



COUNCIL OF EUROPE CONSEIL DE L'EUROPE

EUROPEAN COMMISSION
FOR THE EFFICIENCY OF JUSTICE
(CEPEJ)

PILOT-SCHEME
FOR
EVALUATING JUDICIAL SYSTEMS

SCHEME FOR EVALUATING JUDICIAL SYSTEMS

Country: UKRAINE
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Contact Name: Roman Volodymyrovych Falfushinskiy
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I. General information

1. Number of inhabitants

Number: 47 809 700
Year of reference: 2003
Source: National Statistics Office
.....

2. Total annual State/regional public budget

Budget: Income: 65 204 662 800 hrn.
Expenses: 72 179 687 600 hrn.
Year of reference: 2004
Source: State Budget of Ukraine
.....

3. Average gross annual salary

Salary: 7214 hrn.
Year of reference: 2004
Source: State Budget of Ukraine
.....

II. Access to Justice and to all courts

II. A. *Legal aid/cost of justice*

4. Annual public budget spent on legal aid

Annual budget: 1 915 300 hrn (on legal aid in criminal cases) Year: 2004
Source: State Budget of Ukraine
.....

5. If possible, specify

- the annual public budget spent on legal aid in criminal cases

Annual budget: 1 915 300 hrn. Year: 2004
Source: State Budget of Ukraine
.....

- annual public budget spent on legal aid in other court cases

Annual budget: Year :
Source :
.....

6. Total number of legal aid cases (in a year)

Number of cases: Year :
Source : Statistics is not maintained by the courts
.....

7. If possible, specify:

- the total number of legal aid cases in criminal matters (in a year)

Number of cases: Year :
Source : Statistics is not maintained by the courts
.....

- the total number of legal aid cases in other court cases (in a year)

Number of cases: Year :
Source :
.....

8. Does your country have an income and asset test for granting legal aid? Yes

In case of a defender being appointed in a criminal case, or when an individual is spared of charge for legal services due to his/her poverty (Article 12 para. 2 of the Law of Ukraine *On Attorneys at Law*); in case when a suspect, an accused, or a defendant wishes to invite a defender, but due to lack of facilities or by other objective reasons can not do it (Article 47, Section 4, para. 2 of the Code of Criminal Procedure); individuals rehabilitated pursuant to the Law of Ukraine *On rehabilitation of victims of political repressions in Ukraine*, have the right to be consulted by the lawyers free of charge on issues relating to rehabilitation (Article 6, Section 6 of the said Law); veterans of the war and individuals covered by the Law of Ukraine *On the Status of Veterans of War and Guaranties of Their Social Protection*, are spared of charge for making legal papers, legal consultations as well as of court charges relating to consideration of issues of their social protection (Article 22 of the said Law).

This criterion, however, does not fix amount of income.
The individuals are considered poor when their average accumulated monthly income is lower than a living minimum.

9. If yes, what is the maximum income level for granting legal aid?

Income level: 362,23 hrn Year : 2004
.....

10. Is it possible to refuse legal aid for lack of the merit of the case?
(eg. for frivolous or vexatious actions, or cases without merit)

Yes / No:

If yes, is the decision taken by :
(please indicate the right answer) - the court
- a body external to the court
- a mixed decision-making body (court and external)
- other:

What factors are taken into account ?

Factors:

11. In general do litigants have to pay a court tax or fee to start a proceeding at a general jurisdiction court?

Yes

If yes, is this true for : - criminal cases? No
- other than criminal cases? Yes

12. Does your country have a private system of legal expenses insurance for individuals?

Yes: Voluntary insurance of court expenses (Article 6 Section 4 para. 19 of the Law of Ukraine *On Insurance*)
.....

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

Yes

.....

If yes, is this true for : - criminal cases ? Yes
- other than criminal cases? Yes

14. In your country, have studies been carried out on the costs of cases brought to courts concerning: - users? No
- the State? No

If yes, please indicate the references of these studies published in the year 2002 or 2003:

(Author / instance) (Title) (Type of courts or costs reported on):

.....
.....
.....

II. B. Users of the courts and victims

15. Are there official internet sites/portals (eg. Ministry of justice, etc..) through which the general public may have free access to:

- legal texts (eg. codes, laws, regulations, etc..)? Yes
internet address:

- to the case-law of the higher court/s? Yes
internet address:

- to other documents (for examples legal forms)? Yes
internet address:

If yes, please give the internet address www.minjust.gov.ua, www.rada.gov.ua, www.court.gov.ua

16. Is there a public and free-of-charge specific information system to inform and to help victims of crimes? No

Comments: The victims of crimes may obtain information they need on web-pages indicated in No. 14

17. Is there a public, free of charge and personalised specific information system, managed by the police or the justice system, on the follow up given to complaints by victims of crime? **No**

Comments: Informing victims on measures provided with the view of their complaints is carried out individually as they acquire it

18. Does your country have a public compensation fund to compensate financially victims of crimes? **No**

Comments: Reimbursement is given to the victims on account of the individual found guilty of a crime.

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

If yes, are these surveys

- at national level **Yes** (National Statistics Office)

- at court level **No**

20. Is there a national or local procedure for making complaints about the performance of the judiciary (eg. through an ombudsman)? **Yes**

Please specify:

- at court level/internal procedure **Yes**

- at court level/external procedure **Yes**

- at national level/internal procedure **Yes**

- at national level/external procedure **Yes (European Court of Human Rights)**

Comments: An individual has the right of appeal court decisions. Each person has the right to appeal to relevant international judicial bodies in order to protect its rights and freedoms after having exhausted all national legal remedies (Article 55 of the Constitution of Ukraine).

21. As a general rule, do the institutions which receive such complaints have an obligation to respond and/or to deal with the complaint within a certain time limit?

- time limit to respond: **Yes** (30 days)

- time limit for dealing with the complaint: **Yes** (30 days)

III. Functioning of courts and efficiency of justice

III. A. Functioning

22. Total number of courts

Number of courts: 765 general courts, Supreme Court of Ukraine, High Commercial Court of Ukraine, High Administrative Court of Ukraine, Constitutional Court of Ukraine

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23. Number of general jurisdiction first instance courts

Number of courts: 723;

.....

24. Number of specialised first instance courts

Please specify the different areas of specialisation

(area of specialisation)

(number of courts)

Commercial courts 27

.....

Administrative courts are being formed at the moment

.....
.....

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

Number of judges: 7420 (in local courts and courts of appeal) fte Year : 2004
.....

Source : Networks and number of judges of local courts adopted by the Decree of the President of Ukraine No 641/2001 of 20.08.2001 (amended). Networks and number of judges of commercial courts (adopted by the Decree of the President of Ukraine No 511/2001 of 11.07.2001). Networks and number of judges of local martial courts of appeal and local courts martial (adopted by the Decree of the President of Ukraine No 769/2001 of 30.08.2001).

26. Number of non-professional judges sitting in courts
(present the information in full time equivalent and for permanent posts)

Number of judges: fte Year :
.....

Source :
.....

Please give details:
.....

27. Number of non-judge administrative staff who are working in courts
(present the information in full time equivalent and for permanent posts)

Number of staff: 23 618 fte Year : 2004
.....

Source : according to the list of the personnel
.....

28. Annual budget allocated to all courts

Annual budget: 651 392 900 hrn Year : 2004
.....

Source : State Budget of Ukraine
.....

29. Annual budget allocated to the Ministry of justice or the institution (for example Judicial Council) which is responsible for the functioning of the courts

The State Judicial Administration of Ukraine: carries out organisational support of general courts as well as other judicial authorities.

Annual budget: 8 500 000 hrn, 561 persons Year : 2004
.....

Source : State Budget of Ukraine
.....

30. Has the budget for justice increased during the last 5 years? Yes
What are the figures?

Budget 389 300 000 Year 2003
.....

Budget 651 392 900 Year 2004
.....

31. Which institution is formally responsible for setting up the budget devoted to courts?

- the ministry of Justice (or equivalent) **No**
- the Government **No**
- the Parliament **No**
- the Judicial Council **No**
- the Courts **Yes**
- other: the ministry of finances, the State Judicial Administration of Ukraine
.....

32. Who manages the budget of the courts?

- the President of the Court **Yes**
- the person administratively responsible for the court **Yes**
- other: the State Judicial Administration of Ukraine
.....

33. Which institution is responsible for arranging and scheduling the court hearings/sessions?

- in criminal cases: the court
- in other than criminal cases **the court**

III. B. Efficiency

34. Total number of criminal cases received by the public prosecutor (in a year)

Number of cases: 31070 Year : 2003
 Source : Statistical reports

35. Total number of criminal cases dropped by the public prosecutor (in a year)

Number of cases: 94425 Year : 2003
 Source : Statistical reports

Please indicate also, out of this total, those dropped as the offender has not been identified

Number of cases: 6308 Year : 2003
 Source : Statistical reports

36. Total number of criminal cases which are concluded by a sanction/measure, imposed or negotiated by the public prosecutor (in a year)

Number of cases: 20377 Year : 2003
 Source : Statistical reports

37. Total number of criminal cases charged by the public prosecutor before the courts (in a year)

Number of cases: 17809 Year : 2003
 Source : Statistical reports

38. Total number of incoming criminal cases in the courts involving robbery cases (in a year)

Number of cases: 3391 Year : 2003
Source : Statistical reports

39. Total number of judicial decisions, involving robbery (in a year)

Number of cases: 3538 Year : 2003
Source : Statistical reports

Please indicate, if possible:

Number of convicted persons: 4 930 % of convicted persons: 2,4% of total number of persons for whom court decision came into effect

Number of acquitted persons: 4 % of acquitted persons: 0,6% of total number of persons for whom court decision came into effect

40. Percentage of decisions involving robbery subject to an appeal to a higher court (in a year)

Percentage of decisions: Year :
Source :

Statistics on appeals heard in courts of higher instance is carried out only in respective sections of Criminal Code of Ukraine.

41. Total number of incoming criminal cases in the courts, involving intentional homicide (in a year)

Number of cases: 4202 Year : 2003
Source : Statistical reports

42. Total number of judicial decisions, involving intentional homicide (in a year)

Number of decisions 4172 Year : 2003
Source : Statistical reports

Please indicate also if possible:

Number of convicted persons: 3200 % of convicted persons: 95,2% of total number of persons for whom court decision came into effect

Number of acquitted persons: 1 % of acquitted persons: 0,02 of total number of persons for whom court decision came into effect

43. Percentage of decisions concerning intentional homicide subject to an appeal to a higher court (in a year)

Percentage of decisions: Statistics is not maintained by the courts Year :
Source :

44. Total number of incoming civil and administrative cases in the courts (in a year)

Number of cases: 4 943 800 Year : 2003
.....
Source : Statistical reports on court hearings of civil cases and cases on administrative offence
.....

45. Total number of judicial decisions in civil and administrative matters (in a year)

Number of decisions: 4 880 400 Year : 2003
.....
Source : Statistical reports on court hearings of civil cases and cases on administrative offence
.....

46. Percentage of decisions concerning civil and administrative matters subject to an appeal to a higher court (in a year)

Percentage of decisions: 1,7% Year : 2003
.....
Source : Statistical reports of courts of appeal on hearings of civil cases and on revision of orders on administrative offence
.....

47. Total number of incoming divorce cases in the courts (in a year)

Number of cases: 181 000 Year : 2003
.....
Source : Statistical reports on court hearings of civil cases
.....

48. Total number of judicial decisions in divorce cases (in a year)

Number of decisions: 182 900 (including decisions pending at the beginning of the year) Year : 2003
.....
Source : Statistical reports on court hearings of civil cases
.....

49. Percentage of decisions concerning divorce cases subject to an appeal to a higher court (in a year)

Percentage of decisions: 0,3% Year : 2003
.....
Source : Statistical reports of courts of appeal on hearings of civil cases
.....

50. Total number of incoming employment dismissal cases in the courts (in a year)

Number of cases: 5 700 Year : 2003
.....
Source : Statistical reports on court hearings of civil cases
.....

51. Total number of judicial decisions of employment dismissal cases (in a year)

Number of decisions: 5700 Year : 2003
.....
Source : Statistical reports on court hearings of civil cases
.....

52. Percentage of decisions concerning employment dismissal cases subject to an appeal to a higher court (in a year)

Percentage of decisions: 40,3% Year : 2003
.....
Source : Statistical reports of courts of appeal on hearings of civil cases
.....

IV. Use of Information Technology in the court

53. Annual IT budget allocated to the courts (if possible in Euros)

Annual budget: 1 151 000 € Year : 2004

Source : funds allocated in the State Budget of Ukraine
.....
.....

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

- for judges **Yes**
- for non-judges court staff **Yes**

In accordance with respective norms of financial support of the courts adopted by the Council of judges of Ukraine of 16.05.2003, the number of PCs per judge (including attendants of the judge) is 3 PCs.

As for today, the percentage of judges supplied with PCs is 28%.

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

If yes, please specify the name and the address of this institution

(Name) the Government Courts Administration of Ukraine (Address) Kiev, Lypyska street, 18/5
.....

56. What kind of facilities can be used by the clients of the courts to communicate with the courts ?

- Telephone **Yes**
- Mail **Yes**
- Fax **Yes**
- E-mail **No**
- Internet **No**

57. Is there an electronic form to carry out certain procedural steps? **No**

V. Fair trial

58. Percentage of adversary judgements in criminal cases in first instance

Percentage of judgements: 2,3% Year : 2003

Source : Statistical reports on court hearings of criminal cases
.....
.....

59. Is there a right to an interpreter for all those within your jurisdiction if the persons cannot understand or speak the language used in court? **Yes**

60. Is there an effective remedy to a superior jurisdiction for all cases? **Yes**

61. Are reasons given for all prison sentences? **Yes**

62. Average length, in days, of robbery cases from the formal beginning of the prosecution until the first instance judgment

Average length: days Year :
.....
Source : Statistics is not maintained by the courts
.....

63. Average length, in days, of robbery cases from the formal beginning of the prosecution until the appellate judgment

Average length: days Year :
.....
Source : Statistics is not maintained by the courts
.....

64. Average length, in days, of divorce cases from the deposit of the complaint until the first instance judgment

Average length: days Year :
.....
Source : Statistics is not maintained by the courts
.....

65. Average length, in days, of divorce cases from the deposit of the complaint until the appellate judgment

Average length: days Year :
.....
Source : Statistics is not maintained by the courts
.....

66. Average length, in days, of employment dismissal cases from the deposit of the complaint until the first instance judgment

Average length: days Year :
.....
Source : Statistics is not maintained by the courts
.....

67. Average length, in days, of employment dismissal cases from the deposit of the complaint until the appellate judgment

Average length: days Year :
.....
Source : Statistics is not maintained by the courts
.....

68. Do you, on a regular basis, measure the size of backlog cases in the courts?

Yes (Rest of pending (backlog) cases to be considered in the year to come)

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

No

If yes, please specify:
.....

VI. Judges

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

Annual salary : 11 472 hrn Year : 2004
Source : State Budget of Ukraine

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

Annual salary : 66 372 hrn Year : 2004
Source : State Budget of Ukraine

72. Can judges combine their work with other professions (for example as a university professor, arbitrator, consultant)? **Yes**

If yes, please specify: Pursuant to the Constitution of Ukraine (Art. 127), professional judges may not occupy any other paid posts, carry out any other paid work, except for scientific work, teaching and creative work.

73. Are judges recruited and nominated by an independent institution? **Yes**

(if yes), who are represented in this institution:

- the members of the judiciary **No**
- officials not part of the judiciary **Yes**
- a mixture of the two categories referred to above **No**

Is the process of selection and nomination of judges carried out according to pre-established procedures? **Yes**

74. Is there a system of induction l and continuation training for judges?

Yes, but not compulsory

What is the average percentage of judges who have attended a continuation training session each year?

Percentage of judges: 40 % Year : 2003
Source : Statistics of Academy of Judges of Ukraine at the State Judicial Administration of Ukraine

75. Is there a system of supervision and control on the courts - other than through appeal? **No**

If yes, please specify:

76. Is there in your country a system of temporary judges? **No**

If yes, are these temporary judges paid on the basis of their activity? **No**

If yes, please specify:

77. Annual number of disciplinary proceedings against judges

Number of proceedings: 181 Year : 2003
Source : Data of the High Commission for Qualification of Judges

78. Annual number of sanctions against judges

Number of sanctions: 70 Year : 2003
Source : Data of the High Commission for Qualification of Judges

VII. Public prosecutors

79. Annual budget for the public prosecution

Annual budget: 244 815 300 hrn. Year : 2004
Source : State Budget of Ukraine

80. Number of professional public prosecutors (in full time equivalent)

Number of prosecutors: 10098 Year : 2004
Source : General Prosecutors of Ukraine

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

Annual salary : 3801,6 hrn. Year : 2004
Source : State Budget of Ukraine

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

Annual salary : Year :
Source :

Prosecutor's office acts separately from judiciary

83. Can public prosecutors combine their work with other professions? Yes

If yes, please specify: prosecutors may not occupy any other paid posts, carry out any other paid work, except for scientific work, teaching and creative work.

84. Are public prosecutors recruited and nominated by an independent institution? Yes

(If yes), who are represented in this institution:

- the public prosecutors ? Yes
- other stakeholders outside? Yes
- a mixture of the two categories referred to above? No

Is the process of selection and nomination of public prosecutors done according to pre-established procedures? **Yes**

85. Is there a system of induction and continuation training for public prosecutors?

Yes, but compulsory

What is the average percentage of prosecutors who have participated in continuation training each year?

Percentage of prosecutors: 12 % Year : 2004

Source : Plane training General Prosecutors of Ukraine

86. Is there a system of supervision and control on public prosecutors? **Yes**

If yes, please specify: prosecutors of higher rank (position), General Prosecutors of Ukraine

87. Annual number of disciplinary proceedings against public prosecutors

Number of proceedings: 848 Year : 2003

Source : Statistical reports

88. Annual number of sanctions against public prosecutors

Number of sanctions: Year :

Source :

VIII. Lawyers

89. Number of lawyers practising in your country

Number of lawyers: 28000 Year : 2003

Source : Unified Register of Attorneys-at-law of Ukraine

90. Is there a national bar association? **Yes** (The bar associations of Ukraine)

91. Have quality standards been formulated for lawyers? **Yes**

If yes, who is responsible for formulating these quality standards?

- the bar association **Yes**

- the legislature **No**

- other **No**

92. Can disciplinary proceedings be instituted against lawyers? **Yes**

93. Annual number of disciplinary proceedings against lawyers

Number of proceedings: 2500 Year : 2003

Source : Disciplinary Qualifying commissions of advocacy

94. Annual number of sanctions against lawyers

Number of sanctions: 1800 Year : 2003

Source : Disciplinary Qualifying commissions of advocacy

95. Is it possible to complain about the performance of lawyers? **Yes**

If yes, please specify: Complaint against the lawyer is submitted to Disciplinary Qualifying commissions of advocacy

96. What is the amount paid to a lawyer by the State in respect of legal aid for a first instance divorce case? Nothing is paid

Amount: Year :

Source :

IX. Mediators and mediation proceedings

97. Number of accredited or registered mediators

Number of mediators: Year :

Source :

98. How much public budget is devoted to mediation?

Amount: Year :

Source :

99. Number of incoming mediation cases (in a year)

Number of cases: Year :

Source :

100. Number of cases solved through mediation (in a year)

Number of cases: Year :

Source :

If possible, please specify:

- number of criminal cases solved through mediation:

- number of cases other than criminal solved through mediation:

101. In which areas of law is mediation most practised and successful in your country?

- in criminal cases? Yes / No

- in other than criminal cases? Yes / No

Year : Source :

X. Enforcement agents and execution of court decisions

102. Number and types of enforcement agents

- in criminal cases:

(Type)	(Number)	(Year)	(Source)
.....
.....
.....
.....

- in other than criminal cases:

.....	7 059	2004	regulations
.....
.....

103. Is there an institution to supervise or control the activities of enforcement agents?

Yes

If yes, please specify: departmental, judicial (appeal)

.....

104. Annual number of disciplinary proceedings against enforcement agents

Number of proceedings: 1366 Year : 2003

Source : Statistical reports
.....

105. Annual number of sanctioned enforcements agents

Number of agents: 1146 Year : 2003

Source : accounting documents
.....

106. Is it possible to file a complaint against an enforcement agent? Yes

If yes, please specify: the complaint is filed to a Head of higher authority or to court

.....

107. Does the court play a role in the execution of court decisions? No

If yes, please specify: The court decisions, however, are submitted to enforcement agent; the court also prolongs the validity of an enforcement document in case of a deadline missed, delays or restructures enforcement, changes way and order of enforcement.

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108. Are the courts competent to decide against public authorities? Yes

Are the courts involved in executing decisions against public authorities? No