



EUROPEAN COMMISSION FOR THE EFFICIENCY OF JUSTICE
(CEPEJ)

SCHEME FOR EVALUATING JUDICIAL SYSTEMS 2013

Country: Ukraine**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)

45 461 627

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 | 40 194 880 077 |
| Regional / federal entity level (total for all regions / federal entities) | NA |

3) Per capita GDP (in €)

3 008

4) Average gross annual salary (in €)

3 535

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

10.53

A1. Please indicate the sources for questions 1 to 4 and give comments concerning the interpretation of the figures supplied if appropriate:

Sources for questions 1 to 4 : Official website of the State Statistics Service of Ukraine (www.ukrstat.gov.ua) and the official website of the National Bank of Ukraine (www.bank.gov.ua).

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) | <input checked="" type="checkbox"/> Yes | 410 373 391 |
| 1. Annual public budget allocated to (gross) salaries | <input checked="" type="checkbox"/> Yes | 246 203 829 |
| 2. Annual public budget allocated to computerisation (equipment, investments, maintenance) | <input checked="" type="checkbox"/> Yes | 87 608 760 |
| 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. | | NA |
| 4. Annual public budget allocated to court buildings (maintenance, operating costs) | | NA |
| 5. Annual public budget allocated to investments in new (court) buildings | | NA |
| 6. Annual public budget allocated to training and education | | NA |
| 7. Other (please specify): | <input checked="" type="checkbox"/> Yes | 76 560 802 |

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:

For the purpose of functioning of all courts the State Budget of Ukraine for 2013 is separately allocated to:

- The State Judicial Administration of Ukraine (the central body which provides appropriate conditions for the functioning of the courts of general jurisdiction, except the courts mentioned below);
- Supreme Court of Ukraine;
- High Specialized Court of Ukraine on Civil and Criminal Cases;
- High Administrative Court of Ukraine;
- High Commercial Court of Ukraine;
- Constitutional Court of Ukraine.

The given number for the public budget allocated to training and education is the budget provided for the State Judicial Administration of Ukraine and judges of Supreme Court of Ukraine.

The amount given for the OTHER approved budgeted is the remaining budget allocated to the functioning of all mentioned bodies which was not determined in the abovementioned classification, but was allocated for these purposes as well.

CN 24/04 : Point 7 includes the costs indicated in paragraphs 3-6 of the question 6, and the costs indicated in the question 12 (legal aid).

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:

According to the national legislation from payment of court fees are exempted:

- the plaintiffs - for submitting claims for recovery of wages, reinstatement in employment and for other claims arising from labor relations;
- plaintiffs - for submitting claims for compensation for damages caused by injury or other harm to health and by the death of an individual;
- the plaintiffs - for submitting claims for alimony;
- the plaintiffs - for filing claims as to the disputes related with the payment of compensation, recovery of property or for filing claims as to the disputes related to the reimbursement of its cost to the citizens, who were rehabilitated in accordance with the Law of Ukraine "On rehabilitation of victims of political repressions in Ukraine";
- persons suffering from mental disorders and their representatives - for filing claims as to the disputes related to the consideration of issues concerning the protection of rights and lawful interests of individuals while providing psychiatric care;
- the plaintiffs - for filing claims for compensation of the material damage caused as a result of a crime;
- state bodies, enterprises, institutions, organizations, community organizations and citizens who have applied in cases envisaged by law, with applications to the court as to the protection of the rights and interests of others persons, and consumers - for claims as to the breach of their rights;
- disabled veterans of World War II and families of soldiers (partisans), who died or disappeared, and persons to whom were given the same status as them in order, established by law;
- disabled persons of I and II groups, legal representatives of disabled children and incapacitated disabled persons of I and II groups;
- plaintiffs - citizens, who are attributed to the 1 and 2 categories of persons, who were affected by the Chernobyl disaster;
- the prosecutor's office - during the representation of interests of citizens or of the state in the court etc.

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

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

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

9 174 192

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) | NA |
| 12.1 Annual public budget allocated to legal aid for cases brought to court | NA |
| 12.1.1 in criminal law cases | NA |
| 12.1.2 in other than criminal law cases | NA |
| 12.2 Annual public budget allocated to legal aid for non litigious cases or cases not brought to court (legal consultation, ADR, etc) | NAP |

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 257 763 148

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

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

"Other Ministry" - the Ministry of Finance;

"Other" - the State Judicial Administration (the central authority which provides appropriated conditions for the courts of general jurisdiction, controls administration in the courts of general jurisdiction etc).

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

CN 10/04:

q. 14 : The Verkhovna Rada of Ukraine approves the State Budget of Ukraine and introduces amendments to it; controls the implementation of the State Budget of Ukraine and adopts decisions in regard to the report on its implementation.

The State Budget of Ukraine and the budgetary system of Ukraine is determined exclusively by the laws of Ukraine. The budgetary system of Ukraine is built on the principles of just and impartial distribution of social wealth among citizens and territorial communities.

Any state expenditures for the needs of the entire society, the extent and purposes of these expenditures, are determined exclusively by the law on the State Budget of Ukraine.

The State aspires to a balanced budget of Ukraine.

Regular reports on revenues and expenditures of the State Budget of Ukraine should be made public.

The State Budget of Ukraine is annually approved by the Verkhovna Rada of Ukraine for the period from 1 January to 31 December, and under special circumstances for a different period.

The Cabinet of Ministers of Ukraine submits the draft law on the State Budget of Ukraine for the following year to the Verkhovna Rada of Ukraine no later than on 15 September of each year. The report on the course of the implementation of the State Budget of Ukraine in the current year is to be submitted together with the draft law.

The Cabinet of Ministers of Ukraine ensures the implementation of the State Budget of Ukraine approved by the

Verkhovna Rada of Ukraine.

Local state administrations on their respective territory ensure the preparation and implementation of respective region and district budgets.

Local state administrations on their respective territory make the report on the implementation of respective budgets and programs.

The State ensures funding and proper conditions for the operation of courts and the activity of judges. Expenditures for the maintenance of courts are allocated separately in the State Budget of Ukraine.

The State participates in the formation of revenues of the budget of local self-government and financially supports local self-government. Expenditures of bodies of local self-government, that arise from the decisions of bodies of state power, are compensated by the state.

Territorial communities of a village, settlement and city, directly or through the bodies of local self-government established by them, approve budgets of the respective administrative and territorial units, and control their implementation.

The State Court Administration makes "budget requests" (information about total annual funds needed by all courts (the exception is for the Supreme Court of Ukraine, the High Specialized Court of Ukraine on Civil and Criminal Cases, the High Administrative Court of Ukraine and the High Commercial Court of Ukraine), main areas of appropriate expenses, grounds for such

expenses etc. The Supreme Court, the High Specialized Court on Civil and Criminal Cases, the High Administrative Court and the High Commercial Court make their "budget requests" by themselves. Budget requests are submitted to the Ministry of Finance. It drafts the Law On the State Budget for the appropriate year taking into account the budget requests and budget resources. The Law on the State Budget is approved by the Parliament.

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

Law of Ukraine "On the State Budget of Ukraine for 2013".

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

1277280417

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 | No |
| Council of the judiciary | Yes |
| Constitutional court | Yes |
| Judicial management body | Yes |
| State advocacy | Yes |
| Enforcement services | Yes |
| Notariat | Yes |
| Forensic services | No |
| Judicial protection of juveniles | No |
| Functioning of the Ministry of Justice | Yes |
| Refugees and asylum seekers services | Yes |
| Other | No |

Comment :

The court system box includes also the elements mentioned in the question 6.

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 | No |

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

Yes

No

If yes, please specify:

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:

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

| Criminal cases | Other than criminal cases |
|----------------|---------------------------|
| No | No |

Comment :

20) Number of cases referred to the court 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 | NA |
| in criminal cases | NA |
| other than criminal cases | NA |

Comment :

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 |
|-----------------|
| |

| |
|-----|
| NAP |
|-----|

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 | No |

Comment :

Any accused individual who does not have sufficient financial means has the right to be assisted by a free of charge (he will be financed by public budget) lawyer in criminal cases. This provision is laid down in the Code of Criminal Procedure of Ukraine.

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

- Yes
 No

23) Does your country have an income and assets evaluation for granting legal aid to the applicant ? 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 :

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:

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

- the court?
 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?

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

In accordance with paragraph 19 of part 4 of Article 6 of the Law of Ukraine "On insurance" one of the type of voluntary insurance can be insurance of legal expenses for legal proceedings.

Insurance of legal expenses in Ukraine is a growing phenomenon.

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

| | |
|----------------------------|-----|
| criminal cases? | Yes |
| other than criminal cases? | Yes |

B.1 You can indicate below:

- any useful comments for interpreting the data mentioned in this chapter

- the characteristics of your legal aid system and the main reforms that have been implemented over the last two years

Article 59 of the Constitution of Ukraine guarantees the right to legal aid to each person. In the cases provided by law, this aid is provided free of charge. Everyone is free to choose the defender of his or her rights.

In Ukraine, the advocacy acts to ensure the right to a defense against accusation and to provide legal aid in resolving cases in courts and other state bodies.

Part two of Article 63 of the Constitution of Ukraine additionally specifies that a suspect, an accused, or a defendant has the right to a defense.

Point 6 of part three of Article 129 of the Constitution of Ukraine determines that the main principles of judicial proceedings are ensuring the right of an accused person to a defense.

As to the question 16, legal aid applies to the representation in court in other than criminal cases:

-according to Article 13 Law of Ukraine "On the Ukrainian Parliament Commissioner for Human Rights" the Commissioner has the right to appeal to the court about protecting human and citizens' rights and freedoms of persons who cannot do this on their own due to reasons of health or any other appropriate reason, and also attend judicial proceedings personally or through a delegate in accordance with the instances and procedure established by law;

-according to the Constitution of Ukraine and Law of Ukraine "On the Prosecution Service" the Public Prosecutor's Office performs the representation of interests of citizens or the State in court in cases

provided by law. The ground for representation in court of interests of a citizen is his inability through physical or financial status, advanced age or for other valid reasons to protect his violated or disputed rights.

Please indicate the sources for answering questions 20 and 23:

Statistics provided by the Office of the Prosecutor General of Ukraine.

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.court.gov.ua, www.rada.gov.ua

case-law of the higher court/s? Internet address(es): Yes www.scourt.gov.ua, www.sc.gov.ua, www.arbitr.gov.ua, www.vasu.gov.ua

other documents (e.g. downloadable forms, online registration)? Internet address(es): Yes www.court.gov.ua, www.minjust.gov.ua

Comment :

Each central State body has its own web site, where legal texts as to the activity of the relevant body are open access to the general public.

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:

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:

Hot-lines (services) of the Ministry of Interior Affairs, the National Security Service , the State Tax Administration, the Border Services Agency, the Office of the Prosecutor General of Ukraine.

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 sexual violence/rape | No | Yes | No |
| Victims of terrorism | No | No | No |
| Children (witnesses or victims) | No | Yes | No |
| Victims of domestic violence | No | No | No |
| Ethnic minorities | No | Yes | No |
| Disabled persons | No | Yes | No |
| Juvenile offenders | No | Yes | No |
| Other (e.g. victims of human trafficking, forced marriage, sexual mutilation) | No | No | No |

Comment :

As to the special arrangements in court hearings:

victims of rape - the possibility of an in camera proceeding, excluding the public;

Ethnic minorities and disabled persons - language and other necessary assistance during a court proceeding;

Juvenile offenders - the obligation to hear the opinion of an association protecting the interest of a minor accused of a crime.

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.) :

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

- Yes
 No

If yes, for which kind of offences

To all victims if it is requested by means of civil action against an offender.

33) If yes, does this compensation consist in:

- a public fund?
- damages to be paid by the responsible person (decided by a court decision)?
- a private fund?

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

- Yes
- No

If yes, please 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:

According to paragraph 4 of Article 264 of the Code of Criminal Procedure of Ukraine the prosecutor brings or prosecutes the civil claim filed if protection of rights of physical and legal persons or state interests so requires.

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:

Victims of crimes have the right to contest a decision of the public prosecution to discontinue a case to the court (Article 236 (5) of the Code of Criminal Procedure of Ukraine).

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

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

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

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

Where appropriate, please give details on the compensation procedure, the number of cases, the result of the procedures and the existing mechanism for calculating the compensation (e.g. the amount per day for unjustified detentions or convictions):
The Law "On Procedure for Compensation of Damage Caused to Citizen by Unlawful Actions of Bodies of Inquiry, Pre-trial Investigation, Prosecutors and Courts" provides a right for compensation in case of: the court acquittal; unlawful charge, unlawful detention, unlawful search while criminal investigation or court consideration, unlawful seizure, unlawful property arrest, unlawful removal from the office and other procedural actions restricting or infringing the civic rights and freedoms, unlawful operational search actions what is duly found in the acquittal or other court judgment (except the decision or the ruling of the court to remit the case for additional investigation or fresh consideration).

An amount of compensation is defined by a court in each particular case.

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

- (Satisfaction) surveys aimed at judges
- (Satisfaction) surveys aimed at court staff
- (Satisfaction) surveys aimed at public prosecutors
- (Satisfaction) surveys aimed at lawyers
- (Satisfaction) surveys aimed at the parties
- (Satisfaction) surveys aimed at other court users (e.g. jurors, witnesses, experts, interpreters, representatives of governmental agencies)
- (Satisfaction) surveys aimed at victims

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

The Ukraine Rule of Law Project (UROL) is funded by the United States Agency for International Development (USAID) and has been working in Ukraine since 2006. The Project has a number of basic goals and objectives. Promote transparency and accountability of the Judiciary and promote legislative reform in the rule of law. And important aspects of that is giving opportunity for the society and courts to engage each other to promote better public access to justice.

In working with the Government of Ukraine and Ukrainian civil society, UROL supports the implementation key reform activities, contributing to reduced corruption and strengthened rule of law. Specifically, the project works to increase judicial independence and impartiality, as well as public trust and confidence in the courts (www.ukrainerol.org.ua).

39) If possible, please specify:

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

40) Is there a national or local procedure for making complaints about the functioning of the judicial system (for example the 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 | No | No |
| High Council of the Judiciary | Yes | No |
| Other external bodies (e.g. Ombudsman) | Yes | Yes |

Comment :

According to the national legislation in force, everyone who has information as to the judges misconduct is entitled to file a respective complaint with the High Qualification Commission of Judges (as regards the judges of local and appellate courts) or the High Council of Justice (as regards the judges of high specialized courts and of the Supreme Court of Ukraine) which are entitled to institute disciplinary proceedings.

Disciplinary proceedings regarding a judge should involve verification of information on the presence of grounds for taking disciplinary action against a judge, opening of a disciplinary case, its consideration and passing of a decision by a body conducting disciplinary proceedings.

Verification of information on the presence of grounds for taking disciplinary action against a judge of a local or appellate court should be performed by a member of the High Qualification

Commission of Judges of Ukraine.

The question of whether a disciplinary case should be opened should be decided by the High Qualification Commission of Judges of Ukraine.

A copy of decision on opening a disciplinary case by the High

Qualification Commission of Judges of Ukraine should be sent to the judge against whom the case was initiated and to the person whose application was the basis for initiating the case not later than three days after the decision had been made.

Furthermore, according to Article 20 of the Law of Ukraine "On Applying of Citizens" applications are considered and solved within not more than one month from the date of their receiving, and those, which do not need additional consideration - immediately, but not later than within fifteen days from date of their receiving.

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

the number of complaints that are upheld is 50

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) | 719 |
| 42.2 First instance specialised Courts (legal entities) | NAP |
| 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) | 767 |

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) | NAP |
| Commercial courts (excluded insolvency courts) | NAP |
| Insolvency courts | NAP |
| Labour courts | NAP |
| Family courts | NAP |
| 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 | NAP |
| Other specialised 1st instance courts | NAP |

Comment :

Under the Law of Ukraine "On the Judiciary and the Status of Judges" of 7 July 2010 the court system of Ukraine consist of courts of general jurisdiction and the court of constitutional jurisdiction.

The system of courts of general jurisdiction is composed of:

- 1) local courts;
- 2) courts of appeals;
- 3) high specialized courts;
- 4) the Supreme Court of Ukraine.

Number of local courts (first instance courts) which consider: criminal cases - 665; commercial cases - 26; administrative cases - 27.

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:

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 | |

| | |
|-------------|-----|
| | NAP |
| a dismissal | NAP |
| a robbery | NAP |

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

NAP

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

State Judicial Administration of Ukraine

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) | 7754 | NA | NA | NA |
| 1. Number of first instance professional judges | 6162 | NA | NA | NA |
| 2. Number of second instance (court of appeal) professional judges | 1544 | NA | NA | NA |
| 3. Number of supreme court professional judges | 48 | NA | NA | NA |

Comment :

The mentioned number of supreme court professional judges concerns the judges of the High Specialized Court on Civil and Criminal Cases, the High Administrative Court of Ukraine, the High Commercial Court of Ukraine, as well as the judges of the Supreme Court of Ukraine.

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) | 768 | NA | NA | NA |
| 1. Number of first instance court presidents | 720 | NA | NA | NA |
| 2. Number of second instance (court of appeal) court presidents | 44 | NA | NA | NA |
| 3. Number of supreme court presidents | 4 | 4 | 0 | NA |

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 :

According to the national legislation of Ukraine judges can not sit in courts on an occasional basis. According to Article 127 of the Constitution of Ukraine professional judges should not belong to political parties and trade unions, take part in any political activity, hold a representative mandate, occupy any other paid positions, perform other remunerated work except scholarly, teaching and creative activity.

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:

NA

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) 3 2 800

- | | |
|---|----|
| 1. Rechtspfleger (or similar bodies) with judicial or quasi-judicial tasks having autonomous competence and whose decisions could be subject to appeal | NA |
| 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 | NA |
| 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) | NA |
| 4. Technical staff | NA |
| 5. Other non-judge staff | NA |

Comment :

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

Ukrainian judicial system does not provide Rechtspfleger (or similar bodies).

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:

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

The order of the State Judicial Administration of Ukraine of 17 January 2011, N 11 "On determining the number of judges in local general courts, regional courts of appeal, courts of appeal of cities of Kyiv and Sevastopol, the Court of Appeal of the Autonomous Republic of Crimea";

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

official statistics on the website of the Judicial Power of Ukraine ("Судова влада України") (www.court.gov.ua).

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) | 12 474 | NA | NA | NA |
| 1. Number of prosecutors at first instance level | 8 305 | NA | NA | NA |
| 2. Number of prosecutors at second instance (court of appeal) level | 3 461 | NA | NA | NA |
| 3. Number of prosecutors at supreme court level | 705 | NA | NA | NA |

Comment :

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) | 820 | NA | NA | NA |
| 1. Number of heads of prosecution offices at first instance level | 787 | NA | NA | NA |
| 2. Number of heads of prosecution offices at second instance (court of appeal) level | 32 | NA | NA | NA |
| 3. Number of heads of prosecution offices at supreme court level | 1 | 1 | 0 | NA |

Comment :

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:

NA

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 NAAmong 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

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

Information provided by the General Prosecutor's Office.

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

Comment :

Other - State Judicial Administration of Ukraine and the Ministry of Finance of Ukraine.

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 | +50% of courts |
| Electronic data base of caselaw | +50% of courts |
| Electronic files | +50% of courts |
| E-mail | +50% of courts |
| Internet connection | +50% 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 | -50% of courts |
| Financial information system | -50% of courts |
| Videoconferencing | -10% 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 | +50% of courts |
| Website | +50% of courts |
| Follow-up of cases online | 0 % of courts |
| Electronic registers | 0 % of courts |
| Electronic processing of small claims | 0 % of courts |
| Electronic processing of undisputed debt recovery | 0 % of courts |
| Electronic submission of claims | 0 % of courts |
| Videoconferencing | -10% of courts |
| Other electronic communication facilities | 0 % 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? | No |
| 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? | No |
| 65.4 Is videoconferencing used in other than criminal cases? | No |

Comment :

The national legislation of Ukraine did not provide the use of videoconferencing by the courts.

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

Justice in Ukraine is administered exclusively by the courts. The delegation of the functions of the courts, and also the appropriation of these functions by other bodies or officials, is not permitted. The jurisdiction of the courts extends to all legal relations that arise in the State. The court system of Ukraine consist of courts of general jurisdiction and the court of constitutional jurisdiction. The courts of general jurisdiction form a unified system of courts; the Constitutional Court of Ukraine is the sole body of constitutional jurisdiction in Ukraine. Judicial decisions are adopted by the courts in the name of Ukraine and are mandatory for execution throughout the entire territory of Ukraine. According to the Constitution of Ukraine the system of courts of general jurisdiction is based on the principles of territorial division, specialization, and instanceness. The Supreme Court of Ukraine is highest judicial body in the system of courts of general jurisdiction. The respective high courts are the highest judicial bodies of specialized courts. Courts of appeal and local courts operate in accordance with the law. The creation of extraordinary and special courts is not be permitted. The system of courts of general jurisdiction is composed of: 1) local courts; 2) courts of appeals; 3) high specialized courts; 4) the Supreme Court of Ukraine. The highest judicial body in the system of courts of general jurisdiction is the Supreme Court of Ukraine. The highest judicial body of specialized courts are the respective high specialized courts (the High Specialized Court on Civil and Criminal Cases, covering civil and criminal cases; the High Administrative Court of Ukraine, covering administrative cases; the High Commercial Court of Ukraine, covering economic and commercial cases). Law of Ukraine «On the Judicial System and the Status of Judges» of 7 July 2010 (hereinafter referred to as the "Law"), which became effective on 30 July 2010, substantially reformed the court system of Ukraine and modified the procedural rules for all types of court proceedings. The amendments to the Code of Commercial Procedure of Ukraine, introduced by the Law, particularly provide for: • the implementation of an automatic system of document circulation aiming at, inter alia, the automatic assignment of judges to consider cases. Any breach of this automatic order of assignment of a judge to a case will be a ground for challenging such judge's competence over the particular dispute; • the possibility for an interested party to change the subject matter and/or the grounds of the dispute only before the commencement of the consideration of the dispute on the merits; • the possibility for the respondent in the dispute to file its counter-claim against the plaintiff only before the commencement of the consideration of the dispute on the merits; • an exhaustive list of court rulings subject to further appeal separately from the court decision; • the possibility of challenging decisions of the first instance court with the High Commercial Court of Ukraine only after their review in the appellate procedure; • the restriction of the authority of the Supreme Court of Ukraine to review decisions of the High Commercial Court of Ukraine only to cases (1) where there exists a different application by the cassation instance court of the same substantive rules in similar

relations, which results in the rendering of different decisions in similar cases; or (2) where an international judicial institution, recognized by Ukraine, establishes a violation by Ukraine of its international obligations while considering a dispute. Furthermore, the Law amends the Ukrainian Codes of Criminal, Civil, Commercial, and Administrative Procedure by shortening the time limitations for the consideration of disputes by the first instance court, as well as for the further challenge of first instance court decisions/rulings with the respective courts of the appellate and cassation instances. In addition, the Code of Administrative Procedure, as amended, now explicitly provides for the possibility of e-mailing or faxing a court's summons to the subject of governmental authority involved in the dispute, as well as to the other parties, provided that such other parties have informed the court of their e-mail addresses/fax numbers and have not objected to their obtaining of court documents by e-mail/fax. The Law also eliminates the existing system of military courts, and provides for the establishment by 1 October 2010, of a totally new High Specialized Court on Civil and Criminal Cases as the cassation instance court for civil and criminal disputes. At the same time, the Law restricts the authority of the Supreme Court of Ukraine to review the decisions of those specialized courts of the cassation instance described above. Finally, the Law of Ukraine "On the Status of Judges", the Resolution of the Verkhovna Rada of Ukraine "On the Order on the Entering into Effect of the Law of Ukraine "On the Status of Judges"", the Law of Ukraine "On the Judicial System", and the Law of Ukraine "On the Order of the Election and Dismissal of a Professional Judge by the Verkhovna Rada of Ukraine" have been cancelled by the Law.

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?

- Yes
 No

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

The State Judicial Administration of Ukraine is responsible for organization of the statistic work (www.court.gov.ua/dsa). Address: 01601, Ukraine, st. Lypyska 18/5, Kyiv. High specialized courts analyze court statistics, study and generalize case law: The High Specialized Court on Civil and Criminal Cases (01043, Kyiv, st. P. Orlyka 4a; www.sc.gov.ua) • The High Administrative Court of Ukraine (01029, Kyiv, 8 Moskovska St.; www.vasu.gov.ua) • The High Commercial Court of Ukraine (01016, Kyiv, st. O. Kopylenka 6; www.arbitr.gov.ua).

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

- Yes
 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)?

- 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).

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

If other, please specify:

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:

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

- Yes
 No

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

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

If other, please specify:

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

- Yes
 No

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

- executive power (for example the Ministry of Justice)?
 legislative power
 judicial power (for example a High Judicial Council, 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
- 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:**77) Who is responsible for evaluating the performance of the courts (see questions 69 to 76)? (multiple options possible)**

- High Council of judiciary
- Ministry of Justice
- Inspection authority
- Supreme Court
- External audit body
- Other

If other, please specify :

High specialized courts analyze court statistics, study and generalize the case law.

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 administrative 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:

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

Yes

No

If yes, please give further details:

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

According to Article 32 of the Law of Ukraine "On Judiciary and Status of Judges" high specialized courts analyze court statistics, study and generalize the case law. As to the State Administration of Ukraine, this body: -study the practical aspects of the operation of courts, develop and submit, in the manner prescribed by the law, proposals on ways to improve that practice; -organize the keeping of court statistics, case management, and archiving; supervise the state of case management in courts of general jurisdiction; -organize computerization of courts for purposes of administration of justice, case management, and informational and normative support for the operation of courts; and provide for the functioning of automated case management/document flow system in courts; provide courts with necessary technical means for recording court proceedings within funding envisaged in the State Budget of Ukraine to finance respective courts; -provide for the keeping of a Unified State Register of Court Decisions and Register of E-mail Addresses of government bodies, their public officers and officials etc.

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)?

NAP

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):

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) | NA | 68 | 203 | NA |
| Civil proceedings - Article 6§1 (non-execution) | NA | 103 | 384 | NA |
| Criminal proceedings - Article 6§1 (duration) | NA | 23 | 77 | NA |

Please indicate the sources:

Statistics provided by Office of the Government Agent before the European Court of Human Rights.

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

Question 85. According to Article 83 of the Law of Ukraine "On the Judiciary and the Status of Judges" disciplinary proceedings are a procedure for consideration, by a body specified by the law, of an application containing information on violation by a judge of requirements regarding his/her status or official responsibilities, or on violation of the judicial oath. Anyone who is aware of such facts have the right to file a complaint (petition) regarding the conduct of a judge which may be a ground for disciplinary action against the judge.

4. 2. Timeframes of proceedings

4. 2. 1. General information

87) Are there specific procedures for urgent matters as regards:

- civil cases?
 criminal cases?
 administrative cases?
 there is no specific procedure

If yes, please specify:

88) Are there simplified procedures for:

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

If yes, please specify:

In civil cases: mandatory proceedings which is a special kind of simplified civil process, aimed at quick and effective protection of undisputed rights of persons by issuing a court order that is both a judicial decision and enforcement document.

Court order - is a kind of court decision, adopted by a single judge without consideration of the merits of the case during the court hearing. A court order is adopted on the basis of written documents and must contain requirements that are indisputable. Moreover, the judge does not examine the testimonies of witnesses, conclusions of experts and does not listen the explanations of the parties.

The court order may be issued if:

- 1) the claim based on the transaction implemented in writing is filed;
- 2) the claim on recovering of accrued but not paid amount of employee wages is filed;
- 3) the claim on recovering costs for the searching of the defendant, the debtor, child or vehicles of the debtor.

The court order may be issued in other cases established by law.

In criminal cases: 1) protocol form of pre-trial preparation materials, 2) victim's reconciliation with the person who has committed the crime (the defendant) and this entails the termination of the criminal case or its closure by a judge, 3) the possibility for the court not to conduct a judicial examination (only questioning the defendant), who had pleaded himself completely guilty of the charges brought against him.

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

Yes

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:

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

| | Jan. 12 | | Dec. 12 | |
|---|---------|---------|---------|--------|
| Total of other than criminal law cases (1+2+3+4+5+6+7)* | 428901 | 2348065 | 2516393 | 260571 |
| 1. Civil (and commercial) litigious cases (if feasible without administrative law cases, see category 6)* | 216942 | 836878 | 884919 | 168899 |
| 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)* | 33178 | 84507 | 87186 | 30499 |
| | | | | |

| | | | | |
|---|--------|---------|---------|-------|
| 3. Non litigious enforcement cases | NAP | NAP | NAP | NAP |
| 4. Non litigious land registry cases** | 8196 | 15947 | 17720 | 6418 |
| 5. Non litigious business registry cases** | NA | NA | NA | NA |
| 6. Administrative law cases | 158067 | 383571 | 497278 | 44360 |
| 7. Other cases (e.g. insolvency registry cases) | 20714 | 1043109 | 1047010 | 16813 |

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

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) | 48380 | 187133 | 193518 | 41995 |
| 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":

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.)

NA

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) | 593 300 | 1 415 023 | 1 514 108 | 494 215 |
| 1. Civil (and commercial) litigious cases (if feasible without administrative law cases, see category 6)* | 185 539 | 152 330 | 319 724 | 18 145 |
| 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)* | 3 745 | 39 938 | 40 176 | 3 507 |
| 3. Non litigious enforcement cases | NAP | NAP | NAP | NAP |
| 4. Non litigious land registry cases | NA | NA | 3 942 | NA |
| 5. Non litigious business registry cases | NA | NA | NA | NA |
| 6. Administrative law cases | 403 487 | 1 206 669 | 1 138 099 | 472 057 |
| 7. Other cases (e.g. insolvency registry cases) | 529 | 16 086 | 16 109 | 506 |

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) | 4257 | 39946 | 39756 | 4447 |
| 8. Severe criminal cases | NA | NA | NA | NA |
| 9. Misdemeanour and/or minor criminal cases | NA | NA | NA | NA |

Comment :

The numbers indicated in the boxes "Total criminal cases" include the number of severe criminal offences and the number of misdemeanour and minor offences cases. The information about the exact number of the severe criminal offences and misdemeanour/minor offences cases is not available.

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) | 281554 | 515349 | 674721 | 92085 |
| 1. Civil (and commercial) litigious cases (if feasible without administrative law cases, see category 6) | 192 | 278 | 448 | 22 |
| 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) | 33178 | 114604 | 87186 | 30449 |
| 3. Non litigious enforcement cases | NA | NA | NA | NA |
| 4. Non litigious land registry cases** | NA | NA | NA | NA |
| 5. Non litigious business registry cases | NA | NA | NA | NA |
| 6. Administrative law cases | 248138 | 400 396 | 586 979 | 61 555 |
| 7. Other cases (e.g. insolvency registry cases) | 46 | 71 | 108 | 9 |

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) | NA | NA | NA | NA |
| 8. Severe criminal cases | NA | NA | NA | NA |
| 9. Misdemeanour and/or minor criminal cases | NA | NA | NA | NA |

Comment :

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 | 19247 | 140199 | 143928 | 155188 |
| Employment dismissal cases | NA | NA | NA | NA |
| Insolvency | NA | NA | NA | NA |
| Robbery cases | 2733 | 9255 | 9674 | 2314 |
| Intentional homicide | 1449 | 3031 | 3026 | 1454 |

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 | NA | NA | NA | NA | NA | NA |
| Employment dismissal cases | NA | NA | NA | NA | NA | NA |
| Insolvency | NA | NA | NA | NA | NA | NA |
| Robbery cases | NA | NA | NA | NA | NA | NA |
| Intentional homicide | NA | NA | NA | NA | NA | NA |

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

The termination of marriage in Ukraine is governed by the Family Code of Ukraine.

A marriage is terminated in case if one of spouses dies or because of its dissolution.

Whenever one of spouses dies prior to judicial decision on marriage dissolution becoming res judicata, it is understood that the marriage has terminated as a result of his/her death

If one of spouses dies the day on which judicial decision on marriage dissolution has become res judicata, it is understood that the marriage has terminated as a result of its dissolution.

(a) Non-litigious divorce

A marriage can be terminated in the following two ways:

(1) dissolution by the Public Civil Status Act Registration Authority (the "Authority") upon joint application of spouses without children.

If the spouses have no children, they may file an application with the Agency to seek the dissolution of the marriage.

The Agency renders its decision whether to dissolve a marriage within one month from the date of application. The marriage is dissolved whatever property dispute between the spouses may exist.

(2) dissolution upon joint application of spouses with children.

Spouses with children may file with the court a marriage dissolution application accompanied with written agreement, which specifies with whom of them children will continue residing, what kind of contribution the parents will make in ensuring their living conditions, as well as conditions for him/her to exercise the right for children's personal education.

The court will dissolve a marriage if the application corresponds to the will of the wife and the husband, and such dissolution does not violate their personal and property rights or the rights of their children. The court makes a decision on marriage dissolution within one month from the date of the application. Of course, the wife and the husband may withdraw their application anytime before the expiration of this time-limit.

(b) Litigious Divorce

One of spouses has the right to legal action for marriage dissolution.

The legal action for marriage dissolution may not be taken during the wife's pregnancy and within one year after the child has been born, save cases when one of spouses has committed unlawful conduct containing elements of crime in respect of the other spouse or the child.

The husband, the wife has the right to take legal action for marriage dissolution during the wife's pregnancy if another person found parental affiliation of the procreated child.

The husband, the wife has the right to take legal action for marriage dissolution prior the child has attained the age of 1 if another person found parental affiliation of the child or if upon judicial decision particulars on the husband as the father of the child have been withdrawn from the birth record.

The custodian may take legal action for marriage dissolution if the interests of the spouse found legally incapable so require.

The court ascertains actual relationships of spouses, real reasons for taking legal action for marriage dissolution, take in consideration existence of a minor child, disabled child and other circumstances relating to the life of married couple.

The court pronounces the decision on marriage dissolution if it is ascertained that spouses' continued living together and preservation of marriage would not be in essential interests of one of spouses, the interests of their children.

The person that has changed his/her family name in connection with marriage registration may continue to bear that family name or revert to his/her pre-marriage family name.

Whenever the public civil status act registration authority dissolves a marriage, the marriage terminates the day on which such an authority has made the appropriate decision.

When the court dissolves a marriage, the marriage terminates the day on which judicial decision on marriage dissolution has become res judicata.

A marriage dissolved judicially is subject to the registration in the public civil status act registration authority upon application of the former wife or husband. Marriage dissolution is attested by the Marriage Dissolution Certificate whose specimen is approved by the Cabinet of Ministers of Ukraine.

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

NA

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

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

If "other significant powers", please specify:

CN 24/04 : There was a reform in 2010.

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

- Yes
- No

If yes, please specify:

In civil proceedings - according to Article 45 of the Civil Procedural Code of Ukraine in the cases established by the national law the prosecutor may apply to the court for protection of rights, freedoms and interests of other persons or national or public interests and to participate in these proceedings.

The prosecutor performs the representation of citizens' or the state interest in court and may perform the representation at any stage of the civil process.

The prosecutor, who was not involved in the case, has the right to get acquainted with the papers of the case in court with intent to solve the question of the existence of grounds for filing the appeal or cassation petition, the application on reconsideration of the case in connection with exceptional or new circumstances.

In administrative proceedings - according to Article 60 of the Administrative Legal Procedure Code of Ukraine in the cases established by law the prosecutor may apply to the administrative court with administrative claims about protection of rights, freedoms and interests of others and participate in these cases.

The prosecutor makes in court representation of citizens or the state and may make representation at any stage of the administrative process.

The prosecutor, who was not involved in the case, to address the question of the existence of grounds for filing of appeal or cassation, complaints, in exceptional circumstances, applications for review of new circumstances has the right to meet with the case materials in the administrative court.

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 | NA | NA | NA | NA |

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 guilty 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) | NA |
| 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 | NA |
| 3. Discontinued by the public prosecutor for reasons of opportunity | NA |

109) Do the figures include traffic offence cases?

Yes

No

D.2 You can indicate below:

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

CN 24/04 : Q. 101 for robbery cases: looting

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

The information was provided by the State Judicial Administration of Ukraine and the General Prosecutor's Office of Ukraine.

5. Career of judges and public prosecutors

5. 1. Recruitment and promotion

5. 1. 1. Recruitment and promotion

110) How are judges recruited?

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

If "other", please specify:

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

- Yes
- 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?
- 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 authorities involved in the procedure of recruitment and nomination of judges at the beginning of their carrier are the High Qualification Commission of Judges, High Council of Justice and the President.

The High Qualification Commission of Judges is responsible for initial selection of candidates, i.e. checking up the documents submitted, holding qualification exams, rating placement and recommendation of certain candidates to be nominated for the office.

The High Council of Justice, according to the recommendation made by the High Qualification Commission of Judges, makes a submission to the President of Ukraine which contains the list of the candidates to be nominated for office.

Within 30 days from the date of receiving of the submission the President shall take a decision concerning appointment of the judge for office.

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.

For the purposes of answering to this question the term "promotion" shall be considered as appointment of a judge for life and his movement to the court for higher instance.

After the termination of the 5-years period of initial appointment of a judge, he/she can lodge with the High Qualification Commission of Judges an application (with all the necessary documents enclosed) for his appointment for office for life.

Following the checking up of the judge's application the High Qualification Commission of Judges shall decide whether or not to recommend the candidate to the Parliament.

The candidate recommended shall be appointed for office by the parliament through the voting procedure.

Transfer of a judge, elected for life, to the court of higher instance is conducted by the parliament according to the same procedure as for the election of judges.

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?
 Under the authority of the Minister of justice ?
 Other?

Please specify:

116) How are public prosecutors recruited?

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

If "other", please specify:

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:

Public prosecutors are recruited and nominated by the respective prosecutors' offices directly. The only exception is the office of the General Prosecutor, who is appointed for by the President of Ukraine following the submission of the parliament.

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:

Prosecutors can be promoted on the basis of exemplary conduct of their powers, initiative in work or any other credits. The authority empowered for the promotion is the Prosecutor General or the President (only for certain ranks). The promotion is possible in the way of transfer of a prosecutor to the prosecutors' office of higher level or in the way of conferring out-of-turn ranks.

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 :

For the first time the judges are appointed to the office for a period of 5 years, however this term cannot be considered a probation period. Following this period the judges can be appointed for an undetermined period (for life).

The judges appointed for life are to be dismissed in the following cases:

- 1)when reached the age of 65;
- 2)for health reasons;
- 3)for the breach of combining jobs prohibition;
- 4)for the violation of oath;
- 5)being convicted for crime;
- 6)forfeiting of citizenship;
- 7)when a judge has been acknowledged missing or declared dead;
- 8)for his own motion.

CN 24/04 : According to the Article 74(2) the Law of Ukraine "On the Judiciary and the Status of Judges" a judge whose tenure of judicial office has expired, upon his/her application has to be recommended by the High Qualifications Commission of Judges of Ukraine to be elected to a lifetime judicial position by the Verkhovna Rada of Ukraine provided there are no circumstances preventing this.

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

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

Please specify modalities and safeguards

NAP

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 | |
| No | |
| NAP | 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 | |
| No | NO |

Comment :

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 |
| 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?

- Yes Renewable
 No

For judges : length of the mandate (in years):

5

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?

- Yes Renewable
 No

For public prosecutors : length of the mandate (in years):

5

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 | No training proposed |
| General in-service training | Compulsory |
| In-service training for specialised functions (e.g. public prosecutor specialised on organised crime) | Compulsory |
| In-service training for management functions of the court (e.g. Head of prosecution office, manager) | Compulsory |
| In-service training for the use of computer facilities in office | No training proposed |

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 | No training proposed |

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 | Yes | Yes | Yes | NA |
| One institution for prosecutors | No | Yes | No | NA |
| One single institution for both judges and prosecutors | NAP | NAP | NAP | NAP |

Comment :

Training institution for prosecutors is the National Academy of Prosecution of Ukraine (special institute within the Academy).
Initial and continuous training institution for judges is the National School of Judges of Ukraine.

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 ?

NAP

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

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 | 8154 | 6906 |
| 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) | 21456 | 17266 |
| Public prosecutor at the beginning of his/her career | 5723 | 4500 |
| 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) | 6325,59 | 4959,26 |

Comment :

According to the national legislation in force, any prosecutor of the General Prosecutor's Office may participate in the proceedings in the Supreme Court and the High Courts of Appeal. In this connection the salary stated in the last column of the question is the salary of the prosecutor of the General Prosecutor's Office.

The salary indicated in the column "Judge of the Supreme Court or the Highest Appellate Court" is an average annual salary of a judge of the Highest appellate court.

The salary of public prosecutors and investigators of office of public prosecutor consists of post salaries, raises for class ranks, time-in-service and must provide sufficient material terms for independent implementation of official duties, and similarly fixing of skilled shots. Raises for a time-in-service are set also to other workers of office (to the specialists, office workers, workers) of public prosecutor. The sizes of post salaries, raises for class ranks and time-in-service become firmly established Cabinet of Ministers of Ukraine.

CN 24/04: The differences between 2010 and 2012 data are due to the adoption the Law of Ukraine "On the Judiciary and the Status of Judges" on July 7, 2010 No. 2453-VI.

According to the national legislation in force, any prosecutor of the General Prosecutor's Office may participate in the proceedings in the Supreme Court and the High Courts of Appeal. In this connection the salary stated in the last column of the question is the salary of the prosecutor of the General Prosecutor's Office.

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 | No | Yes |

134) If other financial benefit, please specify:

The prosecutors have the right to reduced fees for utility services and telephone, free use of public transport.

Public prosecutors and investigators have a right free of charge to use after official certifications on territory of Ukraine by all types of transport of municipal, suburban and local report(except a taxi);

During a duty journey to use a right for reserving of places in hotels and on all types of transport, and also extraordinary acquisition of travel documents.

Public prosecutors and inquisitional offices, of public prosecutor are assigned for work in other locality, during six months provided by the executive committees of local Advices of fully furnished to the inhabited apartments in the extraordinary order. They have also a right on the near-term arranging of children in preschool establishments and installing a housing telephone.

Local Advices can sell on the favourable terms the inhabited apartments to the workers of office of public prosecutor

with a discount to 50 percents of his cost.

A judge reward consists of post salary and additional charges after:

- 1) time-in-service;
- 2) stays are in administrative position in a court;
- 3) scientific degree;
- 4) works that envisages access to the state secret.

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 | Yes | Yes |
| Political function | No | No |
| Other function | No | No |

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

No authorization required

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 | Yes | Yes |
| Political function | No | No |
| Other function | No | No |

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

No authorization required

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:

According to the national legislation in force, everyone who has information as to the judges misconduct is entitled to file a respective complaint with the High Qualification Commission of Judges (as regards the judges of local and appellate courts) or the High Council of Justice (as regards the judges of higher courts of appeal and the Supreme Court) which are entitled to institute disciplinary proceedings.

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

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

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

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

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

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

Disciplinary power on judges is entrusted with the High Qualification Commission of Judges (as regards the judges of local and appellate courts) or the High Council of Justice (as regards the judges of higher courts of appeal and the Supreme Court). In the case of dismissal of a judge such disciplinary power belongs to the President (for the judges elected for 5-years term) or the parliament (for the judges elected for an undetermined period).

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

- Supreme Court
- Head of the organisational unit or hierarchical superior public prosecutor
- Prosecutor General /State public prosecutor
- Public prosecutorial Council (and Judicial Council)
- Disciplinary court or body

- Ombudsman
 Professional body
 Executive power
 Other

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

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

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

| | Judges | Public prosecutors |
|----------------------------------|--------|--------------------|
| Total number (1+2+3+4) | 342 | 565 |
| 1. Breach of professional ethics | 0 | 26 |
| 2. Professional inadequacy | 342 | 591 |
| 3. Criminal offence | NA | NA |
| 4. Other | NA | NA |

Comment :

CN 24/04 : The difference between 2010 and 2012 data is connected with the adoption of the Law of Ukraine "On the Judiciary and the Status of Judges" on July 7, 2010 No. 2453-VI. According to this Law the High Qualification Commission of Judges of Ukraine began to act in September 2010. Thus, number of disciplinary proceedings initiated against judges in 2010 is only for 3 last months of 2010.

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) | 161 | 591 |
| 1. Reprimand | 138 | 564 |
| 2. Suspension | NAP | NA |
| 3. Removal of cases | NAP | NA |
| 4. Fine | NAP | NA |
| 5. Temporary reduction of salary | NAP | NA |
| 6. Position downgrade | NAP | NA |
| 7. Transfer to another geographical (court) location | NAP | NA |
| 8. Resignation | NAP | NA |
| 9. Other | 23 | NA |

Comment :

CN 30/04: "other" = dismissal

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

Please indicate the sources for answering questions 144 and 145

The High Qualification Commission of Judges and the General Prosecutor Office of Ukraine

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.

111 026

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:

In civil, commercial and administrative cases a person can be represented by a family member (i.e for minors) or by any other person (even without education in law) whose powers to represent in court are duly certified.

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

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

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

- Yes
 No

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

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

- Yes
 No

153) Is the specialisation in some legal fields tied with specific training, levels of qualification, specific diploma or specific authorisations?

- Yes
 No

If yes, please specify:

Notaries, advocates and administrators in entity liquidation proceedings shall obtain special certificate

Please indicate the sources for answering questions 146 and 148:

This figure shows the number of members of the Union of Lawyers of Ukraine being practicing legal professionals. It appears that the number of legal professionals practicing in Ukraine is bigger, however, there is no other mechanism of calculation of their number. Additionally, the number of advocates who have respective certificates is 40262.

F1 Comments for interpreting the data mentioned in this chapter:

6. 2. Practising the profession

6. 2. 1. Practising the profession

154) Can court users establish easily what the lawyers' fees will be (i.e. do users have easy access to prior information on the foreseeable amount of fees, is the information transparent and accountable)?

- Yes
 No

155) Are lawyers' fees freely negotiated?

- Yes
 No

156) Do laws or bar association standards provide any rules on lawyers' fees (including those freely negotiated)?

- Yes laws provide rules
 Yes standards of the bar association provide rules
 No, neither laws nor bar association standards provide rules

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 determined for lawyers?

- Yes
 No

If yes, what are the quality criteria used?

Any person, who has higher legal education certified by a diploma of Ukraine or a diploma of another state in conformity with international treaties of Ukraine, work experience in the sphere of law of not less than two years, a knowledge of the state language, who has passed qualifying examinations, has received a certificate entitling him/her to engage in advocacy in Ukraine and has taken the Oath of an Advocate of Ukraine, can be an advocate.

In his professional activity and private life an advocate should attend to the prestige of his advocate's title and maintain a high standard of conduct, be dignified, reserved, tactful, self-controlled and self-possessed, as well as have proper appearance.

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

- the bar association?

the Parliament?

other?

If "other", please specify:

159) Is it possible to file a complaint about :

the performance of lawyers?

the amount of fees?

Please specify:

A complaint might be introduced by a person, who is not satisfied with the lawyer's performance in a case, breach of professional ethics, violation of oath and violation of professional secrecy. The complaint shall be submitted to the respective qualification commission and/or to the bar.

160) Which authority is responsible for disciplinary procedures?

the judge

the Ministry of justice

a professional authority

other

If other, please specify:

The authority in charge of disciplinary proceeding against lawyers is local Qualification Commission of Advocacy and High Qualification Commission of Advocacy

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) | 441 |
| 1. Breach of professional ethics | 309 |
| 2. Professional inadequacy | NA |
| 3. Criminal offence | NA |
| 4. Other | 132 |

Comment :

142 disciplinary proceedings were initiated against for the reasons of non-appearance before the court in a hearing.

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) | 99 |
| 1.Reprimand | NA |
| 2. Suspension | NA |
| 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:

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 | No | No | No | No | No |
| Family law cases (ex. divorce) | No | No | No | No | No |
| Administrative cases | No | No | No | No | No |
| Employment dismissals | No | No | No | No | No |
| Criminal cases | No | No | No | No | No |

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

- Yes
 No

If yes, please specify:

The Ukrainian judicial system does not have mediation procedures and accordingly there is no possibility to receive legal aid for mediation procedures.

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

21

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) | <input checked="" type="checkbox"/> Yes | 206 |
| 1. civil cases | | NA |
| 2. family cases | | NA |
| 3. administrative cases | <input checked="" type="checkbox"/> Yes | 6 |
| 4. employment dismissals cases | | NA |
| 5. criminal cases | <input type="checkbox"/> Yes | 0 |

Comment :

These judicial mediation procedures were held within ukrainian-canadian project.

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? | No |
| Arbitration? | Yes |
| Conciliation? | No |
| Other alternative dispute resolution? | Yes |

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

CN 24/04:

q. 163: According to the Ukrainian law there are not judicial mediation. However, due to the Code of the Civil Proceedings the pre-trial dispute settlement may be applied.

CN 30/04:

q. 163 : Due to the Ukrainian legislation a judge can't participate in trial as a mediator. Thus, judicial mediation doesn't exist in Ukraine.

Please indicate the source for answering question 166:

The High Qualification Commission of Judges of Ukraine as the main ukrainian partner of the ukrainian-canadian project.

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

6069

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

- judges?
 bailiffs practising as private professionals under the authority (control) of public authorities?
 bailiff working in a public institution?
 other enforcement agents?

Please specify their status and powers:

State Bailiffs' Service is included into the system of bodies of the Ministry of Justice of Ukraine and executes decisions of courts, courts of arbitration and other bodies the list of which is set in the laws of Ukraine.

State bailiffs are state officials.

To become a state bailiff a person shall be a citizen of Ukraine who has legal education, is able to perform put on him/her duties according to his/her personal and business traits.

Control over activity of state bailiffs shall be conducted by the Ministry of Justice of Ukraine.

State bailiffs are empowered to conduct all measures necessary for the due and timely enforcement of judgments, i.e. to request information, enter debtor's premises, seize it's property etc.

172) Is there a specific initial training or examination to become an enforcement agent?

- Yes
 No

173) Is the profession of enforcement agents organised by?

- a national body?
 a regional body?
 a local body?
 NAP (the profession is not organised)

174) Are enforcement fees easily established and transparent for the court users?

- Yes
 No

175) Are enforcement fees freely negotiated?

- Yes
 No

176) Do laws provide any rules on enforcement fees (including those freely negotiated)?

Yes No**Please indicate the source for answering question 170:**

The source for answering question 170 is the State Bailiffs' Service of Ukraine.

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:

179) Have quality standards been determined for enforcement agents? Yes No

If yes, what are the quality criteria used?

The enforcement agents as state officials shall:

- perform their duties with diligence;
- treat the citizens, heads of departments and colleagues with respect, adhere to high culture of communication;
- prevent any action or behavior that may harm the interests of public service or negatively affect the reputation of state officials.

180) If yes, who is responsible for establishing these quality standards? a professional body the judge the Ministry of Justice other

If "other", please specify:

The parliament is responsible for establishing the quality standards.

181) Is there a specific mechanism for executing court decisions rendered against public authorities, including for supervising such execution? Yes No

if yes, please specify

182) Is there a system for monitoring how the enforcement procedure is conducted by the enforcement

agent?

- Yes
 No

If yes, please specify

National legislation provides for hierarchical monitoring system within the body.

**183) What are the main complaints made by users concerning the enforcement procedure?
Please indicate a maximum of 3.**

- no execution at all
 non execution of court decisions against public authorities
 lack of information
 excessive length
 unlawful practices
 insufficient supervision
 excessive cost
 other

If "other", please specify:

184) Has your country prepared or 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:

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

- for civil cases?
 for administrative cases?

186) As regards a decision on debts collection, please estimate the average timeframe to notify the decision to the parties who live in the city where the court sits:

NA

**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) | <input checked="" type="checkbox"/> number: | 8884 |
| 1. for breach of professional ethics | | NA |
| 2. for professional inadequacy | | NA |
| 3. for criminal offence | | NA |
| 4. Other | | NA |

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) | <input checked="" type="checkbox"/> number: | 18 |
| 1. Reprimand | <input checked="" type="checkbox"/> number: | 11 |
| 2. Suspension | | NA |
| 3. Dismissal | | NA |
| 4. Fine | | NA |
| 5. Other | <input checked="" type="checkbox"/> number: | 7 |

Comment :

CN24/04 (+conf. 30/04) :

"Other": a) delayaing of confirming the next rank:5

b) delaying of appointment to the position : 2

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**

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

The State Bailiffs' Service

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:

Please specify his/her functions and duties (initiative or monitoring functions).

State Penitentiary Service of Ukraine is included into the system of bodies of the Ministry of Justice of Ukraine. Its structure consists of central body of executive power, its local bodies, criminal-executive inspections, penitentiary establishments, investigative isolation wards, military units, educational establishments, health protection establishments, state enterprises.

The staff of the State Penitentiary service are considered to be state officials with a special status.

The staff of the State Penitentiary Service of Ukraine is empowered to:

- 1) execute punishments;
- 2) take measures for correction and resocialisation of convicts and their social adaptation;
- 3) execute acts of amnesty and pardon;
- 4) conduct registration of convicts and persons detained in custody;
- 5) ensure safety of convicts and persons detained in custody, personnel and citizens on the territory of penitentiary establishments and isolation wards;
- 6) organize general and special education for convicts;
- 7) control the conduct of persons convicted on probation.

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%
- cannot be estimated

Please indicate the source for answering this question:

H.2 You can indicate below:

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

9. Notaries

9. 1. 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)? | | NAP |
| private professionals under the authority (control) of public authorities? | <input checked="" type="checkbox"/> number | 5 684 |
| public agents? | <input checked="" type="checkbox"/> number | 1 198 |
| other? | | NAP |

Comment :

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

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

If "other", please specify:

Notaries are empowered to conduct the following notarial actions:

- 1) to take measures as to protection of inheritance property and give out certificates on the inheritance right;
- 2) to certify loyalty of copies (photocopies) of documents and extracts from them;
- 3) to certify authenticity of signature on documents;
- 4) to certify loyalty of documents translation from one language to another;
- 5) to accept money and put them on a deposit account;
- 6) to make executive endorsements;
- 7) to protest bills;
- 8) to accept documents on storage etc.

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:

- a professional body?
 the judge?
 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**

Please indicate the sources for answering question 193:

the Ministry of justice

10. Court interpreters

10. 1. Court interpreters

10. 1. 1. Functioning

197) Is the title of court interpreters protected?

- Yes
 No

198) Is the function of court interpreters regulated by legal norms?

- Yes
 No

199) Number of accredited or registered court interpreters:

NA

200) Are there binding provisions regarding the quality of court interpretation within judicial proceedings?

- Yes
 No

If yes, please specify (e.g. having passed a specific exam):

201) Are the courts responsible for selecting court interpreters?

If no, please indicate in the "comment" box below which authority selects court interpreters.

- Yes for recruitment and/or appointment for a specific term of office
Yes for recruitment and/or appointment on an ad hoc basis, according to the specific needs of given proceedings
No .

Comment :

According to the national procedural legislation in force (civil, commercial, criminal and administrative) an interpreter is a part to the court proceedings. This shall be a person with a good command of an official language of the court proceedings and other (foreign) language or a person able to communicate with deaf, dumb or deaf-and-dumb people. An interpreter shall be involved in the court proceedings following the party's application (for civil cases) or on court's initiative in order to ensure the right to defense.

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

Please indicate the sources for answering question 199:

11. Judicial experts

11. 1. Judicial experts

11. 1. 1. Judicial experts

202) In your system, what type of experts can be requested to participate in judicial procedures (multiple choice possible):

- "expert witnesses", who are requested by the parties to bring their expertise to support their argumentation,
 "technical experts" who put their scientific and technical knowledge on issues of fact at the court's disposal,
 "law experts" who might be consulted by the judge on specific legal issues or requested to support the judge in preparing the judicial work (but do not take part in the decision).

203) Is the title of judicial experts protected?

- Yes
 No

204) Is the function of judicial experts regulated by legal norms?

- Yes
 No

205) Number of accredited or registered judicial experts (technical experts)

6 350

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:

If yes, please specify, in particular the given time to provide a technical report to the judge:

The functions, rights and duties of judicial experts within the framework of court proceeding are regulated by the respective procedural laws. A judicial expert is a party to the court proceedings and shall have special authorisation. The expert shall appear before the court, conduct a full expertise and give a reasoned and objective written report on the questions asked, and if necessary - to explain his opinion. No timeframes for giving the report is envisaged.

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 .

Comment :

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

Please indicate the sources for answering question 205:

The Ministry of justice of Ukraine.

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. Comprehensive reforms in the field of justice
Judicial system and status of judges

On October 11, 2013 the Parliament of Ukraine voted in the first reading the Law "On the amendments to the Constitution of Ukraine on the enhancement of the guarantee of the independence of judges".

We expect the provisions of the law to be implemented in February 2014.

One of the main changes that strengthen independence of judges is revocation of authority of the Parliament to elect judges for permanent terms.

According to paragraph 27 of Article 85, the Parliament will be empowered to determine the network, establishment, reorganization and abolition of courts of general jurisdiction upon the motion of the President of Ukraine.

According to Article 106, the President of Ukraine "on the motion of the High Council of Justice appoints and dismisses judges from their positions".

According to the amendments to the Constitution "the Parliament determines the structure of the court system, establishes, reorganizes and abolishes the courts upon the motion of the President".

One of the main issues that needed to be addressed was the question of the "appointment of judges for the first time". Before the adoption of these changes, according to the Constitution of Ukraine, there were two categories of judges.

The first category included judges nominated for the first time for a 5-year term. Such a probationary period was criticized as contradicting the general principle of irrevocability of judges.

The amendment to Article 126 is an important step towards ensuring independence of judges. It states that a judge cannot be arrested or detained without consent of the High Council of Justice on the request of the High Qualification Commission of Judges of Ukraine.

A number of changes have been made to paragraph 5 of Article 126 concerning the dismissal of judges.

Such a criterion for dismissal of judges as "violation of oath by a judge" was withdrawn. Instead, it introduced the criterion of responsibility for disciplinary violations, incompatible with holding a judicial position.

Among other new grounds for dismissal of judges are legal incapacity of a judge, and disagreement by a judge to give consent to be transferred to another court in case of liquidation or reorganization of a court of general jurisdiction in which he holds an office.

There are the following amendments to Article 127 regarding requirements for appointment to a judicial position:

- age of a candidate for a judicial position changed from 25 to 30 years;

- necessary experience extended from 3 to 5 years.

The selection of candidates is made with the help of contests corresponding to international and European legal standards.

The amendments to Articles 128 and 131 establish new procedures for selection and appointment of judges, securing the role of the High Qualification Commission of Judges of Ukraine and its authority provided by the Law of Ukraine "On the Judiciary and Status of Judges".

2. Reforms regarding legal professionals

Advocates

In order to reform the legal profession in accordance with international democratic standards the Verkhovna Rada of Ukraine on July 5, 2012 adopted the new Law of Ukraine "On Advocacy and Legal Practice".

According to this Law the organizational and practices issues of the Bar of Ukraine is carried on the principles of the rule of law, legality, independence, confidentiality and avoidance of conflicts of interest.

At the same time the Bar is independent from state authorities, local governments or officials.

The law expands existing types of advocacy, professional rights and guarantees of legal profession, specified the content of attorney-client privilege and its effective legal protection mechanisms.

The law establishes that attorney request shall be obligatory. A refusal to provide the information on the attorney's request, untimely or incomplete submission of the information or unreliable information, entails the responsibility according to law, except in cases of failure to provide information with restricted access.

The Law empowered the Bar Council of Ukraine to manage the Unified Register of Advocates of Ukraine in order to collect, store, keep and provide reliable information as to the amount and personnel of advocates in Ukraine. Foreign attorneys in accordance with this Law called to the bar in Ukraine. The law also addresses the issues of disciplinary liability of advocates in Ukraine and specific aspects of the status of foreign attorneys.

The Law assigned wide functions of advocate's self-government based on the principles of eligibility, transparency and enforceability of the resolutions of the advocate's self-government bodies.

The highest body of advocate self-government in Ukraine is Congress of Advocates. In the periods between Congresses its functions shall perform the Bar Council of Ukraine.

In order to realize the tasks of advocates' self-government National Association of Advocates of Ukraine has been established, it also performs non-state and non-profit professional organization that unites all advocates

3. Enforcement of judgments

In order to remedy the structural violation found in the ECHR pilot judgment in the case of Yuriy Nikolaevich Ivanov v. Ukraine the Ministry of Justice of Ukraine drafted the Law On State Guarantees of Enforcement of the Courts' Judgments.

This draft Law provides inter alia for:

- all the payments awarded by the domestic courts' judgments against the State authorities, enterprises and organizations should be covered at the expense of the State Budget of Ukraine and paid within three-months term from the date the person submits relevant application;
- the mechanism of automatic compensation where the judgments of the domestic courts at issue were enforced out of the established terms;
- solution of the problem of the debts before persons that is now existing under the mentioned category of judgments. Thus, the draft Law provides for the acknowledgement of the debt as one which shall be paid from the State Budget of Ukraine.

The draft Law also covers the cases when the courts judgments delivered not against State authorities cannot be enforced by the debtors because of the State regulations. In such cases the judgments of the domestic courts should be enforced at the expense of the State Budget of Ukraine where the debtors have not enforced them within the terms established by the draft Law. In that case the term of enforcement of this category of judgments should not exceed 11 months.

In order to ensure the enforcement of the judgments at question each year the necessary funds should be provided for in the State Budget of Ukraine.

On 9 September 2011 the mentioned draft Law was adopted by the Ukrainian Parliament in first reading.

4. Mediation

As regards the implementation of the mediation procedure and other alternative means of dispute resolution in Ukraine it shall be noted that within the framework of the Joint Programme of the European Commission and Council of Europe "Transparency and efficiency of the judicial system of Ukraine" Ukraine implemented measures aimed at introduction of mediation in Ukraine, studying the experience of European countries and operation of pilot courts.

In particular, the following activities were organized: round tables to discuss the ways of legislative regulation of mediation procedure, study visits to study the international experience on these issues, trainings for mediators, etc. Moreover, in some regions there were introduced pilot projects with the use of reconciliation programs, including victim and offender reconciliation through understanding and compensation for damages, as well as trainings for mediators, information activities, etc.

Besides, the ukrainian-canadian project as to the introduction of pre-settlement procedure of disputes is pending in Ukraine (from April 2012)

5. Fight against crime

In October 2011 by the Decree of the President of Ukraine the Concept of State Policy in the Field of Fight Against Organized Crime was approved. This Concept aims at defining and implementing the state policy in the field of fight against organized crime by the way of introducing new and improving existing provisions of criminal, criminal procedural and criminal-executive legislation and administrative practices as well as the development and implementation of organizational measures to prevent crimes, committed by organized criminal gangs.

The Concept also provides for optimization of the structure of special units to combat organized crime, and introduction of vertical management system.

To date the Ministry of Justice together with the Ministry of Internal Affairs are preparing the draft resolution the Cabinet of Ministers of Ukraine "On approval of an Action Plan to Implement the Concept of State Policy in the Field of Fight Against Organized Crime."