



EUROPEAN COMMISSION FOR THE EFFICIENCY OF JUSTICE  
(CEPEJ)

SCHEME FOR EVALUATING JUDICIAL SYSTEMS 2011

Country: Hungary

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 (if possible on 1 January 2011)

9 986 000

##### 2) Total of annual public expenditure at state level and where appropriate, public expenditure at regional or federal entity level (in €) - (If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP)

	Amount
State level	48 875 848 664
Regional / federal entity level (total for all regions / federal entities)	NA

##### 3) Per capita GDP (in €)

9 712

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

9 291

##### 5) Exchange rate from national currency (non-Euro zone) to € on 1 January 2011

278,85

#### A.1

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

- 1st January 2011 - Hungarian Central Statistical Office (KSH)
- Act CXXX of 2009: Budget of the Republic of Hungary for 2010
- 1st January 2010 - Hungarian Central Statistical Office (KSH)
- 1st January 2010 - Hungarian Central Statistical Office (KSH)
- 3th January 2010 - Hungarian National Bank (MNB)

### 1. 2. Budgetary data concerning judicial system

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

##### 6) Annual approved public budget allocated to the functioning of all courts, in € (if possible without the budget of the public prosecution services and without the budget of legal aid):

TOTAL annual approved budget allocated to the functioning of all courts (1 + 2 + 3 + 4 + 5 + 6 + 7)	<input checked="" type="checkbox"/> Yes	259 501 133
1. Annual public budget allocated to (gross) salaries	<input checked="" type="checkbox"/> Yes	209 393 222
2. Annual public budget allocated to computerisation (equipment, investments, maintenance)	<input checked="" type="checkbox"/> Yes	7 532 956
3. Annual public budget allocated to justice expenses (expertise, interpretation, etc), without legal aid. NB: this does not concern the taxes and fees to be paid by the parties.	<input checked="" type="checkbox"/> Yes	16 030 255
4. Annual public budget allocated to court buildings (maintenance, operating costs)	<input checked="" type="checkbox"/> Yes	26 297 344
5. Annual public budget allocated to investments in new (court) buildings		NA
6. Annual public budget allocated to training		

and education

☒ Yes

247 356

7. Other (please specify):

NAP

**7) If you cannot separate the budget of the public prosecution services and the budget of legal aid from the budget allocated to all courts, please indicate it clearly. If "other", please specify:**

**8) Are litigants in general 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 to the rule to pay court a tax or fee? Please provide comments on those exceptions:





## Act XCIII of 1990

## on Duties

## Exemptions

## Section 56

(1) The persons granted exemption from charges pursuant to specific other legislation, or exemption from duty in accordance with this Act may not be required to pay duties. Personal duty exemption shall not apply to the successor in title of the party in question.

(2) The provisions on duty exemption shall also apply to an intervening party.

(3) Copies of records or other documents prepared by the court for ad hoc conservators and for curators ad litem shall be free of duty.

## Section 57

(1) The following shall be exempt from duty in civil cases:

a) the proceedings, if the court ex officio rejects the petition therefor without the issue of a subpoena, without investigation in merito in non-judicial proceedings, or without conducting an insufficient data procedure in respect of company registration; or if the legal action is dismissed on the basis of Paragraph a) of Section 157 of CPC;

b) proceedings for remedy instituted against decisions in cases of exemption from charges and rights for the suspension of payment of duty;

c) in actions for divorce, the counter-action lodged with regard to the marriage;

d) proceedings related to the declaration of death or for having the death registered, if disappearance or death took place in consequence of an event of war or natural disaster;

e) proceedings for the registration of foundations, public foundations, non-governmental organizations, public bodies, European groupings of territorial cooperation, furthermore, proceedings for the registration of ESOP organizations established in accordance with Act XLIV of 1992 on the Employee Stock Ownership Plan and for the approval of participation in a European grouping of territorial cooperation;

f) petitions for the removal of wound-up firms from the register, including the petitions lodged in simplified dissolution procedures with the name of the receiver indicated;

g) petitions for the correction, and/or supplementation of resolutions;

h) proceedings related to the electoral roll;

i) proceedings related to changes notified upon being registered in the register of legal counsels;

j) appeals against resolutions prescribing transfer;

k) judicial review of administrative decisions adopted in indemnification cases;

l) tax consolidation procedures of municipal governments;

m) proceedings initiated by independent court bailiffs in connection with judicial enforcement proceedings, and the proceedings initiated for the enforcement of court decisions (court settlement) adopted in accordance with Council Regulation (EC) No. 44/2001 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters, Regulation (EC) No. 805/2004 of the European Parliament and of the Council creating a European Enforcement Order for uncontested claims, and Council Regulation (EC) No. 2201/2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility, repealing Regulation (EC) No. 1347/2000;

n) proceedings instituted on the basis of favorable decision by the Constitutional Court;

o) any lawsuit in connection with the protection of personal data and access to information of public interest;

p) the judicial review of an administrative decision for the authorization of legal aid;

r) non-judicial proceedings for the review of resolutions for preliminary injunction or a temporary restraining order, or preventive injunction granted pursuant to specific other legislation in connection with domestic violence;

s) the judicial review of an administrative decision adopted concerning aid to crime victims.

(2) The following shall be exempt from duty in criminal proceedings:

a) in the proceedings described in Subsection (1) of Section 52, the appeal, petition for reopening the case and motion for review filed by the defendant and the defense counsel;

b) the proceedings described in Subsection (1) of Section 52, if the court dismisses the case prior to the commencement of personal hearing, or if the case is dismissed due to clemency;

c) the petition described in Subsection (2) of Section 54 if submitted by the defendant or the defense counsel;

d) the proceeding for the authorization of personal exemption from charges;

e) the one-time provision of copies of documents specified in Subsection (2), Paragraph a) of Subsection (5), Subsection (6) and Subsection (10) of Section 70/B of Act XIX of 1998 on Criminal Procedure to the defendant, the defense attorney or the legal representative of a minor who has been accused of a crime;

f) a copy of the accusation report provided to the accuser.

## Reduced Duty

## Section 58

(1) The duty shall be 10 per cent of the duty on judicial proceedings:

a) if the plaintiff withdraws his claim during the first hearing;

b) if the legal action is declared suspended during first hearing, and is dismissed as a

result of suspension;

c) if the defendant acknowledges the claim during the first hearing, or satisfies the claim prior to the first hearing;

d) if the parties reach a settlement during the first hearing;

e) if the parties jointly file for dismissal during the first hearing.

(2) The duty shall be 30 per cent of the duty on judicial proceedings for a case dismissed by suspension following the first hearing, or due to the plaintiff's withdrawal, or if jointly requested by the parties.

(3) The duty shall be 50 per cent of the duty on judicial proceedings, if a settlement is concluded following the first hearing. If the parties engaged in a mediation process governed in specific other legislation after the first hearing, and the court has approved the resulting settlement, 50 per cent of the normal court costs of judicial proceedings shall be reduced by the mediator's fees, including value added tax, not to exceed 50,000 forints, provided that the mediation process is not precluded by law; in either case, the amount of duty payable may not be less than 30 per cent of the duty chargeable for judicial proceedings.

(4) If a legal action is dismissed by suspension, the court shall order the party initiating the proceedings to pay the duty.

(5) The provisions of Paragraph a) of Subsection (1) shall be duly applied in non-judicial proceedings, if withdrawal takes place prior to the announcement of the court's ruling on the merits of the case. In respect of the proceedings mentioned in Paragraph c) of Subsection (1) of Section 42, and of the judicial proceedings opened upon an order for payment procedure [second sentence of Subsection (2) of Section 42], provided that the conditions therefor are otherwise satisfied, the obligation of reduction shall apply only to the duty supplemented pursuant to Subsection (2) of Section 42.

(6) The provisions of Subsections (1)-(2) shall apply to the duty on civil claims enforced in criminal proceedings.

(7) In respect of an appeal or petition for court review, 10 per cent of the duty on appeal or petition for court review filed in civil and criminal proceedings shall be charged, if it is withdrawn prior to the commencement of the trial by the court of jurisdiction, or if withdrawn prior to the date of judgment out-of-court.

(8) The provisions of Subsections (2), (3) and (7) shall apply to the duty on cross-appeals. If the appeal is withdrawn by the submitting party following the commencement of the trial, the party submitting the cross-appeal shall only pay 10 per cent of the procedural fee.

(9) If the parties engaged in a mediation process governed in specific other legislation before the civil proceedings, the normal costs of the proceedings shall be reduced by the mediator's fees, including value added tax, that was paid by the party liable for the duty payable, not to exceed 50,000 forints, however, the amount of duty payable may not be less than 50 per cent of the normal rate of duty. No allowance may be granted if:

a) the mediation process is precluded by law, or

b) in spite of having reached a settlement agreement in the mediation process, either of the parties files charges at the court regarding the dispute settled by the said agreement, except if the charges are filed solely for the purpose of enforcement of the agreement.

(10) The procedural fee shall be 50 per cent of the normal rate of duty, if an evidentiary hearing was conducted prior to the civil action before a notary public or a court.

Right for the Suspension of Payment of Duties

#### Section 59

(1) Persons who have been granted the right for the suspension of payment of duties shall be exempt from the advance payment of duties. In such cases the duty shall be paid by the party so ordered by the court.

(2) The provisions on the right for the suspension of payment of duties shall also apply to intervening parties.

#### Section 60

(1) If advance payment of a duty is likely to impose an unreasonable burden on a person in light of his income and financial situation, such person may be granted exemption from the advance payment of duty, particularly if the amount of such duty exceeds 25 per cent of the taxable per capita income of the party and his spouse, and their dependent children living in the same household.

(2) Curators ad litem and ad hoc conservators appointed by the guardian authority, as well as parties in the interest of whom the public prosecutor or an authorized organization filed for legal action for the purpose of the enforcement of a due claim, shall be entitled to the right for the suspension of payment of duties.

#### Section 61

(1) A person who is to be supported by his/her parents, or who lives together with his/her spouse may only be granted the right for the suspension of payment of duties if the conditions thereof exist both in respect to such person and to the persons living together with him/her.

(2) A person whose litigation appears in bad faith or is likely to fail, may not be granted the right for the suspension of payment of duties, even if such person acts as an assignee, and there is reason to believe that the aim of the assignment was to render litigation with the benefit of the right for the suspension of payment of duties possible.

(3) The benefit of litigation with the right for the suspension of payment of duties may



be granted to third country nationals described in the Act on the Admission and Right of Residence of Third-Country Nationals only by virtue of an international convention signed by the State of Hungary, or in the event of reciprocity. As to whether reciprocity applies shall be determined by the minister in charge of the judicial system.

(4) No right for the suspension of payment of duties may be permitted:

- a) in connection with actions filed for divorce;
- b) in company registration proceedings;
- c) in the proceedings described in Section 54.

#### Section 62

(1) The parties shall be entitled to the right for the suspension of payment of duties, irrespective of their income and financial conditions:

- a) in labor disputes, if instituted in connection with damages caused by willful or grave negligence of an employee or with the liability of an executive employee for damages in accordance with the provisions of civil law; furthermore, in respect to the part in excess of the amount due by law in actions for severance pay, if it is more than twenty-times of the minimum wage;
- b) in claims for compensation for damages in connection with any injury caused to the life, physical integrity or health, or to the financial assets of a person, when the life, physical integrity or health of the person was also put in jeopardy;
- c) in claims for compensation for damages originating from criminal offenses, not including any injury to the life, physical integrity or health of another person, and infractions;
- d) in domestic proceedings, with the exception of actions for divorce, as well as pecuniary claims awarded in domestic proceedings;
- e) in suits for the termination of the right of bearing a name;
- f) in actions in connection with the protection of persons under civil law;
- g) in actions for compensation for damages caused within administrative authority;
- h) in proceedings for the review of administrative resolutions;
- i) in liquidation proceedings opened in connection with wages and other emoluments owed under contract of employment and in court proceedings instituted by a temporary administrator, liquidator or financial trustee under bankruptcy proceedings or liquidation proceedings, and in the debt consolidation proceedings of municipal governments;
- j) in civil court and non-judicial (enforcement) proceedings instituted in connection with inventions, utility models, innovations, industrial design rights, topographies, know-how, and/or assistants' fee by inventors of inventions and utility models, innovators, authors of industrial designs and topographies, as well as assistants;
- k) in proceedings instituted by housing cooperatives against their members or non-member owners, and condominium associations against their owners for the refund of operational, renovation or common maintenance costs;
- l) in legal actions filed against the State for the enforcement of indemnification claims in connection with a criminal proceeding;
- m) in lawsuits for damages filed in consequence of any violation of the plaintiff's fundamental rights to a fair trial and/or to conclude court proceedings within a reasonable period of time;
- n) in actions filed for the annulment of contracts for the transfer of residential properties of private individuals;
- o) in lawsuits filed against any reference data provider or the financial enterprise operating the central credit information system as set out in specific other legislation, in connection with the transmission and processing of data in the central credit information system, or launched for the correction or erasure of reference data;
- p) in proceedings opened for the correction of any particular entry that was registered ex officio relying on erroneous information, or if the entry contains any other type of error, or in proceedings opened to determine that an authority or court failed to comply with the obligation to forward any data registered ex officio in the companies register;
- r) in non-judicial proceedings for the review of rulings adopted in administrative proceedings.

(2) In respect of the actions described in Paragraphs a)-c), g)-h) and l) of Subsection (1), the court may disregard to order the party to pay duty in the case of the partial loss of the action, if the amount of the award is to be determined at the court's discretion and if the amount requested was not manifestly exaggerated.

(3) In liquidation proceedings opened in connection with wages and other emoluments owed under contract of employment as specified in Paragraph i) of Subsection (1), the court shall provide for the payment of the duty in its ruling for terminating the proceedings or for the opening of liquidation proceedings.

### 9) Annual income of court taxes or fees received by the State (in €)

11 217 800

### 10) Annual approved public budget allocated to the whole justice system, in € (this global budget does not include only the court system as defined under question 6, but also the prison system, the judicial protection of juveniles, the operation of the Ministry of Justice, etc.)

☐ NA

1 604 399 373

**11) Please indicate the budgetary elements that are included in the whole justice system. If "other", please specify in the "comment" box below.**

Court system	Yes
Legal aid	Yes
Public prosecution services	Yes
Prison system	Yes
Probation services	Yes
Council of the judiciary	Yes
Judicial protection of juveniles	No
Functioning of the Ministry of Justice	Yes
Refugees and asylum seekers services	Yes
Other	Yes

Comment :

Other: Compensation to crime victims - 473 373EUR

**12) Annual approved public budget allocated to legal aid, in €- If one or several data are not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP.**

	Total annual approved public budget allocated to legal aid (12.1 + 12.2)	12.1 Annual public budget allocated to legal aid in criminal law cases	12.2 Annual public budget allocated to legal aid in non criminal law cases
Amount (in €)	304823	NA	NA

**13) Total annual approved public budget allocated to the public prosecution services (in €). Please indicate in the "comment" box below any useful information to explain the figures provided.**

☒ Amount

102 321 320

Comment :

Act CXXX of 2009: State Budget of the Republic of Hungary for 2010

**14) Authorities formally responsible for the budgets allocated to the courts (multiple options possible) :**

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

**15) If any other Ministry and/or inspection body and/or other, please specify (considering question 14):**

Inspection body: Court of Auditors

## A.2

**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

Question 6#2#3 : Auparavant il y avait une campagne de computerisation qui s'est achevée, donc à cause de cela la somme de 2008 était beaucoup plus haute qu'en 2010.

Question 6#2#4 : La variation spectaculaire entre 2008 et 2010 est motivée par un changement légal survenu en 2009 (la loi LXXV de 2009, à partir de 1 octobre 2009) concernant l'augmentation de frais d'expertises.

Question 6#2#5 : Concernant le budget alloué aux bâtiments. Etant donné que beaucoup d'édifices sont en très mauvais état, dans le budget - pour la première fois depuis longtemps - on a alloué une somme augmentée. Egalement on va créer des nouveaux tribunaux aussi, dans la capitale. Donc le budget devait être augmenté.

Question 10 : En 2008 le Ministère de la Justice était ensemble avec la Police, ainsi le budget annuel était beaucoup plus important.

Question 10 : Budget public annuel approuvé et alloué à l'ensemble du système de justice, en € (ce budget n'inclut pas seulement le budget approuvé pour le fonctionnement de l'ensemble des tribunaux comme défini à la question 6, mais aussi le système pénitentiaire, la protection judiciaire de la jeunesse, le fonctionnement du ministère de la Justice, etc.)

**Please indicate the sources for answering the questions 6, 9, 10, 11, 12 and 13.**

6.-9.-10.-11.-12.-13.Act CXXX of 2009: State Budget of the Republic of Hungary for 2010

## 2. Access to Justice and to all courts

### 2. 1. Legal aid

#### 2. 1. 1. Principles

#### 16) Does legal aid apply to:

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

#### 17) Does legal aid include the coverage of or the exemption from court fees?

☒ Yes

☐ No

If yes, please specify:

Legal aid does not include the full coverage of court fees, only regarding the fee of the lawyer granted by the justice service. This kind of legal aid is granted by the justice service's decision based upon either the evaluation of the client's overall income and assets or the personal exemption of costs and fees, which is granted by the court. The legal aid system consists of covering court fees and the service of an attorney at law for free.

12. If I qualify for legal aid, will this cover all the costs of my trial?

This mainly depends on what kind of benefit the applicant receives:

a) In civil proceedings cost benefits may be the following based on their content:

- \* exemption from costs is the broadest category: it includes exemption from court charges, exemption from advance payment and costs to be borne during the proceedings and the opportunity to request the appointing of a court-appointed lawyer,
- \* exemption from court charges is a narrower category than exemption from costs: through it the party is exempted from the obligation to pay court charges but is not entitled to receive further benefits going together with exemption from costs,
- \* in the case of right to levy registration the party enjoying this right may only be exempted from paying the charges in advance, and in such a case the party obliged by court will have to pay the charges after the proceedings are over.

Exemption from costs, exemption from charges and the right to levy registration do not concern the costs of a trial to be borne by the adversary and the obligation to refund the charges paid and the costs paid in advance (enforcement costs) by the parties in the enforcement process.

b) In the course of the criminal proceedings if it is probable that, due to his/her income or financial situation, the accused will not be able to pay the costs of the proceedings and he/she certifies this, the court or the prosecutor decides on the authorisation of personal exemption of costs for the accused the request of the accused or his/her defence attorney. If the personal exemption from costs is authorised:

- \* at the request of the accused the court, the prosecutor or the investigating authority appoints a defence attorney,
- \* no court charges have to be paid for providing the copies of the documents of the criminal case for the accused and his/her appointed defence attorney on one occasion,
- \* the state bears the fees and certified out-of-pocket costs of the court-appointed lawyer.

13. If I qualify for partial legal aid, who will pay the other costs?

Since the current legislation does not distinguish between partial or full exemption from costs at court proceedings, if the court authorises exemption from costs, than this covers all the costs of a trial - with the exceptions in point 12.

14. If I qualify for legal aid, will it cover any review I might make following the trial?

If legal aid is authorised it extends to all phases of the proceedings, including the appeals procedure and enforcement on the basis of the proceedings.

15. If I qualify for legal aid, can it be withdrawn before the end of the trial (or even after the trial)?

a) In civil proceedings the court checks whether the conditions for eligibility for legal aid are still met as follows:

- \* until the final decision in the proceedings, annually on the basis of the date of the authorisation,
- \* before the issuing of the enforceable document, if already a year has passed since the final decision in the proceedings, and
- \* at any time during the proceedings - including the decision on the request for review - if data comes to light concerning the fact that the conditions were not fulfilled at the time of authorisation or at a later stage in the proceedings.

During the review the court revokes the aid if the party does not comply with what has been stated in the call of the court or if in the course of the review the court establishes that the applicant is no longer eligible.

b) During the criminal proceedings the accused receiving legal aid or the substitute private prosecutor must report all changes in his/her own or his/her dependant's income and financial situation - except where the income decreases or is no longer received - and all changes in his/her personal circumstances that concern the conditions of authorisation. The court and the prosecutor, on the basis of the statement but at least yearly, shall check whether the conditions for personal exemption from costs are still

met. The court or, in the case of an accused, before the indictment the prosecutor, may review the eligibility for legal aid of its own motion if data comes to light to suggest that the conditions were not fulfilled at the time of authorisation or at a later stage in the proceedings.

If it emerges from the review that the conditions for legal aid were not fulfilled, the prosecutor before the indictment, or, in the case of a substitute private prosecutor, the court thereafter shall revoke it.

**18) Can legal aid be granted for the fees that are related to the enforcement of judicial decisions (e.g. fees of an enforcement agent)?**

☐ Yes

☒ No

If yes, please specify:

The scope of legal aid apply also in the enforcement proceedings, however, concerning only the fee of the legal aid provider.

Exemption from costs, exemption from charges and the right to levy registration do not concern the costs of a trial to be borne by the adversary and the obligation to refund the charges paid and the costs paid in advance (enforcement costs) by the parties in the enforcement process.

**19) Can legal aid be granted for other costs (different from questions 16 to 18, e.g. fees of technical advisors or experts, costs of other legal professionals (notaries), travel costs etc ? If yes, please specify it in the "comment" box below).**

	Criminal cases	Other than criminal cases
	No	No

Comment :

**20) Number of cases referred to the court and for which legal aid has been granted. Please specify in the "comment" box below, when appropriate. If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP.**

**[This question concerns only the annual number of cases for which legal aid has been granted to those referring a case to a court. It does not concern legal advice provided for cases that are not brought before the court.]**

	Number
Total	8003
in criminal cases	276
other than criminal cases	7727

Comment :

**21) In criminal cases, can individuals who do not have sufficient financial means be assisted by a free of charge (or financed by a public budget) lawyer? Please specify in the "comment" box below.**

Accused individuals	No
Victims	Yes

Comment :

Representation by an advocate may be granted to victims, civil suitors and private parties, whereas, personal exemption from costs and fees as well as representation by an advocate may be granted to substitute civil suitors.

**22) If yes, are individuals free to choose their lawyer within the framework of the legal aid system**

☒ Yes☐ No

**23) Does your country have an income and assets evaluation for granting legal aid to the applicant ? Please provide in the "comment" box below any information to explain the figures provided. If you have such a system but no data available, please indicate NA. If you do not have such a system, please indicate NAP.**

	amount of annual income (if possible for one person) in €	amount of assets in €
for criminal cases	1226	NA
for other than criminal cases?	3697	NA

Comment :

According to the Act LXXX of 2003 on Legal Aid, the State shall pay the fee of legal services in lieu of an applicant if his/her monthly net income (wage, pension, or other cash allocations paid to him/her on a regular basis) does not exceed the current minimum old-age pension, which amount is currently 28.500 HUF (~100 EUR) , and he/she has, taking account of the provisions of Section 9, no property. This evaluation method is applied for civil and criminal cases as well.

However, in civil procedures and in case of legal advice, there is possible to grant legal aid, if the applicant's monthly net income is above this referred minimum old-age pension. In this case, the State shall advance the fee of legal services and the client has to pay it back within a period of maximum one year. The legal aid can be granted with these conditions, if the applicant's monthly net income is above the minimum old-age pension, but does not exceed the 43% of the gross domestic average wage of the second year prior to the current year, and he/she has no property.

In the calculation of the amount of income available, the income of persons sharing the same household with the applicant shall also be taken into account, except when such persons are adverse parties in a legal debate or government procedure with the applicant, and that amount shall be divided by the number of those living together with him/her.

The aforementioned Section 9 and its subsections (1) and (2) define the items of property could not be taken into consideration. In particular, the following items:

- a) customary necessities and furnishings;
- b) real estates of the applicant that serve for his/her residential purposes, and those of his/her dependants;
- c) vehicle used by the applicant if he/she is with limited mobility, or without which he/she would become unable to practise his/her profession; and
- d) items of property necessary for the earning of the income specified in Sections 5 and 6, respectively.

For the purposes of this rule, no account may be taken of assets, the use of which would result in a loss disproportionately exceeding the benefits that could be achieved through the taking advantage of the legal service.

In some special circumstances specified in Section 5 subsection (2) there is no need to evaluate the financial situation of the applicant, because he/she shall be considered being in lack of financial means. These cases are the following, the applicant:

- a) receives regular social benefit;
- b) receives public health provision, or whose entitlement to medical services has been established; or
- c) is a homeless person spending nights at temporary lodgings;
- d) is a refugee or temporarily protected person or a person seeking recognition as a refugee or temporarily protected person, and, on the basis of the statement he/she has made concerning his/her pecuniary situation and earning status, is entitled to the care and benefits he/she has been granted;
- e) is an applicant for visa, residence permit or permanent residence permit or in a naturalization procedure in the course of an immigration procedure and whose ascendant is/was of Hungarian national;
- f) cares a child in his/her family and therefore receives regular child protection allowance;
- g) is according to the Section 46. of the 4/2009. EC directive entitled for the legal aid specified in Section 56.

The State also shall pay the fee of legal services in lieu of an applicant if the single and resourceless applicant's monthly net income does not exceed 150% of the current minimum old-age pension.

**24) In other than criminal cases, is it possible to refuse legal aid for lack of merit of the case (for example for frivolous action or no chance of success)?**

☒ Yes☐ No

If yes, please explain the exact criteria for denying legal aid:

The possibility to deny legal aid for lack of merit of the case (frivolous action, no chance of success) applies in litigious cases only.

**25) Is the decision to grant or refuse legal aid taken by :**

☐ the court?☒ an authority external to the court?

☐ a mixed decision-making authority (court and external bodies)?

**26) Is there a private system of legal expense insurance enabling individuals (this does not concern companies or other legal persons) to finance court proceedings?**

☒ Yes

☐ No

If appropriate, please inform about the current development of such insurances in your country; is it a growing phenomenon?

According to our experiences, this kind of insurance is not a well-known one in Hungary, only 1,5% of the households have some kind of legal insurance. Currently only 4 insurance company provide similar products, so there is a growing potential in this segment.

**27) Can judicial decisions direct how legal costs, paid by the parties during the procedure, will be shared, in:**

criminal cases?	Yes
other than criminal cases?	Yes

**B.1**

**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

**Please indicate the sources for answering the questions 20 and 23**

Q20: Official statistics of the Justice Service of Ministry of Public Administration and Justice;

Q23: Act LXXX of 2003 on Legal Aid

## 2. 2. Users of the courts and victims

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

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

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**The websites mentioned could appear in particular on the internet website of the CEPEJ. Please specify in the "comment" box below what documents and information the addresses for "other documents" include:**

- ☐ legal texts (e.g. codes, laws, regulations, etc.)? Internet address(es): ☒ Yes <https://kereses.magyarorszag.hu/jogszabalykereso>
- ☐ case-law of the higher court/s? Internet address(es): ☒ Yes <http://www.birosag.hu/engine.aspx?page=anonim>, <http://www.lb.hu>
- ☐ other documents (e.g. downloadable forms, online registration)? ☐ Yes

Comment :

Compensation to crime victims: the necessary form can be downloaded from the Internet:

<http://www.kih.gov.hu>

**29) Is there an obligation to provide information to the parties concerning the foreseeable timeframes of proceedings?**

☒ Yes

☐ No



If yes, please specify:

Only in criminal procedures. The summoning needs to refer to the foreseeable timeframe (mentioning the hours) of the procedural activity taken for a basis of the summoning.

**30) Is there a public and free-of-charge specific information system to inform and to help victims of crime?**

☒ Yes

☐ No

If yes, please specify:





<http://www.kih.gov.hu/alaptev/aldozatsegito>  
The Hungarian Victim Support Service

The Hungarian Parliament passed Act CXXXV of 2005 on Crime Victim Support and State Compensation (hereinafter Act) on the 29th of November 2005. On the basis of equity and social solidarity the Act aims at providing services for those whose financial, social, physical and psychological conditions have deteriorated as a result of a crime.

#### Victim of Crime

Victim can be any natural persons who has suffered injuries as a direct consequence of criminal acts, in particular bodily or emotional harm, mental shock or economic loss.

Victims can be entitled to victim assistance if the crime was committed on the territory of Hungary and the persons are

- \* Hungarian citizens,
- \* citizens of any EU Member State,
- \* citizens of any non-EU country lawfully residing in the territory of the European Union,
- \* stateless persons lawfully residing in the territory of the Republic of Hungary,
- \* victims of trafficking in human beings, and
- \* any other persons deemed eligible by virtue of international treaties concluded between their respective states of nationality and the Republic of Hungary or on the basis of reciprocity.

According to the Act victim assistance is provided by the county offices of the Office of Justice Victim Support Service. Victim assistance covers victim support (facilitate the protection of victims' interests, grant instant monetary aid and provide legal aid) and state compensation. Our offices give widespread information and advice to anybody.

The financial forms of assistance aim only the mitigation of damages, we can not compensate all damages of the victim.

#### Information and advice

The Victim Support Service's county offices give information and advice on

- \* the rights and obligations the victim has in criminal proceedings,
- \* the forms of support available to the victim and the conditions for application therefor,
- \* any available benefits, allowances and opportunities to assert the victims's rights other than those provided for herein,
- \* the contact details of state, local government, civil and church organizations involved in helping victims of crime, and
- \* the opportunities to avoid secondary victimization with a view to the type of the criminal act.

The protection from secondary victimization means the victim's protection from further physical, psychological and pecuniary damages.

#### Victim support

The victims of any type of crime can be entitled to victim support in order to facilitate the protection of the victim's interest, to legal aid and to instant monetary aid.

- \* Facilitate the protection of victims' interests

The Victim Support Service helps to facilitate the enforcement of the victim's fundamental rights, to have resort to health care, social security and social benefits. In order to be entitled to this aid the application form has to be submitted within six months after the crime was committed.

- \* Legal aid

If the Victim Support Service states that someone is victim of a crime, the Legal Aid Service advances the fees of the legal aid for those whose net monthly income does not exceed the wage of HUF 159.100 in 2009. In order to be entitled to this support you application form has to be submitted within six months after the crime was committed.

\* Instant monetary aid

Instant monetary aid covers the victim's extraordinary expenses in connection with housing, clothing, nutrition and travel, medical and funeral expenses in the event where he/she is unable, as a consequence of being victimized, to cover such expenses. Victim Support Services may give a maximum of HUF 79.550 in 2009. The application form for this support has to be submitted within three working days after the crime was committed.

The Victim Support Service shall not provide services for a crime victim who

- \* has already been granted the support applied for in an earlier phase of his/her case,
- \* had provided false information in a previous application for victim support services, for a period of two years following the operative date of the relevant resolution ,
- \* obstructs the examination aimed at verifying the data furnished in his/her application for support,
- \* had obstructed the examination aimed at verifying data furnished in a former application for support, for a period of two years following the operative date of the relevant resolution ,
- \* has failed, although he/she would have been obliged, to repay to the State the amount of monetary aid or the fee of legal assistance granted hereunder.

State compensation

\* Those indigent victims are entitled to state compensation who suffered an intentional and violent act, unlawful in terms of criminal law, and as a result their physical integrity or health has been seriously damaged.

\* Furthermore, compensation can be provided to a natural person who was living at the time of the crime with the victim as a domestic partner and was a next of kin, adoptive parent, foster parent, adopted child, foster child, spouse or a common-law spouse of a deceased or an injured party. Furthermore, compensation can be provided to a natural person whom the victim is or was obliged to maintain pursuant to the provisions of a legal regulation, an enforceable court order or official decision or a valid contract.

\* Victims also have to be indigent to be entitled to compensation. Indigence is defined by the income position of the applicant. Based on income position, the applicant shall be considered as indigent if his/her income (in the case of persons living in a common household the per capita income) does not exceed HUF 159.100 in 2009. If the victim is participating in a refugee procedure in Hungary, his/her state of indigence is a presumption of law.

The application form for state compensation has to be submitted to any county office within three month after the crime was committed. The office helps to fill the form and transmits it to the deciding authority, the Budapest Office of Victim Support Service.

The citizens of the EU can also submit the application form in their Member State of residence. Compensation shall be paid for these victims also by the Hungarian Victim Support Service.

The sum of state compensation can be

- \* lump-sum payment if it aims at compensating pecuniary damages or
- \* regular monthly installments if it aims at compensating the diminution of regular income.

The lump-sum payment's maximum amount is HUF 1.193.250 in 2009.

Allowance may be given for the period of three years with the maximum sum of HUF 79.550 in 2009 monthly.

The payment of allotments to a victim shall be terminated if

\*

o the victim's eligibility for regular social services or pension insurance benefits has been officially established with a view to the crime, and disbursement of such benefits commenced,  
 o the victim has been granted annuity payments for damages by a non-appealable court order, and disbursement of such annuity has commenced,  
 o an insurance company starts disbursing annuity benefits to the victim,  
 o the victim's disability to work came to an end, or  
 o the victim was absent from the compulsory expert medical examination without proper justification.

A crime victim shall be deemed ineligible for compensation if

- a) any of the grounds for ineligibility set forth in Section 5 applies,
  - b) he/she failed to enforce his/her social security or other insurance claim arising from the crime, or he/she enforced his/her claim for damages or insurance claim and he/she was fully compensated for his/her damages (including payments made by any foreign state, insurance company or non-governmental victim protection organization) by the time of submission of the application for state compensation,
  - c) his/her behavior gave reason for the commission of the crime, or was instrumental in the occurrence of the loss as is established by the final court verdict,
  - d) his/her own actionable conduct caused the damage, or was instrumental in the occurrence thereof as is established by the final court verdict,
  - e) he/she declined to testify without cause in the criminal proceedings opened as a result of the crime giving rise to compensation, or failed to meet his/her obligation of cooperation in the expert examination, or a fine for contempt was imposed on him/her by a final judgment for non-compliance with summons,
  - f) he/she failed to meet his/her obligation of cooperation in the medical and professional examination conducted under the compensation proceedings or to furnish any requested supplementary information or was absent from the hearing without cause,
  - g) he/she failed to submit a civil motion that is necessary for the criminal proceedings,
  - h) he/she committed during criminal proceedings opened as a result of, or in relation to, the crime giving rise to compensation any of the following criminal acts:
    1. false accusation (Sections 233 to 236 of the Criminal Code),
    2. misleading of authority (Section 237 of the Criminal Code),
    3. perjury (Sections 238 to 241 of the Criminal Code),
    4. subornation of perjury (Section 242 of the Criminal Code),
    5. obstruction of justice (Section 242/A of the Criminal Code),
    6. suppressing extenuating circumstances (Section 243 of the Criminal Code),
    7. aiding and abetting (Sections 244 of the Criminal Code),
    8. breaking of seals (Section 249 of the Criminal Code),
    9. violent offence or offence causing public danger against the offender or a relative of the offender
- as is established by final court verdict.

In order to get help from the Victim Support Service a certificate issued by either the police, the public prosecutor's office or the court is required. If the victim cannot provide the certificate it must be obtained by the Service.

In the said certificate either the police, the public prosecutor or the judge certifies that either a report has been made or an investigation or criminal procedure has been commenced in the case.

**31) Are there special favourable arrangements to be applied, during judicial proceedings, to the following categories of vulnerable persons. If "other vulnerable person" and/or "other special arrangements", please specify it in the "comment" box below.**

**[This question does not concern the police investigation phase of the procedure and does not concern compensation mechanisms for victims of criminal offences, which are addressed under questions 32 to 34.]**

	Information mechanism	Special arrangements in court hearings	Other
Victims of rape	No	Yes	No
Victims of terrorism	No	No	No
Children (witnesses or victims)	No	Yes	No
Victims of domestic violence	No	No	No
Ethnic minorities	No	No	Yes
Disabled persons	No	Yes	No
Juvenile offenders	Yes	Yes	No
Other (e.g. victims of human trafficking)	No	No	No

Comment :

ethnic minorities: use of mother tongue

**32) Does your country allocate compensation for victims of crime?**

☒ Yes

☐ No

If yes, for which kind of offences

Compensation for damages is payable only to natural persons who have suffered a violent intentional crime against their person.

**33) If yes, does this compensation consist in:**

☒ a public fund?

☒ damages to be paid by the responsible person (decided by a court decision)?

☐ a private fund?

**34) Are there studies that evaluate the recovery rate of the damages awarded by courts to victims?**

☒ Yes

☐ No

If yes, please inform about the recovery rate, the title of the studies, the frequency of the studies and the coordinating body:

The issue of victim compensation in criminal proceedings has been addressed by several authors in the past ten years:

Tünde A. BARABÁS: Compensation of victims. In: Acta Humana, 1997/26.

József VIGH: Means of indemnification against damages in the Hungarian criminal justice system. In: Jogelméleti szemle, 2003/2.

Ilona GÖRGÉNYI: Indemnification by the state, restitution by the offender and endeavours for restorative justice. In: A viktimológia alapkérdései, negyedik fejezet (The basic issues of victimology, Ch. IV), 2004.

Erika RÓTH: The position of the injured party in criminal proceedings. In: Áldozatsegítés Európában 2004 (Victim support in Europe 2004). The 2005 publication of the Ministry of Justice.

Anna KISS: The role of the adhesion procedure in criminal proceedings. In: Kriminológiai Tanulmányok (Studies in Criminology) 2005/42.

It must be noted that a comprehensive research on „The role of the injured party in criminal proceedings” is being carried out by the National Institute of Criminology (an institute of the Attorney General's Office).

**35) Do public prosecutors have a specific role with respect to the victims (protection and assistance)?**

☒ Yes

☐ No

If yes, please specify:

Section 51 of the Act on the Criminal Code: "the victim shall be entitled to a) be present at the procedural actions 8 unless provided otherwise by this Act) and to inspect the documents affording him or her in the course of procedure, b) make motions and objections at any stage of the procedure, c) receive information from the prosecutor and the investigating authority concerning his or her rights and obligations during the criminal proceedings, c) file for legal remedy in the cases specified in this Act."

The prosecutor ensure the protection of rights of the persons – including victims – involving into criminal procedure. (Section 1 of the Act on the Prosecution Service)

**36) Do victims of crime have the right to dispute a public prosecutor's decision to discontinue a case?**

-----  
Please verify the consistency of your answer with that of question 105 regarding the possibility for a public prosecutor "to discontinue a case without needing a judicial decision".

☒ Yes

☐ No

☐ NAP (the public prosecutor cannot decide to discontinue a case on his/her own. A judicial decision is needed).

If necessary, please specify:

There are cases where private prosecution or supplementary private prosecution is allowed. If so, the court notifies the victim of the decision of the public prosecutor, and the victim has 30 days from the receipt of the notification to declare whether (s)he intends to go on with the case as a private or supplementary private prosecutor.

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

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

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

Where appropriate, please give details on the compensation procedure, the number of cases, the result of the procedures and the existing mechanism for calculating the compensation (e.g. the amount per day for unjustified detentions or convictions):



In civil procedure there is a possibility of requesting the reopening of the case.

In criminal cases according to the related code :

Section 580 (1) Pre-trial detention and temporary involuntary treatment in a mental institution shall be subject to compensation, if

I. the investigation was terminated because

- a) the action does not constitute a criminal offence,
- b) it cannot be ascertained from the data of the investigation that the criminal offence has been committed,
- c) it was not the suspect who committed the criminal offence, or it cannot be ascertained from the data of the investigation that the criminal offence has been committed by the suspect,
- d) a ground for the preclusion of punishability exists,
- e) the procedure cannot continue due to statutory limitation,
- f) a final court verdict has already been delivered on the action;

II. the court

- a) has acquitted the defendant,
- b) has terminated the procedure due to statutory limitation of punishability, dropping the charges or because a final ruling has been delivered in the case.

(2) Notwithstanding subsection (1), no compensation shall be paid if the defendant

- a) has escaped, or has attempted to escape, or absconded from the court, the prosecutor or the investigating authority,
- b)
- c) was acquitted with an order to an involuntary treatment in a mental institution.

Section 581 (1) The defendant shall be entitled to compensation for imprisonment, placement in a detention home or an involuntary treatment in a mental institution served under a final judgement, if the defendant was acquitted due to extraordinary legal remedy, received a less severe sentence, was placed on probation or was reprimanded, or the procedure against him was terminated, or it was established that the involuntary treatment in a mental institution was ordered without legal justification.

There is no data available on the number of cases nor on the result of the procedures. The calculation of the compensation differs in every cases. Request for non pecuniary compensation occur very often.

**38) Does your country have surveys aimed at legal professionals and court users to measure their trust and/or satisfaction with the services delivered by the judicial system? (multiple options possible)**

- ☒ (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 the parties
- ☐ (Satisfaction) surveys aimed at other court users (e.g. jurors, witnesses, experts, interpreters, representatives of governmental agencies)
- ☐ (Satisfaction) surveys aimed at victims

If possible, please specify their titles, object and websites where they can be consulted:

Satisfaction survey occurred among citizens generally measuring the satisfaction with the services delivered by the judicial system

**39) If possible, please specify:**

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

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

- ☒ Yes
- ☐ No

**41) Please specify which authority is responsible for dealing with such complaints and inform whether there is or not a time limit to respond and/or a time limit for dealing with the complaint (multiple options possible). Please give information concerning the efficiency of this complaint procedure in the "comment" box below.**

	Time limit to respond (e.g. to acknowledge receipt of the complaint, to provide information on the follow-up to be given to the complaint, etc.)	Time limit for dealing with the complaint	No time limits
Court concerned	No	Yes	No
Higher court	No	No	No
Ministry of Justice	No	No	No
High Council of the Judiciary	No	No	No
Other external bodies (e.g. Ombudsman)	No	No	No

Comment :

The party should be informed without delay after the decision concerning the complaint

The time limite is 30 days

No information concerning the efficiency of this complaint procedure

### 3. Organisation of the court system

#### 3. 1. Functioning

##### 3. 1. 1. Courts

**42) Number of courts considered as legal entities (administrative structures) and geographic locations. If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP.**

	Total number
42.1 First instance courts of general jurisdiction (legal entities)	131
42.2 First instance specialised Courts (legal entities)	20
42.3 All the Courts (geographic locations) (this includes 1st instance courts of general jurisdiction, first instance specialised courts, all second instance courts and courts of appeal and all supreme courts)	157

**43) Number (legal entities) of first instance specialised courts (or specific judicial order). If "other specialised 1st instance courts", please specify it in the "comment" box below. If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP.**

Total (must be the same as the data given under question 42.2)	20
Commercial courts	NA
Labour courts	20
Family courts	NA
Rent and tenancies courts	NA
Enforcement of criminal sanctions courts	NA
Administrative courts	NA
Insurance and / or social welfare courts	NA
Military courts	NA
Other specialised 1st instance courts	NA

Comment :

Military judicial panels operate in 5 different nominated county courts. On the second instance the Regional Court of Budapest has exclusive competency.

Other: Companies Registry Courts as part of the county courts

**44) Is there a foreseen change in the structure of courts [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:

Integrated administrative and labour courts will be set up from 1st January 2012.

**45) Number of first instance courts (geographic locations) competent for the following cases. If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP.**

a debt collection for small claims	111

a dismissal	20
a robbery	131

**Please give the definition for small claims and indicate the monetary value of a small claim:**

According to the Code of Civil Procedure:

The provisions of Chapters I-XIV shall apply - subject to the exceptions set out in this Part - to actions for the enforcement of any claim of a pecuniary nature only, falling within the competence of local courts, for a sum not exceeding one million forints calculated by way of the methods specified in Sections 24 and 25 - other than the actions described in Subsection (4) of Section 349 -, where the action was transferred from an order for payment procedure on account of a statement of opposition, or which normally ensue order for payment procedures under Subsection (2) of Section 315 (small claims procedures).

cf CN 05/07 Q45: en 2010 le maximum a été élevé a 1 000 000 F soit 3 586 euros. En fait à partir du 1 juin 2010 ce ne sont plus les tribunaux qui s'occupent des petites créances mais les notaires.

**Please indicate the sources for answering questions 42, 43 and 45:**

Act XIX of 1998 on Criminal proceedings, Act LXVI of 1997 on the Organizational and Administrative Structure of Courts, Act III of 1952 on the Code of Civil Procedure

**3. 1. 2. Judges and non-judge staff**

**46) Number of professional judges sitting in courts (if possible on 31 December 2010)**

**(please give the information in full-time equivalent and for permanent posts actually filled for all types of courts - general jurisdiction and specialised courts). If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP.**

**Please provide in the "comment" box below any useful comment for interpreting the data above.**

\*\*\*\*\*

**[Please make sure that public prosecutors and their staff are excluded from the following figures (they will be part of questions 55-60). If a distinction between staff attached to judges and staff attached to prosecutors cannot be made, please indicate it clearly.]**

**Please indicate the number of posts that are actually filled at the date of reference and not the theoretical budgetary posts.]**

	Total	Males	Females
Total number of professional judges (1 + 2 + 3)	2891	900	1991
1. Number of first instance professional judges	1666	501	1165
2. Number of second instance (court of appeal) professional judges	1136	361	775
3. Number of supreme court professional judges	89	38	51

Comment :

**47) Number of court presidents (professional judges). If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP.**

	Total	Males	Females
Total number of court presidents (1 + 2 + 3)	137	81	56
1. Number of first instance court presidents	111	62	49
2. Number of second instance (court of appeal) court presidents	25	18	7
3. Number of supreme court presidents	1	1	NA

**48) Number of professional judges sitting in courts on an occasional basis and who are paid as such (if**

**possible on 31 December 2010). If necessary, please provide in the "comment" box below any information to explain the answer under question 48.**

Gross figure	NAP
If possible, in full-time equivalent	NAP

Comment :

In Hungary there are no professional judges sitting in courts on an occasional basis

**49) Number of non-professional judges who are not remunerated but who can possibly receive a simple defrayal of costs (if possible on 31 December 2010) (e.g. lay judges and "juges consulaires", but not arbitrators and persons sitting in a jury).**

Gross figure	<input checked="" type="checkbox"/> Yes	4 382
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**50) Does your judicial system include trial by jury with the participation of citizens?**

☐ Yes

☒ No

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

**51) Number of citizens who were involved in such juries for the year of reference:**

NAP

**52) Number of non-judge staff who are working in courts for judges (if possible on 31 December 2010) (this data should not include the staff working for public prosecutors; see question 60) (please give the information in full-time equivalent and for permanent posts actually filled). If "other non-judge staff", please specify it in the "comment" box below.**

Total non-judge staff working in courts (1 + 2 + 3 + 4 + 5)	<input checked="" type="checkbox"/> Yes	7713
1. Rechtspfleger (or similar bodies) with judicial or quasi-judicial tasks having autonomous competence and whose decisions could be subject to appeal	<input checked="" type="checkbox"/> Yes	590
2. Non-judge staff whose task is to assist the judges (case file preparation, assistance during the hearing, court recording, helping to draft the decisions) such as registrars	<input checked="" type="checkbox"/> Yes	3413
3. Staff in charge of different administrative tasks and of the management of the courts (human resources management, material and equipment management, including computer systems, financial and budgetary management, training management)		NAP
4. Technical staff	<input checked="" type="checkbox"/> Yes	3710
5. Other non-judge staff		NAP

Comment :

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

According to the Act on the Code of Civil Procedure:

- 1) In cases delegated under the jurisdiction of courts of the first instance, the court secretary (Rechtspfleger) of the court shall have powers to act without a formal hearing, instead of the single judge or the presiding judge; the Rechtspfleger of the court shall - furthermore - have powers to perform the taking of evidence in accordance with Subsection (2) of Section 202. In such cases the provisions of this Act governing court proceedings shall apply to the Rechtspfleger of the court.
- (2) In the case described in Subsection (1) the Rechtspfleger of the court shall - unless otherwise prescribed by law - have independent signatory right, and shall have authority to take all measures and adopt all decisions - other than the judgment - that are delegated by law to the jurisdiction of the court or the presiding judge.
- (3) The Rechtspfleger of the court may not adopt a decision relating to provisional measures.

According to the Act on the Code of Criminal Procedure:

In the cases specified in the relevant legal regulation, the court secretary (rechtspfleger) vested with independent signatory rights may also act – under the direction and supervision of the judge – out of trial. In such cases the actions of the court executive shall be governed by the provisions set forth in this Act for court procedures.

**54) Have the courts delegated certain services, which fall within their powers, to private providers (e.g. IT services, training of staff, security, archives, cleaning)?**

☒ Yes

☐ No

If yes, please specify:

The security services, cleaning services are provided in several court by private companies. Concerning the IT services: the Office of the National Council of Justice serves as the central authority but the operation of the central system is provided by a private company. Training courses are managed by the Judicial Academy operating within the judicial system.

**C.1**

**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 have been implemented over the last two years

**Please indicate the sources for answering questions 46, 47, 48, 49 and 52**

Q46, 47, 48, 49 and 52: National Council of Justice

Q49: There is no jury, but we have associate (lay) judges according to the Code of Criminal Procedure (Act XIX of 1998) and the Code of Civil Procedure (Act III of 1952).

Pursuant to section 14 of the Code of Criminal Procedure:

- (1) The local court shall act
  - a) in a panel comprising one professional judge and two associate judges, if the criminal offence is punishable by eight years or more imprisonment by law,
  - b) without the involvement of associate judges (as single judge) in the cases not falling under item a).
- (2) Unless provided otherwise by this Act, the county court acting as a court of first instance may conduct its procedure in a panel consisting of one professional judge and two associate judges.
- (3) In the case specified in subsection (1) b), the local court may act in a panel consisting of one professional judge and two associate judges, if it establishes a classification of the criminal offence underlying the prosecution differently from that indicated in the indictment.
- (4) In the cases specified in this Act, the county court acting as a court of first instance may conduct its procedure in a panel consisting of two professional judges and three associate judges.
- (5) The court of appeal, the tribunal and – unless provided otherwise by this Act – the Supreme Court shall act in a panel consisting of three professional judges.
- (6) Both the single judge and the presiding judge shall be professional judges; in the course of administering justice, the professional judge and the associate judges have identical rights and obligations.
- (7) In the case of criminal offences enumerated in Section 17 (5) and (6) in the first instance the presiding judge (single judge), and in the second instance one of the members of the panel shall be a judge designated by National Judiciary Council.

Pursuant to section 11 and 12 of the Code of Civil Procedure:

Unless provided otherwise by this Act, on the court of first instance one professional judge conducts procedures. In special cases regulated by this Act, the court acting as a court of first instance may conduct its procedure in a panel consisting of one professional judge and two associate judges. The courts of appeal act in a panel consisting of three professional judges. In the course of administering justice, the professional judge and the associate judges have identical rights and obligations.

**3. 1. 3. Public prosecutors and staff**

**55) Number of public prosecutors (if possible on 31 December 2010) (please give the information in full-time equivalent and for permanent posts actually filled, for all types of courts – ordinary and specialised jurisdictions). If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP. Please provide in the "comment" box below any useful information for interpreting the data.**

	Total	Males	Females
Total number of prosecutors (1 + 2 + 3)	1 741	685	1 056
1. Number of prosecutors at first instance level	1 114	425	689
2. Number of prosecutors at second instance (court of appeal) level	521	215	306
3. Number of prosecutors at supreme court level	106	45	61

Comment :

Le probleme était que nous avons un niveau inférieur des cours d'appel (les parquets départementaux) et, les procureurs de ce niveau n'y figurent pas.

**56) Number of heads of prosecution offices. If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP. Please provide in the "comment" box below any useful information for interpreting the data.**

	Total	Males	Females
Total number of heads of prosecution offices (1 + 2 + 3)	141	76	65
1. Number of heads of prosecution offices at first instance level	135	71	64
2. Number of heads of prosecution offices at second instance (court of appeal) level	5	4	1
3. Number of heads of prosecution offices at supreme court level	1	1	NA

Comment :

**57) Do other persons have similar duties to public prosecutors?**

☐ Yes

☒ No

Number (full-time equivalent)

**58) If yes, please specify their title and function:**

**59) If yes, is their number included in the number of public prosecutors that you have indicated under question 55?**

☐ Yes

☐ No

**60) Number of staff (non-public prosecutors) attached to the public prosecution service (if possible on 31 December 2010) (without the number of non-judge staff, see question 52) (in full-time equivalent and for permanent posts actually filled).**

Number

☒ Yes

2 245

## C.2

**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 have been implemented over the last two years

**Please indicate the sources for answering questions 55, 56 and 60**

Office of the Prosecutor general, Personnel Department

**3. 1. 4. Court budget and new technologies****61) Who is entrusted with responsibilities related to the budget within the court? If "other", please specify it in the "comment" box below.**

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

Comment :

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

Word processing	100% of courts
Electronic data base of jurisprudence	100% of courts
Electronic files	100% of courts
E-mail	100% of courts
Internet connection	100% of courts

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

Case registration system	100% of courts
Court management information system	100% of courts
Financial information system	100% of courts
Videoconferencing	0 % of courts

**64) For the electronic communication and exchange of information between the courts and their environment, what are the computer facilities used by the courts?**

Electronic web forms	+50% of courts
Website	100% of courts
Follow-up of cases online	0 % of courts
Electronic registers	100% of courts
Electronic processing of small claims	0 % of courts
Electronic processing of undisputed debt recovery	-10% of courts
Electronic submission of claims	+50% of courts
Videoconferencing	0 % of courts
Other electronic communication facilities	100% of courts

**65) The use of videoconferencing in the courts (details on question 65). Please indicate in the "comment" box below any clarification on the legal framework and the development of videoconferencing in your country.**

	65.1 In criminal cases, do courts or prosecution offices	65.2 Can such court hearing be held in the police station	65.3 Is there any specific legislation on the conditions	65.4 Is videoconferencing used in other than criminal
--	--	---	--	---



	use videoconferencing for hearings in the presence of defendants or witnesses?	and/or in the prison?	for using videoconferencing in the courts / prosecution offices, especially in order to protect the rights of the defence?	cases?
	Yes	Yes	Yes	Yes

Comment :

According to the Act on Criminal Procedure:

Holding a trial by way of a closed-circuit communication system

Section 244/A (1) At the motion of the prosecutor, the accused, the counsel for the defence, the witness, the lawyer acting on behalf of the witness, the ward or legal representative of a minor witness, or ex officio, the presiding judge may order the examination of the witness, or, in exceptional cases, the examination of the accused by way of a closed-circuit communication system. In the event of an examination via a closed-circuit communication system, direct links between the venue of the trial and the place of stay of the person heard shall be provided by a device simultaneously transmitting oral and visual communication..

(2) The presiding judge may order the use of closed-circuit communication system for the examination

a) of a witness under fourteen years of age,

b) of a witness against whom a criminal offence falling in the scope of criminal offences against life and limb or health (Title I of Chapter XII of the Penal Code), or criminal offences against marriage, family, youth or public morals (Chapter XIV of the Penal Code), or other violent criminal offence was committed,

c) of a witness whose presence at the trial would impose unreasonable difficulties owing to his health condition or other circumstance,

d) of a witness or accused participating in a witness protection program specified in a separate legal regulation and whose protection otherwise justifies this, and

e) of a detained accused or witness whose presence at the trial would endanger public safety.

(3) Examination by way of a closed-circuit communication system may be ordered by the presiding judge in a decision explaining the reasons therefor. The decision concerning examination via a closed-circuit communication system may not be separately appealed, only when the conclusive decision is contested.

(4) The decision shall be communicated to the prosecutor, the accused, the counsel for the defence, the witness to be heard, the lawyer acting on behalf thereof, in the event of a minor witness, the legal representative or ward thereof, and in the event of the examination of a detained person, the relevant institution of detention at least five days prior to the day of the trial. The decision shall be sent to the court providing the separate room for the examination of the accused or the witness, or, when appropriate, the relevant institution of detention.

Section 244/B (1) The witness or accused to be examined via a closed-circuit communication system shall be placed in a separate room (testimonial room) at the court providing for their examination or at the relevant institution of detention. Only the following persons may be present in the testimonial room: the lawyer acting on behalf of the witness, in the case of a minor witness the legal representative or ward thereof, and if required, the expert, the interpreter and the staff operating the closed-circuit communication system. In the case of the examination of the accused via a closed-circuit communication system, the counsel for the defence may be present both in the venue of the trial and the testimonial room.

(2) A judge from the court of jurisdiction at the location of the testimonial room shall also be present in the testimonial room. In the course of opening the trial, after recording those present in the venue of the trial, at the request of the chairperson of the panel the judge establishes the identity of those present in the testimonial room and verifies that no unauthorised person has entered the testimonial room and the witness or the accused are not restricted in exercising their respective procedural rights.

(3) At the commencement of the examination, the presiding judge advises the witness or accused to be examined via a closed-circuit communication system that they will be examined in this manner.

(4) The responsibilities of the judge of the court having jurisdiction at the location of the examination set forth in this Section may also be performed by the court secretary, in this case the minutes specified in Section 244/D (1) shall also be taken by the court secretary.

Section 244/C (1) In the case of examinations by way of a closed-circuit communication system it shall be ensured that the participants of the criminal proceedings may exercise – with the exception stipulated in subsection (4) below – their rights to ask questions, make objections or motions and other procedural rights in compliance with the provisions of this Act.

(2) In the course of the examination the accused shall be allowed to contact his counsel for the defence. If the counsel for the defence is present in the venue of the trial, a telephone connection shall be provided for between the testimonial room and the venue of the trial to ensure this right.

(3) Those present at the trial shall be allowed to see the witness or accused in the testimonial room as well as all other persons examined or staying there simultaneously with the witness or the accused. While in the testimonial room, the witness and the accused shall be provided with the means to follow the course of the trial.

(4) Witnesses under fourteen years of age examined by way of a closed-circuit communication system may be questioned exclusively by the presiding judge. The members of the panel, the prosecutor, the accused, the counsel for the defence and the victim may propose questions to be asked. With the exception of a confrontation, while in the testimonial room, a witness under fourteen years of age may only hear and see the chairperson of the panel via the transmission device.

(5) Upon the examination by way of a closed-circuit communication system, the individual features of the witness suitable for identification (e.g.: face, voice) may be distorted by technical means during the transmission.

Section 244/D (1) The judge present in the testimonial room shall take separate minutes of the circumstances of the

examination by way of a closed-circuit communication system, indicating the persons present in the testimonial room. The minutes shall be attached to the minutes taken at the trial.

(2) Simultaneously with the examination via a closed-circuit communication system, video and audio records shall be taken of the events taking place at the trial and the place of stay of the person examined. The video and audio records shall be attached to the documents.

(3) At the motion of the participants of the criminal proceedings, the presiding judge may order that the video and audio records be played at or outside the trial. Upon playing the video and audio records, it shall be ensured that they cannot be watched and heard, changed, destroyed or copied by unauthorised persons.

### C.3

**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**

Q63 and 64 Videoconferencing: Equipments needed for videoconferencing could be provided from external sources based on the related request

Q64 According to articles 32, 33 and 35 of the Act 6 of 2006 on the publicity of companies, court registration proceedings and final settlement, company registration (change registration) process is an electronical process made by Court of Company Registration

Q64 Electronic processing of order of payment starts before the notary public

Chapter XIX. of Act III. of 1952 on the Code of Civil Procedure regulates the order of payment procedure. The procedure is a non-contentious procedure, in which the court upon the unilateral claim of the entitled person summons the debtor – without granting him/her a hearing and omitting the procedure of proof – to comply with what has been put forward in the claim or to raise an objection against it.

#### 1.1. Scope of procedure

What may be the scope of the procedure?

1. The claim may be submitted only for pecuniary claims or claims on movable assets. In the event of a pecuniary claim, only claims that are overdue and the amount of which is exactly specified may be enforced
2. There is no ceiling regarding the value of the claim that can be enforced via an order of payment.
3. In the event of a pecuniary claim exceeding the value of HUF 200 000, the creditor may initiate a proceeding of an order of payment or a lawsuit. If, however, the pecuniary claim does not exceed HUF 200 000, the application initiating proceedings will be dealt with by the court as an application for an order of payment. In the event of a claim on a movable asset the party is free to decide whether to enforce his/her claim by submitting an application or via an order of payment. If, however, he or she chooses the order of payment, under Article 315(1) of the Act on the Code of Civil Procedure it is obligatory to indicate alternatively the amount which the entitled person claims to receive instead of the movable asset (alternative application). According to the established practice, if beside the claim on the movable asset the value of the pecuniary claim indicated in the alternative does not exceed HUF 200 000, the court considers the application as a claim for an order of payment.
4. The law rules out the issuing of an order of payment if the debtor, being a natural person does not have a domestic permanent address or place of residence, or the debtor, being a legal person (or company not having a legal personality) does not have a domestic seat – that is, if the known permanent address, place of residence or seat of the debtor is abroad, or if the whereabouts of the debtor is unknown.

#### 1.2. Competent Court

Which court can be consulted with a claim for issuing an order of payment?

The court having general jurisdiction is entitled to issue an order of payment, that is the court in whose area of jurisdiction the debtor lives or resides, or the legal person, has its registered office. If his/her permanent address or habitual residence is not known, it is not possible to issue an order of payment.

#### 1.3. Formal requirements

What are the formal requirements regarding the claim for issuing an order of payment?

1. The creditor must submit the claim for an order of payment in a written form, by using a special form for this purpose. The form can be obtained at the courts. The form consists of two parts, thus the requesting person has to present both the part concerning the submission of the claim and the part concerning the issuing of the order of payment. A party acting without a legal representative may present the claim before the court orally, as well. In such a case the court does not prepare a formal record but fills in the form in line with the claim. Claims must state:
  - \* data from which the jurisdiction of the court can be determined,
  - \* the name and permanent address of the creditor and the debtor (and their representatives),
  - \* the claim to be enforced, its legal basis, amount and contributions and data and evidence serving as a basis for the claim.
2. In the event of an order of payment procedure, representation by a lawyer is not compulsory.
3. After the court, by issuing the order of payment, summons the debtor to comply, the court asks for the precise and unambiguous stating of the legal grounds, amount and contributions of the claim, and it checks its own motion that the claim fully complies with the legal requirements. If the claim does not comply with the minimum requirements, or some parts of the form were not filled in, the court asks the requesting person to remedy the deficiencies.
4. As in the order of payment procedure the question of evidence does not arise, there is no need to provide written

evidence.

#### 1.4. Rejection of application

Under what circumstances may the application for issuing an order of payment be rejected? Does the court examine whether the claim is justified before issuing an order of payment?

An application for an order of payment may be rejected on the basis of points a)-g) or j) of Article 130 (1) of the Act on the Code of Civil Procedure. That is, the court may reject the application if:

1. on the basis of a law or international agreement it can be excluded that the Hungarian court has jurisdiction in the case;
2. the claimant's claim is within the jurisdiction of another court or authority or another court has jurisdiction in the case, but Article 129 may not be applied due to the lack of necessary data;
3. proceedings by another authority must precede the trial;
4. there is already an ongoing action between the parties based on the same factual basis, for the same rights – either before the same, or before another court - or a legally binding ruling has already been made;
5. the party has no legal capacity in the case;
6. the claimant's application is premature or – for some reason other than limitation - cannot be enforced by a court;
7. the action is not brought by the person entitled to do so by law, or the action may only be brought against a person defined by law, or the participation of certain persons in the trial is compulsory and the claimant - in spite of a summoning - did not call on this person (these persons) to appear;
8. the claimant did not submit the application received to remedy deficiencies by the deadline set, or it was submitted once again with deficiencies and so the application cannot be judged upon. The application for an order of payment is also rejected if the debtor's registered office or permanent address is unknown.

When administering the application for an order of payment the court also has to examine on its own initiative whether it has jurisdiction to issue the order of payment, and if necessary, it must establish the facts to an extent that enables taking a satisfactory stance on the question whether the case is within the court's jurisdiction.

At the same time the law enables the court to transform the order of payment procedure into a trial, that is to set a deadline for a hearing on the case if it believes that the application has no legal basis, its existence seems contestable or the application is made for the purpose of committing a criminal offence.

#### 1.5. Appeal

Can the applicant appeal against the rejection of an application for issuing an order of payment?

After the application for an order of payment has been rejected, the applicant may take the claim to a full trial. In theory, the applicant may appeal against the ruling rejecting the order of payment, but if he or she submits the application again, the effects of litigation remain.

#### 1.6. Statement of opposition

In the case of issuing an order how much time does the defendant have to contest the application? What are the possible requirements of form for the contesting statement?

The debtor may contest the application within 15 days of the serving of the order of payment. If the debtor fails to do this out of no fault of his own, the consequences of the failure can be remedied with evidence.

The statement of opposition is a statement by the debtor saying that he or she denies or opposes the legal basis or the amount of the application for an order of payment and on the basis of this asks for a hearing, that is, to transform the procedure into a full trial. Before the deadline for submitting the statement of opposition the submission presented from the debtor is considered to be a statement of opposition if it is clear from it that the debtor does not accept or does not approve of the order of payment or the part of it that demands compliance being given mandatory force. There are thus no formal requirements for the statement of opposition. The only requirement concerns the number of copies submitted, as the statement of opposition always has to be submitted in one more copy than the number of parties concerned by the proceedings.

#### 1.7. Effect of statement of opposition

What happens if the defendant opposes the claim in time? Is the case included in the normal court proceedings automatically or at request?

The legal consequence of the statement of opposition submitted by the debtor or the person authorised by law is the following: the proceeding out of court, if the additional costs are paid and so the court costs are covered, will automatically become a trial before court. If additional costs are not paid, the court terminates the proceedings. The statement of opposition initiates the procedure. In the event of a statement of opposition the rules governing proceedings started with an application have to be applied, and the creditor is considered to be the claimant while the debtor is considered to be the defendant.

#### 1.8. Effect of lack of statement of opposition

What happens if the defendant does not oppose the claim in time?

1. If the debtor does not comply with the summons in the order of payment and does not oppose it before the deadline and in the prescribed manner, then the order of payment will have the same effect as a legally binding ruling. In this case the order of payment will become effective fifteen days after it was served. The legally binding

order of payment means a judgment in the case, and until it is opposed with an application for retrial, no claim can be enforced on the same factual basis, for the same rights, between the same parties.

2. The court provides the creditor with a copy of the order of payment with a clause for making it legally binding on the debtor, so this person does not have to take any further action in connection with the enforcement order.

Source:

[http://ec.europa.eu/civiljustice/simplif\\_accelerat\\_procedures/simplif\\_accelerat\\_procedures\\_hun\\_en\\_order.htm#1x](http://ec.europa.eu/civiljustice/simplif_accelerat_procedures/simplif_accelerat_procedures_hun_en_order.htm#1x)

### 3. 2. Performance and evaluation

#### 3. 2. 1. Performance and evaluation

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

☒ Yes

☐ No

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

The Department of Statistics within the Division of Administration of Courts of the Office of the National Council of Justice

**67) Are individual courts required to prepare an annual activity report (that includes, for example, data on the number of cases processed or pending cases, the number of judges and administrative staff, targets and assessment of the activity)?**

☒ Yes

☐ No

**68) Do you have, within the courts, a regular monitoring system of court activities concerning:**

-----  
**The monitoring system aims to assess the day-to-day activity of the courts (namely, what the courts produce) thanks in particular to data collections and statistical analysis (see also questions 80 and 81).**

☒ number of incoming cases?

☒ number of decisions delivered?

☒ number of postponed cases?

☒ length of proceedings (timeframes)?

☒ other?

If other, please specify:

Individual judge statistics, statistics on the reasons of the postpones trials, number of trial days, number of trialled cases, number of cases scheduled for one day, cases under process of an individual judge

**69) Do you have a system to evaluate regularly the activity (in terms of performance and output) of each court?**

-----

**The evaluation system refers to the performance of the court systems with prospective concerns, using indicators and targets. The evaluation may be of more qualitative nature (see questions 69-77). It does not refer to the evaluation of the overall (good) functioning of the court (see question 82).**

☒ Yes

☐ No

Please specify:

**70) Concerning court activities, have you defined performance and quality indicators (if no, please skip to question 72)**

☒ Yes

☐ No

**71) Please select the 4 main performance and quality indicators that have been defined:**

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

If other, please specify:

**72) Are there quantitative performance targets (for instance a number of cases to be addressed in a month) defined for each judge?**

- ☒ Yes
- ☐ No

**73) Who is responsible for setting the targets for each judge?**

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

If other, please specify:

**74) Are there performance targets defined at the level of the court (if no please skip to question 77)?**

- ☐ Yes
- ☒ No

**75) Who is responsible for setting the targets for the courts?:**

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

If other, please specify:

**76) Please specify the main targets applied to the courts:****77) Who is responsible for evaluating the performance of the courts (see questions 69 to 76)? (multiple options possible)**

- ☒ High Council of judiciary
- ☐ Ministry of justice
- ☐ inspection authority

- ☐ Supreme Court
- ☐ external audit body
- ☐ other

If other, please specify:

**78) Are quality standards determined for the whole judicial system (are there quality systems for the judiciary and/or judicial quality policies)?**

- ☒ Yes
- ☐ No

If yes, please specify:

The evaluation of individual judges' performance is carried out based on Act 67 of 1997 on the LEgal Status and Remuneration of Judges. The evaluation includes an inspection of the material, procedural and administrative aspects of the activities of judges. More detailed rules are issued by the National Council of Justice in this regard.

**79) Do you have specialised court staff that is entrusted with these quality standards?**

- ☐ Yes
- ☒ No

**80) Do you monitor backlogs and cases that are not processed within a reasonable timeframe for:**

- ☒ in civil law cases
- ☒ in criminal law cases
- ☒ in administrative law cases

**81) Do you monitor waiting time during court procedures?**

- ☒ Yes
- ☐ No

If yes, please specify:

The judges need to report frequently on those cases where the duration of the process is longer (duration of the case is more than 2 years, duration of the case is more than 5 years). Based on these reports special measures could be initiated. The court presidents should report on these cases to the National Council of Justice.

**82) Is there a system to evaluate the overall (smooth) functioning of courts on the basis of an evaluation plan (plan of visits) agreed beforehand?**

-----  
**This question does not concern the specific evaluation of performance indicators.**

- ☒ Yes
- ☐ No

Please specify the frequency of the evaluation:

Annual report on the operation of the court provided by the president of the county courts, regional courts.

The evaluation consists mainly of the annual report of the presidents and the annual work schedule of the courts. Primary aspects of evaluation: the number of incoming, closed, pending cases, the length of procedures and events of hearings.

**83) Is there a system for monitoring and evaluating the performance of the public prosecution service?**

- ☒ Yes
- ☐ No

If yes, please give further details:

The Prosecutor General submits to the Parliament his report on the activities of the prosecution every year.

**C.4**

**You can indicate below:**

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

## 4. Fair trial

### 4. 1. Principles

#### 4. 1. 1. General information

**84) Percentage of first instance criminal in absentia judgments (cases in which the suspect is not attending the hearing in person nor represented by a legal professional)?**

NA

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

☒ Yes

☐ No

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

**86) Number of cases regarding Article 6 of the European Convention of Human Rights on duration and non-execution. If data is not available, please indicate NA.**

	Cases declared inadmissible by the Court	Friendly settlements	Judgements establishing a violation	Judgements establishing a non violation
Civil proceedings - Article 6§1 (duration)	3	27	10	0
Civil proceedings - Article 6§1 (non-execution)	0	0	0	0
Criminal proceedings - Article 6§1 (duration)	2	5	3	0

**Please indicate the sources:**

Agent of the Gouvernement before the ECHR

#### D.1

**You can indicate below any useful comments for interpreting the data mentioned in this chapter**

### 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?

☐ there is no specific procedure

If yes, please specify:









Cases concerning, for example, parental control, electoral process, coercive measures.

1. What are the different types of measures?

Act III of 1952 on the Code of Civil Procedure provides for two types of legal measure to ensure that an opposed claim can be satisfied: interim injunction and provisional enforcement, which provide protection before the legally-binding ruling has been made. This is supplemented by the precautionary measure provided by Act LIII of 1994 on Enforcement.

2. What are the conditions under which these measures may be issued?

2.1. Please describe the procedure!

Interim injunction:

Article 156 of the Code of Civil Procedure regulates the interim injunction, the objective of which is to ensure immediate legal protection to prevent the impairment of rights that, due to the lapse of time, cannot be remedied ex post. By ordering an interim injunction the court obliges the adversary of the applicant to comply at a time when it has not yet come to a decision on the substance of the legal dispute between the parties. Contrary to the general rules, the court adjudicates on the application in advance and the ruling ordering the interim injunction may be executed in advance irrespective of the appeals procedure.

As a general rule, an interim injunction may be granted upon application; the court may grant it of its own motion only if there is a special authorisation by law: in an affiliation action - if the trial proceedings were suspended - about the alimony the child is entitled to [Section 153(3) of the Act on the Code of Civil Procedure] and in matrimonial proceedings about the placement and support of the child, expanding or limiting parental supervisory rights and visiting rights (Section 287 of the Act on the Code of Civil Procedure).

The request may be put forward only in a court action, the earliest date being the time when the application is submitted.

As regards the content of the application, it must be shown that the circumstances presented in it are probable and that they refer to one of the specified situations requiring immediate legal protection (risk of damage, need for legal protection on account of the change of status of the legal dispute, or a legal protection situation requiring special recognition) and the measure applied for must, of course, be such as to prevent the impairment of rights. The applicant under law does not have to prove that the information presented is true beyond doubt, but only that it is probable. There is only a limited possibility for verification while the measure is in operation; it may only be allowed if the application cannot be decided without it. The reason for the restriction is the objective of the interim injunction and the fact that the party only has to show that the situation is possible, without verifying that the conditions for the applications are definitely met.

The trial court, when arriving at a decision, has to consider whether the party has shown that the legal conditions justifying the ordering of an interim injunction are probably met. The court is also free to decide what degree of probability it requires the party to show. If the application meets these conditions, the court must assess the disadvantages caused by the interim injunction and compare them with the advantages that can be achieved. Although the Act uses the expression 'disadvantage caused' it actually means not the disadvantage already caused but the disadvantage that may be caused by the injunction and its implementation. If the assessment reveals that the disadvantages exceed the advantages, the application has to be rejected. The court also decides at the time of the assessment whether it requires a security to be lodged for the interim injunction.

The court decides by way of order on the application for interim injunction. In exceptional cases the court rescinds the interim injunction in its judgment.

The court may decide on the application either during the actual trial or separately.

The order remains in effect until it is rescinded or, if this does not take place, until final judgment is given in the case or when the judgment of the court of first instance becomes legally binding.

Either of the parties may apply to have the order rescinded.

Provisional enforcement:

Section 231 of the Act on the Code of Civil Procedure regulates the possibilities of provisional enforcement. Under the provisions – in some cases – the legally binding decision can have effects and the decision can be enforced before it actually becomes final. In the cases listed in Article 231 of the Act on the Code of Civil Procedure, if the conditions mentioned there are fulfilled, the court of first instance must declare its

judgment provisionally enforceable of its own motion. If the appeal hearing is deferred, the court of second instance may also decide on provisional enforcement on application by the person concerned, having regard to the facts of the case.

The Code of Civil Procedure contains here an exhaustive list, which may not be given a broad interpretation. Provisional enforcement may therefore not be ordered for any other reason.

On the basis of this the following must be declared enforceable, whether or not an appeal is lodged:

- \* a decision ordering payment of maintenance or childcare allowance and the provision of other temporary services having a similar objective.
- \* a decision on ordering the termination of trespass;
- \* a decision ordering satisfaction of a claim recognised by the defendant;
- \* a decision ordering payment of a sum of money on the basis of the obligation assumed in an authentic instrument or a private document representing conclusive evidence (Articles 195 and 196), if all the circumstances serving as a basis for it were certified with such a document;
- \* a decision ordering a non-financial action to be taken, if the claimant would suffer disproportionately severe damage or if it is difficult to establish the damage caused by the deferment of the enforcement, and if the claimant provides adequate security.

If the court of first instance declares the ruling provisionally enforceable despite Articles 231 and 232 of the Act on the Code of Civil Procedure, the president of the chamber acting at second instance may order proceedings to be suspended before the hearing is held, but it will take place at the request of the interested party even if the appeals trial is deferred, together with the examination of all the facts of the case.

The court may decline to order provisional enforcement if ordering it would put a disproportionately heavier burden on the defendant than declining to do so would put on the claimant. The defendant, however, must present an application to the court in every case; the court may not decide to decline to order provisional enforcement in the listed cases of its own motion.

Enforcement of precautionary measure:

Under Hungarian law, enforcement may be ordered only if the court has issued an enforcement order. The enforcement order may be issued if the final decision contains an obligation (order to do something), it is legally binding or can be provisionally enforced and the deadline for compliance has expired. If these three conditions are not all met simultaneously, the issuing of the enforcement order is not possible and therefore enforcement may not be started. For the protection of the rights of the entitled person there is, however, a possibility to order a precautionary measure.

Therefore if the enforcement order to fulfil the claim cannot yet be issued but the party asking for enforcement has shown that the later fulfilment of the claim is probably threatened, upon the application of the party requesting enforcement, the court orders by way of precautionary measure:

1. security for a pecuniary claim, and
2. the blocking of the specified object.

A precautionary measure may be ordered only in cases that are specified by law. For example, if the claim is based on a ruling under which an enforcement writ could be issued but this cannot be done because the judgment is not yet legally binding or the judgment is legally binding but the deadline for fulfilment has not yet expired; or matrimonial or other proceedings were instituted on a claim in the family courts and the validity of the claim, its amount and its dueeness have all been certified with an authentic instrument or a private document representing conclusive evidence.

In the first case the court entitled to issue an enforcement writ and in the second case the court where the proceedings were instituted has the right to proceed.

The court must decide on the precautionary measure as a matter of urgency and within no more than eight days and send the order for a precautionary measure without delay to the bailiff.

The appeal against the order for a precautionary measure does not have suspensory effect.

After receiving the order for a precautionary measure, the bailiff without delay summons the party asking for enforcement to pay the advance payment necessary for enforcement within a short time limit, and after the advance payment has arrived he starts the enforcement of the precautionary measure without delay.

## 2.2. What are the conditions under which such measures may be issued?

The criteria to be applied by courts principally reflect the need to ensure the subsequent enforcement of the claim. In the case of an interim injunction the basic criterion is that enforcement must be necessary for preventing an imminent threat of damage or maintaining the situation that caused the legal dispute or for the protection of the specific rights of the applicant, and that the disadvantage caused by the measure does not exceed the advantages that can be achieved by it. Where provisional enforcement is ordered the court must order enforcement. There is a discretion to be exercised only where there is a request from the defendant that provisional enforcement should not be ordered. Where a precautionary measure is to be ordered, there must be evidence of a threat to the subsequent fulfilment of the claim. Therefore the claim must have been opposed in all three cases and in the case of an interim injunction and a precautionary measure it must be under threat; in the case of provisional enforcement the criterion is the protection of the interests of the eligible person.

## 3. Object and nature of such measures?

### 3.1. What types of assets can be subject to such measures?

In the case of an interim injunction the court orders the fulfilment of what has been laid down in the claim or in the application for an interim injunction upon the request by the court. This may extend to any claim put forward in the application.

Provisional enforcement means the enforcement of what has been ordered in a ruling of the court of first instance that does not yet have legally binding effect; this can also impose several obligations or services.

In a precautionary measure the court may order the blockage of a specified object or demand security for a financial claim. If the court orders security to be given for a financial claim, then the bailiff will hand over the order containing it to the debtor onsite, at the same time ordering him/her to pay the relevant amount without delay to the bailiff's hands. If the debtor does not comply, the bailiff may seize any asset of the debtor. In order to seize real property, the bailiff contacts the land registry office without delay to register enforcement rights to secure the financial claim in the land registry.

When an amount is to be secured, the bailiff summons the financial institution handling the amount the debtor is entitled to with an order that, after receiving the letter of summons, it shall not pay the amount secured and the amount covering the costs of the proceedings either to the debtor or to anybody else and, if the balance of the account does not attain the amount to be secured, it should act identically with regard to future payments.

A blockage ordered for a specified object may extend to any movable property having a value.

### 3.2. What are the effects of such measures?

In the case of an interim injunction and provisional enforcement, the debtor has to comply with the court's judgment. Based on the order an enforcement proceeding may be started.

There are two types of precautionary measure with different effects. Where the measure is to secure a claim, the debtor must hand over a specified amount of money to the bailiff. If a financial institution manages the amount of money the debtor is entitled to, then the bailiff summons the financial institution managing the amount the debtor is entitled to with an order that, after receiving the letter of summons, it shall not pay the amount secured and the amount covering the costs of the proceedings either to the debtor or to anybody else and, if the balance of the account does not attain the amount to be secured it should act identically with regard to future payments. The financial institution informs the bailiff within eight days of receiving the letter of summons what amount it was able to apply the measure for, and after this the debtor's assets may be confiscated only up to the amount of the remaining claim. If the debtor does not have the specified amount of money, another asset will be confiscated.

Where a specified object is to be blocked, the debtor may continue to use it if it does not have to be physically locked but is not free to dispose of it. If the bailiff physically locks the object, it is an offence to open the room storing it, remove the seal indicating the blockage or dispose of or use the blocked object and the offender will be prosecuted (violation of seals).

### 3.3. What is the validity of such measures?

The court decides by way of order on the application for an interim injunction. The order remains in effect until it is rescinded or, if it is not rescinded, until an order is made closing the case or when it takes legal effect at first instance.

A precautionary measure remains in effect until the order for enforcement of the claim is made or until the court decides to terminate the precautionary measure.

Provisional enforcement means the enforcement of the obligation laid down in the ruling before it acquires legally binding effect, whether or not there is an appeal. This has therefore no limit in time.

4. Is there a possibility of appeal against the measure?

There is a possibility for a separate appeal against the order for an interim injunction. The general rules govern the submission of this appeal. The limit is 15 days. The appeal must be lodged at the court that made the ruling. If the appeal is substantiated, the court rescinds its interim injunction. Otherwise, upon an application– or if the claimant abandons the claims – the court may change the order itself.

The court is obliged to order provisional enforcement in the cases listed in the Act. The defendant may, however, ask for provisional enforcement to be waived if it would mean a disproportionately severe burden for him/her. The application must be presented at the court hearing the case.

An appeal may be submitted against the order for a precautionary measure at the court hearing the case. This, however has no suspensory effect on enforcement. The parties may submit an appeal within 15 days of the announcement of the order.

Source:

[http://ec.europa.eu/civiljustice/interim\\_measures/interim\\_measures\\_hun\\_en.htm](http://ec.europa.eu/civiljustice/interim_measures/interim_measures_hun_en.htm)

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

- ☒ civil cases (small disputes)?
- ☒ criminal cases (small offences)?
- ☒ administrative cases?
- ☐ there is no simplified procedure

If yes, please specify:







In criminal cases the procedures handled with the omission of the trial.

In civil cases the procedures related to the order for payment procedure: Order of payment procedure

#### 1. Order of payment procedure

Chapter XIX. of Act III. of 1952 on the Code of Civil Procedure regulates the order of payment procedure. The procedure is a non-contentious procedure, in which the court upon the unilateral claim of the entitled person summons the debtor – without granting him/her a hearing and omitting the procedure of proof – to comply with what has been put forward in the claim or to raise an objection against it.

##### 1.1. Scope of procedure

What may be the scope of the procedure?

1. The claim may be submitted only for pecuniary claims or claims on movable assets. In the event of a pecuniary claim, only claims that are overdue and the amount of which is exactly specified may be enforced
2. There is no ceiling regarding the value of the claim that can be enforced via an order of payment.
3. In the event of a pecuniary claim exceeding the value of HUF 200 000, the creditor may initiate a proceeding of an order of payment or a lawsuit. If, however, the pecuniary claim does not exceed HUF 200 000, the application initiating proceedings will be dealt with by the court as an application for an order of payment. In the event of a claim on a movable asset the party is free to decide whether to enforce his/her claim by submitting an application or via an order of payment. If, however, he or she chooses the order of payment, under Article 315(1) of the Act on the Code of Civil Procedure it is obligatory to indicate alternatively the amount which the entitled person claims to receive instead of the movable asset (alternative application). According to the established practice, if beside the claim on the movable asset the value of the pecuniary claim indicated in the alternative does not exceed HUF 200 000, the court considers the application as a claim for an order of payment.
4. The law rules out the issuing of an order of payment if the debtor, being a natural person does not have a domestic permanent address or place of residence, or the debtor, being a legal person (or company not having a legal personality) does not have a domestic seat – that is, if the known permanent address, place of residence or seat of the debtor is abroad, or if the whereabouts of the debtor is unknown.

##### 1.2. Competent Court

Which court can be consulted with a claim for issuing an order of payment?  
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The court having general jurisdiction is entitled to issue an order of payment, that is the court in whose area of jurisdiction the debtor lives or resides, or the legal person, has its registered office. If his/her permanent address or habitual residence is not known, it is not possible to issue an order of payment.

##### 1.3. Formal requirements

What are the formal requirements regarding the claim for issuing an order of payment?

1. The creditor must submit the claim for an order of payment in a written form, by using a special form for this purpose. The form can be obtained at the courts. The form consists of two parts, thus the requesting person has to present both the part concerning the submission of the claim and the part concerning the issuing of the order of payment. A party acting without a legal representative may present the claim before the court orally, as well. In such a case the court does not prepare a formal record but fills in the form in line with the claim. Claims must state:
  - \* data from which the jurisdiction of the court can be determined,
  - \* the name and permanent address of the creditor and the debtor (and their representatives),
  - \* the claim to be enforced, its legal basis, amount and contributions and data and evidence serving as a basis for the claim.
2. In the event of an order of payment procedure, representation by a lawyer is not compulsory.
3. After the court, by issuing the order of payment, summons the debtor to comply, the court asks for the precise and unambiguous stating of the legal grounds, amount and contributions of the claim, and it checks its own motion that the claim fully complies with the legal requirements. If the claim does not comply with the minimum requirements, or some parts of the form were not filled in, the court asks the requesting person to remedy the deficiencies.
4. As in the order of payment procedure the question of evidence does not arise, there is

no need to provide written evidence.

#### 1.4. Rejection of application

Under what circumstances may the application for issuing an order of payment be rejected? Does the court examine whether the claim is justified before issuing an order of payment?

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An application for an order of payment may be rejected on the basis of points a)-g) or j) of Article 130 (1) of the Act on the Code of Civil Procedure. That is, the court may reject the application if:

1. on the basis of a law or international agreement it can be excluded that the Hungarian court has jurisdiction in the case;
2. the claimant's claim is within the jurisdiction of another court or authority or another court has jurisdiction in the case, but Article 129 may not be applied due to the lack of necessary data;
3. proceedings by another authority must precede the trial;
4. there is already an ongoing action between the parties based on the same factual basis, for the same rights – either before the same, or before another court - or a legally binding ruling has already been made;
5. the party has no legal capacity in the case;
6. the claimant's application is premature or – for some reason other than limitation - cannot be enforced by a court;
7. the action is not brought by the person entitled to do so by law, or the action may only be brought against a person defined by law, or the participation of certain persons in the trial is compulsory and the claimant - in spite of a summoning - did not call on this person (these persons) to appear;
8. the claimant did not submit the application received to remedy deficiencies by the deadline set, or it was submitted once again with deficiencies and so the application cannot be judged upon. The application for an order of payment is also rejected if the debtor's registered office or permanent address is unknown.

When administering the application for an order of payment the court also has to examine on its own initiative whether it has jurisdiction to issue the order of payment, and if necessary, it must establish the facts to an extent that enables taking a satisfactory stance on the question whether the case is within the court's jurisdiction.

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At the same time the law enables the court to transform the order of payment procedure into a trial, that is to set a deadline for a hearing on the case if it believes that the application has no legal basis, its existence seems contestable or the application is made for the purpose of committing a criminal offence.

#### 1.5. Appeal

Can the applicant appeal against the rejection of an application for issuing an order of payment?

After the application for an order of payment has been rejected, the applicant may take the claim to a full trial. In theory, the applicant may appeal against the ruling rejecting the order of payment, but if he or she submits the application again, the effects of litigation remain.

#### 1.6. Statement of opposition

In the case of issuing an order how much time does the defendant have to contest the application? What are the possible requirements of form for the contesting statement?

The debtor may contest the application within 15 days of the serving of the order of payment. If the debtor fails to do this out of no fault of his own, the consequences of the failure can be remedied with evidence.

The statement of opposition is a statement by the debtor saying that he or she denies or opposes the legal basis or the amount of the application for an order of payment and on the basis of this asks for a hearing, that is, to transform the procedure into a full trial. Before the deadline for submitting the statement of opposition the submission presented from the debtor is considered to be a statement of opposition if it is clear from it that the debtor does not accept or does not approve of the order of payment or the part of it that demands compliance being given mandatory force. There are thus no formal requirements for the statement of opposition. The only requirement concerns the

number of copies submitted, as the statement of opposition always has to be submitted in one more copy than the number of parties concerned by the proceedings.  
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#### 1.7. Effect of statement of opposition

What happens if the defendant opposes the claim in time? Is the case included in the normal court proceedings automatically or at request?

The legal consequence of the statement of opposition submitted by the debtor or the person authorised by law is the following: the proceeding out of court, if the additional costs are paid and so the court costs are covered, will automatically become a trial before court. If additional costs are not paid, the court terminates the proceedings. The statement of opposition initiates the procedure. In the event of a statement of opposition the rules governing proceedings started with an application have to be applied, and the creditor is considered to be the claimant while the debtor is considered to be the defendant.

#### 1.8. Effect of lack of statement of opposition

What happens if the defendant does not oppose the claim in time?

1. If the debtor does not comply with the summons in the order of payment and does not oppose it before the deadline and in the prescribed manner, then the order of payment will have the same effect as a legally binding ruling. In this case the order of payment will become effective fifteen days after it was served. The legally binding order of payment means a judgment in the case, and until it is opposed with an application for retrial, no claim can be enforced on the same factual basis, for the same rights, between the same parties.

2. The court provides the creditor with a copy of the order of payment with a clause for making it legally binding on the debtor, so this person does not have to take any further action in connection with the enforcement order.

Source:

[http://ec.europa.eu/civiljustice/simplif\\_accelerat\\_procedures/simplif\\_accelerat\\_procedures\\_hun\\_en\\_order.htm#1x](http://ec.europa.eu/civiljustice/simplif_accelerat_procedures/simplif_accelerat_procedures_hun_en_order.htm#1x)

Existence of a special Small Claims procedure:

As a general rule, for enforcing small claims the creditor has the order of payment as an available option, that is he or she will generally speaking have to decide whether to enforce the claim according to the rules of the normal procedure or via an order of payment.

During the normal court proceedings, however, different appeal and second instance procedural rules apply for small claims. Sections 256/B-256/E of the Act on the Code of Civil Procedure contain these special rules.

The provisions limit the right to appeal in small claims cases if the law itself defines the circumstances in which an appeal may be brought, and they simplify the proceeding of second instance.

The application of these rules based on Section 256/B of the Act on the Code of Civil Procedure:

concern rulings of the court of first instance;  
against which an appeal has been made and which has been made in a property case;  
where the amount of the appeal does not exceed the maximum limit determined by law.

Under the law, if any of these conditions is not met, the normal rules apply for the appeal against the ruling as well as for the appeal against the orders.

**89) Do courts and lawyers have the possibility to conclude agreements on arrangements for processing cases (presentation of files, decisions on timeframes for lawyers to submit their conclusions and on dates of hearings)?**

☐ Yes

☒ No

If yes, please specify:

#### 4. 2. 2. Caseload management and timeframes of judicial proceedings

**90) Comment:**

The national correspondents are invited to pay special attention to the quality of the answers to questions 91 to 102 regarding case flow management and timeframes of judicial proceedings. The CEPEJ agreed that the subsequent data would be processed and published only if answers from a significant number of member states – taking into account the data presented in the previous report – are given, enabling a useful comparison between the systems.

**91) First instance courts: number of other than criminal cases. If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP.**

**Note 1:** cases mentioned in categories 3 to 5 (enforcement, land registry, business register) should be presented separately in the table. Cases mentioned in category 6 (administrative law) should also be separately mentioned for the countries which have specialised administrative courts or separate administrative law procedures or are able to distinguish in another way between administrative law cases and civil law cases.

**Note 2:** check if the figures submitted are (horizontally and vertically) consistent. Horizontal consistent data means: "(pending cases on 1 January 2010 + incoming cases) – resolved cases" should give the correct number of pending cases on 31 December 2010. Vertical consistency of data means that the sum of the individual case categories 1 to 7 should reflect the total number of other than criminal law cases.

	Pending cases on 1 Jan. '10	Incoming cases	Resolved cases	Pending cases on 31 Dec. '10
Total of other than criminal law cases (1+2+3+4+5+6+7)*	207 740	682 727	732 325	158 142
1. Civil (and commercial) litigious cases (if feasible without administrative law cases, see category 6)*	92 979	200 922	204 275	89 626
2. Civil (and commercial) non-litigious cases, e.g. uncontested payment orders, request for a change of name, etc. (if feasible without administrative law cases; without enforcement cases, registration cases and other cases, see categories 3-7)*	57 747	400 514	461 650	6 611
3. Enforcement cases	888	3 397	3 278	1 007
4. Land registry cases**	NA	NA	NA	NA
5. Business register cases**	NA	333 205	354 237	NA
6. Administrative law cases (litigious and non-litigious)	6 951	14 360	13 727	7 584
7. Other cases (e.g. insolvency registry cases)	49 175	63 534	59 395	53 314

**92) If courts deal with "civil (and commercial) non-litigious cases", please indicate the case categories included:**

There is a very wide range of the related categories. From the establishment of the fact of the death till the registry of the social organizations. The Code of the Civil procedure stipulates some of them, for example the „Citation to Settlement Proceedings“, „Preliminary Taking of Evidence“, but other laws regulate these kind of procedures as well.

**93) If "other cases", please indicate the case categories included:**

Insolvency registry cases, labour cases

**94) First instance courts: number of criminal law cases. If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP.**

**Note:** please check if the figures submitted are (horizontally and vertically) consistent. Horizontal consistent data means that: "(pending cases on 1 January 2010 + incoming cases) – resolved cases" should give the correct number of pending cases on 31 December 2010. Vertical consistency of data means that the sum of the categories 8 and 9 for criminal cases should reflect the total number of criminal cases.

	Pending cases on 1 Jan. '10	Incoming cases	Resolved cases	Pending cases on 31 Dec. '10
Total criminal cases (8+9)	73 890	269 691	267 257	76 324
8. Criminal cases (severe criminal)	55 904	149 222	146 787	58 339

offences)				
9. Misdemeanour and / or minor offences cases	17 986	120 469	120 470	17 985

**95) The classification of cases between severe criminal cases and misdemeanour and/or minor criminal cases may be difficult. Some countries might have other ways of addressing misdemeanour offences (for example via administrative law procedures).**  
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**Please indicate, if feasible, what case categories are included under "severe criminal cases" and the cases included under "misdemeanour and /or minor criminal cases".**

The crimes are stipulated in the Ac on the Criminal Code, the misdemeanour and /or minor criminal cases are stipulated in the Act of misdemeanour cases.

**96) Comments on questions 91 to 95. You can indicate, for instance, the specific situation in your country, give explanations on NA or NAP answers or explain the calculation of the total number of other than criminal law cases or differences in horizontal consistency, etc.**

**97) Second instance courts: total number of "other than criminal law" cases. If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP.**

**Note: the total of "other than criminal" cases includes all of the following categories (categories 1 to 7).**

	Pending cases on 1 Jan. '10	Incoming cases	Resolved cases	Pending cases on 31 Dec. '10
Total of other than criminal law cases (1+2+3+4+5+6+7)	13 083	53 039	52 829	13 293
1. Civil (and commercial) litigious cases (if feasible without administrative law cases, see category 6)*	7 278	24 554	24 026	7 526
2. Civil (and commercial) non-litigious cases, e.g. uncontested payment orders, request for a change of name, etc. (if feasible without administrative law cases; without enforcement cases, registration cases and other cases, see categories 3-7)*	3 696	19 666	19 732	3 630
3. Enforcement cases	123	558	551	130
4. Land registry cases	NA	NA	NA	NA
5. Business register cases	95	301	343	53
6. Administrative law cases (litigious and non-litigious)	186	739	714	251
7. Other cases (e.g. insolvency registry cases)	1 705	7 181	7 183	1 703

**98) Second instance courts: total number of criminal law cases. If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP.**

	Pending cases on 1 Jan. '10	Incoming cases	Resolved cases	Pending cases on 31 Dec. '10
Total criminal cases (8+9)	5 884	42 710	41 796	6 825
8. Criminal cases (Severe criminal offences)	5 858	42 019	41 082	6 795
9. Misdemeanour and/or minor offences cases	26	691	687	30

Comment :

**99) Highest instance courts: total number of "other than criminal law" cases. If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP.**

**Note: the total of "other than criminal law cases" includes all of the following categories (categories 1 to 7).**

	Pending cases on 1 Jan. '10	Incoming cases	Resolved cases	Pending cases on 31 Dec. '10
Total of other than criminal law cases (1+2+3+4+5+6+7)	3 030	6 395	6 291	3 134
1. Civil (and commercial) litigious cases (if feasible without administrative law cases, see category 6)	1 005	2 673	2 618	1 060
2. Civil (and commercial) non-litigious cases, e.g. uncontested payment orders, request for a change of name, etc. (if feasible without administrative law cases; without enforcement cases, registration cases and other cases, see categories 3-7)	15	412	421	6
3. Enforcement cases	NA	NA	NA	NA
4. Land registry cases	NA	NA	NA	NA
5. Business register cases	15	22	31	6
6. Administrative law cases (litigious and non-litigious)	934	1 991	1 900	1 025
7. Other cases (e.g. insolvency registry cases)	1 061	1 297	1 321	1 037

**100) Highest instance courts: total number of criminal law cases. If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP.**

	Pending cases on 1 Jan. '10	Incoming cases	Resolved cases	Pending cases on 31 Dec. '10
Total criminal cases (8+9)	160	1 364	1 322	202
8. Criminal cases (severe criminal offences)	160	1 364	1 322	202
9. Misdemeanour cases (minor offences)	NA	NA	NA	NA

Comment :

**101) Number of litigious divorce cases, employment dismissal cases, robbery cases and intentional homicide cases received and processed by first instance courts. If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP.**

	Pending cases on 1 Jan. '10	Incoming cases	Resolved cases	Pending cases on 31 Jan. '10
Litigious divorce cases	14 506	33 608	34 043	14 143
Employment dismissal cases	2 974	5 146	4 849	3 271
Robbery cases	NA	NA	NA	NA
Intentional homicide	NA	NA	NA	NA

**102) Average length of proceedings, in days (from the date the application for judicial review is lodged). If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP.**

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**[The average length of proceedings has to be calculated from the date the application for judicial review is lodged to the date the judgment is made, without taking into account the enforcement procedure. New: the question concerns first, second and third instance proceedings.]**

	% of decisions subject to appeal	% pending cases more than 3 years	Average length in 1st instance (in days)	Average length in 2nd instance (in days)	Average length in 3rd instance (in days)	Average total length of the total procedure (in days)
Litigious divorce cases	3	NA	NA	NA	NA	NA
Employment dismissal cases	NA	NA	NA	NA	NA	NA
Robbery cases						

	NA	NA	NA	NA	NA	NA
Intentional homicide	NA	NA	NA	NA	NA	NA

**103) Where appropriate, please inform about the specific procedure as regards divorce cases (litigious and non-litigious):**

Matrimonial Proceedings

Application of General Rules

Section 276

(1) The provisions of Chapters I-XIV shall apply to matrimonial proceedings subject to the exceptions set out in this Chapter.

(2) Matrimonial proceedings shall cover actions for voiding a marriage and for the annulment of a marriage, that is to say, actions for establishing the validity or the existence or non-existence of marriage, as well as actions for the dissolution of a marriage.

(3) The provisions governing actions for annulment shall also apply to actions for establishing the validity, the existence or non-existence of a marriage.

Jurisdiction

Section 277

(1)1

(2)2 In respect of matrimonial proceedings the court in whose jurisdiction the last home of the married couple was located shall also be declared competent.

(3)3 If there is no Hungarian court considered to have jurisdiction for matrimonial proceedings neither under Section 29 nor under

this Section, the Pesti Központi Kerületi Bíróság (Pest Central District Court) shall handle such actions.

(4)4 Where matrimonial proceedings are already in progress, another action relating to the same marriage and an action for property

rights arising out of the matrimonial relationship must be heard by the same court.

Legal Status and Representation of the Persons Involved in the Action Section 278

In matrimonial proceedings the spouse with limited legal capacity shall have complete competency in legal proceedings.

Section 279

(1)5

(2) In matrimonial proceedings no intervention is allowed.

(3)6 In connection with matrimonial proceedings the signature on a power of attorney provided to a person other than a law firm or

an attorney, or the initials affixed on a power of attorney made to any person must be certified by a notary public.

(4)7 If the court has decided to examine the spouses' child of minor age, as an interested party in the action in accordance with

Section 74 of the Family Welfare Act, a guardian ad litem shall be appointed to the child in justified cases.

Furthermore, the court

may decide to hear the child without the parents being present. These rules shall also apply to actions concerning the placement of a child.

Section 280

8

Filing for Action

Section 281

(1)9 An action for annulment shall be filed by a spouse against the other spouse, or by the public prosecutor or a third party

authorized to bring action against both spouses. If the party against whom the action is to be brought is no longer alive, the guardian

ad litem appointed by the court shall be named as the defendant in the action. If the party has no competency in legal proceedings,

and there exists any conflict of interest between this person and his legal representative, the court shall appoint a guardian ad litem to represent this party.

(2) In matrimonial proceedings Section 127 may not be applied.

Section 282

In front of the court of matrimonial proceedings a joint action may be filed only if it pertains to the annulment or dissolution of the

same marriage, or to the origin, placement or maintenance of a child, or if the action concerns property rights arising out of the

matrimonial relationship (Section 292).

Section 283 1)1 In matrimonial proceedings, the statement of claim shall contain information concerning the contracting of the marriage and

the birth of any living child from the marriage, and information to support the right for bringing the action to the extent

appropriate. The documents supporting the information supplied shall be enclosed with the statement of claim, except if they can be

verified by a personal identification document, however, this shall be indicated in the statement of claim.



(2)2

(3) The public prosecutor shall be notified that an action for annulment has been opened with a copy of the statement of claim enclosed.

(4)3

Hearing and Taking of Evidence

Section 284 (1)4 In matrimonial proceedings the court may declare the hearing closed from the public at the party's request, even if the

conditions set out in Section 5 do not exist. The court shall advise the parties of this fact.

(2)5 In matrimonial proceedings the plaintiff shall be entitled to withdraw his claim without the consent of the defendant at any

time during the proceeding. If the plaintiff has decided to withdraw his claim after the conclusion of the proceedings of the first

instance, but before the judgment becomes operative, the judgment shall be abolished by the court of the first instance before the

documents are forwarded due to an appeal, or by the court of the second instance in other cases.

(3)6 In matrimonial proceedings the court shall hear the spouses in person, unless an exemption is provided by law; the court may

also decide to keep a spouse away from the hearing of the other spouse.

Section 285

7

(1)8 In divorce cases, the court shall examine the parties present during the first hearing. If either of the spouses is placed under

guardianship, or his/her whereabouts are unknown, or if he/she is unable to appear before the court due to insurmountable obstacles,

the examination of such spouse in person is not mandatory.

(2) If the plaintiff fails to appear in person - save where Subsection (1) applies - at the first hearing, the case shall be dismissed.

(3) The court may attempt at any time during the proceedings to steer the parties towards reconciliation. If reconciliation is

successful, the court shall dismiss the case, and shall not decide as to the bearing of court costs.

(4)9 If during the first hearing in a divorce case the parties fail to settle their differences, the court - subject to the exception set

out in Subsection (5) - shall postpone the hearing, and shall advise the parties of their right to request continuation of the

proceedings within three months in writing, otherwise the case shall be dismissed. The court shall set the date of the next hearing

thirty days after the time of submission of the application.

(5)9 In the cases covered by Subsection (1), or if dissolution of the marriage was requested on the grounds set out in Paragraph b)

of Subsection (2) of Section 18 of Act IV of 1952 on Marriage, Families and Guardianship (Families Act), or the parties have no

child of minor age, the court shall proceed to hear the case on the merits during the first session.

Section 286

(1) The court may order the taking of evidence of its own motion where deemed necessary.

(2) In matrimonial proceedings a witness may not refuse to testify under Paragraph a) of Subsection (1) of Section 170, and

similarly, a doctor summoned as a witness may not refuse to testify under Paragraph c) of Subsection (1) of Section 170.

Section 287

In matrimonial proceedings the court, if the hearing is adjourned, shall decide of its own motion on a temporary basis where

appropriate concerning:

a) the placement and maintenance of a minor child;

b) the expansion or restriction of parental responsibility;

c) visitation rights between parent and child; or d) the use of residential property among the spouses.

Section 288

(1)1 If the defendant fails to appear at the first or any subsequent hearing of the matrimonial proceedings, the sanctions relating to

omissions shall not be applied. In the event of the plaintiff's omission the court shall dismiss the case, however, if the public

prosecutor functions as the plaintiff, the court shall set a new date of its own motion. Any plaintiff whose permanent residence is

located abroad may request the court to proceed with the hearing in his absence.

(2)2 No application for continuation will be accepted upon failure to meet the deadline for submission of the petition for review

past fifteen days from the last day of the deadline, or from the last day of the missed time limit even if the party was unaware of

having missed the deadline, or if the obstacle was not eliminated in due time. This rule shall also apply upon failure to meet the

deadline specified in Subsection (4) of Section 285.

(3)3 Matrimonial proceedings may be suspended in the cases covered by Paragraphs c) and d) of Subsection (1) of Section 137, and

Paragraph a) of Subsection (1) of Section 137 in divorce cases additionally.

Section 289

If either of the spouses dies before the final conclusion of the divorce action, the court shall dismiss the action without adopting a decision as to the bearing of court costs, and shall abolish any judgment that may already have been returned in the case.

#### Decisions of the Court

##### Section 290

(1) If the marriage is annulled or dissolved, the court shall decide - if deemed necessary - concerning the placement and

maintenance of the couple's minor children even in the absence of a claim filed therefor.

(2)4 Where the dissolution of marriage is requested by the parties jointly under Paragraph a) of Subsection (2) of Section 18 of the

Families Act, the court may not decide concerning the dissolution of marriage before a settlement is reached in all issues defined

therein, and until such settlement is approved by way of a final court ruling. If the matrimonial action contains a request for

injunction from the bearing of name, it shall be decided simultaneously with the dissolution (annulment) of marriage. Partial verdict

is not allowed in neither of the above matters.

(3)5 In divorce actions the court shall take into consideration the interests of the parties' minor child when deliberating the approval

of a settlement, or in returning a judgment.

(4)6 In divorce actions the court shall decide as to the bearing of court costs upon weighing all applicable circumstances of the

case, regardless of who the winning party is.

(5)7 The decision adopted by the court of the first instance relating to the annulment of marriage shall be communicated to the

public prosecutor even if he was not involved in arguing the case, in which case the public prosecutor has the right to appeal the

judgment.

(6)8 The part of the decision adopted by the court of the first instance that is not contested by an appeal shall enter into effect after

fifteen days following the last day of the time limit for appeal.

(7)8 The court of the first instance shall deliver its decision in favor of the plaintiff to the competent registrar when it becomes final.

(8)9 The presiding judge acting in the first instance shall declare a decision for the dissolution or annulment of a marriage

partially enforceable before the documents of the case are forwarded to the court of the second instance.

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

The calculation of the length of the proceedings based on the related Rules of the National Council of Justice. In criminal cases that are under process the duration of the procedure shall be counted from the date of the submission of the initiating document. In case of criminal procedure where the proceedings of first or second instance are re-instituted due to repealing the original decision, the duration of the procedure shall be counted from the date of the original date of the submission of the case. The length of the suspension of the case should be deducted from the duration.

In case of retrial and supervision of the case, in the reinitiated procedure the length of the basic procedure should not be taken into account.

In civil cases that are under process the the duration of the procedure shall be counted from the date of the submission of the initiating document to the court that provides the data. In civil procedures where the proceedings of first or second instance are re-instituted due to repealing the original decision, the duration of the procedure shall be counted from the date of the original date of the submission of the case. The length of the suspension of the case should be deducted from the duration. In case of retrial and supervision of the case, in the reinitiated procedure the length of the basic procedure should not be taken into account.

#### **105) Role and powers of the public prosecutor in the criminal procedure (multiple options possible):**

- ☒ to conduct or supervise police investigation
- ☒ to conduct investigations
- ☒ 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 discontinue a case without requiring a judicial decision (ensure consistency with question 36!)
- ☒ to end the case by imposing or negotiating a penalty or measure without requiring a judicial decision

☒ other significant powers

If "other significant powers", please specify:

In the Republic of Hungary prosecution service is part of justice – including juvenile criminal justice – with an exceptional role in its system. Starting from the beginning of the criminal case up to the termination of penal law it has got an indispensable part; without public prosecution there is no adequate crime prevention, effective prosecution nor feasible criminal policy. The activity of the child- and youth protection prosecutor is a special field connected to children and juveniles, a group of persons protected through separately handled guarantees in the statutory instruments. Prosecutors in this field co-operate in the prosecution of crimes committed by a juvenile perpetrator, the observance of the specific procedural regulations and take the necessary child protection measures.

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

☒ Yes

☐ No

If yes, please specify:

The duties of the prosecution service

The duties of the prosecution service - as described by the Constitution and the Act on the Prosecution Service - can be divided into two main areas. To one of these areas, which represent the larger part of the activities, belong the duties concerning criminal justice. In this context the prosecution service, as the authority to prosecute crimes, vindicates the claim of the State to punish the committed crimes. In this sphere of activities, the prosecution service carries out investigations in cases specified by law, supervises the legality of investigations, represents the prosecution in court proceedings and is responsible for the supervision of the legality of the execution of punishments. The other area of the activities is exceedingly widespread. All the duties accomplished by the prosecutor in the fields of civil law, administrative law, labour law or the law of economy belong to this area. The aim of these activities is the contribution to the observance of the law, to the uniform interpretation and application of the law, furthermore to the protection of human and civil rights. According to the Constitution, the Act on the Prosecution Service and other laws, the prosecutor provides the supervision of legality of the activities of public administrative authorities, of the measures taken by the employer in labour relations, of the functioning of civil organisations, associations and foundations.

In the course of his civil law activities the prosecutor shall initiate contentious or non-contentious legal proceedings in cases provided by law. The prosecutor pays special attention to the initiation of legal actions for the prohibition of pollution, for the compensation of damages caused by pollution, for the restoration of the lawful functioning of foundations and associations, and for the winding-up of non-functioning organisations.

**107) Case proceedings managed by the public prosecutor: total number of 1st instance criminal cases. If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP.**

	Received by the public prosecutor	Cases discontinued by the public prosecutor (see 108 below)	Cases concluded by a penalty or a measure imposed or negotiated by the public prosecutor	Cases charged by the public prosecutor before the courts
Total number of 1st instance criminal cases	222 223	30 957	10 590	180 676

**108) Total cases which were discontinued by the public prosecutor. If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP.**

	Number
Total cases which were discontinued by the public prosecutor (1+2+3)	30 957
1. Discontinued by the public prosecutor because the offender could not be identified	8 278
2. Discontinued by the public prosecutor due to the lack of an	22 679

established offence or a specific legal situation	
3. Discontinued by the public prosecutor for reasons of opportunity	NAP

**109) Do the figures include traffic offence cases?**

☒ Yes

☐ No

**D.2**

**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**

Q109: The table includes traffic offences. The third column includes traffic offences discontinued as a criminal case, but continued as a minor offence case by a different state institution.

Questions 91, 98, 99, 100 : Je ne peux pas donner aucune explication à ces questions, car les chiffres indiqués nous ont été fournis par les tribunaux et ces chiffres ne relèvent pas d'un phénomène explicable.

Question 107 : Je ne peux pas donner aucune explication à ces questions, car les chiffres indiqués nous ont été fournis par les parquets et ces chiffres ne relèvent pas d'un phénomène explicable.

**Please indicate the sources for answering the questions 91, 94, 97, 98, 99, 100, 101, 102, 107 and 108.**

Q91, 94, 97, 98, 99, 100, 101, 102: National Council of Judiciary

Q107 and 108: Office of the Prosecutor General

## 5. Career of judges and public prosecutors

### 5. 1. Recrutement and promotion

#### 5. 1. 1. Recrutement and promotion

##### 110) How are judges recruited?

- ☒ Mainly through a competitive exam (for instance, following a university degree in law)
- ☐ Mainly through a recruitment procedure for legal professionals with long-time working experience in the legal field (for example lawyers)
- ☐ A combination of both (competitive exam and working experience)
- ☐ Other

If other, please specify:

Law graduates wishing to become judges have to pass three years at court as trainee judges (1st stage) and then one year as a court secretary (2nd stage of traineeship). How can one become a trainee judge? In possession of a law degree, one might apply for a competitive exam announced by the Hungarian Academy for Judges for those wishing to become trainee judges. Having passed the exam (both written and oral) successfully, one might apply for a concrete position as a trainee judge. If the application is not successful, the candidate is put on a waiting list and can use his/her exam results for a year in case of new applications.

Candidate judges who have passed both stages of traineeship are invited to submit their application to the president judge of the given court, where they would like to apply. The court president, upon proposal of the National Council of Justice, transmits the application to the President of the Republic, who shall ultimately appoint judges.

##### 111) Authority(ies) in charge: are judges initially/at the beginning of their carrier recruited and nominated by:

**[This question strictly concerns the authority entrusted with the decision to recruit (not the authority formally responsible for the nomination if different from the former)].**

- ☒ An authority made up of judges only?
- ☐ An authority made up of non-judges only?
- ☐ An authority made up of judges and non-judges?

Please indicate the name of the authority(ies) involved in the whole procedure of recruitment and nomination of judges. If there are several authorities, please describe their respective roles:

## National Council of Justice

According to the Act LXVII of 1997 on the Legal Status and Remuneration of Judges  
Section 2.

Judges are appointed and recalled by the President of the Republic.

## Section 14.

(1) A judge, when first appointed, shall be assigned by the NJC. Subsequent assignments shall be made by the Chief Justice of the Supreme Court when appointed to the Supreme Court, by the president judge of the high court of appeal when appointed to the high court of appeal, and by the president judge of the county court when appointed to a local court, employment tribunal or county court.

(2) The NJC shall - at the recommendation of the president judge - assign judge advocates to military tribunals and to other judicial offices under Subsection (3) of Section 61 when their professional service relation with the Hungarian Army ends.

## Section 15.

The NJC may assign a judge - upon his consent - to the Supreme Court by recommendation of the Chief Justice of the Supreme Court, to the NJC Bureau (hereinafter referred to as "Bureau"), or to the Ministry of Justice in agreement with the Minister of Justice.

According to the Act LXVII of 1997 on the on the Organizational and Administrative Structure of Courts

## Section 40.

(1) The NJC shall convey its prior opinion concerning the person nominated for the office of Chief Justice and Deputy Chief Justice of the Supreme Court.

(2) The NJC shall have powers to appoint and recall

- a) the president judges of high courts of appeal and their deputies,
- b) the president judges of county courts and their deputies,
- c) the chiefs of divisions,
- d) the director and deputy director of the Bureau.

**112) Is the same authority competent for the promotion of judges?**

☐ Yes

☒ No

If no, which authority is competent for the promotion of judges ?

Candidates shall submit their application for promotion to the president of the court concerned or the National Council of Justice. A judge, when first appointed, shall be assigned by the National Council of Justice. Subsequent assignments shall be made by the Chief Justice of the Supreme Court when appointed to the Supreme Court, by the president judge of the high court of appeal when appointed to the high court of appeal, and by the president judge of the county court when appointed to a local court, employment tribunal or county court.

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

Individual tender notices specify the detailed requirements for the position to be filled.

Applications shall be submitted to the president judge of the court where the position is open; The president judge shall interview the applicants and consult the competent members of the judiciary. The following criteria are important: the term of office of the trainee judge period, the court clerk period, the result of the evaluation process; in case of application to the position of the county court, regional court, Supreme Court the opinion of the related Division of the court.

**114) Is there a system of qualitative individual assessment of the judges' activity?**

☒ Yes

☐ No

**115) Is the status of prosecution services:**

☒ Indépendant?

☐ Under the authority of the Minister of justice ?

☐ Other?

Please specify:

The Prosecutor General is accountable only to the Parliament and is obliged to report on the activities of the prosecution service to the Parliament on an annual basis. This report is debated and voted on by the MPs, though no sanctions are provided in the Constitution or any other Act in case of refusal. Interpellations and questions may also be addressed by MPs to the Prosecutor General, which he is bound to answer. As different interpretations arose concerning the legal status and accountability of the Prosecutor General, he submitted a motion to the Constitutional Court asking for guidance on the provisions of the Constitution. In its decision of February 16, 2004 (383/G/2003) the Constitutional Court stated that, although the Prosecutor General may be questioned on both general matters and specific cases, the scope of his replies is restrained by two factors. Namely, the content of his answer should not infringe fundamental constitutional rights of individual citizens such as the right to a good reputation or privacy of personal data and should not endanger the fulfilment of constitutional tasks of the prosecution service, for instance should not expose the facts of an ongoing investigation. The Court also pronounced that the Prosecutor General and the prosecution service are not subordinate to the Parliament. Accordingly no instruction, whether it is direct or oblique, may be issued to them by the Parliament or a Committee of a Parliament in relation to a particular decision. The Prosecutor General is not politically accountable for his decisions in particular cases, and may not be called to account or be discharged when Parliament does not accept his answer to a question. The activities of the prosecution service may only be influenced by Parliament through legislation, and the only possible way of taking action against the Prosecutor General, on the basis of dissatisfaction with his official activities, is to not re-elect him upon the completion of his term. Before the end of his term, the Prosecutor General may only be discharged in the case of having been convicted for committing a crime or having become incapable of fulfilling his duties.

#### 116) How are public prosecutors recruited?

- ☐ Mainly through a competitive exam (for instance, following a university degree in law)
- ☐ Mainly through a recruitment procedure for legal professionals with long-time working experience in the legal field (for example lawyers)
- ☒ A combination of both (competitive exam and working experience)
- ☐ Other

If "other", please specify:

After the receipt of a law degree prosecutor trainees are recruited through a competitive exam.

As the Prosecution Service of the Republic of Hungary trains its own trainees, the prosecutors are recruited from amongst them. Application to employment as a public prosecutor from outside the Prosecution Service is rare, although possible for anybody with a University Degree in Law, and a successful Second State Exam in Law.

#### 117) Authority(ies) in charge: are public prosecutors initially/at the beginning of their carrier recruited by:

**[This question concerns the authority entrusted with the responsibility to recruit only (not the authority formally responsible for the nomination if different from the former).]**

- ☒ An authority composed of public prosecutors only?
- ☐ An authority composed of non-public prosecutors only?
- ☐ An authority composed of public prosecutors and non-public prosecutors?

Please indicate the name of the authority(ies) involved in the whole procedure of recruitment and nomination of public prosecutors. If there are several authorities, please describe their respective roles:

The prosecutor general

#### 118) Is the same authority formally responsible for the promotion of public prosecutors?

- ☒ Yes
- ☐ No

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

**119) Which procedures and criteria are used for promoting public prosecutors? Please specify:**

Procedure: Public prosecutors are chosen and promoted by the Prosecutor General of the Republic of Hungary. He/She consults the Council of Prosecutors ahead of the decision.

Criteria for employment: 1) Clean criminal record, 2) Hungarian citizenship 3) University degree in law, Second State Exam in Law 4) At least one year spent as a 'trainee in the 2nd stage of training (titkár)' or in a similar position that requires a Second State Exam in Law 5. Aptitude test(health, mental, physical) 6. Declaration about wealth and assets + The applicants are checked by the National Security Office (NBH)

Criteria for promotion: 1)Personal qualities 2) Work experience.

**120) Is there a system of qualitative individual assessment of the public prosecutors' activity?**

☒ Yes

☐ No

**121) Are judges appointed to office for an undetermined period (i.e. "for life" = until the official age of retirement)?**

☒ Yes

☐ No

If yes, are there exceptions? (e.g. dismissal as a disciplinary sanction)? Please specify:

As a general rule the first appointment is for three years, appointment for an undetermined period thereafter is conditional upon performance during the three-year long probational period.

**122) If there is a probation period for judges (e.g. before being appointed "for life"), how long is this period? If the situation is not applicable in your country, please indicate NAP.**

	Duration of probation period (in years)
	3

**123) Are public prosecutors appointed to office for an undetermined period (i.e. "for life" = until the official age of retirement)?**

☒ Yes

☐ No

If yes, are there exceptions (e.g. dismissal as a disciplinary sanction)? Please specify:

After the first three years as a prosecutor, the Prosecutor General of the Republic of Hungary appoints the Public Prosecutor for an undetermined period.

**124) If there is a probation period for public prosecutors, how long is this period? If the situation is not applicable in your country, please indicate NAP.**

	Duration of the probation period (in years)
	3

**125) If the mandate for judges is not for an undetermined period (see question 121), is it renewable? What is the length of the mandate (in years)?**

NAP

**126) If the mandate for public prosecutors is not for an undetermined period (see question 123), is it renewable? What is the length of the mandate (in years)?**

NAP

**E.1**

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

Q122

According to the Act LXVII of 1997 on the Legal Status and Remuneration of Judges

Section 11.

(1) Subject to the exceptions set out in Subsection (2) of this Section and Subsection (5) of Section 12, the term of a judge appointed for the first time (first-term judge) shall be three years; in all other cases it shall be indefinite.

(2) The first appointment of a judge shall - by recommendation of the NJC - be for an indeterminate term if

- a) the candidate has worked at least three years - unless otherwise prescribed by law - as a judge or judge advocate,
- b) the candidate worked before the appointment for at least five years as a constitutional court justice, district attorney, notary public, attorney at law, legal counsel or in a position at a central administrative agency under Act XXIII of 1992 on the Legal Status of Civil Servants for which an civil service or bar examination is required,
- c) the candidate has outstanding theoretical legal expertise in the fields of science or education, or
- d) the conditions laid down in Subsection (5) of Section 2 of Act LV of 1990 on the Legal Status of Members of Parliament apply.

## 5. 2. Training

### 5. 2. 1. Training

#### 127) Training of judges

Initial training (e.g. attend a judicial school, traineeship in the court)	Compulsory
General in-service training	Optional
In-service training for specialised judicial functions (e.g. judge for economic or administrative issues)	Optional
In-service training for management functions of the court (e.g. court president)	Optional
In-service training for the use of computer facilities in courts	Optional

#### 128) Frequency of the in-service training of judges:

General in-service training	Regular (e.g. every 3 months)
In-service training for specialised judicial functions (e.g. judge for economic or administrative issues)	Regular (e.g. every 3 months)
In-service training for management functions of the court (e.g. court president)	Regular (e.g. every 3 months)
In-service training for the use of computer facilities in courts	Regular (e.g. every 3 months)

#### 129) Training of public prosecutors

Initial training	Compulsory
General in-service training	Optional
In-service training for specialised functions (e.g. public prosecutor specialised on organised crime)	Optional
In-service training for management functions of the court (e.g. Head of prosecution office, manager)	Optional
In-service training for the use of computer facilities in office	Optional

**130) Frequency of the in-service training of public prosecutors**

General in-service training	Regular (e.g. every 3 months)
In-service training for specialised functions (e.g. public prosecutor specialised on organised crime)	Regular (e.g. every 3 months)
In-service training for management functions of the court (e.g. Head of prosecution office, manager)	Regular (e.g. every 3 months)
In-service training for the use of computer facilities in office	Occasional (e.g. at times)

**131) Do you have public training institutions for judges and / or prosecutors? If yes, please indicate in the "comment" box below the budget of such institution(s).**

**If your judicial training institutions do not correspond to these criteria, please specify it.**

	Initial training only	Continuous training only	Initial and continuous training
One institution for judges	No	No	Yes
One institution for prosecutors	No	No	Yes
One single institution for both judges and prosecutors	No	No	No

Comment :

Judges: 247 356 EUR

Prosecutors: 401 202 EUR

**E.2**

**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

Prosecutor's training:

Participation in the basic and further trainings is both right and obligation for the members of the prosecution service. The participation is free of charge.

Basic training takes five semester during the three-year term of trainee-period whose aim is to prepare for the special legal examination or to acquire theoretical and practical knowledge for pursuing prosecutorial work professionally.

After the nomination of junior prosecutor there is a two-semester special prosecutorial training that is finished by a professional prosecutor examination.

From 1st January 2006. the basic training is provided by the Hungarian Centre for the Training of Prosecutors including the training of the instructors and trainees too. The further training of the prosecutors is directed by the Department for Professional Training of the Office of the Prosecutor General.

Further Training:

- (1) there is 20-25 courses and seminars within a year for 600 prosecutors (approx.) relating to current questions of application of the law organised by the Department for Professional Training of the Prosecutor General.
- (2) 250 (approx.) prosecutors take part in courses staged by other Hungarian judicial organisations;
- (3) several prosecutors study within the frame of a five-semester postgraduate vocational lawyer training (at the field of criminology, of traffic law, of economic criminal law, etc.). These are supported by the prosecution service. The 15 percent of the prosecutors has second diploma.
- (4) 100-120 prosecutors take part in the training programmes organised abroad for the period from 1 week until 3 weeks, mainly in the programmes suggested by the EJTN and in the base of bilateral relationships (ERA, CEPOL, ENM (France), Deutsche Richterakademie, etc.).

Annually almost 1000 prosecutors participate in organised further trainings. Their costs are paid by the budget of the prosecution service.

Judges' training:

There is a special training project prepared by the National Council of Justice. A new institution was established – so called Training Center of Judges – which is responsible for the high level training of the judicial employees. By the way, education was one of the most important factor for preparing to the European Union membership, since the EU

member Hungary must participate in the judicial cooperation in civil and criminal cases and hungarian courts has to apply and enforce not only the national law but the acqui as well.

### 5. 3. Practice of the profession

#### 5. 3. 1. Practice of the profession

#### 132) Salaries of judges and public prosecutors.

	Gross annual salary in €, on 31 December 2010	Net annual salary in €, on 31 December 2010
First instance professional judge at the beginning of his/her career	18 252	10 647
Judge of the Supreme Court or the Highest Appellate Court (please indicate the average salary of a judge at this level, and not the salary of the Court President)	37 986	19 864
Public prosecutor at the beginning of his/her career	16 852	9 828
Public prosecutor of the Supreme Court or the Highest Appellate Instance (please indicate the average salary of a public prosecutor at this level, and not the salary of the Public prosecutor General)	35 067	18 336

Comment :

Gross annual salary on Net annual salary

Supreme Court President: 66909 EUR 34793 EUR

Prosecutor General: 61388 EUR 31922 EUR

#### 133) Do judges and public prosecutors have the following additional benefits?

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

#### 134) If other financial benefit, please specify:

Judges and prosecutors have additional benefits such as meal contribution, on-duty bonus, housing allowances, resettlement assistance, social and schooling aid, family support, scholarship, aid for training, contribution for life and pension, supplementary insurance.

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

	With remuneration	Without remuneration
Teaching	Yes	No
Research and publication	Yes	No
Arbitrator	No	No
Consultant	No	No
Cultural function	Yes	No
Political function	No	No
Other function	No	No

**136) If rules exist in your country (e.g. authorisation needed to perform these activities), please specify. If "other function", please specify.**

Judges can also combine their work with artistic and design activities.

According to the Act LXVII of 1997 on the Legal Status and Remuneration of Judges

Judges in office may not engage in any other gainful activities with the exception of scientific, artistic, literary, educational and design activities; these activities, however, may not jeopardize his objectivity and impartiality or give the appearance of such impropriety; nor may they interfere with the judge's official responsibilities.

Judges may not hold any executive office or membership in the supervisory board of a business association or cooperation; nor may they be members of a business association requiring personal involvement or unlimited liability. Judges shall report their involvement in the activities referred to in Subsection (1) to the president judge of the court before their involvement commences.

Judges may not be members of arbitration tribunals.

**137) Can public prosecutors combine their work with any of the following other functions ?**

	With remuneration	Without remuneration
Teaching	Yes	No
Research and publication	Yes	No
Arbitrator	No	No
Consultant	No	No
Cultural function	Yes	No
Political function	No	No
Other function	No	No

**138) Please specify existing rules (e.g. authorisation to perform the whole or a part of these activities). If "other function", please specify:**

Prosecutors can also combine their work with artistic and design activities.

**139) Productivity bonuses: do judges receive bonuses based on the fulfilment of quantitative objectives in relation to the delivery of judgments (e.g. number of judgments delivered over a given period of time)?**

☐ Yes

☒ No

If yes, please specify the conditions and possibly the amounts:

## 5. 4. Disciplinary procedures

### 5. 4. 1. Disciplinary procedures

**140) Who is authorised to initiate disciplinary proceedings against judges (multiple options possible)?**

☐ Citizens

☒ Relevant Court or hierarchical superior

☐ High Court / Supreme Court

☒ High Judicial Council

☐ Disciplinary court or body

☐ Ombudsman

☐ Parliament

☐ Executive power

☐ Other?

☐ This is not possible

If "executive power" and/or "other", please specify:

In the event of any allegation of professional misconduct, disciplinary proceedings shall be initiated

- a) by the NJC in the case of executives who fall within the appointment authority of the NJC,
- b) by the Chief Justice of the Supreme Court in the case of Supreme Court justices,
- c) by the president judge of the high court of appeal in the case of judges of the high court of appeal,
- d) by the president judge of the county court in the case of local court judges and county court judges with the president judge of the disciplinary tribunal vested with competence and jurisdiction.

**141) Who has been authorised to initiate disciplinary proceedings against public prosecutors: (multiple options possible):**

- ☐ Citizens
- ☐ Head of the organisational unit or hierarchical superior public prosecutor
- ☒ Prosecutor General /State public prosecutor
- ☐ Public prosecutorial Council (and Judicial Council)
- ☐ Disciplinary court or body
- ☐ Ombudsman
- ☐ Professional body
- ☐ Executive power
- ☐ Other?
- ☐ This is not possible

If "executive power" and/or "other", please specify:

**142) Which authority has disciplinary power on judges? (multiple options possible):**

- ☐ Court
- ☐ Higher Court / Supreme Court
- ☐ Judicial Council
- ☒ Disciplinary court or body
- ☐ Ombudsman
- ☐ Parliament
- ☐ Executive power
- ☐ Other?

If "executive power" and/or "other", please specify:

According to the Act LXVII of 1997 on the Legal Status and Remuneration of Judges:

#### Disciplinary Tribunals

##### Section 67.

The disciplinary board of the disciplinary tribunal shall decide whether to initiate disciplinary proceedings, refuse to hold disciplinary proceedings, or order a preliminary examination; the disciplinary board shall notify the judge affected of its decision.

##### Section 68.

(1) County courts and high courts of appeal shall operate disciplinary tribunals in the first instance, and the Supreme Court shall operate disciplinary tribunals in the first and second instances.

(2) Disciplinary cases of judges and the compensation cases in connection with these shall be heard in the first instance by

a) the disciplinary tribunal of the first instance of the Supreme Court in the case of executives who fall within the appointment authority of the NJC and Supreme Court justices;

b) the disciplinary tribunal of the high court of appeal in the case of judges of the high court of appeal;

c) the disciplinary tribunal of the county court in the case of local court and county court judges.

(3) Appeals lodged against the decisions of the disciplinary tribunals referred to in Subsection (2) shall be heard by the Supreme Court disciplinary tribunal of the second instance.

##### Section 69.

(1) The president judge and the seven members of the disciplinary tribunal shall be elected for six years by the plenary session of judges of the competent county court and high court of appeal and by the full council of the Supreme Court.

(2) Candidates for the president judge and members of the disciplinary tribunal must have at least five years of experience as judges, must not have been penalized by a disciplinary action and must not have been implicated in disciplinary proceedings. The members of the NJC as well as the president judges authorized to initiate disciplinary proceedings and their deputies may not be elected to these offices.

##### Section 70.

(1) A disciplinary tribunal shall consist of a three-member panel (hereinafter referred to as "disciplinary board") formed by the president judge of the disciplinary tribunal.

(2) Preparations for disciplinary proceedings shall be made by an investigative officer.

(3) The president judge of the disciplinary tribunal shall prepare a roster at the end of the year for the next calendar year laying down the sequence in which the disciplinary arbitrators are to function as investigative officers.

#### 143) Which authority has the disciplinary power on public prosecutors? (multiple options possible):

- ☐ Supreme Court
- ☐ Head of the organisational unit or hierarchical superior public prosecutor
- ☒ Prosecutor General /State public prosecutor
- ☐ Public prosecutorial Council (and Judicial Council)
- ☐ Disciplinary court or body
- ☐ Ombudsman
- ☐ Professional body
- ☐ Executive power
- ☐ Other?

If "executive power" and/or "other", please specify:

#### 144) Number of disciplinary proceedings initiated against judges and public prosecutors. If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP. If "other", please specify it in the "comment" box below.

[If disciplinary proceedings are undertaken because of several mistakes, please count the proceedings only once and for the main mistake.]

	Judges	Public prosecutors
Total number (1+2+3+4)	14	6
1. Breach of professional ethics	4	6
2. Professional inadequacy	10	NA
3. Criminal offence		

	NA	NA
4. Other	NA	NA

Comment :

**145) Number of sanctions pronounced against judges and public prosecutors. If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP.**

**If "other", please specify it in the "comment" box below. If a significant difference between the number of disciplinary proceedings and the number of sanctions exists, please indicate the reasons in the "comment" box below.**

	Judges	Public prosecutors
Total number (total 1 to 9)	8	5
1. Reprimand	3	5
2. Suspension	NA	NA
3. Removal of cases	NA	NA
4. Fine	NA	NA
5. Temporary reduction of salary	4	NA
6. Position downgrade	NA	NA
7. Transfer to another geographical (court) location	NA	NA
8. Resignation	1	NA
9. Other	NA	NA

Comment :

### E.3

**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

**Please indicate the sources for answering questions 144 and 145**

National Council of Judiciary  
Office of the Prosecutor General

## 6. Lawyers

### 6. 1. Status of the profession and training

#### 6. 1. 1. Status of the profession and training

**146) Total number of lawyers practising in your country.**

12 099

**147) Does this figure include "legal advisors" who cannot represent their clients in court (for example, some solicitors or in-house counsellors)?**

☐ Yes

☒ No

**148) Number of legal advisors who cannot represent their clients in court:**

NAP

**149) Do lawyers have a monopoly on legal representation in (multiple options are possible):**

☐ Civil cases?

☐ Criminal cases - Defendant?

☐ Criminal cases - Victim?

☐ Administrative cases?

☒ There is no monopoly

If there is no monopoly, please specify the organisations or persons that may represent a client before a court (for example a NGO, a family member, a trade union, etc) and for which types of cases:



Lawyers have a monopoly of representation in civil cases before the appeal courts and the Supreme Court, but not before local and county courts.

Lawyers as defendants have a monopoly of representation in criminal cases during the whole length of criminal proceedings.

Victims of criminal cases can be represented by their family members.

The parties to administrative proceedings can be represented by any person having the mandate of the parties.

The regulation on criminal procedures prescribes the presence of a defence attorney in the following cases:

- \* a criminal offence for which the law prescribes five or more years of imprisonment,
- \* the accused is being detained,
- \* the accused is deaf, mute, blind or – regardless of his/her legal capacity – mentally incompetent,
- \* the accused does not know the Hungarian language or the language of the proceedings,
- \* the accused is not able to personally defend himself/herself for other reasons,
- \* it is especially prescribed by law (e.g. in case of an accused minor).

The regulation of civil procedures prescribes legal representation in the following cases:

- \* for the parties submitting an appeal against a judgement in proceedings before the Court of Appeal as well as rulings made on the merits of the case or an appeal or petition for review specified by law in proceedings before the Supreme Court,
- \* in other cases defined by law (e.g. company law).

Source: [http://ec.europa.eu/civiljustice/legal\\_prof/legal\\_prof\\_hun\\_en.htm](http://ec.europa.eu/civiljustice/legal_prof/legal_prof_hun_en.htm)

As a general rule, a case of first instance can be brought to court directly, it is not necessary to consult a lawyer. Section 73/A of Act III of 1952 on the Code of Civil Procedure lists the cases where the participation of a lawyer is obligatory. These are typically in connection with appeals procedures to be conducted before higher courts. In these cases the proceedings of the party proceeding without a legal representative are of no effect, therefore - in order to avoid this - the parties are usually represented by a lawyer in the proceedings.

There is of course the possibility of submitting the application by another authorised representative (a lawyer, for example) appointed by the party or its legal representative. If, however, the law provides otherwise and for example for the law makes personal participation obligatory in the relevant action, it is not possible to proceed via an authorised representative. The rules regarding who may be an authorised representative, who is excluded from the list of possible authorised representatives and the exact rules of authorisation are laid down in the Act on the Code of Civil Procedure, among the rules of representation.

Source: [http://ec.europa.eu/civiljustice/case\\_to\\_court/case\\_to\\_court\\_hun\\_en.htm](http://ec.europa.eu/civiljustice/case_to_court/case_to_court_hun_en.htm)

**150) Is the lawyer profession organised through? (multiple options possible)**

- ☒ a national bar?
- ☒ a regional bar?
- ☐ a local bar?

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

- ☒ Yes
- ☐ No

If not, please indicate if there are other specific requirements as regards diplomas or university degrees :

**152) Is there a mandatory general system for lawyers requiring in-service professional training?**

- ☒ Yes
- ☐ No

**153) Is the specialisation in some legal fields tied with specific training, levels of qualification, specific**

**diploma or specific authorisations?**☐ Yes☒ No

If yes, please specify:

**F.1****Please indicate the sources for answering questions 146 and 148:**

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**Comments for interpreting the data mentioned in this chapter:**

Statistical database of the Hungarian Bar Association (as of 31 December 2010)

Q146 : Etant donné que l'avocat est une profession libérale, un grand nombre des étudiants sortant de la faculté de droit y commence leur carrière.

**6. 2. Practising the profession****6. 2. 1. Practising the profession****154) Can court users establish easily what the lawyers' fees will be (i.e. do users have easy access to prior information on the foreseeable amount of fees, is the information transparent and accountable)?**☒ Yes☐ No**155) Are lawyers' fees freely negotiated?**☒ Yes☐ No**156) Do laws or bar association standards provide any rules on lawyers' fees (including those freely negotiated)?**☐ Yes laws provide rules☐ Yes standards of the bar association provide rules☒ No, neither laws nor bar association standards provide rules**F.2****Useful comments for interpreting the data mentioned in this chapter:**

Under the Act of the Lawyers' Profession it is mandatory to agree on the legal fees to be paid by the client simultaneously with the acceptance of the mandate. Excessive legal fees (including excessive pactum de quota litis) may be subject to disciplinary procedures.

**6. 3. Quality standards and disciplinary proceedings****6. 3. 1. Quality standards and disciplinary proceedings****157) Have quality standards been determined for lawyers?**☐ Yes☒ No

If yes, what are the quality criteria used?

**158) If yes, who is responsible for formulating these quality standards:**☐ the bar association?

☐ the Parliament?

☐ other?

If "other", please specify:

**159) Is it possible to file a complaint about :**

☒ the performance of lawyers?

☒ the amount of fees?

Please specify:

Both are possible, clients are free to file a complaint with the local bar association against a lawyer objecting his/her performance or the fees. Judges and other participants of a procedure may also submit complaints against a lawyer regarding his/her inappropriate and/or objectable performance.

**160) Which authority is responsible for disciplinary procedures?**

☒ the judge

☐ the Ministry of justice

☒ a professional authority

☐ other

If other, please specify:

First and second instance disciplinary procedures are handled by the territorial (county) and the national bar association. The decision of the second instance decision of the Hungarian (national) Bar Association may be challenged before the Court.

Proceeding Bodies

Section 42.

(1) A disciplinary tribunal formed in the first instance from the bar association's disciplinary committee and in the second instance from the disciplinary committee of the Hungarian Bar Association shall conduct the disciplinary proceedings against attorneys.

(2) The disciplinary tribunals of the first instance and the second instance shall consist of three members, with the exception specified in Subsection (3).

(3) The disciplinary tribunal of the second instance shall consist of five members if the disciplinary tribunal of the first instance imposed a penalty of disbarment or if the president of the bar association appeals the first decision by calling for disbarment.

(4) A tribunal appointed by the presidency of the Hungarian Bar Association shall proceed in disciplinary cases involving a president, vice president, secretary general, secretary or disciplinary commissioner of a bar association - including ordering a preliminary investigation.

The Disciplinary Commissioner and the Disciplinary High Commissioner

Section 43.

The disciplinary commissioner and the disciplinary high commissioner shall act on the instructions of the president of the bar association in proceedings of the first instance and on the instructions of the president of the Hungarian Bar Association in proceedings of the second instance.

Source: Act XI of 1998 on Attorneys at Law

**161) Disciplinary proceedings initiated against lawyers. If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP. If "other", please specify it in the "comment" box below.**

**[If disciplinary proceedings are undertaken because of several mistakes, please count the proceedings only once and for the main mistake.]**

	Total number of disciplinary proceedings initiated (1 + 2 + 3 + 4)	1. Breach of professional ethics	2. Professional inadequacy	3. Criminal offence	4. Other
Number	420	NA	NA	158	262

Comment :

**162) Sanctions pronounced against lawyers. If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP.**

**If "other", please specify it in the "comment" box below. If a significant difference between the number of disciplinary proceedings and the number of sanctions exists, please indicate the reasons in the "comment" box below.**

	Total number of sanctions (1 + 2 + 3 + 4 + 5)	1.Reprimand	2. Suspension	3. Removal	4. Fine	5. Other (e.g. disbarment)
Number	428	68	135	44	181	NA

Comment :

Re: 2. Suspension - In 2010 there were 20 cases where the lawyer was suspended to practice until the end of the criminal procedure pending against him. In 115 cases the disciplinary procedure was suspended until the end of the criminal procedure. Under Hungarian law suspension is not a disciplinary sanction, but a procedural step. According to applicable regulations a lawyer may be suspended from practicing if there is a serious criminal procedure pending against him. The certain cases the disciplinary procedure may also be suspended until the end of the criminal procedure, in particular in situations where the disciplinary measure largely depends on finding or not finding the lawyer guilty.

Re: 3. Removal and 5. Other (e.g. disbarment) - under Hungarian law it is the same.

### F.3

**You can indicate below any useful comments for interpreting the data mentioned in this chapter**

## 7. Alternative Dispute Resolution

### 7. 1. Alternative Dispute Resolution

#### 7. 1. 1. Alternative Dispute Resolution

**163) Does the legal system provide for mediation procedures? If no skip to question 168**

-----  
**[Judicial mediation: in this type of mediation, there is always the intervention of a judge or a public prosecutor who facilitates, advises on, decides on or/and approves the procedure. For example, in civil disputes or divorce cases, judges may refer parties to a mediator if they believe that more satisfactory results can be achieved for both parties. In criminal law cases, a public prosecutor can propose that he/she mediates a case between an offender and a victim (for example to establish a compensation agreement).]**

☒ Yes

☐ No

**164) Please specify, by type of cases, the organisation of judicial mediation:**

	Court annexed mediation	Private mediator	Public authority (other than the court)	Judge	Public prosecutor
Civil and commercial cases	Yes	Yes	Yes	No	No
Family law cases (ex. Divorce)	Yes	Yes	Yes	No	No
Administrative cases	No	No	No	No	No
Employment dismissals	Yes	Yes	Yes	No	No
Criminal cases	Yes	Yes	Yes	No	No

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

☒ Yes

☐ No

If yes, please specify:

The rules governing the different types of proceedings set out clearly the system of payment of the costs to be borne by the parties. In certain cases the parties are free to agree on the fees and costs incurred in the proceedings, while in other cases the amounts are specified in legal regulations. In arbitration proceedings the court judgment sets the amount of costs and who is to bear them. In mediation proceedings the parties and the mediator are free to agree on the amounts of the fees and costs and who is to pay what; if the parties cannot agree on the latter, they pay them in equal proportions. In healthcare mediation proceedings the fees and costs involved are laid down by the law, but the parties are free to agree on how they are to be borne.

Since the entry into force on 1 April 2004 of Act LXXXX of 2003 on legal assistance, persons eligible for legal assistance under the Act can receive information from the legal assistance provider on the possibilities of settling a legal dispute out of court, or a document is drawn up that could help resolve the dispute. The legal adviser's fee is paid or advanced by the state according to the assisted person's income and property.

In healthcare mediation proceedings the parties are free to agree on who bears the costs. Where the parties cannot agree, the law specifies who should bear the costs in particular cases. As a general rule it provides that the general costs of the proceedings are to be split equally between the parties. A separate regulation sets out the amount of general and ancillary costs of the proceedings.

**166) Number of accredited or registered mediators who practice judicial mediation:**

1 185

**167) Number of judicial mediation procedures.**

-----  
**Please indicate the source in the "comment" box below:**

Total number of cases (total 1+2+3+4+5)

NA

1. civil cases	NA
2. family cases	NA
3. administrative cases	NAP
4. employment dismissals cases	NA
5. criminal cases	NA

Comment :  
Ministry of Justice

**168) Does the legal system provide for the following ADR.**

**If "other", please specify it in the "comment" box below:**

Mediation other than judicial mediation?	Yes
Arbitration?	Yes
Conciliation?	Yes
Other alternative dispute resolution?	Yes

Comment :

Hungary's legal system provides for the better known types of alternative dispute resolution (ADR), so parties can try to settle disputes via arbitration or mediation instead of going to court.

In the Hungarian legal system, legal regulations at different levels - mainly Parliamentary Acts - govern alternative dispute resolution. They are set out below.

**1. Arbitration procedure**

Under Act LXXI of 1994 on Arbitration, the arbitration procedure can be used instead of court proceedings if (a) at least one of the parties is a person professionally engaged in economic activities to which the legal dispute relates (if this is not the case, ad hoc or permanent arbitration may also be decided on if allowed by the law); (b) if the parties can freely decide on the subject of the procedure; and (c) if arbitration proceedings were provided for by the parties in a written arbitration contract. The law may exclude the resolution of legal disputes by means of arbitration, and in certain types of civil actions arbitration cannot be used.

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Arbitrators must be independent and impartial; they may not be representatives of the parties. Arbitrators may not accept orders in the course of the proceedings and must maintain complete confidentiality in respect of the facts that come to their knowledge, even after the proceedings have ended. In the case of the permanent court of arbitration, the arbitrators must declare all this in writing on being elected/appointed.

Unless otherwise provided by the law, the permanent court of arbitration attached to the Hungarian Chamber of Commerce and Industry (based at 1055 Budapest, Kossuth tér 6-8) acts as the permanent court of arbitration in international cases.

**2. Act I of 2004 on Sport establishing the Permanent Court of Arbitration for Sport**

In certain sports-related cases and if the parties so request, the Permanent Court of Arbitration for Sport endeavours to bring about agreement. The cases concerned are primarily legal disputes between sport associations and their members, disputes between sport association members regarding their sports association-related activities, and disputes between sport associations/organisations or sportspeople and sports experts. The Permanent Court of Arbitration for Sport operates under the authority of the National Sports Association. The Presidium elects its President and at least 15 members for a term of four years from among lawyers with special legal qualifications and at least five years' legal practice in the field of sports. The Presidium elects two members of the Permanent Court of Arbitration for Sports upon the recommendation of the Hungarian Olympic Committee.

TopTop

With the exceptions provided for by the law, the provisions of Act LXXI of 1994 on Arbitration apply to the procedure followed by the Permanent Court of Arbitration for Sports.

**3. Mediation**

Under Act LV of 2002 on Mediation, the parties (natural persons, legal persons, business entities without legal personality, other organisations) to a civil dispute connected with their personal and pecuniary rights may, if they so agree and if the law does not limit their right of disposition, use a mediation procedure to seek resolution. They may initiate such a procedure by calling on the services of a mediator. The Act specifies the range of civil legal actions in which mediation is not possible and where its provisions cannot apply to mediation and conciliation proceedings governed by other acts or to mediation in

arbitration proceedings. The Ministry of Justice publishes the register of mediators on its website: [www.im.hu](http://www.im.hu).

#### 4. Mediation in healthcare

Under Act CXVI of 2000 on Mediation in Healthcare, a mediation procedure may be used to achieve the out-of-court resolution of legal disputes concerning service provision by healthcare providers to patients and to ensure fast and effective enforcement of the parties' rights. The parties must submit their mediation request to the regional chamber of judicial experts located nearest to the patient's home or to the place where the healthcare services concerned are provided. The healthcare provider must make the register of regional chambers of judicial experts public in an accessible manner. The register of healthcare mediators is kept by the Hungarian Chamber of Judicial Experts (1027 Budapest, Bem rakpart 33-34., I. 122.).

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#### 5. Mediation in matters of child protection

Under the 2003 amendment to Decree No. 149/1997 (IX. 10.) Korm. on child welfare agencies, child protection and child welfare administration, mediation in child protection matters was introduced from 1 January 2005 in cases where the parents or other persons authorised to maintain relations cannot agree on the manner or time of contact. Mediation in child protection matters can be initiated on the basis of a joint application by the parties to a child protection mediator. The register of child protection mediators is kept by the National Institute of Family and Social Policy. The register can be inspected in the official premises of the Court of Guardians and of the child welfare services.

#### 6. Conciliatory corporate proceedings

The Labour Mediation and Arbitration Service established under Act XXII of 1992 on the Labour Code serves primarily to resolve collective labour-related disputes. This body carries out three activities: conciliation, mediation and arbitration. The body's mediation services can also be used to resolve private labour disputes, but the law does not make this compulsory for the parties concerned.

To enforce consumer rights, Act CLV of 1997 on Consumer Protection established conciliation bodies attached to the regional economic chambers. The conciliation bodies deal primarily with the out-of-court settlement of consumer disputes relating to the application of rules on the quality and safety of goods and services and product liability, and to the conclusion and implementation of contracts. The aim of the Conciliation Body procedure is to settle disputes between consumers and undertakings by agreement, and failing this to reach a ruling in the interests of enforcing consumers' rights quickly, effectively and simply. The bodies have no jurisdiction in disputes for which a rule establishes the competence of some other authority. Conciliation proceedings are initiated at the request of the consumer or, in the case of more than one consumer and with the authorisation of those concerned, of the civil organisation representing consumer interests.

### G.1

**- 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**

#### Mediation in civil cases

Act LV. of 2002 on mediation covers civil disputes, but excludes mediation in libel proceedings, the review of administrative decisions, guardianship proceedings, termination of parental responsibility, execution procedures, procedures for the establishment of paternity, and cases initiated pursuant to a claim of unconstitutionality. Recourse to mediation is voluntary, but has certain advantages in relation to the Act on Duties and the Code of Civil Procedure. The law as it stands does not make it compulsory for parties to use alternative dispute resolution mechanisms to settle disputes. Mediation is not free of charge; payment is subject to agreement between the mediator and the parties.

Under the Mediation Act, on termination of the mediation proceedings the parties may bring their dispute to court, since agreements made in mediation proceedings are not officially enforceable.

If the parties participate in mediation after the first hearing and the agreement reached is ratified by the presiding judge only half of the applicable duties are payable.

If the parties participate in mediation prior to the civil proceedings only an amount of duty - reduced by the mediator's fee+ VAT, but by not more than 50.000 HUF - must be paid, which cannot be less than 50% of the original amount of duty.

According to Directive 2008/52/EC, it must be possible to request that the content of a written agreement resulting from mediation be made enforceable. It is possible for parties to make the content of their agreement resulting from mediation enforceable. They can request the court or a public notary to incorporate the agreement into a judgment or an authentic instrument, which can be enforced afterwards.

According to Act 2002 LV. on Mediation the Ministry of Public Administration and Justice is responsible for the registration of mediators and of legal persons employing mediators.

A register of mediators and legal persons employing mediators is available on the website of the Ministry of Public Administration and Justice. Registered mediator can be any natural or legal person, who fulfils the obligations (concerning university degree, mediation training etc.) set up by the law.

General information is available for users and it is possible to make separate searches for mediators based on name, language skills and county of operation. Where legal persons are concerned, searches are based on name, county and abbreviated name. The same website provides registration forms for mediators and legal persons employing mediators.

There is no national code of conduct for mediators, but the majority of mediation associations follow the European Code of Conduct for Mediators.

There are around 1.500-2.000 civil mediation cases each year.

#### 1. Mediation in healthcare

Other fields of using mediation or ADR

Under Act CXVI of 2000 on Mediation in Healthcare, a mediation procedure may be used to achieve the out-of-court resolution of legal disputes concerning service provision by healthcare providers to patients and to ensure fast and effective enforcement of the parties' rights. The parties must submit their mediation request to the regional chamber of judicial experts located nearest to the patient's home or to the place where the healthcare services concerned are provided. The healthcare provider must make the register of regional chambers of judicial experts public in an accessible manner. The register of healthcare mediators is kept by the Hungarian Chamber of Judicial Experts.

## 2. Mediation in matters of child protection

Under the 2003 amendment to Decree No. 149/1997 (IX. 10.) Korm. on child welfare agencies, child protection and child welfare administration, mediation in child protection matters was introduced from 1 January 2005 in cases where the parents or other persons authorised to maintain relations cannot agree on the manner or time of contact. Mediation in child protection matters can be initiated on the basis of a joint application by the parties to a child protection mediator. The register of child protection mediators is kept by the National Institute of Family and Social Policy.

<http://www.kapcsolatugyeletek.egernet.hu/object.2E8DB85C-FD87-4AB7-98FA-0B64CE1B5C15.ivy>

## 3. Conciliatory corporate proceedings

a. The Labour Mediation and Arbitration Service established under Act XXII of 1992 on the Labour Code serves primarily to resolve collective labour-related disputes. This body carries out three activities: conciliation, mediation and arbitration. The body's mediation services can also be used to resolve private labour disputes, but the law does not make this compulsory for the parties concerned.

[http://www.tpk.org.hu/engine.aspx?page=tpk\\_MKDSZ\\_A\\_szervezetrol](http://www.tpk.org.hu/engine.aspx?page=tpk_MKDSZ_A_szervezetrol) (in Hungarian)

b. To enforce consumer rights, Act CLV of 1997 on Consumer Protection established conciliation bodies attached to the regional economic chambers. The conciliation bodies deal primarily with the out-of-court settlement of consumer disputes relating to the application of rules on the quality and safety of goods and services and product liability, and to the conclusion and implementation of contracts. The aim of the Conciliation Body procedure is to settle disputes between consumers and undertakings by agreement, and failing this to reach a ruling in the interests of enforcing consumers' rights quickly, effectively and simply. The bodies have no jurisdiction in disputes for which a rule establishes the competence of some other authority. Conciliation proceedings are initiated at the request of the consumer or, in the case of more than one consumer and with the authorisation of those concerned, of the civil organisation representing consumer interests.

## 4. Victim-offender mediation

The introduction of victim-offender mediation in 2007 (Act CXXIII. Of 2006) achieves the goals of restorative justice. It can be applied in criminal procedures dealing with certain offences against the person, property or traffic offences if the crime is to be punished with no more than five years' imprisonment, and the offender has made a confession during the criminal investigation. In Hungary, it is the prosecutor or the judge who can send the case to mediation, and specially trained probation officers act as mediators. If the offender had fulfilled the agreement reached in the mediation, namely had restored the harms caused for the victim, the criminal procedure can be terminated. This type of mediation is free of charge for the parties. Number of cases in year 2007 were 2.451 and more than 4.000 in year 2011.

[www.kimisz.gov.hu](http://www.kimisz.gov.hu)

## 5. Mediation in schools

In the area of education one of the current challenges Hungary (as well as most EU countries) face is how to prevent and handle violence (Violation of rules) in school. One of Mediation Service for Education (MSE)'s priority aims is to enhance cooperation between institutions dealing with children to prevent violence in schools. According to MSE's experiences there is not sufficient co-operation between the participants of the education, and the infringements, inattentions, conflicts in the schools lead to confidence deficiency and distrust between school citizens.

MSE deals with mediation, conciliation, giving information about educational rights and educational conflict-solving methods.

MSE was established in 2004 by the Ministry of Education in order to promote alternative dispute resolution for the parties of education giving a chance of conflict solving in a more effective, more efficient way for free. The control over the operation of MSE is exercised by the Minister of Education letting untouched the autonomy and independency of MSE.

Now MSE is a small organizational unit within the Hungarian Institute for Educational Research and Development with a special status and autonomy, in charge of helping the participants of education in their conflicts with advice and mediators. Our mediators are impartial, unbiased and their actions are unaffected by political interests.

By now in Hungary it has become an educational right (declared by the Educational Act and the Act of Higher Education) to turn to the MSE for help in conflict-solving in schools/universities/colleges. The MSE can delegate a mediator based on the common will of the persons affected by the conflict, and the mediator is trying to help them to reach consensus.

<http://www.ofi.hu/oksz-ofi-hu-090928/english>

Non-governmental association that work in the area of mediation is - among others - the National Mediation Association

**Please indicate the source for answering question 166:**

National Mediation Association (NMA)



## 8. Enforcement of court decisions

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

#### 8. 1. 1. Functioning

**169) Do you have enforcement agents in your judicial system?**

☒ Yes

☐ No

**170) Number of enforcement agents**

183

**171) Are enforcement agents (multiple options are possible):**

☐ judges?

☒ bailiffs practising as private professionals under the authority (control) of public authorities?

☐ bailiff working in a public institution?

☐ other enforcement agents?

Please specify their status and powers:

Sont nommés par le Mministre de la Justice. Professionnels indépendants, ils exercent sous une forme libérale. La profession et son accès sont strictement réglementés. Ils ont le monopole de l'exécution des décisions de justice et autres titres en forme exécutoire. Ils peuvent également procéder à la signification des actes, réaliser des constatations, procéder au recouvrement amiable et judiciaire de créances, donner des conseils juridiques et réaliser des ventes volontaires ou forcées.

**172) Is there a specific initial training or examination to become an enforcement agent?**

☒ Yes

☐ No

**173) Is the profession of enforcement agents organised by?**

☒ a national body?

☐ a regional body?

☐ a local body?

☐ NAP (the profession is not organised)

**174) Are enforcement fees easily established and transparent for the court users?**

☒ Yes

☐ No

**175) Are enforcement fees freely negotiated?**

☐ Yes

☒ No

**176) Do laws provide any rules on enforcement fees (including those freely negotiated)?**

☒ Yes

☐ No

**Please indicate the source for answering question 170:**

Official register maintained by the Hungarian Chamber of Judicial Officers (i.e. bailiffs)

183 bailiffs and 11 permanent substitutes

A permanent substitute may be appointed, if

- a) the bailiff's office is vacant;
- b) the bailiff has been suspended from his office;
- c) the bailiff is absent for a period of up to one year from the time of appointment.

**8. 1. 2. Efficiency of enforcement services****177) Is there a body entrusted with supervising and monitoring the enforcement agents' activity?**

☒ Yes

☐ No

**178) Which authority is responsible for supervising and monitoring enforcement agents?**

☐ a professional body?

☐ the judge?

☒ the Ministry of justice?

☐ the public prosecutor?

☐ other?

If other, please specify:

The Hungarian Chamber of Judicial Officers is in charge of supervising the activities of enforcement agents. The supervising authority of the Chamber is the Ministry of Justice. Certain legal remedies are provided by the courts.

**179) Have quality standards been determined for enforcement agents?**

☒ Yes

☐ No

If yes, what are the quality criteria used?

Besides legislation, there are recommendations and directives issued by the Chamber's bodies on financial management and filing of enforcement cases.

**180) If yes, who is responsible for establishing these quality standards?**

☒ a professional body

☐ the judge

☐ the Ministry of Justice

☐ other

If "other", please specify:

**181) Is there a specific mechanism for executing court decisions rendered against public authorities, including for supervising such execution?**

☐ Yes

☒ No

if yes, please specify

**182) Is there a system for monitoring the execution?**

☒ Yes

☐ No

If yes, please specify

Being the professional body of enforcement agents, the Hungarian Chamber of Judicial Officers compiles quarterly statistics on enforcement cases.

**183) What are the main complaints made by 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?

If other, please specify:

**184) 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:

Some amendments of law have been introduced, regarding moratorium on evictions, and the rules for tenders for selecting new bailiffs, but none of these are related to decisions against public authorities.

**185) Is there a system measuring the timeframes of the enforcement procedures:**

☒ for civil cases?

☐ for administrative cases?

**186) As regards a decision on debts collection, please estimate the average timeframe to notify the decision to the parties who 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

**187) Number of disciplinary proceedings initiated against enforcement agents. If other, please specify it in the "comment" box below.**

**[If disciplinary proceedings are undertaken because of several mistakes, please count the proceedings only once and for the main mistake.]**

Total number of disciplinary proceedings  
(1+2+3+4)

☒ number: 7

1. for breach of professional ethics

☒ number: 0

2. for professional inadequacy

☒ number: 3

3. for criminal offence ☒ number: 1
4. Other ☒ number: 3

Comment :

Other: conflict of interest (1x); violating professional obligations (2x)

### 188) Number of sanctions pronounced against enforcement agents.

**If "other", please specify it in the "comment" box below. If a significant difference between the number of disciplinary proceedings and the number of sanctions exists, please indicate the reasons in the "comment" box below.**

- Total number of sanctions (1+2+3+4+5) ☒ number: 7
1. Reprimand ☒ number: 0
2. Suspension ☒ number: 4
3. Dismissal ☒ number: 1
4. Fine ☒ number: 2
5. Other ☒ number: 0

Comment :

### H.1

**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 186, 187 and 188:**

Official register maintained by the Hungarian Chamber of Judicial Officers

## 8. 2. Execution of decisions in criminal matters

### 8. 2. 1. Execution of decisions in criminal matters

**189) Which authority is in charge of the enforcement of judgments in criminal matters? (multiple options possible)**

- ☒ Judge
- ☐ Public prosecutor
- ☒ Prison and Probation Services
- ☐ Other authority

Please specify his/her functions and duties (initiative or monitoring functions). If "other authority", please specify:

The judge responsible for the execution of sentences has both initiative and control functions.

**190) Are the effective recovery rates of fines decided by a criminal court evaluated by studies?**

- ☐ Yes
- ☒ No

**191) If yes, what is the recovery rate?**

- ☐ 80-100%
- ☐ 50-79%
- ☐ less than 50%

☐ it cannot be estimated

Please indicate the source for answering this question:

## H.2

**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. Notaries

#### 9. 1. 1. Notaries

**192) Do you have notaries in your country? If no go to question 197**

☒ Yes

☐ No

**193) Are notaries:**

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**If other, please specify it in the "comment" box below.**

private professionals (without control from public authorities)?	<input type="checkbox"/> number	
private professionals under the authority (control) of public authorities?	<input checked="" type="checkbox"/> number	315
public agents?	<input type="checkbox"/> number	
other?	<input type="checkbox"/> number	

Comment :

**194) Do notaries have duties (multiple options possible):**

- ☒ within the framework of civil procedure?
- ☐ in the field of legal advice?
- ☒ to certify the authenticity of legal deeds and certificates?
- ☒ other?

If "other", please specify:

- issuing order for payment
- issuing European order for payment
- keeping a register of mortgages imposed on movables
- keeping a register of civil partnerships
- keeping a register of wills
- giving impartial information to the parties about their rights and obligations, similarly to the court

**195) Is there an authority entrusted with supervising and monitoring the the notaries' activity?**

☒ Yes

☐ No

**196) Which authority is responsible for supervising and monitoring notaries:**

- ☐ a professional body?
- ☐ the judge?
- ☐ the Ministry of justice?
- ☐ the public prosecutor?
- ☒ other?

If other, please specify:

the president of the county court concerning the legality of the notary's actions

### I.1

**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

Act XLI of 1991 on notaries public

## 10. Court interpreters

### 10. 1. Court interpreters

#### 10. 1. 1. Court interpreters

**197) Is the title of court interpreters protected?**

☒ Yes

☐ No

**198) Is the function of court interpreters regulated by legal norms?**

☐ Yes

☒ No

**199) Number of accredited or registered court interpreters:**

NA

**200) Are there binding provisions regarding the quality of court interpretation within judicial proceedings?**

☐ Yes

☒ No

If yes, please specify (e.g. having passed a specific exam):

**201) Are the courts responsible for selecting court interpreters? If no, please indicate in the "comment" box below which authority selects court interpreters.**

Yes ☐ for recruitment and/or appointment for a specific term of office

Yes ☐ for recruitment and/or appointment on an ad hoc basis, according to the specific needs of given proceedings

- ☒ No

Comment :

### J.1

**You can indicate below any useful comments for interpreting the data mentioned in this chapter:**

**Please indicate the sources for answering question 199:**



## 11. Judicial experts

### 11. 1. Judicial experts

#### 11. 1. 1. Judicial experts

**202) In your system, what type of experts can be requested to participate in judicial procedures (multiple choice possible):**

- ☒ "expert witnesses", who are requested by the parties to bring their expertise to support their argumentation
- ☒ "technical experts" who put their scientific and technical knowledge on issues of fact at the court's disposal
- ☐ "law experts" who might be consulted by the judge on specific legal issues or requested to support the judge in preparing the judicial work (but do not take part in the decision)

**203) Is the title of judicial experts protected?**

- ☒ Yes
- ☐ No

**204) Is the function of judicial experts regulated by legal norms?**

- ☒ Yes
- ☐ No

**205) Number of accredited or registered judicial experts (technical experts)**

516

**206) Are there binding provisions regarding the exercise of the function of judicial expert within judicial proceedings?**

- ☒ Yes
- ☐ No

If yes, please specify, in particular the given time to provide a technical report to the judge:  
The time limit for providing the technical report falls within the core competence of the trial court, it is not determined by the law.

**207) Are the courts responsible for selecting judicial experts?**

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**If no, please indicate in the "comment" box below which authority selects judicial experts?**

- Yes ☐ for recruitment and/or appointment for a specific term of office
- Yes ☐ for recruitment and/or appointment on an ad hoc basis, according to the specific needs of given proceedings
- No ☒.

Comment :

C'est le Ministère de la Justice qui est responsable de la sélection des experts judiciaires.

### K.1

**You can indicate below any useful comments for interpreting the data mentioned in this chapter:**

**Please indicate the sources for answering question 205:**

Ministry of Justice

## 12. Foreseen reforms

### 12. 1. Foreseen reforms

#### 12. 1. 1. Reforms

**208) Can you provide information on the current debate in your country regarding the functioning of justice? Are there foreseen reforms? Please inform whether these reforms are under preparation or have only been envisaged. If possible, please observe the following categories:**

- 1. (Comprehensive) reform plans**
- 2. Budget**
- 3. Courts and public prosecution services (e.g. powers and organisation, structural changes - e.g. reduction of the number of courts -, management and working methods, information technologies, backlogs and efficiency, court fees, renovations and construction of new buildings)**
- 4. High Judicial Council**
- 5. Legal professionals (judges, public prosecutors, lawyers, notaries, enforcement agents, etc.): organisation, education, etc.**
- 6. Reforms regarding civil, criminal and administrative laws, international conventions and cooperation activities**
- 7. Enforcement of court decisions**
- 8. Mediation and other ADR**
- 9. Fight against crime and prison system**
- 10. Other**

Au mois d'avril le Parlement a adopté une nouvelle constitution nommée Loi fondamentale. Sur la base de cette loi fondamentale ont été adoptée plusieurs nouvelles lois, ainsi qu'une législation sur l'organisation des tribunaux qui doit entrer en vigueur le 1er janvier 2012, vont avoir pour effet de refonder le système de supervision de l'appareil judiciaire national.

Le Conseil National de la Justice, l'organe autonome de l'administration de la justice qui se constitue de 15 membres et dont le Président est en même temps le Président de la Cour suprême, sera supprimé. La présidence du CNJ et celle de la Cour suprême sera séparée. Pour l'administration de la justice l'Office National de la Justice sera établie dont le président sera élu par le Parlement avec une majorité de 2/3, pour un mandat de 9 ans. The changes make a clear separation between professional and administrative management. The advantage of the new administrative model is that professional and administrative remits will not overlap or conflict with each other: the President of the Curia will be responsible for professional matters, and the President of the National Courts Authority (OBH) will decide on administrative questions. The internal organisation of tasks will not affect the independence of judges, however.

La Cour suprême hongroise s'appellera dès le 1er janvier 2012 Curia et son Président sera élu par le Parlement avec une majorité de 2/3, pour un mandat de 9 ans.

L'âge de départ à la retraite des juges et des procureurs sera abaissé de 70 ans à l'âge légale de la retraite qui est 65 ans, mais actuellement est encore 62 ans et, graduellement sera augmenté jusqu'à 65 ans dans les années à venir.

La formation initiale des juges et des procureurs sera assurée par le Ministère de l'administration publique et de la justice dans une seule établissement, celle qui dépend jusqu'à la fin de 2011 du Conseil National de la Justice, mais à partir de 1er janvier 2012 sera soumise au Ministère de l'administration publique et de la justice.

Le Procureur général est élu également par le Parlement avec une majorité de 2/3, pour un mandat de 9 ans.