



Strasbourg, 10 September 2006

CEPEJ (2006)  
**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**

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**TURKEY/TURQUIE**

Strasbourg, 15 September 2005  
**CEPEJ (2005) 2 REV 2**



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

**REVISED SCHEME FOR EVALUATING JUDICIAL SYSTEMS**

**adopted by the CEPEJ at its 5<sup>th</sup> Plenary Meeting (Strasbourg, 15 – 17 June 2005) and  
approved by the Committee of Ministers on 7 September 2005  
(936<sup>th</sup> meeting of the Ministers' Deputies)**

## Contents

<b>I. Demographic and economic data</b> .....	<b>p. 3</b>
I. A. General information.....	p. 3
I. B. Budgetary data concerning judicial system.....	p. 3
<b>II. Access to Justice and to all courts</b> .....	<b>p. 5</b>
II. A. Legal aid.....	p. 5
II.B. Users of the courts and victims .....	p. 6
II.B.1. Rights of the users and victims .....	p. 6
II.B.2. Confidence of citizens in their justice system.....	p. 8
<b>III. Organisation of the court system</b> .....	<b>p. 9</b>
III.A. Functioning .....	p. 9
III.B. Monitoring and evaluation .....	p. 13
<b>IV. Fair trial</b> .....	<b>p. 15</b>
IV.A. Fundamental principles.....	p. 15
IV.B. Timeframes of proceedings .....	p. 16
IV.B.1. General .....	p. 16
IV.B.2. Civil and administrative cases.....	p. 17
IV.B.3. Criminal cases.....	p. 18
<b>V. Career of judges and prosecutors</b> .....	<b>p. 20</b>
V.A. Appointment and training .....	p. 20
V.B. Practice of the profession .....	p. 22
V.C. Disciplinary procedures .....	p. 23
<b>VI. Lawyers</b> .....	<b>p. 24</b>
<b>VII. Alternative Dispute Resolution</b> .....	<b>p. 27</b>
<b>VIII. Enforcement of court decisions</b> .....	<b>p. 29</b>
VIII.A. Execution of decisions in civil matters .....	p. 29
VIII.B. Enforcement of decisions in criminal matters .....	p. 31
<b>IX. Notaries</b> .....	<b>p. 32</b>

## REVISED SCHEME FOR EVALUATING JUDICIAL SYSTEMS

COUNTRY: TURKEY

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I. Demographic and economic data

### I. A. General information

- |           |   |                         |
|-----------|---|-------------------------|
| <b>1.</b> | <b>Number of inhabitants (2004)</b>   | <b>71152000</b>         |
|           | <i>Source</i> Turkish Statistics Institution  |                         |
| <b>2.</b> | <b>Total of annual State public expenditure / where appropriate, public expenditure at regional or federal entity level</b> |                         |
|           | State level (2004)  | <b>79.312.575.000 €</b> |
|           | Regional / entity level   | <b>N/A</b>              |
|           | <i>Source</i> Turkish Statistics Institute  |                         |
| <b>3.</b> | <b>Per capita GDP (2004)</b>  | <b>3.359 €</b>          |
|           | <i>Source</i> Turkish Statistics Institute  |                         |
| <b>4.</b> | <b>Average gross annual salary (2004)</b>   | <b>7782,96 €</b>        |
|           | <i>Source</i> OECD  |                         |

### I. B. Budgetary data concerning judicial system

- |           |   |                          |
|-----------|---|--------------------------|
| <b>5.</b> | <b>Total annual budget allocated to all courts (2004)</b> | <b>333.217.760,180 €</b> |
|-----------|---|--------------------------|

*Source* Department of Strategy Development, Ministry of Justice

**Please specify:**

*The budget of the courts includes the budget of the public prosecution system.*

- |           |   |  |
|-----------|---|--|
| <b>6.</b> | <b>Within this budget, can you isolate the following budgets and specify, if appropriate, their amount:</b> |  |
|-----------|---|--|

	Yes	Amount
▪ Salaries?		<b>242.218.891,40</b>

**Please note that this amount includes the salaries of the prosecutors and the staff working for the prosecution system.**

▪ IT?		<b>3.015.271,49</b>
-------	--	---------------------

- **Justice expenses borne by the State?** **75.750.000,00 €**

Source : **Head of Administrative and Financial Affairs.**

7. **Annual public budget spent on legal aid (2004)** **13.626.853,37 €**

Source **Head of Association of Bars**

8. **If possible, please specify:**

- **the annual public budget spent on legal aid in criminal cases** **11.274.145,07 €**
- **the annual public budget spent on legal aid in other court cases** **2.352.708,29 €**

Source **Head of Association of Bars**

9. **Annual public budget spent on prosecution system**

**The same data is valid given under question 5**

Source **Department of Strategy Development, Ministry of Justice**

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

	<b>Preparation of the budget (Yes/No)</b>	<b>Adoption of the budget (Yes/No)</b>	<b>Management and allocation of the budget among courts (Yes/No)</b>	<b>Evaluation of the use of the budget (Yes/No)</b>
Ministry of Justice	<b>YES</b>	<b>NO</b>	<b>YES</b>	<b>YES</b>
Other ministry. Please specify	<b>YES</b>	<b>NO</b>	<b>NO</b>	<b>NO</b>
Parliament	<b>NO</b>	<b>YES</b>	<b>NO</b>	<b>NO</b>
Supreme Court	<b>NO</b>	<b>NO</b>	<b>NO</b>	<b>NO</b>
Judicial Council	<b>NO</b>	<b>NO</b>	<b>NO</b>	<b>NO</b>
Courts	<b>NO</b>	<b>NO</b>	<b>NO</b>	<b>NO</b>
Inspection body. Please specify.	<b>NO</b>	<b>NO</b>	<b>NO</b>	<b>NO</b>
Other. Please specify	<b>NO</b>	<b>NO</b>	<b>YES</b> <i>Public prosecutions are also responsible for the management and allocation of the budget among courts.</i>	<b>NO</b>



You can indicate below:

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

*The budget of the Ministry of Justice includes the budget of the courts and the public prosecution system. The budget of the Ministry of Justice is prepared by the Ministry of Justice. The Ministry of Justice negotiates with the Ministry of Finance to finalize the budget. Then the budget is sent to the Turkish Parliament. Turkish Parliament adopts the budget. The Ministry of Justice and public prosecutions is responsible for the management and allocation of the budget among courts.*

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	NO	<p><i>-Temporary exemption from court charges, execution charges and all expenses of the case concerning ancillary expense such as reports,</i></p> <p><i>-Temporary exemption from stamp costs and money collected by government agencies or other public institutions and notary public</i></p> <p><i>-Temporary exemption from notification costs.</i></p> <p><i>-Exemption from giving guarantee.</i></p>

12. Number of legal aid cases: (2004)

▪ total	107.349
▪ criminal cases	102.920
▪ other than criminal cases	4.429

Source **Head of Association of 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 : (According to the article 150 of the Turkish Code of Criminal Procedure.)

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

- |                                  |     |
|----------------------------------|-----|
| ▪ for criminal cases?            | NO  |
| ▪ for other than criminal cases? | YES |

Source **Head of Association of Bars**

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.** According to the article 465 of the Turkish Civil Procedural Law anyone who is unable to meet the costs of the proceedings without affecting his subsistence and that of his family is entitled to free legal aid. The person who wants to obtain legal aid should prove that he is justified before the court by the assistance of evidences.

16. If yes, is the decision taken by:

- |  |     |    |
|--|-----|----|
| ▪ the court?   | YES |    |
| ▪ a body external to the court?                      | NO  |    |
| ▪ a mixed decision-making body (court and external)? |     | NO |

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

- |                                  |            |
|----------------------------------|------------|
| ▪ for criminal cases?            | <b>NO</b>  |
| ▪ for other than criminal cases? | <b>YES</b> |

If yes, are there exceptions? Please specify:

*If the litigant is granted legal aid, she/he is not required to pay a court tax and fee to start a proceeding at a court of general jurisdiction. According to articles of the Law of Charges numbered 492 and the specific laws there are several exemptions. For instance, the cases which are brought by the public prosecutors in the civil courts, the cases which are brought by the Social Security Organization for Artisans and the Self-Employed and the cases which are brought by soldiers, corporals and sergeants are exempt from charges.*

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

NO

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

- |                              |            |
|------------------------------|------------|
| ▪ criminal cases?            | <b>YES</b> |
| ▪ other than criminal cases? | <b>YES</b> |

\*\*\*

You can indicate below:

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

*In civil cases legal aid will be requested in accordance with articles 465-472 of the Turkish Civil Procedural Law. The person who can not pay the costs of the proceedings can obtain legal aid. If it becomes clear that if the person is lack of financial means to pay the costs of the proceedings and if there is a strong belief that the person is likely to be justified at the end of the case, the request for the legal aid can be accepted. Legal aid in civil matters covers attorney fees and all costs of the proceedings.*

*In criminal matters, if the suspicious or suspect declares that he is deprived of sufficient financial means to hire a defence lawyer, the defence lawyer will be appointed for him. If the suspicious or suspect is deaf or dumb or he is disabled that he is unable to defend himself and has no lawyer then a defence lawyer will be appointed for him without his request. The defence lawyer will be appointed for crimes which have an upper limit not less than five years' imprisonment.*

*According to the New Turkish Code of Criminal Procedure which came into force on June 1, 2005 at the investigation and prosecution period victim or complainant has a right to request a lawyer who will be designated for him by the bar. If the victim or complainant is under eighteen years old or he is deaf or dumb or disabled to express himself and has no lawyer, then a*

*lawyer will be appointed for him without seeking his request.*

II. B. Users of the courts and victims

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

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

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

Internet address(es): [www.adalet.gov.tr](http://www.adalet.gov.tr)

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

Internet address(es): [www.yargitay.gov.tr](http://www.yargitay.gov.tr)

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

Internet address(es): [www.ankaraborosu.org.tr](http://www.ankaraborosu.org.tr)

However, each local bar, law offices and firms have their own web sites.

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

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?

NO.

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

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

*According to the Protection of the Family Law , if a spouse or child or another member of the family living under the same roof is subject to abuse, and notification is made either by the victim or by the Public Prosecutor, in addition to the provisions of the*



**Turkish Civil Code, taking into consideration the specific circumstances a civil court of peace can order the accused spouse to leave the dwelling shared with the spouse or children if there are any and not to approach the dwelling occupied by the spouse and children or their place of work. According to this arrangement, the victim of family violence has the right to enjoy the use of the common house.**

Ethnic minorities	<b>NO</b>	<b>NO</b>	<b>NO</b>
Disabled persons	<b>NO</b>	<b>YES</b>	<b>YES</b>
Juvenile offenders	<b>NO</b>	<b>YES</b>	<b>YES</b>

Other

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

**YES, only for the victims of terrorism.**

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

- a public fund? **YES**
- a court order? **NO**
- private fund? **NO**

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

***According to the Law on Compensation for Damage Arising from Terrorism and Combating Terrorism, the person whose property is damaged by the actions of the state while combating terrorism can request the recovery of the damage. On the other hand, the victims of crime can file a case for compensation pursuant to the general provisions of Turkish Code of Obligations.***

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

**NO**

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

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

- excessive length of proceedings? NO
- wrongful arrest? YES
- wrongful condemnation? YES

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

*According to the article 141 of the Turkish Code of Criminal Procedure, at the investigation and prosecution period, the person who have been arrested or condemned or under conditions incompatible with the law can request the recovery of his all pecuniary damages and non- pecuniary damages from the state. According to the Law numbered 466, the amount of the compensation which will be determined by the court depends on the individual situation of the plaintiff and circumstances of the case.*

29. Does your country have surveys on users or legal professionals (judges, lawyers, officials, etc.) to measure public trust and satisfaction with the services delivered by the judiciary system?

NO

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		
Surveys at court level		

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

YES

32. If yes, please specify:

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

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

*In Turkey, there are different ways for the person who thinks contrary to the good functioning of the judicial system. The person can make an objection to the court against the decision of this court. He can complain about the judge concerned as well. Additionally, he can appeal against the decision of the court. He can denounce the judge to the General Directorate of Criminal Affairs and Head of the Inspection Board. On the other hand the person can file a*

III. Organisation of the court system

III. A. Functioning

33. Total number of courts (administrative structure) (2004): 3637

- first instance courts of general jurisdiction (2004): 2502

Source **General Directorate of Personnel, Ministry of Justice**

- specialised first instance courts(2004): 1135

Source **General Directorate of Personnel, Ministry of Justice**

Please specify the different areas of specialisation (and, if possible, the number of courts concerned): (2004)

**Criminal Courts:**

**Assize Courts- 17**

**Juvenile Assize Courts-19**

**Enforcement Courts- 10**

**Intellectual Property Criminal Courts -5**

**Civil Courts:**

**Commercial Courts -52**

**Labour Courts -80**

**Consumer Courts -11**

**Family Courts -131**

**Intellectual Property Civil Courts- 3**

**Specialized Court for Maritime Law-1**

34. Total number of courts (geographic locations)

Not available

Source

35. Number of first instance courts competent for a case concerning: 479 (2005)

- a debt collection for small claims Less than 2828 € (This amount is valid from July 21, 2005)

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

**According to Turkish Civil Procedural Law, the small claims can be defined as the claims that are less than 2828 € and tried at the civil courts of peace.**

- a dismissal N/A
- a robbery

As for the robbery cases, the amount differs as to the value of the stolen/robbed good in question. So, there are 4 groups; (2004)

- Petty robbery offences- up to 282 €
- Small robbery offences- between 282 € - 565 €
- Normal robbery offences – from 565 € to 1131 €
- High Robbery offences- over 1131 €

36. Number of professional judges sitting in courts (2004):  
(present the information in full time equivalent and for permanent posts)

Source **General Directorate of Personnel** 5304

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

- gross figure
- if possible, in full time equivalent

Source

Please specify:

**In Turkish law system there is not a professional judge sitting in courts on an occasional basis. In Turkey judges perform their duty on a permanent basis.**

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

Source

Please specify:

**In Turkish law system non-professional judges are not sitting in the courts.**

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

NO

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 **18276**  
(present the information in full time equivalent and for permanent posts)

Source **General Directorate of Personnel** (This number includes the number of staff attached to the public prosecution offices)

41. If possible, could you distribute this staff according to the 3 following categories: (2004)

- 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: **12674**
- 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): **5419**

Directors of registry offices : **2588**  
Manager of administrative affairs: **162**  
Court crier: **2669**

- technical staff: **183**

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

43. Number of public prosecutors (2004) **3006**  
(present the information in full time equivalent and for permanent posts)

Source **General Directorate of Personnel, Ministry of Justice**

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

NO

45. Is the status of prosecutors:

- independent within the judiciary? **YES**
- independent from the judiciary ? **NO**
- under the authority of the Ministry of Justice? **YES**

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

**As the same committee entitles the non-judge staff and the staff working for the prosecution system, the same number of staff (18276) which we informed you regarding to the question 40 is both attached to courts and the public prosecution offices.**

Source **General Directorate of Personnel**

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	NO	NO	NO	NO
Court administrative director	NO	NO	NO	NO
Head of the court clerk office	NO	NO	NO	NO
Other. Please specify	<b><i>In Turkish Judicial System There is not an individual court budget . The budget of all the courts is prepared by the Ministry of Justice. Ministry of Justice and Public Prosecution Offices are responsible for the allocation, evaluation and the control of the budgets of the courts</i></b>			

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

**YES**

49. What are the computer facilities used within the courts? (2004)

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				

Source **Department of Information and Communication, Ministry of Justice**

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

YES

**General Directorate of Judicial Registration and Statistics Ministry of Justice  
Address: Tuna Caddesi No: 10 Yenisehir/ANKARA**

\*\*\*

*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 X      No

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

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

Please specify:

The criminal decisions are also classified among themselves as to their types. Apart from this, decisions given under the specific codes are classified separately. The courts are required to submit their activity reports annually to the General Directorate of Judicial Registration and

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

No   
Yes

Please specify:

Though there is no specific regular evaluation system regarding the performance of the court, the judges and public prosecutors are promoted on the basis of their performances.

54. Concerning court activities, have you defined:

▪ performance indicators? Yes  No

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

- the independence of the judiciary,
- the security of tenure of judges and public prosecutors,
- the right to fair trial and due process of law,
- the principle of natural judge (natural judicial process).

▪ targets? Yes  No

Please specify who is responsible for setting the targets:

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

Please specify:

First and foremost, being legislative power, the Turkish Grand National Assembly is inevitably responsible for setting the targets while it carries out its legislation functions. Secondly, the Ministry of Justice is also responsible setting the targets in performing its administrative functions. Thirdly, the judicial power plays an important role as the others while carrying out its judicial functions and in this respect the supreme courts are paramount as they are entitled to lay down precedents. Finally, High Council of Judges and Public Prosecutors is responsible in setting the targets since it is entrusted to determine the promotions and it also administers any change of function or place of assignment, the initiation of disciplinary proceedings and any subsequent disciplinary actions taken against them in accordance with Article 140 of the Turkish Constitution.

Please specify the main objectives applied:

The Turkish legal system is primarily aimed at providing a proper functioning justice system in accordance with the fundamental principles of supremacy of law and rule of law. To this end, it is being endeavoured to secure the users fair, efficient, fast and cheap legal system to the greatest extent. In order to attain this goal, human rights are to be fully respected and *acquis communautaire* is to be taken into account.

Source The General Directorate of Personnel, Ministry of Justice

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

- the High Council of judiciary?
- the Ministry of justice?
- an inspection body?

- the Supreme Court?  X
- an external audit body?
- other?  Please specify:

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

- No   
 Yes  Please specify:

Basically, the judges and public prosecutors are given marks about their decisions which are appealed to the Court of Cassation pursuant to Article 21 of the Code of Judges and Public Prosecutors (No. 2802) In brief, the Court of Cassation marks the decisions that are appealed. In addition to this, the reports of inspector judges are taken into account.

Source : General Directorate of Codes, Ministry of Justice.

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"/> |

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

- No   
 Yes  Please specify:

The queuing time is analysed through the inspections of the local courts which is held regularly in every two year. The inspectors who are appointed among the judges and public prosecutors are entitled to visit and observe all local courts in every two year. During this inspection period they are also analysing the queuing time of the court files and examine the reason of their queuing. Once a judge is appointed as an inspector he/she can no longer go on working as a judge. These inspectors are attached to the Head of Inspection Board of the Ministry of Justice.

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

- No   
 Yes  Please specify:

The statistics are kept with respect to the work load of the public prosecutors, completed works at the end of the preparatory investigation phase and unknown perpetrator cases. As mentioned under the above question, public prosecutors undergo regularly throughout the inspection process in every two year by the Head of Inspection Board of the Ministry of Justice. At the end of the inspection process reports regarding the performances of the public prosecutors are prepared and sent to the General Directorate of Personnel of Ministry of Justice. Apart from this, under Article 5 of the Code of Judges And Public Prosecutors, each chief public prosecutor of a city centre is entrusted to monitor and supervise the other public prosecutors at the same court centre as well as the chief public prosecutors and public prosecutors of the attached towns.

\*\*\*

*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  **Please note that as the question includes the term “for all cases” which is missing in the table on the Interim Report of 18 May 2006, we have answered in a negative way. However, there is definitely an effective remedy to a superior jurisdiction for most of the cases. But for some petty claims both in civil and criminal matters the judgments are final and cannot be appealed.**

61. Which is the percentage of judgements in first instance criminal cases in which the suspect is not actually present or represented?
- Not available.**  
 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): Not available. However, the number of incoming cases to challenge a judge in civil matters is 9 in 2004. Yet, there is no data demonstrates that whether these challenges are successful.**

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)	6	2	-	-	2		51	12	4	12
	Article 6§1 (duration)	15	1		1	7	1	66	5	4	6
	Article 6§2	2	1		1	2				2	2
	Article 6§3a	3							2	7	5
	Article 6§3b	1					1		1		2
	Article 6§3c	1			1				3	16	1
	Article 6§3d	2					1	1			1
	Article 6§3e					1					
Civil proceedings	Article 6§1 (equity)										
	Article 6§1 (duration)										
	Article 6§1 (non execution only)										

Please note that the data is not available regarding the separation of civil and criminal proceedings made under the violation of Article 6 of the ECHR. All the data submitted here includes both civil and criminal proceedings.

Source: General Directorate of International Law and Foreign Relations of Ministry of Justice.

**IV.B. Timeframes of proceedings**

**IV. B. 1. General**

64. Are there specific procedures for urgent matters in:

- |                         |                          |                                     |
|-------------------------|--------------------------|-------------------------------------|
|                         | Yes                      | No                                  |
| ▪ civil cases?          | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| ▪ criminal cases?       | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| ▪ administrative cases? | <input type="checkbox"/> | <input checked="" 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): 2116746

Please specify the main types of cases:

The main types of cases are provided as follows; Compensation: 32593, Cancellation of an immovable property deed: 34476 ; Actions for Evacuation: 21258 ; Complaints as regards bankruptcy and execution procedures : 32760 , Objections with respect to bankruptcy and execution: 6337, Cancellation of Partnership : 9793, Cases regarding Personal Status : 37783, Maintenance Cases : 13389 Acknowledgement of Parental Affiliation: 1816, divorce cases 98828 and etc.

Source : General Directorate of Judicial Records And Statistics of 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
Incoming cases	1391095	237591	156450	N/A
Decisions on the merits	1081777	215994		N/A
Percentage of decisions	N/A	N/A	N/A	N/A

Total number (1st instance)	subject to appeal in a higher court	671915	113440		N/A
	Pending cases by 1 January 2005				
	Percentage of pending cases of more than 3 years	N/A	N/A	N/A	N/A
Average length (from date of lodging of court proceedings*)	1st instance* decisions	177 days	Tax C: 158 days Administrative C : 208 days Regional Adm. C : 57 days	N/A	N/A
	2nd instance decisions	101	377 days for the chambers of administrative cases 64 days for the administrative chambers	N/A	N/A
	Total procedure	278	N/A		

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

Please note that administrative courts of first instance are varied among themselves as tax, administrative and regional administrative courts. The Council of the State as a Supreme Court in administrative cases constitutes the second instance and its chambers are varied as chambers for administrative cases and administrative chambers.

N/A : Not available

\*Note :The figures on the table 69 of the Interim Report regarding the average length in 1<sup>st</sup> instance decisions in administrative cases are different than then the data we have provided.

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

It is not possible to isolate data concerning adversarial divorces. In other words, the data given above covers the divorces on mutual consent as well as adversarial divorces.

Source The General Directorate of Judicial Registration and Statistics of 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	
▪ to conduct investigation?	X	
▪ when necessary, to demand investigation measures from the judge?	X	
▪ to charge?	X	
▪ to present the case in the court?	X	
▪ to propose a sentence to the judge?	X	
▪ to appeal?	X	
▪ to supervise enforcement procedure?	X	
▪ to end the case by dropping it without the need for a judicial decision?	X	
▪ to end the case by imposing or negotiating a penalty without a judicial decision?	X	
▪ other significant powers?	X	

Please specify:

To supervise the notaries.

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

No   
 Yes  **Please specify:**

**Under the Turkish legal system, there exist certain situations specified in various codes regarding civil matters where the public prosecutor is entitled not only to file a case to a civil court but also to be present during the proceedings. Generally speaking, these types of cases are considered to be the cases where the public interest is paramount, such as parental affiliation cases, cases regarding personal status, annulment of the marriage where there are absolute annulment grounds pursuant to the Turkish Civil Code.**  
**As to administrative cases, specific public prosecutors are in charge both at the first and second instance of administrative courts.**

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	2300954
Discontinued by the public prosecutor	919158
<b>In general</b> Because the offender could not be identified Due to the lack of an established offence or a specific legal situation	
Concluded by a penalty, imposed or negotiated by the public prosecutor	N/A
Charged by the public prosecutor before the courts	872875

Source

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	1778875	209557	22717
Judicial decisions	2337748	175936	22792
Convicted persons	1091358	115879	21827
Acquitted persons	485253	77184	8147
Total number (1st instance) Percentage of decisions subject to appeal in a higher court	N/A	N/A	N/A
Pending cases by 1 January 2005	1056754	N/A	N/A
Percentage of pending cases of more than 3 years	N/A	N/A	N/A

Average length* (from the date of official charging)	1st instance decision	N/A	N/A	N/A
	2nd instance* decision	a) General Criminal Council of Court of Cassation : 59 b) Criminal Chambers of Court of Cassation : 348	N/A	N/A
	Total procedure	N/A	N/A	N/A

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

**\*Note :** The figures on the table 75 of the Interim Report regarding the average length in 2<sup>nd</sup> instance decisions in criminal cases are different than then the data we have provided.

Source **General Directorate of Judicial Registration And Statistics of Ministry of Justice**

\*\*\*

You can indicate below:

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

V. Career of judges and prosecutors

V. A. Appointment and training

74. Are judges initially/at the beginning of their carrier recruited and nominated by:
- |  |                                     |
|--|-------------------------------------|
|  | Yes                                 |
| ▪ a body composed of members of the judiciary?                               | <input type="checkbox"/>            |
| ▪ a body composed of members external to the judiciary?                      | <input type="checkbox"/>            |
| ▪ a body composed of members of the judiciary and external to the judiciary? | <input checked="" type="checkbox"/> |
75. Are prosecutors initially/at the beginning of their carrier recruited and nominated by:
- |  |                                     |
|--|-------------------------------------|
|  | Yes                                 |
| ▪ a body composed of members of the prosecution system?  | <input type="checkbox"/>            |
| ▪ a body composed of members external to the prosecution system?                               | <input type="checkbox"/>            |
| ▪ a body composed of members of the prosecution system and external to the prosecution system? | <input checked="" type="checkbox"/> |
76. Is the mandate given for an undetermined period for:
- |                |                          |                                     |
|----------------|--------------------------|-------------------------------------|
|                | Yes                      | No*                                 |
| ▪ judges?      | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| ▪ prosecutors? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

Are there exceptions ? Please specify:

Under Article 139 and 140 of our Constitution; judges may not be dismissed. Unless they so desire, they may not be retired before they are sixty-five years old. They may not be deprived of

their salaries, even if their court or post is abolished. The termination of professional life of the members of the judiciary can be confined to these cases where they have been convicted by a felony which justifies the termination or where there is a health problem, unabling to exercise his job or by the decision of the Supreme Council of Judges And Public Prosecutors.

\*Please note that in our system, judges and prosecutors are not supposed to work until they are 65 years old. This is the ultimate age that they can work. This means that once they are 65 years old they will be automatically retired and can no longer go on working. Obviously, they have the right to leave their work once they are entitled to retire pursuant to the provisions of the Act on Judges& Public Prosecutors which sets out, *inter alia*, the recruitment and retirement rights of judges and prosecutors. That is why we have regarded the mandate given for undetermined period. They can go on working until they are 65 years old even if they are entitled to retire before this age. This is completely up to them.

If no, what is the length of the mandate:

Is it renewable?

- of judges?
- of prosecutors?

Yes	No
<input type="text"/>	<input type="text"/>

\*\*\*

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

Once a law school graduate passes the state examination (oral and written), the Ministry of Justice decides on whether he/she is eligible to become a candidate judge. If accepted, he enters upon a period of traineeship for one year,, during which he/she learns the work of a judge under the guidance of seniors. Besides, practical and theoretical aspects of the profession are taught at the Academy established for trainee judges and public prosecutors. At the end of this period he/she may be appointed by the Supreme Council of Judges and Public Prosecutors as a full-fledged judge.

#### 77. Nature of the training of judges:

	Compulsion (Yes/No)	Frequency (Yes/No)
Initial training	Compulsory <b>Yes</b> Highly recommended Optional	For one year
General in-service training	Compulsory <b>Yes</b> Highly recommended Optional	Annual <b>X</b> Regular Occasional
In-service training for specialised functions (e.g. judge for economic or administrative issues)	Compulsory Highly recommended Optional <b>Yes</b>	Annual Regular Occasional <b>X</b>
In-service training	Compulsory	Annual

for specific functions (e.g. head of court)	Highly recommended	Optional	Yes	Regular	Occasional	X
---	--------------------	----------	-----	---------	------------	---

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

\*\*\*

**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**

12637 €

*Source* The Head of Administrative and Financial Affairs Department of Ministry of Justice

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

27.158 €

*Source* The Head of Administrative and Financial Affairs Department of Court of Cassation

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

12637 €

*Source* The Head of Administrative and Financial Affairs Department of Ministry of Justice

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

27.158 €

**83. Do judges and public prosecutors have additional benefits?**

	Judges (Yes/No)	Public prosecutors (Yes/No)
Reduced taxation	No	No
Special pension	No	No
Housing	Yes	Yes
Other financial benefit (If yes, please specify)	In big cities such as Ankara, İstanbul, İzmir free transportation from their home to work and vice versa in working days.	

**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

\*Note : There is an error on the table 90 in p.121 of the Interim Report since we did not mark the columns for teaching non-remunerated as well as research and publication non-remunerated for public prosecutors. However, on the relevant table these columns are marked by mistake.

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

No    
 Yes  Please specify:

**V. C. Disciplinary procedures**

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

	Judges	Prosecutors
Total number		
Breach of professional ethics (Yes/No) <b>Yes</b>		
Reasons for disciplinary procedures If yes, please specify the number	60	33
Professional inadequacy (Yes/No)	Yes	Yes
If yes, please specify the	63	38



	number		
	Criminal offence (Yes/No)	Yes	Yes
	If yes, please specify the number	4	3
	Other (Yes/No)	Yes	Yes
	If yes, please specify the number		
	Total number	26	19
	Reprimand (Yes/No)	Yes	Yes
	If yes, please specify the number	34	16
Types of sanctions	Suspension (Yes/No)	Yes	Yes
	If yes, please specify the number	2	-
	Dismissal (Yes/No)	Yes	Yes
	If yes, please specify the number	4	-
	Fine (Yes/No)	Yes	Yes
	If yes, please specify the number	5	3
	Other (Yes/No)	Yes	Yes
	If yes, please specify the number	52	27

\*\*\*

**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

***In response to the sanction of fine, this type of sanction is tantamount to the non-payment of the salary of the judge or public prosecutor concerned under the relevant regulation of disciplinary proceedings.***

#### VI. Lawyers

87. Number of lawyers practising in your country 52195
- Source *The Head of Bar Associations*
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	Yes
		Other	
Criminal cases*	No	Member of family	Yes
	Defendant	Trade Union	No.
		NGO	No.
		Other	No.
		Member of family	Yes.
		Trade Union	No.

	Victim	NGO	No.
		Other	No.
Administrative cases*	<b>No</b>	Member of family	Yes.
		Trade Union	No.
		NGO	No.
		Other	No.

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

90. Is the lawyer profession organised through?

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

Please specify:

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:

In order to be a trade mark or patent lawyer, the person has to pass an examination and get a specific certificate that he/she is entitled to represent as a trade mark or patent lawyer.

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

Yes  No

95. Are lawyers fees:

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

96. Have quality standards been formulated for lawyers?

Yes  No

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

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

98. Is it possible to complain about :

- the performance of lawyers? No  Yes  Please specify:

The users can complain to the Head of Bar Associations of Turkey as well as to the General Directorates of Criminal and Civil Affairs of Ministry of Justice.

- 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 149
	Professional inadequacy	No.
	Criminal offence	Yes 47
	Other	No.
Type of sanctions	Reprimand	Yes 156
	Suspension	Yes 11
	Removal	Yes 47
	Fine	Yes 39
	Other ; disqualification of practising as a lawyer	5

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

- a professional body? Yes  Please specify:

The Disciplinary Board and Executive Board of the Head of Bar Associations of Turkey and disciplinary boards of each local bar is responsible for the disciplinary procedures.

- the judge?
- the Ministry of justice?
- other?  Please specify:

\*\*\*

You can indicate below:

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

Bar

--

VII. Alternative Dispute Resolution
-------------------------------------

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

	Compulsion (Yes/No)		Body providing mediation (Yes/No)	
Civil cases	Compulsory stage prior to court proceedings	No	Private mediator	No
			Public or authorised by court body	No
			Court	No
	Compulsory stage in court proceedings	No	Judge	No
	Ordered by judge in certain cases	No	Prosecutor	No
Family cases	Compulsory stage prior to court proceedings	No	Private mediator	No
			Public or authorised by court body	No
			Court	No
	Compulsory stage in court proceedings	No	Judge	No
	Ordered by judge in certain cases	No	Prosecutor	No
Administrative cases	Compulsory stage prior to court proceedings	No	Private mediator	No
			Public or authorised by court body	No
			Court	No
	Compulsory stage in court proceedings	No	Judge	No
	Ordered by judge in certain cases	No	Prosecutor	No
Employment dismissals	Compulsory stage prior to court proceedings	No	Private mediator	No
			Public or authorised by court body	No
			Court	No
	Compulsory stage in court proceedings	No	Judge	No
	Ordered by judge in certain cases	No	Prosecutor	No
Criminal cases	Compulsory stage prior to court proceedings	Yes	Private mediator	Yes
			Public or authorised by court body :	Yes public prosecutor
			Court	No
	Compulsory stage in court proceedings	Yes	Judge	Yes
	Ordered by judge in certain cases		Prosecutor	No

**102. Can you provide information about accredited mediators?**

The mediators are selected among the lawyers attached to bars pursuant to Article 253 of the Code of Criminal Procedural Law which has recently adopted on 4 December, 2004.

103. Can you provide information about the total number of mediation procedure concerning:
- civil cases? No
  - family cases? No
  - administrative cases? No
  - employment dismissals? No
  - criminal cases? No

Source

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

Arbitration is envisaged on civil matters in Article 516 and its following Articles under the Code of Civil Procedural Law. However, the preparations of a specific draft for alternative dispute resolutions are underway.

\*\*\*

You can indicate below:

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

Mediation is newly and solely adopted on criminal matters for the time being. According to Article 253 of the Code of Civil Procedural Law, the public prosecutor is authorized to apply mediation procedure prior to court proceedings specifically in cases where the crime in question is subject to complaint and where it is appropriate. The public prosecutor is entitled to appoint a lawyer attached to a bar in order to administer the mediation process.

VIII. Enforcement of court decisions

VIII. A. Execution of decisions in civil matters

105. Are enforcement agents:

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

106. Number of enforcement agents 1113

Source General Directorate of Personnel of Ministry of Justice

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

Yes X No

108. Is the profession of enforcement agent organised by?
- a national body? Yes
  - a regional body?
  - a local body?
109. Can users establish easily what the fees of the enforcement agents will be?
- Yes  No
110. Are enforcement fees:
- regulated by law? Yes
  - freely negotiated?
111. Is there a body entrusted with the supervision and the control of the enforcement agents?
- No   
Yes  Which authority is responsible for the supervision and the control of enforcement agents:
- a professional body? Yes
  - the judge?
  - the Ministry of justice?
  - the prosecutor?
  - other?

Please specify:

The enforcement agents are regularly monitored and supervised by the relevant public prosecutor and judge as well as by the inspector judges attached to the Ministry of Justice.

112. Have quality standards been formulated for enforcement agents?

No

\*Yes  Who is responsible for formulating these quality standards?

The General Directorate of Personnel of the Ministry of Justice is responsible to formulate these quality standards.

\*We figured out that the column on the table 117 of the Report that corresponds to question for 112 is wrongly left blank though we have informed that there are quality standards for enforcement agents. And these standards are determined and formulated by the General Directorate of Personnel of the Ministry of Justice of Turkey. So, the answer is supposed to be typed as "Yes".

Source the General Directorate of Personnel of the 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 type="checkbox"/>            | <input type="checkbox"/> |
| ▪ insufficient supervision?   | <input type="checkbox"/>            | <input type="checkbox"/> |
| ▪ excessive cost?   | <input type="checkbox"/>            | <input type="checkbox"/> |
| ▪ other? Excessive work load and insufficiency of the number of personnel working at the enforcement agents | <input checked="" type="checkbox"/> | <input type="checkbox"/> |

Source the General Directorate of Personnel of the 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:

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:  
 Not available.

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

Source

117. Disciplinary proceedings and sanctions against enforcement agents:

		Yes /No (If yes, please specify the total number)	
Disciplinary proceedings	Breach of professional ethics	Yes	60
	Professional inadequacy	Yes	1
	Criminal offence	Yes	360
	Other	Yes	80
Sanctions	Reprimand	Yes	35
	Suspension	Yes	5
	Dismissal	Yes	3
	Fine	Yes	11
	Other	Yes	33

\*\*\*

*You can indicate below:*

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

According to the Article 4 of the Code of Enforcement and Bankruptcy Law, enforcement agents are supervised by the specific enforcement courts. To this end, these courts are in charge of determining the complaints and objections made by the users during the enforcement process as well as monitoring and supervising of these agents.

**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):

Basically, the enforcement of judgments is implemented by the public prosecutors. However, in case any complaint or objection is made by any persons concerned, then the

enforcement court handles this complaint or objection and decides whether it is justifiable or not. Thus, these courts have control functions over the enforcement procedures of judgments.

Note: The public prosecutor is empowered to execute the enforcement of criminal judgments. However, in case any complaint or objection is made by any persons concerned, then the enforcement court handles this complaint or objection and decides whether it is justifiable or not. Thus, these courts have control functions over the enforcement procedures of judgments. So, the **responsible authority for the execution of judgments is the prosecutor and another authority is the judge** who is entrusted with the supervision and monitoring of the enforcement procedures. Therefore the data on the table 123 of the Report needs to be corrected in accordance with this information.

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? Sui generis legal status.

Yes  
Number

X 1541

Please specify:

The notary service is deemed as public service. According to the Code of Public Notaries they are appointed by the Ministry of Justice and controlled by the same Ministry although they receive no salary, but only a fee for each transaction.



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

If yes, please specify:

Under the Code of Public Notaries, they prepare deeds and other documents such as wills, send official notices and perform other similar functions.

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

Please specify:

\*\*\*

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:

