



EUROPEAN COMMISSION FOR THE EFFICIENCY OF JUSTICE
(CEPEJ)

SCHEME FOR EVALUATING JUDICIAL SYSTEMS 2009

Country: "The former Yugoslav Republic of Macedonia"

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

2045177

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

	Amount
State level	1214153094
Regional / entity level	NAP

3) Per capita GDP (in €)

3180

4) Average gross annual salary (in €)

5126

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

61

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

State Statistical Office of the Republic of Macedonia

Exact exchange rate of 1 EURO on 1 January 2009 is 61,4 denars

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 €)

27060261

7) Please specify

The court budget includes: budgets of all courts, budget of the Judicial Council and the budget of the Academy for training of Judges and Public Prosecutors.

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	20682085
Annual public budget allocated to computerisation (equipment, investments, maintenance)	<input checked="" type="checkbox"/> Yes	108583
Annual public budget allocated to justice expenses	<input checked="" type="checkbox"/> Yes	1772655
Annual public budget allocated to court buildings (maintenance, operation costs)	<input checked="" type="checkbox"/> Yes	1665065
Annual public budget allocated to investments in new (court) buildings	<input checked="" type="checkbox"/> Yes	695000
Annual public budget allocated to training and education	<input checked="" type="checkbox"/> Yes	523322
Other (please specify):	<input checked="" type="checkbox"/> Yes	1613551

Comment :

1. There are allocated additional sources for computerisation from the budget of the Ministry of Justice as well from international organisations as a donors in the framework of some projects of computerisation of Macedonian Judiciary (mostly by the USAID). Also for the purpose of computerisation in the framework of the Project with World Bank there are allocated 88192 EURO. In the period 2007-2009 within this Project there are allocated 343728 Euro.

2. In presented data related to the "allocated to investments in new (court) buildings", there are not included sources from international organisations as a donors (mainly USAID), as well as sources from the credit from World bank for building the new criminal court and renovation of other courts in the Republic of Macedonia. Total amount of the credit is 11875000 Euro. In the framework of that Project there were allocated 965.925 Euro in 2008 for the purpose of reconstruction of courts while 206.000 Euro were allocated for equipment of the court buildings. In the period 2007 -2009, within the mentioned project there were allocated 1.419.966 EUR for reconstruction while 780.506 EUR were allocated for equipment of courts.

All mentioned sources in this text are not included in the table below (in the Court Budget).

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:

In 2003 budget for the courts was 16.552.749 Euro

In 2004 budget for the courts was 19.934.036 Euro

In 2005 budget for the courts was 20.192.496 Euro

In 2006 budget for the courts was 22.241.278 Euro

In 2007 budget for the courts was 22.026.745 Euro

In 2008 budget for the courts was 27.060.261 Euro

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

for criminal cases?

for other than criminal cases?

If yes, are there exceptions? Please specify:

According to the Law on Civil procedure, court will not proceed or undertake any procedural action if parties have not paid court tax in advance.

In criminal cases there is an exception when expenses, including court tax, as well as necessary expenses for the competent counsel and competent authorised representative of the damaged as a plaintiff, in procedure for crimes prosecuted ex officio are paid in advance from the budget of the body that conducts the criminal procedure, and the persons which are obliged to compensate according to provisions of the Law on Criminal Procedure are charged later.

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

9183400

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 47024005

Comment :

Total budget for whole justice system is: 47024005

Budget for 2008 for all courts, including Court Council and Academy for training of judges and prosecutors is:

27060261 EURO

Budget for 2008 for public prosecution office is: 4.899.022 EURO

Budget for 2008 for Ministry of Justice is: 5306579 EURO and

Budget for 2008 for penitentiary institutions is: 9758143 EURO.

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

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

. Amount 1772655

Comment :

Data presented includes the budget for legal aid as well as the budget for expert witnesses and other legal expenses for the courts. Due to this reason we do not have exact data just for legal aid.

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	341861	NA

Comment :

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 4899022

Comment :

Total amount of the Budget for Public Prosecution Office for 2008 is 4899022 Euro. 87% of total Budget or 4290000 Euro is allocated for salaries while the rest of the budget is allocated for other expences.

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

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

The Court Budget Council is responsible body for preparation, management, allocation of the budget among the courts and evaluation of the use of the budget. The Court Budget presents the annual estimate of the revenues and expenditures of the judicial branch and the Academy for Training of Judges and Public Prosecutors, determined by the Assembly of the Republic of Macedonia and intended for the financing of the judicial branch and the Academy for Training of Judges and Public Prosecutors. The Court Budget is a part of the Budget of the Republic of Macedonia as a separate part designated as "Judicial Power."

President of the The Court Budget Council is president of the Court Council of the Republic of Macedonia.

Members of the Court Budget Council are President of the Supreme Court, Minister of Justice, presidents of four appellate courts, presidents of 2 basic courts on system of rotation, President of the Administrative Court and Director of Academy for training of judges and public prosecutors.

With the Court Budget Council presides President of the Judicial Council.

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 Law on the Court Budget define procedure for the drafting, adoption, and enforcement of the Court Budget and the setting up of the Court Budget Council.

By means of the Court Budget the judicial branch of power in the Republic of Macedonia and the Academy for Training of Judges and Public Prosecutors, is financed .

The Court Budget Council has duties as follows:

- set the criteria and methodology for the drawing up of the Court Budget,
- determines the allocation of the funds from the Court Budget to all the courts and to the Academy for Training of Judges and Public Prosecutors and undertakes duly enforcement of the Court Budget,
- approves the funds for new employments in courts and in the Academy for Training of Judges and Public Prosecutors within the framework of the fixed court budget of the mass designated for the pay of salaries,
- appoints the internal auditor,
- enacts the Rules of Order and other internal acts.

The expenditures of the Court Budget comprise the following:

1. Daily expenditures for,

- salaries and compensation for judges,
- salaries and compensation for the state employees, court police and other employees at the courts,
- merchandise and services for court's operations
- expenditures incurred in proceedings,
- payment of other expenditures incurred in daily operations of courts,
- professional training of judges, state employees, court police and other employees at courts,
- salaries and compensation for the employees in the Academy for Training of Judges and Public Prosecutors,
- merchandise and services for operations of the Academy for Training of Judges and Public Prosecutors,
- payment of other expenditures incurred in daily operations of the Academy for Training of Judges and Public Prosecutors, and
- initial training of candidates for judges and deputies public prosecutors and continuous professional development of judges, public prosecutors and their deputies, of the employees in the courts and public prosecution offices, as well as of the civil servants from the Ministry of Justice which perform activities from the area of the justice system.

2. Capital expenditures for:

- purchasing of capital assets for courts,
- investment maintenance of the facilities and court equipment
- purchasing of capital assets for Academy for Training of Judges and Public Prosecutors
- investment maintenance of the facilities and equipment of the Academy for Training of Judges and Public Prosecutors

The drafting of the Court Budget is made on the basis of the fiscal policy and the main categories on the assessed revenues and expenditures for the next budget year, and in compliance with the internal criteria and methodology determined by the Court Budget Council.

The courts and the Academy for Training of Judges and Public Prosecutors submit the following data to the Court Budget Council by June 1 of the current year the latest:

- estimate of the expenditures for the fiscal year, according to the expense items and smaller items,
- estimate of the expenditures for the next two fiscal years according to the expenses under categories,
- review of the expenses for the employment requisite for the carrying out of the functions of the users,
- proposals that contain future obligations or expenditures that shall be incurred over several years, including the investment projects presented individually, and

- expenses for every forthcoming year presented individually.

In addition to this data, the users submit an explanation regarding the amount of the funds according to their positions.

After it receives the proposals, the Court Budget Council draws up a Court Budget Proposal and together with the explanation on the amounts of funds submits it to the Ministry of Finances. Prior to the submission of the Budget Proposal of the Republic of Macedonia to the Government of the Republic of Macedonia, the Minister of Finances together with the President of the Court Budget Council shall mandatory adjust the part of the funds "Court Budget" from the Budget Proposal of the Republic of Macedonia.

The Court budget as a part of State budget is adopted by the Parliament.

The President of the court and the Director of the Academy for Training of Judges and Public Prosecutors is responsible for the enforcement of the financial plan in the court, respectively, the Academy for Training of Judges and Public Prosecutors.

The Court Budget Council follows the enforcement of the court financial plan. If, during the control, it is determined that irregularities and abuses by the President of the Court and by the Director of the Academy for Training of Judges and Public Prosecutors have occurred in the process of enforcement of the financial plan, the

Council informs the Supreme Court of the Republic of Macedonia, the Ministry of Justice, the Republic Judicial Council, the Academy for Training of Judges and Public Prosecutors, the Ministry of Finance, and the State Bureau for Revision.

In order to improve financing of the courts there are intentions of the Government to determine court budget as a obligatory minimum percent from the total Budget of the Republic of Macedonia.

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

Court Budget Council

Public Prosecution of the Republic of Macedonia

Ministry of Finance

Ministry of Justice

Courts in the Republic of Macedonia

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	No	No

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

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

Yes

No

If yes, please specify:

1. Civil Procedure

According to the Article 163 from the Law on Civil Procedure, the court shall exempt from payment of the expenses for the procedure the party which according to its general state of wealth is not capable of bearing these expenses without damages to the necessary personal support and the support of its family. Also, the exemption from payment of the expenses for the procedure includes exemption from payment of fees and exemption from depositing an advance payment for the expenses for witnesses, expert witness, for insight and for the court advertisements.

2. Criminal Procedure

According to the Article 94 from the Law on Criminal Procedure, if the accused had an appointed counsel and if by his paying of the recompense and the necessary expenses, his own supporting and supporting of persons he is obliged to provide for would be threatened, then the recompense and the necessary expenses for the counsel will be paid from the budget.

3. In The Law on Court Fees there is special Chapter (Articles 10-17) related to exemption of court fees.

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	2889
in criminal cases	2854
Other than criminal cases	35

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 :

We have prepared Draft Law on free legal aid. That Law is in Parliamentary procedure and we expect that the Law will be adopted in the end of 2009. The Draft Law on legal aid, stipulating the right to free legal aid, the procedure by which it is realised, the beneficiaries, the conditions and the way it is realised, the free legal aid providers, the bodies competent to decide, the protection of the right to free legal aid, the financing and supervision of its realisation, the organisation of days for free legal advice, free legal aid in over-border disputes, as well as supervision of the implementation of the provisions of this Law, is in final stage of adoption. The purpose of this Law is to guarantee equal access to the institutions of the system to the citizens and to other persons defined, to introduce, realise, and provide effective legal aid in accordance with the principle of equal access to justice. The free legal aid is provided through the Ministry of Justice, lawyers and authorised citizens' associations. The funds to approve free legal aid are provided from the Budget of the Ministry of Justice as specific programme proposed by the Minister, and approved by the Government of the Republic of Macedonia, as well as from donations and other incomes in accordance with law. Right to free legal aid have natural persons, citizens of the Republic of Macedonia with permanent residence in the Republic of Macedonia who according to their material position could not exercise their constitutional and guaranteed rights without imperilling their own sustenance and the sustenance of the members of their family with whom they live in a common household. There will be allocated approximately 200 000 Evra for implementation of the law but just for a half year (because this law will have 6 months vacatio legis and its implementation will start from June 2010).

According to the Article 163 from the Law on Civil Procedure, the court shall exempt from payment of the expenses for the procedure the party which according to its general state of wealth is not capable of bearing these expenses without damages to the necessary personal support and the support of its family.

The Law on Criminal Procedure regulate the matter of legal aid in articles 66 and 67:

Article 66

(1) If the accused is dumb, deaf or incapable to defend himself successfully or if a criminal procedure is conducted against him for a crime for which, according to the Code a sentence to life imprisonment

is proscribed, then he must have a counsel during his first questioning.

(2) The defendant must have a counsel if detention is defined against him during the detention period.

(3) After the prosecution act due to a crime for which a sentence to ten years or more severe sentence is proscribed with the Code, the accused must have a counsel in the time of the prosecution act delivery.

(4) As soon as decision for a trial in absence is brought, the accused who is tried in absence (Article 292) must have a counsel.

(5) If the accused in cases of obligatory defence according to previous paragraphs of this Article does not provide a counsel himself, the President of the court will assign a counsel ex officio for the further duration of the criminal procedure until the final legally valid verdict. When the accused is being assigned a counsel ex officio after the prosecution act, he will be informed of this issue as well as of the delivery of the prosecution act.

Article 67

(1) When there are no conditions for obligatory defence and the procedure is conducted for a crime for which a sentence to over one year is proscribed according to the Code, on his request the accused can be assigned a counsel, if his property condition does not allow him to bear the defence expenses.

(2) A request for a counsel assignment according to paragraph 1 of this Article can be submitted only after the prosecution act is brought. The Chairman of the Chamber decides on the request, and the President of the Court assigns the counsel.

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:

But in the Draft Law on Legal Aid there is provision for depriving of the right of free legal aid if the person has given false data regarding his/her status.

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:

	res (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

In order to improve access to the courts, the Ministry of Justice prepared Draft Law on free of charge legal aid that will be adopted at the end of 2009. The aim of the Law is to provide equal access to the justice for citizens. The Law determines free of charge legal aid provided by the state to the parties realised by lawyers.

Please indicate the sources for answering the questions 24 and 26

24. Information provided by the Basic Courts in the Republic of Macedonia

26. Draft Law on free Legal Aid, Law on Civil Procedure and Law on Criminal Procedure

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.pravda.gov.mk
www.sobranie.mk,
www.vlada.mk
www.pravo.org.mk,
www.mlrc.org.mk
www.slvesnik.com.mk
www.pf.ukim.edu.mk
www.stat.gov.mk |
| <input type="checkbox"/> case-law of the higher court/s? Internet address(es): | <input checked="" type="checkbox"/> Yes | web sites of all courts
in the Republic of
Macedonia |
| <input type="checkbox"/> other documents (for examples forms)? Internet address(es): | <input checked="" type="checkbox"/> Yes | www.oskavadarci.mk |

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

- Yes
 No

If yes, please specify:

In court proceedings, according to the procedural laws, the court is obliged to inform the parties on the foreseeable timeframes for undertaking certain procedural actions as well as for the right to appeal.

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:

1. In regards with victims of trafficking in human beings in the country, since October 2005 a National Referral Mechanism Coordination Office has been established and functioning under the auspices of the Ministry of Labor and Social Policy Unit for Promotion of Gender Equality (MLSP/UPGE). The NRM office and its staff are responsible for coordinating available assistance to presumed and identified victims of trafficking besides referring victims to assistance-providers, thus improving the existing victim-identification process.

The NRM office staff is monitoring the cases and facilitating, where appropriate, follow-up matters with other state and non-state partners, i.e. residence permits, appointment of a legal advocate or guardian, etc. The office has a legal adviser who represents victims in criminal proceedings. In cases involving minors the legal advisor is often appointed to be their legal custodian. During the proceeding the legal representative advises and informs the victims on their rights during the criminal proceeding, particularly the right to seek compensation.

The office also is engaged in conducting legal analysis of the current relevant AT legislation and provides recommendations for improvement.

Also, in the country there is one NGO - Open Gate/La Strada which is specialized for providing accomodation and assistance to victims of trafficking. Since 2005 Open Gate has been running a shelter for trafficking victims, predominantly domestic nationals. The safe house provides trafficked victims with accommodation, information, and re-integration assistance including such services as health care, legal counseling, legal representation, psycho-social therapy, vocational training, and independent living skills.

In the shelter the victims are provided with initial help and support - medical, pshyhologiagl assistance but aslo legal assitance. Victims are informed of their rgiths to participate in the criminal proceeding and to seek compensation.

Victims of trafficking, as well as other injured parties, achieve compensation by way of filling a claim for compensation in the criminal procedure. The compensation claim is submitted to the court before which the case is tried, usually by the legal representative.

2. The application for legal aid according to the provisions of the draft Law shall be approved in all court and administrative procedures if this application is related to issue in the interest of the person applying for legal aid, like per instance: the rights covering social, health, pension and disability insurance, labour relations, children and juvenile protection, family violence victims, protection to victims and persons that had suffered damage from criminal acts, protection of human traffic victims and property issues. In cases of family violence, protection to victims from criminal acts, protection of human traffic victims and other cases appointed in the laws, the person that is applying for legal aid has no obligation to fulfil the conditions regarding the beneficiaries as established of the law.

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	No
Victims of terrorism	Yes	Yes	Yes	No
Children/Witnesses/Victims	Yes	Yes	Yes	No
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 :

According to the Law on Criminal Procedure,

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?

According to the Article 97 from the Law on Criminal Procedure, a legal property request due to a committed crime shall be raised on a proposal of authorised persons in the criminal procedure. A legal property request may refer to damage compensation, returning objects or annulling certain lawful issues.

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

- Yes
 No

If yes, please specify:

There was a study carried out by the Coalition "All for fair trial" named as "Trafficking with humang beings and illegal migration as preceived by key actors in the criminal procedure". Under the Chapter II an overview of the compensation of the victims of human trafficking is provided.

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

- Yes
 No

If yes, please specify:

In the Witness protection law victims are included when they appear as witnesses. In this case they can conclude agreement with Witness Protection Unit which shall provide protection and assistance to the idem. Among others, public prosecutor have right to initiate non - procedural measures for protection of the victims. Moreover, the Public prosecutor of the Republic of Macedonia has the competence to put such proposal before the Witness Protection Council. Victims are also being provided with special procedural rights during the criminal procedure as defined in the Law on Criminal Procedure. According to the Law on Criminal Procedure if there is any probability that by giving a statement or by answering a certain question, the witness, collaborator of justice or the victim i.e. the person who suffered some damage, would expose himself or herself or another closely related person to a serious threat to their life, health or physical integrity (endangered witness), the endangered witness may withhold his statement or the presentation of information as referred to in Article 223, paragraph (3) of the Law on Criminal Procedure, until the necessary conditions for his or hers protection are provided for.

In the Law on Criminal Procedure there is special Chapter dedicated to procedural protection measures for witnesses, Pentities and victims.

" Chapter XX

Protection of the Witness, Justice Collaborators and Victims

Article 270-a

(1) Upon proposal by the public prosecutor, the court shall decide on the measures of procedural protection of the endangered witness. If the endangered witness has withheld the presentation of the information, as referred to in Article 223-a, paragraph (1) of this Law, without any delay, the investigative judge or the President of the trial chamber shall inform the public prosecutor and submit a report, with a request that in a period of three days, he or she submits a proposal with a written rationale, for the application of the special method of examination and participation in the procedure.

(2) If the public prosecutor does not submit a proposal for the special method of examination and participation in the procedure of the endangered witness within the deadline prescribed in paragraph (1) of this Article, the investigative judge or the President of the trial chamber shall ask the trial chamber to adopt a decision about the special method of examination and participation (Article 22, paragraph 6). The trial chamber (Article 22, paragraph 6) shall be obliged to adopt the decision within 48 hours after the receipt of the request by the investigative judge or the President of the trial chamber.

(3) The public prosecutor shall deliver the proposal with a written rationale, for the application of the special method of examination and participation in the procedure, to the investigative judge or the President of the trial chamber in a sealed envelope marked as "endangered witness – confidential". In the proposal itself, the public prosecutor shall elaborate on the special method of examination and participation by the endangered witness that are being proposed and the reasons herein.

(4) The public prosecutor may submit the proposal as referred to in paragraph (4) of this Article even before the initial examination of the endangered witness, or later on during the proceedings, but immediately after becoming aware about the existence of the threats to the endangered witness in respect of Article 223-a of this Law.

(5) The investigative judge, i.e. the President of the trial chamber shall decide relative to the public prosecutor's proposal, by issuing a decision.

(6) The parties and the endangered witness shall have the right to appeal the decision as referred to in paragraph (5) of this Article to the Trial chamber (Article 22, paragraph 6), which shall make its own decision within a period of three days.

Article 270-b

(1) The special method of examination may consist of concealing the identity and the

appearance of the endangered witness.

(2) When the special method of examination and participation by the endangered witness relates only to concealing the information as referred to in Article 223-a, paragraph (1) of this Law, the concealment of the identity shall be provided for by examination of the endangered witness by using a pseudonym. In certain cases, especially if it is a person who participated in the application of special investigative measures, as referred to in Article 142-b of this Law, during the examination, the person may provide his or hers name and the address of the institution he or she is working for, but no additional personal data. In every other regard, the examination of the endangered witness shall be conducted pursuant to the general provisions for examination of witnesses of this Law.

(3) The concealment of the appearance of the endangered witness who is being examined under a pseudonym, shall be provided for by the use and application of special technical devices for transfer of audio and video pictures, where the appearance of the endangered witness and his or hers voice are modified and distorted. During the examination, the endangered witness is in a separate room, which is physically detached from the courtroom, which houses the investigative judge, i.e. the President of the trial chamber and other individuals who are present during the examination.

(4) Upon completion of the examination, the endangered witness shall sign the transcript under his or hers pseudonym, in the presence of the investigative judge only, or in the presence of the President of the trial chamber and the court secretary.

(5) Any person, under any competence, who has acquired knowledge about any data related to the endangered witness, shall be obliged to treat it as if it was classified information in accordance with the law.

Article 270-c

The application of measures for protection outside the proceedings shall be done by inclusion in the Witness Protection Program, by applying the provisions regulated with a separate law. "

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:

According to the Article 16 from the Law on Criminal Procedure, criminal procedure is brought on request of an authorised prosecutor. If the public prosecutor finds no basis for initiation or continuing criminal procedure, the damaged may stand instead as a plaintiff under conditions establish by the Law on Criminal Procedure.

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):

1. In line with the responsibilities for implementation of the standards for the right of trial in a reasonable time frame, according to the European Convention on Human Rights, and the priority to decrease of the number of applications from RM on the basis of article 6, before the ECHR, the Law on courts from 2006 and the Amendments to the Law on courts from 2008 provide sole jurisdiction to trial on claims for protection of the right to a trial in a reasonable time frame for the Supreme Court of RM. Hence, in April 2009 the Department for Processing of Cases within Reasonable Time was established, in line with the Working Schedule of the Supreme Court of RM. The Department was allocated 14 judges, in three chambers of three judges each, and 5 judges who work in the second instance. Additionally, Law on enforcement of ECHR decisions and Law for legal representation of RM before ECHR were adopted in order to establish efficient system for enforcement of the ECHR decisions as well as to strengthen the capacities, organizational and personnel, of the body competent for legal representation of RM before ECHR.

2. The Law on Criminal procedure defines the procedure for damage compensation, rehabilitation and for realisation of other rights of persons who are convicted and arrested on unjustified grounds or unlawfully. This procedure is regulated in the following articles from the Law on Criminal Procedure:

Article 578

(1) The right to compensation of the damage due to an unjustified conviction has the person against whom has been pronounced a legally valid criminal sanction or who has been found guilty but released from the punishment and afterwards due to an extraordinary judicial remedy the new procedure has been interrupted with a legally valid decision or with a legally valid verdict has been released from the charge or the prosecution has been rejected, unless in question are the following cases:

1) if the interruption of the procedure or the verdict with which the prosecution has been rejected is due to the fact that in the new procedure the damaged as a plaintiff i.e. the private prosecutor has withdrawn from the prosecution or the damaged has withdrawn from the proposal and the withdrawal has been a consequence of the agreement with the accused, and

2) if with the decision in the new procedure the prosecution act has been rejected due to the incompetence of the court and the authorised prosecutor has initiated the prosecution before the competent court.

(2) The convicted person has not the right to compensation of damage if by his false confession or in another manner he has caused his conviction on purpose, unless he has been forced to it.

(3) In case of a conviction for a serial crime, the right to compensation of damage may also refer to particular crimes in view of which the conditions for allowing compensation are fulfilled.

Article 579

(1) The right to compensation of damage becomes obsolete in three years from the day when the verdict becomes legally valid with which the accused is released from the charge or with which the prosecution is rejected, i.e. within a period of three years from the legally valid decision with which the prosecution act has been rejected or the procedure has been interrupted and if on the appeal has decided the higher court within the period of three years from the day of the reception of the higher court decision.

(2) Before submission of the charge for compensation of damage to the court, the damaged is obliged with his request to address to the Ministry of Justice in order an agreement to be made for the existence of the damage and for the type and amount of the compensation.

(3) In case of Article 526, paragraph 1, item 2 of this Code, on the request it may be decided only if the authorised prosecutor has not undertaken prosecution before the competent court within three months from the day of the reception of the legally valid decision. If after the expiry of this period the authorised prosecutor undertakes the prosecution before the competent court, the procedure for compensation of damage will be interrupted until the completion of the criminal procedure.

Article 580

(1) If the request for compensation of damage is not accepted or if after it the Ministry of Justice does not reach a decision within three months from the day of the submission of the request, the damaged may bring a charge for compensation of damage at the competent court. If an agreement is made only in view of part of the request, the damaged may bring a charge in view of the rest of the request.

(2) While the procedure under paragraph 1 of this Article lasts, the obsolescence under Article 527, paragraph 1 of this Code does not run.

(3) The charge for compensation of damage is submitted against the Republic of Macedonia.

Article 581

(1) The successors inherit only the right of the damaged to compensation of property damage. If the damaged has already submitted a request, the successors may continue the procedure only within the limits of the already submitted request for compensation of property damage.

(2) The successors of the damaged may after his death continue the procedure for compensation of damage i.e. may initiate a procedure if the convicted person died before the expiry of the period for obsolescence and did not withdraw from the request.

Article 582

(1) The right to compensation of damage also has the person:

1) who was detained and the criminal procedure was not initiated or the procedure has been interrupted with a legally valid decision or with the legally valid verdict has been released from the charge or the charge has been rejected,

2) who served a sentence of imprisonment, and due to the repetition of the criminal procedure, the request for protection of legality or the request for extraordinary reexamination of the legally valid verdict he is pronounced a sentence of imprisonment for a shorter period than the sentence he served, or he is pronounced a criminal sanction which does not consist of depriving from his freedom or is found guilty and released from the punishment,

3) who due to an error or unlawful matter of the body, he has been deprived from his freedom on unjustified or unlawful grounds or has longer been kept in detention or in the institution for execution of the sentence or the measure, and

4) who has been detained longer than the sentence of imprisonment he was convicted of.

(2) The person who under Article 188 of this Code is deprived from his freedom, without any lawful ground, has the right to compensation of damage if against him detention has not been determined or if the time of his detention is not calculated in the pronounced sentence for a crime or for an offence.

(3) The person who has caused his own deprivation from his freedom by unacceptable behaviour does not have the right to compensation of damage. In cases of item 1, paragraph 1 of this Article the right to compensation of damage is excluded although the circumstances under Article 526, paragraph 1, items 1 and 2 exist or if the procedure is interrupted on the basis of Article 135 of this Code.

(4) In the procedure for compensation of damage in cases of paragraphs 1 and 2 of this Article will be accordingly applied the provisions of this Chapter.

Article 583

(1) If the case to which refers the unjustified conviction or the unjustified or unlawful arrest of a person is presented by any mean of public information therefore the reputation of the person is degraded, on his request the court will announce in the newspapers or in another mean of public information an announcement for the decision with which it may be derived that the previous conviction or the arrest is unjustified. or unlawful If the case is not presented in any mean of public information, on the request of that person such an announcement will be delivered to his employer. After the death of the convicted person, the right to such a request have his marital i.e. illegitimate spouse, his children, parents, brothers and sisters.

(2) The request under paragraph 1 of this Article may be also submitted if the request for compensation of damage has not been submitted.

(3) Without reference to the conditions under Article 526 of this Code, the request under paragraph 1 of this Article may be also submitted when due to an extraordinary judicial

remedy the judicial qualification of the crime is altered, if due to the judicial qualification in the previous verdict the reputation of the convicted person has more severely been degraded.

(4) The request under paragraphs 1 to 3 of this Article is submitted within six months (Article 527, paragraph 1) to the court which proceeded in first degree in the criminal procedure. On the request decides the Chamber (Article 22, paragraph 6). During the decision for the request are accordingly applied the provisions of Article 526, paragraphs 2 and 3 and Article 530, paragraph 3 of this Code.

Article 584

The court which proceeds in first degree in the criminal procedure, will ex officio bring a decision with which the notification of the unjustified conviction in the penalty register is revoked. The decision is delivered to the Ministry of Justice. For the revoked notification no one can have an access to the data from the penalty register.

Article 585

The person who is allowed an access to the records and copying them (Article 124) which refer to the unjustified conviction or unjustified arrest, cannot use the data of the records in the manner that might damage the rehabilitation of the person against whom the criminal procedure is conducted. The President of the Court is obliged to warn the person, who has the access to the records of that and it will be notified in the record, with the signature of the person.

Article 586

(1) The person, due to the unjustified conviction or unjustified or unlawful arrest who has been denied his further employment or his social insurance, is granted his length of service, i.e. his insurance period as if he was working at the time of the unjustified or unlawful conviction or unjustified arrest. In the length of service is also calculated the period of unemployment due to the unjustified or unlawful conviction or unjustified arrest which was not his fault.

(2) During each decision for the right upon which influences the length of service or the insurance period, the competent body or the legal person will take into consideration the length of service recognised with the provision of paragraph 1 of this Article.

(3) If the body or the legal person under paragraph 2 of this Article does not take into consideration the length of service recognised with the provision of paragraph 1 of this Article, the damaged may request from the court, noted in Article 528, paragraph 1 of this Code to certify that the recognition of this period according to the law has begun. The charge is submitted against the body or the legal person which disputes the recognised length of service and against the Republic of Macedonia (Article 528, paragraph 3).

(4) On the request of the body i.e. legal person for which the right under paragraph 2 of this Article is realised will be charged from the budget (Article 528, paragraph 3) the proscribed amount for the time for which, with the provision of paragraph 1 of this Article the length of service is recognised.

(5) The insurance period recognised with the provision of paragraph 1 of this Article is fully calculated within the period for pension.

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:

The results which continuously generates positively trends in the increase of the satisfaction of the citizens in the courts collected in accordance with the survey for measuring the satisfaction of the citizens in the work of courts carried on the basis of the methodology developed in the framework of the USAID Project for the implementation of the judiciary reform are evident indicator of the success of the overall reform. Namely, so far three surveys were carried out, first for the period January - March 2008 when the satisfaction of the citizens in the courts was 69,73%; the second in September - November 2008 when the satisfaction of the citizens is increased for 8,27% and presents total of 78%; and the last one in the period March-April 2009 when the research shows increase of the level of satisfaction of the citizens of the work of court for 12,45% and presents total of 82,18%.

42) If possible, please specify:

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

According to the Article 83 from the Law on the Courts, the Ministry of Justice has competence to examine the complaints by citizens on the work of the courts related to the delay of court proceedings as well as on the work of court services. In 2008 were received 789 complaints by the citizens regarding the work of the courts and public prosecutors. Additionally, the Judicial Council in 2008 received 1616 complaints out of which 1255 were examined and solved.

According to the Article 12 from the Law on the Ombudsman, the Ombudsman shall undertake actions and measures for protection against unjustified delay of court proceedings or unconscientious and irresponsible performance of the work of court's services, hence not infringing the principles of

independence and autonomy of the judicial authority. The Report of the Ombudsman for 2008 shows that the biggest number of complaints by which the citizens requested protection were in the field of judiciary - 27,11% (for delay of procedure).

In 2008 the Parliament of the Republic of Macedonia adopted the Law on complains and proposals where the whole procedure for proceeding with complains and propopsals is regulated.

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	25
Specialised first instance Courts (legal entities)	3
All the Courts (geographic locations) * (this includes Supreme Courts and/or High Courts)	33

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

In the Republic of Macedonia there are 27 basic courts. Two of them are specialised in criminal and civil matters.

Namely, Basic Court Skopje 1 is a criminal court, while Basic Court Skopje 2 is a civil court. In the Republic of Macedonia there are also 4 appellate courts, Administrative court and the Supreme Court of the Republic of Macedonia. The main characteristic of our court system is specialisation within the courts (specialised departments).

The Supreme Court - the highest court in the country, which ensures uniform application of the laws by the courts. It is competent for deciding in second instance on its Chambers' rulings pursuant to law, deciding in third and final instance upon appeals on appellate courts' rulings, deciding in Administrative Court's rulings brought in second instances in cases provided for in law, judging upon extra-legal remedies against final court judgments and rulings of its Chambers pursuant to law, judging upon conflicts of competence between basic courts falling under jurisdiction of different appellate courts, between appellate courts and basic courts and between different appellate courts and deciding upon handing over the territorial jurisdiction from one court to another, deciding upon requests submitted by the parties and other actors in the procedure in breach of the law concerning reasonable timescale of lawsuits, in procedure before the courts provided for in law.

Appellate Courts – are second instance courts. They are competent to decide upon appeals on rulings of basic courts. Besides this primary prerogative, appellate courts are empowered to decide in conflicts of competence between basic courts falling under their jurisdiction and to perform other duties determined by law. They are established in the area of several basic courts (at the moment there are 4 such courts: Skopje, Stip, Bitola and Gostivar).

Basic Courts are established for one or more municipalities for an area determined by Law. There are 27 basic courts in the Republic of Macedonia. According to the actual jurisdiction, they are empowered to decide upon first instance and are established as courts with basic and extended jurisdiction. Within the frame of the basic courts with extended jurisdiction, specialised court departments are set up acting upon certain types of cases. Basic courts may establish court units. Five basic courts have established specialised judicial units competent for cases in the field of organised crime. The Basic Court Skopje I has been determined as solely criminal court, whereas the Basic Court Skopje II solely as civil court.

Administrative Court – for the purpose of ensuring court protection of the rights and legal interests of natural and legal persons and for ensuring legality, the Administrative Court, with regard to administrative disputes shall decide upon the legality of the acts of state administrative bodies, the Government, other state bodies, municipalities and the City of Skopje, organisations determined by law and legal and other persons in their performance of public authorisation (holders of public positions), who decide upon the rights and responsibilities of certain administrative affairs as well as on acts adopted in misdemeanour procedure.

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	26
a dismissal	26
a robbery	26

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

According amandments The Law on Civil procedure from 2008, the amount of the small claims can not exceed 2932 Euro (180000 Denars).

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

The Law on the Courts

[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



659

Comment :

In basic courts in the Republic of Macedonia in 2008 there were 528 judges.

In appellate courts in the Republic of Macedonia in 2008 there were 89 judges.

In Administrative court in the Republic of Macedonia in 2008 there were 22 judges.

In Supreme court of the Republic of Macedonia in 2008 there were 20 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?	yes	1794

Comment :

According to the Law on the Courts, lay judges shall participate in a trial where this is stipulated by law. Lay judges shall be elected and dismissed by the Judicial Council of the Republic of Macedonia under the conditions and in the procedure stipulated by law. The Judicial Council of the Republic of Macedonia shall determine the number of lay judges in each court, upon a proposal by the sessions of the basic and appellate courts. In 2008 in the courts in the Republic of Macedonia there were 1794 lay judges.

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

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

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

NAP

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 . 2251

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 | | NAP |
| - non-judge staff whose task is to assist the judges (case file preparation, assistance during the hearing, keeping the minutes of the meetings, helping to prepare the decisions) such as registrars | <input checked="" type="checkbox"/> Yes | 1894 |
| - staff in charge of different administrative tasks as well as of the management of the courts (human resources management, material and equipment management, including computer systems, financial and budgetary management, training management) | <input checked="" type="checkbox"/> Yes | 173 |
| - technical staff | <input checked="" type="checkbox"/> Yes | 184 |

Comment :

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

In the Republic of Macedonia there are not Rechtspfleger.

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 . 181

Comment :

In 2008, the new established Basic Public Prosecution Office for organised Crime and corruption started to work.

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 . 176

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	Yes	Yes	Yes	Yes
Court administrative director	Yes	Yes	Yes	Yes
Head of the court clerk office	No	No	No	No
Other	No	No	No	Yes

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

In the system of budgeting the courts in the Republic of Macedonia, presidents of the courts and court administrators of the courts are responsible for preparation, allocation and dayly management of own court budget as well as for evaluation and for control of its use. Additionay, Court Council and State Audit Office are responsible institutions for control of the use of the budget in each 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	No	Yes	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	No	No	Yes	No
Special Website	No	No	Yes	No
Other electronic communication facilities	No	No	Yes	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:

Ministry of justice, Court Council of The Republic of Macedonia, Supreme Court of the Republic of Macedonia, State Statistical Office of The Republic of Macedonia.

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

In order to establish and develop modern and automated judiciary in the Republic of Macedonia, aiming towards increasing the overall system efficiency, based on ICT solutions and systems in line with European and international standards, the Strategy for ICT in the Macedonian Judiciary 2007-2010 is being implemented. A Committee for coordination of ICT Strategy Activities was established. Under the Strategy, a new Automated Court Cases Management Information system (ACCMIS) was established and it enables registering and processing of court cases and linking external documents to the relevant court case. Moreover, a Rulebook on the method and the procedure for court cases management and for the use of the IT was adopted. From 01 January 2010, the ACCMIS shall function in all courts of the Republic of Macedonia. In order to provide basis for complete and effective use of the software, new Law on court cases management will be adopted. At the same time, ACCMIS, as a part of its software design, comprises also the component that generates centralized reports that will be used by the Judiciary network. In the beginning of 2009, training on use of ACCMIS commenced for all court officers, whereby trainings were implemented for 2200 employees in the judiciary. Among them, training for 551 judges, as well as 21 court administrators was implemented. The Display module was installed, providing information on the work of the court, scheduling of court cases across courtrooms, as well as online communication between the parties to the cases, through touch-screen kiosks installed in courts with extended competences. Within the framework of implementation of IT strategy, Internet access and anti-virus protection have been installed in every basic (lower) court. At the same time, all courts in the Republic of Macedonia, the Supreme Court of the Republic of Macedonia, Appellate Courts and Basic Courts have introduced fully functional web pages, where citizens can obtain information and data on the judicial power, jurisprudence, contact information, etc. The procedure of publishing so-called 'anonymized' court decision on court web pages commenced; according to the Law on Protection of Personal Data. The Ministry of Justice has developed a Database of Legislation, which contains 17806 laws, by-laws and other regulation, published in the Official Gazette, of RM between 1945 and November 2009, with ongoing update of the database with new regulations. The database is web-ready and suitable for local use at each of the courts. Regarding staffing levels of IT professionals, courts have employed 40 IT-professionals. Also, new IT equipment was procured, as follows: 720 personal- and 450 network computers, printers in the courts, as well as 150 personal and 150 network computers, as well as printers in the e public prosecutor's offices. Activities are under way to procure servers for all courts, as necessary support to the ACCMIS. Furthermore, software for registers for notaries, public attorneys, enforcement agents and mediators, which will enable e-communication with courts, will be provided. At the same time, all courts were connected, via Internet, to the Public Enterprise Official Gazette, which provides to the courts access to the web database of Official Gazette, containing laws and by-laws from 1945 until today. In order to provide basis for complete and effective use of the software, new Law on court cases

management will be adopted. Also, amendments and addendum of the Court rulebook are foreseen providing legal basis for the ACCMIS. In medium term the implementation of the priorities from the Strategy for ICT in the Macedonian Judiciary will continue.

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:

The courts submit monthly statistical reports to the Ministry of Justice. Additionally the courts are being monitored by the higher courts and the Supreme Court of the Republic of Macedonia in the Annual report prepared by the Supreme Court. Judicial Council collects all necessary data and information regarding the performance of the courts and each judge and evaluate their results.

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

- Yes
 No

Please specify:

The Supreme Court of Republic of Macedonia makes regular evaluation, based on the annual reports submitted by the courts. Ministry of Justice monitors the efficiency of the courts, by preparing quarterly, semi annual and annual statistical reports.

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:

All the indicators mentioned above are taken into the consideration by the Supreme court were evaluation on the work of each court is made.

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:

Targets are defined by the judicial power depending on the type of cases and the level of courts and they are applied for each judge.

In the basic courts:

- Investigations - 17 cases per month per judge
- Criminal cases - 17 cases per month per judge
- Misdemeanor cases - 140 cases per month per judge
- Civil cases - 25 cases per month per judge
- Commercial cases - 60 cases per month per judge

In Appellate courts:

- Criminal cases - 28 cases per month per judge
- Misdemeanor cases - 60 cases per month per judge
- Civil cases - 33 cases per month per judge
- Commercial cases - 33 cases per month per judge

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:

Supreme Court and Judicial Council in the process of evaluation.

76) Please specify the main targets applied

On the level of the court performances targets are made presented in the annual programme for the work of the court in accordance with the targets defined by Supreme Court of the Republic of Macedonia.

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:

Supreme Court of the Republic of Macedonia is responsible body to review annual reports of the courts.

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:

The reports sent to the Judicial Council by the courts, contain data on all old cases. The data are clasified by separate courts and for each judge separately. Additionally, the Ministry of Justice send forms for waiting time of civil cases to all courts and conduct analysis in accordance to received information.

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):

Supreme court and Appellate courts in the Republic of Macedonia visits the basic courts in order to evaluate their work. The visits are conducted according to the Annual programmes for the work of the Appelate courts and the Supreme court of the Republic of Macedonia.

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

- Yes
 No

If yes, please specify:

Public Prosecution of the Republic of Macedonia and the High Public Prosecution offices in the Republic of Macedonia conduct regular visits to the Basic Public Prosecution Offices in order to evaluate their work. The visits are conducted according to the Annual Programmes for work of the High Public Prosecutor's Office and the Public Prosecutor's Office of the Republic of Macedonia.

You can indicate below:

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

On the basis of the Rules of Procedure and Criteria for Monitoring and Assessment of the Work of Judges, the Judicial Council of the Republic of Macedonia undertook annual assessment of judges, which was finalized on the session on 06.07.2009 with the assessment of the work of presidents of courts. After the Council session, a summary report was produced, and in it, out of the assessed 566 judges, 247 judges, i.e., 43,64%, have received the grade "very good", which means that they exceeded on both quantitative and qualitative criteria in their work; 150 judges (i.e., 26.50 %) have received the grade "good", which means that they met quantity and quality criteria in their work; 124 judges, i.e., 21,91%, received the grade satisfactory, and 45 judges, i.e., 7,95 %, have received the grade non-satisfactory. Therefore, 92,05 % of the judges have received a positive assessment, i.e., have achieved results in accordance with the criteria for quality, quantity in their work and other CRITERIA in line with the Rules for Assessment of Work of Judges, and just 7,95% have received a negative assessment, i.e., failed to achieve results in their work, in line with the criteria. With regards to the basement of the work of presidents of

courts, out of the total of 26 court presidents who underwent assessment, 11, i.e., 42,31 %, have received the grade of very good; 10, i.e., 38,46 %, have received the grade good; 4, i.e., 15,38 % have received the grade satisfactory, and one president, i.e., 3,85%, has received the grade non-satisfactory. According to the Rulebook, the judges who are not satisfied with the grade have the right to object and apply for re-assessment. Until now, CCPM has received around 80 such applications and Committees were established that will decide on those applications from September on, after the end of the court holidays. On the basis of Article 41 of the Law on Judicial Council and the Rules on the Procedure and Criteria for Monitoring and Assessing the work of judges, the assessment of judge's work is one of the criteria on the basis of which the election of judges for the higher courts is carried out, and also, personal motivation and further professional development of judges are increased, in order to strengthen the independence and impartiality of judges. In line with the constant implementation of the judiciary reforms for strengthening the established principles of independent and professional judiciary, the Judicial Council will continue with the regular monitoring and assessment of the work of judges, through submission of quarterly reports on the work of judges as well as through regular reporting on the number of dismissed judges for unprofessional and malpractice performance. Furthermore, software for generation of statistical data regarding the monitoring and the assessment of the work of judges and courts will be developed. (Case flow in the Judicial Council, and candidate register for appointment of judges and jury)

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).

4,5%

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):

1395

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)		32	10	
Civil proceedings - Article 6§1 (non-execution)			2	
Criminal proceedings - Article 6§1 (duration)		2		

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:

In administrative procedure there are urgent procedure for administrative disputes before Administrative Court in the following fields: elections, public procurements, asylum, contemporary measures and misdemeanor cases in which there is seized items.

There are two urgent special procedures defined in the Law on Civil procedure: procedure in labor disputes and procedure in disputes for disturbance of possession. Namely, in the Article 405 from the Law on Civil Procedure it is defined that in the procedure of labor disputes, and especially when determining the time limits and the hearings, the court will always pay special attention to the need of quick resolving of the labor disputes. In procedures of labor disputes the time limit for response to a complaint is eight days. Iso, it is defined that in the labor disputes, which refer to the termination of the employment, the main hearing must be hold within thirty days from the day of the reception of the answer to the complaint. In this procedure, the procedure in front of a court of first instance has to be competed within six months from the day the complaint was filed. Also, in the procedure of labor disputes the court of second instance is obligated to make a decision upon appeal filed against the decision of the court of first instance within thirty days from the day of the reception of the complaint respectively within two months a hearing is held if in front the court of second instance.

Regarding the procedure in disputes for disturbance of possession it is important to mentioned that when determining the time limits and the hearings in regard to complaints for disturbance of possession, the court will always pay special attention to the need of a quick resolution according to the nature of each individual case. In this procedure, the time limit for response to a complaint is eight days and the main hearing must be held within thirty days from the day of the reception of the answer to the complaint. Also, in the procedure of disputes for disturbance of possession, the procedure in front of a court of first instance has to be competed within six months from the day the complaint was filed, while the court of second instance is obligated to make a decision upon appeal filed against the decision of the court of first instance within thirty days from the day of the reception of the complaint respectively within two months a hearing is held if in front the court of second instance.

Stecaj ???? itna postapka

In the Law on Juvenile Justice and the Law on Criminal procedure is defined that proceedings with cases connected with juvenilles and detention are urgent.

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):

According to the Article 163 from the Law on Criminal procedure, the investigating judge may agree with the proposal of the public prosecutor the investigation not to be conducted, if the collected data referring to the crime and criminal give a sound ground to initiate the prosecution act. Also, if for the crime a sentence to five- year imprisonment is proscribed, out of the conditions mentioned in the Law on Criminal Procedure (Art 163 para 1-5), the public prosecutor may initiate a prosecution act without investigation if the collected data referring to the crime and criminal are a sufficient ground for accusation.

Also Articles 456 and 457 from Law on Criminal procedure define simplify procedure when individual judge has competence to decide:

Article 456

(1) Before the assignment of the trial for crimes in the competence of an individual judge for which they are prosecuted on a private charge, the individual judge may call only the private prosecutor and the accused on a certain day to come to the court due to previous clarification of the matters, if he considers that it would be appropriate for a faster completion of the procedure. For the accused with the court summons is also enclosed a copy of the private charge.

(2) If the parties do not reconcile until the withdrawal of the private charge, the judge will obtain statements from the parties and will summon them to make their own proposals in view of the collection of evidence.

(3) If the individual judge does not find that there are reasons for rejection of the charge, he will bring a decision which evidence will be presented at the trial and according to the regulation, will immediately assign the trial and he will announce it to the parties.

(4) If the individual judge considers that collecting evidence is not important and there are no other reasons for a special assignment of a trial, he may immediately open the trial and upon the presented evidence before the court, bring a decision on a private charge. Of this will particularly be warned the private prosecutor and the accused at the delivery of the summons.

(5) If the private prosecutor does not reply to the summons under paragraph 1 of this Article is valid and applicable the provision of Article 54 of this Code.

(6) In case the accused does not attend the trial and if the judge decides to open the trial, the provision of Article 428, paragraph 4 of this Code will be applied.

Article 457

(1) When the second degree court decides on an appeal against the verdict of the first degree court brought in a brief procedure, of the session of the Chamber of the second degree court will be informed both parties only if the Chairman of the Chamber or the Chamber finds that the presence of the parties would be useful for the clarification of the matters.

(2) If it is a crime when the procedure is conducted on the request of the public prosecutor, before the session of the Chamber the Chairman of the Chamber will deliver the records to the public prosecutor who may submit a written proposal in the period of eight days.

In the Law on Civil Procedure, there is special part named: "SEPARATE PROCEDURE" that contains following procedures: procedure in labor disputes, procedure in disputes for disturbance of possession, issuing a payment order, procedure for small claims, procedure for commercial disputes and procedure before selected courts.

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:

Timeframes are defined in procedural laws and there are not subject to agreement between judge and lawyer. But they can conclude agreement for certain issues not exactly regulated by the law (for example additional submission of information by the parties) as well as on appointing the dates of hearing.

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)*	440639	99419	255091	284962
1 Civil (and commercial) litigious cases*	41599	47357	55113	33843
2 Civil (and commercial) non-litigious cases*	3491	12329	12809	3011
3 Enforcement cases	384763	1597	149562	236798
4 Land registry cases**	14	7956	7970	0
5 Business register cases**	NAP	NAP	NAP	NAP
6 Administrative law cases	5775	5204	3555	7424
7 Other	4992	24976	26082	3886
Total criminal cases (8+9)	185280	141039	226091	100228
8 Criminal cases (severe criminal offences)	13046	14885	17213	10718
9 Misdemeanour and / or minor offences cases	172234	126154	208878	89510

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):

Regarding the point 1. Civil (and commercial) litigious cases, we have also available separate data for civil and commercial cases. Namely in 2008 situation in Macedonian basic courts regarding civil cases is as following: Pending cases on 1 January 2008-32781cases, Incoming cases - 35614, Decisions - 43983, Pending cases on 31 December 2008 - 24412. Commercial cases: Pending cases on 1 January 2008-8811 cases, Incoming cases - 11743, Decisions - 11130, Pending cases on 31 December 2008 - 9431. In mentioned point 1 of table above are presented total number of presented civil + commercial cases.

In point 7 of the Table "Other" also are included bankruptcy cases, labour disputes and other civil cases.

In point 8 "Criminal cases" there are presented data for adult + juveniles criminal cases

Regarding the point 3 - "Enforcement cases" we would like to clarify that in the Republic of Macedonia there are enforcement agents. Therefore we did not fill that point.

Regarding the data in point 6 there are presented administrative disputes before Administrative Court. According to the explanation, that cases are not included in total number at the beginig of the table.

Regarding the point 5 "Business register cases", there are in the competence on the Central Registrar.

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)*	3313	23332	21252	5393
1 Civil (and commercial) litigious cases*	2849	18610	17052	4407
2 Civil (and commercial) non-litigious cases*				
3 Enforcement cases				
4 Land registry cases**				
5 Business register cases**				
6 Administrative law cases				
7 Other	464	4722	4200	986
Total criminal cases (8+9)	386	12122	11725	783
8 Criminal cases (Severe criminal offences)	222	4663	4546	339
9 Misdemeanour and/or minor offences cases	164	7459	7179	444

Comment :

Regarding the point 1. Civil (and commercial) litigious cases, we have also available separate data for civil and commercial cases. Namely in 2008 situation in Macedonian appellate courts regarding civil cases is as following: Pending cases on 1 January 2008 - 2310 cases, Incoming cases - 13789, Decisions - 12715?, Pending cases on 31 December 2008 - 3384. Commercial cases: Pending cases on 1 January 2008-539 cases, Incoming cases - 4821, Decisions - 4337, Pending cases on 31 December 2008 - 1023. In mentioned point 1 of table above are presented total number of presented civil + commercial cases.

In point 7 of the Table "Other" also are included labour disputes and other civil cases.

In point 8 "Criminal cases" there are presented data for adult + juveniles 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)	1563	1726	2110	1179
1 Civil (and commercial) litigious cases*	1563	1641	2025	1179
2 Civil (and commercial) non-litigious cases*				
3 Enforcement cases				
4 Land registry cases**				
5 Business register cases**				
6 Administrative law cases	0	85	85	0
7 Other				
Total criminal cases (8+9)	49	700	642	107
8 Criminal cases (severe criminal offences)	49	700	642	107
9 Misdemeanour cases (minor offences)				

Comment :

In addition to presented figures, Supreme Court has the competence to deal with application of citizens regarding the delay of procedure. In that field, Supreme Court in 2008 received 106 applications, 58 of them were solved while 48 were pending cases on 31 december 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*	746	2846	2828	764
Employment dismissal cases*	4868	6187	6819	4236
Robbery cases	2681	3482	3385	2778
Intentional homicide	57	64	68	53

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 tale. 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)	2nd instance (average length)	total procedure (average total length)
Litigious divorce cases*	7,17%	0,02%	136 days	47 days	199 days
Employment dismissal cases*	35,75%	3,4%	176 days	53 days	229 days
Robbery cases					

	42,56%	1%	182 days	45 days	227 days
Intentional homicide	68,31%	1,9%	184 days	49 days	233 days

Comment :

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

The Law on civil procedure is applied in divorce cases. In addition to that in the Law on the Family there is special part (five articles) dedicated to divorce of marriage, but it does not contain provisions regarding the court procedure.

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

Length of procedure is calculated according to data received by all courts. Separately, there were analysed data from basic courts, appellate courts and Supreme Court of the Republic of Macedonia.

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:

According to the Public Prosecutor's Law, while exercising its function of prosecuting the perpetrators of criminal acts and misdemeanours, the public prosecutor is authorized to:

- Has all the necessary authorisations from the Ministry of interior and from the other state institutions for disclosing of criminal acts and their perpetrators,
- Give orders to apply special investigative measures in the pre-trial procedure,
- Lead and undertake measures in the pre-investigation and investigation procedure and under her availability are the official persons from the Ministry of interior, Finance police and the customs,
- Undertakes activities in the investigation procedure in accordance to the law,
- It can by himself undertake every action that is necessary for the discover of the criminal act and the discover and prosecution of its perpetrator for what by law is authorised the Ministry of interior, Financial police and the Customs directorate,
- Determine whether the prosecution of perpetrators of criminal acts should be undertaken or continued,
- Submit and handle indictments,
- Impose (Announces/Declares) regular and extraordinary legal remedies against court decisions,
- Submit a request for initiating a misdemeanours procedure, and
- Perform other duties as determined by law.

The Public Prosecutor's Law was adopted in December 2007. It gives grounds for action of the public prosecutors in the field of investigation. Additionally, the main reform in that field will follow with the amandement of the Law on Criminal Procedure.

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

- Yes
 No

Please specify:

Public prosecutor has competency to file Request for protection of legality in the procedure for administrative disputes. (Article 49 from Law on Administrative Disputes)

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	37577	15801	4762	NAP	11680	12913

Comment :

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

In the first half of 2009 compared to the data of 2006 the following progress can be noted: Decrease in the inflow of new cases for 34,3% (or for 170.266 cases); and Decrease in the

number of unsolved cases for 28% (or 257.603 cases).

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

90-95. Ministry of Justice

100. Public Prosecutor's Office

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:

In the Republic of Macedonia judges are elected by the Judicial Council. According to articles 45 and 46 from Law on the Courts, a person may be elected judge if they meet the following criteria:

- To be a citizen of the Republic of Macedonia,
- To be fluent in Macedonian,
- To have working capacity and satisfy the general health conditions,
- To have a university diploma for a law graduate in Republic of Macedonia or an acknowledged diploma from a law faculty from abroad,
- To have passed the bar exam in the Republic of Macedonia

Special conditions for election of a judge are:

- For a basic court judge a person that finished training in the Academy for training of Judges and Public Prosecutors can be elected,
- For a judge in an appellate court a person that has at least 5 years working experience in legal matters after passing the Bar exam can be elected.
- For a judge in the Administrative Court a person that also has at least 5 years working experience in legal matters after passing the Bar exam, or he/she is a university law professor with a PhD.
- For a judge of the Supreme Court a person that has at least 8 years working experience with confirmed results in legal matters after passing the Bar exam can be elected, or university professor with experience more than 10 years, lecturing legal subject connected with judicial practice

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.

For election of judges in the higher courts is used procedure explained in answer of question 101. Also election of judge in the higher court is regulated in Article 41 in Law on Judicial Council of the Republic of Macedonia. Namely, the Council shall elect a judge in an Appellate Court, the Administrative Court, and the Supreme Court of the Republic of Macedonia from the rank of candidates who have applied to the vacancy and who meet the conditions and criteria stipulated by the Law on Courts and the Law on Judicial Council.

The Council shall elect for judge the person of highest expert and professional qualities, with good reputation in exercising his/hers judicial office, while on the base of the following criteria:

- 1) expert knowledge in the field, taking into account the specialised and post-graduate studies and participation in continuous education,
- 2) attitude towards the work, taking into account the achieved balance between the undertaken and expected volume and efficiency in conducting the work of a judge,
- 3) capability in resolving legal issues, taking into account the achieved level of regularity and legitimacy of judicial ruling and verification, foremost, during proceedings with legal means,
- 4) safeguarding the reputation of a judge and court, to be verified by the manner of presiding with cases, communication with sides and other organs, preservation of the independency, impartiality, confidentiality, importance and interrelation towards work and out of it,
- 5) capacity to convey both in writing and verbally, that can be observed from the prepared decisions and professional judicial proceeding,
- 6) undertaking extra work when performing judicial duty by participating in procedures to resolve backlog of cases,
- 7) undertaking extra work when performing judicial duty by means of mentorship, education etc,
- 8) relationship with the colleagues and the court administration,
- 9) capability in conducting tasks with managing nature.

If the candidate does not come from the ranks of judges, the Council shall obtain the opinion of the legal entity where the candidate is employed, as well as from other institutions in regards to candidate's professional development in the area of law and its application.

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:

According to the Amendments of the Constitution of the Republic of Macedonia adopted in 2005, public prosecutors except Public Prosecutor of the Republic of Macedonia are elected by the Council of public prosecutors. In the new Law on Public Prosecution the public prosecutor can be elected among any person that meets the general terms set by law on employment in a state body, as well as the following conditions Basic Conditions:

- to be a citizen of Republic of Macedonia
- to actively know the Macedonian language
- to have working capacity and general health capacity
- to have a University degree for a law graduate in Republic of Macedonia or arecognized diploma from abroad and
- to have the Judicial exam of Republic of Macedonia passed,

For Public Prosecutor of Republic of Macedonia can be appointed a person who meets the above mentioned terms, as well as the following special terms:

- 8 years professional experience in legal matters, after taking the judicial exam, or a full-time or part-time university professor that has been teaching a law related subject or a judicial practice subject for more than 10 years.

For Public prosecutor in the Public Prosecution of Republic of Macedonia can be elected a person who besides mentioned basic conditions meets the following terms:

- 8 years professional experience in legal matters with acknowledged results, after taking the judicial exam.

For Higher public prosecutor of a Higher Public Prosecution can be elected any person that besides the mentioned basic conditions has professional experience of at least 5 years as a public prosecutor with acknowledged results in the work.

For public prosecutor in a higher Public Prosecution can be elected any person who besides the basic conditions meets the following special terms:

- 5 years professional experience in legal matters with acknowledged results, after taking the judicial exam

For Public Prosecutor of the Public Prosecution for Prosecuting Organized Crime and Corruption and a public prosecutor in the Public Prosecutor's Office for Prosecuting Organized Crime and Corruption can be elected a person that besides the basic conditions has professional experience of at least 4 years as a public prosecutor with acknowledged achievements in the work.

For public prosecutor in a Basic Prosecution can be elected any person who besides basic conditions mentioned above meets the following special terms:

- Completed training at the Academy for training of judges and public prosecutors.

In the Law on Public Prosecution is defined that in the position of the Public prosecutor of Republic of Macedonia, high public prosecutor and in the public prosecution for prosecution of the organised crime and corruption, the council will select a person with confirmed results at work, who has professional and experts qualities who as well enjoys authority in performing his function, based on the following criteria:

1. expertise knowledge in the criminal field, what will be considered specialist studies, postgraduates studies and participation in the continued education,
2. the relation towards the work or the timely manner in the execution of the work as public prosecutor,
3. capability for professional solving of the legal issues,
4. undertaking of additional work during the execution of the function of public prosecutor through the participation in the preparation of the rules, facilitation, education etc.
5. Enjoying and keeping of the authority of public prosecutor and public prosecution's office, that can be confirmed by the communication manner with the parties and other institutions, independence, impartiality and reliability in performance of the function of public prosecutor and outside of the working hours,
6. professional relation with the public prosecution experts service.

Beside the mentioned criteria, the High public prosecutor of the high public prosecution

office, Public prosecutor for the prosecution of the organised crime and corruption and the Basic public prosecutor of the basic public prosecution office should possess ability to perform duties of managerial character.

Also it is important to mention that the higher public prosecutors, the Public Prosecutor of the Public Prosecution for Prosecuting Organized Crime and Corruption and the public prosecutors in the Public Prosecution for Prosecuting Organized Crime and Corruption and basic public prosecutors in the Basic Public Prosecution are elected from the ranks of public prosecutors in Republic of Macedonia, abiding by the procedure and manner for electing a public prosecutor in the respective Public Prosecution.

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:

Election of public prosecutors in higher public prosecutor's offices is regulated in Article 40 from the Law on Council of Public Prosecutors. The Council shall elect a Higher Public Prosecutor at a Higher Public Prosecutor's Office, Public Prosecutor for prosecution of organized crime and corruption, and a Basic Public Prosecutor at a Basic Public Prosecutor's Office from the candidates who have applied from among the elected public prosecutors of the Republic of Macedonia and who meet the requirements and criteria stipulated in the Law on Public Prosecutor's Office.

The candidate, who wins the majority of votes from the total number of Council members, shall be elected a Higher Public Prosecutor, Public Prosecutor for prosecution of organized crime and corruption or Basic Public Prosecutor.

In case the Public Prosecutor of the Republic of Macedonia, Higher Public Prosecutor, Public Prosecutor for prosecution of organized crime and corruption or Basic Public Prosecutors are not reappointed, they shall continue performing the duties of public prosecutors at the same public prosecutor's office.

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

- Yes
- No

Are there exceptions? Please specify:

According to the article 99 of the Constitution of the Republic of Macedonia public judges are appointed for a life.

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	No	NAP

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

- Yes
 No

Are there exceptions? Please specify:

According to the Amendment XXX of the Constitution of the Republic of Macedonia public prosecutors are appointed for a life except Public Prosecutor of the Republic of Macedonia who is appointed for a mandate of 6 years.

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	No	NAP

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

With Law on Academy for training judges and prosecutors there is introduced system of initial training of judges and public prosecutors as a condition for their appointment in first instance court or basic public prosecution office.

With the Constitutional Amendments from December 2005, the new Law on the Courts (May 2006), the Law on the Court Council (May 2006), and the Law on Academy for training judges and prosecutors, new system of section and election of judges was established. According to the above mention new laws the jurisdiction for election of judges is transferred from the Assembly of Republic of Macedonia to the Judicial Council of Republic of Macedonia.

According to the Constitutional Amendments, the Public Prosecutor of the Republic of Macedonia is elected by the Assembly with mandate of 6 years and a right on re-election while the public prosecutors are elected by the Public Prosecutors Council for undetermined mandate.

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

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

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 biggest novelty in the system of training of judges and prosecutors in the Republic of Macedonia was introduced by establishing the Academy for training of judges and public prosecutors in 2007. According to the Law on the Academy for training of judges and public prosecutors, the main purpose of the Academy is to provide competent, professional, independent, impartial and efficient performance of judicial and prosecution function through selection, organisation and implementation of initial training of candidates for judges and prosecutors and continuous professional training of judges and prosecutors and judiciary and prosecution clerks.

With that law for first time in the Republic of Macedonia is introduced system of initial training of judges and prosecutors.

According to the Article 6, the Academy shall perform the following activities:

- shall organise and implement the initial training of candidates for judges and prosecutors,
- shall organise and implement continuous professional training for judges and prosecutors,
- shall organise and implement training for educators,
- shall organise and implement continuous professional training for the judicial and prosecution clerks,
- may organize and implement training for lawyers, public notaries, and the similar but without deranging the activity of the Academy.
- shall organise and implement conferences, seminars, and other forms of training and professional education,
- shall establish and maintain co-operation with similar local and foreign institutions, organisations and associations,
- shall publish publications and perform other publishing activity for its own needs,
- shall organise and keep a library,
- shall perform other activities determined by the law and Statute of the Academy in accordance with this Law.

The initial training of the candidates shall last for 15 months and shall encompass five months lectures in the Academy and ten months practical training in court or prosecution office under the supervision of judges and prosecutors.

Academy also organises continuous education for judges, public prosecutors and clerk in the courts. The continuous professional training of judges and prosecutors is implemented through a general and special – specialised programmes, which will cover the application of substantive and procedural laws, the modifications of the laws and regulations, ethic standards of behaviour, the latest scientific and professional accomplishments in the field of national and international law, especially the law of the European Union, the judicial and prosecution practice, etc. In the Law is defined The Duration of Continuous Professional Training of Judges and Prosecutors. Namely, the judges and prosecutors have a right and obligation to continuous professional training in the Academy, depending on their work experience.

The duration of the continuous professional training of judges and prosecutors having work experience of up to 8 (eight) years for the post of judge or prosecutor is at least 50 (fifty) hours during the course of the year.

The duration of continuous professional training of judges and prosecutors having work experience longer that 8 (eight) years for the post of judge or prosecutor is at least 30 (thirty) hours during the course of the year.

The duration of continuous professional training of judges and prosecutors having work experience longer than 15 (fifteen) years for the post of judge or prosecutor is at least 15 (fifteen) hours during the course of the year.

In cooperation with Council of Europe special attention is paid on development and realisation of programmes for training of judges and public prosecutors on the European Convention of Human

Rights.

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	16807	10945
Judge of the Supreme Court or the Highest Appellate Court	20912	13583
Public prosecutor at the beginning of his/her career	13840	9055
Public prosecutor of the Supreme Court or the Highest Appellate Instance	16916	11037

Comment :

In 2009 the Parliament adopted a legislation according which public prosecutors from a certain level (instance) receive same salaries as judges at the same level (instance).

119) Do judges and public prosecutors have additional benefits?

	Judges	Public prosecutors
Reduced taxation	No	No
Special pension	No	No
Housing	Yes	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	Yes	No
Research and publication	Yes	Yes	No
Arbitrator	No	No	Yes
Consultant	No	No	Yes
Cultural function	No	No	No
Other function	No	No	No

122) If other function, please specify:

According to the Article 52 from the Law on the Courts, the judicial function is incompatible with the function of a MP, or a member of a municipal council or the Council of City of Skopje, and with an office in the state bodies, municipalities and the City of Skopje.

A judge may not perform any other public function or profession, but a function set by law, that is not in collision with their independence and autonomy in exercising the judicial function.

A judge may not perform the work of an executive or supervisory board member of a company or other legal entity founded for acquisition of profit, or another public function or profession, with the exception of functions determined by law.

A judge may be an educator or hold lectures at the Academy for Training of Judges and Public Prosecutors and university institutions and take part in certain scientific projects.

For performing activities in a university institution, the Judicial Council has to grant permission. The judge cannot be a member of a political party or exercise a political function in a political party, or perform party and political activities.

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

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

124) If other function, please specify:

According to the Law on Public Prosecution, the function Public Prosecutor is incompatible with the function Member of Parliament, member of the Council of the Municipality i.e. the City of Skopje and with the functions in the state bodies, municipality and the city of Skopje. Also, Public prosecutor may not be a member of an executive or supervision board of trade association or some other legal association that is established in order to gain some benefit.

In the Law is defined that Public prosecutor may be trainer or to hold lectures in the Academy for training of judges and public prosecutors and on the high educational institutions and to participate in some particular scientific and expert projects.

Additionally, the Law defines that public prosecutor can perform activities and may be involved in projects in high educational institutions upon a previous approval issued by the Public Prosecutor's Council.

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

- Yes
 No

If yes, please specify:

In 2007 the Law on salaries of judges was adopted. In Article 8 of mentioned Law it was proscribed that judges in the courts which decrease backlog (1/3 or 1/2 of backlog in court) has right to receive last salary increased for 70% or 100%.

Please indicate the source for answering the question 118

Court Budget Council and Public Prosecution Office

5. 2. 2. Disciplinary procedures

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

1. Judges

In Article 55 from Law on Judicial Council of the Republic of Macedonia is defined that the initiative for instituting a disciplinary procedure shall be raised by a member of the Council, the President of the court, the President of the higher court or by the general session of the Supreme Court of the Republic of Macedonia within three months from the day when the infringement has been discovered, but not longer than one year from the day when the act was committed. The disciplinary procedure is urgent and of confidential character. It shall be conducted without presence of the public and by respecting the reputation and dignity of the judge.

2. Public prosecutors

Responsibility of public prosecutors is regulated in Article 20 in the Law on Public Prosecutor's:

Article 20

The Public Prosecutor of the Republic of Macedonia is the higher in rank in the hierarchy of the public prosecutors, he/she is responsible for the general conditions of the organization and performance of the public prosecutors office's and for his/her performance and for the performance of the public prosecutor's office is responsible in front of the Parliament of the Republic of Macedonia.

Public prosecutors from the Public prosecution office of Republic of Macedonia for their performance are responsible in front of the Public Prosecutor of the Republic of Macedonia and the Council of Public Prosecutors.

Higher Public prosecutor for his/her performance is responsible in front of the Public Prosecutor of the Republic of Macedonia and the Public Prosecutors Council of Republic of Macedonia.

The Public Prosecutor for prosecution of organized crime and corruption for his/her performance is responsible in front of the Public Prosecutor of the Republic of Macedonia and the Council of Public Prosecutors, public prosecutors in to the Public Prosecution Office for prosecution of the organised crime and corruption for their performance are responsible in front of the Public Prosecutor for prosecution of the organised crime and corruption and the Public prosecutors Council of Republic of Macedonia.

The Basic Public Prosecutor for his/her performance is responsible in front of the Higher Public Prosecutor, the Public Prosecutor of the Republic of Macedonia and the Council of Public Prosecutors, and the public prosecutors in a Basic Public Prosecutor's Office for their performance are responsible in front of the direct supervising public prosecutor and the Public Prosecutors Council of Republic of Macedonia.

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

1. Judges

In Article 55 from Law on Judicial Council of the Republic of Macedonia is defined that the Council shall establish Disciplinary Commission consisted of a five members from the Council.

The judge shall be entitled to a written or verbal statement regarding the initiative for instituting a disciplinary procedure within 8 days from the days of receiving the notification for the request. The judge undergoing disciplinary procedure is entitled to a counsel for the defence.

The Disciplinary Commission, upon receiving the request, shall collect information and submit a report with a proposal for the grounds of the request to the Council that shall decide to institute the procedure or to suspend the procedure.

When the Council shall decide to institute a disciplinary procedure, the decision is submitted to the initiator and the judge, and the case with all the files shall be handed over to the Disciplinary Commission.

2. Public prosecutors

According to the Law on Public prosecution, the procedure for determining disciplinary liability shall be conducted by a Commission of five members established by the public prosecutor of the Republic of Macedonia.

The Council of Public Prosecutors of Republic of Macedonia shall decide on the appeal against the decision of the mentioned commission. Also, it is proscribed that the public prosecutor has the right to initiate administrative dispute before competent court against decision of the Council of Public Prosecutors of Republic of Macedonia.

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)	15	
1. Breach of professional ethics		
2. Professional inadequacy	15	
3. Criminal offence		
4. Other		

Comment :

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)	12	
1. Reprimand		
2. Suspension		
3. Withdrawal of cases		
4. Fine		
5. Temporary reduction of salary	2	
6. Degradation of post		
7. Transfer to another geographical (court)		

location		
8. Dismissal	8	
9. Other	resigned - 2	

Comment :

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**

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).

1899

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:

According to the Law on Civil Procedure, an authorised representative of party may be:

- lawyer,
- person-graduated in law faculty who is employed by the party and
- blood relative in straight line, brother, sister or a spouse – if he or she has full legal capacity.

134) Is the lawyer profession organised through?

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

Please specify:

The attorneys in the Republic of Macedonia are organized in a Bar Association of the Republic of Macedonia.

The Bar Association of the Republic of Macedonia has the status of a legal entity. The work of the Bar Association of the Republic of Macedonia is autonomous and independent.

The Bar Association of the Republic of Macedonia has the following competences:

- 1) decides on the acquirement and termination of the right to practise legal profession, and on the entry and removal from the Register of Attorneys, Register of Associate Law Professionals and Register of Trainees-at-law.
- 2) registers and removes from the Register of Law Firms,
- 3) determines accountability in violations of the legal profession and its repute,
- 4) decides on a temporary work ban,
- 5) adopts a Tariff List for Remuneration and Compensation of Expenses,
- 6) adopts Acts of the Bar Association,
- 7) adopts a Code of Ethics of the Legal Profession,
- 8) cares for the professional training and advancement of associate law professionals and trainees-at-law.

Additionally, the Bar Association of the Republic of Macedonia collaborates with the Bar Associations of foreign countries, as well as with other International organizations of legal professions.

The Bar Association of the Republic of Macedonia has the following sources of financing:

- 1) membership fees,
- 2) registration fees,
- 3) gifts and donations,
- 4) rental fees,
- 5) other proceeds in accordance with this Law.

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

The Bar Association of the Republic of Macedonia

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:

There is special exam foreseen for representation in proceedings for protection of intellectual rights and industrial property.

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

Lawyers' fees are clearly established in the Tariff for reward and expences for lawyers' work. They are calculated in denars.

139) Are lawyers fees

regulated by law?

regulated by Bar association?

freely negotiated?

Please provide comments to explain the answer under question 139:

Tariff for reward and expences for lawyers work contains of two parts: compensation of expences and compensations for given legal advice that consists few segments: reward for writing podnesoci, reward for defending and representation, reward for preparation of legal remedy and reward for legal advices.

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):

142) Is it possible to complain about

the performance of lawyers?

the amount of fees?

Please specify:

There are two basic acts of the Bar Association in that field: Code of Ethics and secondary legislation regarding the disciplinary procedure for lawyers.

143) Which authority is responsible for disciplinary procedures

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

Please specify:

Responsible organ for disciplinary procedure is Bar Association. In the framework of the Bar Association there are three main organs responsible for disciplinary procedure: Disciplinary Prosecutor, Disciplinary Court and Appellate Council. Lawyer may initiate administrative dispute before the Administrative Court on the final decision brought by the above mentioned organs.

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	63	96		

Comment :

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			1		

Comment :

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

According to the Constitution, the bar is defined as an autonomous and independent public service providing legal aid and executing public authorisation in accordance to law. The bar is regulated with the Law on the Bar adopted in 2002. The amendments of the Law from 2006 regulate the obligation regarding the mandatory training for attorneys, introduction of bar exam, the responsibility of attorneys regarding abuse of authorisations and protection of the rights of parties in court through remuneration of damages done by attorneys as well as the possibility for attorneys from EU Member States to perform their activities on the territory of the Republic of Macedonia, following Republic of Macedonia's accession to the EU (transitional provision).

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	No	Yes	No	No	No
Family law cases (ex. Divorce)	No	Yes	No	No	No
Administrative cases	No	No	No	No	No
Employment dismissals	No	Yes	No	No	No
Criminal cases	No	Yes	No	No	No

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

Yes

No

If yes, please specify:

In Chamber of mediators parties can get information for mediation.

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

98

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	39
family cases?	<input checked="" type="checkbox"/> Yes	10
administrative cases?		NAP
employment dismissals?	<input checked="" type="checkbox"/> Yes	5
criminal cases?	<input checked="" type="checkbox"/> Yes	0

Please indicate the source for answering the question 150:

Chamber of Mediators

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:

In the Republic of Macedonia there is a full time arbitration at the Commercial Chamber of Republic of Macedonia. They perform arbitration in commercial cases among the legal entities that are their members.

In the Law on Civil Procedure there is Chapter 13 in which is regulated PROCEDURE IN FRONT OF SELECTED COURTS.

Also, in the Law on Civil Procedure it is regulated procedure for COURT SETTLEMENT

"COURT SETTLEMENT

Article 307

- (1) The parties may conclude a settlement about the subject of the case (court settlement) during the whole course of procedure at the court.
- (2) The settlement may concern the overall claim or a part of it.
- (3) During the procedure, the court will instruct the parties on the possibility of court settlement and it will help them to conclude a settlement.
- (4) A settlement cannot be concluded in court in regard to the claims when the parties cannot dispose over them (Article 3 paragraph 3 of this Law).
- (5) When the court in first instance will make a decision with which it does not permit a settlement of the parties, it will stop with the procedure until this decision becomes final.

Article 308

- (1) The agreement of the parties for settlement is entered into the minutes.
- (2) A settlement is concluded when the parties sign the minutes after the minutes for the settlement has been read out.
- (3) Upon their request, the parties will be issued a verified transcript of the minutes in which the settlement has been entered.

Article 309

During the whole of the procedure, the court will pay attention ex officio whether the procedure refers to a case for which a court settlement was concluded earlier, and if it determines that the procedure is underway for a case for which a court settlement has been concluded earlier, it will dismiss the complaint.

Article 310

- (1) The person who intends to file a complaint may try to achieve a settlement through the court of first instance on whose territory the opposing party has residence respectively a place of dwelling.
- (2) The court to which such a proposal was directed will summon the opposing party and it will inform it of the proposal for settlement.
- (3) The expenses for this procedure are covered by the person that submits the proposal. "

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**

On September 14, 2009 a Law on amendments and additions to the Law on mediation was adopted, which widens the area of family and criminal cases. If the mediation is suitable for the character of the disputes, and if with a specific law its application is not excluded than the mediation can be applicable in family and criminal cases.

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).

67

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:

Persons who perform public authorizations determined by law, out of the Courts, appointed according to the provisions of the Law, who decide directly on the actions to be taken, within their authorizations, in order to carry out the enforcement decision and take up the enforcement actions.

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:

Ministry of Justice

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:

The Ministry of Justice performs regular supervision of the work of enforcement agents and the Chamber of enforcement Agents, at least once a year. The Ministry also performs extraordinary supervision over the work of the enforcement agent at any time ex-officio or upon a request from a President of court from the territory where they are appointed.

The enforcement agents and the Chamber are obligated to provide insight into the acts and the records that they have to the authorised persons from the Ministry of Justice. The supervision by the Ministry of Justice is performed in the presence of the enforcement agent that is being supervised, the President of the Chamber, or a person authorised by the President of the Chamber, if the supervision is performed over the work of the Chamber. The report for the concluded supervision is delivered to the Chamber and to the State Auditors Bureau.

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?

The Ministry of Justice forms the quality standards through the Law on enforcement and secondary legislation envisaged by the Law. During the enforcement, the enforcement agent are obliged to act immediately, to deal with the cases in the order in which they were received, efficiently and lawfully.

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

163) Is there a system for monitoring the execution?

- Yes
 No

If yes, please specify

Party or participant in the execution has right to submit objection for irregularities in execution to the president of the competent court and to submit appeal against decision of the president of the court.

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:

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:	4
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:	

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 checked="" type="checkbox"/> number:	0
Reprimand	<input type="checkbox"/> number:	0
Suspension	<input type="checkbox"/> number:	0
Dismissal	<input type="checkbox"/> number:	0
Fine	<input type="checkbox"/> number:	0
Other	<input type="checkbox"/> number:	0

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

The Disciplinary Committee of the Chamber of enforcement Agents is working on the complains from clients and on the reports that the Ministry of Justice has produced about violations but still no disciplinary procedures are started and no disciplinary measures are pronounced against enforcement agents.

"Law on enforcement" was adopted in 2005, according to which private enforcement agents with public authorizations took over the forcible enforcement of court decisions for fulfillment of an obligation.

There were two amandment and adendum of the Law on enforcement in 2006 and all the Regulations envisaged by the Law were prepared and entered into force.

There was another amendment of the "Law on enforcement" in 2007 and two changes of the Regulations, concerning the exam for enforcement agents and the number and the territory of the enforcement agents where they are appointed.

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

Chamber of enforcement agents

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):

Judge for Execution of sanctions is introduced in Macedonian penal system with the Law on Execution of Sanctions. Namely, it is provided that in all Basic Courts a Judge for Execution of Sanctions will be appointed.

The Judge for Execution of Sanctions protects the rights of the convicted persons, supervises the legality of the procedure for execution of the imprisonment sentence and provides equality of the convicted persons before the law.

The Judge for Execution of Sanctions performs activities and decides for:

- sending of the convicts on serving the imprisonment sentence,
- postponement of the imprisonment sentence,
- interruption in serving the sentence and abolishment of the interruptions of sentence serving,
- calculation of the sentence, if the competent court did not pass the appropriate verdict,
- obsolescence of the execution of the sentence or termination of the execution of sentence due to the convict's death, if the competent court did not pass the appropriate verdict,
- cooperation with the competent Centres for social work about the post-penal aid and the execution of the alternative measures,
- replacement of the fine with imprisonment sentence,
- payment of the fine on instalments,
- other cases regulated by law.

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

The Law on Execution of Sanctions adopted in December 2005 regulates the execution of sanctions for crimes and misdemeanours such as penalties, alternative measures, security

measures and educational measures. The reform of the penitentiary system is approached for the purpose of improvement of the conditions in the penitentiary institutions and more efficient execution of sanctions in compliance with the international standards.

The activities concerning the execution of sanctions are in the competence of the Directorate for Execution of Sanctions, which has the capacity of a legal person. This Law provides for establishment of another penitentiary institution of closed and semi-open type, in order to ease the burden of the detention and prison capacity as well as creation of organisational and functional conditions for establishment of a hospital for treatment of imprisoned population. The Law provides legal basis for the training Centre for the employees of the penitentiary institutions, necessitating provision of financial and staffing conditions for its permanent functioning. The Law provides for practical implementation of the alternative measures prescribed in the Criminal Code (cooperation with other state bodies has been ensured with the establishment of the Department for enforcement of alternative measures within the Directorate for Execution of Sanctions).

The Penitentiary system in the Republic of Macedonia is positioned in a horizontal and vertical connection, as a sole and closed system of penitentiary and correctional institutions. In this system, the execution of sanctions is in competence of the Directorate for Execution of Sanctions, with the capacity of a legal person, managed by a Director. The sentence of imprisonment and the educational - correctional measure remitting to educational correctional institution is done in penitentiary-correctional or educational-correctional institutions, which have the capacity of a legal person. The penitentiary and correctional institution may be penitentiary-correctional institution homes or prisons, and according to the level of security, they are divided into penitentiary and correctional institution of open, semi-open and closed type. Currently in the Republic of Macedonia, 8 penitentiary correctional and 2 educational-correctional institutions are operational.

For further improvement of the conditions in the penitentiary -correctional institutions and ensuring more efficient execution of sanctions in accordance with the international standards, new draft Project for reconstruction of the penitentiary correctional and educational correctional institutions in the Republic of Macedonia was prepared in order to obtain a loan from the Bank for development within the Council of Europe. The aim of the project is to increase the capacities and to improve the conditions of the prisoners as well as for employees in the penitentiary institutions.

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)?		NAP
a status of private worker ruled by the public authorities?	<input checked="" type="checkbox"/> number	143
a public one?		NAP
other?		NAP

Comment :

174) Do notaries have duties:

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

Please specify:

Notaries are responsible to compose notary act and verification of private documents, according to the law.

The public service for notary activities in the Republic of Macedonia was introduced upon the adoption of the Law on Performing Notary Activities in 1996, and the first notaries were appointed in 1998. The New Law on Notary was adopted in April 2006. The introduction of the notary service as autonomous, expert, impartial and independent public service has had positive effect on release of the courts in the part of undisputed cases transferred in the competence of the notaries. Furthermore, legal security has increased by the acknowledgement of notary documents having capacity of public documents.

With amendments of the Macedonian legislation the competences of the notaries were extended in the field of payment orders.

Please indicate the source for answering the question 173

Ministry of Justice - Law on Notaries

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 Ministry of Justice performs supervision of the work of the Chamber of the notaries and the notaries ex-officio. The Ministry also performs extraordinary supervision over the work of the notaries upon a complaint.

The notaries and the Chamber of notaries are obliged to provide insight into the acts and the records that they have to the authorised commission consisted of three employees of the Ministry of Justice, a judge appointed for the territory for which the notary is appointed, authorised notary from the President of the Chamber of notaries. The supervision by the Ministry of Justice is performed in the presence of the notary that is being supervised, the President of the Chamber, or a person authorised by the President of the Chamber, if the supervision is performed over the work of the Chamber. The report for the concluded supervision is delivered to the Chamber, to the Ministry of Justice, and the notary himself.

"Section for supervision over the work of Enforcement agents, notaries and mediators" was formed within the Ministry of Justice so that a supervision and control is strengthened.

The Chamber of Notaries has the right to conduct extraordinary control of the work of notaries.

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

There were a lot of amendments and addendum on the "Law for notaries" till 2006, so in 2007 a new "Law for notaries" was adopted, according to the National Programme for the Adoption of the Acquis of the Republic of Macedonia. The Ministry of Justice in 2007 prepared new Regulations as envisaged by the law. The main purpose of the Law is to reduce the caseload in the courts, strengthening the responsibility of the notaries in doing the official authorisations and improving the safety of the legal traffic in Republic of Macedonia.

With changes of legislation in that field competences of the notaries were increased. Now they are competent to handle the cases connected to legacy that are non - conscious cases as well as for payment orders.

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

3161

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

- Yes
 No

If yes, please specify:

Quality of court interpreting is provided through exams for court interpreters conducted by commission established from the Minister of Justice, composed by the university professors in the field of language teaching.

New system of selection of interpreters with exam was introduced in 2008. According to new system, until now 263 interpreters have passed exam and they are appointed by the Minister of Justice as court interpreters. The rest of 3161 were appointed before exam was introduced.

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?) :

According to the Court book of rules and other secondary legislation, court interpreter can become a person who has passed exam before commission established from the Minister of Justice, composed by the university professors in the field of language teaching. According to the Law on Courts, Court interpreters are appointed by the Minister of Justice.

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:

Strategy for reform of the judicial system of the Republic of Macedonia and the Action Plan for its implementation opened a new perspective for development of the entire judicial system, to arrive at strengthened independence and increased efficiency of the judicial system determined as key segments on which the reform is based. The Council for Monitoring of the reforms in the judiciary was established as the only and the highest institutional form, in charge of monitoring of the effects of the reform process and providing guidelines for achieving of continuous results in the implementation of the Strategy. Thus far, seven sessions of the Council have taken place, and seven updated reports on the implementation of the activities from the Strategy on Judicial Reforms have been produced.

The impact of judicial reforms, in line with the aforementioned, is a category already visible and measurable. Namely, there is a shift from normative and legislative reforms to initiatives for strengthening of capacities of institutions that are implementing the reform acts and solutions. In the field of judiciary, under the strategy, 14 new laws and amendments to the reform laws were adopted (a total of 29 laws, 111 by-laws and decisions for their implementation and a total of 9 new institutions were established: Academy for Training of Judges and Public Prosecutors, Judicial Council of the Republic of Macedonia, Administrative Court, Appellate Court Gostivar, court Department in charge of processing cases of organized crime and corruption for the entire territory of the Republic of Macedonia in the Basic Court Skopje 1 – Skopje, The Council of Public Prosecutors, Basic Public Prosecutor's Office for prosecution of Organized Crime and Corruption, Higher Public prosecutor's office Gostivar and Agency for Management of Confiscated Property. The new institutional structures are fully established, finalized and functional and achieve the desired results planned within the reform process.

Steps to follow are advanced reforms dealing with specific segments of the judicial system, among which introduction of ICT in the judiciary, reform of criminal legislation, reform of the system of juvenile justice, reform of the penitentiary system, improved court budget management, etc.

In the future period, the most important reform is reform in the field of criminal procedure law. Namely, pursuant to the Strategy, a new Proposal of Criminal Procedure Code has been drafted which proposes a new model and a more active role of the public prosecutor in the preliminary criminal procedure and the investigation. Namely, in the new normative solutions the Public Prosecutor has a completely new role in the procedure and position both in respect of the relations with the court and in the relations with the judicial police and the other bodies with investigative powers. There is a special regulation of the competence of the public prosecutor and his/her managing role in the detection and prosecution of criminal offences.

The reform of the criminal law, with a special focus on the new competences of the public prosecutor's office in the investigation, will be supported by IPA 2009 within the frameworks of the Project "Support in the implementation of the reform in the criminal-legal system" which covers technical assistance and a procurement contract, installation and testing of specialised equipment for the research centres attached to the public prosecutor's offices.