



EUROPEAN COMMISSION FOR THE EFFICIENCY OF JUSTICE
(CEPEJ)

SCHEME FOR EVALUATING JUDICIAL SYSTEMS 2009

Country: Romania

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

21528627

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

	Amount
State level	38496005435
Regional / entity level	

3) Per capita GDP (in €)

6363

4) Average gross annual salary (in €)

5743

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

4

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

Concrete figures for Q3, Q4 and Q5:

Q3 - 6363,6

Q4 - 478,2

Q5 - 3,9852

Source of data:

The quantum of expenses – Ministry of Public Finances

Average gross annual salary – National Prognosis Commission

The rate of exchange lei/euro on 1st of January 2009 – National Bank of Romania

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 €)

385309000

7) Please specify

The budget of courts includes:

- the budget of courts of appeal, tribunals and first instance courts, which is included in the budget of the Ministry of Justice;
- the budget of the High Court of Cassation and Justice, which is distinct of those of the courts of appeal, tribunals and first instance courts.

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	330427080
Annual public budget allocated to computerisation (equipment, investments, maintenance)	<input checked="" type="checkbox"/> Yes	7409000
Annual public budget allocated to justice expenses	<input checked="" type="checkbox"/> Yes	23532000
Annual public budget allocated to court buildings (maintenance, operation costs)	<input checked="" type="checkbox"/> Yes	15259755
Annual public budget allocated to investments in new (court) buildings	<input checked="" type="checkbox"/> Yes	5331256
Annual public budget allocated to training and education	<input checked="" type="checkbox"/> Yes	74000
Other (please specify):	<input checked="" type="checkbox"/> Yes	3275909

Comment :

Personnel expenses: Expenses for wages + Contributions

Capital expenses: Investments, capital repairs, endowments and equipments

Expenses for goods and services: Public judicial aid, expenses concerning the maintenance of the legal courts, professional training, rents for headquarters, etc.

For the professional training of the personnel within the judiciary, amounts are provided also in the budgets of the National Institute of Magistracy and National School of Clerks, which are institutions for professional training, being under the coordination of SCM, in a total quantum of 6.643.070 EURO.

9) Has the annual public budget of the courts changed (increased or decreased) over the last five years?

Yes

No

If yes, please specify (i.e. provide an indication of the increase or decrease of the budget over the last five years:

The budget evolution (legal courts and the High Court of Justice and Cassation) has registered an increase in the period 2005 – 2008:

Budget 2005 – 194.090.000 EURO

Budget 2006 – 263.223.000 EURO

Budget 2007 – 316.094.000 EURO

Budget 2008 – 385.309.000 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:

As provided by Law no. 146/1997 on the judicial fees, the exceptions are as follows:

1. labor litigations, as well as the enforcement of decisions pronounced in those litigations;
2. some family cases (alimony, adoption, tutelage)
3. the payment of pensions and other social insurances litigations
4. cases for granting damages for convictions or some illegal preventive measures
5. some consumer protection
6. exertion of electoral rights
7. cases of restitution of property, in the case of real estates abusively confiscated in the communist period
8. litigations regarding the sanctioning of contraventions

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

22914634

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 769595000

Comment :

The budget of the entire judiciary includes the budget of the Ministry of Justice, the High Court of Cassation and Justice, the Superior Council of Magistracy and the Public Ministry.

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

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

. Amount 4376694

Comment :

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

	Annual public budget allocated to legal aid in criminal law cases	Annual public budget allocated to legal aid in non criminal law cases
Amount	3501355	875339

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 160389216

Comment :

Please see explanations at question 8.

17) Is the budget allocated to the public prosecution included in the court budget?

Yes

No

18) Authorities formally responsible for the budget allocated to the courts:

	Preparation of the total court budget	Adoption of the total court budget	Management and allocation of the budget among the individual courts	Evaluation of the use of the budget at a national level
Ministry of Justice	Yes	No	Yes	Yes
Other ministry	No	Yes	No	No
Parliament	No	Yes	No	No
Supreme Court	No	No	No	No
Judicial Council	No	Yes	No	No
Courts	Yes	No	Yes	No
Inspection body	No	No	No	Yes
Other	No	No	No	No

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

„Other ministry“ with competences in „Adoption of the total court budget“ is the Ministry of Public Finances, which verifies the draft budget of courts, related to the macro-economic context for the respective budgetary year and with the expense limitations approved by the Government.

In the category „Inspection body“, with attributions in the „Evaluation of the use of the budget at a national level“, there are:

- The Ministry of Public Finances, by preventive financial control, which is the activity by which the legality and regularity of the operations with public funds are verified, before their approval.
- The Court of Accounts, which exerts control over the manner of administration and using of the financial resources of the state and of the public sector.

You can indicate below:

- **any useful comments for interpreting the data mentioned in this chapter**
- **the characteristics of your budgetary system and the main reforms that have been implemented over the last two years**
- **if available an organisation scheme with a description of the competencies of the different authorities responsible for the budget process**

The budget of courts:

The Ministry of Justice annually elaborates the draft budget for court, having in mind the drafts elaborated by the courts of appeal, inclusive for the tribunals and first instance courts in their circumscription, which it appropriates without objections. The draft budget elaborated by the Ministry of Justice is subject to positive endorsement by the Superior Council of Magistracy. Ulterior, the budget of the courts is integrated by the Ministry of Public Finances, after verifications, into the state budget draft, which is approved by the Parliament.

The budget of the High Court of Cassation and Justice:

The High Court of Cassation and Justice doesn't have competences regarding the budget of the courts of appeal, tribunals and first instance courts, but only with regard to its own budget. The budget of the High Court of Cassation and Justice is approved by its general assembly of judges, with the consultative endorsement of the Ministry of Public Finances. This is included in the state budget, which is approved by the Parliament.

Comments for Q11:

The incomes in 2008 resulted from the judiciary stamp fees, stamp fees for the public notaries activities and other stamp fees categorized according to the budgetary classification were of 26.2 millions Euro (ESA methodology), the exchange rate being the one communicated by the RNB (Romanian National Bank) on 1st January 2009.

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

Q6, Q8, Q12, Q13, Q14 - Ministry of Justice

Q11 - Ministry of Public Finances

Q16 - Public Prosecutors' Office attached of the High Court of Cassation and Justice

2. Access to Justice and to all courts

2. 1. Legal aid

2. 1. 1. Principles

20) Does legal aid concerns:

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

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

The public legal aid may be granted in the following forms (art. 6 of the Government Emergency Ordinance no. 51/2008):

- a) payment of the fee for ensuring the representation, the legal aid and, as applicable, the defense, by an appointed or chosen lawyer, in order to realize or protect a legal right or interest in justice or in order to prevent a dispute, hereinafter called assistance through lawyer;
- b) payment of the expert, translator or interpreter used during the trial, with the permission of the legal court or authority with jurisdictional attributions, is this payment is incumbent, according to law, on the one who solicits the public legal aid;
- c) payment of the bailiff's fee;
- d) Exemptions, discounts, phasings or postponements from the payment of the judicial fees stipulated by law, inclusively of those owed in the forced execution phase.

The legal assistance aims not only to the representation before court and legal aid, but also to the consultancy granted before, during and after the finalization of the case.

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

- Yes
 No

If yes, please specify:

- exemptions, discounts, phasings or postponements from the payment of the judicial fees stipulated by law, inclusively of those owed in the forced execution phase – for the natural persons;
- discounts, phasings or postponements from the payment of the judicial fees – for the legal persons

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	145720
in criminal cases	NA
Other than criminal cases	NA

Comment :

There is a record only with regard to the total number of cases in which the legal aid was granted, not distinctly, by nature of each case.

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	NAP	
for other than criminal cases?	YES	

Comment :

Comments for the answer Yes:

For the public legal aid (APJ) which is granted in civil, commercial, administrative, work and social insurance cases, as well as in other cases, except the criminal cases.

Government Emergency Ordinance no. 51/2008:

The persons whose monthly net average income per family member, in the last two months before the request drawing up, is under the level of 500 lei. (about 116 euro) benefit of public legal aid. In this case, the amounts which constitute public legal aid shall be completely advanced by the state. If the monthly net average income per family member, in the last two months before the request drawing up, is under the level of 800 lei (about 186 euro), the amounts of money which constitute public legal aid shall be advanced by the state in proportion of 50%.

At the establishment of the income there are taken into account any periodical incomes, as wages, indemnities, fees, rents, profit from commercial activities or from an independent activity and such others, as well as the amounts periodically owed, such as rents and maintenance obligations.

The approval of the public legal aid requests shall be mainly made based on the solicitor's statement on his own responsibility. Until present there was not set up a system for the verification of the veracity of the data supplied by the solicitor; this verification which, theoretically, could be realized is ulterior to the approval of the request and may be realized by poll. The verification may be performed by the Ministry of Justice, ex officio or at the notification of any interested person (Article 40). The verifications may be done at any time for 2 years from the date they are granted. This verification is not sufficient yet and capable to fight in due time and efficiently against the tendency of declaring some incomes smaller than the real ones. Within the Ministry of Justice there is being setting up a department which shall undertake all the attributions related to the public legal aid administration,

inclusively to the verification of the solicitors' incomes, which must be accompanied by legislative completions which shall concretize the control and verification attributions of the personnel.

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:

Article 16 of the Government Emergency Ordinance no. 51/2008:

(1) The public legal aid may be refused when it is abusively solicited, when its estimated cost is disproportionate in comparison to the value of the case object, as well as when the granting of the public legal aid is not solicited for the defense of a legitimate interest or is solicited for an action which contravenes to public or constitutional order.

(2) If the request for whose settlement there it is solicited public legal aid belongs to the category of those which may be submitted to mediations or to other alternative settlement procedures, the request for public legal aid may be rejected, if it is proved that the solicitor of the public legal aid has refused before the beginning of the trial to follow such a procedure.

(3) The public legal aid may be refused when the solicitor pretends damages for hurts brought to his image, honor or reputation, in the conditions in which this one did not suffer any material prejudice, as well as in the event the request results from the commercial activity or from an independent activity carried out by the solicitor.

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

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

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

- Yes
- No

Please specify:

The law does not stipulate and does not regulate this type of insurance, although the existence of such products on the insurance market is not excluded. Nevertheless, if such insurances exist, they have an insignificant weight.

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

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

You can indicate below:

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

According to art. 193 of the Criminal Procedure Code and art. 274 of the Civil Procedure Code, the party which loses the trial is obliged to pay for the trial expenses of the opposite party.

The public legal aid shall be also granted in other two situations than those stipulated in the specification from question 26. The two different situations do not directly relate to the weak material state of the solicitor:

- 1. The public legal aid may be also granted in other situations too, in proportion to the solicitor's needs, if the certain or estimated costs of the trial are able to limit the effective access to justice, inclusively because of the cost differences of the life between the member state in which this one has his domicile or habitual residence and Romania.
- 2. The public legal aid shall be granted, according to this emergency ordinance, independently of the material state of the solicitor, if by special law there is stipulated the right to legal aid or the right to free legal aid, as protection measure, within the consideration of some special situations, as minority, handicap, a certain statute and such others. In this case, the public legal aid shall be granted without the accomplishment of the criteria mentioned at the comment from question 26, but only for the defense or recognition of some rights or interests resulted or found in relation to the special situation which has justified the recognition, by law, of the right to legal aid or to free legal aid.

By the Government Emergency Ordinance no. 51/2008 on the public legal aid in the civil matter there have been transposed in the Romanian legislation the principles of the Directive 2003/8/EC of Council of the European Union to improve access to justice in cross-border disputes by establishing minimum common rules relating to legal aid for such disputes.

Undertaking these European standards applicable to the cross-border cases has imposed the creation of some conditions at least identical on the internal plan, not to lead to the appearance of some discriminations between its own citizens and the citizens of the other member states or persons who have their domicile or dwelling established on the territory of a member state and who would solicit legal aid before the legal courts or other authorities with Romanian jurisdictional attributions.

That is why the GEO no. 51/2008 has consolidated the whole legal aid system which is granted in other matters than the criminal one.

In criminal cases if convicted the party is compelled to pay all the legal costs (those granted by the state and the parties involved).

Provisions concerning the legal aid in criminal cases:

The cases in which the legal aid is compulsory in criminal cases (Article 171 from the Criminal Procedure Code), independently of the financial possibilities of the party:

Legal aid is compulsory when the accused or defendant is minor, in a reeducation centre or in an educative medical institute, when he is kept or arrested even in another case, when for him there has been ordered a safety measure for the medical hospitalization or the obligation to a medical treatment even in another case or when the criminal prosecution body or court appreciates that the accused or defendant could not make his own defense, as well in other cases stipulated by law.

During judgment, legal aid is also compulsory in the cases in which law stipulated for the committed offence the penalty of life detention or imprisonment of 5 years or more.

When legal aid is compulsory, if the accused or defendant did not choose a lawyer, there are being taken measures for appointing a lawyer ex officio.

Assistance of the other parties

When the legal body appreciates that for various reasons the wounded party, the civil party or the party responsible from the civil point of view could not make his own defense, orders ex officio or by request to take the measures for the appointment of a lawyer.

Comments for Q23:

The law does not make distinctions as to how the judicial fees are owed for the trial phase and the execution phase; therefore, all the categories of facilities identically apply for the fees from the two phases of the trial.

For instance, in the execution phase, the legal aid may be granted for:

- the payment of judicial executor's fee
- exemptions, discounts, phasings or postponements from the payment of the judicial fees owed during the forced execution

Please indicate the sources for answering the questions 24 and 26

Q24 - National Bar Association of Romania

Q26 - Ministry of Justice

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.legislatie.just.ro ;
www.csm1909.ro |
| <input type="checkbox"/> case-law of the higher court/s? Internet address(es): | <input checked="" type="checkbox"/> Yes | www.scj.ro ;
www.portal.just.ro/Jurisprudenta.aspx |
| <input type="checkbox"/> other documents (for examples forms)? Internet address(es): | <input checked="" type="checkbox"/> Yes | www.csm1909.ro |

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

- Yes
 No

If yes, please specify:

33) Is there a public and free-of-charge specific information system to inform and to help victims of crimes?

- Yes
 No

If yes, please specify:

According to the provisions of Article 4 from Law no. 211/2004 the attributions referring to the victims' information belong to the trial legal courts, prosecutors, officers and policemen.

In Romania, there are agencies specialized in the assistance of the victims. These specialized agencies are:

1. National Authority for the Protection of Family and Child's Rights;
2. National Agency against Trafficking in Persons;
3. General Department for Social Assistance and Child Protection;
4. Probation Service.

The criminal prosecution body has the obligation to inform the victim about his procedural rights, as well as about other rights this one has, like the free psychological assistance and the services or organizations ensuring it, the conditions and the procedure for granting the free legal aid.

Certain categories of victims have the right to free legal aid (the victims of certain categories of offences, the victims who have an income at most equal to the gross minimum basic salary per country), to free psychological assistance (offences committed with violence, rape, sexual offences against minors, traffic in persons and others), as well as to financial compensations from the state (the victims of some violent offences, of some sexual offences, the victims of the traffic in persons, of the offences of terrorism).

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	No	Yes	Yes	Yes
Victims of terrorism	No	Yes	Yes	No
Children/Witnesses/Victims	Yes	Yes	Yes	Yes
Victims of domestic violence	Yes	Yes	Yes	Yes
Ethnic minorities	Yes	Yes	Yes	No
Disabled persons	No	Yes	Yes	Yes
Juvenile offenders	Yes	Yes	Yes	Yes
Other	No	No	No	No

Comment :

With regard to "Other", for the category "Victims of rape", the following specifications: The Criminal Procedure Code (CPC) contains several provisions which are concretely process guarantees for the protection of the offences' victims who constituted wounded party in the criminal trial. For instance, Article 77/1 stipulates that, during the criminal prosecution or during the trial, the wounded party may be heard through the intermediary of some audio and video means. The wounded party has also the right to request for its hearing to be made in the presence of a probation counselor.

As special modality of trial development, Article 290 paragraph 2 from the CPC gives the possibility for the meeting not to be public in the conditions in which the publicity of the meeting would bring moral hurts to morality, dignity or intimate life of a person

With regard to "Hearing modalities" for the category "Children/Witnesses/Victims" - Article 86/4 from the CPC stipulates that in the cases concerning the violence offences between the members of the same family, the legal court may order for the witness under 16 years not to be heard in the trial meeting, allowing the submission of a hearing previously performed, by audio-video recordings, in the conditions of the Criminal Procedure Code.

With regard to "Other", for the category "Children/Witnesses/Victims" - As for the hearing of the

minor victims or witnesses, there are special procedural provisions in the Criminal Procedure Code which stipulated the procedural rights any wounded party to give audio or video statements, without being physically present at the place of the hearing (Article 77/1) or that the wounded party has the right to request for the statements to be made in the presence of a probation counselor. As for the minor witness, this one may be heard until the age of 14 years only in the presence of one of the parents or of the tutor or of the person to whom he/she is entrusted. The witness may also benefit of the protection of his identification date according to the provisions of Article 86/1 from the CPC or of special modalities of hearing in the conditions of Article 86/2 CPC. The witnesses may also benefit of the special protection measures stipulated by Law 682/2002 on the witnesses' protection. As special modality of the trial development, Article 290 paragraph 2 from the CPC gives the possibility for the meeting not to be public in the conditions in which the meeting publicity would bring hurts to morality, dignity or intimate life of s person

With regard to "Other", for the category "Victims of domestic violence" - Article 118/1 from the Criminal Code stipulates the possibility for the legal court to take, at the request of the wounded party, the measure of the interdiction to return to the family domicile, for a period of up to two years, if there took place hurts or violence actions causing physical and psychic sufferance upon the family members. As special modality of the trial development, Article 290 paragraph 2 from the CPC gives the possibility for the meeting not to be public in the conditions in which the meeting publicity would bring hurt to morality, dignity or intimate life of a person.

With regard to "Information mechanism" for the category "Ethnic minorities" - Art. 7 of the CPC provides that, before the judicial authorities, the utilization of maternal language is ensured for the parties or other persons called to trial.

With regard to „Procedural rights" for the category „Ethnic minorities" - If the parties of a criminal trial do not speak or understand the Romanian language or cannot express, Article 8 CPC stipulates that they shall be freely granted the possibility to take knowledge of the file pieces, the right to speak, as well as the right to conclude in the court, by interpreter.

With regard to „Procedural rights" for the category „Disabled persons"- If the parties of a criminal trial have disabilities which do not allow them to speak or understand the Romanian language or if these persons cannot express, Article 8 CPC stipulates that they are freely granted the possibility to take knowledge of the file pieces, the right to speak, as well as the right to conclude in the court, by interpreter.

With regard to „Other" for the category „Juvenile offenders" - the Criminal Procedure Code stipulates s special procedure in Title IV, Chapter II, called the Procedure in the cases with minor offenders, which stipulates rules and special conditions as concerns the hearing, evaluation and publicity of the trial meeting.

As for the special modalities of hearing the victims of the offences of rape, domestic violence, terrorism, the general provisions in the matter shall apply, according to which, if the trial in the public meeting could bring hurts to some state interests, morality, dignity or intimate life of a person, the legal court may declare secret meeting.

Example:

The witnesses of the offences, as well as the victims who shall have the capacity of witness in the trial benefit of the provisions of Law no. 682/2002 on the protection of witnesses, law which institutes a programme for protection of the threatened witnesses.

The are also special centers for sheltering the victims of the traffic in persons and of violence in family, for a determined period in which they benefit of psychological and legal assistance, as well as of physical protection against the authors of the offences.

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?

May benefit of financial compensations the persons who have been victims of the following types of offences:

- attempt to the offence of murder, aggravated murder and very serious murder, an offence of serious bodily wounding, stipulated by Article 182 from the Criminal Code,
- an intentional offence which had as result the serious bodily wounding of the victim,
- an offence of rape,
- sexual relation with a minor,
- sexual perversion,
- an offence concerning the traffic in persons,
- an offence of terrorism,
- any other intentional offence committed with violence.

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

- Yes
 No

If yes, please specify:

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

- Yes
 No

If yes, please specify:

The prosecutor has a special position as concerns certain categories of victims, the intervention of the prosecutor being limited by the legal provisions. Thus, Article 17 from the CPC stipulates that the civil proceedings is also commenced and exercised ex officio, when the wounded person is a person without the capacity of exercise or with restrained capacity of exercise. Article 18 from the CPC stipulates that the prosecutor may assert before the legal court the civil proceedings commenced by the wounded person, and when the wounded person is a person without capacity of exercise or with restrained capacity of exercise, the prosecutor, when attending to trial, is obliged to assert the civil interests of this one even if this one is not constituted as civil party.

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:

The prosecutor may order the end of the criminal prosecution phase by three different solutions: classification, cessation of the criminal prosecution or taking out under the criminal prosecution, depending on the accomplishment of the different conditions of Article 10 CPC. About the prosecutor's decision there shall be informed the persons who have made the notification, the accused or offender and other interested persons (the victim).

The criminal procedure Code gives the possibility to any person to complaint against the solutions for the non-beginning of the criminal prosecution or for the non-suing at law, regulating a special procedure to this effect in the section „Complaint against the criminal prosecution measures and actions” (Articles 278-278/1 CPC).

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):

The civil regulations of material and procedural law do not consecrate special mechanisms for the legislators' compensation for the cases of the excessive duration of the procedures and the non-execution of judgments. In the case of the non-observance of the provisions concerning the normal development of the forced execution the competent legal court may order the application of a judicial fine and, as applicable, the payment of a compensation for the damage produced by cancellation (Article 108/2 and the followings from the Civil procedure Code).

For the regulations foreseen with regard to the guarantee of the right to an equitable trial and to the settlement of the case within a reasonable time limit, please see the answer to question no. 182.

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:

- „Study over the opinions and attitudes (initial conditions) regarding the implementation of the reform of judiciary in Romania”, elaborated by Gallup Romania, available on the webpage of the Superior Council of Magistracy (www.csm1909.ro).
- Survey within the project “Elaborating the Strategy for communication and public relations for the judiciary”, its conclusions being included in the Superior Council of Magistracy's Strategy for communication of the Superior Council of Magistracy and the judiciary, available on the SCM website (www.csm1909.ro).

42) If possible, please specify:

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

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	No	No
Higher court	No	No
Ministry of Justice	No	No
High Council of the Judiciary	Yes	Yes
Other external organisations (e.g. Ombudsman)	No	No

Comment :

For the administrative investigation, developed by inspectors – 60 days. For the complaints that do not involve a disciplinary procedure (of administrative investigation) the term for solving is 30 days.

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	179-41-15
Specialised first instance Courts (legal entities)	10
All the Courts (geographic locations) * (this includes Supreme Courts and/or High Courts)	246

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

Comments for Q45: Romanian courts, based on the degrees of jurisdiction:

First instance courts – 179

Tribunals – 41

Courts of appeal – 15

The general specialization areas are: civil, criminal, commercial, disputed claims and fiscal, labor and social insurances, maritime and fluvial. Among those, there are sub-areas of specialization, such as: minors and family, land fund, corruption, insolvency.

The specialized judgment of cases is carried out, as follows:

- at courts of appeal and tribunals level, by establishing, related to the number of cases, primary, of specialized sections in the general areas mentioned before and, secondary, of specialized panels for those areas, as well as for the matters which constitute sub-areas of specialization;
- at first instance courts level, by establishing, related to the number of cases, primary, of specialized panels in general areas and sub-areas of specialization which are in their competence, and, secondary, of sections only in the general areas of specialization, with regard to which they have competence.

The law provides the possibility to establish specialized tribunals in the general areas mentioned before, as well as the sub-area minors and family, but this is not mandatory.

4 out of the 10 specialized courts from question 45 have the following specializations: 3 tribunals in commercial matter and one tribunal in the matter of cases with minors and family. The other 6 specialized courts are military courts, their specialization being, in principal, given by the quality of the offender, having in mind that those courts only judge offences committed by military personnel.

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:

- the possibility to dissolve the courts and prosecutors' offices with a small volume of activity is being analyzed
- modifications of competences are provided within the drafts of the civil and criminal procedure codes;
- the balancing of the personnel schemes of courts and prosecutors' offices is in progress, by redistributing the vacant positions of judges and prosecutors, according to the volume of activity.

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	179
a dismissal	41
a robbery	179

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

The internal legislation does not define the notion of small claims, but defines the maximum limits of the claims which are of competence of first instance courts, as follows:

- those with a value up to 2.509,28 EURO, are handed to trainee judges;
- those with a value up to 25.092,84 euros, in commercial matter, are handed to other judges;
- those with a value up to 125.464,21 euros, in civil matter, handed to other judges.

Comments for Q48:

179 is the number of first instance courts

41 is the number of tribunals

179 is the number of first instance courts

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

Superior Council of Magistracy

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 . 4142

Comment :

The number represents the judges in function at the end of 2008.

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

--	--

gross figure	NAP
if possible, in full time equivalent	NAP

51) Please provide comments to explain the answer under question 50:

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

Please provide comments to explain the answer under question 52:

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

Comment :

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

- Yes
 No

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

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 . 8648

Comment :

The number represents the positions filled by auxiliary personnel, public servants and contractual personnel within the High Court of Cassation and Justice, courts of appeal, tribunals and first instance courts.

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	5131
- 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	1608
- technical staff	<input checked="" type="checkbox"/> Yes	1909

Comment :

5131 represents the number of clerks with judicial tasks; 1608 – the number of registering clerks, documentary clerks, statistician clerks, archivist clerks and public servants; 1909 – number of IT staff, contractual personnel and other personnel (drivers, ushers, procedural agents).

Other categories of personnel which function within the Romanian courts:

Assistance magistrates: 81
 Judicial assistants: 170
 Probation counselors: 285

Assistance magistrates work only within the High Court of Cassation and Justice. They participate in the trial sessions, have a consultative vote in deliberations and write the minutes of the sessions, as well as the decisions.

Judicial assistants work only within tribunals and are part, together with the judges, in the panels which judge, in first instance, cases regarding labor and social insurances litigations (the panel is composed of 2 judges and 2 judicial assistants, participate in deliberations with a consultative vote and sign the decisions.

The probation counselors have, in principle, the following attributions:

- Support the activity of judges by elaborating certain evaluation documents in the criminal cases with juvenile offenders;
- Support the activity of the judge delegated with enforcing the decisions in criminal matter, by supervising the observance by the convicted person of the obligations established by the court in his/her duty;
- Cooperate with public institutions in order to execute the measure to force the minor to carry out an unpaid activity in an institution of public interest.;
- Initiate and carry on special programs of social reinsertion for persons convicted to prison, whose punishment was fully reprieved by law, as well as for the minors who committed offences provided by the criminal law, for whom the law removed the educative measure of internment in a re-education center;
- Carry out, at request, activities of individual counseling of offenders, with regard to the social, group and individual behavior;
- Initiate and carry out special programmes of protection, social and judicial assistance of minors and youngsters who committed offences

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

NAP

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 . 2379

Comment :

The number represents the prosecutors in function at the end of 2008.

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

Yes

No

If yes, please specify:

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

Please provide comments to explain the answer under question 60:

Number . 3380

Comment :

The number represents the auxiliary personnel (clerks, IT clerks, statistician clerks, archivist clerks) and other personnel (procedural agents and drivers).

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	Yes	No	No	No
Court President	Yes	No	Yes	Yes
Court administrative director	Yes	No	Yes	No
Head of the court clerk office	No	No	No	No
Other	No	Yes	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 Romanian judiciary, the function of court administrative director does not exist. Attributions concerning the budget are of competence of the economic manager.

- In the field of arbitration and allocation of the courts' budget, the Ministry of Justice and the Superior Council of Magistracy have attributions and give a positive endorsement to the budget draft. With regard to the evaluation and verification of the modality of using the budget, beside

the court president, the Ministry of Justice, the Ministry of Public Finances and the Court of Accounts are competent.

The budget of courts:

The Ministry of Justice annually elaborates the draft budget for court, having in mind the drafts elaborated by the courts of appeal, inclusive for the tribunals and first instance courts in their circumscription, which it appropriates without objections. The draft budget elaborated by the Ministry of Justice is subject to positive endorsement by the Superior Council of Magistracy. Ulterior, the budget of the courts is integrated by the Ministry of Public Finances, after verifications, into the state budget draft, which is approved by the Parliament.

The budget of the High Court of Cassation and Justice:

The High Court of Cassation and Justice doesn't have competences regarding the budget of the courts of appeal, tribunals and first instance courts, but only with regard to its own budget. The budget of the High Court of Cassation and Justice is approved by its general assembly of judges, with the consultative endorsement of the Ministry of Public Finances. This is included in the state budget, which is approved by the Parliament.

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

	100% of courts	+50% of courts	-50% of courts	-10% of courts
Word processing	Yes	No	No	No
Electronic data base of jurisprudence	Yes	No	No	No
Electronic files	Yes	No	No	No
E-mail	Yes	No	No	No
Internet connection	Yes	No	No	No

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

	100% of courts	+50% of courts	-50% of courts	-10% of courts
Case registration system	Yes	No	No	No
Court management information system	No	No	No	Yes
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	No	Yes
Special Website	Yes	No	No	No
Other electronic communication facilities	Yes	No	No	No

66) Is there a centralised institution which is responsible for collecting statistical data

regarding the functioning of the courts and judiciary?

- Yes
 No

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

The High Court of Cassation and Justice for its own activity, the Superior Council of Magistracy for courts and the Prosecutors' Office attached to the High Court of Cassation and Justice for prosecutors' offices.

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

Comments for Q64:

With regard to "Financial information system": For courts of appeal and tribunals, the others do not have financial attributions, due to the fact that they are not main credit chief accountants, therefore they do not need such software

Comments for Q65:

With regard to "Other electronic communication facilities": E-mail

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:

In "Other" – persons with final convictions, efficiency, etc.

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

- Yes
 No

Please specify:

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

Yes

No

71) Please select the 4 main performance and quality indicators that is used for a proper functioning of courts:

- incoming cases
- length of proceedings (timeframes)
- closed cases
- pending cases and backlogs
- productivity of judges and court staff
- percentage of cases that are treated by a single sitting judge
- enforcement of penal decisions
- satisfaction of employees of the courts
- satisfaction of clients (regarding the services delivered by the courts)
- judicial quality and organisational quality of the courts
- costs of the judicial procedures
- other:

Please specify:

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

Yes

No

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

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

If other, please specify:

On the basis of the evaluation criteria established by the law regarding the statute of judges and prosecutors (quality, efficiency, integrity and professional training), the Superior Council of Magistracy elaborated the evaluation indicators for the professional performance of judges and prosecutors (example – respecting the reasonable time for solving the cases, the quality of writing the decisions, respecting the conduct standards according to the dignity and honor of the profession). The evaluation of those indicators is made once every 3 years, by evaluation commissions established at courts and prosecutors' offices level.

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:

At present, there are no performance objectives established for courts and the responsible authority in this matter was not determined.

76) Please specify the main targets applied

NAP

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

High Council of judiciary

Ministry of justice

inspection authority

Supreme Court

external audit body

other

If other, Please specify:

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

Yes

No

If yes, please specify:

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

Yes

No

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

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

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

- Yes
- No

If yes, please specify:

82) Is there a system to evaluate the functioning of courts on the basis of an evaluation plan (timetable for visits) agreed a priori?

- Yes
- No

Please specify (including an indication of the frequency of the evaluation):

Please see the comments at the end of the chapter regarding the verifications at courts made by the inspectors within the Judicial Inspection which functions under the SCM Plenum.

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

- Yes
- No

If yes, please specify:

The same as for courts, quarterly reports regarding the activity of national prosecutors' offices are elaborated at SCM level.

You can indicate below:

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

At present, the performance objectives were not established for courts or for the judiciary. Only the performance indicators and a system for individual professional evaluation of judges and prosecutors were established.

However, the activity of courts is evaluated and monitored periodically, on the basis of certain statistical data/performance indicators, such as those presented at question 71. The results of the evaluation are taken into consideration when substantiating some measures of the human resources policy (for example, the volume of activity of a court is used also as a criteria when analyzing the redistribution of positions among courts or when analyzing the requests of transfer from one court to another).

The evaluation of the activity/functioning of courts is achieved by verifications carried out by inspectors of the Judicial Inspection of SCM, by elaborating periodical reports. The schedule and thematic of those verifications are approved every year by SCM.

At organizational level, there are no quality standards established for courts. It may be considered that such standards were established at individual level, for each judge, by the indicators for the evaluation of professional activity (which, for example, aim inclusively at the

respect of legal terms for writing the decisions). For those standards, the members of the evaluations commissions may be kept responsible for the quality policy.

Comments for Q80:

The stockpiles of cases are monitored for all those matters (all those files that remained unsolved at the end of the monitoring period and that remain to be solved in the next period), as well as the period of time since their registration, as intervals (0 – 6 months, 6 months – 1 year, more than 1 year): also, there is an evidence system for the terms in which the cases were solved (0 – 6 months, 6 months – 1 year, 1 – 2 years, more than 2 years).

4. Fair trial

4. 1. Principles

4. 1. 1. General principles

84) What is the percentage of judgements in first instance criminal cases in which the suspect is not attending in person or not represented by a legal professional (i.e. lawyer) during a court session (in absentia judgements)? If no data is available (NA) or if it does not apply to your system (NAP) please indicate it with the relevant abbreviation).

NA

85) Is there a procedure to effectively challenge a judge if a party considers that the judge is not impartial?

Yes

No

If possible, number of successful challenges (in a year):

NA

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)	2	6	20	1
Civil proceedings - Article 6§1 (non-execution)	5	8	38	-
Criminal proceedings - Article 6§1 (duration)	-	1	5	-

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 civil matter: the appointment of a special curator in case of emergency, if the natural person without capacity of exercising the civil rights does not have a legal representative or is in conflict of interests between the representative and the represented person or the legal person, called to attend to trial, does not have a legal representative (Article 44 from the Civil procedure code); the procedure for the insurance of the proofs (Articles 235-241 from the Civil Procedure Code); the provisory suspension of the forced execution until the settlement of the suspension request by the legal court (Article 403 paragraph (4) from the Civil procedure Code); the authorization of the forced delivery of the goods and of the forced execution of the obligations to make and not to make (Article 573 from the Civil procedure Code); the procedure of the presidential ordinance (Article 581-582 from the Civil procedure Code); the insuring measures – the insuring seizure, the insuring garnishment, the judicial seizure (Articles 591-601 from the Civil procedure Code);
 - in administrative matter: the suspension of the execution of the unilateral administrative action until the pronouncement of the legal court (Article 14 from Law of the administrative contentious no. 554/2004); the suspension of the procedure to attribute the public procurement contracts, as well as the order of such measures with provisional character (Article 287/7 from the Government emergency Ordinance no. 34/2006 on the attribution of the public procurement contracts, of the public works concession contracts and of the services concession contracts).
- In some cases, although there is not stipulated a special procedure for the settlement of the emergent cases, the civil process legislation institutes the obligation of the urgent judgment and, as applicable, especially of some categories of trials and requests [for example: the clarification and completion of the judgment (Article 281/1 paragraph (2) and Article 281/2 paragraph (2) from the Civil Procedure Code), the contestation in cancellation (Article 320 paragraph (1) from the Civil procedure Code), the contestation to execution (Article 402 paragraph (1) II thesis from the Civil procedure Code), the owners' requests (Article 674 paragraph (3) from the civil procedure Code)].
- in criminal matter – the procedure for judging flagrant offences

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):

The civil process legislation consecrates two special summary procedures for the settlement of some actions in claims by which there is tended to obligate the debtor to pay:

1) the order for payment procedure (Government Ordinance no. 5/2001), which is developed, at the request of the creditor, in order to willingly realize or by forced execution the certain debts, liquid and eligible which represent payment obligations of some amounts of money, assumed by contract ascertained by a document or determined according to a statute, regulation or to other document, appropriated by the parties by signature or in another way admitted by law and which attests rights and obligations concerning the execution of some services, works or any other services. The order for payment procedure is applicable for the accomplishment of certain and eligible debts, irrespective of their quantum.

The order for payment procedure is configured by some particularities in comparison to the procedure of common law (as example: the plaintiff's right may be proved as rule, only by the administration of the documentary evidence; the enforceable character of the order for payment; the existence of a special remedy, the proceedings for annulment).

2) the payment ordinance procedure (Government emergency Ordinance no. 119/2007) is applicable for the realization of the certain, liquid and eligible debts which represent payment obligations of some amounts of money which result from commercial contracts. As in the case of the order for payment and order for payment procedure is also applicable for the realization of the certain and eligible debts – irrespective of their quantum – which represent payment obligations of some amounts of money which result from commercial contracts.

The order for payment procedure also presents some characteristics in comparison to the procedure of common law (for instance: the enforceable character of the payment ordinance; the existence of a special remedy –the proceedings for annulment).

The disputes with elements of foreign origin concerning small claims, of the international jurisdictional competence of the Romanian legal courts, are submitted to a special procedure, abbreviated, instituted by the Regulation of the European Parliament and of the Council of the European Union no. 861/2007 establishing a European small claims procedure.

The disputes with elements of foreign origin having as object the European order for payment, of the jurisdictional competence of the Romanian legal courts, are submitted to a special procedure, instituted by the Regulation of the European Parliament and of the Council of the European no. 1896/2006 creating a European order for payment procedure.

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:

The Romanian civil procedural law consecrates a special procedure, optional – the process research in the case of the administration by the lawyers of the evidence (Articles 241/1-241/22 from the Civil Procedure Code). During this procedure – applicable only to the patrimonial disputes which do not concern rights upon which law does not allow to make a transaction -, the parties may agree for the lawyers who assist and represent the to administer the proofs in the case (Article 241/2 from the Civil Procedure Code).

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)*	348318	1558687	1495976	405429
1 Civil (and commercial) litigious cases*	245995	706381	664608	287768
2 Civil (and commercial) non-litigious cases*	18519	547401	538830	21490
3 Enforcement cases	8689	29690	27730	10649
4 Land registry cases**	19556	32561	33603	18514
5 Business register cases**	6094	459965	453594	6865
6 Administrative law cases	61226	208327	200124	69429
7 Other	22578	96578	92414	26742
Total criminal cases (8+9)	32962	171119	170413	33668
8 Criminal cases (severe criminal offences)	NAP	NAP	NAP	NAP
9 Misdemeanour and / or minor offences cases	NAP	NAP	NAP	NAP

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):

Comment 1 – In the total number of civil, commercial and administrative cases, all the cases are included, except for the criminal cases

Comment 2 – Within the litigious and non-litigious civil (and commercial cases), the civil cases stricto sensu are included, together with the commercial cases.

Comment 3 – The vertical key is given by the sum of lines 1, 2, 6 and 7, because lines 3, 4 and 5 are already included in the civil or commercial cases (for example: 245995 + 18519 + 61226 + 22578 = 348318).

Comment 4 – There is no classification of severe and less severe offences in the Romanian judiciary. That is the reason why the statistical data is provided only with regard to the total of criminal cases.

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	13859	32390	32006	14243

non-litigious)*				
1 Civil (and commercial) litigious cases*	13438	31612	31153	13897
2 Civil (and commercial) non-litigious cases*	62	57	69	50
3 Enforcement cases	126	213	229	110
4 Land registry cases**	253	322	345	230
5 Business register cases**	NAP	NAP	NAP	NAP
6 Administrative law cases	NAP	NAP	NAP	NAP
7 Other	359	721	784	296
Total criminal cases (8+9)	4227	16024	15888	4363
8 Criminal cases (Severe criminal offences)	NAP	NAP	NAP	NAP
9 Misdemeanour and/or minor offences cases	NAP	NAP	NAP	NAP

Comment :

The Romanian judiciary has the institution of "second appeal", but the questionnaire did not allow us to introduce a new table with the date for this kind of cases. Data can be provided at request.

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)	9274	21099	16979	13394
1 Civil (and commercial) litigious cases*	7600	15602	12146	11056
2 Civil (and commercial) non-litigious cases*	NA	NA	NA	NA
3 Enforcement cases	NA	NA	NA	NA
4 Land registry cases**	NAP	NAP	NAP	NAP
5 Business register cases**	NAP	NAP	NAP	NAP
6 Administrative law cases	1674	5497	4833	2338
7 Other	NA	NA	NA	NA
Total criminal cases (8+9)	137	42	57	129
8 Criminal cases (severe criminal offences)	NAP	NAP	NAP	NAP
9 Misdemeanour cases (minor offences)	NAP	NAP	NAP	NAP

Comment :

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*	23213	64097	62919	24391
Employment dismissal cases*	851	2115	2027	939
Robbery cases	670	1642	1502	810
Intentional homicide	559	996	946	609

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

Please provide comments to explain the answers to question 92:

	% of decisions subject to appeal	% pending cases more than 3 years	1st instance (average length)	2d instance (average length)	Total procedure (average total length)
Litigious divorce cases*	5,6	2	0-6 months	0-6 months	0-12 months
Employment dismissal cases*	52,7	0	0-6 months	0-6 months	0-12 months
Robbery cases	89,1	0	0-6 months	0-6 months	0-12 months
Intentional homicide	82,9	0	0-6 months	0-6 months	0-12 months

Comment :

The Superior Council of Magistracy cannot specify the average duration of a type of case as a fixed date (for example 1 year and 3 months), but as intervals (0 – 6 months, 6 months – 1 year, over 1 year).

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

The dissolution of marriage by divorce may take place only on judicial way.

The Family Code regulates two forms of dissolution of marriage.

I. Divorce can be pronounced by the spouses' agreement, if the following conditions are accomplished: 1) until the date of the request for divorce passed at least one year from the conclusion of the marriage; 2) there are no minor children resulted from the marriage.

II. By judicial decision, when on the basis of evidence administrated by the parties, the court establishes that, due to some grounded reasons, the relations between spouses are seriously wounded and the continuation of the marriage is not possible anymore

The settlement of the divorce proceedings is of the competence of the court of first instance in whose area is the last common domicile of the spouses.

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

The comment from question 95 is valid.

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

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

Please specify:

The only situation in which the prosecutor may terminate the indictment is that when he/she estimates that the committed offence does not present the degree of social danger of an infraction, case when an administrative sanction is applied.

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

- Yes
- No

Please specify:

- In civil matter:

- may promote the civil proceedings, anytime it is necessary for the defense of the rights and legitimate interests of the minors, of the persons put under interdiction and of the disappeared persons, as well as in other cases expressly stipulated by law;
- may put conclusions in any civil trial, in any phase of it;
- may exercise legal remedies against any decisions;
- may request the enforcement of judgments pronounced for the benefit of minors, of persons put under interdiction and of disappeared persons.

In administrative matter

- may initiate the proceedings before the administrative contentious court, if he/she appreciates that the infringement of the rights, freedoms and legitimate interests of the persons owe to some individual unilateral administrative actions of the public authorities issued with excess of power, or that the administrative regulatory action damages a public legitimate interests
- may participate, in any phase of the trial, anytime he/she appreciates as being necessary for the defense of the order by right, of the citizens' rights and freedoms;
- may introduce a request for the suspension of the administrative regulatory action, in the cases in which in the case there is major public interest, capable of seriously perturbing the functioning of a public administrative service.

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	1193614	NAP	458238	NAP	NAP	34236

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**

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

Q90 to 93 and Q97: Superior Council of Magistracy

Q88 and Q89: Ministry of Justice

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:

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.

1) The promotion of judges in execution functions is made by contest, at a national level. The promotion contest, in execution functions, is composed of written tests, with theoretical and practical character, from the following matters:

- a) according to the specialization, one of the following disciplines: civil law, criminal law, commercial law, administrative law, financial and fiscal law, labor law, family law, international private law.;
- b) jurisprudence of the High Court of Cassation and Justice and jurisprudence of the Constitutional Courts;
- c) jurisprudence of the European Court of Human Rights and the Court of Justice of the European Communities;
- d) civil procedure or criminal procedure, according to the specialization of the judge

In order to participate at the promotion contest for execution functions, the judge must cumulatively fulfill the following conditions:

- to have the qualificative "very good" at the latest evaluation;
- have not been disciplinary sanctioned in the last 3 years;
- to fulfill the seniority conditions according to the degree of the court where he/she wants to promote to.

2) Appointing the judges in leading positions at courts (president and vice-president) is made by contest or examination, which are composed of:

- presenting a project with regard to the exercise of the attributions specific to the leading position;
- written tests regarding management, communication, human resources, the capacity of the candidate to assume the responsibility, resistance to stress;
- psychological test.

Judges who cumulatively fulfill the following conditions may participate in the contest or examination:

- Have the qualificative "very good" at the last evaluation;
- have not been disciplinary sanctioned in the last 3 years;
- fulfill the seniority conditions provided by law.

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:

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:

The procedures and criteria used for the promotion of prosecutors are the same with those used for judges. Please see the answer to question 104.

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

- Yes
- No

Are there exceptions? Please specify:

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	Yes	1 year

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

- Yes
 No

Are there exceptions? Please specify:

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	Yes	1 year

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

- revision of the tests for the contest for admission into magistracy, for the professionals with legal experience;

- abrogation of the procedure for appointing judges and prosecutors, without contest, for the professionals with a higher experience in the law field

5. 1. 2. Training**114) Nature of the training of judges. Is it compulsory?**

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

115) Frequency of the training of judges

	Annual	Regular	Occasional
Initial training	No	Yes	No
General in-service training	No	Yes	No
In-service training for specialised judicial functions (e.g. judge for economic or administrative issues)	No	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	No	Yes	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 responsibility of the initial and continuous training of judges and prosecutors is of the National Institute of Magistracy, autonomous institutions in the coordination of the Superior Council of Magistracy.

The initial professional training is mandatory at the beginning of the career, in a different manner (2 years for the judges and prosecutors recruited from the persons without legal experience and 6 months for the magistrates recruited from the persons with legal experience).

The continuous training is organized at centralized level, by the National Institute of Magistracy,

at centralized level, by the National Institute of Magistracy, as well as at decentralized level, within the courts and prosecutors' offices, with the participation of NIM. Judges and prosecutors are obliged to participate in training activities, at least once every 3 years. For judges and prosecutors with leading positions, judicial management courses are organized after the appointment in function. The professional training of judges and prosecutors is made according to their specialization.

The jurisprudence of the European Court of Human Rights is included in the initial training of the National Institute of Magistracy and, as a priority field, in the continuous training programmes organized by the National Institute of Magistracy and also at decentralized level.

As primary reforms implemented in the last 2 years, we mention:

- completing the training activities organized by the National Institute of Magistracy with training activities organized at decentralized level;
- developing the cooperation with the institutions responsible with the training of magistrates in European countries (EJTN, the Lisbon Network) and the participation of Romanian magistrates at international seminars and visits;
- revision of the initial training of magistrates recruited from the persons with legal experience;
- increase of the share of training activities necessary to develop the non-judicial abilities, which are specific to the magistrate profession, in order to create an efficient communication bridge between magistrates and society (ethics and deontology, judicial management, communication, relations with the media);
- regulating and developing a transparent and flexible system of recruiting the trainers of the National Institute of Magistracy and ensuring the perfection of their didactical skills.

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	15667	10991
Judge of the Supreme Court or the Highest Appellate Court	36802	25815
Public prosecutor at the beginning of his/her career	15667	10991
Public prosecutor of the Supreme Court or the Highest Appellate Instance	30403	21328

Comment :

119) Do judges and public prosecutors have additional benefits?

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

120) If other financial benefit, please specify:

Settling of accounts for medication, transportation within the limit of 6 annual internal trips, holiday bonus.

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

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

122) If other function, please specify:**123) Can prosecutors combine their work with any of the following other functions ?**

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

124) If other function, please specify:**125) Do judges receive bonus based on the fulfilment of quantitative objectives relating to the delivering of judgments?**

Yes

No

If yes, please specify:

Please indicate the source for answering the question 118

Superior Council of Magistracy and National Institute of Magistracy.

5. 2. 2. Disciplinary procedures

126) Which authority is authorized to initiate disciplinary proceedings against judges

and/or prosecutors? Please specify:

The disciplinary commission for judges and the disciplinary commission for prosecutors within the Judicial Inspection which functions under the Plenum of the Superior Council of Magistracy.

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

The Section for judges and the Section for prosecutors within the Superior Council of Magistracy.

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)		
1. Breach of professional ethics	NAP	NAP
2. Professional inadequacy	NAP	NAP
3. Criminal offence	NAP	NAP
4. Other	11	6

Comment :

The breach of professional ethics, professional inadequacy and criminal offence are not disciplinary violations for judges and prosecutors in Romania

In the case when a breach of professional ethics is determined, a disciplinary sanction is not applied. The respect of the conduct norms regulated by the Ethical Code of judges and prosecutors represents criteria used for the evaluation of their efficiency of the quality of activity and their integrity. The professional inadequacy and the final conviction of the judge or prosecutor for an offence represent grounds for dismissal from office.

During 2008, 11 disciplinary actions were exerted against judges, adding 7 actions already on the role from the previous year and 6 disciplinary actions against prosecutors, adding 3 actions being on the role from the previous year.

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)		
1. Reprimand	2	2
2. Suspension	NAP	NAP
3. Withdrawal of cases	NA	NA
4. Fine	NAP	NAP
5. Temporary reduction of salary	8	2
6. Degradation of post	NAP	NAP

7. Transfer to another geographical (court) location	1	0
8. Dismissal	2	1
9. Other	NAP	NAP

Comment :

The disciplinary sanctions applied in 2008 aimed at the following disciplinary violations:

- The exert of function, including the non-observance of procedural norms with bad faith or by negligence;
- Unworthy attitude towards colleagues, lawyers and beneficiaries of the act of justice during the exercise of the work attributions;
- Unjustified refuse to fulfill a work duty;
- Elaboration with delay of the works, with imputable reasons.

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).

17593

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:

It is about all the process stages. In the extra criminal cases the representation may be also provided by legal counselors.

134) Is the lawyer profession organised through?

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

Please specify:

41 bar associations, at the level of the counties and of the Municipality of Bucharest, met in the National Union of Bar Associations of Romania.

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

Q130: National Union of Bar Associations of Romania

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 not a consecrated specialization of lawyers in the legal field or the professional title of „specialized lawyer“. Nevertheless, the specialization in some legal field is determined by the level of continuous training certified by the Bar Association.

6. 1. 3. Fees

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

- Yes
 No

Please provide comments to explain the answer under question 138

The fees are established by negotiation between lawyers and customer. There are minimal or maximal fees.

139) Are lawyers fees

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

Please provide comments to explain the answer under question 139:

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):

Norms of professional ethics, inclusively those contained in the European Union Lawyers' Deontological Code, adopted by CCBE on 28.10.2008, as subsequently amended and completed, approved by decision of the Parliamentary Commission of the National Association of Romanian Bars.

142) Is it possible to complain about

- the performance of lawyers?
 the amount of fees?

Please specify:

About the fees there are only requests of the customs concerning the complete or partial restitution of these ones.

143) Which authority is responsible for disciplinary procedures

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

Please specify:

Discipline commissions at the level of the bar associations and a central commission at the National Union of Bar Associations from Romania.

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	NA	NA	NA	NA

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	NA	567	NA	NA	NA

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**

The pieces of information concerning the answers at the above questions are grounded on the provisions of Law no. 51/1995, of the Statute of the profession of Lawyer and on the statistical data supplied by bar associations.

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:

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

589

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?	NA
family cases?	NA
administrative cases?	NA
employment dismissals?	NA
criminal cases?	NA

Please indicate the source for answering the question 150:

Ministry of justice (based on the provisions of the Law no.172/2006 on mediation and the organization of the profession of mediator).

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:

The Romanian civil process legislation regulates, as alternative methods for the disputes settlement, the arbitration and conciliation.

The arbitration procedure (the arbitral convention, the arbitrators, the setting up of the arbitral law court, the institution of the proceedings before the arbitral law court, the arbitral procedure, the arbitral decision and the dissolution of this one, the execution of the arbitral decision, the international arbitration, the recognition and execution of the foreign arbitral decisions) is governed by the provisions of Articles 340-370/3 from the Civil Procedure Code.

According to the Romanian process law, may constitute object of the arbitration – which may have the form if the ad-hoc arbitration or of the institutional arbitration – the patrimonial disputes, except those concerning right upon which the law does not allow to be made a transaction (Article 340 from the civil procedure Code).

The Romanian civil procedure Code (Articles 720/1-720/10) regulates a special procedure for the settlement of the disputes in the commercial matter. In the case of the trials and requests in commercial matter estimable in money, the mentioned special judicial procedure is preceded by direct conciliation (Article 720/1 from the Civil Procedure Code). Before the introduction of the request for suing at law the plaintiff has the obligation to try the settlement of the dispute by direct conciliation with the other party. The initiative of the convocation in view of the conciliation belongs to the plaintiff and the result of the conciliation is registered in a document in which there shall be indicated mutual claims referring to the object of the dispute and the point of view of each party. The document concerning the result of the conciliation is attached to the request for the suing at law.

In the matter of the labor law, the conflicts of interests – labor conflicts which have as object the establishment of the working conditions on the occasion of the negotiation of the collective labor contracts and which refer to the interests with professional, social or economic character of the employed – may be settled by alternative means of settling the disputes: conciliation, mediation and arbitration (Articles 17-39 from Law no. 168/1999 on the settlement of labor conflicts).

You can indicate below:

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

8. Enforcement of court decisions

8. 1. Execution of decisions in civil matters

8. 1. 1. Functioning

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

- Yes
 No

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

440

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:

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:

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 civil Procedure Code (the forced execution procedure).

Law no. 188/2000 on bailiffs.

Order of the minister of justice no. 210/2001 for the approval of the Regulation for the application of Law no. 188/2000 on bailiffs.

Statute of the National Union of Bailiffs.

Order of the minister of justice no. 2550/C/2006 on the approval of the minimal and maximal fees for the services performed by bailiffs.

The legislative authority (Parliament), executive authority (Government through the Ministry of Justice), professional organization (National Union of Bailiffs).

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

The Romanian law consecrates a special regulation in the matter of the execution of the payment obligations established in the charge of the public institutions by judgments and other enforceable titles (Government Ordinance no. 22/2002 on the execution of the payment obligations of the public institutions, established by enforceable titles, as subsequently amended and completed).

The debts established by enforceable titles in the charge of the public institutions are paid from the amounts approved by their budgets, from the titles of expenses to which belongs the respective payment obligation (Article 1 from the Government Ordinance no. 22/2002, as amended by Law no. 110/2007).

If the execution of the debt by enforceable title does not begin or does not continue because of the lack of funds, the debtor institution is obliged to make, within 6 months, the necessary approaches in order to accomplish the payment obligation (Article 2 from the Government Ordinance no. 22/2002, as modified by Law no. 110/2007). In the event the public institutions do not accomplish their payment obligation within the mentioned time-limit, the creditor shall be able to solicit the performance of the forced execution according to the Civil Procedure Code and/or according to other legal provisions applicable in the matter (Article 3 from the Government Ordinance no. 22/2002, as amended by Law no. 110/2007).

The main budgetary credits chief accountants have the obligation to order all the necessary measures, inclusively transfers of budgetary credits, in the legal conditions, for ensuring in its own budgets and of the subordinated institutions the budgetary credits necessary for performing the payment of the amounts established by enforceable title (Article 4 paragraph (1) from the Government Ordinance no. 22/2002, as amended by Law no. 110/2007).

The creditor and debtor may convene upon another time-limit than the one stipulated by Article 2, as well as upon other conditions for the accomplishment of some obligations established by enforceable title (Article 5 from the Government Ordinance no. 22/2002, as amended by Law no. 110/2007).

163) Is there a system for monitoring the execution?

Yes

No

If yes, please specify

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:

Regulations concerning the organization and development of the admission exams in the profession of bailiff.

Regulations concerning the establishment of the minimal and maximal fees.

Regulations concerning the elimination of the payment obligation in advance of the forced execution expenses

In order to improve the procedural mechanism concerning the execution of the payment obligations established, by judgments and other enforceable titles, in the charge of the public institutions, by Law no. 110/2007 there were brought some substantial amendments to the Government Ordinance no. 22/2002 (see the answer to question no. 162).

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 checked="" type="checkbox"/> number:	5
for breach of professional ethics	<input checked="" type="checkbox"/> number:	2
for professional inadequacy	<input checked="" type="checkbox"/> yes, number:	0
for criminal offence	<input checked="" type="checkbox"/> number:	3
Other		NA

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:	5
Reprimand	<input checked="" type="checkbox"/> number:	0
Suspension	<input checked="" type="checkbox"/> number:	2
Dismissal	<input checked="" type="checkbox"/> number:	3
Fine	<input checked="" type="checkbox"/> number:	0
Other		NA

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

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

Ministry of Justice

8. 2. Execution of decisions in criminal matters

8. 2. 1. Functioning

170) Is there a judge who is in charge of the enforcement of judgments?

- Yes
 No

If yes, please specify his/her functions and activities (e.g. Initiative or control functions). If no, please specify which authority is entrusted with the enforcement of judgements (e.g. prosecutor):

The legal courts have a series of attributions as concerns the forced execution procedure of the obligations established by judgments and other enforceable titles.

First of all, the legal court has the competence to proceed to the investment with the enforceable formula (Article 374 from the Civil Procedure Code). The competence to invest with the enforceable formula the judgments and other titles belongs to first instance.

Second, the legal court has the competence to approve the forced execution (Article 373/1 from the Civil Procedure Code). The competence to approve the forced execution of the obligations established by judgments and other enforceable titles belongs to the execution court – the court of first instance in whose circumscription the execution shall be made (Article 373/1 paragraph (1) and Article 373 paragraph (2) from the Civil procedure Code).

Third, the legal court (the execution court) has the competence to settle the incidents occurred within and during the forced execution. The execution court is competent to settle the contestations to the executions formulated by the interested or wounded persons by execution (Article 399 paragraph (1) and Article 400 paragraph (1) from the civil procedure Code).

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

- Yes
 No

If yes, please specify:

The gathering consists of exercising the actions whose purpose is to extinct the fiscal debts. The gathering of the fiscal debts is made according to a debt security or to an enforceable title, as applicable.

The debt security is the document by which, according to law, there is established and individualized the payment obligation concerning the fiscal debts, drawn up by the competent bodies or by other entitled persons according to law. Such titles may be: the prosecutor's ordinance, the conclusion or the operative part of the judgment of the legal court or a certified excerpt drawn up based on these documents in the case of the fines, judicial fees and other fiscal debts established, according to law, by the prosecutor or by the legal court.

To the extent to which the enforceable titles are transmitted for execution to the fiscal bodies, these may determine a rate of cashing depending on the result of the actions performed for the extinction of these debts.

You can indicate below:

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

9. Notaries

9. 1. Statute

9. 1. 1. Functioning

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

- Yes
 No

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

a private one (without control from public authorities)?	<input type="checkbox"/> number	
a status of private worker ruled by the public authorities?	<input checked="" type="checkbox"/> number	2119
a public one?	<input type="checkbox"/> number	
other?	<input type="checkbox"/> number	

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:

The authentication of the signatures and seals, the authentication of the copies of the documents, giving of certain date to the documents, the certification of some facts, the authentication of the translator's signature, the reception in deposit of documents and writs, protest acts of the protest bills, cheques and other securities, the issue of duplicates of the notarial documents, the reconstitution of the original documents.

Please indicate the source for answering the question 173

Ministry of Justice

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 notarial documents are submitted to the judicial control, exercised at the request of the parties or of any interested person.

The administrative professional control is exercised by the National Union of Notaries Public.

The minister of justice may order the control of the activity of the notaries public by general specialty inspectors.

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**

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

24902

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

- Yes
 No

If yes, please specify:

Article 19 from the MJO no. 1054/2005 on the approval of the Regulation for the application of Law no. 178/1997, for the authorization and payment of the interpreters and translators used by the Superior Council of Magistracy, by the Ministry of Justice, the Prosecutor's Office under the High Court of Justice and Cassation, the National Anticorruption Department, by the criminal prosecution bodies, by the legal courts, by the offices of notaries public, by lawyers and bailiffs and the MJO no. 233/C/1996 for the completion of the Regulation for the application of Law no. 36/1995.

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?) :

Article 15 from the MJO no. 1054/2005 on the approval of the Regulation for the application of Law no. 178/1997, for the authorization and payment of the translators used by the Superior Council of Magistracy, by the Ministry of Justice, by the Prosecutor's Office under the High Court of Justice and Cassation, by the National Anticorruption Department, by the criminal prosecution bodies, by the legal courts, by the offices of notaries public, by lawyers and by bailiffs.

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:

The new codes of procedure are in parliamentary debate, after the new substantial codes (civil and criminal) were adopted in 2009.

Also, the process for the elaboration of draft laws in order to apply the codes was started. This process requires a revision of the legislation, both in civil and criminal matter, in order to correlate it with the content of the new codes.

The substantial legislative changes are foreseen also with regard to guaranteeing the right of citizens to a fair trial and to a solution of the case in reasonable time, by creating remedies which would aim at the acceleration of the judicial proceedings on the role of courts and prosecutors' offices, as well as granting compensations for material and moral prejudices caused by the excessive duration of judicial procedures.

With regard to the organization of courts, there are ongoing projects that aim at:

- The transfer of administrative tasks from judge to clerk;
- Introducing the institution of court manager;
- Determining the optimum volume of activity for judges;
- Preparing the application of the new civil and criminal procedure codes