



EUROPEAN COMMISSION FOR THE EFFICIENCY OF JUSTICE
(CEPEJ)

SCHEME FOR EVALUATING JUDICIAL SYSTEMS 2007

Country: Azerbaijan

National correspondent

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1. Demographic and economic data

1. 1. General information

1. 1. 1. Inhabitants and economic information

1) Number of inhabitants

8532700

2) Total of annual State public expenditure / where appropriate, public expenditure at regional or federal entity level (in €)

	Amount
State level	3508645540
Regional / entity level	-

3) Per capita GDP (in €)

1880

4) Average gross annual salary (in €)

1559

5) Exchange rate from national currency (non-Euro zone) to € on 1 January 2007

1 euro - 1,1471 manat

Please indicate the sources for the questions 1 to 4

State Statistical Committee of the Republic of Azerbaijan

Ministry of Finance of the Republic of Azerbaijan

The Law of the Republic of Azerbaijan "On state budget of the Republic of Azerbaijan for 2006 year" adopted on 21 October 2005

1. 2. Budgetary data concerning judicial system

1. 2. 2. Budget (courts, public prosecution, legal aid, fees)

6) Total annual approved budget allocated to all courts (in €)

11339059

7) Please specify

This amount comprises budget of all courts, including the Constitutional Court, but except the Judicial-Legal Council.

8) Does the approved budget of the courts include the following items? Please give for each item (or some of them) a specification of the amount concerned

Annual public budget allocated to (gross) salaries	<input checked="" type="checkbox"/> Yes	8909337
Annual public budget allocated to computerisation (equipment, investments, maintenance)	<input type="checkbox"/> Yes	
Annual public budget allocated to justice expenses	<input checked="" type="checkbox"/> Yes	972000
Annual public budget allocated to court buildings (maintenance, operation costs)	<input checked="" type="checkbox"/> Yes	249760
Annual public budget allocated to investments in new (court) buildings	<input type="checkbox"/> Yes	
Annual public budget allocated to training and education	<input type="checkbox"/> Yes	
Other (please specify):	<input type="checkbox"/> Yes	

9) Has the annual public budget of the courts changed (increased or decreased) over the last five years?

Yes

No

If yes, please specify (i.e. provide an indication of the increase or decrease of the budget over the last five years)

Over the last five years the state budget allocated to the court system (including Constitutional Court, but except courts of the Naxchivan Autonomous Republic) increases as follows:

2002 - 4.708.221 euro
 2003 - 4.937.669 euro
 2004 - 6.640.485 euro
 2005 - 9.936.000 euro
 2006 - 10.749.280 euro

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

for criminal cases?

for other than criminal cases?

If yes, are there exceptions? Please specify:

According to the Civil Procedural Code of the Republic of Azerbaijan adopted on 28 December 1999 and came into force on 1 September 2000, each suitor is to pay state duty defined by the legislation of the Republic of Azerbaijan.

According to the article 9 of the Law of the Republic of Azerbaijan "On state duty" adopted 4 December 2001, individuals and legal entities are exempted from paying duties when applying to the courts in twenty two cases, such as, for instance, suitors in cases on paying alimony, suitors in cases on paying wages and other labour activity disputes, suitors in cases on restoration of consumers` rights, suitors if they are legal entities financed from budget, National Bank and it`s divisions as well as municipalities, persons participating in the court sessions when they appeal court decisions, juveniles applying to the courts for protection of their rights and etc.

11) If yes, please specify the annual income of court fees (or taxes) received by the State (in €)

231000

12) Total annual approved budget allocated to the whole justice system (in €)

53517697

13) Total annual approved public budget allocated to legal aid (in €)

226484

14) If possible, please specify

	the annual public budget allocated to legal aid in criminal cases	the annual public budget allocated to legal aid in other court cases
Amount	N.A.	N.A.

15) Is the public budget allocated to legal aid included in the court budget ?

Yes

No

16) Total annual approved public budget allocated to the public prosecution system (in €)

14812092

17) Is the budget allocated to the public prosecution included in the court budget?

Yes

No

18) Authorities formally responsible for the budget allocated to the courts:

	Preparation of the total court budget	Adoption of the total court budget	Management and allocation of the budget among the individual courts	Evaluation of the use of the budget at a national level
Ministry of Justice	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Other ministry	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Parliament	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Supreme Court	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Judicial Council	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Courts	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Inspection body	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Other	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

19) If other Ministry and/or inspection body and/or other, please specify (in regards to question 18):

Other ministry means Ministry of Finance of the Republic of Azerbaijan

You can indicate below:

- any useful comments for interpreting the data mentioned above
- the characteristics of your budgetary system and the main reforms that have been implemented over the last two years
- if available an organisation scheme with a description of the competencies of the different authorities responsible for the budget process

Please indicate the sources for the questions 6, 7, 13 et 16

Ministry of Finance

General prosecutor`s Office

The Law "On state budget of the Republic of Azerbaijan for 2006 year" adopted on 21 October 2005

2. Access to justice

2. 1. Legal aid

2. 1. 1. Principles

20) Does legal aid concerns:

	Criminal cases	Other than criminal cases
Representation in court	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Legal advice	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Other	<input type="checkbox"/>	<input type="checkbox"/>

21) If other, please specify (in regards to question 20):

22) Does legal aid foresee the covering or the exoneration of court fees?

Yes

No

If yes, please specify:

23) Can legal aid be granted for the fees that are related to the execution of judicial decisions?

Yes

No

If yes, please specify:

24) Number of cases granted with legal aid provided by (national, regional, local) public authorities:

	Number
Total	
Criminal cases	
Other than criminal cases	

25) In a criminal case, can any individual who does not have sufficient financial means be assisted by

a free of charge (or financed by public budget) lawyer?

- Yes
- No

26) Does your country have an income and asset test for granting legal aid:

	No	Yes	Amount
for criminal cases?	X		
for other than criminal cases?	X		

27) In other than criminal cases, is it possible to refuse legal aid for lack of merit of the case (for example for frivolous action)?

- Yes
- No

28) If yes, is the decision for granting or refusing legal aid taken by:

- the court?
- an authority external to the court?
- a mixed decision-making authority (court and external)?

29) Is there a private system of legal expense insurance enabling individuals to finance court proceedings?

- Yes
- No

Please specify:

Any individual is free to apply to private insurance company in order to insure their possible court expences.

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

	yes	no
criminal cases?		

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

You can indicate below:

- any useful comments for interpreting the data mentioned above
- the characteristics of your legal aid system and the main reforms that have been implemented over the last two years

Judicial decisions in civil and criminal cases have an impact on parties of the case. For instance, according to the article 119.2 of the Civil Procedural Code of the Republic of Azerbaijan adopted on 28 December 1999 and came into force on 1 September 2000, if the suitor is exempted from paying of state duty in accordance with defined procedure, state duty is to be exacted from respondent in proportion to the satisfied part of the claim.

In article 124.1 of the Civil Procedural Code is saying that all court expences concerning consideration of the case and state duty from paying of which suitor is exempted are to be paid by the respondent in proportion to the satisfied part of claim. Article 124.2 states that if the claim is not satisfied, all courts expences beared by the court concerning consideration of the case are to be paid by the suiters who are not exempted from paying courts expences.

According to the article 198 of the Criminal Procedural Code of the Republic of Azerbaijan adopted on 14 July 2000 and came into force on 1 September 2000, courts expences may be exacted from prisoner. If the person who had been private prosecuted was acquitted or privity indictor refused from protection of accusation in court, the court expences may be exacted from private indictor. If the person who had been private prosecuted and the private indictor are conciliated, the court exacted the courts expences from one or both sides of the criminal process.

Please indicate the sources for the questions 24 and 26

2. 2. Users of the courts and victims

2. 2. 1. Rights of the users and victims

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

- | | | |
|--|---|--|
| legal texts (e.g. codes, laws, regulations, etc.)? | <input checked="" type="checkbox"/> yes | www.justice.gove.az
www.judicialcouncil.gov.az |
| case-law of the higher court/s? | <input checked="" type="checkbox"/> yes | www.counstcourt.gov.az
www.bakueconomiccourt1.az |
| other documents (for example forms)? | <input checked="" type="checkbox"/> yes | |

32) Is there an obligation to provide information to the parties concerning the foreseeable timeframe of the proceeding?

- Yes
 No

If yes, please specify:

33) Is there a public and free-of-charge specific information system to inform and to help victims of crimes?

- Yes
 No

If yes, please specify:

According to the Law of the Republic of Azerbaijan "On commissioner of the human rights (ombudsman)" adopted on 28 December 2001, the ombudsman has the right to investigate the complaints relating to violation of human rights.

34) Are there special favourable arrangements to be applied, during judicial proceedings, to the following categories of vulnerable persons:

	Information mechanism	Hearing modalities	Procedural rights	Other
Victims of rape	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Victims of terrorism	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Children/Witnesses/Victims	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Victims of domestic violence	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Ethnic minorities	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Disabled persons	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Juvenile offenders	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Other	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

35) Does your country have a compensation procedure for victims of crimes?

- Yes
 No

36) If yes, does this compensation procedure consist in:

- a public fund?
 a court decision?
 private fund?

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

According to the Criminal Procedural Code of the Republic of Azerbaijan adopted on 14 July 2000 and came into force on 01 September 2000 all evidences which open personal or family secrets as well as state`s secrets, professional and commercial secrets are to be considered in closed session of the court.

According to the Law of the Republic of Azerbaijan "On reimbursement of damages to the individuals caused by the illegal acts of the preliminary investigating bodies, prosecutors and courts" adopted on 29 December 1998, all damages caused to the individuals by the preliminary investigating bodies, prosecutors and courts should be reimbursed by the state.

According to the article 191.1 of the Criminal Procedural Code of the Republic of Azerbaijan adopted on 14 July 2000 and came into force on 1 September 2000, the court considers the application of the victim of crime about compensation of damages caused by the crime at the expense of state budget.

Note: According to article 2 of the Law of the Republic of Azerbaijan "On adoption, entering the force of the Criminal procedural code and legal matters bound with it" adopted on 14 July 2000, the provisions of the Criminal Procedural Code concerning the payment of the compensation to the victims of the crime will come into force after complition of the judicial-legal reform and adoption of the relevant law in this field.

37) Are there studies to evaluate the recovery rate of the compensation awarded by courts to victims?

- Yes
 No

If yes, please specify:

38) Is there a specific role for the public prosecutor with respect to the (protection of the position and assistance of) victims?

- Yes
 No

If yes, please specify:

39) Do victims of crimes have the right to contest a decision of the public prosecution to discontinue a case?

- Yes
 No

If yes, please specify:

According to the article 281 of the Criminal Procedural Code of the Republic of Azerbaijan adopted on 14 July 2000 and came into force on 1 September 2000, the copy of the decision of investigator on discontinue of the criminal case is to be sent to victim of crime, The investigator should explain him the right to contest to this decision to prosecutor supervising preliminary investigation or the court carrying out the court supervision within 10 days from the day of receiving of the copy of decision.

2. 2. 2. Confidence of citizens in their justice system

40) Is there a system for compensating users in the following circumstances:

- excessive length of proceedings?
 non execution of court decisions?
 wrongful arrest?
 wrongful condemnation?

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

41) Does your country have surveys aimed at users or legal professionals (judges, lawyers, officials, etc.) to measure their trust and/or satisfaction with the services delivered by the judiciary system?

- (Satisfaction) surveys aimed at judges
 (Satisfaction) surveys aimed at court staff
 (Satisfaction) surveys aimed at public prosecutors
 (Satisfaction) surveys aimed at lawyers
 (Satisfaction) surveys aimed at citizens (visitors of the court)

(Satisfaction) surveys aimed at other clients of the courts

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

Some non-government organizations and scholars conduct surveys on effectiveness of the judiciary. For example, A.Jafarov "Questionnaire on "

42) If yes, please specify:

	Yes (surveys at a regular interval: for example annual)	Yes (incidental surveys)
Surveys at national level	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Surveys at court level	<input type="checkbox"/>	<input type="checkbox"/>

43) Is there a national or local procedure for making complaints about the performance (for example the length of proceedings) or the functioning (for example the treatment of a case by a judge) of the judicial system?

Yes

No

44) If yes, please specify:

	Time limit to respond (Yes)	Time limit for dealing with the complaint (Yes)
Court concerned	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Higher court	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Ministry of Justice	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
High Council of the Judiciary	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Other external organisations (e.g. Ombudsman)	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>

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

According to the Law "About the filing a complaint to the court on the decisions and acts (inactions) of officials which violate the rights and freedoms of the individuals" adopted on 11 June 1999, every citizen has the right to file a complaint to the court on the decisions and acts (inactions) of the state and local bodies, organizations, departments, non-government organizations and officials. According to the Law "On commissioner of the human rights (ombudsman)" dated on 28 December 2001, the ombudsman has the right to investigate the complaints relating to violation of human rights connected with undue delays, loss of and non-issuing the documents in time in the first instance courts, as well as the retardation of execution of court decisions. The complaint is to be considered within 30 days, but if there is necessary to investigate or demand additional material the term may be prolonged for 1 month. Besides that on basis of application of applicant the term may be prolonged for more period. According to the Criminal and Civil procedural codes and the Law "On Constitutional Court"

adopted on 23 December 2003, everyone has the right to appeal against decisions of the first instance courts to the Appellate Court, decisions of the Appellate Court to the Supreme Court, decisions of the Supreme Court to the Board of the Supreme Court, decisions of the Board of the Supreme Court to the Constitutional Court of the Republic of Azerbaijan. According to the Law "On courts and judges" adopted on 10 June 1997, Ministry of Justice considers complaints about the violation of the labour and execution discipline in the first instance and appellate courts without interference in decision making process. Besides that natural and legal persons have the possibility to apply to Judicial-Legal Council with complaint in order to initiative opening of a disciplinary proceedings in respect of judges.

3. Organisation of the court system

3. 1. Functioning

3. 1. 1. Courts

45) Number of courts considered as legal entities (administrative structures) and geographic locations (please, complete the table)

	Total number
First instance courts of general jurisdiction (legal entities)	85
Specialised first instance courts (legal entities)	19
All the courts (geographic locations)	112

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

specialized first instance courts are – 7 economic courts, 9 military courts and 3 specialized courts of grave crimes and very grave crimes – Military Court of the Republic of Azerbaijan on grave crimes, Court of the Republic of Azerbaijan on grave crimes and Court of the Naxchivan Autonomous Republic on grave crimes

first instance courts of general jurisdiction 2006 – 85, specialized first instance courts 2006 – 19, all the courts 2006 - 112.

Note: As a result of ongoing judicial legal reforms carried out in Azerbaijan in 2006 the number of judges and courts have been increased: number of courts from 106 courts to 112 courts, number of judges from 338 judges to 494 judges, but these courts started to operate from the middle of 2007.

47) Is there a change in the structure of the courts foreseen (for example a reduction of the number of courts (geographic locations) or a change in the powers of courts)?

Yes

No

If yes, please specify:

As a result of legal reforms in 2007 the number of courts and judges increased. At present the number of appellate courts has been increased from 3 to 6 appellate courts. Number of specialized courts has been increased from 16 to 19 courts (by increasing the number of economic courts). Number of judges has been increased from 338 to 494.

48) Number of first instance courts competent for a case concerning:

	Number
a debt collection for small claims	90
a dismissal	85
a robbery	

3

Please specify what is meant by small claims in your country (answer only if the definition has changed compared to the previous evaluation round):

In the legislation there is no any provision on definition on small claim.

Please indicate the sources for the question 45

Judicial-Legal Council
Ministry of Justice

3. 1. 2. Judges, courts staff

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

494

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

	Number
gross figure	NAP
if possible, in full time equivalent	

51) Please specify (answer only if the information has changed compared to the previous evaluation round):

52) Number of non-professional judges (including lay judges and excluding jurees) who are not remunerated but who can possibly receive a simple defrayal of costs. Please specify (answer only if the information has changed compared to the previous evaluation round):

NAP

53) Does your judicial system include trial by jury with the participation of citizens?

- Yes
 No

If yes, for which type of case(s)?

According to the article 359 of the Criminal Procedural Code of the Republic of Azerbaijan dated 14 July 2000, judge may appoint the court investigation with participation of jury in following circumstances:

- if for the crime committed by the accused is provided punishment as imprisonment for life
- if person who is accused for committing very grave crime demands considering of the criminal case with participation of jury.

Note: This provision of Criminal Procedural Code will be in effect after adoption of the relevant law regulating the activity of jury.

54) If possible, indicate the number of citizens who were involved in such juries for the year of reference?

N.A.

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

1723

56) If possible, could you distribute this staff according to the 4 following categories:

non-judge staff (Rechtspfleger), with judicial or quasi-judicial tasks having autonomous competence and whose decisions could be subject to appeal	<input type="checkbox"/> Yes	
non-judge staff whose task is to assist the judges (case file preparation, assistance during the hearing, keeping the minutes of the meetings, helping to prepare the decisions) such as registrars	<input checked="" type="checkbox"/> Yes	646
staff in charge of different administrative tasks as well as of the management of the courts (human resources management, material and equipment management, including computer systems, financial and budgetary management, training management)	<input checked="" type="checkbox"/> Yes	536
technical staff	<input checked="" type="checkbox"/> Yes	547

Please indicate the sources for the questions 49, 50, 52, 53 and 55

Judicial-Legal Council

3. 1. 3. Prosecutors

57) Number of public prosecutors (present the information in full time equivalent and for permanent posts)

1060

58) Do any other persons have similar duties as public prosecutors?

Yes

No

If yes, please specify:

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

700

Please indicate the sources for the questions 57 and 59

Office of the General prosecutor of the Republic of Azerbaijan

3. 1. 4. Budget and New technologies

60) Who is entrusted with the individual court budget?

	Preparation of the budget	Arbitration and allocation of the budget	Day to day management of the budget	Evaluation and control of the use of the budget
Management Board	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Court President	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Court administrative director	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Head of the court clerk office	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Other	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

61) You can indicate below:

- any useful comments for interpreting the data mentioned above
- if available an organization scheme with a description of the competencies of the different authorities responsible for the budget process in the court

The presidents of the Constitutional Court, the Supreme Court and appellate courts are responsible for preparation, day-to-day management and control of the budget, the Ministry of Justice is responsible for the budgets of the first instances` s courts.

62) For direct assistance to the judge/court clerk, what are the computer facilities used within the courts?

	100% of courts	+50% of courts	-50% of courts	- 10 % of courts
Word processing	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Electronic data base of jurisprudence	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Electronic files	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
E-mail	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Internet connection	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

63) For administration and management, what are the computer facilities used within the courts?

	100% of courts	+50% of courts	-50% of courts	-10% of courts

Case registration system	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Court management information system	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Financial information system	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

64) For the communication between the court and the parties, what are the computer facilities used within the courts?

	100% of courts	+50% of courts	-50% of courts	-10% of courts
Electronic web forms	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Special Website	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Other electronic communication facilities	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

65) Is there a centralised institution which is responsible for collecting statistical data regarding the functioning of the courts and judiciary (answer only if this information has changed compared with the previous evaluation round)?

- Yes
 No

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

Name: Ministry of Justice of the Republic of Azerbaijan,
Department of Organization and Analysis

Address: 1 Inshaatchilar avenue, AZ1073, Baku Azerbaijan

You can indicate below:

- any useful comments for interpreting the data mentioned above
- the characteristics of your judicial system and the main reforms that have been implemented over the last two years

Please indicate the sources for the questions 62, 63 and 64

3. 2. Monitoring and evaluation

3. 2. 1. Monitoring and Evaluation

66) Are the courts required to prepare an annual activity report?

- Yes
 No

67) Do you have a regular monitoring system of court activities concerning the:

- number of incoming cases?

- number of decisions?
- number of postponed cases?
- length of proceedings (timeframes)?
- other?

Please specify:

68) Do you have a regular system to evaluate the performance of each court?

- Yes
- No

Please specify:

According to the Law of the Republic of Azerbaijan "On courts and judges" adopted on 10 June 1997 appellate courts regularly generalize court statistics, court practice and citizens` applications and submit to the Board of the Supreme Court the proposals and information on condition of delivery of justice in the first instance courts which are under their jurisdiction and in the appellate court. Besides that presidents of all first instance courts are to inform the Board of the Supreme Court about the issues of court practice on implementation of legislation in the courts. Apart from this the Ministry of Justice collects at least each six months the statistical data from all courts and after generalizing this information makes proposals to the Judicial-Legal Council.

69) Concerning court activities, have you defined performance indicators?

- Yes
- No

70) Please select the 4 main performance and quality indicators that are used for a proper functioning of courts.

- Incoming cases
- Length of proceedings (timeframes)
- Closed cases
- Pending cases and backlogs
- Productivity of judges and court staff
- Percentage of cases that are treated by a single sitting judge

- The enforcement of penal decisions
- Satisfaction of employees of the courts
- Satisfaction of clients (regarding the services delivered by the courts)
- Judicial and organisational quality of the courts
- The costs of the judicial procedures
- Other

Please specify:

71) Are there performance targets defined for individual judges?

- Yes
- No

72) Are there performance targets defined at the level of the courts?

- Yes
- No

73) Please specify who is responsible for setting the targets:

- executive power (for example the Ministry of Justice)
- legislative power
- judicial power (for example a High Judicial Council or a Higher Court)
- other

Please specify

The targets are set by the law and the Parliament is empowered to define it.

74) Please specify the main targets applied:

75) Which authority is responsible for the evaluation of the performances of the courts:

- the High Council of judiciary
- the Ministry of Justice
- an Inspection authority
- the Supreme Court
- an external audit body
- other?

Other, please specify:

According to the Law of the Republic of Azerbaijan "On Judicial-Legal Council" adopted on 28 December 2004, Judicial-Legal Council is the body, which within its competence, ensures organization and operation of the court system, arranges selection of candidates who are not judges to the vacant judicial posts, evaluates the activity of judges and organization of work by the presidents of courts, deputy presidents of courts and presidents of the collegial boards of courts, decides on the issues of transfer of judges to different judicial post, their promotion, calling judges to disciplinary liability, as well as other issues related to courts and judges, and implement self-government functions of the judiciary. Judicial-Legal Council is composed of 15 members, mainly judges and representatives of executive and legislative bodies, prosecutor`s office, bar association in the following manner:

- head of the Ministry of Justice,
- president of the Supreme Court,
- person appointed by the President of the Republic of Azerbaijan,
- person appointed by Parliament of the Republic of Azerbaijan,
- a judge appointed by the Constitutional Court of the Republic of Azerbaijan,
- two judges of cassation instance court appointed by the Supreme Court from among the candidates by the associations of judges,
- judge of appeal instance court (Court of Appeal of the Republic of Azerbaijan) appointed by the Supreme Court from among the candidates offered by the associations of judges,
- judge of appeal instance court (Economic Court of Appeal of the Republic of Azerbaijan) appointed by the Supreme Court from among the candidates offered by the associations of judges,
- judge of the Supreme Court of Naxchivan Autonomous Republic appointed by the NAR Supreme Court from among the candidates by the associations of judges,
- two judges of the first instance courts appointed by the Minister of Justice of the Republic of Azerbaijan from among the candidates offered by the associations of judges,
- person appointed by Minister of Justice of the Republic of Azerbaijan,
- lawyer appointed by Bar Association of the Republic of Azerbaijan,
- person appointed by the General Prosecutor`s Office of the Republic of Azerbaijan.

Minister of Justice and president of the Supreme Court are ex officio members of the Judicial-Legal Council. Except for persons who are ex officio the members of the Judicial-Legal Council, the same person should not be appointed as a member of the Judicial-Legal Council more than twice.

As a rule Judicial-Legal Council evaluates the work of the judges once every three years. Evaluation of the work of judges is carries out in order to improve the administration of justice, organize training of the judges adequately, as well as to check the aptitude of judges to proceed with their judicial duties. Activities of judges are evaluated on the basis of opinion concerning the way they perform their duties by the President of the Supreme Court, presidents of the courts of appeal, the NAR Supreme Court and the presidents of the courts in the jurisdiction of which these judges are appointed. Also information collected by the Ministry of Justice in the course of implementation of its functions provided by the legislation and information submitted to the Judicial-legal Council is used during evaluation. The information at the disposal of the members of the Judicial-Legal Council also contributes to the setting up of the said evaluation. Judicial-Legal Council determines the procedure and methodology of evaluation of the work of judges.

76) Are there quality standards (organisational quality and/or judicial quality policy) formulated for the courts (existence of a quality system for the judiciary)? Yes No

If yes, please specify:

The quality standards are stipulated in the legislation of the Republic of Azerbaijan. For instance, in the article 127 of the Constitution of the Republic of Azerbaijan adopted 12 November 1995 is set that judges are to consider cases impartial, fair, adhering to the equality of parties, basing on facts and according to the law. In the article 90 of the Law of the Republic of Azerbaijan "On courts and judges" adopted on 10 June 1997 are defined the obligations for the judges, such as, for instance, to adhere to the requirements of the laws during delivering of justice, to secure the moral and educational impact of the court activity, to be fair and impartial, to abstain from any activity which may undermine the prestige of the justice, honour and dignity of the judge, to keep in a secret all information defined in close court session, and etc. Besides that ethic principles and standarts of judges` behave are reflected in the Code of Ethic Behaviour adopted by the Judicial-Legal Council.

77) Do you have specialised court staff which is entrusted with quality policy and/or quality systems for the judiciary? Yes No**78) Is there a system enabling to measure the backlogs and to detect the cases which are not processed within a reasonable timeframe for:** civil cases? criminal cases? administrative cases?**79) Do you have a way of analysing waiting time during court procedures?** Yes No

If yes, please specify:

The analyzing of waiting time is undertaken by the Ministry of Justice by collecting at least each every six months the statistical data from all courts and after generalizing this information makes proposals to the Judicial-Legal Council.

80) Is there a system to evaluate the functioning of courts on the basis of an evaluation plan (timetable for visits) agreed a priori?

- Yes
 No

Please specify (including an indication of the frequency of the evaluation):

As a rule Judicial-Legal Council evaluates the work of the judges once every three years. Evaluation of the work of judges is carried out in order to improve the administration of justice, organize training of the judges adequately, as well as to check the aptitude of judges to proceed with their judicial duties. Activities of judges are evaluated on the basis of opinion concerning the way they perform their duties by the President of the Supreme Court, presidents of the courts of appeal, the NAR Supreme Court and the presidents of the courts in the jurisdiction of which these judges are appointed. Also information collected by the Ministry of Justice in the course of implementation of its functions provided by the legislation and information submitted to the Judicial-legal Council is used during evaluation. The information at the disposal of the members of the Judicial-Legal Council also contributes to the setting up of the said evaluation. Judicial-Legal Council determines the procedure and methodology of evaluation of the work of judges.

81) Is there a system for monitoring and evaluating the functioning of the prosecution services?

- Yes
 No

If yes, please specify:

According to the articles 43-45 of the Law "On prosecution" adopted on 30 December 1999, supervision on the activity of prosecution authorities are carried out by the Parliament, the President and courts.

You can indicate below:

- any useful comments for interpreting the data mentioned above
- the characteristics of your court monitoring and evaluation system

Please indicate the sources for the the question 70,71, 72 and 76

4. Fair trial

4. 1. Principles

4. 1. 1. General principles

82) What is the percentage of judgements in first instance criminal cases in which the suspect is not attending in person or not represented by a legal professional (i.e. lawyer) during a court session (in absentia judgements) ?

83) Is there a procedure to effectively challenge a judge if a party considers that the judge is not impartial?

Yes

No

If possible, number of successful challenges (in a year):

-

84) Please give the following data concerning the number of cases regarding Article 6 of the European Convention on Human Rights (on duration and non-execution), for the year of reference

	Cases declared inadmissible by the Court	Friendly settlements	Judgements establishing a violation	Judgements establishing a non violation
Civil proceedings - Article 6§1 (duration)	8	-	1	-
Civil proceedings - Article 6§1 (non-execution)	-	-	-	-
Criminal proceedings - Article 6§1 (duration)	-	-	-	-

Please indicate the sources for the questions 82 and 84

Authorized representative of the Republic of Azerbaijan in the European Court of Human Rights

4. 2. Timeframes of proceedings

4. 2. 1. General information

85) Are there specific procedures for urgent matters as regards:

civil cases?

criminal cases?

administrative cases?

If yes, please specify:

According to the Civil Procedural Code of the Republic of Azerbaijan all civil cases are to be considered within 3 months. Beside that there are some exceptions, such as consideration within 1 month of the labour disputes, alimony disputes and disputes between government organizations and citizens concerning illegal actions and decisions of the state employees and etc. It is stipulated also simplified procedure for some kind of claims concerning paying of the money or demanding of the property (order proceeding).

According to the article 15 of the Criminal Code of the Republic of Azerbaijan criminal offences are divided into: criminal offences which are not of high social danger, less grave criminal offences, grave criminal offences and very grave criminal offences. It is provided in the Criminal Procedural Code of the Republic of Azerbaijan the simplified procedure (without court consideration) for the criminal offences which are not of high social danger, such as illegal adoption, unintentionally damaging or destruction of the property, avoidance of paying credit debts, forcing somebody to sign contract or refuse to sign it and etc,

86) Are there simplified procedures for:

- civil cases (small claims)?
- criminal cases (petty offences)?
- administrative cases?

If yes, please specify (for example if you have introduced a new law on simplified procedures):

According to the Civil Procedural Code of the Republic of Azerbaijan all civil cases are to be considered within 3 months. Beside that there are some exceptions, such as consideration within 1 month of the labour disputes, alimony disputes and disputes between government organizations and citizens concerning illegal actions and decisions of the state employees and etc. It is stipulated also simplified procedure for some kind of claims concerning paying of the money or demanding of the property (order proceeding).

According to the article 15 of the Criminal Code of the Republic of Azerbaijan criminal offences are divided into: criminal offences which are not of high social danger, less grave criminal offences, grave criminal offences and very grave criminal offences. It is provided in the Criminal Procedural Code of the Republic of Azerbaijan the simplified procedure (without court consideration) for the criminal offences which are not of high social danger, such as illegal adoption, unintentionally damaging or destruction of the property, avoidance of paying credit debts, forcing somebody to sign contract or refuse to sign it and etc,

87) Do courts and lawyers have the possibility to conclude agreements on the modalities for processing cases (presentation of files, decisions on timeframes for lawyers to submit their conclusions and on dates of hearings)?

- Yes
- No

If yes, please specify:

4. 2. 2. Penal, civil and administrative law cases

88) Total number of cases in the first instance courts (litigious and non-litigious);

(please complete the table)

	Pending cases on 1 January 2006	Incoming cases	Decisions	Pending cases on 31 December 2006
Total of civil, commercial and administrative law cases (1-7)				
1 Civil (and commercial) litigious cases*	5406	55431	54612	6225
2 Civil (and commercial) non-litigious cases*				
3 Enforcement cases				
4 Land registry cases**				
5 Business register cases**				
6 Administrative law cases				
7 Other				
Total criminal cases (8+9)	1470	13649	11715	1656
8 Criminal cases (severe criminal offences)		1394		
9 Misdemeanour cases (minor offences)		13721		

89) * The cases mentioned in categories 3 to 5 (enforcement, land registry, business register) are excluded from this total and should be presented separately in the table. The cases mentioned in category 6 (administrative law cases) are also excluded from this total for the countries which have specialised administrative courts or units in the courts of general jurisdiction.

**** if applicable**

Note: for the criminal law cases there may be a problem of classification of cases between severe criminal law cases and misdemeanour cases. Some countries might have other ways of addressing misdemeanour offences (for example via administrative law procedure). Please indicate if possible what case categories are included under "severe criminal cases" and the cases included under "misdemeanour cases (minor offences)".

Explanation

According to the article 15 of the Criminal Code of the Republic of Azerbaijan criminal offences are divided into: criminal offences which are not of high social danger, less grave criminal offences, grave criminal offences and very grave criminal offences.

90) Total number of cases in the second instance (appeal) courts (litigious and non-litigious); (please complete the table)

	Pending cases on 1 Jan. '06	Incoming cases	Decisions on the merits	Pending cases on 31 Dec. '06
Total of civil, commercial and administrative law cases (1-7)	1008	9211	8918	1301
1 Civil (and commercial) litigious cases*				
2 Civil (and commercial) non-litigious cases*				
3 Enforcement cases				
4 Land registry cases**				
5 Business register cases**				
6 Administrative law cases				
7 Other				
Total criminal cases (8+9)	152	2242	2199	195

8 Criminal cases (Severe criminal offences)		640		
9 Misdemeanour cases (minor offences)		1754		

91) Total number of cases in the highest instance courts (litigious and non-litigious); (please complete the table)

	Pending cases on 1 Jan. '06	Incoming cases	Decisions on the merits	Pending cases on 31 Dec. '06
Total of civil, commercial and administrative law cases (1-7)	428	3272	3366	334
1 Civil (and commercial) litigious cases*				
2 Civil (and commercial) non-litigious cases*				
3 Enforcement cases				
4 Land registry cases**				
5 Business register cases**				
6 Administrative law cases				
7 Other				
Total criminal cases (8+9)	63	754	778	39
8 Criminal cases (Severe criminal offences)		274		
9 Misdemeanour cases (minor offences)		543		

92) Number of divorce cases, employment dismissal cases, robbery cases and intentional homicide cases received and treated by first instance courts (complete the table)

	Pending cases on 1 Jan. '06	Incoming cases	Decisions	Pending cases on 31 Jan. '06
Divorce cases	1594	9044	7068	1621
Employment dismissal cases	34	478	322	27
Robbery cases	18	96	85	26
Intentional homicide case	38	302	275	36

93) Average length of proceedings (from the date of lodging of court proceedings)

	% of decisions subject to appeal	% pending cases more than 3 years	1st instance	2nd instance	Total procedure
Divorce cases			90 days (18)	90	60
Employment dismissal cases				90	60
Robbery cases					
Intentional homicide					

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

According to the Family Code of the Republic of Azerbaijan adopted on 28 December 1999 and came in force on 1 September 2000, the length of consideration of the divorce case is 3 month (90 days) (but when one side is not agreed the judge has the right to give term of no more than 3 month (90 days) for conciliation). So maximum length of this type of case is 6 months (180 days). One month is provided for submitting appeal and

two months for consideration of the case at the Appeal Court. Total is 9 (270 days) months with conciliation period and 6 months without conciliation period.

95) How is the length of proceedings calculated for the four case categories? (please give a description of the calculation method)

The length of investigation for these two kinds of criminal cases is 3 month, but the term may be extended till 12 month. As the criminal case enters the court the judge should appoint preparatory process no later than 15 days and from this date should start to court consideration of the criminal case in 15 days. In legislation there is no time framework for consideration of criminal cases. According to article 6 of the Convention "On protection of human rights and fundamental freedoms", the judge should consider the criminal case in reasonable time.

From the date of the delivering judgment the appeal may be submitted to the court in 20 days. The preliminary consideration of the criminal case in the appellate court are to carried out by the judge within 15 days, in case of high number of accused persons or complicity of the criminal case within 30 days. The judge should appoints consideration of the criminal case in 30 days, but in case of high number of accused persons or complicity of the criminal case this term may be extended till 45 days.

96) Please describe the role and powers of the prosecutor in the criminal procedure (multiple options are possible):

- to conduct or supervise police investigation?
- to conduct investigation?
- when necessary, to demand investigation measures from the judge?
- to charge?
- to present the case in the court?
- to propose a sentence to the judge?
- to appeal?
- to supervise the enforcement procedure?
- to end the case by dropping it without the need for a judicial decision?
- to end the case by imposing or negotiating a penalty without a judicial decision?
- other significant powers?

Please specify:

97) Does the prosecutor also have a role in civil and/or administrative cases?

- Yes
- No

If yes, please specify:

According to the article 50.2 of the Civil Procedural Code of the Republic of Azerbaijan, in case legal entity, of which founder is state or state`s bodies, made appropriate application, the prosecutor has right to act as a suiter in civil cases in court for defending interests of the state.

In the article 430 of the Code on Administrative Infractions, prosecutor within his authorities undertakes necessary actions provided by the law for eradication of the breaches of the law made during considering of the administrative cases. Prosecutor supervises implementation and execution of the Constitution, laws and other legislative acts of the Republic of Azerbaijan during consideration of administrative cases.

Prosecutor has the right to: deliver decisions about starting of the proceedings on administrative cases, take part in consideration of administrative cases, enter motion during consideration of administrative cases, appeal decisions delivered on administrative cases. Prosecutor is informed about place and date of consideration of administrative cases on juveniles and administrative cases initiated by him (her).

98) Functions of the public prosecutor in relation to criminal cases – please complete this table:

	Received by the public prosecutor	Discontinued by the public prosecutor because the offender could not be identified	Discontinued by the public prosecutor due to the lack of an established offence or a specific legal situation	Discontinued by the public prosecutor for reason of opportunity	Concluded by a penalty, imposed or negotiated by the public prosecutor	Charged by the public prosecutor before the courts
Total number of 1st instance criminal cases	2203	1890	203	188		9770

You can indicate below:

- any useful comments for interpreting the data mentioned above
- the characteristics of your system concerning timeframes of proceedings and the main reforms that have been implemented over the last two years

Please indicate the sources for the questions 92 to 94 and question 98

5. Career of judges and prosecutors

5. 1. Appointment and training

5. 1. 1. Recrutement, nomination and promotion

99) How are judges recruited?

- Through a competitive exam (for instance after a law degree)?
- A specific recruitment procedure for legal professionals with long working experience in the legal field (for example lawyers)?
- A combination of both
- Other

If other, please specify:

According to the laws "On courts and judges" and "On Judicial-Legal Council" candidates to the vacant post of judge is selected by the Judges` Selection Committee. The process of selection consist of several stages: test, written examination, oral examination, 4-5 months training and experience in the courts, written examination, oral examination, interview at the Judicial-legal Council.

100) Are judges initially/at the beginning of their carrier recruited and nominated by:

- an authority composed of judges only?
- an authority composed of non-judges only?
- an authority composed of judges and non-judges?

101) Is the same authority competent for the promotion of judges?

- Yes
- No

If no, please specify which authority is competent for promoting judges:

According to the laws "On courts and judges" and "On Judicial-Legal Council" judges are recruited by the Judges` Selection Committee, the Judicial-Legal Council is empowered to promote judges.

102) Which procedures and criteria are used for promoting judges? (please specify).

103) How are prosecutors recruited?

- Through a competitive exam? (for example after a law degree)
- A specific recruitment procedure for legal professionals with long working experience in the legal field (for example lawyers)?
- A combination of both
- Other

If other, please specify:

104) Are prosecutors initially/at the beginning of their carrier recruited and nominated by:

- an authority composed of prosecutors only?
- an authority composed of non-prosecutors only?
- an authority composed of prosecutors and non-prosecutors?

105) Is the same authority formally responsible for the promotion of prosecutors?

- Yes
- No

If no, please specify which authority is competent for promoting prosecutors.

106) Which procedures and criteria are used for promoting prosecutors (please specify)

107) Is the mandate given for an undetermined period for judges ?

- Yes
 No

Are there exceptions? Please specify:

Judges are appointed newly for a period of 5 years. At the end of this period their activity is evaluated by the Judicial-Legal Council and if the results of evaluation is positive judges are appointed till the pension age.

108) Is the mandate given for an undetermined period for prosecutors?

- Yes
 No

Are there exceptions? Please specify:

General prosecutor, his deputies, republican prosecutors are appointed for a period of years.
 Other prosecutors are appointed by the Public prosecutor for a undetermined period.

**109) If no, what is the length of the mandate?
Is it renewable?**

for judges

yes, please specify the length

for prosecutors

yes, please specify the length

You can indicate below:

- any useful comments for interpreting the data mentioned above
- the characteristics of the selection and nomination procedure of judges and prosecutors and the main reforms that have been implemented over the last two years

5. 1. 2. Training

**110) Nature of the training of judges.
Is it compulsory?**

- Initial training
 General in-service training
 In-service training for specialised judicial functions (e.g. judge for economic or administrative issues)
 In-service training for management functions of the court (e.g. court president, court managers)
 In-service training for the use of computer facilities in the court

111) Frequency of the training of judges:

	Annual	Regular	Occasional
Initial training	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
General in-service training	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
In-service training for specialised judicial functions	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
In-service training for management functions of the court	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
In-service training for the use of computer facilities in the court	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

112) Nature of the training of prosecutors.**Is it compulsory?**

- Initial training
- General in-service training
- Specialised in-service training (e.g. specialised public prosecutor)
- In-service training for management functions of the prosecution services (e.g. head prosecutor and/or managers)
- In-service training for the use of computer facilities in the public prosecution service

113) Frequency of the training of prosecutors:

	Annual	Regular	Occasional
Initial training	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
General in-service training	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Specialised in-service training	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
In-service training for management functions of the prosecution services	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
In-service training for the use of computer facilities in the public prosecution service	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

You can indicate below:

- any useful comments for interpreting the data mentioned above
- comments regarding the attention given to the curricula to the European Convention on Human Rights and the case law of the Court
- the characteristics of your training system for judges and prosecutors and the main reforms that have been implemented over the last two years

According to the Law "On courts and judges" newly appointed judges are to be participated in initial training each year during five years.

5. 2. Practice of the profession**5. 2. 1. Salaries**

114) Salaries of judges and prosecutors (complete the table)

	Gross annual salary (euro)	Net annual salary (euro)
First instance professional judge at the beginning of his/her career	7176	
Judge of the Supreme Court or the Highest Appellate Court	11968	
Public prosecutor at the beginning of his/her career	3436	
Public prosecutor of the Supreme Court or the Highest Appellate Instance	7540	

115) Do judges and public prosecutors have additional benefits?

	Judges	Prosecutors
Reduced taxation	<input type="checkbox"/>	<input type="checkbox"/>
Special pension	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Housing	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Other financial benefit	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>

116) If other financial benefit, please specify:

- Judges are to be paid twice amount of their monthly wage when they get vacation leave
- Life and health of judges are insured at the cost of the state budget at the rate of their five years` wage
- Judges or their family members shall be reimbursed for the property destroyed or damaged in the course of their judicial activity
- Judges are provided with free public medical service
- Judges are to be paid financial means at the rate of two months wage.

- All expences arising with moving of employees of the prosecutors` authorities and members of their family connecting with appointment
- Life and health of the employees of the prosecutors` authorities are insured in the amount of their five wages
- They receive allowance in amount of two wages each year during vacation
- They and their family members receive free medicine service and etc.

117) Can judges combine their work with any of the following other professions?

	Yes with remuneration	Yes without remuneration	No
Teaching	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Research and publication	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Arbitrator	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Consultant	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Cultural function	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Other function	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

118) If other function, please specify:

119) Can prosecutors combine their work with any of the following other professions?

	Yes with remuneration	Yes without remuneration	No
Teaching	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Research and publication	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Arbitrator	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Consultant	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Cultural function	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Other function	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

120) If other function, please specify:**121) Do judges receive bonus based on the fulfilment of quantitative objectives relating to the delivering of judgments?**

Yes

No

If yes, please specify:

Please indicate the source for the question 114

Laws "On courts and judges" and "On prosecutor office" of the Republic of Azerbaijan

5. 2. 2. Disciplinary procedures**122) Which authority is authorized to initiate disciplinary proceedings against judges and/or prosecutors? Please specify:**

According to the Law of the Republic of Azerbaijan "On Judicial-Legal Council" adopted on 28 December 2004 and the Law "On courts and judges", the Judicial-Legal Council is entitled to commence disciplinary proceedings against judges subject to the existence of the grounds specified in the Law "On courts and judges". Presidents of the Supreme Court, Court of Appeal, Economic Court of Appeal, NAR Supreme Court and the Minister of Justice are bound, within their competence, to apply to the Judicial-Legal Council with motion to institute disciplinary proceedings, if there are elements on which the initiative of opening of a disciplinary procedure can be based or grounds for calling to disciplinary liability.

Natural and legal persons, in case if they possess information on the elements provided by this law on which the initiative of opening of a disciplinary procedure can be based, may apply to the Judicial-Legal Council.

President of the Supreme Court is entitled to apply to the Judicial-Legal Council with motion to institute disciplinary proceedings regarding all judges of the first, appellate and cassation instances courts. Minister of Justice is entitled to apply to the Judicial-Legal Council with motion to institute disciplinary proceedings regarding judges of the first and appellate instances courts.

President of the Economic Court of Appeal is entitled to apply to the Judicial-Legal Council with motion to institute disciplinary proceedings regarding all judges of this court, Economic Court of Disputes arising from International Treaties and judges of local economic courts.

President of the Court of Appeal is entitled to apply to the Judicial-Legal Council with motion to institute disciplinary proceedings regarding all judges of this court, judges of the first instance courts, except the judges of NAR district (city) courts, local economic courts and Economic Court of Disputes arising from International Treaties and judges of the NAR Supreme Court`s First Instance Collegial Board on Grave Crimes.

President of the NAR Supreme Court is entitled to apply to the Judicial-Legal Council with motion to institute disciplinary proceedings regarding all judges of this court and judges of NAR district (city) courts.

According to the article 133 of the Constitution of the Republic of Azerbaijan the General prosecutor is appointed and dismissed by the President with consent of the Parliament of the Republic of Azerbaijan. Deputies of the General prosecutor, prosecutors managing republican specialized prosecutors` offices, prosecutor of the Naxchivan Autonomous Republic are appointed by the president with proposal of the General prosecutor of the Republic of Azerbaijan. Territorial and specialized prosecutors are appointed by the General prosecutor with consent of the president of the Republic of Azerbaijan.

According to the article 27 of the Law "On serving in the prosecutors` authorities" the General prosecutor has the right to empower the military prosecutor, the prosecutor and the military prosecutor of the Naxchivan Autonomous Republic and the prosecutor of the Baku city to start disciplinary proceedings against relevant employees of the prosecutors authorities.

Employees of the prosecutors` authorities can be detained, arrested, brought to criminal liability, tapped, as well as their cars, apartments, offices can be examined only with the consent of the President of the Supreme Court with proposal of the General prosecutor.

The same actions against General prosecutor`s immunity are not allowed to be carried out without consent of Board of the Supreme Court of the Republic of Azerbaijan.

The criminal case about employees of the prosecutors` authorities is started by the General prosecutor and is investigated in the General prosecutor`s Office.

123) Which authority has the disciplinary power on judges and prosecutors? Please specify:

According to the laws "On Courts and judges" and "On Judicial-Legal Council" the Judicial-Legal Council has the disciplinary power on judges.

According to the Constitution, the laws "On prosecutor office" and "On serving in the prosecutors` authorities" the president of the Republic of Azerbaijan, General prosecutor, deputy of the General prosecutor, appropriate prosecutors.

124) Types of disciplinary proceedings and sanctions against judges and prosecutors: number of disciplinary proceedings initiated

	Judges	Prosecutors
Total number (1+2+3+4)	41	43
1. Breach of professional ethics	1	7
2. Criminal offence		2
3. Professional inadequacy	40	32
4. Other		2

125) Types of disciplinary proceedings and sanctions against judges and prosecutors: number of sanctions pronounced

Total number (total 1 to 9)	34	42
1. Reprimand	17	28
2. Suspension		
3. Withdrawal of cases		

4. Fine		
5. Temporary reduction of salary		
6. Degradation of post		1
7. Transfer to another geographical (court) location		
8. Dismissal		11
9. Other	17	2

You can indicate below:

- any useful comments for interpreting the data mentioned above
- the characteristics of your system concerning disciplinary procedures for judges and prosecutors and the main reforms that have been implemented over the last two years

6. Lawyers

6. 1. Statute of the profession

6. 1. 1. Profession

126) Total number of lawyers practising in your country

542

127) Does this figure include legal advisors (solicitors or in-house counsellor) who cannot represent their clients in court?

- Yes
 No

128) Number of legal advisors?

542

129) Do lawyers have a monopoly of representation:

- Civil cases*
 Criminal cases - Defendant*
 Criminal cases - Victim*
 Administrative cases*

* If appropriate, please specify if it concerns first instance and appeal. And in case there is no monopoly, please specify the organisations or persons which may represent a client before a court (for example a NGO, family member, trade union, etc) and for which types of cases.

This figure includes just lawyers who are members of the Bar Association. According to the article 4 of the Law of the Republic of Azerbaijan "On advocates and advocate`s activity" only the individual who was admitted as a member to the Bar Association and made an oath has the right to be engaged in advocates activity. Article 9 of the Law also states that the Bar Association is non-government, independent and represented by all advocates organization.

In the first instance courts and appellate courts there are no any prohibition for representation in civil and administrative cases as well as in representation of the victims in criminal cases. According to the article 4 of the Law of the Republic of Azerbaijan "On advocates and advocate`s activity" protection of the suspected or accused in criminal cases, representation of the suiter in civil cases in the Supreme Court during consideration of his (her) appeal and additional appeal, as well as representation of the suiter in the Constitutional Court concerning defending his (her) rights and freedoms are in monopoly of members of the Bar Association.

According to the Civil Procedural Code any natural or legal person has the right to raise suit in the court personally or by means of representative which rights are proven (power of attorney) by the notary. The disabled persons or persons who are under custody or guardianship, as well as judges, investigators, prosecutors, members of the Parliament, except the occasion when they represent appropriate authorities, can not be representative in the courts. Besides that rights and interests of the disabled citizens are represented by the legal representatives such as: parents, custodians, guardians and other persons.

130) Is the lawyer profession organised through:

- a national Bar?
- a regional Bar?
- a local Bar?

Please specify:

According to the article 5 of the Law of the Republic of Azerbaijan "On advocates and advocate`s activity" advocate`s activity is organized individually or by means of advocates` structures forming by the advocates. These structures can be in the form of advocates firms, regional or local advocates bar, office or bureau and etc., but the founders should be only the advocates – members of the Bar Association.

In order to be admitted as a member to the Bar Association citizen of the Republic of Azerbaijan should has diploma in jurisprudence, legal activity not less than three years or teaching activity at the universities not less than three years. Then applicant should pass successfully written test and then be interviewed.

Please indicate the source for the question 126

Collegium of Advocates (Bar Association) of the Republic of Azerbaijan
The Law "On advocates activity" of the Republic of Azerbaijan

6. 1. 2. Training**131) Is there a specific initial training and/or examination to enter the profession of lawyer?**

- Yes
- No

132) Is there a mandatory general system for lawyers requiring continuing professional training?

- Yes
- No

133) Is the specialisation in some legal fields tied with a specific level of training/ qualification/ specific diploma or specific authorisations?

- Yes
- No

If yes, please specify:

6. 1. 3. Fees

134) Can users establish easily what the lawyers' fees will be?

- Yes
 No

135) Are lawyers fees:

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

6. 2. Evaluation

6. 2. 1. Complaints and sanctions

136) Have quality standards been formulated for lawyers?

- Yes
 No

137) If yes, who is responsible for formulating these quality standards:

- the Bar association?
 the legislature?
 other?

Please specify (including a description of the quality criteria used):

According to the article 61 of the Constitution of the Republic of Azerbaijan and article 3 of the Law of the Republic of Azerbaijan "On advocates and advocate`s activity" the main obligations of the advocates are to protect rights, freedoms and interests of the individuals and legal entities as well as to deliver highly qualified legal service to them.

138) Is it possible to complain about :

- the performance of lawyers?

the amount of fees?

Please specify:

The complaint submits to the Board of the Bar Association (Advocates Collegium). The Board of the Bar Association starts the disciplinary proceedings and transmits the complaint for consideration to the Disciplinary Commission, members of which are selected at the meeting of the Assembly of the Members (advocates). If the guilt of the advocate is proved, on the basis of the conclusion of the Disciplinary Commission he (her) is sanctioned by the Board of the Bar Association.

It is provided the following types of sanctions: reproof, reprimand and suspension on the period from three months to one year. The decision about sanction concerning suspension may be appealed to the court. If there are grounds for removal on the basis of the conclusion of the Bar Association the Board applies to the court for consideration and settlement of the matter of removal of the advocate from Bar Association.

139) Which authority is responsible for disciplinary procedures:

the judge?

the Ministry of Justice?

a professional authority or other?

Please specify:

The Board of the Bar Association starts the disciplinary proceedings and transmits the complaint for consideration to the Disciplinary Commission, members of which are selected at the meeting of the Assembly of the Members (advocates). If the guilt of the advocate is proved, on the basis of the conclusion of the Disciplinary Commission he (her) is sanctioned by the Board of the Bar Association.

140) Disciplinary proceedings and sanctions against lawyers:

Disciplinary proceedings initiated

	Breach of professional ethics	Professional inadequacy	Criminal offence	Other
Annual number	5	0	0	0

141) Disciplinary proceedings and sanctions against lawyers:

Sanctions pronounced

	Reprimand	Suspension	Removal	Fine	Other
Annual number	5	0	0	0	0

You can indicate below:

- any useful comments for interpreting the data mentioned above
- the characteristics of your system concerning the organisation of the Bar and the main reforms that have been implemented over the last two years

7. Alternative Dispute Resolution

7. 1. Mediation and other forms of ADR

7. 1. 1. Mediation

142) If appropriate, please specify, by type of cases, the organisation of judicial mediation:

	Possibility of private mediation or court annexed mediation	Private mediator	Public authority	Judge	Prosecutor
Civil and commercial cases	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Family law cases (ex. Divorce)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Administrative cases	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Employment dismissals	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Criminal cases	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

143) Is there a possibility to receive legal aid for mediation procedures?

Yes

No

If yes, please specify:

144) Can you provide information about the number of accredited mediators?

Yes

No

If yes, please provide the number of mediators:

145) Can you provide information about the total number of judicial mediation procedures concerning:

civil cases?

yes,
number:

family cases?

yes,
number:

administrative cases?

yes,
number:

employment dismissals?

yes,
number:

criminal cases?

yes,
number:

Please indicate the source for the question 145

7. 1. 2. Other forms of alternative dispute resolution

146) Can you give information concerning other forms of alternative dispute resolution (e.g. Arbitration, conciliation)? Please specify:

3. Concerning the mediation and arbitration: In 2006, questions related with arbitration have been regulated by the Law of RA from 5 May 1998 on courts of arbitration and arbitration procedure. That Law has lost his force in 25 December 2006 by entering into force of the Law of RA on Commercial arbitration.

At present 3 courts of arbitration function in the RA.

1 court of arbitration functions under the union of banks, 1 under the Chamber of Commerce and Industry and 1 under the union of "defender of law" of NGO.

You can indicate below:

- any useful comments for interpreting the data mentioned above
- the characteristics of your system concerning ADR and the main reforms that have been implemented over the last two years

8. Enforcement of court decisions

8. 1. Execution of decisions in civil matters

8. 1. 1. Functioning

147) Number of enforcement agents

480

148) Are enforcement agents:

- judges?
- bailiff practising as private profession ruled by public authorities?
- bailiff working in a public institution?
- other enforcement agents?

Please specify their status:

According to the Law "On bailiffs and ushers" dated 28 December 1999, court decisions in civil matters and some court decisions in criminal matters (in which the penalty is not connected with deprivation of freedom) are executed by bailiffs 228, ushers 252). It is possible to attract also ushers in execution of these decisions. The supervision on execution of penalties are fulfilling by the employees of penitentiary service (3.867) of the Ministry of Justice of the Republic of Azerbaijan.

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

- Yes
- No

150) Is the profession of enforcement agent organised by?

- a national body?
- a regional body?
- a local body?

151) Can users establish easily what the fees of the enforcement agents will be?

- Yes
- No

152) Are enforcement fees:

regulated by law?

freely negotiated?

Please indicate the source for the question 147

The laws "On court bailiffs and court ushers" and "On execution of court decisions".
Ministry of Justice of the Republic of Azerbaijan

8. 1. 2. Supervision

153) Is there a body entrusted with the supervision and the control of the enforcement agents?

Yes

No

154) Which authority is responsible for the supervision and the control of enforcement agents:

a professional body?

the judge?

the Ministry of Justice?

the prosecutor?

other?

Please specify:

The General department of ushers of the Ministry of Justice is entrusted to organize and supervise the activity of bailiffs and ushers` regional and local structures. Besides that the judges also supervise the execution of delivered decisions. Supervise on execution of penalties is carried out by the employees of the penitentiary service of the Ministry of Justice of the Republic of Azerbaijan.

155) Have quality standards been formulated for enforcement agents?

Yes

No

If yes, who is responsible for formulating these quality standards and what are the quality criteria used?

The quality standards are reflected in the Law "On bailiffs and ushers" dated 28 December 1999. Accordingly the Parliament is responsible for formulating of these standards.

156) Do you have a specific mechanism for executing court decisions rendered against public authorities, including for monitoring the execution?

- Yes
 No

If yes, please specify:

Please indicate the sources for the questions 155 and 156

Ministry of Justice of the Republic of Azerbaijan

8. 1. 3. Complaints and sanctions

157) What are the main complaints of users concerning the enforcement procedure? (please indicate a maximum of 3)

- no execution at all?
 non execution of court decisions against public authorities?
 lack of information?
 excessive length?
 unlawful practices?
 insufficient supervision?
 excessive cost?
 other?

Please specify:

158) Has your country prepared or has established concrete measures to change the situation concerning the enforcement of court decisions – in particular as regards decisions against public authorities?

- Yes
 No

If yes, please specify:

In the framework of cooperation with European Union by means of TACIS Project "Support to court bailiffs and court ushers` service" positive experience of European countries were implemented in training procedure of court bailiffs and court ushers.

Beside that, taking into account the experience of some countries in the field of execution, the draft of the Code of Execution was prepared and submitted for consideration.

At the same time was started the creation of "Execution Information System". For this purpose 85 computers and other appropriate office equipments were acquired and distributed among regional and local divisions of the court bailiffs and court ushers and the installation of the main elements of local network were finished in the General department of court bailiffs and in the Court bailiffs division of the Xatai district of Baku city.

The booklets (such as "Court bailiffs and court ushers and You", "Court bailiffs and court ushers and Bank", "Suspension of execution proceedings", "Auction", "Proceedings concerning alimony", "Giving to claimant the right to start the execution proceedings" and etc.) reflecting legislation about rights and commissions of court bailiffs and court ushers, rights and obligations of the individuals participating in execution proceedings were published and distributed among local and regional divisions of court bailiffs and court ushers.

159) Is there a system measuring the timeframes of the enforcement of decisions:

- for civil cases?
 for administrative cases?

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

- between 1 and 5 days
 between 6 and 10 days
 between 11 and 30 days
 more

Please specify:

According to the Law "On execution of court decisions" upon receiving the execution list (court decision) the court bailiffs (court ushers) inform the party to execute the court decision within five days mandatory.

161) Disciplinary proceedings initiated against enforcement agents:

Breach of professional ethics	<input type="checkbox"/> yes, number:	
Professional inadequacy	<input type="checkbox"/> yes, number:	
Criminal offence	<input type="checkbox"/> yes, number:	
Other	<input checked="" type="checkbox"/> yes, number:	63

162) Sanctions pronounced against enforcement agents:

Reprimand	<input checked="" type="checkbox"/> yes, number:	49
Suspension	<input type="checkbox"/> yes, number:	
Dismissal	<input checked="" type="checkbox"/> yes, number:	46
Fine	<input type="checkbox"/> yes, number:	
Other	<input checked="" type="checkbox"/> yes, number:	7

You can indicate below:

- any useful comments for interpreting the data mentioned above
- the characteristics of your enforcement system of decisions in civil matters and the main reforms that have been implemented over the last two years

Please indicate the sources for the questions 157 and 160

Ministry of Justice

8. 2. Execution of decisions in criminal matters

8. 2. 1. Functioning

163) Is there a judge who is in charge of the enforcement of judgments?

- Yes
 No

If yes, please specify his/her functions and activities (e.g. Initiative or control functions). If no, please specify which authority is entrusted with the enforcement of judgements (e.g. prosecutor).

In Azerbaijan courts decisions are executed by the bailiffs and employees of the penitentiary service. According to the article 1 of the Law "On court ushers and bailiffs" adopted on 28 December 1999, court bailiffs execute decisions on civil and economic disputes, on administrative infringements, court sentences court sentences with non-custodial punishment as well as the decisions of other authorities execution of which is entrusted on court bailiffs. Due to the articles 5 and 11 of the Law "On court ushers and bailiffs" and article 26 of the Law "On execution of court decisions" adopted on 27 December 2001, the Ministry of Justice secures the fulfilling of the obligations by the court bailiffs and ushers as well as fulfills the supervision on activity of court bailiffs and

ushers. The head of local court bailiffs department and the judge fulfill the supervision on timely and properly execution the court decisions on civil and economic disputes, on administrative infringements, court sentences with non-custodial punishment.

According to the article 19 of the Code of the Republic of Azerbaijan on Execution of Punishments, punishments in form of limitation of liberty, deprivation from liberty and imprisonment for life are executed by the penitentiary institutions which are in the structure of the Ministry of Justice. The activity of these institutions are organized and supervised by the penitentiary service and Inspection on supervision on execution of punishments of the Ministry of Justice. Besides that the article 19 (Court supervision) of this code states that institutions which execute punishments should immediately inform judge, who delivered sentence and instruction on execution of sentence, about execution of punishment, place of execution, replacement and release of prisoner. Court supervises the execution of the punishment in settling out the following matters, such as postponing or deleting of the execution of punishment, releasing prisoner because of the illness or serving of the accusational judgement, changing of the detention rejime in prison, applying of amnesty, taking of conviction before time and etc.

Court also delivers court decisions considering complaints concerning activity of the employees of the penitentiary service.

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

Yes

No

If yes, please specify:

You can indicate below:

- any useful comments for interpreting the data mentioned above
- the characteristics of your enforcement system of decisions in criminal matters and the main reforms that have been implemented over the last two years

9. Notaries

9. 1. Statute

9. 1. 1. Functioning

165) Do you have notaries in your country? If no, go to question 170.

- Yes
 No

166) Is the status of notaries:

a private one (without control from public authorities)?

yes,
number:

a status of private worker ruled by the public authorities?

yes,
number:

a public one?

yes, 159
number:

other?

yes,
number and
specify:

167) Do notaries have duties:

- within the framework of civil procedure?
 in the field of legal advice?
 to authenticate legal deeds?
 other?

Please specify:

Please indicate the source for the question 166

Ministry of Justice

9. 1. 2. Supervision

168) Is there an authority entrusted with the supervision and the control of the notaries?

Yes

No

169) Which authority is responsible for the supervision and the control of the notaries:

a professional body?

the judge?

the Ministry of Justice?

the prosecutor?

other?

Please specify:

You can indicate below:

- any useful comments for interpreting the data mentioned above

- the characteristics of your system of notaries and the main reforms that have been implemented over the last two years

According to the Law "On notary" dated 26 November 1999, it is provided establishing of private notaries in Azerbaijan. By the initiatives of the Ministry of Justice in 2005 appropriate amendments made to this law and in 2006 necessary actions such as adopting of the rules regulating examinations and etc. undertook in order to establish private notaries. In 2007 the examination has been hold and in 2008 it is planning to interview applicants who passes successfully the examination.

According to the article 14 of the Law "On notary" adopted on 26 November 1999, the Ministry of Justice (General department of registration and notary) is entrusted to control the activity of notary public offices.

With aim to form the information database on notary actions (such as information about power of attorney, notary acts on will and on alienation of immovable property, on certificates on private ownership of husband and wife on part in common property and on inheritance law and etc.) the special programme was prepared and used with further implementation of it in all notary public offices in Azerbaijan. During first stage information on notary actions were put into "Notary acts` Electronic Information Database" in all notary public offices of Baku city. At present it is considered the possibility of joining of all other regional notary public offices to this information database.

10. Functioning of justice

10. 1. Foreseen reforms

10. 1. 1. Reforms

170) Can you provide information on the current debate in your country regarding the functioning of justice? Are there reforms foreseen? (for example changes in legislation, changes in the structure of the judiciary, innovation programmes, etc). If yes, please specify.

As a result of judicial-legal reform and taking advantage of analyzing data in the Report on evaluation of judicial systems of Council of Europe`s member states, in 2007 the number of judges and courts has been increased. It is planning to undertake additional steps towards increasing of this number.