



COMMISSION EUROPEENNE POUR L'EFFICACITE DE LA JUSTICE
(CEPEJ)

QUESTIONNAIRE POUR ÉVALUER LES SYSTÈMES JUDICIAIRES2007

Pays : "L'ex-République yougoslave de Macédoine"

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1. Données démographiques et économiques

1. 1. Généralités

1. 1. 1. Habitants et informations économiques

1) Nombre d'habitants

2038514

2) Dépenses publiques totales annuelles de l'Etat /le cas échéant dépenses publiques des collectivités territoriales ou entités fédérales (en €)

	Montant
Niveau national	940967794
Niveau territorial / entités	

3) PIB par habitants (en €)

2491

4) Salaire moyen brut annuel (en €)

4519

5) Taux de change de la monnaie nationale (zone non Euro) en € au 1 janvier 2007

61,17 Denars = 1 EURO

Veillez indiquer les sources des questions 1 à 4

State Statistical Office of the Republic of Macedonia

1. 2. Données budgétaires relatives au système judiciaire

1. 2. 2. Budgets (tribunaux, ministère public, aide judiciaire, frais)

6) Budget total annuel approuvé et alloué à l'ensemble des tribunaux (en €)

22241278

7) Veuillez préciser

The court budget includes: budgets of all courts, Judicial Council Budget and the budget of the Academy for training of Judges and Public Prosecutors

8) Le budget approuvé pour les tribunaux inclut-il les postes suivants? Veuillez préciser pour chaque poste (ou pour certains d'entre eux) les montants concernés:

Budget public annuel alloué aux salaires (bruts)

☒ Oui

17820451

Budget public annuel alloué aux nouvelles technologies de l'information (équipements, investissements, maintenance)	☐ Oui	
Budget public annuel alloué aux frais de justice	☒ Oui	916625
Budget public annuel alloué aux bâtiments (maintenance, budget de fonctionnement)	☒ Oui	1090371
Budget public annuel alloué à l'investissement en nouveaux bâtiments (tribunaux)	☒ Oui	261566
Budget public annuel alloué à la formation	☒ Oui	523949
Autres (Veuillez préciser)	☐ Oui	

9) Le budget public annuel alloué à l'ensemble des tribunaux a-t-il été modifié (augmentation – diminution) lors des cinq dernières années ?

☒ Oui

☐ Non

Si oui, veuillez préciser (par exemple en fournissant une indication sur l'augmentation ou la diminution du budget lors des cinq dernières années)

In 2003 budget for the courts was 16.552.749 Euro

In 2004 budget for the courts was 19.934.036 Euro

In 2005 budget for the courts was 20.192.496 Euro

In 2006 budget for the courts was 22.241.278 Euro

In 2007 budget for the courts was 22.026.745 Euro or 1,15 from total State budget

10) Existe-t-il une règle générale selon laquelle une personne doit payer une taxe ou des frais pour intenter une procédure devant une juridiction de droit commun :

☐ en matière pénale ?

☒ en matière autre que pénale ?

Si oui, existe-t- il des exceptions ? Veuillez préciser:

According to the Law on Civil procedure, court will not proceed or undertake any procedural action if parties have not paid court tax in advance.

In criminal cases there is an exception when expenses, including court tax, as well as necessary expenses for the competent counsel and competent authorised representative of the damaged as a plaintiff, in procedure for crimes prosecuted ex officio are paid in advance from the budget of the body that conducts the criminal procedure, and the persons which are obliged to compensate according to provisions of the Law on Criminal Procedure are charged later.

11) Si oui, veuillez préciser le montant annuel des frais (ou taxes) perçus par l'Etat (en €)

8912212

12) Budget total annuel approuvé pour l'ensemble du système de justice (en €)

36534982

13) Budget public annuel approuvé et alloué à l'aide judiciaire (en €)

900277

14) Si possible, veuillez préciser

	le budget public annuel alloué à l'aide judiciaire dans les affaires pénales	le budget public annuel alloué à l'aide judiciaire dans les affaires autres que pénales
Montant		

15) Le budget public annuel alloué à l'aide judiciaire est-il compris dans le budget des tribunaux ?

- ☒ Oui
- ☐ Non

16) Budget public annuel approuvé et alloué au Ministère public (en €)

3592283

17) Le budget public annuel alloué au Ministère public est-il compris dans le budget des tribunaux ?

- ☐ Oui
- ☒ Non

18) Instances formellement responsables des budgets alloués aux tribunaux :

	Préparation du budget global des tribunaux	Adoption du budget global des tribunaux	Gestion et répartition du budget entre les tribunaux	Evaluation de l'utilisation du budget au niveau national
Ministère de la justice	☐	☐	☐	☐
Autre ministère	☐	☐	☐	☐
Parlement	☐	☒	☐	☐
Cour Suprême	☐	☐	☐	☐
Conseil Supérieur de la Magistrature	☐	☐	☐	☐
Tribunaux	☐	☐	☐	☐
Organisme d'inspection	☐	☐	☐	☐
Autre	☒	☐	☒	☒

19) Si autre ministère et/ou organisme d'inspection et/ou autre, veuillez préciser (suite de la question 18):

The Court Budget Council is responsible body for preparation, management, allocation of the budget among the

courts and evaluation of the use of the budget. The Court Budget presents the annual estimate of the revenues and expenditures of the judicial branch and the Academy for Training of Judges and Public Prosecutors, determined by the Assembly of the Republic of Macedonia and intended for the financing of the judicial branch and the Academy for Training of Judges and Public Prosecutors. The Court Budget is a part of the Budget of the Republic of Macedonia as a separate part designated as "Judicial Power."

President of the The Court Budget Council is president of the Supreme Court of the Republic of Macedonia. Members of the Court Budget Council are Minister of Justice, presidents of three appellate courts, presidents of 4 basic courts on system of rotation and Director of Academy for training of judges and public prosecutors.

Vous pouvez indiquer ci-dessous :

- tout commentaire utile pour l'interprétation des données ci-dessus**
- les caractéristiques de votre système budgétaire et les réformes majeures mises en oeuvre au cours des deux dernières années**
- si possible un organigramme avec une description des compétences des différentes instances responsables des procédures budgétaires**

The Law on the Court Budget define procedure for the drafting, adoption, and enforcement of the Court Budget and the setting up of the Court Budget Council.

By means of the Court Budget the judicial branch of power in the Republic of Macedonia and the Academy for Training of Judges and Public Prosecutors, is financed .

The Court Budget Council has duties as follows:

- set the criteria and methodology for the drawing up of the Court Budget,
- determines the allocation of the funds from the Court Budget to all the courts and to the Academy for Training of Judges and Public Prosecutors and undertakes duly enforcement of the Court Budget,
- approves the funds for new employments in courts and in the Academy for Training of Judges and Public Prosecutors within the framework of the fixed court budget of the mass designated for the pay of salaries,
- appoints the internal auditor,
- enacts the Rules of Order and other internal acts.

The expenditures of the Court Budget comprise the following:

1. Daily expenditures for,

- salaries and compensation for judges,
- salaries and compensation for the state employees, court police and other employees at the courts,
- merchandise and services for court's operations
- expenditures incurred in proceedings,
- payment of other expenditures incurred in daily operations of courts,
- professional training of judges, state employees, court police and other employees at courts,
- salaries and compensation for the employees in the Academy for Training of Judges and Public Prosecutors,
- merchandise and services for operations of the Academy for Training of Judges and Public Prosecutors,
- payment of other expenditures incurred in daily operations of the Academy for Training of Judges and Public Prosecutors, and
- initial training of candidates for judges and deputies public prosecutors and continuous professional development of judges, public prosecutors and their deputies, of the employees in the courts and public prosecution offices, as well as of the civil servants from the Ministry of Justice which perform activities from the area of the justice system.

2. Capital expenditures for:

- purchasing of capital assets for courts,
- investment maintenance of the facilities and court equipment
- purchasing of capital assets for Academy for Training of Judges and Public Prosecutors
- investment maintenance of the facilities and equipment of the Academy for Training of Judges and Public Prosecutors

The drafting of the Court Budget is made on the basis of the fiscal policy and the main categories on the assessed revenues and expenditures for the next budget year, and in compliance with the internal criteria and methodology determined by the Court Budget Council.

The courts and the Academy for Training of Judges and Public Prosecutors submit the following data to the Court Budget Council by June 1 of the current year the latest:

- estimate of the expenditures for the fiscal year, according to the expense items and smaller items,

- estimate of the expenditures for the next two fiscal years according to the expenses under categories,
- review of the expenses for the employment requisite for the carrying out of the functions of the users,
- proposals that contain future obligations or expenditures that shall be incurred over several years, including the investment projects presented individually, and
- expenses for every forthcoming year presented individually.

In addition to this data, the users submit an explanation regarding the amount of the funds according to their positions.

After it receives the proposals, the Court Budget Council draws up a Court Budget Proposal and together with the explanation on the amounts of funds submits it to the Ministry of Finances.

Prior to the submission of the Budget Proposal of the Republic of Macedonia to the Government of the Republic of Macedonia, the Minister of Finances together with the President of the Court Budget Council shall mandatory adjust the part of the funds "Court Budget" from the Budget Proposal of the Republic of Macedonia.

The Court budget as a part of State budget is adopted by the Parliament.

The President of the court and the Director of the Academy for Training of Judges and Public Prosecutors is responsible for the enforcement of the financial plan in the court, respectively, the Academy for Training of Judges and Public Prosecutors.

The Court Budget Council follows the enforcement of the court financial plan. If, during the control, it is determined that irregularities and abuses by the President of the Court and by the Director of the Academy for Training of Judges and Public Prosecutors have occurred in the process of enforcement of the financial plan, the Council informs the Supreme Court of the Republic of Macedonia, the Ministry of Justice, the Republic Judicial Council, the Academy for Training of Judges and Public Prosecutors, the Ministry of Finance, and the State Bureau for Revision.

To specify, regarding the data presented in question 8, the point on "Annual public budget allocated to training and education" is presents the budget for the Academy for training of judges and public prosecutors for 2007 unlike other points in the question where the budget for 2006 are noted due to the fact this institution started to work in the middle of 2006 and for the reference year has not full budget for whole year. Therefore we think that presented data for 2007 just for this point are suitable.

To clarify with regard to the answer for question 13 - "Total annual approved public budget allocated to legal aid", data presented include the budget for legal aid as well as the budget for expert witnesses, due to the reason that we do not have exact data just for legal aid.

Regarding the question 11, presented data are sources collected from the court taxes. In addition, there are 2.869.887 Euro collected by the state from paid fines.

REGARDING QUESTION 12

In question 12 total budget for whole justice system is: 36.534.982 EURO

Budget for 2006 for court system including Court Council and Academy for training of judges and prosecutors is: 22.241.278 EURO

Budget for 2006 for public prosecution office is: 3.592.283 EURO

Budget for 2006 for Ministry of Justice is: 5.320.156 EURO and

Budget for 2006 for penitentiary institutions is: 5.381.265 EURO.

Veillez indiquer les sources pour les questions 6, 7, 13 et 16

6,7,13 - Court Budget Council

16 Public Prosecutor's Office

2. Accès à la justice

2. 1. Aide judiciaire

2. 1. 1. Principes

20) L'aide judiciaire concerne-t-elle :

	Affaires pénales	Affaires autres que pénales
Représentation devant les tribunaux	☒	☒
Conseil juridique	☒	☒
Autres	☐	☐

21) Si autres, veuillez préciser (suite de la question 20) :

22) L'aide judiciaire prévoit-elle la couverture ou l'exonération des frais de justice?

☒ Oui

☐ Non

Si oui, veuillez préciser :

1. Civil Procedure

According to the Article 163 from the Law on Civil Procedure, the court shall exempt from payment of the expenses for the procedure the party which according to its general state of wealth is not capable of bearing these expenses without damages to the necessary personal support and the support of its family. Also, the exemption from payment of the expenses for the procedure includes exemption from payment of fees and exemption from depositing an advance payment for the expenses for witnesses, expert witness, for insight and for the court advertisements.

2. Criminal Procedure

According to the Article 94 from the Law on Criminal Procedure, if the accused had an appointed counsel and if by his paying of the recompense and the necessary expenses, his own supporting and supporting of persons he is obliged to provide for would be threatened, then the recompense and the necessary expenses for the counsel will be paid from the budget.

23) Est-il possible de bénéficier de l'aide judiciaire pour des frais relatifs à l'exécution des décisions de justice ?

☐ Oui

☒ Non

Si oui, veuillez préciser :

24) Nombre d'affaires ayant bénéficié de l'aide judiciaire publique octroyée au niveau national, régional ou local:

	Nombre
Total	2674
En matière pénale	2652
En matière autre que pénale	22

25) En matière pénale, toute personne qui n'en a pas les moyens peut-elle bénéficier de l'assistance gratuite (ou financée par un budget public) d'un avocat ?

- ☒ Oui
☐ Non

26) Votre pays procède-t-il à un examen des revenus et biens du demandeur avant d'octroyer l'aide judiciaire :

	Non	Oui	Total
en matière pénale ?		yes	
en matière autre que pénale ?		yes	

27) En matière autre que pénale, est-il possible de refuser l'aide judiciaire pour absence de bien-fondé de l'action (par exemple pour caractère abusif de l'action en justice)?

- ☐ Oui
☒ Non

28) Si oui, la décision pour accorder ou refuser est-elle prise par :

- ☐ le tribunal ?
☐ une instance extérieure au tribunal ?
☐ une instance mixte tribunal/organe externe ?

29) Existe-t-il un système privé d'assurance de protection juridique permettant aux justiciables de financer une action en justice?

- ☐ Oui
☒ Non

Veillez préciser :

30) La décision judiciaire peut-elle porter sur la manière dont les frais de justice payés par les parties au cours de la procédure seront partagés :

	oui	non
en matière pénale ?	☒	☐
en matière autre que pénale ?	☒	☐

Vous pouvez indiquer ci-dessous :

- tout commentaire utile pour l'interprétation des données ci-dessus
- les caractéristiques de votre système d'aide judiciaire et les réformes majeures mises en oeuvre au cours des deux dernières années

In order to improve access to the courts, the Ministry of Justice of the Republic of Macedonia drafted the Law on free of charge legal aid. The aim of the Law is to provide equal access to the justice for all citizens. The Law determines free of charge legal aid provided by the state to the parties realised by lawyers. Furthermore, in accordance with the Draft Law special body for free of charge legal aid will be established within the Ministry of Justice. Additionally, the Draft law defines procedure for gaining free of charge legal aid.

Veuillez indiquer les sources pour les questions 24 et 26

24. Information provided by the Basic Courts in the Republic of Macedonia

26. Law on Civil Procedure and Law on Criminal Procedure

2. 2. Usagers des tribunaux et victimes

2. 2. 1. Droit des usagers et victimes

31) Existe-t-il des sites/portails Internet officiels (ex: Ministère de la Justice, etc.) à partir desquels le public a accès gratuitement (Veuillez précisez les adresses Internet) :

aux textes juridiques (codes, lois, règlements, etc.) ? ☒ oui

www.pravda.gov.mk
www.sobranie.mk,
www.vlada.mk
www.pravo.org.mk,
www.mlrc.org.mk
www.slvesnik.com.mk
www.pf.ukim.edu.mk
www.stat.gov.mk

à la jurisprudence des hautes juridictions ? ☒ oui

www.vrhoven.sud.mk
www.mlrc.org.mk

à d'autres documents (par exemple formulaires) ? ☒ oui

www.pravda.gov.mk,
www.vlada.mk

32) Votre système prévoit-il une obligation d'information des parties concernant les délais prévisibles de la procédure judiciaire ?

☒ Oui

☐ Non

Si oui, veuillez préciser :

In court proceedings, according to the procedural laws, the court is obliged to inform the parties on the foreseeable timeframes for undertaking certain procedural actions as well as for the right to appeal.

33) Existe-t-il un système d'information spécifique, public et gratuit, pour informer et aider les victimes d'infractions?

☐ Oui

☒ Non

Si oui, veuillez préciser :

In June 2005 a one month National Campaign for Combating Domestic Violence was conducted, aiming to strengthen the confidence and trust of potential victims of domestic violence in state or governmental institutions, recognition of the domestic violence phenomenon, and encouraging domestic violence victims to take action and to seek assistance and aid. This campaign was targeted at the public at large, with a particular emphasis on women and children, as they most often appear as victims of domestic violence, as well as at the media in order to raise their awareness about the existence of domestic violence.

In conjunction with a non-governmental organization called "Union of Women of the Republic of Macedonia", a nation-wide SOS telephone line was opened offering assistance to domestic violence victims, which is 24 hours service providing information and assistance to domestic violence victims. In average, this line hosts 120 phone calls per month.

With the aim to provide free legal aid and pro bono representation of domestic violence victims before judicial authorities, the non-governmental organization called "ESE", in June 2002, launched and opened the first Legal Aid Center in the Macedonia's capitol – Skopje. This non-governmental organization also provides free legal aid to victims in the similar centers opened in Tetovo and Stip, which became operational in December 2003. The number of 1000 client seeking legal advice and assistance in the Legal Aid Center in Skopje, speaks in support of the need for its future existence.

The Republic of Macedonia, in cooperation with many international organizations, carried out many activities aimed at ensuring the right to assistance and support to victims of trafficking in human beings, according to Article 6 of the Palermo Protocol. In the Ministry of Interior there is a Foreigners Transit Center, where every person who has been identified as a victim of human trafficking receives medical care, and care and control by a medical competent team of the International Organization of Migration (IOM). Moreover, with mediation and financial support by this organization, trafficked victims are provided with proper and professional posttraumatic therapy, social reintegration and psychological treatment and counseling provided by the non-governmental organization "Happy Childhood", free legal aid, counseling, and legal representation.

34) Existe-t-il des modalités favorables particulières applicables, au cours des procédures judiciaires, aux catégories de personnes vulnérables suivantes :

	Dispositif d'information	Modalités d'audition	Droits procéduraux	Autres
Victimes de viol				

	☒	☒	☒	☐
Victimes du terrorisme	☒	☒	☒	☐
Enfants/Témoins/Victimes	☒	☒	☒	☐
Victimes de violence domestique	☒	☒	☒	☐
Minorités ethniques	☒	☒	☒	☐
Personnes handicapées	☒	☒	☒	☐
Délinquants mineurs	☒	☒	☒	☐
Autres	☐	☐	☐	☐

35) Votre pays dispose-t-il d'une procédure d'indemnisation des victimes d'infractions ?

- ☒ Oui
☐ Non

36) Si oui, cette procédure d'indemnisation consiste-t-elle en

- ☐ un dispositif public ?
☒ une décision du tribunal ?
☐ un dispositif privé ?

Si oui, quels sont les types d'affaires entrant dans le cadre de cette procédure ?

According to the Article 97 from the Law on Criminal Procedure, a legal property request due to a committed crime shall be raised on a proposal of authorised persons in the criminal procedure. A legal property request may refer to damage compensation, returning objects or annulling certain lawful issues.

37) Existe-t-il des études permettant d'évaluer le taux de recouvrement des dommages et intérêts prononcés par les juridictions pour les victimes?

- ☐ Oui
☒ Non

si oui, veuillez préciser :

38) Le procureur a-t-il un rôle spécifique au regard des victimes (protection et assistance)?

- ☒ Oui
☐ Non

Si oui, veuillez préciser :

In the Witness protection law victims are included when they appear as witnesses. In this case they can conclude agreement with Witness Protection Unit which shall provide protection and assistance to the idem. Among others, public prosecutor have right to initiate non - procedural measures for protection of the victims. Moreover, the Public prosecutor of the Republic of Macedonia has the competence to put such proposal before the Witness Protection Council. Victims are also being provided with special procedural rights during the criminal procedure as defined in the Law on Criminal Procedure.

39) Les victimes d'infractions peuvent-elles contester une décision du procureur de classer une affaire ?

- ☒ Oui
☐ Non

Si oui, veuillez specifier :

According to the Article 16 from the Law on Criminal Procedure, criminal procedure is brought on request of an authorised prosecutor. If the public prosecutor finds no basis for initiation or continuing criminal procedure, the damaged may stand instead as a plaintiff under conditions establish by the Law on Criminal Procedure.

2. 2. 2. Confiance des citoyens dans leur justice**40) Existe-t-il un système d'indemnisation pour les usagers dans les circonstances suivantes :**

- ☒ durée excessive de la procédure ?
☐ non exécution des décisions de justice?
☒ arrestation injustifiée ?
☒ condamnation injustifiée ?

Si oui, veuillez préciser (dispositif, tarif journalier) :

1. According to The Law on courts in case of higher instance court determines violation of the right to trial within reasonable time, it shall issue a decision on a just compensation to be paid to the submitter of the request. The just compensation shall be covered from the judicial budget.

2. The Law on Criminal procedure defines the procedure for damage compensation, rehabilitation and for realisation of other rights of persons who are convicted and

arrested on unjustified grounds or unlawfully. This procedure is regulated in the following articles from the Law on Criminal Procedure:

Article 578

(1) The right to compensation of the damage due to an unjustified conviction has the person against whom has been pronounced a legally valid criminal sanction or who has been found guilty but released from the punishment and afterwards due to an extraordinary judicial remedy the new procedure has been interrupted with a legally valid decision or with a legally valid verdict has been released from the charge or the prosecution has been rejected, unless in question are the following cases:

1) if the interruption of the procedure or the verdict with which the prosecution has been rejected is due to the fact that in the new procedure the damaged as a plaintiff i.e. the private prosecutor has withdrawn from the prosecution or the damaged has withdrawn from the proposal and the withdrawal has been a consequence of the agreement with the accused, and

2) if with the decision in the new procedure the prosecution act has been rejected due to the incompetence of the court and the authorised prosecutor has initiated the prosecution before the competent court.

(2) The convicted person has not the right to compensation of damage if by his false confession or in another manner he has caused his conviction on purpose, unless he has been forced to it.

(3) In case of a conviction for a serial crime, the right to compensation of damage may also refer to particular crimes in view of which the conditions for allowing compensation are fulfilled.

Article 579

(1) The right to compensation of damage becomes obsolete in three years from the day when the verdict becomes legally valid with which the accused is released from the charge or with which the prosecution is rejected, i.e. within a period of three years from the legally valid decision with which the prosecution act has been rejected or the procedure has been interrupted and if on the appeal has decided the higher court within the period of three years from the day of the reception of the higher court decision.

(2) Before submission of the charge for compensation of damage to the court, the damaged is obliged with his request to address to the Ministry of Justice in order an agreement to be made for the existence of the damage and for the type and amount of the compensation.

(3) In case of Article 526, paragraph 1, item 2 of this Code, on the request it may be decided only if the authorised prosecutor has not undertaken prosecution before the competent court within three months from the day of the reception of the legally valid decision. If after the expiry of this period the authorised prosecutor undertakes the prosecution before the competent court, the procedure for compensation of damage will be interrupted until the completion of the criminal procedure.

Article 580

(1) If the request for compensation of damage is not accepted or if after it the Ministry of Justice does not reach a decision within three months from the day of the submission of the request, the damaged may bring a charge for compensation of damage at the competent court. If an agreement is made only in view of part of the request, the damaged may bring a charge in view of the rest of the request.

(2) While the procedure under paragraph 1 of this Article lasts, the obsolescence under Article 527, paragraph 1 of this Code does not run.

(3) The charge for compensation of damage is submitted against the Republic of Macedonia.

Article 581

(1) The successors inherit only the right of the damaged to compensation of property damage. If the damaged has already submitted a request, the successors may continue the procedure only within the limits of the already submitted request for compensation of property damage.

(2) The successors of the damaged may after his death continue the procedure for compensation of damage i.e. may initiate a procedure if the convicted person died before the expiry of the period for obsolescence and did not withdraw from the request.

Article 582

(1) The right to compensation of damage also has the person:

- 1) who was detained and the criminal procedure was not initiated or the procedure has been interrupted with a legally valid decision or with the legally valid verdict has been released from the charge or the charge has been rejected,
- 2) who served a sentence of imprisonment, and due to the repetition of the criminal procedure, the request for protection of legality or the request for extraordinary re-examination of the legally valid verdict he is pronounced a sentence of imprisonment for a shorter period than the sentence he served, or he is pronounced a criminal sanction which does not consist of depriving from his freedom or is found guilty and released from the punishment,
- 3) who due to an error or unlawful matter of the body, he has been deprived from his freedom on unjustified or unlawful grounds or has longer been kept in detention or in the institution for execution of the sentence or the measure, and
- 4) who has been detained longer than the sentence of imprisonment he was convicted of.

(2) The person who under Article 188 of this Code is deprived from his freedom, without any lawful ground, has the right to compensation of damage if against him detention has not been determined or if the time of his detention is not calculated in the pronounced sentence for a crime or for an offence.

(3) The person who has caused his own deprivation from his freedom by unacceptable behaviour does not have the right to compensation of damage. In cases of item 1, paragraph 1 of this Article the right to compensation of damage is excluded although the circumstances under Article 526, paragraph 1, items 1 and 2 exist or if the procedure is interrupted on the basis of Article 135 of this Code.

(4) In the procedure for compensation of damage in cases of paragraphs 1 and 2 of this Article will be accordingly applied the provisions of this Chapter.

Article 583

(1) If the case to which refers the unjustified conviction or the unjustified or unlawful arrest of a person is presented by any mean of public information therefore the reputation of the person is degraded, on his request the court will announce in the newspapers or in another mean of public information an announcement for the decision with which it may be derived that the previous conviction or the arrest is unjustified. or unlawful If the case is not presented in any mean of public information, on the request of that person such an announcement will be delivered to his employer. After the death of the convicted person, the right to such a request have his marital i.e. illegitimate spouse, his children, parents, brothers and sisters.

(2) The request under paragraph 1 of this Article may be also submitted if the request for compensation of damage has not been submitted.

(3) Without reference to the conditions under Article 526 of this Code, the request under paragraph 1 of this Article may be also submitted when due to an extraordinary judicial remedy the judicial qualification of the crime is altered, if due to the judicial qualification in the previous verdict the reputation of the convicted person has more severely been degraded.

(4) The request under paragraphs 1 to 3 of this Article is submitted within six months (Article 527, paragraph 1) to the court which proceeded in first degree in the criminal procedure. On the request decides the Chamber (Article 22, paragraph 6). During the decision for the request are accordingly applied the provisions of Article 526, paragraphs 2 and 3 and Article 530, paragraph 3 of this Code.

Article 584

The court which proceeds in first degree in the criminal procedure, will ex officio bring a decision with which the notification of the unjustified conviction in the penalty register is revoked. The decision is delivered to the Ministry of Justice.

For the revoked notification no one can have an access to the data from the penalty register.

Article 585

The person who is allowed an access to the records and copying them (Article 124) which refer to the unjustified conviction or unjustified arrest, cannot use the data of the records in the manner that might damage the rehabilitation of the person against whom the criminal procedure is conducted. The President of the Court is obliged to warn the person, who has the access to the records of that and it will be notified in the record, with the signature of the person.

Article 586

(1) The person, due to the unjustified conviction or unjustified or unlawful arrest who has been denied his further employment or his social insurance, is granted his length of service, i.e. his insurance period as if he was working at the time of the unjustified or unlawful conviction or unjustified arrest. In the length of service is also calculated the period of unemployment due to the unjustified or unlawful conviction or unjustified arrest which was not his fault.

(2) During each decision for the right upon which influences the length of service or the insurance period, the competent body or the legal person will take into consideration the length of service recognised with the provision of paragraph 1 of this Article.

(3) If the body or the legal person under paragraph 2 of this Article does not take into consideration the length of service recognised with the provision of paragraph 1 of this Article, the damaged may request from the court, noted in Article 528, paragraph 1 of this Code to certify that the recognition of this period according to the law has begun. The charge is submitted against the body or the legal person which disputes the recognised length of service and against the Republic of Macedonia (Article 528, paragraph 3).

(4) On the request of the body i.e. legal person for which the right under paragraph 2 of this Article is realised will be charged from the budget (Article 528, paragraph 3) the proscribed amount for the time for which, with the provision of paragraph 1 of this Article the length of service is recognised.

(5) The insurance period recognised with the provision of paragraph 1 of this Article is fully calculated within the period for pension.

41) Votre pays a-t-il mis en place des enquêtes auprès des usagers ou des professions juridiques (juges, avocats, fonctionnaires, etc.) pour mesurer leur confiance dans la justice et leur degré de satisfaction par rapport au service rendu ?

- ☒ Enquêtes (de satisfaction) auprès des juges
- ☒ Enquêtes (de satisfaction) auprès du personnel des tribunaux
- ☒ Enquêtes (de satisfaction) auprès des procureurs
- ☒ Enquêtes (de satisfaction) auprès des avocats
- ☒ Enquêtes (de satisfaction) auprès des citoyens (visiteurs des tribunaux)
- ☐ Enquêtes (de satisfaction) auprès d'autres usagers des tribunaux

Si possible, veuillez préciser leurs titres, comment se les procurer, etc :

Surveys for measuring public trust and satisfaction with the services delivered by the judiciary system are mainly conducted by NGO's, foreign donors through national projects and International organisations. Namely, USAID conducted comprehensive research in that field within the pilot courts in the Republic of Macedonia.

The name of the Project was: "Satisfaction of users through perception of fairness in the pilot courts initially and ultimately nation wide improves as measured though opinion surveys", with the purpose to obtain citizens feedback and respond immediately by identifying ways to improve the services provided by the court.

As indicators were used 10 questions:

1. Getting to the courthouse was easy
2. Finding where I need to go in the courthouse was easy and convenient.

3. I felt safe in the courthouse.
4. It was easy getting the information I needed when I came to the courthouse.
5. Court personnel treated me with courtesy and respect.
6. The judge hearing my case listened to me and was courteous, respectful and fair.
7. I understand the instructions of the court and what I need to do next.
8. The case or other business I had with the court was handled in a time promptly and in an efficient manner.
9. I was treated equally - my ethnic background, gender, economic status, or age made no difference in how I was treated by the court.
10. Overall, I think the court performed effectively

The Project was conducted semiannually according to the following imetable:

- October, 2003 in six pilot courts,
- May, 2004 in four pilot courts and by end of June in all seven pilot courts,
- November, 2004 in two courts and by end of March, 2005 in all ten pilot courts,
- June, 2005 in the first seven pilot courts
- November, 2005 in all ten pilot courts
- May, 2006, all ten pilot courts
- November, 2006 in all ten pilot courts
- May, 2007

It was conducted by:

Conducted by: Court employees

- Court Coordinators
- Intake employees
- legal interns for each pilot court as volunteers

First Public User Satisfaction Survey conducted in the original seven pilot courts shows a baseline of 55, 85% overall, of public user satisfaction in nine areas of public perception in the following Macedonian Basic Courts: Prilep, Bitola, Stip, Kocani, K. Palanka and Tetovo Basic Court. The baseline data of 55, 85% excludes the overall user satisfaction of the courts performance in the seventh pilot court, Basic Court Struga. This Macedonian basic court was not able to conduct the Public User Satisfaction Survey in the period of October/November 2003 due to ongoing courthouse construction. First Public User Satisfaction Survey conducted in the three new pilot courts shows a baseline of 53,71% overall, of public user satisfaction in nine areas of public perception in the following Macedonian basic courts: Skopje II-Skopje, Ohrid and Gostivar.

For the 42 months period of October 2003 – June 2007 the detailed results, the summary of interim indicator progress is shown down below. The percentage on overall citizens feedback on court performance shows an increase of 21,87% user satisfaction and has reached a level of 78% for the original seven Macedonian pilot courts during the eight Public User Satisfaction Survey conducted in June, 2007.

In regards to the new pilot courts, the percentage on overall citizens feedback on overall court performance shows an increase of 22,05% user satisfaction from the baseline, during the fifth Public User Satisfaction Survey conducted in June 2007.

42) Si possible, veuillez préciser :

	Oui (Enquêtes systématiques : par exemple annuelles)	Oui (enquêtes occasionnelles)
Enquêtes au niveau national	☐	☒
Enquêtes au niveau des tribunaux	☐	☒

43) Existe-t-il un dispositif national ou local permettant de déposer une plainte sur la performance (par exemple la durée des procédures) ou sur le fonctionnement du système judiciaire (par exemple le traitement d'une affaire par un juge)?

☒ Oui

☐ Non

44) Si oui, veuillez préciser :

	Délai pour répondre (Oui)	Délai pour traiter la plainte (Oui)
Tribunal concerné	☒	☐
Instance supérieure	☒	☐
Ministère de la Justice	☒	☐
Conseil supérieur de la magistrature	☒	☐
Autres organisations extérieures (ex. médiateur)	☒	☐

Pouvez-vous donner quelques éléments d'information sur l'efficacité de cette procédure de plainte ?

According to the Article 83 from the Law on the Courts, the Ministry of Justice has competence to examine the complaints by citizens on the work of the courts related to the delay of court proceedings as well as on the work of court services. In 2006 were received 608 complaints by the citizens regarding the work of the courts. Additionally, the Judicial Council in 2006 received 1741 complaints out of which 96% were examined and solved. According to the Article 12 from the Law on the Ombudsman, the Ombudsman shall undertake actions and measures for protection against unjustified delay of court proceedings or unconscientious and irresponsible performance of the work of court's services, hence not infringing the principles of independence and autonomy of the judicial authority. The Report of the Ombudsman for 2006 shows that the biggest number of complaints by which the citizens requested protection were in the field of judiciary: 793 or 25,78%. The Ombudsman Office, in 2006, solved 883 complaints in the field of judiciary while 99 were left pending.

3. Organisation des tribunaux

3. 1. Fonctionnement

3. 1. 1. Tribunaux

45) Nombre de tribunaux considérés comme entités juridiques (structures administratives) et implantations géographiques (compléter le tableau)

	Nombre total
Tribunaux: de droit commun de 1ère instance (entités juridiques)	25
Tribunaux: spécialisés de 1ère instance (entités juridiques)	3
Tous les tribunaux (implantations géographiques)	33

46) Veuillez préciser les différentes sphères de spécialisation (et, si possible, le nombre de tribunaux concernés)

In the Republic of Macedonia there are 27 basic courts. Two of them are specialised in criminal and civil matters. Namely, Basic Court Skopje 1 is a criminal court, while Basic Court Skopje 2 is a civil court. In the Republic of Macedonia there are also 4 appellate courts, Administrative court and the Supreme Court of the Republic of Macedonia. The main characteristic of our court system is specialisation within the courts (specialised departments).

The Supreme Court - the highest court in the country, which ensures uniform application of the laws by the courts. It is competent for deciding in second instance on its Chambers' rulings pursuant to law, deciding in third and final instance upon appeals on appellate courts' rulings, deciding in Administrative Court's rulings brought in second instances in cases provided for in law, judging upon extra-legal remedies against final court judgments and rulings of its Chambers pursuant to law, judging upon conflicts of competence between basic courts falling under jurisdiction of different appellate courts, between appellate courts and basic courts and between different appellate courts and deciding upon handing over the territorial jurisdiction from one court to another, deciding upon requests submitted by the parties and other actors in the procedure in breach of the law concerning reasonable timescale of lawsuits, in procedure before the courts provided for in law.

Appellate Courts – are second instance courts. They are competent to decide upon appeals on rulings of basic courts. Besides this primary prerogative, appellate courts are empowered to decide in conflicts of competence between basic courts falling under their jurisdiction and to perform other duties determined by law. They are established in the area of several basic courts (at the moment there are 4 such courts: Skopje, Stip, Bitola and Gostivar).

Basic Courts are established for one or more municipalities for an area determined by Law. There are 27 basic courts in the Republic of Macedonia. According to the actual jurisdiction, they are empowered to decide upon first instance and are established as courts with basic and extended jurisdiction. Within the frame of the basic courts with extended jurisdiction, specialised court departments are set up acting upon certain types of cases. Basic courts may establish court units. Five basic courts have established specialised judicial units competent for cases in the field of organised crime. The Basic Court Skopje I has been determined as solely criminal court, whereas the Basic Court Skopje II solely as civil court.

Administrative Court – for the purpose of ensuring court protection of the rights and legal interests of natural and legal persons and for ensuring legality, the Administrative Court, with regard to administrative disputes shall decide upon the legality of the acts of state administrative bodies, the Government, other state bodies, municipalities and the City of Skopje, organisations determined by law and legal and other persons in their performance of public authorisation (holders of public positions), who decide upon the rights and responsibilities of certain administrative affairs as well as on acts adopted in

misdemeanour procedure.

47) Une réforme dans la structure des tribunaux est-elle envisagée (par exemple une diminution du nombre de tribunaux (implantations géographiques) ou une réforme de la compétence des tribunaux).

- ☒ Oui
☐ Non

Si oui, veuillez spécifier :

In last period we have made reform of the organisational structure and competences of the courts. Namely, we introduced new Administrative Court and new Appellate Court in Gostivar. The new Law on Courts introduced novelty by reorganizing the competences of the basic courts. Particularly the two basic courts in Skopje differentiated the competences in civil and criminal matters. Namely, Basic Court Skopje 1 is a criminal court and Basic Court Skopje 2 is a civil court. Additionaly, specialised departments for organised crime were established in 5 courts of first instance.

48) Nombre de tribunaux de 1ère instance compétents pour une affaire concernant :

	Nombre
un recouvrement d'une petite créance	26
un licenciement	26
un vol avec violence	26

Veuillez préciser ce qu'est une petite créance dans votre pays (ne répondre que si la définition a changé par rapport à l'exercice d'évaluation précédent):

According The Law on Civil procedure from 2005, the amount of the small claims can not exceed 980 Euro.

Veuillez indiquer les sources pour la question 45

The Law on the Courts

3. 1. 2. Juges, personnels tribunaux

49) Nombre de juges professionnels siégeant en juridiction (répondre en équivalent temps plein et pour les postes permanents)

624

50) Nombre de juges professionnels exerçant à titre occasionnel et rémunérés comme tel:

	Nombre
donnée brute	
si possible, donnée en équivalent temps plein	

51) Veuillez préciser (ne répondre que si l'information a changé par rapport à l'exercice d'évaluation précédent):

52) Nombres de juges non professionnels, non rémunérés (y compris "lay judges") percevant, le cas échéant, un simple défraiement. Veuillez préciser (ne répondre que si l'information a changé par rapport à l'exercice d'évaluation précédent):

According to the Law on the Courts, lay judges shall participate in a trial where this is stipulated by law. Lay judges shall be elected and dismissed by the Judicial Council of the Republic of Macedonia under the conditions and in the procedure stipulated by law. The Judicial Council of the Republic of Macedonia shall determine the number of lay judges in each court, upon a proposal by the sessions of the basic and appellate courts. In 2006 in the courts in the Republic of Macedonia there were 2480 lay judges.

53) Votre système judiciaire prévoit-il un jury de jugement avec une participation des citoyens ?

☐ Oui

☒ Non

Si oui, pour quel(s) type(s) d'affaire(s) ?

54) Si possible, veuillez indiquer le nombre de citoyens ayant participé à de tels jurys pour l'année de référence?

55) Nombre de personnel non juge travaillant dans les tribunaux (répondre en équivalent temps plein et pour les postes permanents)

2061

56) Si possible, pouvez-vous distinguer ce personnel selon les 4 catégories suivantes:

personnels non juge (Rechtspfleger), chargé de tâches juridictionnelles ou para juridictionnelles, ayant des compétences autonomes et dont les décisions peuvent être susceptibles de recours ☐ Oui

personnels non juge chargés d'assister les juges (préparation des dossiers, assistance à l'audience, tenue des procès verbaux, aide à la préparation de la décision) à l'instar des greffiers ☒ Oui 1746

personnels chargés de tâches relatives à l'administration et la gestion des tribunaux (gestion des personnels, gestion des moyens) ☒ Oui 148

matériels y compris de l'informatique, gestion financière et budgétaire, gestion de la formation)

personnels techniques ☒ Oui 167

Veillez indiquer les sources pour les questions 49, 50, 52, 53 et 55

Ministry of Justice, Court Budget Council

3. 1. 3. Procureurs

57) Nombre de procureurs (répondre en équivalent temps plein et pour les postes permanents)

179

58) D'autres personnes ont-elles des fonctions comparables à celles des procureurs ?

☐ Oui

☒ Non

Si oui, veuillez spécifier :

59) Nombre de personnels (non procureurs) attachés au Ministère public (répondre en équivalent temps plein et pour les postes permanents)

172

Veillez indiquer les sources pour les questions 57 et 59

Public Prosetutor's Office

3. 1. 4. Budget et Nouvelles technologies

60) Qui est responsable du budget du tribunal ?

	Preparation du budget	Arbitrage et repartition du budget	Gestion quotidienne du budget	Evaluation et controle de l'utilisation du budget
Conseil d'administration	☐	☐	☐	☐
Président du tribunal	☒	☒	☒	☐
Directeur administratif du tribunal	☐	☐	☐	☐
Greffier en chef				

	☐	☐	☐	☐
Autre	☐	☐	☐	☒

61) Vous pouvez indiquer ci-dessous :

- tout commentaire utile pour l'interprétation des données ci-dessus
- si possible un organigramme avec une description des compétences des différentes instances responsables des procédures budgétaires au sein des tribunaux

According to the Law on Court Budget, Court Budget is a special part of a State Budget. It is prepared by Court Budget Council which receives data from all courts in the Republic of Macedonia. The Budget has to be adopted by the Parliament. Reallocation of sources from the Court Budget to all courts is made by the Court Budget Council. President of each court is responsible for execution of financial plan in his court. The Court Budget Council follow and evaluate execution of budget in all courts.

In the Republic of Macedonia there was developed full automatisisation process of all phases of preparing, allocation, management and evaluation of court budget. For that purpose it is used specific software in all courts and Court Budget Council.

62) Pour l'assistance directe au travail du juge / du greffier, quelles sont les possibilités offertes par le système informatique existant dans les juridictions ?

	100% des tribunaux	+50% des tribunaux	-50% des tribunaux	- 10 % des tribunaux
Traitement de texte	☐	☒	☐	☐
Base de données électronique pour la jurisprudence	☐	☒	☐	☐
Dossiers électroniques	☐	☒	☐	☐
E-mail	☐	☐	☐	☒
Connexion internet	☐	☐	☐	☒

63) Pour l'administration et la gestion, quelles sont les possibilités offertes par le système informatique existant dans les juridictions ?

	100% des tribunaux	+50% des tribunaux	-50% des tribunaux	-10% des tribunaux
Enregistrement des affaires	☐	☒	☐	☐
Système d'information sur la gestion du tribunal	☐	☒	☐	☐
Système d'information financière	☒	☐	☐	☐

64) Pour la communication entre le tribunal et les parties, quelles sont les possibilités offertes par le système informatique existant dans les juridictions ?

	100% des tribunaux	+50% des tribunaux	-50% des tribunaux	-10% des tribunaux
Formulaire électronique	☐	☐	☐	☒
Site internet spécifique	☐	☐	☐	☒
Autres moyens de communication électronique	☐	☐	☐	☐

65) Existe-t-il une institution centralisée responsable de la collecte de données statistiques concernant le fonctionnement des tribunaux et du système judiciaire? (ne répondre que si l'information a changé par rapport à l'exercice d'évaluation précédent)

- ☒ Oui
☐ Non

Si oui, veuillez préciser le nom et les coordonnées de cette institution :

Ministry of Justice, Court Council of The Republic of
 Macedonia, Supreme Court of the
 Republic of Macedonia, State Statistical Office of The
 Republic of Macedonia

Vous pouvez indiquer ci-dessous :

- tout commentaire utile pour l'interprétation des données ci-dessus
- les caractéristiques de votre système judiciaire et les réformes majeures mises en oeuvre au cours des deux dernières années

Regarding the introduction of IT in the Macedonian judiciary it is important to emphasize that the Government of the Republic of Macedonia adopted comprehensive IT Strategy for the period 2007-2010. Additionally, intensive process of computerisation of all judicial institutions is ongoing. Namely, high number of courts are equipped with IT equipment. Development of software application JIS (Judicial Information System) for case tracking system is ongoing. By the date other Projects were implemented in the misdemeanors departments in some courts. The next phase of the process of computerisation of the judiciary will follow with connections of all institutions: courts, Judicial Council, Ministry of Justice, Public Prosecution Office and penitentiary institutions. The IT Strategy (english version) is available on the web site of the Ministry of Justice (www.pravda.gov.mk).

Veuillez indiquer les sources pour les questions 62, 63 et 64

Ministry of Justice

3. 2. Suivi et évaluation

3. 2. 1. Suivi et évaluation

66) Les tribunaux doivent-ils établir un rapport annuel d'activités ?

- ☒ Oui
☐ Non

67) Existe-t-il un système régulier de suivi des activités des tribunaux concernant:

- ☒ le nombre de nouvelles affaires ?
☒ le nombre de décisions rendues ?
☒ le nombre d'affaires faisant l'objet d'un renvoi ?
☒ la durée des procédures (délais)?
☐ autre?

Veuillez préciser:

The courts submit monthly statistical reports to the Ministry of Justice. Additionally the courts are being monitored by the higher courts and the Supreme Court of the Republic of Macedonia in the Annual report prepared by the Supreme Court.

Judicial Council collects all necessary data and information regarding the performance of the courts and each judge and evaluate their results.

68) Existe-t-il un système régulier d'évaluation de l'activité (en termes de performance, rendement) de chaque tribunal?

- ☒ Oui
☐ Non

Veuillez préciser

The Supreme Court of Republic of Macedonia makes regular evaluation, based on the annual reports submitted by the courts.

Ministry of Justice monitors the efficiency of the courts, by preparing quarterly, semi annual and annual statistical reports.

69) Concernant l'activité des tribunaux, avez-vous défini des indicateurs de performance?

- ☒ Oui
☐ Non

70) Veuillez préciser les 4 principaux indicateurs de performance et de qualité d'une bonne justice.

- ☐ Nouvelles affaires
☒ Durée des procédures (délais)
☒ Affaires terminées
☐ Affaires pendantes et stocks d'affaires
☒ Productivité des juges et des personnels des tribunaux
☒ Pourcentage d'affaires traitées par un juge unique
☐ Exécution des décisions pénales
☐ Satisfaction du personnel des tribunaux
☐ Satisfaction des usagers (au regard des services rendus par les tribunaux)
☐ Qualités judiciaire et organisationnelle des tribunaux
☐ Coûts des procédures judiciaires
☐ Autre

Veuillez préciser:

All the indicators marked above are taken into the consideration by the Supreme court

were evaluation on the work of each court, is made.

71) Existe-t-il des objectifs de performance pour chaque juge?

- ☒ Oui
☐ Non

72) Existe-t-il des objectifs de performance au niveau des tribunaux ?

- ☒ Oui
☐ Non

73) Veuillez préciser qui fixe ces objectifs:

- ☐ pouvoir exécutif (par exemple ministère de la Justice)
☐ pouvoir législatif
☒ pouvoir judiciaire (par exemple un Conseil supérieur de la Magistrature)
☐ autre

Veuillez préciser

Targets are defined by the Judicial Council depending on the type of cases and the level of courts and they are applied for each judge.

74) Veuillez préciser les principaux objectifs retenus :

In the basic courts:

- Investigations - 17 cases per month per judge
- Criminal cases - 17 cases per month per judge
- Misdemeanor cases - 140 cases per month per judge
- Civil cases - 25 cases per month per judge
- Commercial cases - 60 cases per month per judge

In Appellate courts:

- Criminal cases - 28 cases per month per judge
- Misdemeanor cases - 60 cases per month per judge
- Civil cases - 33 cases per month per judge
- Commercial cases - 33 cases per month per judge

75) Quelle est l'autorité chargée d'évaluer ces indicateurs de performances des tribunaux :

- ☒ le Conseil supérieur de la Magistrature
- ☐ le Ministère de la Justice
- ☐ un organe d'inspection
- ☒ la Cour Suprême
- ☐ un organe d'audit extérieur
- ☐ autre?

Autre, veuillez préciser :

76) Existe-t-il des standards de qualité (politiques de qualité d'organisation et/ou de qualité judiciaire) définis pour les tribunaux (existence d'un système qualité au sein du système judiciaire) ?

- ☐ Oui
- ☒ Non

Si oui, veuillez préciser :

77) Existe-t-il des personnels spécialisés dans les tribunaux responsables d'une politique de qualité et/ou de systèmes de qualité de la justice ?

- ☐ Oui
- ☒ Non

78) Existe-t-il un système permettant de mesurer le stock d'affaires en cours et de repérer les affaires non traitées dans un délai raisonnable :

- ☒ en matière civile ?
- ☒ en matière pénale ?
- ☒ en matière administrative ?

79) Disposez-vous d'un moyen de mesurer les temps morts durant les procédures judiciaires?

- ☐ Oui
☒ Non

Si oui, veuillez préciser :

The reports sent to the Judicial Council by the courts, contain data on all old cases. The data are clasified by separate courts and for each judge separately. Additionaly, the Ministry of Justice send forms for waiting time of civil cases to all courts and conduct analysis in accordance to received information.

80) Existe-t-il un système d'évaluation du fonctionnement des tribunaux basé sur un plan d'évaluation (calendrier de visites) convenu a priori ?

- ☒ Oui
☐ Non

Veuillez préciser (y compris en indiquant la fréquence de l'évaluation) :

Supreme court and Appellate courts in the Republic of Macedonia visits the basic courts in order to evaluate their work. The visits are conducted according to the Annual programmes for the work of the Appelate courts and the Supreme court of the Republic of Macedonia.

81) Existe-t-il un dispositif régulier de suivi et d'évaluation de l'activité du Ministère public ?

- ☒ Oui
☐ Non

Si oui, veuillez préciser :

Public Prosecution of the Republic of Macedonia and the High Public Prosecution offices in the Republic of Macedonia conduct regular visits to the Basic Public Prosecution Offices in order to evaluate their work. The visits are conducted according to the Annual Programmes for work of the High Public Prosecutor's Office and the Public Prosecutor's Office of the Republic of Macedonia.

Vous pouvez indiquer ci-dessous :

- tout commentaire utile pour l'interprétation des données ci-dessus**
- les caractéristiques du système de suivi et d'évaluation des tribunaux**

Republic of Macedonia undertakes set of measures in order to improve the system of evaluation and monitoring of the work of the courts and judges. One level of these measures is IT system which shall introduce new methodology for collecting and analysing the statistical data from the courts.

Veuillez indiquer les sources pour les questions 70, 71, 72 et 76

Court Council of the Republic of Macedonia

4. Procès équitable

4. 1. Principes

4. 1. 1. Principes généraux

82) Quel est le pourcentage de jugements de première instance en matière pénale dans lesquels le suspect n'est pas présent ou représenté par un professionnel (ex. avocat) durant l'audience? (jugements par défaut)

9,48

83) Existe-t-il une procédure permettant la récusation effective d'un juge si une partie estime qu'il n'est pas impartial ?

☒ Oui

☐ Non

Si possible, nombre de récusations qui ont abouti (en une année) :

84) Veuillez préciser les données suivantes concernant le nombre d'affaires relatives à l'Article 6 de la Convention européenne des Droits de l'Homme (durée et non-exécution), pour l'année de référence :

	Affaires déclarées irrecevables par la Cour	Règlements amiables	Jugements constatant une violation	Jugements constatant une non violation
Procédures civiles - Article 6§1 (durée)	1		7	
Procédures civiles - Article 6§1 (non exécution)	2			
Procédures pénales - Article 6§1 (durée)				

Veuillez indiquer les sources pour les questions 82 et 84

82. Basic Courts

84. Ministry of Justice

4. 2. Durée des procédures

4. 2. 1. Généralités

85) Existe-t-il des procédures spécifiques pour les affaires urgentes :

☒ en matière civile ?

☒ en matière pénale ?

☐ en matière administrative ?

Si oui, veuillez préciser :

There are two urgent special procedures defined in the Law on Civil procedure: procedure in labor disputes and procedure in disputes for disturbance of possession. Namely, in the Article 405 from the Law on Civil Procedure it is defined that in the procedure of labor disputes, and especially when determining the time limits and the hearings, the court will always pay special attention to the need of quick resolving of the

labor disputes. In procedures of labor disputes the time limit for response to a complaint is eight days. Also, it is defined that in the labor disputes, which refer to the termination of the employment, the main hearing must be held within thirty days from the day of the reception of the answer to the complaint. In this procedure, the procedure in front of a court of first instance has to be completed within six months from the day the complaint was filed. Also, in the procedure of labor disputes the court of second instance is obligated to make a decision upon appeal filed against the decision of the court of first instance within thirty days from the day of the reception of the complaint respectively within two months a hearing is held if in front the court of second instance.

Regarding the procedure in disputes for disturbance of possession it is important to mention that when determining the time limits and the hearings in regard to complaints for disturbance of possession, the court will always pay special attention to the need of a quick resolution according to the nature of each individual case. In this procedure, the time limit for response to a complaint is eight days and the main hearing must be held within thirty days from the day of the reception of the answer to the complaint. Also, in the procedure of disputes for disturbance of possession, the procedure in front of a court of first instance has to be completed within six months from the day the complaint was filed, while the court of second instance is obligated to make a decision upon appeal filed against the decision of the court of first instance within thirty days from the day of the reception of the complaint respectively within two months a hearing is held if in front the court of second instance.

In the Law on Criminal procedure is defined that proceedings with cases connected with juveniles and detention are urgent.

86) Existe-t-il des procédures simplifiées :

- ☒ en matière civile (petits litiges) ?
- ☒ en matière pénale (petites infractions) ?
- ☐ en matière administrative ?

Si oui, veuillez préciser (par exemple si une nouvelle loi sur les procédures simplifiées a été adoptée):

According to the Article 163 from the Law on Criminal procedure, the investigating judge may agree with the proposal of the public prosecutor the investigation not to be conducted, if the collected data referring to the crime and criminal give a sound ground to initiate the prosecution act. Also, if for the crime a sentence to five- year imprisonment is proscribed, out of the conditions mentioned in the Law on Criminal Procedure (Art 163 para 1-5), the public prosecutor may initiate a prosecution act without investigation if the collected data referring to the crime and criminal are a sufficient ground for accusation.

Also Articles 456 and 457 from Law on Criminal procedure define simplify procedure when individual judge has competence to decide:

Article 456

(1) Before the assignment of the trial for crimes in the competence of an individual judge for which they are prosecuted on a private charge, the individual judge may call only the private prosecutor and the accused on a certain day to come to the court due to previous clarification of the matters, if he considers that it would be appropriate for a faster completion of the procedure. For the accused with the court summons is also enclosed a copy of the private charge.

(2) If the parties do not reconcile until the withdrawal of the private charge, the judge will obtain statements from the parties and will summon them to make their own proposals in view of the collection of evidence.

(3) If the individual judge does not find that there are reasons for rejection of the charge, he will bring a decision which evidence will be presented at the trial and according to the regulation, will immediately assign the trial and he will announce it to

the parties.

(4) If the individual judge considers that collecting evidence is not important and there are no other reasons for a special assignment of a trial, he may immediately open the trial and upon the presented evidence before the court, bring a decision on a private charge. Of this will particularly be warned the private prosecutor and the accused at the delivery of the summons.

(5) If the private prosecutor does not reply to the summons under paragraph 1 of this Article is valid and applicable the provision of Article 54 of this Code.

(6) In case the accused does not attend the trial and if the judge decides to open the trial, the provision of Article 428, paragraph 4 of this Code will be applied.

Article 457

(1) When the second degree court decides on an appeal against the verdict of the first degree court brought in a brief procedure, of the session of the Chamber of the second degree court will be informed both parties only if the Chairman of the Chamber or the Chamber finds that the presence of the parties would be useful for the clarification of the matters.

(2) If it is a crime when the procedure is conducted on the request of the public prosecutor, before the session of the Chamber the Chairman of the Chamber will deliver the records to the public prosecutor who may submit a written proposal in the period of eight days.

In the Law on Civil Procedure, there is special part named: "SEPARATE PROCEDURE" that contains following procedures: procedure in labor disputes, procedure in disputes for disturbance of possession, issuing a payment order, procedure for small claims, procedure for commercial disputes and procedure before selected courts.

87) Les tribunaux et les avocats ont-ils la possibilité de conclure des accords sur les modalités de traitement des affaires (présentation des dossiers, fixation des délais pour conclure et des dates d'audience) ?

☒ Oui

☐ Non

Si oui, veuillez préciser :

Timeframes are defined in procedural laws and there are not subject to agreement between judge and lawyer. But they can conclude agreement for certain issues not exactly regulated by the law (for example additional submission of information by the parties) as well as on appointing the dates of hearing.

4. 2. 2. Affaires pénales, civiles et administratives

88) Nombre total d'affaires en 1ère instance (contentieuses et non contentieuses); (veuillez compléter le tableau)

	Affaires pendantes au 1 janvier 2006	Nouvelles d'affaires	Décisions au fond	Affaires pendantes au 31 décembre 2006
Nombre total d'affaires civiles, commerciales et	40680	82950	85117	38513

administratives(1-7)				
1 Affaires civiles (et commerciales) contentieuses*	33013	45816	45458	33371
2 Affaires civiles (et commerciales) non contentieuses*	2493	18944	18744	2693
3 Affaires relatives à l'exécution	372239	127935	110270	389904
4 Affaires relatives au registre foncier**	0	1168	1163	5
5 Affaires relatives au registre du commerce**	6822	1344	8150	16
6 Affaires administratives*				
7 Autres	5174	18190	20915	2449
Nombre total d'affaires pénales (8+9)	249739	246101	299751	169089
8 Affaires pénales (infractions graves)	9834	15116	15165	9785
9 Petites infractions	239905	230985	284586	186304

89) * Les affaires mentionnées aux catégories 3 à 5 (exécution, registre foncier, registre du commerce) sont exclues de ce total et doivent être présentées séparément dans le tableau. Les affaires mentionnées à la catégorie 6 (affaires administratives) sont exclues de ce total pour les pays disposant de tribunaux spécialisés ou d'unités spécialisées au sein des juridictions.

**** s'il y a lieu**

Remarque : pour les affaires pénales il peut y avoir une difficulté de classification entre affaires pénales graves et petites infractions. Certains pays peuvent connaître d'autres voies de traitement des petites infractions (par exemple par la procédure administrative). Veuillez indiquer, si possible, les catégories d'affaires reportées dans la catégorie affaires pénales (infractions graves) et les affaires à reporter dans la catégorie "petites infractions".

Explication

Regarding the point 1. Civil (and commercial) litigious cases, we have also available separate data for civil and commercial cases. Namely in 2006 situation in Macedonian courts regarding civil cases is as following: Pending cases on 1 January 2006-27002 cases, Incoming cases - 36802, Decisions - 37384, Pending cases on 31 December 2006 - 26420. Commercial cases: Pending cases on 1 January 2006-6011 cases, Incoming cases - 9014, Decisions - 8074, Pending cases on 31 December 2006 - 6951. In mentioned point 1 of table above are presented total number of presented civil + commercial cases.

In point 7 of the Table "Other" also are included bankruptcy cases and other civil cases.

In point 8 "Criminal cases" there are presented data for adult + juveniles criminal cases

Regarding the point 3 - "Enforcement cases" we would like to clarify that there are presented enforcement cases before courts. Namely in 2006 enforcement agents started to work according to new Law on execution. Therefore in reference year we have mixed system of enforcement of civil verdicts (courts and enforcement agents).

In this table we do not present administrative disputes because that time Supreme court had the competence for sloving these kind of cases. In 2007 new Administrative court was established and all administrative disputes were transfered to this new court.

90) Nombre total d'affaires en 2ème instance (appel) (contentieuses et non contentieuses); (veuillez compléter le tableau)

	Affaires pendantes au 1 janvier 2006	Nouvelles d'affaires	Décisions au fond	Affaires pendantes au 31 décembre 2006
Nombre total d'affaires civiles, commerciales et administratives (1-7)	2870	22444	22590	2724

1 Affaires civiles (et commerciales) contentieuses*	2870	22295	22448	2717
2 Affaires civiles (et commerciales) non contentieuses*				
3 Affaires relatives à l'exécution				
4 Affaires relatives au registre foncier**				
5 Affaires relatives au registre du commerce**				
6 Affaires administratives				
7 Autres		149	142	7
Nombre total d'affaires pénales (8+9)	337	15427	15567	197
8 Affaires pénales (infractions graves)	265	4914	5035	144
9 Petites infractions	72	10513	10532	53

91) Nombre total d'affaires au niveau des cours suprêmes (contentieuses et non contentieuses);
(veuillez compléter le tableau)

	Affaires pendantes au 1 janvier 2006	Nouvelles d'affaires	Décisions au fond	Affaires pendantes au 31 décembre 2006
Nombre total d'affaires civiles, commerciales et administratives (1-7)	5043	4657	4823	4877
1 Affaires civiles (et commerciales) contentieuses*	1011	1635	1224	1442
2 Affaires civiles (et commerciales) non contentieuses*				
3 Affaires relatives à l'exécution				
4 Affaires relatives au registre foncier**				
5 Affaires relatives au registre du commerce**				
6 Affaires administratives	4032	3022	3599	3455
7 Autres				
Nombre total d'affaires pénales (8+9)	59	781	770	70
8 Affaires pénales (infractions graves)	59	781	770	70
9 Petites infractions				

92) Nombre d'affaires de divorces, licenciements, vols avec violence et homicides volontaires reçues et traitées par les tribunaux de 1ère instance (compléter le tableau)

	Affaires pendantes au 1er janvier 2006	Affaires nouvelles	Décisions	Affaires pendantes au 31 décembre 2006
Divorces			1475	
Licenciements			8062	5364
Vols avec violence				
Homicides volontaires				

93) Durée moyenne des procédures (à partir de la date de saisine du tribunal)

	trait l'objet d'un appel	de plus de 3 ans			
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Divorces					
Licenciements					
Vols avec violence					
Homicides volontaires					

94) Le cas échéant, veuillez préciser les procédures propres au divorce:

The Law on civil procedure is applied in divorce cases. In addition to that in the Law on the Family there is special part (five articles) dedicated to divorce of marriage, but it does not contain provisions regarding the court procedure.

95) Comment est calculé le délai de procédure pour les quatre catégories d'affaires ? (veuillez décrire la méthode de calcul)

We do not possibility to present data as it is required in table in question 92 because we have established other system followed by consistent methodology for calculating lenght of proceedings.
In few point we will present you mentioned system and results of the analyses of collected data for 2006:

I. First instance

1. Civil cases

- less than 3 months: 38,20%, 3-6 months: 16,90%, 6 months - 1 year: 16,70%, 1-3 years - 19,30%, 3-5 years: 4,80% and more than 5 years: 4,10%

2. Labour Disputes

- less than 3 months: 34,20%, 3-6 months: 19,60%, more than 6 months: 46,20%

3. Commercial cases

- less than 3 months: 29,70%, 3-6 months: 21,80%, 6 months - 1 year: 21,90%, 1-3 years - 19,30%, 3-5 years: 4,30% and more than 5 years: 3%

4. Bankruptcy cases

- 3-6 months: 70%, 6 months - 1 year: 17,10%, 1-3 years - 11,40%, 3-5 years: 0,60% and more than 5 years: 0,90%

II. Second instance

1. Civil cases

- Less than 1 month: 52,30%, 1-2 months: 17%, 2-3 months: 17%, 3-6 months: 13,20% and more than 6 months: 0,50%

2. Labour disputes

- Less than 1 month: 55,90%, 1-2 months: 15,20%, 2-3 months: 15%, 3-6 months: 13,40% and more than 6 months: 0,50%

3. Commercial cases

- Less than 1 month: 60,60%, 1-2 months: 16,50%, 2-3 months: 10,60%, 3-6 months: 11,80% and more than 6 months: 0,50%

III. Extraordinary legal remedies before Supreme Court

- Less than 1 month: 2,55%, 1-2 months: 2,20%, 2-3 months: 3,25%, 3-6 months: 7,05%, 6 months - 1 year: 52,55% and 1-3 years: 32,40%.

96) Veuillez décrire le rôle et les attributions du procureur dans la procédure pénale (plusieurs choix possibles):

☒ diriger ou superviser l'enquête policière

☐ faire des enquêtes

- ☒ quand cela est nécessaire, saisir le juge pour qu'il ordonne des mesures d'enquêtes
- ☒ porter une accusation
- ☒ soumettre l'affaire au tribunal
- ☒ proposer une peine au juge
- ☒ faire appel
- ☒ superviser la procédure d'exécution
- ☒ classer l'affaire sans suite, sans avoir une décision du tribunal
- ☐ clore l'affaire par une sanction ou une mesure imposée ou négociée sans décision d'un juge
- ☐ autre attribution significative

Veillez préciser:

According to the Public Prosecutor's Law, while exercising its function of prosecuting the perpetrators of criminal acts and misdemeanours, the public prosecutor is authorized to:

- Has all the necessary authorisations from the Ministry of interior and from the other state institutions for disclosing of criminal acts and their perpetrators,
- Give orders to apply special investigative measures in the pre-trial procedure,
- Lead and undertake measures in the pre-investigation and investigation procedure and under her availability are the official persons from the Ministry of interior, Finance police and the customs,
- Undertakes activities in the investigation procedure in accordance to the law,
- It can by himself undertake every action that is necessary for the discover of the criminal act and the discover and prosecution of its perpetrator for what by law is authorised the Ministry of interior, Financial police and the Customs directorate,
- Determine whether the prosecution of perpetrators of criminal acts should be undertaken or continued,
- Submit and handle indictments,
- Impose ("tr. comm. literate: Announces/Declares") regular and extraordinary legal remedies against court decisions,
- Submit a request for initiating a misdemeanours procedure, and
- Perform other duties as determined by law.

The Public Prosecutor's Law was adopted in December 2007. It gives grounds for action of the public prosecutors in the field of investigation. Additionaly, the main reform in that field will follow with the amandement of the Law on Criminal Procedure.

97) Le procureur a-t-il également un rôle dans les affaires civiles et / ou administratives ?

- ☐ Oui
- ☒ Non

Si oui, veuillez préciser :

98) Fonctions du procureur concernant les affaires pénales – veuillez compléter ce tableau :

	Reçues par le Procureur	Classées sans suite par le Procureur parce que l'auteur de l'infraction n'a pas pu être identifié	Classées sans suite par le Procureur en raison d'une impossibilité de fait ou de droit	Classées sans suite par le Procureur pour raison d'opportunité	Terminées par une sanction ou par une mesure imposée ou négociée par le Procureur	Portées par le Procureur devant les tribunaux
Nombre total d'affaires pénales de 1ère instance	32082	11308	4171	214		12721

Vous pouvez indiquer ci-dessous :

- tout commentaire utile pour l'interprétation des données ci-dessus
- les caractéristiques de votre système concernant la durée des procédures et les réformes majeures mises en oeuvre au cours des deux dernières années

Regarding the question "92) Number of divorce cases, employment dismissal cases, robbery cases and intentional homicide cases received and treated by first instance courts" we would like to stress that our system of collecting data is different than required information in the table. In 2006, we have reported 89 criminal cases as Intentional homicide cases (murders - 83, momentary murders - 2, murders from negligence - 2 and murders of a child - 2). Regarding the same point of the table there were accused 56 persons (murders - 51, momentary murders - 1, murders from negligence - 2 and murders of a child - 2). From this persons 40 were convicted (murders - 36, momentary murders - 1, murders from negligence - 1 and murders of a child - 2). Regarding the same question we are presenting you data concerning "Robbery cases": total reported case - 12609 (theft - 5160, severe theft - 6779, robbery - 620 and armed robbery 50 cases). In 2006 there were accused 3445 persons (theft - 1484, severe theft - 1804, robbery - 148 and armed robbery 9 cases). From this persons 3090 were convicted (theft - 1281, severe theft - 1670, robbery - 130 and armed robbery 9 cases).

Veuillez indiquer les sources pour les questions 92 à 94 et question 98

92-94. Ministry of Justice

98. Public Prosecutor's Office

5. Carrière des juges et procureurs

5. 1. Désignation et formation

5. 1. 1. Recrutement, nomination et promotion

99) Comment les juges sont-ils recrutés ?

- ☐ Par concours (par exemple après un diplôme universitaire en droit)
- ☐ Une procédure de recrutement spécifique pour des professionnels du droit ayant une longue expérience juridique (par exemple des avocats)
- ☐ Une combinaison des deux
- ☒ Autres

Si autres, veuillez préciser :

In the Republic of Macedonia judges are elected by the Judicial Council. According to articles 45 and 46 from Law on the Courts, a person may be elected judge if they meet the following criteria:

- To be a citizen of the Republic of Macedonia,
- To be fluent in Macedonian,
- To have working capacity and satisfy the general health conditions,
- To have a university diploma for a law graduate in Republic of Macedonia or an acknowledged diploma from a law faculty from abroad,
- To have passed the bar exam in the Republic of Macedonia

Special conditions for election of a judge are:

- For a basic court judge a person that finished training in the Academy for training of Judges and Public Prosecutors can be elected,
- For a judge in an appellate court a person that has at least 5 years working experience in a court, with recognized results, or 8 years working experience in legal matters after passing the Bar exam can be elected.
- For a judge in the Administrative Court a person that also has at least 5 years working experience in a court, with recognized results, or at least 8 years working experience in legal matters after passing the Bar exam, or he/she is a university law professor with a PhD.
- For a judge of the Supreme Court a person that has at least 8 years working experience in a court, with recognized results, or 12 years working experience in legal matters after passing the Bar exam can be elected.

100) Les juges sont-ils recrutés et nommés, initialement, en début de carrière, par :

- ☐ une instance composée seulement de juges ?
- ☐ une instance composée seulement de non juges
- ☒ une instance composée de juges et de non juges ?

101) La même instance est-elle compétente pour la promotion des juges ?

- ☒ Oui
- ☐ Non

Si non, veuillez préciser quelle instance est compétente pour la promotion des juges :

102) Quels critères et procédures sont utilisés pour promouvoir les juges ? (Veuillez préciser)

For election of judges in the higher courts is used procedure explained in answer of question 99.

Also election of judge in the higher court is regulated in Article 41 in Law on Judicial Council of the Republic of Macedonia. Namely, the Council shall elect a judge in an Appellate Court, the Administrative Court, and the Supreme Court of the Republic of Macedonia from the rank of candidates who have applied to the vacancy and who meet the conditions and criteria stipulated by the Law on Courts and the Law on Judicial Council. The Council shall elect for judge the person of highest expert and professional qualities, with good reputation in exercising his/hers judicial office, while on the basis of the following criteria:

- 1) expert knowledge in the field, taking into account the specialised and post-graduate studies and participation in continuous education,
- 2) attitude towards the work, taking into account the achieved balance between the undertaken and expected volume and efficiency in conducting the work of a judge,
- 3) capability in resolving legal issues, taking into account the achieved level of regularity and legitimacy of judicial ruling and verification, foremost, during proceedings with legal means,
- 4) safeguarding the reputation of a judge and court, to be verified by the manner of presiding with cases, communication with sides and other organs, preservation of the independency, impartiality, confidentiality, importance and interrelation towards work and out of it,
- 5) capacity to convey both in writing and verbally, that can be observed from the prepared decisions and professional judicial proceeding,
- 6) undertaking extra work when performing judicial duty by participating in procedures to resolve backlog of cases,
- 7) undertaking extra work when performing judicial duty by means of mentorship, education etc,
- 8) relationship with the colleagues and the court administration,
- 9) capability in conducting tasks with managing nature.

If the candidate does not come from the ranks of judges, the Council shall obtain the opinion of the legal entity where the candidate is employed, as well as from other institutions in regards to candidate's professional development in the area of law and its application.

103) Comment sont recrutés les procureurs ?

- ☐ Par concours (par exemple après un diplôme universitaire en droit)
- ☐ Une procédure de recrutement spécifique pour des professionnels du droit ayant une longue expérience juridique (par exemple des avocats)
- ☐ Une combinaison des deux
- ☒ Autres

Si autres, veuillez préciser :

According to the Amendments of the Constitution of the Republic of Macedonia adopted in 2005, public prosecutors except Public Prosecutor of the Republic of Macedonia are elected by the Council of public prosecutors. In the new Law on Public Prosecution the public prosecutor can be elected among any person that meets the general terms set by law on employment in a state body, as well as the following conditions Basic Conditions:

- to be a citizen of Republic of Macedonia
- to actively know the Macedonian language
- to have working capacity and general health capacity
- to have a University degree for a law graduate in Republic of Macedonia or a

recognized diploma from abroad and
 - to have the Judicial exam of Republic of Macedonia passed,

For Public Prosecutor of Republic of Macedonia can be appointed a person who meets the above mentioned terms, as well as the following special terms:

- Professional experience of at least 10 years as a public prosecutor with acknowledged results in the work, or 12 years professional experience in legal matters, after taking the judicial exam, or a full-time or part-time university professor that has been teaching a law related subject or a judicial practice subject for more than 10 years.

For Public prosecutor in the Public Prosecution of Republic of Macedonia can be elected a person who besides mentioned basic conditions meets the following terms:

- Professional experience of at least 10 years as a public prosecutor with acknowledged results in the work, or 12 years professional experience in legal matters with acknowledged results, after taking the judicial exam.

For Higher public prosecutor of a Higher Public Prosecution can be elected any person that besides the mentioned basic conditions has professional experience of at least 8 years as a public prosecutor with acknowledged results in the work.

For public prosecutor in a higher Public Prosecution can be elected any person who besides the basic conditions meets the following special terms:

- Professional experience of at least 8 years as a public prosecutor with acknowledged results in the work, or 8 years of professional experience in legal matters with acknowledged results in the work, after taking the judicial exam.

For Public Prosecutor of the Public Prosecution for Prosecuting Organized Crime and Corruption and a public prosecutor in the Public Prosecutor's Office for Prosecuting Organized Crime and Corruption can be elected a person that besides the basic conditions has professional experience of at least 6 years as a public prosecutor with acknowledged achievements in the work.

For Basic Public Prosecutor of a Basic Prosecution can be elected any person who besides the basic conditions has professional experience of at least 6 years as a public prosecutor with acknowledged results in the work.

For public prosecutor in a Basic Prosecution can be elected any person who besides basic conditions mentioned above meets the following special terms:

- Completed training at the Academy for training of judges and public prosecutors.

In the Law on Public Prosecution is defined that in the position of the Public prosecutor of Republic of Macedonia, high public prosecutor and in the public prosecution for prosecution of the organised crime and corruption, the council will select a person with confirmed results at work, who has professional and experts qualities who as well enjoys authority in performing his function, based on the following criteria:

1. expertise knowledge in the criminal field, what will be considered specialist studies, postgraduates studies and participation in the continued education,
2. the relation towards the work or the timely manner in the execution of the work as public prosecutor,
3. capability for professional solving of the legal issues,
4. undertaking of additional work during the execution of the function of public prosecutor through the participation in the preparation of the rules, facilitation, education etc.

5. Enjoying and keeping of the authority of public prosecutor and public prosecution's office, that can be confirmed by the communication manner with the parties and other institutions, independence, impartiality and reliability in performance of the function of public prosecutor and outside of the working hours,

6. professional relation with the public prosecution experts service.

Beside the mentioned criteria, the High public prosecutor of the high public prosecution office, Public prosecutor for the prosecution of the organised crime and corruption and the Basic public prosecutor of the basic public prosecution office should possess ability to perform duties of managerial character.

Also it is important to mention that the higher public prosecutors, the Public Prosecutor of the Public Prosecution for Prosecuting Organized Crime and Corruption and the public prosecutors in the Public Prosecution for Prosecuting Organized Crime and Corruption and basic public prosecutors in the Basic Public Prosecution are elected from the ranks of public prosecutors in Republic of Macedonia, abiding by the procedure and manner for electing a public prosecutor in the respective Public Prosecution.

104) Les procureurs sont-ils recrutés et nommés, initialement en début de carrière, par :

- ☐ une instance composée seulement de procureurs ?
- ☐ une instance composée de seulement de non procureurs?
- ☒ une instance composée de procureurs et de non procureurs?

105) La même instance est-elle compétente pour la promotion des procureurs ?

- ☒ Oui
- ☐ Non

Si non, veuillez préciser quelle instance est compétente pour la promotion des procureurs

106) Quels critères et procédures sont utilisés pour promouvoir les procureurs? (veuillez préciser)

Election of public prosecutors in higher public prosecutor's offices is regulated in Article 40 from the Law on Council of Public Prosecutors. The Council shall elect a Higher Public Prosecutor at a Higher Public Prosecutor's Office, Public Prosecutor for prosecution of organized crime and corruption, and a Basic Public Prosecutor at a Basic Public Prosecutor's Office from the candidates who have applied from among the elected public prosecutors of the Republic of Macedonia and who meet the requirements and criteria stipulated in the Law on Public Prosecutor's Office.

The candidate, who wins the majority of votes from the total number of Council members, shall be elected a Higher Public Prosecutor, Public Prosecutor for prosecution of organized crime and corruption or Basic Public Prosecutor.

In case the Public Prosecutor of the Republic of Macedonia, Higher Public Prosecutor, Public Prosecutor for prosecution of organized crime and corruption or Basic Public Prosecutors are not reappointed, they shall continue performing the duties of public prosecutors at the same public prosecutor's office.

107) Le mandat est-il à durée indéterminée pour les juges?

- ☒ Oui
- ☐ Non

Existe-t-il des exceptions ? Veuillez préciser :

108) Le mandat est-il à durée indéterminée pour les procureurs ?

- ☒ Oui
☐ Non

Existe-t-il des exceptions ? Veuillez préciser :

**109) Si non, qu'elle est la durée du mandat ?
Est-il renouvelable ?**

pour les juges

☐ oui, veuillez
préciser la
durée

pour les procureurs

☐ oui, veuillez
préciser la
durée

Vous pouvez indiquer ci-dessous :

- tout commentaire utile pour l'interprétation des données ci-dessus

- les caractéristiques de votre système de sélection et de nomination des juges et des procureurs et les réformes majeures mises en oeuvre au cours des deux dernières années

With the Constitutional Amendments from December 2005, the new Law on the Courts (May 2006), the Law on the Court Council (May 2006), and the Law on Academy for training judges and prosecutors, new system of section and election of judges was established. According to the above mention new laws the jurisdiction for election of judges is transfered from the Assembly of Republic of Macedonia to the Judicial Council of Republic of Macedonia.

According to the Constitutional Amendments, the Public Prosecutor of the Republic of Macedonia is elected by the Assembly with mandate of 6 years and a right on re-election while the public prosecutors are elected by the Public Prosecutors Council for undetermined mandate.

5. 1. 2. Formation**110) Nature de la formation des juges.
Est-elle obligatoire?**

- ☒ Formation initiale
☒ Formation continue générale
☒ Formation continue pour des fonctions spécialisées (ex. juge pour les affaires économiques ou administratives)
☒ Formation continue pour des fonctions spécifiques (ex. présidence d'un tribunal)
☒ Formation continue pour l'utilisation des outils informatiques au sein des tribunaux

111) Fréquence de la formation des juges :

	Annuelle	Régulière	Occasionnelle
Formation initiale	☒	☐	☐
Formation continue générale	☐	☒	☐
Formation continue pour des fonctions spécialisées	☐	☒	☐
Formation continue pour des fonctions spécifiques	☐	☒	☐
Formation continue pour l'utilisation des outils informatiques au sein des tribunaux	☐	☒	☐

**112) Nature de la formation des procureurs.
Est-elle obligatoire?**

- ☒ Formation initiale
- ☒ Formation continue générale
- ☒ Formation continue spécialisée (ex. procureur spécialisé)
- ☒ Formation continue pour des fonctions spécifiques (ex. procureur général et/ou gestionnaires)
- ☒ Formation continue pour l'utilisation des outils informatiques au sein des tribunaux

113) Fréquence de la formation des procureurs :

	Annuelle	Régulière	Occasionnelle
Formation initiale	☒	☐	☐
Formation continue générale	☐	☒	☐
Formation continue spécialisée	☐	☒	☐
Formation continue pour des fonctions spécifiques	☐	☒	☐
Formation continue pour l'utilisation des outils informatiques au sein des tribunaux	☐	☒	☐

Vous pouvez indiquer ci-dessous :

- tout commentaire utile pour l'interprétation des données ci-dessus
- des commentaires sur l'attention portée dans les curricula à la Convention européenne des Droits de l'Homme et à la jurisprudence de la Cour
- les caractéristiques de votre système de formation des juges et des procureurs et les réformes majeures mises en oeuvre au cours des deux dernières années

The biggest novelty in the system of training of judges and prosecutors in the Republic of Macedonia was introduced by establishing the Academy for training of judges and public prosecutors in 2007. According to the Law on the Academy for training of judges and public prosecutors, the main purpose of the Academy is to provide competent, professional, independent, impartial and efficient performance of judicial and prosecution function through selection, organisation and implementation of initial training of candidates for judges and prosecutors and continuous professional training of judges and prosecutors and judiciary and prosecution clerks. With that law for first time in the Republic of Macedonia is introduced system of initial training of judges and prosecutors.

According to the Article 6, the Academy shall perform the following activities:

- shall organise and implement the initial training of candidates for judges and prosecutors,
- shall organise and implement continuous professional training for judges and prosecutors,
- shall organise and implement training for educators,
- shall organise and implement continuous professional training for the judicial and prosecution clerks,
- may organize and implement training for lawyers, public notaries, and the similar but without deranging the activity of the Academy.
- shall organise and implement conferences, seminars, and other forms of training and professional education,
- shall establish and maintain co-operation with similar local and foreign institutions, organisations and associations,
- shall publish publications and perform other publishing activity for its own needs,
- shall organise and keep a library,
- shall perform other activities determined by the law and Statute of the Academy

in accordance with this Law.

The initial training of the candidates shall last for 15 months and shall encompass five months lectures in the Academy and ten months practical training in court or prosecution office under the supervision of judges and prosecutors.

Academy also organises continuis education for judges, public prosecutors and clerk in the courts. The continuous professional training of judges and prosecutors is implemented through a general and special – specialised programmes, which will cover the application of substantive and procedural laws, the modifications of the laws and regulations, ethic standards of behaviour, the latest scientific and professional accomplishments in the field of national and international law, especially the law of the European Union, the judicial and prosecution practice, etc. In the Law is defined The Duration of Continuous Professional Training of Judges and Prosecutors. Namely, the judges and prosecutors have a right and obligation to continuous professional training in the Academy, depending on their work experience.

The duration of the continuous professional training of judges and prosecutors having work experience of up to 8 (eight) years for the post of judge or prosecutor is at least 50 (fifty) hours during the course of the year.

The duration of continuous professional training of judges and prosecutors having work experience longer that 8 (eight) years for the post of judge or prosecutor is at least 30 (thirty) hours during the course of the year.

The duration of continuous professional training of judges and prosecutors having work experience longer than 15 (fifteen) years for the post of judge or prosecutor is at least 15 (fifteen) hours during the course of the year.

In cooperation with Council of Europe special attention is paid on development and realisation of programmes for training of judges and public prosecutors on the European Convention of Human Rights.

5. 2. Exercice de la profession

5. 2. 1. Salaires

114) Salaires des juges et des procureurs (compléter le tableau)

	Salaire annuel brut (Euro)	Salaire annuel net (Euro)
Juge professionnel de 1ère instance au début de sa carrière	12165	7160
Juge de la Cour suprême ou de la dernière instance de recours	14870	8749
Procureur au début de sa carrière	12165	7160
Procureur auprès de la Cour suprême ou de la dernière instance de recours	14870	8749

115) Les juges et les procureurs bénéficient-ils des avantages suivants :

	Juges	Procureurs
Imposition réduite		

	☐	☐
Retraite spécifique	☐	☐
Logement de fonction	☒	☒
Autre avantage financier	☐	☐

116) Si autre avantage financier, veuillez préciser :

117) Un juge peut-il cumuler son travail avec les autres professions suivantes :

	Oui rémunéré	Oui non rémunéré	Non
Enseignement	☒	☐	☐
Recherche et publication	☒	☐	☐
Arbitrage	☐	☐	☒
Consultant	☐	☐	☒
Fonction culturelle	☐	☐	☐
Autre fonction	☐	☐	☐

118) Si autre fonction, veuillez préciser

According to the Article 52 from the Law on the Courts, the judicial function is incompatible with the function of a MP, or a member of a municipal council or the Council of City of Skopje, and with an office in the state bodies, municipalities and the City of Skopje.

A judge may not perform any other public function or profession, but a function set by law, that is not in collision with their independence and autonomy in exercising the judicial function.

A judge may not perform the work of an executive or supervisory board member of a company or other legal entity founded for acquisition of profit, or another public function or profession, with the exception of functions determined by law.

A judge may be an educator or hold lectures at the Academy for Training of Judges and Public Prosecutors and university institutions and take part in certain scientific projects.

For performing activities in a university institution, the Judicial Council has to grant permission.

The judge cannot be a member of a political party or exercise a political function in a political party, or perform party and political activities.

119) Un procureur peut-il cumuler son travail avec les autres professions suivantes :

	Oui rémunéré	Oui non rémunéré	Non
Enseignement	☒	☐	☐
Recherche et publication	☒	☐	☐
Arbitrage	☐	☐	☒
Consultant	☐	☐	☒
Fonction culturelle	☐	☐	☐
Autre fonction	☐	☐	☐

120) Si autre fonction, veuillez préciser :

According to the Law on Public Prosecution, the function Public Prosecutor is incompatible with the function Member of Parliament, member of the Council of the Municipality i.e. the City of Skopje and with the functions in

the state bodies, municipality and the city of Skopje. Also, Public prosecutor may not be a member of a executive or supervision board of trade association or some other legal association that is established in order to gain some benefit.

In the Law is defined that Public prosecutor may be trainer or to hold lectures in the Academy for training of judges and public prosecutors and on the high educational institutions and to participate in some particular scientific and expert projects.

Additionally, the Law defines that public prosecutor can perform activities and may be involved in projects in high educational institutions upon a previous approval issued by the Public Prosecutor's Council.

121) Des indemnités sont-elles accordées aux juges en fonction du respect d'objectifs quantitatifs de production de décisions ?

☐ Oui

☒ Non

Si oui, veuillez préciser :

In 2006 there was not such provision in Macedonian legislation.

In 2007 the Law on salaries of judges was adopted. Implementation of this Law will start from 1st of January 2008. In Article 8 of mentioned Law it is proscribed that judges in the courts which decrease backlog (1/3 or 1/2 of backlog in court) has right to receive last salary increased for 70% or 100%.

Veuillez indiquer la source pour la question 114

Court Budget Council and Public Prosecution

5. 2. 2. Procédures disciplinaires

122) Quelle autorité peut engager des procédures disciplinaires contre les juges et/ou les procureurs ? Veuillez préciser :

1. Judges

In Article 55 from Law on Judicial Council of the Republic of Macedonia is defined that the initiative for instituting a disciplinary procedure shall be raised by a member of the Council, the President of the court, the President of the higher court or by the general session of the Supreme Court of the Republic of Macedonia within three months from the day when the infringement has been discovered, but not longer than one year from the day when the act was committed. The disciplinary procedure is urgent and of confidential character. It shall be conducted without presence of the public and by respecting the reputation and dignity of the judge.

2. Public prosecutors

Responsibility of public prosecutors is regulated in Article 20 in the Law on Public Prosecutor's:

Article 20

The Public Prosecutor of the Republic of Macedonia is the higher in rank in the hierarchy of the public prosecutors, he/she is responsible for the general conditions of the organization and performance of the public prosecutors office's and for his/her performance and for the performance of the public prosecutor's office is responsible in front of the Parliament of the Republic of Macedonia.

Public prosecutors from the Public prosecution office of Republic of Macedonia for their performance are

responsible in front of the Public Prosecutor of the Republic of Macedonia and the Council of Public Prosecutors.

Higher Public prosecutor for his/her performance is responsible in front of the Public Prosecutor of the Republic of Macedonia and the Public Prosecutors Council of Republic of Macedonia.

The Public Prosecutor for prosecution of organized crime and corruption for his/her performance is responsible in front of the Public Prosecutor of the Republic of Macedonia and the Council of Public Prosecutors, public prosecutors in to the Public Prosecution Office for prosecution of the organised crime and corruption for their performance are responsible in front of the Public Prosecutor for prosecution of the organised crime and corruption and the Public prosecutors Council of Republic of Macedonia.

The Basic Public Prosecutor for his/her performance is responsible in front of the Higher Public Prosecutor, the Public Prosecutor of the Republic of Macedonia and the Council of Public Prosecutors, and the public prosecutors in a Basic Public Prosecutor's Office for their performance are responsible in front of the direct supervising public prosecutor and the Public Prosecutors Council of Republic of Macedonia.

**123) Quelle autorité détient le pouvoir disciplinaire à l'encontre des juges et des procureurs ?
Veuillez préciser:**

1. Judges

In Article 55 from Law on Judicial Council of the Republic of Macedonia is defined that the Council shall establish Disciplinary Commission consisted of a five members from the Council.

The judge shall be entitled to a written or verbal statement regarding the initiative for instituting a disciplinary procedure within 8 days from the days of receiving the notification for the request. The judge undergoing disciplinary procedure is entitled to a counsel for the defence.

The Disciplinary Commission, upon receiving the request, shall collect information and submit a report with a proposal for the grounds of the request to the Council that shall decide to institute the procedure or to suspend the procedure.

When the Council shall decide to institute a disciplinary procedure, the decision is submitted to the initiator and the judge, and the case with all the files shall be handed over to the Disciplinary Commission.

2. Public prosecutors

According to the Law on Public prosecution, the procedure for determining disciplinary liability shall be conducted by a Commission of five members established by the public prosecutor of the Republic of Macedonia. The Council of Public Prosecutors of Republic of Macedonia shall decide on the appeal against the decision of the mentioned commission. Also, it is proscribed that the public prosecutor has the right to initiate administrative dispute before competent court against decision of the Council of Public Prosecutors of Republic of Macedonia.

**124) Types de procédures disciplinaires et sanctions à l'encontre des juges et des procureurs :
nombre de procédures disciplinaires intentées**

	Juges	Procureurs
Nombre total (1+2+3+4)		
1. Faute déontologique		
2. Délit pénal	1	
3. Insuffisance professionnelle	3	4
4. Autre		

**125) Types de procédures disciplinaires et sanctions à l'encontre des juges et des procureurs :
nombre de sanctions prononcées**

	Juges	Procureurs
Nombre total (total 1 à 9)		
1. Réprimande		

2. Suspension		
3. Révocation		
4. Amende		3
5. Diminution de salaire temporaire		
6. Rétrogradation de poste		
7. Mutation dans un autre tribunal géographiquement		
8. Démission	4	1
9. Autre		

Vous pouvez indiquer ci-dessous :

- tout commentaire utile pour l'interprétation des données ci-dessus

- les caractéristiques de votre système de procédures disciplinaires pour les juges et les procureurs et les réformes majeures mises en oeuvre au cours des deux dernières années

Last years the Law on the Courts, the Law on Judicial Council of the Republic of Macedonia, the Law on Public Prosecution and the Law on Council of Public Prosecutors were adopted as a criteria for achieving independent judiciary. These laws regulates disciplinary proceedings for judges and public prosecutors as well.

6. Avocats

6. 1. Statut de la profession

6. 1. 1. Profession

126) Nombre d'avocats exerçant dans votre pays

1698

127) Ce chiffre inclut-il la catégorie « conseiller juridique » (« solicitor/in-house counsellor ») qui ne peut pas représenter en justice ?

- ☐ Oui
☒ Non

128) Nombre de conseillers juridiques

129) Les avocats ont-ils le monopole de la représentation en justice ?

- ☐ Affaires civiles*
☒ Affaires pénales - Défendeur*
☒ Affaires pénales - Victime*
☐ Affaires administratives*

*Le cas échéant, veuillez préciser si cela concerne tous les niveaux d'instance. En cas de non monopole, veuillez préciser les organismes ou personnes pouvant représenter les clients devant un tribunal (par exemple une ONG, membre de la famille, syndicat, etc....) et pour quelles affaires.

According to the Law on Civil Procedure, an authorised representative of party may be:

- lawyer,
- person-graduated in law faculty who is employed by the party and
- blood relative in straight line, brother, sister or a spouse – if he or she has full legal capacity.

130) La profession d'avocat est-elle organisée à travers :

- ☒ un barreau national ?
☐ un barreau régional ?
☐ un barreau local ?

Veuillez préciser :

The attorneys in the Republic of Macedonia are organized in a Bar Association of the Republic of Macedonia.

The Bar Association of the Republic of Macedonia has the status of a legal entity. The work of the Bar Association of the Republic of Macedonia is autonomous and independent.

The Bar Association of the Republic of Macedonia has the following competences:

- 1) decides on the acquirement and termination of the right to practise legal profession, and on the entry and removal from the Register of Attorneys, Register of Associate Law Professionals and Register of Trainees-at-law.
- 2) registers and removes from the Register of Law Firms,
- 3) determines accountability in violations of the legal profession and its repute,
- 4) decides on a temporary work ban,
- 5) adopts a Tariff List for Remuneration and Compensation of Expenses,
- 6) adopts Acts of the Bar Association,
- 7) adopts a Code of Ethics of the Legal Profession,
- 8) cares for the professional training and advancement of associate law professionals and trainees-at-law.

Additionally, the Bar Association of the Republic of Macedonia collaborates with the Bar Associations of foreign countries, as well as with other International organizations of legal professions.

The Bar Association of the Republic of Macedonia has the following sources of financing:

- 1) membership fees,
- 2) registration fees,
- 3) gifts and donations,
- 4) rental fees,
- 5) other proceeds in accordance with this Law.

Veillez indiquer la source pour la question 126

The Bar Association of the Republic of Macedonia

6. 1. 2. Formation

131) Existe-t-il une formation initiale ou un examen spécifique pour accéder à la profession d'avocat ?

- ☒ Oui
☐ Non

132) Existe-t-il un système de formation continue générale obligatoire pour les avocats ?

- ☒ oui
☐ Non

133) La spécialisation dans certains domaines est-elle liée à certaines formations / à un certain niveau de diplôme / à certaines autorisations ?

- ☒ Oui
☐ Non

Si oui, veuillez préciser :

There is special exam foreseen for representation in proceedings for protection of intellectual rights and industrial property.

6. 1. 3. Honoraires

134) Pour le justiciable, existe-t-il une transparence sur les honoraires prévisibles des avocats ?

- ☒ Oui
☐ Non

135) Les honoraires des avocats sont-ils :

- ☐ réglementés par la loi ?
☒ réglementés par le Barreau ?
☒ librement négociés ?

6. 2. Evaluation

6. 2. 1. Plaintes et sanctions

136) Des normes de qualité ont-elles été formulées pour les avocats ?

- ☐ Oui
☒ Non

137) Si oui, qui est responsable de la formulation de ces normes de qualité:

- ☐ le Barreau ?
☐ le législateur ?
☐ autre ?

Veuillez préciser (y compris une description des critères de qualité utilisés):

138) Existe-t-il une possibilité de déposer une plainte concernant :

- ☒ la prestation de l'avocat ?
- ☒ le montant des honoraires ?

Veillez préciser :

There are two basic acts of the Bar Association in that field: Code of Ethics and secondary legislation regarding the disciplinary procedure for lawyers.

139) Quelle est l'autorité compétente pour traiter des procédures disciplinaires :

- ☐ le juge ?
- ☐ le ministère de la Justice ?
- ☒ une instance professionnelle ou autre ?

Veillez préciser :

Responsible organ for disciplinay procedure is Bar Association. In the framework of the Bar Association there are three main organs responsible for disciplinary procedure: Disciplinary Prosecutor, Disciplinary Court and Appellate Council. Lawyer may initiate administrative dispute before the Administrative Court on the final decision brought by the above mentioned organs.

140) Procédures disciplinaires et sanctions à l'encontre des avocats:
Procédures disciplinaires initiées

	Faute déontologique	Insuffisance professionnelle	Délit pénal	Autre
Nombre annuel		167		

141) Procédures disciplinaires et sanctions à l'encontre des avocats :
Types de sanctions prononcées

	Réprimande	Suspension	Révocation	Amende	Autre
Nombre annuel		1		4	

Vous pouvez indiquer ci-dessous :

- tout commentaire utile pour l'interprétation des données ci-dessus**
- les caractéristiques de votre système d'organisation du Barreau et les réformes majeures mises en oeuvre au cours des deux dernières années**

Regarding the answers on questions 140 and 141 it is important to emphasize that presented data are for the following period: June 2005-April 2006 due to the methodology of the Bar association on collecting and analysing statistical data regarding disciplinary procedure against lawyers. The Bar association reports does not indicate the number of the grounds for initiation of disciplinary proceedings. Therefore, all initiated disciplinary proceedings were put in the cell marked as "Professional inadequacy".

According to the Constitution, the bar is defined as an autonomous and independent public service providing legal aid and executing public authorisation in accordance to law. The bar is regulated with the Law on the Bar adopted in 2002. The amendments of the Law from 2006 regulate the obligation regarding the mandatory training for attorneys, introduction of bar exam, the responsibility of attorneys regarding abuse of authorisations and protection of the rights of parties in court through remuneration of damages done by attorneys as well as the possibility for attorneys from EU Member States to perform their activities on the territory of the Republic of Macedonia, following Republic of Macedonia's accession to the EU (transitional provision).

7. Modes alternatifs de règlement des litiges

7. 1. Médiation et autres formes de règlement des litiges

7. 1. 1. Médiation

142) Le cas échéant, veuillez préciser, par type d'affaires, l'organisation de la médiation judiciaire :

	Possibilité de médiation privée ou médiation annexée au tribunal	Médiateur privé	Instance publique	Juge	Procureur
Affaires civiles et commerciales	☐	☒	☐	☐	☐
Affaires familiales (ex: divorces)	☐	☐	☐	☐	☐
Affaires administratives	☐	☐	☐	☐	☐
Licenciements	☐	☒	☐	☐	☐
Affaires pénales	☐	☐	☐	☐	☐

143) Est-il possible de bénéficier de l'aide judiciaire lors des procédures de médiation ?

☒ Oui

☐ Non

Si oui, veuillez spécifier :

Legal aid concerning mediation procedures can be received by the Chamber of mediators, mediators themselves, Courts, Ministry of Justice, attorneys.

There is no Court mediation in Republic of Macedonia and there is only conciliation before a Judge.

144) Pouvez-vous donner des informations sur les médiateurs accrédités ?

☒ Oui

☐ Non

Si oui, veuillez indiquer le nombre de médiateurs :

98

145) Pouvez-vous donner des informations sur le nombre total de procédures de médiation concernant :

les affaires civiles ?

☐ oui,
nombre :

les affaires familiales ?

☐ oui,
nombre :

les affaires administratives ?

☐ oui,
nombre :

les affaires de licenciements ?

☐ oui,
nombre :

les affaires pénales ?

☐ oui,
nombre :

Veillez indiquer la source pour la question 145

Taking into account that 2006 was year when organs of mediators were established, in this year there was not made mediation by mediators.

Ministry of Justice

7. 1. 2. Autres formes de règlement des litiges

146) Pouvez-vous donner des informations sur les autres mesures alternatives de règlement des litiges (par ex. arbitrage) ? Veillez spécifier :

Conciliation is done by the judges in the Court.

The Court can disrupt the proceedings if the parties wish to try the mediation procedures.

In the Republic of Macedonia there is a full time arbitration at the Commercial Chamber of Republic of Macedonia. They perform arbitration in commercial cases among the legal entities that are their members.

Vous pouvez indiquer ci-dessous :

- tout commentaire utile pour l'interprétation des données ci-dessus

- les caractéristiques de votre système de modes alternatifs de règlements des litiges et les réformes majeures mises en oeuvre au cours des deux dernières années

In 2006 the Law on mediation was adopted. Hence, mediators are established as physical entities which help the parties to reach an agreement , without the right to put on a solution to the dispute, according to the principles of the mediation procedures.

The mediation process is possible for civil, commercial, employment, customer and other disputes among legal and physical entities, according to the Law, before or after the start of the court proceedings, unless something else is proscribed by law.

At present the mediators are certified and the bodies of the Chamber are formed.

8. Exécution des décisions de justice

8. 1. Exécution des décisions civiles

8. 1. 1. Fonctionnement

147) Nombre d'agents d'exécution

56

148) Les agents d'exécution sont-ils :

- ☐ des juges ?
- ☒ des huissiers de justice exerçant en profession libérale ?
- ☐ des huissiers de justice attachés à une institution publique ?
- ☐ d'autres agents d'exécutions ?

Veuillez préciser leur statut :

Persons who perform public authorizations determined by law, out of the Courts, appointed according to the provisions of the Law, who decide directly on the actions to be taken, within their authorizations, in order to carry out the enforcement decision and take up the enforcement actions.

149) Existe-t-il une formation initiale ou un examen spécifique pour accéder à la profession d'agent d'exécution?

- ☒ Oui
- ☐ Non

150) La profession d'agent d'exécution est-elle organisée par :

- ☒ une instance nationale ?
- ☐ une instance régionale ?
- ☐ une instance locale ?

151) Pour le justiciable, existe-t-il une transparence sur le coût prévisible des frais d'exécution?

- ☒ Oui
- ☐ Non

152) Les frais d'exécution sont-ils :

- ☒ réglementés par la loi ?
☐ librement négociés ?

Veillez indiquer la source pour la question 147

Ministry of Justice

8. 1. 2. Supervision**153) Existe-t-il un système de supervision et de contrôle de l'activité des agents d'exécution ?**

- ☒ Oui
☐ Non

154) Quelle est l'autorité chargée de superviser et de contrôler les agents d'exécution :

- ☐ une instance professionnelle ?
☐ le juge ?
☒ le ministère de la Justice ?
☐ le procureur ?
☐ autre ?

Veillez préciser :

The Ministry of Justice performs regular supervision of the work of enforcement agents and the Chamber of enforcement Agents, at least once a year. The Ministry also performs extraordinary supervision over the work of the enforcement agent at any time ex-officio or upon a request from a President of court from the territory where they are appointed.

The enforcement agents and the Chamber are obligated to provide insight into the acts and the records that they have to the authorised persons from the Ministry of Justice. The supervision by the Ministry of Justice is performed in the presence of the enforcement agent that is being supervised, the President of the Chamber, or a person authorised by the President of the Chamber, if the supervision is performed over the work of the Chamber. The report for the concluded supervision is delivered to the Chamber and to the State Auditors Bureau.

155) Des normes de qualité sont-elles formulées pour les agents d'exécution ?

- ☒ Oui
☐ Non

Si oui, quelle est l'autorité chargée de formuler ces normes de qualité et quels sont les critères de qualités utilisés?

The Ministry of Justice forms the quality standards through the Law on enforcement and Regulations envisaged by the Law. During the enforcement, the enforcement agent are obliged to act immediately, to deal with the cases in the order in which they were received, efficiently and lawfully.

156) Disposez-vous d'un mécanisme spécifique pour l'exécution des décisions de justice rendues contre des autorités publiques, y compris pour assurer le suivi de cette exécution?

☐ Oui

☒ Non

Si oui, veuillez préciser :

Veuillez indiquer les sources pour les questions 155 et 156

Ministry of Justice

8. 1. 3. Plaintes et sanctions

157) Quelles sont les principales plaintes des usagers concernant les procédures d'exécution ? (Veuillez n'en indiquer que 3 au maximum)

☒ absence de toute exécution ?

☐ non exécution des décisions judiciaires rendues contre des autorités publiques?

☐ manque d'information ?

☐ durée excessive ?

☒ pratiques illégales ?

☐ supervision insuffisante ?

☒ coût excessif ?

☐ autre ?

Veuillez préciser:

New "Section for supervision over the work of Enforcement agents, notaries and mediators" was formed within the Ministry of Justice so that a supervision and control is strengthened. From the beginning of the work of the enforcement agents (01.06.2006) till now (01.12.2007), 158 complaints on their work were filled and supervisions are made daily. The reports for the concluded supervisions with the violations found are delivered to the Chamber and to the State Auditors Bureau.

158) Votre pays a-t-il préparé ou adopté des mesures concrètes pour changer la situation concernant l'exécution des décisions de justice – en particulier les décisions rendues contre les autorités publiques?

☐ Oui

☒ Non

Si oui, veuillez préciser :

159) Existe-t-il un système mesurant la durée des procédures d'exécution :

☐ pour les affaires civiles ?

☐ pour les affaires administratives ?

160) Pour un jugement concernant un recouvrement de créances, pouvez-vous estimer le délai de notification aux parties habitant dans la ville du siège de la juridiction :

☐ entre 1 et 5 jours ?

☐ entre 6 et 10 jours ?

☐ entre 11 et 30 jours ?

☐ plus ?

Veuillez préciser :

161) Procédures disciplinaires initiées à l'encontre des agents d'exécution:

Faute déontologique

☐ oui,
nombre :

Insuffisance professionnelle

☐ oui,
nombre :

Délit pénal

☐ oui,
nombre :

Autre

☐ oui,
nombre :

162) Sanctions prononcées à l'encontre des agents d'exécution :

Réprimande	☐ oui, nombre :
Suspension	☐ oui, nombre :
Révocation	☐ oui, nombre :
Amende	☐ oui, nombre :
Autre	☐ oui, nombre :

Vous pouvez indiquer ci-dessous :

- tout commentaire utile pour l'interprétation des données ci-dessus

- les caractéristiques de votre système d'exécution des décisions civiles et les réformes majeures mises en oeuvre au cours des deux dernières années

The Disciplinary Committee of the Chamber of enforcement Agents is working on the complains from clients and on the reports that the Ministry of Justice has produced about violations but still no disciplinary procedures are started and no disciplinary measures are pronounced against enforcement agents.

"Law on enforcement" was adopted in 2005, according to which private enforcement agents with public authorizations took over the forcible enforcement of court decisions for fulfillment of an obligation.

There were two amandment and adendum of the Law on enforcement in 2006 and all the Regulations envisaged by the Law were prepared and entered into force.

There was another amandment of the "Law on enforcement" in 2007 and two changes of the Regulations, concerning the exam for enforcement agents and the number and the territory of the enforcement agents where they are appointed.

Veuillez indiquer les sources pour les questions 157 et 160

Ministry of Justice

8. 2. Exécution des décisions pénales**8. 2. 1. Fonctionnement****163) Existe-t-il un juge chargé spécifiquement de l'exécution ?**

☒ Oui

☐ Non

Si oui, veuillez préciser ses fonctions et compétences (ex. fonctions d'initiative ou de contrôle).

Si non, veuillez préciser quelle autorité est compétente pour l'exécution des jugements (par ex: procureur).

Judge for Execution of sanctions is introduced in Macedonian penal system with the Law on Execution of Sanctions. Namely, it is provided that in all Basic Courts a Judge for Execution of Sanctions will be appointed.

The Judge for Execution of Sanctions protects the rights of the convicted persons, supervises the legality of the procedure for execution of the imprisonment sentence and provides equality of the convicted persons before the law.

The Judge for Execution of Sanctions performs activities and decides for:

- sending of the convicts on serving the imprisonment sentence,
- postponement of the imprisonment sentence,
- interruption in serving the sentence and abolishment of the interruptions of sentence serving,
- calculation of the sentence, if the competent court did not pass the appropriate verdict,

- obsolescence of the execution of the sentence or termination of the execution of sentence due to the convict's death, if the competent court did not pass the appropriate verdict,
- cooperation with the competent Centres for social work about the post-penal aid and the execution of the alternative measures,
- replacement of the fine with imprisonment sentence,
- payment of the fine on instalments,
- other cases regulated by law.

164) En matière d'amendes prononcées par une juridiction pénale, existe-t-il des études permettant d'évaluer le taux de recouvrement effectif ?

- ☐ Oui
- ☒ Non

Si oui, veuillez préciser :

Vous pouvez indiquer ci-dessous :

- tout commentaire utile pour l'interprétation des données ci-dessus
- les caractéristiques de votre système d'exécution des décisions pénales et les réformes majeures mises en oeuvre au cours des deux dernières années

The Law on Execution of Sanctions adopted in December 2005 regulates the execution of sanctions for crimes and misdemeanours such as penalties, alternative measures, security measures and educational measures. The reform of the penitentiary system is approached for the purpose of improvement of the conditions in the penitentiary institutions and more efficient execution of sanctions in compliance with the international standards. The activities concerning the execution of sanctions are in the competence of the Directorate for Execution of Sanctions, which has the capacity of a legal person. This Law provides for establishment of another penitentiary institution of closed and semi-open type, in order to ease the burden of the detention and prison capacity as well as creation of organisational and functional conditions for establishment of a hospital for treatment of imprisoned population. The Law provides legal basis for the training Centre for the employees of the penitentiary institutions, necessitating provision of financial and staffing conditions for its permanent functioning. The Law provides for practical implementation of the alternative measures prescribed in the Criminal Code (cooperation with other state bodies has been ensured with the establishment of the Department for enforcement of alternative measures within the Directorate for Execution of Sanctions).

The Penitentiary system in the Republic of Macedonia is positioned in a horizontal and vertical connection, as a sole and closed system of penitentiary and correctional institutions. In this system, the execution of sanctions is in competence of the Directorate for Execution of Sanctions, with the capacity of a legal person, managed by a Director. The sentence of imprisonment and the educational - correctional measure remitting to educational-correctional institution is done in penitentiary-correctional or educational-correctional institutions, which have the capacity of a legal person. The penitentiary and correctional institution may be penitentiary-correctional institution homes or prisons, and according to the level of security, they are divided into penitentiary and correctional institution of open, semi-open and closed type. Currently in the Republic of Macedonia, 8 penitentiarycorrectional and 2 educational-correctional institutions are operational. The adaptation of the second wing of the penitentiary institution Idrizovo was completed, and suitable premises are provided for location of the Training centre for the employees in the penitentiary institutions.

9. Notaires

9. 1. Statut

9. 1. 1. Fonctionnement

165) Existe-t-il des notaires dans votre pays ? Si non, allez à la question 170.

- ☒ Oui
☐ Non

166) Les notaires ont-ils un statut :

privé (sans contrôle par une autorité publique)?

☐ oui,
nombre :

de profession libérale réglementée par les pouvoirs publics?

☒ oui, 126
nombre :

public ?

☐ oui,
nombre :

autre ?

☐ oui,
nombre et
précisez :

167) Le notaire exerce-t-il une fonction :

- ☒ dans le cadre de la procédure civile ?
☐ dans le domaine du conseil juridique ?
☒ pour authentifier les actes/certificats ?
☐ autre ?

Veuillez préciser :

Notaries are responsible to compose notary act and verification of private documents, according to the law.

The public service for notary activities in the Republic of Macedonia was introduced upon the adoption of the Law on Performing Notary Activities in 1996, and the first notaries were appointed in 1998. The New Law on Notary was adopted in April 2006. The introduction of the notary service as autonomous, expert, impartial and independent public service has had positive effect on release of the courts in the part of undisputed cases transferred in the competence of the notaries. Furthermore, legal security has increased by the acknowledgement of notary documents having capacity of public documents.

Veuillez indiquer la source pour la question 166

Ministry of Justice

9. 1. 2. Supervision

168) Existe-t-il un système de supervision et de contrôle de l'activité des notaires ?

☒ Oui

☐ Non

169) Quelle est l'autorité chargée de superviser et de contrôler notaires :

☐ une instance professionnelle ?

☐ le juge ?

☒ le ministère de la Justice ?

☐ le procureur ?

☐ autre ?

Veuillez préciser :

The Ministry of Justice performs supervision of the work of the Chamber of the notaries and the notaries ex-officio. The Ministry also performs extraordinary supervision over the work of the notaries upon a complaint.

The notaries and the Chamber of notaries are obliged to provide insight into the acts and the records that they have to the authorised commission consisted of three employees of the Ministry of Justice, a judge appointed for the territory for which the notary is appointed, authorised notary from the President of the Chamber of notaries. The supervision by the Ministry of Justice is performed in the presence of the notary that is being supervised, the President of the Chamber, or a person authorised by the President of the Chamber, if the supervision is performed over the work of the Chamber. The report for the concluded supervision is delivered to the Chamber, to the Ministry of Justice, and the notary himself.

New "Section for supervision over the work of Enforcement agents, notaries and mediators" was formed within the Ministry of Justice so that a supervision and control is strengthened. By 01.12.2007 about 60 complaints on the work of the notaries were filled and supervisions were made daily.

Vous pouvez indiquer ci-dessous :

- tout commentaire utile pour l'interprétation des données ci-dessus

- les caractéristiques de votre système notarial et les réformes majeures mises en oeuvre au cours des deux dernières années

There were a lot of amendments and adendum on the "Law for notaries" till 2006, so in 2007 a new "Law for notaries" was adopted, according to the National Programme for the Adoption of the Acquis of the Republic of Macedonia. The Ministry of Justice in 2007 prepared new Regulations as envisaged by the law. The main purpose of the Law is to reduce the caseload in the courts, strengthening the responsibility of the notaries in doing the official authorisations and improving the safety of the legal traffic in Republic of Macedonia.

10. Fonctionnement de la justice

10. 1. Réformes envisagées

10. 1. 1. Réformes

170) Pouvez-vous fournir des informations relatives au débat actuel dans votre pays en ce qui concerne le fonctionnement de la justice ? Des réformes sont-elles envisagées ? (par exemple modification de la législation, modification dans la structure judiciaire, programme d'innovation, etc. ...) Si oui, veuillez préciser.

The Republic of Macedonia has made significant progress in the implementation of the judicial reform defined by the Strategy and the Action Plan for its implementation in November 2004 followed by the Constitutional amendments (December 2005) as

well as the adoption of the key reform laws (2006), with consensus achieved by the political entities. The legal and institutional framework has been completed. The key objective – strengthening the independence of judiciary has been achieved.

Upcoming activities in strengthening the independence of judiciary and enhancement of the execution of judicial function will be directed towards the implementation of the legal arrangements ensuring not only independence but also accountability in the execution of judicial function, as well as quality enhancement and evaluation as a basis for promotion. The established Academy for Training of Judges and Prosecutors, which commenced its operation following the provision of all conditions required (legal, material and human resources), provides additional guarantee for the promotion and specialisation of judiciary.

It is envisaged to strengthen the competences of the Public Prosecutor in the pre-investigative and investigative procedure and in the measures taken for detection and prosecution of offenders in the area of organised crime and corruption.

Strengthening the confidence in judiciary is continuously ongoing simultaneously with the achievement of the reform objectives as well as with the enhancement of judicial transparency.

Moreover, key commitment is the gradual increase of the Judicial Budget, which is directly conditioned by the results from the measures envisaged for improving the efficiency of the judiciary.

The amendments to the criminal and civil court proceedings as well as the specialisation of judiciary contribute to the improvement of its efficiency. In addition, with the commencement of the established Institute of Enforcement Agents in the

course of 2006, the problem of the delay in the execution of civil cases has been addressed to great extent, which is significantly reduced and it is expected that this trend will continue. The current reforms in the misdemeanour system – harmonisation of the special laws providing for misdemeanours referred to in the Law adopted in 2006, are also directed towards increasing the efficiency of the judiciary. The legislative amendments are based on the 2005 Constitutional amendments which provide for state administrative body or organisation and other body performing public authorisations, to pronounce fines for particular misdemeanours determined under law, whereupon court protection is guaranteed against the decisions delivered by these bodies through newly-established administrative court. According to Article 154 of the Law on Misdemeanours, it is the obligation of state authorities within 12 months from the date of entering into force of this Law, to harmonise the laws stipulating misdemeanour sanctions with the new misdemeanour sanctions provided for in this Law. In addition, the application of the Law on Mediation of 1 November 2006 as an alternative method for settling civil, commercial, working, consumer and other disputable relations provides for a decrease in the number of court cases and consequently, improved access to justice.

The application of established systems for management of court cases will significantly contribute to modernisation and efficiency of judiciary, and intensive training was organised for judges and court clerks.

The reform of the judiciary in the Republic of Macedonia is a continuing process for adoption of and harmonization with the International and European standards and best practices. In the second half of 2007, after completing the Strategy for reform of the judicial system from 2004, as a result of the Government commitment to keep the pace of the reform two additional Strategies were adopted: Strategy for Information and communication technology in the judiciary and Strategy for reform of the criminal legislation.

The Strategy for Information and communication technology in the judiciary is a strategic document projecting the introduction of the IT in the judiciary within the period of 2007-2010. The general objective of the Strategy is to establish and develop modern and computerized judiciary in the Republic of Macedonia, aiming to increase the overall efficiency of the system based on ICT solutions and system in accordance to the European and International standards.

Furthermore, the Strategy for reform of the criminal legislation from 2007 consists of two segments: reform of the criminal procedural legislation and reform of the substantive criminal legislation. Namely, concrete directions and activities are being defined and planned within particular timeframe. The key novelties will be implemented within the Law on criminal procedure and the Criminal Code of the Republic of Macedonia.