

Strasbourg, 10 September 2006

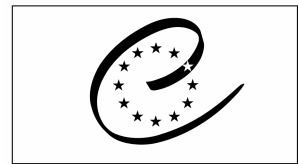
CEPEJ (2006)  
Version finale

**Answer to the  
REVISED SCHEME  
FOR  
EVALUATING JUDICIAL SYSTEMS  
2004 Data**

**Réponse à la  
GRILLE REVISEE  
POUR  
L'ÉVALUATION DES SYSTÈMES JUDICIAIRES  
Données 2004**

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**SPAIN/ESPAGNE**



COUNCIL OF EUROPE    CONSEIL DE L'EUROPE

Final version

Strasbourg, 15 June 2006

**CEPEJ (2005) 2 REV 3**

**EUROPEAN COMMISSION FOR THE EFFICIENCY OF JUSTICE  
(CEPEJ)**

**REVISED SCHEME FOR EVALUATING JUDICIAL SYSTEMS**

**adopted by the CEPEJ at its 5<sup>th</sup> Plenary Meeting (Strasbourg, 15 – 17 June 2005) and  
approved by the Committee of Ministers on 7 September 2005  
(936<sup>th</sup> meeting of the Ministers' Deputies)**

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In addition, those Autonomous Communities to which powers in administration of justice matters have been transferred, will also have budgetary provisions in relation to the material and personal means. Finally, budget related to training and documentation of the judiciary is included within the General Council of the Judiciary. These three main sources of funding have been summed up to provide the answer.

6. Within this budget, can you isolate the following budgets and specify, if appropriate, their amount:

	Yes	Amount
▪ Salaries?		1.680.413.340 €
▪ IT?	No	€
▪ Justice expenses borne by the State?	No	

7. Annual public budget spent on legal aid 119.055.984 €

This sum corresponds to the initially adopted budget but the assignment can be increased afterwards so the actual spent sum is larger. For example, in the Ministry area the adopted budget for that year was 18.304.834 and the executed one 29.054.112. The actually executed budget was not available for all the Autonomous Communities. Source Annual Report 2004. Sub-Directorate General of Relations with Justice Administration and Public Prosecution

8. If possible, please specify:

▪ the annual public budget spent on legal aid in criminal cases	€
▪ the annual public budget spent on legal aid in other court cases	€

Source Cannot be specified

9. Annual public budget spent on prosecution system 153.158.725,70 estimate €

Source There is not a separate budgetary assignment for the prosecution system in the structure of the State Budget. The financing of prosecuting activities corresponds to the concept "Courts and Public Prosecution" (see Q5) However an estimate cost has been calculated taking into account the cost in salaries and the current costs in proportion to that salary cost. It must be considered merely approximate.

10. Bodies formally responsible for budgets allocated to the courts:

	Preparation of the budget (Yes/No)	Adoption of the budget (Yes/No)	Management and allocation of the budget among courts (Yes/No)	Evaluation of the use of the budget (Yes/No)
Ministry of Justice	Yes	No	Yes	No
Other ministry. Please specify				
Parliament	No	Yes	No	Yes
Supreme Court	No	No	No	No
Judicial Council	No	No	No	No

Courts	No	No	No	No
Inspection body. Please specify.	No	No	No	No
Other. Please specify	x	x	x	x

\*\*\*

**You can indicate below:**

- any useful comments for interpreting the data mentioned above
- the characteristics of your budgetary system

**To understand the budgetary system in justice administration it is useful to know that Spain has a decentralised political and administrative structure and is divided in Autonomous Regions, each of them with broad and variable political-administrative competences and it's own Parliament, Government and Civil Service. Competences in Administration of Justice are being gradually transferred to the Autonomous Communities (so far 8: Andalucía, Canarias, Cataluña, Galicia, Madrid, Navarra, País Vasco y Valencia) namely the administration of material and personal means related to justice (with the exception of judges, prosecutors and Rechtspfleger that are national bodies) . As to the rest (Aragón, Asturias, Baleares, Cantabria, Castilla y León, Castilla la Mancha, Extremadura, la Rioja, Ceuta y Melilla) powers in justice administration still correspond to the Ministry of Justice.**

**This explains that, as regards the territorial sphere of the Ministry of Justice, the budget allocated to the courts is prepared by the Ministry of Justice, adopted by the Parliament, managed by the Ministry of Justice and evaluated by the Parliament. In the case of the Autonomous Communities which are competent in justice administration, the role of the national parliament is played by the parliament of the Community and the role of the Ministry of Justice by the respective "Consejería de justicia"( Justice offices).**

## II. Access to Justice and to all courts

### II. A. Legal aid

#### 11. Does legal aid concern:

	Criminal cases	Other than criminal cases
Representation in court (Yes/No)	Yes	Yes, in judicial proceedings in all jurisdictions

Legal advice (Yes/No)	Yes	Yes, in all jurisdictions
Other (Yes/No). Please specify	<ul style="list-style-type: none"> <li>- Legal assistance to those arrested or held in custody</li> <li>- Free assistance of a lawyer in cases it is compulsory or requested by the court.</li> <li>- Free announcements or notices in official journals</li> <li>- Exemption of deposits required for lodging certain appeals</li> <li>- Experts' fees</li> <li>- Reduction of fees</li> <li>- Free copies or certificates</li> </ul>	Yes, in judicial proceedings in all jurisdictions

12. Number of legal aid cases:
- total Non available
  - criminal cases Non available
  - other than criminal cases Non available

*A partial indication of the number of legal aid cases derives from the Annual Report 2004. Sub-Directorate General of Relations with Justice Administration and Public Prosecution, which reflects 204.042 cases (criminal 62.913 non criminal 141.129) but limited to the territorial scope of the Ministry of Justice.*

13. In a criminal case, can any individual who does not have sufficient financial means be assisted by a free of charge (or financed by public budget) lawyer?

Yes  No

14. Does your country have an income and asset test for granting legal aid:

- |                                  | No                       | Yes/Amount                          |
|----------------------------------|--------------------------|-------------------------------------|
| ▪ for criminal cases?            | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| ▪ for other than criminal cases? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

To qualify as having insufficient means the gross monthly income of the family unit must not be more than twice the National Minimum Wage (“salario mínimo interprofesional”) which is set annually by the Government. In 2004 the National Minimum Wage was set at 460,50 € per month.

A lawyer can be provisionally appointed and the documents relevant to the asset test must be attached to the application form for legal aid.

Source *Legal Aid Act 1/96, 10th January*

15. In other than criminal cases, is it possible to refuse legal aid for lack of merit of the case (for example for frivolous action)?

Yes  with some legal limits No

16. If yes, is the decision taken by:
- the court?
  - a body external to the court?
  - a mixed decision-making body (court and external)?

A provisional decision is taken by the legal aid services of the Bar and the final decision corresponds to the Legal Aid Commission which is an administrative body

17. In general are litigants required to pay a court tax or fee to start a proceeding at a court of general jurisdiction:

- |                                  | Yes                      | No                                  |
|----------------------------------|--------------------------|-------------------------------------|
| ▪ for criminal cases?            | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| ▪ for other than criminal cases? | <input type="checkbox"/> | <input checked="" type="checkbox"/> |

If yes, are there exceptions? Please specify:

18. Is there a private system of legal expense insurance for individuals in order to finance legal proceedings to court?

No   
Yes  Please specify:

Currently there are private insurances, namely for civil liability

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

- |                              | Yes                                 | No                       |
|------------------------------|-------------------------------------|--------------------------|
| ▪ criminal cases?            | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| ▪ other than criminal cases? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |

\*\*\*

**You can indicate below:**

- any useful comments for interpreting the data mentioned above
- the characteristics of your legal aid system



II. B. Users of the courts and victims  
 II. B. 1. Rights of the users and victims

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

- |  |   |                          |
|--|---|--------------------------|
|  | Yes   | No                       |
| ▪ legal texts (e.g. codes, laws, regulations, etc.)? | x   | <input type="checkbox"/> |
| Internet address(es):                                | <a href="http://www.boe.es">www.boe.es</a> ; <a href="http://www.justicia.es">www.justicia.es</a> ;   |                          |
| ▪ case-law of the higher court/s?                    | x   | <input type="checkbox"/> |
| Internet address(es):                                | <a href="http://www.poderjudicial.es">www.poderjudicial.es</a> ; <a href="http://www.tribunalconstitucional.es">www.tribunalconstitucional.es</a> |                          |
| ▪ other documents (for examples legal forms)?        | x   | <input type="checkbox"/> |
| Internet address(es):                                | <a href="http://www.justicia.es">www.justicia.es</a>  |                          |

21. Is there an obligation to provide information to the parties concerning the foreseeable timeframe of the proceeding?

- Yes  No x in principle procedural provisions set statutory timeframes of the proceedings

If yes, please specify:

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

- Yes x No   
 In particular through the Offices for Attention to Victims.

23. Are there special arrangements to be applied, during judicial proceedings, to the following categories of vulnerable persons:

	Information mechanism (Yes/No)	Hearing modalities (Yes/No)	Procedural rights (Yes/No)	Other (Yes/No). Please specify
Victims of rape	Yes	Yes	Yes	
Victims of terrorism	Yes	Yes	Yes	
Child/Witness/Victim	Yes	Yes	Yes	
Victims of domestic violence	Yes	Yes	Yes	Yes*
Ethnic minorities				

Disabled persons		Yes		
Juvenile offenders		Yes	Yes	
Other				

\*After Law 27/2003 Protection Order for domestic violence victims, Organic Law 1/2004 28<sup>th</sup> December on Integral Protection Measures against Domestic Violence aims at a comprehensive protection of these victims taking into account institutional, social, educational, preventive and legal aspects. The protection order allows the judge to take a very broad range of preventive measures, of both civil and criminal law (the defendant can be forced to leave the family house

24. Does your country have compensation procedure for victims of crimes?

Yes  No

25. If yes, does this compensation procedure consist in:

- |                  |                                     |
|------------------|-------------------------------------|
|                  | Yes                                 |
| ▪ a public fund? | <input checked="" type="checkbox"/> |
| ▪ a court order? | <input checked="" type="checkbox"/> |
| ▪ private fund?  | <input type="checkbox"/>            |

26. If yes, which kind of cases does this procedure concern?

Notwithstanding the civil action that can be exercised within the criminal proceedings and lead to a judicial compensation order against the offender, there is also a system of public aid to victims established in a number of legal Acts. Public aid includes financial compensation for victims of intentional and violent crimes in general, as well as for victims of specific offences (terrorism, domestic violence) in general.

27. For victims, are there studies to evaluate the recovery rate of the compensation awarded by courts?

No  Yes  Please specify:

**II. B.2. Confidence of citizens in their justice system**

28. Is there a system for compensating users in the following circumstances:

- |                                    |                                     |                          |
|------------------------------------|-------------------------------------|--------------------------|
|                                    | Yes                                 | No                       |
| ▪ excessive length of proceedings? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| ▪ wrongful arrest?                 | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| ▪ wrongful condemnation?           | <input checked="" type="checkbox"/> | <input type="checkbox"/> |

If yes, please specify (fund, daily tariff):

The right of users to receive compensation by the State in case of damages caused by judicial error or by abnormal functioning of the Administration of Justice is enshrined in the Spanish Constitution. To this end citizens can claim compensation from the Ministry of Justice through an administrative procedure in which the amount will be determined.

29. Does your country have surveys on users or legal professionals (judges, lawyers, officials, etc.) to measure public trust and satisfaction with the services delivered by the judiciary system?

Yes  No

If possible, please specify their titles, how to find these surveys, etc:

Within the Bar:  
 "La imagen de la Abogacía en la sociedad española". II External Opinion Barometer Spanish General Bar Association  
 "La Abogacía vista por los Abogados". I Internal Opinión Barometer Spanish General Bar Association  
 Within the General Council of the Judiciary two types of surveys are carried out, one dedicated to external users (opinion barometer 1984, 1985, 1986, 1988, 1990, 1997, 2000, 2003 and 2005) and one to judges (1984, 1987, 1990, 1993, 1999, 2003 and 2005).  
 They are systematic surveys with an almost annual periodicity and they provide data at national and court level.

30. If yes, please specify:

	Trough systematic surveys (Yes/No)	Through ad hoc surveys (Yes/No)
Surveys at national level	x	
Surveys at court level	x	

31. Is there a national or local procedure for making complaints about the performance of the judicial system?

Yes  No

32. If yes, please specify:

	Time limit to respond (Yes/No)	Time limit for dealing with the complaint (Yes/No)
Court concerned		
Higher court	Yes	Yes

Ministry of Justice		
High Council of Justice	Yes	Yes
Other external organisations (e.g. Ombudsman)		

**Can you give information elements concerning the efficiency of this complaint procedure?**

**Complaints are analysed and solved, the case being they can be referred to the Disciplinary Commission of the General Council of the Judiciary**

### III. Organisation of the court system

#### III. A. Functioning

**33. Total number of courts (administrative structure):**

- **first instance courts of general jurisdiction** **1976**

Source *Reference date 1<sup>st</sup> January 2005*

- **specialised first instance courts** **572**

Source *Ministry of Justice*

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

**Administrative Courts: 176**  
**Labour Courts:300**  
**Juvenile Justice:72**  
**Commercial Courts:24**

**34. Total number of courts (geographic locations)**

*683 court offices or buildings and 431 judicial districts*

*Geographically, there are*

Source *Ministry of Justice*

*Judicial districts are established to bring justice closer to citizens and there is a dense network with minimal judicial services in all of them. Nowadays there is a tendency to concentrate courts, in every judicial district, in a single office or as few offices as possible, in order to facilitate the task of professionals (such as lawyers, prosecutors, etc).*

**35. Number of first instance courts competent for a case concerning:**

- **a debt collection for small claims** **1513**

**Please specify what is meant by small claims in your country:**

**Small claims attributed to professional judges are civil claims of less than 3000**

euro.

If the claim is smaller than 90€, they are attributed to the Justice of Peace, (magistrate's courts of lay judges) with the exceptions provided for in the Civil Procedure Law.

- a dismissal 300
- a robbery 1480

36. **Number of professional judges sitting in courts** 4201  
(present the information in full time equivalent and for permanent posts)

Source *Ministry of Justice*

37. **Number of professional judges sitting in courts on an occasional basis and who are paid as such:**

- gross figure 1181
- if possible, in full time equivalent

Source *Ministry of Justice*

**Please specify:**

The figure refers to replacement or substitute Judges, who might act, depending on the cause that leads to their call, during a certain period of time (ie.illness, maternity leave, etc).

38. **Number of non-professional judges (including lay judges) who are not remunerated but who can possibly receive a simple defrayal of costs** 7681

Source *Ministry of Justice*

**Please specify:**

The Justice of Peace is composed of lay judges in charge of petty cases in municipalities that (not being the principal city of a judicial district) do not have a professional First Instance court.

39. **Does your judicial system include trial by jury with the participation of citizens?**

No

Yes  For which type of case(s)?

**Art.1 Organic Law 5/1995 Trial by Jury comprises the following categories of offences:**

- against the person
- by public officials in the exercise of their duties
- against honour
- against liberty and security

- arson

In particular, the offences referred to in the following articles of the Penal Code:

On homicide (Arts. 138 to 140)

On threats (Art. 169.1)

On the failure to render assistance (Arts. 195 and 196)

On house-breaking (Art. 202 and 204)

On forests arson (Art. 352 to 354)

On the breach of trust in the custody of public records (Art. 413 to 415)

On bribery (Art. 419 to 426)

On the exercise of undue influence (Art. 428 to 430)

On the misappropriation of public funds (Art. 432 to 434)

On frauds and unlawful levying (Art. 436 to 438)

On the prohibited negotiation of public officials (Art. 439 and 440)

On the breach of trust in the custody of convicts (Art. 471)

If possible, number of citizens who were involved in such juries for the year 2004?

Non available.

*For example, within the territory that corresponds to the Ministry of Justice 1958 citizens were involved as such in those Autonomous Communities without transferred competences.*

40. **Number of non-judge staff who are working in courts** 37744  
(present the information in full time equivalent and for permanent posts)

*This includes both personnel within the territory of the Ministry of Justice (Cuerpo de Gestión Procesal: 3.254; Cuerpo de Tramitación Procesal: 4.701; Cuerpo de Auxilio Judicial: 2.462.) and corresponding to those Autonomous communities with powers in justice administration (Cuerpo de Gestión Procesal: 8.686; Cuerpo de Tramitación Procesal: 12.927; Cuerpo de Auxilio Judicial: 5.714)*

*It also includes the 1751 clerks assigned to the public prosecution services referred to in Q46*

*Source: Ministry of Justice*

41. **If possible, could you distribute this staff according to the 3 following categories: Non applicable:** Non applicable (it is not possible to adequately distribute staff according to these categories)

- **non-judge staff whose task is to assist the judges (case file preparation, assistance during the hearing, keeping the minutes of the meetings, helping to prepare the decisions) such as registrars:**
- **staff in charge of different administrative tasks as well as of the management of the courts (human resources management, material and equipment management, including computer systems, financial and budgetary management, training management):**
- **technical staff:**

42. **In courts, do you have non-judge staff entrusted with judicial or quasi-judicial tasks having autonomous competence and whose decisions could be subject to appeal (such as German and Austrian Rechtspfleger):**

No   
 Yes  Number of staff 3536

*The non-judge staff, entrusted with jurisdictional or quasi-jurisdictional issues, with autonomous competence and whose decisions may be subject to appeal are the so-called “Secretarios Judiciales”, that could be considered the equivalent of Rechtspfleger.*

43. **Number of public prosecutors** 1740  
 (present the information in full time equivalent and for permanent posts)

Source

44. **Do you have persons who have similar duties as public prosecutors?**

No   
 Yes  Please specify:

45. **Is the status of prosecutors:**

- independent within the judiciary? Yes
- independent from the judiciary ? x
- under the authority of the Ministry of Justice?

46. **Number of staff (non prosecutors) attached to the public prosecution service 1751**  
 (present the information in full time equivalent and for permanent posts)

*Autonomous Communities with competences in Justice:*

*Gestión P.A: 204  
 Tramitación P.A: 726  
 Auxilio Judicial: 200*

*Autonomous Communities within the competence field of the Ministry of Justice:*

*Gestión P.A: 81  
 Tramitación P.A: 386  
 Auxilio Judicial: 154*

*Source Ministry of Justice. The staff attached to the public prosecution services is also included in the general number of non-judge staff provided in Q40*

47. **Who is entrusted with the individual court budget?**  
**Non applicable. There is no responsible within individual courts.**

	Preparation of the budget (Yes/No)	Arbitration and allocation (Yes/No)	Day to day management of the budget (Yes/No)	Evaluation and control of the use of the budget (Yes/No)
Management Board				

Court President				
Court administrative director				
Head of the court clerk office				
Other. Please specify				

48. In general, do the courts in your country have computer facilities?

Yes  No

49. What are the computer facilities used within the courts?

Functions	Facilities	100% of courts	+50% of courts	-50% of courts	- 10 % of courts
Direct assistance to the judge/court clerk	Word processing	x			
	Electronic data base of jurisprudence	x			
	Electronic files	x			
	E-mail				
	Internet connection	x			
Administration and management	Case registration system	x			
	Court management information system	x			
	Financial information system	x			
Communication between the court and the parties	Electronic forms				x
	Special Website	x			
	Other electronic communication facilities				x

Source Ministry of Justice

In addition all courts have access to the Punto Neutro Judicial, a network provided by the General Council of the Judiciary, through which they have access to e-mail and to services of the Labour Ministry, Social Security, Traffic, etc from which they can get the information necessary for their proceedings.

50. Is there a centralised institution which is responsible for collecting statistical data regarding the functioning of the courts and judiciary?



No

Yes

Please specify the name and the address of this institution:

Consejo General del Poder Judicial-c/Marqués de la Ensenada 8 Madrid  
Fiscalía General del Estado- c/ Fortuny 4 Madrid

\*\*\*

You can indicate below:

- any useful comments for interpreting the data mentioned above
- the characteristics of your judicial system

### III. B. Monitoring and evaluation

51. Are the courts required to prepare an annual activity report?

Yes

No

Every Court has to provide a report every 3 months (statistical bulletin). Taking into account such bulletins and other additional information, the TSJ (High Justice Courts) are required to prepare an annual activity report, which comprise information on all the courts/judicial organs within their territory

52. Do you have a regular monitoring system of court activities concerning the:

	Yes	No
▪ number of incoming cases?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
▪ number of decisions?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
▪ number of postponed cases?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
▪ length of proceedings?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
▪ other?	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Please specify:

Execution of decision, accumulation of lawsuits , etc  
The monitoring system is based in the statistical data collected by the General Council of the Judiciary. To calculate the time of proceedings, a mathematical model is used which estimates the medium length of proceedings concluded every year. This model uses the techniques of the "queuing time" theories.

53. Do you have a regular evaluation system of the performance of the court?

No

Yes

Please specify:

Each court makes a statement of activity every 6 months, in accordance to the working modules which are fixed in advance.

54. Concerning court activities, have you defined:

- performance indicators? Yes  No

Please specify the 4 main indicators for a proper functioning of justice:

Celerity, efficiency, size of backlogs and quality

- targets? Yes  No

Please specify who is responsible for setting the targets:

- executive power? Yes
- legislative power?
- judicial power?  General Council of the Judiciary
- other?  Please specify:

Please specify the main objectives applied:

120% of the fixed working module entitles to a variable remuneration

Source  General Council of the Judiciary

55. Which authority is responsible for the evaluation of the performances of the courts:

- the High Council of judiciary? Yes
- the Ministry of justice?
- an Inspection body?
- the Supreme Court?
- an external audit body?
- other?  Please specify:

In addition to the General Council of the Judiciary, the President of every High Court of Justice (TSJ) within its territory.

56. Does the evaluation system include quality standards concerning judicial decisions?

- No
- Yes  Please specify:

Currently limited to accumulations of lawsuits and respecting the deadlines set for

handing the judicial decision

Source **General Council of the Judiciary**

57. Is there a system enabling to measure the backlogs and to detect the cases which are not processed within an acceptable timeframe for:

- |                         | Yes                                 | No                       |
|-------------------------|-------------------------------------|--------------------------|
| ▪ civil cases?          | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| ▪ criminal cases?       | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| ▪ administrative cases? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |

58. Do you have a way of analysing queuing time during court procedures?

No   
Yes

Please specify:

Every court can benefit from the court management electronic system and applications. From a centralised point of view, the system is that described under Q52.

59. Do you monitor and evaluate the performance of the prosecution services?

No   
Yes

Please specify:

Through the Chief Prosecutors Offices and the Public Prosecution Inspectorate

\*\*\*

You can indicate below:

- any useful comments for interpreting the data mentioned above
- the characteristics of your court monitoring and evaluation system

#### IV. Fair trial

##### IV. A. Fundamental principles

60. Is there in your judicial system:

- a right for an interpreter for all those within your jurisdiction who cannot understand or speak the language used in court?  
Yes  No
- the right to have reasons given for all prisons sentences?

- Yes  No
- **for all cases, an effective remedy to a superior jurisdiction?**
- Yes  No

61. Which is the percentage of judgements in first instance criminal cases in which the suspect is not actually present or represented? Non available

Source

62. Is there a procedure to effectively challenge a judge if a party consider he/she is not impartial?

No   
Yes

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

63. Please give the following data 2003 and 2004 concerning the number of cases regarding the violation of Article 6 of the European Convention of Human Rights:

		Cases communicated by the Court		Cases declared inadmissible by the Court		Friendly settlements		Judgements establishing a violation		Judgements establishing a non violation	
		2003	2004	2003	2004	2003	2004	2003	2004	2003	2004
Criminal proceedings	Article 6§1 (equity)										
	Article 6§1 (duration)										
	Article 6§2										
	Article 6§3a										
	Article 6§3b										
	Article 6§3c										
	Article 6§3d										
	Article 6§3e										
Civil proceedings	Article 6§1 (equity)										
	Article 6§1 (duration)										
	Article 6§1 (non execution only)										

Source

<b>IV.B. Timeframes of proceedings</b>
<b>IV. B. 1. General</b>

64. Are there specific procedures for urgent matters in:
- Yes No
  - civil cases?
  - criminal cases?
  - administrative cases?

65. Are there simplified procedures for: Yes No

- civil cases (small claims)?
- criminal cases (petty offences)?
- administrative cases?

66. Is it possible for a second instance court to send back a case to a first instance court for a new examination?

Yes  No

67. Do courts and lawyers have the possibility to conclude agreements on modalities for processing cases (presentation of files, binding timeframes for lawyers to submit their conclusions and dates of hearings)?

No   
 Yes  Please specify:

**IV. B. 2. Civil and administrative cases**

68. Total number of civil cases in courts (litigious and not litigious): 1.862.966

*This includes the total number of cases other than criminal cases.*

**Please specify the main types of cases:**

Monitorios: 272.557  
 Separaciones 82.240  
 Ordinarios 135.252  
 Jurisdicción Voluntaria: 145.766

Fuente  Judicial Statistics CGPJ

69. Litigious administrative and civil cases in courts – please complete this table concerning the number of cases/length of proceedings/pending cases and specify definitions of incoming cases, starting and ending point of length and pending cases:

	Civil cases	Administrative cases	Divorce	Employment dismissal
Incoming cases	826.835	110.793 en Jdos. Contencioso 5.128 en J. Central	21.022 litigious	64.571

Total number (1st instance)	Decisions on the Merits	188.246 sentencias	52.031 sentencias en Jdos. Contencioso 2.300 en J. Central	-Non available*	29.943 sentencias
	Percentage of decisions subject to appeal in a higher court	17,51% appealed decisions that year from the ones handed that year	19,16% en Jdos. Contencioso 40,52% en J. Central		48,11% in total of Labour Courts
	Pending cases by 1 January 2005	578.209	63.028 en Jdos. Contencioso 2.092 en J. Central	14.476 litigious	14.203
	Percentage of pending cases of more than 3 years				
	Average length (from date of lodging of court proceedings*)	1st instance decisions	7,96 months	5,94 months	8,36 litigious
	2 <sup>nd</sup> instance decisions	5,8 months	29,16 months	-	7,22 months in total of labour courts
	Total procedure				

\* There is no data for decision on the merits for litigious divorces. 19574 were finished that year but it is possible that also through other ways of concluding: such as transformation into non-litigious divorce, withdrawing the legal action, etc

Source **General Council of the Judiciary**

**IV. B. 3. Criminal cases**

**70. Please describe the role and powers of the prosecutor in the criminal procedure:**

	Yes	No
▪ to conduct or supervise police investigation?	x	
▪ to conduct investigation?	x	
▪ when necessary, to demand investigation measures from the judge?	x	
▪ to charge?	x	
▪ to present the case in the court?	x	
▪ to propose a sentence to the judge?	x	
▪ to appeal?	x	

- to supervise enforcement procedure?
  - to end the case by dropping it without the need for a judicial decision?
  - to end the case by imposing or negotiating a penalty without a judicial decision?
  - other significant powers?
- Please specify:

In some cases the prosecutor can initiate preliminary investigations, which he can then file without need of a judicial decision.

71. Does the prosecutor also have a role in civil and/or administrative cases?

No

Yes  Please specify:

The constitutional function Public Prosecutors is to promote the operation of justice in defence of the rule of law, of citizen's rights and of the public interest as safeguarded by the law, (Article 24 Spanish Constitution), in any jurisdiction (not only criminal). In this sense, for example the Prosecutor will thus intervene in family and divorce cases, where minors or legally incompetent persons are involve, in insolvency cases and cases affecting fundamental rights.

72. Functions of the public prosecutor in relation to criminal cases– please complete this table:

		Total number of 1st instance criminal cases
Received by the public prosecutor		3.956,078
Discontinued by the public prosecutor	In general	
	Because the offender could not be identified	2.305.225
	Due to the lack of an established offence or a specific legal situation	424.819
Concluded by a penalty, imposed or negotiated by the public prosecutor		91.562
Charged by the public prosecutor before the courts		514.741

Source Annual Report General Public Prosecution Office for 2005

73. Criminal cases in courts – please complete this table concerning the number of cases/length of proceedings/pending cases and specify definitions of incoming cases, starting and ending point of length and pending cases:

	Criminal cases	Robbery cases	Intentional homicides
Incoming cases	5.181.126		
Judicial decisions	415.313		

Total Number (1st instance)	Convicted persons			
	Acquitted persons			
	Percentage of decisions subject to appeal in a higher court	6,99%		
	Pending cases by 1 January 2005	751.472		
	Percentage of pending cases of more than 3 years			
Average length (from the date of official charging*)	1st instance decision	1,84 months		
	2nd instance decision	2,23 months		
	Total procedure			

\* If you cannot calculate the average length from the date of official charging, how do you calculate length of proceedings? From the moment proceedings are lodged

Fuente CGPJ

\*\*\*

**You can indicate below:**

- any useful comments for interpreting the data mentioned above
- the characteristics of your system concerning timeframes of proceedings

**The length of proceedings are an estimation of the average length of cases finished in 2004. All type of cases and all different ways of ending proceedings have been included. For example, as regards criminal cases also less serious cases where the decision can be handed by the same court that first examines the case.**

**The data of convicted people is not available (this is only possible in the field of domestic violence). There is information about the number of convictions handed out.**

## V. Career of judges and prosecutors

### V. A. Appointment and training

**74. Are judges initially/at the beginning of their carrier recruited and nominated by:**

Yes



- a body composed of members of the judiciary?
- a body composed of members external to the judiciary?
- a body composed of members of the judiciary and external to the judiciary?

75. Are prosecutors initially/at the beginning of their carrier recruited and nominated by:

- Yes
- a body composed of members of the prosecution system?
  - a body composed of members external to the prosecution system?
  - a body composed of members of the prosecution system and external to the prosecution system?

76. Is the mandate given for an undetermined period for:

- |                |                                     |                          |
|----------------|-------------------------------------|--------------------------|
|                | Yes                                 | No                       |
| ▪ judges?      | <input checked="" type="checkbox"/> | <input type="checkbox"/> |
| ▪ prosecutors? | <input checked="" type="checkbox"/> | <input type="checkbox"/> |

Are there exceptions ? Please specify:

The only exceptions refer to replacement judges and prosecutors, who have a limited mandate, for a period determined by the cause of their appointment.

If no, what is the length of the mandate:

- of judges?
- of prosecutors?

Is it renewable?

- |                          |                          |
|--------------------------|--------------------------|
| Yes                      | No                       |
| <input type="checkbox"/> | <input type="checkbox"/> |

\*\*\*

You can indicate below:

- any useful comments for interpreting the data mentioned above
- the characteristics of the selection and nomination procedure of judges and prosecutors

77. Nature of the training of judges:

	Compulsion (Yes/No)		Frequency (Yes/No)	
Initial training	Compulsory	Yes		
	Highly recommended			
	Optional			
General in-service	Compulsory		Annual	Yes

training	Highly recommended		Regular	
	Optional	Yes	Occasional	
In-service training for specialised functions (e.g. judge for economic or administrative issues)	Compulsory		Annual	Yes
	Highly recommended	Yes	Regular	
	Optional		Occasional	
In-service training for specific functions (e.g. head of court)	Compulsory		Annual	
	Highly recommended		Regular	
	Optional	Yes	Occasional	

**78. Nature of the training of prosecutors:**

	Compulsion (Yes/No)		Frequency (Yes/No)	
	Initial training	Compulsory	Yes	
	Highly recommended			
	Optional			
General in-service training	Compulsory		Annual	
	Highly recommended	Yes	Regular	Yes
	Optional		Occasional	
Specialised in-service training	Compulsory		Annual	
	Highly recommended	Yes	Regular	Yes
	Optional		Occasional	

\*\*\*

**You can indicate below:**

- any useful comments for interpreting the data mentioned above
- the characteristics of of your training system for judges and prosecutors

**Initial training in a specialised centre is compulsory for prosecutors. In-service training, both general and specialised is important for a correct exercise of the profession but it is not institutionalised as compulsory in specialised centre, although it is given in such centres and highly recommended.**

**V. B. Practice of the profession**

**79. Gross annual salary of a first instance professional judge at the beginning of his/her career**

46.412,17 €

Source *Law 61/2003 General State Budget for 2004 and Resolution 2 January 2004*

80. **Gross annual salary of a judge of the Supreme Court or of the highest appellate court**  
108.549,18 €

Source *Law 61/2003 General State Budget for 2004*

81. **Gross annual salary of a public prosecutor at the beginning of his/her career**  
46.412,88 €

Source *Idem Q79*

82. **Gross annual salary of a public prosecutor of the Supreme Court or of the highest appellate court**  
111.449,12 €

Source *Idem Q80*

83. **Do judges and public prosecutors have additional benefits?**

	Judges (Yes/No)	Public prosecutors (Yes/No)
Reduced taxation	No	No
Special pension	No	No
Housing	<b>No</b>	<b>No</b>
Other financial benefit (If yes, please specify)	Productivity	Productivity

84. **Can judges or prosecutors combine their work with any of the following other professions?**

	Judges			Prosecutors		
	Yes with remuneration	Yes without remuneration	No	Yes with remuneration	Yes without remuneration	No
Teaching	x			x		
Research and publication	x			x		
Arbitrator						
Consultant						
Cultural function	x			x		
Other function to specify						

85. **Do judges receive bonus based on the fulfilment of quantitative objectives relating to the delivering of judgments?**

No

Yes  **Please specify:**

Judges receive a variable remuneration if they reach a productivity level of 120% in respect of the demanded productivity

## V. C. Disciplinary procedures

### 86. Types of disciplinary proceedings and sanctions against judges and prosecutors:

		Judges	Prosecutors
Reasons for disciplinary procedures	Total number	39	32
	Breach of professional ethics (Yes/No) If yes, please specify the number	Yes 6	Yes
	Professional inadequacy (Yes/No) If yes, please specify the number	Yes 33	Yes
	Criminal offence (Yes/No) If yes, please specify the number	Yes	Yes
	Other (Yes/No) If yes, please specify		
Types of sanctions	Total number	24	
	Reprimand (Yes/No) If yes, please specify the number	Yes 14	Yes
	Suspension (Yes/No) If yes, please specify the number	Yes	Yes
	Dismissal (Yes/No) If yes, please specify the number	Yes	Yes
	Fine (Yes/No) If yes, please specify the number	Yes 10	Yes
	Other (Yes/No) If yes, please specify		

\*\*\*

**You can indicate below:**

- **any useful comments for interpreting the data mentioned above**
- **the characteristics of your system concerning disciplinary procedures for judges and prosecutors**

**Within the Public Prosecution Service the general number of disciplinary procedures were:**

**14 Very serious faults**

**12 Serious faults**

**6 Minor faults**

**VI. Lawyers**

**87. Number of lawyers practising in your country** 111.313

Source *General Bar Council (CGAE)*  
*In addition of the number of practising lawyers, there are also 9060 "procuradores"*

**88. Does this figure include legal advisors (solicitors or in-house counsellor) who cannot represent their clients in court?**

Yes  No

**89. Do lawyers have a monopoly of representation: Strictly speaking representation in court corresponds to a different type of professionals ("Solicitors") whereas the defence corresponds exclusively to lawyers ("barristers").**

	Monopoly (Yes/No)		If no, possible representation by (Yes/No)	
Civil cases*			Member of family	
			Trade Union	
			NGO	
			Other	
Criminal cases*	Defendant	Member of family		
		Trade Union		
		NGO		
		Other		
	Victim	Member of family		
		Trade Union		
		NGO		
		Other		
Administrative cases*			Member of family	
			Trade Union	
			NGO	
			Other	

\* If appropriate, please specify if it concerns first instance and appeal.

**90. Is the lawyer profession organised through?** Yes

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

**Please specify:**  
In Spain the organization of the lawyer profession is structured in a system of 83 Bars, which are brought together within the Autonomous Regions' Councils and, at a central level, in a single general bar, the Spanish General Bar Council(Consejo General de la Abogacía Española).

91. Is there a specific initial training or examination to enter the profession of lawyer?

Yes  No

92. Is there a mandatory general system for lawyers requiring continuing professional development?

Yes  No

93. Is the specialisation in some legal fields tied with a specific level of training/ qualification/ specific diploma or specific authorisations?

No   
Yes  Please specify:

94. Can users establish easily what the lawyers' fees will be?

Yes  No

95. Are lawyers fees:

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

96. Have quality standards been formulated for lawyers?

Yes  No

Legal provisions are contained in the General Statute of Spanish Lawyers (adopted by Royal Decree 658/2001 of 22 July and in the Deontological Code adopted by the General Bar the 27 September 2002 and amended on 10 December 2002.

97. If yes, who is responsible for formulating these quality standards:

- the bar association?  Yes
- the legislature?
- other?  Please specify:

The General Bar Council drafts the text of the General Statute of lawyers, which must be adopted by the Ministry of Justice. The rest of the provisions have an internal character and are directly adopted by the General Bar itself.

98. Is it possible to complain about :

- the performance of lawyers?  No   
Yes  Please specify:

Professional misconduct entails disciplinary sanctions, that also cover cases of excessive or undue fees

- the amount of fees? Yes  No

99. Disciplinary proceedings and sanctions against lawyers:

	Yes /No (If yes, please specify the annual number)	
Reasons for disciplinary proceedings	Breach of professional ethics	x
	Professional inadequacy	x
	Criminal offence	x
	Other	
Type of sanctions	Reprimand	99
	Suspension	260
	Removal	3
	Fine	
	Other	Judicial sanction-12

100. Who is the authority responsible for the disciplinary procedures:

- a professional body? Yes  Please specify:

The Bars, the Bars of the Autonomous Communities and the Administrative Jurisdiction

- the judge?
- the Ministry of justice?
- other?  Please specify:

\*\*\*

You can indicate below:

- any useful comments for interpreting the data mentioned above
- the characteristics of your system concerning the organisation of the Bar

--

**VII. Alternative Dispute Resolution**

**101. If appropriate, please specify, by type of cases, the organisation of the judicial mediation:**

	Compulsion (Yes/No)		Body providing mediation (Yes/No)	
Civil cases	Compulsory stage prior to court proceedings	No	Private mediator	
			Public or authorised by court body	Yes
			Court	
	Compulsory stage in court proceedings	No	Judge	
	Ordered by judge in certain cases	No	Prosecutor	
Family cases	Compulsory stage prior to court proceedings	No	Private mediator	
			Public or authorised by court body	Yes
			Court	
	Compulsory stage in court proceedings	No	Judge	
	Ordered by judge in certain cases	No	Prosecutor	
Administrative cases	Compulsory stage prior to court proceedings		Private mediator	
			Public or authorised by court body	
			Court	
	Compulsory stage in court proceedings		Judge	
	Ordered by judge in certain cases		Prosecutor	
Employment dismissals	Compulsory stage prior to court proceedings	Yes	Private mediator	
			Public or authorised by court body	Yes
			Court	
	Compulsory stage in court proceedings	Yes	Judge	Yes
	Ordered by judge in certain cases		Prosecutor	
Criminal cases	Compulsory stage prior to court proceedings		Private mediator	
			Public or authorised by court body	
			Court	



Compulsory stage in court proceedings		Judge	
Ordered by judge in certain cases		Prosecutor	

**102. Can you provide information about accredited mediators?**

Accredited mediators are: public bodies through conciliation and arbitration in the field of consumers and social law and through mediation techniques in family law.

- 103. Can you provide information about the total number of mediation procedure concerning:**
- civil cases?
  - family cases?
  - administrative cases?
  - employment dismissals?
  - criminal cases?

Source 

**104. Can you give information concerning other alternative dispute resolution (e.g. Arbitration)? Please specify:**

Arbitration is provided for in the Spanish system as an alternative to judicial means, in respect of matters that are disposable to parties (ie.commercial disputes). Its regulation is laid out in the Arbitration Act of 2003.

\*\*\*

**You can indicate below:**

- any useful comments for interpreting the data mentioned above
- the characteristics of your system concerning ADR

**VIII. Enforcement of court decisions**

VIII. A. Execution of decisions in civil matters

The questions that deal with enforcement agents are not applicable to our legal system.

**105. Are enforcement agents:**

- **judges?** Yes
- **bailiff practising as private profession ruled by public authorities?**
- **bailiff working in a public institution?**
- **other enforcement agents?**

Please specify their status:

In the Spanish system there are no enforcement agents for the execution of court decisions, as the responsibility for the execution corresponds to judges themselves. Only in very exceptional cases do solicitors play a role in execution. Therefore Q106-113 and 117 are not applicable

**106. Number of enforcement agents**

Source

**107. Is there a specific initial training or examination to enter the profession of enforcement agent?**

Yes  No

**108. Is the profession of enforcement agent organised by?**

- **a national body?** Yes
- **a regional body?**
- **a local body?**

**109. Can users establish easily what the fees of the enforcement agents will be?**

Yes  No

**110. Are enforcement fees:**

- **regulated by law?** Yes
- **freely negotiated?**

**111. Is there a body entrusted with the supervision and the control of the enforcement agents?**

No   
Yes

Which authority is responsible for the supervision and the control of enforcement agents:

- **a professional body?** Yes

- the judge?
- the Ministry of justice?
- the prosecutor?
- other?

Please specify:

112. Have quality standards been formulated for enforcement agents?

No  
Yes

Who is responsible for formulating these quality standards?

Source

113. What are the main complaints of users concerning the enforcement procedure:

- no execution at all?
- lack of information?
- excessive length?
- unlawful practices?
- insufficient supervision?
- excessive cost?
- other?

Yes	No
[Bar]	[Bar]
[Bar]	[Bar]
[Bar]	[Bar]
[Bar]	[Bar]
[Bar]	[Bar]
[Bar]	[Bar]

Source

114. Does your country prepared or has established concrete measures to change the situation concerning the enforcement of court decisions?

No  
Yes

Please specify:

Certain courts have been specialized and exclusively deal with enforcement

115. Is there a system measuring the timeframes of the enforcement of decisions :

- for civil cases?
- for administrative cases?

Yes	No
x	[Bar]
x	[Bar]

116. As regards a decision on debts collection, can you estimate the average timeframe to notify the decision to the parties which live in the city where the court seats:

- between 1 and 5 days
- between 6 and 10 days
- between 11 and 30 days
- more: please specify

Yes
[Bar]
x
[Bar]

Source **General Council of the Judiciary**

**117. Disciplinary proceedings and sanctions against enforcement agents:**

	Yes /No (If yes, please specify the total number)	
Disciplinary proceedings	Breach of professional ethics	
	Professional inadequacy	
	Criminal offence	
	Other	
Sanctions	Reprimand	
	Suspension	
	Dismissal	
	Fine	
	Other	

\*\*\*

**You can indicate below:**

- **any useful comments for interpreting the data mentioned above**
- **the characteristics of your enforcement system of decisions in civil matters**

**VIII. B. Enforcement of decisions in criminal matters**

**118. Is there a judge who has in charge the enforcement of judgments?**

Yes  Please specify his/her functions and activities (e.g. Initiative or control functions):

In principle, the criminal court which pronounces the conviction is in charge of its enforcement. However when the penalty implies an actual deprivation of liberty there are special prison courts (Juzgados de Vigilancia Penitenciaria) with control functions as regards the execution of the penalty and the rights of prisoners.

No  Please specify which authority is entrusted with the enforcement of judgements (e.g prosecutor):

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

No   
 Yes

Please specify:

\*\*\*

You can indicate below:

- any useful comments for interpreting the data mentioned above
- the characteristics of your enforcement system of decisions in criminal matters

**IX. Notaries**

120. Is the status of notaries:

- a private one?
- a status of private worker ruled by the public authorities?
- a public one?
- other?

Yes	Number
<input type="checkbox"/>	<input type="checkbox"/>
x	2870

Please specify:

Notaries are public officials as they carry out public functions.

Source

121. Do notaries have duties:

- within the framework of civil procedure?
- in the field of legal advice?
- to authenticate legal deeds?
- other?

Yes	No
<input type="checkbox"/>	<input type="checkbox"/>
x	
x	

If yes, please specify:

Notaries give public effectiveness to all sorts of extra-judicial transactions or private acts. They act therefore in different areas

- facts, authenticating factual situations (giving faith officially authenticated records)
- civil and commercial contracts (giving them executive or declarative effect in proceedings)
- property, by means of the instrumental "tradition" (legal possession) as the documents a notary authorises can convey property and other real rights if the

rest of necessary contractual requisites apply  
- in the personal sphere, they also intervene in family acts and inheritance law

122. Is there a body entrusted with the supervision and the control of the notaries?

No   
Yes  Which authority is responsible for the supervision and the control of the notaries:

- a professional body?
- the judge?
- the Ministry of justice?
- the prosecutor?
- other?  **Please specify:**

Inspection and control of their activity depends on the Directorate General of Registrars and Notaries under the State Secretary for Justice in the Ministry of Justice.

\*\*\*

You can indicate below:

- any useful comments for interpreting the data mentioned above
- the characteristics of your system of notaries

*The organisation and geographical distribution of Notaries is laid down by the Spanish government by means of a Royal Decree (a regulatory provision adopted in the Council of Ministers). The number of posts, investiture, age of compulsory retirement (currently 70) is also governmental. Access to the profession is achieved through a public competition open to any EU citizen with a recognised bachelors diploma in Law. Salaries are fixed by the State and at the same time their activity generates no responsibility for the State neither does it imply any cost. Ownership of the "protocols"-set of documents authorised by notaries- corresponds to the State.*

\*\*\*\*\*

123. Please indicate main orientations for reform and concrete measures which could improve the quality and the efficiency of your judicial system:

The 28 May 2001 the two main Spanish political parties signed a State Agreement for Justice Reform which envisaged a number of measures and recommendations to improve the efficiency of the Spanish judicial system. These included, amongst others, the elaboration of a Charter of Citizens' Rights before the Justice System which was adopted by the congress Plenary the 22<sup>nd</sup> April 2002. This Letter of Rights proclaimed such principles as transparency, information or

paying adequate attention to citizens, and established a list of rights for users.

Also, by means of a Resolution of 28 October 2005 the Judicial Transparency Plan was adopted and published in the Spanish official journal. This Plan brings cause from Law 15/2003 of 26 May on the remuneration system for the judicial and prosecuting careers, which at the same time, modernised the remuneration system applicable to judges and prosecutors taking into account the degree of fulfilment of certain objectives which is linked to a series of variable salaries, a total novelty in our judicial system. The aim of the Judicial Transparency Plan is to provide the General Courts, the Government, the Autonomous Communities, the General Council of the Judiciary and citizens themselves with an instrument of continuous, rigorous and checked information on the activity and work load of all the jurisdictional state organs, which at the same time will allow its statistical use and application in policies and processes related to the modernising of the administration of justice. Accurate and reliable information on the Spanish Judicial System will make it possible to implement new and modern management criteria, to improve access to information about judicial activities and will contribute to planning, developing and evaluating adequate legislative policies.

To achieve all of the aforementioned aims, the Judicial Transparency Plan relies on several instruments: judicial statistics, IT and communication technologies (by unifying or implementing compatible IT systems in the different court offices, setting up internet sites of the different administrations which work in this field, setting up systems to connect and exchange of documents in proceedings and designing and implementing a system of communication between territorial judicial networks), procedural good practices, Registers of the Administration of Justice, judicial architecture, the strengthening of transparency aims in relation to the activity of Public Prosecutors and Clerks, modernising legal language, the development of citizens rights to make claims and suggestions related to incorrect functioning of the Administration of justice and international legal cooperation.