



EUROPEAN COMMISSION FOR THE EFFICIENCY OF JUSTICE
(CEPEJ)

SCHEME FOR EVALUATING JUDICIAL SYSTEMS 2009

Country: Bulgaria

National correspondent

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1. Demographic and economic data

1. 1. General information

1. 1. 1. Inhabitants and economic information

1) Number of inhabitants

7640238

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

	Amount
State level	12947643000
Regional / entity level	

3) Per capita GDP (in €)

4454

4) Average gross annual salary (in €)

3343

5) Exchange rate from national currency (non-Euro zone) to € on 1 January 2009

Please indicate the sources for questions 1 to 4 and give comments concerning the interpretation of the figures supplied if appropriate:

Data source on questions 1, 3 and 4 is the National Statistical Institute.

Q3 and Q4 - Data for 2008 is preliminary.

Data source on question 2 is the 2008 Ministry of Finance Report on Consolidated State Budget Implementation.

Question 5 - Fixed exchange rate 1 Euro=1.95583 BG levs.

1. 2. Budgetary data concerning judicial system

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

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

128186163

7) Please specify

Reference year – 2008. The amount indicated in Q 6 does not include the budget of the Prosecutor's Office of the Republic of Bulgaria, Supreme Judicial Council, the National Investigation Service and Investigation services.

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 or indicate NA (not available) in case that the information cannot be supplied

Please provide comments to explain the data provided under question 8:

Annual public budget allocated to (gross) salaries	<input checked="" type="checkbox"/> Yes	76506902
Annual public budget allocated to computerisation (equipment, investments, maintenance)	<input checked="" type="checkbox"/> Yes	854255
Annual public budget allocated to justice expenses	<input checked="" type="checkbox"/> Yes	25441538
Annual public budget allocated to court buildings (maintenance, operation costs)	<input checked="" type="checkbox"/> Yes	4172767
Annual public budget allocated to investments in new (court) buildings	<input type="checkbox"/> Yes	
Annual public budget allocated to training and education	<input checked="" type="checkbox"/> Yes	78222
Other (please specify):	<input checked="" type="checkbox"/> Yes	21132479

Comment :

The amount indicated in Q8 does not include the budget of the Prosecutor's Office of the Republic of Bulgaria, Supreme Judicial Council, the National Investigation Service and Investigation services.

In 2008 funds for construction and complete refurbishment of real estates, as well as funds for property entailed obligations, i.e. taxes, fees, rent, were covered from the budget of the Ministry of Justice. In this connection annual public budget allocated to investments in new (court) buildings is from the budget of the Ministry of Justice. The sum 1278230 euro is determined in the 2008 Law but according to the account on 31 Dec 2008 actual spent sum is 3885908 euro.

According to the last amendment of this provision of the Law on the Judiciary funds for construction and complete refurbishment of real estates, as well as funds for property entailed obligations, i.e. taxes, fees, rent, insurances and revaluations are covered from the budget of the Ministry of Justice.

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:

By indicators salary costs, others remunerations and payments for the staff, insurance contributions and maintenance, the budget of the courts is increasing. The capital expenditure for the period 2004 – 2006 is increasing, during 2007 there is no such expenditure determined, and during 2008 the expenditure are reduced by 50% in relation to 2006. This is a result of legislative changes, by which the expenditure for acquisition of court buildings and overhaul pass to the budget of the Ministry of justice.

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:

Civil Procedure Code - Court fees on the cost of action and court costs are collected upon conduct of the case. Where the action is unappraisable, the amount of the court fees is determined by the court. Where the subject matter of the case is a right of ownership or other rights in rem to an immovable, the amount of the court fees is determined on one-fourth of the cost of action.

Fees and costs of the proceeding in the cases do not be deposited:

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

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

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

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

Payment of court fees but not of court costs will be waived for:

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

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

33680554

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

Please provide information concerning the budgetary elements that included in the whole justice system budget:

. Amount 217141452

Comment :

Reference year – 2008, with included budget of the courts, the Prosecutor's Office, National Investigation Service, Investigation services, Supreme Judicial Council, the National Institute of Justice, Inspectorate within the Supreme Judicial Council for all expenditure indicators.

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

Please provide comments to explain the figure provided under question 13:

Amount 4850000

Comment :

14) If possible, please specify (if no data is available (NA) or if it does not apply to your system (NAP) please indicate it with the relevant abbreviation):

	Annual public budget allocated to legal aid in criminal law cases	Annual public budget allocated to legal aid in non criminal law cases
Amount	NAP	NAP

Comment :

The budget makes no distinction by types of cases.

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 €)

Please provide comments to explain the figure provided under question 16:

Amount 60184382

Comment :

The amount indicated refers only to the budget of the Prosecutor's Office of the Republic of Bulgaria

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	Yes	No	No	No
Other ministry	No	No	No	Yes
Parliament	No	Yes	No	No
Supreme Court	No	No	No	No
Judicial Council	Yes	No	Yes	Yes
Courts	No	No	No	No
Inspection body	No	No	No	No
Other	No	No	No	No

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

The Ministry of Finance and the National Audit Office which adopt and certify the accounts for the cash budget implementation of the Judiciary.

You can indicate below:

- any useful comments for interpreting the data mentioned in this chapter
- 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

The budget for legal aid is separated in a stand-alone programme to the budget of the Ministry of Justice. The number of cases under which legal aid is granted is increasing. In 2008, the allocated budget proved insufficient and at the end of the year, legal aid received additional funding, amounting to 1,500,000 Euros. The total budget spent in 2008 amounts to 4,850,000 euros.

Please indicate the sources for answering the questions 6, 8, 11, 12, 13, 14 and 16.

Questions 6, 8, 11, 12 and 16 - Supreme Judicial Council. Law on the 2008 State Budget of the Republic of Bulgaria and Decisions of the Supreme Judicial Council.

Questions 13 and 14 - National Legal Aid Bureau and the Decree of the Council of Ministers on the implementation of the state budget for 2008.

2. Access to Justice and to all courts

2. 1. Legal aid

2. 1. 1. Principles

20) Does legal aid concerns:

	Criminal cases	Other than criminal cases
Representation in court	Yes	Yes
Legal advice	Yes	Yes
Other	Yes	Yes

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

Legal aid is also granted for the purpose of arranging an out-of-court settlement and the preparation of papers necessary for the initiation of legal action.

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

- Yes
 No

If yes, please specify:

According to the Law on Legal Aid, the consumer only receives free legal defence. Exemption from court fees occurs under a provision of the Civil Procedure Code and is at the discretion of the court. Free legal aid can be obtained, without the person being exempted from the payment of court costs.

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

- Yes
 No

24) Number of cases granted with legal aid provided by (national, regional, local) public authorities (if no data is available (NA) or if it does not apply to your system (NAP) please indicate it with the relevant abbreviation):

	Number
Total	43000
in criminal cases	NA
Other than criminal cases	NA

Comment :

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:**

	Yes	Amount in €
for criminal cases	Yes	
for other than criminal cases?	Yes	

Comment :

In order to permit legal aid, the court examines wealth, income, health status, marital status of the person and makes an individual assessment of each application for legal aid. In the initial legal aid for consultation, for the arrangement of an out-of-court settlement and the preparation of documents for filing a case, the applicant must be eligible to receive monthly social benefits, and attests this fact with a document issued by the Social Service at his place of residence by submitting it to the National Legal Aid Bureau, which permits or refuses legal aid.

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

Please provide comments to explain the answer under question 27:

If the claim is clearly unfounded, legal aid is refused.

28) If yes, is the decision for granting or refusing legal aid taken by: the court? an authority external to the court? a mixed decision-making authority (court and external)?**29) Is there a private system of legal expense insurance enabling individuals to finance court proceedings?** Yes No

Please specify:

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

	Yes (the decision has an impact on who bears the legal costs)
criminal cases?	Yes
other than criminal cases?	Yes

You can indicate below:

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

The current legal aid system exists since 2006. It led to the expansion of the scope of legal aid, including - apart from legal representation - also initial legal aid in the form of consultations, the arrangement of out-of-court settlements, preparation and initiation of proceedings.

Initial legal aid is granted by the Chairman of the National Bureau for Legal Aid, if the person meets certain conditions, and in the case of legal representation, legal aid is granted by the court. The creation of the National Bureau for Legal Aid enabled the separation of the budget from the Judiciary, allowed for better control and efficiency of legal aid.

This refers to cases on a nationwide scale (Question 24).

Applicants fill out declarations of marital and property status and provide proof of their personal and family income, decisions for granting of social benefits or certificates that they qualify to receive such benefits.

Please indicate the sources for answering the questions 24 and 26

National Legal Aid Bureau

2. 2. Users of the courts and victims**2. 2. 1. Rights of the users and victims****31) Are there official internet sites/portals (e.g. Ministry of Justice, etc.) for the following, which the general public may have free of charge access to:**

- | | | |
|---|---|--|
| <input type="checkbox"/> legal texts (e.g. codes, laws, regulations, etc.)? Internet address(es): | <input checked="" type="checkbox"/> Yes | www.vss.justice.bg |
| <input type="checkbox"/> case-law of the higher court/s? Internet address(es): | <input checked="" type="checkbox"/> Yes | www.vks.bg ;
www.sac.government.bg |
| <input type="checkbox"/> other documents (for examples forms)? Internet address(es): | <input checked="" type="checkbox"/> Yes | www.vss.justice.bg |

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:

The websites of the National Council for Assistance and Compensation to Victims of Crime - www.compensation.bg and these of the Ministry of Interior and of organizations for the support of victims contain information on the rights of victims of crime, which is in fulfillment with the provisions of the Law on Assistance and Financial Compensation to Victims of Crime.

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

	Information mechanism	Hearing modalities	Procedural rights	Other
Victims of rape	Yes	Yes	Yes	Yes
Victims of terrorism	Yes	Yes	Yes	Yes
Children/Witnesses/Victims	Yes	Yes	Yes	Yes
Victims of domestic violence	Yes	Yes	Yes	No
Ethnic minorities	Yes	Yes	Yes	No
Disabled persons	Yes	Yes	Yes	No
Juvenile offenders	Yes	Yes	Yes	No
Other	No	No	No	No

Comment :

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?
 a private fund?

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

When in a criminal proceeding before the court the victim has filed a civil claim which has been satisfied, under the court decision compensation is due for the victim by the condemned. This applies to all crimes under the Bulgarian criminal law, no restrictions.

The Law on Support and Financial Compensation to Victims of Crime provides an opportunity for the state to provide financial assistance (compensation) to victims of certain crimes - mostly intentional severe crimes against persons resulting in death or serious bodily injury, terrorism and crimes committed by an order or as execution of a decision of an organized criminal group.

Funds for implementation of the Law on Assistance and Financial Compensation to Victims of Crime are provided from the budget of the Ministry of Justice, and they are scheduled according to the terms of the procedure for preparation of the state budget for each year.

The Court determines the amount of any particular compensation under any particular case in view of justice and within the provisions of the law.

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:

The Bulgarian Criminal Procedure Code (CPC), in cases where the victim can not protect their own rights and legitimate interests, entitles the prosecutor to enter proceedings brought by victim's complaint (Article 48 CPC), or to initiate criminal proceedings ex officio for such cases (Article 49 CPC).

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

- Yes
 No

If yes, please specify:

Art. 243 of the Criminal Procedure Code regulates the cases in which the prosecutor may suspend the criminal proceedings. A copy of the decree of the prosecutor for discontinuation of criminal proceedings is sent to the victim who has the right to appeal this decision before the relevant court. The court may confirm the prosecutor's order or annul it, and the court decision may also be appealed before the higher court, whose decision is final.

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

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

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

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

Yes. There exists a system, but there is not a determined rate and the compensations are determined by the court, for every single case in equity.

Article 2 of Law on the Liability of the State and the Municipalities for Damages provides for the State liability for any damage inflicted on citizens by preliminary criminal investigation or criminal investigation authorities, or public prosecution authorities or court as a result of unlawful:

1. arrest, including court-ordered arrest awaiting trial, where annulled on account of the absence of legal grounds;
2. criminal indictment, if the defendant is acquitted or if the criminal proceedings are dismissed on account of the alleged offence not having been committed by the person concerned or, else, such person's behaviour not constituting a crime, or the criminal proceedings having been brought after the prescribed statute of limitation period, or the alleged offence being an administrative one;
3. sentence under the Criminal Code or an administrative penalty, where the person concerned is subsequently acquitted or, as the case may be, the administrative penalty is annulled;
4. court-ordered obligatory hospitalization and medical treatment or other involuntary medical measures, where such are annulled on account of the absence of legal grounds;
5. court-ordered administrative measure, where such order is annulled as being unlawful;
6. execution of a punishment or penalty in excess of the prescribed term or amount.
7. use of special intelligence means.

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 possible, please specify:

	Yes (surveys at a regular interval: for example annual)	Yes (incidental surveys)
Surveys at national level	No	No
Surveys at court level	No	No

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

- Yes
- No

44) If yes, please specify:

Please give elements of information concerning the efficiency of this complaint procedure:

	Time limit to respond (Yes)	Time limit for dealing with the complaint (Yes)
Court concerned	Yes	Yes
Higher court	Yes	Yes
Ministry of Justice	Yes	Yes
High Council of the Judiciary	Yes	Yes
Other external organisations (e.g. Ombudsman)	Yes	Yes

Comment :

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. If no data is available (NA) or if it does not apply to your system (NAP) please indicate it with the relevant abbreviation.

	Total number
First instance courts of general jurisdiction	156
Specialised first instance Courts (legal entities)	33
All the Courts (geographic locations) * (this includes Supreme Courts and/or High Courts)	182

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

The figure 156 First instance courts of general jurisdiction (legal entities) includes 128 Regional courts and 28 District courts.

The figure 34 Specialised first instance courts (legal entities) includes 28 Administrative courts and 5 Military courts, which examine criminal offences, committed by military servants.

Total number of all courts (legal entities) is 197 and includes 128 Regional Courts, 28 District Courts, 28 Administrative Courts, 6 Military Courts, 5 Appellate Courts, Supreme Cassation Court, Supreme Administrative Court.

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

Yes

No

If yes, please specify:

48) Number of first instance courts competent for a case concerning (if no data is available (NA) or if it does not apply to your system (NAP) please indicate it with the relevant abbreviation):

	Number
a debt collection for small claims	NAP
a dismissal	113
a robbery	146

Please specify what is meant by small claims in your country (answer only if the definition has been changed since the previous evaluation cycle):

Please indicate the sources for answering the questions 45 and 48:

Supreme Judicial Council

3. 1. 2. Judges, courts staff

49) Number of professional judges sitting in courts (please give the information in full time equivalent and for permanent posts; if there is no data please indicate this with NA)**Please provide comments to explain the answer under question 49:**Number . 2166

Comment :

This is the number of actually employed professional judges in 2008, namely to 31 December 2008, taken from the establishment plans of the bodies of the Judiciary including District Courts, Regional Courts, Courts of Appeals, Administrative Courts, the Supreme Court of Cassation and the Supreme Administrative Court. This number does not include the state bailiffs and registry judges.

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 provide comments to explain the answer under question 50:**52) Is there in the legal system non-professional judges (including lay judges and excluding jurees) who are not remunerated but who can possibly receive a simple defrayal of costs? (Please indicate NA if no figures are available).****Please provide comments to explain the answer under question 52:**

	Yes	Number
Do you have non-professional judges?	NAP	NAP

Comment :

53) Does your judicial system include trial by jury with the participation of citizens? Yes No

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

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

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

There are other proceedings in which according to the Criminal Procedure Code a panel is composed of judge and court assessor(s) .

According to Article 67 of the Law on the Judiciary a court assessor is a Bulgarian national who has legal capacity, has turned 21 years and has not turned 70 years of age at the time in which he/she is appointed as a court assessor, has good reputation in society and has not been convicted of a deliberate criminal offence, notwithstanding any subsequent rehabilitation. Court assessors in military courts may be generals (admirals), officers and non-commissioned officers in permanent military service. The procedure according to which court assessors are appointed, their remuneration and other issues connected with their activity are envisaged in Decree № 2 as of 8.01.2008 for court assessors.

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

55) Number of non-judge staff who are working in courts (in full time equivalent and for permanent posts). Please indicate NA if no figures are available.

Please provide comments to explain the answer under question 55:

Number .

Comment :

56) If possible, could you distribute this staff according to the 4 following categories. If no data is available (NA) or if it does not apply to your system (NAP) please indicate it with the relevant abbreviation).

- non-judge staff (Rechtspfleger or similar bodies), with judicial or quasi-judicial tasks having autonomous competence and whose decisions could be subject to appeal Yes

- non-judge staff whose task is to assist the judges (case file preparation, assistance during the hearing, keeping the minutes of the meetings, helping to prepare the decisions) such as registrars Yes

- staff in charge of different administrative tasks as well as of the management of the courts (human resources management, material and equipment management, including computer systems, financial and budgetary management, training management) Yes

- technical staff Yes

Comment :

57) If there are Rechtspfleger (or similar bodies) in your judicial system, please describe briefly their status and functions:

3. 1. 3. Prosecutors

58) Number of public prosecutors (in full time equivalent and for permanent posts). If there is no data available please indicate it (NA).

Number . 1522

Comment :

The number of the prosecutors (administrative heads, deputy administrative heads, prosecutors and junior prosecutors) actually employed to 31 December 2008 in Regional Prosecutor's offices, District Prosecutor's offices, Prosecutor's office of Appeals, Military Prosecutor's offices, Military Prosecutor's office of Appeals, Supreme Prosecutor's office of Cassation and Supreme Administrative Prosecutor's office taken from the duly presented establishment plans by the Prosecutor's office of the Republic of Bulgaria to 31 December 2008.

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

Yes

No

If yes, please specify:

60) Number of staff (non prosecutors) attached to the public prosecution service (in full time equivalent and for permanent posts). If there is no data available please indicate it (NA).

Please provide comments to explain the answer under question 60:

Number NA

Comment :

3. 1. 4. Court budget and new technologies

61) Who is entrusted with the individual court budget?

	Preparation of the budget	Arbitration and allocation	Day to day management of the budget	Evaluation and control of the use of the budget
Management Board	No	No	No	No
Court President	No	No	No	No
Court administrative director	No	No	No	No
Head of the court clerk office	No	No	No	No

Other	No	No	No	No
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62) You can indicate below:

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

63) 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	Yes	No	No	No
Electronic data base of jurisprudence	Yes	No	No	No
Electronic files	Yes	No	No	No
E-mail	Yes	No	No	No
Internet connection	Yes	No	No	No

64) 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	Yes	No	No	No
Court management information system	Yes	No	No	No
Financial information system	Yes	No	No	No

65) 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	Yes	No	No	No
Special Website	Yes	No	No	No
Other electronic communication facilities	No	No	No	No

66) Is there a centralised institution which is responsible for collecting statistical data regarding the functioning of the courts and judiciary?

- Yes
 No

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

Supreme Judicial Council
 9 Saborna Str.,
 1000 Sofia
 Bulgaria

You can indicate below:

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

3. 2. Monitoring and evaluation

3. 2. 1. Monitoring and evaluation

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

- Yes
 No

68) 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:

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

- Yes
 No

Please specify:

70) Concerning court activities, have you defined performance indicators (if no, go to question 72)?

- Yes
 No

71) Please select the 4 main performance and quality indicators that is 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

- enforcement of penal decisions
- satisfaction of employees of the courts
- satisfaction of clients (regarding the services delivered by the courts)
- judicial quality and organisational quality of the courts
- costs of the judicial procedures
- other:

Please specify:

72) Are there performance targets defined for individual judges (if no go to question 74) ?

- 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

If other, please specify:

74) Are there performance targets defined at the level of the courts (if no go to question 77)?

- Yes
- No

75) 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

If other, please specify:

76) Please specify the main targets applied

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

- High Council of judiciary
- Ministry of justice
- inspection authority
- Supreme Court
- external audit body
- other

If other, Please specify:

78) 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:

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

- Yes
- No

80) Is there a system which measures the backlogs and which detects the cases not processed within a reasonable timeframe for:

- civil cases?
- criminal cases?
- administrative cases?

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

- Yes
- No

If yes, please specify:

82) 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):

According to Art. 54 of the Law on Judiciary the Inspectorate within the Supreme Judicial Council carries out its activity by performing checks, provided for in its annual programme. The results of the thematic inspections are sent to the Supreme Judicial Council and are subject to analysis.

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

Yes

No

If yes, please specify:

Art. 54 of the Law on the Judiciary: The Inspectorate performs checks on the organization of the administrative activity of the courts, the Prosecutor's offices and the investigation bodies.

You can indicate below:

- any useful comments for interpreting the data mentioned in this chapter**
- the characteristics of your court monitoring and evaluation system**

4. Fair trial

4. 1. Principles

4. 1. 1. General principles

84) 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)? If no data is available (NA) or if it does not apply to your system (NAP) please indicate it with the relevant abbreviation).

NA

85) 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):

86) Please give the following data concerning the number of cases regarding Article 6 of the European Convention of Human Rights (on duration and non-execution), for the year of reference. If there is no data available, please indicate it (NA).

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

4. 2. Timeframes of proceedings

4. 2. 1. General information

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

civil cases?

criminal cases?

administrative cases?

Please specify:

Civil Procedure Code

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

Interim measures in matrimonial suits - Article 323 - Acting on a petition by any of the parties, the court wherebefore the action for divorce or for marriage annulment has been brought shall rule on interim measures regarding the maintenance, the matrimonial home and the use of the property acquired during the marriage, as well as regarding the care of the children and the maintenance thereof. The court shall pronounce on any such petition during the hearing during which the said petition is submitted, unless additional evidence has to be taken. In such case, a new hearing shall be scheduled within two weeks.

Proceedings on class actions - Article 385, par. 2 -

Acting on a petition by the plaintiff, the court wherebefore the action has been brought may rule on adequate interim measures for protection of the harmed interest.

Proceeding for Recognition of and Admission to Enforcement of Judgments and Acts -

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

Precautionary and Interim Measures in referral of questions for preliminary rulings -

Article 632 - The court, acting on a motion by the parties, may decree appropriate precautionary and interim measures while the proceeding in the matter of the case is stayed.

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

88) Are there simplified procedures for:

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

Please specify (for example if you have introduced a new law on simplified procedures):

Civil Procedure Code

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

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

1. for labour remuneration, to pronounce a dismissal wrongful and to revoke such dismissal, for compensation for the period of unemployment due to the dismissal, and for correction of the grounds for the dismissal as entered in the work book or in other documents,
2. for protection of premises leased or loaned for use,
3. for establishment and cessation of an infringement of rights under the Copyright and Neighbouring Rights Act, the Patents and Utility Models Registration Act, the Marks and Geographical Indications Act, the Industrial Designs Act, the Topographies of Integrated Circuits Act, and the Protection of New Plant Varieties and Animal Breeds Act,
4. for ascertainment and cessation of violation of rights under the Consumer Protection Act,
5. for exercise of parental rights where the parents have differences in the cases referred to in Item 9 of Article 76 of the Bulgarian Identity Documents Act;
6. other actions whereof the examination in a summary proceeding is regulated in a law.

- Order for payment proceeding - Article 410 - 425

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

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

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

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

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

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

Regulation (EC) No 861/2007 of the European Parliament and of the Council of 11 July 2007 establishing a European Small Claims Procedure. This Regulation establishes a European procedure for small claims, intended to simplify and speed up litigation concerning small claims in cross-border cases, and to reduce costs. The European Small Claims Procedure shall be available to litigants as an alternative to the procedures existing under the laws of the Member States of the EU.

Criminal cases

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

- Summary proceedings - Article 356 - 361

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

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

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

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

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

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

- Immediate proceedings - Article 362 - Article 367

Article 362

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

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

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

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

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

89) 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

90) Total number of cases in the first instance courts (litigious and non-litigious): please complete the table. If the data are not available (NA) or not applicable (NAP) please indicate it in the table with the relevant abbreviations.

	Pending cases on 1 Jan. '08	Incoming cases	Resolved cases	Pending cases on 31 Dec. '08
Total of civil, commercial and administrative law cases (litigious and non litigious)*	71112	140700	150786	61026
1 Civil (and commercial) litigious cases*	NA	NA	NA	NA
2 Civil (and commercial) non-litigious cases*	NA	NA	NA	NA
3 Enforcement cases	NA	NA	NA	NA
4 Land registry cases**	NA	NA	NA	NA
5 Business register cases**	NA	NA	NA	NA
6 Administrative law cases	6044	23349	21964	7429
7 Other	NA	NA	NA	NA
Total criminal cases (8+9)	14839	26295	29192	11942
8 Criminal cases (severe criminal offences)	NA	NA	NA	NA
9 Misdemeanour and / or minor offences cases	NA	NA	NA	NA

91) Comments (including an indication of the cases that are included in the total figures of civil, commercial and administrative law case and types of criminal law cases - definition of misdemeanour cases, minor offences and severe criminal cases):

Total number of civil and commercial cases is a sum of the civil cases of all Regional courts and the I-st instance civil and commercial cases of the District courts (from the annual activity report). The data on the administrative cases is taken from the activity report of the Administrative courts in Bulgaria. The same refers to the criminal cases, the criminal cases of the Regional and the I-st instance criminal cases of the District and Military courts.

92) Total number of cases in the second instance (appeal) courts (litigious and non-litigious): please complete the table. If the data are not available (NA) or not applicable (NAP) please indicate it in the table with the relevant abbreviations).

*** Please indicate (in the comments below) which types of cases are included in the total figures of civil, commercial and administrative law cases.**

**** if applicable**

Please check the consistency of data as mentioned under question 91.

Comments (including an indication of the cases that are included in the total figures of civil, commercial and administrative law case and types of criminal law cases and possibly the existence of appeal rates for some case categories):

	Pending cases on 1 Jan. '08	Incoming cases	Resolved cases	Pending cases on 31 Dec. '08
Total of civil, commercial and administrative law cases (litigious and non-litigious)*	12379	23397	24922	10854
1 Civil (and commercial) litigious cases*	NA	NA	NA	NA
2 Civil (and commercial) non-litigious cases*	NA	NA	NA	NA
3 Enforcement cases	NA	NA	NA	NA
4 Land registry cases**	NA	NA	NA	NA
5 Business register cases**	NA	NA	NA	NA
6 Administrative law cases	NA	NA	NA	NA
7 Other	NA	NA	NA	NA
Total criminal cases (8+9)	1894	7922	8038	1778
8 Criminal cases (Severe criminal offences)	NA	NA	NA	NA
9 Misdemeanour and/or minor offences cases	NA	NA	NA	NA

Comment :

The civil and commercial cases of the Courts of Appeal and the II-nd instance civil and commercial cases of the District courts make the total number of the civil and commercial cases. The same is the situation with the criminal cases. The criminal cases of the Courts of Appeal and the II-nd instance criminal cases of the District courts make the total number of the criminal cases.

93) Total number of cases in the highest instance courts (litigious and non-litigious): please complete the table. If the data is not available (NA) or not applicable (NAP) please indicate it in the table with the relevant abbreviations.

*** Please indicate (in the comments below) which types of cases are included in the total figures of civil, commercial and administrative law cases.**

**** if applicable**

Please check the consistency of data as mentioned under question 88.

Comments (including an indication of the cases that are included in the total figures of civil, commercial and administrative law case and on possible limitations to the appeal to the highest instance court):

	Pending cases on 1 Jan. '08	Incoming cases	Resolved cases	Pending cases on 31 Dec. '08
Total of civil, commercial and administrative law cases* (litigious and non-litigious)	3184	16402	15095	4491
1 Civil (and commercial) litigious cases*	NA	NA	NA	NA
2 Civil (and commercial) non-litigious cases*	NA	NA	NA	NA
3 Enforcement cases	NA	NA	NA	NA
4 Land registry cases**	NA	NA	NA	NA
5 Business register cases**	NA	NA	NA	NA
6 Administrative law cases	NA	NA	NA	NA
7 Other				

	NA	NA	NA	NA
Total criminal cases (8+9)	NA	NA	NA	NA
8 Criminal cases (severe criminal offences)	NA	NA	NA	NA
9 Misdemeanour cases (minor offences)	NA	NA	NA	NA

Comment :

The data refers only to the Supreme Administrative Court. The numbers in the table are sum of the total number of I-st instance cases and the total of cassation cases. (from the report of the SAC for 2008)

94) Number of litigious divorce cases, employment dismissal cases, robbery cases and intentional homicide cases received and treated by first instance courts: please complete the table. If the data are not available (NA) or not applicable (NAP) please indicate it in the table with the relevant abbreviations.

	Pending cases on 1 Jan. '08	Incoming cases	Resolved cases	Pending cases on 31 Jan. '08
Litigious divorce cases*	4469	5308	6161	3616
Employment dismissal cases*	903	979	1072	808
Robbery cases	875	971	1144	702
Intentional homicide	94	139	169	64

95) Average length of proceeding (from the date of lodging of court proceedings) in days, number of pending cases more than 3 years and percentage of cases subject to appeal: please complete the table. If the data is not available (NA) or not applicable (NAP) please indicate it in the table with the relevant abbreviations.

Please provide comments to explain the answers to question 92:

	% of decisions subject to appeal	% pending cases more than 3 years	1st instance (average length)	2d instance (average length)	Total procedure (average total length)
Litigious divorce cases*	5,13	NA	NA	NA	NA
Employment dismissal cases*	58,10	NA	NA	NA	NA
Robbery cases	38,02	NA	NA	NA	NA
Intentional homicide	69,23	NA	NA	NA	NA

Comment :

96) Where appropriate, please specify the specific procedure as regards (litigious and non-litigious) divorce:

97) How is the length of proceedings calculated for the four case categories? Please give a description of the calculation method.

98) 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 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 prosecutor presses charges of and maintain the indictment for publicly actionable criminal offences. In discharge of his/her assignments the prosecutor directs the investigation and exercises constant supervision for its lawful and timely conducts in his/her capacity of a supervising prosecutor; may perform investigation or separate investigative or other procedural action; participates in court proceedings as an accuser on behalf of the state; takes measures for the elimination of infringements on the laws pursuant to the procedures herein set forth and exercises supervision for legality in the enforcement of coercive measures.

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

- Yes
- No

Please specify:

Civil cases:

- Civil Procedure Code - Court proceedings commence on a petition by the interested party or on a motion by the prosecutor in the cases specified by a law. A prosecutor may participate in the proceeding, enjoying the rights of a party, in the cases provided for by a law. A prosecutor can not perform any steps which constitute disposition of the subject matter of the case. Where the case has been commenced on an action brought by a prosecutor, the effective judgment shall be furthermore binding upon the party in the interest whereof the prosecutor has brought the action.
- The full or limited interdiction of a person may be moved for by a statement of action by the spouse, by members of the immediate family, by a prosecutor and by any person who has standing to do so. The participation of a prosecutor in these proceedings is mandatory.
- The prosecutor may bring an action for vacation of the non-contentious act issued, where the said act was rendered in violation of the law. The action shall be directed against the persons who benefit from the act.
- The petition establishment of facts is examined in public session, with the petitioner and the persons interested in the establishment of the fact being summoned. Apart from the said persons, the prosecutor is summoned as well.
- In the procedure for for declaration of the absence or death the court hears the prosecutor as well.
- A claim to annul marriage may be filed by the public prosecutor in case that any of marriage prohibition had not been respected;
- The court hears the conclusion of the public prosecutor in the procedure for adoption. The judgment may be appealed by by the public prosecutor as well. The public prosecutor shall be entitled to request termination of adoption within the time limits in cases of infringement of public interests.
- Proceedings to restrict parental rights or deprive from parental rights may be brought at the petition of the public prosecutor as well and the public prosecutor shall be heard in the proceedings.
- etc.

Administrative cases: Article 16 of Administrative Procedure Code envisages participation of prosecutor in administrative process. The prosecutor sees to the observance of legality in the administrative process and, to this end:

1. shall take action for the reversal of legally non-conforming administrative and judicial acts;
2. where so provided for in this Code or in another law, shall participate in administrative cases;
3. shall initiate or join proceedings already instituted under this Code and where the prosecutor determines that an important State or public interest so requires.

The prosecutor exercises the rights vested by the law in accordance with the rules established for the parties to the case. Upon participation in administrative cases, the prosecutor renders a conclusion.

100) Functions of the public prosecutor in relation to criminal cases – please complete this table. If the data is not available (NA) or not applicable (NAP) please indicate it in the table with the relevant abbreviations.

Please provide comments to explain the answers to question 100 and indicate in particular if the data given include traffic offences:

	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	NA	231489	22326	4577	NAP	43736

Comment :

In column 3 – suspended by the prosecutor because they were time-barred, against unknown perpetrator.

Column 4 - the act committed does not constitute a criminal offence (art. 24, paragraph 1, point 1 PPC)

Column 5 – by lack of evidence (art. 243, paragraph 1, p.2 PPC)

Column 7 – initiated cases upon introduced decisions of a public prosecutor for 2008

You can indicate below:

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

Please indicate the sources for answering the questions 90 to 95 and 100:

Questions 88 to 92 and 97 – Supreme Judicial Council.

For questions 90 and 92 of the annual activity reports of the Regional courts, District courts, Courts of Appeal and the Military courts for 2008.

5. Career of judges and prosecutors

5. 1. Appointment and training

5. 1. 1. Recruitment, nomination and promotion

101) 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

Other, please specify:

Through a competition for initial appointment and through attestation.

102) 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?

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

- Yes
- No

If no, please specify which authority is competent for the promotion of judges:

104) Which procedures and criteria are used for promoting judges? Please specify.

Attestation regulated by the Law on the Judiciary and Decree № 1 as of 5.11.2009 r. for the indicators and the order for attestation of a judge, prosecutor, investigator, administrative head and deputy of administrative head adopted by the Supreme Judicial Council.

105) 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

Other, please specify:

Through a competition for initial appointment and through attestation.

106) 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?

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

- Yes
- No

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

108) Which procedures and criteria are used for promoting prosecutors? Please specify:

Attestation regulated by the Law on the Judiciary and Decree № 1 as of 5.11.2009 г. for the indicators and the order for attestation of a judge, prosecutor, investigator, administrative head and deputy of administrative head adopted by the Supreme Judicial Council.

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

- Yes
- No

Are there exceptions? Please specify:

According to Article 123, par. 3 of the Constitution of the Republic of Bulgaria after completing a fifth year in the office of judge, prosecutor or investigating magistrate and upon attestation, judges, prosecutors and investigating magistrates become irremovable by a decision of the Supreme Judicial Council. Irremovability status is acquired after he/she has obtained a positive integrated score in his performance attestation.

110) Is there a probation period for judges? If yes, how long is this period?

	Yes	Duration of the probation period (in years)
Probation period for judges		

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

- Yes
- No

Are there exceptions? Please specify:

According to Article 123, par. 3 of the Constitution of the Republic of Bulgaria after completing a fifth year in the office of judge, prosecutor or investigating magistrate and upon attestation, judges, prosecutors and investigating magistrates become irremovable by a decision of the Supreme Judicial Council. Irremovability status is acquired after he/she has obtained a positive integrated score in his performance attestation.

112) Is there a probation period for prosecutors? If yes, how long is this period?

| | | |

	Yes	Duration of the probation period (in years)
Probation period for prosecutors		

113) If the mandate for judges/prosecutors is not for an undetermined period, what is the length of the mandate? Is it renewable?

Please specify the length

for judges? Yes

for prosecutors? Yes

You can indicate below:

- any useful comments for interpreting the data mentioned in this chapter**
- 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**

Criteria for the attestation of magistrates according to the Law on the Judiciary:

- The general criteria for the attestation of a judge, prosecutor or an investigating magistrate are:
 1. The number, type and complexity of files and cases,
 2. Compliance with terms,
 3. The number of acts confirmed and repealed and the grounds therefor,
 4. The presence of easy to understand and justified reasoning for the acts,
 5. The outcomes of inspections carried out by the Inspectorate at the Supreme Judicial Council,
 6. The presence of incentives and sanctions in the period to which the performance appraisal refers,
 7. Observation of professional ethics rules for judges, prosecutors and investigating magistrates.

The overall workload in the judicial area concerned and of the specific judicial system body, as well as the workload of the appraised judge, prosecutor or investigating magistrate, compared to that of other judges, prosecutors or investigating magistrates at the same judicial system body, shall also be taken into consideration for the purposes of performance appraisal.

- Specific criteria for the attestation of judges are:
 1. The compliance with the schedule of court hearings,
 2. The skills for conducting court hearings and drawing up records of proceedings.
- Specific criteria for the attestation of prosecutors are:
 1. The skills for planning and adopting a structured approach at taking action in pre-trial and trial proceedings,
 2. The level of implementation of written instructions and personal orders of a higher-standing prosecutor,
 3. The ability to organise the work and to direct investigation bodies and teams involved in pre-trial proceedings.
- Specific criteria for the attestation of investigating magistrates are:
 1. The skills for planning and adopting a structured approach at taking action in pre-trial proceedings,
 2. The level of implementation of written instructions and personal orders of the prosecutor.

Decree № 1 as of 5.11.2009 г. for the indicators and the order for attestation of a judge, prosecutor, investigator, administrative head and deputy of administrative head adopted by the Supreme Judicial Council regulates criteria, indicators, competent bodies, procedure and order for attestation of a judge, prosecutor, investigator, administrative head and deputy of administrative head in bodies of the Judiciary, as well as documents which should be prepared during the attestation.

5. 1. 2. Training

114) 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)
- In-service training for the use of computer facilities in the court

115) Frequency of the training of judges

	Annual	Regular	Occasional
Initial training	No	Yes	No
General in-service training	No	Yes	No
In-service training for specialised judicial functions (e.g. judge for economic or administrative issues)	No	No	Yes
In-service training for management functions of the court (e.g. court president)	No	No	Yes
In-service training for the use of computer facilities in the court	No	No	Yes

116) Nature of the training of prosecutors. Is it compulsory?

- Initial training
- General in-service training
- Specialised in-service training (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)

117) Frequency of the training of prosecutors

	Annual	Regular	Occasional
Initial training	No	Yes	No
General in-service training	No	Yes	No
Specialised in-service training (specialised public prosecutor)	No	No	Yes
In-service training for management functions of the prosecution services (e.g. head prosecutor and/or managers)	No	No	Yes
In-service training for the use of computer facilities in the public prosecution service)	No	No	Yes

You can indicate below:

- any useful comments for interpreting the data mentioned in this chapter
- comments regarding the attention given in 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 has been implemented over the last two years

The proper application of international standards in the area of protection of human rights heavily depends on effective training of magistrates in human rights. In 2007 the NIJ elaborated a sustainable training program on the European Convention of Human Rights and its protocols for judges, prosecutors and investigators. The program includes a series of qualification courses on different texts of the Convention:

- Right to life. Prohibition of torture (Art. 2 and Art. 3 ECHR);
- Right to liberty and security (Art. 5 ECHR);
- Right to a fair trial. (Art.6 ECHR – penal aspects);
- Right to a fair trial. (Art. 6 ECHR – civil aspects);
- Freedom of movement. Procedural safeguards relating to expulsion of aliens (Art. 2 of Protocol Nº 4 ECHR & Art. 1 of Protocol Nº 7 ECHR);
- Protection of property (Art. 1 of Protocol Nº 1 ECHR);
- Right to private and family life (Art. 8 ECHR & Art. 5 of Protocol Nº 7 ECHR);
- Freedom of thought, conscience and religion (Art. 9 ECHR);
- Freedom of expression (Art. 10 ECHR);
- Freedom of assembly and association (Art. 11 ECHR);
- Prohibition of discrimination (Art.14 и Protocol Nº 12 ECHR).

All seminars on the ECHR include case studies and a role play in order to familiarize participants with the European Court of Human Rights.

The case-law practice on the implementation of the Convention, as well as the training materials that were used in the training courses were summarized in the "Collection of Materials on Protection of Human Rights" which was published on CDs by the NIJ in cooperation with the Bulgarian Lawyers for Human Rights Foundation.

The fundamental rights and freedoms in the European Union as reflected in the jurisprudence of the European Court of Justice and the European Court of Human Rights have been analyzed in the manual on "Judicial Protection of Fundamental Freedoms in Bulgaria", published by the NIJ in the framework of the PHARE Twinning Project "Strengthening of the Bulgarian Judiciary. Training of magistrates and administrative staff", implemented by the NIJ in partnership with the Spanish General Council of the Judiciary – Spanish Judicial School.

The human rights training perspectives are related to the changes foreseen by the Treaty of Lisbon in the search for an adequate answer of a more effective protection of human rights and liberties of the EU citizens. The training on the basic texts of the Convention should also recognize the achievements of the Charter of Fundamental Rights of the EU, as well as the active cooperation between the European Union and the Council of Europe.

5. 2. Practice of the profession

5. 2. 1. Salaries

118) Salaries of judges and prosecutors: please complete the table. If the data is not available (NA) or not applicable (NAP) please indicate it in the table with the relevant abbreviations.

Please provide comments to explain the answers to question 118:

	Gross annual salary (€)	Net annual salary (€)
First instance professional judge at the beginning of his/her career	7227	NA
Judge of the Supreme		

Court or the Highest Appellate Court	23266	NA
Public prosecutor at the beginning of his/her career	7227	NA
Public prosecutor of the Supreme Court or the Highest Appellate Instance	23266	NA

Comment :

119) Do judges and public prosecutors have additional benefits?

	Judges	Public prosecutors
Reduced taxation	No	No
Special pension	No	No
Housing	No	No
Other financial benefit	No	No

120) If other financial benefit, please specify:

121) Can judges combine their work with any of the following other functions ?

	Yes with remuneration	Yes without remuneration	No
Teaching	Yes	No	No
Research and publication	Yes	No	No
Arbitrator	No	No	Yes
Consultant	No	No	Yes
Cultural function	No	Yes	No
Other function	No	No	Yes

122) If other function, please specify:

123) Can prosecutors combine their work with any of the following other functions ?

	Yes with remuneration	Yes without remuneration	No
Teaching	Yes	No	No
Research and publication	Yes	No	No
Arbitrator	No	No	Yes
Consultant	No	No	Yes
Cultural function	No	Yes	No
Other function	No	No	Yes

124) If other function, please specify:

125) 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 answering the question 118

Supreme Judicial Council

5. 2. 2. Disciplinary procedures**126) Which authority is authorized to initiate disciplinary proceedings against judges and/or prosecutors? Please specify:**

According to the provisions of the Law on the Judiciary (LJ) (article 312, paragraph 1) proposal for imposing disciplinary sanction of judge, prosecutor, investigator, administrative head or deputy administrative head may be made by the respective administrative head, any superior administrative head, the Inspectorate within the Supreme Judicial Council and the Minister of Justice. Proposal for imposing disciplinary sanction of state bailiff and registry judge may be made by the administrative head of the respective district or regional court or by the Chief inspector at the Inspectorate within the Minister of Justice. Disciplinary proceeding shall be started by an order, or a decision made by the sanctioning authority respectively (article 310, paragraph 1 of LJ).

The provision of article 311 of LJ lays down which authority imposes the respective disciplinary sanction. The administrative head imposes the sanctions "reprimand" and "reproach" of a judge, prosecutor or investigator. The Supreme Judicial Council imposes the sanctions reduction in the basic salary by 10 to 20 % for a period of 6 months to two years, lowering in rank or position at the same body of the judiciary for a period of one to three years, disciplinary discharge of judge, prosecutor or investigator, as well as the sanctions of administrative head or deputy administrative head. The Minister of Justice imposes the sanctions of state bailiff and registry judge.

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

According to the provisions of LJ, the authority responsible for the disciplinary proceedings of the judges and the prosecutors is the punishing authority or the disciplinary panel, depending on the position of the prosecuted person. There should be punishing authority in cases where the disciplinary sanction is imposed by the administrative head or the minister of justice. There should be disciplinary panel in cases where the Supreme Judicial Council starts disciplinary proceeding and nominates by a lot three-member disciplinary panel of its members.

128) Number of disciplinary proceedings initiated against judges and prosecutors: please complete the table. If the data is not available (NA) or not applicable (NAP) please indicate it in the table with the relevant abbreviations.**Please provide comments to explain the answers to question 128:**

	Judges	Prosecutors
Total number		

(1+2+3+4)	17	11
1. Breach of professional ethics	5	6
2. Professional inadequacy	10	5
3. Criminal offence	NA	NA
4. Other	2	NA

Comment :

During the reference period (2008) the Supreme Judicial Council has taken into consideration three demands of the Prosecutor General of the Republic of Bulgaria for dismissal of magistrates until the closure of the penal proceedings conducted against them. 16 (sixteen) of the proposals for imposing disciplinary sanctions are made by the administrative head of the unit of the Judiciary in which the relevant magistrate is working, 15 (fifteen) - by the Inspectorate within the Supreme Judicial Council, 3 (three) - of at least five of the members of the Supreme Judicial Council and 1 (one) disciplinary proceeding has started on a proposal by the Minister of Justice.

129) Number of sanctions pronounced against judges and prosecutors: please complete the table. If the data is not available (NA) or not applicable (NAP) please indicate it in the table with the relevant abbreviations.

Please provide comments to explain the answers to question 129

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

Comment :

Q 129 -1. Reprimand (Reproach, Observation) – by this indicator there is statistics on the total number of the disciplinary sanctions imposed on magistrates – 30

You can indicate below:

- any useful comments for interpreting the data mentioned in this chapter
- 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 differences in the numbers, indicated for instituted disciplinary proceedings and disciplinary sanctions imposed during the reference period (2008) are caused by the fact that from the moment of the initiation until the end of the disciplinary proceeding there are different periods laid down in the LJ. To this end for the whole motion of the cases there is a need of time. In this connection, a disciplinary proceeding may start during one calendar year and may finish during the next one.

According to the LJ the disciplinary proceeding finishes within three months from its start, and the expiration of this period is not a ground for decline of responsibility.

6. Lawyers

6. 1. Statute of the profession

6. 1. 1. Profession

130) Total number of lawyers practising in your country. If there is no data available, please indicate it (NA).

11 600

131) Does this figure include legal advisors (solicitors or in-house counsellor) who cannot represent their clients in court? If no go to question 133.

- Yes
 No
 Not applicable

132) Number of legal advisors. If there is no data available, please indicate it (NA)

NA

133) Do lawyers have a monopoly of representation in (multiple options are possible):

- 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:

Parents, children, spouse - in any litigation;

Syndicates - in cases on labor matters;

Legal advisers (appointed by labour contracts or under business relationships) - an opportunity for representation of all legal entities having such employees.

134) Is the lawyer profession organised through?

- a national bar?
 a regional bar?
 a local bar?

Please specify:

Bar associations join attorneys on the territory of one district court. These are 27 in number (on the territory of Sofia City Court and Sofia District Court there is one Bar Association). The Supreme Bar Council is the national authority of the whole Bar.

Please indicate the source for answering the questions 130 and 132:

Supreme Bar Council - Law on the Judiciary, Civil Procedure Code, Criminal Procedure Code,

Administrative Procedure Code, State Gazette – for number of lawyers.

6. 1. 2. Training

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

Yes

No

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

Yes

No

137) 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

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

Yes

No

Please provide comments to explain the answer under question 138

The minimum amount of remunerations is determined by Ordinance Nº 1 of 9 July 2004 on the minimum amount of attorneys' fees, issued by the Supreme Bar Council.

139) Are lawyers fees

regulated by law?

regulated by Bar association?

freely negotiated?

Please provide comments to explain the answer under question 139:

Within freely negotiation, there cannot be remuneration lower than the regulatory minimum, as set out in the Ordinance of the Supreme Bar Council.

6. 2. Evaluation

6. 2. 1. Complaints and sanctions

140) Have quality standards been formulated for lawyers?

- Yes
 No

141) 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):
 Law on Bar and Code of Ethics of Bar

142) Is it possible to complain about

- the performance of lawyers?
 the amount of fees?

Please specify:
 Both options are covered in the Law on Bar.

143) Which authority is responsible for disciplinary procedures

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

Please specify:

In each Bar Association, there is a disciplinary court. The competent disciplinary court is the disciplinary court of the Bar Association in which the lawyer is a member. The Supreme Disciplinary Court considers, as second instance, appeals against decisions of the disciplinary courts at the Bar Associations.

The Supreme Disciplinary Court, as a first instance court, has jurisdiction in disciplinary cases brought against members of the Bar Councils, of the supervisory councils and disciplinary courts of the Bar Associations, of the Supreme Bar Council, of the Supreme Supervisory Board and the Supreme Disciplinary Court.

144) Disciplinary proceedings initiated against lawyers: please complete the table. If the data is not available (NA) or not applicable (NAP) please indicate it in the table with the relevant abbreviations.

Please provide comments to explain the answers to question 141:

	Breach of professional ethics	Professional inadequacy	Criminal offence	Other
Annual number	35	0	2	33

Comment :

The data refer to 2009 by 30.10.09 and include only cases before the Supreme Disciplinary Court.

145) Sanctions pronounced against lawyers : please complete the table. If the data is not available (NA) or not applicable (NAP) please indicate it in the table with the relevant abbreviations.

Please provide comments to explain the answers to question 145:

	Reprimand	Suspension	Removal	Fine	Other
Annual number	2	20	1	19	0

Comment :

In the other cases acquittal decisions have been adopted. The data refer to 2009 by 30.10.09 and include only cases before the Supreme Disciplinary Court.

You can indicate below:

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

The main reforms implemented over the past two years, have been linked primarily to the improvement of the legal framework of the attorney profession in Bulgaria in accordance with EU directives. Apart from this, the Bar as a whole increased disciplinary activity, raised the requirements when conducting examinations for the acquisition of attorney rights, and also performed significant activity for continuing education of lawyers through seminars, lectures, specialized training, construction and operation of the Center for training lawyers, publication of books, etc. The experience on these issues of Bar Associations in Europe is being actively examined and fruitful international cooperation is being developed.

7. Alternative Dispute Resolution

7. 1. Mediation and other forms of ADR

7. 1. 1. Mediation

146) Does the legal system provide for mediation procedures? If no go to question 151

Yes

No

147) If applicable, please specify, by type of cases, the organisation of mediation

	Possibility for private mediation proposed by the judge or court annexed mediation	Private mediator	Public authority (other than the court)	Judge	Prosecutor
Civil and commercial cases	Yes	Yes	No	No	No
Family law cases (ex. Divorce)	Yes	Yes	No	No	No
Administrative cases	Yes	Yes	No	No	No
Employment dismissals	Yes	Yes	Yes	No	No
Criminal cases	No	No	No	No	No

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

Yes

No

If yes, please specify:

149) Number of accredited mediators. If there is no data available, please indicate it (NA)

720

150) Please Indicate the total number of judicial mediation procedures per case category. If the data is not available (NA) or not applicable (NAP) please indicate it in the table with the relevant abbreviations.

civil cases?	<input checked="" type="checkbox"/> Yes	45
family cases?	<input checked="" type="checkbox"/> Yes	77
administrative cases?	<input checked="" type="checkbox"/> Yes	15
employment dismissals?	<input checked="" type="checkbox"/> Yes	34
criminal cases?	<input checked="" type="checkbox"/> Yes	2

Please indicate the source for answering the question 150:

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

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

Mediation

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

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

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

Arbitration

Civil Procedure Code (new) - The parties to a property dispute may agree that the said dispute be settled by an arbitration court, unless the said dispute has as its subject matter any rights in rem or possession of a corporeal immovable, maintenance obligations or rights under an employment relationship. The arbitration may have a seat abroad if one of the party has his, her or its habitual residence, registered office according to the basic instrument thereof or place of the actual management thereof abroad (Article 19).

Law on International Commercial Arbitration – The Law on International Commercial Arbitration apply to international commercial arbitration, based on an arbitration agreement when the place of arbitration is on the territory of the Republic of Bulgaria. The International commercial arbitration allows civil property disputes resulting from foreign economic relations as well as disputes for filling in the gaps in a contract or its adaptation to changed circumstances, if the domicile or the seat of at least one of the parties is not in the Republic of Bulgaria.

Conciliation

Criminal Procedure Code – According to Article 24, par.4, p. 3 criminal proceedings shall not be instituted for a criminal offence actionable at the complaint of the victim and, where criminal proceedings were instituted, they shall also terminate when the victim and the perpetrator have reconciled, lest the perpetrator has failed to abide by the terms of said conciliation in the absence of valid reasons.

Law on Collective Labor Disputes - The National Institute for Conciliation and Arbitration is established with the Amendment of the Law on Settlement of Collective Labor Disputes Act. According to Art. 4a. (1) The National Institute for Conciliation and Arbitration shall render assistance for the voluntary settlement of collective labor disputes between employees and employers. It shall be a legal entity with the Minister of Labor and Social Policy, based in Sofia and having the rank of an executive agency.

The National Institute for Conciliation and Arbitration is developed as a unified, tripartite system. The Supervisory Board includes representatives of the state, the nationally represented employers' organizations and trade unions.

Law on Consumer Protection - Conciliation Committees - Article 182 - 185 The Minister of

Economy and Energy establishes conciliation committees which assist in the resolution of disputes between consumers and traders, including such in connection with guarantee liability, the right to complain of goods or services and unfair terms in contracts, commercial practices and contracts concluded with consumers. A conciliation committee includes one representative each of the Commission on Consumer Protection, designated by the Chairperson of the said Commission, a representative of a traders association and a representative of a consumer association. The conciliation committee assists the voluntary settlement of disputes through reaching an accommodation between the parties to the dispute. If a party to a dispute fails to meet the obligations thereof under the accommodation, the other party may go to court for consideration of the dispute subject to the accommodation. The Minister of Economy and Energy issues Rules of Operation of the conciliation committees.

You can indicate below:

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

8. Enforcement of court decisions

8. 1. Execution of decisions in civil matters

8. 1. 1. Functioning

152) Do you have in your system enforcement agents (judicial officers)? If no go to question 154

- Yes
 No

153) Number of enforcement agents. If there is no data available, please indicate it (NA).

385

154) Are enforcement agents (multiple options are possible):

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

Please specify their status and powers:

For state enforcement agents, matters are dealt with in Chapter Twelve of the Judicial Power Act. Pursuant to Art. 264, there are state enforcement agents at the regional courts. They carry out enforcement on private possessions. The state may also assign to them the collection of public takings in cases determined by law. The number of state enforcement agents is determined by the Minister of Justice. In regional courts, where there is no public enforcement agent, the functions of the state enforcement agent are carried out by a regional judge, designated by the chairman of the court and of which the the Minister of Justice is duly notified. Art. 265 states that state enforcement agents are appointed by the Minister of Justice after a competition. The Minister of Justice may also schedule a competition on the proposal of the chairman of the regional court.

For private enforcement agents, matters are dealt with in the Law on Private Enforcement Agents. Pursuant to Art. 2, a private enforcement agent is a person to whom the state entrusts the enforcement of private possessions. The State may also entrust the collection of public receivables to the private enforcement agent. Authorities competent to establish public claims may entrust their collection to one or more private enforcement agents. The area of operation of a private enforcement agent covers the area of the respective regional court.

In the Code of Civil Procedure, in Part Five, detailed description is given of enforcement proceedings and the powers of enforcement agents.

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

- Yes
 No
 Not applicable

156) Is the profession of enforcement agent organised by?

- a national body?
- a regional body?
- a local body?
- not applicable

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

- Yes
- No
- Not applicable

158) Are enforcement fees:

- regulated by law?
- freely negotiated?
- not applicable

Please indicate the source for answering the question 153:

Inspectorate of the Minister of Justice under the Law on the Judiciary and Chamber of Private Enforcement Agents.

8. 1. 2. Supervision

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

- Yes
- No
- Not applicable

160) 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:

State enforcement agents - Legal regulation of the supervision powers of the Minister of Justice in respect of the state enforcement agents is given in the Law on the Judiciary. The Law on the Judiciary envisages that the chairperson of a regional court manages and controls the work of state enforcement agents and the chairperson of the district court may carry out in person or assign a judge of the district court the carrying out of inspection into the organisation of the business of state enforcement agents as well.

Inspectorate to the Minister of Justice under the Law on the Judiciary inspects the institution, progress and disposal of enforcement cases of the state enforcement agents and of the private enforcement agents and summarise and analyse the practice in these cases.

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

The Board of the Chamber of Private Enforcement Agents ensures the performance of duties by private enforcement agents, take decisions to open disciplinary proceedings and participate in them through its representatives.

The Minister of Justice supervises the activity of any private enforcement agent via:
1. Inspectors of the Inspectorate with the Minister of Justice under the Judiciary System Act;
2. Financial inspectors from the Ministry of Justice.

A private enforcement agent shall be held responsible for disciplinary offences for culpable non-performance of his/her obligations under the Law on Private Enforcement Agents and the Chamber's charter. Through its panels, the Disciplinary board to the Chamber of Private Enforcement Agents hears and rules on disciplinary cases initiated against private enforcement agents following the procedure specified in this Act.

Remedies against enforcement are stipulated in the Civil Procedure Code.

161) Have quality standards been formulated for enforcement agents?

- Yes
 No
 Not applicable

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

Code of Ethics of Private Enforcement Agents, adopted by the General Assembly of the Chamber of Private Enforcement Agents.

162) Is there a specific mechanism for executing court decisions rendered against public authorities, including the follow up to this execution?

- Yes
 No

if yes, please specify

According to the Civil Procedure Code enforcement of pecuniary receivables against government institutions is inadmissible. The pecuniary receivables against government institutions shall be paid out of the budgetary spending authority of the said institutions provided for this purpose. To this end, the writ of execution shall be presented to the financial authority of the relevant institution. If spending authority is not available, the superior institution shall undertake the measures necessary for a provision for such authority in the next succeeding budget at the latest. Enforcement against any resources on the bank accounts of the municipalities and the other establishments subsidized by the budget, which have accrued as a subsidy from the central government budget, shall be inadmissible. Enforcement of pecuniary receivables against any other property which is privately owned by the last execution creditors follows the general rules.

163) Is there a system for monitoring the execution?

Yes

No

If yes, please specify

Performed by the Inspectorate of the Minister of Justice on the Law on the Judiciary for state and private enforcement agents, and by the Council of the Chamber of Private Enforcement Agents.

Pursuant to Art. 77 of ZCHSI, private enforcement agents provide the Ministry of Justice with 6-month and annual reports on their activities. Reporting requirements are determined with an ordinance of the Minister of Justice. Half-yearly reports are to be submitted in MJ within one month after the end of the 6-month period, and annual reports - within two months after the end of the year.

Art. 77a of ZCHSI stipulates that the Ministry of Justice builds, maintains and develops the information system of judicial enforcement. MJ collect fees for use of this system in an amount determined by a tariff, approved by the Council of Ministers. Access to the system through official channels of public authorities, organs of local government and local administration and persons entrusted with the exercise of public functions, is free.

8. 1. 3. Complaints and sanctions

164) 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:

- excessive duration of proceedings;
- undue summoning of the parties;
- aiming the enforcement at inaccessible property;
- carrying out of actions by private enforcement agents which are not assigned by the creditor;
- incorrectly calculated costs of enforcement.

165) 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:

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

- for civil cases?
 for administrative cases?

167) 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 sits:

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

If more, please specify

168) Number of disciplinary proceedings initiated against enforcement agents. If the data is not available (NA) or not applicable (NAP) please indicate it in the table with the relevant abbreviations.

Total number of disciplinary proceedings	<input type="checkbox"/> number:	16
for breach of professional ethics	<input type="checkbox"/> number:	
for professional inadequacy	<input type="checkbox"/> yes, number:	
for criminal offence	<input type="checkbox"/> number:	
Other	<input type="checkbox"/> number:	16

169) Number of sanctions pronounced against enforcement agents. If the data are not available (NA) or not applicable (NAP) please indicate it in the table with the relevant abbreviations.

Total number of sanctions	<input type="checkbox"/> number:	9
Reprimand	<input type="checkbox"/> number:	2
Suspension	<input type="checkbox"/> number:	2

Dismissal	<input type="checkbox"/> number:	
Fine	<input type="checkbox"/> number:	5
Other	<input type="checkbox"/> number:	

You can indicate below:

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

Q 153 – State enforcement agents – 222 ; Private enforcement agents – 163

Q 168 - Number of disciplinary proceedings includes these initiated against state and private enforcement agents. From the initiated 16 disciplinary proceedings:

- 1 proceeding has been terminated due to expiry of the preclusion period for imposition of penalty and 6 proceedings have been closed without imposition of disciplinary penalty.

Q 169 - Suspension according to the the Law on Private Enforcement Agents means suspension of license to practice for a period from three months to 5 years.

State enforcement agents – 222 ; Private enforcement agents – 163

Please indicate the source for answering the questions 167, 168 and 169:

Inspectorate to the Minister of Justice under the Law on the Judiciary.

8. 2. Execution of decisions in criminal matters

8. 2. 1. Functioning

170) 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):

The judge forwards a copy of the verdict to the prosecutor for execution according to article 416 of the Penal Procedure Code. The prosecutor exercises supervision while observing the law in execution of the punishments according to LJ. The direct management and control over the detention facilities are exercised by the Execution of Punishments Directorate General, which is an administrative unit within the Ministry of Justice.

171) 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 in this chapter**
- the characteristics of your enforcement system of decisions in criminal matters and**

the main reforms that have been implemented over the last two years

9. Notaries

9. 1. Statute

9. 1. 1. Functioning

172) Do you have notaries in your country? If no go to question 177

- Yes
 No

173) Is the status of notaries (if the data are not available (NA) or not applicable (NAP) please indicate it in the table with the relevant abbreviations):

a private one (without control from public authorities)?	<input type="checkbox"/> number	
a status of private worker ruled by the public authorities?	<input type="checkbox"/> number	
a public one?	<input type="checkbox"/> number	
other?	<input type="checkbox"/> number	605

Comment :

In conformity with the effective Bulgarian legislation, Notaries implement activities which were explicitly assigned to them through legal delegation on the part of the state. Pursuant to Art. 2, Para. 1 of the Law on Notaries and Notarial Practice "Notary" means a person entrusted by the State with the performance of the notarial acts as provided for in the laws.

174) Do notaries have duties:

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

Please specify:

Matters, relating to the powers of notaries are regulated by the Law on Notaries and Notary Practice. The notary is independent and in the carrying out of his functions, is subjected only to the law. Pursuant to Art. 22 of the Law on Notaries and Notarial Practice „Where so directed by the parties, a notary may, in connection with the notarial proceedings, prepare and verify drafts of documents, offer oral or written advice, mediate to clarify the will of the parties, consult records, obtain documents, papers and other such, as well as act as an executor of wills or administrator of estates.”

Please indicate the source for answering the question 173

Notary Chamber of the Republic of Bulgaria

9. 1. 2. Supervision

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

Yes

No

176) 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?
- not applicable

Please specify:

The Minister of Justice exercises control over the activities of the Notaries. The control is stated in the following directions: finding vacancies for notaries on the grounds of a competition fixed by the Minister of Justice; the issuance of an order for entry of a notary and an assistant notary into the Notary Chamber Register; the issuance of an order for the movement of a notary to another region of practice. The Minister is empowered to make a proposal to the Board of Notaries for the initiation of disciplinary proceedings. He/She exercises also specific, specialized control for conformity with the law over the activities of the notaries jointly with representatives of the notarial profession, elected in accordance with a procedure stipulated in the law and called Notary Inspectors. Their functions are to render expert assistance to the Minister in the implementation of his/her control powers. The notary inspectors are elected by the general meeting of the relevant notary association for a term of three years. The Minister of Justice is also assisted by Inspectorate under the Law on the Judiciary during the implementation of his control powers over the activities of notaries.

Different types of control are: a) planned control – at an official initiative of the Minister of Justice; b) incident control – on the occasion of a signal or a complaint of a stakeholder; c) at the proposal of Board of Notaries. The proceedings for the exercise of the control commence by an order of the Minister of Justice, by which he/she assigns to inspector from the Inspectorate and to Notary Inspector the task of the conduct of joint verifications over the activities of a certain notary (notaries).

The bodies of the Notary Chamber perform also control powers as a professional entity delegated to them by the state. The Board of Notaries is a management body of the Notary Chamber which monitors compliance with the obligations of the notaries and the assistant notaries and takes part through its representatives in disciplinary proceedings against such notaries and assistants in the prescribed cases.

You can indicate below:

- any useful comments for interpreting the data mentioned in this chapter**
- the characteristics of your system of notaries and the main reforms that have been implemented over the last two years**

Statute and Competence of Bulgarian Notaries

The Bulgarian notary legislation based on the doctrine and the jurisprudence proceeds from the concept that the notary certificates are manifestation of state authentication power. Their subject-matter explicitly enumerated by the civil legal instruments and circumstances, and the exercise of which is precisely defined by the law notary authorities. The statute and the competence of the notary are regulated in the Law on Notaries and Notarial Practice and the Civil Procedure Code. The notary is a person, whom the state assigns the carrying out of notary actions stipulated in the laws. He/She is an official who performs the function delegated to him

by the state to authenticate in writing the private legal statements made in front of him/her. The competence of the notary is stated in the power to authenticate officially the circumstances non-exhaustively stipulated in Art. 569 of the Civil Procedure Code. The notary authentication is characterized by a specific subject-matter: solely private legal statements – such as declarations of will, unilateral as testaments, authorization, bilateral and multilateral. The fulfillment of these obligations is carried out under conditions regulated by imperative legal norms. These rules may not be derogated at the request of the parties, which request notary authentication. This is a guarantee for the legal security created by the notary authentication.

Along with his/her main function, the notary under the virtue of Art. 22 of the Law on Notaries and Notarial Practice may, in connection with the notarial proceedings, prepare and verify drafts of documents, offer oral or written advice, mediate to clarify the will of the parties, consult records, obtain documents, papers and other such, as well as act as an executor of wills or administrator of estates if assigned by the parties. These actions represent his/her additional or optional function. Unlike the main function, this function is of contractual nature. The actions in the optional function are not manifestation of notary competence but these actions are always related to the main function.

The Bulgarian notary is a natural person who should have law degree. The Bulgarian notary belongs to the system of countries which adopted the Latin system of Notary's Office.

The Notary is independent and obeys solely the law during the performance of his/her functions. He/She is entitled to free access to the judicial and administrative services and may make enquiries about cases and correspondences as well as request copies, transcripts and documents and receive information and certificates with priority.

The Notary keeps independent official archives which are inviolable and no one is entitled to access to it without the consent of the Notary except in the events stipulated by the law. The Notary is obligated to consider all the requests for cooperation sent to him/her unless he/she is interested in carrying out the requested action or is in special relationships with the party which generate well-grounded doubts in his impartiality. During the performance of his/her official functions the Notary is impartial. He/she is obligated to preserve the rights and the interests of the parties, to instruct them, to clarify their will and the factual situation, to get them acquainted clearly and unambiguously with the legal consequences and not to allow any omissions or slowness in the work which would result in the infringement of their rights.

The Notary is obligated to have insurance for the time of his professional activity for the damages which may occur in consequence of faulty non-fulfillment of his obligations, as well as of the obligations of the assistant notary and the employees in the notary office. The Notary is obligated to keep professional secrecy.

The region of practice of the Notary coincides with the region of the relevant Regional Court.

The Notary performs the notary authentication function at his/her expense and a notary fee is paid for the service rendered by him/her. The notary fees do not be freely negotiated but they are established in Tariff approved by the Council of Ministers.

The Notary Chamber is incorporated by the Law on Notaries and Notarial Practice. The Notary Chamber is professional organization of all the notaries in the Republic of Bulgaria. All the notaries are members in the Notary Chamber by right. The bodies of the Notary Chamber are the General Meeting, the Board of Notaries, the Supervisory Board and the Disciplinary Commission. The Notary Chamber is represented by the Chairman of the Board of Notaries, and in his/her absence – by his deputies in conformity with their seniority. The Notary Chamber exercises the powers delegated to it by the state for the organization, control and disciplinary power in relation to its members. A register is kept in the Notary Chamber. The notaries, the assistant notaries and the circumstances related to them anticipated in the law are entered into the Register. The Register of the Notary Chamber is public – anyone is entitled to look through it and receive an extract from it.

Regional notary associations are created for rendering assistance to the activity of the Notary Chamber and of the Notaries within the judicial region of each Appellate Court. The Notary

Associations through their bodies organize and render assistance to the professional activity of the notaries within the relevant region, they are in charge of coordination between the Notary Chamber and the regions for the enhancement of the qualification of the Notaries, unification of the notary practice, observation of the requirements of the Code of Ethics and fulfillment of the resolutions of the national bodies of the Chamber. The Notary Associations bodies are General Meeting of the Association and Board of the Association. The Notaries whose regions of practice are within the judicial region of the relevant Appellate Court are members in relevant association.

Main newly adopted acts and amendments in the effective legal norms – from November 2007 to October 2009 covering those provisions which refer to and are in direct connection with the notarial activities and practice.

- The Civil Procedure Code published SG No. 59 of 20.07.2007, effective from 01.03.2008.

The new Civil Procedure Code concern also notary proceedings. Their scope is wider and includes new proceedings as the issuance of a certificate for the presence or absence of encumbrances. The most substantial amendments refer to the notary deed and the authentication proceedings. Pursuant to Art. 580, item 6 of the Civil Procedure Code a new requirement was introduced about the contents of the notary deed, and about its validity, where further to the signature of the participating persons the full and autographic writing out of their names is required as well. When a participant does not understand Bulgarian language, the Notary is obliged to appoint an interpreter. There are new requirements for the authentication of the signature on a private document which is used for establishment, change or suspension of rights over an estate. A person should write out their full name and affix their signature before the notary, and if the signature has already been affixed, to write out their full name and confirm the signature.

- Amendments in the Law on Notaries and Notarial Practice – published SG No. 50 of 30.05.2008

This revision provides for a possibility when there is no notary or a regional court in the area, the mayor, the assistant mayor, the secretary of the municipality as well as the deputy mayor authenticate the signatures on private documents which are unilateral instruments and are not subject to registration, the signature and the contents on power of attorney pursuant to Art. 37 of the Law on Obligations and Contracts, as well as the authenticity of extracts and excerpts from documents and papers.

- The new Family Code, published SG No. 47 of 23 June 2009, enter into force on 01.10.2009, was promulgated in the State Gazette – issue. The Family Code (FC) effective until 01.10.2009, effective from July 1985, was repealed.

The new regime of the separate legal property will be established by a common declaration with notary authentication of the signatures of those contracting the marriage deposited before the civil status official at the conclusion of the marriage. The declaration is entered into the marriage contraction certificate also when the choice of the regime is made during the marriage.

The matrimonial contract is concluded by the parties in person and given in writing with notarized content and signatures (Art. 39, Para. 1 of the Family Code). The notary is obligated to get convinced in the conformity with the law of the contents of the contract, i.e. there is preliminary control available by which any subsequent disputes with regard to the validity of the contract are avoided. The notarial authentication of the signatures and the contents may be made by any notary. If, however, property rights over real estates are assigned or established by the contract, it should be certified by the notary in whose region of practice the estate is located. These contracts are subject to entry into the Property Register.

- With the amendments in the Law on the Commercial Register published SG No.44 of 12.06.2009 notaries are able to issue verifications and certificates which contain extracts from the Commercial Register or copies of the electronic image of the documents on the grounds of which entries, erasures or announcements were made. Up to now this was made solely by the state authority – the Registry Agency. Notaries are also able to issue certificates for the fact that a certain circumstance has not been entered with regard to a certain trader or a branch of a

foreign trader. It envisages that a notary certifies the date and the time of the preparation of the documents and their compliance with the records in the Commercial Register.

- Amendment of Ordinance No 32 on the official archives of notaries and notary offices, published SG No. 20 of 17.03.2009. Information system is created within the Notary Chamber. It contains a part of the official archives of the notaries defined by this Ordinance. Verifications in an electronic manner from the information system are made through the Notary Chamber or a notary. Official verifications from the information system are made through access provided by the Notary Chamber. Right of access for official verifications from the information system is granted to state authorities, which have legal interest in this respect. The notary enters and sends promptly to the Notary Chamber an extract in an electronic form, as follows:

- The powers of attorney for disposal, for acquisition and for establishment of property rights over real estates;

- Notarially authenticated certificates, by which powers of attorney are withdrawn.

An obligation for sending data for deposited holographic will, deeds for revocation of wills or announced holographic wills made by the notary has also been introduced. The Notary Register provides the possibility for verification on the territory of the country with regard to prevention of frauds with real estates and misuse of representative power.

- There is an amendment concerning the amount of the notary fees - Tariff for Fees Collected by Notaries within the Law on Notaries and Notarial Practice and the Tariff for Fees collected by the Registry Agency enter into force from 01.07.2009. The objective was that the notary fees should be updated in compliance with the economic conditions in the country. The amount of the fees so far was established in 1998 and has not been changed until now.

- Amendments and supplements in the Law on Notaries and Notarial Practice – published SG No. 82 of 16.10.2009 effective from 01.01.2010. In conformity with the amendments in the law, the notary is entitled to access to the National Database "Population", kept by the Ministry of Regional Development and Public Works as well as to the National Automated Information Fund for Bulgarian personal documents – „National Register for Bulgarian Identity Documents“.

10. Court interpreters

10. 1. function

10. 1. 1. Statute

177) Is the title of court interpreter protected?

Yes

No

178) Is the function of court interpreter regulated?

Yes

No

179) Number of certified court interpreters. If the data is not available (NA) or not applicable (NAP) please indicate it in the table with the relevant abbreviations

180) Are there binding provisions regarding the quality of court interpreting in judicial proceedings?

Yes

No

If yes, please specify:

181) Are the courts responsible for the selection of court interpreters?

Yes

No

Please provide comments to explain the answers to question 178 (in particular, if no, which authority selects court interpreters?) :

11. Functioning of justice

11. 1. Foreseen reforms

11. 1. 1. Reforms

182) Can you provide information on the current debate in your country regarding the functioning of justice? Are there foreseen reforms? For example changes in legislation, changes in the structure of the judiciary, innovation programmes, etc. Please specify:

- Decree № 1 as of 5.11.2009 r. for the indicators and the order for attestation of a judge, prosecutor, investigator, administrative head and deputy of administrative head has been adopted by the Supreme Judicial Council.
- The new Civil Procedure Code published SG No. 59 of 20 July 2007 and entered into force from 1 March 2008. It is designed to achieve fast and inexpensive civil proceedings which would improve the conditions of performing economic activity by local and foreign physical persons and legal entities in Bulgaria.
- The New Family Code (FC) - The new Family Code published SG No. 47 of 23 June 2009 and entered into force from 01.10.2009. It provides for renovated regulation of the relationships based on marriage, kinship and adoption, as well as on guardianship and trusteeship.

So far the regime of property relationships has been imperative in the Bulgarian law. From 1985 to 01.10.2009 the Family Code reproduced the regime of matrimonial community property. Now the new Family Code provides possibility for liberalization of these relationships and the spouses may choose their property legal regime.

The FC provides for the establishment of a new, dispositive matrimonial property regime and the introduction of the marriage contract. The spouses have possibility to choose their future matrimonial property regime among three types, as follows:

- legal regime of community of the possessions acquired during the marriage;
- legal regime of separability of the possessions of each spouse;
- contractual regime.

The choice of a regime is in conformity with a common consent of those contracting the marriage. Such a choice may also be made by the spouses during the marriage. The choice of property matrimonial regime is entered into the civil marriage contraction certificate and into a register which is public.

The institute of adoption has new, detailed legal regulation which comprises both the domestic and the international adoption – both complete and incomplete adoption.

The establishment of a register of the appointed guardians, members of the Guardianship Board and trustees and deputy trustees has been anticipated. The register shall be kept with regard to the permanent address of the person placed under guardianship or trusteeship.