



EUROPEAN COMMISSION FOR THE EFFICIENCY OF JUSTICE  
(CEPEJ)

SCHEME FOR EVALUATING JUDICIAL SYSTEMS 2007

Country: Bulgaria

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

7679290

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

	Amount
State level	9349700000
Regional / entity level	1704100000

##### 3) Per capita GDP (in €)

3278

##### 4) Average gross annual salary (in €)

2210

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

1 EUR = 1.95583 BGN

#### Please indicate the sources for the questions 1 to 4

Question 1, 3 and 4 - National Statistical Institute

Question 1 - Population as of 31.12.2006

### 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 €)

64532705

##### 7) Please specify

Courts of the Republic of Bulgaria excluding the Supreme Court of Cassation and the Supreme Administrative Court.

##### 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)

Yes

35591745

salaries

Annual public budget allocated to computerisation (equipment, investments, maintenance)	<input checked="" type="checkbox"/> Yes	78865
Annual public budget allocated to justice expenses	<input checked="" type="checkbox"/> Yes	3415039
Annual public budget allocated to court buildings (maintenance, operation costs)	<input checked="" type="checkbox"/> Yes	2374540
Annual public budget allocated to investments in new (court) buildings	<input checked="" type="checkbox"/> Yes	1820311
Annual public budget allocated to training and education	<input checked="" type="checkbox"/> Yes	32519
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)

**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:

Article 63 of Civil Procedure Code (repealed)

Fees and costs in court actions shall not be deposited:

- (a) by plaintiffs expressly set out in Article 5, "b" to "g" of the Stamp Duty Act ,
- (b) by persons whom a District Court Chairperson or a regional judge has, on the basis of a material status affidavit, ruled wanting in means to pay fees and costs,
- (c) for actions initiated by a public prosecutor.
- (d) by the Ministry of Justice, where the latter operates in the capacity of a central authority within the meaning of the European Convention on Recognition and Enforcement of Decisions Concerning Custody of Children and on Restoration of Custody of Children of 1980.
- (e) by the claimant in respect of damage claims arising from delicts out of a criminal offence in respect to which an effective sentence exists."

State institutions, municipalities, and the Bulgarian Red Cross shall be exempted from paying fees but not from paying court costs.

Civil Procedure Code (new)

Article 83. (1) Fees and costs of the proceeding in the matter of cases shall not be deposited:

1. by the plaintiffs who are factory or office workers or cooperative members in respect of any actions arising from employment relationships,
2. by the plaintiffs: in respect of any actions for maintenance obligations,
3. on any actions brought by a prosecutor,
4. by the plaintiff: in respect of any actions for damages sustained as a result of a tort or delict, for which a sentence has entered into effect,
5. by the ad hoc representatives of the party whose address is unknown, appointed by the court.

(2) Fees and costs of the proceeding shall not be deposited by any natural persons who have been found by the court to lack sufficient means to pay the said fees and costs.

Considering the petition for waiver, the court shall take into consideration:

1. the income accruing to the person and to the family thereof,
2. the property status, as certified by a declaration,
3. the family situation,
4. the health status,
5. the employment status,
6. the age,
7. other circumstances ascertained.

Article 84. Payment of stamp duty but not of court costs shall be waived for:

1. the State and the government institutions, except on actions for private State receivables and rights to corporeal things constituting private State property,
2. the Bulgarian Red Cross,
3. the municipalities, except in actions for private municipal receivables and rights to corporeal things constituting private municipal property.

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

22241197

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

139838330

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

1804100

**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		

**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 €)**

29853310

**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 type="checkbox"/>	<input type="checkbox"/>
Other ministry	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Parliament	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Supreme Court	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Judicial Council	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Courts	<input 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):**

The Law on the Judiciary (promulgated, SG No. 64/7.08.2007) provides for the Judiciary budget (Article 361 – 367).

Under the Law a separate Judiciary budget is a part of the state budget. The Judiciary budget consists of the budgets of the Supreme Judicial Council, the Inspectorate at the Supreme Judicial Council, the judicial system bodies that are moral persons and of the National Institute of Justice. When preparing the draft Judiciary budget the Minister of Justice receives opinions and proposals from the administrative heads of judicial system bodies. The Council of Ministers tables to the National Assembly a draft Law on the State Budget of the Republic of Bulgaria for the respective year together with the draft annual Judiciary budget as proposed by the Supreme Judicial Council, with a detailed rationale.

After the adoption of the State Budget, the Supreme Judicial Council organises the implementation of the Judiciary budget through the Inspectorate at the Supreme Judicial Council, the Supreme Court of Cassation, the Supreme Administrative Court, the courts, the Prosecutor General, the National Investigation Service and the National Institute of Justice.

According to the Law on the Judiciary the Supreme Judicial Council draws up an annual report on the cash implementation of the Judiciary budget based on a full budget classification to be mandatorily included as an integral part of the summary report on the implementation of the state budget. The last is tabled to the National Assembly by the Council of Ministers.

The Supreme Judicial Council organises also the development and ensure the functioning of a financial management and control system inside judicial system bodies, as well as the internal audit of the assimilation and management of budgetary resources.

**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**

Question 6, 11, 12 and 16 - Law on 2006 State Budget of the Republic of Bulgaria (repealed).

Question 13 - National Legal Aid Bureau

## 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 checked="" type="checkbox"/>
Legal advice	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Other	<input checked="" type="checkbox"/>	<input checked="" 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:

Based on social status after courts' decision.

#### 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	16000
Criminal cases	NA
Other than criminal cases	NA

#### 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?		Yes	
for other than criminal cases?		Yes	

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:

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

The reform of legal aid started on 1.01.2006 with the adoption of the Act on the Legal Aid by the Parliament. The National Legal Aid Bureau (NLAB) started its function based on the Act in the beginning of January 2006. It is an independent state body - legal person, funded from the budget – a secondary administrator of budgetary credits.

Beneficiaries: physical persons

Cases: civil, criminal and administrative, international trials – civil and trade,

Type: legal consultation and presentation in the pre-trial phase and in court

The NLAB maintain a National register of attorneys, serving legal aid

BODIES OF LEGAL AID - The legal services are organized by the National Legal Aid Bureau and the attorneys' councils.

**Please indicate the sources for the questions 24 and 26**

Question 24 and 26 - National Legal Aid Bureau

## 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.)?  yes
- case-law of the higher court/s?  yes [www.sac.government.bg](http://www.sac.government.bg)
- other documents (for example forms)?  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:

On the web site of the Ministry of Justice, the Ministry of Interior and the organizations supporting victims there is information about the rights of crime victims, in conformity with the provisions of the Law on Assistance and Financial Compensation of Victims of Crime.

**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 checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" 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 checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" 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?

Where in criminal proceedings before the court the victim has made a civil claim and it has been honoured, the convicted party owes, in virtue of the court decision, compensation to the victim. Under the Bulgarian law this applies to all offences, without any restriction.

The Law on Assistance and Financial Compensation of Victims of Crime provides for the

possibility that the State extends financial support (compensation) to victims of certain offences – in particular, serious crimes against personality resulting in death or grievous bodily harm as well as crimes committed by order or under a decision of an organized criminal group.

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

- Yes  
 No

If yes, please specify:

It is the court that determines the amount of each specific compensation on each particular case in view of justice and within the framework of the law.

**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:

In cases where the victim is not able to defend his/her rights and legitimate interests, the Bulgarian Penal procedure Code provides for the right of the prosecutor to join the proceedings on cases instituted on private complaint of the victim – Article 48 of the Penal Procedure Code or to institute criminal proceedings ex officio for such cases – Article 49 of the Penal Procedure Code.

**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:

Article 243 of the Penal Procedure Code provides for the cases where the prosecutor may discontinue the criminal proceedings. Copy of the decree for termination of the criminal proceedings is sent to the accused party which can appeal it before the respective court. The court may confirm the decree of the prosecutor or to revoke it, the

court act being also subject to appeal before higher instance court which ruling is final.

## 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):

Article 2 of Law on the Liability of the State and the Municipalities for Damages (Published – SG 60/05.08.1988, in force as from 1.01.1989, the title "Law on the Liability of the State for Damages Inflicted to Citizens" amended in SG 30/2006) provides for the liability of the State for damages inflicted to citizens by the police investigation, magistrates investigation authorities, the prosecution, the court and by special jurisdiction authorities as a result of unlawful:

1. detention in custody, including also as remand measure, where revoked because of lack of legal grounds.
2. accusation of committing a crime if the person is later acquitted or if the criminal proceedings are terminated because of the fact that the act is not committed by the person accused or the act is not a crime or because of the fact that the criminal proceedings are terminated due to expiry of the prescription period or following amnesty.

### 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:

Mainly surveys of sociological organizations, media and different NGO's, In the IDF N° WBTF 058170-BUL Project "Gratuitous Financing from the Institutional Development for Combating Corruption Fund: Strengthening of the Anti-Corruption Capacity of the Prosecution Office of the Republic of Bulgaria" which will be implemented within the coming 3 years (December 2007 – December 2010) together with the World Bank, beneficiary under which is the Prosecution Office of the Republic of Bulgaria, it is provided for carrying out:

- Three surveys, within the three years period of the Project, on the public opinion concerning the fight against corruption on the part of the Prosecution Office and the counteraction to corruption among the prosecutors as well as publication of the results thereof by the media
- Three sociological surveys of the public opinion on the same issue to be carried out by

NGOs within the same period

**42) If yes, please specify:**

	Yes (surveys at a regular interval: for example annual)	Yes (incidental surveys)
Surveys at national level	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Surveys at court level	<input type="checkbox"/>	<input checked="" 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 type="checkbox"/>	<input type="checkbox"/>
Higher court	<input type="checkbox"/>	<input type="checkbox"/>
Ministry of Justice	<input type="checkbox"/>	<input type="checkbox"/>
High Council of the Judiciary	<input type="checkbox"/>	<input type="checkbox"/>
Other external organisations (e.g. Ombudsman)	<input type="checkbox"/>	<input type="checkbox"/>

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

### 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)	140
Specialised first instance courts (legal entities)	28
All the courts (geographic locations)	153

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

First instance courts of general jurisdiction - 140 (112 are Regional courts, and 28 are District courts, when hear particular cases as first instance).

Specialised first instance courts (legal entities) - Administrative courts (28 in number pursuant to the administrative and territorial division of the state).

Courts (geographic locations). All the courts=153 courts.

112 – Regional courts,

28 – District courts,

5 – Appellate courts,

5 – Military courts,

1– Military Appellate Court,

1-Supreme Cassation Court,

1-Supreme Administrative Court

**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:

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

	Number
a debt collection for small claims	
a dismissal	112
a robbery	112

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

- According to Art. 79 and Article 80 of Civil Procedure Code (repealed) - All civil cases shall come under the jurisdiction of regional courts except those coming under the jurisdiction of the district court as first instance. A district court shall have jurisdiction as a court of first instance over actions in civil and commercial law litigation where the claim exceeds BGN 10,000, excepting support money or alimony claims for defence of rights in rem to real estate and movable chattels, as well as labour disputes arising with regard to matters within the Labour Code.
- According to Art. 103 and Article 104 of Civil Procedure Code (new, promulgated, State Gazette No. 59/20.07.2007, in force as of 1.03.2008) - The regional court shall take cognizance of all civil cases, with the exception of such as are cognizable in the district court acting as a court of first instance. The district court, acting as a court of first instance, shall take cognizance of:
  - any actions on commercial disputes,
  - any actions for ownership and other rights in rem to an immovable with a cost of action exceeding BGN 50,000,
  - any actions on civil cases with a cost of action exceeding BGN 25,000, with the exception of any actions for maintenance obligations, for labour disputes, and for receivables under deficit deeds.

**Please indicate the sources for the question 45**

Supreme Administrative Court and 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)**

1821

**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):**

NAP

**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):**

Professional judges sitting in courts on an occasional basis and non-professional judges do not exist in the Bulgarian judicial system.



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

- Yes  
 No

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

Criminal Procedure Code provides for the role of court assessors. They take part in criminal proceedings in the hypotheses and in accordance with the procedures provided for in the Code. Court assessors have the same rights as judges. According to Article 28 the court tries criminal cases at first instance in a panel composed of:

1. A single judge, where the criminal offence entails up to five years of deprivation of liberty or a less heavy punishment
2. A judge and two court assessors, where the criminal offence entails five to fifteen years of deprivation of liberty as punishment
3. Two judges and three court assessors, where the criminal offence entails no less than 15 years of deprivation of liberty or another, more severe punishment.

While examining cases as an intermediate appellate review instance or as a cassation instance, the court sits in a panel of three judges.

**54) If possible, indicate the number of citizens who were involved in such juries for the year of reference?****55) Number of non-judge staff who are working in courts (present the information in full time equivalent and for permanent posts)**

4271

**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  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  Yes

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)  Yes

technical staff  Yes

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

Question 49 - Supreme Judicial Council. Number of professional judges sitting in regional, district, appellate and military courts.

Question 55 - Supreme Judicial Council. Data for non-judge staff who are working in regional, district, appellate and military courts as of 28.02.2007.

**3. 1. 3. Prosecutors**

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

1558

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

- Yes  
 No

If yes, please specify:

The prosecutor assistants to the Supreme Cassation Prosecution Office, the Supreme Administrative Prosecution Office, the appellate and district prosecution offices, in virtue of Article 244, paragraph 2 of the Law on the Judiciary.

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

1730

**Please indicate the sources for the questions 57 and 59**

Question 57 and 59 - Data are provided by the Human Resources Department to the administration of the Prosecutor General as of 31.10.2007.

Question 59 - 18 prosecutor assistants and 1712 judicial officers

**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 type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Court President	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Court administrative director	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Head of the court clerk office	<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"/>

**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

**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 checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Electronic files	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
E-mail	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Internet connection	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input 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 checked="" type="checkbox"/>	<input 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 checked="" type="checkbox"/>	<input type="checkbox"/>	<input 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 type="checkbox"/>	<input checked="" type="checkbox"/>
Special Website	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Other electronic communication facilities	<input type="checkbox"/>	<input type="checkbox"/>	<input 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:

**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:

**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

**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:

**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:

**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:

**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):

Under the Financial Management and Control in the Public Sector Act the administrative heads of the courts have definite supervising functions. The System of Financial Management and Control reports are summarized by the SJC and the summarized report of the SJC is then forwarded to the Audit Office. The specialized directorate of the SJC's administration carries out internal audit.

Statistical forms for reporting the functioning of the courts have been approved.

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

Yes

No

If yes, please specify:

The summarized report on the financial management and control of the Supreme Judicial Council comprises data of the report of the Prosecution Office of the Republic of Bulgaria. The Prosecution Office prepares statistical tables for reporting

**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)			3	1
Civil proceedings - Article 6§1 (non-execution)			3	
Criminal proceedings - Article 6§1 (duration)			6	

**Please indicate the sources for the questions 82 and 84**

Question 84 - Supreme Court of Cassation

### 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:

Civil Procedure Code (new, promulgated, State Gazette No. 59/20.07.2007, in force as of 1.03.2008)

Interim measures in matrimonial suits - Article 323 - Acting on a petition by any of the parties, the court wherebefore the action for divorce or for marriage annulment has been brought shall rule on interim measures regarding the maintenance, the matrimonial home and the use of the property acquired during the marriage, as well as regarding the care of the children and the maintenance thereof. The court shall pronounce on any such petition during the hearing during which the said petition is

submitted, unless additional evidence has to be taken. In such case, a new hearing shall be scheduled within two weeks.

Proceedings on class actions - Article 385, par. 2 - Acting on a petition by the plaintiff, the court wherebefore the action has been brought may rule on adequate interim measures for protection of the harmed interest.

Proceeding for Recognition of and Admission to Enforcement of Judgments and Acts - Article 623 - An application for admission to enforcement of a judgment of court or another act rendered in another Member State of the European Union shall be submitted to the district court exercising jurisdiction over the permanent address of the person against whom enforcement is sought, over the registered office thereof, or over the place of enforcement. In the order whereby the application is granted, the court shall also pronounce on the interim and precautionary measures sought.

Precautionary and Interim Measures in referral of questions for preliminary rulings - Article 632 - The court, acting on a motion by the parties, may decree appropriate precautionary and interim measures while the proceeding in the matter of the case is stayed.

Securing of Evidence - Article 207 – 208 - Where there is a risk that some item of evidence may be lost or the taking thereof may be impeded, the party may move for the anticipatory taking of the said item of evidence. The petition for securing of evidence shall be submitted to the court which examines the case, and if the case has not yet been instituted, any such motion shall be submitted to the regional court exercising jurisdiction over the permanent address of the person to be examined or over the location of the immovable to be inspected.

Civil Procedure Code (repealed)

Interim measures in matrimonial suits - Article 261- At the request of the parties the court before which the claim for divorce or annulment of marriage has been presented, sets out the temporary measures with regard to alimony and the family home, the use of the property accumulated in the course of the marriage as well as the care for the children and their support.

Securing of evidence - Article 165 - 170 - When there exists a danger that a particular piece of evidence may be lost or its gathering made difficult, the party may request that that particular evidence be collected beforehand.

## 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):

Civil Procedure Code (new, promulgated, State Gazette No. 59/20.07.2007, in force as of 1.03.2008)

- Summary proceeding - Article 310 - 317 - The procedure shall apply to examination of any actions:

1. for labour remuneration, to pronounce a dismissal wrongful and to revoke such dismissal, for compensation for the period of unemployment due to the dismissal, and for correction of the grounds for the dismissal as entered in the work book or in other documents,
2. for protection of premises leased or loaned for use,
3. for establishment and cessation of an infringement of rights under the Copyright and Neighbouring Rights Act, the Patents and Utility Models Registration Act, the Marks and Geographical Indications Act, the Industrial Designs Act, the Topographies of Integrated Circuits Act, and the Protection of New Plant Varieties and Animal Breeds Act,
4. for ascertainment and cessation of violation of rights under the Consumer Protection Act,
5. other actions whereof the examination in a summary proceeding is regulated in a law.

- Order for payment proceeding - Article 410 - 425

1. The applicant may request the issuing of an enforcement order:

1. for pecuniary receivables or for fungible things, where the action is cognizable in the

regional court (see answer to Q 48),

2. for the delivery of a movable thing which the execution debtor has received with an obligation to return the said thing or which is encumbered by a pledge or has been transferred to the debtor with an obligation to surrender possession, where the action is cognizable in the regional court.

Where the application is granted, the court shall issue an enforcement order, a transcript of which shall be served upon the execution debtor. The execution debtor may oppose in writing the enforcement order or a part thereof. Justification of the opposition shall not be required. Where the opposition has been lodged in due time, the court shall instruct the applicant that the said applicant may bring an action regarding the receivable thereof within one month, depositing the balance of the stamp duty due. Where an opposition has not been lodged within due time or has been withdrawn, the enforcement order shall enter into effect. On the basis of the said order, the court shall issue a writ of execution.

2. Enforcement Order Based on Document - Alternatively, the applicant may request the issuing of an enforcement order where the receivable, regardless of the amount thereof, is based upon:

1. an act of an administrative authority, whereunder the admission to enforcement is vested in the civil courts,
2. a document or an abstract of the books of account, whereby receivables of the government institutions, the municipalities and the banks are established,
3. a notarial act, a settlement or another contract bearing notarized signatures in respect of the obligations contained therein to pay sums of money or other fungible things, as well as obligations to deliver particular things,
4. an abstract of the registered pledges registry on a recorded security interest and on commencement of foreclosure: in respect of the delivery of pledged things,
5. an abstract of the registered pledges registry on a recording of a contract for sale with retention of title until payment of the purchase price or a lease contract: in respect of the return of corporeal things sold or leased,
6. a contract of pledge or a mortgage deed under Article 160 and Article 173 (3) of the Obligations and Contracts Act,
7. an effective act establishing a State or municipal receivable, where the enforcement of this act is effected according to the procedure established by this Code,
8. a deficit deed,
9. a promissory note, a bill or exchange or another negotiable security payable to order which is Equivalent thereto, as well as a bond or coupons attached thereto.

Where a document covered under above-mentioned, whereupon the receivable is based, has been presented with the application, the creditor may approach the court with a motion to decree an immediate enforcement and to issue a writ of execution. The writ of execution shall be issued after the court verifies whether the document is prima facie conforming and whether the said document attest an obligation enforceable against the execution debtor.

Civil Procedure Code (repealed)

Summary proceedings - Article 126a – 126i

The following cases shall be heard under the terms and conditions laid down in this Chapter at a petition served by a claimant:

- (a) claims under Article 19, Paragraph 3 of the Obligations and Contracts Act,
- (b) claims resulting from lending agreements, including borrowing contracts, as well as claims resulting from product facility agreements,
- (c) claims resulting from rental agreements for real estate or movable chattels, as well as claims for the release or delivery of leased property,
- (d) claims resulting from deposit agreements,
- (e) claims resulting from service contracts or assignments, where the value is up to BGN 1,000,
- (f) claims for alimony or any increase thereof,
- (g) claims for exercising parental rights in the event of discord between the parents,
- (h) partition claims and claims for the establishment of borders,
- (i) claims under articles 74 and 75 of the Family Code,
- (j) claims under Arts. 252, 254 and 255,
- (k) claims under Article 19 of the Civil Registration Act,
- (l) claims under Article 344, Paragraph 1, it. 1, 2 and 3 and Article 357, Paragraph 2 of

the Labour Code,

(m) claims for pecuniary takings under employment relations.

(n) claims for establishing the fact of violation of a registered trademark, geographic appellation, industrial design, innovation, useful model and of a copyright or any neighbouring rights.

(o) on claims pursuant to Article 302 and Article 306 of the Merchant Shipping Code.

(p) on claims pursuant to Article 263o and Article 264k of the Commerce Act.

(q) in relation to damage claims arising from delicts out of a criminal offences in respect to which an effective sentence exists.

(r) on claims pursuant to Article 186 of the Consumer Protection Act.

The procedure set out in this Chapter shall apply also to cases under Article 87 Paragraph (2) of the State Receivables Collections Act, as well as the crimes resulting from providing services for the information society under the Electronic Commerce Act.

## CRIMINAL CASES

Criminal Procedure Code (published State Gazette No. 86/28.10.2005, effective 29.04.2006, amended, SG No. 46/12.06.2007, effective 1.01.2008, amended and supplemented, SG No. 109/20.12.2007, effective 1.01.2008)

- Summary proceedings - Article 356 - 361

Article 356 (1) Summary proceedings shall be carried out, where:

1. the perpetrator was caught in the act or immediately after the perpetration,
2. obvious traces of the crime have been found on the body or the clothes of the perpetrator,
3. the perpetrator has appeared in person before the respective bodies of the Ministry of Interior, the investigative body or the prosecutor and has confessed the perpetrated crime,
4. an eye-witness has designated the perpetrator of the crime.

(2) The investigative body shall be obligated to forthwith notify the prosecutor.

(3) Summary proceedings shall be considered instituted upon drafting the act for the first investigative action.

(4) The person in respect to whom there is a reasonable assumption that he/she has committed crime, shall be considered as accused party from the moment of drafting the act for the first investigative action taken against him/her.

(5) The investigative body shall complete the investigation within seven days of establishing the presence of the respective grounds under para 1, the victim not being summonsed at the presentation of the investigation.

- Immediate proceedings - Article 362 – Article 367

Article 362

(1) Immediate proceedings shall be carried out where the individual has been caught during or immediately after the commission of a criminal offence and has been indicated by an eyewitness as the perpetrator thereof.

(2) The investigative body shall be obligated to immediately notify the prosecutor.

(3) Immediate proceedings shall be considered instituted upon drafting the act for the first investigative action.

(4) An individual in respect to whom a reasonable assumption exists that he/she has committed a criminal offence, shall be considered as accused party from the moment of drafting the act for the first investigative action taken against him/her.

(5) The investigative body shall complete the investigation within three days of establishing the presence of the respective ground under para 1, the victim not being summonsed for the presentation of the investigation.

- Exemption from criminal responsibility with the imposition of an administrative sanction - Article 375 – 380

Where the prosecutor finds out that the grounds under Article 78a of the Criminal Code are at hand, he/she shall submit the case-file to the respective first instance court along with a reasoned decree, making a proposal to exempt the accused party from criminal responsibility with the imposition of an administrative sanction.

Article 78a of the Criminal Code

(1) A person of full legal age shall be released from penal responsibility by the court, whereas the punishment imposed on him shall be a fine from BGN 500 to BGN 5,000 where the following conditions are concurrently available:

- a) for such crime punishment by deprivation of liberty for up to three years or another milder punishment is provided, if committed intentionally, or deprivation of liberty for up to five years or another milder punishment, if committed through negligence,
- b) the perpetrator has not been sentenced for a common crime and has not been previously released from penal responsibility pursuant to this Section, and
- c) the damages to property, which have been caused by the crime, have been restored.
- (2) (Repealed, SG No. 21/2000).
- (3) (Repealed, SG No. 21/2000).
- (4) The court which imposes a fine under paragraph (1), may also impose administrative punishment by deprivation of the right to practice a certain vocation or activity for up to three years, if deprivation of such right has been provided for the respective crime.
- (5) Where for the crime committed a fine only, or a fine and another milder punishment have been provided, the administrative punishment may not exceed the amount of such fine.
- (6) Paragraphs 1 - 5 shall not apply where a severe bodily injury or death were inflicted, where the perpetrator had been intoxicated, as well as in the presence of a multitude of crimes.

**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)	71363	266907	267899	70371
1 Civil (and commercial) litigious cases*				
2 Civil (and commercial) non-litigious cases*				
3 Enforcement cases				
4 Land registry cases**				
5 Business register cases**	1410	57289	56777	1922
6 Administrative law cases	13193	24281	22195	15279
7 Other				
Total criminal cases				

(8+9)	25647	116857	120119	22385
8 Criminal cases (severe criminal offences)				
9 Misdemeanour cases (minor offences)				

**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

Besides the special rules described under the preceding question the Criminal Procedure Code make no difference of the cases in terms of the degree of social danger of the crime – there are no "severe criminal cases" and "misdemeanour cases". There are various methods for initiating prosecution on case of publicly actionable criminal offence which are initiated by the prosecutor as State accuser, cases of privately actionable offences which are instituted on the basis of a complaint lodged by the aggrieved party and cases of privately-publicly actionable offences in which criminal proceeding start only in case where there is a complaint lodged by the aggrieved party before the prosecutor and where the proceedings have been already instituted the aggrieved party cannot make a request for the termination thereof.

The definition of "severe crime" is made in Art. 93, p. 7 of the Criminal Code – "Severe crime" is any crime for which the law provides punishment by deprivation of liberty for more than five years, life imprisonment or life imprisonment without substitution."

According to Art. 93, p. 9 of the Criminal Code "minor case" is "that in which the crime perpetrated, in view of the lack of or insignificance of the harmful consequences, or in view of other attenuating circumstances, constitutes a lower degree of social danger, as compared with ordinary crime cases of the respective kind."

**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)				
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)				
8 Criminal cases (Severe criminal offences)				
9 Misdemeanour cases (minor offences)				

**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)	13646	13928	14464	13110
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	3917	12914	13604	3302
7 Other				
Total criminal cases (8+9)	1636	3274	3888	1022
8 Criminal cases (Severe criminal offences)				
9 Misdemeanour cases (minor offences)				

**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	4819	11866	12075	4610
Employment dismissal cases	1269	2029	2375	923
Robbery cases	882	1449	1614	717
Intentional homicide case	147	161	204	104

**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	9%	NA			
Employment dismissal cases	77%	NA			
Robbery cases	36%	NA			
Intentional homicide	59%	NA			

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

Q93

Percentage of decisions of divorce subject to appeal is calculated on the basis of 10153 decisions (10212 decisions excluding 59 decisions by virtue of an agreement which are not subject of an appeal).  
 Percentage of decisions of dismissal subject to appeal is calculated on the basis of 2047 decisions (2061 decisions excluding 14 decisions by virtue of an agreement which are not subject of an appeal).  
 Percentage of decisions of robbery subject to appeal is calculated on the basis of 686 decisions (1180 decisions excluding 494 decisions by virtue of an agreement which are not subject of an appeal).  
 Percentage of decisions of homicide subject to appeal is calculated on the basis of 174 decisions (177 decisions excluding 3 decisions by virtue of an agreement which are not subject of an appeal).

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

**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:

Under Article 27, paragraph 1 of the Civil Procedure Code /currently in force/ the prosecutor may initiate in someone else's interest any of the legal or judicial proceedings envisaged in this Code, or may also enter as a party to an earlier brought proceeding in such instances as may be expressly provided for by the law.

Under Article 27, paragraph 2 of the Civil Procedure Code /currently in force/ the prosecutor presents conclusions on civil lawsuits in the cases provided for by the law.

Under Article 26, paragraph 3 of the new Civil Procedure Code, published in SG 59/20.07.2007, in force as from 1 March 2008, the prosecutor may participate in civil proceeding, enjoying the rights of a party, in the cases provided for by the law.

Article 307a of the Civil Procedure Code /currently in force/ provides explicitly that the prosecutor take part in court proceedings for recognition and admission for enforcement of a decision of a foreign court or another foreign body concerning custody and the restoration of custody in the event of an improper removal of a child, based on the



European Convention on Recognition and Enforcement of Decisions Concerning Custody of Children and on Restoration of Custody of Children of 1980.

Participation of prosecutors in administrative cases is mandatory. Their powers are regulated in Article 16, paragraph 1, items 1 to 3, paragraph 2 and paragraph 3 of the Administrative Procedure Code. With the establishment of administrative courts at district level, Article 136, paragraph 3 of the Law on the Judiciary provides explicitly the establishment of administrative departments with the district prosecution offices the prosecutors thereof taking part in administrative cases.

The prosecutors take part also in the cases of deprivation of parental rights under Article 75 of the Family Code

**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	158242			11848	7707	29035

**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

Question 98 - Discontinued by the public prosecutor because the offender could not be identified (Data for the 9 months of 2007) - 88619

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

Question 98 - The official statistical tables for the activity of the Prosecution Office of the Republic of Bulgaria

## 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:

#### 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:

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

Procedure of mandatory assessment when promoting in rank and position.

Procedure of mandatory assessment when promoting in rank and position. Under the Law on the Judiciary the promotion of judges is carried out by the Supreme Judicial Council in accordance with the ranking and up to filling in the vacancies after competition conducted through appraisal.

The Commission on Proposals and Appraisal of judges, prosecutors and investigators to the Supreme Judicial Council appraise the performance of every candidate satisfying the occupational requirements for the available position announced and its Chairperson submit to the Supreme Judicial Council a reasoned opinion, summarising the results of the performance appraisal for each candidate.

**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)**

Under Article 194 of the Law on the Judiciary the promotion of prosecutors is carried out by the Supreme Judicial Council in accordance with the ranking and up to filling in the vacancies after competition conducted through appraisal in relation to Article 189, paragraph 2 of the Law on the Judiciary. Ranking is made by the Commission on Proposals and Appraisal of judges, prosecutors and investigators to the Supreme Judicial Council in accordance with Article 193 of the Law on the Judiciary.

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

Yes

No

Are there exceptions? Please specify:

Judges acquire irremovability status after completing the period of 5 years legal service record. Irremovability status is acquired after carrying out of mandatory appraisal.

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

Yes

No

Are there exceptions? Please specify:

Prosecutors acquire irremovability status after completing the period of 5 years legal service record. Irremovability status is acquired after carrying out of mandatory appraisal.

**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 checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
In-service training for the use of computer facilities in the court	<input type="checkbox"/>	<input 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 checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Specialised in-service training	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
In-service training for management functions of the prosecution services	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
In-service training for the use of computer facilities in the public prosecution service	<input type="checkbox"/>	<input 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

**1. Initial training for junior judges and junior prosecutors**

With the new Law on the Judiciary the term of office of junior judges and junior prosecutors was increased from 2 to 3 years. This term could be extended by 6 months following a resolution of the Supreme Judicial Council (art. 240 Law on the Judiciary).

According to article 258 of the Law on the Judiciary junior judges and junior prosecutors undergo a mandatory inception training course at the National Institute of Justice (NIJ) immediately after entering office. The training course lasts 6 months. During that time trainees receive the remuneration for the position to which they have been appointed and be exempted from administering justice. At the end of the training junior magistrates sit for an examination that will be marked as "pass" or "fail". When marked "fail", junior magistrates concerned will sit again for the examination three months later. If again marked "fail", the individual will be relieved from the occupied position.

During 2006 in the National Institute of Justice has been trained one class of 29 junior judges. During 2007 there have been two classes of junior judges – the first one graduated at the end of October. Since the beginning of October 2007 a second class of 16 junior judges are being trained at the NIJ as they are to graduate at the beginning of April 2008.

During 2006 in the National Institute of Justice has been trained one class of 47 junior prosecutors. During 2007 there have been trained 39 junior prosecutors.

After completing the training at NIJ, until the expiration of their mandate as junior magistrates, junior judges and prosecutors work under the mentorship of a senior judge or prosecutor (mentor magistrate). Up to the present moment there have been designated 35 mentor judges and 46 mentor prosecutors who have been specially trained at the NIJ.

The National Institute of Justice provides methodological guidance to the junior judges and junior prosecutors following completion of the training course until he/she takes the respective position (art. 258, para. 5 Law on the Judiciary). In relation to this the Institute organizes thematic seminars on current issues of the legislation during their mandate as junior magistrates.

**2. Initial qualification for newly appointed judges**

According to art. 259 Law on the Judiciary upon initial appointment to a position with the judicial system bodies, during their first year following entry in office, judges undergo a mandatory course for the improvement of qualifications.

The initial qualification course includes a cycle of 7 seminars which are being carried out in one calendar year.

In 2006 there have been one training cycle for all the judges appointed for the first time in the judicial system bodies the same year (28 people).

In 2007 started a new training cycle for newly appointed judges which is to be over in 2008.

In relation to the new administrative courts, created at the beginning of the current year was elaborated a special training programme for initial qualification of administrative judges appointed for the first time in the judicial system. The programme included an 11 days long training on administrative law and procedure. During the months of February and March 2007 all the newly appointed administrative judges entering the judicial system for the first time were trained - altogether 135 people.

**3. Initial qualification for newly appointed prosecutors**

According to art. 259 Law on the Judiciary upon initial appointment to a position with the judicial system bodies, during their first year following entry in office, prosecutors undergo a mandatory course for the improvement of qualifications.

The initial qualification course includes a cycle of 3 seminars which are being carried out in one calendar year.

In 2006 there have been one training cycle for all the prosecutors appointed for the first time in the judicial system bodies the same year (21 people).

In 2007 started a new training cycle for newly appointed prosecutors which is to be over in 2008 (23 participants ).

#### 4. General in-service training

The judges, prosecutors, investigators, bailiffs, recording judges, court staff, inspectors at the Ministry of Justice Inspectorate under Law on the Judiciary and other Ministry of Justice staff are entitled to participate in the respective qualification courses of the National Institute of Justice. The qualification courses of judges, prosecutors and investigators cover with priority issues related to the new legislation and in the area of European Union Law (acquis communautaire). In addition to the basic seminars in EU law, the Institute also offers specialized seminars in the law of the European Union. These have been developed with the assistance of the MATRA program, project Assistance to the Judiciary in Bulgaria: Continuing Training on EU Legislation and Practice" (2002-2003) and USAID.

Training on the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) at the NIJ was launched in cooperation with the Council of Europe and a number of Bulgarian organisations, e.g. Bulgarian Lawyers for Human Rights Foundation (BLHR) and Bulgarian Helsinki Committee. NIJ took part in the project Civil Society in Support of Bulgaria's Stable Policy for Human Rights Guarantees (2003-2006) funded under the MATRA Program, in partnership with the Ministry of Justice of Bulgaria, the Bulgarian Lawyers for Human Rights Foundation, and the Netherlands Institute for Human Rights (SIM) at the University of Utrecht (the Netherlands).

#### 5. In-service training

The Continuing training provided by the National Institute of Justice is not compulsory. According to the Article 261 of the Law on the Judiciary, The Supreme Judicial Council may decide that particular courses in the Continuing Training are mandatory for judges, prosecutors, investigating magistrates and clerks of court, in the event of:

1. Promotion in position,
2. Appointment as administrative heads,
3. Specialisation

For the year 2007 NIJ organised the following specialized seminars:

- three seminars in "Judicial and police cooperation in criminal matters" with 94 participants
- two seminars in "Judicial cooperation in civil matters" with 41 participants
- two seminars in "EU intellectual property law" with 54 participants
- two seminars in "Human rights" with 40 participants
- one seminar in "European Cooperation in Criminal Matters" for prosecutors – 17 participants
- three seminars in "Administrative Justice" – designated for magistrates with professional experience, appointed in the administrative courts – 115 participants
- one seminar "Accountancy and its practical application within judicial proceedings" - for judges from commercial sections - 15 participants
- Seminar "Leadership and Strategic Planning" –for 14 presidents of courts -

The following specialized seminars are scheduled for the year 2008:

- three seminars in "Judicial and police cooperation in criminal matters" for 35 magistrates each
- four seminars in "Judicial cooperation in civil matters" for 35 magistrates each
- two seminars in "EU intellectual property law" for 30 magistrates each
- five seminars in "Human rights" for 40 magistrates each
- two seminars in ""European Cooperation in Criminal Matters" for prosecutors – for 35 prosecutors each training
- two seminars in "Administrative Justice" – designated for magistrates with professional experience, appointed in the administrative courts – for 35 judges in each training
- one seminar "Accountancy and its practical application within judicial proceedings" - for 30 judges from commercial sections
- Seminar "Leadership and Strategic Planning" – designated for 15 presidents of courts

#### 6. In-service training for management functions of the court

Seminar "Leadership and Strategic Planning" – designated for court presidents

## 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	5676	
Judge of the Supreme Court or the Highest Appellate Court	11136	
Public prosecutor at the beginning of his/her career	5676	
Public prosecutor of the Supreme Court or the Highest Appellate Instance	11136	

**115) Do judges and public prosecutors have additional benefits?**

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

**116) If other financial benefit, please specify:**

**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 type="checkbox"/>	<input checked="" 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 type="checkbox"/>	<input checked="" 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:

On the grounds of Article 220 and Article 221 of the Law on the Judiciary additional remuneration for extra work of judges and prosecutors for discharging official duties on holidays and non-working days as well as allowance for a toga or clothing amounting to two average monthly public sector salaries are paid to the judges and prosecutors.

**Please indicate the source for the question 114**

Supreme Judicial Council

First instance professional judge at the beginning of his/her career

Regional court judge – 473 € basic monthly salary

Junior judge – 361 € basic monthly salary

Judge of the Supreme Court or the Highest Appellate Court

928 € basic monthly salary

Public prosecutor at the beginning of his/her career

Regional prosecutor – 473 € basic monthly salary

Junior prosecutor – 361 € basic monthly salary

Public prosecutor of the Supreme Court or the Highest Appellate Instance

Prosecutor of the Supreme Prosecution Office of Cassation and the Supreme Administrative Prosecution Office – 928 € basic monthly salary

### 5. 2. 2. Disciplinary procedures

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

- the respective administrative head
- any higher-standing administrative head
- the Inspectorate to the Supreme Judicial Council
- at least one-fifth of the Supreme Judicial Council members
- The Minister of Justice

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

Competent to impose disciplinary sanction to judges, prosecutors and investigators are:

- for the disciplinary sanctions "reprimand" and "reprobation" (Article 308, paragraph 1, items 1 and 2 of the

Law on the Judiciary) – the respective administrative head

• for the the disciplinary sanctions "reduction of the basic salary from 10 to 25 percents for a period of six months to two years", "lowering in rank or position in the same body of the judiciary for a time period of one to three years", "removal from the position of administrative head or deputy administrative head", "disciplinary dismissal" – the Supreme Judicial Council upon reasoned proposal for the persons and bodies under Article 312, paragraph 1, items 1 to 5 of the Law on the Judiciary.

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

	Judges	Prosecutors
Total number (1+2+3+4)	3	6
1. Breach of professional ethics		2
2. Criminal offence		
3. Professional inadequacy		4
4. Other		

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

	Judges	Prosecutors
Total number (total 1 to 9)	3	3
1. Reprimand	2	
2. Suspension		
3. Withdrawal of cases		
4. Fine		
5. Temporary reduction of salary		
6. Degradation of post		
7. Transfer to another geographical (court) location		
8. Dismissal	1	3
9. Other		

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

11306

#### 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?

#### 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.

#### Civil Procedure Code

The Civil Procedure Code (promulgated, SG No. 59/20.07.2007, in force as from 1.03.2008) provides for that representatives of the parties by authorization, as follows:

1. the lawyers
2. the parents, the children or the spouse
3. the legal advisers or other employees possessing legal qualifications at the institutions, the enterprises, the legal persons and the sole trader
4. the regional governors, authorized by the Minister of Finance or by the Minister of Regional Development and Public Works, in the cases referred to in Article 31 herein
5. other persons provided for in a law.

There is an exception for the cassation appeal which must be countersigned by a lawyer or a legal adviser, save as where the appellant or the representative thereof possesses a licensed competence to practise law. A power of attorney on the countersigning or a certificate of licensed competence to practise law must be attached to the appeal.

#### Penal Procedure Code

According to the Penal Procedure Code the defence counsel for the accused party may be an individual who practices the legal profession and the spouse, an ascendant or descendant of the accused party. The private prosecutor, the private complainant, the civil claimant and the civil defendant may each authorise their own counsel. Where the interests of the child or young person victim and his/her parent, custodian or guardian are contradictory, the respective body appoints for him/her a special representative who is a lawyer. A special representative who is a lawyer is also be appointed for the victim, where he/she is incapacitated or has limited capacity and his/her interests stand in contradiction to those of his/her custodian or guardian.

#### Administrative Procedure Code

Under Article 17 of the Administrative Procedure Code the collective administrative authorities are represented by the chairpersons thereof or by other members of the authority empowered by the said chairpersons and the single-person authorities act in person or are represented by deputies empowered thereby. The administrative authorities may be represented before the court by authorization according to the procedure established by the Civil Procedure Code.

Article 18 of the Code provides for representation of individuals and organizations. They are represented by law and by authorization according to the procedure established by the Civil Procedure Code. Furthermore they may be represented before the administrative authorities by other individuals or organizations by a written power of attorney with notarization of the signature.

**130) Is the lawyer profession organised through:**

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

Please specify:

Supreme Lawyers` Council - National representation

27 Bar Associations - Local representation

**Please indicate the source for the question 126**

Supreme Lawyers Council

**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):

**138) Is it possible to complain about :**

- the performance of lawyers?
- the amount of fees?

Please specify:

**139) Which authority is responsible for disciplinary procedures:**

- the judge?
- the Ministry of Justice?
- a professional authority or other?

Please specify:

The Supreme Disciplinary Tribunal - national level  
 Disciplinary Tribunals at Bar Associations- local level

**140) Disciplinary proceedings and sanctions against lawyers:  
 Disciplinary proceedings initiated**

	Breach of professional ethics	Professional inadequacy	Criminal offence	Other
Annual number				

**141) Disciplinary proceedings and sanctions against lawyers:****Sanctions pronounced**

	Reprimand	Suspension	Removal	Fine	Other
Annual number	40 %	20 %	5 %	25 %	10 %

**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 checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Family law cases (ex. Divorce)	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Administrative cases	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Employment dismissals	<input checked="" type="checkbox"/>	<input checked="" 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:

465

**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**

Bulgaria has its own legislation in the field of mediation. The Law on mediation was adopted on 2 December 2004 (prom. SG No. 110/17.12.2004). In compliance with the Law on mediation, the Minister of Justice issued an Ordinance № 2 dated 15.03.2007 on the Conditions and Order for the Approval of the Organizations for Mediators Training, Requirements for Mediators Training, Order for Registration and Deletion of Mediators from the Uniform Register of Mediators and Procedural and Ethical Rules of Mediator Conduct (prom. SG No. 26/27.03.2007, entry into force on 27.04.2007).

The Bulgarian Law on mediation envisaged that a subject of mediation may be civil, commercial, labour, family and administrative disputes related to consumer rights, and other disputes between natural and/or legal persons.

The new Civil Procedure Code (prom. SG No. 59/20.07.2007, enter into force on 01.03.2008) includes as well provisions concerning mediation. The court may direct the parties to mediation or another procedure for voluntary resolution of the dispute according to the general procedure for the examination of cases. The same opportunity is also explicitly envisaged for the proceedings on matrimonial cases and for the proceedings on commercial disputes

### 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:**

**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

399

#### 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:

The legal status of the private enforcement agents is regulated by the Private Enforcement Agents Act. According to Article 2, paragraph 1 of this Act "A private enforcement agent shall be an individual mandated by the State to perform the enforcement of private enforceable titles." The State may mandate a private enforcement agent to collect on public claims as well. The Administrative Procedure Code regulated the competence of the private enforcement agents as an enforcement authority (along with the state enforcement agents) also against administrative authorities – Article 271 of the Administrative Procedure Code. Principal regulation of the private enforcement agents' legal status is covered by the provisions of Articles 5 – 35 of the Private Enforcement Agents Act]

The legal status of the state enforcement agents is regulated in the Law on the Judiciary – Chapter XII (Articles 264 – 268).

#### 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**

Ministry of Justice

Q147 - There were only state enforcement agents in Bulgaria before the new Law on Private Enforcement Agents entry into force on 1 September 2005. The new law regulates the legal status of the private enforcement agents. Vacancies for private enforcement agents are open in the judicial regions in proportion 1 position per 30 000 inhabitants.

The legal status of the state enforcement agents is regulated by the Law on the Judiciary – Chapter XII (Articles 264 – 268). As in 2004 there were state enforcement agents only and their number amounted to 255. As at present there is a trend to reduce the number of the state enforcement agents at places for which there is information that the citizens refer mostly to private enforcement agents.

The total number of the enforcement agents in 2006 was 399 of which 233 – state enforcement agents within the district courts and an area of activity – the judicial district of the district court and 166 – private enforcement agents with an area of activity a regional court.

**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:

Main supervision powers of the Chamber Board of the private enforcement agents in respect of the private enforcement agents are regulated by the Law on Private Enforcement Agents while the supervision competence of the Minister of Justice and the forms of supervision over the activity of the private enforcement agents is provided by Law on Private Enforcement Agents and the Law on the Judiciary.

Legal regulation of the supervision powers of the Minister of Justice in respect of the state enforcement agents is given in the Law on the Judiciary.

**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?

Quality standards for enforcement agents have not been elaborated in Bulgaria

**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:

Criteria for monitoring of the Civil Procedure Code (new) are elaborated, in particular for the enforcement procedure.

Article 271, par. 1, p. 2 Administrative Procedure Code –The enforcement authority shall be in respect of enforcement against an administrative authority: the enforcement agent within the geographical jurisdiction whereof the place of performance of the obligation is situated.

**Please indicate the sources for the questions 155 and 156**

**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:

Article 519 Civil Procedure Code (new) - Enforcement against Government Institutions  
Article 519. (1) Enforcement of pecuniary duties against government institutions shall be inadmissible.

(2) The pecuniary duties against government institutions shall be paid out of the budgetary spending authority of the said institutions provided for this purpose. To this end, the writ of execution shall be presented to the financial authority of the relevant institution. If spending authority is not available, the superior institution shall undertake the measures necessary for a provision for such authority in the next succeeding budget at the latest.

**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:

**161) Disciplinary proceedings initiated against enforcement agents:**

Breach of professional ethics	<input type="checkbox"/> yes, number:	
Professional inadequacy	<input checked="" type="checkbox"/> yes, number:	15
Criminal offence	<input type="checkbox"/> yes, number:	
Other	<input type="checkbox"/> yes, number:	

#### 162) Sanctions pronounced against enforcement agents:

Reprimand	<input checked="" type="checkbox"/> yes, number:	2
Suspension	<input type="checkbox"/> yes, number:	
Dismissal	<input type="checkbox"/> yes, number:	
Fine	<input checked="" type="checkbox"/> yes, number:	5
Other	<input type="checkbox"/> yes, number:	

#### 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

## 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).

#### Criminal Procedure Code

Article 416, par. 2 - A copy of the sentence whereby the defendant has been convicted to serve a certain punishment, shall be sent to the prosecutor for execution.

Article 416, par. 3 - Where by the sentence confiscation of certain objects or forfeiture of objects pursuant to Article 53 of the Criminal Code has been ruled, the court shall send a copy of the sentence to the State Receivables Collection Agency for execution.

**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,  
number:

other?

yes,  
number and  
specify:

526 According to article 2, par. 1 of the Law on Notaries and Notarial Activity notary is a person, to whom the state assigns accomplishment of the notarial activities stipulated by the law. Paragraph 2 - The notary can only be a person, entered in the register of the Notary Chamber.

**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

Notary Chamber

### 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

The status and competence of the notary are provided in Law on Notaries and Notarial Activity (LNNA) and Civil Procedure Code(CPC).

The notary is a person, to whom the state assigns the implementation of notarial activities prescribed by the law. The notary is a public officer entrusted with public power who has competence or jurisdiction to authenticate officially the circumstances indicated in article 465 of CPC.

Notarial proceedings that notary is competent to conduct, are determined in by CPC. Notarial proceedings are kind of protective (safeguarding) procedures which are act of a voluntary jurisdiction. These procedures terminate with safeguarding act which has a preventive nature.

Notarial certifications are written, testifying statements of special notaries, issued within the limits of their jurisdiction and under the order prescribed by the law which determine the authenticated circumstances with binding evidential force.

Under the article 465 of Code of Civil Procedure notarial are the proceedings by the procedure of which the following are carried out:

- legal transactions with notarial deeds
- certification of the right of ownership over real estates, certification of the date, content, or signatures on private document, as well as the authenticity of transcripts and excerpts (extracts) from documents and papers
- notarial invitations, protests, certificates for appearance and non-appearance of persons before the notary for performing actions before him
- acceptance and return of documents and papers left in safe-keeping and
- giving references under the notarial books and performance of other notarial actions provided for in other laws.

If assigned by the parties, the notary can, in connection with the notary proceedings, prepare and inspect draft documents, give verbal and written consultations, mediate for clarification of the will of the parties, make inquiries, provide documents, as well as be executor of a last will or manager of property. According to the Law for the inheritance the will can be notarial or personally hand written. The notarial will shall be implemented by a notary in the presence of two witnesses.

The rights and obligations of the notary are provided in the LNNA.

## 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.**

1. The new Civil Procedure Code (CPC) was passed by the National Assembly on 6 July 2007 and published SG No. 59 of 20 July 2007 and entered into force from 1 March 2008. It is designed to achieve fast and inexpensive civil proceedings which would improve the conditions of performing economic activity by local and foreign physical persons and legal entities in Bulgaria.

2. With a view to work out a concept for the penal policy in Bulgaria an Advisory Council on Penal Policy was set up by Order LS-04-695/25.09.2007 of the Minister of Justice as a consultative body which should outline the directions and the principles of the penal policy in the Republic of Bulgaria. The Advisory Council held four meetings to date. At the meetings held on 19 November 2007 and 13 December 2007 the Advisory Council decided that it is indispensable that analysis of the crime should be made before drafting both the penal policy of the country and a new Penal Code. Accordingly, data about the crimes were requested and provided already by the Ministry of Interior, the National Statistical Institute, the Supreme Judicial Council, the National Investigation Service, the Execution of Sentences Directorate General, the Supreme Court of Cassation and the Supreme Prosecution of Cassation.

To address the weaknesses that were found and to improve the conditions for application of the Penal Procedure Code, the Ministry of Justice and the Ministry of Interior prepared jointly a Draft Law on Amendments to the Penal Procedure Code which was submitted to the Council of Ministers on 21 November 2007. The Draft Law was withdrawn by the Ministry of Justice and the Ministry of Interior at the meeting of the Council of Ministers held on 29 November 2007 with the purpose of discussing and considering further issues related to the criminal procedure which have arisen after coming into force of the National Security State Agency Act and other issues raised by magistrates at meetings with the Minister of Justice.

At the two meetings held on 18 and 20 February 2008 the Advisory Council on Penal Policy prepared a Draft Law on Amendments to the Penal Procedure Code on the basis of proposals of the Monitoring group, the proposals of the National Investigation Service related to the pretrial proceedings and the joint draft law of the Ministry of Justice and the Ministry of Interior that had been withdrawn. On 25 February 2008 the Draft Law was forwarded to the ministries and agencies concerned for coordination.

The most essential amendments proposed in the Draft for amendment of the PPC relate to:

- the possibility that investigative functions be assigned by the Minister of Interior to Ministry of Interior officers (the National Police Service). Police officers will be able to carry out investigative actions for collecting evidence and evidentiary means in terms of and in the ways provided for in the PPC in order to use them in the criminal proceedings,

- improvement of the regulation of the pre-trial proceedings. First, the police investigators are established as the main authority thereof. Investigation by investigating magistrates in view of better utilization of the staff available remains as an exception in individual cases (for instance, for crimes in the area of economy) as well as in cases constituting factual and legal complexity where the prosecutor has assigned the investigation or certain individual actions to investigating magistrates.

3. The Draft Administrative Penal Code was published on the website of the Ministry of Justice in order to give possibility to the public to get familiar thereof and it was open for discussion until the end of January 2008. As at present the Ministry of Justice continues working on the draft. The complexity of the subject and the need to regulate the matter with greater precision taking into account the proposals submitted, necessitated extension of the time-limit for elaboration of the draft, before the introduction thereof to the Council of Ministers.