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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**

ROMANIA/ROUMANIE

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

REVISED SCHEME FOR EVALUATING JUDICIAL SYSTEMS

**adopted by the CEPEJ at its 5th Plenary Meeting (Strasbourg, 15 – 17 June 2005) and
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REVISED SCHEME FOR EVALUATING JUDICIAL SYSTEMS

COUNTRY:

National correspondent

First Name – Name **Cristi Danilet**

Position **counsellor of the Minister of Justice**

Organisation **Ministry of Justice**

E-mail **cdanilet@just.ro**

Telephone **004-0742-182581**

I. Demographic and economic data

I. A. General information

- 1. **Number of inhabitants** 21.673.328 on 1 July 2004
Source **National Institute of Statistics**
- 2. **Total of annual State public expenditure / where appropriate, public expenditure at regional or federal entity level**

State level	7.494.168.708	€
Regional / entity level	3.422.276.068	€

Source **National Institute of Statistics, www.insse.ro**
- 3. **Per capita GDP** 2718,3 € in 2004
Source **National Institute of Statistics**
- 4. **Average gross annual salary** 2422,77 € in 2004
Source **National Institute of Statistics**

I. B. Budgetary data concerning judicial system

- 5. **Total annual budget allocated to all courts** 119.771.995 €
(4.716.381.638.000 ROL, 1 EUR = 39378 ROL – exchange rate on 31 December 2004)

Source **State budget**

Please specify:

--

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

	Yes	Amount	
▪ Salaries? (3.785.202.636.000 ROL)	<input type="checkbox"/>	96.124.806	€
▪ IT?	<input type="checkbox"/>		€
▪ Justice expenses borne by the State?	<input type="checkbox"/>		€

Source State budget

7. Annual public budget spent on legal aid
(71.303.000.000 ROL) 1.810.732 €

Source State budget

8. If possible, please specify:

▪ the annual public budget spent on legal aid in criminal cases	<input type="checkbox"/>	€
▪ the annual public budget spent on legal aid in other court cases	<input type="checkbox"/>	€

Source

9. Annual public budget spent on prosecution system 2005 - 70.989.086€

Source State budget

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	No	No	Yes	Yes
Other ministry. Please specify	No	No	No	No
Parliament	No	Yes	No	No
Supreme Court				No
Judicial Council	No	No	No	Yes
Courts	Yes	No	Yes	No
Inspection body. Please specify.	No	No	No	Romanian Court of Audit
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**

The Courts of First Instance don't have legal personality; they are subordinated to the Tribunals. The Tribunals are tertiary chief accountant, receiving the budgetary allocations for themselves and for the Courts of First Instance from the Courts of Appeal. The Courts of Appeal are secondary chief accountants, receiving their budgetary allocations from the Ministry of Justice (main chief accountant) and making payments for themselves and for the subordinated Tribunals.

At the elaboration of budget proposals for the courts, the Superior Council of Magistracy issues an endorsement.

The High Court of Cassation and Justice elaborates its own budget, with the advisory endorsement of the Ministry of Public Finances.

II. Access to Justice and to all courts

II. A. Legal aid

11. Does legal aid concern:

	Criminal cases	Other than criminal cases
Representation in court (Yes/No)	Yes	Yes
Legal advice (Yes/No)	Yes	Yes
Other (Yes/No). Please specify	Yes (exemptions, reductions, instalments or postponements referring to the payment of the stamp duties, the judiciary stamp and the bails)	Yes

12. Number of legal aid cases:

- total
- criminal cases
- other than criminal cases

287.698

Source The National Association of the Romanian Bars

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 checked="" type="checkbox"/> | <input type="checkbox"/> |
| ▪ for other than criminal cases? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

Source **Civil Procedure Code, Criminal Procedure Code**

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 |
|--|-------------------------------------|
| ▪ the court? | <input checked="" type="checkbox"/> |
| ▪ a body external to the court? | <input type="checkbox"/> |
| ▪ a mixed decision-making body (court and external)? | <input 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:

There are exceptions for litigants to pay a court tax or fee (actions or claims free of judicial stamps) in cases strictly stipulated by law (*Law no. 146/1997*), referring at:

- labour litigations;
- adoption, defending minors rights;
- contraventions;
- consumer protection;
- claiming of civil damages resulting from infringements of rights stipulated in art. 2 and 3 of the European Convention for the Protection of Human Rights and Fundamental Freedoms.

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

No
Yes Please specify:

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**

Legal aid procedure **in civil matters** doesn't have a contentious character, it doesn't imply contradictory debates. The decision of the court ("minute") to grant or not legal aid is not considered "*res judicata*". Therefore, the petitioner can make any time a new request, accompanied by justifying written documents. Thus, according to article 79 Civil Procedure Code, *the minute regarding the request for legal aid, as well as the one through which the party was bound to pay the owned amounts when the court found that the request for legal aid was made in bad faith are not subject to any mean of judicial review.* According to article 337 Civil Procedure Code, within the not-contentious procedures, *the court has the possibility to revise its own minute and to approve a new request.*

Legal aid can also be granted by the dean of the Bar, upon the litigant's request in special cases, if the rights of the person lacking the financial resources would be damaged by the delay.

The Romanian legislation stipulates the following forms of legal aid **in criminal matters**.

1. Legal aid approved by the courts, prosecution bodies or other institutions of the local public administration – also called "*ex officio*" – in the situations in which the juridical assistance of the accused or of the indicted persons is mandatory, and he/she does not have a chosen lawyer.
2. The court grants the legal aid, *ex officio* or upon request, to the injured party, to the civil party or to the party held responsible for paying the damages, when it appreciates that the party is not able to defend itself in an appropriate manner.
3. The legal aid granted, upon request, to a crime victim or to the civil party, on the condition that he/she is the victim of a serious crime, or has a small income.
4. The legal aid granted by the dean of the Bar, upon the litigant's request in special cases, if the rights of the person lacking the financial resources would be damaged by the delay.

According to article 171 and following Criminal Procedure Code, the accused / the indicted person has the right to be assisted by a lawyer during the criminal prosecution or the trial. Legal aid is mandatory when the accused / indicted person is a minor, performs the military service or the military service on short term, is a reservist, called up or mobilized military, is a student within a military education institution, hospitalized in a re-education centre or an educative military institute, arrested even in a different file, or when the court appreciates that the accused / indicted person is not able to defend himself/herself in an appropriate manner.

During the trial, the juridical assistance is mandatory in all the cases in which the law stipulates for the committed offence life detention or imprisonment of 5 years or more.

When the court appreciates that, for certain reasons, the injured party, the civil party or the party held responsible for paying the damages is not able to defend himself/herself, it orders, *ex officio* or upon request, the necessary measures for the appointment of a lawyer. According to article 189 Criminal Procedure Code, the expenses for the retribution of the lawyers appointed *ex officio* will be paid by the state from the budgets of the Ministry of Justice, the Public Ministry or the Ministry of Administration and Interior.

According to article 192 (6) Criminal Procedure Code, the state bears the expenses for the interpreters appointed by the judiciary bodies, according to the law, for the assistance of the parties.

According to the provisions of the Criminal Procedure Code, the expenses for fulfilling the criminal procedure acts, the administration of evidence and preservation thereof are initially paid by the state, and by the court decision the parties are held to pay these expenses, taking into account the rendered decision (conviction, acquittal, cessation of the criminal trial), to the extent in which these expenses were caused by the parties held to pay them. .

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.just.ro , www.cdep.ro | |
| ▪ case-law of the higher court/s? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Internet address(es): | www.scj.ro , www.ccr.ro , www.csm1909.ro | |
| ▪ other documents (for examples legal forms)? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| Internet address(es): | www.just.ro | |

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	Yes	Yes	Yes	Yes
Victims of terrorism	Yes	Yes	Yes	Yes
Child/Witness/Victim	Yes	Yes	Yes	Yes
Victims of domestic violence	Yes	Yes	Yes	Yes
Ethnic minorities	Yes	Yes	Yes	Yes
Disabled persons	Yes	Yes	Yes	Yes

Juvenile offenders	Yes	Yes	Yes	Yes
Other	Yes	Yes	Yes	Yes

Law no. 211/2004 on some measures for ensuring the protection of crime victims stipulates the measures for informing crime victims on their rights concerning the psychological aid, legal aid and the financial compensation given to the victims by the State.
According to article 4 of this Law, the judges, prosecutors, police officers and agents are bound to give information to the victims on:

- the services and organizations granting psychological aid or any other form of victim assistance
- the prosecution body where the complaint can be made
- the right to legal aid and the institution a person can address to for exercising this right
- the conditions and procedure for granting the legal aid
- parties' procedural rights
- the conditions and procedure for benefiting of personal data protection (*Law no. 672/2002 on the witnesses protection*)

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

Yes No

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

- | | |
|------------------|-------------------------------------|
| | Yes |
| ▪ a public fund? | <input checked="" type="checkbox"/> |
| ▪ a court order? | <input checked="" type="checkbox"/> |
| ▪ private fund? | <input type="checkbox"/> |

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

a) the persons who are victims of an attempt of murder, first degree murder or aggravated murder, stipulated at article 174- 176 Criminal Code, the offence of serious corporal injury, stipulated at article 182 Criminal Code, an intentional offence causing the serious corporal injury of the person, the offence of rape, sexual act with a minor and sexual perversion, stipulated at articles 197, 198, and 201 para 2-5 Criminal Code.
b) the spouse, the children and the persons under the care of the persons who died as a result of a murder, first degree murder and aggravated murder, stipulated at articles 174- 176 Criminal Code or of other offences committed with intention and which resulted in the death of the person.

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

- wrongful condemnation?

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

Articles 504-507 Criminal Procedure Code regulate the conditions in which a person wrongfully arrested or condemned can receive compensation from the state. The amount of compensation is decided by the competent court, based on the concrete circumstances of the case, and is paid from the funds of the Ministry of Public Finances.

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:

The magistrates' perception on the independence of the judiciary system 2005 – survey for magistrates (judges and prosecutors), organized by the Superior Council of Magistracy and carried out by Transparency International Romania

The evaluation of the integrity and resistance to corruption of the judiciary 2003 - survey for judges organized and carried out by the Ministry of Justice.

30. If yes, please specify:

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

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

Yes No

32. If yes, please specify:

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

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

There isn't any general procedure regarding the functioning of the judiciary system, but there are some regulations on complaints regarding concrete aspects, as:

- Any person can make a complaint at the Superior Council of Magistracy regarding the inappropriate behaviour of judges.
- Judges can make complaints at the Superior Council of Magistracy for some deeds that could have a negative impact on their independence and impartiality.

III. Organisation of the court system

III. A. Functioning

33. Total number of courts (administrative structure):

- **first instance courts of general jurisdiction**

- 188 Courts of First Instance (presently 177 are functioning)
- 42 Tribunals (one Tribunal – Ilfov - is not functioning, but the proceedings for making it functioning are going on).
- 15 Courts of Appeal

Cases are judged in first instance by the Courts of First Instance, but Tribunals and Courts of Appeal also have competence to judge in first instance in some matters.

Source [Superior Council of Magistracy](#)

- **specialised first instance courts**

4

Source [Superior Council of Magistracy](#)

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

There are 3 tribunals specialized in commercial matters and 1 tribunal specialized in cases involving minors and family.

Within all Tribunals (except the ones in the counties in which there are specialized tribunals in the above mentioned matters) and all Courts of Appeal there are specialized sections or panels for civil matters, criminal matters, commercial matters, cases involving minors and family, administrative and fiscal contentious matters, labour litigations and social insurances matters, and intellectual property matters.

Within the Courts of First Instance there are specialized panels for cases involving minors and family, civil matters, criminal matters, land matters, as well as other matters, taking into consideration the nature and the number of cases. Sections for civil and criminal matters have been set up within 10 Courts of First Instance.

34. Total number of courts (geographic locations)

cca. 250

Source <http://portal.just.ro>

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

- **a debt collection for small claims** In civil matters, all the Courts of First Instance have the competence to solve patrimonial litigations regarding a value up to 5 billions ROL (approx.

126.975 EUR) and the Tribunals have competence for claims regarding amounts over 5 bn. ROL, according to their territorial competence.

In commercial matters, all the Courts of First Instance have the competence to solve patrimonial litigations regarding a value up to 1 billion ROL (approx. 25.395 EUR), and the Tribunals have competence for claims regarding amounts over 1 bn. ROL, according to their territorial competence.

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

In the Romanian legislation there is no specific procedure regarding the small claims, but the jurisprudence has showed that the procedure on the payment order, stipulated in a Government Ordinance in 2001, is applied many times for small claim cases.

Adopting the *Government Ordinance no. 5/2001 on the payment order procedure*, approved with amendments by the *Law no. 295/2002*, with further amendments, was part of the *measures aiming at offering the creditors a simple, fast, low cost procedures for obtaining the writs of execution regarding the debts through the coercive enforcement procedure*.

Presently, the payment order procedure is widely applicable in many concrete cases. This procedure has a facultative character, is cheaper and it is applied only if certain conditions regarding the nature of the debt are met.

Thus, for proceedings simplification, this procedure is applied only to the obligations resulting **from contracts or other written documents attesting the parties' convention and refer to a certain, and due sum of money**.

Although the criteria for the payment order applicability is not the value of the claim, the simplified procedure is applied only to the obligations regarding the payment of a sum of money, if the other above mentioned conditions concerning the nature of debt are met. Thus, this procedure is generally made use of in cases with a low complexity.

▪ **a dismissal** Labour litigations, including dismissals, are solved, in first instance, at the level of all the 41 Tribunals, by the sections or panels specialized in these matters.

▪ **a robbery** All 41 Tribunals, according to their territorial competence

36. **Number of professional judges sitting in courts** 4315

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

Source Ministry of Justice

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

- gross figure
- if possible, in full time equivalent

Source

Please specify:

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

Number of remunerated non-professional judges 170

Source Superior Council of Magistracy

Please specify:

In labour litigations, besides the professional judge, the panel also includes two judicial assistants, who are members of trade unions and of employers' associations.

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

No

Yes For which type of case(s)?

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

40. Number of non-judge staff who are working in courts

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

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:

▪ 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):

▪ technical staff:

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

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

Source

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

No

Yes Please specify:

In very simple criminal cases (e.g. hitting) the law provides the victim's possibility to make a complaint regarding the offence directly to the judge, without involving the prosecutor.

45. Is the status of prosecutors:

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

Yes

X

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

Source

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

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

Yes, but only 20% of the necessary IT equipment in the courts is covered

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	Approximately 100% of the courts, but on a small number of computers (users) in each court.			

	Electronic data base of jurisprudence	Approximately 100% of the courts, but on a small number of computers in each court.			
	Electronic files			Approximately 10% of the courts, but on insufficient number of computers in each court.	
	E-mail			Approximately 40% of the courts, but for a small number of users in each court	
	Internet connection			Approximately 40% of the courts, but for a small number of users in each court	
Administration and management	Case registration system			Approximately 10% of the courts, but on insufficient number of computers in each court	
	Court management information system			Approximately 10% of the courts, but on insufficient number of computers in each court	
	Financial information system			Approximately 10% of the courts, but on insufficient number of computers in each court	
Communication between the court and the parties	Electronic forms				No
	Special Website	For each court (portal of the courts on the web			

	site of the Ministry of Justice)			
Other electronic communication facilities				

Source Ministry of Justice

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

No
 Yes

Please specify the name and the address of this institution:

The judiciary statistics is mainly the attribution of the Ministry of Justice, but the statistical data are also processed by the National Institute of Statistics (on the basis of the data received from the Ministry of Justice and the Superior Council of Magistracy) and the Superior Council of Magistracy

Address of the Ministry of Justice
 Apolodor Str., No. 17, District 5
 050741 Bucharest

Address of the Superior Council of Magistracy
 Plevnei Road no. 141B, District 6
 060011 Bucharest

You can indicate below:

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

The Ministry of Justice is the institution responsible for the administration of justice. It administrates the budget of the courts. (Starting with January 1st, 2008, the competences of the Ministry of Justice regarding the administration of the budget of the courts of appeal, tribunals, specialised tribunals and courts of first instance shall be taken over by the High Court of Cassation and Justice.)

The judges' and prosecutors' career (recruitment, promotion, transfer, sanctions) is managed by the Superior Council of Magistracy, made up of 19 members, out of which 9 judges, 5 prosecutors, the Minister of Justice, the President of the High Court of Cassation and Justice, the General Prosecutor of the Prosecutor's Office attached to the High Court of Cassation and Justice and 2 representatives of the civil society.

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

Please specify:

The statistical system of gathering and analyzing the data regarding the courts' activity highlights periodically (quarterly) the situation of the workload of each court, on various matters, the new registered cases, the backlog, the number of solved cases, the duration of the procedures, the number of decisions quashed by the courts of judiciary control, the workload / judge.

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

No

Yes **Please specify:**

Analyses on the courts' activity and proposals regarding the necessary measures are made at the level of the Superior Council of Magistracy

54. Concerning court activities, have you defined:

▪ performance indicators? Yes No

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

For creating of a transparent and objective system of monitoring the judiciary performance, the indicators of judiciary performance are pending elaboration at the level of the Superior Council of Magistracy. For the same purpose, a project financed by the World Bank is going on.

▪ targets? Yes No

Please specify who is responsible for setting the targets:

Yes
- executive power?
- legislative power?
- judicial power?
- other? **Please specify:**

Please specify the main objectives applied:

With regard to the evaluation of the professional activity of the judges and prosecutors, the regulation approved by the Superior Council of Magistracy stipulates that the evaluation of judges and prosecutors aims at improving their professional performances, increasing the efficiency of the courts and prosecutor's offices activity, as well as strengthening the public confidence in the Judiciary.

Source Superior Council of Magistracy

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

Yes
▪ the High Council of judiciary?
▪ the Ministry of justice?
▪ an Inspection body?
▪ the Supreme Court?
▪ an external audit body?
▪ other? **Please specify:**

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

No

Yes Please specify:

The system of evaluation regarding the professional activity of judges and prosecutors takes into consideration, among other criteria, the quality of the activity.

Source Superior Council of Magistracy

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"/>

The statistical system presently used allows the identification, for the different reference periods (quarters, semesters, years) of the backlog and of the new registered cases, for all the above-mentioned matters, as well as the number of solved cases in different time periods (0-6 months, 6-12 months, 1-2 years, 2-3 years, more than 3 years).

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

No

Yes Please specify:

The period for solving the cases is mentioned taking into consideration the different levels of jurisdiction and it does not include the time of sending the files between the levels of jurisdiction.

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

No

Yes Please specify:

According to the Internal Regulation of the Prosecutor's Offices, approved by the Ministry of Justice, with the endorsement of the Superior Council of Magistracy, the prosecutor's offices activity is evaluated every quarter, semester and year on the basis of the statistical data of each prosecutor's office that are centralized at the Public Ministry level.

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?

Source

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):

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

		Cases communicated by the Court		Cases declared inadmissible by the Court		Friendly settlements		Judgements establishing a violation		Judgements establishing a non violation	
		2003	2004	2003	2004	2003	2004	2003	2004	2003	2004
Criminal proceedings	Article 6§1 (equity)	1	2	-	2	-	1	-	1	-	-
	Article 6§1 (duration)	1	3	-	-	-	-	1	-	-	-
	Article 6§2	2	3	-	-	-	2	-	-	-	-
	Article 6§3a	-	-	-	-	-	-	-	-	-	-
	Article 6§3b	-	1	-	-	-	1	-	-	-	-
	Article 6§3c	1	1	-	-	-	1	-	-	1	-
	Article 6§3d	-	-	-	-	-	-	-	-	-	-
	Article 6§3e	-	-	-	-	-	-	-	-	-	-
Civil proceedings	Article 6§1 (equity)	9	12	1	7	-	2	15	5	1	-
	Article 6§1 (duration)	1	5	-	-	-	1	-	-	-	-
	Article 6§1 (non execution only)	26	16	-	-	-	2	1	2	-	-

Source Government Agent for ECHR

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 checked="" type="checkbox"/> | <input type="checkbox"/> |
| ▪ administrative cases? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
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 checked="" type="checkbox"/> | <input 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 conclusions and dates of hearings)?
- No Yes Please specify:
-

IV. B. 2. Civil and administrative cases

68. **Total number of civil cases in courts (litigious and not litigious):**
- Please specify the main types of cases:**
- Various cases, for example: recovery of debts, family relations, annulment of civil legal acts, claims of property, contraventions.

Source

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
Incoming cases				
- Court of First Instance	529.536		44.759	
- Tribunals	66.422	12.120		768
- Courts of Appeal		5.067		
Decisions on the merits				

Total number (1st instance)	- Court of First Instance	485.703		38.389	
	- Tribunals	58317	10.011		702
	- Courts of Appeal		4.767		
	Percentage of decisions subject to appeal in a higher court	Appealed 14,6 % Second appealed 31,2%	Second appealed at the Courts of Appeal 66,2%	9,5%	34%
	Pending cases by 1 January 2005	159.659	6.290	16.916	558
	Percentage of pending cases of more than 3 years	As the backlog is deducted at the end of the stage from 0-6 months, 6-12 months and over 1 year last and suspended, so is not possible to calculate the percentage of over 3 years pending cases.			
Average length (from date of lodging of court proceedings*)	1st instance decisions	6,9 months	7,1 months	7,5 months	7,1 months
	2nd instance decisions	6,5 months	6,9 months	6 months	7 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?

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

Source Superior Council of Magistracy

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?	X	<input type="checkbox"/>
▪ to supervise enforcement procedure?	X	<input type="checkbox"/>
▪ to end the case by dropping it without the need for a judicial decision?	<input type="checkbox"/>	<input type="checkbox"/>
▪ to end the case by imposing or negotiating a penalty without a judicial decision?	X	<input type="checkbox"/>
▪ other significant powers?	<input type="checkbox"/>	<input type="checkbox"/>

Please specify:

According to article 60 of the *Law no. 304/2004 on judicial organization*, public prosecutors exercise the following powers, along the others mentioned above:

- to initiate civil actions, in the cases stipulated by the law;
- to defend the legitimate rights and interests of minors, of persons laid under interdiction, of missing persons and other persons, under the terms of the law;
- to act in order to prevent and control crime, under the co-ordination of the Minister of Justice;

- to study the causes that generate or favour crimes;
- to check the manner in which the law is respected in the places for preventive arrest.

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

No
 Yes

Please specify:

According to article 45 Civil Procedure Code, the Public Ministry can initiate the civil action every time it is necessary for defending the legitimate interests of minors, persons placed under interdiction and missing persons and in others cases stipulated by law.
 If the prosecutor initiated the action, the entitled person becomes party in the trial and can claim the proceeding on of the trial, even if the prosecutor withdrew the action.
 The prosecutor can draw conclusions in any civil trial, in any phase of he/she appreciates that it is necessary to defend the legal order of fundamental rights and freedoms of citizens. In certain cases stipulated by the law, prosecutor's participating and drawing conclusions are mandatory.

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		661.355
Discontinued by the public prosecutor	In general	321.219 decisions not to charge (dropping of criminal pursuit, ceasing of criminal pursuit, closing of criminal pursuit and non-initiation of criminal pursuit)
	Because the offender could not be identified	No statistical evidence.
	Due to the lack of an established offence or a specific legal situation	
Concluded by a penalty, imposed or negotiated by the public prosecutor		96.976 persons administratively sanctioned (based on article 18 ¹ Criminal Code)
Charged by the public prosecutor before the courts		49.185 indictments in the court

Source Public Ministry, Prosecutor's Office attached to the High Court of Cassation and Justice – Judicial Statistics Office

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			
	Judicial decisions			
	Convicted persons			
	Acquitted persons			

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

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

Source

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

X, SCM*

* SCM = Superior Council of Magistracy

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

X, SCM*

* SCM = Superior Council of Magistracy

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

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

According to the provisions of article 12 and following of the *Law 303/2004 on the status of judges and prosecutors*, the recruitment of the judges and prosecutors shall take place based on their professional competence, abilities, and good reputation.

The main recruitment system for judges and prosecutors is out of the graduates of the 2-year training organised within the National Institute of Magistracy (NIM), which functions under the coordination of the Superior Council of Magistracy (SCM).

After completing the courses within the NIM and after having passed the graduate examination, the justice auditors (students of the NIM) shall be appointed for 1 year as probationary judges and public prosecutors by the Superior Council of Magistracy (SCM). At the end of the probation period, an examination is organised. Judges and prosecutors who pas this final examination are appointed in their positions for an undetermined time by Decree of the Romanian President, at the proposal of SCM.

Exceptionally (e.g. deficit of magistrates), judges and prosecutors can be recruited out of law graduates who have more than 5 years juridical activity (examination) and out of former judges or prosecutors and lawyers with more than 10 years activity (interview with the SCM). In both cases, the recruited persons undergo a professional training course for 6 months within the NIM.

77. Nature of the training of judges:

	Compulsion (Yes/No)		Frequency (Yes/No)	
Initial training	Compulsory	Yes	Yes	
	Highly recommended			
	Optional			
General in-service training	Compulsory	Yes	Annual	
	Highly recommended		Regular	Yes (once every 3 years)

	Optional		Occasional	
In-service training for specialised functions (e.g. judge for economic or administrative issues)	Compulsory	Yes (computer literacy and foreign languages)	Annual	
	Highly recommended		Regular	Yes
	Optional	Yes (judges acting as spokespersons for the court)	Occasional	
In-service training for specific functions (e.g. head of court)	Compulsory		Annual	
	Highly recommended		Regular	
	Optional	Yes	Occasional	

78. Nature of the training of prosecutors:

	Compulsion (Yes/No)		Frequency (Yes/No)	
	Initial training	Compulsory	Yes	Yes
	Highly recommended			
	Optional			
General in-service training	Compulsory	Yes	Annual	
	Highly recommended		Regular	Yes (once every 3 years)
	Optional		Occasional	
Specialised in-service training	Compulsory	Yes (computer literacy and foreign languages)	Annual	
	Highly recommended		Regular	
	Optional	Yes (prosecutors acting as spokespersons for the Prosecutor's Office)	Occasional	

You can indicate below:

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

Initial professional training in view of taking up a judge or public prosecutor's position is provided by the National Institute of Magistracy (NIM) and takes place in compliance with the principles of transparency and equality.

Annually, the NIM organises an admission examination. The students of the NIM are called auditors of justice.

The initial professional training within the NIM consists of the justice auditors' theoretical and practical training, so that they can become judges or public prosecutors. The length of the justice auditors' training is 2 years and their training programme is drafted by the NIM and approved by the SCM.

The responsibility for the in-service professional training of judges and public prosecutors belongs to the National Institute of Magistracy, the heads of the Courts of law or Public Prosecutor's Offices where they carry out their activity, as well as to each judge and prosecutor, by means of individual training.

The further professional training of judges and prosecutors shall be achieved by taking into account the need for their specialization participating, at least once every 3 years, in further professional training programmes organized by the NIM, Romanian or foreign higher education institutions, or by means of other forms of professional training improvement.

Within each court of appeal and within each Public Prosecutor's Office next to a court of appeal, further professional training activities shall be organized periodically, consisting of consultations, debates, seminars, sessions or round tables, with the participation of the National Institute of Magistracy. The topics for such reunions shall be approved by the Superior Council of Magistracy.

In order to check that the judges' and prosecutors' professional competence criteria are met, their activity shall be subjected to an every 3 years evaluation concerning their integrity, the quick solving of cases, the quashing of judgments, the obligation to undergo the further professional training and, concerning the judges and prosecutors appointed in managerial positions, the compliance with their professional duties.

Judges and prosecutors who receive the mark "unsatisfactory" following the above-mentioned evaluation or the mark "satisfactory", following two consecutive such evaluations, shall be bound to attend special courses organized by the NIM, for a period between 3 and 6 months and shall end with an examination.

A judge or a prosecutor who receives the mark "unsatisfactory" twice consecutively or the one who has not passed the examination stipulated above shall be released from position for professional inability, by the President of Romania, following the proposal by the SCM (article 41, Law no. 303/2004).

V. B. Practice of the profession

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

In-service experience 0 – 6 months = 15,972 RON (approx. 4,056 EUR)

In-service experience 2 – 4 years = 39,036 RON (approx. 9,913 EUR)

Source State budget

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

Between min. 69,444 RON (approx. 17,635 EUR) and max. 79,356 RON (approx. 20,152 EUR)

Source State budget

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

In-service experience 0 – 6 months = 15,972 RON (approx. 4,056 EUR)

Source State budget

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

Source

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	Yes	Yes
Other financial benefit (If yes, please specify)	Yes	Yes

Additional benefits for judges and public prosecutors:

- Judges and public prosecutors shall benefit from an insurance for professional risk, paid from the budgetary funds of the High Court of Cassation and Justice, the Ministry of Justice or the Public Ministry, for life, health and property, if is affected during exercising professional duties or is related with.
- Judges and prosecutors in office or retired, as well as the spouses and children under their financial care, shall benefit, free of charge, from medical assistance, drugs, and prosthetic devices, provided that the provisions of the law on the payment of the social security contribution have been complied with
- Each year, judges and prosecutors, shall benefit from 6 free first-class round trips inside Romania, on railway, road, ship, and air; once a year, during the paid leave and if they travel by car to a holiday place in Romania, the equivalent of 7,5l of fuel per one hundred kilometres shall be reimbursed to them.

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

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:

Reasons for disciplinary procedures		Judges	Prosecutors
		Total number	
Breach of professional ethics (Yes/No) If yes, please specify the number			
Professional inadequacy (Yes/No) If yes, please specify the number			

	Criminal offence (Yes/No) If yes, please specify the number		
	Other (Yes/No) If yes, please specify		
Types of sanctions	Total number		
	Reprimand (Yes/No) If yes, please specify the number		
	Suspension (Yes/No) If yes, please specify the number		
	Dismissal (Yes/No) If yes, please specify the number		
	Fine (Yes/No) If yes, please specify the number		
	Other (Yes/No) If yes, please specify		

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**

According to the provisions of the *Law no. 303/2004 on the status of judges and prosecutors*, judges and public prosecutors shall be liable from the disciplinary point of view for departures from the job duties, as well as for actions affecting the prestige of the institution.

Disciplinary departures are considered, among others:

- the violation of the provisions of the law concerning declarations of assets, declaration of interests, incompatibilities and interdictions related to judges and prosecutors;
- interventions for the solution of petitions regarding the satisfaction of personal interests or interests of family members or of other persons, in a different way out of general legal system, as well as interference with another magistrate's activity;
- carrying out public political activities or expressing political convictions in the exercise of a magistrate's service duties;
- failure to comply with the secrecy of deliberations or confidentiality of paperwork of such nature;
- failure to repeatedly and imputably comply with the provisions of the law on the quick solving of causes;
- unjustified refusal to file the petitions, conclusions, memoranda or papers submitted by the parties in the trial;
- unjustified refusal to accomplish the duties of the office;
- solving paperwork with bad faith or gross negligence, unless the action represents an offence;
- delayed completion of paperwork from imputable reasons;
- missing work without leave, repeatedly;
- disrespectful attitude towards colleagues, lawyers, witnesses, or petitioners during the exercise of their job duties;
- disrespect of provisions regarding the random distribution of cases;

According to the provisions of the *Law no. 317/2004 on the Superior Council of Magistracy*, the SCM shall accomplish, in separate sections for judges and prosecutors, the role of a disciplinary court.

A preliminary investigation is mandatory, and is carried out by inspector judges or inspector prosecutors within the Judicial Inspection Service. The preliminary investigation shall establish the facts and their consequences, the circumstances under which they were committed, the presence or absence of guilt, and any other conclusive data. Hearing the person in question in order to allow him/her a proper defence is mandatory. The refusal of the judge or prosecutor under investigation to make declarations or to appear for the investigations shall be stated in a written report, and shall not prevent the investigation from being concluded. The judge or prosecutor under investigation shall be entitled to be informed about all the investigation facts and to request evidence in his/her defence.

The result of the prior investigation of the disciplinary action shall be notified to the competent disciplinary section within the SCM. The disciplinary action shall be dealt with within one year of the date on which the undisciplinary act was committed.

In the disciplinary procedure before the sections of the SCM, the calling of the judge or prosecutor against whom the disciplinary action is being brought is mandatory. The judge or prosecutor may be represented by another judge or prosecutor, or may be assisted or represented by a lawyer. The judge or prosecutor and, as the case may be, his/her representative or lawyer shall be entitled to become acquainted with all the file documents and may wish to produce evidence in his/her defence.

In case the sections of the SCM find that the notification has good grounds, they shall apply one of the disciplinary sanctions stipulated by the law, in relation to the seriousness of the disciplinary offence committed by the judge or prosecutor and to his/her personal circumstances.

The sections of the SCM solve the disciplinary action by means of a decision including, mainly, the following:

- description of the action constituting a disciplinary offence and its legal classification;
- the sanction applied and its legal motivation;
- reasons for which the arguments of the investigated judge or prosecutor were rejected;
- the legal means and the time limit for contesting the decision;
- the court competent to review the decision.

VI. Lawyers

87. Number of lawyers practising in your country 16.000

Source The National Association of the Romanian Bars

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	
	Defendant	Yes		Member of family	
				Trade Union	
				NGO	

Criminal cases*	Victim	No	Other	
			Member of family	Yes
			Trade Union	No
			NGO	No
			Other	Yes
Administrative cases*	No		Member of family	Yes
			Trade Union	No
			NGO	Yes (discrimination cases)
			Other	No

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

90. Is the lawyer profession organised through?

- a national bar?
- 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?
- regulated by Bar association?
- freely negotiated?

Yes



96. Have quality standards been formulated for lawyers?

Yes No

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

- the bar association?
- the legislature?
- other?

Yes

Please specify:

98. Is it possible to complain about :

- the performance of lawyers?

No
Yes

Please specify:

The complaint shall be registered at the Bar.

- the amount of fees?

Yes No

99. Disciplinary proceedings and sanctions against lawyers:

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

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

- a professional body?

Yes
No

Please specify:

Disciplinary Commission within the Bar Association
Central Disciplinary Commission

- the judge?
- the Ministry of justice?
- other?

Please specify:

Disrespect of judge's or prosecutor's dispositions causes the pecuniary penalty of the lawyer.

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	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	
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	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	
Criminal cases	Compulsory stage prior	No	Private mediator	
			Public or authorised	

to court proceedings		by court body	
		Court	
Compulsory stage in court proceedings	No	Judge	
Ordered by judge in certain cases	No	Prosecutor	

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 civil matters, the judge is bound to try reaching the peaceful agreement between the parties. There is not a mediation system in force yet.
 In criminal matters, an agreement is possible only in very simple cases and strictly stipulated by the law..

VIII. Enforcement of court decisions

VIII. A. Execution of decisions in civil matters

105. Are enforcement agents:

- judges?
 - bailiff practising as private profession ruled by public authorities?
 - bailiff working in a public institution?
 - other enforcement agents?
- Please specify their status:

Yes

X

[Law no. 188/2000 on bailiffs](#)

106. Number of enforcement agents **333**

Source Order of the minister of justice no. 2148/C/2004 on updating the number of bailiffs

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?
▪ 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:

Yes
▪ regulated by law? (minimum & maximum)
▪ freely negotiated? (between the minimum & maximum)

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?
▪ the judge?
▪ the Ministry of justice?
▪ the prosecutor?
▪ other?

Please specify:

112. Have quality standards been formulated for enforcement agents?

No

Yes Who is responsible for formulating these quality standards?

- Legislative power (Parliament) – e.g. law on the organisation of the bailiff profession
- Executive (minister of justice) – e.g. orders on establishing fees
- professional organization (National Union of Bailiffs)

Source Ministry of Justice

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 checked="" 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 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:

- Regulations on organization and professional admission procedure as bailiff
- Regulations on establishing minim and maxim fees
- Regulations on eliminating the condition of payment of the fee in advance for writ execution

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"/>

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 type="checkbox"/>
▪ more: please specify <input type="checkbox"/>	<input type="checkbox"/>

Source Civil Procedure Code

117. Disciplinary proceedings and sanctions against enforcement agents:

	Yes /No (If yes, please specify the total number)	
Disciplinary proceedings	Breach of professional ethics	Yes
	Professional inadequacy	
	Criminal offence	Yes
	Other	
Sanctions	Reprimand	
	Suspension	Yes, 7
	Dismissal	Yes, 1
	Fine	
	Other	

You can indicate below:

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

The procedure for the initiation of coercive enforcement was recently simplified (*Law no. 219/2005 amending the Civil Procedure Code*):

- The decisions for vesting a judgement with writ of execution (*exequatur*) and the decisions for approving coercive enforcement are **irrevocable**,
- The decision rejecting the request to vest with writ of execution or rejecting the request for coercive enforcement can be appealed against **only once**, instead of twice,
- The court decisions rendered in first instance in **commercial** matters are enforceable and the appeal does not suspend the enforcement *ope legis* – instead the enforcement may be suspended only by express decision,
- The irrevocable judgement in commercial cases is **writ of execution** without any further formality,
- If the debtor is not executing of his/her own will within the term specified in the court's order, then the bailiff will proceed immediately in the writ execution. The terms stipulated by the court may be, depending of the type of writ execution, within: 1 day, 5 days, 10 days or 15 days.

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):**

Within every Court there is a delegated judge in charge with enforcement of courts decisions in criminal cases (there is an Office for Enforcement of Criminal Decisions in each court in charge with the execution of penalties in criminal matters). This judge issues the enforcement warrant and verifies the execution.

The prosecutor checks up for respecting the law in the detention places.

Probation services are responsible for the protection of victims and the social reintegration of criminal offenders, without judicial personality, which function under the authority of Ministry of Justice. They are attached to the 41 Tribunals and are in charge with execution of non-privative criminal penalties. These specialized services supervise the way in which convicted persons (minors and adults) maintained in freedom, respect the measures of supervision stipulated by law as well as the obligations established by the courts. At the request of the convicted persons, the probation services provide assistance and consultancy.

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

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

No
Yes **Please specify:**

You can indicate below:

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

IX. Notaries

120. Is the status of notaries:

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

Yes	Number
<input type="checkbox"/>	<input type="checkbox"/>
X	1299

Please specify:

Liberal profession organised based on a special law (*Law no. 36/1995*)

Source 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 type="checkbox"/>	<input type="checkbox"/>
X	<input type="checkbox"/>
X	<input type="checkbox"/>
<input 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?

Yes
X

- the judge? X
- the Ministry of justice? X
- the prosecutor?
- other?

Please specify:

You can indicate below:

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

The notary fulfills a service of public interest .The notaries are organized as a liberal profession under the authority of Ministry of Justice. .
 The notary's appointment, suspension and ceasing of activity are ordered by the Minister of Justice.
 Updating the number of notaries is made by order of the Minister of Justice at the proposal of the Board of the National Union of Notaries.
 Minimal notary fees are approved by Order issued by Minister of Justice. The fees are freely negotiated, but not under the minimal fees approved as mentioned.

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

The Strategy for the Reform of the Judiciary 2005 – 2007 envisages the following:

- Guaranteeing the **independence of the Judiciary**;
- Improving **the quality and the efficiency of the act of justice**;
- Ensuring the **transparency of the act of justice**;
- Increasing the **accountability of the Judiciary**;
- Guaranteeing **free access to justice**;
- Rendering **juvenile justice** efficient;
- Strengthening the **business environment**;
- Strengthening the **international judicial cooperation**;
- Improving the **prison conditions**;
- **Protection of victims** and **social reintegration** of offenders;
- Preventing and combating **corruption within the Judiciary**..

For all the above-mentioned objectives, the Action Plan provides detailed measures, with clear deadlines and responsible institutions.