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Version finale

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

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

CROATIA/CROATIE

Strasbourg, 24 June 2005

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**EUROPEAN COMMISSION FOR THE EFFICIENCY OF JUSTICE
(CEPEJ)**

DRAFT REVISED SCHEME FOR EVALUATING JUDICIAL SYSTEMS

**adopted by the CEPEJ at its 5th Plenary Meeting
(Strasbourg, 15 – 17 June 2005)**

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DRAFT REVISED SCHEME FOR EVALUATING JUDICIAL SYSTEMS

COUNTRY:

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I. Demographic and economic data

I. A. General information

1. **Number of inhabitants** 4.443.900
Source CBS (per 31.12.2004)
2. **Total of annual State public expenditure / where appropriate, public expenditure at regional or federal entity level**

State level 11, 279.647.220, 00 EUR
Regional / entity level 1, 863.093.620, 00 EUR
Source Ministry of finance
3. **Per capita GDP** 6.200 EUR
Source Bulletin No. 106 (july 2005) published by Croatian National Bank
4. **Average gross annual salary** 9.582 EUR
Source CBS (to get data in EUR, we used average annual exchange rate for 2004 fom CNB)

I. B. Budgetary data concerning judicial system

5. **Total annual budget allocated to all courts** 159.988.551,52 EUR
Source Ministry of Justice, Finance Department

Please specify:

The above budget does not include the capital investments, but salaries and running costs of the courts. The capital investments (e.g. introduction of IT technologies, new buildings, etc.) are included in the budget of the Ministry of Justice.

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

		Amount
▪ Salaries?	Yes	127.207.667,11 EUR
▪ IT?	Yes	2.627.380,97 EUR
▪ Justice expenses borne by the State?		N/A

Source *Ministry of Justice, Finance Department*

7. Annual public budget spent on legal aid N/A

Source

8. If possible, please specify:

▪ the annual public budget spent on legal aid in criminal cases	N/A
▪ the annual public budget spent on legal aid in other court cases	N/A

Source

9. Annual public budget spent on prosecution system 28.967.501,01 EUR

Source *Ministry of Justice, Finance Department*

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

	Preparation of the budget (Yes/No)	Adoption of the budget (Yes/No)	Management and allocation of the budget among courts (Yes/No)	Evaluation of the use of the budget (Yes/No)
Ministry of Justice	Yes	Yes	Yes	Yes
Ministry of Finance	Yes	Yes	No	No
Parliament	No	Yes	No	Yes
Supreme Court	Yes	No	No	Yes
Judicial Council	No	No	No	No
Courts	Yes	No	No	Yes
Inspection body. Please specify.				
Other. Please specify				

You can indicate below:

- any useful comments for interpreting the data mentioned above

- **the characteristics of your budgetary system**

Remark regarding question no 7 - there are no funds allocated particularly for legal aid purposes, thus - there are no data on the amount spent from the State budget. Legal aid in civil cases is provided generally through the scheme of pro-bono representation organised by the Croatian Bar Association. In criminal cases, legal representation is paid from the court budget, but no unified data is available. Scheme of legal aid also includes waiver of the obligation to pay court fees and/or costs of taking of evidence. No separate statistics exist on these forms of legal aid either.

State budget procedure is prescribed in details by the State budget Act.

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	Yes
Legal advice (Yes/No)	Yes	Yes
Other (Yes/No). Please specify	No	No

12. Number of legal aid cases:

- **total** **410 cases in 2004**
104 cases in January to April 2005
- **criminal cases** **N/A**
- **other than criminal cases** **N/A**

Source: **Croatian Bar Association**

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

Yes

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

- **for criminal cases?** **Yes**
- **for other than criminal cases?** **Yes**

Source **Croatian Bar Association**

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

16. If yes, is the decision taken by:

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

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

- for criminal cases? No
- for other than criminal cases? Yes

If yes, are there exceptions? Please specify:

In general, the litigants pay court taxes, yet with many exceptions. The exceptions are: certain types of disputes (labour disputes are excluded by law; in practice for many divorce and paternity cases court tax is waived).

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

No

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

- criminal cases? Yes
- other than criminal cases? Yes

You can indicate below:

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

Comment on item 14:

Persons eligible to obtain legal aid by the Croatian Bar Association are socially challenged persons and victims of the Homeland War in legal matters where they exercise right connected to their status. They are also obliged to file a certificate from the tax authorities on their financial status.

When deciding whether a person meets the criteria to apply for free legal aid, relevant data on the status of the assets, on the ownership of real estate, or assets of greater value are obtained from the tax authorities (official certificate).

The Code of Civil Procedure provides for a possibility to appoint a lawyer in civil proceedings that would represent a party by the court. This option is however not of often use in practice – it is in practice superseded by the legal aid provided through the Bar Association. In these cases, only actual expenses and no fee is paid from the state budget.

The Draft Free Legal Aid Act is currently being within the Governmental procedure.

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:

▪ **legal texts (e.g. codes, laws, regulations, etc.)?** Yes

Internet address(es): www.nn.hr (Official site of the Official Gazette of the Republic of Croatia, containing legislation currently in force); www.pravosudje.hr (official site of the Ministry of justice)

▪ **case-law of the higher court/s?** Yes

Internet address(es): www.vsrh.hr (official site of the Supreme Court of the Republic of Croatia); www.usud.hr (official site of the Constitutional Court of the Republic of Croatia); www.vtsrh.hr (official site of the High Commercial Court)

▪ **other documents (for examples legal forms)?** Yes

Internet address(es): www.odvj-komora.hr (the Croatian Bar Association); <http://sudreg.pravosudje.hr> (on-line Company Register of the Republic of Croatia at the Commercial Courts); www.uhs.hr (official site of the Croatian Association of Judges); www.hjk.hr (official site of the Notary Public Chamber); www.hgk.hr (official site of the Croatian Chamber of Economy); www.pravo.hr (official site of the Faculty of Law)

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

No

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

No

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

	Information mechanism (Yes/No)	Hearing modalities (Yes/No)	Procedural rights (Yes/No)	Other (Yes/No). Please specify
Victims of rape	Yes	No	No	No
Victims of terrorism	Yes	No	No	No
Child/Witness/ Victim	Yes	Yes	Yes	No
Victims of domestic violence	Yes	No	No	Yes
Ethnic minorities	Yes	No	No	No

Disabled persons	Yes	No	No	No
Juvenile offenders	Yes	No	Yes	No
Other				

24. Does your country have compensation procedure for victims of crimes?

Yes

25. If yes, does this compensation procedure consist in:

- a public fund? Yes
- a court order? Yes
- private fund?

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

This procedure concerns cases of rape, child abuse and domestic violence.

In the Republic of Croatia the Law on liability for damage caused by terroristic acts and public demonstrations is in force from 2003.

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

No

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

28. Is there a system for compensating users in the following circumstances:

- excessive length of proceedings? Yes
- wrongful arrest? Yes
- wrongful condemnation? Yes

If yes, please specify (fund, daily tariff):

Restitution claims for wrongful arrest and wrongful condemnation are being dealt by the Ministry of Justice in an administrative proceeding.

Compensation tariffs: up to 30 days - 15 EUR,
 up to 90 days - 12 EUR,
 over 90 days - 9 EUR.

Restitution claims for excessive length of proceedings fall under the jurisdiction of the Constitutional Court.

29. Does your country have surveys on users or legal professionals (judges, lawyers, officials, etc.) to measure public trust and satisfaction with the services delivered by the judiciary system? No

30. If yes, please specify:

	Trough systematic surveys (Yes/No)	Through ad hoc surveys (Yes/No)
Surveys at national level		
Surveys at court level		

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

Yes

32. If yes, please specify:

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

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

Comment on item 31 - the presidents of the courts is in charge of dealing with the citizens complaints on the performance of the court. Complaints may also be submitted to the Ministry of Justice (through Department for Complaints).

III. Organisation of the court system

III. A. Functioning

33. Total number of courts (administrative structure):

- first instance courts of general jurisdiction *Municipal Courts – 105
County Court - 21*
- specialised first instance courts *Misdemeanour Courts -110
Commercial Courts - 12
Administrative Court - 1*

Source *Ministry of Justice*

Source: *Ministry of Justice*

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

In the Republic of Croatia the Courts are not organized according to different areas of specialisation.

However, there is a Draft of the Law on Supplements and Amendments to the Courts Act in which such system was proposed.

The Courts Act regulate: judicial power in the Republic of Croatia is executed by misdemeanour courts, municipal courts, county courts, commercial courts, High Misdemeanour Court of the Republic of Croatia, the High Commercial Court of the Republic of Croatia, the Administrative Court of the Republic of Croatia and the Supreme Court of the Republic of Croatia.

Misdemeanour Courts: 110

Municipal Courts: 105

County Courts: 21

Commercial Courts: 12

Source: Ministry of Justice

34. Total number of courts (geographic locations) 252

Source Ministry of Justice

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

- a debt collection for small claims 117

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

**According to the Civil Procedure Act the amount in dispute for small claims in Municipal Court is up to 5.000,00 kn (672 EUR).
In Commercial Courts the amount in dispute is 200.000,00 kn (26.845 EUR).**

- a dismissal
- a robbery

36. Number of professional judges sitting in courts 1907
(present the information in full time equivalent and for permanent posts)

Source Ministry of Justice

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

- gross figure N/A
- if possible, in full time equivalent N/A

Source: Supreme Court of the Republic of Croatia

Please specify:

In the judicial system of the Republic of Croatia there are no professional judges sitting in

courts on an occasional basis.

38. **Number of non-professional judges (including lay judges) who are not remunerated but who can possibly receive a simple defrayal of costs** 6272

Source: Ministry of Justice

Please specify:

***Municipal Court-4058 non-professional judges
County Courts-1508 non-professional judges
Commercial Courts-625 non-professional judges
High Commercial Courts-81 non professional judges***

This number is related to the lay judges who participate in decision-making. Their number is gradually being reduced.

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

No

40. **Number of non-judge staff who are working in courts** 6473
(present the information in full time equivalent and for permanent posts)

Source Ministry of Justice

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:** 451
- **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, training management):** 6022 – *this number includes technical stuff (cleaning stuff, electrician..). Separate data are not available.*
- **technical staff:** N/A

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

Yes, 220 non-judge persons are dealing with this issue.

Source Ministry of Justice

43. **Number of public prosecutors**

558

Source Ministry of Justice

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

No

45. Is the status of prosecutors:

- independent within the judiciary? Yes
- independent from the judiciary ? Yes
- under the authority of the Ministry of Justice? Yes

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

The Public Prosecutor's Office employs:

- 77 advisors,
- 21 expert associates,
- 86 trainees and
- 701 civil servants and employees.

Source *Public Prosecutor's Office*

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	No	No	No	No
Court President	Yes	Yes	Yes	Yes
Court administrative director	No	No	No	No
Head of the court clerk office	Yes	No	Yes	No
Other - -Court Secretary	Yes	No	Yes	No

48. In general, do the courts in your country have computer facilities?

Yes

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		+		
	Electronic data base of jurisprudence		+		
	Electronic files				+
	E-mail		+		
	Internet connection		+		
Administration and management	Case registration system				+
	Court management information system				+
	Financial information system		+		
Communication between the court and the parties	Electronic forms				+
	Special Website			+	
	Other electronic communication facilities				+

Source Ministry of Justice

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

Yes

Please specify the name and the address of this institution:

Ministry of Justice, Dežmanova 6, 10 000 Zagreb

You can indicate below:

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

III. B. Monitoring and evaluation

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

Yes

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

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

Please specify:

The court president is in charge of monitoring the system of court activities related to court administration.

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

Yes

Please specify:

The higher courts instance is in charge of the lower courts instance regular overall performance evaluation.

54. Concerning court activities, have you defined:

- performance indicators? No

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

- targets? No

Please specify who is responsible for setting the targets:

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

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

- the High Council of judiciary?
- the Ministry of justice? Yes
- an Inspection body?
- the Supreme Court? Yes
- an external audit body?
- other?

Please specify:

Ministry of Justice is entitled to evaluate the performances of the Court management systems.

The Supreme Court of the Republic of Croatia, accordingly to the article 22 of the Court Act, ensures the unified application of the law and the equality of citizens. It considers current questions of case law, decides on appeals against decisions by lower courts rendered in the first instance before county courts, and on extraordinary remedies against decisions by county courts, the High Commercial Court and the High Misdemeanor Court; it decides on requests for protection of legality against decisions by the Administrative court, decides on delegations of other courts for proceeding in individual cases, and on conflicts of jurisdiction between courts in the Republic of Croatia, if it is their immediately superior court. It is also responsible for the professional training of judges and performs other work as prescribed by law. The Supreme Court harmonizes case law at sessions of the court's divisions and through its decisions.

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

Yes

Please specify:

The Supreme Court of the Republic of Croatia, accordingly to the article 22 of the Court Act, decides on appeals against decisions by lower courts rendered in the first instance before county courts, and on extraordinary remedies against decisions by county courts, the High Commercial Court and the High Misdemeanor Court, it decides on requests for protection of legality against decisions by the Administrative court, decides on delegations of other courts for proceeding in individual cases, and on conflicts of jurisdiction between courts in the Republic of Croatia, if it is their immediately superior court.

Source: Supreme Court of the Republic of Croatia

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

- civil cases? No
- criminal cases? No
- administrative cases? No

58. Do you have a way of analysing queuing time during court procedures?

No

59. Do you monitor and evaluate the performance of the prosecution services?

Yes

Please specify:

The State Attorney's Office of the Republic of Croatia monitors on a monthly basis the work of each attorney office lower instances, the number of ongoing cases, the structure of rulings and the success in the proceedings. The work of each deputy state attorney is monitored on a monthly basis in the same manner. In addition to the abovementioned, the revision of work of each state attorney and deputy state attorney in that office is performed once a year. Pursuant to the State Attorney Act, deputy state attorneys are evaluated every three years. (Draft proposal for the amendments to the State Attorneys Act proposes the evaluation of work of state attorneys every two years).

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
- the right to have reasons given for all prisons sentences?
Yes
- for all cases, an effective remedy to a superior jurisdiction?
Yes

61. Which is the percentage of judgements in first instance criminal cases in which the suspect is not actually present or represented? **N/A**

Source

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

Yes

If possible, number of successful challenges (in a year): **N/A**

63. Please give the following 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		Judgements establishing a violation		Judgements establishing a non violation	
		2003	2004	2003	2004	2003	2004	2003	2004	2003	2004
Criminal proceedings	Article 6§1 (equity)										
	Article 6§1 (duration)	2			1						
	Article 6§2										
	Article 6§3a										
	Article 6§3b										
	Article 6§3c										
	Article 6§3d										
	Article 6§3e										
Civil proceedings	Article 6§1 (equity)		2								
	Article 6§1 (duration)	36	48	7	1	1	43	6	9		
	Article 6§1 (non execution only)								2		

Source: Ministry of Justice

IV.B. Timeframes of proceedings
IV. B. 1. General

64. Are there specific procedures for urgent matters in:

- civil cases? Yes
- criminal cases? Yes
- administrative cases? Yes

65. Are there simplified procedures for:

- civil cases (small claims)? Yes
- criminal cases (petty offences)? Yes

- **administrative cases?** Yes

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

Yes

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

No

IV. B. 2. Civil and administrative cases

68. Total number of civil cases in courts (litigious and not litigious): 160.790 (in 2004)

Please specify the main types of cases:

N/A

Source: Ministry of Justice

69. Litigious administrative and civil cases in courts – 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 dismissal
Total number (1st instance)	Incoming cases	160.790	11.179	6.408	1.794
	Decisions on the merits	N/A	1.162 (11,60%)*	N/A	N/A
	Percentage of decisions subject to appeal in a higher court	N/A	Not applicable as there is no court of higher instance for administrative cases than the Administrative Court.	N/A	N/A
	Pending cases by 1 January 2005	N/A	From 2000 to 2005 there are 41.735 pending cases	N/A	N/A
	Percentage of pending cases of more than 3 years	N/A	From 2000 to 2005 - 36,90%	N/A	N/A
Average length (from date of lodging of court proceedings*)	1st instance decisions	N/A	N/A	N/A	N/A
	2nd instance decisions	N/A	N/A	N/A	N/A
	Total procedure	N/A	N/A	N/A	N/A

* The number of overall solved cases which started in 2000 and were completed in 2004 was 15.425. That explains the reason why out of **11.179** incoming cases in 2004 only **1.162** was solved, **as the rest of 15.425 cases solved in the same year represent a backlog from previous years.**

If you cannot calculate the average length from the date of lodging of court proceedings, how do you calculate length of proceedings?

The statistic on average length of the total civil court proceedings in Croatia:

- ***to 3 months - 40.074***
- ***from 3 to 6 month -30.496***
- ***over 6 mounths to 1 year-34.497***
- ***over 1 year-54.142***























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

A spouse is not entitled to file the divorce suit in following cases: -during a pregnancy of a wife; - until their child is one year old. Mediation procedure in divorce is mandatory when the spouses have common or adopted children of minor age, or major children over whom they perform parental custody.

Source **Ministry of Justice**

IV. B. 3. Criminal cases

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

	Yes	No
▪ to conduct or supervise police investigation?		
▪ to conduct investigation?		
▪ when necessary, to demand investigation measures from the judge?		
▪ to charge?		
▪ to present the case in the court?		
▪ to propose a sentence to the judge?		
▪ to appeal?		
▪ to supervise enforcement procedure?		
▪ to end the case by dropping it without the need for a judicial decision?		
▪ to end the case by imposing or negotiating a penalty without a judicial decision?		
▪ other significant powers?		

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

No

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

	Total number of 1st instance criminal cases
Received by the public prosecutor	During 2004 there were 49416 criminal charges against known offenders and 47499 criminal charges against unknown offenders.

Discontinued by the public prosecutor	In general	
	Because the offender could not be identified	Since in 41679 cases in which criminal charges were filed against unknown offenders the offenders were not discovered, these cases have been archived (they are not active) until the police discovers the offenders.
	Due to the lack of an established offence or a specific legal situation	During 2004, there were 15075 cases against known offenders of criminal offences that were dismissed
Concluded by a penalty, imposed or negotiated by the public prosecutor		The public prosecutions do not have the authority to impose or to negotiate the rulings on punishments nor the decisions on sanctions.
Charged by the public prosecutor before the courts		

Source **Public Prosecutor's Office of the Republic of Croatia**

- 73. Criminal cases in courts – 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	33.931	35	228
	Judicial decisions	N/A	N/A	N/A
	Convicted persons	N/A	15	91
	Acquitted persons	N/A	N/A	N/A
	Percentage of decisions subject to appeal in a higher court	N/A	N/A	N/A
	Pending cases by 1 January 2005	N/A	N/A	N/A
	Percentage of pending cases of more than 3 years	N/A	N/A	N/A
Average length*(from the date of official charging)	1st instance decision	N/A	N/A	N/A
	2nd instance decision	N/A	N/A	N/A
	Total procedure	N/A	N/A	N/A

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

The statistic on average length of the total criminal court proceedings in Croatia:

- ***to 3 months-10.834***
- ***from 3 to 6 month-4.439***
- ***over 6 months-4.622***
- ***over 1 year-11.959***

Source **Ministry of Justice**

You can indicate below:

- *any useful comments for interpreting the data mentioned above*
- *the characteristics of your system concerning timeframes of proceedings*

V. Career of judges and prosecutors

V. A. Appointment and training

74. Are judges initially/at the beginning of their carrier recruited and nominated by:
- a body composed of members of the judiciary?
 - a body composed of members external to the judiciary?
 - a body composed of members of the judiciary and external to the judiciary?
- Yes

75. Are prosecutors initially/at the 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 the prosecution system?
- Yes,
- Deputy public prosecutors are appointed by the State Attorney's Council consisting of representatives of the public prosecution service and persons outside the public prosecution service

76. Is the mandate given for an undetermined period for:

- judges? Yes
- prosecutors? Yes

Are there exceptions? Please specify:

When first appointed for a judge, the mandate is given for the period of 5 years, and subsequently, after the evaluation of their 5 year performance, their mandate is permanent.

You can indicate below:

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

77. Nature of the training of judges:

	Compulsion (Yes/No)		Frequency (Yes/No)	
Initial training	Compulsory		Yes	
	Highly recommended			
	Optional			
General in-service training	Compulsory		Annual	No
	Highly recommended		Regular	No
	Optional		Occasional	Yes

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

78. Nature of the training of prosecutors:

	Compulsion (Yes/No)		Frequency (Yes/No)	
Initial training	Compulsory		Yes	
	Highly recommended			
	Optional			
General in-service training	Compulsory		Annual	No
	Highly recommended		Regular	No
	Optional		Occasional	Yes
Specialised in-service training	Compulsory		Annual	No
	Highly recommended		Regular	No
	Optional		Occasional	Yes

You can indicate below:

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

Currently there is still in power an Act on Bar exam from 1974. However, already with the CARDS 2001 ending, and the introduction of the CARDS 2003 and PHARE, we are hoping that the Act will be amended in order to resolve the current problem of initial training of judges and public prosecutors, as well as transparent entrance into the judicial practices.

V. B. Practice of the profession

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

Source *Ministry of Justice*

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

Source *Ministry of Justice*

81. Gross annual salary of a public prosecutor at the beginning of his/her career
22.788 EUR

Source *Public Prosecutor's Office of the Republic of Croatia*

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

* (in Croatia there is a separate and independent Public Prosecutor's Office of the Republic of Croatia (State Attorney Office), as the highest instance prosecutor's body)

State Attorney - 63.029 EUR
Deputy State Attorney – 50.377 EUR

Source *Public Prosecutor's Office of the Republic of Croatia*

83. Do judges and public prosecutors have additional benefits?

	Judges (Yes/No)	Public prosecutors (Yes/No)
Reduced taxation	No	No
Special pension	No	No
Housing	No	No
Other financial benefit (If yes, please specify)	No	No

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

	Judges			Prosecutors		
	Yes with remuneration	Yes without remuneration	No	Yes with remuneration	Yes without remuneration	No
Teaching	*			*		
Research and publication	*			*		
Arbitrator	*			*		
Consultant			*			*
Cultural function		*			*	
Other function to specify			*			*

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

No

V. C. Disciplinary procedures

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

		Judges	Prosecutors
	Total number	1	17
	Breach of professional ethics (Yes/No) If yes, please specify the number	No	No
	Professional inadequacy	No	Yes

procedures	(Yes/No) If yes, please specify the number		17
	Criminal offence (Yes/No) If yes, please specify the number	Yes 1	No
	Other (Yes/No) If yes, please specify	No	No
Types of sanctions	Total number	11	15
	Reprimand (Yes/No) If yes, please specify the number	Yes 1	Yes 2
	Suspension (Yes/No) If yes, please specify the number	No	No
	Dismissal (Yes/No) If yes, please specify the number	Yes 4	Yes 4
	Fine (Yes/No) If yes, please specify the number	Yes 6	Yes 6
	Other (Yes/No) If yes, please specify	No	Yes 3

Source: State Judiciary Council and State Prosecutor's Council.

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**

The Republic of Croatia shall be liable for damages caused to natural or legal persons, if those are caused by judicial malpractice. The Republic of Croatia may recover the amount paid for damages from a judge, only if the latter has caused the damage intentionally or as a result of gross negligence.

The president of the court or a judge (accordingly applies to public prosecutors) shall be submitted to disciplinary procedures, should he/she commit a grave disciplinary act, such as:

- 1. betraying a professional secret, relating to the performance of judicial duties,***
- 2. abuse of his/her position or professional authority,***
- 3. failure to perform, without a valid reason, judicial duties, or performing them negligently through an extended period,***
- 4. any other conduct that would result in a failure of professional rapport, significantly impeding the performance and execution of tasks of the court,***
- 5. involvement in any capacity, task, or operation of an interest conflicting with the performance of judicial duties, unless with a prior written consent of the Chief Justice, or***
- 6. otherwise damaging the reputation of the judicial office or of the court.***

The public prosecutors shall, furthermore, be submitted to disciplinary procedures for a failure to act upon a directive of a superior public prosecutor.

The procedures shall be conducted by a Disciplinary Committee, comprising of three Members of the Council, unless it is decided that the entire Council should conduct the procedures.

The President shall appoint the Members to the Committee.

The decision on the disciplinary liability shall be made by a majority vote, on the basis of the information gathered by the Disciplinary Committee.

The disciplinary procedures may be initiated upon request of the following entities:

- ***against a judge – the president of the court, the president of the immediately superior court, the President of the Supreme Court, and the Minister of Justice,***
- ***against a president of the court – the President of the immediately superior court, the President of the Supreme Court, and the Minister of Justice,***
- ***against the President of the Supreme Court – a general assembly of the Supreme Court, or the Government of the Republic of Croatia.***

A grave disciplinary act may be punishable by one of the following measures:

1. reprimand,

2.a financial liability, not to exceed a third of a monthly salary, during a period no longer than six months,

3. suspension.

VI. Lawyers

87. Number of lawyers practising in your country

2851

Source **Croatian Bar Association**

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

No

89. Do lawyers have a monopoly of representation:

	Monopoly (Yes/No)		If no, possible representation by (Yes/No)	
Civil cases*	No		Member of family	yes
			Trade Union	yes
			NGO	
			Other	In House Counsellor
Criminal cases*	Defendant	Yes	Member of family	
			Trade Union	
			NGO	
			Other	
	Victim	Yes	Member of family	
			Trade Union	
			NGO	
			Other	

Administrative cases*	No	Member of family	yes
		Trade Union	yes
		NGO	yes
		Other	In House Counsellor

* If appropriate, please specify if it concerns first instance and appeal.

90. Is the lawyer profession organised through?

- a national bar? Yes
- a regional bar?
- a local bar?

Please specify:

Local bar associations are constituent part of the Croatian National Bar Association.

91. Is there a specific initial training or examination to enter the profession of lawyer?

Yes - the bar exam.

92. Is there a mandatory general system for lawyers requiring continuing professional development?

No

93. Is the specialisation in some legal fields tied with a specific level of training/ qualification/ specific diploma or specific authorisations?

Yes

Please specify:

A lawyer who fulfils the conditions provided for in the Law on the Legal profession, in the Statute of the Croatian Bar Association and in the regulations on certification specialists, may apply for gaining a certificate as a specialist in a particular branch of law.

94. Can users establish easily what the lawyers' fees will be?

Yes

95. Are lawyers fees:

- regulated by law?
- regulated by Bar association? Yes
- freely negotiated?

96. Have quality standards been formulated for lawyers?

Yes

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

- the bar association? Yes
- the legislature? No
- other? No

Please specify:

98. Is it possible to complain about :

- the performance of lawyers? Yes

Please specify:

It is possible to complain to the Croatian Bar Association.

- the amount of fees? Yes

99. Disciplinary proceedings and sanctions against lawyers:

	Yes /No (If yes, please specify the annual number)	
Reasons for disciplinary proceedings	Breach of professional ethics	Yes
	Professional inadequacy	Yes
	Criminal offence	Yes
	Other	
Type of sanctions	Reprimand	Yes
	Suspension	Yes
	Removal	Yes
	Fine	Yes
	Other	

100. Who is the authority responsible for the disciplinary procedures:

- a professional body? Yes

Please specify:

The bodies of the Croatian Bar Association:
The disciplinary prosecutor
The disciplinary tribunal
The higher disciplinary tribunal

- the judge? No
- the Ministry of justice? No
- other? No

You can indicate below:

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

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VII. Alternative Dispute Resolution

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

	Compulsion (Yes/No)		Body providing mediation (Yes/No)	
Civil cases	Compulsory stage prior to court proceedings	Only disputes against the state	Private mediator	Yes
			Public or authorised by court body	No
			Court	No
	Compulsory stage in court proceedings	No	Judge	No
	Ordered by judge in certain cases	Yes but not compulsory	Prosecutor	No
Family cases	Compulsory stage prior to court proceedings	No	Private mediator	No
			Public or authorised by court body	Centres for social care
			Court	No
	Compulsory stage in court proceedings	Yes	Judge	No
	Ordered by judge in certain cases	No	Prosecutor	No
Administrative cases	Compulsory stage prior to court proceedings	No	Private mediator	No
			Public or authorised by court body	
			Court	No
	Compulsory stage in court proceedings	No	Judge	
	Ordered by judge in certain cases	No	Prosecutor	No
Employment dismissals	Compulsory stage prior to court proceedings	Only collective labour disputes	Private mediator	No
			Public or authorised by court body	special body founded by government
			Court	No
	Compulsory stage in court proceedings	No	Judge	No
	Ordered by judge in certain cases	No	Prosecutor	No
Criminal cases	Compulsory stage prior to court proceedings	No	Private mediator	No
			Public or authorised by court body	No
			Court	No
	Compulsory stage in court proceedings	No	Judge	No
	Ordered by judge in certain cases	Yes but not compulsory	Prosecutor	Special body for victim-offender mediation - minors and young adults

102. Can you provide information about accredited mediators?

Yes, please see the attachment.

103. Can you provide information about the total number of mediation procedure concerning:
- | | |
|--------------------------|----|
| ▪ civil cases? | 20 |
| ▪ family cases? | 0 |
| ▪ administrative cases? | 0 |
| ▪ employment dismissals? | 50 |
| ▪ criminal cases? | 10 |

Source - Croatian Mediation Association

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

There is an arbitration used especially for commercial disputes. The most frequently used arbitration institution is the Permanent Court Arbitration at the Croatian Chamber of Economy.

You can indicate below:

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

ADR is generally voluntary. Arbitration has been more traditional, and mediation is becoming more popular.

VIII. Enforcement of court decisions

VIII. A. Execution of decisions in civil matters

105. Are enforcement agents:

- | | |
|---|-----|
| ▪ judges? | Yes |
| ▪ bailiff practising as private profession ruled by public authorities? | No |
| ▪ bailiff working in a public institution? | Yes |
| ▪ other enforcement agents? | No |

Please specify their status:

The enforcement procedure is dealt by a judge and a bailiff working in a court.

106. Number of enforcement agents N/A

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

No

108. Is the profession of enforcement agent organised by?

- | | |
|--------------------|-----|
| ▪ a national body? | N/A |
| ▪ a regional body? | |
| ▪ a local body? | |

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

Yes

110. Are enforcement fees:

- | | |
|----------------------|-----|
| ▪ regulated by law? | Yes |
| ▪ freely negotiated? | No |

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

Yes

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

- | | |
|----------------------------|-----|
| ▪ a professional body? | |
| ▪ the judge? | Yes |
| ▪ the Ministry of justice? | Yes |
| ▪ the prosecutor? | |
| ▪ other? | |

Please specify:

<i>Authority responsible for the supervision and the control of enforcement agents is the Court and the Ministry of Justice (for administrative staff in courts).</i>

112. Have quality standards been formulated for enforcement agents?

No

Who is responsible for formulating these quality standards?

Source: The Supreme Court of the Republic of Croatia

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

- | | |
|-----------------------------|-----|
| ▪ no execution at all? | |
| ▪ lack of information? | |
| ▪ excessive length? | Yes |
| ▪ unlawful practices? | |
| ▪ insufficient supervision? | |
| ▪ excessive cost? | |
| ▪ other? | |

Source: The Supreme Court of the Republic of Croatia

114. Does your country prepared or has established concrete measures to change the situation concerning the enforcement of court decisions?

Yes

Please specify:

<i>The Croatian Parliament has adopted in the amendments to the Enforcement Act in July 2005. The purpose of these amendments is: faster, cheaper and simpler enforcement proceedings. The amended Enforcement Act will become fully operational and implemented in 1 January 2006. The amendments provide: -obligation to provide information on the assets of the debtor to state administration bodies and public institutions, -abolishment of the hold off effect of an appeal in small claim disputes</i>

-removal of seized movables from the ownership of the debtor
 -commission shops
 -simplification of enforcement on motor vehicles
 -simplification of enforcement on bank accounts
 -possibility of enforcement on securities kept in Central Depository Agency
 -register of movables valued over 50.000 HRK (6.720 EUR) and all real-estate sold in the enforcement proceedings
 -notaries public will adopt enforcement decisions on the basis of an authentic document.

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

- for civil cases? No
- for administrative cases? No

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:

- between 1 and 5 days No
- between 6 and 10 days No
- between 11 and 30 days No
- more: please specify No

117. Disciplinary proceedings and sanctions against enforcement agents:

	Yes /No (If yes, please specify the total number)	
Disciplinary proceedings	Breach of professional ethics	N/A
	Professional inadequacy	N/A
	Criminal offence	N/A
	Other	N/A
Sanctions	Reprimand	N/A
	Suspension	N/A
	Dismissal	N/A
	Fine	N/A
	Other	N/A

You can indicate below:

- any useful comments for interpreting the data mentioned above
- the characteristics of your enforcement system of decisions in civil matters

The data about the enforcement agents in the Croatian legal system are not available separately. Judges control and undertake most of the action in enforcement of civil judgements (mostly judges of municipal courts). Some actions in enforcement are undertaken by other staff in courts, but there are no unified data on numbers of the employees (non-judge administrative staff) that deal with such activities.

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):

Initiative and control functions

Please specify which authority is entrusted with the enforcement of judgements (e.g prosecutor):

Directorate of the Ministry of Justice for the Penitentiary System.

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

No

You can indicate below:

- any useful comments for interpreting the data mentioned above
- the characteristics of your enforcement system of decisions in criminal matters

In criminal matters, final judgement shall be executed after it is duly served and when there are no legal obstacles to its execution. If an appeal is not filed or the parties waive their right to an appeal or they withdraw the appeal, the judgement shall be enforceable after the expiry of the term for the appeal or from the day when the parties waive their right to appeal or withdraw the appeal. If the court which rendered the judgement at first instance lacks jurisdiction over its execution, it shall serve a certified copy of the judgement with an attestation of its executability to the authority which has jurisdiction for execution.

When a fine imposed in accordance with the provisions of the Croatian Criminal Procedure Act is not paid entirely or partially in the prescribed term, the court may replace it with imprisonment which shall be determined by a reasonable application of the provisions of the Penal Code.

The jurisdiction for the execution of punishments, security and educational measures as well as the manner of their execution is regulated by special legislation.

The judgment regarding the costs of criminal proceedings, confiscation of pecuniary benefit and claims for indemnification shall be executed by the court having jurisdiction pursuant to the rules on the enforcement procedure.

The court shall carry out the execution of the costs of criminal proceedings in favour of the budget funds. The costs of forceful collection shall be advanced from the budget funds of the court conducting the enforcement procedure.

If the security measure of seizure of an object is ordered in the judgment, the court which rendered the judgment at first instance shall decide whether these objects shall be sold pursuant to the provisions on enforcement procedure, given to a museum of criminology or other institution or destroyed. Proceeds of the sale shall be assigned to public funds.

Except for cases where an extraordinary judicial remedy is filed, a final decision on seizure of objects may be amended in civil proceedings if a conflict arises regarding the ownership of the seized objects.

In general, rulings shall be executed when they become final. Warrants and orders shall be executed immediately if the authority issuing them does not decide otherwise. Rulings and warrants and orders shall be executed by the authorities who render them.

After the decision on a claim for indemnification becomes final, the injured person may request

that the court at first instance issues him with a certified copy of the decision with a note that the decision is enforceable.

IX. Notaries

120. Is the status of notaries:

- | | | Number |
|---|-----|--------|
| ▪ a private one? | | |
| ▪ a status of private worker ruled by the public authorities? | Yes | 256 |
| ▪ a public one? | | |
| ▪ other? | | |

Source *Ministry of Justice*

121. Do notaries have duties:

- | | |
|--|-----|
| ▪ within the framework of civil procedure? | Yes |
| ▪ in the field of legal advice? | Yes |
| ▪ to authenticate legal deeds? | Yes |
| ▪ other? | |

If yes, please specify:

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

Yes

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

- | | |
|----------------------------|-----|
| ▪ a professional body? | Yes |
| ▪ the judge? | |
| ▪ the Ministry of justice? | Yes |
| ▪ the prosecutor? | |
| ▪ other? | |

Please specify:

Notary public chamber and the Ministry of Justice are responsible for the supervision and the control of the notaries.

You can indicate below:

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

The Croatian system of notaries is based on numerus clausus principle. A notarial service consists of composing and issuing of official documents on legal activities, statements and facts on which the rights are based, official verification of private documents, receiving the documents, money and valuable objects into deposit in order to deliver them to other persons or authorized bodies, and carrying out procedures determined by law according to the order of the courts or other public bodies. The notarial service also consists of performing other activities regulated by law. A notarial service is performed by notaries public as independent holders of that service, who

have a capacity of persons of public confidence. Notaries public perform their service as a sole profession during the period for which they are appointed.

123. Please indicate main orientations for reform and concrete measures which could improve the quality and the efficiency of your judicial system:

In order to implement successful reform of judiciary, the Government of the Republic of Croatia has adopted the new Strategy for the Reform of the Judiciary in December 2005. The main priorities of the Strategy in 2006 are:

- ***the strengthening of the rule of law and independence of the justice system;***
- ***creating an efficient justice system***
 - cutting down backlogs,***
 - shortening court proceedings;***
- ***establishing of an efficient and speedy enforcement system;***
- ***promoting of an alternative dispute resolution system;***
- ***fighting against organised crime, corruption and all form of serious crimes;***
- ***co-operation on regional level;***
- ***education and professional training for judges and prosecutors.***

In creating an efficient justice system, all the interested parties have reached a consensus that for the Croatian justice system to become effective the following should be done:

- implementing structural changes – reorganisation and rationalisation of the judicial and public prosecution networks,***
- reducing the number of unresolved cases (backlog),***
- using the expensive justice system in a rational manner, that is, relieving the courts of cases which are not judicial by nature,***
- making alternative dispute resolution more relevant and attractive, and enhance it,***
- shortening the length of judicial proceedings, without prejudice to the parties' right to a fair trial,***
- reorganising the court administration,***
- making case law more uniform and thus strengthening its role,***
- introducing free legal aid as part of the regular system for the protection of parties' rights.***