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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**

ITALY/ITALIE



COUNCIL OF EUROPE CONSEIL DE L'EUROPE

Strasbourg, 23 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: ITALY

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I. Demographic and economic data

I. A. General information

1. **Number of inhabitants** **58,462,375**
Source **ISTAT**
2. **Total of annual State public expenditure / where appropriate, public expenditure at regional or federal entity level**
State level **€452,826,000,000.5 Bilancio dello Stato al netto del rimborso prestiti**
Regional / entity level **€ N.A.**
Source Budget 2004 **Direzione Generale del Bilancio e della contabilità – Ministry of Justice**
3. **Per capita GDP** **€1,351,328,000,000.00**
Source Budget 2004 **Direzione Generale del Bilancio e della contabilità – Ministry of Justice**
4. **Average gross annual salary** **€22,254.00**
For year 2002 the data (15,714.00) was different because it regarded all workers (selfemployed and employees) ; the 2004 data relates only to employees.
Source **ISTAT**

I. B. Budgetary data concerning judicial system

5. **Total annual budget allocated to all courts** **€ 2,749,944,000.00**
Source Budget 2004 **Direzione Generale del Bilancio e della contabilità – Ministry of Justice**

Please specify:

All courts including the Supreme Court and the High Court dealing with Water Authority matters, but excluding the Justice Ministry.

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

	Yes	Amount
▪ Salaries?	X	€ 2,108,839,000.00
▪ IT?	X	€ 80,794,000.00
▪ Justice expenses borne by the State?	X	€ N.A.

Source Budget 2004 *Direzione Generale del Bilancio e della contabilità – Ministry of Justice*

7. Annual public budget spent on legal aid € 66,030,256.35

Source *Direzione Generale per la Giustizia Penale Dipartimento per gli Affari di Giustizia*
Direzione Generale di Statistica- Dipartimento dell'Organizzazione giudiziaria

8. If possible, please specify:

▪ the annual public budget spent on legal aid in criminal cases*	€ 62,620,138.00
▪ the annual public budget spent on legal aid in other court cases**	€ 3,410,118.35 (ONLY CIVIL CASES)

Source* *Direzione Generale per la Giustizia Penale Dipartimento per gli Affari di Giustizia*

Source** *Direzione Generale di Statistica- Dipartimento dell'Organizzazione giudiziaria*

9. Annual public budget spent on prosecution system € 1,167,510,000.00

For year 2002 data has been estimated

Source Budget 2004 *Direzione Generale del Bilancio e della contabilità – Ministry of Justice*

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	No	Yes	Yes
Other ministry. Please specify	Yes Ministry of Economy	No	No	No
Parliament	No	Yes	No	No
Supreme Court	No	No	No	No
Judicial Council	No	No	No	No
Courts	No	No	No	No
Inspection body. Please specify.	No	No	No	No
Other. Please specify	No	No	No	No

You can indicate below:

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

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)	No	No
Other (Yes/No). Please specify	Yes (private detective)	No

12. Number of legal aid cases:

- total 97,845
- criminal cases* 72,879 cases
- other than criminal cases** 24,966 cases

In criminal cases data refers to the number of person granted it while in civil cases data refers to the number of cases accepted for legal aid.

Source* *Direzione Generale per la Giustizia Penale Dipartimento per gli Affari di Giustizia Ministry of Justice*

Source** *Direzione Generale di Statistica- Dipartimento dell'Organizzazione giudiziaria - Ministry of Justice*

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 No

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

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

Maximum annual income for single person: € 9.296,22. If the person lives with his spouse or other relatives, the maximum annual income above is increased by € 1.031,91 for each person.(DPR

Source *Direzione Generale per la Giustizia Penale Dipartimento per gli Affari di Giustizia*

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

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)?

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

If yes, are there exceptions? Please specify:

excepting cases concerning employment, agricultural and family matters.

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

No
Yes Please specify:

only in a few cases (e.g. road accidents)

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 No
- other than criminal cases? Yes No

You can indicate below:

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

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 (e.g. codes, laws, regulations, etc.)? | X <input type="checkbox"/> | <input type="checkbox"/> |
| Internet address(es): | www.normeinrete.it www.giustizia.it | |
| ▪ case-law of the higher court/s? | <input type="checkbox"/> | X |
| Internet address(es): | www.giustizia-amministrativa.it ; www.cortecostituzionale.it ; | |
| ▪ other documents (for examples legal forms)? | X <input type="checkbox"/> | <input type="checkbox"/> |
| Internet address(es): | some courts or prosecutor's office
www.giustizia.it/uffici/info/siti_giudicanti.htm
www.giustizia.it/uffici/info/sitirequirenti.htm | |

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

Yes No

If yes, please specify:

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

Yes 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	No	Yes	No	No
Victims of terrorism	No	Yes	No	No
Child/Witness/Victim	No	Yes	No	No
Victims of domestic violence	No	No	No	No

Ethnic minorities	No	No	No	No
Disabled persons	No	Yes	No	No
Juvenile offenders	No	No	Yes	No
Other	No	No	No	No

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

Yes only in a few cases (e.g. road accidents) No

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

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

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

Personal injury for road accidents

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

No Yes Please specify:

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

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

- | | Yes | No |
|------------------------------------|---|--------------------------|
| ▪ excessive length of proceedings? | <input checked="" type="checkbox"/> (1) | <input type="checkbox"/> |
| ▪ wrongful arrest? | <input checked="" type="checkbox"/> (1) | <input type="checkbox"/> |
| ▪ wrongful condemnation? | <input checked="" type="checkbox"/> (2) | <input type="checkbox"/> |

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

(1) Compensation is determined case by case directly by the Court of Appeal (as a Court of First Instance)
 (2) It is possible to re open a case if new evidence is produced.

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?

Yes No

Source:

If possible, please specify their titles, how to find these surveys, etc:

Only local surveys

30. If yes, please specify:

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

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

Yes No

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	No	No
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?

Data Law Pinto Year 2004

Incoming cases: 11,705

Decisions: 10,009

Pendine cases: 13,046

III. Organisation of the court system

III. A. Functioning

33. Total number of courts (administrative structure): 1,101

- first instance courts of general jurisdiction

Number of courts: 848 justice of the Peace courts

165 Courts

29 Appeal courts (only in few cases)

29 Minors courts (tribunale per i minorenni)

29 Criminal courts reviewing the type and application of sentences

1 Supreme court

Source *Ministry of Justice*

- specialised first instance courts 153

Regional Administrative Tribunals 29 dealing with administrative question involving the State

Regional Audit Commissions 21 dealing with the responsibility of State employees for their financial actions in relation to the State

Provincial Tax Commissions 103 dealing with tax questions

Source *Ministry of Justice*

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

N.B. The specialised first instance courts are not administered or financed by the Ministry of Justice. The following data regards only Courts of General Jurisdiction.

34. Total number of courts (geographic locations) 1,101

Source *Ministry of Justice*

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

- a debt collection for small claims 848 justice of the Peace Courts

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

Actions which do not amount to more than 15,493.71 euro

- a dismissal 165 courts

- a robbery 165 courts

▪

36. Number of professional judges sitting in courts 6,105 actual position filled
(present the information in full time equivalent and for permanent posts)

In the year 2002 data refer to position (vacant and filled)

Source *Direzione Generale dei Magistrati - Ministry of Justice*

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

Source

Please specify:

38. Number of non-professional judges (including lay judges) who are not remunerated but who can possibly receive a simple defrayal of costs **8,077**

Source *Direzione Generale dei Magistrati* **Ministry of Justice**

In the year 2002 data refer to theoretical budgetary posts

Please specify:

Justice of the Peace 3,686
Non professional judges in the courts: 440
Honorary judges in the courts with non permanent posts: 2,223

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

No

Yes **For which type of case(s)?**

Only in criminal cases for serious criminal offences

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

N.A.

40. Number of non-judge staff who are working in courts **28,822 position** (filled and vacant) **24,952 actual position filled**
(present the information in full time equivalent and for permanent posts)

Source **Ministry of Justice Direzione Generale del personale e della formazione**

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: **N.A.**
- 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): **N.A.**
- 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):

No
 Yes Number of staff

43. Number of public prosecutors 2,146 actual position filled
 present the information in full time equivalent and for permanent posts)

In the year 2002 data refers to **position** (filled and vacant)
 Source *Direzione Generale dei Magistrati- Ministry of Justice*

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

No
 Yes Please specify:

1,506 Honorary Deputy Prosecutors – not permanent post

45. Is the status of prosecutors:

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

46. Number of staff (non prosecutors) attached to the public prosecution service 10,852
 position (filled and vacant) 9,664 actual position filled
 (present the information in full time equivalent and for permanent posts)

Source *Ministry of Justice – Direzione Generale del personale e della formazione*

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	Yes	Yes	Yes	Yes
Head of the court clerk office	No	No	No	No
Other. Please specify				

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

Yes No

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

For the 848 Justice of Peace courts less than 50%

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?

No

Yes **Please specify the name and the address of this institution:**

Direzione Generale di Sttaistica Via Arenula, 70 00186 Roma

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 for the inauguration of judicial year No

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

- | | Yes | No |
|------------------------------|-------------------------------------|--------------------------|
| ▪ number of incoming cases? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| ▪ number of decisions? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| ▪ number of postponed cases? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| ▪ length of proceedings? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| ▪ other? | <input type="checkbox"/> | <input type="checkbox"/> |

Please specify:

Every year, the Court President writes a report about the judicial system on the basis of data supplied by the Direzione Generale di Statistica

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

No Yes **Please specify:**

A system is currently being developed in collaboration with the CSM to evaluate the performance of the Courts.

54. Concerning court activities, have you defined:

- performance indicators? Yes No

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

Percentage of cases judged
Changes in number of cases pending
Average duration

- targets? Yes No

Please specify who is responsible for setting the targets:

- | | Yes | No |
|----------------------|-------------------------------------|--------------------------|
| - executive power? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| - legislative power? | <input type="checkbox"/> | <input type="checkbox"/> |
| - judicial power? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| - other? | <input type="checkbox"/> | <input type="checkbox"/> |

Please specify:

The Ministry issues a general directive on its activities specifying its targets.

Please specify the main objectives applied:

Reduction in cases pending and in the Ministry's expenditure

Source **Ministry of Justice**

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

	Yes
<input type="checkbox"/> the High Council of judiciary?	<input checked="" type="checkbox"/>
<input type="checkbox"/> the Ministry of justice?	<input checked="" type="checkbox"/>
<input type="checkbox"/> an Inspection body?	<input type="checkbox"/>
<input type="checkbox"/> the Supreme Court?	<input type="checkbox"/>
<input type="checkbox"/> an external audit body?	<input type="checkbox"/>
<input type="checkbox"/> other?	<input type="checkbox"/>

Please specify:

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

No	<input checked="" type="checkbox"/>	
Yes	<input type="checkbox"/>	Please specify:

Source

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	No
<input type="checkbox"/> civil cases?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> criminal cases?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/> administrative cases?	<input type="checkbox"/>	<input type="checkbox"/>

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

No	<input checked="" type="checkbox"/>	
Yes	<input type="checkbox"/>	Please specify:

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

No	<input type="checkbox"/>	
Yes	<input checked="" type="checkbox"/>	Please specify:

A system is currently being developed in collaboration with the CSM to evaluate the performance of the prosecution services.

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 reasons given for all prisons sentences?
Yes No
 - for all cases, an effective remedy to a superior jurisdiction?
Yes No
61. Which is the percentage of judgements in first instance criminal cases in which the suspect is not actually present or represented? 4,33%

53.394 judgement in first criminal cases which the suspect is not actually present or represented
1,231,499 judicial decisions First instance (without justice of the Peace courts)

Source Ministry of Justice – Direzione Generale di Statistica

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

No
Yes If possible, number of successful challenges (in a year):

Year 2004 Recourses about the ricusazione e l'astensione

Incoming cases: 223

Decisions: 171

Source: Supreme Court

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:

Data regarding only item 2) below (Article 6§1 (duration))

Data Law Pinto	Incoming	Decisions	Pending cases
Year 2003	8,289	8,028	11,878
Year 2004	11,705	10,009	13,046

		Cases communicated by the Court		Cases incoming by the Court		Decisions		Pending cases at 31 december	
		2003	2004	2003	2004	2003	2004	2003	2004
Criminal +	1) Article 6§1 (equity)	N.A	N.A	N.A	N.A	N.A	N.A	N.A	N.A
	2) Article 6§1 (duration)	11,617	11,350	8,289	11,705	8,028	10,009	11,878	13,046

civil proceedings	Article 6§2	N.A	N.A	N.A	N.A	N.A	N.A	N.A	N.A
	Article 6§3a	N.A	N.A	N.A	N.A	N.A	N.A	N.A	N.A
	Article 6§3b	N.A	N.A	N.A	N.A	N.A	N.A	N.A	N.A
	Article 6§3c	N.A	N.A	N.A	N.A	N.A	N.A	N.A	N.A
	Article 6§3d	N.A	N.A	N.A	N.A	N.A	N.A	N.A	N.A
	Article 6§3e	N.A	N.A	N.A	N.A	N.A	N.A	N.A	N.A
Civil proceedings	Article 6§1 (equity)	N.A	N.A	N.A	N.A	N.A	N.A	N.A	N.A
	Article 6§1 (duration)	N.A	N.A	N.A	N.A	N.A	N.A	N.A	N.A
	Article 6§1 (non execution only)	N.A	N.A	N.A	N.A	N.A	N.A	N.A	N.A

Source Ministry of Justice Direzione Generale di Statistica

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

64. Are there specific procedures for urgent matters in:

- | | | |
|-------------------------|--------------------------------|----|
| | Yes | No |
| ▪ civil cases? | X | |
| ▪ criminal cases? | X | |
| ▪ administrative cases? | See note on question number 33 | |

65. Are there simplified procedures for:

- | | | |
|------------------------------------|-----|----|
| | Yes | No |
| ▪ civil cases (small claims)? | X | |
| ▪ criminal cases (petty offences)? | X | |
| ▪ administrative cases? | | |

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

Yes X No

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
Yes X Please specify:

Only in a few cases (e.g. company law)

IV. B. 2. Civil and administrative cases

68. Total number of civil cases in courts (litigious and not litigious): *see the table below incoming cases*

Please specify the main types of cases:

N.B. The Court of Appeal deals with some matters as a court of First Instance.

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 (1)	Divorce	Employment dismissal
Total number (1st instance)	Incoming cases	2,459,085 courts 1,473,090 justice of the peace courts 12,786 appeal courts 1st instance totale: 3,944,961		18,517 courts adversarial divorces + 38,451 courts procedure of mutual consent total 56,968 data year 2002 are related to adversarial and mutual consent divorces	161,108 <u>all employment matters</u>
	Decisions on the merits (sentenze)	571,636 courts 585,738 justice of the peace courts 1,820 appeal courts corte 1st instance (2) total: 1,161,194		10,812 courts adversarial divorces + 33,300 courts procedure of mutual consent total 44,112	74,292 <u>all employment matters</u>
	Percentage of decisions subject to appeal in a higher court	21.81% estimated data		N.A.	N.A.
	Pending cases by 1 January 2005	3,337,033 courts 930,145 justice of the peace courts 12,399 appeal courts 1st instance total: 4,279, 577		29,009 adversarial divorces + 13,868 courts procedure of mutual consent total: 42,877	303,360 <u>all employment matters</u>
	Percentage of pending cases of more than 3 years	N.A.		N.A.	N.A.
Average length	1 st instance decisions	courts 494 days; justice of the		585 adversarial	696 days <u>all employment</u>

(from date of lodging of court proceedings*)		peace courts 223 days; appeal courts 1st instance 353 days		divorces 122 days courts procedure of mutual consent	<u>matters</u>
	2 nd instance decisions	appeal courts 875 days; courts 779 days		courts 502 days adversarial divorces	appeal courts 790 days <u>all employment matters</u>
	Total procedure				

N.B. The Court of First Instance acts as a Court of Appeal for cases judged by Justices of the Peace.

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

$[(\text{backlog at beginning of the year} + \text{backlog at the end of the year}) / (\text{registered cases} + \text{decided cases})] \times 365$
for an annual analysis.

- (1) See note on question number 33
- (2) The Court of Appeal data regards the decisions at First Instance issued by the Court of Appeal. The data for 2002 only regards decisions issued by the Court of Appeal as an Appeal Court.

Source Ministry of Justice – Direzione Generale di Statistica

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?	X	
▪ to conduct investigation?	X	
▪ when necessary, to demand investigation measures 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	
▪ to end the case by dropping it without the need for a judicial decision?		X
▪ to end the case by imposing or negotiating a penalty without a judicial decision?		X
▪ other significant powers?		

Please specify:

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

No
Yes Please specify:

Only for particular civil cases regarding family affairs

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		1,502,719 offender has been identified + 1,685,792 offender has not been identified total 3,188,511
Discontinued by the public prosecutor	In general	2,223,721
	Because the offender could not be identified	Of which 1,339,369
Concluded by a penalty, imposed or negotiated by the public prosecutor		The prosecutor must always obtain decision of a judge regarding the outcome of a case or any possible sentence..
Charged by the public prosecutor before the courts		568,515

Source **Ministry of Justice – Direzione Generale di Statistica**

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	1.343.481 courts 89.779 justice of the peace courts total 1,433,260	49,123 without attempt robbery + 5,917 attempt robbery total 55,040 (1)	1,599 intentional homicides + 1,597 attempt homicides total 3,196 (1)
	Judicial decisions	1.231.499 courts 80.010 justice of the peace courts total 1,311,549	N.A.	N.A.
	Convicted persons	N.A	N.A	N.A
	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	1.196.156 courts 57.847 justice of the peace	N.D.	N.D.

		courts		
		total 1,254,003		
	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	323 courts 228 justice of the peace courts	N.A.	N.A.
	2nd instance decision	650 appeal courts	N.A.	N.A.
	Total procedure			

(1) Data for year 2002 refers to the total data

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

$[(\text{backlog at beginning of the year} + \text{backlog at the end of the year}) / (\text{registered cases} + \text{decided cases})] \times 365$

for an annual analysis.

Source **Ministry of Justice – Direzione Generale di Statistica and ISTAT**

*

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

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

- | | | |
|----------------|-------------------------|--------------------------|
| | Yes | No |
| ▪ judges? | X up to 75 years of age | <input type="checkbox"/> |
| ▪ prosecutors? | X up to 75 years of age | <input type="checkbox"/> |

Are there exceptions ? Please specify:

If no, what is the length of the mandate:

Is it renewable?

- | | | | |
|-------------------|--------------------------|--------------------------|--------------------------|
| | | Yes | No |
| ▪ of judges? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |
| ▪ of prosecutors? | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

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

78. Nature of the training of prosecutors:

	Compulsion (Yes/No)		Frequency (Yes/No)	
Initial training	Compulsory	Yes 18 months		
	Highly recommended			

	Optional	Yes		
General in-service training	Compulsory		Annual	
	Highly recommended		Regular	
	Optional	Yes	Occasional	Yes
Specialised in-service training	Compulsory		Annual	
	Highly recommended		Regular	
	Optional	Yes	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**

In the first year, a common training for judges and prosecutors. The subsequent 6 months' training is divided according to future function.

V. B. Practice of the profession

79. Gross annual salary of a first instance professional judge at the beginning of his/her career
 € 34,582.28

Source Ministero della Giustizia- Direzione Generale Magistrati

80. Gross annual salary of a judge of the Supreme Court or of the highest appellate court
 € 112,903.02

Source Ministero della Giustizia- Direzione Generale Magistrati

81. Gross annual salary of a public prosecutor at the beginning of his/her career
 € 34,582.28

Source Ministero della Giustizia- Direzione Generale Magistrati

82. Gross annual salary of a public prosecutor of the Supreme Court or of the highest appellate court
 € 112,903.02

Source Ministero della Giustizia- Direzione Generale Magistrati

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	X	X		X	X	

Research and publication	X	X		X	X	
Arbitrator			X			X
Consultant						
Cultural function	X			X		
Other function to specify	Sports judges			Sports judges		

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

No

Yes Please specify:

V. C. Disciplinary procedures

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

		Judges	Prosecutors	Total
Reasons for disciplinary procedures	Total number (incoming - 2005)	N.A.	N.A.	168
	Breach of professional ethics (Yes/No) If yes, please specify the number	N.A.	N.A.	
	Professional inadequacy (Yes/No) If yes, please specify the number	N.A.	N.A.	
	Criminal offence (Yes/No) If yes, please specify the number	N.A.	N.A.	
	Other (Yes/No) If yes, please specify	N.A.	N.A.	
	Types of sanctions	Total number	N.A.	N.A.
Reprimand (Yes/No) If yes, please specify the number		N.A.	N.A.	Yes 15 warning and 4 reprimand Total 19
Suspension (Yes/No) If yes, please specify the number		N.A.	N.A.	No
Dismissal (Yes/No) If yes, please specify the number		N.A.	N.A.	Yes 1
Fine (Yes/No) If yes, please specify the number		N.A.	N.A.	No
Other (Yes/No) If yes, please specify		N.A.	N.A.	Yes 2

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 practising in your country 151,470

Source *Direzione Generale della Giustizia Civile – Dipartimento per gli affari di giustizia*

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

Yes 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	
			Trade Union	
			NGO	
			Other	X
Criminal cases*	Defendant	Yes	Member of family	
			Trade Union	
			NGO	
	Victim	Yes	Member of family	
			Trade Union	
			NGO	
Administrative cases*			Member of family	
			Trade Union	
			NGO	
			Other	

* 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? Yes

Please specify:

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

Yes No

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

Yes No

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

No
 Yes Please specify:

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

Yes No

95. Are lawyers fees:

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

96. Have quality standards been formulated for lawyers?

Yes No

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

- the bar association? Yes
 - the legislature?
 - other?
- Please specify:
-

98. Is it possible to complain about :

- the performance of lawyers? No
Yes Please specify:

Complaints may be addressed to the local competent bar council

- the amount of fees? Yes No

99. Disciplinary proceedings and sanctions against lawyers: circa 200

	Yes /No (If yes, please specify the annual number)	
Reasons for disciplinary	Breach of professional ethics	N.A
	Professional inadequacy	N.A
	Criminal offence	N.A.

proceedings	Other	N.A
Type of sanctions	Reprimand	38
	Suspension	96
	Removal	20
	Fine	-
	Other	50

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

- Yes
- a professional body? Please specify:

The local bar council and, after this, the national bar council.
 - the judge?
 - the Ministry of justice?
 - other? Please specify:

You can indicate below:

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

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	YES only for employment cases	Private mediator Public or authorised by court body Court	YES
	Compulsory stage in court proceedings		Judge	
	Ordered by judge in certain cases		Prosecutor	
Family cases	Compulsory stage prior to court proceedings		Private mediator Public or authorised by court body Court	
	Compulsory stage in court proceedings		Judge	
	Ordered by judge in certain cases		Prosecutor	
Administrative	Compulsory stage prior	(1)	Private mediator	

cases	to court proceedings		Public or authorised by court body	
			Court	
	Compulsory stage in court proceedings		Judge	
	Ordered by judge in certain cases		Prosecutor	
Employment dismissals	Compulsory stage prior to court proceedings	Yes	Private mediator	
			Public or authorised by court body	Yes
			Court	
	Compulsory stage in court proceedings		Judge	
	Ordered by judge in certain cases		Prosecutor	
Criminal cases	Compulsory stage prior to court proceedings		Private mediator	
			Public or authorised by court body	
			Court	
	Compulsory stage in court proceedings		Judge	
	Ordered by judge in certain cases		Prosecutor	

(1) see note of question 33

102. Can you provide information about accredited mediators?

- 103. Can you provide information about the total number of mediation procedure concerning:**
- civil cases?
 - family cases?
 - administrative cases?
 - employment dismissals?
 - criminal cases?

Source

- 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

In Italy there are ADR provisions only for administrative cases and employment issues. ISTAT (Italian Institute for Statistical data) doesn't collect data about this.

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?
- bailiff working in a public institution? X
- other enforcement agents?

Please specify their status:

106. Number of enforcement agents 6,885 position (filled and vacant) / 5,366 actual position filled

In the year 2002 data refer to position filled + vacant

Source Ministry of Justice - Direzione Generale del personale e della formazione

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

Yes No

108. Is the profession of enforcement agent organised by?

- a national body? Only Ministry of Justice employees. Yes
X
- a regional body?
- a local body?

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

Yes No

110. Are enforcement fees:

- regulated by law? Yes
X
- 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? Yes
- the judge?
- the Ministry of justice? X

- the prosecutor?
 - other?
- Please specify:

112. Have quality standards been formulated for enforcement agents?

No
 Yes

Who is responsible for formulating these quality standards?

Source

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

- | | Yes | No |
|-----------------------------|-------------------------------------|--------------------------|
| ▪ no execution at all? | <input type="checkbox"/> | <input type="checkbox"/> |
| ▪ lack of information? | <input type="checkbox"/> | <input type="checkbox"/> |
| ▪ excessive length? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| ▪ unlawful practices? | <input type="checkbox"/> | <input type="checkbox"/> |
| ▪ insufficient supervision? | <input type="checkbox"/> | <input type="checkbox"/> |
| ▪ excessive cost? | <input type="checkbox"/> | <input type="checkbox"/> |
| ▪ other? | <input type="checkbox"/> | <input type="checkbox"/> |

Source

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

No
 Yes

Please specify:

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

- | | Yes | No |
|-----------------------------|--------------------------|-------------------------------------|
| ▪ for civil cases? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| ▪ for administrative cases? | <input type="checkbox"/> | (1) see note on question number 33 |

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: NO

- | | Yes |
|---|--------------------------|
| ▪ between 1 and 5 days | <input type="checkbox"/> |
| ▪ between 6 and 10 days | <input type="checkbox"/> |
| ▪ between 11 and 30 days | <input type="checkbox"/> |
| ▪ more: please specify <input type="checkbox"/> | <input type="checkbox"/> |

Source:

117. Disciplinary proceedings and sanctions against enforcement agents:

	Yes /No (If yes, please specify the total number)	
Disciplinary proceedings	Breach of professional ethics	No
	Professional inadequacy	No

Sanctions	Criminal offence	Yes 36
	Other	Yes 47
	Reprimand	Yes 24
	Suspension	Yes 4
	Dismissal	Yes 2
	Fine	Yes 6
	Other	No

**

You can indicate below:

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

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 judgements (e.g prosecutor):

The 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 decisions in criminal matters

IX. Notaries

120. Is the status of notaries:

- a private one?

Yes Number

- a status of private worker ruled by the public authorities?
- a public one?
- other?

<input checked="" type="checkbox"/>	<input type="checkbox"/>
-------------------------------------	--------------------------

Please specify:

Source *Direzione Generale della Giustizia Civile – Dipartimento per gli affari di giustizia - 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?

Yes	No
<input checked="" type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input checked="" type="checkbox"/>
<input checked="" type="checkbox"/>	<input type="checkbox"/>
<input checked="" type="checkbox"/>	<input type="checkbox"/>

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
<input checked="" type="checkbox"/>
<input type="checkbox"/>
<input checked="" type="checkbox"/>

Please specify:

Supervisor by the Ministry of Justice and eventually by local professional bar

You can indicate below:

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

The system is formed by a fixed number of notaries that are divided in predetermined local orders.

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

Law 150/2005 has introduced:

- A separation of careers between judges and prosecutors;
- A more precise definition of behaviour subject to disciplinary action;
- Decentralisation of Ministry functions;
- A more rapid career advancement through the use of evaluation examinations;
- The creation of a training College for the magistracy.