COUNCIL OF EUROPE CONSEIL DE L'EUROPE

EUROPEAN COMMISSION FOR THE EFFICIENCY OF JUSTICE
(CEPEJ)

# SCHEME FOR EVALUATING JUDICIAL SYSTEMS 2007

# Country: Croatia

## 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**

4442884

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

| | Amount |
|---|---|
| State level | 14636754400 |
| Regional / entity level | 1935218620 |

**3) Per capita GDP (in €)**

7076

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

10871

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

7,3451

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

Q 1.-CBS (Central Bureau of statistics)
Q 2.-Ministry of Finance
Q 3.-CNB (Croatian National Bank)
Q 4.-CBS (Central Bureau of statistics)

## 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 €)**

206261500

**7) Please specify**

State budget includes:
- Budget: 197,970,452 Euro
- World Bank loan: 4,261,226 Euro
- EU donations: 4,029,822 Euro

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

| | | |
|---|---|---|
| Annual public budget allocated to (gross) salaries | ☑ Yes | 129973907 |
| Annual public budget allocated to computerisation (equipment, investments, maintenance) | ☑ Yes | 6900243 |
| Annual public budget allocated to justice expenses | ☑ Yes | 42495747 |
| Annual public budget allocated to court buildings (maintenance, operation costs) | ☑ Yes | 8234468 |
| Annual public budget allocated to investments in new (court) buildings | ☑ Yes | 9211507 |
| Annual public budget allocated to training and education | ☑ Yes | 714132 |
| Other (please specify): | ☑ Yes | 8290322 |

**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)

The budget amount in euro:
2001. - 258,688,420
2002.- 257,782,930 0,35 % less
2003.- 285,598,890 10,96% more
2004.- 262,332,368 8,15% less
2005.- 274,056,217 4,47% more
2006.- 309,333,490 12,87% more

The State budget has been increased in 2003, 2005, 2006. It includes the increased budget for the judiciary as well (courts, state prosecution service, the ministry of justice and the prison system). Since the funds for courts take the biggest percentage of the budget for judiciary, it can be said that the courts got more funds in those periods.

**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:

In general, the litigants pay court taxes, yet with many exceptions.The exceptions are: certain types of disputes (labour disputes are excluded by law, in practice for many divorce and paternity cases court tax is waived).

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

23586403,43

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

309333490

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

**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 €)**

32241063

**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 | ☑ | ☑ | ☑ | ☑ |
| Other ministry | ☐ | ☑ | ☐ | ☐ |
| Parliament | ☐ | ☑ | ☐ | ☑ |
| Supreme Court | ☑ | ☐ | ☐ | ☑ |
| Judicial Council | ☐ | ☐ | ☐ | ☐ |
| Courts | ☑ | ☐ | ☐ | ☑ |
| Inspection body | ☐ | ☐ | ☐ | ☐ |
| Other | ☐ | ☐ | ☐ | ☐ |

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

Ministry of Finance is also included in the adoption of the total court budget.

**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**

Remark regarding question 13.,14. - there are no funds allocated particularly for legal aid purposes, thus - there are no data on the amount spent from the State budget. Legal aid in civil cases is provided generally through the scheme of pro-bono representation organised by the Croatian Bar Association.

The answer for the question 15. is Yes.
Remark Q 15.-In criminal cases, legal representation is paid from the court budget, but no unified data is available.
Scheme of legal aid also includes waiver of the obligation to pay court fees and/or costs of taking of evidence. No separate statistics exist on these forms of legal aid either.

State budget procedure is prescribed in details by the State budget Act.

Q 8.
-Annual public budget allocated to (gross) salaries
Note:supertax included
-Annual public budget allocated to computerisation (equipment, investments, maintenance)
Note:the expressed amount includes: the computerisation assets, courts assets, public prosecution services assets(the minor amount is related to the public prosecution services and the higher amount is planned for the computerisation of the courts).
-Annual public budget allocated to court buildings (maintenance, operation costs)
Note: assets planned for the reconstruction of the court buildings are included
-Annual public budget allocated to training and education
Note: planned assets for the Judicial Academy and the amount of 442,230 Euro
are included
-Other
Note: The rest of the planned assets include payments on the base of the rights prescribed in the Collective Agreement and travel costs for the civil servants.
Q 17.
Note:
Budget allocated to Public Prosecution Service is separate from the budget of the Courts with the exception of the assets that they share when it comes to the computerisation and infrastructure (urgent interventions of the buildings).

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

Q 6., 7.,13.,16.-sources: -Ministry of Justice-Directorate for finances and procurement
-State budget

# 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 | ☑ | ☑ |
| Legal advice | ☑ | ☑ |
| Other | ☐ | ☐ |

**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:

The Court Fees Act, Articles 11 to 19, prescribe exemption from the payment of court fees in court proceedings, inter alia also in enforcement proceedings. The exemption applies both to first and second instance proceedings.

**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 | N/A |
| Criminal cases | N/A |
| Other than criminal cases | N/A |

**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 | N/A |
| for other than criminal cases? | no | | |

**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?
- [x] 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? | | |

| | | |
|---|---|---|
| | ☑ | ☐ |
| other than criminal cases? | ☑ | ☐ |

**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**

Question 24.-Remarks:
In 2006, the Croatian Bar Association offered free legal aid upon requests by parties in 530 cases of the total of 1130 applications submitted, while up to the beginning of September 2007 it offered free legal aid in 1311 cases of the total of 1693 received.
(Source:Croatian Bar Association)

Associations (NGOs) - approximately 70,000 cases a year, consisting of: legal advice, drawing up briefs and hiring practicing attorneys to represent parties who have addressed NGOs. This legal aid is financed from the funds granted for the work of NGOs and from donations.

Courts – mandatory representation of parties was ordered in approximately 1,324 cases. Of these, 420 were civil cases. In 3,148 cases the parties were exempted from payment of court costs. Also, in 1, 879 criminal cases there were court appointed defense attorneys. These forms of legal aid are financed from the regular funds provided for the operation of courts. They are not recorded or monitored separately at the moment. Conclusion: there are many cases granted with legal aid but we can give only the framework numbers.

The characteristics of croatian legal aid system:
Legal aid in criminal matters:

It is realised exclusively on the basis of the Criminal Procedure Act.
Articles 65, 66: court appointed defence counsel
If a defendant does not find himself a defence counsel, his defence counsel is appointed by the court without taking into account his ability to cover the expenses.

Article 65: Obligatory defence counsel is provided if
- the defendant is mute, deaf or incapable of defending himself
- the court might impose a sentence of long-term imprisonment
- detention has been imposed against the defendant
- the defendant may be imposed a sentence of at least eight years of imprisonment (in that case the defence counsel must be appointed already when the indictment is served on the defendant)
- the defendant is not present in court.

Even if those preconditions have not been fulfilled, the defendant may, in certain circumstances, be appointed a defence counsel if he or she is unable to cover court expenses.

The defence counsel is appointed by the court from the Bar Association’s list of defence counsels.

The defence counsel appointed has the right to the compensation of costs.

Legal aid in criminal matters in approved by courts in each individual case. Funds for legal aid in criminal matters make a constituent part of the total funds allocated for the functioning of courts.

Legal aid in civil matters:

The existing system provides for certain forms of legal aid pursuant to the Civil Procedure Act, the Bar Act, the Family Act and the Asylum Act. These forms of legal aid are approved by courts or other bodies pursuant to special laws.

Legal aid is regulated by Articles 172 to 178 of the Civil Procedure Act.
Article 172: A party shall be approved legal aid if the payment of court expenses would endanger that party’s subsistence or the subsistence of the party’s family. The court must take into account the value of the dispute, the number of persons supported by the party and incomes of the party and members of the party’s family.

When the request for legal aid is submitted, the party must submit a document from the competent body showing the amounts of tax paid by individual household members, their sources of income and income status

of the party.

The court is entitled to investigate into all the necessary data, and may also hear the opposing party.

The decision on the request for legal aid may be challenged only if denied.

Article 177: The expenses of witnesses, of expert witnesses and other costs must be covered by the court.

Article 174: When legal aid has been approved, and there is a need to protect the rights of the party, a first-instance court shall appoint a defence counsel for that party. The defence counsel is appointed by the court president.
When the court approves legal aid, the funds for these forms of legal aid are secured within the framework of total funds for the functioning of courts.
Legal aid is covered by the Croatian Bar Association if legal aid is provided by the Croatian Bar Association, and by individual bodies providing certain forms of legal aid.
The approved legal aid is provided until the court decision becomes legally effective (first and second instance).

„The Final Proposal of the Free Legal Aid Act has been submitted into parliamentary procedure in March 2008. As more than a year is necessary to set up the system of legal aid, exercise of the right of citizens to free legal aid is postponed by 12 months and should begin in the second quarter of 2009. In that period, it is planned to set up the structure and all preconditions required for full implementation of the Act: adoption of the implementing regulations, establishment of the required organisational structures and recruitment of employees, setting up of the information system and procurement of equipment, training of employees and organisation of an awareness-raising campaign to inform the public about the new system."

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

Q 24-The Croatian Bar Association
Q 26-The Croatian Bar Association

## 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 | www.nn.hr (Official site of the Official Gazzette of the Republic of Croatia,containing legislation currently in force)<br>www.pravosudje.hr (official site of the Ministry of justice)<br>www.legalis.hr (this web site contains laws, regulations, practical law questions and answers) |
| case-law of the higher court/s? | ☑ yes | www.vsrh.hr (official site of the Supreme Court of the Republic of Croatia),www.usud.hr (official site of the Constitutional Court of the Republic of Croatia), www.vtsrh.hr (official site of the High Commercial Court),www.upravnisudrh.hr |

| | | |
|---|---|---|
| | | (Official site of the Administrative Court) |
| other documents (for example forms)? | ☑ yes | www.odvj-komora.hr (the Croatian Bar Association) http:/sudreg.pravosudje.hr (on-line Company Register of the Republic of Croatia at the Commercial Courts),www.uhs.hr (official site of the Croatian Association of Judges), www.hjk.hr (official site of the Notary Public Chamber),www.hgk.hr (official site of the Croatian Chamber of Economy), www.pravo.hr (official site of the Facolty of Law) |

**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:

There is no a public and free of charge specific information system to inform and to help victims of crimes, but in the National programme for the accession of the Republic of Croatia into the EU-2008 it is specified:
Short term priorities – activities planned for 2008:
1.Enactment of the Act on Compensation of Damages to Victims of Criminal Offences on the basis of Council Directive 2004/80/EC by which victims of criminal offences are guaranteed the right to fair and appropriate compensation for the damage they have suffered, regardless where the criminal offence was committed. The implementation of the provisions of this Directive will establish a system of cooperation to facilitate access to compensation of damages for victims of criminal offences in cross border situations, and it is planned that the Ministry of Justice of the Republic of Croatia will be appointed as the central body for the implementation of the Act, pursuant to the provisions of Directive 2004/80/EC of 29 April 2004, on compensation of damages to victims of

criminal offences.
2. Ratification of the Council of Europe Convention on the Compensation of Victims of Violent Crimes, Strasbourg 24 November 1983, which was signed by the Republic of Croatia on 7 April 2005, by which the Ministry of Justice of the Republic of Croatia would be appointed as the central body for implementation of the Convention.
2.1 In cooperation with TAIEX, a study trip will be organized to learn about the application of the Act on compensation of victims of violent crimes and the implementation of the provisions of Council Directive 2004/80/EC of 29 April 2004, on compensation of victims of criminal offences in the national legislation.

It is necessary to mention that the Ministry of justice Department for the Support to Witnesses and Participants in War Crimes Proceedings, founded in 2005, provides legal and physical protection, psychological assistance, and help in finding, preparing for and organizing the travel of witnesses and other participants in the court hearings, as well as investigation hearings in war crime proceedings conducted before Croatian as well as foreign courts.
Following the results of the project with Great Britain "The Reduction of Juvenile Crime and Support for the Victims of Criminal Offences" in 2007 the Department actively participated in the expansion of the system of support in Croatian courts for victims of criminal offences.
In 2006 volunteer services were founded for witness support and support to victims of criminal offences as pilot project at County Court in Vukovar. Following the model of the Vukovar volunteer service, similar services were also founded at the county courts in Koprivnica and Osijek as well as in municipal courts in Vukovar, Županja, Ilok and Vinkovci
Further expansion and institutionalization of support to witnesses and generally to victims in criminal proceedings will be implemented through the UNDP and the Ministry of Justice project "Support to the Development of a System of Support for Witnesses and Victims of Criminal Offences" signed in November 2007.
In 2007, up to October, the Department has given its support in 20 war crime cases conducted before Croatian and foreign courts and has made contacts with 415 witnesses, more precisely to:
- 15 witnesses from abroad summoned to give testimony before Croatian courts,
- 363 witnesses from the RoC summoned to give testimony before Croatian courts,
- 57 witnesses from the RoC summoned to give testimony before foreign courts.
In 115 cases legal assistance to witnesses has been provided and psychological assistance in 120 cases. Transport has been organised for 20 witnesses from the RoC summoned to give testimony before the Belgrade District Court, and for 5 witnesses in Croatia summoned to give testimony before Croatian courts. For some of them a physical protection has also been provided in co-operation with the Protection Unit of the Ministry of the Interior of the RoC, and in the case of four witnesses accommodation was organised in co-operation with the Unit for witness support from the Belgrade District Court.
In the Ademi/Norac case conducted before County Court in Zagreb, a psychologist from the Department has been involved in providing support to seven witnesses including five protected witnesses in order to assure the same standards provided for witnesses before the ICTY.
In 2008 the UNDP project will be started, along with the widening and strengthening of the witness support system to the victims of crime.

Source-Ministry of Justice-Department for the Adjustment of the Croatian Legal System to the European Legal System

**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 | ☑ | ☐ | ☐ | ☐ |
| Victims of terrorism | ☑ | ☐ | ☐ | ☐ |
| Children/Witnesses/Victims | ☑ | ☑ | ☑ | ☐ |
| | | | | |

| | | | | |
|---|---|---|---|---|
| Victims of domestic violence | ☑ | ☐ | ☐ | ☑ |
| Ethnic minorities | ☑ | ☐ | ☐ | ☐ |
| Disabled persons | ☑ | ☑ | ☐ | ☐ |
| Juvenile offenders | ☑ | ☐ | ☑ | ☐ |
| Other | ☐ | ☐ | ☐ | ☐ |

**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?
From 2003. in the Republic of Croatia is in force the Law on liability for damage caused by teroristic acts and public demonstrations.

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

○ Yes
◉ No

If yes, please specify:

**38) Is there a specific role for the public prosecutor with respect to the (protection of the position**

**and assistance of) victims?**

- ○ Yes
- ◉ No

If yes, please specify:

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

- ◉ Yes
- ○ No

If yes, please specify:

The answer for the question 39. is Yes.

Comment:
Article 55. of the Criminal Procedure Act prescribes:
Article 55

(1) Except in cases referred to in Articles 184 and 185 of this Act, where the State Attorney determines that no grounds exist to institute prosecution for an offence subject to public prosecution or prosecuted upon a motion or where he determines that there are no grounds to institute prosecution against one of the accessories reported to the authorities, he shall be bound within eight days to notify the injured person thereof and instruct him that he can assume prosecution by himself. The same procedure shall apply to the court when it renders a ruling discontinuing the proceedings by reason the prosecutor's nolle prosequi in cases that are not referred to in Articles 184 and 185 of this Act.

(2) The injured person shall be entitled to institute or continue prosecution within eight days following receipt of the notice referred to in paragraph 1 of this Article.

(3) If the State Attorney withdraws the indictment, the injured person may, in assuming prosecution, adhere to the charge raised or bring a new charge.

(4) The injured person who is not notified that the State Attorney has failed to institute prosecution or has desisted from prosecution may, within three months from the day the ruling discontinuing the proceedings was rendered or six months from the date the State Attorney dismissed the crime report, declare to the court having jurisdiction that he shall continue proceedings.

(5) When the State Attorney or the court notifies the injured person that he may assume prosecution, the court shall inform him of the procedural actions he may undertake in order to realize that right.

(6) If the injured person dies pending proceedings, his spouse, children, parents, adopted child, adoptive parent, or his siblings may within three months after his death declare that they shall continue proceedings.

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

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

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

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

The system for compensating users for wrongful arrest and wrongful condemnation is regulated as follows:
Persons who were detained in prison and were acquitted of the charges by a legally effective judgment and persons who were sentenced by a legally effective judgment to a prison sentence but later, having made use of an extraordinary legal remedy, are acquitted of the charges, have the right to compensation for damages on the basis of constitutional and legal provisions, pursuant to Article 25 of the Constitution of the RoC and pursuant to Article 476, paragraph 1 and Article 480, paragraph 1 of the Criminal Procedure Act.

Before filing a lawsuit with the court for compensation for damages, the injured party is obliged to apply to the Ministry of Justice with the claim, in order to reach an agreement on the existence of damages and the type and amount of compensation, and if no agreement is reached in amicable proceedings, within 3 months of filing the claim, the injured party, pursuant to the provisions of Article 478 of the Criminal Procedure Act, may file a lawsuit with a court for compensation of damages against the Republic of Croatia.

The Ministry of Justice annually receives on average 200 requests for compensation of damages due to unjustified arrest, and therefore the number of lawsuits filed with the courts cannot be greater than that number, since prior application to the Ministry of Justice is a procedural requirement for filing a lawsuit with a court. That is, the number of law suits filed before courts is far smaller since the majority of claims are resolved in the previous amicable proceedings.

In the amicable proceedings the injured parties are also granted and paid compensation for non-material damage suffered – for emotional distress due to the deprivation of liberty. The amount of that compensation is the same in all cases, depending on the length of the deprivation of liberty. So injured parties who were detained for up to 30 days are granted compensation of 200 kunas (27 EUR) a day for unjustified deprivation of liberty, for detention of between 30 and 90 days compensation is awarded of 160 kunas (22 EUR) a day, and for detention of more than 90 days compensation of 120 kunas (16 EUR) is paid per day of deprivation of liberty.

In amicable proceedings compensation is also awarded for material damage suffered, that is for lost earnings due to the time spent in detention, if the injured party has indisputed evidence available to show this, that is a certificate from his employer from which the level of damage is seen clearly which was incurred on that basis (reduction or non-payment of wages).

Claims for compensation of damages due to unjustified arrest are filed for time spent in detention of a few days and also in some cases for longer stays in detention (up to six months, and in exceptional cases even longer) during the course of the criminal proceedings.

Injured parties who realize their right to compensation for damages by filing a lawsuit with a court against the Republic of Croatia (because the Ministry did not render a decision on their claim in amicable proceedings or they did not accept the Ministry’s offer), seek compensation for various forms of non-material and material damage

suffered, depending on all the negative consequences of the unjustified arrest in relation to that person (in relation to their reputation and honour in their social or working environment, loss of regular earnings, their professional advancement or even loss of a job, in relation to their psycho-physical health etc.).

The amount of compensation awarded by the court to the injured party for emotional distress suffered for unjustified deprivation of liberty (which is a unique form of non-material damage related to the characteristics of the injured party, based on the results of the unjustified deprivation of liberty, or due to violations of freedoms, reputation and honour), depends primarily on the time period which that person spent in detention, the reputation and honour which they had in their social or working environment, and in public if they are well-known, that is, a series of specific circumstance related to each person, and so the amount of compensation set by the court as fair varies (on average it is between 200 kunas (27 EUR) and 500 kunas (68 EUR) per day of deprivation of liberty).

The reason for the differing amounts of compensation awarded on this basis by the Ministry and the court is found in the fact that the Ministry only assesses one circumstance, which is the length of detention, whilst the court assesses all the circumstances of each individual case, that is, it examines a series of evidence, such as hearing the parties, witnesses, medical expert testimony etc (which the Ministry does not do in administrative proceedings) in order to establish beyond doubt all the harmful consequences the unjustified arrest caused for the injured person.

The amount of compensation awarded for lost earnings also primarily depends on the time the injured party spent in detention and was therefore unable to earn regular wages, on the injured party’s occupation and the amount of income made on a regular basis.

Insofar as a person who has spent time in detention suffers permanent damage to their health as a consequence, they are entitled to compensation for emotional distress due to reduction in their activities in life.

In view of all the specific characteristics of each individual case of unjustified arrest, starting with the differing lengths of detention, to the characteristics of each injured party, in each individual case the amount of compensation paid by the Republic of Croatia also differs.

The system for compensating users for excessive lenght of proceedings is regulated in two ways:
According to the Courts Act (OG 150/05, 16/07)

Article 27
(1) A party in a court proceedings that deems that the competent court did not adjudicate in a timely fashion on its rights, obligations, suspicion or indictment, may directly file a request to a higher court with aim of protecting its right to a trial within a reasonable time.
(2) If the request pertains to a pending proceedings before the High Commercial Court of the Republic of Croatia, The High Tort Court of the Republic of Croatia or the Administrative Court of the Republic of Croatia, the Supreme Court of the Republic of Croatia will adjudicate on the matter.
(3) The adjudication procedure pertaining to the request stated in Paragraph 1 of the Article hereof is of urgent nature.

Article 28
(1) If the court referred to in Article 27 of the Law hereof finds the request of the submitter well-founded, it will establish a deadline within which the court in front of which the proceedings is pending has to decide on the right or the obligations, or the suspicion or the indictment of the submitter. It also has to determine the suitable compensation to which the submitter is entitled since the right of this person to a trial in a reasonable time has been infringed.
(2) The compensation or the damages will be remunerated from the State Budget within 3 months of the day the party filed its request for compensation.

According to the Constitutional Act on the Constitutional Court of the Republic of Croatia

(OG 99/99 i 29/02)

1) The Constitutional Court shall initiate proceedings in response to a constitutional complaint even before all legal remedies have been exhausted in cases when the court of justice did not decide within a reasonable time about the rights and obligations of the party, or about the suspicion or accusation for a criminal offence, or in cases when the disputed individual act grossly violates constitutional rights and it is completely clear that grave and irreparable consequences may arise for the applicant if Constitutional Court proceedings are not initiated.
(2) If the decision is passed to adopt the constitutional complaint for not deciding in a reasonable time in paragraph 1 of this Article, the Constitutional Court shall determine a deadline for the competent court of justice within which that court shall pass the act meritoriously deciding about the applicant's rights and obligations, or the suspicions or accusation of a criminal offence. Such deadline for passing the act shall begin to run on the day following the date when the Constitutional Court decision is published in the Official Gazette Narodne novine.
(3) In the decision in paragraph 2 of this Article, the Constitutional Court shall determine appropriate compensation for the applicant for the violation of his/her constitutional right committed by the court of justice by not deciding within a reasonable time about his/her rights and obligations, or about the suspicions or accusations of a criminal offence. The compensation shall be paid from the state budget within a term of three months from the date when the applicant lodged a request for its payment.

The Constitutional Court establishes the amount of compensation, for the violation of the constitutional rights, taking into account the circumstances of each individual case, with simultaneous respect for the overall economic and social circumstances of the Republic of Croatia (taking account of what is at stake in the proceedings concerned for the applicant) and also taking into account of the length of the proceedings before the Constitutional Court in each individual case.

Paid rights abuses from the State Budget:

1. Constitutional Court: 968.236,54 EUR
2. Ministry of Justice:
a) abuses of the right to a trial within a reasonable time:178.823,43 EUR
b) European Court for human rights in Strasbourg: 251.165,00 EUR

Total paid to Ministry of Justice: 429.988,43 EUR
Total paid to Constitutional Court and Ministry of Justice: 1.398.224,98 EUR

**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:
N/A

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

| | Yes (surveys at a regular interval: for example annual) | Yes (incidental surveys) |
|---|---|---|
| Surveys at national level | ☐ | ☐ |
| Surveys at court level | ☐ | ☐ |

**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 | ☐ | ☐ |
| Higher court | ☑ | ☑ |
| Ministry of Justice | ☑ | ☑ |
| High Council of the Judiciary | ☐ | ☐ |
| Other external organisations (e.g. Ombudsman) | ☐ | ☐ |

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

The presidents of the courts are in charge of dealing with the citizens`complaints on the performance of the court. Complaints may also be submitted to the Ministry of Justice (through Department for Complaints).In relation to the problem of duration of court proceedings, the new Courts Act prescribes in particular in provisions of Articles 27 and 28 the proceedings for the protection of the right to a trial within a reasonable time. Pursuant to this Act, unsatisfied parties may file a motion for the protection of the right to a trial within a reasonable time to an immediately higher court if their right or obligation or suspicion or accusation for a criminal offence are in question. If the motion refers to the proceedings before the High Commercial Court of the RC, High Misdemeanour Court of the RC or the Administrative Court of the RC, the motion will be decided by the Supreme Court of the RC. This motion is decided in urgent proceedings.From 1 January to 30 June 2007 there were 819 received cases for the protection of the right to a trial within a reasonable time. (Of total 1308 pending cases there are resolved 819 and 489 still unresolved).

# 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) | 108 |
| Specialised first instance courts (legal entities) | 123 |
| All the courts (geographic locations) | 256 |

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

The Courts Act (NN 105/05) prescribes:
Article 13
(1) In the Republic of Croatia, regular and specialized courts perform the courts duties.
(2) Regular courts include Community Courts, District Courts and the Supreme Court of the Republic of Croatia.
(3) Specialized courts include Misdemeanour Courts, Commercial Courts, High Misdemeanour Court of the Republic of Croatia, High Commercial Court of the Republic of Croatia and the Administrative Court of the Republic of Croatia.
(4) The highest instance court in the Republic of Croatia is the Supreme Court of the Republic of Croatia.
(5) Other regular and specialized courts, according to the appropriate competence or certain legal fields, can be established pursuant to the Law.

Article 14
(1) The Misdemeanour and the Municipal Courts are established for a single municipality or several municipalities, a single city or several cities or parts of the city area.
(2) District and Commercial Courts are established for a single district or several districts.
(3) The High Misdemeanour Court of the Republic of Croatia, the High Commercial Court of the Republic of Croatia and the Administrative Court of the Republic of Croatia are established for the whole area of the Republic of Croatia, the seat being in Zagreb.
(4) The seat of the Supreme Court of the Republic of Croatia is located in Zagreb.

First instance courts:
The number (108) includes Municipal courts as first instance courts of general jurisdiction. The number of County courts is: 21. County courts are second instance courts as appellate courts. County courts are first instance courts for the most severe criminal offences

Specialized Courts:

Misdemeanour Courts-110
Commercial Courts-13
High Misdemeanour Court of the Republic of Croatia-1
High Commercial Court of the Republic of Croatia-1
Administrative Court of the Republic of Croatia-1

**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:

In May 2005, based on a decision of the Minister of Justice, municipal and misdemeanour courts in 8 towns were merged. After an analysis of the effects of the mergers, the working group in charge of making a proposal of the rationalisation of the network of courts concluded that the said approach to the problem of rationalisation would not achieve all benefits that had been planned to arise from the rationalisation process in terms of specialisation of judges and organisation of on-duty services, better functioning of courts at the time of holidays and annual leaves and the like, i.e. that the rationalisation must be performed by merging courts of the same type. Based on the said proposal of the working group, in March 2007 the Government of the Republic of Croatia adopted the Conclusion stating that the rationalisation would be performed by merging courts of the same type, in line with the criteria laid down by the working group which should be applied consistently. With a view to implementing the Conclusion of the Government of the Republic of Croatia, the Ministry of Justice drafted new Act on the Jurisdictions and Seats of Courts, which stipulates termination of activity of 42 municipal courts out of total number of 108 munic ipal courts, some of them over a short period of time, and some over a mid- and long-term period. The proposal of the said Act was adopted by the Government of the Republic of Croatia on 19 March 2008 and sent for parrliamentary procedure. Regarding misdemeanour courts, the proposed rationalisation of the network of misdemeanour courts will be finalised at the latest by the beginning of September 2008. The proposal is being made within the project entitled Improving the Work of the High Misdemeanour Court of the Republic of Croatia and Select Misdemeanour Courts. This proposal will be the basis for drafting of the proposal of the new Act on the Jurisdictions and Seats of Misdemeanour Courts. After the implementation of the rationalisation of municipal courts begins, and after the initial effects of the rationalisation process of the network of courts of that degree are analysed, any changes to terminate the activity of individual county courts will be considered

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

| | Number |
|---|---|
| a debt collection for small claims | 120 |
| a dismissal | 65 |
| a robbery | 172 |

**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 the Civil procedure Act article 458 Small claims disputes shall be disputes in which the amount demanded in the claim does not exceed 5,000 Kunas (683 EUR).
Small claim disputes shall also include those disputes in which the claim is not related to a monetary claim and the plaintiff has specified in the complaint that he or she is willing to accept an amount of money not exceeding the amount referred to in Paragraph I above (article 40 Paragraph I-if the claim does not relate to a monetary sum, but the plaintiff has stated in the complaint that instead of satisfaction of this claim, he or she consents to receiving a particular monetary sum, the amount in dispute shall be this sum.)instead of the relief requested.

Small claims disputes shall also include those disputes in which the object of the claim is not an amount of money, but delivery of moveable thing whose value, as specified by the plaintiff in the complaint, does not exceed the amount referred to in Paragraph I above (Article 40, Paragraph 2-in other cases, when the claim does not relate to a monetary sum, the amount in dispute indicated by the plaintiff in the complaint shall be relevant.).
Immovebme property disputes, employment-related disputes initiated by workers against a decision on termination of his/her contract of employment and disputes related to trespass shall not be considered as small claims disputes.
Procedures in small claims disputes shall also be conducted with regard to objections against motions for ex parte payment order, provided that the value of the disputed part of that motion does not exceed the amount fo 5,000 Kunas (683 EUR).

In Commercial Courts the amount in dispute is 50.000,00 kn ( 6.834 EUR).

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

Q 45.source:Ministry of Justice-Directorate for human resources and organisation in the judiciary.The year of reference used under the question 45., 48. is 2007.

### 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)**

1924

**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 | NAP |

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

In our judicial system there are not professional judges sitting in courts on an occasional basis.

Q49 - Of 1924 professional judges sitting in courts there are 256 presidents of the courts. Many of them are excluded from the performing of judges duties.

**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):**

5268

In the Republic of Croatia lay judges participate in delivering the court decisions only in criminal proceedings. Lay judges are remunerated for their work.

Criminal procedure Act (official Gazzette:110/97,27/98,58/99,112/99143/02) prescribes:
Article 18.
(1) Municipal courts sit in panels of one judge and two lay judges.

(2) Criminal offences punishable by a fine or imprisonment for a term of less than five years as principal punishment shall be considered by a municipal judge sitting alone, with the exception of the criminal offences referred to in Article 95, Article 100 paragraph 3, Article 101 paragraph 3, Article 164, Article 165, Article 166, Article 168, Article 170 paragraph 4, Article 172 paragraph 1, 2 and 3, Article 190, Article 191 and Article 272 paragraph 4 of the Criminal Code.

Article 20

(1) First instance county courts sit in panels of one judge and two lay judges, in panels of two judges and three lay judges when considering offences punishable by imprisonment for a term of more than fifteen years or by long-term imprisonment.

(3) County courts sit in panels of two judges and three lay judges when they decide at a trial at second instance.

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

- (•) Yes
- ( ) No

If yes, for which type of case(s)?
The answer for the question 53. is Yes.

Comment: The members of jury are representing citizens.
Only in criminal proceedings.

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

5268

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

7168

**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 | 202 |
| 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 | 779 |
| 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 | 2985 |
| technical staff | ☑ Yes | 3202 |

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

Q 49,50,52,53,55-Ministry of Justice-Directorate for human resources and organisation in Judiciary.
The year of reference used under the question 49.,52.,55.,56 is 2007.
Remark for the question 56.:
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:3261
-court advisors: 511
-court reporters: 2482

-court trainees: 268

Q56 - COMMENT TO LAND REGISTRY CLERD
Explanation:
Within the land registry system, the status of "authorised land registry clerks" is defined by law. These clerks autonomously handle all land registry cases and render decisions, and they hold the right of signature.

The planned number of authorised land registry clerks in 109 land registry departments, as determined by the Ministry of Justice in 2005, is 274.

Of the total number of authorised land registry clerks determined in this way, 202 have been appointed, and 177 of them have passed a special examination for this profession, which is conducted according to a special programme, at the Ministry of Justice.

We would like to note that this arrangement has taken hold and yielded good results, and that the final determination of the number of authorised land registry clerks is planned to be done after all backlogs in land registry courts have been cleared, when the required staff levels will be determined for all land registry departments (109), including the number of authorised land registry clerks, as a share of the total staff.

### 3. 1. 3. Prosecutors

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

575

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

- ○ Yes
- ◉ No

If yes, please specify:

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

806

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

Q 57-Ministry of Justice-Directorate for human resources and organisation in Judiciary
Q 59.-Public Prosecution Service of the Republic of Croatia
Note:77 advisors, 21 expert associates, 42 trainees and 666 civil servants and employees work in the public prosecution service.

### 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 | ☐ | ☐ | ☐ | ☐ |
| Court President | ☑ | ☑ | ☑ | ☑ |
| Court administrative director | ☐ | ☐ | ☐ | ☐ |
| Head of the court clerk office | ☐ | ☐ | ☐ | ☐ |
| Other | ☐ | ☐ | ☐ | ☐ |

**61) You can indicate below:**
**- any useful comments for interpreting the data mentioned above**
**- if available an organization scheme with a description of the competencies of the different authorities responsible for the budget process in the court**

The procedure for preparation and planning of the budget is prescribed by the Budget Act (The Official Gazette, number 92/94) and is based on the assessment of economic development and macroeconomic indicators presented in the laws and regulations enacted by the Parliament, Government and the Minister of Finance, in accordance with their scope and competencies. The procedure for adoption of the state budget includes the following stages:

1. The Government of the RoC adopts guidelines for economic and fiscal policy for a three year period (by the end of April of the current year),

2. The Ministry of Finance draws up, on the basis of the guidelines of the Government of the RoC, Instructions for Drawing Up the Proposal of the State Budget which contain the following elements:
☐ Basic economic indicators from the Guidelines of the Government of the RoC,
☐ The manner of drafting and time lines for drawing up the proposal of the State Budget.

The Ministry of Finance submits the Instructions for Drawing Up the State Budget to budget beneficiaries, that is the competent Ministries (by the end of May of the current year).

3. The competent Ministry (Division) must send the Instructions for Drawing Up the State Budget to all Budget beneficiaries from within its competence with an indication of the time limit by which all budget beneficiaries must submit their proposals of their budget with statements of reasons.

4. On the basis of the Instructions, the budget beneficiaries draw up a proposal of their financial plan, containing:
- income and revenues expressed by type,
- costs and expenditures by type,
- an explanation of the proposed financial plan,
- a plan of development programs,
- a supply plan,
- a plan of the number of jobs and structure of officials, civil servants and employees, in accordance with laws and secondary legislation.

Budget beneficiaries must submit harmonized proposals of financial plans with a statement of reasons to the competent Ministry within the time limit fixed (by 15 June of the current year).

5. The competent Ministry (Division) compiles individual proposals of the state budget for budgetary beneficiaries and draws up a consolidated proposal of the state budget at the level of budget heads. The competent Ministry submits the consolidated budget proposal by budget heads with a statement of reasons within the given time limit to the Ministry of Finance (by the end of June of the current year).

It is important to mention that the competent Ministry bases the drawing up of the consolidated proposal of the budget on the proposals of the state budget of budget beneficiaries, respecting also divergences from the given Instructions, about which it gives a detailed explanation, which it also submits to the Ministry of Finance.

6. The Ministry of Finance considers proposals and harmonizes financial plans with the assessed incomes and revenues, after which it draws up the draft state budget and consolidation of the budget for the budget year and submits it to the Government of the RoC (by 15 October of the current year).

7.The Government of the RoC establishes the proposal of the state budget and consolidated budget and submits it to the Parliament (by 15 November of the current year).

8. Following the debate, the Parliament adopts the state budget by the end of the current year for the next budgetary year within the time limit, which enables the application of the budget as of 1 January of the year for which the budget is adopted. The state budget is also published in the public publication "The Official Gazette".

The budget of Division 110 – the Ministry of Justice is expressed through programs which cover activities and projects.

As perceived in the structure of the state budget, the funds are intended for the financing of the following groups of expenditures:

1. expenditure on employees (salaries and compensation for costs of travel to and from work) which in the total budget account for 70% of the planned funds.

The statutory basis is:
• for the payment of salaries of judicial officials: the Act on the Salaries of Judges and other Judicial Officials,
• for the payment of salaries of civil servants: the Act on Civil Servants and the Ordinance on the Titles of Jobs and Coefficients for Complexity of Jobs in the Civil Service
Funds for expenditure on employees are planned and executed at the level of budget beneficiaries.

2. other expenditures for employees (payments to civil servants on the basis of the rights under the Collective Agreement for Civil Servants and Employees of the Republic of Croatia ) which account for 2% of the planned funds in the total budget
The statutory basis is the Collective Agreement for Civil Servants and Employees of the Republic of Croatia.
Funds are planned and executed at the level of budget beneficiaries.

3. material business, operational expenditures (which include expenditure for official travel, professional training of employees, office and other material, postal and phone services, intellectual services, maintenance costs etc.) which account for 19% of the total planned funds
Funds are planned and executed at the level of budget beneficiaries.

4. capital expenditures which include investment in buildings, office and other equipment, IT equipment etc, which account for 9% of the planned funds in the total budget.
The funds are planned and executed at the level of the Ministry of Justice, for the needs of all budget beneficiaries of Division 110.

Along with the adoption of the State Budget, the Act on the Execution of the State Budget is also adopted for the current year.

It is important to mention that budget beneficiaries from the system of the Ministry of Justice (courts, public prosecution services and prison system) independently plan and dispose of funds from the state budged allocated for:
- expenditures for employees,
- other expenditures for employees,
- material business operation expenditures

which account for 91% of the funds approved in the state budget.

The remaining funds in the amount of 9% of the approved funds in the State Budget relate to funds for capital investment in buildings, equipment and introduction of IT, which are planned at the Ministry of Justice for the needs of all beneficiaries, courts, public prosecution services and prison institutions.

**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 | ☑ | ☐ | ☐ | ☐ |
| Electronic data base of jurisprudence | ☐ | ☐ | ☑ | ☐ |
| Electronic files | ☐ | ☐ | ☑ | ☐ |
| E-mail | ☐ | ☑ | ☐ | ☐ |
| Internet connection | ☐ | ☑ | ☐ | ☐ |

**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 | ☐ | ☐ | ☐ | ☑ |
| Court management information system | ☐ | ☐ | ☐ | ☑ |
| Financial information system | ☑ | ☐ | ☐ | ☐ |

**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 | ☐ | ☐ | ☑ | ☐ |
| Special Website | ☐ | ☑ | ☐ | ☐ |
| Other electronic communication facilities | ☐ | ☐ | ☑ | ☐ |

**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:
Ministry of justice of the Republic of Croatia,

Dežmanova 10, Zagreb

and Supreme Court of the Republic of Croatia, Trg Nikole Šubića Zrinjskog 3, Zagreb

**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**

The Strategy of the Reform of the Judicial System with the Action Plan was adopted by the Government of the Republic of Croatia on 20 September 2005 and the Croatian Parliament was notified thereof by a conclusion of 10 February 2006. The main guidelines of the adopted Strategy of the Reform of the Judicial System are the following:strengthening of the rule of law and independence of the justice system, creation of an efficient justice system, structural changes (rationalisation of the network of courts), reduction of the backlog of cases, shortening of duration of court proceedings, strengthening of court administration, professional training and education of judges and public prosecutors, introduction of IT into the justice system, introduction of the Integrated Case Management System (ICMS),alternative dispute resolution,free legal aid,criminal policy and suppression of corruption in particular.

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

Q 62.,63.,64-Ministry of Justice-Information Technology Sector

## 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:**

- [x] number of incoming cases?
- [x] number of decisions?
- [x] number of postponed cases?
- [x] length of proceedings (timeframes)?
- [x] other?

Please specify:

Monitoring system of court activities is regulated by Court President within the Court Administration.
According to the Courts Act,
Article 25.
(1) A higher court can object to the lower court flaws realized during the decision-making concerning some legal remedy or in any other way.
(2) Higher courts can request from the lower courts data on the law enforcement, problems occurring during a trial, monitoring and studying Case Law and other data, and they can carry out a direct evaluation of the modus operandi of the courts as well as chair group meetings in order to discuss certain issues.
(3) During the enforcement of the jurisdiction stated in Paragraph 1 and 2 of the Article hereof, the High Court must not, in any way, influence the independence and the freedom of the lower courts, in the decision-making process on certain case.

Article 26.
(1) The President of the Supreme Court of the Republic of Croatia or the President of the immediate higher court may appoint at least two or more judges in order to have better supervision over the correct modus operandi of the judges.
(2) Having completed the supervision, the judges are obligated, with undue delay and in

writing, to notify the Court president who appointed them to carry out the supervision, the President of the Supreme Court of the Republic of Croatia and the President of the immediate higher court.

Article 27.
(1) A party in a court proceedings that deems that the competent court did not adjudicate in a timely fashion on its rights, obligations, suspicion or indictment, may directly file a request to a higher court with aim of protecting its right to a trial within a timely fashion.
(2) If the request pertains to a pending proceedings before the High Commercial Court of the Republic of Croatia, The High Tort Court of the Republic of Croatia or the Administrative Court of the Republic of Croatia, the Supreme Court of the Republic of Croatia will adjudicate on the matter.
(3) The adjudication procedure pertaining to the request stated in Paragraph 1 of the Article hereof is of urgent nature.

In its effort to reduce the number of unresolved cases, the Supreme Court has compiled a register of pending cases (criminal and civil) and drawn up a priority programme for their resolution. As regards criminal cases, from the beginning of the implementation of the program for solving old cases, in the period between 1 January 2006 and 30 June 2007, the number of outstanding cases in the criminal branch of the judiciary, three or more years old, was reduced by some 50%. On 31 December 2005 the number of cases more than three years old was 15,156, on 31 December 2006 it was 5,938, and on 1 January 2007 (after outstanding cases which had commenced in 2004 were added to the total number of cases) it was 10,985, while on 30 June 2007 the number of outstanding cases was 7,241. On 30 September 2007 the number of old unresolved criminal cases amounted to 6,225. Accordingly, the trend is evident of a substantial decrease in the number of outstanding cases more than three years old.

In the period from 1 January 2006 to 30 June 2007, in the civil adjudication the number of unresolved old cases (from 2007 the criteria for the cases to be considered as unresolved old cases is three or more years from the beginning of the proceedings for civil cases, earlier, the criterion was five or more years) was reduced by 22.40% (from 170,938 to 132,651). On 30 September 2007 the number of old unresolved civil cases amounted to 130.316.

In 2007, the Supreme Court has introduced a program for monitoring the criminal cases where the possibility exists that the statute of limitations will expire. The monitoring is planned for the period from 1 January 2007 until 30 March 2008, with a view to establishing in which criminal cases the statute of limitations has already expired, or expiration is approaching in relation to criminal prosecution. This is aimed at preventing the expiration of statute of limitations regarding criminal prosecution in cases in which it could expire soon, but also sanctioning unjustified expiration of the statute of limitations as the result of the disorderly work of courts or individual judges. In the period from 1 January until 15 October 2007, a possibility for the statute of limitations to expire was established in 459 cases, and in the same period the statute of limitation expired in 130 cases.

In 2007, 8693 criminal cases have been delegated to be resolved by other courts with subject matter jurisdiction, as well as 4.813 civil cases.

Measures by the High Commercial Court to reduce the number of outstanding cases: From June 2006 to June 2007 a reform was implemented of the work of the High Commercial Court of the RoC and commercial courts in the RoC, and work began on resolution of the oldest cases, which also resulted in a significant reduction of the backlog. According to framework plans, complete efficiency in all types of cases will be achieved by the end of 2009.

THE JUDICIAL INSPECTION SERVICE OF THE MINISTRY OF JUSTICE

By November 2007 inspections of the proper discharge of the work of justice administration was conducted at 38 courts. In 2007 inspections had been carried out at 14 courts.

After inspections were conducted, three persons were dismissed from office as court

president (the president of Supetar Municipal Court, Makarska Municipal Court and of Slavonski Brod Municipal Court). After an inspection was conducted at Biograd na moru Municipal Court and Benkovac Municipal Court, and after the presidents of these courts were sent reports on the judicial inspection, they filed resignations themselves from the office of court president. Inspections were carried out at Šibenik Municipal Court, Delnice Municipal Court and Krk Municipal Court and in Gospić County Court immediately before the four years mandate was to expire of the presidents of these courts. Due to the outcome of the inspections conducted, the presidents of these courts were not reappointed as court presidents.

In accordance with the amendments to the Public Prosecution Service Act enacted in January 2007 (OG 16/07), the justice inspection service of the Ministry of Justice will carry out inspections of the work of justice administration in public prosecution service offices.

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

- (•) Yes
- ( ) No

Please specify:

The courts in the Republic of Croatia must inform the Ministry of Justice about the total number of cases, backlog, pending cases, the type of decisions rendered and other information requested for the purpose of drawing up Annual Statistics on the work of courts for the calendar year preceding it. These statistics are mandatory and show basic data on the work and performance of the court. However, the Supreme Court of the Republic of Croatia has established special records which monitor the work of the courts by placing special emphasis on the indicators for the work on backlogs, old cases and the implementation of the principle of priority of proceedings from the most lengthy cases towards the cases of shorter length, while respecting the priority of certain case types as prescribed by law.

These records have been established or supplemented on the basis of the mini program of the Supreme Court of the Republic of Croatia within the framework of the National Anti-corruption Program 2006 – 2008.

Accordingly, the Supreme Court regularly collects reports from the courts on resolved cases for each quarter. In particular, the statistics for old cases are monitored, that is for cases received three or more years ago.

The reports from court presidents on the status of outstanding old cases and the evaluation of the implementation of the program for their resolution and the individual responsibility of individuals are analysed semi-annually.

**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
- [x] Length of proceedings (timeframes)

- [x] Closed cases
- [x] Pending cases and backlogs
- [x] 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:

As regards the performance and quality indicators, in our opinion the four most important indicators should be the length of the proceedings (timeframes), closed cases, pending cases and backlogs, and the efficiency of judges and advisors. These four indicators are shown in the statistics monitored by the Supreme Court of the Republic of Croatia.

The framework criteria established individually for each judge has been regulated by the Framework Criteria for the Work of Judges adopted by the Minister of Justice. Accordingly, upon a proposal by the extended session of the Supreme Court held on 14 May 2007, the Minister of Justice adopted new Framework Criteria, which prescribe the obligation of a judge to resolve a certain number of cases of a certain type every month, taking 200 working days as the basis for monitoring the implementation of the Framework Criteria. In August 2007 a new model was drawn up of statistical monitoring of the work of judges according to these framework criteria. The templates for statistical monitoring were sent to all courts and have been used since 1 September 2007. The new framework criteria will enable the presidents of courts and judicial councils to establish and assess the quantitative results of the work of judges as objectively as possible.

At the same time, the session of the Council of Presidents of All Judicial Councils in the Republic of Croatia, held on 26 September 2007, established the Methodology for Evaluation of Judges, which came into force on the same day. The Methodology was adopted so that judicial councils, who, according to the Courts Act are obliged to assess a judge for the first time after the end of his second year of work, and also to assess him in the procedure for appointment to another court, when he is being appointed permanently to judicial office, and when he is applying for the position of president of court, and they are obliged to have unified criteria for assessment. The methodology prescribes points to be given for each element prescribed by the Courts Act and these are to be taken into consideration on assessment of the discharge of judicial office, and it is prescribed that these elements be observed for a period of the three calendar years prior to the assessment, unless the assessment is being made after the judge has been working for two years. This evaluation will be improved by introduction of more objective criteria prescribed by the Methodology for the Drafting of Evaluations.
METHODOLOGY FOR EVALUATION OF JUDGES

Article 1

The judicial council shall evaluate an appointed judge for the first time after the completion of the second year of the work of that judge, in the procedure for appointment to another court, when he is being permanently appointed to judicial office and when he is applying for the position of president of a court.
The judicial council shall evaluate the judge appropriately according to all the elements listed in Article 77 of the Courts Act.

Article 2

The evaluation by the judicial council is made on the basis of elements observed for the

period of three calendar years preceding the evaluation and which represent a whole, unless the evaluation is being made after the second year of the judge's work.
If the evaluation is made after nine months have passed in a calendar year, the year in which the evaluation is being made shall be included in the period evaluated in the appropriate proportion.
If the judge has not spent the time working as prescribed in paragraph 1 of this Article, the evaluation of the judicial council shall be made on the basis of the elements observed in the period during which he discharged judicial office prior to the evaluation.

ELEMENTS FOR EVALUATION
Results of work
Article 3

The Framework Criteria shall serve as the basis for calculating the quantitative results of the work of a judge, as adopted by the Minister of Justice, and which are valid for each year considered in the calculation.
The calculation of the results of work regarding whether the judge rendered the number of decision he should have rendered on the basis of the Framework Criteria, shall be made by establishing the results of his work by types of cases, in absolute numbers and percentages for the time effectively spent at work.
The judge has fulfilled his judicial obligation when he renders the number of decisions expressed in percentage according to the criteria of the Framework Criteria when the total of the percentages for each type (category) expressed in the Framework Criteria is 100%.
The results of the work of the president of a court, who, along with the work of court administration, also performs the work of a judge, shall be established by his appointed deputy, and if he has no deputy, by the president of the immediately superior court.

Article 4

The results achieved in relation to the number of cases resolved according to the Framework Criteria are evaluated with 100 points.
Results not achieved in relation to the number of resolved cases, or a higher number of cases resolved in relation to the Framework Criteria, are evaluated in that for each initiated 1%, whether plus or minus, the number of points from paragraph 1 is increased or reduced by 1 point.
Article 5

If a judge has not rendered the number of decisions he should have rendered on the basis of the Framework Criteria for the work of judges, because he was overburdened with extremely difficult and complex cases, it is considered that in a specific period, or a specific year, he achieved the required results completely, increased by 10%.
This fact is established separately by a decision of the president of the court when establishing the fulfilment of judicial obligations pursuant to Article 77 of the Courts Act.
Article 6

For a judge who holds the function of president of the court or in the annual schedule is appointed to be deputy president of the court or president of a division, or is appointed to the work of monitoring and studying case law or professional training for judges, or is doing other work whose results are evaluated separately in the Framework Criteria for the work of judges, the results of his work in terms of the number of cases resolved shall be calculated as prescribed by the Framework Criteria for the work of judges.

Respect for deadlines
Article 7
Judges are obliged to respect deadlines in their work for announcing and writing up and dispatching decisions.
The president of the court shall establish whether a judge respects the deadlines set each year (Article 77, point 2, Courts Act), and the number of points is established according to the table for each year, after which the three-year average shall be calculated.
It shall be considered that a judge has respected deadlines if the president of the court does not establish non-respect for deadlines for announcement, writing up and dispatch, pursuant to Article 77, point 2.

- respected deadlines 100 % 10 points
- respected deadlines more than 75% 5 points
- respected deadlines 75% or less 0 points

Quality of work
Article 8

Calculation on the basis of this criterion is made for first instance judges whose decisions on merits are subject to the second instance control by a higher court.
For a judge who works on various types of cases, for which separate calculation of the quality of the work is made, the calculation is the average quality of his work calculated according to the various types of cases.
For evaluation according to these criteria, the judge must have at least 40 decisions over a three year period, which are reviewed by a second instance court.
Article 9

The calculation of quality is made by establishing the percentage of quashed decisions in relation to the total number of resolved cases.
Where possible, the number of decisions quashed for an essential violation of procedural provisions is separated out as an absolute number.

Article 10

The quality of the work of a judge is expressed as a percentage of decisions quashed in relation to the total number of decisions rendered in the evaluation period, and points are given according to the table:

Up to 3 % 100 points
Between 3 % and 6 % 75 points
Between 6 % and 10 % 50 points
Between 10 % and 15 % 25 points
More than 15 % 0 points

Professional training
Article 11

A judge’s work in professional training is evaluated separately.
The judge shall document each element for points on the basis of the criterion of professional training with the appropriate evidence, pursuant to Article 77, point 4 of the Courts Act.
Article 12

The right to points on the basis of professional training is acquired by a judge who, according to the criteria from Articles 4, 6, 7, 10 and 15 of this Methodology, has gained a minimum of 150 points.
Article 13

Judges receive:

- 5 points for each academic year in which the judge participates in teaching legal subjects at certain faculties (exercises, clinics etc),
- 5 points for work in every working group to draft a law,
- 5 points for writing each individual book published in the field of law,
- 3 points for each scientific, professional paper published or educational material created for the needs of the Judicial Academy,
- 3 points for each attendance of a professional conference or consultation as a lecturer or moderator of a workshop,
- 2 points for each paper given at a meeting of judges,
- 1 point for each attendance of a professional conference or consultation.

Article 14

A judge with a Master’s Degree in legal science acquires the right to 10 points.

A judge with a PhD in legal science acquires the right to 20 points.

Special cases in the evaluation of the work of judges
Article 15

The judicial council also assesses the character of judges throughout their entire working life, thereby taking particular account of their attitude to their work, parties to cases, colleagues, civil servants and employees at the court, the quality of their oral and written expression, respect for priorities in resolving cases assigned to them, and all other activities (work on judicial councils, electoral commissions, as spokesmen, tutorship of apprentices etc).
On the basis of this criterion judges may receive up to 50 points. If the work of the judge is not subject to the control of a higher court, and for this reason alone it could not be evaluated on the basis of the criterion from Article 10 of this Methodology, judges may have the right to up to 100 points on the basis of this criterion.
Points on the basis of this criterion shall be calculated in that each member of the judicial council taking part in the work of the council shall give points for the work of the judge, after which the result is established by calculation of the average number of points so given.
Negative evaluation
Article 16

For a judge who has been penalized for a disciplinary offence or who has had a violation of the Code of Judicial Ethics established in the period for which he is being evaluated, the number of points from the criteria evaluated so far is reduced for each penalty or violation established, as follows:

- for serious violations in disciplinary proceedings 200 points
- for minor violations in disciplinary proceedings or violations of ethical principles if disciplinary responsibility is not established 100 points

Evaluation
Article 17

On the basis of the criteria mentioned earlier, pursuant to Article 82 of the Courts Act, the judicial council shall evaluate judges with grades:

Unsatisfactory discharge of judicial office Less than 100 points
Satisfactory discharge of judicial office From 100 to 140 points
Successful discharge of judicial office From 140 to 180 points
Above average discharge of judicial office More than 180 points

Article 18

For a judge who on the basis of the points acquired gains an evaluation of successful discharge of judicial office or above average discharge of judicial office, the points are increased according to the years of work which are a condition for selection for the court he is applying for.
The number of points is increased, by the addition of 3 points for each year begun above the minimum experience sought as the number of years which are a formal condition for selection to the court for which he is applying.
Article 19

After the points have been calculated, the judicial council defines a list of judges according to the number of points acquired.
If several judges acquire the same number of points, they shall be listed in alphabetical order.

Transitional and concluding provisions
Article 20

This methodology for evaluation of judges was defined at the session of the Council of presidents of all judicial councils in the Republic of Croatia, held on 26 September 2007 and came into force on the same day.
This methodology for evaluation of judges is only applicable for those procedures which

were initiated after it came into force.
If for one of the previous years which are taken into consideration in calculation according to this methodology, the president of the court does not establish the fulfilment of judicial obligations pursuant to Article 77 of the Courts Act, evaluation for that year shall be made according to the criteria of fulfilment of judicial obligations prescribed by the act that was in force at that time.

**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:**

- [x] 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
EXECUTIVE POWER: MINISTRY OF JUSTICE

The performance targets are shown in the statistics monitored by the Supreme Court of the Republic of Croatia.

The framework criteria established individually for each judge has been regulated by the Framework Criteria for the Work of Judges adopted by the Minister of Justice. Accordingly, upon a proposal by the extended session of the Supreme Court held on 14 May 2007, the Minister of Justice adopted new Framework Criteria, which prescribe the obligation of a judge to resolve a certain number of cases of a certain type every month, taking 200 working days as the basis for monitoring the implementation of the Framework Criteria.

**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
- [x] the Ministry of Justice
- [ ] an Inspection authority
- [x] the Supreme Court

☐ an external audit body

☐ other?

Other, please specify:

Ministry of Justice is entitled to evaluate the performances of the Court management systems.
According to the Courts Act,article 24.,
The Supreme Court of the Republic of Croatia:
1. Provides a sole application of the Law and citizens equality as well as the "all equal before the Law" principle.
2. Adjudicates on extraordinary legal remedies against effective court rulings in the Republic of Croatia and regular legal remedies where stipulated in a specific law.
3. Adjudicates on conflicts of competencies, where stipulated in special laws,
Takes into consideration Case Law issues, analyzes the need of vocational enhancement of judges, court clerks and court apprentices and performs other matters stipulated in the Law.
Article 25
(1) A higher court can object to the lower court flaws realized during the decision-making concerning some legal remedy or in any other way.
(2) Higher courts can request from the lower courts data on the law enforcement, problems occurring during a trial, monitoring and studying Case Law and other data, and they can carry out a direct evaluation of the modus operandi of the courts as well as chair group meetings in order to discuss certain issues.
(3) During the enforcement of the jurisdiction stated in Paragraph 1 and 2 of the Article hereof, the High Court must not, in any way, influence the independence and the freedom of the lower courts, in the decision-making process on certain case.

Article 26
(1) The President of the Supreme Court of the Republic of Croatia or the President of the immediate higher court may appoint at least two or more judges in order to have better supervision over the correct modus operandi of the judges.
(2) Having completed the supervision, the judges are obligated, with undue delay and in writing, to notify the Court president who appointed them to carry out the supervision, the President of the Supreme Court of the Republic of Croatia and the President of the immediate higher court.

**76) Are there quality standards (organisational quality and/or judicial quality policy) formulated for the courts (existence of a quality system for the judiciary)?**

◉ Yes

○ No

If yes, please specify:

The quality of adjudication is monitored within the system of regular and extraordinary remedies. Also, higher courts perform inspections of the work of courts regularly, and issue reports and recommendations on that basis.

The quality of the work of judges is monitored in particular through the work of the services for following and studying case law – the case law records service. Accordingly, all decisions at the Supreme Court of the Republic of Croatia, prior being dispatched, are subject to a check by the case law records service.

**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:**

- [x] civil cases?
- [x] criminal cases?
- [x] 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):

The evaluation of the functioning of courts is based on regular inspections by higher courts and reports which all courts must send on monthly, quarterly or semi-annual basis to a higher court, on specific indicators, after which the Supreme Court monitors the total performance results of the courts, and the Ministry of Justice then elaborates these reports and processes the overall performance result statistically.

The Supreme Court has a schedule of visits to all county courts, as a rule, for all courts in two years.

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

- (•) Yes
- ( ) No

If yes, please specify:

Monthly statistics on their work are kept for each public prosecutor and deputy public prosecutor. All positive comments but also negative comments on their work are recorded in their personal files. This information allows performance evaluation on the basis of measurable criteria. A deputy public prosecutor has the right to object to the evaluation to the higher public prosecution service.

The work of each public prosecution service is also monitored, by means of monthly and annual statistics and inspections of work, which must be carried out at least once in two years. As well as this, during work on second instance cases a direct examination is made of the work of that public prosecution service. This information, as well as information on work on cases, forms the basis for the evaluation received by the public prosecutor. Public prosecutors have the right to object to the evaluation to the higher public prosecution service.

**You can indicate below:**
**- any useful comments for interpreting the data mentioned above**
**- the characteristics of your court monitoring and evaluation system**

Monitoring system of court activities is regulated by Court President within the Court Administration.
According to the Courts Act,
Article 25.
(1) A higher court can object to the lower court flaws realized during the decision-making concerning some legal remedy or in any other way.
(2) Higher courts can request from the lower courts data on the law enforcement, problems occurring during a trial, monitoring and studying Case Law and other data, and they can carry out a direct evaluation of the modus operandi of the courts as well as chair group meetings in order to discuss certain issues.
(3) During the enforcement of the jurisdiction stated in Paragraph 1 and 2 of the Article hereof, the High Court must not, in any way, influence the independence and the freedom of the lower courts, in the decision-making process on certain case.

Article 26.
(1) The President of the Supreme Court of the Republic of Croatia or the President of the immediate higher court may appoint at least two or more judges in order to have better supervision over the correct modus operandi of the judges.
(2) Having completed the supervision, the judges are obligated, with undue delay and in writing, to notify the Court president who appointed them to carry out the supervision, the President of the Supreme Court of the Republic of Croatia and the President of the immediate higher court.

Article 27.
(1) A party in a court proceedings that deems that the competent court did not adjudicate in a timely fashion on its rights, obligations, suspicion or indictment, may directly file a request to a higher court with aim of protecting its right to a trial within a timely fashion.
(2) If the request pertains to a pending proceedings before the High Commercial Court of the Republic of Croatia, The High Tort Court of the Republic of Croatia or the Administrative Court of the Republic of Croatia, the Supreme Court of the Republic of Croatia will adjudicate on the matter.
(3) The adjudication procedure pertaining to the request stated in Paragraph 1 of the Article hereof is of urgent nature.

In its effort to reduce the number of unresolved cases, the Supreme Court has compiled a register of pending cases (criminal and civil) and drawn up a priority programme for their resolution. As regards criminal cases, from the beginning of the implementation of the program for solving old cases, in the period between 1 January 2006 and 30 June 2007, the number of outstanding cases in the criminal branch of the judiciary, three or more years old, was reduced by some 50%. On 31 December 2005 the number of cases more than three years old was 15,156, on 31 December 2006 it was 5,938, and on 1 January 2007 (after outstanding cases which had commenced in 2004 were added to the total number of cases) it was 10,985, while on 30 June 2007 the number of outstanding cases was 7,241. On 30 September 2007 the number of old unresolved criminal cases amounted to 6,225. Accordingly, the trend is evident of a substantial decrease in the number of outstanding cases more than three years old.

In the period from 1 January 2006 to 30 June 2007, in the civil adjudication the number of unresolved old cases

(from 2007 the criteria for the cases to be considered as unresolved old cases is three or more years from the beginning of the proceedings for civil cases, earlier, the criterion was five or more years) was reduced by 22.40% (from 170,938 to 132,651). On 30 September 2007 the number of old unresolved civil cases amounted to 130.316.

In 2007, the Supreme Court has introduced a program for monitoring the criminal cases where the possibility exists that the statute of limitations will expire. The monitoring is planned for the period from 1 January 2007 until 30 March 2008, with a view to establishing in which criminal cases the statute of limitations has already expired, or expiration is approaching in relation to criminal prosecution. This is aimed at preventing the expiration of statute of limitations regarding criminal prosecution in cases in which it could expire soon, but also sanctioning unjustified expiration of the statute of limitations as the result of the disorderly work of courts or individual judges. In the period from 1 January until 15 October 2007, a possibility for the statute of limitations to expire was established in 459 cases, and in the same period the statute of limitation expired in 130 cases.

In 2007, 8693 criminal cases have been delegated to be resolved by other courts with subject matter jurisdiction, as well as 4.813 civil cases.

Measures by the High Commercial Court to reduce the number of outstanding cases:
From June 2006 to June 2007 a reform was implemented of the work of the High Commercial Court of the RoC and commercial courts in the RoC, and work began on resolution of the oldest cases, which also resulted in a significant reduction of the backlog. According to framework plans, complete efficiency in all types of cases will be achieved by the end of 2009.

THE JUDICIAL INSPECTION SERVICE OF THE MINISTRY OF JUSTICE

By November 2007 inspections of the proper discharge of the work of justice administration was conducted at 38 courts. In 2007 inspections had been carried out at 14 courts.

After inspections were conducted, three persons were dismissed from office as court president (the president of Supetar Municipal Court, Makarska Municipal Court and of Slavonski Brod Municipal Court). After an inspection was conducted at Biograd na moru Municipal Court and Benkovac Municipal Court, and after the presidents of these courts were sent reports on the judicial inspection, they filed resignations themselves from the office of court president. Inspections were carried out at Šibenik Municipal Court, Delnice Municipal Court and Krk Municipal Court and in Gospić County Court immediately before the four years mandate was to expire of the presidents of these courts. Due to the outcome of the inspections conducted, the presidents of these courts were not reappointed as court presidents.

In accordance with the amendments to the Public Prosecution Service Act enacted in January 2007 (OG 16/07), the justice inspection service of the Ministry of Justice will carry out inspections of the work of justice administration in public prosecution service offices.

The courts in the Republic of Croatia must inform the Ministry of Justice about the total number of cases, backlog, pending cases, the type of decisions rendered and other information requested for the purpose of drawing up Annual Statistics on the work of courts for the calendar year preceding it. These statistics are mandatory and show basic data on the work and performance of the court. However, the Supreme Court of the Republic of Croatia has established special records which monitor the work of the courts by placing special emphasis on the indicators for the work on backlogs, old cases and the implementation of the principle of priority of proceedings from the most lengthy cases towards the cases of shorter length, while respecting the priority of certain case types as prescribed by law.

These records have been established or supplemented on the basis of the mini program of the Supreme Court of the Republic of Croatia within the framework of the National Anti-corruption Program 2006 – 2008.

Accordingly, the Supreme Court regularly collects reports from the courts on resolved cases for each quarter. In particular, the statistics for old cases are monitored, that is for cases received three or more years ago.

The reports from court presidents on the status of outstanding old cases and the evaluation of the implementation of the program for their resolution and the individual responsibility of individuals are analysed semi-annually.

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

Q 70.,71.,72.,76.-The Supreme Court of the Republic of Croatia

# 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) | 5 | 14 | 14 | 0 |
| Civil proceedings - Article 6§1 (non-execution) | 0 | 0 | 2 | 0 |
| Criminal proceedings - Article 6§1 (duration) | 0 | 0 | 0 | 0 |

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

Q 82.-
Q84.-Ministry of justice-Directorate for Cooperation with the European Court for Human Rights, Department for Representation before the European Court for Human Rights

## 4. 2. Timeframes of proceedings

### 4. 2. 1. General information

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

- [x] civil cases?
- [x] criminal cases?
- [ ] administrative cases?

If yes, please specify:
Procedural laws also regulate procedures for urgent matters. Accordingly, the Civil Procedure Act designates labour disputes and trespass disputes as urgent. In criminal matters, the Criminal Procedure Act designates some elements of urgency.

Special laws also designate urgent procedures for certain disputes (Family Act).

Family Act (OG 116/03,17/04,107/07):
Article 263
(1) The provisions of this part of the Act lay down the rules according to which courts proceed in special civil contentious proceedings, ex parte proceedings and special enforcement and security proceedings when they decide on marital, family and other matters regulated by this Act.
(2) The proceedings from Paragraph 1 of this Article are urgent.

Ragarding the proceeding based on the motions for the protection of the right to a trial within a reasonable time, according to the article 27 of the Courts Act (OG 150/05)
(3) The adjudication procedure pertaining to the request stated in Paragraph 1 of the Article (A party in a court proceedings that deems that the competent court did not adjudicate in a timely fashion on its rights, obligations, suspicion or indictment, may directly file a request to a higher court with aim of protecting its right to a trial within a timely fashion) hereof is of urgent nature.

**86) Are there simplified procedures for:**

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

If yes, please specify (for example if you have introduced a new law on simplified procedures):
Procedural laws are familiar with the possibility of simplified procedures. Accordingly, the Civil Procedure Act regulates procedures in small value cases, and the procedure for the issuance of a payment order. The Criminal Procedure Act prescribes simplified procedure in certain cases for which a fine or a lesser prison sentence is prescribed. Also, the Misdemeanour Act has provisions on simplified procedures (misdemeanour order).

The Enforcement Act regulates simplified procedures for enforcements on the basis of credible documents.

**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) | 1009270 | 1157377 | 1589727 | 576920 |
| 1 Civil (and commercial) litigious cases* | 232491 | 133421 | 148134 | 217778 |
| 2 Civil (and commercial) non-litigious cases* | 29205 | 210233 | 212882 | 26556 |
| 3 Enforcement cases | 493827 | 271357 | 621800 | 143384 |
| 4 Land registry cases** | 214528 | 528298 | 593523 | 149303 |
| 5 Business register cases** | | | | |
| 6 Administrative law cases | 39219 | 14068 | 13388 | 39899 |
| 7 Other | | | | |
| Total criminal cases (8+9) | 332278 | 507089 | 530550 | 308817 |
| 8 Criminal cases (severe criminal offences) | 46693 | 88092 | 89296 | 45489 |
| 9 Misdemeanour cases (minor offences) | 285585 | 418997 | 441254 | 263328 |

**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**

As regards enforcement cases:
we would like to point out that the reason why the number of cases in which on 31 December 2006 the proceedings were still pending was so much smaller than the number of new cases and the number of cases in which proceedings were pending on 1 January 2006 is the fact that at the end of 2006 the Project for the Reduction of the Backlog of Enforcement Cases was launched. It was also implemented in 2006. Within this Project, various measures were undertaken with a view to reducing the number of unresolved cases and achieving increased efficiency of enforcement proceedings. Accordingly, monthly statistical monitoring of the work of the courts was introduced for this type of case, unified templates were drawn up for procedure by the courts, judges and court clerks underwent training, overtime work by clerks was introduced, a certain number of clerks were employed on a temporary basis, the courts received additional IT equipment, and the Ministry of Justice conducted inspections of the organization of the work on enforcement cases. All these measures resulted in a significant reduction in the number of enforcement cases.

As regards the land registry cases:
the large number of land registry cases resolved in 2006 was the result of the successful implementation of the Project to Re-organize the Land Registry and Cadastre, as part of which a large number of clerks were employed on a temporary basis, judges and court clerks working on this type of case underwent professional and IT training, land registry data was transcribed into digital form, the organization of the work in land registry departments was improved and continuous supervision of the work of land registry departments was conducted

by the Ministry of Justice.

As regards the cases from the court register:
Ministry of Justice does not collect or record information on cases from the court register of the commercial courts, and question 75.5 remained unanswered for this reason.

All the data provided relate to the situation on 31 December 2006.

Source: Ministry of justice, Directorate for Human Resources and Organisation in the Judiciary.

**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) | 56661 | 83177 | 70083 | 56569 |
| 1 Civil (and commercial) litigious cases* | 55232 | 80430 | 67410 | 55381 |
| 2 Civil (and commercial) non-litigious cases* | 1429 | 2747 | 2673 | 1188 |
| 3 Enforcement cases | | | | |
| 4 Land registry cases** | | | | |
| 5 Business register cases** | | | | |
| 6 Administrative law cases | | | | |
| 7 Other | | | | |
| Total criminal cases (8+9) | 101762 | 77353 | 31917 | 89053 |
| 8 Criminal cases (Severe criminal offences) | 4565 | 13197 | 12214 | 4617 |
| 9 Misdemeanour cases (minor offences) | 97197 | 64156 | 19703 | 84436 |

**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) | 1027 | 2382 | 2721 | 688 |
| 1 Civil (and commercial) litigious cases* | 1027 | 2382 | 2721 | 688 |
| 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) | 251 | 747 | 740 | 258 |
| 8 Criminal cases (Severe criminal offences) | 251 | 747 | 740 | 258 |
| 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 | | 7415 | | |
| Employment dismissal cases | | 1824 | | |
| Robbery cases | | | | |
| Intentional homicide case | | | | |

**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 | | | | | |
| Employment dismissal cases | | | | | |
| Robbery cases | | | | | |
| Intentional homicide | | | | | |

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

According to the Family Act (OG 116/03,17/04):

Article 42
(1) A marriage partner may file for divorce by means of a lawsuit, or both partners by a joint request.
(2) A husband does not have the right to file for divorce while his wife is pregnant or until their child reaches one year of life.
Article 43
The court will grant a divorce:
1. if it establishes that the marital relationship is seriously and permanently disturbed
2. if one year has passed since the break up of the marital relationship
3. if both partners jointly agree to a divorce.

3. Mediation before divorce
Article 44
Mediation procedure is conducted:
1.) when the proceedings for divorce are instituted by a lawsuit
2.) when the proceedings for divorce are instituted by a joint request, but the marital partners have minor joint or adopted children or children who require parental care even after they come of age.

Article 45
(1) Mediation proceedings are not conducted if one or both marital partners have been deprived of disposing capacity, unless the court establishes that they are capable of understanding the meaning of marriage and the obligations which arise from it.
(2) Mediation proceedings are not conducted if the residence of one or both marital partners has been unknown for at least six months.
(3) Mediation proceedings are not conducted if one or both marital partners lives abroad.
(4) Notwithstanding paragraph 3 of this Article, mediation proceedings shall be conducted if the marital partners have minor joint children or adopted children or children who require parental care even after they come of age, if the court assesses that there are no major difficulties for the marital partners to take part in the mediation proceedings.

Article 46.
(1) When a court receives a lawsuit or a joint request from Article 44 of this Act, at the first hearing it will request the marital partners to state immediately which centre for social welfare, marriage and family counselling centre or person authorised to offer professional help (mediator) they wish to apply to, to attempt to resolve their marital differences or reach an agreement about arranging the legal consequences of the divorce.
(2) The court will question the parties to see if there is any agreement about which parent the child will live

with, on meetings and time spent with the other parent, or accommodation of the child during the divorce proceedings.
(3) If the marital partners have not reached an agreement about who will conduct the mediation proceedings, the court shall render a decision on the choice of mediator ex officio.
(4) In the cases from paragraphs 1 and 3 of this Article, the court shall render a decision without delay on who shall conduct the mediation proceedings and send it to the mediator. No separate appeal is permitted against the decision in paragraph 3 of this Article.
(5) Marital partners are obliged to begin the mediation proceedings within 15 days of the day the decision is rendered from paragraph 4 of this Article.

Article 47
(1) The institution or individual who conducts the mediation shall invite the marital partners, according to the rules on personal service, to take part in the proceedings in person without an attorney.
(2) If the plaintiff does not respond to the summons to mediation, or if both marriage partners who filed the joint request fail to appear and do not justify their absence, the mediator will immediately inform the court of this.
(3) If the marital partners decide to give up the mediation proceedings, the mediator shall immediately inform the court of this in writing.
(4) In the case from paragraphs 2 and 3 of this Article, it shall be deemed that the lawsuit or joint request for divorce has been withdrawn.

Article 48
(1) The mediator shall question the parties about the causes which have led to the disturbance of their marriage relationship and endeavour to resolve those problems and reconcile the marital partners.
(2) The mediator shall inform the marital partners of the legal and psycho-social consequences of divorce.

Article 49
(1) The mediator is obliged to conduct and conclude the mediation proceedings within three months of receiving the court decision from Article 46, paragraph 3.
(2) The mediator is obliged to send his professional opinion to the marital partners according to the rules on personal service, within fifteen days of the conclusion of the mediation proceedings.

Article 50
(1) The institution or individual conducting the mediation shall send its professional opinion to the centre for social welfare if the marriage partners have minor joint or adopted children or children in need of parental care after they come of age.
(2) The professional opinion is sent to the centre for social welfare which did not conduct the proceedings, according to the residence of the parent with whom the children live.
(3) If the children live apart from both parents, the professional opinion is sent to the centre for social welfare in the area where the seat of the body is located which decided on the children’s accommodation. If the child was accommodated without the decision of the competent body, the professional opinion shall be sent to the centre for social welfare where the child lives.
(4) The centre for social welfare is obliged to consider the professional opinion immediately and take the necessary measures to protect the well-being of the child.

Article 51
If the marital partners do not send the professional opinion to the court within one year of the delivery of the court decision from Article 46 of this Act, it shall be considered that the lawsuit or joint request for divorce has been withdrawn.

Article 52
(1) The Minister competent for judicial affairs shall prescribe how to keep records and documents in relation to court business in the field of marriage and marriage relationships.
(2) The Minister competent for social welfare affairs shall prescribe how records and documents are to be kept in relation to the work of centres for social welfare in the field of marriage and marital relationships.
(3) The Minister competent for social welfare affairs shall prescribe the conditions which legal or physical persons must fulfil from Article 46, paragraph 1, to be authorised to offer professional support in mediation proceedings.
(4) The Minister competent for social welfare affairs shall sent a list of authorized mediators to the Minister competent for judicial affairs to keep a record of mediators.
(5) The Minister competent for social welfare affairs shall prescribe the basic elements that the professional opinion in mediation proceedings must contain.

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

The lenght of proceedings is calculated from the date of receiving a court file till the legal validity of the judicial decision.

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

- [x] to conduct or supervise police investigation?
- [ ] to conduct investigation?
- [x] when necessary, to demand investigation measures from the judge?
- [x] to charge?
- [x] to present the case in the court?
- [ ] to propose a sentence to the judge?
- [x] to appeal?
- [ ] to supervise the enforcement procedure?
- [x] 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?
- [x] other significant powers?

Please specify:

The public prosecutor may render a decision to postpone criminal prosecution if the suspect agrees to perform an act to redress the injured party. If the suspect performs this act, the criminal report is dismissed. This is not negotiating a penalty because these include various acts such as compensation of damages, subjecting oneself to medical treatment for addiction and similar.

Moreover, the Chief Public Prosecutor may dismiss a criminal report or give up prosecution of a person who cooperates in the proceedings (a crown witness).

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

- (•) Yes
- ( ) No

If yes, please specify:

Yes, the public prosecution service represents the Republic of Croatia, its ministries and administrative bodies ex lege. The public prosecution service may institute the necessary civil and administrative proceedings on its own initiative when they concern the property interests of the state.

In administrative proceedings, if the public prosecutor evaluates that a final decision is contrary to the law, he may file a request for the protection of legality, by which the Supreme Court of the Republic of Croatia is requested to review whether this decision has violated the law.

**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 | 92511 | 37295 | 19447 | | | |

**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 93.
Note: We dont`t have data on the average lenght of court proceedings, but on the time in which court cases were resolved.
According to the Annual Statistical Report for 2006, in that year a total of 126,934 civil disputes were resolved at all municipal courts, of which 19.6 % were resolved in up to 3 months, 13% in 3 to 6 months, 15.8% within 6 months to one year, and in 51.6 % of cases proceedings lasted more than one year.

In the same year 75,155 second instance civil cases were resolved at county courts, of which in 19.3 % proceedings lasted up to one month, in 22.8% of cases the proceedings lasted from 1 to 3 months, and in 19.5 % of cases the proceedings lasted from 3 to 6 months and in 38.1% of cases the proceedings lasted more than 6 months.

In 2006 municipal courts resolved in the first instance 33,120 criminal cases against adults. In 33.3 % of these cases proceedings lasted up to 3 months, in 13.1 % cases proceedings lasted from 3 to 6 months, in 15.2% cases proceedings lasted from 6 months to one year, and in 38.4 % cases proceedings lasted more than one year.

In cases against minor perpetrators of criminal offences and criminal offences against minors, in 2006 municipal courts resolved in the first instance 1,348 cases of which in 24.9 % proceedings lasted up to 3 months, in 22% of cases proceedings lasted from 3 to 6 months, and in 53 % of cases proceedings lasted more than 6 months.

In 2006 county courts resolved in the first instance 1,309 cases against adults, of which 29.1 % were resolved in a period of up to 3 months, and in a period from 3 to 6 months 21.9% of cases were resolved. 22.1 % of cases were resolved in a period from 6 months to one year, and in 26. 9 % of cases proceedings lasted more than one year.

In the same period county courts resolved in the first instance 164 cases against minor perpetrators of criminal offences of which 39.6 % of cases were resolved in a period up to 3 months, 35.4 % of cases were resolved in a period from 3 to 6 months, and in 25 % of cases proceedings lasted more than 6 months.

In 2006 county courts resolved 10,553 criminal cases in the second instance (upon appeals against municipal court judgments) of which in 44.2 % of cases proceedings lasted up to one month, in 32.2 % of cases proceedings lasted from 1 to 3 months, and in 28.2 % of cases proceedings lasted more than 3 months.

At the same time, the Supreme Court of the RoC resolved in the second instance 2,592 criminal cases, of which in 47.6 % proceedings lasted up to one month. In 10.3 % of cases proceedings lasted from 1 to 3 months, and in 42.1 % of cases proceedings lasted more than 3 months.

According to the Annual Statistical Report for 2006, commercial courts resolved 16,175 commercial disputes of which in 17.3 % proceedings lasted up to 3 months, in 21% of cases proceedings lasted from 3 to 6 months, in 23.9 % proceedings lasted from 6 months to one year, and in 37.9 % cases proceedings lasted more than one year.

In the same year, the High Commercial Court of the RoC resolved 7,990 cases in the second instance of which in 11. 9 % proceedings lasted up to one month, in 15.6 % cases proceedings lasted from 1 do 3 months, in 7.1 % cases proceedings lasted from 3 to 6 months, and in 65.3 % proceedings lasted more than 6 months.

Source:Ministry of Justice-Directorate for human resources and organisation in the judiciary.

The new Courts Act (OG 150/05) prescribes the possibility for the President of the Supreme Court of the Republic of Croatia to decide that certain cases are to be transferred to another court having subject matter jurisdiction if a court having both territorial and subject matter jurisdiction is unable to hear them and adopt a decision within a reasonable time due to a large workload. Upon the proposal of court presidents, the President of the Supreme Court of the Republic of Croatia adopted in 2005 a decision on transferring cases to other courts pursuant to this provision in 4246 cases. The total of 7236 cases were transferred in 2006.
The same amendments to the Courts Act provided for the possibility to reduce the backlog in concrete courts by temporarily transferring a judge, with his or her consent, to another court of the same or different instance, upon the request by the president of the court to which a judge is being transferred. The decision on temporary transfer to another court is adopted by the president of the joint immediately higher court. The 2004 amendments to the Act (OG 17/04) prescribe that a judge may be temporarily transferred with his or her consent to a higher instance court, which is also applied in practice.

The Supreme Court of the Republic of Croatia has continuously monitored the work of courts on "old cases", cases more than three years old in the manner that these cases are recorded on the date on which the lawsuit has been filed, that is, court proceedings initiated, and not on the date on which they were submitted to a second-instance court or remitted to a first-instance court.

The Supreme Court of the Republic of Croatia monitors the work of municipal and county courts in relation to the resolution of old cases, separately for criminal and separately for civil cases.
In this way, in the period from 1 January 2006 until 30 June 2007, the number of outstanding cases in the criminal branch, three years old or older, was reduced by around 50% (from 15,149 cases to 7,241).
In the civil branch (it is again stressed that the criteria have now been equalized for monitoring old cases with the criminal branch) on 1 January 2007 there was a total of 170,938 old civil cases (all civil cases, enforcement, non-contentious, inheritance) and on 30 June 2007 there were 132,651 or 38,287 cases less, that is 22.40% of these cases had been resolved. It may be concluded that a trend has been started of increased work precisely on older cases, and efforts will continue in this direction.

The 2005 Courts Act prescribes the jurisdiction of courts to act on motions for the protection of the right to a trial within a reasonable time:
Article 27
(1) A party in a court proceedings that deems that the competent court did not adjudicate in a timely fashion on its rights, obligations, suspicion or indictment, may directly file a request to a higher court with aim of protecting its right to a trial within a timely fashion.
(2) If the request pertains to a pending proceedings before the High Commercial Court of the Republic of Croatia, The High Tort Court of the Republic of Croatia or the Administrative Court of the Republic of Croatia, the Supreme Court of the Republic of Croatia will adjudicate on the matter.
(3) The adjudication procedure pertaining to the request stated in Paragraph 1 of the Article hereof is of urgent nature.

Article 28
(1) If the court referred to in Article 27 of the Law hereof finds the request of the submitter well-founded, it will establish a deadline within which the court in front of which the proceedings is pending has to decide on the right or the obligations, or the suspicion or the indictment of the submitter. It also has to determine the suitable compensation to which the submitter is entitled since the right of this person to a trial in a timely fashion has been infringed.
(2) The compensation or the damages will be remunerated from the State Budget within 3 months of the day the party filed its request for compensation.
(3) An appeal against the decision of a request for the protection of the right to a trial within a timely fashion may be filed to the Supreme Court of the Republic of Croatia within 15 days. The adjudication of the Supreme Court of the Republic of Croatia cannot be contested, however, a constitutional lawsuit can be filed.

These are also measures undertaken to speed up the work of courts, and to monitor whether courts have respected the deadlines determined for the adoption of decisions in cases comprised by constitutional complaints.
Within the framework of the judicial system reform activities have been undertaken for the resolution of problems arising from the backlog of cases. In spite of the belief that the Croatian judicial system is inefficient, Croatian courts have been resolving more and more cases each year in relation to the inflow of cases from the year before. In addition to this fact, what follows from the structure of cases is that the backlog is created by what are termed non-contradictory cases (land registry cases, enforcement cases and out-of court settlements) which by their nature are not court cases in the narrow sense of the word since they do not require lengthy presentation of evidence and the review of the opposing motions of parties. For that reason there are no objective reasons for their long duration. Furthermore, it should be mentioned that big courts in Zagreb, Split,

Rijeka and Osijek have the largest backlog.
In order to contribute to quicker resolution of these court cases, the Act on Amendments to the Civil Procedure Act, the Act on Amendments to the Criminal Procedure Act and the Courts Act, which made possible more efficient functioning of courts in the organisational sense, have been adopted.

The new Inheritance Act gave notaries public the authority to conduct undisputed inheritance proceedings. In this manner the courts were disburdened from inheritance proceedings, and parties enabled to initiate inheritance proceedings and realise their rights in a more efficient manner.

In the first trimester of 2006 (from 31 December 2005 to 31 March 2006) courts received 3,053 new disputed inheritance cases, they resolved 5,240 cases and 12,911 remained unresolved.

The amendments to the Enforcement Act were also intended to disburden the courts from enforcement cases, and the new Notaries Public Act provides that notaries public may conduct enforcement proceedings on the basis of credible documents.

The Ministry of Justice conducted a series of activities aimed at the reduction of the number of unresolved enforcement cases at municipal and commercial courts, in particular at the Zagreb Municipal Court.

The Act on Amendments to the Enforcement Act (Official Gazette No 88/05) of 20 July 2005 entered into force on 28 July 2005. The Amendments to this Act have significantly accelerated and simplified the enforcement proceedings and contributed to the disburdening of courts in enforcement cases.
At present the legislative procedure is underway for the adoption of the Misdemeanours Act aimed at redistributing the burden of processing to all participants in proceedings, and simplify, make cheaper and speed up misdemeanour proceedings.
The Government of the RoC has adopted a platform to adopt a new Criminal Procedure Act which contains strategic guidelines for thorough amendments to criminal procedural law-the aim is simplification and shortening of the procedure.

Work has also begun on the reform of the administrative procedure Act-the aim is also the simplification and shortening of the procedure.

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

Q 92,93.,94.-Ministry of Justice-Directorate for human resources and organisation in the judiciary.
Q 98.-Public Prosecution Service of the Republic of Croatia

# 5. Career of judges and prosecutors

## 5. 1. Appointment and training

### 5. 1. 1. Recruitement, 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:

The appointment of judges is regulated by the Constitution of the Republic of Croatia, the Courts Act and the State Judicial Council Act. The State Judicial Council is a body composed of 11 members, of which 7 members are judges, 2 practicing attorneys and 2 university law professors. The State Judicial Council, composed in this way, appoints and dismisses judges in prescribed circumstances.

The Courts Act (OG 150/05,16/07) transparently regulates in Article 73 general requirements for the appointment of judges. Candidates must have Croatian citizenship, be law graduates, have passed the bar exam, have work experience, and have professional and working capacity. Article 74 specifies the requirement of work experience, depending on the court for which the candidate applies. This requirement is also made objective by stating the necessary years of previous working experience in certain jobs.

Article 73.-Courts Act
A citizen of the Republic of Croatia, having completed undergraduate university studies of law and taken the bar exam, work experience in compliance with this Law, professional skills and displayed work competence, may be appointed a Judge.

Article 74.
(1) A person, who after passing the bar exam, has worked as an advisor in court or other judicial bodies for not less than two years, i.e. has worked as attorney, public notary, public notary associate or university professor or associate in the area of legal studies for not less than two years, may be elected a judge at the misdemeanour and municipal court.
(2) A person who has worked on other positions related to law for not less than four years may be elected a judge at the misdemeanour and municipal court.
(3) A person who has worked as judicial servant, i.e., advisor in court or other judicial bodies, attorney, public notary, public notary associate, or university professor or associate in the area of legal studies for not less than four years, i.e. a person who has worked on other positions related to law for not less than six years, may be elected a judge at the trade court.
(4) A person who has worked as judicial servant for not less than 8 years, or has been attorney, public notary, public notary associate, or university professor, i.e. professor of legal sciences for not less than 12 years after taking the bar exam, i.e. a person who has worked on other positions related to law for not less than 12 years after taking the bar exam, may be elected a judge at the District Court, High Misdemeanour Court of the Republic of Croatia, High Trade Court of the Republic of Croatia, and the Administrative Court of the Republic of Croatia.
(5) A person who has worked as judicial servant, attorney, or public notary for not less than 15 years may be elected a justice at the Supreme Court of the Republic of Croatia.
(6) A university professor of legal sciences having taken the bar exam and 15 years of work experience may be elected a judge at the Supreme Court of the Republic of Croatia.
(7) Upon electing judges, the representation of judges' members of national minorities has to be ensured, in compliance with Article 22, paragraph 2 of the Constitutional Law

on the Rights of National Minorities (Official Gazette No.155/02).
(8) When the representatives of the national minorities file an application for announced vacant position of a judge, they are entitled to exercise their rights which belong to them in compliance with the Constitutional Law on the Rights of the National Minorities.

Pursuant to Article 13 of the Rules of the State Judicial Council (OG 13/07) (hereinafter: the Rules), when deciding on the appointments of judges, the Council reviews all the information gathered for each candidate. We would like to mention that the mentioned information gathered from judicial councils for each candidate includes objective indicators of their former work (for example, the number of resolved cases, the number of outstanding cases, the structure of assigned cases, the structure of resolved cases, the meeting of the framework criteria for the work of judges in quantitative terms, the number of quashed decisions over a certain period, which is an indicator of the quality of the work of each individual judge or judicial advisor, etc), but also the evaluation of the holding of judicial office in the case where the judge is being appointed to a higher court (Article 75 of the Courts Act). This evaluation will be improved by introduction of more objective criteria prescribed by the Methodology for the Drafting of Evaluations, adopted on 26. September 2007, by the council composed of all the presidents of judicial councils in the RoC. This Methodology precisely prescribes all the parameters which judicial councils must take into account when evaluating individual candidates for promotion.

Judicial councils are bodies of judicial self-government, established with county courts (also for municipal courts) and with the High Commercial Court, the High Misdemeanour Court, the Administrative Court and the Supreme Court of the RoC, and they are composed of and elected by judges themselves.

Regarding candidates who have been working outside the judiciary, information on their previous work is requested from the bodies, services and companies in which they have been employed (for example, from the Bar Association, the heads of the bodies of public authorities, the public prosecution service, the Notaries Public Chamber, etc.).

Furthermore, in the proceedings for the appointment of judges, the Council may invite candidates for interview. The invitation will include, inter alia, the reason for the invitation, and information that during the interview candidates may present information relevant for the evaluation of their professional knowledge. Also, the Council may invite the president of the judicial council to the session. The Council determines for each individual candidate to what extent he meets the general and special requirements for appointment to judicial office on the basis of the data gathered and on the basis of an interview with the candidate where facts relevant for the decision on the appointment, which are not evident from other data collected and already delivered to the State Judicial Council, are sought to be established with the candidate.

In the process for the appointment of members of national minorities (Article 74, paragraphs 7 and 8) information on the representation of members of national minorities are obtained from the Ministry responsible for justice affairs, within the meaning of Article 22, paragraph 2 of the Constitutional Act on National Minorities (representation of minorities at the court).

As regards the transparency of appointment procedures, attention should be drawn to Article 7, paragraph 3 of the Rules which regulates that sessions in the proceedings for the appointment of judges are public. Article 9, paragraph 3 of the Rules states that decisions of the Council are always announced publicly, and the provision of Article 11, paragraph 2 of the Rules provides that voting at the sessions of the Council is public. Representatives of the media are regularly invited to the session of the Council. Finally, there is a website of the State Judicial Council which is currently being adapted and on which the public will be able to find the data related to the appointment proceedings (for example, the schedule of the sessions of the Council, names of candidates, etc.).

The decisions rendered on the appointment of judges contain both the enacting terms and a statement of reasons, which clearly states the reasons for which a certain candidate was appointed. These decisions are served on all the candidates and are subject to a review by the Administrative Court of the RoC in the proceedings for the protection of constitutionally guaranteed human rights and freedoms (Article 66 of the Administrative Disputes Act) and, possibly, of the Constitutional Court of the RoC. The

Enacting Terms of the decision on the appointment of judges are published in the Official Gazette.

**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:

The Courts Act does not contain the formal notion of promotion for judges, or procedure for such promotion. Promotion by means of appointment to a higher court could be indirectly included in this institution, which is also within the competence of the State Judicial Council, during proceedings for appointing judges instituted by the Ministry of Justice, by publishing an announcement of the vacancy.

Promotion within the same court is informally regulated as part of the adoption of the Annual Schedule of the Work of Judges and Advisors at courts. The Annual Schedule is adopted by court presidents, but is subject to the previous opinion of the session of judges. The Annual Schedule designates presidents of divisions, deputy court presidents and presidents of other organisational units and services, and also, of course, presidents of judicial councils, the second instance and the first instance ones etc.

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

The promotion of judges is based on the evaluation of judges.
The process of the evaluation of judges is prescribed in the article 79.-88. of the Courts Act (OG 150/05).
Article 79.
(1) The Judicial Council shall evaluate the judges in accordance with the measures specified in Article 77 of this Law.
(2) The Judicial Council evaluates the judge for the purposes of appointing the judge in another court, appointing the judge on a permanent basis, and when the judge applies for a Presiding Judge.
Article 80.
(1) Upon assessing the judge's performance, the Judicial Council shall take into consideration the results of the judge specified in Article 76 of this Law, and other certificates related to the work of the judge.
(2) In the operation of the Judicial Council and the Council of the Supreme Court of the Republic of Croatia, the provisions of the Law on General Administrative Procedure apply accordingly, unless otherwise determined in this Law. Article 81.
The methodology of concluding marks shall be determined by the Council composed of the Presiding Judges of all trial courts in the Republic of Croatia. The President of the Judicial Council at the Supreme Court of the Republic of Croatia chairs the said Council, who calls the sessions of that Council. The sessions of the Council shall be called when one quarter of all the Presiding Judges of the trial courts in the country request that in written.
Article 82.
(1) The mark may be:
1. distinguished performance of the judicial function,
2. successful performance of judicial function,
3. satisfactory performance of judicial function
4. not-satisfactory performance of judicial function.

(2) The decision upon the mark is made by secret voting.

Article 83.
(1) The decision upon the mark contains introduction, statement, reasoning and referral to legal remedy.
(2) The President of the Council shall sign the decision on the behalf of the Judicial Council.
Article 84.
The decision shall be sent to the judge it refers to, the President of the court where the judge holds office, the Chief Justice of the Supreme Court of the Republic of Croatia, and the Ministry of Justice.
Article 85.
(1) The judge is has a right to file an appeal before the Special Council composed of five justices from the Supreme Court of the Republic of Croatia, within 8 days from the day when the decision was submitted. The appeal shall be filed via the Judicial Council which brought the appealed decision.
(2) The Judicial Council which passed the appealed decision may respond to the allegations of the appeal within 8 days from the day when the appeal was submitted. Therewith, the Judicial Council has to submit the case to the Council at the Supreme Court of the Republic of Croatia in three days.
Article 86.
(1) The Council set forth in Article 85, paragraph 1 of this Law shall appoint the Judicial Council at the Supreme Court with the majority of the votes of all the members of the councils, in the time when the annual operating calendar of the Supreme Court of the Republic of Croatia is being determined for the forthcoming year.
(2) Concurrently, five members to substitute the members of the Council in case they are impeded shall be appointed (deputy member).
(3) The Judicial Council under the Supreme Court of the Republic of Croatia shall appoint the President and the Deputy President of the Council, once the Council is appointed, with two thirds of the votes.

Article 87.
The Council under the Supreme Court of the Republic of Croatia may reverse the appeal as ungrounded, or impermissible, or reverse it and uphold the mark of the responsible Judicial Council, or it may uphold the appeal and alter the decision.
Article 88.
(1) The Judicial Council shall assess the judge who was appointed for the first time, two years after his/her sitting at the bench
(2) Upon assessing the elected judges for the first time, the provisions of Articles 79-87 of this Law shall apply accordingly.
(3) Six months prior to the expiration of the period of five years from the day of election, the President of the Court where the judge sits the bench shall notify the State Judicial Council that it is necessary to pass a decision for appointing a permanent mandate for the judge. Along with the information, the President of the Court shall enclose the mark for his/her performance of the judicial function, which was given for that judge after the fourth year of sitting at the bench, as well as personal opinion as to whether the said judge is to be appointed a permanent mandate.

The session of the Council of Presidents of All Judicial Councils in the Republic of Croatia, held on 26 September 2007, established the Methodology for Evaluation of Judges, which came into force on the same day. The Methodology was adopted so that judicial councils, who, according to the Courts Act are obliged to assess a judge for the first time after the end of his second year of work, and also to assess him in the procedure for appointment to another court, when he is being appointed permanently to judicial office, and when he is applying for the position of president of court, and they are obliged to have unified criteria for assessment. The methodology prescribes points to be given for each element prescribed by the Courts Act and these are to be taken into consideration on assessment of the discharge of judicial office, and it is prescribed that these elements be observed for a period of the three calendar years prior to the assessment, unless the assessment is being made after the judge has been working for two years. This evaluation will be improved by introduction of more objective criteria prescribed by the Methodology for the Drafting of Evaluations.

METHODOLOGY FOR EVALUATION OF JUDGES
Article 1

The judicial council shall evaluate an appointed judge for the first time after the completion of the second year of the work of that judge, in the procedure for appointment to another court, when he is being permanently appointed to judicial office and when he is applying for the position of president of a court.
The judicial council shall evaluate the judge appropriately according to all the elements listed in Article 77 of the Courts Act.

Article 2

The evaluation by the judicial council is made on the basis of elements observed for the period of three calendar years preceding the evaluation and which represent a whole, unless the evaluation is being made after the

second year of the judge's work.
If the evaluation is made after nine months have passed in a calendar year, the year in which the evaluation is being made shall be included in the period evaluated in the appropriate proportion.
If the judge has not spent the time working as prescribed in paragraph 1 of this Article, the evaluation of the judicial council shall be made on the basis of the elements observed in the period during which he discharged judicial office prior to the evaluation.

ELEMENTS FOR EVALUATION
Results of work
Article 3

The Framework Criteria shall serve as the basis for calculating the quantitative results of the work of a judge, as adopted by the Minister of Justice, and which are valid for each year considered in the calculation.
The calculation of the results of work regarding whether the judge rendered the number of decision he should have rendered on the basis of the Framework Criteria, shall be made by establishing the results of his work by types of cases, in absolute numbers and percentages for the time effectively spent at work.
The judge has fulfilled his judicial obligation when he renders the number of decisions expressed in percentage according to the criteria of the Framework Criteria when the total of the percentages for each type (category) expressed in the Framework Criteria is 100%.
The results of the work of the president of a court, who, along with the work of court administration, also performs the work of a judge, shall be established by his appointed deputy, and if he has no deputy, by the president of the immediately superior court.

Article 4

The results achieved in relation to the number of cases resolved according to the Framework Criteria are evaluated with 100 points.
Results not achieved in relation to the number of resolved cases, or a higher number of cases resolved in relation to the Framework Criteria, are evaluated in that for each initiated 1%, whether plus or minus, the number of points from paragraph 1 is increased or reduced by 1 point.
Article 5

If a judge has not rendered the number of decisions he should have rendered on the basis of the Framework Criteria for the work of judges, because he was overburdened with extremely difficult and complex cases, it is considered that in a specific period, or a specific year, he achieved the required results completely, increased by 10%.
This fact is established separately by a decision of the president of the court when establishing the fulfilment of judicial obligations pursuant to Article 77 of the Courts Act.
Article 6

For a judge who holds the function of president of the court or in the annual schedule is appointed to be deputy president of the court or president of a division, or is appointed to the work of monitoring and studying case law or professional training for judges, or is doing other work whose results are evaluated separately in the Framework Criteria for the work of judges, the results of his work in terms of the number of cases resolved shall be calculated as prescribed by the Framework Criteria for the work of judges.

Respect for deadlines
Article 7
Judges are obliged to respect deadlines in their work for announcing and writing up and dispatching decisions.
The president of the court shall establish whether a judge respects the deadlines set each year (Article 77, point 2, Courts Act), and the number of points is established according to the table for each year, after which the three-year average shall be calculated.
It shall be considered that a judge has respected deadlines if the president of the court does not establish non-respect for deadlines for announcement, writing up and dispatch, pursuant to Article 77, point 2.

- respected deadlines 100 % 10 points
- respected deadlines more than 75% 5 points
- respected deadlines 75% or less 0 points

Quality of work
Article 8

Calculation on the basis of this criterion is made for first instance judges whose decisions on merits are subject to the second instance control by a higher court.

For a judge who works on various types of cases, for which separate calculation of the quality of the work is made, the calculation is the average quality of his work calculated according to the various types of cases.
For evaluation according to these criteria, the judge must have at least 40 decisions over a three year period, which are reviewed by a second instance court.
Article 9

The calculation of quality is made by establishing the percentage of quashed decisions in relation to the total number of resolved cases.
Where possible, the number of decisions quashed for an essential violation of procedural provisions is separated out as an absolute number.

Article 10

The quality of the work of a judge is expressed as a percentage of decisions quashed in relation to the total number of decisions rendered in the evaluation period, and points are given according to the table:

Up to 3 % 100 points
Between 3 % and 6 % 75 points
Between 6 % and 10 % 50 points
Between 10 % and 15 % 25 points
More than 15 % 0 points

Professional training
Article 11

A judge's work in professional training is evaluated separately.
The judge shall document each element for points on the basis of the criterion of professional training with the appropriate evidence, pursuant to Article 77, point 4 of the Courts Act.
Article 12

The right to points on the basis of professional training is acquired by a judge who, according to the criteria from Articles 4, 6, 7, 10 and 15 of this Methodology, has gained a minimum of 150 points.
Article 13

Judges receive:

- 5 points for each academic year in which the judge participates in teaching legal subjects at certain faculties (exercises, clinics etc),
- 5 points for work in every working group to draft a law,
- 5 points for writing each individual book published in the field of law,
- 3 points for each scientific, professional paper published or educational material created for the needs of the Judicial Academy,
- 3 points for each attendance of a professional conference or consultation as a lecturer or moderator of a workshop,
- 2 points for each paper given at a meeting of judges,
- 1 point for each attendance of a professional conference or consultation.

Article 14

A judge with a Master's Degree in legal science acquires the right to 10 points.
A judge with a PhD in legal science acquires the right to 20 points.

Special cases in the evaluation of the work of judges
Article 15

The judicial council also assesses the character of judges throughout their entire working life, thereby taking particular account of their attitude to their work, parties to cases, colleagues, civil servants and employees at the court, the quality of their oral and written expression, respect for priorities in resolving cases assigned to them, and all other activities (work on judicial councils, electoral commissions, as spokesmen, tutorship of apprentices etc).
On the basis of this criterion judges may receive up to 50 points. If the work of the judge is not subject to the control of a higher court, and for this reason alone it could not be evaluated on the basis of the criterion from Article 10 of this Methodology, judges may have the right to up to 100 points on the basis of this criterion.
Points on the basis of this criterion shall be calculated in that each member of the judicial council taking part in

the work of the council shall give points for the work of the judge, after which the result is established by calculation of the average number of points so given.
Negative evaluation
Article 16

For a judge who has been penalized for a disciplinary offence or who has had a violation of the Code of Judicial Ethics established in the period for which he is being evaluated, the number of points from the criteria evaluated so far is reduced for each penalty or violation established, as follows:

- for serious violations in disciplinary proceedings 200 points
- for minor violations in disciplinary proceedings or violations of ethical principles if disciplinary responsibility is not established 100 points

Evaluation
Article 17

On the basis of the criteria mentioned earlier, pursuant to Article 82 of the Courts Act, the judicial council shall evaluate judges with grades:

Unsatisfactory discharge of judicial office Less than 100 points
Satisfactory discharge of judicial office From 100 to 140 points
Successful discharge of judicial office From 140 to 180 points
Above average discharge of judicial office More than 180 points

Article 18

For a judge who on the basis of the points acquired gains an evaluation of successful discharge of judicial office or above average discharge of judicial office, the points are increased according to the years of work which are a condition for selection for the court he is applying for.
The number of points is increased, by the addition of 3 points for each year begun above the minimum experience sought as the number of years which are a formal condition for selection to the court for which he is applying.
Article 19

After the points have been calculated, the judicial council defines a list of judges according to the number of points acquired.
If several judges acquire the same number of points, they shall be listed in alphabetical order.

Transitional and concluding provisions
Article 20

This methodology for evaluation of judges was defined at the session of the Council of presidents of all judicial councils in the Republic of Croatia, held on 26 September 2007 and came into force on the same day.
This methodology for evaluation of judges is only applicable for those procedures which were initiated after it came into force.
If for one of the previous years which are taken into consideration in calculation according to this methodology, the president of the court does not establish the fulfilment of judicial obligations pursuant to Article 77 of the Courts Act, evaluation for that year shall be made according to the criteria of fulfilment of judicial obligations prescribed by the act that was in force at that time.
Provision 14 of the Code of Judicial Ethics makes it possible for judicial councils to decide on a violation of ethical principles by an individual judge, that is judges themselves, without more complex disciplinary proceedings before the Council. It also makes it possible for an "ordinary" citizen to initiate this procedure directly. A violation established by a legally effective decision by the judicial council, even without imposition of a penalty, affects the assessment of discharge of judicial office, which is made and is taken into consideration for the promotion of a judge, the permanent appointment of a judge and appointment of presidents of courts.

The Code of Judicial Ethics was adopted on 26 October 2006 when it also entered into force. It was published in the Official Gazette no 131/06 and applies to all judges in the RoC. The legal basis of the enactment of the Code is Article 107 of the Courts Act (Official Gazette no. 150/07).

The Code prescribes a wide circle of persons who may not only point to, but also initiate the proceedings for establishing a violation of the Code before the judicial council. This is because provision 14 of the Code prescribes that anyone (therefore all citizens) may point out a violation. The legal power of the Code arises from the Courts Act, and therefore also the obligation of action by the judicial council in procedures for establishing a violation of the Code. When the judicial council decides in this type of proceedings, it decides by application of

the provisions of the Act on General Administrative Procedure.

A violation of the Code established in proceedings before a judicial council (even without the imposition of a formal penalty) may certainly have an effect on the promotion of judges, on the outcome of procedure for permanent appointment of a judge after the first five years of service, on the appointment of a judge as president of a court even in a situation where no disciplinary proceedings were instituted before the State Judicial Council for the same violation of the Code, since the reduction of the number of points influences the final evaluation made of the judge.

**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:

To qualify for appointment as public prosecutor, it is necessary to graduate from a faculty of law, pass the bar exam and work as an advisor for a minimum of two years.

For initial appointment to the position of deputy municipal public prosecutor, candidates who apply for the vacancy must have graduated from a faculty of law, passed the bar exam and completed at least two years of apprenticeship or worked in another judicial body for a minimum of two years, or worked for the same period of time as a practicing attorney, notary public or a notary public's associate or a teacher of legal subjects at a faculty of law or a person who has worked at other legal jobs for a minimum of four years after having passed the bar exam.
Other candidates with extensive experience may apply for the announced vacancy, but the above is the minimum prescribed by the law.

For appointment as deputy county public prosecutors, candidates must have graduated from a faculty of law, passed the bar exam and discharged a judicial office as official in a judicial body for a minimum of eight years, or worked for the same period of time as a practicing attorney, notary public or a notary public's associate or a teacher of legal subjects at a faculty of law for a minimum of ten years, or a person who has worked at other legal jobs for a minimum of twelve years after having passed the bar exam.

A minimum of 15 years working experience as a judicial official is required for a deputy Chief Public Prosecutor, or work for the same period of time as a practicing attorney or a notary public, a university professor of law or a docent of legal sciences.

Municipal public prosecutors are appointed from the ranks of deputies of the same or another municipal or county public prosecution services. The vacancy is also advertised, but in contrast to the deputies, they are appointed by the Chief Public Prosecutor of the Republic of Croatia.

County public prosecutors are appointed from the ranks of municipal public prosecutors with a minimum of eight years working experience on these tasks or from the ranks of deputy county public prosecutors.

A person who meets the general and special requirements for appointment to the Public Prosecution Service of the Republic of Croatia may be appointed Chief Public Prosecutor.

**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)**

An appointment to a higher public prosecution service is made when the position in this public prosecution service becomes vacant.

This vacancy is announced and published in the Official Gazette. Candidates meeting the requirements may apply for this vacancy.

The priority is given to the candidates who have received better performance evaluations or who were working on the specific type of work for which the vacancy is being filled (for example – work on the protection of minors).

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

- ◉ Yes
- ○ No

Are there exceptions? Please specify:

On the occasion of the first appointment, the mandate is five years, and after reappointment, the mandate is permanent.

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

- (•) Yes
- ( ) No

Are there exceptions? Please specify:

On the occasion of the first appointment, the mandate is five years, and after reappointment, the mandate is permanent.

**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**

In late December 2005 the Croatian Parliament adopted the Act on Amendments to the State Judicial Council Act. This amendments to the State Judicial Council Act and the Courts Act prescribe the procedure for the appointment and dismissal of judges which is a guarantee of professional ability, independence and worthiness of a candidate for judicial duty.

The conditions for the appointment to a judicial office include, in addition to Croatian citizenship, a degree from a law school, bar exam, certain period of time of traineeship at courts or other legal jobs, that is, a certain longer period of time at other legal jobs. In the process of appointment to a judicial office, professional ability of the candidate is discussed and evaluated by judicial councils.

The new Courts Act (OF 150/05 (Article 74) in particular emphasises the prohibition to discriminate the candidates, and prescribes equal rights before the law regardless of the race, sex, language, religion, political or other opinion, national and social background, and, in particular, members of national minorities pursuant to the provision of Article 22, paragraph 2 of the Constitutional Act on National Minorities have the right to invoke the realisation of their rights pursuant to the provision of this Act. The procedure for the appointment of judges is conducted by the State Judicial Council taking into account the abovementioned provisions. On the basis of the proposal by the court president, and in accordance with Framework Criteria for the work of judges at individual courts, the Ministry of Justice publishes an advertisement for a free judicial post and forwards the submitted applications from candidates to judicial councils for opinion. Judicial councils must submit to the Ministry of Justice their opinions on candidates within 60 days. The Ministry of Justice then submits the applications from candidates and the opinion of the judicial council to the State Judicial Council. The State Judicial Council also submits for opinion the applications with accompanying documentation that shows whether the candidate fulfils the conditions for a judicial post to the Judiciary Committee of the Croatian Parliament. After that the State Judicial Council adopts the decision on the appointment of a judge.
The State Judicial Council is an independent and autonomous body appointed by the Croatian Parliament. Article 123 of the Constitution of the Republic of Croatia prescribes that the State Judicial Council consists of 11 members, and Article 4 of the State Judicial Council Act lies down that 7 members are elected from the ranks of judges, 2 from the ranks of practicing attorneys and 2 from the ranks of university professors of law. The President and deputy president must be from the ranks of judges. The State Judicial Council appoints judges, conducts disciplinary proceedings and decides on disciplinary responsibility of judges, decides on dismissal of judges.
The only tasks that the Ministry of Justice performs for the State Judicial Council in the proceedings for the appointment and dismissal of judges are administrative and technical tasks. The proceedings for the

appointment and dismissal of judges are conducted by the State Judicial Council in accordance with the State Judicial Council Act.

The criteria for the appointment of public prosecutors:

The appointment of public prosecutors is regulated by the provisions of Articles 60 to 67d of the Public Prosecution Service Act (OG - 55/01, 58/06, 16/07 and 20/07). It is already absolutely clear from the provisions of the Act themselves that the procedure for the appointment of public prosecutors is very complex and that the Public Prosecution Service Act refers to the existence of clear criteria which must be taken into account during the appointment of public prosecutors (and deputy public prosecutors). We would like to point in particular to the need for the criteria for the appointment of deputy public prosecutors to be brought into close connection with the performance evaluation of deputy public prosecutors and public prosecutors.
The Public Prosecutors' Council complies with the provisions of the Public Prosecution Service Act, and appointments are made only after all the necessary information about the previous work of candidates has been obtained, which can offer a valid basis for the rendering of a decision on the appointment.

The gathered information contains opinions on candidates, both from public prosecutors where candidates hold offices, from the collegiate body of public prosecutors, and from a senior public prosecutor.

An interview is conducted with each candidate in the public prosecution office to which he has applied. The Public Prosecutors' Council can invite candidates for appointment interviews.

Security checks are performed for each candidate.

Information is gathered for each candidate about past work. If a candidate comes from the system of the public prosecution service, it is mandatory to review his former work, not only in terms of statistics, but also to directly review the cases on which he had worked. Reports are made on all this and sent to the Public Prosecutors' Council.

Also, inspections are conducted in all public prosecution services every two years by the Public Prosecution Service of the Republic of Croatia. On this occasion, comments are made on the work of candidates, which also constitute the basis for opinions given on individual candidates.

The latest amendments to the Public Prosecution Service Act emphasised in particular the need for a better quality assessment of the discharging of office. All the segments of the work of public prosecutors and their deputies are now evaluated. Special instruction has been issued on how the performance evaluation should be made. The result of this detailed approach to the evaluation of public prosecutors and deputy public prosecutors is an evaluation which is perfectly clear on all the indicators of the work of public prosecutors or their deputies, and clearly shows the level of success, or lack of success, of their work. Please find enclosed the Instruction for evaluation of Officials in the Public Prosecution Service, which is very important since it shows in which way it is achieved that all public prosecutors and their deputies are being evaluated in a credible manner.

Accordingly, the final result, the past work performance, has special importance in appointments, since the provision of Article 64, paragraph 2 of the Public Prosecution Service Act clearly states that "during appointment, all other conditions being equal, candidates who have received a better performance evaluation during the two last evaluations have priority". The importance of the evaluation can be seen from the fact that deputy public prosecutors or public prosecutors who did not receive an appropriate evaluation result during the last evaluation (in the sense of the evaluation results referred to in Article 67, paragraph 1, point 3 of the Public Prosecution Service Act) cannot be promoted, that is, appointed to a higher public prosecution service.

Therefore, we believe that this purview into the past work of candidates, based on transparent and numerous criteria which must be complied with when public prosecutors and their deputies are being evaluated, offers objective opportunities for insight into the actual achievements of candidates, that is, that objective criteria exist for appointments.

Pursuant to Article 65, paragraph 2 of the Act on the Public Prosecution Service (Official Gazette nos. 51/01, 58/06, 6/07 and 20/07) I hereby adopt the following

INSTRUCTIONS FOR EVALUATION
of Officials in the Public Prosecution Service

These Instructions for Evaluation of Officials in the Public Prosecution Service (hereinafter: the Instructions) regulate the rules on keeping records of the work of public prosecutors and deputy public prosecutors, the

evaluation procedure, the manner of applying criteria and the range of grades of evaluation, the lodging of appeals against evaluation and the appeals procedure and other questions of importance for evaluation.

1. The principles of evaluation, the time of evaluation and unified criteria for evaluation

Article 1

(1)Evaluations are the basis for rendering decisions in relation to the allocation of individual tasks to deputy public prosecutors within the public prosecution service (the post of first deputy, head of department and section etc,) and for appointment to special public prosecutor's offices, the position of public prosecutor and for appointment to higher public prosecutor's offices. The evaluation contains verified information about the abilities, qualifications, and expertise (professional work) of the public prosecutors and deputy public prosecutors whose work is being evaluated.

(2)The evaluation should also contribute to:
a.Improvement of the work of the public prosecution service,
b.Promotion of professional, diligent and conscientious and responsible public prosecutors and deputy public prosecutors,
c.Discovering those public prosecutors and deputy public prosecutors who do not demonstrate sufficient expertise, effort or commitment in their work in the public prosecution service.

Article 2

(1)Deputy public prosecutors who are appointed for a period of five years are evaluated each year.
(2)Deputy public prosecutors who are permanently appointed are evaluated every three years.
(3)Public prosecutors are evaluated every two years.

Article 3

At their regular consultations public prosecutors shall consider as necessary at regular conferences of public prosecutors the implementation of these Instructions with a view to proposing any necessary amendments in order to establish and adopt unified criteria in evaluation.

2. Records of the work of public prosecutors and deputy public prosecutors

Article 4

(1)Pursuant to Article 124 of the Regulations on the Internal Affairs of Public Prosecutor's Offices and Instructions no. O-10/02, public prosecutor's offices are obliged to monitor the work of every official and advisor working in legal matters. Alongside the regular obligation which arises from the Regulations on the Internal Affairs and Instructions no. O-10/02, public prosecutor's offices are obliged to record precisely the monthly results of work, especially those on which evaluation depends according to individual criteria, work on especially complex cases, the publication of professional papers, attendance of training courses and praise and criticism in relation to each deputy.

(2)All information on the monthly monitoring of the work is entered in monthly reports, on the basis of which the annual report is written. Information on training and praise and criticism are recorded after they are received by the public prosecutor's office, or after official notes have been made about it by the public prosecutor or head of the department or section.

(3)Information on the work in the public prosecution offices (monthly and annual reports) professional and scientific work, training, criticism, observations and the like are kept separately for each official and advisor in a separate personal file – folder. Each file has a number in the T- register by which it is run, and to facilitate monitoring the work for each evaluation period, information is entered in one file (folder). For the first five years one file-folder is kept which has on it: the name of the public prosecutor's office, the number of the file with the folder sub-number, if there are several folders with information (e.g.:"T-12/07-1", the name and surname of the official) etc.

(4)Information on the work of a public prosecutor's office, praise and criticism of the work of a public

prosecutor's office and public prosecutors is kept by the senior public prosecutor's office in a file marked T.

(5)For easier monitoring of the work of public prosecutors, a senior public prosecutor's office may determine that information on the monitoring of the work of a public prosecutor's office may be entered in a separate folder. The folder for the public prosecutor's office is kept for the period determined by the senior public prosecutor.

(6)In order to be able to assess a lower ranking public prosecutor, a senior public prosecutor is obliged to monitor his work continuously along with the work of the public prosecutor's office and record all important information given in paragraphs 9 and 10 of this Article in the folder of the public prosecutor's office. As well as the public prosecutor, the work of lower ranking public prosecutors shall be monitored by the heads of department, and their deputies who, when on the basis of examination of the file of a lower ranking public prosecutor they notice particularly good or inventive work, omissions or failings important for evaluation of the public prosecutor, are obliged to make an official note of this which, after being approved by the public prosecutor, is entered into the folder.

(7)The file (folder) on the work of the public prosecutor's office, public prosecutor or deputy public prosecutor is kept by the office of the public prosecutor.

(8)In order to assess his deputies, a public prosecutor is obliged to monitor their work continuously and register all important information given in paragraphs 9 and 10 of this Article in the deputies' folders. Alongside the public prosecutor, the work of deputies shall also be monitored by heads of departments, or sections, who are obliged to report regularly on their observations related to the information mentioned in paragraphs 9 and 10 of this Article to the public prosecutor and on his instructions write the necessary written documents (official notes) about them.

(9) The records in the folders contain:

☐ For deputy public prosecutors: monthly and annual reports,

☐ For public prosecutors: annual reports, annual and monthly statistics on the work of the public prosecutor's office, minutes of the examination and copies of comments on the work of public prosecutor's office, but also public prosecutors, or attorneys.

☐ For each official and advisors records are also kept of:
- information on successful work on especially complex cases (brief notes and description of case),
- information on scientific and professional papers published,
- information on active participation in professional training programs and other relevant scientific and professional meetings,
- participation in practical teaching of legal subjects and the like.

☐ Comments are also entered into the folder on the work of public prosecutors, deputies and advisors, which the senior public prosecutor's office made in their examination, in work on second instance cases and other comments of the work.

(10)As well as the above, it is necessary to record in the official's folder every refusal to attend training courses, complaints by parties, or other state bodies for which it is established that they are justified, but also everything that indicates divergence from the average, especially information on work on complex cases, increased effort made in regular work (drawing up regulations, instructions, legal motions, special projects etc), training others, work at faculties, work in special professional bodies and associations, where domestic or international, special knowledge etc.

Article 5

(1)Information in the folders must be complete and up to date as it serves as a factual basis for evaluation and in cases of complaints about the evaluation given the senior public prosecutor's office decides on the complaint on the basis of the information in the folder and the opinion of colleagues.

(2)The public prosecutor or the deputy he chooses is responsible for regularly entering information in the file (folder) and its accuracy. Information in the file (folder) is entered by a clerk in the office of the public prosecutor.

3. The Evaluation Procedure

Article 6

(1)In order for the evaluation to be objective and complete, it must be based on various sources of information.

(2)For this reason, where necessary the public prosecutor who is making the evaluation, alongside the information given in Article 4, paragraphs 9 and 10 of these Instructions, may ask the head of department and section for a written report on work on cases by the deputy, and must himself, or will request the head of department or section to do so, when he considers it necessary, monitor the work of the deputy public prosecutor at hearings or trials to gain an insight into that aspect of the work of the official being evaluated, and he must use information from individual files if that is important for the evaluation etc.

(3)In the statement of reasons for the evaluation, especially negative comments, it is most important to state precisely the information on which the evaluation is based.

Article 7

(1)Evaluation of a deputy is made by a public prosecutor, and of a public prosecutor by a senior public prosecutor.

(2)The official who is being evaluated has the right to appeal, and a decision is made by the senior public prosecutor or the Collegiate Body of the Public Prosecution Service of the Republic of Croatia.

(3)When the work of a lower ranking public prosecutor’s office is being evaluated, the Chief Public Prosecutor or the deputy appointed by him shall examine evaluations in order to see if unified criteria were used in the evaluation. If by this examination it is established that the evaluation criteria differ from the usual, the public prosecutor is to be informed of this and where necessary other measures taken, pursuant to the provisions of the Act on the Public Prosecution Service.

Article 8

(1)Deputy public prosecutors who are evaluated every year must be evaluated within a month of the expiration of the period for which they are being evaluated, whilst deputies who are evaluated every three years must be evaluated within two months of the end of the period for which they are being evaluated.

(2)Public prosecutors are evaluated half way through their term and at the end of their term. The evaluation must be made within the following two months, and if the public prosecutor applies for a vacancy announced for the position of a public prosecutor, the evaluation must be made before a decision is made on the appointment.

Article 9

(1)If a public prosecutor, on the basis of monitoring the work of a lower ranking public prosecutor or deputy, or a report by a head of department or section, finds that the work, effort and knowledge of a public prosecutor or deputy public prosecutor is such that it may result in an unsatisfactory evaluation, he is obliged to call the public prosecutor or deputy in half way through the evaluation period to inform him that a negative evaluation will have to be given if he does not change the way he works, or does not obtain the necessary knowledge.

(2)A note shall be made to this effect and submitted to the public prosecutor or deputy to see and sign it.

Article 10

(1)A public prosecutor shall make an evaluation on the basis of information on the monitoring of work and information from the folder of the public prosecutor or deputy, in that prior to this, points are given for each legal criterion, and then on the basis of the total of these points the evaluation is made, which must be in writing and which must include a statement of reasons.

(2)The evaluation is to be written in a special template form prescribed by these Instructions on Evaluation.

4. The manner of the application of criteria for evaluation and the range of marks given

Article 11

(1)Article 65 of the Act on the Public Prosecution Service prescribes that public prosecutors and deputy public

prosecutors are evaluated in the discharge of their office according to the following criteria:

1. diligence shown in resolving cases assigned to them in relation to the average results of work of county or municipal public prosecutors office in the year preceding the year of evaluation,
2. the use of legal remedies,
3. demonstration of professional knowledge and results of work,
4. quality of work and skill in oral and written expression,
5. respect for time limits in the course of proceedings,
6. abilities and willingness shown to learn and gain new knowledge, active participation and success in professional training programs, scientific and professional papers published and participation in practical teaching of legal subjects and other relevant scientific and professional meetings,
7. cooperation with and attitude towards other employees,
8. ability to do the work of administration and the tasks of a public prosecutor, if appointed.

(2)On the basis of these criteria defined by the Act, criteria are drawn up for application of individual criteria, in that within each legal criterion there is a range of marks which may be give for that criterion.

Article 12

(1)The Public Prosecution Service of the Republic of Croatia publishes the average number of criminal or civil and administrative cases no later than two months after the end of each calendar year and the number of hearings with representation in that year. The average is calculated in that the average monthly figures on work on cases are added together and divided by 12. Along with this average number of resolved criminal reports, cases received, hearings etc, and a scale of the average number of cases according to Article 13, paragraph 2 of these Instructions is given.

(2)The average for the public prosecutor's office is calculated by dividing the number of actions (legal remedies etc) in the calendar year by the number of officials and advisors who worked in each department.

1.Diligence in resolving cases assigned in relation to the average results of work for county and municipal public prosecutor's offices (results of work)

Article 13

(1)Points are given for this criterion on the basis of data from reports and average data on workloads and work done issued by the Public Prosecution Service of the Republic of Croatia for the entire country, monthly, or total results for each year.

(2)Public prosecutors, and deputy public prosecutors, who in the evaluation period resolved criminal reports or have other cases pending, or received or had civil or administrative cases pending, shall be evaluated in relation to the average, by the following results:

- up to 40% of the average – unsatisfactory work ..... 0 points,
- from 41% to 75% of average, below average results ……. 30 points ,
- more than 76% of average or 25% above average – average result …. 50 points,
- more than 26 to 50% above average – above average results 60 points,
- more than 51% above average – excellent results ……. 70 points.

(3)If the deputy is up to date and the public prosecutor's office does not have any unresolved criminal reports in the criminal department, or if the civil-administrative departments regularly complete their work, the results of work of the entire public prosecutor's office and the deputy being evaluated which are below average are given 50 points.

(4)If the deputy does not meet the average due to work on complex cases and the like, he shall receive 50 points or more depending on the complexity of the case. If he receives a high number of points (60) this must be clearly explained in the statement of reasons and the cases must be mentioned.

Article 14
2. Use of legal remedies

(1)Points for this criterion are given on the basis of figures from the reports and the average annual figures on the use of legal remedies and success of the public prosecutor's office in which the public prosecutor or the deputy public prosecutor works.

(2)It is deemed that a public prosecutor or deputy public prosecutor uses an average amount of legal remedies, if the number of legal remedies lodged is 25% (1/4) greater or smaller than the average for that public prosecutor's office.

(3)Public prosecutors and deputy public prosecutors are deemed to have average success in their use of legal remedies if the legal remedies are on average accepted in 25% (1/4) more or less cases than the average for that public prosecutor's office.

(4)A public prosecutor or deputy public prosecutor who in the evaluation period uses legal remedies,

a) less than average and with less than average success ... 0 points,

b) less than average and with average success ..... 5 points

c) on average or above average but with average success.. 10 points,

d) on average with above average success ..... 20 points,

e) above average and with above average success ..... 30 points.

Article 15

c. Criterion of demonstrated professional knowledge and results of work

(1)Public prosecutors or deputies have average success in proceedings if their success rate is 5% more or less than the success of their public prosecutor's office as a whole.

(2)Every significant divergence from average success, whether higher or lower, especially the fact that the deputy works on complex and difficult cases, that he trains others and speaks at domestic or foreign conferences on topics from the area of his work, may affect the number of points for this criterion.

(3)The possible number of points for this criterion is:

a) Does not have the necessary professional knowledge, success in proceedings is 20% lower than the average of the public prosecutor's office, on examination many comments were made on the merits of decisions etc. ..... 0 points

b) Has basic professional knowledge – success is slightly below average (6-19%) and there are criticism of his work,
a. can only work on less complex cases ..... 5 points
b. with supervision and guidance can work on the majority of cases..10 points

c) Success in proceedings is average, has the necessary professional knowledge a. works well and without help on most cases ..... 20 points
b. works on complex cases which demand good factual
and legal judgment ..... 30 points

d) Possesses above average professional knowledge – above average success, has extensive professional knowledge in the field of (state which field) works on the most complex cases in that field, helps and guides apprentices, advisors and lower ranking prosecutors ..... 40 points

e) Possesses exceptional professional knowledge – works on the most complex cases and runs projects by which methods of work or decision-making are changed in public prosecutor's offices or works on exceptionally complex projects in training etc, and also publishes professional and/or educational works, takes part in training others and/or teaching at legal faculties and is frequently a speaker at important domestic and international conferences ..... 50 points

(4)In the statement of reasons it is necessary to specify the exceptionally complex cases, the projects, professional and educational works, the lectures and international conferences on which the deputy worked.

(5)If the success rate is 20% below the success rate of the public prosecutor's office, and this is the result of objective reasons (a change of opinion by the court, civil cases in which the outcome is known in advance etc.) and there are no criticisms on the work of the deputy, the public prosecutor may give the number of points

mentioned in paragraph 3, point b) or exceptionally point c) item a, but he must give the reasons for this and state, on the basis of the specific cases, why he believes that the large number of negative decisions is not the responsibility of the deputy.

(6)If the success rate of the public prosecutor's office is in general high, and there is a small number of criminal cases (county jurisdiction) and as a result of one or two negative decisions the calculation of the success rate of the deputy is significantly reduced, the public prosecutor may differ from the averages mentioned above and give the deputy he is assessing the number of points given in paragraph 3, point c) item a. He must give a separate explanation for this.

(7)If a lower number of points is given (up to 20 points) it is necessary to explain the difference in success in professionalism in relation to the average and state the files in which criticisms were made.

Article 16
d. The criterion of quality of work and ability in written and oral expression

(1)If there are no individual criticisms or criticisms during the examination of the regularity of work and the orderliness of briefs, literacy and comprehensibility of enacting terms and statements of reasons, and if the deputy or public prosecutor shows appropriate initiative and ability in oral expression, the basic evaluation is that the deputy does his work well, that he has the necessary knowledge on the basis of which he is able to express himself orally with ease and knows how to construct his briefs well.

(2)The possible number of points for this criterion is:

a) The quality of work is unsatisfactory, there is a large number of criticisms of the orderliness, clarity and completeness of briefs, he is inactive at hearings, or his statements are incomprehensible and without professional argument. ..... 0 points

b) Quality of work, especially in terms of tidiness and literacy, below average, not sufficiently active at hearings, addresses, explanations, closing words and/or replies to briefs by the opposing party incomplete..... 10 points

c) Quality of work in terms of orderliness and literacy of decisions satisfactory, some criticism of work, effort and oral expression at hearings 20 points

d) Works well and orderly, good oral and written ability, no criticism ……..... 40 points

d) Works exceptionally well and orderly, good ability in oral and written expression – no criticism ..... 50 points

(3)Apart from criticisms and examination of specific files, the public prosecutor who is assessing the deputy, or the head of department or section, are obliged to monitor the work of the deputy at hearings by examining the minutes of the hearing and make notes about all observations. If on the basis of an examination of the minutes he considers it necessary, the public prosecutor shall monitor the work of the deputy at hearings at least twice a year and shall draw up a report about this.

Article 17
e. The criterion of (responsible) regular respect for time limits

(1)The number of points for this criterion depends on the nature of the time limit which is exceeded, and may only be given on the basis of information from the file (folder) and reports of examinations, in which cases are mentioned where a time limit was exceeded, or which were not resolved within the instructive time limits. If it is a matter of exceeding a preclusive time limit, points are given exclusively on the basis of stating which are these files and criticisms in specific cases.

(2)If the instructive time limit is exceeded for objective reasons (illness, absence from work, work on a complex priority case etc.) the fact that the time limit was exceeded cannot affect the giving of points according to this criterion, but if due to these reasons a preclusive time limit is missed, and the deputy could have informed the public prosecutor of the time limit, then exceeding that time limit shall affect the points given for this criterion.

(3) The possible points awarded for this criterion are:

a) Exceeds legal preclusive time limits..... …….. 0 points.

b) Shows significant disregard for instructive and legal time limits..... 5 points
c) To a lesser extent does not respect instructive time limits ..... 20 points
d) Respects instructive and statutory time limits ..... 30 points,

Article 18

f. The criterion of ability to learn and gain new knowledge – professional training and professional studies

(1)The work of public prosecutors and deputies is also monitored on the basis of the records of the Judicial Academy and the records of the public prosecution service on acceptance of opportunities to attend training courses.

(2)The possible number of point for this criterion is:

a) Refuses training as unnecessary ..... 0 points

b) Attends courses as public prosecutor directs
but avoids teaching and is inactive ..... 5 points

c) Takes part in training and gains new knowledge ..... 15 points

d) Takes part in training and takes an active part
in the work of workshops and seminars, gains new knowledge
which is not vital but is useful to do the job well ..... 20 points

Article 19
g. Cooperation and relationships with other employees

(1)The public prosecutor gives a mark on the basis of his personal observations and comments. The possible number of points for this criterion is:

a)Comes into conflict with other employees ..... 0 points

b)Does not have a correct relationship with other employees 5 points

c)Is closed and does not pass on knowledge to others..... 10 points

d)Works well with others, inclines to joint effort and cooperation, willingly helps others ..... 20 points

(2)A deputy who regularly discharges his duty well and in an orderly manner, does the work of a head of department and/or the work of first deputy, is given an additional 10 points.

Article 20
h. The work of public prosecutors

(1)The work of public prosecutors is monitored on the basis of an examination of their work, criticism of the work of public prosecution office and public prosecutors, but also on the basis of their success rate, especially in complex and difficult cases.

(2)In order to be ranked on the basis of their work on specific cases, at the request of the senior public prosecutor, a lower ranking public prosecutor will send him his annual reports and other information on his work on cases (Article 4, paragraphs 9 and 10 of these Instructions).

(3)The possible number of points for this criterion is:

a)Supervising the work of deputies and staff and the work of lower ranking public prosecutors:
- completely and regularly supervises the work of lower-ranking
public prosecutors, deputies and officials and regularly carries out reviews ..... ..... 20 points

- has minor failings in supervision of the work and monitoring,
regularly carries out reviews ..... 10 points
- does not carry out the necessary supervision measures 0 points

b) Monitoring cases and giving instructions and advice to deputies and lower-ranking public prosecutors,
-regularly schedules board meetings and participates in decision-making,
Supervises the work in all complex cases ..... ..... 30 points
- schedules board meetings irregularly, does not have good oversight of work on all complex cases .....
..... 15 points
- does not schedule board meetings, avoids decision making and transfers responsibility to
others……..0 points

c) Passing on instructions and notices from the senior public prosecutor to lower ranking public prosecutors, deputies and other staff,
- regularly passes on instructions and notices to subordinates ..... 10 points
- is closed and does not pass on instructions and notices to subordinates 0 points

d) Work of public prosecution administration relating to concern for professional training, employee rights and complaints about the work of staff,
- does work completely and regularly ..... 10 points
- satisfactory ..... 5 points
- does not oversee these tasks ..... 0 points

e) Reporting to the senior public prosecutor on work and significant cases, and acting on instructions of senior public prosecutor,
- regularly sends reports and acts on instructions given .... 20 points
- does not always report on important cases and only acts on instructions after a caution and request by the senior public prosecutor ..... .... 10 points
- only submits reports after a caution ..... 0 points

5. Making evaluations, writing evaluations and sending evaluations

a) Deputy Public Prosecutors

Article 21

(1)On the basis of the total of points, deputes are given an evaluation grade according to the following range of points:

a.40 points - unsatisfactory discharge of office of public prosecutor

b.41-125 points - satisfactory discharge of office,

c.126 - 210 points- conscientious, professional and regular discharge of office

d.211 - 260 points- conscientious, professional and regular discharge of office, achieving above average results

e.261 do 280 points - conscientious, professional and regular discharge of office, with special exertion and showing extensive professional knowledge.

(2)If the deputy has 0 points from criterion 13 or 15 of these Instructions, regardless of the number of points from other criteria, he is evaluated with "unsatisfactory discharge of office of public prosecutor"

b) Public prosecutors

Article 22

(1)Public prosecutors are evaluated by senior public prosecutors.

(2)Evaluation is made on the basis of the evaluation given of the review of work, but also partially on the basis of comments of the work of the public prosecutors and on the basis of regular contacts and promptness in proceeding on requests by the higher public prosecution office.

(3)Public prosecutors are evaluated on the basis of the work of the public prosecutor's office and the criterion from Article 20. The criteria from Articles 13, 14, 15, 16 and 19 of these Instructions are applied as appropriate to the work of the public prosecutor's office as a whole.

(4)If the public prosecutor works on cases, account shall be taken in the evaluation of the results of his work and this shall in part be used for making evaluation (Article 20, paragraph 2 of the Instructions). If his work on these cases is successful, this should affect the points given for the criteria in paragraph 3 of this Article.

(5)On the basis of the total of points, the public prosecutor is evaluated according to the following range of points:

a. up to 65 points - unsatisfactory discharge of office of public prosecutor,

b. from 66 to 135 points – satisfactory discharge of office of public prosecutor,

c. from 136 to 240 points - conscientious, professional and regular discharge of office of public prosecutor,

d. more than 241 points – conscientious, regular and professional discharge of office of public prosecutor and above average leadership abilities.

(6)If a public prosecutor has 0 points for the criterion from Article 20 of these Instructions regardless of the number of points given for other criteria, he shall be evaluated with "unsatisfactory discharge of office of public prosecutor".

c) Informing of evaluation

Article 23

(1)Public prosecutors, before sending out evaluations, shall call in the public prosecutor or deputy being evaluated and inform him of the factors on the basis of which he intends to make the evaluation.

(2)The public prosecutor or deputy public prosecutor has the right to point out circumstances which could affect the evaluation, which the public prosecutor did not take into account or on the basis of which an erroneous conclusion was made.

Article 24

(1)The evaluation is made on the basis of the template form and is sent to the deputy prosecutor to whom it relates and its contents are an official secret.

(2)In the statement of reasons for the evaluation, it should be mentioned how the evaluation was made, according to individual criteria, and on the basis of which factors the evaluation was given, and mention any other important information.

(3)The public prosecutor shall explain separately on which bases and why the deputy or public prosecutor received an evaluation below or above the grade "conscientious, regular and professional discharge of office".

(4)The evaluation shall be sent with instructions on the right to appeal.

(5)The template form for evaluation of public prosecutors and deputy public prosecutors is enclosed with these Instructions.

6. Appeals against evaluation and procedure on appeals

Article 25

(1)Municipal public prosecutors, deputy county or municipal public prosecutors who do not agree with the evaluation have the right to lodge an appeal with the senior public prosecutor within eight days of the delivery of the evaluation.

(2)County public prosecutors and the deputy Chief Public Prosecutor who do not agree with the evaluation have the right to lodge an appeal against the evaluation with the Collegiate Body of the Public Prosecution Service of

the Republic of Croatia within eight days of delivery of the evaluation.

Article 26

(1)If a municipal public prosecutor, deputy municipal or county public prosecutor submits an appeal against the evaluation, the public prosecutor who made the evaluation shall seek the opinion of the collegiate body of that public prosecutor's office, and then send the appeal, enclosing the opinion of the collegiate and the personal file of the deputy, to the senior public prosecutor for a decision.

(2)When giving an opinion, members of the collegiate body shall first of all decide if the opinion given on the basis of the appeal is to be given by a public vote or on the basis of the template form enclosed with these Instructions.

(3)Appeals against evaluations of county public prosecutors or the deputy Chief Public Prosecutor shall be sent, with the personal file of the applicant, to the Collegiate Body of the Public Prosecution Service of the Republic of Croatia.

Article 27

(1)Before making a decision on an appeal against an evaluation from Article 21, paragraph 1, points a and b, the senior public prosecutor may order a review of the work of the deputy public prosecutor. The Collegiate Body of the Public Prosecution Service of the Republic of Croatia may, in making a decision on the appeal by the deputy Chief Public Prosecutor against an evaluation from Article 21, paragraph 1, points a and b, or in making a decision on an appeal by a county public prosecutor against an evaluation from Article 22, paragraph 5, points a and b, request the Chief Public Prosecutor to undertake a review of the work of the deputy Chief Public Prosecutor, or the county public prosecutor's office. After receipt of the report on the review, the senior public prosecutor or the Collegiate Body of the Public Prosecution Service of the Republic of Croatia shall make a decision on the appeal on the basis of the evaluation made, the personal file and the report of the review.

(2)The senior public prosecutor or the Collegiate Body of the Public Prosecution Service of the Republic of Croatia is obliged to render a decision on an appeal within 3 months of the day when the appeal was received, or the review conducted from paragraph 1 of this Article.

(3)The Collegiate Body of the Public Prosecution Service of the Republic of Croatia decides by a majority vote of all members of the Collegiate Body.

(4)By its decision, the senior public prosecutor or the Collegiate Body of the Public Prosecution Service of the Republic of Croatia may confirm the evaluation, amend it or send it back for re-evaluation.

(5)The senior public prosecutor or the Collegiate Body of the Public Prosecution Service of the Republic of Croatia shall return the evaluation for re-evaluation if it judges that no explanation was provided for the number of points given for a specific criterion.

Article 28

(1)The re-evaluation must be undertaken according to the instructions from the quashing decision by the senior public prosecutor and on the basis of checks made, a new evaluation made, against which the public prosecutor or the deputy public prosecutor has the right of appeal.

(2)The senior public prosecutor or the Collegiate Body of the Public Prosecution Service of the Republic of Croatia may reject the appeal on merit, if a further appeal is lodged, or, if they deem it to be well-founded, they shall render a decision themselves, and this decision is final.

Article 29

An evaluation against which no appeal is lodged or if the appeal is rejected on merits, or an evaluation made pursuant to Article 28, paragraph 2 of these Instructions, shall be sent to the Public Prosecution Service of the Republic of Croatia and the Ministry of Justice.

An appointment to a higher public prosecution service is made when the position in this public prosecution service becomes vacant.

This vacancy is announced and published in the Official Gazette. Candidates meeting the requirements may apply for this vacancy.

The priority is given to the candidates who have received better performance evaluations or who were working on the specific type of work for which the vacancy is being filled (for example – work on the protection of minors).

### 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 | ☐ | ☐ | ☐ |
| General in-service training | ☐ | ☑ | ☐ |
| In-service training for specialised judicial functions | ☐ | ☑ | ☐ |
| In-service training for management functions of the court | ☐ | ☐ | ☑ |
| In-service training for the use of computer facilities in the court | ☐ | ☐ | ☑ |

**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 | ☐ | ☐ | ☐ |
| General in-service | | | |

| | | | |
|---|---|---|---|
| training | ☐ | ☑ | ☐ |
| Specialised in-service training | ☐ | ☐ | ☑ |
| In-service training for management functions of the prosecution services | ☐ | ☐ | ☑ |
| In-service training for the use of computer facilities in the public prosecution service | ☐ | ☐ | ☑ |

**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**

The year of reference used under the question 113 iz 2007.
Q 110.,112.-Note:Pursuant to Croatian Courts Act and Public Service Act professional training is taken into account in the case of the professional promotion, but it is not prescribed as the obligation and there is no sanctions against judicial officials who do not attend the professional training.

The Judicial Academy of the Croatian Ministry of Justice was established in 2004. It operates as the central state institution charged with the implementation of activities relating to the continuous professional training of judges and public prosecutors, advisors and judicial and public prosecutor apprentices in judicial bodies. It cooperates with courts, prosecutor offices, law faculties, professional organizations and bodies in Croatia in the development and implementation of professional training programmes and cooperates with international institutions and bodies in the field of continuous training in the judiciary. Over the last two years the Academy established a sustainable system of continuous (in-service) professional training of judges and prosecutors based on the court-integrated approach. Namely, in addition to its headquarters in the capital of Croatia (Zagreb), the Academy has five regional training centres at the county courts (second instance courts) of Zagreb, Split, Rijeka, Osijek and Varazdin. This approach enables judicial officials to attend training in the places of their life and work. Each regional training centre has two coordinators (a judge and a prosecutor) who are members of the Judicial Academy's Programming Council helping the Academy develop programmes that correspond to the judicial officials' needs. The majority of the Academy's activities take the form of interactive and interdisciplinary workshops for small groups of participants (up to 25 persons) in which practitioners teach their colleagues. The Academy is currently preparing for the reform of the initial training system for future judges and prosecutors.
The workshops on the European Convention on Human Rights and the case law of the Court are regularly included in the Academy's curricula, covering general introduction to the ECHR and specific topics, such as the right to a fair trial in a reasonable time.

## 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 | 22930 | 13983 |
| Judge of the Supreme Court or the Highest Appellate Court | 52054 | 27337 |
| Public prosecutor at the beginning of his/her career | 22930 | 13983 |
| Public prosecutor of the Supreme Court or the Highest Appellate Instance | 52054 | 27337 |

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

| | Judges | Prosecutors |
|---|---|---|
| Reduced taxation | ☐ | ☐ |
| Special pension | ☐ | ☐ |
| Housing | ☐ | ☐ |
| Other financial benefit | ☐ | ☐ |

**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 | ☐ | ☐ | ☑ |
| Research and publication | ☐ | ☐ | ☑ |
| Arbitrator | ☐ | ☐ | ☑ |
| Consultant | ☐ | ☐ | ☑ |
| Cultural function | ☐ | ☐ | ☑ |
| Other function | ☐ | ☐ | ☑ |

**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 | ☐ | ☐ | ☑ |
| Research and publication | ☐ | ☐ | ☑ |
| Arbitrator | ☐ | ☐ | ☑ |
| Consultant | ☐ | ☐ | ☑ |
| Cultural function | ☐ | ☐ | ☑ |
| Other function | ☐ | ☐ | ☑ |

**120) If other function, please specify:**

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

○ Yes

◉ No

If yes, please specify:

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

Q114.-Ministry of Justice, Directorate for finances and procurement (State Budget of the Republic of Croatia)

### 5. 2. 2. Disciplinary procedures

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

Authority authorized to initiate disciplinary proceedings against judges:
- the president of the court where the judge holds office or
- the president of the immediately superior court or
- the president of the Supreme Court of the RoC or
- the judicial council or
- the minister competent for judicial affairs

The Public Prosecutors' Council renders the decision to institute disciplinary proceedings upon a request from the authorized applicant. The authorized applicant may be the public prosecutor in the public prosecution service in which the deputy is working, a higher public prosecutor, the Chief Public Prosecutor or the Minister of Justice.

Disciplinary proceedings may only be instituted against a deputy public prosecutor.

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

The State Judicial Council is competent to render decisions on penalties for judges in disciplinary proceedings.

The Public Prosecutors' Council has the disciplinary power on prosecutors.

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

| | Judges | Prosecutors |
|---|---|---|
| Total number (1+2+3+4) | 22 | 2 |
| 1. Breach of professional ethics | 8 | |
| 2. Criminal offence | | |
| 3. Professional inadequacy | 14 | 2 |
| 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) | 9 | 4 |
| 1. Reprimand | 3 | 1 |
| 2. Suspension | | |
| 3. Withdrawal of cases | | |
| 4. Fine | | |
| 5. Temporary reduction of salary | 5 | |
| 6. Degradation of post | | |
| 7. Transfer to another geographical (court) location | | |
| 8. Dismissal | 1 | 1 |
| 9. Other | | 2 |

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

The most recent amendments to the State Judicial Council Act ("Official Gazette" 150/05) amended the procedural rules on how to conduct disciplinary proceedings against judges. More precisely, the previous arrangement whereby disciplinary proceedings were conducted before the State Judicial Council in full composition was changed in the following manner:

- proceedings are now instituted on the basis of a request by an authorised submitter (Article 25, paragraph 1 of the State Judicial Council Act – hereinafter: "the SJCA"), which means that the SJC no longer renders decisions to institute proceedings, but proceedings are considered instituted by the very submission of the request,

- at the session of the SJC, the Council decides on the composition of the Disciplinary Council, which conducts proceedings and proposes a decision to the Council (Article 23, paragraph 2 in conjunction with paragraph 4 of the same article of the SJCA),

- all the evidence is introduced and all the facts are established before the Disciplinary Council, composed of 3 SJC members (Article 23, paragraph 5 of the SJCA),

- disciplinary proceedings are conducted according to the rules governing summary criminal proceedings (Article 30, paragraph 1 of the SJCA, Articles 431-445 of the Criminal Procedure Act),

- after the proceedings have been completed, the Disciplinary Council of the SJC explains the course of the proceedings and proposes a decision to be rendered in the presence of the person who submitted the request and the judge who has been reported,

- a decision on disciplinary responsibility is public.

In this way, these amendments have considerably speeded up disciplinary proceedings against judges.

Briefly, the responsibility of judges and public prosecutors is regulated by the Courts Act, the State Judicial Council Act and the Public Prosecution Service Act.

The State Judicial Council decides on the disciplinary responsibility of judges, whereas the Public Prosecution Council decides on the disciplinary responsibility of deputy public prosecutors.

The State Judicial Council Act provides that disciplinary offences are misuse of position or exceeding official authority, improper performance of judicial office, holding an office or performing jobs or activities which are incompatible with judicial office, causing disturbances in the work of a court which materially affect the functioning of the judicial power, revealing an official secret in relation to the performance of judicial office and damaging the reputation of the court or judicial office in another way. Disciplinary proceedings for the disciplinary offence of improper performance of judicial office will in particular be instituted against a judge who

fails to write and send court decisions without a legitimate reason, if the judge has received a negative evaluation from the judicial council and if the number of judgements rendered by the judge in a given one-year period is significantly below the average for the Republic of Croatia without a justified reason.

Disciplinary sanctions are a reprimand, a fine up to one third of the salary for a period not longer than 6 months and dismissal from office, which is only possible if disciplinary offences were committed under particularly serious circumstances. The judge against whom disciplinary proceedings are conducted has the right to speak in his defence either on his own or using a defence counsel of his choice. The judge has the right to lodge an appeal against a decision on disciplinary responsibility or dismissal from office with the Constitutional Court of the RoC.

The Public Prosecution Service Act provides for the disciplinary responsibility of deputy public prosecutors. Disciplinary proceedings against deputy public prosecutors are conducted by the Public Prosecution Council. Under this Act, disciplinary offences are: misuse of position or exceeding official authority, failure to perform or improper performance of the office of public prosecutor without a legitimate reason, holding an office or performing jobs or activities incompatible with the office of public prosecutor, causing disturbances in the work of the public prosecution service which materially affect the operation of the public prosecution service, revealing an official secret, damaging the reputation of the public prosecution service or the office of public prosecutor in another way. Disciplinary offences committed may be punished by a reprimand, a fine up to one third of the salary earned in the previous month for a period not longer than 6 months, delay in promotion for a period up to 3 years and dismissal from office, which may only be imposed if the disciplinary offences were committed under particularly aggravating circumstances. A deputy public prosecutor against whom disciplinary proceedings are conducted has the right to speak in his defence either on his own or using a defence counsel of his choice. He may institute an administrative dispute against a decision on disciplinary responsibility.

# 6. Lawyers

## 6. 1. Statute of the profession

### 6. 1. 1. Profession

**126) Total number of lawyers practising in your country**

3281

**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.

Pursuant to the Croatian legal system, lawyers have a monopoly of representation, that is for defence only in criminal cases, namely in the first instance and second instance proceedings, and in the proceedings before the Supreme Court of the RoC as the third instance court. They do not have a monopoly in civil and administrative cases, but in these cases parties may represent themselves, they may be represented by family members, legal entities may be represented by their employees and in labour disputes union members may be represented by their unions. Similar provisions also apply to administrative cases.

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

- ☑ a national Bar?
- ☑ a regional Bar?
- ☐ a local Bar?

Please specify:

The lawyer profession in the Republic of Croatia is regulated by the Bar Act. Pursuant to the Constitution of the RoC and the Bar Act, the lawyer profession is defined as an independent and autonomous service which ensures the provision of legal assistance to

physical and legal persons in the realization and protection of their rights and legal interests. Lawyers must associate in a chamber as an autonomous and independent organisation with the status of legal entity. The Croatian Bar Association is a non-governmental organisation which decides autonomously, independently of the authorities on the register in the Directory of Lawyers, the deletion from the Directory of Lawyers and conduct of disciplinary proceedings against lawyers. The Croatian Bar Association represents the lawyers of the RoC as one body before all domestic and international bodies. A lawyers' association is organized in each county and the City of Zagreb, whose offices are in the county or the City of Zagreb. Lawyers' associations, in contrast to the Bar Association, do not have the status of a legal entity.

See more at www.odvj-komora.hr.

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

Q 126. Croatian Bar Association
-the year of reference used under the question 126. is 2007.
-we can also indicate the number of attorney apprentices: 1600 (the year of reference:2007)

### 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:

Specialization by lawyers is regulated by the Regulations on the Requirements and Procedures for the Recognition of Specialization by Lawyers registered in the Directory of Lawyers of the Croatian Bar Association. The specialization is recognized to those with a doctorate in law three years after the acquisition of this academic degree and a minimum of two professional papers, and to other lawyers eight years after registration in the Directory of Lawyers, if they have been predominately practicing law in the field for which they apply for specialization, and if during that period they have published at least three professional papers, etc. The four member commission is appointed by the Management Board of the Croatian Bar Association. The president of the commission is a lawyer, a member of the Management Board, two members of the Commission are, as a rule, lawyers with a masters degree or doctorate in law and the two other members of the Commission are professors at the Faculty of Law or judges of the Supreme Court. The task of the Commission is to determine whether the candidate for recognition of specialization meets the requirements and whether their specialization in a certain field of law can be recognized.

### 6. 1. 3. Fees

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

- (•) Yes
- ( ) No

**135) Are lawyers fees:**

- [x] regulated by law?
- [x] regulated by the Bar association?
- [x] 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:**

- [x] the Bar association?
- [ ] the legislature?
- [ ] other?

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

The quality criteria are based on the Regulations on the Requirements and Procedures for the Recognition of Specialization by Lawyers registered in the Directory of Lawyers of the Croatian Bar Association. The specialization is recognized to those with a doctorate in law three years after the acquisition of this academic degree and a minimum of two professional papers, and to other lawyers eight years after registration in the Directory of Lawyers, if they have been predominately practicing law in the field for which they apply for specialization, and if during that period they have published at least three professional papers, etc. The four member commission is appointed by the Management Board of the Croatian Bar Association. The president of the commission is a lawyer, a member of the Management Board, two members of the Commission are, as a rule, lawyers with a masters degree or doctorate in law and the two other members of the Commission are professors at the Faculty of Law or judges of the Supreme Court. The task of the Commission is to determine whether the candidate for recognition of specialization meets the requirements and whether their specialization in a certain field of law can be recognized.

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

- [x] the performance of lawyers?
- [x] the amount of fees?

Please specify:

Disciplinary bodies of the Croatian Bar Association decides on the complaints against the performance of attorneys:
The Bar Act prescribes in Article 71 that practicing attorneys and their apprentices are liable for minor and serious violations of duty and reputation of the profession before disciplinary bodies of the Bar Association, as defined by the Statute. In particular, damage to the reputation of the profession as an independent and autonomous service is considered a serious violation. Any violation of duty, reputation and the Code of Lawyer's Ethics also constitutes a serious violation.
Article 72 of the Bar Act prescribes the following disciplinary measures: reprimand, fine, loss of the right to practice for from 6 months to 5 years, or from 5 to 10 years. The following disciplinary measures: reprimand, deletion from the Directory of Attorney's Apprentices for a period from 6 months to 3 years, and permanent deletion from the Directory of Attorney's Apprentices.
The following may be imposed for less serious violations: reprimand or fine.
Article 51 of the Statute of the Bar Association prescribes that the following are its disciplinary bodies: the disciplinary prosecutor, the Disciplinary Court and the Higher Disciplinary Court. These bodies, that is, their members are appointed by the Assembly of the Bar Association for the term of 3 years. The Disciplinary Court adjudicates in a chamber of three judges, all of whom are practicing attorneys. The Higher Disciplinary Court decides upon appeals from the decisions of the Disciplinary Court and also adjudicates in a chamber of three judges who are practicing attorneys.
According to Article 78 of the Bar Act, an appeal is permitted against a second instance decision, that is the decision of the Higher Disciplinary Court, by which the disciplinary measure of loss of the right to practice or deletion from the Directory of Apprentices has been imposed, either temporarily or permanently, with the Supreme Court of the RoC. In the appellate proceedings the Supreme Court decides in a chamber of five, of which the president and two members are judges of the Supreme Court, and two are practicing attorneys from a list established by the Bar Association. In the case of an appeal by an apprentice, one member of the chamber, in lieu of one practicing attorney, is an apprentice from the list determined by the Association of Apprentices of the Bar Association.
Reports of disciplinary offences do not have a strict form, because they are filed by clients. Upon receipt they are sent to the practicing attorney for observations, which, in formal sense, institutes disciplinary proceedings. After the practicing attorney provides his or her observations within 15 days, the disciplinary prosecutor decides on the further destiny of the disciplinary proceedings. If charges are brought, the disciplinary court applies the provisions of the Criminal Procedure Act in disciplinary proceedings, namely summary criminal proceedings.

It is possible to complain against, that is, object to the amount of the fee charged to the client by the attorney. The Bar Association has a Commission for the Review of Specification of Costs. Its only task is to determine whether the specification of costs, that is, the invoice issued by the attorney complies with the Tariff on the Fees and Compensation of Costs for the Work of Practicing Attorneys. After having received client's complaints, they are sent to the attorney for observations, and subsequently the Commission decides on the merits of the complaint.

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

☐ the judge?

☐ the Ministry of Justice?

☑ a professional authority or other?

Please specify:

The bodies of the Croatian Bar Association:
-the disciplinary prosecutor
-the disciplinary tribunal
-the higher disciplinary tribunal
Pursuant to the Bar Act, the Croatian Bar Association, with respect to its disciplinary bodies have the sole authority to conduct disciplinary proceedings against lawyers or

apprentice lawyers. Disciplinary proceedings are conducted for less or more serious violations of duty and the reputation of the lawyers profession, which includes breaches of professional ethics, breaches of duty, criminal offences etc. Sanctions may be imposed in a range from reprimand to prohibition of practice for 10 years.

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

| | Breach of professional ethics | Professional inadequacy | Criminal offence | Other |
|---|---|---|---|---|
| Annual number | N.A. | N.A. | N.A. | N.D. |

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

| | Reprimand | Suspension | Removal | Fine | Other |
|---|---|---|---|---|---|
| Annual number | 8 | 2 | 2 | 22 | N.A |

**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**

Question 140.,141.
Note: - disciplinary proceedings and sanctions against practicing attorneys:
424 disciplinary proceedings were instituted in 2006. By 30 November 2007, 444 disciplinary proceedings had been instituted.
Croatian Bar Association do not have separate statistics regarding the reasons for the institution of disciplinary proceedings, i.e. if this was for a violation of ethics, duty or because criminal proceedings have been instituted against the attorney. Namely, all the above are serious violations of the duty and reputation of the profession, and are accordingly kept in Croatian Bar Association registers.
Source: Croatian Bar Association

The Draft proposal of the Act on Amendments and Supplements to the Attorneys Act has been aligned with the European Directives, especially with the provisions of Directive 77/249/EEC of 22 March 1977, and Directive 98/5/EC of 16 February 1998. According to the proposed Act, it will be possible for attorneys from European Union countries to work as attorneys in the Republic of Croatia.

A foreign attorney, who in his/her own country has the right to perform the work of an attorney, may, pursuant to the conditions prescribed by this Act, perform the following in the Republic of Croatia:

- the work of an attorney, using the title "attorney"

- the work of an attorney under the title "profession in home country"

- the activities of an attorney

This proposal also includes the possibility for foreign law firms to found branch offices in the Republic of Croatia. These branch offices may offer legal services including advice regarding the law of their home country, European Union law and international law. It will be possible to found these branch offices immediately after the Act on Amendments and Supplements to the Attorneys Act is passed by the Croatian Parliament, whilst foreign attorneys will be able to perform the work of attorney in the Republic of Croatia after the Republic of Croatia becomes a full member of the EU.

This Act is currently undergoing parliamentary procedure."

# 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 | ☑ | ☑ | ☑ | ☑ | ☐ |
| Family law cases (ex. Divorce) | ☑ | ☑ | ☑ | ☐ | ☐ |
| Administrative cases | ☑ | ☑ | ☑ | ☐ | ☐ |
| Employment dismissals | ☑ | ☑ | ☑ | ☐ | ☐ |
| Criminal cases | ☐ | ☐ | ☐ | ☐ | ☑ |

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

◉ Yes

○ No

If yes, please specify:
Court mediation is free of charge. Judges do it pro bono.

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

◉ Yes

○ No

If yes, please provide the number of mediators:
cca 672

**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**

Question 144.:

Note:There is no legal obligation in the RoC for mediators to be accredited, but each Centre is fully autonomous in compiling its own list of mediators.

A certain number of persons has undergone or is undergoing training for mediators. Not all those on the lists of mediators at individual Mediation Centres have undertaken professional training for mediators.

In the RoC there are lists of mediators at Mediation Centres (with the Croatian Chamber of Crafts, the Croatian Chamber of Commerce and the Croatian Association of Employers, the Croatian Mediation Association, the Economic and Social Council – Office for Social Partnership), Zagreb Commercial Court, the High Commercial Court and at 8 municipal courts.

It should be mentioned that the same persons appear on several lists of mediators.
For these reasons we do not have precise statistics on the number of mediators, and we are sending you a framework number, which is: cca 672.

Source: Croatian Chamber of Crafts, the Croatian Chamber of Commerce and the Croatian Association of Employers, the Croatian Mediation Association, the Economic and Social Council – Office for Social Partnership, Zagreb Commercial Court, the High Commercial Court

Question 145.
Source:Ministry of Justice-Civil law directorate

Note:In connection with mediation proceedings, the statistics we have available relating to mediation proceedings before the Zagreb Commercial Court, and Municipal Courts in Zagreb (Municipal Civil Court),Varaždin, Bjelovar, Osijek, Slavonski Brod, Rijeka, Vukovar, Zadar for the period from August to December 2006 are as follows:

Total number of proposals for mediation received of which
a.)Number of proposals made by trial judges:355
b.)Number of proposals made by the parties:131
Total number of cases in which parties accepted the proposal for mediation:275
Total number of cases in which parties rejected the proposal for mediation:150
Total number of cases in which mediation suceeded by concluding a court settlement:178
Total number of cases in which mediation did not succeed and the case was returend to the trial judge:196
Total number of cases in which civil contentious proceedings were resolved in another way after mediation proceedings were instituted

We are not giving statistics separately for civil cases, administrative cases, employment dismissals, criminal cases.

It should be mentioned that the mediation project at the Commercial Court began on March of 2006, and at the 8 municipal courts mentioned on June 2006.

### 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:**

The Arbitration Act regulates domestic arbitration, recognition and enforcement of arbitration verdicts, jurisdiction and acting of courts in arbitration cases. The parties may agree upon domestic arbitration for the resolution of disputes concerning rights they may dispose of freely.
The Permanent Arbitration Court at the Croatian Chamber of Commerce is the only arbitration institution in the

Republic of Croatia.

The Labour Act regulates the possibility of voluntary and obligatory mediation in collective labour disputes. Mediation is obligatory in case of a dispute concerning the conclusion, amendment or renewal of a collective agreement or a similar dispute. The Act also provides for the possibility of mediation in individual labour disputes.

The Trades and Crafts Act prescribes that the Court of Honour shall be established and will rule on violations of good practice in the performance of crafts, on the non-fulfilment of membership obligations, and on violations of the Statute.

The Croatian Chamber of Economy Act prescribes that there is a Court of Honour at the Croatian Chamber of Economy deciding on the violation of good business practice in the performance of economic activities and trade of goods and services, on the non-fulfilment of membership obligations of Chamber members, and on the violations of the Statute and other general acts of the Chamber

**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**

The development of the alternative dispute respolution system is of particular interest for the Republic of Croatia and one of the priorities of the reform of the justice system.

Concerning the activities carried out by the MoJ in order to make the Public Prosecution Service and other state bodies use mediation rather than court proceedings for the resolution of disputes in which the Republic of Croatia is a party, it should be mentioned that Criminal Procedure Act was amended on the basis of a proposal from the MoJ. The amendments consist in adding Article 186a to the Criminal Procedure Act which prescribes that persons intending to file a lawsuit against the RoC are obligated to submit a request for peaceful dispute resolution to the competent public prosecution service before filing the lawsuit. However, the public prosecution service may decide independently and autonomously whether or not it will resolve a dispute by an out-of-court settlement (Article 2 of the Public Prosecution Service Act).
MoJ supports dispute resolution by mediation because it is a quicker, more informal and less expensive procedure, which disburdens the courts. The initiative of the MoJ is to organise a meeting with the Ministry of Finance in order to arrange for the covering of costs for the purpose of more efficient implementation of the mediation procedure.
On 30 May 2006 the Agreement on Joint Participation in PHARE 2005 project "Strengthening of Mediation as a Method of Alternative Dispute Resolution" was concluded between the Ministry of Justice, the Croatian Chamber of the Economy, the Croatian Chamber of Arts and Crafts and the Croatian Employers Association. On the basis of that Agreement, the Ministry of Justice will pay to each of the contracting parties the amount of 350,000,00 in 4 instalments during the next 2 years with the first payment within 30 days from the signature of the Agreement. The purpose is the implementation of mediation proceedings in each of the mediation centres that have been so far established with those legal persons.
There were no mediation proceedings conducted by the Croatian Employers Association. The Croatian Chamber of Arts and Crafts has had 4 proposals for mediation submitted since 2005 out of which mediation was not accepted in one, and the other three were successfully conducted.
The Croatian Chamber of the Economy received in 2006 the total of 8 proposals for mediation, out of which three ended in a plea bargain, one was unsuccessful and others are pending.
Mediation is conducted in the RoC in 8 municipal courts and at the Commercial Court in Zagreb. In 2007 and 2008, it is planned to extend mediation to other municipal courts, as a rule those with the largest number of cases pending, and where there are the largest backlogs, as well as to commercial courts.
The Commercial Court in Zagreb received by 31 May 2006 the total of 171 proposals for mediation, out of which 49 agreed to the proceeding at the hearing, another 24 accepted after the court's invitation, and in 32 cases mediation was not accepted. The total of 20 cases were completed in the process of mediation, out of which 6 at a first meeting, 6 at the second, and in 7 cases no plea bargain was concluded. In two mediation cases the lawsuit was withdrawn.
From April 2006 to 20 August 2007, of 500 cases sent for mediation at the Commercial Court in Zagreb, 100 cases were concluded successfully. An analysis of the survey of parties and attorneys shows that both are very satisfied with the mediation processes implemented.
After successful mediation, the parties may make a settlement before a first instance court or a notary public. Adjustments are being made to the provisions of the Civil Procedure Act, which will enable parties to make settlements more simply in second instance courts after successful mediation.
Within the framework of the campaign to inform the public about the application of the mediation procedure, posters and brochures are being prepared that will familiarise the public with such possibilities for dispute

resolution.
3rd result of the Action Plan for the Implementation of the Strategy of the Reform of the Justice System: Development of mediation as an alternative method of dispute resolution:

The Croatian Bar Association is also founding a mediation centre, which should begin work by the end of 2007. In this way, the Bar Association is seeking to contribute to reducing the number of court cases and enable its clients to receive legal protection more quickly.

# 8. Enforcement of court decisions

## 8. 1. Execution of decisions in civil matters

### 8. 1. 1. Functioning

**147) Number of enforcement agents**

**148) Are enforcement agents:**

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

Please specify their status:
The enforcement procedure is delt by a judge and a bailiff working in a court.

**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**

147-Supreme Court of the Republic of Croatia-
N/A, the data about enforcement agents in the Croatian legal system are not available separately, as the judges control and undertake most of the action in enforcement of civil judgements (mostly judges of municipal courts). Some actions in enforcement are undertaken by other staff in courts, but there are no unified data number of the employees (non-judge administrative staff) that deal with such activities.

### 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:
Authority responsible for the supervision and the control of enforcement agents is the Court and the Ministry of Justice (for administrative staff in courts)

**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?

**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:

The Act does not provide a specific mechanism for executing court decisions rendered against public authorities, including monitoring the execution. The enforcement is carried out on the basis of the Enforcement Act in the same manner as in other cases.

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

Q 155. i 156.-Supreme Court of the Republic of Croatia

### 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:

A conclusion can be made from the parties' complaints that the most frequent complaints in enforcement proceedings are about the length of the proceedings, excessive costs, and in enforcement proceedings by selling real estate and enforcement upon motions of enforcement creditors – banks and other financial institutions, about insufficient supervision, in connection with suspicion regarding the assessment of the value of real estate and computation of interest.

**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:

The Act does not provide a specific mechanism for executing court decisions rendered against public authorities, including monitoring the execution. The enforcement is carried out on the basis of the Enforcement Act in the same manner as in other cases.

The Croatian Parliament has adopted the amendments to the Enforcement Act in July 2005. The purpose of these amendments is: faster, cheaper and simpler enforcement proceedings. The amendments provide:
-obligation to provide information on the assets of the debtor to state administration bodies and public institutions,
-abolishment of the suspensive effect of an appeal in small claim disputes
-removal of seized movables from the ownership of the debtor
-commision shops
-simplification of enforcement on motor vehicles
-simplification of enforcement on bank accounts
-possibility of enforcement on securities kept in Central Depository Agency
-register of movables valued over 50.000 HRK (6.720 Eura) and all real-estate sold in the enforcement proceedings
-notaries public will adopt enforcement decisions on the basis of an authentic document.
The amended Enforcement Act became fully operational and implemented on 1 January 2006.

**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 ☐ yes,

| | |
|---|---|
| | number: |
| Professional inadequacy | ☐ yes, number: |
| Criminal offence | ☐ yes, number: |
| Other | ☐ yes, number: |

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

| | |
|---|---|
| Reprimand | ☐ yes, number: |
| Suspension | ☐ yes, number: |
| Dismissal | ☐ yes, number: |
| Fine | ☐ yes, number: |
| Other | ☐ 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**

The Act on Amendments to the Enforcement Act (Official Gazette No 88/05) of 20 July 2005 entered into force on 28 July 2005. The Amendments to this Act have significantly accelerated and simplified the enforcement proceedings and proceedings for ensuring evidence, improved the quality of enforcement, introduced better protection of creditors, and, what is most important, contributed to the disburdening of courts in enforcement cases.

Some of the most important institutes that have been introduced through these amendments are the following:
- introduction of the principle of transparency of data on the assets of the enforcement debtor by prescribing that certain legal persons and bodies are obligated to provide data on the assets of enforcement debtors or misdemeanour charges will be brought against them (that is, the inefficiency of enforcement was to a large extent conditioned by difficulties in determining the debtor's assets),
- prescribing the enforceability of first instance court rulings ordering the payment of claims the capital amount of which is not above HRK 1,000.00 (in case of natural persons), or HRK 5,000.00 (in case of legal persons) before the ruling becomes legally effective,
- the establishment of an inventory of immovables and movables sold in enforcement proceedings the estimated value of which is above HRK 50,000.00. These inventories are kept by the Croatian Chamber of the Economy,
- the possibility to sell movables through public commission merchants has also been prescribed. The work of public commission shop merchants is organised by the Croatian Chamber of the Economy for the territory of one or more counties depending on the number of enforcements against movables. That is, in case of enforcement against movables, after their inventory has been made, the movables must be seized from the enforcement debtor immediately. The enforcement creditor must, therefore, provide a place for their storage. In this manner the enforcement creditor has the possibility to turn to a public commission merchant who, in agreement with the enforcement creditor, may take over the movables immediately, transport them to the commission shop and sell them. The public commission merchant is entitled to compensation and reward for this in accordance with a special Ordinance. In this manner an initial nucleus for the future has been created for the creation of a parallel system (extrajudicial) that would be competent only for the implementation of enforcement,
- enforcement against motor vehicles has been specially regulated (enforcement against motor vehicles has proven to be very efficient),
- extended usage of blank promissory notes (possibility to issue blank promissory notes has been expanded from debtor traders to all debtors – natural and legal persons). Creditors may request enforcement directly on the basis of promissory notes (for example, banks, credit card companies…) and in that manner the number of court cases is decreased which contributes to the disburdening of courts,
- the institute of enforcement against securities kept at accounts with the Central Depository Agency has been

introduced,
- the enforcement of claims on bank accounts has been made functional (the possibility of enforcement against all accounts of the enforcement debtor has been introduced with the enforcement being conducted against the so-called main account, the possibility of preliminary blocking of all accounts of the enforcement debtor has been introduced),
- the participation of notaries public in enforcement proceedings has been introduced and they may order enforcement on the basis of credible documents, serve enforcement rulings to parties and include a clause on legal effectiveness and enforceability (all that, of course, when there are no objections). On the basis of the notary public's enforcement ruling that has become legally effective, the enforcement creditor may request the implementation of enforcement from banks and employers (that is, without involving the court). It should be mentioned that the possibility for notaries public to decide on enforcement motions on the basis of credible documents increases the number of places where enforcement motions may be filed, which enables speedier and more efficient realisation of rights of enforcement creditors, since the Act does not provide for territorial jurisdiction of notaries public but the selection of the notary public depends on the enforcement creditor himself. This largely contributed to the disburdening of courts.

The Republic of Croatia is obliged under Ch.24 of the National programme for the accession of the Republic of Croatia into the EU-2008, to harmonise its legislation with the EU Regulation on the european enforcement order for uncontested claims and make appropriate legislative changes in 2008.This is very sensitive issue which will take time end effort to start implementing in Croatia properly. (In this connection, it is planned to amend the Enforcement Act)

**Please indicate the sources for the questions 157 and 160**

Q 157.-Supreme Court of the Republic of Croatia

## 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).

Control functions

**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**

The Croatian Enforcement Act includes both execution in criminal and in civil matters.

# 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: | 259 |
| a public one? | ☐ yes, number: | |
| other? | ☐ yes, number and specify: | |

**167) Do notaries have duties:**

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

Please specify:

Within the framework of civil procedure notaries conduct inheritance proceedings and enforcement proceedings – rendering of rulings on the basis of credible documents. These are non-contentious civil proceedings.
In the field of providing legal advice, notaries public are authorized to provide legal advice in relation to the actions undertaken by them.
The most important actions by notaries public are the certification of public acts – the official drawing up and issuance of public documents, official certification of private documents – certification of signatures, copies, excerpts from commercial and business records, translations.
Other tasks carried out by notaries public are, in brief – receiving and keeping of documents, money and valuable items for the purpose of handing them over to other persons or to competent bodies and conducting proceedings prescribed by law upon orders by courts or other bodies – drawing up notary public acts in statements of last will and testament and in inheritance contracts, issuance of written copies, certificates, transcripts and excerpts, communication of statements, receiving statements under oath, confirmation of conclusions of sessions of assemblies and other bodies, protests regarding bills of exchange.
According to the latest laws – in accordance with the provisions of the Companies Act, notaries public play a significant role in the founding and status changes of a company.
Pursuant to the provisions of the Civil Procedure Act, notaries public may, upon an order from the court, perform services of process with the effect of a court service of process.

**Please indicacte the source for the question 166**

Q166-Croatian Chamber of Notaries Public (the year of reference used for the number of notaries-2007)

### 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:**

- [x] a professional body?
- [ ] the judge?
- [x] the Ministry of Justice?
- [ ] the prosecutor?
- [ ] other?

Please specify:
Croatian Chamber of Notaries Public and the Ministry of Justice are responsible for the supervision and the control of the notaries.

**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 amendments to the Enforcement Act were intended to disburden the courts from enforcement cases, and the new Notaries Public Act provides that notaries public may conduct enforcement proceedings on the basis of credible documents.

According to the amendments to the Enforcement Act (Official Gazzette No.88/05):
- the participation of notaries public in enforcement proceedings has been introduced and they may order enforcement on the basis of credible documents, serve enforcement rulings to parties and include a clause on legal effectiveness and enforceability (all that, of course, when there are no objections). On the basis of the notary public's enforcement ruling that has become legally effective, the enforcement creditor may request the implementation of enforcement from banks and employers (that is, without involving the court). It should be mentioned that the possibility for notaries public to decide on enforcement motions on the basis of credible documents increases the number of places where enforcement motions may be filed, which enables speedier and more efficient realisation of rights of enforcement creditors, since the Act does not provide for territorial jurisdiction of notaries public but the selection of the notary public depends on the enforcement creditor himself. This largely contributed to the disburdening of courts.

The new Inheritance Act gave notaries public the authority to conduct undisputed inheritance proceedings. In

this manner the courts were disburdened from inheritance proceedings, and parties enabled to initiate inheritance proceedings and realise their rights in a more efficient manner.

According to the Inheritance Act (OG 48/03)
The scope of work of notaries public
Article 241
(1) Notaries public as court commissioners perform activities and render decisions in inheritance proceedings pursuant to the court decision to entrust these to them and the provisions of this Act.
(2) The court may, for important reasons, always take back the conduct of inheritance proceedings entrusted to the notary public, and conduct the hearings itself or entrust them to another notary public.
(3) The important reasons from paragraph 2 of this Article are: the inability of the notary public due to illness or some other reason to do the work, obvious negligence of legal obligations by the notary public or other important reasons, in the judgment of the court.
(4) No appeal is permitted against the court decision from paragraphs 1 and 2 of this Article.
Procedure
Article 242
(1) Notaries public shall perform the activities entrusted to them in inheritance matters pursuant to the provisions of this Act by which the court conducts the proceedings.
(2) In proceedings conducted before a notary public, the party may be represented according to the provisions applicable to representation in non-contentious proceedings.
Time limits for conduct of proceedings
Article 243
(1) The notary public is obliged to conduct the proceedings entrusted to him, inheritance proceedings, within the time limit which the court sets, counting from the day he receives the case.
(2) If the notary public, for justified reasons, does not succeed in completing the work within the time limit from paragraph 1 of this Article, he shall send a report to that effect to the court, explaining the reasons why he did not conclude the proceedings

Notaries public, in the period from 1 November 2006 to 31 August 2007, resolved a total of 214,177 enforcement cases, as well as 26,809 inheritance cases.

In February 2007 the Act on the Amendments to the Notaries Public Act entered into force. This Act lays down additional criteria for determining the number of notary public posts. Namely, the criteria so far, as laid down by the 1994 Notaries Public Act are no longer adequate, given the economic growth that occurred in the meantime, the significant increase in legal transactions in relation to this, and the definition of powers of notaries public as commissioners of the court in inheritance and enforcement proceedings.

# 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.**

CROATIA

REFORM OF THE JUDICIAL SYSTEM

With a view to defining a strategic approach to the judicial reform, in September 2005 the Croatian Government adopted The Strategy of the Reform of the Judicial System and its Action Plan. Finally, in January 2006, the Croatian Parliament passed the Strategy and its Action Plan.

The Strategy of the Reform of the Judicial System set out priority areas for action and defined specific measures to be implemented over a short-term (0-1 year), mid-term (1-3 years) and long-term (more than 3 years) periods. The main goals of the judicial reform are to strengthen the rule of law and the independence and impartiality of the Croatian justice system and to improve the effectiveness and efficiency of the judiciary, where one of the basic preconditions is to reduce the backlog of unresolved cases, to improve court management, to strengthen professionalism through quality training and to create an objective and transparent system of career management in the judiciary. Priority areas would also be to ensure proper and full enforcement of court decisions, to improve the availability of free legal aid, to promote alternative ways of dispute resolution, to improve the prison system and to improve the IT infrastructure in the judiciary.

Two years into the implementation of the The Strategy of the Reform of the Judicial System and its Action Plan, it is evident that there is a need to have it revised. The Action Plan was envisaged as a “living document”, and the revision is an opportunity to conduct a thorough analysis of the achievements in the implementation of the Strategy to date, and an opportunity to address the ways of accelerating and improving its implementation. It became evident that it was necessary to make an analysis of the measures undertaken and the results achieved and to determine what had to be changed to improve the implementation of the judicial reform and to achieve even better results. In the implementation of the Action Plan, apart from results achieved, it also became obvious that certain measures had to be defined in more detail and more clearly, and that it was necessary to add new measures in the Action Plan. On the other hand, during the implementation of the Strategy and the Action Plan, certain weaknesses became apparent, and it was therefore necessary to redefine the measures to remedy the shortcomings and to ensure more effective implementation.

In 2008 The Croatian Government began to revise the Action Plan with a view to making the measures as specific as possible, based on the experience gained, with clearly defined goals, time limits, responsible institutions, and funds necessary to implement the reform. Furthermore, the revised Action Plan should contribute to further acceleration of the judicial reform, so that the main problems encumbering the judicial system might be resolved as soon as possible. In the revision of the Action Plan, Croatia, to a large extent, took into consideration the recommendations included in the Screening Report for Chapter 23 - Judiciary and Fundamental Rights, the recommendations contained in the annual Commission Progress Reports on Croatia and Accession Partnership, and recommendations voiced by a number of EU experts. As the reform is aimed at encouraging long-term institutional changes, it is particularly important to ensure sustainability of the results planned. To ensure successful implementation of the judicial reform, it is necessary to ensure that all stakeholders in the judicial system co-operate and provide each other with support. For that reason, the revision of the Action Plan was planned to include the widest possible circle of representatives from the judiciary. Thus the revised Action Plan was made in co-operation and in consultation with key officials from the Croatian justice system.

Croatia is now in the decisive phase of its accession negotiations for membership of the European Union. Although the issue of the judiciary reform, i.e. the functioning of the judiciary in line with the best European practices, is important for the efficient implementation of the acquis in other negotiation chapters as well, a comprehensive judicial reform will be addressed under Chapter 23 - Judiciary and Fundamental Rights. The revision of the Action Plan is set as a benchmark for opening negotiations in Chapter 23. Croatia is aware that an independent, impartial and efficient judiciary is an important precondition for the rule of law and legal security of its citizens, as well as the development of judicial co-operation with other Member States in criminal and civil matters. One of the key preconditions of judicial co-operation between EU Member States is mutual confidence and trust in their respective judicial systems. This trust arises from the respect of the standards set

in terms of independence, impartiality, professionalism and efficiency of any one judicial system within the European Union. That is why Croatia will take all actions necessary to prevent the judiciary from being an obstacle to the protection and realisation of the rights of its own citizens, as well as citizens of the European Union. The Croatian Government is determined to invest further efforts to fulfil the conditions required to make the courts and the judicial system independent, impartial and efficient in the full sense of the word as soon as possible.

During the revision of the Action Plan, its structure was also changed. The revised Action Plan consists of several chapters which are separate thematic units. The introductory part briefly states reasons for revising the Action Plan, describes the mechanism for monitoring its implementation and presents an overview of the implementation of the Strategy of the Reform of the Judicial System and its priority goals. This is followed by an overview of the measures from the previous Action Plan which have been undertaken (the undertaken measures are no longer listed in the revised plan). Further chapters elaborate on the following thematic units: independence of the judiciary, impartiality, professionalism and expertise in the judiciary, efficiency of the judiciary, free legal aid and the prison system. A new chapter relates to war crimes proceedings, where special attention is paid to impartiality in war crimes trials and protection of witnesses. As opposed to the previous Action Plan, in which measures were listed in a numerical sequence, in the revised Action Plan, the measures are grouped in thematic units or chapters. Also, the measures in the revised Action Plan are numbered in a new way, with the old numbering being stated in brackets in order to retain the layout and the connection with the previous Action Plan. In the cases where the measures from the previous Action Plan have been revised, there is a reference rev in front of the old numbering in the brackets. In the cases where some measures in this Action Plan refer to adoption of laws, time limits set refer to the time limits for submitting the proposal of a certain law into the parliamentary procedure.

Monitoring the implementation of the Action Plan is within the competence of the Independent Department for Strategic Development (hereinafter: Independent Department) within the Ministry of Justice. To ensure the best possible implementation of the designated tasks, it has been decided that the Independent Department should become a Directorate and that new staff should be recruited. Implementation of the measures included in the Action Plan is monitored through regular reports made by responsible bodies. Based on the reports, the Department makes a single final report based on which the achievements made are controlled and the Action Plan revised. Furthermore, regular revisions of the Action Plan are also one of the ways of monitoring its implementation and efficiency of its measures. In 2006, the Council for Monitoring the Implementation of the Strategy was formed. It is comprised of the highest-ranking judicial officials (such as the Minister of Justice, the President of the Supreme Court of the Republic of Croatia, the State Attorney General of the Republic of Croatia, the President of the Judiciary Committee of the Croatian Parliament, the President of the Croatian Notaries Chamber , the President of the Croatian Bar Association, state secretaries with the Ministry of Justice). The task of the Council is to encourage and to guide the implementation of the measures that form part of the judicial reform.

The revised Action Plan places its main emphasis on measures aimed at raising the efficiency of the judiciary. In defining measures, special attention was paid to reduce the number of old cases and to shorten the duration of court proceedings. With a view to raising the efficiency, the measures are grouped into following sub-groups: measures aimed at strengthening the institutional capacities for the implementation of the judicial reform, measures aimed at resolving the backlog with special emphasis on old cases, measures aimed at shortening the duration of proceedings, measures aimed at more efficient organisation of the judicial system with special emphasis on rationalisation of the network of courts, measures aimed at unification of case law, measures connected with investments in the infrastructure and equipment (introduction of modern information technologies), measures of strengthening the judicial inspection, measures aimed at improving relations with the media and the public and measures aimed at expanding alternative dispute resolution. The measures are mutually connected and complementary.