



EUROPEAN COMMISSION FOR THE EFFICIENCY OF JUSTICE
(CEPEJ)

SCHEME FOR EVALUATING JUDICIAL SYSTEMS 2007

Country: Poland

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

38125479

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

	Amount
State level	57430900000
Regional / entity level	

3) Per capita GDP (in €)

7169

4) Average gross annual salary (in €)

7664

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

1 Euro = 3,8787 PLN

Please indicate the sources for the questions 1 to 4

Central Statistical Office

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 €)

1211751000

7) Please specify

above amount represents budget for courts only

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

Annual public budget allocated to (gross) salaries	<input checked="" type="checkbox"/> Yes	603512000
Annual public budget allocated to	<input checked="" type="checkbox"/> Yes	

computerisation (equipment, investments, maintenance)		32804000
Annual public budget allocated to justice expenses	<input checked="" type="checkbox"/> Yes	154114000
Annual public budget allocated to court buildings (maintenance, operation costs)	<input checked="" type="checkbox"/> Yes	77853000
Annual public budget allocated to investments in new (court) buildings	<input checked="" type="checkbox"/> Yes	178787000
Annual public budget allocated to training and education	<input checked="" type="checkbox"/> Yes	631000
Other (please specify):	<input checked="" type="checkbox"/> Yes	164050000

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)

Increase of public budget (calculated in PLN – without taking account the changes in exchange rate to Euro. 2001 = 100%.

2002 – 115,21%

2003 – 128,05 % to 2002 budget

2004 – 112,16% to 2003 budget

2005 – 109,11 to 2004 budget

2006 - 109, 11 to 2005 budget

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:

For criminal cases – private indictment cases

For other than criminal cases (civil cases) – employment cases, child support cases

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

363099000

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

1507679000

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

21724000

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 €)**

295928000

17) Is the budget allocated to the public prosecution included in the court budget? Yes No**18) Authorities formally responsible for the budget allocated to the courts:**

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

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

Ministry of Finance
National Supervisory Board

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**

Spending from court budget listed as "other" includes expenses for pension plan for judges.

As a general rule, the all courts' budget are prepared, allocated and managed separately, however within budget of the State.

Budgetary proposals are produced by each Court of Appeal (its Administrative Director and President) which includes all spending for all courts located in its jurisdiction. Such proposals are sent to the national Council of Judiciary for acceptance and opinion. After verification and giving positive opinion the Council send the tangible budgetary proposal to the Minister of Justice who includes it to a proposal for the State budget covering spending in a whole "justice" sector then send it to Ministry of Finance for final preparation. Draft budget is first approved by the Council of Ministers and then adopted by the Parliament.

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

Ministry of Justice, budgetary Departement

2. Access to justice

2. 1. Legal aid

2. 1. 1. Principles

20) Does legal aid concerns:

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

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

Exoneration of initial fees

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

- Yes
 No

If yes, please specify:

Exoneration of court fees works as a main element of legal aid. Such decision always follows other forms of aid like granting free of charge legal representation in court 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:

court fees can be exonerated by courts' decisions always in a cases that require courts' action within execution or enforcement proceedings.

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

	Number
Total	-
Criminal cases	-
Other than criminal cases	-

25) In a criminal case, can any individual who does not have sufficient financial means be assisted by a free of charge (or financed by public budget) lawyer?

- Yes
- No

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

	No	Yes	Amount
for criminal cases?		yes	not applicab
for other than criminal cases?		yes	not applicab

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

- Yes
- No

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

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

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

- Yes
- No

Please specify:

The Insurance Companies do not offer any such standard insurance for the customers, however due to freedom of contracting individual contract can be negotiated.

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

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

You can indicate below:

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

Q 26 - There is no fixed income or property limits applicable as asset test. Each case is assessed individually with taking account all financial, family, professional and other useful and relevant circumstances to evaluate ability to pay the fees.

Please indicate the sources for the questions 24 and 26

Rules of granting the legal aid and evaluation of applicants' property status is defined by regulations.

2. 2. Users of the courts and victims

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

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

legal texts (e.g. codes, laws, regulations, etc.)?	<input checked="" type="checkbox"/> yes	WWW.sejm.gov.pl
case-law of the higher court/s?	<input checked="" type="checkbox"/> yes	WWW.sn.pl
other documents (for example forms)?	<input checked="" type="checkbox"/> yes	WWW.ms.gov.pl

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:

Full information for victims on their rights includes governmental document – “Victims’ Rights Charter”. Every person can obtain the Charter easily in court buildings and other public institutions as well as at NGOs.

Public system of helping victims has been introduced in 2005 by law on state compensation for the victims of specific crimes. . Victim can apply to District Court for granting a compensation that may assist financially in case of lost of earnings, medical treatment and medical material expenses or funeral spendings. Compensation is paid from public funds. Its amount is limited up to 3093 Euro.

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

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

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

Yes

No

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

a public fund?

a court decision?

private fund?

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

Intentionally committed violent crimes effected in bodily injury or death.

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

- Yes
 No

If yes, please specify:

Statistics show that only 11% of applications have brought positive decision granting compensation. Average amount of compensation was 500 Euro.
These numbers do not reflect the accurate situation and evaluation because system was initialized just in 2006.

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:

Victim has the possibility to file civil action on compensation against perpetrator directly within criminal proceeding together with criminal charges. Prosecutor can support civil action on behalf of the victim together with prosecution.

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:

Each prosecutors' decision on discontinuation of the criminal proceeding can be challenged before court by the victim.

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

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

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

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

Excessive length of proceedings (both at the court or/and enforcement stage) – under the party's motion a pecuniary satisfaction can be granted by the higher court in amount up to 10 000 PLN (2.578 Eur.) according to the Law of June 17th 2004.

Wrongful arrest/condemnation – Trying such case the court is free to grant the compensation and pecuniary satisfaction in any amount justified in individual circumstances. Especially, there is no fund or up or down limitation in such claims. Each case is assessed individually under the court's discretion with taking account all relevant factor e.g. property and income loss, personal hardship, etc.

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:

42) If yes, please specify:

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

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

Yes

No

44) If yes, please specify:

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

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

Described above procedure is limited to complaints concerning the administrative performances of the courts only: e.g. failure in case management, lack of an action, etc. That is a subject to the administrative supervision and controlling competences due to hierarchic structure of the justice system. This competences generally belong to President of the court as well as Minister of Justice. The role of Ombudsman derives from his broader function of caring of the citizens rights in relation with public offices. Such system allows to react and upgrade performances in individual cases, however can not be seen as fully effective treatment for general disadvantages of justice as a whole.

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)	360
Specialised first instance courts (legal entities)	27
All the courts (geographic locations)	326

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

Administrative Courts – 16 Provincial Administrative Courts and 1 High Administrative Court – claims on unlawful administrative decisions and competence disputes between administration.

Military Courts – 10 Garrison Courts, 2 provincial Military Courts – deals with crimes committed by Military members.

1 Antitrust Court - deals with the cases of violation of free competition in the market e.g. abusing dominant position, monopoly practices, etc.

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:

Several new District courts have been set up. New courts were established due to the splitting of overpopulated and overworked former jurisdictions in purpose to facilitate its customers the access to the court and upgrade the management of caseload.

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

	Number
a debt collection for small claims	315
a dismissal	275
a robbery	360

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

Small civil claims

- property claims based on contracts and breach of contracts relations, with total value not exceeding 10. 000 PLN (2.578 Eur.)
- rent payment disputes in a housing matters
- court's deposits

Please indicate the sources for the question 45

Ministry of Justice, Department of Organisation

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)

9853

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

	Number
gross figure	0
if possible, in full time equivalent	0

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

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

43613

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

- Yes
- No

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

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

0

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

31623

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

non-judge staff (Rechtspfleger), with judicial or quasi-judicial tasks having autonomous competence and whose decisions could be subject to appeal	<input checked="" type="checkbox"/> Yes	1417
non-judge staff whose task is to assist the judges (case file preparation, assistance during the hearing, keeping the minutes of the meetings, helping to prepare the decisions) such as registrars	<input checked="" type="checkbox"/> Yes	20543
staff in charge of different administrative tasks as well as of the management of the courts (human resources management, material and equipment management, including computer systems, financial and budgetary management, training management)	<input checked="" type="checkbox"/> Yes	5915
technical staff	<input checked="" type="checkbox"/> Yes	3748

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

Ministry of Justice, Department of Human Resources

3. 1. 3. Prosecutors

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

5951

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

Yes

No

If yes, please specify:

Prosecution is provided generally by Public Prosecutors. Other public functionaries in limited scope may have similar duties but only under the individual permission of law and strictly limited to enumerated types of crimes. According to law such functions may have for example functionaries of Coast Guard, Police, Customs, Revenue Service, Forest and Wildlife Guard, Military Gendarmerie.

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

4692

Please indicate the sources for the questions 57 and 59

Ministry of Justice, department of Human resources

3. 1. 4. Budget and New technologies

60) Who is entrusted with the individual court budget?

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

61) You can indicate below:

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

Individual courts' budget are prepared and managed by:
 Chief of administration or president of the Court - at District court level
 Administrative Director - at Circuit Court level
 Administrative Director - at Court of Appeal level

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

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

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

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

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

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

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

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

- Yes
 No

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

Ministry of Justice, Department of Organisation, Division of Statistics,
 Al. Ujazdowskie 11
 00-950 Warszawa

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

in 2007 electronic base of courts' forms has been integrated with the website of the Ministry of justice and linked with courts individual websites

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

Ministry of Justice, IT Department.

3. 2. Monitoring and evaluation

3. 2. 1. Monitoring and Evaluation

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

- Yes
 No

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

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

Please specify:

- "stability" of judgements – ratio of curt decisions being annulled or reversed within appeal procedure,
- court decisions being challenged within procedure of appeal,
- "workload handling" - ratio of incoming cases to courts' closing decisions.

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

- Yes
- No

Please specify:

System is abased on statistical evaluation of number of performance indicators and supervisory tasks of Presidents of the court and Minister of justice who monitor performance on courts and individual judges.

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

- Yes
- No

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

- Incoming cases
- Length of proceedings (timeframes)
- Closed cases
- Pending cases and backlogs

- Productivity of judges and court staff
- Percentage of cases that are treated by a single sitting judge
- The enforcement of penal decisions
- Satisfaction of employees of the courts
- Satisfaction of clients (regarding the services delivered by the courts)
- Judicial and organisational quality of the courts
- The costs of the judicial procedures
- Other

Please specify:

Waiting time between the day the case comes to the court and the first day of trial in this case.

71) Are there performance targets defined for individual judges?

- Yes
- No

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

- Yes
- No

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

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

Please specify

For certain cases the law imposes timeframe for performing specific action or handling specific matters.

President of the court sets the performance target with using statistically calculated indicators of average performance that court and individual judge is expected to achieve.

74) Please specify the main targets applied:

- keeping with the timeframes for specific actions imposed by law,
- productivity of court and judges – number of decided cases to number of incoming cases, backlogs generating,
- number of decisions reversed or annulled within procedure of appeal.

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

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

Other, please specify:

President of the Court and President of higher Court in respect to lower courts in its jurisdiction using the statistical indicators and / or visitations performed by visiting judges.

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

- Yes
- No

If yes, please specify:

The most important indicator comes from evaluation of judgements through second instance procedure. In this purpose "judgement stability" ratio are in use as a ratio of judgements reversed or annulled in procedure of appeal.

77) Do you have specialised court staff which is entrusted with quality policy and/or quality systems for the judiciary?

- Yes
- No

78) Is there a system enabling to measure the backlogs and to detect the cases which are not processed within a reasonable timeframe for:

- civil cases?
- criminal cases?

administrative cases?

79) Do you have a way of analysing waiting time during court procedures?

Yes

No

If yes, please specify:

- time between the day case comes to court and first day of trial in this case,
- time between the day of lodging the motion of appeal and first day of trial in second instance court,
- real time for distributing to the parties of the written copy of court order with written reasoning of judgement.

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 performance is an ongoing task of President of the court and Judges – chiefs of divisions in that court, They are obliged to identify the cases that are handle for a time longer than statistically required and provide administrative supervision in court actions in these cases.

Visitations are performed due to plan of visitation prepared by higher court or ad hoc.

Visitation in-depth that examine evaluation of efficiency and quality performances is obligatory in initiating the promotion procedure in respect to individual judge.

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

Yes

No

If yes, please specify:

Similarly to the evaluation system of the courts, the prosecution office's performance are evaluated due to criteria from statistical data collected by the Ministry of Justice.

In case of prosecutors offices the monitoring is additionally strengthen by supervision and coordination function applied by superior officers in relation to his/her subordinates.

The system of visitation and Visiting Prosecutors helps the supervision.

You can indicate below:

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

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

Ministry of Justice, Department of Organisation

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) ?

0

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):

522

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)	1	3	42	5
Civil proceedings - Article 6§1 (non-execution)	-	-	-	-
Criminal proceedings - Article 6§1 (duration)	10	1	5	1

Please indicate the sources for the questions 82 and 84

Ministry of justice, Division of Statistics, HUDOC database.

Q 82 – data not available

Q 83 – this number represents decisions on exclusion of judge from the proceeding in Circuit Courts only in all types of cases. These decisions combines number of successful challenges filed by the parties with decisions based on own motion of the judge (in cases that judge him/herself realize circumstances which can question impartiality in the eyes of observers).

4. 2. Timeframes of proceedings

4. 2. 1. General information

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

- civil cases?
 criminal cases?
 administrative cases?

If yes, please specify:

Civil procedure includes rules of interim proceedings and temporary court's decision - generally for situations when a risk, that a claim could not be enforceable or the need

for interim solution exist. However in criminal and administrative proceedings there are no - what any can call – procedure, there is number of provisions for dealing with emergency situations like for example: emergency witness hearing in criminal matters or ex officio emergency orders in minor custody cases.

86) Are there simplified procedures for:

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

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

The situation has not been changed since the last edition of this questionnaire.

Simplified procedures are still in use for small civil claims cases (up to amount of 2578 Euro) and petty offences. The new procedure that was prepared in 2006 but introduced is 2007 is so called "24- hours court". This is simplified and speedy procedure in certain criminal offences committed in flagrante.

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:

Final decision is taken by the court. Case management and administration belong exclusively up to the court, so there is no space for formal agreements in case processing. However court's decision are non-negotiable, practically courts always take an account the other participant's suggestions.

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)	750577	4171029	4047701	874992
1 Civil (and commercial) litigious cases*	384200	1019912	1006947	395878
2 Civil (and commercial) non-litigious cases*	208619	1622544	1522585	308564
3 Enforcement cases	1962148	1688256	1668136	1982268
4 Land registry cases**	295727	2639389	2606013	334169
5 Business register cases**	15869	564350	555297	22548
6 Administrative law cases	43969	63260	79541	27688
7 Other	157758	1528573	1518169	170550
Total criminal cases (8+9)	343077	2143110	2099058	384369
8 Criminal cases (severe criminal offences)	171094	560539	542346	189277
9 Misdemeanour cases (minor offences)	171983	1582561	1556712	195092

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

Misdemeanour cases (minor offences) – the offences that the law restrict maximum penalty up to 1 month of detention or up to 1289 Euro fine or both of them. All other criminal cases constitutes severe cases.

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)	58308	234399	249007	42161
1 Civil (and commercial) litigious cases*	51008	206401	219659	37698
2 Civil (and commercial) non-litigious cases*	7300	27998	29348	4463
3 Enforcement cases	0	0	0	0
4 Land registry cases**	0	0	0	0
5 Business register cases**	0	0	0	0
6 Administrative law cases	6848	16157	14675	8330
7 Other	0	0	0	0
Total criminal cases (8+9)	32665	361845	361025	32892
8 Criminal cases (Severe criminal offences)	11928	104373	103139	13121
9 Misdemeanour	20737	257472	257886	19771

cases (minor offences)				
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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)	17008	6318	6554	1470
1 Civil (and commercial) litigious cases*	-	-	-	-
2 Civil (and commercial) non-litigious cases*	-	-	-	-
3 Enforcement cases	-	-	-	-
4 Land registry cases**	-	-	-	-
5 Business register cases**	-	-	-	-
6 Administrative law cases	-	-	-	-
7 Other	6	79	75	10
Total criminal cases (8+9)	967	2552	2672	887
8 Criminal cases (Severe criminal offences)	-	-	-	-
9 Misdemeanour cases (minor offences)	-	-	-	-

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

	Pending cases on 1 Jan. '06	Incoming cases	Decisions	Pending cases on 31 Jan. '06
Divorce cases	67809	105534	120808	52535
Employment dismissal cases	8985	20960	20982	8963
Robbery cases			9981	
Intentional homicide case			545	

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	2,89	0,88	5,97	2,97	-
Employment dismissal cases	13,88	5,2	5,13	2,80	-
Robbery cases	-	-	4,3	2,8	-
Intentional homicide	-	-	4,3	0,9	-

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

The termination of marriage can be decided as a divorce or separation. The regulation of separation shows some similarities to that of divorce. Separation is decided by the court when there is a complete (but not irretrievable) disintegration of matrimonial life. The judicial decree of separation in principle has the same effect as a divorce. The most significant difference is that separated spouses are not allowed to remarry. Other grounds for marriage dissolution and its effects are in common for both separation and divorce as well as the same procedural condition are applied.

Dissolution cases are examined in a litigation in the first instance by Circuit Court, which constitute the second level in the structure of court system (between District Court and Court of Appeal). The competence *ratione loci* is determined by: - 1st - the last common place of residence or - 2nd - the defendant place of residence or - 3rd - the applicants place of residence.

Dissolution proceedings is initiated by lodging a petition for divorce or separation by one of the spouses. The petition can include request for additional decisions like for example property partition, custody of minor children, child support or alimony. A statement for counterclaim is inadmissible although the defendant may, as a result, also request a divorce or separation.

Lodging the petition the petitioner is obliged to pay an interim court fee in the amount described by the court - unless the petitioner is granted a legal aid. The final determination of court fee goes with court's judgment in the case.

Since the service of lawyer is not obligatory in dissolution proceedings, each party may personally go to the competent court, undertake actions in connection with the legal proceedings, lodge motions, appoint an attorney or request the court to appoint an attorney (legal aid motion). Marriage will be dissolved at the moment when the judgment becomes final - when the judgment cannot be appealed because of the expiry of time-limit for filing an appeal or, of the exhaustion of the appeal process. The court establishes the disintegration of matrimonial life according to the general rules of the hearing of evidences. The decision may not be exclusively based on the admission of the claim or of certain facts by the defendant. Hearing the testimonies of both parties are obligatory. If there is prospectus for repairing the marriage, the court may order an mediation proceeding having first consent of both parties.

Judgment is pronounced orally. Since this moment the party may request for written copy of judgment and its reasoning in 7 days time-limit. The appeal can be filed in due term of 14 days after receiving copy of judgment an reasoning. The appeal is to be filed in court that issued a judgment. The appeal will be decided by Court of Appeal. The cassation from the judgment issued in appeal proceeding is inadmissible.

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

The length of civil proceeding is calculated approximately (in months) with a use of statistical indicator of outstanding cases - which is the ratio of cases not completed in a specific period (month) to the average number of incoming cases in that period. Statistical table groups the cases in categories that were pending for 3 months period, 6 months, 1 year, 2 years, 5 years and over this period.

However the method of calculation is similar in criminal cases reports do not reflect specific types of crimes but are based on indicators concerning all criminal cases held by the District, Circuit (first and second instance) or Court of Appeal.

The numbers given as average length of proceeding in robbery and homicide cases reflects average length of proceedings calculated statistically for courts and types of cases that include these two specific types of crime. However this is not a accurate answer in this question, this allows to give the statisticly closest answers to questions asked.

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

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

Please specify:

The constitutional role of the Public Prosecutors Office is to protect the rule of law in the

State. In this respect, the most significant function is to investigate crimes and support the charges before the criminal court.

Prosecutor can not impose penalty by own decision but can negotiate a penalty wit the defendant who plead guilty. Court may accept negotiated penalty and issue a judgement without formal proceeding on evidences.

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

Yes

No

If yes, please specify:

However the most significant function is to investigate crimes and support the charges before the criminal court, is not limited to that. In principle, the Prosecutor has the right to initiate any civil or administrative proceeding or join to any pending proceeding when the protection of the rule of law requires (exceptions are set out by law – for example: divorce or separation proceedings).

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	1556611	519591	160752	0	244399	428625

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

Q 92 - number of decided robbery and homicide are calculated based on number of persons included in final judgemnts. Staistics donot allow to separate numbers of pending and incoming cases in specific types of crime. Divorce - means disolution of marriage in two forms (divorce and separation) and all number concerning divorce are the combination of both forms.

Q94 - the lenght of proceedings is in months

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

Ministry of Justice, Division of Statistics

5. Career of judges and prosecutors

5. 1. Appointment and training

5. 1. 1. Recrutement, nomination and promotion

99) How are judges recruited?

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

If other, please specify:

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

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

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

- Yes
- No

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

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

Procedure:

- President of the Higher Court pronounces vacated judges' position this court and opens application procedure.
- Judge apply for the vacated position.
- President of higher court orders evaluation (in form of visitation) of overall performance (efficiency and quality) of the applicants.
- Applicant is chosen and accepted by the judges corporation body in higher court.
- Chosen applicant is presented to National Judiciary Council for acceptance and nomination.
- Presidential appointment.

Criteria:

- At least 4 years practice as District Court judge in case of promotion to Circuit Court.
- At least 6 years practice as Circuit Court judge in case of promotion to Court of Appeal.
- Perfect outcome of performance evaluation.

103) How are prosecutors recruited?

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

If other, please specify:

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

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

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

- Yes
- No

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

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

Prosecutors are promoted to higher level by the appointment of Minister of Justice – Prosecutor General. To be promoted prosecutors must have an working experience as a lower level prosecutor for a defined period of time and enjoy positive opinion of his/her professional performance.

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

- Yes
 No

Are there exceptions? Please specify:

The only exception constitutes Constitutional Court. Judges to this court are appointed for the 9 years term.

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

- Yes
 No

Are there exceptions? Please specify:

There is no exceptions, Prosecutors enjoy lifetime mandate.

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

for judges

yes, please
specify the
length

for prosecutors

yes, please
specify the
length

You can indicate below:

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

5. 1. 2. Training

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

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

111) Frequency of the training of judges:

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

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

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

113) Frequency of the training of prosecutors:

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

You can indicate below:

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

3 years initial training for judges and prosecutors is mandatory. Exemptions can be applied for practitioners in other legal professions and candidates with academic degree in law.

In service training for judges and prosecutors is generally non-mandatory and organised occasionally, however some trainings for selected group of participants are compulsory (e.g. use of electronic registration system by the judges working with land registry).

Ministry of Justice offers to all judges and prosecutors special editions and informational materials. For example, edited and freely distributed "Bulletin for European Law" includes information on recent judgements of European Court of Human Rights and works of the Council of Europe in the legal field.

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	14904	12232
Judge of the Supreme Court or the Highest Appellate Court	37403	25537
Public prosecutor at the beginning of his/her career	14904	12232
Public prosecutor of the Supreme Court or the Highest Appellate Instance	37403	25537

115) Do judges and public prosecutors have additional benefits?

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

116) If other financial benefit, please specify:

Non-commercial loans for housing purposes.

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

Teaching	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Research and publication	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Arbitrator	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Consultant	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Cultural function	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Other function	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

118) If other function, please specify:

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

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

120) If other function, please specify:

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

- Yes
 No

If yes, please specify:

Please indicate the source for the question 114

Ministry of Justice, Budgetary Department

5. 2. 2. Disciplinary procedures

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

Investigation and supporting charges against judges provides Disciplinary Speaker (Rzecznik Dyscyplinary) and

his/ her Deputies. Speaker is a member of the judiciary nominated by the National Council of Judiciary. The Deputies are acting within Court of Appeal and are selected and nominated by judges of this court. Speaker can initiate proceeding on his/her own power or on the request of the Minister of Justice or President of the Court.

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

Judges are responsible for disciplinary violation. The cases are decided by disciplinary courts set up within judiciary – Court of Appeal as a first instance, Superior Court as second. The disciplinary courts for prosecutors in two instances are set up at Minister of Justice – General Prosecutor. The disciplinary proceeding are litigious. The list of sanctions are laid down by law.

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

	Judges	Prosecutors
Total number (1+2+3+4)	60	76
1. Breach of professional ethics	19	16
2. Criminal offence	2	17
3. Professional inadequacy	17	43
4. Other	22	0

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

	Judges	Prosecutors
Total number (total 1 to 9)	44	41
1. Reprimand	37	7
2. Suspension		
3. Withdrawal of cases		
4. Fine		
5. Temporary reduction of salary		11
6. Degradation of post		
7. Transfer to another geographical (court) location	6	2
8. Dismissal	1	
9. Other		21

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

Suspension is not listed as a sanction. Within disciplinary proceedings suspension is a procedural measure that may be imposed for the time of disciplinary proceedings. In 2006 such measures were used in 5 cases as concern judges and 11 prosecutors.

Catalogue of sanctions does not include fine.

6. Lawyers

6. 1. Statute of the profession

6. 1. 1. Profession

126) Total number of lawyers practising in your country

25972

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.

There is a monopoly of representation only before the Supreme Court.

Regarding civil cases it is allowed to be represented not only by a lawyer but also by a family member, a joint participant, by an association or by a trade union

Regarding criminal cases defendant or victim can be represented only by a lawyer (an advocate but or in some cases also by a legal adviser)

Regarding administrative cases it is allowed to be represented not only by a lawyer (advocate, legal adviser) also by any individual who has an active capacity

The profession of lawyer is organised as advocates or legal advisors. This two-fold organisation comes with historical distinction on corporate lawyers (legal advisors) and advocates. Both have right to represent clients before courts, however their functions slightly differ (legal advisors can represent clients in criminal matters in limited cases and can not in. Total number of lawyers constitutes numbers of advocates (6651) and legal advisors (18421) combined.

130) Is the lawyer profession organised through:

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

Please specify:

Polish Bar Council, Regional Bar Council (24 Chambers),

Polish Council of Legal Advisers, Regional Councils of Legal Advisers (19 Chambers)
The profession of lawyer is self - governing. The basic unit organising corporation of the lawyers is the Regional Chamber of Advocates or /and Regional Chamber of Legal advisor (look comment to 87). Chamber consist of all lawyers practising in geographically defined region. The chamber elects its authority which is Council headed by Dean of the Council. At a National Level representatives of local Councils create National Council (National Bar Association).

Please indicate the source for the question 126

Polish Bar Council, Polish Council of Legal Advisers

6. 1. 2. Training

131) Is there a specific initial training and/or examination to enter the profession of lawyer?

- Yes
 No

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

- Yes
 No

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

- Yes
 No

If yes, please specify:

6. 1. 3. Fees

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

- Yes
 No

135) Are lawyers fees:

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

6. 2. Evaluation**6. 2. 1. Complaints and sanctions****136) Have quality standards been formulated for lawyers?**

- Yes
- No

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

- the Bar association?
- the legislature?
- other?

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

Code of Ethics: .eg.:

- obligation to protect clients interest
- honesty, scrupolousness in contact with clients,
- keeping with proffessional efficiency,
- no combination with other proffesins, that cuold be in collision with lawyers independency,
- no false or untrue statements to the court,
- kieeping proffessional confidentiality,
- keeping client informed about his/her case,
- avoiding confilcting interests situations,
- no public advertisment,
- obligation tto offer less expensive options to clients, and many others.

138) Is it possible to complain about :

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

Please specify:

Comlaitnst about performance and brach the Code of Ethics can bie filed Regional Bar Councils.

Complaint about amount of fee is possible but because, as to the general rule, fee is subject of an free agreement, is hardly possible in practice.

139) Which authority is responsible for disciplinary procedures:

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

Please specify:

Disciplinary courts composed of practising lawyers, members of Bar.

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

	Breach of professional ethics	Professional inadequacy	Criminal offence	Other
Annual number	1213	-	-	-

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

	Reprimand	Suspension	Removal	Fine	Other
Annual number	70	38	17	28	74

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

Q 140

Given number is a total number of disciplinary proceedings initiated in 2006 against advocates and legal advisers). So far legal corporations in Poland have not collected statistic data for particular types of initiated disciplinary proceedings.

7. Alternative Dispute Resolution

7. 1. Mediation and other forms of ADR

7. 1. 1. Mediation

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

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

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

Yes

No

If yes, please specify:

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

Yes

No

If yes, please provide the number of mediators:

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

civil cases?	<input checked="" type="checkbox"/> yes, number:	1448
family cases?	<input checked="" type="checkbox"/> yes, number:	318
administrative cases?	<input type="checkbox"/> yes, number:	

employment dismissals?	<input checked="" type="checkbox"/> yes, number:	34
criminal cases?	<input checked="" type="checkbox"/> yes, number:	5052

Please indicate the source for the question 145

Ministry of Justice, Division for statistics

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:

no data available

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

As a general rule mediation is extrajudicial proceeding. Only judicial (initiated by court within court proceeding) are reflected in a courts' activity reports and statistics. If parties are successful within mediation the court case may be closed in a number of manners depending on type of case and parties request (discontinuation, repeating in a court settlement, reflecting negotiated conditions in final judgement).

Because mediation is extremely decentralized process and there is no statistical instrument for listing all (judicial and extrajudicial) mediations, no accurate numbers can be obtain. An examination performed in this matter by Council of ADR (consultative community body affiliated at the Ministry of Justice) number of mediations is growing and reach 36000 cases in 2006 (including these initiated during the court proceeding).

For court purposes list of accredited mediators that are active in courts' jurisdiction are kept by President of the Circuit Court. Mediator to be accredited has to meet requirements set forth by law.

In 2005 new law introduced possibility of mediation during the proceeding in civil matters.

8. Enforcement of court decisions

8. 1. Execution of decisions in civil matters

8. 1. 1. Functioning

147) Number of enforcement agents

644

148) Are enforcement agents:

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

Please specify their status:

Enforcement agent is a public functionary acting by the Regional Court. Performing its duties enforcement agent is bound by law and court's orders but is not subordinated to any specific authority. Control, supervision and monitoring of his/her performance as an agent belong to President of the Court, Ministry of Justice and Corporate self-governing bodies. The complaints on agent's acts (legal remedies within enforcement proceeding) are examined by the District Court. The remuneration of the enforcement agent goes directly from the enforcement fees paid by the parties.

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

National Council of Enforcement Agents, Law on Enforcement Agents

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:

-judge - president of the district court or a judge designated by the president of the court

- professional body – Corporation of law enforcement agents National Council of Law Enforcement Agents

General supervision is provided by the Ministry of Justice and presidents of courts.. The claims regarding agent's actions during enforcement procedure are decided by district courts. Agents are organised in corporate organisation at national and provincial level.

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?

-Procedural standards of quality (timeframe, time limits, etc) are stipulated by law

- Ethical standards (i.g. professionalism, proficiency, secrecy, etc) are established by corporation which takes care of setting up the dignity and ethical standards and provides supervision and control of it abeyance

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

- Yes
 No

If yes, please specify:

Please indicate the sources for the questions 155 and 156

National Council of Enforcement Agents, Law on Enforcement Agents.

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:

The biggest numbers of complaints concern the failure and/or excessive length of enforcement in child support cases.

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 on complaints for violation of party's right to trial within a reasonable time (17/06/2004). This act introduced a domestic remedy for excessive length of the judicial procedure.

The Law on enforcement agents and execution was amended in December 2007. It was aimed to simplify an access to law enforcement agents and to reduce excessive length of enforcement proceedings.

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:

the law requires that the first enforcement attempt has to be taken by an agent within 30 days time limit.

161) Disciplinary proceedings initiated against enforcement agents:

Breach of professional ethics	<input checked="" type="checkbox"/> yes, number:	12
Professional inadequacy	<input checked="" type="checkbox"/> yes, number:	14
Criminal offence	<input checked="" type="checkbox"/> yes, number:	2
Other	<input checked="" type="checkbox"/> yes, number:	18

162) Sanctions pronounced against enforcement agents:

Reprimand	<input checked="" type="checkbox"/> yes, number:	25
Suspension	<input checked="" type="checkbox"/> yes, number:	1
Dismissal	<input checked="" type="checkbox"/> yes, number:	2
Fine	<input checked="" type="checkbox"/> yes, number:	4
Other	<input type="checkbox"/> yes, number:	

You can indicate below:

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

Q 159

However specific system of measuring timeframes does not exist, the regulations require to keep by agents with number of defined timeframes to undertake expected actions. These time requirement is under supervision by the parties who can complain timeframe failure to the court or is monitored ex officio by courts in supervision procedures.

Please indicate the sources for the questions 157 and 160

national Council of Enforcement Agents, Law on Enforcement agents.

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).

Under the law, this is the judge who is acting as a penitentiary court, responsible for examine, control and deciding in several most important issues concerned to the enforcement of criminal sanctions. The court take care on the condition the penalty of deprivation of liberty is executed. This is up to the penitentiary court do decide on the measures to be granted as probation condition, conditionally release, short term licensed releases, breaks in the penalty execution, etc. The court is also responsible for enforcement of fines imposed

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

Yes

No

If yes, please specify:

Reports on fines enforcement are prepared by courts monthly and send to Ministry of Justice for evaluation.

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

For fines enforcement is responsible the court which imposed the fine. After the decision become final court call the debtor to pay the fine in a time limit of 30 days. Failure in payment has effect that the court sends a writ for enforcement to enforcement agent. If the enforcement action happens to be unenforceable, the court under the debtor agreement can convert the fine into a defined mandatory work of public benefit. Fine can also be converted into supplemental penalty of deprivation of liberty up to 12 months. Before that, the court orders hearing with participation of debtor or his/her attorney. The court can decide on conditionally suspension of execution of supplemental penalty, The debtor could make him/her free of penalty at any time with paying the fine or accepting mandatory work. Depending on circumstances the court can postpone the fine payment or divide it into the rates to be paid.

9. Notaries

9. 1. Statute

9. 1. 1. Functioning

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

- Yes
 No

166) Is the status of notaries:

a private one (without control from public authorities)?

yes,
number:

a status of private worker ruled by the public authorities?

yes,
number:

a public one?

yes,
number:

other?

yes,
number and
specify:

1773 Notary is a person of public trust when performing his/her function enjoys the protection as a public functionary. Notary operates as self employed in a private office. Notary is paid by the client. Fee limits (maximal) are set by law.

167) Do notaries have duties:

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

Please specify:

In principle the notary have a duties listed in the Law on Notary as well as other specific regulations which require that the form of documents must be notarial – prepared and produced by notary. It includes, preparing the notarial deeds, contracts and agreements, notarial wills, prepares minutes of meetings, accepts sworn statements, produces excerpts of documents, certifies copies, etc. Documnet produced by notaries have stauts of public and official document.

Please indicacte the source for the question 166

National Notary Council

9. 1. 2. Supervision

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

- Yes
 No

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

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

Please specify:

Supervision is provided by the Minister of Justice through Presidents of Courts as well as Corporate self-governing bodies organised at local and national level.

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

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.

Four main projects are subject of current public debate and under preparatory works at Ministry of Justice.

1. Reorganisation of Public prosecution system. The concept is based on idea of separation functions of Minister of Justice and Prosecutor General. Due to that in new system Public Prosecutors Office will gain independent position from governmental administration and from the judiciary. Candidate for Prosecutor General is to be chosen by National Council of Judiciary and National Council of Public Prosecutors and appointed by President for non-renewable term.

2. Unification of training for legal professions. As present, after a degree in law, preparatory for specific profession is organised separately by the specific legal corporations. Completing preparatory stage and passing corporation exams opens a career in specific profession only. The new concept provides common preparatory (training) for all legal professions and unified state (bar) exam that qualify candidates to apply for all professions.

3. New rules of recruiting to judiciary with wider involvement of already practising lawyers.

4. E-court. Establishing fully digitalized and paperless civil court for small claims that includes electronic records, electronic filing, communication between parties and delivery of decisions.