³/1 of the Albanian Code of Criminal Procedure: “The prosecutor of the hearings in competent court of first instance takes the necessary measures for the execution of the sentence. He submits requests to the competent court and intervenes in all of the actions of execution”.

- **To end the case by dropping it without the need for a judicial decision?** **X**
- **To end the cases by imposing or negotiating a penalty without a judicial decision?** **No**
- **Other significant powers?**

Please specify:

The Family Code Law no. 8391 dated 28/10/1998 Law no. 9074 dated 09/05/2003 Law no.8749 dated 01/03/2001 Law no 9157 dated 04/12/1993 Law no 9284 dated 30/09/2004 Law no 9205 dated 15/03/2004

71. Does the prosecutor also have a role in civil and or administrative cases?

No **X**
Yes

Please specify:

--

³ **Art. 463 of the Albanian CCP 1.**The prosecutor of the hearings in competent court of first instance take the necessary measures for the execution of the sentence. He submits requests to the competent court and intervenes in all of the actions of execution.

2. The decisions of the prosecutor are notified, within thirty days, to the defense lawyers selected by the interested person or, when there is no such, to the one appointed by the prosecutor.

3. When necessary the prosecutor may demand the carrying of special actions from a prosecutor of another district.

4. When the execution starts the prosecutor notifies in writing the court which has rendered the sentence.

72. Functions of the public prosecutor in relation to criminal cases- please complete this table:

		Total number of 1 st instance criminal cases/
Received by public prosecutor		14204 cases
Discontinued by the public prosecutor	In general	3175 cases
	Because the offender could not be identified	Not reflected in the Statistics
	Due to the lack of an established offence or a specified legal situation.	Not reflected in the statistics
Concluded by a penalty, imposed or negotiated by the public prosecutor		No specific provision
Charged by the public prosecutor		3779 cases (already tried)

Source: The Office of General Public Prosecutor

73. Criminal cases in court please complete this table concerning the number Of cases/length of proceedings/ pending cases and specify definitions of Incoming cases, starting and ending point of length and pending cases:

		Criminal cases	Robbery cases	Intentional homicides
Total number (1st instance)	Incoming cases	9181 (in total)	39 cases	-
	Judicial decisions	7068	29 cases	-
	Convicted persons	6379	60	-
	Acquitted persons	303 ⁴	3	-

⁴ For 772 persons the case is dismissed.

	Percentage of decisions subject to appeal in a higher court	38% ⁵	75% ⁶	-
	Pending cases by 1 January 2005	= 2113	10	-
	Percentage of pending cases of more than 3 years	Not reflected in the statistics.	Not reflected in the statistics.	-
Average length *(from the date of official charging)	1st instance decision	two months		
	2nd instance decision	two months		
	Total procedure			

If you cannot calculate the average length from the date of official charging, how do you calculate length of proceedings?

Source: Ministry of Justice

You can indicate below:

- Any useful comments for interpreting the date mentioned above
- The characteristics of your system concerning time frames proceedings

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V. Career of judge and prosecutors

V. Appointment and training

74. Are judge initially at the beginning of their carrier recruited and nominated by:

Yes

- A body composed of members of the judiciary?
- A body composed of members external of the judiciary?
- A body composed of members of the judiciary and external of the judiciary?

⁵ There are included only the appeal to the appeal court (second instance court).

⁶ There are included only the appeal to the appeal court (second instance court).

75. Are prosecutors initially/ at beginning of their carrier recruited and nominated by:

- . a body composed of members of the prosecution system ?
- . a body composed of members external to the prosecution system?
- . a body composed of members of the prosecution system and external to external to the prosecution system? **X**

The General Prosecutor proposes to the President of the Republic the appointment, transfers, promotion and discharged of the prosecutor after the opinion of the Council of the Office of the Prosecutor. The Council consists of seven members, one representative of the President, one representative of the Ministry of Justice and five prosecutors.

The Council of the Office of the Prosecutor organizes the competition for the appointment of prosecutors, examines work evaluations and disciplinary violations committed by prosecutors and gives its opinion about draft acts of the General Prosecutor and about investigative practice. The Council of the Office of the Prosecutor has an advisory function and presents its opinion in each case to the General Prosecutor.

76. Is the mandate given for undetermined period for :

- | | Yes | No |
|---------------|----------|----|
| . Judges | X | |
| . Prosecutors | X | |

Are there exceptions? Please specify

- The time a judge stays on duty cannot be limited; their pay and other benefits cannot be lowered. The Law says that the judges cannot be removed from office, except if they: (i) resign; (ii) reach retirement age; (iii) are sentenced by a final court decision; (iv) are found physically or mentally incapacitated or professionally incompetent, according to the standards defined in law; (v) have been subject to disciplinary measures taken by a competent authority in cases provided by law;

- A prosecution is removed from duty in these cases: (i) when he resigns; (ii) when he reaches the age of 65; (iii) when his juridical capacity to act is removed or limited by a final court decision. The law also specifies clearly the cases when a prosecutor is discharged from duty.

If no, what is the length of the mandate: Is it renewable?

- | | Yes | No |
|--------------------|-----|----|
| . of judges ? | | |
| . of persecutors ? | | |

Are there exceptions? Please specify:

--

If no, what is the length of the mandate:

Is it renewable?

You can indicate below :

- any comments for interpreting the data mentioned above
- any characteristic of the selection and nomination procedure of judges and prosecutors

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77. Nature of the training of judges:

	Compulsion (Yes/No)		Frequency (Yes/No)	
	Compulsory		Yes	
	Highly recommended			
	Optional			
General in-service training	Compulsory	Yes	Annual	Yes
	Highly recommended		Regular	
	Optional		Occasional	
In-service training for specialized functions (e.g. judge for economic or administrative issues)	Compulsory	Yes	Annual	Yes
	Highly recommended		Regular	
	Optional		Occasional	
In-service training for specific functions (e.g. head of court)	Compulsory		Annual	
	Highly recommended	Yes	Regular	
	Optional		Occasional	Yes

78. Nature of the training of prosecutors:

	Compulsion (Yes/No)	Frequency (Yes/No)
--	---------------------	--------------------

	Compulsory	Yes	Yes	
General in-service training	Highly recommended	Yes	Annual	Yes
	Optional		Regular	
			Occasional	
In-service training for specialized functions (e.g. judge for economic or administrative issues)	Compulsory	Yes	Annual	
	Highly recommended		Regular	Yes
	Optional		Occasional	
In-service training for specific functions (e.g. head of court)	Compulsory		Annual	
	Highly recommended	Yes	Regular	
	Optional		Occasional	Yes

You can indicate below :

- **any useful comments for interpreting the data mentioned above**
- **the characteristics of your training systems for judges and prosecutors.**

The Magistrates' School assures the professional training of the magistrates (judges, prosecutors.)

The professional training program includes the mandatory initial training of the candidates for magistrate (includes a three- year period), and also the program for the continuing education of the magistrates.

The period of continual training shall not exceed one month in a year, and three months in total during the five years. Participation of the magistrates in the continual training activity is mandatory.

The Magistrates' School periodically organizes academic sessions, workshops, discussions and other activities in order to provide updated information for the improvement of the magistrates and the participation in these academic and scientific activities is optional.

V.B. Practice of the profession

79. Gross annual salary of a first instance professional judge at the beginning of his her career.

Answer: = 7750 €

Source: Office of Judicial Budget Administration

80. Gross annual salary of a judge at the Supreme Court or of the highest appellate court.

Answer: = 18600 €

Source: Office of Judicial Budget Administration

81. Gross annual of public prosecutor at the beginning of his or her career.

Answer: = 7750 €

Source: The Office of General Prosecutor

82. Gross annual of public prosecutor at the Supreme Court or of the highest appellate court.

Answer: = 18600 €

Source: The Office of General Prosecutor

83. Do judge and public prosecutors have additional benefits?

	Judges (Yes/ No)	Public Prosecutors (Yes/ No)
Reduced Taxation	No	No
Special Pension		No
Housing		Yes
Other financial benefit (if yes, please specify)		Art 35, 36, 37 of the Law on the Organization and Functioning of the Prosecutor's Office in the Republic of Albania and different normative acts based on these provisions.

84. Can judges or persecutors combine their work with any of the following other professions?

	Judges			Prosecutors		
	Yes with remunerations	Yes without remunerations	No	Yes with remunerations	Yes without remunerations	No
Teaching				Yes		
Research and Publications	Yes			Yes		

Arbitrator						
Consultant						
Cultural Function						
Other function to specify						

- The function of a judge is incompatible with every elective mandate, as well as every other public or private function and activity.
- Judges cannot participate in the management or direction of civil or commercial companies, either personally or through representation.
- Judges cannot serve as experts or arbitrators of parties in arbitration.
- Judges are free to create associations or organisations to defend their rights and interests as well as professional training.

- The function of the prosecution is incompatible with being a candidate and with every electoral mandate, public duty or activity, except for educational and teaching activities.
- A prosecution is prohibited from being a member of political parties or taking part in activities of a political nature.
- A prosecution is prohibition from taking part in the management organs of commercial companies.

85. Do judges receive bonus on the fulfillment of quantitative objectives relating to the delivering of judgments?

No **X**

Yes

Please specify:

--

V. C. Disciplinary procedures

86. Types of disciplinary proceedings and sanctions against judges and prosecutors:

		Judges	Prosecutors
Reasons for	Total number	9	13
	Breach of professional ethics (Yes/No) If yes, please specify the number	1	0

disciplinary procedures	Professional inadequacy (Yes/ No) If yes, please specify the number		0
	Criminal offence (Yes/ No) If yes, please specify the number		0
	Other (Yes/ No) If yes, please specify the number	8	13
Types of sanctions	Total Number	9	13
	Reprimand (Yes/ No) If yes, please specify the number	4	6
	Suspension (Yes/No) If yes, please specify the number		0
	Dismissal (Yes/No) If yes, please specify the number	5	4
	Fine (Yes/ No) If yes, please specify the number		0
	Other (Yes/No) If yes, please specify the number		3 Moved to a lower position.

You can indicate below:

- **any useful comments for interpreting the data mentioned above**
- **the characteristics of your system concerning disciplinary procedures for judges and prosecutors**

VI. Lawyers

87. Number of lawyers in your country:

Number of lawyers: **1212** (one thousand and two hundred twelve) for the year 2004

Source: Advocates National Bar

88. Does this figure include legal advisors (solicitors or in house counselor) who cannot represent their clients in court?

- a) agreement between the advocate and the party defended or represented by him;
- b) the court or the prosecution, when his defense is required or the person defended or represented cannot pay the service and the legal aid is free to him;

The compensation amount in these cases is defined by a common decision of the Minister of Justice and the Governing Council of the National Chamber of Advocates.

c) by law

2. In any case, the advocate is not allowed to receive other compensation.

- 95. Are lawyers fees:** **Yes**
- . **regulated by the law**
 - . **regulated by the Bar- association** (In case of legal aids it is regulated through an agreement between the Bar Association and the Ministry of Justice)
 - . **freely negotiated?**

96. Have quality standards been formulated for lawyers?

Yes By the Law nr. 9109, dated 17.7.2003 on the “Profession of the advocates/ barristers in the Republic of Albania” and the code of ethics approved from the Bar Association.

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

- . **the bar association** **Yes (for the code of ethics)**
- . **the legislature** **Yes**
- . **other**

Please specify

Based on the Law nr. 9109, dated 17.7.2003 on the “Profession of the advocates/ barristers in the Republic of Albania”:

- The National Chamber of Advocates is responsible for the regulation and control of the exercise of legal professions in the Republic of Albania.

- The General Council of the National Chamber of Advocates is responsible:

- a) to approve the charter of the National Chamber of Advocates;
- b) to approve the “Ethic Code of advocates”;
- c) to prepare, based on the seniority in the legal profession criteria, professional skills demonstrated and the special professional and academic education, etc..
- d) to establish fees to be paid by the chamber of advocates to National Chamber of

the legal profession.

VII. Alternative Dispute Resolution

101. If appropriate, please specify, by type of cases, the organization of judicial mediation:

There is a law on mediation, dated 26.06.2003.

102. Can you provide information about accredited mediators?

Based on the law on mediation, date 26.06.2003, a mediator shall be register in the Ministry of Justice in order to be accredit.

As per the information taken from the " Foundation for Conflict Resolution and Reconciliation" the number of professional mediators is 25 and also there are 250 other vulnerary non professional mediators. Might be some confusion, on the fact if a mediator shall be register to the court or to the Ministry of Justice.

103. Can you provide information about the total number of mediation procedure concerning:

- . civil cases ?
- . family cases ?
- . administrative cases ?
- . employment dismissals ?
- . criminal cases ?

During the year 2004 has been solved through mediation 2515 cases. Out of these 2515 cases, 26% are criminal cases and 73% are other than criminal cases.

Source : " *Foundation for Conflict Resolution and Reconciliation* "

104. Can you give information concerning other alternative dispute resolution (e.g. Arbitration)?

Please specify

You can indicate below:

- any useful comments for interpreting the data mentioned above
- the characteristics of your system concerning ADR

VII. Enforcement of court decisions.

VIII.A. Execution of decisions in civil matters

105. Are enforcement agents:

Yes

- judges?
- bailiff practicing as private profession ruled by?
- public authorities?
- bailiff working in a public institution?
- other enforcement agents?

Please specify their status:

The bailiff is the person charged by the law to conduct the activity of implementing the executive titles, in compliance with the provisions of the Civil Procedures Code.

106. Number of enforcement agents

The number of enforcement agents for the year 2004 is 114 (one hundred and fourteen) in total.

Source: General Department of Enforcement Services

107. Is there a specific initial training or examination to enter the profession of enforcement agents?

Yes

No

Entering in the profession of enforcement agents precede with a competition/ examination and then the person is hired for a probation period of 3 months.

Source: The General Department of Enforcement Services

108. Is the profession of enforcement agent organized by ?

- Yes
- . a national body ?
- . a regional body?
- . a local body ?

The enforcement agent are organized by a regional body.

Source: The General Department of Enforcement Services

109. Can users establish easily what the fees of the enforcement agent will be ?

Yes No

Yes, They are 3% for physical person, 7% for juridical person, around 6 (six) € for unvalued objects.

Source: The General Department of Enforcement Services

110. Are enforcement fees :

- . regulated by the law?
- . freely negotiated ?

111. Is there a body entrusted with the supervision and the control of the enforcement agents?

No
Yes

Which authority is responsible for the supervision and the control of enforcement agents:

- . a professional body?
- . the judge?
- . the Ministry of Justice?
- . the prosecutor?
- . other? Enforcement Council

Please specify:

The Bailiff's Council conducts an annual assessment on the professional skills of the judicial bailiffs based on their criteria of quality, work volume, speed, and their moral reputation according to the following scale:
- very good

- good
- satisfactory
- poor

Source: The General Department of Enforcement Services

112. Have quality standards been formulated for enforcement agents?

Yes

No

Who is responsible for formulating these quality standards?

The responsible body for formulating these standards is the General Department of Enforcement Services.

Source: The General Department of Enforcement Services

113. What are the main complaints of users concerning the enforcement procedure:

- | | Yes | No |
|-----------------------------------|-------------------------------------|-----------|
| • No execution at all | <input checked="" type="checkbox"/> | |
| • Lack of information | | |
| • Excessive length | <input checked="" type="checkbox"/> | |
| • Unlawful practices? | | |
| • Insufficient supervision | | |
| • Excessive cost? | | |
| • Other | | |

Source: The General Department of Enforcement Services

114. Does your country prepared or has establish concrete measure to change the Situation concerning the enforcement of court decision?

Yes

No

Please specify:

Yes, the General Department of Enforcement Services and the Ministry of Justice are working in concrete measure related with the application of law and regulation within the defined time.

Source: The General Department of Enforcement Services

115. Is there a system measuring the time frames of the enforcement of decisions:

Yes No

- For civil cases ?
- For administrative cases?

Yes, the system measuring is for civil cases, trade cases and penal cases.

Source: The General Department of Enforcement Services

116. As regards a decision on debts collection, can you estimate the average timeframe to notify the decision to the parties which live in the city where the court seats:

Yes

- Between 1 and 5 days
- Between 6 and 10 days
- Between 11 and 30 days
- More, please specify

10 days for voluntary notice, and 5 days for obligatory execution.

Source: The General Department of Enforcement Services

117. Disciplinary proceedings and sanctions against enforcement agents (year 2004):

	Yes/ No (if yes, please specify the total number)	
Disciplinary proceedings	Breach of professional ethics	No
	Professional inadequacy	14
	Criminal offence	No
	Other	-
Sanctions	Reprimand	20
	Suspension	No
	Fine	No
	Other	-

Source: The General Department of Enforcement Services

VIII. B. Enforcement of decisions in criminal matters

118. Is there a judge who has in charge the enforcement of judgments?

Yes Please specify his her functions and activities (e.g. Initiative or control functions):

No Please specify which authority is entrusted with the enforcement of judgments (e.g. prosecutor):

119. As regards fines decided by a criminal court, are there studies to evaluate the effective recovery rate?

No **Yes** Please specify:

You can indicate below:

- Any useful comments for interpreting the data mentioned above
- The characteristics of your enforcement system of decision in criminal matters

IX. Notaries

120. Is the status of notaries:

Yes **Number**

- A private one

- **A status of private worker ruled by the public authorities?**
- **A public one?**
- **Other?**

Please specify:

Financially regulated in a private way. Whereas, the rules of work and value of documents are similar to those of the public institutions.

Source: Department of Legal Profession, Ministry of Justice

121. Do notaries have duties:

- **Within the framework of civil procedure?**
- **In the field of legal advice?**
- **To authenticate legal deeds?**
- **Other?**

If yes, please specify:

122. Is there a body entrusted with the supervision and the control of the notaries?

No

Yes

Which authority is responsible for the supervision and the control of the notaries:

- **A professional body**
- **The judge**
- **The Ministry of justice**
- **The prosecutor**
- **Other?**

Yes

Please specify:

The Department of Legal Profession in the Ministry of Justice is the authority responsible for the supervisions and the control of the notaries.

You can indicate below:

- **Any useful comments for interpreting the date mention above**
- **The characteristics of your system of notaries.**

A notary enters into acts, drafts acts, and ensure compliance to the law especially in transfer of immovable and movable properties and real titles on them.

