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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**

POLAND/POLOGNE

REVISED SCHEME FOR EVALUATING JUDICIAL SYSTEMS

COUNTRY: THE REPUBLIC of POLAND

National correspondent

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I. Demographic and economic data

I. A. General information

- 1. Number of inhabitants** **38 174 000**
Source Concise Statistical Yearbook; Issue of 2005
- 2. Total of annual State public expenditure / where appropriate, public expenditure at regional or federal entity level**

State level	44 660 633 484 EUR¹
Regional / entity level	

Source Concise Statistical Yearbook; Issue of 2005
- 3. Per capita GDP** **5 246 EUR**
Source Concise Statistical Yearbook; Issue of 2005
- 4. Average gross annual salary** **6 218 EUR**
Source Concise Statistical Yearbook; Issue of 2005

I. B. Budgetary data concerning judicial system

- 5. Total annual budget allocated to all courts** **830 504 751 EUR**
Source Ministry of Justice

Please specify:

¹ 1 EUR = 4, 42 PLN (average conversion rate for 2004)

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

	Yes	Amount
▪ Salaries?	X	498 337 105 EUR
▪ IT?	X	8 868 010 EUR
▪ Justice expenses borne by the State?	X	123 085 068 EUR

Source *Ministry of Justice*

7. Annual public budget spent on legal aid **16 775 566 EUR**

Source *Ministry of Justice*

8. If possible, please specify:

▪ the annual public budget spent on legal aid in criminal cases	Data not available
▪ the annual public budget spent on legal aid in other court cases	Data not available

Comment: The budgetary amount of spending for legal aid does not make difference for criminal or civil cases

Source *Ministry of Justice*

9. Annual public budget spent on prosecution system **226 591 855 EUR**

Source *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	Ministry of Finance	No	No	Council of Ministers
Parliament	No	Yes	No	No
Supreme Court	No	No	No	No
Judicial Council	Yes	No	No	Yes
Courts	Yes	No	Yes	No
Inspection body. Please specify.	No	No	No	National Supervisory Board
Other. Please specify	-	-	-	-

You can indicate below:

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

As a general rule, the all courts' budget are prepared, allocated and managed separately, however within budgeted of the State.

Budgetary proposals are produced by each Court of Appeal (its Administrative Director and President) which includes all spending for all courts located in its jurisdiction. Such proposals are sent to the national Council of Judiciary for acceptance and opinion. After verification and giving positive opinion the Council send the tangible budgetary proposal to the Minister of Justice who includes it to a proposal for the State budget covering spending in a whole "justice" sector then send it to Ministry of Finance for final preparation. Draft budget is first approved by the Council of Ministers and then adopted by the Parliament.

II. Access to Justice and to all courts

II. A. Legal aid

11. Does legal aid concern:

	Criminal cases	Other than criminal cases
Representation in court (Yes/No)	Yes	Yes
Legal advice (Yes/No)	No	No
Other (Yes/No). Please specify	Yes - free of court fees	Yes – free of court fees

12. Number of legal aid cases:

- total
- criminal cases
- other than criminal cases

Data not available
Data not available
Data not available

Source 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"/> |

Source Ministry of Justice

Comment: There in no fixed income or property limits applicable in this purpose. Each case is assessed individually with taking account all financial, family, professional and other useful and relevant circumstances to evaluate ability to pay the fees.

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:
- | | Yes | No |
|--|-------------------------------------|-------------------------------------|
| ▪ the court? | <input checked="" type="checkbox"/> | |
| ▪ a body external to the court? | | <input checked="" type="checkbox"/> |
| ▪ a mixed decision-making body (court and external)? | | <input checked="" type="checkbox"/> |

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

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

If yes, are there exceptions? Please specify:

For criminal cases – private indictment cases
For other than criminal cases (civil cases) – employment cases, child support cases

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

No
Yes Please specify:

The Insurance Companies do not offer any such standard insurance for the customers, however due to freedom of contracting individual contract can be negotiated.

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

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

You can indicate below:

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

In 2004 the works on new system of legal aid have been launched. The draft regulation significantly changes and widen a range of forms of the legal aid that can be granted to the justice customers (for example – covering the costs of legal advice at pre-trial phase). The legal aid issues is to be managed by the new organisational structure set up basing on regional network of public legal aid offices. At present the draft is under adoption proceeding at Parliament.

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.)? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Internet address(es): www.sejm.gov.pl | | |
| ▪ case-law of the higher court/s? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

Internet address(es):

▪ other documents (for examples legal forms)?

Internet address(es): www.ms.gov.pl

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

Comment : According to the laws on proceedings in all cases, the party who appears "pro se" without legal representation has to be informed on his/her rights by the court. Failure in required information can be construed as a serious violation of procedural rights what can lead to decisions' annulment or reversal within appeal proceeding.

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	Yes	No	Yes –special arrangement for medical examination
Victims of terrorism	No	No	No	No
Child/Witness/ Victim	Yes	Yes	Yes	Yes – ex officio court decisions in child custody matters
Victims of domestic violence	Yes	No – only if victim of domestic violence is a child	No	Yes – special arrangements for medical examination for victims, arrangements for therapy for perpetrators
Ethnic minorities	No	No	No	No
Disabled persons	No	Yes – according to article 316 of Criminal Proceeding Code	No	No
Juvenile offenders	No	No	Yes –legal representation mandatory	No

Other	-	-	-	-
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Comment: Above arrangements combines legal regulation concerning dealings with some vulnerable participants of justice as well as rules practiced by enforcement and justice officers set up and recommended by the government and state sponsored pilot programs. Article 316 of Criminal proceeding code provides a possibility to file for a court hearing before the court phase is even established if there is a risk that such hearing could be later impossible or connected with significant hardship of such person.

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

Yes No

Comment : Victims of the crimes can file for compensation against perpetrators on the regular basis under the law of tort – this includes the possibility to file suing action directly within criminal proceeding as a part of it to be decided together with criminal charges.

In 2004 there were works pending on elaboration of the new regulation on system of state-funded compensation for victims of some crimes granted in the courts proceeding. Follow that, the Law on public compensation for the victims of some violent crimes has been adopted and entered into force on September 2005.

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

- | | |
|---|-------------------------------------|
| <ul style="list-style-type: none"> ▪ a public fund? ▪ a court order? ▪ private fund? | <p>Yes</p> <input type="checkbox"/> |
|---|-------------------------------------|

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

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"/> | <input type="checkbox"/> |
| ▪ wrongful arrest? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| ▪ wrongful condemnation? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |

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

Excessive length of procedeedings – under the party’s motion a pecuniary satisfaction can be granted by the higher court in amount up to 10 000 PLN (2.262 Eur.) according to the Law of June 17th 2004.

Wrongful arrest/condemnation – Trying such case the court is free to grant the

compensation and pecuniary satisfaction in any amount justified in individual circumstances. Especially, there is no fund or up or down limitation in such claims. Each case is assessed individually under the court's discretion with taking account all relevant factor e.g. property and income loss, personal hardship, etc.

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

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

30. If yes, please specify:

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

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	Yes	No
Higher court	No	No
Ministry of Justice	Yes	No
High Council of Justice	No	No
Other external organisations (e.g. Ombudsman)	Yes	No

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

Described above procedure is limited to complaints concerning the administrative performances of the courts only: e.g. failure in case management, lack of an action, etc. That is a subject to the administrative supervision and controlling competences due to hierarchic structure of the justice system. This competences generally belong to President of the court as well as Minister of Justice. The role of Ombudsman derives from his broader function of caring of the citizens rights in relation with public offices. Such system allows to react and upgrade performances in individual cases, however can not be seen as fully effective treatment for general disadvantages of justice as a whole.

III. Organisation of the court system

III. A. Functioning

33. Total number of courts (administrative structure):

- first instance courts of general jurisdiction **353 courts of general jurisdiction; 310 District Courts and 43 Circuit Courts as a first instance**

Comment: In general, first instance belongs to District Court then appeal is to be filed to Circuit Court as a second instance. But according to the law for some cases the first instance court is Circuit Court (the value of a property claim is higher than 75.000 PLN [~ 17.000 Eur.] , non-property claims, copyrights, divorce and separation of marriage, and other). The Appeal from the order issued by Circuit Court as a court of first instance is to be filed to Court of Appeal.

Source Legal regulation establishing courts

- specialised first instance courts **29 specialised courts;**
Source Legal regulation establishing courts

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

Administrative Courts – 16 Provincial Administrative Courts and 1 High Administrative Court – claims on unlawful administrative decisions and competence disputes between administration.

Military Courts – 10 Garrison Courts, 2 provincial Military Courts – deals with crimes committed by Military members.

1 Antitrust Court - deals with the cases of violation of free competition in the market e.g. abusing dominant position, monopoly practices, etc.

34. Total number of courts (geographic locations) **301**

Source Ministry of Justice

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

- a debt collection for small claims **310**

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

Small civil claims
– property claims based on contracts and breach of contracts relations, with total value not exceeding 10.000 PLN (2.262 Eur.)
- rent payment disputes in a housing matters
- court's deposits

- a dismissal **269**
- a robbery **353**

36. Number of professional judges sitting in courts **9 766**

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

Comment: The number includes 1 704 Asesors (Associated Judge). Asesor, during preparatory service performs all functions as judge does, but is not yet nominated as a judge. Evaluation of his/ her performance during the service may lead to such nomination.

Source **Ministry of Justice**

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

- *gross figure* 0
- *if possible, in full time equivalent* 0

Source: *Law on Judiciary*

Please specify:

There is no such institution in Polish judicial system

38. **Number of non-professional judges (including lay judges) who are not remunerated but who can possibly receive a simple defrayal of costs** 43 613

Source **Ministry of Justice**

Please specify:

Lay judges are non-professional members of the court panel presided by professional judge at District and Circuit Courts. Lay judges are appointed to each case. Sitting on the bench, they have the same rights and duties as professional judge. Lay judges are selected through local elections. The president of the court keeps list of lay judges and calls them to particular cases in a random manner. Lay judge is obliged to sit at the bench up to 12 court days a year. They are not paid but receive defrayal of costs in a form of per diem.

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

No

Yes For which type of case(s)?

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

40. **Number of non-judge staff who are working in courts** 33 878
(*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: 19 189
- 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): 8 790

▪ **technical staff:** **3 691**

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 **1 175**

43. **Number of public prosecutors** **5 393**
(present the information in full time equivalent and for permanent posts)

Source *Ministry of Justice*

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

No
 Yes **Please specify:**

Prosecution is provided generally by Public Prosecutors. Other public functionaries in limited scope may have similar duties but only under the individual permission of law and strictly limited to enumerated types of crimes. According to law such functions may have for example functionaries of Coast Guard, Police, Customs, Revenue Service, Forest and Wildlife Guard, Military Gendarmerie.

45. **Is the status of prosecutors:**

		Yes	
▪	independent within the judiciary?	<input type="checkbox"/>	No
▪	independent from the judiciary ?	<input type="checkbox"/>	No
▪	under the authority of the Ministry of Justice?	<input checked="" type="checkbox"/>	

46. **Number of staff (non prosecutors) attached to the public prosecution service** **4 213**
(present the information in full time equivalent and for permanent posts)

Source *Ministry of Justice*

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
	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

* Book-keeping and financial system

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:

Department of Organisation, Ministry of Justice, al. Ujazdowskie 11, 00-950 Warszawa

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 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 checked="" type="checkbox"/> | <input type="checkbox"/> |
- Please specify:

The monitoring system is based on statistical reports that courts are obliged to prepare.

Other aspect being monitored – so called “judgements stability”, the statistical ratio of decision being annulled or reversed in appellate proceeding. This ratio works as a quality standards indicator.

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

No
Yes Please specify:

- The evaluation system is based on statistical reports prepared by courts. Such reports have to be prepared and sent for evaluation to the Ministry of Justice every six months and yearly.
 - Continuous supervision of performance by Presidents of the court and Ministry of Justice

54. Concerning court activities, have you defined:

- performance indicators? Yes No

Comment: Such indicators are not defined. Instead, in use there are statistical indicators of average performance. These indicators show efficiency in particular court, allow to make relevant comparisons and allow to react if required.

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

- targets? Yes No

Please specify who is responsible for setting the targets:

- | | |
|----------------------|--------------------------|
| | Yes |
| - executive power? | <input type="checkbox"/> |
| - legislative power? | <input type="checkbox"/> |

- judicial power?
- other?

Please specify:

Please specify the main objectives applied:

Source

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

- | | Yes | No |
|----------------------------------|-------------------------------------|-------------------------------------|
| ▪ the High Council of judiciary? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| ▪ the Ministry of justice? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| ▪ an Inspection body? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| ▪ the Supreme Court? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| ▪ an external audit body? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| ▪ other? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
- Please specify: President of higher court.

Presidents of higher court in respect to the courts in its jurisdiction due to hierarchic structure of justice. In that purpose President use the system of visitation and Visiting Judges.
The criteria of evaluation come with and within the scope of statistical reports worked out by the Ministry of Justice.

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

- No
 Yes Please specify: Judgement stability indicator

This is the statistical ratio of decision being annulled or reversed in appellate proceeding. This ratio works as a quality standards indicator.

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 |
|-------------------------|-------------------------------------|--------------------------|
| ▪ civil cases? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| ▪ criminal cases? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| ▪ administrative cases? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |

Comment: System is based on evaluation of statistical reports allowing tracing the cases completed in various time periods.

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

- No
 Yes Please specify:

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

No
 Yes Please specify:

Similarly to the evaluation system of the courts, the prosecution office's performance are evaluated due to criteria from statistical data collected by the Ministry of Justice. In case of prosecutors offices the monitoring is additionally strengthened by supervision and coordination function applied by superior officers in relation to his/her subordinates. The system of visitation and Visiting Prosecutors helps the supervision.

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

Comment: for the parties of the civil case, the court is responsible to provide an interpreter while taking the evidence in form of their testimony at a hearing.

- 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? **Data not available**

Source Ministry of Justice

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): **Data not available**

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	Cases declared	Friendly settlements	Judgements establishing a	Judgements establishing a
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		by the Court		inadmissible by the Court ²				violation		non violation	
		2003	2004	2003	2004	2003	2004	2003	2004	2003	2004
Criminal proceedings	Article 6§1 (equity)	3	1	0	1	0	0	0	0	0	0
	Article 6§1 (duration)	10	12	0	0	2	1	5	7	0	0
	Article 6§2	0	0	0	0	0	0	0	0	0	0
	Article 6§3a	0	1	0	0	0	0	0	0	0	0
	Article 6§3b	0	2	0	0	0	0	0	0	0	0
	Article 6§3c	0	3	0	0	0	0	0	0	0	0
	Article 6§3d	1	1	0	0	0	0	0	0	0	0
Article 6§3e	0	0	0	0	0	0	0	0	0	0	
Civil proceedings	Article 6§1 (equity)	8	4	2	1	0	0	0	2	0	0
	Article 6§1 (duration)	89	23	1	6	32	15	32	56	0	1
	Article 6§1 (non execution only)	0	0	0	0	0	0	0	0	0	0

Source Ministry of Foreign Affairs of Poland, Legal and Treaty Department

IV.B. Timeframes of proceedings

IV. B. 1. General

64. Are there specific procedures for urgent matters in:

- | | Yes | No |
|-------------------------|-------------------------------------|-------------------------------------|
| ▪ civil cases? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| ▪ criminal cases? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| ▪ administrative cases? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

Comment: Civil procedure includes rules of interim proceedings and temporary court's decision - generally for situations when a risk, that a claim could not be enforceable or the need for interim solution exist. However in criminal and administrative proceedings there are no - what any can call – procedure, there is number of provisions for dealing with emergency situations like for example; emergency witness hearing in criminal matters or ex officio emergency orders in minor custody cases.

65. Are there simplified procedures for:

- | | Yes | No |
|------------------------------------|-------------------------------------|-------------------------------------|
| ▪ civil cases (small claims)? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| ▪ criminal cases (petty offences)? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| ▪ administrative cases? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

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

Yes No

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

² Only final decisions as to the admissibility have been taken into account.

conclusions and dates of hearings)?

No
 Yes Please specify:

Final decision is taken by the court. Case management and administration belong exclusively up to the court, so there is no space for agreement in case processing. However court's decision are non-negotiable, practically courts always take an account the other participant's suggestions.

IV. B. 2. Civil and administrative cases

68. Total number of civil cases in courts (litigious and not litigious): **7 602 495 of cases**

Please specify the main types of cases:

Total number of civil cases: 7 602 495;
 4 973 732 – civil cases, including 2 493 833 land registry cases
 988 649 - family cases
 326 056 – employment cases
 296 810 – social security cases
 1 017 248 – commercial cases

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	1 162 480	58 815	134 898	31 931
	Decisions on the merits	1 201 149	83 217	109 610	34 886
	Percentage of decisions subject to appeal in a higher court	17,8 %	7,41%	2,5 %	9,4 %
	Pending cases by 1 January 2005	498 955	68 254	75 331	16 938
	Percentage of pending cases of more than 3 years		1,57 % This number reflects cases pending longer than 2 years. The statistics do not cover 3 years indicator.	---	---
Average length (from date of lodging of court proceedings*)	1st instance decisions	5,2 months	---	6.7	---
	2nd instance decisions	2,0 months	---		
	Total procedure	—	---	—	—

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

Comment: The length of proceeding is calculated approximately (in months) with a use of statistical indicator of outstanding cases - which is the ratio of cases not completed in a specific period (month) to the average number of incoming cases in that period.

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

The termination of marriage can be decided as a divorce or separation. The regulation of separation shows some similarities to that of divorce. Separation is decided by the court when there is a complete (but not irretrievable) disintegration of matrimonial life. The judicial decree of separation in principle has the same effect as a divorce. The most significant difference is that separated spouses are not allowed to remarry. Other grounds for marriage dissolution and its effects are in common for both separation and divorce as well as the same procedural condition are applied.

Dissolution cases are examined in a litigation in the first instance by Circuit Court, which constitute the second level in the structure of court system (between District Court and Court of Appeal). The competence *ratione loci* is determined by: - 1st - the last common place of residence or - 2nd - the defendant place of residence or - 3rd - the applicants place of residence.

Dissolution proceedings is initiated by lodging a petition for divorce or separation by one of the spouses. The petition can include request for additional decisions like for example property partition, custody of minor children, child support or alimony. A statement for counterclaim is inadmissible although the defendant may, as a result, also request a divorce or separation.

Lodging the petition the petitioner is obliged to pay an interim court fee in the amount described by the court - unless the petitioner is granted a legal aid. The final determination of court fee goes with court's judgment in the case.

Since the service of lawyer is not obligatory in dissolution proceedings, each party may personally go to the competent court, undertake actions in connection with the legal proceedings, lodge motions, appoint an attorney or request the court to appoint an attorney (legal aid motion). Marriage will be dissolved at the moment when the judgment becomes final - when the judgment cannot be appealed because of the expiry of time-limit for filing an appeal or, of the exhaustion of the appeal process. The court establishes the disintegration of matrimonial life according to the general rules of the hearing of evidences. The decision may not be exclusively based on the admission of the claim or of certain facts by the defendant. Hearing the testimonies of both parties are obligatory. If there is prospectus for repairing the marriage, the court may order an mediation proceeding having first consent of both parties.

Judgment is pronounced orally. Since this moment the party may request for written copy of judgment and its reasoning in 7 days time-limit. The appeal can be filed in due term of 14 days after receiving copy of judgment and reasoning. The appeal is to be filed in court that issued a judgment. The appeal will be decided by Court of Appeal. The cassation from the judgment issued in appeal proceeding is inadmissible.

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?	X	<input type="checkbox"/>
▪ to conduct investigation?	X	<input type="checkbox"/>
▪ when necessary, to demand investigation measures from the judge?	X	<input type="checkbox"/>
▪ to charge?	X	<input type="checkbox"/>
▪ to present the case in the court?	X	<input type="checkbox"/>
▪ to propose a sentence to the judge?	X	<input type="checkbox"/>

- 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?
- Please specify:

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

- No
 Yes Please specify:

The constitutional role of the Public Prosecutors Office is to protect the rule of law in the State. In this respect, the most significant function is to investigate crimes and support the charges before the criminal court, however it is not limited to that. In principle, the Prosecutor has the right to initiate any civil or administrative proceeding or join to any pending proceeding when the protection of the rule of law requires (exceptions are set out by law – for example; divorce or separation proceedings).

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		1 816 335
Discontinued by the public prosecutor	In general	1 040 125
	Because the offender could not be identified	681 860
	Due to the lack of an established offence or a specific legal situation	294 198
Concluded by a penalty, imposed or negotiated by the public prosecutor		0
Charged by the public prosecutor before the courts		425 048

Source Ministry of Justice

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
	Incoming cases	548 136		
	Judicial decisions	564 196	13 420	965
	Convicted persons	500 799	12 822	894
	Acquitted persons	13 070	501	50

Total number (1st instance)	Percentage of decisions subject to appeal in a higher court	18,4%		
	Pending cases by 1 January 2005	213 227		
	Percentage of pending cases of more than 3 years	2,8%		
Average length*(from the date of official charging)	1st instance decision	4,7 months		
	2nd instance decision	2,3 months		
	Total procedure			

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

Comment: The length of proceeding is calculated statistically (in months) with a use of statistical indicator of outstanding cases - which is the ratio of cases not completed in a specific period to the average number of incoming cases in that period. Statistical calculation is based on the criminal cases generally but on particular types of crimes.

Comment: The numbers given as average length of proceeding are produced with a statistical presumption that first instance criminal cases are those decided in a District Courts (in fact this is 98% of total number of criminal cases). Similar presumption is done as concern the length at a second instance - that second instance cases are decided at Circuit Court only. However this is not completely true (look comment to question 33) and not correct due the the statistical methodology, this simplified manner allows to give the statisticly closest answers to questions asked.

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

All statistical data showed above concern the period between Jan. 1st – Dec. 31st 2004. Statistical information possessed by the Ministry of Justice (Statistics Unit) were collected under the Law on Statistics (Act of June 29th 1995) and due to the Rules and Program for statistical research of the public statistics adopted by the Council of Ministers. Incoming cases – number of cases registered in a specific period of time. Judicial decisions - number of decisions that close proceeding. Pending cases – number of cases that were not closed at the end of statistical period. Length of proceeding – calculated with the indicator of outstanding cases. In statistical research program for 2005 the pilot program is introduced. It provides different method of calculation since registration to a final decision. This calculation method will be in use on the regular basis from 2006.

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?

Yes

No

- a body composed of members of the judiciary and external to the judiciary? **No**

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

- a body composed of members of the prosecution system? **X**
- a body composed of members external to the prosecution system? **No**
- a body composed of members of the prosecution system and external to the prosecution system? **No**

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

- | | | |
|----------------|----------|----|
| | Yes | No |
| ▪ judges? | X | |
| ▪ prosecutors? | X | |

Are there exceptions ? Please specify:

The judges of the Constitutional Tribunal are nominated on 9 years term. The Constitutional Court is not a court of general jurisdiction.

If no, what is the length of the mandate:

Is it renewable?

- | | | | |
|-------------------|--|-----|----|
| | | Yes | No |
| ▪ of judges? | | | |
| ▪ of prosecutors? | | | |

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

The nomination of judges and prosecutors goes with lifetime mandate. Judges are appointed by the President of the Republic following the National Council's of Judiciary nomination. Judges must meet a list of requirements to be nominated which includes: degree in Law, 3 years educational training, positive score of Judge's State exam, 3 years positively evaluated preparatory service as a Associated Judge (Asesor – performing the same rights and duties as a judge). Some exceptions exists for the academic professors in Law and lawyers practising law. This requirements are in principle the same to be nominated for prosecutor. The prosecutor is nominated by the Minister of Justice-General Prosecutor

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	Yes
	Highly recommended		Regular	
	Optional	Yes	Occasional	
In-service training for specialised functions (e.g.	Compulsory		Annual	Yes
	Highly recommended		Regular	

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

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

You can indicate below:

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

V. B. Practice of the profession

79. Gross annual salary of a first instance professional judge at the beginning of his/her career **11 633 EUR**

Source *Ministry of Justice*

80. Gross annual salary of a judge of the Supreme Court or of the highest appellate court **37 217 EUR**

Source *Ministry of Justice*

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

11 633 EUR

Source *Ministry of Justice*

82. Gross annual salary of a public prosecutor of the Supreme Court or of the highest appellate court **37 217 EUR**

Source **Ministry of Justice**

83. Do judges and public prosecutors have additional benefits?

	Judges (Yes/No)	Public prosecutors (Yes/No)
Reduced taxation	No	No
Special pension	Yes	Yes
Housing	No	No
Other financial benefit (If yes, please specify)	Possibility of obtaining a non-commercial loan for housing purpose.	Possibility of obtaining a non-commercial loan for housing purpose.

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

Comment In principle additional work (in the meaning of profession) is permitted as an academic professor only. This and other additional activities, with or without right for remuneration requires prior permission of the President of the court or superior prosecutor.

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

No **X**

Yes Please specify:

Quantitative and quality performance are the criteria for possible promotion of judge to the higher court.

V. C. Disciplinary procedures

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

		Judges	Prosecutors
		Total number	111
Reasons for	Breach of professional ethics (Yes/No) If yes, please specify the number	47	16

disciplinary procedures	Professional inadequacy (Yes/No) If yes, please specify the number	48	19
	Criminal offence (Yes/No) If yes, please specify the number	13	17
	Other (Yes/No) If yes, please specify	3 (violation of the traffic regulations)	---
Types of sanctions	Total number	50	19
	Reprimand (Yes/No) If yes, please specify the number	28	15
	Suspension (Yes/No) If yes, please specify the number	11	---
	Dismissal (Yes/No) If yes, please specify the number	4	1
	Fine (Yes/No) If yes, please specify the number	No	No
	Other (Yes/No) If yes, please specify	7 (removal from function, moving to another court)	3 (moving to another jurisdiction, loss of special pension, suspension of remuneration rise)

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

Judges are responsible for disciplinary violation. The cases are decided by disciplinary courts set up within judiciary – Court of Appeal as a first instance, Superior Court as second. Case investigation and supporting charges against judges provides Disciplinary Speaker (Rzecznik Dyscyplinarny) and his/ her Deputies. Speaker is a member of the judiciary nominated by the National Council of Judiciary. The Deputies are acting within Court of Appeal and are selected and nominated by judges of this court.

The disciplinary courts for prosecutors in two instances are set up at Minister of Justice – General Prosecutor.

The disciplinary proceeding are litigious. The list of sanctions are laid down by law.

VI. Lawyers

87. Number of lawyers practising in your country

22 516

The profession of lawyer is organised as advocates or legal advisors. This two-fold organisation comes with historical distinction on corporate lawyers (legal advisors) and advocates. Both of them still have its own Bar and education and admission procedure. However at present their functions differ slightly the common feature is they both can appear before courts and provide legal representation for their clients. The legal advisors can not represent clients in criminal and family matters. Above figure is numbers of advocates (5 485) and legal advisors (17 031) combined.

Source *National Bar Association and National Council of Legal Advisors*

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	Yes
			Trade Union	No
			NGO	No
			Other	No
Criminal cases	Defendant	Yes	Member of family	No
			Trade Union	No
			NGO	No
			Other	No
	Victim	Yes	Member of family	No
			Trade Union	No
			NGO	No
			Other	No
Administrative cases	No		Member of family	Yes
			Trade Union	No
			NGO	No
			Other	in specific cases under permission of law

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

Comment Civil cases – only advocates can represent clients without limitation, legal advisor cannot represent clients in family matters.

Criminal Cases – legal advisor cannot be established as a defender, that is the exclusive right of an advocate.

(Look at comment to question 87)

90. Is the lawyer profession organised through?

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

Please specify:

The profession of lawyer is self - governing. The basic unit organising corporation of the lawyers is the Regional Chamber of Advocates or /and Regional Chamber of Legal advisor (look comment to 87). Chamber consist of all lawyers practising in geographically defined region. The chamber elects its authority which is Council headed by Dean of the Council. At a National Level representatives of local Councils create National Council (National Bar Association).

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:

Legal advisors do not have formal qualification in family and criminal matters (look comment to 87)

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

Yes No

Comment: According to the law the fees are subject to an agreement negotiated individually between lawyer and client. Only the minimal rates of fees for the representation before the courts are prescribed by law.

95. Are lawyers fees:

- regulated by law? (in cases of minimum fees)
- regulated by Bar association?
- freely negotiated?

96. Have quality standards been formulated for lawyers?

Yes No
(as far as ethical standards concerned)

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

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

98. Is it possible to complain about :

- the performance of lawyers? No Yes Please specify:

According to the law the lawyers are disciplinary responsible for violation of law, breach of ethics standards or professional dignity and violation of his/her professional duties.

- the amount of fees? Yes No

99. Disciplinary proceedings and sanctions against lawyers:

	Yes /No (If yes, please specify the annual number)
Breach of professional ethics	202

Reasons for disciplinary proceedings	Professional inadequacy	72
	Criminal offence	3
	Other (breach of professional dignity, abuse of freedom of speech)	135
Type of sanctions	Reprimand	175*
	Suspension	3
	Removal	
	Fine	
	Other	

* The sanctions are: notice, reprimand, fine, suspension from three months up to five years and removal. The figure appearing in "reprimand" positions sums up notices and reprimands.

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

- a professional body?
 Yes
 X Please specify:

Disciplinary chambers consisting of the elected members of the corporation.

- the judge? No
- the Ministry of justice? No
- other? No 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)	
	Yes	No	Private mediator	Public or authorised by court body
Civil cases				
	Compulsory stage prior to court proceedings		Court	

	Compulsory stage in court proceedings	No	Judge	
	Ordered by judge in certain cases	No	Prosecutor	
Family cases	Compulsory stage prior to court proceedings	No	Private mediator	
			Public or authorised by court body	
			Court	
	Compulsory stage in court proceedings	No	Judge	
	Ordered by judge in certain cases	No	Prosecutor	
Administrative cases	Compulsory stage prior to court proceedings	No	Private mediator	
			Public or authorised by court body	
			Court	
	Compulsory stage in court proceedings	No	Judge	
	Ordered by judge in certain cases	No	Prosecutor	
Employment dismissals	Compulsory stage prior to court proceedings		Private mediator	
			Public or authorised by court body	
			Court	
	Compulsory stage in court proceedings	No	Judge	
	Ordered by judge in certain cases	No	Prosecutor	
Criminal cases	Compulsory stage prior to court proceedings	No	Private mediator	
			Public or authorised by court body	
			Court	Yes
	Compulsory stage in court proceedings	Yes (special meeting and hearing set up in a purpose to settle the case)	Judge	
	Ordered by judge in certain cases	No	Prosecutor	

Comment: The mediation as to the principle must be voluntary agreed by the parties (no one oppose) in any type of proceeding and any type of case.

102. Can you provide information about accredited mediators?

Similarly to sworn interpreters or courts experts who are enlisted within the jurisdiction of particular court - lists of accredited mediators are kept by Presidents of the Circuit Courts. The person can be enlisted as a mediator by the President of the Court when such person meets the criteria set forth by law.

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

- civil cases? **Data not available**

- family cases? 254 (only in juvenile cases)
- administrative cases? Data not available
- employment dismissals? Data not available
- criminal cases? 3 894

Source Ministry of Justice

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

Data not available

You can indicate below:

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

Mediation is still quite new instrument of alternative dispute resolution and restorative justice. In 2004 there were legal ground for mediation in criminal and juvenile matters. Since 2005 mediation was introduced to civil procedure.

Mediation in any case is voluntary. The court or prosecutor can put the case on the track of mediation but the parties have to agree freely or at least do not oppose.

The mediators are not organised in a special structure, they are group up (in a lists of Circuits Court) at a local level.

VIII. Enforcement of court decisions

VIII. A. Execution of decisions in civil matters

105. Are enforcement agents:

- judges? No
 - bailiff practising as private profession ruled by public authorities? No
 - bailiff working in a public institution? No
 - other enforcement agents? Yes
- Please specify their status:

Enforcement agent is a public functionary acting by the Regional Court. Performing its duties enforcement agent is bound by law and court's orders but is not subordinated to any specific authority. Control, supervision and monitoring of his/her performance as an agent belong to President of the Court, Ministry of Justice and Corporate self-governing bodies. The complaints on agent's acts (legal remedies within enforcement proceeding) are examined by the District Court. The remuneration of the enforcement agent goes directly from the enforcement fees paid by the parties.

106. Number of enforcement agents 590

Source National Council of Court Enforcement Agents

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?

- | | |
|--------------------|-------------------------------------|
| | Yes |
| ▪ a national body? | <input checked="" type="checkbox"/> |
| ▪ a regional body? | <input checked="" type="checkbox"/> |
| ▪ a local body? | <input type="checkbox"/> |

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

Yes No

110. Are enforcement fees:

	Yes
▪ regulated by law?	<input checked="" type="checkbox"/>
▪ freely negotiated?	<input type="checkbox"/>

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:

- | | |
|----------------------------|-------------------------------------|
| | Yes |
| ▪ a professional body? | <input checked="" type="checkbox"/> |
| ▪ the judge? | <input checked="" type="checkbox"/> |
| ▪ the Ministry of justice? | <input checked="" type="checkbox"/> |
| ▪ the prosecutor? | <input type="checkbox"/> |
| ▪ other? | <input type="checkbox"/> |

Please specify:

General supervision is provided by the Ministry of Justice and Presidents of Courts. The claims regarding agent's actions during enforcement procedure are decided by District Courts. Agents are organised in corporate organisation at local and national level. Corporation takes care on setting up the dignity and ethical standards and provides supervision and control of it abeyance .

112. Have quality standards been formulated for enforcement agents?

No

Yes Who is responsible for formulating these quality standards?

Procedural standards of quality (timeframe, time limits, etc.) are stipulated by the law.

Source Ministry of Justice

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

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

rights, non - effective execution,)

Source Ministry of Justice

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

No

Yes Please specify:

Reinforcement of the enforcement proceedings and first of all upgrading its effects is a one of the priority nature of the changes of the justice system. Complex of measures have been already introduced including number of amendments of law and new institution.

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

Comment: However the law require agents to comply with number of previsions setting timeframe of the proceeding.

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

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

Comment: The law requires that first enforcement attempt has to be taken by an agent in 30 days time limit.

Source The law on enforcement agents and execution

117. Disciplinary proceedings and sanctions against enforcement agents:

	Yes /No (If yes, please specify the total number): 193	
Disciplinary proceedings	Breach of professional ethics	18
	Professional inadequacy	111
	Criminal offence	4
	Other	60
Sanctions	Reprimand	95
	Suspension	10
	Dismissal	12
	Fine	23
	Other	63

You can indicate below:

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

Suspension is not a independent sanction – it is temporary measure imposed.

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):

Under the law, this is the judge who is acting as a penitentiary court, responsible for examine, control and deciding in several most important issues concerned to the enforcement of criminal sanctions. The court take care on the condition the penalty of deprivation of liberty is executed. This is up to the penitentiary court do decide on the measures to be granted as probation condition, conditionally release, short term licensed releases, breaks in the penalty execution, etc. The court is also responsible for enforcement of fines imposed.

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

The court in penitentiary proceeding is supported by the enforcement officers who keeps monitoring and supervision upon the sentenced person in regard that conditions of probation and other obligations imposed by the court are applied correctly. The enforcement officer keeps touch with person being sentenced, evaluate his/her behaviour, prepares home studies, etc making factual ground for court's decisions as to the way of judgement is enforced.

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

No
Yes Please specify:

Reports on fines enforcement are prepared by courts monthly and send to Ministry of Justice for evaluation.

You can indicate below:

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

For fines enforcement is responsible the court which imposed the fine. After the decision become final court call the debtor to pay the fine in a time limit of 30 days. Failure in payment has effect that the court sends a writ for enforcement to enforcement agent. If the enforcement action happens to be unenforceable, the court under the debtor agreement can convert the fine into a defined mandatory work of public benefit. Fine can also be converted into supplemental penalty of deprivation of liberty up to 12 months. Before that, the court orders hearing with participation of debtor or his/her attorney. The court can decide on conditionally suspension of execution of supplemental penalty, The debtor could make him/her free of penalty at any time with paying the fine or accepting mandatory work. Depending on circumstances the court can postpone the fine payment or divide it into the rates to be paid.

IX. Notaries

120. Is the status of notaries:

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

Yes
Number
 1623
No
No

- other? No

Please specify:

Notary is a person of public trust when performing his/her function enjoys the protection as a public functionary. Notary operates as self employed in a private office. Notary is paid by the client. Fee limits (maximal) are set by law.

Source *National Council of Notaries, Law on Notary*

121. Do notaries have duties:

- | | Yes | No |
|--|-------------------------------------|-------------------------------------|
| ▪ within the framework of civil procedure? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| ▪ in the field of legal advice? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| ▪ to authenticate legal deeds? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| ▪ other? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
- If yes, please specify:

In principle the notary have a duties listed in the Law on Notary as well as other specific regulations which require that the form of documents must be notarial – prepared and produced by notary. It includes, preparing the notarial deeds and agreements, notarial wills, prepares minutes of meetings, accepts sworn statements, produces excerpts of documents, certifies copies, etc.

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:

- | | Yes | No |
|----------------------------|-------------------------------------|--------------------------|
| ▪ a professional body? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| ▪ the judge? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| ▪ the Ministry of Justice? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| ▪ the prosecutor? | <input type="checkbox"/> | <input type="checkbox"/> |
| ▪ other? | <input type="checkbox"/> | <input type="checkbox"/> |
- Please specify:

Supervision is provided by the Minister of Justice through presidents of Courts as well as Corporate self-governing bodies organised at local and national level.

You can indicate below:

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

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

Efficiency of justice -

- upgrading the supervision system,
- upgrading the system of statistics in justice,
- mediation in civil cases,
- setting up the fast track procedure and 24 hour courts for criminal matters while committed in flagrante,
- reinforcement and changes in penal and penitentiary system, possible introducing electronic supervision and new types of sanction.