EUROPEAN COMMISSION FOR THE EFFICIENCY OF JUSTICE
(CEPEJ)

SCHEME FOR EVALUATING JUDICIAL SYSTEMS 2013

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 2013)

21 305 097

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 or federal level	33 329 365 079
Regional / federal entity level (total for all regions / federal entities)	12 783 673 469

3) Per capita GDP (in €)

6 200

4) Average gross annual salary (in €)

5 556

5) Exchange rate of national currency (non-Euro zone) to € on 1 January 2013

4.4153

A1. 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 –The population established on 1 January 2013 by the method of components using sources of administrative data for the external migration. These sources do not cover the entire migration phenomenon, especially at the level of emigration. As such, there is a severe under-evaluation of the population of Romania. The presented data have a temporary character, the number of population following to be recalculated in the next period, taking into account the final results of the Census of Population and Dwellings 2011, for the time series until the previous census.
2. Data source –Ministry of Public Finances (the supplied data have been calculated according to the European System of Accounts ESA 95 and have been transmitted to EUROSTAT)
3. National Institute of Statistics.
4. National Institute of Statistics. Data source – Inquiry of labor cost in 2012
5. National Institute of Statistics.

1. 1. 2. Budgetary data concerning judicial system

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	324 611 610
1. Annual public budget allocated to (gross) salaries	☑ Yes	186 052 154
2. Annual public budget allocated to computerisation (equipment, investments, maintenance)	☑ Yes	682 766
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	115 873
4. Annual public budget allocated to court buildings (maintenance, operating costs)	☑ Yes	34 669 478
5. Annual public budget allocated to investments in new (court) buildings	☑ Yes	11 567 120

6. Annual public budget allocated to training and education	☑ Yes	3 554 195
7. Other (please specify):	☑ Yes	87 970 023

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:

[Mail from the NC sent on 24 April 2014: The category "other" includes: other salary expenses (for example temporary transfer in the employer's interest and secondment pays, contributions owed by the employer, other rights which judges and ancillary staff are entitled to (reimbursement of the sums paid for medicines, transportation, rent); travel expenses, fuel and lubricants expenses, periodical medical checks, labor protection; the amounts (allocated in 2012) 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).]

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:

In the other matters except the criminal matters, the principle is the payment of judicial stamp duty. Nevertheless, there are several categories of procedures exempted from the payment of the fee.

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.

8.1) Please briefly present the methodology of calculation of courts fees?

For the applications that can be valued in money, the duties shall be fixed as a percentage; the percentage differs, gradually diminishing as the amount increases.
Article 2 (1) of Law no. 146/1997 on judicial stamp duties:
(1) The proceedings and applications that can be valued in money, introduced in courts, shall be charged as follows:
a) up to 50 lei/11.34 eur - 6 lei/1.36;
b) between 51 lei/11.56 eur and 500 lei/113.38 eur- 6 lei/1.36 eur + 10% for what exceeds 50 lei/11.34 eur;
c) between 501 lei/113.61 eur and 5.000 lei/1133.79 eur - 51 lei/11.56 eur + 8% for what exceeds 500 lei/113.38 eur;
d) between 5.001 lei/1134.01 eur and 25.000 lei/5668.93 eur - 411 lei/93.20 eur + 6% for what exceeds 5.000 lei/1133.79 eur;
e) between 25.001 lei/5669.16 eur and 50.000 lei/11337.87 eur - 1.611 lei/365.31 eur + 4% for what exceeds 25.000 lei/5668.93 eur;
f) between 50.001 lei/11338.10 eur and 250.000 lei/56689.34 eur - 2.611 lei/592.06 eur + 2% for what exceeds 50.000 lei/11337.87 eur;
g) over 250.000 lei/56689.34 eur - 6.611 lei/ 1499.09 eur + 1% for what exceeds 250.000 lei/ 56689.34 eur.

8.2) Please indicate, if possible, the amount of court fees to commence an action for 3000€ debt recovery?

Article (1) (d) of Law no. 146/1997 « The proceedings and applications that may be valued in money, introduced in courts, shall be fixed as follows: between 5001 lei and 25000 lei – 411 lei +6% for what exceeds 5000 lei
SO « : 3000 € * (4,41lei/eur) = 13230 lei

The duty of 411 lei+6% of 8230 lei (494 lei)= 905 lei, respectively 205 €.

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

54 301 587

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. (Question modified)

If your system enables to be granted legal aid for cases which are non litigious or not brought to court, please specify:

	Amount (in €)
Total annual approved public budget allocated to legal aid (12.1 + 12.2)	7958050
12.1 Annual public budget allocated to legal aid for cases brought to court	7958050
12.1.1 in criminal law cases	7251927
12.1.2 in other than criminal law cases	706123
12.2 Annual public budget allocated to legal aid for non litigious cases or cases not brought to court (legal consultation, ADR, etc)	NA

Comment :

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 148 321 292

Comment :

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 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
High Judicial Council	Yes	No	No	No
Courts	Yes	No	Yes	Yes
Inspection body	No	No	No	Yes
Other	No	No	No	No

14.1) 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

mail CN 11/2/14: concerning annual public budget allocated to training and education :" The provided data for 2012 are correct. 2010 was a year of deep economic crisis in Romania, when salaries and expenses have been cut. Since, the budget and the GDP have increased."

General comments:
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 authorizing 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 cofinancing, 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.

Comment for the question 6:
Retrospective 2008-2010: 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.

2012: The annual budget allocated to courts in 2012 knows a decrease compared to the budget allocated in 2010 because of the legislative amendments referring to the wage rights paid to the staff in the budgetary sector in the period 2010 – 2012, as follows:
- the budget approved for 2010 at Title I „Personnel expenditure" contains the funds for the payment of the 34% of judgments, in the amount of about 31483900 EUR;
- the budget approved for 2012 at Title I „Personnel expenditure" contains the funds for the payment of 5% of judgments, according to the Government Emergency Ordinance no. 71/2009, in the amount of about 19105442 EUR;
- according to the provisions of Law no. 285/2010 concerning the remuneration in 2011 of the staff paid from public funds, in 2011 no bonuses, no holiday premiums, no overtime, no aid have been granted, measures that were also kept in 2012 according to the provisions of Law no. 283/2011 approving Government Emergency Ordinance no. 80/2010 to complete Article 11 from the Government Emergency Ordinance no. 37/2008 regarding certain financial measures in the budget.
** There is an increase in the budget allocated to salaries in 2012 compared to 2010, because:
- from June 2010, according to Law no. 118/2010, the salaries in the budgetary sector have been reduced by 25% (six months);
- from January 2011, according to Law no. 285/2010, the budgetary salaries have been increased by 15%;

- by the Government Emergency Ordinance no. 19/2012 on the approval of some measures for recovery of salary cuts, the salaries gave been increased by 8% from June 2012 compared to May 2012 and by 7,4% from December 2012;
- according to the Memorandum „Preparation of the judiciary for the entry into force of the new Code. Assessment of the current situation. Action plan", approved by the Government in the session of 26 September 2012, funds have been allocated in 2012 for financing a number of 564 positions at the level of the courts of appeal, law courts and courts of first instance (283 positions of judge and 281 positions of specialized auxiliary staff.
According to the Memorandum there have been also allocated funds to courts for purchasing furniture for the new personnel – about – 113.379 EUR, IT equipment – 407937 EUR, as well as for redevelopment works necessary for creating council chambers and offices within courts - 285.034 EUR at the courts of appeal and law courts identified by significant disturbances in courts activity according to the „Study on the operation of the judiciary for the entry into force of the New Code of civil procedure" approved by the Superior Council of Magistracy.

Comment for question 9:

Due to the legislative amendments intervened in Law no. 146/1997 on judicial stamp duties, respectively Law no. 76/2009 for approving G.E.O. no. 75/2008 on setting up some measures for the settlement of certain financial aspects in the judicial system, in 2012 the incomes realized through stamp duties were incomes at the local budgets.

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

Ministry of Public Finances and Ministry of Justice; Law no. 293/2011 on the State budget for 2012; Government Ordinance no. 13 of 23 August 2012 on the adjustment of the State budget for 2012; Government Emergency Ordinance no. 61 of 27 October 2012 on the adjustment of the State budget for 2012; Law no. 500/2002 on public finances, as subsequently amended and completed; Law no. 69/2010 on the fiscal-budgetary responsibility

1. 1. 3. Budgetary data concerning the whole justice system

15) The following data would be useful for information

15.1) (Former question 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 718812448

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

Court (see question 6)	Yes
Legal aid (see question 12)	Yes
Public prosecution services (see question 13)	Yes
Prison system	Yes
Probation services	Yes
Council of the judiciary	Yes
Constitutional court	No
Judicial management body	NAP
State advocacy	NAP
Enforcement services	No
Notariat	No
Forensic services	Yes
Judicial protection of juveniles	No
Functioning of the Ministry of Justice	Yes
Refugees and asylum seekers services	No
Other	Yes

Comment :
Other institutions coordinated by the Ministry of Justice: the National Trade Register, the National Authority for Citizenship.

2. Access to justice

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:

According to the Article 6 letter d) of Government Emergency Ordinance no. 51/2008, legal aid can be also granted as waivers, discounts, time schedules or delays at the payment of the stamp duties stipulated by law, inclusively of those owed in the enforcement phase.

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:

According to the definition at question 17, for the enforcement phase, legal aid may be granted as facilities at the payment of judicial duties, but, according to Article 6 letter c) of GEO no. 51/2008, it can also be the payment of the bailiff's fee.

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 :

According to the Article 6 letter b) GEO no. 51/2008, public aid may be also the payment of the expert, translator or interpreter used during the trial, with the consent of the court or of the jurisdictional authority, if this payment is the obligation of the one requiring judicial public aid, according to law.

20) Number of cases referred to the court for which legal aid has been granted. If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP.

Please specify in the "comment" box below, when appropriate.

[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	41767
in criminal cases	39734
other than criminal cases	2033

Comment :

Data is available only for the Courts of Appeal and Tribunals. The database Ecris was not functional for the first instance courts and for the High Court in 2012.

20.1) Number of cases not brought to court (see 12.2 above) for which legal aid has been granted. If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP.

Number of 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 :
According to the Article 173 (3) of the Criminal Procedure Code, when the judicial authority appreciates that for certain reasons the wounded party, the civil party or the party responsible in civil law could no defend himself/herself, orders ex officio or on request to take the measures for the appointment of a lawyer.

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

- [ ] Yes
- [x] No

23) Does your country have an income and assets evaluation for granting legal aid to the applicant ? If you have such a system but no data available, please indicate NA. If you do not have such a system, please indicate NAP.

Please provide in the "comment" box below any information to explain the figures provided.

	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:

Article 16 GEO no. 51/2008:
(1) The public legal aid can be refused if solicited abusively, when its estimated cost is disproportionate compared to the value of the subject of the case, as well as when the grant of the public legal aid is not solicited for the defence of a legitimate interest or is solicited for an action contrary to public order or constitutional order.
(2) If the application for the settlement of which judicial public aid is required belongs to the category of those that can be submitted to mediation or to other alternative settlement procedures, the request for judicial public aid can be rejected if it is proved that the solicitor of the judicial public aid has previously refused before the trial to follow such a procedure.
(3) The judicial public aid can be refused when the solicitor claims damages for attacks upon his/her image, honour or reputation, if he/she has never suffered a pecuniary damage, as well as if the request results from the commercial activity or from an independent activity carried out by the solicitor.

25) In other than criminal cases, is the decision to grant or refuse legal aid taken by:

- [x] the court?
- [x] an authority external to the court?
- [ ] a mixed 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?

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

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

Useful information for question 27 (option: other than criminal cases)
Relevance of the solution in the process upon public legal aid
„Article 18 (GEO 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 questions 20 and 23:

Superior Council of Magistracy
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.just.ro; www.csm1909.ro; www.scj.ro; mpublic.ro
case-law of the higher court/s? Internet address(es):	☑ Yes	http://portal.just.ro/SitePages/acasa.aspx
other documents (e.g. downloadable forms, online registration)? Internet address(es):	☑ Yes	http://portal.just.ro/SitePages/acasa.aspx

Comment :

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

- ○ Yes
- ◉ No
- ○ Yes only in some specific situations

If yes only in some specific situations, please specify:

The former Civil Procedure Code (applicable in 2012) did not stipulate such an obligation. Neither the current Criminal Procedure Code.
The new Civil Procedure Code (NCPC), adopted by the Law 134/2010, which has entered into force on 15 February 2013, stipulates such an obligation. Thus, according to Article 238 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.
Also, in criminal matter, the new Criminal Procedure Code, adopted by Law 135/2010 which is to enter into force on 1 st February 2014, 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 60 days from the registration date of the case at the court. 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.
It is also to be mentioned that, in accordance with the provisions of Articles 209, 218 and 228 din of the New Criminal Procedure Code, the person placed under custody, preventive arrest or arrest at domicile shall be informed of the maximal duration of the respective measure.

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 no 211/2004 concerning the measures for ensuring the protection of victims contains regulations referring to the victims' information about their rights, as well as about the psychological counselling, 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 stipulates that public authorities with attributions in the field of the victims' protection, in cooperation with the NGOs, organize public information campaigns. The judges, when the prior complaint is addressed to the 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 Internal Affairs, with the support of the Ministry of Communications and Information Technology, must ensure the functioning of a telephone line permanently available for the information of the victims. Information on the victims' rights is also published on the web sites of the Ministry of Justice and of the Ministry of Internal Affairs.
Law no 217/2003 which was modified and republished in 2012 stipulates also the right of domestic violence victims to be informed regarding:
a) the institutions and the NGOs providing counselling or other forms of assistance and protection for victims, according to their needs;
b) the prosecuting authority to which they can address a complaint;
c) the right to legal aid and the institution in charge with this;
d) the conditions and the procedure for obtaining legal aid;
e) the procedural rights of the victim, of the injured party and of the civil party;
f) the conditions and the procedure for granting financial compensation by the state.
The same law provides that the local authorities can organize special centers for information and awareness which can provide information and education, social assistance and a telephone helpline for information and advice.
The Law no 678 /2001 on preventing and combating the human being trafficking provides also special information measures as public campaigns and information materials like TV spots, flyers, posters etc.

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 sexul violence/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, forced marriage, sexual mutilation)	Yes	Yes	Yes

Comment :
Special provisions in the Criminal procedure code generally applicable to all categories of crime victims or witnesses

The Criminal Procedure Code (CPP) contains several provisions which are procedural guarantees for the protection of all the victims who are a party in the criminal trial. For example, Article 77 ind.1 stipulates that, during the criminal prosecution or during the judgment, the injured party may be heard through some audio and video means. The injured party has also the right to ask for the hearing to be made in the presence of a probation counselor.
Article 290 paragraph (2) from CPP regulates a special judgment procedure and gives the possibility for the session not to be public when the session publicity could affect the morals, the dignity or the private life of a person.
Article 86 ind. 4 of the CPP stipulates that in the cases concerning the offences of violence between the members of the same families, the court may order for 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 injured party to give recorded audio or video statements, without being physically present at the hearing place (Article 77 ind.1).
The injured party has also the right to ask for giving the statements in the presence of a probation counselor.
As for the minor witness, this one may be heard until the age of 14 years only in the presence of one of the parents or of the tutor or person to whom he is entrusted.

The witness also may benefit of the protection of its identification data according to the provisions of Article 86 ind. 1 of the CPP or of special ways of hearing in the conditions of Article 86 ind. 2 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 is 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.

Special provision for domestic violence victims in the Criminal Code
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 injured 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.

Special provisions for domestic violence victims in the Law no 217/2003
Starting from 2012, the victims of domestic violence can request to a judge a protection order against the offender. The judge can impose one or more of the following obligations, measures or prohibitions:
a)temporary removal of the perpetrator from the family home whether it is the owner of the property;
b)reintegration of the victim and, where appropriate, of children, in the family home;
c)limitation for the perpetrator to use only a part of common house if it can be shared so that the abuser does not come into contact with the victim ;
d)order for the abuser to maintain a specified minimum distance to the victim, to his children or other relatives or to the domicile, work place or educational unit of the protected person;
e)prohibiting the abuser from entering into certain places or defined areas that the protected person visits regularly;
f)prohibit any contact, including telephone, mail or in any other way, with the victim;
g)order the abuser to give to the police the held weapons ;
h) the custody of minor children or the establishment of their residence.
According to the Law no 217/20013, the request for issuing a protection order is solved in an emergency procedure and in council chamber.

Special provisions in the Law no. 682/2002 on the witnesses' protection
For the victims of certain offences, who did not constitute party in the criminal trial, but they consent to be a 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 the 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.
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.

Special provisions in the Law no. 678/2001 on preventing and combating the human beings trafficking
There are special centers for sheltering the victims of the trafficking in human beings 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.

31.1) Is it possible for minors to be a party to a judicial proceedings :

- ○ Yes
- ◉ No

If yes, please specify which procedure can be concerned (civil, criminal, administrative/normal or accelerated procedure) and at which conditions (can children benefit from legal aid, be represented by a lawyer, etc.) :

According to the current legislation in Romania, minors cannot be parties directly and on their behalf in criminal procedures. They can be parties in a procedure through a legal representative like a parent a tutor or other family member.
Regarding the civil or administrative procedures, according to the new Civil Code, the court has the possibility to recognize the full legal capacity to a minor who has reached the age of 16. This recognition entitles the minor to represent him or herself in civil or administrative procedures.

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 committed with violence.

Law no 217/2003 stipulates that the victims of domestic violence can benefit of financial compensations.

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 illustrate with available data concerning 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:

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 that it can begin and it can be exercised ex officio, when the injured 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 injured 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 the trial, is obliged to support the civil interests of this one, even if the person did not constitute civil party.
According to the Law no 217/2003, the prosecutor can ask ex officio to the court for a protection order for a domestic violence victim.

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 decision by a judge".

- (●) Yes
- ( ) No
- ( ) NAP (the public prosecutor cannot decide to discontinue a case on his/her own. A decision by a judge 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. The person who made the complaint, the accused or the defendant and other interested persons (the victim) are informed about the prosecutor's decision. The Criminal Procedure Code gives the possibility to any person to make a complaint against a solution 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 278-278 ind. 1 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):

There is no mechanism for calculating the compensation. The courts take into consideration the national case law and the jurisprudence of the European Court of Human Rights in similar cases.
Even if the civil regulations of material and procedural law do not provide special mechanisms for the compensation of individuals in case of excessive duration of procedures and non-enforcement of judgments, there are norms guaranteeing the right to a fair trial and at case settlement within a reasonable time-limit. In such circumstances, there is a possibility to pay certain sums of money as fines or even as compensation.
In the case of the nonobservance 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 108 ind.1 and the following of the Civil Procedure Code applicable in 2012).
According to art. 108 ind. 3 (of the Civil Procedure Code applicable in 2012), the court may oblige the party that, intentionally or negligently caused the postponement of the trial proceedings or of the enforcement to also pay for the damage caused by the delay.
In the case of 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. 580 ind. 3 of the Civil Procedure Code in force in 2012.
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 (the Law 134/2010), entered into force on the 15th of February 2013), 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 522 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 regulations stipulated in the civil matter (the NCPC) 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.
llegal 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.
According to the provisions of the art. 504 of the Criminal Procedure Code, any person who suffered a wrongful condemnation or was, during a criminal trail, illegally deprived of his/her liberty is entitled to receive a compensation.
The compensation should cover both the material and moral prejudices caused to that person.
The amount of the compensation is to be determined by the court (the tribunal) in whose district the entitled person has its domicile.
The entitled person should introduce a civil action against the state (which is represented by the Ministry of Public Finances), action which is exempted of any judicial fees.

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)
- [x] (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).
- "Opinion and attitude survey (baseline) regarding the implementation of the judicial reform in Romania" prepared by Gallup Organization and submitted to SCM in February 2008
- "Survey of actual experiences with, and attitudes and perceptions about, implementation of Judicial Reforms in Romania" – (to be finalised in the first quarter of 2014).

39) If possible, please specify:

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

40) Is there a national or local procedure for making complaints about the functioning of the judicial system(for example the handling 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
Court concerned	No	No
Higher court	No	No
Ministry of Justice	Yes	No
High Council of the Judiciary	Yes	No
Other external bodies (e.g. Ombudsman)	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 to the functioning of the judicial system are in their great majority managed by the Superior Council of Magistracy, respectively, where applicable, to the special departments within the Ministry of Justice.
The general legal grounds 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 disciplinary matters, the Superior Council of Magistracy has the role of a disciplinary court. The Judicial Inspection carries out preliminary investigations and the disciplinary actions. Starting with May 2012, besides the Judicial Inspection, the Minister of Justice and president of the High Court may act as holders of the disciplinary actions for judges, respectively the

Minister of Justice and the Prosecutor General, for prosecutors, but, il all cases, the disciplinary investigation is carried out by the Judicial Inspection and the final decision is taken by the competent Section of the SCM.
In 2012, the Judicial Inspection acting within the Superior Council of Magistracy has registered 3795 complaints against judges from applicants complaining mostly on the nonobservance of procedural rules, the way the case was finalized or on the decision of the judges. Furthermore, the Judicial Inspection registered 1829 complaints against prosecutors having as main reasons the way the cases were investigated and closed, the delays in the investigations, the nonobservance of procedural rules and the attitude of the prosecutors.
During 2012, 35 disciplinary actions were carried out against judges and 10 disciplinary actions for prosecutors.
Furthermore, the Judicial Inspection has notified the Sections of the Superior Council of Magistracy in 26 cases (18 notifications of the Section for Judges, respectively in 8 notifications of the Section for prosecutors).
In 2012, the Section for Judges decided on the notifications and applied several disciplinary sanctions (3 dismissals from magistracy of judges, 2 diminishment of the revenue, 1 warning) and in 5 cases the action was rejected. The Section for Prosecutors also applied 3 warnings, 2 dismissals from magistracy.
As regards the deontological and ethical breechings, the Judicial Inspection notified the SCM in the cases of 2 judges.

41.1) Please indicate the number of complaints that are upheld and the amount of compensation given to users in 2012 for complaints about the functioning of the judicial system

Additional information regarding disciplinary referrals within the Ministry of Justice:

- the number of requests (petitions) received in 2012 at the Commission for disciplinary referrals within the Ministry of Justice: 258;
- the number of petitions filed:168;
- the number of petitions sent to the SCM for prior verifications: 250;
- among those sent to SCM, the number of petitions in which the disciplinary procedures was continued: 2;
- the number of cases in which disciplinary sanctions have been applied (in 2012) as a result of such petitions: 0.

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)	233
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)	244

43) Number (legal entities) of first instance specialised courts (or specific judicial order). If data is not available, please indicate NA.

If the situation is not applicable in your country, please indicate NAP.

	Number
Total (must be the same as the data given under question 42.2)	10
Commercial courts (excluded insolvency courts)	3
Insolvency courts	NAP
Labour courts	NAP
Family courts	1
Rent and tenancies courts	NAP
Enforcement of criminal sanctions courts	NAP
Fight against terrorism, organised crime and corruption	NAP
Internet related disputes	NAP
Administrative courts	NAP
Insurance and / or social welfare courts	NAP
Military courts	6
Other specialised 1st instance courts	NAP

Comment :
[Q42 first instance courts (general jurisdiction) : 233 - 176 judecatorii (first instance courts);42 tribunals; 15 courts of appeal]

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:

During 2013, the Superior Council of Magistracy, the Ministry of Justice and the Public Ministry, in a joint working group constituted for the streamlining of courts with low volume of activity have identified and analyzed 67 courts of first instance and their prosecutor's offices with average volume of activity of 3600 cases / year.
At the end of this analsysis, the above-mentioned joint working group proposed:
1. to abolish 30 courts of first istance/prosecutor's office and to reassignate their localities to other courts/prosecutor's offices;.
2. to maintain operational 25 courts/prosecutor's offices by increasing the territorial area;
3. to maintain operational 15 courts of first instance / prosecutor's offices with the current constituency;
This has to be subject of a law to be promoted by the Government and to be adopted by the Parliament. Thus the final decision on these proposals belongs to the Parliament, following the adoption of the normative acts on the reorganization of courts/their prosecutor's offices which made the object of the analysis.
The positions stipulated in the schemes of courts/prosecutor's offices will be redistributed by the couts with high volume of activity.

A specialised tribunal for professionals is being set up in Bucharest. This specialised court will have in its competence matters such as company law, competition law, insolvency law (see the answer at the question 208.3)

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
a debt collection for small claims	176
a dismissal	42
a robbery	218

Please give the definition for small claims and indicate the monetary value of a small claim:
200.000 RON, equivalent of 45351,47 EUR

There is no other definition of small claims provided by the law, besides the monetary value of the claim.

The new Civil Procedure Code (entered into force on 15 th February 2013):
In the context of modernization of special procedures with a view to clarify contentious situations quickly and effectively, as a new legislative provision, the new Civil Procedure Code also contains the procedure on low value claims. This latter procedure had as a legislative model the provisions of the European Parliament and Council Regulation no. 861/2007 establishing a European Small Claims Procedure, issued in order to simplify and accelerate cross-border litigation on low value claims. Unlike Regulation. 861/2007, whose scope is limited to litigations reffering to claims with a value that does not exceed EUR 2,000, the proposed regulation applies to claims whose value does not exceed 10,000 lei.

Please indicate the sources for answering questions 42, 43 and 45:
The statistics unit of the Superior Council of Magistracy
Comment for question 42: 42.1- First instance courts of general jurisdiction (legal entities)- total 233 composed of: First Instance Courts - 176; Tribunals - 42 Court of appeal- 15

3. 1. 2. Judges, court staff

46) Number of professional judges sitting in courts (if possible on 31 December 2012) (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	NAP
Total number of professional judges (1 + 2 + 3)	4310	1187	3123	
1. Number of first instance professional judges	1998	619	1379	
2. Number of second instance (court of appeal) professional judges	2217	554	1663	
3. Number of supreme court professional judges	95	14	81	

Comment :
The data provided refer to 1. Judges from "judecătorii" (local courts); 2. Tribunals 3. Courts of Appeal. The statistics are valid as of 01.01.2013.
It has to be mentioned that, as valid in 2012 (the competence will change with the entry into force of the New Criminal Procedure Code, in February 2014), in the Romanian judicial system there were the following organization of courts (categories of courts):
- Courts of first instance, called "judecătorii", judging in first instance;
- Tribunals, which are generally courts of appeal on the merits (judge in appeal), but are also ruling in some cases in first instance and in second appeal (appeal on the law/"recurs");
- Courts of appeal, which are second appeal courts (appeal on the law /"recurs"), but are also ruling in some cases in first instance and in appeal on the merits;
- High Court of Cassation and Justice, unique and supreme court, mainly ruling 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 tribunals and courts of appeal.

The former Civil Procedure Code (applicable in 2012) – 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 (tribunals)– 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 at first instance by the courts of first instance;
- as courts of (second) appeal, judge the second appeals (recours) declared against the judgments pronounced by the courts of first instance which, according to the 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 at first instance by the law courts (tribunals)
- as courts of (second) appeal, the second appeal (recours) declared against the judgments pronounced by the law courts (tribunals) in appeal or against the judgments
pronounced at the first instance by law courts (tribunals) which, according to the 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.
- in any other cases expressly stipulated by law.

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	NAP
Total number of court presidents (1 + 2 + 3)	208	79	129	
1. Number of first instance court presidents	145	54	91	
2. Number of second instance (court of appeal) court presidents	62	25	37	
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 2012).

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 2012) (e.g. lay judges and "juges consulaires", but not arbitrators and persons sitting in a jury):

If such non-professional judges exists in your country, please specify it in the "comment" box below:

Gross figure	NAP

Comment :

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 2012) (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 (among which women)	9 283
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 (among which women)	5 489
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 (among which women)	1 486
4. Technical staff	☑ Yes (among which women)	1 762
5. Other non-judge staff	☑ Yes (among which women)	546

Comment :
5489 represents the number of clerks with judicial tasks; 1486 - the number of registering clerks, documentary clerks, statistician clerks, archivist clerks and public servants; 1762 - 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: 90
Judicial assistants: 175
Probation counselors:281

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 labour and social insurances litigations (the panel is composed of 1 judge and 2 judicial assistants, participate in deliberations with a consultative vote and sign the decisions.

The probation counsellors 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 counselling of offenders, with regard to the social, group and individual behavior;
- Initiate and carry out special programmes of protection, social and judicial assistance of minors and youngsters who committed offences

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

There is a draft law approved by the Government and trasmitted 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 specialty 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;
- Some 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

C1 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

For question no. 47: the statistics are valid as of 01.01.2013 and do not include the acting presidents. The data refer only to presidents of the courts appointed following an open competition. Moreover, the statics do not cover the positions of vice president and president of court' sections. For main reforms: please 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 2012) (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	NAP
Total number of prosecutors (1 + 2 + 3)	2 557	1 231	1 326	
1. Number of prosecutors at first instance level	1 217	602	615	
2. Number of prosecutors at second instance (court of appeal) level	797	352	445	
3. Number of prosecutors at supreme court level	543	277	266	

Comment :
According to the organization of the Public Ministry, the prosecutor's offices are established in the following hierarchy: the prosecutor's offices attached to the courts of law, prosecutor's offices attached to tribunals and prosecutor's offices attached to the courts of appeal and the Prosecutor's Office attached to the High Court of Cassation and Justice.
Consequently, in point 1 of the table there were mentioned the prosecutors from the prosecutor's offices attached to the courts of law, in point 2 of the table, the prosecutors from the prosecutor's offices attached to tribunals and from the prosecutor's offices attached to the courts of appeal and in point 3 of the table the prosecutors from the Prosecutor's Office attached to the High Court of Cassation and Justice.

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	NAP
Total number of heads of prosecution offices (1 + 2 + 3)	277	125	152	
1. Number of heads of prosecution offices at first instance level	162	73	89	
2. Number of heads of prosecution offices at second instance (court of appeal) level	113	51	62	
3. Number of heads of prosecution offices at supreme court level	2	1	1	

Comment :
[Mail from the NC sent on 17 April 2014: Akin to the previous exercise, the figures include also the deputy heads of prosecution offices of the Tribunals and Courts of Appeal.]

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

- ○ Yes
- ◉ No
- ○ NA

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

59.1) Do all prosecution offices have specially trained prosecutors in domestic violence and sexual violence etc.?

- ☑ Yes

60) Number of staff (non-public prosecutors) attached to the public prosecution service (if possible on 31 December 2012) (without the number of non-judge staff, see question 52) (in full-time equivalent and for permanent posts actually filled).

Number	☐ NA	3006
Among which women	☑ NA	

C2 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

The National Institute of Magistracy has, according to the law (Art. 36 of Law no. 303/2004 on the statute of judges and prosecutors), the responsibility for the continuous training of prosecutors. The annual continuous training programs for magistrates issued by the National Institute of Magistracy and approved by the Superior Council of Magistracy contain themes regarding the domestic violence and sexual violence.

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

The information for the answers in questions: 55, 56 and 60 were supplied by the Organization and Human Resources Office within the Prosecutor's Office attached to the High Court of Cassation and Justice.

3. 1. 4. Management of the court budget

61) Who is entrusted with responsibilities related to the budget within the court?

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

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

Comment :
The president of the court has such attributions, but he/she may delegate this competence to another person, who may be the economic manager.

External control is ensured by the Ministry of Justice, trough its Audit Unit, and by the Court of Audit.

3. 1. 5. Use of Technologies in courts

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 caselaw	+50% of courts
Electronic files	-10% of courts
E-mail	100% of courts
Internet connection	100% of courts

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

Case registration system	100% of courts
Court management information system	100% of courts
Financial information system	+50% 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 ?

Si "autres moyens de communication électronique", veuillez le préciser dans la boîte de commentaires ci-dessous.

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

Comment :

65) The use of videoconferencing in the courts (details on question 63).

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 or victims?	Yes
65.2 Can such court hearing be held in the police station and/or in the prison?	No
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?	Yes
65.4 Is videoconferencing used in other than criminal cases?	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 counselor 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.

Videoconferencing is also used in international judicial cooperation in criminal matters proceedings, in accordance with the provisions of Law no. 302/2004 on international judicial cooperation in criminal matters, republished, on the basis of the applicable international / EU legal instrument, such as the Convention on mutual legal assistance in criminal matters between the EU Member States and the Second Additional Protocol to the European Convention on mutual legal assistance in criminal matters.

The new Criminal Procedure Code (which will enter into force on 1 February 2014) 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. The SCM has also videoconferencing facilities.

C3 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

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 counselor 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 1 February 2014 - as established by the art. 104 of Law no.255/2013 on the implementation of the Law 135/2010), 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. The SCM has also videoconferencing facilities.

3. 2. Monitoring 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:

Statistics departments are functioning in the Superior Council of Magistracy, Ministry of Justice and Prosecutors' Office by the High Court of Cassation and Justice. 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 Unit within the Superior Council of Magistracy.

66.1) Does this institution publish statistics on the functioning of each court on the internet:

- [ ] Yes
- [x] No, only in an intranet website
- [ ] No

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, only in an intranet website

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:
The length of administrative procedures, the number of final convictions, legal aid, suspended cases etc.

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

If yes, 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, Higher Court)
- [ ] President of the 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)
- [ ] President of the court
- [ ] other

If other, please specify:

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

[Mail from the NC sent on 17 April 2014: There are no specific targets stricto sensu, but there are different instruments to ensure and monitor the efficiency of each court. Thus, the Superior Council of Magistracy uses several performance indicators, including the clearance rate, the number of cases solved within one year, number of cases older than one year, number of hearings for one case, number of judgments motivated beyond the legal deadline, the average duration of proceedings.]

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 ?

in civil law cases

in criminal law cases

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

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 Prosecutors' Office by the High Court of Cassation and Justice monitors the performance of the public prosecution service.
According to art. 133 paragraph 2 of Law no. 304/2004 on the Judiciary, the General Prosecutor from the Prosecutor's Office attached to the High Court of Cassation and Justice examines annually the volume of activity of prosecutor's offices.
Annually the Prosecutor's Office attached to the High Court of Cassation and Justice issues an activity report of the prosecutor's offices to be made public.
Also, according to art. 38 paragraph 6 of Law no. 317/2004, the Superior Council of Magistracy draws up an annual report on the state of justice (including the activity of the prosecutor's offices) to be submitted to the joint Chambers of the Parliament

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. Within the "Court Optimisation Project" financed by the World Bank, implemented from October 2011 to March 2013, the final recommendation included the introduction of Key Performance Indicators (KPIs), such as the clearance rate, the number of cases older than one year, the number of cases solved within 1 year, and the comparative measurement system. Comments for Q80: The stockpiles of cases are monitored for all those matters (all those files that remained unsolved at the end of the monitoring period and that remain to be solved in the next period), as well as the period of time since their registration, as intervals (0 – 6 months, 6 months – 1

year, more than 1 year): also, there is an evidence system for the terms in which the cases were solved (0 – 6 months, 6 months – 1 year, 1 – 2 years, more than 2 years).

4. Fair trial

4. 1. Principles

4. 1. 1. General principles

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

NA

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

- (•) Yes
- ( ) No

Number of successful challenges (in a year):

NA

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)	5+6	10/39	6	1
Civil proceedings - Article 6§1 (non-execution)	3+9	0	1	2
Criminal proceedings - Article 6§1 (duration)	10+4	11/19	6	1

Please indicate the sources:

The sources for the figures mentioned in the table:
- The Court's website, in particular the HUDOC search engine;
The internal statistics of the Office of the Agent for the Romanian Government.

D.1 You can indicate below any useful comments for interpreting the data mentioned in this chapter

- The figures under the column "Cases declared inadmissible by the Court" include also numbers related to cases rejected following the application of art. 37 par. 1 of the Convention. Thus, as far as civil proceedings are concerned, in 5 cases the complaint relating to the length of civil proceedings was rejected as inadmissible and in 6 cases the Court concluded on the applicability of art. 37 par. 1 let. a); as far as criminal cases are concerned, in 10 cases the complaint related to the length of criminal proceedings was rejected as inadmissible and in 4 cases the Court concluded on the applicability of art. 37 par. 1 let. a). Similarly, as far as non-execution cases are concerned, in 3 cases the complaint relating to non-enforcement was rejected as inadmissible and in 9 cases the Court concluded on the applicability of art. 37 par. 1 let. a) or b) or rejected the complaint following the abusive character of the applicant's conduct.
- The figures under the column "Friendly settlements" also refer to figures concerning the settlement of a case following a unilateral declaration forwarded by the Government and are separately highlighted.

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 former Civil Procedure Code (applicable in 2012) has contained 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 authorization 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. 281 ind. 1 par. 2 and Art. 281 ind. 2 par. 2 of the Civil 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 g criminal cases: the complaint in front of the judge against the prosecutor's resolutions or ordinance not to proceed to trial (Art. 278 ind. 1 CPP), provisional arrest (Art. 146 and the following of the CPP), provisional release (Art. 160 ind. 8 CPP), the settlement of the cases concerning flagrant offences (Art. 465 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. 91 ind. 2 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].

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 in 2012) 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 former 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 some 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 notification, the procedure of the payment order is also applicable for the realization of certain and eligible claims – irrespective of their quantum – which represents 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, abbreviated, 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 develops, 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. 320 ind. 1 Criminal Procedure Code in force 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. 320 ind. 1 CPP have been declared unconstitutional by the Decision of the Constitutional Court no. 1483 din 2011.
By the New Criminal Procedure Code (which will enter into force on 1 February 2014), 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 the law for the application of the New Criminal Procedure Code 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 behaviors 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. In the matter of remedies, the second appeal (recourse) shall be converted into the extraordinary remedy of the second appeal in cassation (recourse in cassation). The judgment of this extraordinary remedy shall be simplified by the introduction of the institution of the admission in principle.

88.1) For these simplified procedures, may judges deliver an oral judgement with a written order and dispense with a full reasoned judgement?

- [ ] Yes
- [x] No

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 (the former Civil Procedure Code applicable in 2012) consecrates a special procedure, optional – the research of the trial in the case the proofs are administered by lawyers (Art. 241 ind. 1- 241 ind. 22 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. 241 ind. 2 of the Civil Procedure Code). It has to be mentioned that this procedure was maintained by the new Civil Procedure Code -NCPC (the Law no.134/2010), which has entered into force on the 15th of February 2013), subject to the section concerning the administration of the proofs by the lawyers and the legal advisers (art. 366-388 NCPC).

Common law rules (the former Civil Procedure Code and the current 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, defenses 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. 86 ind.1 of the Civil Procedure Code).

The new Civil Procedure Code (the Law no. 134/2010, in force beginning with 15 th February 2013):
For increasing the efficiency of the judicial proceedings and for reducting the duration of the civil trial, the new Civil Procedure Code regulates the systematization of the civil trial stages (written stage; trial research; trial debate on the merits).
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 defense, of the answer to defense 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/on the merits 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 matters, at present, according to Art. 342 CPP, the court, when it appreciates 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 (which will enter into force on 1 February 2014), the procedure in preliminary room does not 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. Case flow management and timeframes of judicial proceedings

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

91) First instance courts: number of other than criminal and criminal law cases.
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 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 2012 + incoming cases) – resolved cases" should give the correct number of pending cases on 31 December 2012. Vertical consistency of data means that the sum of the individual case categories 1 to 7 should r

	Pending cases on 1 Jan. '12	Incoming cases	Resolved cases	Pending cases on 31 Dec. '12
Total of other than criminal law cases (1+2+3+4+5+6+7)*	700844	1841892	1758565	780893
1. Civil (and commercial) litigious cases (if feasible without administrative law cases, see category 6)*	566796	1106770	1091430	578043
2. General 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)*	4 234	23 380	24013	3601
3. Non litigious enforcement cases	40 578	479 214	460821	58971
4. Non litigious land registry cases**	1 454	2 099	2187	1366
5. Non litigious business registry cases**	4619	810	816	5428
6. Administrative law cases	83163	229619	179298	133484
7. Other cases (e.g. insolvency registry cases)	NA	NA	NA	NA

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

1. divorce by agreement 2. registration of an association or foundation 3. Registration of syndicates 4. requests on the non-litigant procedure according to the Code of civil procedure

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

94) 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 2012 + incoming cases) – resolved cases" should give the correct number of pending cases on 31 December 2012. 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. '12	Incoming cases	Resolved cases	Pending cases on 31 Dec. '12
Total of criminal cases (8+9)	35403	192489	190468	37424
8. Severe criminal cases	NA	NA	NA	NA
9. Misdemeanour and / or minor criminal cases	NA	NA	NA	NA

95) To differentiate between misdemeanour / minor offenses and serious offenses and ensure the consistency of the responses between different systems, the CEPEJ invites to classify as misdemeanour / minor all offenses for which it is not possible to pronounce a sentence of privation of liberty. Conversely, should be classified as severe offenses all offenses punishable by a deprivation of liberty (arrest and detention, imprisonment). If you cannot make such a distinction, please indicate the categories of cases reported in the category "serious offenses" and cases reported in the category "minor offenses":

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

96) Comments on questions 90 to 95 (specific situation in your country e.g. NA-answers and the calculation of the total number of other than criminal law cases, differences in horizontal consistency etc.)

97) Second instance courts: total number of cases
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.

	Pending cases on 1 Jan. '12	Incoming cases	Resolved cases	Pending cases on 31 Dec. '12
Total of other than criminal law cases (1+2+3+4+5+6+7)	12 635	18 934	19 855	11 714
1. Civil (and commercial) litigious cases (if feasible without administrative law cases, see category 6)*	12 149	17 833	18 777	11 205
2. General 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)*	20	55	52	23
3. Non litigious enforcement cases	34	210	168	76
4. Non litigious land registry cases	432	836	858	410
5. Non litigious business registry cases	NA	NA	NA	NA
6. Administrative law cases	NA	NA	NA	NA
7. Other cases (e.g. insolvency registry cases)	NA	NA	NA	NA

98) 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. '12	Incoming cases	Resolved cases	Pending cases on 31 Dec. '12
Total of criminal cases (8+9)	1525	2089	2145	1469
8. Severe criminal cases	NAP	NAP	NAP	NAP
9. Misdemeanour and/or minor criminal cases	NAP	NAP	NAP	NAP

Comment :
There is no classification of severe and less severe offences in the Romanian statistics.

[Mail from the NC sent on 17 April 2014: The decrease of the total of criminal cases in respect of all the enumerated categories (pending, incoming, resolved cases) is due to the entry into force of Law n° 202/2010, the so called "small reform law". Consequently, the legal remedy of appeal (appeal on the merit) has been abolished in several criminal matters, remaining only the "recurs" ("appeal on law").]

99) Highest instance courts: total number of cases
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.

	Pending cases on 1 Jan. '12	Incoming cases	Resolved cases	Pending cases on 31 Dec. '12
Total of other than criminal law cases (1+2+3+4+5+6+7)	123724	249556	231253	142027
1. Civil (and commercial) litigious cases (if feasible without administrative law cases, see category 6)	88114	169951	170341	87724
2. General 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)	245	817	795	267
3. Non litigious enforcement cases	7633	19372	18845	8160
4. Non litigious land registry cases**	288	847	831	304
5. Non litigious business registry cases	NA	NA	NA	NA
6. Administrative law cases	27444	58569	40441	45572
7. Other cases (e.g. insolvency registry cases)	NA	NA	NA	NA

99.1) At the level of the Higher court, is there a procedure of manifest inadmissibility?

- (●) Yes. If yes, please indicate the number of cases closed by this procedure?
- ( ) No

Number

100) 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. '12	Incoming cases	Resolved cases	Pending cases on 31 Dec. '12
Total of criminal cases (8+9)	11100	44410	45692	9818
8. Ssevere criminal cases	NAP	NAP	NAP	NAP
9. Misdemeanour and/or minor criminal cases	NAP	NAP	NAP	NAP

Comment :
There is no classification of severe and less severe offences in the Romanian statistics.

[Mail from the NC sent on 17 April 2014: The important increase of the total of criminal cases pending on 1 January 2012 is the consequence of the entry into force of Law n° 202/2010. It resulted in an increase of the number of "recurs".]

101) Number of litigious divorce cases, employment dismissal cases, insolvency, 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 January 2012	Incoming cases	Resolved cases	Pending cases on 31 December 2012
Litigious divorce cases	20926	42582	44261	19247
Employment dismissal cases	3041	3274	3581	2734
Insolvency	48643	57956	55825	50774
Robbery cases	640	1929	1961	608
Intentional homicide	349	925	667	607

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.]

	% 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	4%	0%	NA	NA	NA	NA
Employment dismissal cases	34%	0%	NA	NA	NA	NA
Insolvency	8%	3%	NA	NA	NA	NA
Robbery cases	0%	0%	NA	NA	NA	NA
Intentional homicide	59%	0%	NA	NA	NA	NA

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

Two alternative divorce procedures were introduced by the new Civil Code, which entered into force on October 1st, 2011: the administrative divorce, at the civil status service, and the divorce in front of the public notary. These alternatives are available in the situation of the divorce through mutual consent. They are already contributing to a quicker dispute resolution and to relieving the burden on courts.
Details:
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 until 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 of the competence of the civil status officer 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 of course the administrative procedure of the competence of the civil status officer); the family name the spouses will bear after divorce.

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

The length of proceedings is not calculated in an average number of days, but within intervals of time (e.g. between 0 – 6 months x cases, between 6 months – 1 year y cases...more than 3 years, z cases). In 2012, a new software was

implemented that can indicate the length in days for the cases at the Courts of Appeal. The 5 categories are cases in the competence of the Courts of Appeal. Starting with 2013 the average length of trials can be calculated for the Tribunals and starting with 2014 for the first instance courts.

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 request 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 the enforcement procedure
- [x] to discontinue a case without needing a decision by a judge (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.

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 former 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)].

106.1) Does the public prosecutor also have a role in insolvency cases?

- ○ Yes
- ◉ No

If yes, please specify:

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	1756001	548661	NAP	42364

107.1) Among cases charged by the public prosecutor before the courts, how many were brought to court under a guilty plea procedure or similar ?

	Before the court case:	During the court case:
If possible, please distinguish the number of guily plea procedure:	NA	NA

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)	548 661
1. Discontinued by the public prosecutor because the offender could not be identified	NA
2. Discontinued by the public prosecutor due to the lack of an established offence or a specific legal situation	406 329
3. Discontinued by the public prosecutor for reasons of opportunity	142 332

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

As reported in 2008 and in 2010, the first table (question no. 91) centralizes all the first instance cases (irrespective of the level of the courts), the second table (question no. 97) centralizes all the second instance cases – appeal (irrespective of the level of the court) and table no. 3 (question no. 99) shows the statistical data on all second appeal cases (last instance cases) from all courts (irrespective of their level).

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

Statistics of the Superior Council of Magistracy and of the Public Ministry.

5. Career of judges and public prosecutors

5. 1. Recruitment and promotion

5. 1. 1. Recruitment 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:

110.1) Are there specific provisions for facilitating gender equality within the framework of the procedure for recruiting judges?

- [ ] Yes
- [x] No

If "yes", 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:

The Superior Council of Magistracy through the institution under its coordination – National Institute 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 ?

112.1) Are there specific provisions for facilitating gender equality within the framework of the procedure for promoting judges?

- ( ) Yes
- (•) No

If "yes", please specify:

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

The judges are being promoted following a national exam or competition organised by the Superior Council of Magistracy. In order to participate to the exam/competition there should be met criteria of seniority, evaluation of the professional activity and no disciplinary breaches.
The exam/competition consists in several written examinations on theory and practice on the main domain of

specialisation of the magistrate, the case-law of the High Court of Cassation and Justice and Constitutional Court, the case-law of ECHR and CJEU and civil or criminal proceedings.

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

- (●) Yes
- ( ) No

If yes, please indicate the frequency

115) Is the status of prosecution services:

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

Please specify:

According to the Romanian Constitution, 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. Also, public prosecutors is independent in the solutions (article 64 from Law no. 304/2004 on judicial activity).

Details:
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?

☑ An authority composed of public prosecutors and non-public prosecutors?

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

The Superior Council of Magistracy through the institution under its coordination – National Institute of Magistracy

117.1) Are there specific provisions for facilitating gender equality within the framework of the procedure for recruiting prosecutors?

○ Yes

◉ No

If "yes", please specify:

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:

The prosecutors are being promoted following a national exam or competition organised by the Superior Council of Magistracy. In order to participate to the exam/competition there should be met criteria of seniority, evaluation of the professional activity and no disciplinary breaches.
The exam/competition consists in several written examinations on theory and practice on the main domain of specialisation of the magistrate, the case-law of the High Court of Cassation and Justice and Constitutional Court, the case-law of ECHR and CJEU and civil or criminal proceedings.

119.1) Are there specific provisions for facilitating gender equality within the framework of the procedure for promoting prosecutors?

○ Yes

◉ No

If "yes", please specify:

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)?

If yes, are there exceptions (e.g. dismissal as a disciplinary sanction)? Please specify in the "comment" box below

Yes. If yes, please indicate the compulsory retirement age	65
No	

Comment :
1. Dismissal is one of the disciplinary sanctions.

2. With the consent of the Superior Council of Magistracy, on annual basis, a judge may also remain in office from 65 to 75 years old.

121.1) Can a judge be transferred to another court without his consent:

- [x] For disciplinary reasons
- [ ] For organisational reasons
- [ ] For other reasons. Please specify modalities and safeguards

Please specify modalities and safeguards

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 the probation period (in years)
Yes	1 year
No	
NAP	

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

If yes, are there exceptions (e.g. dismissal as a disciplinary sanction)? Please specify in the "comment" box below:

Yes. If yes, please indicate the compulsory retirement age	65
No	

Comment :
1. Dismissal is one of the disciplinary sanctions.
2. With the consent of the Superior Council of Magistracy, on annual basis, a prosecutor may also remain in office from 65 to 75 years old.

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

	Duration of the probation period (in years)
Yes	1 year
No	
NAP	

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

NAP

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

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 public 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)	Optional
In-service training for management functions of the court (e.g. court president)	Optional
In-service training for the use of computer facilities in courts	Optional

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

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

129) Training of public prosecutors

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

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

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

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

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

	Initial training only	Continuous training only	Initial and continuous training	2012 budget of the institution, in €
One institution for judges	NAP	NAP	NAP	NAP
One institution for prosecutors	NAP	NAP	NAP	NAP
One single institution for both judges and prosecutors	NAP	NAP	Yes	Yes

Comment :
4761224 eur

131.1) If there is no initial training for judges and/or prosecutors in such institutions, please indicate briefly how these judges and/or prosecutors are recruited and trained ?

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 public prosecutors and the main reforms that have 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 organized at the centralized level, by the National Institute of Magistracy, as well as at the decentralized 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 specialization. The case-law of the European Court 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 decentralized level.
Within the last 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 there has been established as priority the professional training of the magistrates concerning the major legislative amendments in the Romanian judicial system brought by the entry into force of the four new codes (civil, criminal, civil procedure, criminal procedure). Thus, within financial support under the Swiss Security Thematic Fund, since 2011 more than 100 seminars and conferences are organized every year for training judges and prosecutors on the new codes.
Thus, only in 2012, the National Institute of Magistracy has trained 74% of the total number of judges and prosecutors and has organised 110 seminars and 4 national conferences dedicated exclusevely to the new codes. In addition to the seminars on the new codes, the training covered different field of law, including European Union law, case law of the Court of Justice of the European Union and of the European Court of Human Rights, public procurement, competition law, cyber-crime, fighting corruption and fraud, fighting economic and financial crime etc.

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 2012	Net annual salary, in €, on 31 December 2012
First instance professional judge at the beginning of his/her career	24688	17316
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)	42049	29493
Public prosecutor at the beginning of his/her career	24688	17316
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)	35344	24791

Comment :
Based on the Law regarding the unitary remuneration of personnel paid from public funds, no.284/2010, with subsequent amendments and additions

133) Do judges and public prosecutors have additional benefits?

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

134) If other financial benefit, please specify:
medical expenses, travel expenses (limited).

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	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

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.
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.

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 has been 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:
Minister of Justice

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:

Minister of Justice

[Mail from the NC sent on 17 April 2014: From May 2012 onwards, with Law n° 24/2012, the Romanian legislation has changed in respect of the persons/bodies who/which may initiate the disciplinary proceedings against judges and prosecutors. If before there were the discipline commissions at the Judicial Inspection, since 2012 the law has given to the Judicial Inspection operational independence within the Superior Council of Magistracy and legal personality, but has also introduced the right of the president of the High Court of Cassation and Justice, of the minister of justice and of the General Prosecutor of the Prosecution Office of the High Court of Cassation and Justice to initiate the disciplinary action, in addition to the already existing right of the Judicial Inspection.
However, we have to underline that even in cases (very few in practice) where the disciplinary action is initiated by the president of the High Court of Cassation and Justice, the minister of justice or the General Prosecutor of the Prosecution Office of the High Court of Cassation and Justice, the investigation itself is performed only by the Judicial Inspection and the decision in all disciplinary cases is taken only by the competent section of the Superior Council of Magistracy, with right to appeal before the High Court of Cassation and Justice.]

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

- [ ] Court
- [ ] Higher Court / Supreme Court
- [x] Judicial Council
- [ ] Disciplinary court or body
- [ ] Ombudsman
- [ ] Parliament
- [ ] Executive power
- [ ] Other

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

In Romania there is only one Judicial Council for judges and prosecutors – the Superior Council of Magistracy (Consiliul Superior al Magistraturii). The decisions in disciplinary matters concerning judges are taken by the Section for judges of the Council and the decisions in disciplinary matters concerning prosecutors are taken by the Section for prosecutors of the Council. Only elected members of the Council (judges/prosecutors) are entitled to participate in meeting of the Sections in disciplinary matters

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
- [x] Public prosecutorial Council (and Judicial Council)
- [ ] Disciplinary court or body
- [ ] Ombudsman
- [ ] Professional body
- [ ] Executive power
- [ ] Other

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

In Romania there is only one Judicial Council for judges and prosecutors – the Superior Council of Magistracy (Consiliul Superior al Magistraturii). The decisions in disciplinary matters concerning judges are taken by the Section for judges of the Council and the decisions in disciplinary matters concerning prosecutors are taken by the Section for prosecutors of the Council. Only elected members of the Council (judges/prosecutors) are entitled to participate in meeting of the Sections in disciplinary matters.

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)	20	8
1. Breach of professional ethics	2	0
2. Professional inadequacy	18	8
3. Criminal offence	0	0
4. Other	0	0

Comment :

145) Number of sanctions pronounced in 2012 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)	9	8
1. Reprimand	2	3
2. Suspension	0	0
3. Removal of cases	NAP	NAP
4. Fine	NAP	NAP
5. Temporary reduction of salary	4	0
6. Position downgrade	NAP	NAP
7. Transfer to another geographical (court) location	0	0
8. Resignation	3	3
9. Other	0	NA

Comment :
In case of breach of the Deontological Code there is no disciplinary sanction.

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 public prosecutors and the main reforms that have been implemented over the last two years

1. In accordance with the Romanian legislation, the activity of the Judicial Inspection is governed by the principles of legality, confidentiality of works and transparency. The verifications performed by the Judicial Inspection observe the judicial independence of judges and prosecutors and the authority of final judgments. The judicial inspectors are impartial and independent. The random distribution of cases and the expressly regulated exceptions of redistribution of cases adds to the guarantees of independence and impartiality.
The disciplinary breaches are expressly regulated by law. The duration of preliminary investigations and of the disciplinary investigations are provided by law and may be extended only for justified reasons by the Head of the Judicial Inspection. The judge or prosecutor who is investigated by the Judicial Inspection has the right to know all the acts of the investigation and may request to submit evidences in his/her defence. The hearing of the judge or prosecutor investigated is mandatory. In cases where the disciplinary proceedings are initiated by the President of the High Court of Cassation and Justice, the Minister of Justice or the General Prosecutor of the Prosecutor's Office of the High Court of Cassation and Justice, the disciplinary investigation is performed by the Judicial Inspection as well, but the decision to promote the action belongs to the President of the High Court of Cassation and Justice, the Minister of Justice or the General Prosecutor of the Prosecutor's Office of the High Court of Cassation and Justice.
The disciplinary action may be carried out within 30 days from the end of disciplinary investigation, but not later of 2 years from the date of the facts. The disciplinary proceedings are suspended during criminal prosecution for the same facts.
The Superior Council of Magistracy, through its sections, is acting as a disciplinary court and the parties have the right to know all the acts of the file and may submit evidences. The judge or the prosecutor may be represented by a defence counsel or by another magistrate.
During the disciplinary proceedings, the competent Section of the Council, ex officio or upon the proposal of the judicial inspector, may decide the suspension from office of the investigated judge or prosecutor, if the exercise of the function would affect the disciplinary proceedings or if the disciplinary proceedings may affect the prestige of the judiciary.
When the competent Section of the Superior Council of Magistracy states that the disciplinary action is well founded, it decides to apply one of the disciplinary sanctions provided for in the law, in accordance with the gravity of the

disciplinary breach and with the personal circumstances:
a) warning;
b) diminution of the monthly gross employment allowance by at most 20% for a period of one month to 6 months;
c) disciplinary move for a period up to 1 year 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) suspension up to 6 months;
e) exclusion from magistracy.
The proceedings are governed by the Civil Procedure Code.
Against the decisions taken by the competent Section of the Superior Council of Magistracy the sanctioned judge or prosecutor, or, where applicable, the Judicial Inspection may lodge an appeal before the 5 judges panel of the High Court of Cassation and Justice. The deadline to introduce the appeal is of 15 days from the communication. The decision of the HCCJ is final.

2. Main reforms in this matter in the past two years
By Law no. 24/2012 amending and supplementing the Law no. 303/2004 on the status of judges and prosecutors and, respectively, the Law no. 317/2004 on the Superior Council of Magistracy the Judicial Inspection has been reorganised, as an autonomous body, with its own legal personality, within the Superior Council of Magistracy. Before May 2012, the Judicial Inspection has been functioned "attached to" the Plenum of the Superior Council of the Magistracy, without legal personality.
The current legal framework guarantees the independence of the inspectors and of the Judicial Inspection. Thus, in the past, the Council coordinated the Council appointed the inspectors, the Judicial Inspection and the Council was the disciplinary court for the disciplinary proceedings promoted by the Inspection, aspects that could be criticised.
The current legislation has also amended the law in respect of the persons entitled to initiate the disciplinary proceedings, by adding the Minister of Justice, the President of the High Court of Cassation and Justice and the General Prosecutor of the High Court of Cassation and Justice.
The new law has also improved the regulation of the disciplinary breaches.

Please indicate the sources for answering questions 144 and 145

The Judicial Inspection and Superior Council of Magistracy.

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.

20919

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:

According to the provisions of the Civil Procedure Code (CPC), in force in 2012, as well as according to the provisions of Law no. 51/1995 for the exercise of the profession of lawyer, the party can be represented in the civil trial not only by the lawyer, but also by a person who does not have this capacity, nevertheless for the case in which the mandate is given to another person than to a lawyer. Thus, Article 68 (4) CPC establishes that if the mandate is given to another person than to a lawyer, the proxy can rest the case only through lawyer, except the legal counsellor who, according to law, represents the party. The assistance by the lawyer is not required to doctors or licensed in law when they are proxies in the causes of spouses or relatives up to the fourth degree inclusively.

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?

- [x] 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.

Please indicate the sources for answering questions 146 and 148:

UNBR (National Union of Bar Associations of Romania).

F1 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

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

F2 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?
- [x] the amount of fees?

Please specify:

According with the provisions of the Law no. 51/1995 the courts of law and the public prosecutor's offices of the Department of the Public Prosecutor shall have the obligation to forward any complaint filed against a lawyer to his/her bar and notify it about any criminal inquiry or prosecution action started against a lawyer.

Also, regarding the amount of fees, the Law no. 51/1995 establishes that against lawyer's fees may be formulated contests or complaints, which shall be solved by the president of the bar. The president's decision may be appealed to the Council of the bar.

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.]

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

Comment :

162) Sanctions pronounced against lawyers.

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.

	Number
Total number of sanctions (1 + 2 + 3 + 4 + 5)	682
1.Reprimand	NA
2. Suspension	682
3. Removal	

	NA
4. Fine	NA
5. Other (e.g. disbarment)	NA

Comment :

F3 You can indicate below any useful comments for interpreting the data mentioned in this chapter:

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

7. Alternative Dispute Resolution

7. 1. Mediation and other forms of ADR

7. 1. 1. Mediation and other forms of ADR

163) Does the judicial system provide for judicial 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

163.1) In some fields, does the judicial system provide for mandatory mediation procedures?

If there are mandatory mediation procedures, please specify which fields are concerned in the "comment" box below.

- [ ] Before going to court
- [ ] Ordered by a judge in the course of a judicial proceeding

If there are mandatory mediation procedures, please specify which fields are concerned:

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 judicial 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 no. 51/2008 on public legal aid in the civil matter– 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:

4 136

167) Number of judicial mediation procedures.

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

Total number of cases (total 1+2+3+4+5)	NA
1. civil cases	NA
2. family cases	NA
3. administrative cases	NAP
4. employment dismissals cases	NA
5. criminal cases	NA

Comment :

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 :

G.1 You can indicate below:
- any useful comments for interpreting the data mentioned in this chapter
- the characteristics of your system concerning ADR and the main reforms that have been implemented over the last two years

mail CN 11/2/14: Q 166: The provided data for 2012 are correct. It is perfectly justified to have a higher number of mediators in 2012 comparing to 2010, as a result of the reforms, stimulating the ADR.

The Romanian civil procedural legislation regulates, as alternative methods for the settlement of disputes, mediation, arbitration and conciliation.
In the Romanian legislation, mediation is 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.
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 nonobservance 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 former 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. 614 ind. 1 par. 2 I thesis and Art. 720 ind. 7 par. 2 I thesis I of the former 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. 340-370 ind. 3 of the former 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 former Civil Procedure Code).
The Romanian Civil Procedure Code (Art. 720 ind. 1-720 ind. 10) stipulates the parties' duty to try the settlement of trials and applications between professionals rateable in money and derived from contractual relations by mediation or direct conciliation (Art. 720 ind. 1 par. 1 of the former 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. 720 ind. 1 par. 2, 4 and 5 of the former 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).
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 rateable 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 Civil Procedure Code (Law no. 134/2010), entered into force on the 15th of February 2013, law which has replaced the old Civil Procedure Code contains similar provisions regarding mediation procedure. 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 with the provisions of art. 21 para. (1) of the new Civil Procedure Code „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 (Law 135/2010) which is to enter into force on 1 February 2014, 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:

Council of Mediation

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

876

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:

The bailiffs are invested to perform a service of public interest.

The act performed by the bailiff, within the limits of legal competencies, bearing the stamp and signature of this one, as well as the registration number and date, is an act of public authority and has are the conclusive force stipulated by law.
According to Article 7 of Law no. 188/2000 on bailiffs, republished, „The bailiff has the following duties:
a) to bring into force the provisions with civil character from the enforcement orders;
b) to notify the judicial and extrajudicial acts;
c) to serve the procedural acts;
d) to amiably recover any claim;
e) to apply the precautionary measures ordered by the court;
f) to ascertain some layouts in the conditions laid down by the Civil Procedure Code;
g) to draw up the findings report, in the case of the real offer followed by the consignment of the amount by the debtor, according to the provisions of the Civil Procedure Code;
h) to draw up, according to law, the protest of non-payment of the bills of exchange, promissory notes and checks, as applicable;
i) any other acts or transactions given by the law in the competence of this one."

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

mail CN 11/2/14: Q 170: The provided data are correct. Since 2010, new competitions have been organized. Also, the former Bank bailiffs became 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 legality by the competent courts.

The professional control will be exercised by the Ministry of Justice, by general specialty inspectors and by the National Union of Bailiffs, through its board. The professional control mainly concerns the compliance with the law in the professional activity of bailiffs, the proper keeping of registers, the keeping of the archive, the quality of the acts and works performed by bailiffs and the bailiff's behaviour while accomplishing his duties, in the relations with the public authorities, as well as natural and legal persons.

179) Have quality standards been determined for enforcement agents?

◉ Yes
○ No

If yes, what are the quality criteria used?
Criteria are provided by:

The Civil Procedure Code (the procedure for enforcement).
Law no. 188/2000 on bailiffs.
Order of the Minister of Justice no. 210/2001 for the approval of the Regulation for the application of Law no. 188/2000 on bailiffs.
The 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 (the Parliament).

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 how the enforcement procedure is conducted by the enforcement agent?

- ( ) 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 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:
Government Ordinance no. 22/2002 regarding the enforcement of debts by the public institutions established by means of enforcement orders.

See also the comment on question 181.

185) Is there a system measuring the length of 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 initiated disciplinary proceedings (1+2+3+4)	[x] number:	3
1. for breach of professional ethics	[x] number:	1
2. for professional inadequacy	[x] number:	1
3. for criminal offence	[x] number:	1
4. Other	[x] number:	0

Comment :

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 initiated and the number of sanctions exists, please indicate the reasons in the "comment" box below.

Total number of sanctions (1+2+3+4+5)	[x] number:	3

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

Comment :

H.1 You can indicate below:
any useful comments for interpreting the data mentioned in this chapter
the characteristics of your enforcement system of decisions in civil matters and the main reforms that 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, the territorial competence of bailiffs has been extended from the level of the court of first instance to the level of the court of appeal.
The new Civil Procedure Code (the Law no. 134/2010), entered into force in 15 th February 2013, maintained the provisions regarding the extension of territorial competente ofi bailiffs to the level of the court of appeal.

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

Ministry of Justice

8. 2. Execution of decisions in criminal matters

8. 2. 1. Functioning

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:

At the end of the trial stage, the judge pronounces a sentence after the defendant's guilt has been established and there is no doubt about it, based on the evidences. The individualization of the penalties is realized by the court taking into account the dispositions of the Criminal Code, the limits of sanctions, the behavior of offender, the level of social danger and the aggravating and mitigating circumstances. In this context, the judge decides if it's appropriate to pronounce a prison penalty or a community sanction.
According to our current Criminal Code, in order to ensure the enforcement of the penalties, we have to take into consideration two situations: the execution of prison sanctions and the execution of community sanctions. Thus, the judge delegated with execution of the prison sentences is in charge with the enforcement of the imprisonment and the judge delegated with execution of noncustodial sanctions is in charge with the enforcement of suspended sentences on supervision, liberty under surveillance (imposed to the minors).
The duties of the judge delegated with enforcement of the prison sentences are:
- To ensure the enforcement of the prison sanctions,
- To supervise and monitor closely the legality within the execution of penalties process, which is realized under his authority;
- To approve/to reject the Parole Board proposal regarding the conditional release of inmates;
- To analyse and decide regarding all the plains reported by convicted persons
The duties of the judge delegated with the enforcement of noncustodial measures are:
- To manage the control of the execution of supervision measures and obligations imposed by Court during the supervision period (suspended sentence on supervision) and the liberty under surveillance period;
- If the case, to announce the enforcement court (ex officio or under the notification of probation counsellor), and to propose the revocation of the suspended sentence;
- To request information from probation services concerning the way which convicted persons are fulfilling their obligations during the supervision period.

Additional information:
Art. 6 from Law no. 275/2006 on the enforcement of punishments and of measures ordered by the judicial bodies during the criminal proceedings, provides that the enforcement of punishments shall be carried out under the surveillance, control and authority of the delegated judge.

Regarding the fines, art. 7 from the same Law provides that the enforcement of the punishment to pay a fine in case of failure to meet the time limit for its full payment or of a part of the fine, when the payment of fine was divided, shall be carried out according to the provisions on the enforcement of budgetary claims and with the proceedings provided by these provisions.

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%
- [x] cannot be estimated

Please indicate the source for answering this question:
Ministry of Public Finances

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. Statute

9. 1. 1. Functionning

192) Do you have notaries in your country? If no please skip 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?	[x] number	2 476
public agents?	[ ] number	
other?	[ ] number	

Comment :

194) Do notaries have duties (multiple options possible):

- [x] within the framework of civil procedure?
- [x] in the field of legal advice?
- [x] to certify the authenticity of legal deeds and certificates?
- [x] other?

If "other", please specify:

a) to certify certain facts, in the cases stipulated by law;
b) to legalize the signatures on documents, specimen signatures and seals;
c) to provide definitive date to documents;
d) to receive in warehouse goods, documents presented by the parties, as well as the amounts of money, other goods, documents found on the occasion of the estate inventory, within the limits of the space and utilities of the notary office;
e) the acts of protest of the bills of exchange, promissory notes and checks;
f) to legalize the copies of documents;
g) to perform and legalize the translations;
h) to issue duplicates of the documents drawn up;
i) fiduciary activities, in the legal conditions;
j) to appoint, in the cases stipulated by law, the bailor or special bailor;
k) to register and keep, in the legal conditions, the prints of the marking devices;
l) to certify the procedural phases of the auctions and/or of their results;
m) the procedure of divorce, in the legal conditions;
n) to liquidate the liability of estate, with the approval of all heirs;
o) any other operations stipulated by law.
The duties stipulated at i) - l) and n) have introduced by Law no. 77/2012 for amending and completing the Law on Notaries Public and Notarial Activity no. 36/1995, which entered into force on 1 January 2013.

9. 1. 2. Supervision

195) Is there an authority entrusted with supervising and monitoring the notaries' activity?

- (•) Yes
- ( ) No

196) Which authority is responsible for supervising and monitoring notaries:

- [x] a professional body?
- [x] the judge?

- [x] the Ministry of justice?
- [ ] the public prosecutor?
- [ ] other?

If other, please specify:

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

COMMENT concerning question no. 196: The notarial acts are submitted to the judicial control, in the conditions of Article 158 of the Law on Notaries Public and Notarial Activity no. 36/1995, republished, as subsequently amended.

The activity of the Notaries Public is submitted to the administrative professional control in the conditions of Law no. 36/1995, republished, as subsequently amended.

The administrative professional control will be exercised by the National Union of Notaries Public through its board and will have in view: the organization of the Chambers of Notaries Public and of the notaries public offices; the quality of the documents and papers concluded by notaries public; the observance of the legal, statutory and ethical professional obligations.

The minister of justice can order the control of the notaries public activity through general specialty inspectors.

Please indicate the sources for answering question 193:

The records of the Ministry of Justice and of the National Union of Public Notaries.

10. Court interpreters

10. 1. Court interpreters

10. 1. 1. Functionning

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:

35166

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):

The primary legislation in the field of the obtaining of the capacity of interpreter and sworn translator (Law no. 178/1997) imposes a series of conditions for acquiring this capacity, among which the one guaranteeing the verification of the professional competencies of translators and interpreters.
Thus, translator and interpreter can become the person having a licence diploma or an equivalent indicating the specialisation in the foreign language or languages for which he/she solicits the authorisation or attesting that he/she graduated a high education unit in the foreign language for which he/she solicits the authorisation or holds a high school leaving diploma or an equivalent indicating that he/she graduated a high school in the foreign language or in the language of national minorities for which he/she solicits the authorisation or is attested by the Ministry of Culture and Religious Affairs as translator for the speciality legal sciences, from Romanian into the foreign language for which he/she solicits the authorisation and from the foreign language into Romanian.

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 [x] 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):

- [x] "expert witnesses", who are requested by the parties to bring their expertise to support their argumentation,
- [x] "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)

4836

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 legal technical expertise is carried out according to the provisions of the Government Ordinance no. 2/2000 on the organization of the judicial and non-judicial technical expertise activity, approved by Law no. 156/2002, as subsequently amended and completed, as well as according to the provisions of the Civil Procedure Code, respectively the Criminal Procedure Code.
According to the provisions of Article 17 of the G.O. no. 2/2000, „the authority entitled to order the performance of the judicial expertise will appoint the expert, will indicate in written, by interlocutory decision or by ordinance, the object of the expertise and the questions at which this one has to answer, will establish the date of submission of the expert report, will fix the provisional fee, the advance for the travel expenses, where applicable and will communicate to the local office for technical legal expertise the name of the person appointed to perform the expertise".

207) Are the courts responsible for selecting judicial experts?

If no, please specify in the "comments" 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 [x].

Comment :
The quality of judicial technical expert is acquired based on exam/interview, organized by the Ministry of Justice, in the conditions of the Government Ordinance 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.

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

Comment for question 202:
According to the article 330 para. (5) of the new Code of Civil Procedure (enter into force on February 15, 2013), at the the judicial expertise as provided in par. (1) and (2) of this article (concerning the judicial technical expertise approved by the court) may attend experts chosen by the parties and approved by the court, with quality advisers of the parties (expert witnesses), unless the law provides otherwise. In this case, these experts can give relationships, formulate questions and comments and, if appropriate, prepare a separate report on the objectives of expertise. Provisions relating to the participation of the expert chosen by the parties (expert witnesses) to conduct the judicial technical expertise existed in the former civil procedural regulation (applicable in 2012).

Please indicate the sources for answering question 205:

The software „Technical legal experts" provides for all the technical legal experts and specialists

12. Foreseen reforms

12. 1. Foreseen reforms

12. 1. 1. Foreseen 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 at this stage. 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)
3.1 Access to justice and legal aid
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
6.1 Personal status
7. Enforcement of court decisions
8. Mediation and other ADR
9. Fight against crim

1.
There is being debated a new strategy for the development of the judicial system for 2014-2018.

3.
A specialised tribunal for professionals is being set up in Bucharest. This specialised court will have in its competence matters such as company law, competition law, insolvency law. The setting up of this court is expected to be finalised in the first half of 2015.

3.1
The amendment of the legal framework for the taking place of the civil trial by the adoption of the Civil Procedure Code (Law no. 134/2010), as well as by the implementation of the new institutions adopted by the Civil Code, also imposed the revision of the legislation in the field of the judicial stamp duties, which must reflect mainly the new structure and dynamics of the civil trial, the new procedural guarantees granted to parties for ensuring a fair trial etc. To this effect, the Government Emergency Ordinance no. 80/2013 on the judicial stamp duties was adopted, establishing a special system of taxation for a series of newly regulated situations and procedures in both Codes, like, for exemple, the regularization of the request for suing at law, the order for payment procedure, the settlement of the second appel (recourse) as an extraordinary remedy etc.

6.
Over the last years, Romania has undergone a structural legislative reform, the essential pieces of legislation (the Codes) both in civil and in criminal matters being drafted and adopted.

The new Civil Procedure Code (adopted by Law no. 134/2010 and entered into force on 15th February 2013), 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 package that makes up the reform in criminal matters required the elaboration and adoption of 5 new pieces of legislation, alongside with the new Criminal Code and the new Criminal Procedure Code, which were meant at facilitation the implementation of the two codes, but also covered aspects concerning the enforcement of sanctions or custodial and noncustodial measures and last, but not least, the organization of the probation system.

The New Criminal Code (Law 286/2009) and the New Criminal Procedure Code (Law 135/2010) shall enter into force on 1 of February 2014.
Also, the laws on implementing those codes (Law187/2012 and Law 255/2013) shall enter into force at the same time.

The new Criminal Code aimed at accomplishing mainly the following objectives:
1. to create a coherent legislative framework in criminal matter, by avoiding the unnecessary overlaps of rules in force existing in the current Criminal Code and in the special laws;
2. to simplify the regulations of substantial law, meant to promptly facilitate their unit application in the activity of judicial authorities;
3. to ensure the meeting of the requirements resulted from the fundamental principles of the criminal law enshrined in the Constitution and in the pacts and treaties on fundamental human rights, to which Romania is a party;
4. to transpose into the national criminal legislative framework the regulations adopted at the level of the European Union;
5. to harmonise the Romanian material criminal law with the systems of the other EU Member States, as a premise of

the judicial cooperation in criminal matter based on recognition and peer trust.

The new Criminal Procedure Code:
- was drawn up in the context of imposing the need of a legislative intervention aiming at diminishing the duration of the trials and at simplifying the criminal judicial procedures, by introducing new institutions (for instance, the agreement for the admission of guilt), the compatibilization of the means of proof or of the current evidential procedure with the European standards in the matter, reducing the degrees of jurisdiction, as well as by regulating the appeal in cassation, as extraordinary remedy.
The provisions of the new Criminal Procedure Code aim at answering to some current requirements, as speeding to the duration of the criminal procedures, their simplification and the creation of a unitary jurisprudence, in agreement with the jurisprudence of the European Court of Human Rights.

The Law no. 187/2012 for the application of the new Criminal Code made a series of legislative amendments in view of creating a coherent and clear legislative framework in criminal matter, by avoiding the overlaps of rules in force existing in the Criminal Code and in the special laws, of creating an uniform sanction regime and adapting the special laws to the rules of the new Criminal Code, by reformulating certain texts for ensuring the observance of the predictability requirements of the criminal law, according to the European jurisprudence in the matter or by completing some incriminating hypotheses in order to answer the obligations internationally assumed by the Romanian State.

The Law no. 255/2013 for the application of the new Criminal Procedure Code prepares the implementation of this code from legislative perspective, by stipulating:
- procedural rules for the settlement of the transitional situations generated nu the entry into force of the new Criminal Procedure Code as regards the cases already during criminal prosecution, respectively on the case list of courts;
- the adaptation of the special criminal procedural legislation at the new framework regulation;
- the improvement of certain texts of the new Criminal Procedure Code.

The adoption of the new Criminal Code and of the new Criminal Procedure Code imposed a reconfiguration of the general framework on the execution of custodial and non-custodial sentences, as well as a reconfiguration of the probation system, by the reorganization of the current system, having in view the changes of substance regarding the non-custodial penalties and measures applicable during the criminal trial, introduced in the Romanian criminal system by the two codes in criminal matter.

For supporting the implementation of the new Criminal Code and the new Criminal Procedure Code were elaborated Law no. 253/2013 on execution of sanctions, educative measures and other non-custodial measures ordered by judicial bodies during the criminal trial and Law no. 252/2013 on the organisation and functioning of the probation system, which will enter into force in the same time with new codes, in February 2014.

Probation system reform. The Law No. 252/2013 regarding the organization of the probation services (which will enter into force in the same time with new codes, in February 2014.)
According to the provisions of the new legislation, the responsibilities of the probation services will be extended. In addition to the current tasks (presence assessment, supervision and assistance of the offenders), the probation system will have to manage new attributions like supervision of measures and obligations imposed in case of conditional release or conditional sentence. A substantial part of the probation service activity will be oriented towards the juvenile offenders. The probation service will coordinate the enforcement of all non-custodial educative measures (civic education, supervision, consignment during the weekend, daily assistance). Also, in the light of the new Criminal Code, the community service is better defined although won't be a sanction on its own, but an obligation attached to another sanction.
Another step forward is the implementation in the national legislation of the Framework Decision 947/2008/JHA which opens the possibility to operate transfers of the convicted persons under probation with other EU jurisdictions.

8.
Measures for the popularization of the mediation institution performed at legislative level.
Law no. 192/2006 on the mediation as subsequently amended and completed:
A.There was stipulated, under penalty of the inadmissibility of the request for suing at law, the obligation to participate at the information meeting regarding the advantages of mediation in certain fields expressly stipulated by law [by the Article 60 ind. 1 of Law no. 192/2006]. The mentioned legislative measure has as purpose the popularization of the institution of mediation as alternative mean for the settlement of disputes.
B. In view of ensuring all the constitutional and conventional guarantees, the legislator adopted a series of rules ensuring the free access to justice like:
- There was expressly stipulated a maximum period of 15 days in which the information procedure must take place as regards the advantages of mediation (having in view that the reasonable duration of the cases' settlement represents a core component of the principle of the free access to justice guaranteed by the European Convention of Human Rights) - Article 60 ind. 2 alin. 1 of Law no. 192/2006;
- The assurance of the free character of the information meeting regarding the advantages of mediation - Article 2 (alin. 1 ind. 4) of Law no. 192/2006;
- The express regulation of the solution for the hypothesis in which the opposing party does not participate at the information meeting (in order to avoid the eventual attempts of the opposing party to protract the case settlement) - Article 2 alin. 1 ind. 1 of Law no. 192/2006;
-The performance of the information procedure upon the advantages of mediation.