EUROPEAN COMMISSION FOR THE EFFICIENCY OF JUSTICE
(CEPEJ)

SCHEME FOR EVALUATING JUDICIAL SYSTEMS 2011

Country: Romania

National correspondent

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1. Demographic and economic data

1. 1. General information

1. 1. 1. Inhabitants and economic information

1) Number of inhabitants (if possible on 1 January 2011)

21 431 298

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	24 808 849 302
Regional / federal entity level (total for all regions / federal entities)	NA

3) Per capita GDP (in €)

5 700

4) Average gross annual salary (in €)

5 355

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

4.2848

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

1. National Institute of Statistics. Data source – Publication "Stable population of Romania – main demographic characteristics on January 1, 2010"
2. Data source –Ministry of Public Finances
3. National Institute of Statistics. Data source – Eurostat
4. National Institute of Statistics. Publication "Wages and labour cost, 2010"
5. National Bank of Romania. Publication "Main Economic and Social Indicators"

Q2 : The correct amount for 2010: 24 808 849 302 € and is less than 2008 due to the macroeconomic context. The amount of the total annual public expenditure had significantly and constantly increased until 2009, when the budget allocated amounts for all sectors were affected by the decrease by almost 8% of the Gross domestic product in the first semester of the year, as a consequence of the economic crisis.

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)	☑ Yes	355 246 737
1. Annual public budget allocated to (gross) salaries	☑ Yes	181 192 857
2. Annual public budget allocated to computerisation (equipment, investments, maintenance)	☑ Yes	774 286
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.	☑ Yes	71 190

4. Annual public budget allocated to court buildings (maintenance, operating costs)	☑ Yes	33 529 762
5. Annual public budget allocated to investments in new (court) buildings	☑ Yes	11 571 429
6. Annual public budget allocated to training and education	☑ Yes	421 975
7. Other (please specify):	☑ Yes	127 685 238

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:

The budget of the Public Ministry and the legal aid budget may be separated from the legal courts budget. There is a separate record of these budgets.

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:

As provided by Law no. 146/1997 on the judicial fees, the exceptions are as follows:
1. labour litigations, as well as the enforcement of decisions pronounced in those litigations;
2. some family cases (alimony, adoption, tutelage and others)
3. the payment of pensions and other social insurances litigations and the payment for unemployed persons
4. cases for granting damages for convictions or illegal preventive measures
5. some consumer protection cases
6. exertion of electoral rights
7. cases of restitution of property, in the case of real estates abusively confiscated in the communist period
8. cases regarding granting damages for the persons oppressed in the communist period
9. litigations regarding the sanctioning of contraventions
10. establishing and granting damages for the moral, dignity or reputation of a person
11. penal law, including granting civil material and moral damages arousing from crimes

12. claims regarding the rights of the Red Cross National Society
13. cases regarding granting damages for the breach of the European Convention on Human Rights
14. other matters, as provided by the law.

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

46 177 039

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	569 175 715

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	NAP

Functioning of the Ministry of Justice	Yes
Refugees and asylum seekers services	No
Other	Yes

Comment :
Ensuring food and other social contributions for the persons in custody.

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 €)	7 915 238	7 485 586	429 652

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 162 428 333

Comment :
Staff expenditure: wages cost + contributions
Capital expenditure: investments, capital repairs, equipments and facilities
Goods and services expenditure: expenses concerning the maintenance of the prosecutor's offices under law courts, professional training, rents for rented headquarters

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	Yes	No	Yes	Yes
Other ministry	Yes	Yes	No	Yes
Parliament	No	Yes	No	Yes
Supreme Court	No	No	No	No
Judicial Council	Yes	No	No	No
Courts	Yes	No	Yes	Yes
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):

Ministry of Public Finances, Romanian Court of Accounts

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

State budget is approved by law.
The Parliament adopts the annual budget laws and amendment laws, drawn up by the Government in the context of the macroeconomic strategy assumed by this one. If annual budget laws, lodged within legal time-limit, have been not adopted by the Parliament no later than December 15 of the year previous to the year at which the draft budget refers, the Government shall require the Parliament the application of the emergency procedure.
The government ensures the realization of the fiscal-budgetary policy, which takes into consideration the economic perspectives and the political priorities contained in the Governance Program accepted by the Parliament.
In the field of public finances the Ministry of Public Finances has, mainly, the following attributions:
a) coordinates the actions which are the Government's responsibility concerning the budgetary system, to wit: the preparation of the draft annual budget laws, of amendment laws, as well as of the laws concerning the approval of the general annual execution account;

b) orders the measures necessary for the application of the fiscal-budgetary policy;
c) issues methodological rules concerning the prepare budgets and their form of submission;
d) issues methodological rules, definitions and instructions in order to establish the practices and procedures for the collection of revenues, commitment, liquidation, authorisation and payment of expenditure, the control of its spending, end of the financial year, accounting and reporting;
e) requires reports and information to any institutions managing public funds;
f) approves the budget classifications, as well as their amendments;
g) analyses the budget proposals in the budget preparations stages;
h) supplies to the Parliament, at request, with the support of the main authorising offices, the documents on which draft budget laws are founded;
i) ensures the monitoring of budget execution and, if it finds out deviations of revenues and expenses from the authorised levels, it proposes to the Government measures to regulate the situation;
j) endorses, in the draft stage, the agreements, memoranda, protocols or other such understandings concluded with the external partners, as well as draft regulatory acts, containing financial implications;
k) establishes the content, the form of submission and the structure of the programs issued by the main authorising officers;
l) blocks or reduces the use of some budget credits found as being without legal foundation or without justification in the authorising officers' budgets;
m) orders the measures necessary for the administration and follow up of the use of the public funds for money co-financing, resulted from the external financial contribution granted to the Government of Romania;
n) collaborates with the National Bank of Romania at the preparation of the balance of external payments, of the accounts receivable and external commitments balance, of the regulations in the monetary and currency field;
o) submits each semester to the Government and commissions for budget, finances and banks o the Parliament, together with the National Bank of Romania, information about the realization of the balance of external payments and of the accounts receivable and external commitments balance and proposes solutions for covering the deficit or for using the current account surplus of the balance of external payments;
p) participates, in the name of the state, in the country and abroad, where applicable, at the external talks about the bilateral and multilateral agreements for the promotion and protection of the investments and the conventions for avoiding double taxation and for fighting against tax evasion and, together with the National Bank of Romania, in financial, currency and payment problems;
r) also accomplishes other attributions laid down by the legal provisions.

Q6#2#2 : In 2008 certain amounts were paid, being such amounts provided in the writs of execution having as object the granting of salary rights for the judiciary staff. Such rights refer to the 50% neuropsychological and risk overstress supplement and the 15% confidentiality supplement. The aforementioned amounts had been neither provided nor paid with respect to 2009 budget and in 2010 the amounts represented approximately 39% of the rights paid in 2008. The personnel expenditure is almost the same for the judiciary for 2008 and 2009, if we eliminate the salary rights for the judiciary staff paid based on the writs of execution. Starting with 2010, based on the Unitary Salary Law for 2009, the salary rights for magistrates and other judiciary staff included, as a monetary value, the supplements obtained through the case law (for the neuropsychological and risk overstress supplement representing 50% and for the confidentiality supplement representing 15%, respectively). From a technical point of view, some supplements were included in the base salary and others were considered as a supplement in addition to the base salary. Under these circumstances, the salary rights of the staff within the courts had increased during the first 5 months of 2010 by 18,5% in comparison to the same period of 2009.

Q6#2#3 : The decrease can be explained by the international and national economic situation, combined with the existence of alternatives sources for financing IT (European Commission, Structural funding – MAI PO DCA, MCSI OIPSI).

Q6#2#5 : The increase is due to the following: investments had been made for the security and stability of the court buildings (total repair works and consolidations), modernization, improvement of the present court buildings and the construction of new ones for a proper carrying out of the justice act (rooms, flow separations, specific endowment).

Q6#2#6 : The increase is due to the following: investments had been made (new rooms/changes in the destination of certain rooms – by extending the existing ones, ensuring the flows, specific endowment) for the Courts of Appeal, as a consequence of the amendments brought by the New codes (increase of the number of staff (no. of judges and ancillary staff)), amendments of the competence in carrying out the act of justice).

Q6#2#7 : By the Framework – Letter on the macroeconomic context, the methodology of drawing up the budget draft for year 2010 and of the medium term forecast, the Ministry of Public Finance limited the expenditure for each main credit chief accountant and considerably decreased the expenditure from Title II „Goods and services", where the professional training budget is provided.

Q6#2#8 : The „Other expenses" section includes: salary expenses: bonuses, annual leave bonus, temporary transfer in the employer's interest and secondment pays, contributions owed by the employer, other rights which judges, ancillary staff and prosecuted are entitled to (reimbursement of the sums paid for medicines, transportation, rent, retirement pays), travel expenses, fuel and lubricants, specialized books and publications expenses, periodical medical checks, labor protection. The differences are due, on the one hand, to the salary increase in 2009, representing 50% neuropsychological and risk overstress supplement and 15% confidentiality supplement, respectively and to the increase of the number of the beneficiaries of other personnel rights, and on the other hand, to the evolution of the prices for accommodation, fuel, etc.

Q9 : This increase can be explained by the fact that the number, the value and the collection degree of the local taxes incremented.

Q10 : The amount of the total annual public expenditure had significantly and constantly increased until 2009, when the budget allocated amounts for all sectors were affected by the decrease by almost 8% of the Gross domestic product in the first semester of the year, as a consequence of the economic crisis.

Q12 : Figure 2. 17 : corect pentru că ajutorul public a crescut pregnant faţă de anul 2008.
Creşterea semnificativă a cheltuielilor aferente ajutorului public judiciar, trebuie înţeleasă, pe de o parte, ca o consecinţă a intrării in vigoare, în mai 2008, a O.U.G. nr. 51/2008 care extinde semnificativ cazurile de acordare a asistenţei juridice şi pe de altă parte, ca o consecinţă a creşterii ponderii cheltuielilor cu onorariile avocaţilor pentru furnizarea serviciilor de asistenţă juridică.

Q9 : (comment after table 3.11) : În România, taxele încasate atât de Reg comerţului, (Bussines register) cât şi de Oficiul de cadastru (cartea funciară) (Land Register) sunt încasate de instituţiile care ţin aceste registre, care nu funcţionează şi nu au legătură cu instanţele judecătoresti. Ele sunt unul în subordinea MJ, celălalt în subordinea Min Dezvoltării (azi), iar taxele percepute pentru serviciile prestate se fac venit la bugetul de stat. De acolo se alocă prin lege, pentru ajutor judiciar şi alte destinaţii.

Taxele judiciare percepute de instanţe şi care acoperă, cum zicem mai sus cu un paragraf, costuri operaţionale ale procedurii, se fac venit la bugetele locale, iar nu direct in bugetul instanţei. teoretic, administraţiile locale au obligaţia de a folosi aceste fonduri rezultate din taxele de timbru în serviciul justiţiei (sedii, bază materială, etc)

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

Ministry of Public Finances
State budget Law for 2010 no. 11/2010
Public finances Law no. 500/2002 as subsequently amended and completed
Law no. 69/2010 on budget fiscal responsibility

cf. CN 19/07: Q6: Figure 2.8 bis: este corect, însă în anul 2008 au fost achitate sentinţe de drepturi salariale în cuantum superior anului 2010, de unde rezultă şi descreşterea bugetului alocat cheltuielilor cu personalul în anul 2010.
Astfel, în anul 2008 au fost achitate sume prevăzute în titluri executorii având ca obiect acordarea de drepturi salariale personalului din sectorul judiciar, reprezentând sporul de risc şi suprasolicitare neuropsihică de 50% şi pentru sporul de confidenţialitate de 15%.
Aceste sume nu au fost prevăzute şi achitate în bugetul pe anul 2009, iar în anul 2010 valoarea acestor sume a reprezentat aproximativ 39% din valoarea drepturilor achitate în anul 2008.

cf. CN 19/07: Q6: Figure 2.8 septies: Suma raportată este corectă. Nu au fost incluse fondurile cheltuite prentru trainingul judecătorilor şi personalului auxuliar de specialitate de se ocupă CSM (INM şi SNG), prin bugetul propriu (neinclus în situaţia transmisă, nu are legătură cu bugetele instanţelor), în valoarea de 391.261 euro (700.000 lei SNG + 976.476 lei INM).

cf. CN 19/07: Q12: Figure 2. 17 : corect pentru că ajutorul public a crescut pregnant faţă de anul 2008.
Creşterea semnificativă a cheltuielilor aferente ajutorului public judiciar, trebuie înţeleasă, pe de o parte, ca o consecinţă a intrării in vigoare, în mai 2008, a O.U.G. nr. 51/2008 care extinde semnificativ cazurile de acordare a asistenţei juridice şi pe de altă parte, ca o consecinţă a creşterii ponderii cheltuielilor cu onorariile avocaţilor pentru furnizarea serviciilor de asistenţă juridică.

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:

It is about the total or partial exemption from the payment of court fees.

Emergency Ordinance of Government No. 51/2008:
Article 1 – "Public legal aid is a form of assistance granted by the State which is meant to safeguard the right to a fair trial and to guarantee equal access to justice, for the assertion of legitimate rights or interests by judicial means, including for the coercive enforcement of court judgements or other writs of execution."
Article 6 - Public legal aid may be granted in the following forms:
a) payment of the fee to ensure representation, legal aid and, where appropriate, defence, through a lawyer that has been appointed or chosen, for the assertion in justice of a legitimate right or interest or in order to prevent a dispute, hereinafter referred to as legal aid through counsel;
b) payment of experts, translators or interpreters used during the proceedings, with the approval of the court or other competent authority, if the obligation to make this payment belongs, under the law, to the applicant for public legal aid;
c) payment of the fee for a judicial enforcement officer;
d) exemptions, discounts, spreading out or postponement of the payment of judicial duties provided in the law, including those that are due at the stage of coercive enforcement.

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:

It is about the total or partial exemption from the payment of court fees. To see above (17), Article 6 letter c)

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	Yes

Comment :
GEO 51/2008: Article 6 b): payment of experts, translators or interpreters used during the proceedings, with the approval of the court or other competent authority, if the obligation to make this payment belongs, under the law, to the applicant for public legal aid;

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	NA
in criminal cases	NA
other than criminal cases	NA

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	Yes
Victims	Yes

Comment :

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	NAP	NAP
for other than criminal cases?	NAP	NAP

Comment :
For other than criminal cases, there is no such system, it is granted based on the documents lodged by the parties and on the affidavit about its revenues. Amendments may be performed, but in random or, if there are suspicions or opposition from the adversary, by requesting relations to the authorised institutions, but there is no verification system only for the verifications within legal aid and no system for the access within the database of the institutions holding relevant data under financial aspect.

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:

GEO no. 51/2008 Article 16:
(1) Public legal aid may be refused when it is requested abusively, whenever its estimated cost is disproportionate to the value of the subject of the dispute, and when public legal aid is not being requested in order to defend a legitimate interest or it is being requested for an action that is contrary to public policy or to the Constitution.
(2) If the dispute for the processing of which public legal aid is being requested belongs to the category of disputes that may be subject to mediation or other alternative dispute resolution methods, the application for public legal aid may be dismissed if it is proven that the applicant for public legal aid refused, before the commencement of the trial, to engage in such a procedure.
(3) Public legal aid may be refused when the applicant is claiming damage to his or her reputation, but has suffered no material or financial loss or the application concerns a claim arising directly out of the applicant's trade or self-employed profession.

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

- [x] the court?
- [x] 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?

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

Userful information for question 27 (option: other than criminal cases)
Relevance of the solution in the process upon public legal aid
„Article 18 (G.E.O. no. 51/2008) - The costs in relation to which the party enjoyed exemption or reductions by the granting of public legal aid shall be recovered from the other party, if it has lost the trial. The party that has lost the trial shall be obliged to pay those amounts to the State.
Article 19 - (1) If the party that received public legal aid loses the trial, procedural costs borne in advance by the State shall remain borne by the State.
(2) The court may however order, when it pronounces itself about the dispute, that the party who received public legal aid should either fully or partly return the costs paid in advance by the State, if he has lost the trial by his negligence or if the court judgement has found that legal action was initiated in an abusive manner.
Article 20 - If a person who meets the requirements in Art. 8 para. (1) or (2) is able to prove that, before the commencement of the proceedings, he has gone through the procedure of mediation of the dispute, he shall receive the amount that he paid as fee to the mediator. The same right shall belong also to any person who meets the requirements in Art. 8 para. (1) or (2), if they request mediation after the commencement of the proceedings, but before the first court hearing date. The amount that the party is entitled to receive is established by the court, by conclusion”

The Government Emergency Ordinance no. 51/2008, on public legal aid in the civil matter, which, essentially, resumes, specifies and details the provisions of Directive 2003/8/EC to improve access to justice in cross-border disputes.
According to the provisions of Article 1 of the Ordinance, it defines the "public legal aid" as being "that form of assistance granted by the State which is meant to safeguard the right to a fair trial and to guarantee equal access to justice, for the assertion of legitimate rights or interests by judicial means, including for the coercive enforcement of court judgements or other writs of execution". The defining markers are therefore "the party’s right to a fair trial" and "free equal access to justice".

As for the civil trial stages in which public legal aid may intervene, it contains, through its benefits, the judgment stage as well as the enforcement stage, being possible to be granted from the beginning for both stages, as well as only for one of them. To this effect, by the provisions of Article 7 of the Ordinance, it has been expressly mentioned that „ Public legal aid may be granted, either separately or cumulatively, in any of the forms provided in Art. 6, while not exceeding, per total, during a year, the maximum amount equivalent to 12 gross minimum salaries at the level of the year in which the application was submitted.
Also, having in view that according to the provisions of Article 23 and Article 35 paragraph (2) of the Ordinance, the grant of public legal aid under the form of judicial or extrajudicial aid through lawyer shall be made in the conditions laid down by Law 51/1995 on the organization and practice of the profession of lawyers, the Parliament of Romania has adopted Law 270/2010 amending and completing Law 51/1995 on the organization and practice of the profession of lawyers by which, in the chapter destined to legal aid, it details the cases and conditions for granting legal aid, like the organization, within the profession, of the activity of grant legal aid.
According to Article 191 of the Criminal Procedure Code, in case of conviction, the defendant is obliged to pay judicial fees forwarded by the state, except the expenses for the interpreters appointed by the legal bodies, according to law, as well as of it has been ordered the grant of free assistance, which are the state responsibility.
If there are several convicted defendants, the court decides the amount of the judicial fees owed by each of them. When establishing this amount it will take into account, for each of the defendants, the extent to which they made the judicial fees.
The party responsible in civil law, to the extent to which it is obliged together with the defendant to repair the damage, is also obliged together with this one to pay the judicial fees forwarded by the state.

Article 192 of the Criminal Procedure Code stipulates that the payment of the expenses forwarded by the state in the other cases shall be made in the following way:
(1) In case of acquittal or cessation of the criminal trial before the court, the expenses forwarded by the state are paid in the following way:
1. In case of acquittal, by:
a) the wounded party, to the extent to which the expenses were made by this one;
b) the civil party whose civil claims have been completely rejected, to the extent to which the expenses have been made by this one;
c) the defendant, if, although acquitted, was obliged to repair the damage;
d) the defendant, if he was acquitted according to Article 10 paragraph 1 letter b^1).
2. In case of cessation of the criminal trial, by:
a) the defendant, if there has been ordered the replacement of the criminal responsibility or if there is a cause for impunity;
b) both parties, in case of reconciliation;
c) the wounded party, in case of complaint withdrawal or if the complaint was lately lodged.
3. In case of amnesty, prescription or withdrawal of the complaint, as well as if there is a cause for impunity, if the defendant asks for continuing the criminal trial, the judicial expenses are paid by:
a) the wounded party, when in the case applies Article 13 paragraph 2;
b) the defendant, when in the case applies Article 13 paragraph 3.
(1^1) In case of non-prosecution, the judicial expenses are covered by the person who made the complaint, to the extent to which the abusive exercise of this right is ascertained.
(2) In case of appeal, recourse or submission of any other claim, the judicial expenses are covered by the person to whom the appeal, recourse or submission were refused, or who withdraw them.
(3) In all other cases, the judicial expenses forwarded by the state are the state's concern.
(4) In case more parties are obliged to cover the judicial expenses, the court decides on the part of the judicial expenses owed by each party.
(5) The provisions stipulated at paragraph 1 point 1 letters a) and d), as well as at points 2 and 3 are also enforced accordingly in case of closing, exemption from criminal investigation or cessation of criminal investigation.
(6) The expenses for the payment of the interpreters appointed by the judicial bodies, according to law, for the parties' assistance remain, in all cases, the state's concern.

Article 193 of the Criminal Procedure Code regulates the payment of the judicial expenses made by the parties:
The defendant must pay to the victim, in case he is convicted, as well as to the civil party whose civil action has been approved, their judicial expenses.
When the civil action is only partially approved, the court may oblige the defendant to pay for the whole or part of the judicial expenses.
In case the civil action is given up, the court decides on the expenses at the request of the parties.
In the situations stipulated in paragraphs 1 and 2, when there are more than one convict, or if there is a party who bears the civil responsibility, the provisions of Article 191 paragraphs 2 and 3 are enforced accordingly.
In case of acquittal, the victim must pay to the defendant and to the party bearing the civil responsibility their judicial expenses, to the extent to which these expenses were caused by the victim.
In the other cases related to the reimbursement of judicial expenses by the parties during the criminal trial, the court decides on the reimbursement obligation according to civil law.

Please indicate the sources for answering the questions 20 and 23

UNBR (National Union of Bar Associations of Romania) and the Ministry of Justice

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:

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	www.csm1909.ro, section, Legislation, subsection Normative Acts regarding the Romanian judicial system, www.iurispedia.ro (New Civil Code), project developed in public-private partnership
☐ case-law of the higher court/s? Internet address(es):	☑ Yes	www.jurindex.ro, portal.just.ro, www.scj.ro, web sites (web pages) of legal courts, having different addresses
☐ other documents (e.g. downloadable forms, online registration)?	☐ Yes	

Comment :

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

○ Yes
◉ No

If yes, please specify:

At present, the procedure codes do not stipulate such an obligation.
The new Civil Procedure Code (NCPC), adopted by Law 134/2010 which is to enter into force on a date to be established by the Law for its implementation, stipulates such an obligation. Thus, according to Article 233 NCPC, during the research stage, at the first trial time-limit at which the parties are legally summoned, the judge, after the parties' hearing, will estimate the duration necessary for the trial research, taking into account the case's circumstances, so that the trial could be settled within an optimal and predictable time-limit. The estimated duration shall be mentioned in the conclusion. For reasonable grounds, hearing the parties, the judge shall be able to reconsider the established duration.
In the criminal matter, the new Criminal Procedure Code, adopted by Law 135/2010 which is to enter into force on a date to be established by the Law for its implementation, stipulates certain provisions which may be circumscribed to this obligation. Thus, according to Article 343 NCPP, the duration of the preliminary procedure is of at most 30 days from the registration date of the case at the court, but cannot be inferior to 15 days from the same date. According to Article 19 paragraph 4, the civil action is settled within the criminal trial, if it does not exceed the reasonable duration of the trial; if the reasonable duration of the trial is exceeded, the court may order the disjunction of the civil action and forwarding the action at the competent civil court.

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:

Law 211/2004 concerning some measures for ensuring the protection of victims contains regulations referring at the victims' information about their rights, as well as about the psychological advice, free legal aid and the financial compensations granted by the state to the victims of certain offences. As for the victims' right to information, this law stipulated that public authorities with attributions in the field of the protection of victims, in cooperation with the non-government organizations, organize public information campaigns.
Also, judges, in the case of the offences for which the prior complaint is addressed to the legal court, the prosecutors, officers and policemen must inform the victims about their rights. Last but not least, law stipulates that the Ministry of Justice and the Ministry of Administration and Internal Affairs, with the help pf the Ministry of Communications and Information Technology, must ensure the functioning of a telephone line permanently available for the information of the victims, the information on the victims' rights also being published on the web sites of the Ministry of Justice and of the Ministry of Administration and Internal Affairs.

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	Yes
Victims of terrorism	No	Yes	Yes
Children (witnesses or victims)	Yes	Yes	Yes
Victims of domestic violence	Yes	Yes	Yes
Ethnic minorities	Yes	Yes	Yes
Disabled persons	Yes	Yes	Yes
Juvenile offenders	Yes	Yes	Yes
Other (e.g. victims of human trafficking)	Yes	Yes	Yes

Comment :
The Criminal Procedure Code (CPP) contains several provisions which are concretely procedural guarantees for the protection of all the victims who constitutes wounded party in the criminal trial.

For example, Article 771 stipulates that, during the criminal prosecution or during the judgment, the wounded party may be heard through some audio and video means. The wounded party has also the right to ask for the hearing to be made in the presence of a probation counsellor.
As special way of judgment, Article 290 paragraph (2) din CPP gives the possibility for the session not to be public in the conditions in which the session publicity would affect the morals, dignity or private life of a person.

Article 864 of the CPP stipulates that in the cases concerning the offences of violence between the members of the same families, the court may order fir the witness under 16 years not to be heard in the judgment session, admitting the presentation of a previously performed hearing through audio-video recording, in the conditions of the Criminal Procedure Code.

As for the hearing of the minor victims or witnesses, there are special procedural provisions in the Criminal Procedure Code, stipulating the procedural rights of any wounded party to give recorded audio or video statements, without being physically present at the hearing place (Article 771).
The wounded party has also the right to ask for the taking of the statements in the presence of a probation counsellor. As for the minor witness, this one may be heard until the age of 14 years only in the presence of one of the parents or of the tutor or person to whom he is entrusted. The witness also may benefit of the protection of its identification data according to the provisions of Article 861 of the CPP or of special ways of hearing in the conditions of Article 862 CPP. The witnesses may also benefit of the special protection measures laid down by Law 682/2002 on the witnesses' protection.

Article 7 of the CPP stipulates that in front of the judicial bodies the use of the maternal language in ensures to the parties and to other persons in the trial. If the parties of a criminal trial do not speak or do not understand the Romanian language or cannot express, Article 8 CPP stipulates the free of charge possibility to know the file documents, the right to speak, as well as the right to put conclusions in court, through interpreter.

If the parties of a criminal trial have disabilities which do not allow them to speak or understand the Romanian language or if these persons cannot express, Article 8 CPP stipulates the free of charge possibility to know the file documents, the right to

speak, as well as the right to put conclusions in court, through interpreter.

A special protection measure for the victims of domestic violence is laid down by Article 1181 of the Criminal Code and stipulates the possibility for the court to take, at the request of the wounded party, the measure of the interdiction to return to the family domicile, for a period of at most two years, if there have been committed beatings or violent acts causing physical or psychical sufferance upon the family members.

For the victims of certain offences, who did not constitute party in the criminal trial, but have the capacity of witness, Law no. 682/2002 on the witnesses protection regulates the establishment of certain protection measures which may be stipulated, separately or jointly, within the witness support scheme:
a) the protection of the identity data of the protected witness;
b) the protection of his statement;
c) the hearing of the protected witness by the judicial bodies, under another identity that the real one or through special ways of distorting the image and voice;
d) the protection of the witness found in state of detention, provisional arrest or in the execution of a penalty involving deprivation of liberty, in collaboration with the bodies administering the detention places;
e) increased safety measures at the domicile, as well as for the protection of the witness travel at and from the judicial bodies;
f) the change of the domicile;
g) the change of the identity;
h) the change of the appearance.
(3) The assistance measures which may be laid down, as applicable, within the support scheme are:
a) reinsertion in another social environment;
b) professional requalification;
c) change or insurance of the working place;
d) insuring a revenue until finding a working place.

There are also special centres for sheltering the victims of the trafficking in human beings and of the violence in family, for a determined period, in which they benefit of psychological and legal assistance, as well as of the physical protection against the authors of the offences.

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

- (●) Yes
- ( ) No

If yes, for which kind of offences

Article 21 of Law 211/2004 stipulates that the persons which were victims of the following types of offences benefit of financial compensations:
- attempt to the offence of murder, aggravated murder and particularly serious murder,
- serious body injury, laid down by Article 182 of the Criminal Code,
- an intentional offence which has as consequence a serious body injury of the victim,
- rape,
- sexual relation with a minor,
- sexual perversion,
- an offence concerning the trafficking in human beings,
- an offence of terrorism,
- any other intentional offence violently committed.

33) If yes, does this compensation consist in:

- [x] a public fund?
- [x] 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:

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

- (●) Yes
- ( ) No

If yes, please specify:

Yes, the prosecutor has a special position as concerns certain categories of victims, the intervention of the prosecutor being limited by the legal provisions.
Thus, Article 17 of the Criminal Procedure Cod (CPP) stipulates for the civil action to also begin and to be exercised ex officio, when the wounded party is a person lacked of the capacity of exercise or with limited capacity of exercise.
Article 18 of the CPP stipulates that the prosecutor may assert in front of the court the civil action introduced by the wounded person, and when the wounded party is a person lacked of the capacity of exercise or with limited capacity of exercise, the prosecutor, when attending at the trial, is obliged to support the civil interests of this one, even if he did not constitute civil party.

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:

The prosecutor may order the end of the criminal prosecution phase by three different solutions: classification, end of the criminal prosecution or removal under criminal prosecution, depending on the accomplishment of the different conditions of Article 10 CPP. About the prosecutor's decision are informed the person who made the complaint, the accused or the defendant and other interested persons (the victim).
The Criminal Procedure Code gives the possibility to any person to make the complaint against the solutions for the non-prosecution or for not to proceed to trial, regulating a special procedure to this effect in section „Complaint against criminal prosecution measures and acts" (Articles 278-2781 CPP).

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

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

- [x] excessive length of proceedings?
- [x] non execution of court decisions?
- [x] wrongful arrest?
- [x] 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):

The civil regulations of material and procedural law do not consecrate special mechanisms for the compensation of the individuals for the cases of the excessive duration of the procedures and non-enforcement of judgments. In the case of the non-observance of the provisions concerning the normal development of enforcement the competent court may order the application of a judicial fine and, where applicable, the payment of a compensation for the damage caused by adjournment (Article 1082 and the following of the Civil Procedure Code).
The rules of common law down by the Civil Code concerning the delictual civil responsibility remain applicable.
In the criminal matter, the only possibility to obtain damages in the case of the procedural delays is the civil claim for damages, made on the provisions of the Civil Code.

In the new Civil Procedure Code (adopted by Law 134/2010, which did not enter into force yet), there is stipulated a much more efficient mechanism to this effect, respectively the contestation concerning the protraction of the case settlement. Thus, according to Article 515 paragraph (1) of the NCPC, any party, as well as the prosecutor attending the trial may make contestation by which, invoking the infringement of the right to the settlement of the trial within an optimal and reasonable time-limit, to solicit the taking of the legal measures for the removal of this situation.
See, for completion, the answer at question no. 208 point 1, for the regulations stipulated in the civil matter as concerns the guarantee of the right to a fair trial and at the case settlement within a reasonable time-limit.

The non-observance of judgments is incriminated as offence by Art. 271 Criminal Code. Within the criminal trial there may be also formulated the civil claim for damages for the non-enforcement of the judgment. The civil action may be also introduced separately, at the civil court. Both actions shall be judged according to the provisions of the Civil Code, regulating the delictual civil responsibility.
In the case if the non-enforcement of a judgment which constitutes outstanding claim, the court shall be able to oblige the debtor to pay a civil fine established by day of delay until the execution of the obligation laid down in the outstanding claim, owed to the state, according to Art. 5803 current Civil Procedure Code .

Illegal arrest and illegal conviction are situations circumscribed to judicial errors for which the Romanian state is responsible according to Art. 504 and the following of the Criminal Procedure Code. For the appreciation in substance of the civil responsibility, there shall apply the common law rules laid down by the Civil Code.

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)

- [x] (Satisfaction) surveys aimed at judges
- [x] (Satisfaction) surveys aimed at court staff
- [x] (Satisfaction) surveys aimed at public prosecutors
- [x] (Satisfaction) surveys aimed at lawyers
- [x] (Satisfaction) surveys aimed at the parties
- [x] (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:
- „Study over the opinions and attitudes (initial conditions) regarding the implementation of the reform of judiciary in Romania", elaborated by Gallup Romania, in 2008, available on the webpage of the Superior Council of Magistracy (www.csm1909.ro).
- Survey within the project "Elaborating the Strategy for communication and public relations for the judiciary" – 2007, its conclusions being included in the Superior Council of
Magistracy's Strategy for communication of the Superior Council of Magistracy and the judiciary, available on the SCM website (www.csm1909.ro).
There are no new information about those presnted in the answers at the last evaluation scheme (2008-2010).

39) If possible, please specify:

	Surveys at a regular interval (for example annual)	Occasional surveys
Surveys at national		

level	No	No
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	No	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 :
Depending on the object of the notification, there may be any of the mentioned institutions, as to the competences of each of them.

The petitions of the competence of the Superior Council of Magistracy, about the way of accomplishment of the judicial system attributions may be addressed either directly to the Council, by a petition formulated in written, either by the leaders of the courts or prosecutor's offices. The Council has a petition form published on its own web site. The petitions may aim inclusively at the activity of judges and prosecutors, of courts and prosecutor's offices, if the notified aspects are within the limits f the SCM competence.

The petitions of the competence of the Ministry of Justice, concerning mainly the applicability and evolution of the regulations in the judicial matter may be addressed by post or may be deposited in person at the headquarters of the institution. The ministry has, in turn, a petition form published on its own web site and a form for complaints against the answers which discontent the solicitants. Both may be completed and sent online. The procedure for the petitions treatment is the one stipulated by the Government Ordinance 27/2002 concerning the regulation of the petitions settlement, approved by Law 233/2002.

The petitions referring at the functioning of the judicial system are in their great majority managed by the Superior Council of Magistracy, respectively, where applicable, to the speciality departments within the Ministry of Justice (Department for Information Technology, Department for Investments, Financial-accounting Department, etc).

The general legal foundation for receiving these complaints (petitions) and for the drawing up of the answers is represented by the Government Ordinance 27/2002 concerning the regulation of the petitions settlement, approved by Law 233/2002. The time-limit to answer to these complaints (petitions) is the legal one: 30 days from their registration date.

In 2010, the Superior Council of Magistracy registered 8304 complaints, all of them being settled within the time-limit stipulated by law (for the transmission of an answer to the solicitant).

Among these, 2592 complaints were transmitted to the Judicial Inspection, in order to perform verification as to what has been mentioned in those complaints.
Among these, the Judicial Inspection forwarded to the Discipline Commission for judges of the SCM 246 complaints (103 formulated by the parties in files, managing colleges of the courts, Ministry of Justice, ex officio Judicial Inspection, judges, PÎCCJ and 143 complaints formulated by the Ministry of Public Finances).
Among these, 15 complaints were concretized in disciplinary actions exercised by CDJ in 2010.

At the same time, 4 complaints concerning the infringement of the Deontological Code of Magistrates were addressed in 2010 to the Section for judges of the SSM.

After the disciplinary procedures, there remained irrevocable 17 judgments (some complaints being from the previous years)

by which the judges were applied sanctions. In 2010, the Judicial Inspection forwarded to the Discipline Commission for prosecutors (CDP) 65 complaints, from which 31 formulated by the parties in files, Ministry of Justice, ex officio Judicial Inspection, prosecutors, PÎCCJ, and 34 complaints, formulated by MPF. In 2010, CDP exercised 10 disciplinary actions, plus other 5 promoted in the previous years and settled in 2010.

4 complaints concerning the infringement of the Deontological Code of Magistrates were addressed to the Section of Prosecutors of the SCM.

In 2010 there remained irrevocable 4 judgments by which the prosecutors have been applied disciplinary sanctions.(also see the answers at the questions 144 and145).

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)	235
42.2 First instance specialised Courts (legal entities)	10
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)	246

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)	10
Commercial courts	3
Labour courts	NAP
Family courts	1
Rent and tenancies courts	NAP
Enforcement of criminal sanctions courts	NAP
Administrative courts	NAP
Insurance and / or social welfare courts	NAP
Military courts	6
Other specialised 1st instance courts	NAP

Comment :

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:

In 2010 there continued the project concerning the eradication of the courts with a small workflow, project ended in 2011 with the eradication of 12 courts, from which only 3 were functioning.

On 25.11.2010 there entered into force a regulatory act containing provisions referring at the amendment of the legal courts competencies.

Amendments of competence are also provided in the new Civil Procedure Code and new Criminal Procedure Codes, which were adopted and which shall enter into force on the date to be established by the implementation laws.

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.

	Number of courts
a debt collection for small claims	179
a dismissal	41
a robbery	179

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

The internal legislation doest no define he notion of claims in low quantum, but establishes the maximum limits of the claims which are of the competence of judges (courts of first degree), as it follows:
- those with a value of at most 2333,83 euro, given in the competence of the trainee judges;
- those with a value of at most 23338,31 euro, in the commercial matter, given in the competence of the other judges;
- those with a value of at most 116691,56 euro, in the civil matter, given in the competence of the other judges.

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

Superior Council of Magistracy

COMMENT for question 42:
42.1 First instance courts of general jurisdiction (legal entities) - total 235 composed of:
Courts of first instance– 179
Law courts – 41
Courts of appeal - 15

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)	4081	1100	2981
1. Number of first instance professional judges	1872	547	1325
2. Number of second instance (court of appeal) professional judges	2101	529	1572
3. Number of supreme court professional judges	108	24	84

Comment :
In the Romanian judicial system there is the following hierarchical constitution of courts (categories of courts):
- courts of first instance, judging in first instance,
- law courts, which are generally courts of appeal but also judge in first instance and in appeal
- courts of appeal, which are appeal courts, but judge in the first instance and in appeal).
- HCCJ, unique and supreme court, mainly judge the appeals declared against the judgments of the courts of appeal and of other judgments, in the cases stipulated by law

In these conditions, at question 46.1 there have been mentioned the judges within the courts of first instance (having full competence for judging in first instance), and at 46.2 there have been mentioned the judges within the law courts and courts of appeal.

The Civil Procedure Code – rules concerning the competence of the legal courts in the civil matter:

1. courts of first instance – have full competence for judging in first instance;
- judge, in the first and last instance, the trials and requests concerning claims having as object the payment of an amount of money of at most 2.000 lei inclusively;
- judge the complaints against the judgments of the public administration authorities with jurisdictional activity and of other bodies with such activity, in the cases stipulated by law;
2. law courts – have the competence to judge in first instance in the cases stipulated by law;
- as courts of appeal, judge the appeals declared against judgments pronounced by the judges in the first instance;
- as appeal courts, judge the appeals declared against the judgments pronounced by the courts of first instance which, according to law, are not submitted to the appeal;
3. the courts of appeal judge: - in first instance, the processes and requests in the matter of the contentious administrative concerning the acts of the central authorities and institutions;
- as courts of appeal, the appeals declared against the judgments pronounced by the courts of first instance;
- as appeal courts, the appeal declared against the judgments pronounced by the law courts in appeal or against the judgments pronounced in the first instance by law courts which, according to law, are not submitted to the appeal, as well as in any other cases expressly stipulated by law;
4. HCCJ mainly judges: - the appeal declared against the judgments of the courts of appeal and of other judgments, in the cases stipulated by law;
- the appeals in the interest of law.
This comment is also valid for question no. 47.

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)	187	82	105
1. Number of first instance court presidents	127	47	80
2. Number of second instance (court of appeal) court presidents	59	35	24
3. Number of supreme court presidents	1	0	1

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 :

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	NAP

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)	☐ Yes	8481
1. Rechtspfleger (or similar bodies) with judicial or quasi-judicial tasks having autonomous competence and whose decisions could be subject to appeal		NAP
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	☑ Yes	5325
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)	☑ Yes	1427
4. Technical staff	☑ Yes	1729
5. Other non-judge staff		NAP

Comment :
5325 represents the number of clerks with judicial tasks; 1427 - the number of registering clerks, documentary clerks, statistician clerks, archivist clerks and public servants; 1729 - number of IT staff, contractual personnel and other personnel (drivers, ushers, procedural agents).

Other categories of personnel which function within the Romanian courts:
Assistance magistrates: 83
Judicial assistants: 169
Probation counselors:292
Assistance magistrates work only within the High Court of Cassation and Justice. They participate in the trial sessions, have a consultative vote in deliberations and write the minutes of the sessions, as well as the decisions.

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

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

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

There is draft law approved by the Government and forwarded to the Parliament in October 2011 by the Ministry of Justice concerning the statute of the speciality staff within the legal courts and prosecutor's offices under these ones. This draft law aims at following up the rethinking of the role of the auxiliary speciality staff within legal courts and prosecutor's offices under these ones, the empowerment of this category of staff and the efficient use of human resources existing at the level of the judicial system, by the transfer of some administrative and jurisdiction tasks in the non-contentious matter from magistrates to court clerks.
- According to the provisions of this regulatory act there is established a new position in the judicial system, the function of judicial court clerk, on the European model of the court clerk with increased attributions (Rechtspfleger), in order to reduce the charges of the magistrates and to simplify certain procedures, thus being realized the transfer of some administrative and jurisdictional attributions in the non-contentious matter from judges to judicial court clerks. The judicial court clerks shall settle independently and under their own responsibility, in administrative procedure, the requests attributed in their competence. For example, the judicial court clerk shall be competent in establishing the quantum of the stamp fee and court fee, shall coordinate the activity of the office of Archive and Registration of the court and shall sign the documents from these departments, shall settle the requests concerning the enforcement of judgments or the requests to apply the apostil;
The solutions of the judicial court clerk shall be submitted to the judicial control, in the legal conditions.

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 Service at the IT equipment is performed based on certain contracts concluded with specialised companies;
- Dome of the courts concluded cleaning contracts with speciality companies;
- The distribution of the procedural documents is made based on a contract concluded with the National Romanian Post Office Company

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

See comment from question no. 53

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

Superior Council of Magistracy (46, 47, 48, 49) and Ministry of Justice (52).

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)	2 326	1 086	1 240
1. Number of prosecutors at first instance level	1 106	515	591
2. Number of prosecutors at second instance (court of appeal) level	765	343	422
3. Number of prosecutors at supreme court level	455	228	227

Comment :
See the mentions from question no. 46, which remain valid.
In these conditions, at question 55.1 there have been mentioned the prosecutors within the prosecutor's offices under the courts of first instance, (having full competence for judging in the first instance), and at 55.2 there have been mentioned the prosecutors of the prosecutor's office under the law courts and courts of appeal.

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)	263	138	125
1. Number of heads of prosecution offices at first instance level	157	83	74
2. Number of heads of prosecution offices at second instance (court of appeal) level	99	52	47
3. Number of heads of prosecution offices at supreme court level	7	3	4

Comment :

At question 56.1 there have been mentioned the heads of the prosecutor's offices under courts of first instance (first degree of jurisdiction), and at 56.2 there have been mentioned heads of the prosecutor's offices under law courts and courts of appeal.

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	3 044

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

Statistical data - Public Ministry and Superior Council of Magistracy

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

Comment :
The authorising officer has such attributions, generally the chairman of the court, but this one may delegate this competence to another person, who is most of the time the economic manager.

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	0 % of courts
Financial information system	100% of courts
Videoconferencing	+50% 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	100% of courts
Website	100% of courts
Follow-up of cases online	100% of courts
Electronic registers	0 % of courts
Electronic processing of small claims	0 % of courts
Electronic processing of undisputed debt recovery	0 % of courts
Electronic submission of claims	100% of courts
Videoconferencing	+50% of courts
Other electronic communication facilities	0 % 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 use videoconferencing for hearings in the presence of defendants or witnesses?	65.2 Can such court hearing be held in the police station and/or in the prison?	65.3 Is there any specific legislation on the conditions for using videoconferencing in the courts / prosecution offices, especially in order to protect the rights of the defence?	65.4 Is videoconferencing used in other than criminal cases?
	Yes	No	Yes	Yes

Comment :
The Criminal Procedure Code stipulates at present the possibility to use the audio-video means for recording the statements of the wounded party, civil party and witnesses, as mean for the protection of life, body integrity or their freedom or of their close relatives.
The relevant regulations under this aspect are:
Art. 771 – Special ways for hearing the wounded party and the civil party
(1) If life, body integrity or freedom of the wounded party or of the civil party or of his/her the close relatives may be endangered, the prosecutor or, where applicable, the trial court may allow for this one to be heard without being present physically at the place where is the body performing the criminal prosecution or, where applicable, at the place where the trial session takes place, through the technical means laid down by the previous paragraphs.
(2) At the request of the judicial body or wounded party or civil party heard in the conditions stipulated by paragraph 1, at the taking of the statement may attend a counsellor for the protection of victims and social reintegration of offenders, who has the obligation to keep the professional secret about the data we found out during the hearing. The judicial body has the obligation to inform the wounded p arty or the civil party about the right to solicit the hearing in the presence of a counsellor for the protection of victims and social reintegration of offenders.
(3) The wounded party or the civil party may be heard through a video – audio network.
(4) During the judgment, the parties and their lawyers may address questions directly to the wounded party or civil party heard in the conditions of paragraphs 1 - 3. The questions are addressed in the order stipulated by Art. 323 par. 2. The chairman of the board rejects the questions which are not useful and conclusive for the case judgment.
(5) The statements of the wounded party or civil party, heard in the conditions indicated at par. 1 – 3 are recorded by video and audio technical means and are completely given in written form, being signed by the judicial body, by the wounded party or by the civil party heard, as well as by the counsellor for the protection of victims and social reintegration of offenders present at his hearing, being lodged at the case file.
(6) The mean on which has been registered the statement of the wounded party or of the civil party, in original, sealed by the

prosecutor's office seal or, where applicable, of the trial court, shall be kept at their headquarters.
(7) The provisions of Art. 75 - 77 and of Art. 865 are duly applied.
Art. 862 – Special ways for hearing the witness
(1) In the situations stipulated by Art. 861, the prosecutor or, where applicable, the trial court may allow for the witness to be heard without being physically present at the place where at the place where is the body performing the criminal prosecution or, where applicable, at the place where the trial session takes place, through the technical means laid down by the next paragraphs.
(2) At the request of the judicial body or witness heard in the conditions stipulated by paragraph 1, at the taking of the statement may attend a counsellor for the protection of victims and social reintegration of offenders, who has the obligation to keep the professional secret about the data we found out during the hearing. The judicial body has the obligation to inform the witness about the right to solicit the hearing in the presence of a counsellor for the protection of victims and social reintegration of offenders.
(3) The witness may be heard through a television network with the voice and image distorted so that he could not be recognised.
(31) In the case of the judgment, the parties and their lawyers may address questions directly to the witness heard in the conditions of paragraphs 1 - 3. The questions are addressed in the order stipulated by Art. 323 par. 2. The chairman of the board rejects the questions which are not useful and conclusive for the case judgment or may lead to the identification of the witness.
(4) The statement of the witness heard in the conditions indicated at par. 1 – 3 are recorded by video and audio technical means and are completely given in written form.
(5) During the criminal prosecution, a report is drawn up exactly detailing the statement of the witness and this one is signed by the prosecutor who was present at the hearing of the witness and by the criminal prosecution body and shall be filed. The statement of the witness, transcribed, shall be also signed this one and shall be kept in the file lodged at the prosecutor's office, in a special place, in a sealed envelope, in conditions of maximum safety.
(6) During the trial, the statement of the witness shall be signed by the prosecutor who was present at the hearing of the witness and by the chairman of the board. The statement of the witness, transcribed, shall be also signed by the witness, being kept in the file lodged at the prosecutor's office in the conditions laid down by paragraph 5.
(7) The mean on which has been registered the statement of the witness, in original, sealed by the prosecutor's office seal or, where applicable, of the trial court in front of which the statement was made, is kept in the conditions laid down by par. 5. The mean containing the recordings performed during the criminal prosecution shall be forwarded at the end of the criminal prosecution to the competent court, together with the case file ands hall be kept in the same conditions.
(8) The provisions of Art. 78, 85 and Art. 86 par. 1 and 2 shall be duly applied.

The new Criminal Procedure Code, adopted by Law 135/2010 which is to enter into force on a date to be established by the Law for its implementation, extends the use of the audio-video means for the recording of the statements not only to protect the heard person, but also for other situations when the body for criminal research or the legal court considers necessary, ex officio or at the request of the interested person. It is also introduced the hearing of the suspect or defendant by these means, as a rule.

Regarding the videoconferencing infrastructure, in Romania 139 (out of 236) courts are endowed with videoconference terminals, capable for connection using IP technology. As regards the videoconferences with more than 5 participants, MoJ and all the courts have access to the videoconference server facility of the Special Telecommunication Service.

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

See the explanations and comments from 65.4

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?

- [x] Yes
- [ ] No

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

Each court introduces in a shared application its own statistical information. Such information is centralized automatically in the statistics server managed by the Ministry of Justice. The access to the information is ensured to an equal extent also to the Judicial Statistics Office within the Superior Council of Magistracy.

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)?

- [x] 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).

- [x] number of incoming cases?
- [x] number of decisions delivered?
- [x] number of postponed cases?
- [x] length of proceedings (timeframes)?
- [x] other?

If other, please specify:
1. suspended cases 2. convicted for life

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:
There was not formally adopted (by law or by subsequent regulatory act) a periodic evaluation system of the activity (performance and result) of each court, but the SCM uses a series of performance indicators (numbered in the answer at the below questions 71 and 74) concerning the activity of courts.

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:

- [x] incoming cases
- [ ] length of proceedings (timeframes)
- [x] closed cases
- [x] pending cases and backlogs
- [x] 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
- [x] 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
- [x] judicial power (for example a High Judicial Council, Higher Court)
- [ ] other

If other, please specify:

COMMENT: There was not formally adopted (by law or by subsequent regulatory act) a periodic evaluation system of the activity (performance and result) of each court, but the SCM uses a series of performance indicators (numbered in the answer at the below questions 71 and 74) concerning the activity of courts

76) Please specify the main targets applied to the courts:

NAP

77) Who is responsible for evaluating the performance of the courts (see questions 69 to 76)? (multiple options possible)

- [x] 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:

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:

- [x] in civil law cases
- [x] in criminal law cases
- [x] in administrave law cases

81) Do you monitor waiting time during court procedures?

- ( ) Yes
- (●) No

If yes, please specify:

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

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

- (●) Yes
- ( ) No

If yes, please give further details:
The same as for courts: reports regarding the activity of national prosecutors' offices are elaborated at SCM level

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

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

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

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

At organizational level, there are no quality standards established for courts. It may be considered that such standards were established at individual level, for each judge, by the indicators for the evaluation of professional activity (which, for example, aim inclusively at the respect of legal terms for writing the decisions). For those standards, the members of the evaluations commissions may be kept responsible for the quality policy.

Comments for Q80:

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

4. Fair trial

4. 1. Principles

4. 1. 1. General 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	2	11	1
Civil proceedings - Article 6§1 (non-execution)	6	3	6	1
Criminal proceedings - Article 6§1 (duration)	9	0	35	0

Please indicate the sources:

To the extent to which a judgment refers to several cases, the supplied data concern the number of cases.

The data from the database ECHR accessible at http://cmiskp.echr.coe.int/tkp197/search.asp?skin=hudoc-en

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:

- [x] civil cases?
- [x] criminal cases?
- [x] administrative cases?
- [ ] there is no specific procedure

If yes, please specify:

The Romanian law consecrates a series of special procedural rules for the settlement of some urgent cases.

In the civil matter, in the cases qualified by law as being urgent, the Civil Procedure Code contains some special provisions (for instance, shorter time-limits for summoning, for the establishment of the trial time-limits, for the lodging a defence, for establishing the order of the cases debate, for ordering the brining of the witnesses, etc).
For example, there are qualified as urgent the following cases: the appointment of a special curator in case of emergency, if the natural person lacked of capacity of exercise of the civil rights does not have a legal representative or there is a conflict of interests between the representative and the represented person or the legal person, called to sit in judgment, does not have a legal representative (Art. 44 of the Civil Procedure Code); the procedure for ensuring the proofs (Art. 235-241 of the Civil Procedure Code); the temporary suspension of enforcement until the settlement of the suspension request by the court [Art. 403 par. (4) of the Civil Procedure Code]; the authorisation of the forced delivery of goods and enforcement of the obligations to make and not to make (Art. 573 of the Civil Procedure Code); the procedure of the president ordinance (Art. 581-582 of the Civil Procedure Code); the precautionary measures – seizure insurer, attachment insurer, judicial seizure (Art. 591-601 of the Civil Procedure Code.
In some cases, although no special provision is stipulated for the settlement of the urgent cases, the civil procedural legislation institutes the obligation of the emergency trial and, where applicable, especially of some categories of trials and requests [for example: the clarification and completion of judgment (Art. 2811 par. 2 and Art. 2812 par. 2 of the Criminal Procedure Code), the contestation in cassation (Art. 320 par. 1 of the Civil Procedure Code), the contestation at execution (Art. 402 par. 1 II thesis of the Civil Procedure Code), the own requests (Art. 675 par. 1 of the Civil Procedure Code)];

In the cases qualified by law as urgent, the Criminal Procedure Code contains special provisions (for instance, shorter time-limits for summoning, shorter time-limits for the case settlement and motivation of judgment, judgment in camera etc). There are qualified as urgent the following criminal cases: the complaint in front of the judge against the prosecutor's resolutions or ordinance not to proceed to trial (Art. 2781 CPP), provisional arrest (Art. 146 and the following of the CPP), provisional release (Art. 1608 CPP), the settlement of the cases concerning flagrant offences (Art. 265 and the following CPP), the adjournment of the execution of the penalty of imprisonment or life detention (Art. 453 and the following CPP), the interruption of the execution of the penalty of imprisonment or life detention (Art. 455 and the following CPP), the interception and registration of the telephone calls ordered by the prosecutor (Art. 912 CPP), the approval of the search (Art. 100 and the following CPP), the settlement of the cases with arrested persons (Art. 261 CPP) or with imprisoned persons (Art. 293 CPP), taking the precautionary measures (Art. 163 and the following CPP), judgment of the appeal and the appeal in the case of flagrant offences (Art. 477 CPP), the provisional arrest in case of emergency in the cases of international judicial aid (Art. 44 of Law 302/2004 on international judicial cooperation in the criminal matter), as well as any other declared urgent by law.
In the administrative matter:
- Law of contentious administrative no. 554/2004:
The requests addressed to the court in the matter of contentious administrative are emergently and especially judged [Art. 17 par. (1) of the Law of contentious administrative no. 554/2004, as subsequently amended and completed]. The request for the suspension of the execution of the unilateral administrative document until the pronunciation of the court is emergently and especially judged [Art. 14 par. (2) of Law 554/2004]. The court pronounces, after the emergency procedure, upon the exception of illegality of the unilateral administrative document with individual character [Art. 4 par. (2) II thesis of Law 554/2004]. The appeal declared against the judgment pronounced in first instance in the matter of the contentious administrative is emergently judged [Art. 20 par. (2) of Law 554/2004].
- the suspension of the contract execution (Art. 2831 and Art. 2877 of the Government Emergency Ordinance no. 34/2006 concerning the attribution of the public contracts, of the contracts of public works concession and of the contracts of services concession).

88) Are there simplified procedures for:

- [x] civil cases (small disputes)?
- [x] criminal cases (small offences)?
- [ ] administrative cases?
- [ ] there is no simplified procedure

If yes, please specify:

The Civil Procedure Code in force does not consecrate a simplified procedure for the judgment of the civil cases having as object minor claims. Nevertheless, the trials and requests concerning claims having as object the payment of an amount of money of at most 2.000 lei are judged by the court if first instance in the first and last instance (Art. 1 point 11 of the Civil Procedure Code).
It is to mention that the civil procedural legislation in force consecrates two special and summary procedures for the settlement of some actions in claims by which it tends to oblige the debtor to pay: the procedure of the payment notice (Government Ordinance no. 5/2001 on the procedure of the payment notice) and the procedure of the payment order (Government Emergency Ordinance no. 119/2007 on the measures for the fight against the delay of the execution of the payments obligations resulted from the contracts between professionals, regulatory act transposing in the internal law the Directive of the European Parliament and Council 2000/35/EC on combating late payment in commercial transactions).
The procedure of the payment notification develops, at the creditor's request, for the willing realization or by enforcement of the certain, liquid and eligible claims, which represent payment obligations of some amounts of money, assumed by contract ascertained by a document or determined according to a statute, regulation or other document, appropriated by the parties by signature or in another way admitted by law and which attests the rights and obligations concerning the execution of certain services, works or any other performances. The procedure of the payment notification is applicable in order to realize the certain and eligible claims, irrespective of their quantum. The procedure of the payment notification is configured by soma characteristics in comparison to the common law procedure (for example: the right of the plaintiff may be proved, as a rule, only by the administration of documentary evidence; the existence of a special remedy– action for annulment).
The special procedure of the payment or is applicable for the realization of certain, liquid and eligible claims which represent payment obligations of some amounts of money resulted from contracts concluded between professionals. As in the case of the payment notitication, the procedure of the payment order is also applicable for the realization of certain and eligible claims – irrespective of their quantum – which representes payment obligations of some amounts of money resulted from contracts concluded between professionals. The procedure of the payment order also presents some characteristics in comparison to the procedure of common law (for example: the existence of a special remedy – application for annulment).
The disputes with extraneity elements concerning small claims, of the international jurisdictional competence of the Romanian courts, are submitted to a special procedure, abreviated, instituted by the Regulation of the European Parliament and Council no. 861/2007 establishing a European small claims procedure.
The disputes with extraneity elements having as object the European payment notification, of the jurisdictional competence of the Romanian courts, are submitted to a special procedure, instituted by the Regulation of the European Parliament and Council no. 1896/2006 creating a European order for payment procedure.
We remind that the New Civil Procedure Code (Art. 1011-1018) regulates a simplified procedure for the settlement of the requests ratable in money, whose value – without taking into consideration the interests, the judicial fees and other accessory revenues– does no exceed the amount of 10.000 lei on the court notification date. The procedure is, as a rule, written, and develios, with the exceptions laid down by law, in camera. The judgment pronounced upon the small claim application is submitted only to appeal.
At present, the criminal cases of the competence of the court of first instance are susceptible of attack only by appeal, thus simplifying the procedure of the trial. Art. 3201 CPP also stipulates a simplified procedure concerning the judgment in the case of recognition of the guilt, irrespective of the judged offence, consisting in the case settlement only based on the proofs administered in the criminal prosecution phase. Par. (1) and (8) of Art. 3201 CPP have been declared unconstitutional by the Decision of the Constitutional Court no. 1483 din 2011.

By the New Criminal Procedure Code, although there is not made a classification of the offences as to their seriousness, there are regulated some simplified procedure rules for offences stipulating sanctions more with low seriousness. Thus, Art. 318 NCPP stipulates the possibility to renounce at the criminal prosecution in determined cases and conditions. And this provision is amended by LPA CPP, according to which the limits of the penalty of imprisonment increase to 7 years. In such cases, the prosecutor may renounce at the criminal prosecution when, in relation to the defendant, the behaviours had before the commission of the offence, the content of the fact, the way and means of its commission, the followed purpose and the concrete circumstances of its commission, the produces consequences or which could have been produced by the commission of the offence, the efforts made by the defendant for the removal or diminution of the offences consequences, he finds out there is no public interest in the prosecution of this one.
There are also kept the provisions concerning the judgment in case of recognition of the guilt. Moreover, there is introduced the agreement for the recognition of the guilt, which may be concluded only as concerns the offences for which law stipulates the penalty of fine or imprisonment of at most 7 years, according to Art. 478 and the following NCPP. If

there is concluded an agreement for the recognition of the guilt, the prosecutor does not draw up the bill of indictment concerning the defendants with which he concluded the agreement. The court pronounces upon the agreement for the recognition of the guilt by sentence, after a non-contradictory procedure, in public session, after the hearing of the prosecutor, defendant and his lawyer, as well as the civil party, if present. I would take out this provisions as it is abrogated by LPA CPP. In the matter of remedies, the appeal shall be converted into the extraordinary remedy of the appeal in cassation. The judgment of the appeal in cassation shall be simplified by the introduction of the institution of the admission in principle.

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:

The Romanian procedural law consecrates a special procedure, optional – the research of the trial in the case the proofs are administered by lawyers (Art. 2411-24122 of the Civil Procedure Code). During this period – applicable only to patrimonial disputes which do not concern rights to which law does not allow to make transaction –, the parties may agree for the lawyers assisting and representing them to administer the proofs in the case (Art. 2412 of the Civil Procedure Code).
Common law rules (The Civil Procedure Code and the Criminal Procedure Code)
In civil matter, as a rule, the procedural documents are accomplished in the order, time-limits and conditions laid down by law or, where applicable, established by the judicial court.
As an exception, after the court notification, if the parties have a lawyer or legal counsellor, the requests, defences or other documents may be served directly between them; in this case, the one who receives the document will attest the reception and will register the reception date on the copy which shall be immediately lodged at the court, under the sanction of overriding; the proof of service of the document may be also made by any other document filed at the case file by which there is attested, under signature, the reception of each procedural document which has been served (Art. 861 of the Civil Procedure Code).

The New Civil Procedure Code
For the increase of the efficiency of the judgment activity and for the reduction of the duration of the civil trial, the new Civil Procedure Code realizes the resystematization of the civil trial stages (written stage; trial research; trial debate in substance).
The New Civil Procedure Code perfects the legislative solutions concerning the court notification, so that, between the moment of the introduction of the request for suing at law and its putting on the case list, there shall interpose a preliminary stage (written) to the judgment activity, having as purpose the regularization of the request for suing at law and supposes the realization of a written correspondence only with the help of the request for suing at law, in view of covering all the eventual lacks of this one.
Before establishing the first trial time-limit, in order to preliminarily establish the object and limits of the trial, the court proceeds at the communication of the requests formulated by the parties (the application initiating proceedings, and, where applicable, of the defence, of the answer to defence and of the counterclaim).
The trial research shall develop in camera; within this procedural stage there are accomplished, in the legal conditions, the procedural documents, there are solved the procedural exceptions and are administered the proofs.
The trial debate in substance shall take place predominantly in public session; within this procedural stage the parties have the possibility to debate in contradictory the circumstances of fact and the reasons of law invoked by them or discussed, ex officio, by the court.
In criminal matter, at present, according to Art. 342 CPP, the court, when it thinks necessary, may ask the parties, after the end of the debates, to put written conclusions. The prosecutor and the parties may put written conclusions, even if they were not asked by the court.
According to the new Criminal Procedure Code, the procedure in preliminary room doest no suppose the presence of the parties or lawyers, but they will be able to lodge written notes. There is also maintained the previous provisions concerning the lodging of written conclusions by the lawyers, at the end of the research, according to Art. 390 NCPP.

4. 2. 2. Caseflow 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.

2284721

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)*	533 633	1 751 088	1 600 580	684 141
1. Civil (and commercial) litigious cases (if feasible without administrative law cases, see category 6)*	462 023	1 073 669	963 742	571 950
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)*	4 591	29 735	29 570	4 756
3. Enforcement cases	42 412	544 734	533 679	53 467
4. Land registry cases**	1 786	2 287	2 479	1 594
5. Business register cases**	NA	NA	NA	NA
6. Administrative law cases (litigious and non-litigious)	22 821	100 663	71 110	52 374
7. Other cases (e.g. insolvency registry cases)	NAP	NAP	NAP	NAP

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

1. divorce by agreement 2. registration of associations and foundations 3. registration of trade unions 4. requests aiming at the non-contentious procedure according to the civ.pr.c.

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

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)	38 410	171 480	170 072	39 818
8. Criminal cases (severe criminal offences)	NAP	NAP	NAP	NAP
9. Misdemeanour and / or minor offences cases	NAP	NAP	NAP	NAP

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).

Please indicate, if feasible, what case categories are included under "severe criminal cases" and the cases included under "misdemeanour and /or minor criminal cases".

There is no classification of severe and less severe offences in the Romanian judiciary.

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.

The response of question 90 is not visible even that the information was entered in the textbox. This happend in browser Internet Explorer 9.0. In case that the information is not saved in the database, the value entered is 2 284 721 files.

Q91#1#1 : Within the courts hearing first instance civil claims (other than criminal ones) the increase of the already existing number of cases fits within the general trend in the increase of the total workload for the respective period of time at national level. As it can be noticed, the number of the new cases also increased significantly in the reference period as well as other indicators. The factors which influence the number of new cases within the court are not inherent to the judicial phenomenon.

Q91#4#1 : Although the number of solved cases increased during the respective period, the fact that the number of the new cases within the court is significantly higher (including the already existing cases) it triggers a higher final stock of the cases at the end of the reference period since there is a direct connection between the two stocks.

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)	13 920	29 423	27 091	16 252
1. Civil (and commercial) litigious cases (if feasible without administrative law cases, see category 6)*	12 924	27 039	24 910	15 053
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)*	541	975	997	519
3. Enforcement cases	47	109	97	59
4. Land registry cases	408	1 300	1 087	621
5. Business register cases	NAP	NAP	NAP	NAP
6. Administrative law cases (litigious and non-litigious)	NAP	NAP	NAP	NAP
7. Other cases (e.g. insolvency registry cases)	NAP	NAP	NAP	NAP

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)	4 070	18 442	17 634	4 878
8. Criminal cases (Severe criminal offences)	NAP	NAP	NAP	NAP
9. Misdemeanour and/or minor offences cases	NAP	NAP	NAP	NAP

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

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)	58 594	238 386	214 274	82 706
1. Civil (and commercial) litigious cases (if feasible without administrative law cases, see category 6)	49 544	189 826	173 802	65 568
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)	135	705	547	293
3. Enforcement cases	4 223	16 485	13 693	7 015
4. Land registry cases	183	473	494	162
5. Business register cases	NA	NA	NA	NA
6. Administrative law cases (litigious and non-litigious)	4 509	30 897	25 738	9 668
7. Other cases (e.g. insolvency registry cases)	NAP	NAP	NAP	NAP

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)	3 108	36 906	36 330	3 684
8. Criminal cases (severe criminal offences)	NAP	NAP	NAP	NAP
9. Misdemeanour cases (minor offences)	NAP	NAP	NAP	NAP

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

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	27 003	56 962	57 793	26 172
Employment dismissal cases	2 167	4 309	3 464	3 012
Robbery cases	781	2 041	1 976	846
Intentional homicide	573	1 090	992	671

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.

[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	1	0	NA	NA	NA	NA
Employment dismissal cases	61	0	NA	NA	NA	NA
Robbery cases	NA	0	NA	NA	NA	NA
Intentional homicide	NA	0	NA	NA	NA	NA

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

The litigious divorce is of the competence of the court of first instance and is judged according to the common law procedure.
The non-litigious divorce is of the competence of the court of first instance, notary public or civil status officer. The procedure is different depending on each authority, but has the following commons rules:
- The existance of the spouses' agreement about the divorce and its consequences;
- Granting 30 days from the registration date of the application untul the pronunciation of the divorce;
- Compulspry presence of the parties to express their consent to divorce, with the exceptions stipulated by law;
- Hearing the minor who reached 10 years (except the administrative procedure, which imposes no minor children);
- The compulsory settlement of the applications concerning the exercise of the parental authority and the contribution of the parents at the expenses for the children grow up and education, when the spouses have minor children, born before or during the marriage or adopted (except the administrative procedure, which imposes no minor children); the family name the spouses will bear after divorce.

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

The duration is not calculated under the form of an average number of days but under the form of some intervals (ex. between 0 – 6 months x cases, between 6 months – 1 year y cases ...more than 3 years, z cases). For 2011, due to a new soft, we will be able to indicate the average number of days.

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

- [x] to conduct or supervise police investigation
- [x] to conduct investigations
- [x] when necessary, to demand investigation measures from the judge
- [x] to charge
- [x] to present the case in the court
- [x] to propose a sentence to the judge
- [x] to appeal
- [x] to supervise enforcement procedure
- [x] 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
- [x] other significant powers

If "other significant powers", please specify:

- to defend the legitimate rights and interests of the minors, of the persons under interdiction, of the disappeared and of other persons in the legal conditions;
- to act for the prevention and fight against criminality, under the coordination of the minister of justice, for the unitary realization of the state criminal policy;
- to study the cases generating or favouring criminality, to draw up and to submit to the minister of justice proposals in order to eliminate them, as well as in order to perfect the legislation in the field;
- to verify the observance of the law at the places of provisional arrest.

Referring at the supervision of the execution procedure, the prosecutor's competencies are not exclusive, they refer at certain hypothesis expressly defined: revoking the suspension under supervision, not observing the supervision measures, contestation at the execution, putting to prosecution, merging the penalties.

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

(●) Yes
( ) No

If yes, please specify:

Taking into account the role granted by the provisions of Art. 131 par. (1) of the Constitution of Romania, according to which, in the judicial activity, the Public Ministry represents the general interests of the society and defends the legal order, as well as the citizens' rights and freedoms, the Romanian civil procedural system (Art. 45 of the Civil Procedure Code) consecrates some attributions of the prosecutor in civil matter. The main forms of participation of the prosecutor in the settlement activity of civil disputes are:
- promoting the civil proceedings (anytime it is necessary for the protection of the legal rights and interests of the minors, of the persons under interdiction and of the disappeared, as well as in other cases expressly stipulated by law);
- the prosecutor's intervention in the civil trial (putting conclusions in any civil trial, in any phase of this one, if he appreciates as necessary for the protection of the legal order, of the citizens' rights and freedoms, as well as the participation at the judgment and putting conclusions, when they are compulsory in the cases expressly stipulated by law);
- exercising the remedies against any judgments;
- participating at the enforcement phase (requesting the enforcement of the judgments pronounced in favour of the minors, persons under interdiction and disappeared).
- judicially declaring the death or disappearance of a natural person;
- putting under interdiction natural persons;
- creating/dissolving political parties;
- registering/amending associations and foundations;
- the cases concerning the convictions with political character (Law no. 221/2009)
- placement measures and other measures for the minors protection;
- annulling some forged documents in the cases in which the prosecutor ordered not to proceed to trial;
- moving the civil cases;
- participating at the judgment of the unconstitutionality exceptions at the Constitutional Court,
- expropriation;
- international child abduction;
- contestations (partial) in electoral matter.

In administrative matter, the forms of participation of the prosecutor at the settlement activity of contentious administrative disputes concern:
- initiating the proceedings before the contentious administrative court [if the Public Ministry appreciates that the infringement of the legitimate rights, freedoms and interests of the persons are due to the existence of some individual unilateral administrative documents of the public authorities issued with excess of power; if the Public Ministry appreciates that by issuing a regulatory administrative document a legitimate public interest is harmed – Art. 1 par. (4) and (5) of the Law of contentious administrative no. 554/2004];
- the prosecutor's intervention in the contentious administrative dispute [the participation, in any phase of the trial, anytime he appreciates to be necessary for the protection of the legal order, of the citizens rights and freedoms – Art. 1 par. (9) of the Law on contentious administrative no. 554/2004); introducing a request for the suspension of the regulatory administrative document, in the cases in which there is a major public interest, able to seriously trouble the functioning of an administrative public service – Art. 14 par. (3) of the Law on contentious administrative no. 554/2004)].

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	1 513 272	476 285	101 972	41 934

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)	630 180
1. Discontinued by the public prosecutor because the offender could not be identified	496 542
2. Discontinued by the public prosecutor due to the lack of an established offence or a specific legal situation	476 285
3. Discontinued by the public prosecutor for reasons of opportunity	NA

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

The settlement of the trials does not have established time-limits and the accumulation of the procedural time-limits provided by cases cannot foresee the settlement duration.

Q99#1#1 : There is an inconsistency of the data in the table from question no. 99 since it was a different approach when the two reports on the present questions were drawn up. Nevertheless, the data as such are correct.
Thus, for the data corresponding to 2008, with respect to the present question only the information for the High Court of Cassation and Justice was introduced (the aforementioned court was explicitly referred to in the question).
When drawing up the CEPEJ Report for 2010 data, following several discussions between institutions, it was deemed that the real significance of the respective question referred to the number of cases tried in last instance in Romania (second appeal) and not only to the cases of the High Court of Cassation and Justice. And this is due to the fact that there are also other courts hearing second appeals (tribunals, for instance).
Consequently, the CEPEJ Report for 2008 data, in the first table (question no. 90) centralizes all the first instance cases (irrespective of the level of the courts), the second table (question no. 92) centralizes all the second instance cases – appeal (irrespective of the level of the court) and table no. 3 (question no. 93) shows the statistical data on the High Court of Cassation and Justice workload.
The CEPEJ Report for 2010 data, includes in the first 2 tables the same type of information as the one for 2008, except table no. 3 (question no. 99) which includes all second appeal cases (last instance cases) from all courts (irrespective of their level).

Thus, in case the data for the 2008 CEPEJ Report can be still reconsidered, please find below the table corresponding to question no. 93 from the 2008 CEPEJ Report (the question no. 93 is the correspondent of question no.99 from the 2010 CEPEJ Report) which comprises updated data according to the current significance of the question. Namely, the table corresponding to question no. 93 from the 2008 CEPEJ Report includes now statistical data on all second appeal cases (last instance cases) from all courts (irrespective of their level), not only from the High Court of Cassation and Justice. Consequently, the significance of question no. 93 form the 2008 CEPEJ Report coincides now with the significance of question no.99 from the 2010 CEPEJ Report.
Question. No 93 (2008)
Pending cases on 1 Jan. `08 Incoming cases Resolved cases Pending cases on 31 Dec. `08
Total of civil,
commercial and
administrative law
cases* (litigious and
non-litigious) 36633 204898 191603 49928
1 Civil (and
commercial) litigious
cases* 31306 177175 165586 42895
2 Civil (and
commercial) nonlitigious
cases* 75 522 502 95
3 Enforcement cases 2142 8420 8256 2306
4 Land registry
cases** 139 547 551 135
5 Business register
cases** NAP NAP NAP NAP
6 Administrative law
cases 2971 18234 16708 4497
7 Other NA NA NA NA
Total criminal cases

(8+9) 4921 44766 44803 4884
8 Criminal cases
(severe criminal
offences) NAP NAP NAP NAP
9 Misdemeanour
cases (minor
offences) NAP NAP NAP NAP

Q107#1#1 : (Explanation provided by the Prosecutor's Office attached to the High Court of Cassation and Justice) The number of the cases distributed to the prosecutors for 2008 (1.196.614 cases) represents the total workload for the prosecutor's offices in 2008, while the same figure in the CEPEJ Report for 2010 refers only to the new cases. The total workload for the prosecutor's offices in 2010 was of 1.513.272 cases.

Q107#4#1 : The increase of the number of cases from 34.236 in 2008 to 41.934 cases in 2010 is due to the correspondent increase of the prosecutor's offices total workload.

Q108#1#2 : The Prosecutor's Office attached to the High Court of Cassation and Justice rectifies another figure shown in the 2010 report with respect to this question. Hence, the real number of the unknown offender cases is 496.542 instead of 153.895 as it had wrongly been mentioned.

Q101 : La subcapitolul 9.11.3 Robberies, figure 9.34 - acestea sunt datele furnizate de compartimentul Statistica al CSM. Explicaţia a fost ca numărul cazurilor de furt prin violenţă (tâlhărie) este mai mic faţă de cel al furturilor (simple) cu violenţă

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

Superior Council of Magistracy
Statistical indicators of the Public Ministry

5. Career of judges and public prosecutors

5. 1. Recruitement and promotion

5. 1. 1. Recruitement and promotion

110) How are judges recruited?

- [x] 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:

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?
- [x] 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:

Superior Council of Magistracy

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

- (•) Yes
- ( ) No

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

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

1) The promotion of judges in executive duties is made by contest, at national level.
The promotion contest, in executive duties, consists of written exams, with theoretical and practical character, from the following subjects of study:
a) depending on the specialisation, one of the following disciplines: civil law, criminal law, commercial law, administrative law, financial and fiscal law, labour law, family law, private international law;
b) case-law of the High Court of Justice and Cassation and case-law of the Constitutional Court;
c) case-law of the European Court of Human Rights and case-law of the Court of Justice of the European Communities;
d) civil and criminal procedures, depending on the judge specialisation
In order to participate at the promotion contest in executive duties the judge must accomplish cumulatively the following conditions:
- have the grade „very well” at the last exam;
- have not been disciplinary sanctioned within the last 3 years;
- meet the seniority conditions corresponding to the degree of the instance to which he wants the promotion.

2) The appointment of the judges in the administrative duties at courts (chairman and vice-chairman) is made by contest or exam, consisting in:
- submitting a project referring at the exercise of the attributions specific to the administrative duty;
- written exams concerning management, communication, human resources, the candidate’s capacity to take decisions and to assume his responsibility, stress resistance;
- psychological test.
At the contest may participate the judges who meet cumulatively the following conditions:
- have the grade "very well" at the last exam;
- have not been disciplinarily sanctioned within the last 3 years;
- meet the seniority conditions stipulated by law.

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

- (•) Yes
- ( ) No

115) Is the status of prosecution services:

- [ ] Indépendant?
- [x] Under the authority of the Minister of justice ?
- [ ] Other?

Please specify:

Art. 132 from the Romanian Constitution provides that: (1) Public Prosecutors shall carry out their activity in accordance with the principle of legality, impartiality, and hierarchical control, under the authority of the Minister of Justice. This means that prosecutors are independent in their specific activity regarding criminal investigation, but they exercise their activity under the authority of the Minister of Justice. The main ways for expressing this authority are the following: 1. The Minister authority is expressed in the first place through the power of proposing key management positions for Public Ministry, under the condition of appointment by Romanian President, through decree. On the other hand, the Minister may propose the Romanian President the termination of these mentioned offices 2. The Minister of Justice may order controls over prosecutors activity, but they are strictly limited to exercising the management of the prosecutors offices and the way how prosecutors interact with court parties and other interested citizens, involved in the criminal files. The control cannot refer to the prosecutor's decisions issued within criminal investigation - art. 69 para 1,2 from Law 304/2004 on the judiciary. 3. The Minister may ask the General prosecutor or the chief prosecutor of DNA information regarding the activity of prosecution offices and may issue written recommendations on the measures to curb and criminality prevention - art. 69 para 3 Law 304/2004. 4. The Minister presents to the Parliament on annual basis the conclusions regarding the activity of Public Ministry - art. 79 Law 304/2004.

116) How are public prosecutors recruited?

- [x] 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:

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?
- [x] 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:

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:

1) The promotion of judges in executive duties is made by contest, at national level.
The promotion contest, in executive duties, consists of written exams, with theoretical and practical character, from the following subjects of study:
a) depending on the specialisation, one of the following disciplines: civil law, criminal law, commercial law, administrative law, financial and fiscal law, labour law, family law, private international law;
b) case-law of the High Court of Justice and Cassation and case-law of the Constitutional Court;
c) case-law of the European Court of Human Rights and case-law of the Court of Justice of the European Communities;
d) civil and criminal procedures, depending on the judge specialisation
In order to participate at the promotion contest in executive duties the judge must accomplish cumulatively the following conditions:
- have the grade „very well" at the last exam;
- have not been disciplinary sanctioned within the last 3 years;
- meet the seniority conditions corresponding to the degree of the instance to which he wants the promotion.

2) The appointment of the judges in the administrative duties at courts (chairman and vice-chairman) is made by contest or exam, consisting in:
- submitting a project referring at the exercise of the attributions specific to the administrative duty;
- written exams concerning management, communication, human resources, the candidate's capacity to take decisions and to assume his responsibility, stress resistance;
- psychological test.
At the contest may participate the judges who meet cumulatively the following conditions:
- have the grade "very well" at the last exam;
- have not been disciplinarily sanctioned within the last 3 years;
- meet the seniority conditions stipulated by law.

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:
The judges' term of office is for undetermined period, but they be released from office before meeting the conditions stipulated by law for retirement, in the following cases expressly stipulated by law:
- professional incapacity;
- as disciplinary sanction;
- conviction for life for an offence;
- ingringement of the legal provisions according to which judges cannot be operative workers, inclusively covered, informers or collaborators of the information services;
if they do not accomplish some of the following conditions: Romanian citizenship, domicile in Romania and full capacity of exercise, lack of criminal antecedents or of criminal record, ability from the medical and psychological point of view, for the exercise of the duty.

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)
	1

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:
The answer is the same as the one at question no. 121.

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)
	1

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

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

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	Compulsory
In-service training for specialised functions (e.g. public prosecutor specialised	Compulsory

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

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	Regular (e.g. every 3 months)

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	No
One institution for prosecutors	No	No	No
One single institution for both judges and prosecutors	No	No	Yes

Comment :
Budget of the institution in 2010 in €: 4,840,952

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

☐ The responsibility of the initial and continuous training of judges and prosecutors belongs to the National Institute of Magistracy, autonomous institution, coordinated by the Superior Council of Magistracy.
☐ The initial training is compulsory at the beginning of the carrier, in a differentiate way (2 years for the judges and prosecutors newly employed, without legal experience and 6 months for the magistrates recruited among the persons with legal experience).
☐ The continuous training is organised at the centralised level, by the National Institute of Magistracy, as well as at the decentralised level, within courts and prosecutor's offices, with the participation of the National Institute of Magistracy. Judges and prosecutors are obliged to participate at training activities at least once every 3 years. For the judges and prosecutors with administrative duties there are organised courses of judicial management after their appointment. The professional training of judges and prosecutors is made taking into account their specialisation.
☐ The case-law of the European Court of Justice of Human Rights is included in the initial training program of the National Institute of Magistracy and as priority training field in the continuous training programs, organized by the National Institute of Magistracy and at decentralised level.
☐ Within the last 2 years there has been intensified the professional training for specialised functions of judges and prosecutors in the field of the fight against corruption and economic-financial criminality, and since 2010 there has been established as priority the professional training of the magistrates concerning the major legislative amendments in the Romanian judicial system which shall be brought by the entry into force of the new codes (civil, criminal, civil procedure, criminal procedure), as well as concerns the application of the provisions of the Law adopted in 2010 concerning some measures for accelerating the trials settlement.

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	25 750	18 062
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)	43 865	30 768
Public prosecutor at the beginning of his/her career	25 750	18 062
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)	36 230	25 412

Comment :
Annex at the state budget Law for 2010 no. 11/2010

Q132#1#1,Q132#1#3, Q132#2#1 and Q132#2#3 : Based on the Unitary Salary Law for 2009, the salary rights for magistrates and other judiciary staff included, as a monetary value, the supplements obtained through the case law (for the neuropsychological and risk overstress supplement and for the confidentiality supplement).

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

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

134) If other financial benefit, please specify:

- bonuses, holiday bonuses, delegation/posting indemnities, additional hours payment, reimbursement of medicine products, 4/6 monthly travels

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

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

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

According to Art. 8 of Law no. 303/2004, judges and prosecutors may be shareholders or associates as a result of the law on the mass privatization. In the session of 16 May 2010, the SCM Plenum appreciated that, as concerns the interdiction instituted by law to judges and prosecutors to have the capacity of shareholders within trade companies, it does not apply in the case of the shares at the Property Fund. To this effect, the SCM Plenum appreciated that the title

of compensation acquired by judges and prosecutors, issued in the conditions of Law no. 247/2005 on the reform in the field of property and justice, by which there have been established compensations for the buildings abusively taken, in the Communist regime, must be mentioned in the statement of wealth.
Having in view the importance of the good development of the projects with European and international financing, the SCM Plenum, by its Decision no. 261 of 13 March 2008, established that „it is possible the participation in capacity of experts within the external financing programs for justice of judges, prosecutors, court clerks and speciality staff assimilated to magistrates".
Art. 10 of Law no. 303/2004 allows judges and prosecutors to plead, in the conditions stipulated by law, only in their personal cases, of their ascendants and descendants, of their spouses, as well as of the persons under their trusteeship or curatorship. But even in such situations judges and prosecutors are not allowed to use their capacity in order to influence the solution of the trial court or of the prosecutor's office and must avoid creating the appearance that they could influence in any way the solution.
Art. 11 of Law no. 303/2004 stipulates that judges and prosecutors may participate at the issue of publications, may draw up articles, speciality studies, literary or scientific and may participate at audio-visual shows, except those with political character.
Judges and prosecutors may be members of some examination commissions or for the drawing up of regulatory acts, certain internal or international documents.
Judges and prosecutors may be members of the scientific and academic associations, as well as of any legal persons of private law without patrimonial purpose. It must be clarified the meaning of the notion of „cultural position", within the meaning that, in relation to the above-mentioned legal provisions, judges and prosecutors may hold a public or private position at a cultural and art institution (for ex., theatre director), but they may exercise literary, artistic, cultural activities, in the conditions of Art.11 of Law no. 303/2004, after which copyright may be obtained.

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

	With remuneration	Without remuneration
Teaching	No	No
Research and publication	No	No
Arbitrator	No	No
Consultant	No	No
Cultural function	No	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:

According to Art. 8 of Law no. 303/2004, judges and prosecutors may be shareholders or associates as a result of the law on the mass privatization. In the session of 16 May 2010, the SCM Plenum appreciated that, as concerns the interdiction instituted by law to judges and prosecutors to have the capacity of shareholders within trade companies, it does not apply in the case of the shares at the Property Fund. To this effect, the SCM Plenum appreciated that the title of compensation acquired by judges and prosecutors, issued in the conditions of Law no. 247/2005 on the reform in the field of property and justice, by which there have been established compensations for the buildings abusively taken, in the Communist regime, must be mentioned in the statement of wealth.
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Judges and prosecutors may be members of some examination commissions or for the drawing up of regulatory acts, certain internal or international documents.
Judges and prosecutors may be members of the scientific and academic associations, as well as of any legal persons of private law without patrimonial purpose. It must be clarified the meaning of the notion of „cultural position", within the meaning that, in relation to the above-mentioned legal provisions, judges and prosecutors may hold a public or private position at a cultural and art institution (for ex., theatre director), but they may exercise literary, artistic, cultural activities, in the conditions of Art.11 of Law no. 303/2004, after which copyright may be obtained.

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:
The discipline Commission for judges functioning within the Judicial Inspection under the Plenum of the Superior Council of Magistracy

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:
The discipline Commission for judges functioning within the Judicial Inspection under the Plenum of the Superior Council of Magistracy

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:

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)	26	19
1. Breach of professional ethics	5	4
2. Professional inadequacy	15	10
3. Criminal offence	7	5
4. Other	NA	NA

Comment :
We state that, referring at the number of the criminal investigations performed against judges and prosecutors, the offered data refer only the number of the magistrates about which there has been solicited the SCM approval for taking the precautionary measure (which are in the records of the SCM Judicial Inspection).

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)	18	6
1. Reprimand	5	3
2. Suspension	NAP	NAP
3. Removal of cases	NAP	NAP
4. Fine	NAP	NAP
5. Temporary reduction of salary	10	2
6. Position downgrade	NAP	NAP
7. Transfer to another geographical (court) location	1	0
8. Resignation	2	1
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

Legal framework
Constitution of Romania Art.133 par. (1) - The Superior Council of Magistracy shall guarantee the independence of justice and 134 par. (2) which stipulates that the Superior Council of Magistracy shall perform the role of a court of law, by means of its sections, as regards the disciplinary liability of judges and public prosecutors, based on the procedures set up by its organic law. In such cases, the Minister of Justice, the president of the High Court of Cassation and Justice, and the general Public Prosecutor of the Public Prosecutor's Office attached to the High Court of Cassation and Justice shall not be entitled to vote.
(3) Decisions by the Superior Council of Magistracy as regards discipline may be contested before the High Court of Cassation and Justice.
Also, according to Art. 44 - (1) of Law 317/2004 on the Superior Council of Magistracy, republished as subsequently amended and completed, it performs, by means of its sections, the role of a court of law as regards disciplinary liability of judges and prosecutors, for the facts stipulated by Law no. 303/2004, republished. (2) Th section of judges has the role of disciplinary court and for the magistrates-assistants of the High Court of Justice and Cassation; and according to Art. 45 par.(1) the disciplinary action is exercised by the discipline commissions of the Superior Council of Magistracy.
According to Art. 61 of the above-mentioned law within the Superior Council of Magistracy there functions under the SCM Plenum the Judicial Inspection, managed by a chief inspector.
- Within the Judicial Inspection there functions a judicial inspection service for judges and a judicial inspection service for prosecutors;
- The inspectors within the Judicial Inspection are appointed by plenum, by contest or exam, for a term of office of 6 years.

2. Attributions of the Judicial Inspection
The attributions of both services of judicial inspection are stipulated by law and mainly consist in:
a) Verifications at the courts regarding the observance of the procedural rules concerning the aleatory distribution of files and the observance of the principle of continuity of the formation of the court in their settlement;
b) Verifications at the prosecutor’s offices regarding the distribution of the prosecutors on the criterion of their specialization, the observance of the principles of continuity of prosecutors in the distributed works and the session prosecutor’s independence in formulating the conclusions;
c) verifications at courts regarding the pronunciation, drawing up and service of judgments, the forwarding of the files at the competent courts, enforcement of judgments;
d) verifications at prosecutor’s office regarding the observance of time-limits, the quality and service of the procedural documents;
e) verifications regarding the managerial efficiency and way of accomplishment of the attributions resulted from laws and regulations by judges and prosecutors with administrative duties;
f) verification of the complaints addressed to SCM about the activity or inadequate behaviour of judges, prosecutors and magistrate-assistants of the High Court of Justice and Cassation and the infringement of the professional obligations in the relations with court users and with the other persons implied in the realization of justice;
g) verifications for the approval by the Section ford judges/prosecutor of the search, arrest or provisional arrest of judges, magistrates-assistants or of prosecutors;
h) verifications for the settlement of the applications concerning the defence of the professional reputation and independence of judges;
i) in disciplinary matter, ensures the composition of the discipline commission for judges/prosecutors, performs the prior research for the exercise of the disciplinary action towards judges/prosecutors, inclusively towards the judges/prosecutors chosen by the Council, and towards the magistrates-assistants of the High Court of Justice and Cassation.

3. Ways of notifying the Judicial Inspection
Any interested person may notify the Superior Council of Magistracy about the activity and inadequate behaviour of judges or prosecutors, the infringement of professional obligations in the relations with court users or the commission by these ones of some disciplinary deviations.
The Judicial Inspection may also be notified by the Plenum, the Section for judges/prosecutors, chairman/vice-chairman.
The Judicial Inspection may be also notified ex officio about issues entering in its competence.

The Superior Council of Magistracy has the right and obligation to be also notified ex officio in order to defend judges and prosecutors against any act which could affect their independence or impartiality or could create suspicions about these. The Superior Council of Magistracy also defends the professional reputation of judges and prosecutors.
The judge or prosecutor who considers that his independence, impartiality or professional reputation is affected in any way may address to the Superior Council of Magistracy which, where applicable, may order the verification of the signalled aspects, the publication of its results, may notify the competent body in order to decide upon the necessary measures or may order any other adequate measure, according to law.

4. Limits of the verifications performed by the Judicial Inspection
The activity of the Judicial Inspection is limited by:
The principle of observing the independence of the judge and prosecutor, as well as the authority of res judicata.
The verifications performed by the Judicial Inspections must observe the principles of judges and prosecutors independence, their observance only of law, as well as the authority of res judicata.
The control exercised by the Judicial Inspection cannot put into discussion the judgments submitted to remedies stipulated by law nor the solutions adopted by prosecutors which may be verified only within the limits given by the

principles of the hierarchic control or by courts;

5. Procedures for performing certain verifications which are in the competence of the Judicial Inspection
Forms of control:
a. The control regarding the managerial efficiency and the adequate quality of the service.
b. Thematic control
c. Control regarding the remedy of the deficiencies found after a previous verification.
d. Verifications determined by the memoirs formulated by solicitants as well as by those which are the result of the ex officio investigation of the Superior Council of Magistracy.

6. Disciplinary research
The whole disciplinary procedure is regulated by law.

7. Facts which constitute, according to law, disciplinary deviations
Art. 99 of Law no. 303/2004 - Constitute disciplinary deviations:
a) the infringement of the legal provisions referring at the statements of wealth, statements of interests, incompatibility and interdictions for judges and prosecutors;
b) the interventions for the settlement of certain applications, the allegation or acceptance of the settlement of the personal interests or of the family members or of other persons, so that within the limit of the legal framework regulated for all citizens, as well as the interference in the activity of a judge or prosecutor;
c) carrying on public activities with political character or manifesting the political convictions in the exercise of the work attributions;
d) the non-observance of the secret of deliberation or of confidentiality of the works with this character;
e) repeated non-observance and for imputable reasons of the legal provisions regarding the settlement with celerity of cases;
f) he unjustified refusal to receive at the file the applications, conclusions, memoirs or documents submitted by the parties at the trial;
g) the unjustified refusal to accomplish a work duty;
h) the exercise of the function, inclusively the non-observance of the procedure rules, with bad faith or for serious negligence, if the fact is not an offence;
i) performing the works with delay, for imputable reasons;
j) repeated absences without leave from work;
k) the unworthy attitude during the exercise of the work attributions towards colleagues, lawyers, experts, witnesses or court users;
l) non-accomplishment of the obligation concerning the transfer of the basic rule at the court or prosecutor’s office at which it functions;
m) non-observance of the provisions concerning the aleatory distribution of cases;
n) direct participation or through interposed persons at the games of the pyramidal type, gambling or investment systems for which transparency of funds is not ensures in the legal conditions.

The disciplinary sanctions which may apply to judges and prosecutors, proportionally to the seriousness of deviations, are:
a) warning;
b) diminution of the monthly gross employment allowance by at most 15% for a period of one month to 3 months;
c) disciplinary move for a period from one month to 3 months at a court or prosecutor’s office, located in the circumscription of the same court of appeal or in the circumscription of the same prosecutor’s office under this one;
d) exclusion from magistracy.

Please indicate the sources for answering questions 144 and 145

SCM Judicial Inspection

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.

20 620

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:

NA

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:

Only the legal counsellors may represent legal persons in court in extra-criminal cases or in criminal cases regarding the civil aspect

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:

Institutionally speaking, there are no specialised lawyers. There is not consecrated in the legislative plan a specialization of lawyers and nor the professional title of „specialized lawyer". Nevertheless, the specialization in some legal fields is determined by the level of continuous training certified by the Bar Association.

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

Comments for interpreting the data mentioned in this chapter:
Comment for question 150: 41 bar associations, at the level of the counties and of the Municipality of Bucharest, met in the National Union of Bar Associations of Romania.

Source of responses: UNBR (National Union of Bar Associations of Romania) - Source for the answer at question 146 are the lists of lawyers of each bar association.

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
- [x] No

155) Are lawyers' fees freely negotiated?

- [x] 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
- [x] No, neither laws nor bar association standards provide rules

F.2
Useful comments for interpreting the data mentioned in this chapter:

6. 3. Quality standards and disciplinary proceedings

6. 3. 1. Quality standards and disciplinary proceedings

157) Have quality standards been determited for lawyers?

- (•) Yes
- ( ) No

If yes, what are the quality criteria used?
There are no quality standards concretely established. But there are professional obligations of lawyers stipulated by Law no. 51/1995 and by the Statute of the profession of lawyer, whose non-accomplishment attracts disciplinary liability.

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

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

- [x] the bar association?
- [x] the Parliament?
- [ ] other?

If "other", please specify:

159) Is it possible to file a complaint about :

- [x] the performance of lawyers?
- [ ] the amount of fees?

Please specify:
The feed are directly negotiated between the lawyer and customer.

160) Which authority is responsible for disciplinary procedures?

- [ ] the judge
- [ ] the Ministry of justice
- [x] a professional authority
- [ ] other

If other, please specify:

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	NA	NA	NA	NA	NA

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	621	NA	621	NA	NA	NA

Comment :
Comment UNBR
At the level of the Union there are only data concerning the suspension from the exercise of the profession. The other data are hold by bar associations.

F.3
You can indicate below any useful comments for interpreting the data mentioned in this chapter
Comment UNBR
The pieces of information concerning the answers at the above questions are grounded on the provisions of Law no. 51/1995, of the Statute of the profession of Lawyer and on the statistical data supplied by bar associations.

7. Alternative Dispute Resolution

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

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

- (●) Yes
- ( ) No

If yes, please specify:

According to the provisions of Art. 68 of Law no. 192/2006 on mediation and organization of the profession of mediator „in the criminal cases mediations must take place in order to guarantee the right of each party at legal aid and, where applicable, at the services of an interpreter. The report drawn up according to this law, by which the mediation procedure is closed, must indicate whether the parties benefited of the assistance of a lawyer and of the services of an interpreter or, as the case may be, must mention that they expressly renounced at these services."
In the same way, in the case of minors, the guarantees stipulated by law for the development of the criminal trial must be also adequately ensured within the mediation procedure.
GEO 51/2008 – Art. 20:
If a person who meets the requirements in Art. 8 para. (1) or (2) is able to prove that, before the commencement of the proceedings, he has gone through the procedure of mediation of the dispute, he shall receive the amount that he paid as fee to the mediator. The same right shall belong also to any person who meets the requirements in Art. 8 para. (1) or (2), if they request mediation after the commencement of the proceedings, but before the first court hearing date. The amount that the party is entitled to receive is established by the court in an order pronounced according to Art. 15.
Art.16 par. (2): If the dispute for the processing of which public legal aid is being requested belongs to the category of disputes that may be subject to mediation or other alternative dispute resolution methods, the application for public legal aid may be dismissed if it is proven that the applicant for public legal aid refused, before the commencement of the trial, to engage in such a procedure.

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

661

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)	☑ Yes	258
1. civil cases	☑ Yes	39
2. family cases	☑ Yes	213
3. administrative cases	☑ Yes	6
4. employment dismissals cases	☑ Yes	0
5. criminal cases	☑ Yes	0

Comment :
Superior Council of Magistracy

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?	No

Comment :
The Romanian civil procedural legislation regulates, as alternative methods for the settlement of disputes, mediation, arbitration and conciliation.
Mediation represents, in the Romanian system, a modality of conflicts settlement on amiable way, with the help of a third specialised person in capacity of mediator, in conditions of neutrality, impartiality, confidentiality and having the free consent of the parties [Art. 1 par. (1) of Law no. 192/2006 on mediation and organization of the profession of mediator].
The parties, natural or legal persons, may have voluntarily recourse to mediation, inclusively after the beginning of a trial in front of the competent courts, convening to settle on this way any conflicts in civil matter, in criminal matter, as well as in other matters. The provisions of Law no. 192/2006 also apply in the conflicts of the consumers' protection field, if the consumer invokes the existence of a prejudice as a result of the acquisition of some defected products or services, of the non-observance of the contractual clauses or of the granted guarantees, of the existence of some abusive clauses in the contracts concluded between consumers and economic agents or of the infringing of other rights stipulated by the national legislation or of the EU legislation in the consumers' protection field. The natural or legal persons are entitled to settle the disputes through mediation outside as well as within the compulsory procedures for amiable settlement of the conflicts stipulated by law. There cannot make the object of mediation the strictly personal rights, like those concerning the statute of the person, as well as any other rights that the parties, according to law, cannot have by convention or by any other way admitted by law [Art. 2 par. (1)-(4) of Law no. 192/2006].
The judge has the duty to try, during the whole trial, the reconciliation of the parties, giving them the necessary instructions. To this effect, the judge shall solicit the personal presence of the parties, even if they are represented. In the disputes which, according to law, may make the object of the mediation procedure, the judge may invite the parties to participate at an information session about the advantages of using this procedure. When he considers necessary, taking into account the circumstances of the case, the judge shall recommend to the parties to have recourse to mediation, for the dispute settlement on amiable way, in any stage of the trial. Mediation is not compulsory for the parties. If, in the mentioned conditions, the parties reconcile, the judge shall ascertain their agreement in the content of the judgment that he will pronounce (Art. 131 par. 1 I and II theses, par. 2 and par. 3 I thesis of the Civil Procedure Code).
In the divorce disputes and the trials and applications between professionals ratable in money and derived from the contractual relations, if the judge recommends mediation, and the parties accept it, they shall go to the mediator, for their information about the advantages of mediation (Art. 6141 par. 2 I thesis and Art. 7207 par. 2 I thesis I of the Civil Procedure Code).

The arbitration procedure (arbitral convention, arbitrators, establishment of the arbitral court, notification of the arbitral court, arbitral procedure, arbitral judgment and its dissolution, enforcement of the arbitral judgment, international arbitration, recognition and enforcement of foreign arbitral judgments) is governed by the provisions of Art. 340-3703 of the Civil Procedure Code.
According to the Romanian civil procedural law, there may be the object of arbitration the patrimonial disputes, except those concerning rights upon which law does not allow to make transaction (Art. 340 of the Civil Procedure Code).

The Romanian Civil Procedure Code (Art. 7201-72010) stipulates the parties' duty to try the settlement of trials and applications between professionals ratable in money and derived from contractual relations by mediation or direct conciliation (Art. 7201 par. 1 of the Civil Procedure Code). The initiative of the convocation for the conciliation belongs to the plaintiff, and the result of conciliation is registered in a document which shall indicate the mutual claims referring at the

object of the dispute and the opinion of each party. The document concerning the result of conciliation is attached at the application for suing at law (Art. 7201 par. 2, 4 and 5 of the Civil Procedure Code).

In the matter of labour law, the collective labour conflicts may be settled by alternative means for the disputes settlement: conciliation, mediation and arbitration (Art. 166-180 of the Law of social dialogue no. 62/2011).

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

☐ In the Romanian judicial system mediation was conceived as a modality to settle conflicts, alternative to the trial in court. Certainly, mediation is not the only alternative modality for the settlement of conflicts. Traditionally, in this category are also included, next to mediation, arbitration and conciliation. In the Romanian legislation, mediation is a young institution, being regulated by Law no. 192/2006 on mediation and organization of the profession of mediator. According to Art. 1 of this regulatory act „Mediation represents a modality for the settlement of conflicts on amiable way, with the help of a third specialised person in the capacity of mediator, in conditions of neutrality, impartiality, confidentiality and having the free consent of the parties."
☐ By the provisions of Law nr. 202/2010 there have been promoted inclusively the advantages of mediation and dialogue between the parties in judicial disputes. According to the provisions of Art. 131 of the Civil Procedure Code, as amended by the provisions of Art. I. point 15 of the mentioned regulatory act „when he considers necessary, taking into account the circumstances of the case, the judge shall recommend to the parties to have recourse to mediation for the settlement of the dispute on amiable way, in any stage of the judgment." If having recourse to mediation the parties reconcile, the judge shall register the agreement in the content of the judgment that he will pronounce. In the same way, according to the provisions of Art. 6141 of the Civil Procedure Code, as amended by Law no. 202/2010 „in front of the court, it shall insist for the settlement of the divorce by the parties' reconciliation".

☐ As for the trials and applications in which the parties in the conflict are professionals, relevant are the provisions of Art. I. point 42 of Law no. 202/2010, according to which „in the trials and applications in commercial matter ratable in money, before the introduction of the application for suing at law, the plaintiff shall try to settle the dispute rather by mediation, either by direct conciliation."
☐ Also by Law no. 202/2010 there has been amended the Criminal Procedure Code, between the cases in which the putting into movement or the exercise of the criminal action is hindered being expressly regulated and that in which the parties reconciled or there has been concluded a mediation agreement in the legal conditions, in the case of the offences for which the withdrawal of the complaint or the reconciliation of the parties removes the criminal responsibility. At the same time, according to the provisions of Art. 161 of the Criminal Procedure Code, as completed by law of small reform „during the criminal trial, regarding the civil claims, the defendant, civil party and the party responsible in civil law may conclude a mediation transaction or agreement, according to law".

☐ Also, the new Procedure Code contain similar provisions. Thus, the new Civil Procedure Code stipulates the obligation of the court to recommend to the parties the settlement of the conflict through mediation. According to the provisions of Art. 21 par. (1) of the mentioned regulatory document „the judge shall recommend to the parties the amiable settlement of the dispute through mediation, according to the special law".
☐ The new Criminal Procedure Code, in order to develop with celerity the criminal trial, regulates the possibility to renounce at the civil claims, of the recognition by the defendant of the civil party claims, as well as of the conclusion of a mediation transaction or agreement.

Please indicate the source for answering question 166:

Mediation Council – there have been included at the number of authorised mediators only the mediators who were fiscally registered at the end of 2010.

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

504

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

- [ ] judges?
- [x] 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:

Bailiffs are invested to accomplish a service of public interest.
The act accomplished by the bailiff, within the limits of the legal competences, bearing the stamp and signature of this one, as well as the registration number and date, is an act of public authority and has the evidential power stipulated by law.
According to Art. 7 of Law no. 188/2000 on bailiffs, republished, „The bailiff has the following attributions:
a) putting in to execution the provisions with civil character of the enforceable title;
b) notifying the judicial and extrajudicial documents;
c) service of the procedural documents;
d) recovery on amiable way of any claim;
e) applying the precautionary measures ordered by court;
f) finding some states of fact in the conditions stipulated by the Civil Procedure Code;
g) drawing up the finding reports, in the case of the real offer followed by the registration of the amount by the debtor, according to the provisions of the Civil Procedure Code;
h) drawing up, according to law, the protest for the non-payment of the bills, promissory notes and cheques, as the case may be;
i) any other acts or operations given by the law in his competence."

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?

- [x] 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?

- [x] 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:

Ministry of Justice
Question no. 170 – Order of the minister of justice no. 634/C/01.03.2010 on the bringing up to fate of the number of bailiffs for 2010.

Question no. 172: Law no. 188/2000 on bailiffs, Order of the minister of justice no. 210/2001 for the approval of the Regulation for the implementation of Law no. 188/2000 on bailiffs

At question no. 176 we state that the bailiffs' fees are stipulated in Law no. 188/2000 on bailiffs and Order of the minister of justice no. 2550/C/2006 on the approval of the minimal and maximal fees for the services performed by bailiffs.

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 acts of bailiffs are submitted, according to law, to the control of the competent courts.
The professional control is exercised by the Ministry of Justice, through general speciality inspectors, and by the National Union of Bailiffs, through his managing counsellor. The professional control mainly concerns the observance of the law in the professional activity of bailiffs, the correct keeping of registers, the keeping of archive, the quality of the acts and works performed by bailiffs and the bailiff's behaviour in the accomplishment of his attributions, in relation to the public authorities, as well as to the natural and legal persons.

179) Have quality standards been determined for enforcement agents?

◉ Yes
○ No

If yes, what are the quality criteria used?

The Civil Procedure Code (enforcement procedure).
Law no. 188/2000 on bailiffs.
Order of the minister of justice no. 210/2001 for the approval of the Regulation for putting into application Law no. 188/2000 on bailiffs.
Statute of the National Union of Bailiffs.
Order of the minister of justice no. 2550/C/2006 on the approval of the minimal and maximal fees for the services performed by bailiffs.

180) If yes, who is responsible for establishing these quality standards?

- [x] a professional body
- [ ] the judge
- [x] the Ministry of Justice
- [x] other

If "other", please specify:

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

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

The Romanian law consecrates a special regulation in the matter of the execution of the payment obligations established in the charge of public institutions through judgments and other enforceable titles (Government Ordinance nr. 22/2002 on the execution of the payment obligations of public institutions, established through enforceable titles).
The claims established through enforceable titles in the charge of the public institutions and authorities are acquitted of the amounts approved with this destination by their budgets or, where applicable, from the titles of expenses at which the respective payment obligation is classified. The claims established through enforceable titles in the charge of the public institutions and authorities cannot be acquitted from the amounts destined according to the budget approved for covering the expenses for organization and functioning, inclusively those for staff, for the accomplishment of the legal attributions and objectives, for which they have been created (Art. 1 of the Government Ordinance no. 22/2002).
If the execution of the claim established by enforceable titles does no begin or continue because of the lack of funds, the debtor institution is obliged, within 6 months, to make the approaches necessary for accomplishing its payment obligation (Art. 2 I thesis of the Government Ordinance no. 22/2002). If public institutions do not accomplish their payment obligation within the time-limit stipulated by Art. 2 of the mentioned ordinance, the creditor shall be able to solicit the enforcement according to the Civil Procedure Code and/or according to other legal provisions applicable in the field (Art. 3 of the Government Ordinance no. 22/2002).
The main budgetary authorising officers have the obligation to order all the necessary measures, inclusively transfers of budgetary credits, in the legal conditions, foe ensuring in their own budgets and in the budgets of the subordinated institutions of the budgetary credits necessary for the performance of the payment of the amounts established by enforceable titles [Art. 4 par. (1) of the Government Ordinance no. 22/2002].
The creditor and debtor may convene another time-limit than the one of 6 months mentioned above, as well as other conditions for the accomplishment of any obligations established by enforceable title (Art. 5 of the Government Ordinance no. 22/2002).
If, for grounded reasons regarding accomplishment of the attributions stipulated by law, the debtor institution cannot accomplish its payment obligation, this one will be able to solicit to the competent court the grant of a grace period or/and the establishment of some payment time-limits by instalments of that obligation. The court, at the request of the debtor institution, when appropriate, shall be able to suspend the beginning or the continuation of enforcement until the settlement by definitive and irrevocable decision of the application regarding the grant of the payment time-limit/time-limits of the owed amount [Art. 6 par. (1) and par. (4) I thesis of the Government Ordinance no. 22/2002].

182) Is there a system for monitoring the execution?

- ( ) Yes
- (•) No

If yes, please specify

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?
- [x] excessive length?
- [x] 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:
GO no. 22/2002 on the execution of the payment obligations of public institutions, established through enforceable title – see the answer at question 181.

185) Is there a system measuring the timeframes of the enforcement procedures:

- [x] 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
- [x] 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)	[x] number:	9
1. for breach of professional ethics		NAP
2. for professional inadequacy		NAP
3. for criminal offence		NAP
4. Other	[x] number:	9

Comment :
The reasons of the disciplinary actions were those mentioned at "Other", more exactly it is about – systematic delay and negligence in performing works" - Art. 47 let. e) of Law no. 188/2000.

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:	9
1. Reprimand	☑ number:	3
2. Suspension	☑ number:	1
3. Dismissal	☑ number:	0
4. Fine	☑ number:	3
5. Other	☑ number:	2

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

By Law no. 202/2010 regarding certain measures for accelerating the settlement of trials, by amending and completing some regulatory acts, here has been extended the territorial competence of bailiff from the level of the court of first instance to the level of the court of appeal.

Please indicate the source for answering the questions 186, 187 and 188:

The source of the answer to questions 187 and 188: Records of the Ministry of Justice

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:

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:
Information supplied by courts and MPF

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

Comment for question 190:

The gathering consists of exercising the actions whose purpose is to extinct the fiscal debts. The gathering of the fiscal debts is made according to a debt security or to an enforceable title, as applicable.
The debt security is the document by which, according to law, there is established and individualized the payment obligation concerning the fiscal debts, drawn up by the competent bodies or by other entitled persons according to law. Such titles may be: the prosecutor's ordinance, the conclusion or the operative part of the judgment of the legal court or a certified excerpt drawn up based on these documents in the case of the fines, judicial fees and other fiscal debts established, according to law, by the prosecutor or by the legal court.
To the extent to which the enforceable titles are transmitted for execution to the fiscal bodies, these may determine a rate of cashing depending on the result of the actions performed for the extinction of these debts.

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:

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

private professionals (without control from public authorities)?	☐ number	
private professionals under the authority (control) of public authorities?	☑ number	2 191
public agents?	☐ number	
other?	☐ 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:
The authentication of the signatures and seals, the authentication of the copies of the documents, giving of certain date to the documents, the certification of some facts, the authentication of the translator's signature, the reception in deposit of documents and writs, protest acts of the protest bills, cheques and other securities, the issue of duplicates of the notarial documents, the reconstitution of the original documents.

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:
COMMENT for question 196: The notarial documents are submitted to the judicial control, in the conditions of Art. 97 of Law no. 36/1995.
The activity of notaries public is submitted to the professional administrative control, in the conditions of Law no. 36/1995. The professional administrative control is exercised by the National Union of Notaries Public through its managing counsellor and has in view the organization of the Chambers of Notaries Public and of the offices of notaries public, the quality of the documents and works concluded by the notaries public.
The minister of justice may order the control of the activity of the notaries public through speciality general inspectors.

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

- By Law no. 202/2010 regarding certain measures for accelerating the settlement of trials, by amending and completing some regulatory acts, there has been extended the material competence of notary public. Thus, the following procedures have been introduced:
- the divorce procedure by the agreement of spouses when there are no minor children;
- the prior procedure for the verification of succession records;
- procedure of supra-legalisation of signature and seal of the notary public or of the apostil on the notarial documents at the Chamber of Notaries Public in whose circumscription the notary public carries on his activity.

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:

30 328

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:

Ministry of Justice

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)

4 587

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 activity of judicial technical expertise is carried on according to the provisions of the Government Ordinance no. 2/2000 on the organization of the activity of judicial and extrajudicial technical expertise, approved by Law no. 156/2002, as subsequently amended and completed, as well as according the provisions of the Civil Procedure Code, respectively the Criminal Procedure Code.
According to the provisions of Art. 17 of G.O. no. 2/2000, „the body entitled to order the performance of the judicial expertise appoints the expert, indicated in written, by conclusion or by ordinance, the object of the expertise and the questions at which this one must answer, establishes the date for the submission of the expertise report, establishes the provisional fee, the advance for the travel expenses, where applicable, and communicates to the local office for judicial technical expertise the name of the person appointed to perform the expertise".

207) Are the courts responsible for selecting judicial experts?

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 :
The quality of judicial technical expert is acquired based on exam/interview, organized by the Ministry of Justice, in the conditions of the G.O. no. 2/2000. The person acquiring this capacity is registered in the nominal table containing the judicial technical experts, drawn up on specialities and counties, by the Central Office for Judicial Technical Expertise within the Ministry of Justice. The local offices for judicial technical and accounting expertises within law courts communicate to the courts, to the criminal prosecution bodies and to other bodies with jurisdiction attributions the list of the experts and specialists who may perform judicial expertises. From the above mentioned list, the courts appoint at the request of the

parties or ex officio, one or three experts. If the parties do not agree upon the appointment of experts, they shall be appointed by court, by drawing lots, in public session, from the list drawn up and communicated by the local office of expertise.

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 – IT program „Judicial technical experts", where are registered all the judicial technical experts and specialists.

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

1. (Comprehensive) reform plans
Progress made in 2011 with respect to the implementation of the new codes includes the following:
- The entry into force of the new Civil Code was one of the main objectives of the Ministry of Justice during 2011. Law 71/2011 for the implementation of Law 287/2009 regarding the Civil Code, as well as special primary and secondary regulations were adopted in view of the entry into force of the new Civil Code on October 1st 2011.
- Following the adoption of the new four codes, we continued the process of legislative reform in civil and criminal matters by beginning to prepare the judicial system for the implementation, in stages, of the codes – the new Civil Code, which, is already in force, as well as for the new Civil Procedure Code, Criminal Code and Criminal Procedure Code.
- The revision of the Romanian legal framework in civil and criminal matters was completed mainly by drafting the laws for the implementation of the civil and criminal procedure codes, as well as by drafting other legislative acts such as, the Draft Law on enforcement of punishments and measures involving deprivation of liberty, the Draft Law on enforcement of punishments, educational measures and measures not involving deprivation of liberty imposed by judicial bodies during criminal proceedings, the Draft Law on the setting up and functioning of the probation system.
- Carrying out the studies for the implementation of the new four codes.

***
A short presentation of the new Civil Procedure Code and the new Criminal Procedure Code
The new Civil Procedure Code (adopted by Law no. 134/2010), by which there are brought substantial legislative changes in the matter of civil procedural law.
The new Civil Procedure Code constitutes the expression of an intensive effort made during several years in view of creating in the civil matter a modern legislative framework which shall completely answer to the imperatives of the modern justice functioning, adapted at the social expectances, as well as at the increase of quality of this public service, representing a turning point in the reform of the institutions of law and justice of Romania.
The provisions of the new Civil Procedure Code aim at ensuring the access of court users to more simple and accessible procedural means and forms and at accelerating the procedure, inclusively in the enforcement phase. Equally, the project of the new Civil Procedure Code aims at the highlighting, first of all, the preventive dimension of its rules, also answering at the exigencies of predictability of the judicial procedures resulted from the European Convention for the protection of human rights and fundamental freedoms and, implicitly, from those decided in the case-law of the European Court of Human Rights. Rigorously aiming at ensuring the premises for the correct settlement of cases in substance, within the national justice system, the new code has in view the elimination of the deficiencies which led, in several cases, o judgements of the European Court of Human Rights for the conviction of Romania, both for mainly wronged judicial solutions and for prejudices causes by the excessive duration of the procedures or for the lack of predictability resulted from the inconsistency of the national jurisprudence.
We enumerate the guidelines of the legislative solutions promoted by the new Civil Procedure Code:
- regulation of the fundamental principles governing the civil trial;
- putting back of the material competence;
- optimisation of the procedure for the summoning and service of the procedural documents;
- re-systematization of the civil trial stages (written stage; trial research; trial debate in substance). The new Civil Procedure Code expressly consecrates the duty of the judge to estimate the duration of the trial research. The judge, taking into account the concrete circumstances of the case, at the first trial time-limit and after the parties hearing, shall estimate the duration necessary for the trial research, so that this is settled within a reasonable time-limit. The duration thus estimated shall be reconsidered during the procedure, for grounded reasons and also with the parties hearing. In order to ensure celerity to the settlement of cases, the court has the duty to fix short procedural time-limits, even from one day to another. To the same effect, as well as for guaranteeing the right to a fair trial, the new Civil Procedure Code institutes a special procedure – contestation by the delay of the trial –, having a non-contentious and incidental character. According to the new procedure, the party who considers that the settlement of the case is delayed, by not observing the mentioned right, may require the court to take the legal measures for the removal of this situation;
- rethinking the remedies regime (the appeal shall represent the only ordinary remedy with devolutive effect; the

appeal shall have as exclusive purpose the examination of the conformity of the attacked judgment to the applicable rules of law);
- reforming the mechanisms foe ensuring a unitary judicial practice (the appeal in the interest of law; initiation of proceedings before the High Court of Justice and Cassation for the pronunciation of a prior judgment for the resolution of some legal problems);
- reforming the enforcement matter (the purpose of the new civil procedural regulation in the enforcement matter consists in the immediate and effective execution of the enforceable titles obtained within the trial or, as the case may be, recognised as such by law, in the conditions of the strict observance of the procedural rights of the parties, of the creditor and debtor, as well as of any interested person);
- reform and substantial re-systematization of the special procedures matter.

New Criminal Procedure Code
The new Criminal Procedure Code has as essential purpose the creation of a modern legislative framework in the criminal procedural matter, completely answering at the imperatives of the modern justice functioning, adapted at the social expectancies, as well as at the need and quality of this public service.
The provisions of the new Criminal Procedure Code aim at answering to certain current requirements, and at accelerating the duration of the criminal procedures, at simplifying them and at creating a unitary jurisprudence, in agreement with the case-law of the European Court of Human Rights.
Equally, the project aims at answering the predictability exigencies of the judicial procedures resulted from the European Convention for the protection of human rights and fundamental freedoms and, implicitly, from those decided in the case-law of the European Court of Human Rights.

The objectives followed by the project of the new Criminal Procedure Code are:
1. creating a legislative framework in which the criminal trial could be mire rapid and more efficient, therefore, much more cheaper;
2. protecting human rights and freedoms guaranteed by the Constitution and by the international legal instruments;
3. conceptually harmonizing with the provisions of the new Criminal Code, a special attention being paid to the new definition of the fact which is offence;
4. adequately regulating the international obligations assumed by our country concerning the regulatory acts in the field of the criminal procedural law;
5. establishing an adequate balance between the requirements for an efficient criminal procedure, protecting the elementary procedural rights, but also the fundamentals human rights for the participants at the criminal trial and observing the principles regarding the equal realization of the criminal trial.
The new Criminal Procedure Code brings a substantial diminution of the prosecutor’s competencies regarding the cases in which this one performs the criminal prosecution, in favour of the increase of the criminal investigation bodies’ competencies. These provisions shall lead to the diminution of the prosecutors’ workflow and to the optimisation of the criminal prosecution.

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5. Legal professionals (judges, public prosecutors, lawyers, notaries, enforcement agents, etc.): organisation, education, etc.
- The adoption of the new regulations on the disciplinary liability of
the magistrates, as well as on the procedure for appointing magistrates at the High Court for Cassation and Justice in 2011, in view of ensuring a coherent and transparent legal framework for the activity of judges and prosecutors.
- The draft law approved by the Government and forwarded to the
Parliament in October 2011 by the Ministry of Justice concerning the statute of the speciality staff within the legal courts and prosecutor’s offices under these ones – see comment at the question 53 (3.2)