COMMISSION EUROPEENNE POUR L'EFFICACITE DE LA JUSTICE
(CEPEJ)

QUESTIONNAIRE POUR ÉVALUER LES SYSTÈMES JUDICIAIRES2011

Pays : Roumanie

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1. Données démographiques et économiques

1. 1. Généralités

1. 1. 1. Habitants et informations économiques

1) Nombre d'habitants (si possible au 1er janvier 2011)

21 431 298

2) Total des dépenses publiques annuelles au niveau national et le cas échéant, les dépenses publiques des collectivités territoriales ou entités fédérales (en €) - (Si la donnée n'est pas disponible, veuillez indiquer NA. Si la situation n'est pas applicable dans votre pays, veuillez indiquer NAP)

	Montant
Niveau national	24 808 849 302
Niveau territorial / entités fédérales (total pour l'ensemble des niveaux territoriaux/entités fédérales)	NA

3) PIB par habitant (en €)

5 700

4) Salaire moyen brut annuel (en €)

5 355

5) Taux de change de la monnaie nationale (zone non Euro) en € au 1 janvier 2011

4.2848

A.1
Veuillez indiquer les sources des réponses aux questions 1 à 4 et, le cas échéant, tout commentaire relatif à l'interprétation des données fournies:

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

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

1. 2. Données budgétaires relatives au système judiciaire

1. 2. 1. Budgets (tribunaux, ministère public, aide judiciaire, frais)

6) Budget public annuel approuvé pour le fonctionnement de l'ensemble des tribunaux, en € (si possible sans le budget du ministère public et de l'aide judiciaire) :

TOTAL du budget public annuel approuvé pour le fonctionnement de l'ensemble des tribunaux (1 + 2 + 3 + 4 + 5 + 6 + 7)	☑ Oui	355 246 737
1. Budget public annuel alloué aux salaires (bruts)	☑ Oui	181 192 857
2. Budget public annuel alloué à l'informatisation (équipements, investissements, maintenance)	☑ Oui	774 286
3. Budget public annuel alloué aux frais de justice (frais d'expertise, d'interprètes, etc.), sans l'aide judiciaire. NB: ne concerne pas les taxes et frais à payer par les parties.	☑ Oui	71 190
4. Budget public annuel alloué aux bâtiments des tribunaux (maintenance, budget de fonctionnement)	☑ Oui	33 529 762
5. Budget public annuel alloué à l'investissement en nouveaux bâtiments (tribunaux)	☑ Oui	11 571 429
6. Budget public annuel alloué à la formation	☑ Oui	421 975
7. Autres (Veuillez préciser)	☑ Oui	127 685 238

7) Dans le cas où vous ne pouvez pas distinguer le budget du ministère public et de l'aide judiciaire du budget alloué à l'ensemble des tribunaux, veuillez l'indiquer clairement. Si "autres", veuillez le préciser :

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

8) Existe-t-il une règle générale selon laquelle une personne doit payer une taxe ou des frais pour intenter une procédure devant une juridiction de droit commun :

☐ en matière pénale ?

☑ en matière autre que pénale ?

Si oui, existe-t-il des exceptions à la règle de payer une taxe ou des frais ? Veuillez préciser ces exceptions:

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

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

9) Montant annuel des taxes ou frais judiciaires perçus par l'Etat (en €)

46 177 039

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

. ☐ NA 569 175 715

11) Veuillez préciser les éléments composant le budget de l'ensemble du système de justice.
Si "autre", veuillez préciser dans la case "commentaire" ci-dessous.

Système des juridictions	Oui
Aide judiciaire	Oui
Ministère public	Oui
Système pénitentiaire	Oui
Service de probation	Oui
Conseil de la justice	Oui
Protection judiciaire de la jeunesse	NAP
Fonctionnement du ministère de la justice	Oui
Services des demandeurs d'asile et réfugiés	Non
Autres	Oui

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

12) Budget public annuel approuvé et alloué à l'aide judiciaire, en € - Si une ou plusieurs données ne sont pas disponibles, veuillez indiquer NA. Si la situation n'est pas applicable dans votre pays, veuillez indiquer NAP.

	Total du budget public annuel approuvé et alloué à l'aide judiciaire (12.1 + 12.2)	12.1 Budget public annuel alloué à l'aide judiciaire en matière pénale	12.2 Budget public annuel alloué à l'aide judiciaire en matière autre que pénale
Montant (en €)	7 915 238	7 485 586	429 652

13) Budget public annuel approuvé et alloué au Ministère public (en €). Veuillez ajouter dans la boîte "commentaire" ci-dessous toute information utile à l'interprétation des données.

. ☑ Montant 162 428 333

Commentaire :
Staff expenditure: wages cost + contributions
Capital expenditure: investments, capital repairs, equipments and facilities

Goods and services expenditure: expenses concerning the maintenance of the prosecutor's offices under law courts, professional training, rents for rented headquarters

14) Instances formellement responsables des budgets alloués aux tribunaux (réponses multiples possibles) :

	Préparation du budget global des tribunaux	Adoption du budget global des tribunaux	Gestion et répartition du budget entre les tribunaux	Evaluation de l'utilisation du budget au niveau national
Ministère de la justice	Oui	Non	Oui	Oui
Autre ministère	Oui	Oui	Non	Oui
Parlement	Non	Oui	Non	Oui
Cour Suprême	Non	Non	Non	Non
Conseil Supérieur de la Magistrature	Oui	Non	Non	Non
Tribunaux	Oui	Non	Oui	Oui
Organisme d'inspection	Non	Non	Non	Oui
Autre	Non	Non	Non	Non

15) Si autre ministère et/ou organisme d'inspection et/ou autre, veuillez préciser (au regard de la question 14) :

Ministry of Public Finances, Romanian Court of Accounts

A.2
Vous pouvez indiquer ci-dessous :
- tout commentaire utile pour l'interprétation des données indiquées dans ce chapitre
- les caractéristiques de votre système budgétaire et les réformes majeures mises en œuvre au cours des deux dernières années
- si possible un organigramme avec une description des compétences des différentes instances responsables des procédures budgétaires

State budget is approved by law.
The Parliament adopts the annual budget laws and amendment laws, drawn up by the Government in the context of the macroeconomic strategy assumed by this one. If annual budget laws, lodged within legal time-limit, have been not adopted by the Parliament no later than December 15 of the year previous to the year at which the draft budget refers, the Government shall require the Parliament the application of the emergency procedure.
The government ensures the realization of the fiscal-budgetary policy, which takes into consideration the economic perspectives and the political priorities contained in the Governance Program accepted by the Parliament.
In the field of public finances the Ministry of Public Finances has, mainly, the following attributions:
a) coordinates the actions which are the Government's responsibility concerning the budgetary system, to wit: the preparation of the draft annual budget laws, of amendment laws, as well as of the laws concerning the approval of the general annual execution account;
b) orders the measures necessary for the application of the fiscal-budgetary policy;
c) issues methodological rules concerning the prepare budgets and their form of submission;
d) issues methodological rules, definitions and instructions in order to establish the practices and procedures for the collection of revenues, commitment, liquidation, authorisation and payment of expenditure, the control of its spending, end of the financial year, accounting and reporting;
e) requires reports and information to any institutions managing public funds;
f) approves the budget classifications, as well as their amendments;
g) analyses the budget proposals in the budget preparations stages;
h) supplies to the Parliament, at request, with the support of the main authorising offices, the documents on which draft budget laws are founded;
i) ensures the monitoring of budget execution and, if it finds out deviations of revenues and expenses from the authorised levels, it proposes to the Government measures to regulate the situation;

j) endorses, in the draft stage, the agreements, memoranda, protocols or other such understandings concluded with the external partners, as well as draft regulatory acts, containing financial implications;
k) establishes the content, the form of submission and the structure of the programs issued by the main authorising officers;
l) blocks or reduces the use of some budget credits found as being without legal foundation or without justification in the authorising officers' budgets;
m) orders the measures necessary for the administration and follow up of the use of the public funds for money co-financing, resulted from the external financial contribution granted to the Government of Romania;
n) collaborates with the National Bank of Romania at the preparation of the balance of external payments, of the accounts receivable and external commitments balance, of the regulations in the monetary and currency field;
o) submits each semester to the Government and commissions for budget, finances and banks o the Parliament, together with the National Bank of Romania, information about the realization of the balance of external payments and of the accounts receivable and external commitments balance and proposes solutions for covering the deficit or for using the current account surplus of the balance of external payments;
p) participates, in the name of the state, in the country and abroad, where applicable, at the external talks about the bilateral and multilateral agreements for the promotion and protection of the investments and the conventions for avoiding double taxation and for fighting against tax evasion and, together with the National Bank of Romania, in financial, currency and payment problems;
r) also accomplishes other attributions laid down by the legal provisions.

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

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

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

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

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

Q6#2#8 : The „Other expenses" section includes: salary expenses: bonuses, annual leave bonus, temporary transfer in the employer's interest and secondment pays, contributions owed by the employer, other rights which judges, ancillary staff and prosecuted are entitled to (reimbursement

of the sums paid for medicines, transportation, rent, retirement pays), travel expenses, fuel and lubricants, specialized books and publications expenses, periodical medical checks, labor protection. The differences are due, on the one hand, to the salary increase in 2009, representing 50% neuropsychological and risk overstress supplement and 15% confidentiality supplement, respectively and to the increase of the number of the beneficiaries of other personnel rights, and on the other hand, to the evolution of the prices for accommodation, fuel, etc.

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

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

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

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

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

Veuillez indiquer les sources des réponses aux questions 6, 9, 10, 11, 12 et 13.

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

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

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

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

2. Accès à la justice et à l'ensemble des tribunaux

2. 1. Aide judiciaire

2. 1. 1. Principes

16) L'aide judiciaire concerne-t-elle :

	Affaires pénales	Affaires autres que pénales
Représentation devant les tribunaux	Oui	Oui
Conseil juridique	Oui	Oui

17) L'aide judiciaire prévoit-elle la couverture ou l'exonération des frais de justice?

(●) Oui

( ) Non

Si oui, veuillez préciser:

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

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

18) Est-il possible de bénéficier de l'aide judiciaire pour des frais relatifs à l'exécution des décisions de justice (par exemple : honoraires d'un agent d'exécution) ?

(●) Oui

( ) Non

Si oui, veuillez préciser:

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

19) L'aide judiciaire peut-elle être allouée pour d'autres frais (différents de ceux indiqués aux questions 16 à 18, par exemple honoraires d'un conseiller technique ou expert, honoraires d'autres professionnels de la justice (notaires), frais de voyage, etc.) ? Si oui, veuillez préciser dans la boîte "commentaire" ci-dessous.

	Affaires pénales	Affaires autres que pénales

	Non	Oui

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

20) Nombre d'affaires portées devant les tribunaux et ayant bénéficié de l'aide judiciaire. Veuillez préciser dans la boîte "commentaire" ci-dessous, le cas échéant. Si la donnée n'est pas disponible, veuillez indiquer NA. Si la situation n'est pas applicable dans votre pays, veuillez indiquer NAP.

[Cette question porte sur le nombre annuel de décisions octroyant l'aide judiciaire aux justiciables qui ont saisi un tribunal. Elle ne concerne pas le conseil juridique fourni pour des affaires qui ne sont pas portées devant un tribunal.]

	Nombre
Total	NA
en matière pénale	NA
en matière autre que pénale	NA

Commentaire :

21) En matière pénale, les personnes n'ayant pas les moyens financiers suffisants peuvent-elles bénéficier de l'assistance gratuite (ou financée par un budget public) d'un avocat ? Veuillez préciser dans la boîte "commentaire" ci-dessous.

Personnes mises en cause	Oui
Victimes	Oui

Commentaire :

22) Si oui, ont-elles le libre choix de l'avocat dans le cadre de l'aide judiciaire?

- [ ] Oui
- [x] Non

23) Votre pays procède-t-il à un examen des revenus et/ou des biens (patrimoine) du demandeur avant d'octroyer l'aide judiciaire ? Veuillez ajouter dans la boîte "commentaire" ci-dessous les informations utiles à l'interprétation des données fournies. Si un tel système existe, mais que les données ne sont pas disponibles, veuillez indiquer NA. Si un tel système n'existe pas, veuillez indiquer NAP.

	montant du revenu (si possible pour une personne) en €	valeur des biens (patrimoine) en €
en matière pénale	NAP	NAP
en matière autre que pénale ?	NAP	NAP

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

24) En matière autre que pénale, est-il possible de refuser l'aide judiciaire pour absence de bien-fondé de l'action (par exemple pour caractère abusif de l'action en justice ou en raison de l'absence d'un éventuel succès) ?

- (●) Oui
- ( ) Non

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

25) La décision d'accorder ou de refuser l'aide judiciaire est-elle prise par :

- [x] le tribunal ?
- [x] une instance extérieure au tribunal ?
- [ ] une instance mixte (tribunal/organe externe)?

26) Existe-t-il un système privé d'assurance protection juridique permettant aux personnes physiques (cela ne concerne pas les entreprises ou autres personnes morales) de financer une action en justice ?

- ( ) Oui
- (●) Non

Le cas échéant, veuillez donner des indications sur le développement actuel de ce type d'assurance dans votre pays; s'agit-il d'un phénomène grandissant ?

27) La décision judiciaire peut-elle porter sur la manière dont les frais de justice payés par les parties au cours de la procédure seront partagés:

en matière pénale ?	Yes
en matière autre que pénale ?	Yes

B.1
Vous pouvez indiquer ci-dessous :
- tout commentaire utile pour l'interprétation des données indiquées dans ce chapitre
- les caractéristiques de votre système d'aide judiciaire et les réformes majeures mises en œuvre au cours des deux dernières années

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

The Government Emergency Ordinance no. 51/2008, on public legal aid in the civil matter, which, essentially, resumes, specifies and details the provisions of Directive 2003/8/EC to improve access to justice in cross-border disputes.
According to the provisions of Article 1 of the Ordinance, it defines the "public legal aid" as being "that form of assistance granted by the State which is meant to safeguard the right to a fair trial and to guarantee equal access to justice, for the assertion of legitimate rights or interests by judicial means, including for the coercive enforcement of court judgements or other writs of execution". The defining markers are therefore "the party's right to a fair trial" and "free equal access to justice".
As for the civil trial stages in which public legal aid may intervene, it contains, through its benefits, the judgment stage as well as the enforcement stage, being possible to be granted from the beginning for both stages, as well as only for one of them. To this effect, by the provisions of Article 7 of the Ordinance, it has been expressly mentioned that „ Public legal aid may be granted, either separately or cumulatively, in any of the forms provided in Art. 6, while not exceeding, per total, during a year, the maximum amount equivalent to 12 gross minimum salaries at the level of the year in which the application was submitted.
Also, having in view that according to the provisions of Article 23 and Article 35 paragraph (2) of the Ordinance, the grant of public legal aid under the form of judicial or extrajudicial aid through lawyer shall be made in the conditions laid down by Law 51/1995 on the organization and practice of the profession of lawyers, the Parliament of Romania has adopted Law 270/2010 amending and completing Law 51/1995 on the organization and practice of the profession of lawyers by which, in the chapter destined to legal aid, it details the cases and conditions for granting legal aid, like the organization, within the profession, of the activity of grant legal aid.
According to Article 191 of the Criminal Procedure Code, in case of conviction, the defendant is obliged to pay judicial fees forwarded by the state, except the expenses for the interpreters appointed by the legal bodies, according to law, as well as of it has been ordered the grant of free assistance, which are the state responsibility.
If there are several convicted defendants, the court decides the amount of the judicial fees owed by each of them. When establishing this amount it will take into account, for each of the defendants, the extent to which they made the judicial fees.
The party responsible in civil law, to the extent to which it is obliged together with the defendant to repair the damage, is also obliged together with this one to pay the judicial fees forwarded by the state.

Article 192 of the Criminal Procedure Code stipulates that the payment of the expenses forwarded by the state in the other cases shall be made in the following way:
(1) In case of acquittal or cessation of the criminal trial before the court, the expenses forwarded by the state are paid in the following way:
1. In case of acquittal, by:

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

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

Veuillez indiquer les sources des réponses aux questions 20 et 23:

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

2. 2. Usagers des tribunaux et victimes

2. 2. 1. Droit des usagers et victimes

28) Existe-t-il des sites/portails Internet officiels (ex: ministère de la Justice, etc.) à partir desquels le public a accès gratuitement :

Les sites internet mentionnés pourraient figurer notamment sur le site internet de la CEPEJ. Veuillez préciser dans la boîte "commentaire" ci-dessous quels documents et informations sont inclus aux adresses concernant "autres documents" :

www.csm1909.ro,
section, Legislation,
subsection Normative

☐ aux textes juridiques (codes, lois, règlements, etc.) ? adresse Internet:	☑ Oui	Acts regarding the Romanian judicial system, www.iurispedia.ro (New Civil Code), project developed in public-private partnership
☐ à la jurisprudence des hautes juridictions ? adresse Internet:	☑ Oui	www.jurindex.ro, portal.just.ro, www.scj.ro, web sites (web pages) of legal courts, having different addresses
☐ à d'autres documents (par exemple le téléchargement de formulaires, l'enregistrement en ligne) ?	☐ Oui	

Commentaire :

29) Votre système prévoit-il une obligation d'informer les parties concernant les délais prévisibles de la procédure judiciaire?

○ Oui

◉ Non

Si oui, veuillez préciser:

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

30) Existe-t-il un système d'information spécifique, public et gratuit, pour informer et aider les victimes d'infractions?

◉ Oui

○ Non

Si oui, veuillez préciser:

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

31) Existe-t-il des modalités favorables particulières applicables aux catégories de personnes vulnérables suivantes, au cours des procédures judiciaires. Si "autres personnes vulnérables" et/ou "autres modalités particulières", veuillez le préciser dans la boîte "commentaire" ci-dessous.

[Cette question ne concerne pas la phase d'investigation par la police et elle ne concerne pas l'indemnisation des victimes d'infractions traitée aux questions 32 à 34.]

	Dispositif d'information	Modalités particulières pour les audiences	Autres
Victimes de viol	Non	Oui	Oui
Victimes du terrorisme	Non	Oui	Oui
Enfants (témoins ou victimes	Oui	Oui	Oui
Victimes de violence domestique	Oui	Oui	Oui
Minorités ethniques	Oui	Oui	Oui
Personnes handicapées	Oui	Oui	Oui
Délinquants mineurs	Oui	Oui	Oui
Autres (par exemple, les victimes de la traite des être humains)	Oui	Oui	Oui

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

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

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

As for the hearing of the minor victims or witnesses, there are special procedural provisions in the Criminal Procedure Code, stipulating the procedural rights of any wounded party to give recorded audio

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

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

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

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

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

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

32) Votre pays dispose-t-il d'une procédure d'indemnisation des victimes d'infractions ?

- (●) Oui
- ( ) Non

Si oui, pour quels types d'infractions

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

33) Si oui, cette procédure d'indemnisation consiste-t-elle en:

- [x] un dispositif public ?
- [x] des dommages et intérêts à payer par la personne responsable (par décision du tribunal) ?
- [ ] un dispositif privé ?

34) Existe-t-il des études permettant d'évaluer le taux de recouvrement des dommages et intérêts prononcés par les juridictions pour les victimes ?

- ( ) Oui
- (•) Non

Si oui, veuillez préciser le taux de recouvrement, le nom des études, la fréquence des études et l'organe responsable :

35) Le procureur a-t-il un rôle spécifique au regard des victimes (protection et assistance) ?

- (•) Oui
- ( ) Non

Si oui, veuillez préciser :

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

36) Les victimes d'infractions peuvent-elles contester une décision du procureur de classer une affaire?

Veuillez vérifier la cohérence de votre réponse avec celle de la question 105 qui traite de la possibilité pour un procureur "de classer une affaire sans suite, sans avoir besoin d'obtenir une décision du tribunal".

- (•) Oui
- ( ) Non

NAP (le procureur ne peut pas décider de classer une affaire de son propre chef. Une décision judiciaire est nécessaire)

Le cas échéant, veuillez préciser :

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

2. 2. 2. Confiance des citoyens dans leur justice

37) Existe-t-il un système d'indemnisation pour les usagers dans les circonstances suivantes :

- [x] durée excessive de la procédure ?
- [x] non exécution des décisions de justice?
- [x] arrestation injustifiée ?
- [x] condamnation injustifiée ?

Le cas échéant, veuillez fournir des renseignements concernant la procédure d'indemnisation, le nombre d'affaires, le résultat des procédures et le dispositif actuel permettant de calculer le montant de l'indemnisation (par exemple, le tarif journalier pour une arrestation ou une condamnation injustifiée) :

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

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

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

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

38) Votre pays a-t-il mis en place des enquêtes auprès des professionnels de la justice et des usagers des tribunaux pour mesurer leur confiance dans la justice et leur degré de satisfaction par rapport au service rendu ? (plusieurs options possibles)

- [x] enquêtes (de satisfaction) auprès des juges
- [x] enquêtes (de satisfaction) auprès du personnel des tribunaux
- [x] enquêtes (de satisfaction) auprès des procureurs
- [x] enquêtes (de satisfaction) auprès des avocats
- [x] enquêtes (de satisfaction) auprès des parties
- [x] enquêtes (de satisfaction) auprès d'autres usagers des tribunaux (par exemple jurés, témoins, experts, interprètes, représentants des agences gouvernementales)
- [ ] Enquêtes (de satisfaction) auprès des victimes

Si possible, veuillez préciser leurs titres, objets et sites internet où elles peuvent être consultées :

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

39) Si possible, veuillez préciser :

	Enquêtes systématiques (par exemple annuelles)	Enquêtes occasionnelles
Enquêtes au niveau national	Non	Non
Enquêtes au niveau des tribunaux	Non	Non

40) Existe-t-il un dispositif national ou local permettant de déposer une plainte concernant le fonctionnement du système judiciaire (par exemple le traitement d'une affaire par un juge ou la durée d'une procédure)?

(●) Oui
( ) Non

41) Veuillez préciser l'autorité compétente pour traiter de telles plaintes et informer si l'autorité doit ou ne doit pas respecter un délai pour répondre et/ou un délai pour traiter la plainte (plusieurs réponses possibles). Veuillez donner des informations sur l'efficacité de cette procédure de plainte dans la boîte "commentaire" ci-dessous.

	Délai pour répondre (par exemple pour accuser réception de la plainte, pour informer des suites qui lui seront données, etc.)	Délai pour traiter la plainte	Pas de délais
Tribunal concerné	Non	Non	Non
Instance supérieure	Non	Non	Non
Ministère de la Justice	Non	Non	Non
Conseil supérieur de la magistrature	Non	Non	Non
Autres organisations extérieures (ex. médiateur)	Non	Non	Non

Commentaire :
Depending on the object of the notification, there may be any of the mentioned institutions, as to the competences of each of them.

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

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

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

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

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

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

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

After the disciplinary procedures, there remained irrevocable 17 judgments (some complaints being from the previous years) by which the judges were applied sanctions. In 2010, the Judicial Inspection forwarded to the Discipline Commission for prosecutors (CDP) 65 complaints, from which 31 formulated by the parties in files, Ministry of Justice, ex officio Judicial Inspection, prosecutors, PÎCCJ, and 34 complaints, formulated by MPF. In 2010, CDP exercised 10 disciplinary actions, plus other 5 promoted in the previous years and settled in 2010.

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

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

3. Organisation des tribunaux

3. 1. Fonctionnement

3. 1. 1. Tribunaux

42) Nombre de tribunaux considérés comme entités juridiques (structures administratives) et implantations géographiques. Si la donnée n'est pas disponible, veuillez indiquer NA. Si la situation n'est pas applicable dans votre pays, veuillez indiquer NAP.

	Nombre total
42.1 Tribunaux de droit commun de 1ère instance (entités juridiques)	235
42.2 Tribunaux spécialisés de 1ère instance (entités juridiques)	10
42.3 Tous les tribunaux (implantations géographiques) (ce chiffre inclut les tribunaux de droit commun de 1ère instance, les tribunaux spécialisés de 1ère instance, tous les tribunaux de seconde instance et cours d'appels et toutes les cours suprêmes)	246

43) Nombre (entités juridiques) de tribunaux spécialisés (ou ordre judiciaire spécifique) de 1ère instance. Si "autres tribunaux spécialisés de 1ère instance", veuillez donner des précisions dans la boîte "commentaire" ci-dessous. Si la donnée n'est pas disponible, veuillez indiquer NA. Si la situation n'est pas applicable dans votre pays, veuillez indiquer NAP.

Total (il doit correspondre au nombre indiqué à la question 42.2)	10
Tribunaux commerciaux	3
Tribunaux du travail	NAP
Tribunaux des affaires familiales	1
Tribunaux des affaires locatives (tribunaux des baux)	NAP
Tribunaux de l'exécution des sanctions pénales	NAP
Tribunaux administratifs	NAP
Tribunaux des assurances et/ou de la sécurité sociale	NAP
Tribunaux militaires	6
Autres tribunaux spécialisés de 1ère instance	NAP

Commentaire :

44) Une réforme dans la structure des tribunaux est-elle envisagée (par exemple une diminution du nombre de tribunaux (implantations géographiques) ou une réforme de la compétence des tribunaux) ?

☑ Oui

☐ Non

Si oui, veuillez préciser :

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

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

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

45) Nombre de tribunaux de 1ère instance (implantations géographiques) compétents pour les affaires suivantes. Si la donnée n'est pas disponible, veuillez indiquer NA. Si la situation n'est pas applicable dans votre pays, veuillez indiquer NAP.

	Nombre de tribunaux
le recouvrement d'une petite créance.	179
le licenciement	41
le vol avec violence	179

Veuillez préciser la définition d'une petite créance et indiquer le montant financier en dessous duquel une créance est considérée comme telle :

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

Veuillez indiquer les sources utilisées pour les réponses aux questions 42, 43 et 45 :

Superior Council of Magistracy

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

3. 1. 2. Juges et personnels non-juges

46) Nombre de juges professionnels siégeant en juridiction (si possible au 31 décembre 2010)
(veuillez fournir l'information en équivalent temps plein et pour des postes permanents effectivement occupés, pour tous les types de juridictions confondus – droit commun et

spécialisées). Si la donnée n'est pas disponible, veuillez indiquer NA. Si la situation n'est pas applicable dans votre pays, veuillez indiquer NAP.

Veuillez ajouter dans la boîte "commentaire" ci-dessous toute information utile à l'interprétation des données ci-dessus.

****

[Veuillez vous assurer que les procureurs et leurs personnels sont exclus des réponses suivantes (ils sont concernés par les questions 55-60). Si la distinction entre personnels attachés aux juges et personnels attachés aux procureurs n'est pas possible, merci de l'indiquer clairement.

Veuillez indiquer le nombre de postes effectivement pourvus à la date de référence et non pas les effectifs budgétaires théoriques.]

	Total	Hommes	Femmes
Nombre total de juges professionnels (1 + 2 + 3)	4081	1100	2981
1. Nombre de juges professionnels de première instance	1872	547	1325
2. Nombre de juges professionnels dans les cours d'appel (2ème instance)	2101	529	1572
3. Nombre de juges professionnels dans les cours suprêmes	108	24	84

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

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

The Civil Procedure Code – rules concerning the competence of the legal courts in the civil matter:
1. courts of first instance – have full competence for judging in first instance;
- judge, in the first and last instance, the trials and requests concerning claims having as object the payment of an amount of money of at most 2.000 lei inclusively;
- judge the complaints against the judgments of the public administration authorities with jurisdictional activity and of other bodies with such activity, in the cases stipulated by law;
2. law courts – have the competence to judge in first instance in the cases stipulated by law;
- as courts of appeal, judge the appeals declared against judgments pronounced by the judges in the first instance;
- as appeal courts, judge the appeals declared against the judgments pronounced by the courts of first instance which, according to law, are not submitted to the appeal;
3. the courts of appeal judge: - in first instance, the processes and requests in the matter of the contentious administrative concerning the acts of the central authorities and institutions;
- as courts of appeal, the appeals declared against the judgments pronounced by the courts of first instance;
- as appeal courts, the appeal declared against the judgments pronounced by the law courts in appeal or against the judgments pronounced in the first instance by law courts which, according to law, are not submitted to the appeal, as well as in any other cases expressly stipulated by law;
4. HCCJ mainly judges: - the appeal declared against the judgments of the courts of appeal and of other

judgments, in the cases stipulated by law;
- the appeals in the interest of law.
This comment is also valid for question no. 47.

47) Nombre de présidents de tribunaux (juges professionnels). Si la donnée n'est pas disponible, veuillez indiquer NA. Si la situation n'est pas applicable dans votre pays, veuillez indiquer NAP.

	Total	Hommes	Femmes
Nombre total de juges professionnels (1 + 2 + 3)	187	82	105
1. Nombre de président(e)s de tribunaux de première instance	127	47	80
2. Nombre de président(e)s de cours d'appel (2ème instance)	59	35	24
3. Nombre de président(s) de cours suprêmes	1	0	1

48) Nombre de juges professionnels exerçant à titre occasionnel et rémunérés comme tel (si possible au 31 décembre 2010). Si nécessaire, veuillez indiquer dans la boîte "commentaire" ci-dessous toute information utile pour l'interprétation de la réponse à la question 48.

Donnée brute	NAP
Si possible, donnée en équivalent temps plein	NAP

Commentaire :

49) Nombres de juges non professionnels, non rémunérés, percevant, le cas échéant, un simple défraiement (si possible au 31 décembre 2010) (y compris les "lay judges" et juges consulaires ; les arbitres et les jurés sont exclus de cette donnée).

Donnée brute	NAP

50) Votre système judiciaire prévoit-il un jury de jugement avec une participation des citoyens ?

- ○ Oui
- ◉ Non

Si oui, pour quel(s) type(s) d'affaire(s) ?

51) Veuillez indiquer le nombre de citoyens ayant participé à de tels jurys pour l'année de référence :

NAP

52) Nombre de personnel non-juge travaillant dans les tribunaux (si possible au 31 décembre 2010) (cette donnée ne devrait pas inclure le personnel travaillant pour les procureurs, voir question 60) (répondre en équivalent temps plein et pour les postes permanents effectivement occupés). Si « autres personnels non juges », veuillez le préciser dans la boîte "commentaire" ci-dessous.

Nombre total de personnel non juge travaillant dans les tribunaux (1 + 2 + 3 + 4 + 5)	☐ Oui	8481
1. Rechtspfleger (ou organes équivalents) chargés de tâches juridictionnelles ou para-juridictionnelles, ayant des compétences autonomes et dont les décisions peuvent être susceptibles de recours.		NAP
2. Personnels non juges chargés d'assister les juges à l'instar des greffiers (préparation des dossiers, assistance à l'audience, tenue des procès verbaux, aide à la préparation de la décision)	☑ Oui	5325
3. Personnels chargés de tâches relatives à l'administration et la gestion des tribunaux (gestion des ressources humaines, gestion des moyens matériels y compris de l'informatique, gestion financière et budgétaire, gestion de la formation)	☑ Oui	1427
4. Personnels techniques	☑ Oui	1729
5. Autres personnels non juges		NAP

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

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

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

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

53) S'il existe dans votre système la fonction de Rechtspfleger (ou organes équivalents), veuillez décrire brièvement leur statut et leurs fonctions:

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

54) Les tribunaux ont-ils délégué certains services, relevant de leur compétence, à un service privé (par exemple, la maintenance informatique, la formation continue du personnel, la sécurité, les archives, le nettoyage)

☑ Oui

☐ Non

Si oui, veuillez préciser :

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

C.1
Vous pouvez indiquer ci-dessous :
- tout commentaire utile à l'interprétation des données indiquées dans ce chapitre
- les caractéristiques de votre système judiciaire et les réformes majeures mises en œuvre au cours des deux dernières années

See comment from question no. 53

Veuillez indiquer les sources utilisées pour les réponses aux questions 46, 47, 48, 49 et 52

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

3. 1. 3. Procureurs et personnel

55) Nombre de procureurs au 31 décembre 2010 (veuillez fournir l'information en équivalent temps plein et pour des postes permanents effectivement occupés, auprès de tous les types de juridictions confondus – droit commun et spécialisées). Si la donnée n'est pas disponible, veuillez indiquer NA. Si la situation n'est pas applicable dans votre pays, veuillez indiquer NAP. Veuillez ajouter dans la boîte "commentaire" ci-dessous

toute information utile à l'interprétation des données.

	Total	Hommes	Femmes
Nombre total de procureurs (1 + 2 + 3)	2 326	1 086	1 240
1. Nombre de procureurs auprès des tribunaux de première instance	1 106	515	591
2. Nombre de procureurs auprès des cours d'appel (2ème instance)	765	343	422
3. Nombre de procureurs auprès des cours suprêmes	455	228	227

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

56) Nombre de chefs des ministères publics. Si la donnée n'est pas disponible, veuillez indiquer NA. Si la situation n'est pas applicable dans votre pays, veuillez indiquer NAP. Veuillez ajouter dans la boîte "commentaire" ci-dessous toute information utile pour l'interprétation des données.

	Total	Hommes	Femmes
Nombre total de chefs de ministères publics (1 + 2 + 3)	263	138	125
1. Nombre de chefs de ministères publics auprès de tribunaux de première instance	157	83	74
2. Nombre de chefs de ministères publics auprès des cours d'appel (2ème instance)	99	52	47
3. Nombre de chefs de ministères publics auprès des cours suprêmes	7	3	4

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

57) D'autres personnes ont-elles des fonctions comparables à celles des procureurs ?

- ○ Oui
- ◉ Non

Nombre (en équivalent temps plein)

58) Si oui, veuillez préciser leurs noms et fonctions :

59) Si oui, est-ce que leur nombre est inclus dans le nombre de procureurs que vous avez indiqué à la question 55 ?

☐ Oui

☐ Non

60) Nombre de personnels (non procureurs) rattachés au ministère public (si possible au 31 décembre 2010) (sans le nombre de personnels non juges, v. question 52) (répondre en équivalent temps plein et pour les postes permanents effectivement pourvus)

Nombre	☑ Oui	3 044

C.2
Vous pouvez indiquer ci-dessous :
- tout commentaire utile à l'interprétation des données indiquées dans ce chapitre
- les caractéristiques de votre système judiciaire et les réformes majeures mises en œuvre au cours des deux dernières années

Veuillez indiquer la source des réponses aux questions 55, 56 et 60

Statistical data - Public Ministry and Superior Council of Magistracy

3. 1. 4. Budget du tribunal et nouvelles technologies

61) Quelles instances possèdent des compétences budgétaires au sein des tribunaux ? Si "autre", veuillez le préciser dans la boîte "commentaire" ci-dessous.

	Préparation du budget	Arbitrage et répartition du budget	Gestion quotidienne du budget	Evaluation et contrôle de l'utilisation du budget
Conseil d'administration	Non	Non	Non	Non
Président du tribunal	Non	Non	Non	Non
Directeur administratif du tribunal	Oui	Oui	Oui	Oui
Greffier en chef	Non	Non	Non	Non
Autre	Non	Non	Non	Non

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

62) Pour l'assistance directe au travail du juge/du greffier, quelles sont les possibilités offertes par le système informatique existant dans les juridictions ?

Traitement de texte	100% of courts
Base de données électronique pour la jurisprudence	100% of courts
Dossiers électroniques	100% of courts
E-mail	100% of courts
Connexion internet	100% of courts

63) Pour l'administration et la gestion, quelles sont les possibilités offertes par le système informatique existant dans les juridictions ?

Enregistrement des affaires	100% of courts
Système d'information sur la gestion du tribunal	0 % of courts
Système d'information financière	100% of courts
Vidéoconférence	+50% of courts

64) Pour la communication entre le tribunal et les parties, quelles sont les possibilités offertes par le système informatique existant dans les juridictions ?

Formulaire électronique	100% of courts
Site internet	100% of courts
Suivi électronique des affaires	100% of courts
Registres électroniques	0 % of courts
Recouvrement électronique d'une petite créance	0 % of courts
Recouvrement électronique d'une créance non contestée	0 % of courts
Dépôt d'un recours depuis un poste informatique	100% of courts
Vidéoconférence	+50% of courts
Autres moyens de communication électronique	0 % of courts

65) L'utilisation de la vidéoconférence dans les tribunaux (détails de la question 65). Veuillez indiquer dans la boîte "commentaire" ci-dessous toute précision sur le cadre juridique et le développement de la vidéoconférence dans votre pays.

	65.1 En matière pénale, les tribunaux et les parquets ont-ils recours à la vidéoconférence pour des auditions de prévenus ou de témoins ?	65.2 Ces auditions par le juge / le procureur peuvent-elles avoir lieu dans les services de police ou/et les établissements pénitentiaires ?	65.3 Existe-t-il une législation spécifique sur les conditions d'utilisation de la vidéoconférence par les tribunaux ou les parquets, en particulier pour préserver les droits de la défense ?	65.4 La vidéoconférence est-elle utilisée en matière autre que pénale ?
	Oui	Non	Oui	Oui

Commentaire :
The Criminal Procedure Code stipulates at present the possibility to use the audio-video means for recording the statements of the wounded party, civil party and witnesses, as mean for the protection of life, body integrity or their freedom or of their close relatives.
The relevant regulations under this aspect are:
Art. 771 – Special ways for hearing the wounded party and the civil party
(1) If life, body integrity or freedom of the wounded party or of the civil party or of his/her the close relatives may be endangered, the prosecutor or, where applicable, the trial court may allow for this one to be heard without being present physically at the place where is the body performing the criminal prosecution or, where applicable, at the place where the trial session takes place, through the technical means laid down by the previous paragraphs.
(2) At the request of the judicial body or wounded party or civil party heard in the conditions stipulated by paragraph 1, at the taking of the statement may attend a counsellor for the protection of victims and

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

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

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

C.3
Vous pouvez indiquer ci-dessous :
- tout commentaire utile pour l'interprétation des données indiquées dans ce chapitre
- les caractéristiques de votre système judiciaire et les réformes majeures mises en œuvre au cours des deux dernières années

See the explanations and comments from 65.4

3. 2. Performance et évaluation

3. 2. 1. Performance et évaluation

66) Existe-t-il une institution centralisée responsable de la collecte de données statistiques concernant le fonctionnement des tribunaux et du système judiciaire ?

- [x] Oui
- [ ] Non

Si oui, veuillez préciser le nom et les coordonnées de cette institution:

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

67) Les tribunaux individuels doivent-ils établir un rapport annuel d'activités (qui présente par exemple le nombre d'affaires traitées, d'affaires en instance, le nombre de juges et de personnels administratifs, les objectifs à atteindre et un bilan d'évaluation) ?

- [x] Oui
- [ ] Non

68) Existe-t-il dans les tribunaux un système de suivi régulier des activités des tribunaux concernant:

Le système de suivi des activités vise à contrôler l'activité quotidienne des tribunaux (en particulier la production des tribunaux) notamment au travers de collectes de données et d'analyses statistiques (v. aussi les questions 80 et 81).

- [x] le nombre de nouvelles affaires ?
- [x] le nombre de décisions rendues ?
- [x] le nombre d'affaires faisant l'objet d'un renvoi ?
- [x] la durée des procédures (délais)?
- [x] autre ?

Si autre, veuillez préciser :

1. suspended cases 2. convicted for life

69) Existe-t-il un système d'évaluation régulière de l'activité (en termes de performance et de rendement) de chaque tribunal ?

Le système d'évaluation concerne la performance des systèmes judiciaires, incluant une vision à plus long terme et utilisant des indicateurs et des objectifs. Cette évaluation peut avoir une nature plus qualitative (v. questions 69-77). Elle ne concerne pas l'évaluation globale du (bon) fonctionnement des tribunaux (v. question 82).

- ○ Oui
- ◉ Non

Veuillez préciser :

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

70) Concernant l'activité des tribunaux, avez-vous défini des indicateurs de performance et de qualité (si non, veuillez passer à la question 72) :

- ◉ Oui
- ○ Non

71) Veuillez préciser les 4 principaux indicateurs de performance et de qualité qui ont été définis :

- ☑ nouvelles affaires
- ☐ durée des procédures (délais)
- ☑ affaires terminées
- ☑ affaires pendantes et stocks d'affaires
- ☑ productivité des juges et des personnels des tribunaux
- ☐ pourcentage d'affaires traitées par un juge unique
- ☐ exécution des décisions pénales
- ☐ satisfaction du personnel des tribunaux
- ☐ satisfaction des usagers (au regard des services rendus par les tribunaux)
- ☐ qualités judiciaire et organisationnelle des tribunaux
- ☐ coûts des procédures judiciaires
- ☐ autre

Si autre, veuillez préciser :

72) Existe-t-il des objectifs quantitatifs de performance (par exemple un nombre d'affaires à traiter par mois) pour chaque juge ?

- ◉ Oui
- ○ Non

73) Veuillez préciser qui fixe les objectifs individuels des juges :

- ☐ pouvoir exécutif (par exemple Ministère de la justice)

☐ pouvoir législatif

☑ pouvoir judiciaire (par exemple un Conseil supérieur de la Magistrature ou une instance supérieure)

☐ Autre

Si autre, veuillez préciser :

74) Existe-t-il des objectifs de performance au niveau des tribunaux (si non, veuillez passer à la question 77)?

○ Oui

◉ Non

75) Veuillez préciser qui fixe les objectifs des tribunaux :

☐ pouvoir exécutif (par exemple Ministère de la justice)

☐ pouvoir législatif

☑ pouvoir judiciaire (par exemple un Conseil supérieur de la Magistrature ou une instance supérieure)

☐ autre

Si autre, veuillez préciser :

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

76) Veuillez préciser les principaux objectifs appliqués aux tribunaux:

NAP

77) Quelle est l'autorité chargée d'évaluer la performance des tribunaux (v. questions 69 à 76) (réponses multiples possible):

☑ Conseil Supérieur de la Magistrature

☐ Ministère de la justice

☐ organe d'inspection

☐ Cour Suprême

☐ organe d'audit extérieur

☐ autre

Si autre, veuillez préciser :

78) Existe-t-il des standards de qualité définis pour l'ensemble du système judiciaire (existe-t-il un système de qualité et/ou une politique de qualité de la justice) ?

○ Oui

◉ Non

Si oui, veuillez préciser :

79) Existe-t-il des personnels spécialisés dans les tribunaux responsables de ces standards de qualité ?

- (●) Oui
- ( ) Non

80) Existe-t-il une procédure d'évaluation permettant de mesurer le stock d'affaires en instance et de repérer les affaires non traitées dans un délai raisonnable :

- [x] en matière civile
- [x] en matière pénale
- [x] en matière administrative

81) Disposez-vous d'une procédure d'évaluation permettant de mesurer les temps morts durant les procédures judiciaires ?

- ( ) Oui
- (●) Non

Si oui, veuillez préciser :

82) Existe-t-il un système d'évaluation globale du (bon) fonctionnement des tribunaux basé sur un plan d'évaluation (calendrier de visites) convenu a priori?

Cette question ne concerne pas l'évaluation spécifique d'indicateurs de performance.

- (●) Oui
- ( ) Non

Veuillez préciser la fréquence de l'évaluation:

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

83) Existe-t-il une procédure régulière de suivi et d'évaluation de l'activité du ministère public ?

- (●) Oui
- ( ) Non

Si oui, veuillez préciser:

The same as for courts: reports regarding the activity of national prosecutors' offices are elaborated at SCM level

C.4
Vous pouvez indiquer ci-dessous :
- tout commentaire utile pour l'interprétation des données indiquées dans ce chapitre
- les caractéristiques du système de suivi et d'évaluation des tribunaux

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

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

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

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

Comments for Q80:
The stockpiles of cases are monitored for all those matters (all those files that remained unsolved at the end of the monitoring period and that remain to be solved in the next period), as well as the period of time since their registration, as intervals (0 – 6 months, 6 months – 1 year, more than 1 year): also, there is an evidence system for the terms in which the cases were solved (0 – 6 months, 6 months – 1 year, 1 – 2 years, more than 2 years).

4. Procès équitable

4. 1. Principes

4. 1. 1. Informations générales

84) Pourcentage de jugements par défaut de première instance en matière pénale (affaires dans lesquels le suspect n'est ni présent ni représenté par un professionnel juridique durant l'audience) ?

NA

85) Existe-t-il une procédure permettant la récusation effective d'un juge si une partie estime qu'il n'est pas impartial ?

- (•) Oui
- ( ) Non

Si possible, nombre de récusations qui ont abouti (en une année):

86) Nombre d'affaires relatives à l'Article 6 de la Convention Européenne des Droits de l'Homme (durée et non-exécution). Si la donnée n'est pas disponible, veuillez indiquer NA.

	Affaires déclarées irrecevables par la Cour	Règlements amiables	Jugements constatant une violation	Jugements constatant une non violation
Procédures civiles - Article 6§1 (durée)	3	2	11	1
Procédures civiles - Article 6§1 (non-execution)	6	3	6	1
Procédures pénales - Article 6§1 (durée)	9	0	35	0

Veuillez préciser les sources :

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

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

D.1
Vous pouvez indiquer ci-dessous tout commentaire utile à l'interprétation des données indiquées dans ce chapitre

4. 2. Durée des procédures

4. 2. 1. Généralités

87) Existe-t-il des procédures spécifiques pour les affaires urgentes :

- [x] en matière civile ?
- [x] en matière pénale ?
- [x] en matière administrative ?

☐ il n'y a pas de procédure spécifique

Si oui, veuillez préciser:

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

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

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

88) Existe-t-il des procédures simplifiées :

- [x] en matière civile (petits litiges) ?
- [x] en matière pénale (petites infractions) ?
- [ ] en matière administrative ?
- [ ] il n'y a pas de procédure simplifiée

Si oui, veuillez préciser:

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

By the New Criminal Procedure Code, although there is not made a classification of the offences as to their seriousness, there are regulated some simplified procedure rules for offences stipulating sanctions more with low seriousness. Thus, Art. 318 NCPP stipulates the possibility to renounce at the criminal prosecution in determined cases and conditions. And this provision is amended by LPA CPP, according to which the limits of

the penalty of imprisonment increase to 7 years. In such cases, the prosecutor may renounce at the criminal prosecution when, in relation to the defendant, the behaviours had before the commission of the offence, the content of the fact, the way and means of its commission, the followed purpose and the concrete circumstances of its commission, the produces consequences or which could have been produced by the commission of the offence, the efforts made by the defendant for the removal or diminution of the offences consequences, he finds out there is no public interest in the prosecution of this one.
There are also kept the provisions concerning the judgment in case of recognition of the guilt. Moreover, there is introduced the agreement for the recognition of the guilt, which may be concluded only as concerns the offences for which law stipulates the penalty of fine or imprisonment of at most 7 years, according to Art. 478 and the following NCPP. If there is concluded an agreement for the recognition of the guilt, the prosecutor does not draw up the bill of indictment concerning the defendants with which he concluded the agreement. The court pronounces upon the agreement for the recognition of the guilt by sentence, after a non-contradictory procedure, in public session, after the hearing of the prosecutor, defendant and his lawyer, as well as the civil party, if present. I would take out this provisions as it is abrogated by LPA CPP. In the matter of remedies, the appeal shall be converted into the extraordinary remedy of the appeal in cassation. The judgment of the appeal in cassation shall be simplified by the introduction of the institution of the admission in principle.

89) Les tribunaux et les avocats ont-ils la possibilité de conclure des accords sur les modalités de traitement des affaires (présentation des dossiers, fixation des délais accordés aux avocats pour soumettre leurs conclusions et des dates d'audience) ?

- (●) Oui
- ( ) Non

Si oui, veuillez préciser :

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

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

4. 2. 2. La gestion des flux d'affaires et la durée des procédures judiciaires

90) Note:
Les correspondants nationaux sont invités à faire particulièrement attention à la qualité des réponses aux questions 91 à 102 concernant la gestion des flux d'affaires et la durée des procédures judiciaires. La CEPEJ a convenu que les données correspondantes ne seront traitées et publiées que dans la mesure où un nombre significatif d'Etats membres – tenant compte des données présentées dans le précédent rapport – y aura répondu, permettant une comparaison utile entre les systèmes.

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91) Tribunaux de 1ère instance : nombre total d'affaires "autres que pénales". Si la donnée n'est pas disponible, indiquer NA. Si la situation n'est pas applicable dans votre pays, indiquer NAP.

Note 1: les affaires des catégories 3 à 5 (exécution, registres foncier et du commerce) doivent être présentées séparément dans le tableau. Les affaires de la catégorie 6 (administratives) doivent aussi être mentionnées séparément pour les pays disposant de tribunaux spécialisés, ayant des procédures spécifiques de droit administratif ou capables de distinguer affaires administratives et affaires civiles.
Note 2: vérifier la cohérence horizontale et verticale des données fournies. La cohérence horizontale des données signifie: "(affaires pendantes au 1er janvier 2010 + nouvelles affaires) – affaires terminées" doit correspondre au nombre d'affaires pendantes au 31.12.2010. La cohérence verticale des données signifie que la somme des catégories 1 à 7 doit correspondre au total des affaires "autres que pénales".

	Affaires pendantes au 1 janvier 2010	Nouvelles affaires	Affaires terminées	Affaires pendantes au 31 décembre 2010
Nombre total d'affaires "autres que pénales" (1+2+3+4+5+6+7)*	533 633	1 751 088	1 600 580	684 141
1. Affaires civiles (et commerciales) contentieuses (si possible sans les affaires administratives, v. catégorie 6)*	462 023	1 073 669	963 742	571 950
2. Affaires civiles (et commerciales) non contentieuses, par exemple des créances incontestées, de requêtes en changement de nom, etc. (si possible sans les affaires administratives ; sans les affaires relatives à l'exécution et/ou à un registre et/ou autres affaires, v. catégories 3-7)*	4 591	29 735	29 570	4 756
3. Affaires relatives à l'exécution	42 412	544 734	533 679	53 467
4. Affaires relatives au registre foncier**	1 786	2 287	2 479	1 594
5. Affaires relatives au registre du commerce**	NA	NA	NA	NA
6. Affaires administratives (contentieuses et non contentieuses)	22 821	100 663	71 110	52 374
7. Autres affaires (par exemple affaires relatives au registre d'insolvabilité)	NAP	NAP	NAP	NAP

92) Si les tribunaux traitent des "affaires civiles (et commerciales) non contentieuses", veuillez indiquer les catégories incluses :

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

93) Si "autres affaires", veuillez indiquer les catégories incluses :

94) Tribunaux de 1ère instance : nombre d'affaires pénales. Si la donnée n'est pas disponible, veuillez indiquer NA. Si la situation n'est pas applicable dans votre pays, veuillez indiquer NAP.

Note : Veuillez vérifier que les données fournies sont cohérentes (horizontalement et

verticalement). La cohérence horizontale des données signifie que : "(affaires pendantes au 1er janvier 2010 + nouvelles affaires) – affaires terminées" doit correspondre au nombre d'affaires pendantes au 31 décembre 2010. La cohérence verticale des données signifie que la somme des catégories 8 et 9 en matière pénale doit correspondre au nombre total d'affaires pénales.

	Affaires pendantes au 1 janvier 2010	Nouvelles affaires	Affaires terminées	Affaires pendantes au 31 décembre 2010
Nombre total d'affaires pénales (8+9)	38 410	171 480	170 072	39 818
8. Affaires pénales (infractions graves)	NAP	NAP	NAP	NAP
9. Petites infractions	NAP	NAP	NAP	NAP

95) La classification entre affaires pénales graves et petites infractions peut être difficile. Certains pays peuvent connaître d'autres voies de traitement des petites infractions (par exemple par la procédure administrative).

Veuillez indiquer, si possible, les catégories d'affaires comprises dans la catégorie infractions graves et les affaires à inclure dans la catégorie petites infractions :

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

96) Commentaires relatifs aux questions 91 à 95. Vous pouvez indiquer par exemple une situation particulière dans votre pays, expliquer vos réponses NA ou NAP ou expliquer le calcul du total d'affaires « autres que pénales » ou la différence au niveau de la cohérence horizontale etc.

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

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

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

97) Tribunaux de 2ème instance (appel) : Nombre total d'affaires « autres que pénales ». Si la donnée n'est pas disponible, veuillez indiquer NA. Si la situation n'est pas applicable dans votre pays, veuillez indiquer NAP.

Note: le nombre total d'affaires « autres que pénales » inclut tous les catégories d'affaires présentés (chiffre 1 à 7).

	Affaires pendantes au 1 janvier 2010	Nouvelles d'affaires	Affaires terminées	Affaires pendantes au 31 décembre 2010
Nombre total d'affaires "autres que pénales" (1 + 2 + 3 + 4 + 5 + 6 + 7)	13 920	29 423	27 091	16 252
1. Affaires civiles (et commerciales) contentieuses (si possible sans les affaires	12 924	27 039	24 910	15 053

administratives, v. catégorie 6)*				
2. Affaires civiles (et commerciales) non contentieuses, par exemple des créances incontestées, de requêtes en changement de nom, etc. (si possible sans les affaires administratives ; sans les affaires relatives à l'exécution et/ou à un registre et/ou autres affaires, v. catégories 3-7)*	541	975	997	519
3. Affaires relatives à l'exécution	47	109	97	59
4. Affaires relatives au registre foncier	408	1 300	1 087	621
5. Affaires relatives au registre du commerce	NAP	NAP	NAP	NAP
6. Affaires administratives (contentieuses et non contentieuses)	NAP	NAP	NAP	NAP
7. Autres affaires (par exemple affaires relatives au registre d'insolvabilité)	NAP	NAP	NAP	NAP

98) Tribunaux de 2ème instance (appel) : Nombre total d'affaires pénales. Si la donnée n'est pas disponible, veuillez indiquer NA. Si la situation n'est pas applicable dans votre pays, veuillez indiquer NAP.

	Affaires pendantes au 1 janvier 2010	Nouvelles d'affaires	Affaires terminées	Affaires pendantes au 31 décembre 2010
Nombre total d'affaires pénales (8+9)	4 070	18 442	17 634	4 878
8. Affaires pénales (infractions graves)	NAP	NAP	NAP	NAP
9. Petites infractions	NAP	NAP	NAP	NAP

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

99) Cours suprêmes : nombre total d'affaires "autres que pénales". Si la donnée n'est pas disponible, veuillez indiquer NA. Si la situation n'est pas applicable dans votre pays, veuillez indiquer NAP.

Note: le nombre total d'affaires « autres que pénales » inclut tous les catégories d'affaires présentés (chiffre 1 à 7).

	Affaires pendantes au 1 janvier 2010	Nouvelles d'affaires	Affaires terminées	Affaires pendantes au 31 décembre 2010
Nombre total d'affaires "autres que pénales" (1 + 2 + 3 + 4 + 5 + 6 + 7)	58 594	238 386	214 274	82 706
1. Affaires civiles (et commerciales) contentieuses (si possible sans les affaires administratives, v. catégorie 6)	49 544	189 826	173 802	65 568
2. Affaires civiles (et commerciales) non contentieuses, par exemple des créances incontestées, de requêtes en	135	705	547	293

changement de nom, etc. (si possible sans les affaires administratives ; sans les affaires relatives à l'exécution et/ou à un registre et/ou autres affaires, v. catégories 3-7)				
3. Affaires relatives à l'exécution	4 223	16 485	13 693	7 015
4. Affaires relatives au registre foncier	183	473	494	162
5. Affaires relatives au registre du commerce	NA	NA	NA	NA
6. Affaires administratives (contentieuses et non contentieuses)	4 509	30 897	25 738	9 668
7. Autres affaires (par exemple affaires relatives au registre d'insolvabilité)	NAP	NAP	NAP	NAP

100) Cours suprêmes : Nombre total d'affaires pénales. Si la donnée n'est pas disponible, veuillez indiquer NA. Si la situation n'est pas applicable dans votre pays, veuillez indiquer NAP.

	Affaires pendantes au 1 janvier 2010	Nouvelles d'affaires	Affaires terminées	Affaires pendantes au 31 décembre 2010
Nombre total d'affaires pénales (8+9)	3 108	36 906	36 330	3 684
8. Affaires pénales (infractions graves)	NAP	NAP	NAP	NAP
9. Petites infractions	NAP	NAP	NAP	NAP

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

101) Nombre d'affaires de divorces contentieux, licenciements, vols avec violence et homicides volontaires reçues et traitées par les tribunaux de 1ère instance. Si la donnée n'est pas disponible, veuillez indiquer NA. Si la situation n'est pas applicable dans votre pays, veuillez indiquer NAP.

	Affaires pendantes au 1er janvier 2010	Affaires nouvelles	Affaires terminées	Affaires pendantes au 31 décembre 2010
Divorces contentieux	27 003	56 962	57 793	26 172
Licenciements	2 167	4 309	3 464	3 012
Vols avec violence	781	2 041	1 976	846
Homicides volontaires	573	1 090	992	671

102) Durée moyenne des procédures, en jours (à partir de la date de saisine du tribunal). Si la donnée n'est pas disponible, veuillez indiquer NA. Si la situation n'est pas applicable dans votre pays, veuillez indiquer NAP.

[La durée moyenne des procédures est calculée à partir de l'introduction du recours jusqu'au prononcé du jugement, sans tenir compte de la phase d'exécution. Nouveau : elle concerne la première, la deuxième et la troisième instance.]

	% des décisions ayant fait l'objet d'un appel	% d'affaires pendantes de plus de 3 ans	Durée moyenne en 1ère instance (en jours)	Durée moyenne en 2ème instance (en jours)	Durée moyenne en 3ème instance (en jours)	Durée moyenne de la procédure complète (en jours)

Divorces contentieux	1	0	NA	NA	NA	NA
Licenciements	61	0	NA	NA	NA	NA
Vols avec violence	NA	0	NA	NA	NA	NA
Homicides volontaires	NA	0	NA	NA	NA	NA

103) Le cas échéant, veuillez préciser les procédures propres au divorce (contentieux et non contentieux) :

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

104) Comment est calculé le délai de procédure pour les quatre catégories d'affaires ? Veuillez décrire la méthode de calcul.

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

105) Veuillez décrire le rôle et les attributions du procureur dans la procédure pénale (plusieurs choix possibles) :

- [x] diriger ou superviser l'enquête policière
- [x] mener des enquêtes
- [x] quand cela est nécessaire, saisir le juge pour qu'il ordonne des mesures d'enquêtes
- [x] porter une accusation
- [x] soumettre l'affaire au tribunal
- [x] proposer une peine au juge
- [x] faire appel
- [x] superviser la procédure d'exécution
- [x] classer l'affaire sans suite, sans avoir besoin d'obtenir une décision du tribunal (observer la cohérence avec la question 36!)
- [ ] clore l'affaire par une sanction ou une mesure imposée ou négociée sans décision d'un juge
- [x] autre attribution significative

Si "autres attributions significatives", veuillez préciser :

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

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

106) Le procureur a-t-il également un rôle dans les affaires civiles et/ou administratives ?

- (●) Oui
- ( ) Non

Si oui, veuillez préciser :

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

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

107) La gestion des affaires par le procureur: ombre total des affaires pénales en 1ère instance. Si la donnée n'est pas disponible, veuillez indiquer NA. Si la situation n'est pas applicable dans votre pays, veuillez indiquer NAP.

	Reçues par le procureur	Classées sans suite par le procureur (v. 108 ci-dessous)	Terminées par une sanction ou par une mesure imposée ou négociée par le procureur	Portées par le procureur devant les tribunaux
Nombre total d'affaires pénales de 1ère instance	1 513 272	476 285	101 972	41 934

108) Total des affaires classées sans suite par le procureur. Si la donnée n'est pas disponible, veuillez indiquer NA. Si la situation n'est pas applicable dans votre pays, veuillez indiquer NAP.

	Nombre
Total des affaires classées sans suite par le procureur (1 + 2 + 3)	630 180
1. Classées sans suite par le procureur parce que l'auteur de l'infraction n'a pas pu être identifié	496 542
2. Classées sans suite par le procureur en raison d'une impossibilité de fait ou de droit	476 285
3. Classées sans suite par le procureur pour raison d'opportunité	NA

109) Est-ce que ces données incluent le contentieux routier ?

☑ Oui

☐ Non

D.2
Vous pouvez indiquer ci-dessous :
- tout commentaire utile pour l'interprétation des données indiquées dans ce chapitre
- les caractéristiques de votre système concernant la durée des procédures et les réformes majeures mises en œuvre au cours des deux dernières années

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

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

Thus, in case the data for the 2008 CEPEJ Report can be still reconsidered, please find below the table corresponding to question no. 93 from the 2008 CEPEJ Report (the question no. 93 is the correspondent of question no.99 from the 2010 CEPEJ Report) which comprises updated data according to the current significance of the question. Namely, the table corresponding to question no. 93 from the 2008 CEPEJ Report includes now statistical data on all second appeal cases (last instance cases) from all courts (irrespective of their level), not only from the High Court of Cassation and Justice. Consequently, the significance of question no. 93 form the 2008 CEPEJ

Report coincides now with the significance of question no.99 from the 2010 CEPEJ Report.
Question. No 93 (2008)
Pending cases on 1 Jan. '08 Incoming cases Resolved cases Pending cases on 31 Dec. '08
Total of civil, commercial and administrative law cases* (litigious and non-litigious) 36633 204898 191603 49928
1 Civil (and commercial) litigious cases* 31306 177175 165586 42895
2 Civil (and commercial) nonlitigious cases* 75 522 502 95
3 Enforcement cases 2142 8420 8256 2306
4 Land registry cases** 139 547 551 135
5 Business register cases** NAP NAP NAP NAP
6 Administrative law cases 2971 18234 16708 4497
7 Other NA NA NA NA
Total criminal cases (8+9) 4921 44766 44803 4884
8 Criminal cases (severe criminal offences) NAP NAP NAP NAP
9 Misdemeanour cases (minor offences) NAP NAP NAP NAP

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

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

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

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

Veuillez indiquer les sources pour les réponses aux questions 91, 94, 97, 98, 99, 100, 101, 102, 107 et 108.

Superior Council of Magistracy
Statistical indicators of the Public Ministry

5. Carrière des juges et procureurs

5. 1. Recrutement et promotion

5. 1. 1. Recrutement et promotion

110) Comment les juges sont-ils recrutés ?

- [x] Principalement par concours (par exemple après un diplôme universitaire en droit)
- [ ] Principalement par une procédure de recrutement spécifique pour des professionnels du droit ayant une longue expérience professionnelle dans le domaine juridique (par exemple des avocats)
- [ ] Une combinaison des deux (concours et expérience professionnelle)
- [ ] Autres

Si autres, veuillez préciser:

111) Autorité(s) responsable(s): les juges sont-ils recrutés et nommés, initialement, en début de carrière, par :

[Cette question ne concerne que l'autorité qui est responsable de la décision de recrutement (elle ne touche pas l'autorité formellement responsable de la nomination si elle est différente de la première).]

- [ ] Une instance composée seulement de juges?
- [ ] Une instance composée seulement de non juges?
- [x] Une instance composée de juges et de non juges?

Veuillez indiquer le nom de l'autorité responsable de la procédure globale de recrutement et de nomination des juges. S'il existe plusieurs autorités impliquées, veuillez décrire leurs rôles respectifs :

Superior Council of Magistracy

112) La même instance est-elle compétente pour la promotion des juges ?

- (•) Oui
- ( ) Non

Si non, quelle instance est compétente pour la promotion des juges ?

113) Quels critères et procédures sont utilisés pour promouvoir les juges ? Veuillez préciser:

1) The promotion of judges in executive duties is made by contest, at national level.
The promotion contest, in executive duties, consists of written exams, with theoretical and practical character, from the following subjects of study:
a) depending on the specialisation, one of the following disciplines: civil law, criminal law, commercial law, administrative law, financial and fiscal law, labour law, family law, private international law;
b) case-law of the High Court of Justice and Cassation and case-law of the Constitutional Court;
c) case-law of the European Court of Human Rights and case-law of the Court of Justice of the European Communities;
d) civil and criminal procedures, depending on the judge specialisation
In order to participate at the promotion contest in executive duties the judge must accomplish cumulatively the following conditions:

- have the grade „very well” at the last exam;
- have not been disciplinary sanctioned within the last 3 years;
- meet the seniority conditions corresponding to the degree of the instance to which he wants the promotion.

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

114) Existe-t-il un système d’évaluation individuelle qualitative de l'activité professionnelle du juge ?

- (●) Oui
- ( ) Non

115) Le statut du ministère public est-il:

- [ ] Indépendant?
- [x] Sous l'autorité du ministre de la Justice?
- [ ] Autre?

Veuillez préciser:

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

116) Comment sont recrutés les procureurs ?

- [x] Principalement par concours (par exemple après un diplôme universitaire en droit)
- [ ] Principalement par une procédure de recrutement spécifique pour des professionnels du droit ayant une longue expérience juridique (par exemple des avocats)
- [ ] Une combinaison des deux (concours et expérience professionnelle)

☐ Autres

Si "autres", veuillez préciser:

117) Autorité(s) responsable(s): les procureurs sont-ils recrutés et nommés, en début de carrière, par :

[Cette question ne concerne que l'autorité qui est responsable de la décision de recrutement (elle ne touche pas l'autorité formellement responsable de la nomination si elle est différente de la première).]

☐ Une instance composée seulement de procureurs ?

☐ Une instance composée seulement de non procureurs?

☑ Une instance composée de procureurs et de non procureurs?

Veuillez indiquer le nom de l'autorité responsable de la procédure globale de recrutement et de nomination des procureurs. S'il y plusieurs autorités impliquées, veuillez décrire leurs rôles respectifs :

118) La même instance est-elle compétente pour la promotion des procureurs ?

◉ Oui

○ Non

Si non, veuillez préciser quelle instance est compétente pour la promotion des procureurs

119) Quels critères et procédures sont utilisés pour promouvoir les procureurs? Veuillez préciser:

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

2) The appointment of the judges in the administrative duties at courts (chairman and vice-chairman) is made by contest or exam, consisting in:
- submitting a project referring at the exercise of the attributions specific to the administrative duty;
- written exams concerning management, communication, human resources, the candidate's capacity to take decisions and to assume his responsibility, stress resistance;
- psychological test.
At the contest may participate the judges who meet cumulatively the following conditions:
- have the grade "very well" at the last exam;

- have not been disciplinarily sanctioned within the last 3 years;
- meet the seniority conditions stipulated by law.

120) Existe-t-il un système d'évaluation individuelle qualitative de l'activité professionnelle du procureur ?

- (●) Oui
- ( ) Non

121) Le mandat des juges est-il à durée indéterminée (à savoir "à vie" = jusqu'à l'âge officiel de la retraite) ?

- (●) Oui
- ( ) Non

Si oui, existe-t-il des exceptions ? (ex: la révocation comme sanction disciplinaire) ? Veuillez préciser :

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

122) S'il existe une période probatoire pour les juges (par exemple avant d'être nommé "à vie"), quelle en est la durée ? Si la situation n'est pas applicable dans votre pays, veuillez indiquer NAP.

	Durée de la période probatoire (en années)
	1

123) Le mandat des procureurs est-il à durée indéterminée (à savoir « à vie » = jusqu'à l'âge officiel de la retraite) ?

- (●) Oui
- ( ) Non

Si oui, existe-t-il des exceptions (la révocation comme sanction disciplinaire) ? Veuillez préciser :

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

124) S'il existe une période probatoire pour les procureurs, quelle en est la durée? Si la situation n'est pas applicable dans votre pays, veuillez indiquer NAP.

	Durée de la période probatoire (en années)
	1

125) Si le mandat n'est pas à durée indéterminée pour les juges (voir question 121), est-il renouvelable ? Quelle est la durée du mandat (en années)?

NAP

126) Si le mandat n'est pas à durée indéterminée pour les procureurs (voir question 123), est-il renouvelable ? Quelle est la durée du mandat (en années)?

NAP

E.1
Vous pouvez indiquer ci-dessous :
- tout commentaire utile pour l'interprétation des données indiquées dans ce chapitre
- les caractéristiques de votre système de sélection et de nomination des juges et des procureurs et les réformes majeures mises en œuvre au cours des deux dernières années

5. 2. Formation

5. 2. 1. Formation

127) Formation des juges

Formation initiale (par exemple fréquentation d'une école de la magistrature, stage dans un tribunal)	Compulsory
Formation continue générale	Compulsory
Formation continue pour des fonctions spécialisées (ex. juge pour les affaires économiques ou administratives)	Compulsory
Formation continue pour des fonctions spécifiques de gestion (ex. présidence d'un tribunal)	Compulsory
Formation continue pour l'utilisation des outils informatiques au sein des tribunaux	Compulsory

128) Fréquence de la formation continue des juges:

Formation continue générale	Regular (e.g. every 3 months)
Formation continue pour des fonctions spécialisées (ex. juge pour les affaires économiques ou administratives)	Regular (e.g. every 3 months)
Formation continue pour des fonctions spécifiques de gestion (ex. présidence d'un tribunal)	Regular (e.g. every 3 months)
Formation continue pour l'utilisation des outils informatiques au sein des tribunaux	Regular (e.g. every 3 months)

129) Formation des procureurs

Formation initiale	Compulsory
Formation continue générale	Compulsory
Formation continue pour des fonctions spécialisées (ex. procureur spécialisé en crime organisé)	Compulsory
Formation continue pour des fonctions spécifiques de gestion (ex. Procureur Général, administrateur)	Compulsory
Formation continue pour l'utilisation des outils informatiques au sein des tribunaux	Compulsory

130) Fréquence de la formation continue des procureurs :

Formation continue générale	Regular (e.g. every 3 months)
Formation continue pour des fonctions spécialisées (ex. procureur spécialisé en crime organisé)	Regular (e.g. every 3 months)
Formation continue pour des fonctions spécifiques de gestion (ex. Procureur Général, administrateur)	Regular (e.g. every 3 months)
Formation continue pour l'utilisation des outils informatiques au sein des tribunaux	Regular (e.g. every 3 months)

131) Disposez-vous d'(une) institution(s) publique(s) chargée(s) de la formation des juges et des procureurs? Si oui, quel est le budget de cette (ces) institution(s) ?
Si vos institutions de formation judiciaire ne répondent pas à ces critères, veuillez le préciser.

	Formation initiale seulement	Formation continue seulement	Formation initiale et continue
Une institution pour les juges	Non	Non	Non
Une institution pour les procureurs	Non	Non	Non
Une institution commune pour juges et procureurs	Non	Non	Oui

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

E.2
Vous pouvez indiquer ci-dessous :
- tout commentaire utile pour l'interprétation des données indiquées dans ce chapitre
- des commentaires sur l'attention portée dans les curricula à la Convention européenne des Droits de l'Homme et à la jurisprudence de la Cour
- les caractéristiques de votre système de formation des juges et des procureurs et les réformes majeures mises en œuvre au cours des deux dernières années

☐ The responsibility of the initial and continuous training of judges and prosecutors belongs to the

National Institute of Magistracy, autonomous institution, coordinated by the Superior Council of Magistracy.
☐ The initial training is compulsory at the beginning of the carrier, in a differentiate way (2 years for the judges and prosecutors newly employed, without legal experience and 6 months for the magistrates recruited among the persons with legal experience).
☐ The continuous training is organised at the centralised level, by the National Institute of Magistracy, as well as at the decentralised level, within courts and prosecutor's offices, with the participation of the National Institute of Magistracy. Judges and prosecutors are obliged to participate at training activities at least once every 3 years. For the judges and prosecutors with administrative duties there are organised courses of judicial management after their appointment. The professional training of judges and prosecutors is made taking into account their specialisation.

☐ The case-law of the European Court of Justice of Human Rights is included in the initial training program of the National Institute of Magistracy and as priority training field in the continuous training programs, organized by the National Institute of Magistracy and at decentralised level.
☐ Within the last 2 years there has been intensified the professional training for specialised functions of judges and prosecutors in the field of the fight against corruption and economic-financial criminality, and since 2010 there has been established as priority the professional training of the magistrates concerning the major legislative amendments in the Romanian judicial system which shall be brought by the entry into force of the new codes (civil, criminal, civil procedure, criminal procedure), as well as concerns the application of the provisions of the Law adopted in 2010 concerning some measures for accelerating the trials settlement.

5. 3. Exercice de la profession

5. 3. 1. Exercice de la profession

132) Salaires des juges et des procureurs.

	Salaire annuel brut (€), en €, au 31 décembre 2010	Salaire annuel net (€), en €, au 31 décembre 2010
Juge professionnel de 1ère instance au début de sa carrière	25 750	18 062
Juge de la Cour suprême ou de la dernière instance de recours (veuillez indiquer le salaire moyen d'un juge de ce niveau, non pas le salaire du président de la cour)	43 865	30 768
Procureur au début de sa carrière	25 750	18 062
Procureur auprès de la Cour suprême ou de la dernière instance de recours (veuillez indiquer le salaire moyen d'un procureur de ce niveau, non pas le salaire du Procureur Général).	36 230	25 412

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

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

133) Les juges et les procureurs bénéficient-ils des avantages complémentaires suivants :

	Juges	Procureurs
Imposition réduite	Non	Non
Retraite spécifique	Oui	Oui
Logement de fonction	Oui	Oui
Autre avantage financier	Oui	Oui

134) Si autre avantage financier, veuillez préciser:

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

135) Un juge peut-il cumuler son travail avec les autres fonctions suivantes :

	Rémunéré	Non rémunéré
Enseignement	Oui	Oui
Recherche et publication	Oui	Oui
Arbitrage	Non	Non
Consultant	Non	Non
Fonction culturelle	Non	Oui
Fonction politique	Non	Non
Autre fonction	Oui	Oui

136) Si des règles existent dans votre pays (par exemple, une autorisation est exigée pour exercer une fonction), veuillez les préciser. Si « autre fonction », veuillez préciser :

According to Art. 8 of Law no. 303/2004, judges and prosecutors may be shareholders or associates as a result of the law on the mass privatization. In the session of 16 May 2010, the SCM Plenum appreciated that, as concerns the interdiction instituted by law to judges and prosecutors to have the capacity of shareholders within trade companies, it does not apply in the case of the shares at the Property Fund. To this effect, the SCM Plenum appreciated that the title of compensation acquired by judges and prosecutors, issued in the conditions of Law no. 247/2005 on the reform in the field of property and justice, by which there have been established compensations for the buildings abusively taken, in the Communist regime, must be mentioned in the statement of wealth.
Having in view the importance of the good development of the projects with European and international financing, the SCM Plenum, by its Decision no. 261 of 13 March 2008, established that „it is possible the participation in capacity of experts within the external financing programs for justice of judges, prosecutors, court clerks and speciality staff assimilated to magistrates".
Art. 10 of Law no. 303/2004 allows judges and prosecutors to plead, in the conditions stipulated by law, only in their personal cases, of their ascendants and descendants, of their spouses, as well as of the persons under their trusteeship or curatorship. But even in such situations judges and prosecutors are not allowed to use their capacity in order to influence the solution of the trial court or of the prosecutor's office and must avoid creating the appearance that they could influence in any way the solution.
Art. 11 of Law no. 303/2004 stipulates that judges and prosecutors may participate at the issue of publications, may draw up articles, speciality studies, literary or scientific and may participate at audio-visual shows, except those with political character.
Judges and prosecutors may be members of some examination commissions or for the drawing up of regulatory acts, certain internal or international documents.
Judges and prosecutors may be members of the scientific and academic associations, as well as of any legal persons of private law without patrimonial purpose. It must be clarified the meaning of the notion of „cultural position", within the meaning that, in relation to the above-mentioned legal

provisions, judges and prosecutors may hold a public or private position at a cultural and art institution (for ex., theatre director), but they may exercise literary, artistic, cultural activities, in the conditions of Art.11 of Law no. 303/2004, after which copyright may be obtained.

137) Un procureur peut-il cumuler son travail avec les autres fonctions suivantes :

	Rémunéré	Non rémunéré
Enseignement	Non	Non
Recherche et publication	Non	Non
Arbitrage	Non	Non
Consultant	Non	Non
Fonction culturelle	Non	Non
Fonction politique	Non	Non
Autre fonction	Non	Non

138) Précisions s'il existe des règles particulières (par exemple autorisation nécessaire pour exercer tout ou partie de ces activités). Si « autre fonction », veuillez préciser :

According to Art. 8 of Law no. 303/2004, judges and prosecutors may be shareholders or associates as a result of the law on the mass privatization. In the session of 16 May 2010, the SCM Plenum appreciated that, as concerns the interdiction instituted by law to judges and prosecutors to have the capacity of shareholders within trade companies, it does not apply in the case of the shares at the Property Fund. To this effect, the SCM Plenum appreciated that the title of compensation acquired by judges and prosecutors, issued in the conditions of Law no. 247/2005 on the reform in the field of property and justice, by which there have been established compensations for the buildings abusively taken, in the Communist regime, must be mentioned in the statement of wealth.
Having in view the importance of the good development of the projects with European and international financing, the SCM Plenum, by its Decision no. 261 of 13 March 2008, established that „it is possible the participation in capacity of experts within the external financing programs for justice of judges, prosecutors, court clerks and speciality staff assimilated to magistrates".
Art. 10 of Law no. 303/2004 allows judges and prosecutors to plead, in the conditions stipulated by law, only in their personal cases, of their ascendants and descendants, of their spouses, as well as of the persons under their trusteeship or curatorship. But even in such situations judges and prosecutors are not allowed to use their capacity in order to influence the solution of the trial court or of the prosecutor's office and must avoid creating the appearance that they could influence in any way the solution.
Art. 11 of Law no. 303/2004 stipulates that judges and prosecutors may participate at the issue of publications, may draw up articles, speciality studies, literary or scientific and may participate at audio-visual shows, except those with political character.
Judges and prosecutors may be members of some examination commissions or for the drawing up of regulatory acts, certain internal or international documents.
Judges and prosecutors may be members of the scientific and academic associations, as well as of any legal persons of private law without patrimonial purpose. It must be clarified the meaning of the notion of „cultural position", within the meaning that, in relation to the above-mentioned legal provisions, judges and prosecutors may hold a public or private position at a cultural and art institution (for ex., theatre director), but they may exercise literary, artistic, cultural activities, in the conditions of Art.11 of Law no. 303/2004, after which copyright may be obtained.

139) Prime de productivité : les juges ont-ils droit à des primes en fonction du respect d'objectifs quantitatifs de production de décisions (par exemple nombre de jugements rendus pour une période donnée) ?

- ○ Oui
- ◉ Non

Si oui, veuillez préciser les conditions et éventuellement les montants:

5. 4. Procédures disciplinaires

5. 4. 1. Procédures disciplinaires

140) Qui peut engager des procédures disciplinaires contre les juges (choix multiples possibles) ?

- [ ] Citoyens
- [ ] Tribunal concerné ou supérieur hiérarchique
- [ ] Cour suprême
- [ ] Conseil Supérieur de la Magistrature
- [ ] Tribunal ou autorité disciplinaire
- [ ] Médiateur
- [ ] Parlement
- [ ] Pouvoir exécutif
- [x] Autre ?
- [ ] Ceci n'est pas possible

Si "pouvoir exécutif" ou/et "autre", veuillez préciser :

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

141) Qui peut engager des procédures disciplinaires contre les procureurs (choix multiples possibles) :

- [ ] Citoyens
- [ ] Chef de l'unité organisationnelle ou supérieur hiérarchique
- [ ] Procureur Général/Procureur d'Etat
- [ ] Conseil Supérieur de la Magistrature
- [ ] Tribunal ou autorité disciplinaire
- [ ] Médiateur
- [ ] Organisme professionnel
- [ ] Pouvoir exécutif
- [x] Autre?
- [ ] Ceci n'est pas possible

Si "pouvoir exécutif" ou/et "autre", veuillez préciser :

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

142) Quelle autorité détient le pouvoir disciplinaire à l'encontre des juges? (plusieurs options possibles)

- [ ] Tribunal
- [ ] Cour suprême

- [x] Conseil Supérieur de la Magistrature
- [ ] Tribunal ou autorité disciplinaire
- [ ] Médiateur
- [ ] Parlement
- [ ] Pouvoir exécutif
- [ ] Autre?

Si "pouvoir exécutif" ou/et "autre", veuillez préciser :

143) Quelle autorité détient le pouvoir disciplinaire à l'encontre des procureurs ? (plusieurs options possibles)

- [ ] Cour suprême
- [ ] Chef de l'unité organisationnelle ou supérieur hiérarchique
- [ ] Procureur Général/Procureur d'Etat
- [x] Conseil Supérieur de la Magistrature
- [ ] Tribunal ou autorité disciplinaire
- [ ] Médiateur
- [ ] Organisme professionnel
- [ ] Pouvoir exécutif
- [ ] Autre ?

Si "pouvoir exécutif" ou/et "autre", veuillez préciser :

144) Nombre de procédures disciplinaires intentées à l'encontre des juges et des procureurs. Si la donnée n'est pas disponible, veuillez indiquer NA. Si la situation n'est pas applicable dans votre pays, veuillez indiquer NAP. Si "autre", veuillez le préciser dans la boîte "commentaire" ci-dessous.

[Si la procédure disciplinaire est intentée sur la base de plusieurs manquements, veuillez ne compter ces procédures qu'une seule fois, pour le manquement principal.]

	Juges	Procureurs
Nombre total (1+2+3+4)	26	19
1. Faute déontologique	5	4
2. Insuffisance professionnelle	15	10
3. Délit pénal	7	5
4. Autre	NA	NA

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

145) Nombre de sanctions prononcées à l'encontre des juges et des procureurs. Si la donnée n'est pas disponible, veuillez indiquer NA. Si la situation n'est pas applicable dans votre pays, veuillez indiquer NAP.

Si « autre », veuillez le préciser dans la boîte "commentaire" ci-dessous. S'il existe une disparité entre le nombre de procédures disciplinaires intentées et le nombre de sanctions prononcées, veuillez préciser les raisons dans la boîte "commentaire" ci-dessous.

	Juges	Procureurs
Nombre total (total 1 à 9)	18	6
1. Réprimande	5	3
2. Suspension	NAP	NAP
3. Révocation	NAP	NAP
4. Amende	NAP	NAP
5. Diminution de salaire temporaire	10	2
6. Rétrogradation de poste	NAP	NAP
7. Mutation dans un autre tribunal géographiquement	1	0
8. Démission	2	1
9. Autre	NA	NA

Commentaire :

E.3
Vous pouvez indiquer ci-dessous :
- tout commentaire utile pour l'interprétation des données indiquées dans ce chapitre
- les caractéristiques de votre système de procédures disciplinaires pour les juges et les procureurs et les réformes majeures mises en œuvre au cours des deux dernières années

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

2. Attributions of the Judicial Inspection
The attributions of both services of judicial inspection are stipulated by law and mainly consist in:
a) Verifications at the courts regarding the observance of the procedural rules concerning the

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

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

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

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

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

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

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

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

Veuillez indiquer les sources aux questions 144 et 145

SCM Judicial Inspection

6. Avocats

6. 1. Statut de la profession et formation

6. 1. 1. Statut de la profession et formation

146) Nombre d'avocats exerçant dans votre pays.

20 620

147) Ce nombre inclut-il la catégorie « conseiller juridique » (« solicitor/in-house counsellor ») qui ne peut pas représenter en justice ?

- ○ Oui
- ◉ Non

148) Nombre de conseillers juridiques qui ne peuvent pas représenter en justice

NA

149) Les avocats ont-ils le monopole de la représentation en justice ? (plusieurs options sont possibles) pour les :

- ☐ Affaires civiles
- ☐ Affaires pénales - Défendeur
- ☐ Affaires pénales - Victime
- ☐ Affaires administratives
- ☑ Il n'y a pas de monopole

En cas d'absence de monopole, veuillez préciser les organismes ou personnes pouvant représenter les clients devant un tribunal (par exemple une ONG, un membre de la famille, un syndicat, etc.…) et pour quelles affaires :

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

150) La profession d'avocat est-elle organisée à travers (plusieurs réponses possibles):

- ☑ un barreau national ?
- ☐ un barreau régional ?
- ☑ un barreau local ?

151) Existe-t-il une formation initiale ou un examen spécifique pour accéder à la profession d'avocat ?

- ☑ Oui
- ☐ Non

Si non, veuillez indiquer s'il existe d'autres exigences spécifiques en matière de diplôme ou de niveau universitaire :

152) Existe-t-il un système de formation continue générale obligatoire pour les avocats ?

- [x] Oui
- [ ] Non

153) La spécialisation dans certains domaines est-elle liée à certaines formations, à un certain niveau de compétence, à un certain diplôme ou à certaines autorisations ?

- [x] Oui
- [ ] Non

Si oui, veuillez préciser :

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

F.1
Veuillez indiquer les sources aux questions 146 et 148 :

Commentaires utiles à l'interprétation des données indiquées dans ce chapitre :

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

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

6. 2. Exercice de la profession

6. 2. 1. Exercice de la profession

154) Pour le justiciable, existe-t-il une transparence sur les honoraires prévisibles des avocats (à savoir, est-ce que les usagers peuvent aisément obtenir des informations préalables sur le montant des honoraires prévisibles, sont-ils transparents et loyaux) ?

- [ ] Oui
- [x] Non

155) Les honoraires des avocats sont-ils librement négociés ?

- [x] Oui
- [ ] Non

156) La loi ou les règlements du Barreau contiennent-ils des règles sur les honoraires des avocats (même s'ils sont librement négociés) ?

- [ ] Oui, la loi contient des règles
- [ ] Oui, les règlements du Barreau contiennent des règles
- [x] Non, ni la loi ni les dispositions du Barreau ne contiennent de règles

F.2
Commentaires utiles à l'interprétation des données indiquées dans ce chapitre :

6. 3. Standards de qualité et procédures disciplinaires

6. 3. 1. Standards de qualité et procédures disciplinaires

157) Des normes de qualité ont-elles été formulées pour les avocats ?

- (●) Oui
- ( ) Non

Si oui, quels sont les critères de qualité utilisés?

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

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

158) Si oui, qui est responsable de la formulation de ces normes de qualité:

- [x] le Barreau ?
- [x] le législateur ?
- [ ] autre ?

Si "autre", veuillez préciser :

159) Existe-t-il une possibilité de déposer une plainte concernant :

- [x] la prestation de l'avocat ?
- [ ] le montant des honoraires ?

Veuillez préciser :

The feed are directly negotiated between the lawyer and customer.

160) Quelle est l'autorité compétente pour traiter des procédures disciplinaires?

- [ ] le juge
- [ ] le ministère de la justice
- [x] une instance professionnelle
- [ ] autre

Si autre, veuillez préciser :

161) Procédures disciplinaires initiées à l'encontre des avocats. Si la donnée n'est pas disponible, veuillez indiquer NA. Si la situation n'est pas applicable dans votre pays, veuillez indiquer NAP. Si « autre », veuillez spécifier dans la boîte "commentaire" ci-dessous.

[Si la procédure disciplinaire est intentée sur la base de plusieurs manquements, veuillez ne compter ces procédures qu'une seule fois, pour le manquement principal.]

	Nombre total de procédures disciplinaires initiées (1 + 2 + 3 + 4)	1. Faute déontologique	2. Insuffisance professionnelle	3. Délit pénal	4. Autre
Nombre	NA	NA	NA	NA	NA

Commentaire :

162) Sanctions prononcées à l'encontre des avocats. Si la donnée n'est pas disponible, veuillez indiquer NA. Si la situation n'est pas applicable dans votre pays, veuillez indiquer NAP.

Si "autre", veuillez le spécifier dans la boîte "commentaire" ci-dessous. S'il existe une disparité entre le nombre de procédures disciplinaires initiées et le nombre de sanctions, veuillez indiquer les raisons dans la boîte "commentaire" ci-dessous.

	Nombre total des sanctions (1 + 2 + 3 + 4 + 5)	1. Réprimande	2. Suspension	3. Révocation	4. Amende	5. Autre (par exemple exclusion du barreau)
Nombre	621	NA	621	NA	NA	NA

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

F.3
Vous pouvez indiquer ci-dessous tout commentaire utile pour l'interprétation des données indiquées dans ce chapitre

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

7. Mesures alternatives au règlement des litiges

7. 1. Mesures alternatives au règlement des litiges

7. 1. 1. Mesures alternatives au règlement des litiges

163) Existe-t-il des procédures de médiation dans le système judiciaire ? Si non, veuillez aller à la question 168

[Médiation judiciaire : dans ce type de médiation, il y a toujours l'intervention d'un juge ou d'un procureur qui facilite, conseille, décide ou/et approuve la procédure. Par exemple, dans des litiges civils ou des cas de divorce, les juges peuvent diriger les parties vers un médiateur s'ils estiment que des résultats plus satisfaisants peuvent être obtenus pour les deux parties. En matière pénale, le procureur peut se proposer en tant que médiateur entre un délinquant et une victime (par exemple pour établir un accord d'indemnisation).]

- (●) Oui
- ( ) Non

164) Veuillez préciser, par type d'affaires, l'organisation de la médiation judiciaire :

	Médiation annexée au tribunal	Médiateur privé	Instance publique (autre que le tribunal)	Juge	Procureur
Affaires civiles et commerciales	Oui	Oui	Non	Non	Non
Affaires familiales (ex. divorce)	Oui	Oui	Non	Non	Non
Affaires administratives	Non	Non	Non	Non	Non
Licenciements	Oui	Oui	Non	Non	Non
Affaires pénales	Oui	Oui	Non	Non	Non

165) Est-il possible de bénéficier de l'aide judicaire lors des procédures de médiation ?

- (●) Oui
- ( ) Non

Si oui, veuillez préciser :

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

166) Nombre de médiateurs accrédités ou enregistrés qui exercent la médiation judiciaire :

661

167) Nombre total de procédures de médiation judiciaire

Veuillez indiquer la source dans la boîte "commentaire" ci-dessous:

Nombre total (1+2+3+4+5)	☑ Oui	258
1. les affaires civiles	☑ Oui	39
2. les affaires familiales	☑ Oui	213
3. les affaires administratives	☑ Oui	6
4. les affaires de licenciements	☑ Oui	0
5. les affaires pénales	☑ Oui	0

Commentaire :
Superior Council of Magistracy

168) Votre système judiciaire connaît-il les formes d'ADR suivantes.

Si "autres mesures", veuillez le spécifier dans la boîte "commentaire" ci-dessous.

la médiation autre que la médiation judiciaire?	Oui
l'arbitrage?	Oui
la conciliation?	Oui
d'autres mesures alternatives au	Non

règlement des litiges?

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

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

The Romanian Civil Procedure Code (Art. 7201-72010) stipulates the parties' duty to try the settlement of trials and applications between professionals ratable in money and derived from contractual relations by mediation or direct conciliation (Art. 7201 par. 1 of the Civil Procedure Code). The initiative of the convocation for the conciliation belongs to the plaintiff, and the result of conciliation is registered in a document which shall indicate the mutual claims referring at the object of the dispute and the opinion of each party. The document concerning the result of conciliation is attached at the application for suing at law (Art. 7201 par. 2, 4 and 5 of the Civil Procedure Code).

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

G.1
Vous pouvez indiquer ci-dessous :
- tout commentaire utile pour l'interprétation des données indiquées dans ce chapitre
- les caractéristiques de votre système de mesures alternatives au règlement des litiges et les réformes majeures mises en œuvre au cours des deux dernières années

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

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

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

Veuillez indiquer les sources des réponses à la question 166

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

8. Exécution des décisions de justice

8. 1. Exécution des décisions civiles

8. 1. 1. Fonctionnement

169) Existe-t-il dans votre système judiciaire des agents d'exécution ?

- (●) Oui
- ( ) Non

170) Nombre d'agents d'exécution

504

171) Les agents d'exécution sont-ils (plusieurs choix possibles):

- [ ] des juges ?
- [x] des huissiers de justice exerçant en profession libérale réglementée par les autorités publiques ?
- [ ] des huissiers de justice attachés à une institution publique ?
- [ ] d'autres agents d'exécutions ?

Veuillez préciser leur statut et leurs compétences (pouvoirs):

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

172) Existe-t-il une formation initiale ou un examen spécifique pour accéder à la profession d'agent d'exécution ?

- (●) Oui
- ( ) Non

173) La profession d'agent d'exécution est-elle organisée par :

- [x] une instance nationale ?
- [ ] une instance régionale ?
- [ ] une instance locale ?

☐ NAP (la profession n'est pas organisée)

174) Pour le justiciable, existe-t-il une transparence sur le coût prévisible des frais d'exécution ?

☑ Oui

☐ Non

175) Est-ce que les frais d'exécution sont librement négociés ?

☐ Oui

☑ Non

176) Est-ce que la loi stipule des règles sur les frais d'exécution (même s'ils sont librement négociés) ?

☑ Oui

☐ Non

Veuillez indiquer la source de la réponse à la question 170 :

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

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

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

8. 1. 2. Efficacité des services d'exécution

177) Existe-t-il un système de supervision et de contrôle de l'activité des agents d'exécution ?

◉ Oui

○ Non

178) Quelle est l'autorité chargée de superviser et de contrôler les agents d'exécution :

☐ une instance professionnelle ?

☐ le juge ?

☑ le ministère de la justice ?

☐ le procureur ?

☐ autre ?

Si autre, veuillez préciser :

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

179) Des normes de qualité sont-elles formulées pour les agents d'exécution ?

- (●) Oui
- ( ) Non

Si oui, quels sont les critères de qualités utilisés ?

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

180) Qui est chargé de formuler ces normes de qualité ?

- [x] un organisme professionnel
- [ ] le juge
- [x] Ministère de la Justice
- [x] autre

Si "autre", veuillez préciser :

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

181) Disposez-vous d'un mécanisme spécifique pour l'exécution des décisions de justice rendues contre des autorités publiques, y compris pour assurer le suivi de cette exécution?

- (●) Oui
- ( ) Non

Si oui, veuillez préciser :

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

182) Disposez-vous d'un système de contrôle de l'exécution ?

- ○ Oui
- ◉ Non

Si oui, veuillez préciser :

183) Quelles sont les principales plaintes des usagers concernant les procédures d'exécution ?
Veuillez n'en indiquer que 3 au maximum

- ☐ absence de toute exécution ?
- ☐ non exécution des décisions judiciaires rendues contre des autorités publiques ?
- ☐ manque d'information ?
- ☑ durée excessive ?
- ☑ pratiques illégales ?

- [ ] supervision insuffisante ?
- [ ] coût excessif ?
- [ ] autre ?

Si autre, veuillez préciser:

184) Votre pays a-t-il préparé ou adopté des mesures concrètes pour changer la situation concernant l'exécution des décisions de justice – en particulier les décisions rendues contre les autorités publiques?

- (•) Oui
- ( ) Non

Si oui, veuillez préciser :
GO no. 22/2002 on the execution of the payment obligations of public institutions, established through enforceable title – see the answer at question 181.

185) Existe-t-il un système mesurant la durée des procédures d'exécution :

- [x] pour les affaires civiles ?
- [ ] pour les affaires administratives ?

186) Pour un jugement concernant un recouvrement de créances, pouvez-vous estimer le délai de notification aux parties habitant dans la ville du siège de la juridiction ?

- [ ] entre 1 et 5 jours
- [x] entre 6 et 10 jours
- [ ] entre 11 et 30 jours
- [ ] plus

Si plus, veuillez préciser

187) Nombre de procédures disciplinaires initiées à l'encontre des agents d'exécution. Si "autre", veuillez le préciser dans la boîte "commentaire" ci-dessous.

[Si la procédure disciplinaire est intentée sur la base de plusieurs manquements, veuillez ne compter ces procédures qu'une seule fois, pour le manquement principal.]

Nombre total de procédures disciplinaires initiées (1+2+3+4)	[x] nombre :	9
1. pour faute déontologique		NAP
2. pour insuffisance professionnelle		NAP
3. pour délit pénal		NAP
4. Autre	[x] nombre :	9

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

188) Nombre de sanctions prononcées à l'encontre des agents d'exécution.

Si "autre", veuillez le spécifier dans la boîte "commentaire" ci-dessous. S'il existe une disparité entre le nombre de procédures disciplinaires initiées et le nombre de sanctions, veuillez indiquer les raisons dans la boîte "commentaire" ci-dessous.

Nombre total de sanctions (1+2+3+4+5)	☑ nombre :	9
1. Réprimande	☑ nombre :	3
2. Suspension	☑ nombre :	1
3. Révocation	☑ nombre :	0
4. Amende	☑ nombre :	3
5. Autre	☑ nombre :	2

Commentaire :

H.1
Vous pouvez indiquer ci-dessous :
- tout commentaire utile pour l'interprétation des données indiquées dans ce chapitre
- les caractéristiques de votre système d'exécution des décisions civiles et les réformes majeures mises en œuvre au cours des deux dernières années

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

Veuillez indiquer les sources pour les réponses aux questions 186, 187 et 188 :

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

8. 2. Exécution des décisions pénales

8. 2. 1. Exécution des décisions pénales

189) Qui est chargé de l'exécution des décisions pénales? (plusieurs options possibles)

- ☑ Juge
- ☐ Procureur
- ☐ Services pénitentiaire et de probation
- ☐ Autre autorité

Veuillez préciser ses fonctions et compétences (ex. fonctions d'initiative ou de contrôle). Si "autre autorité", veuillez préciser :

190) En matière d'amendes prononcées par une juridiction pénale, existe-t-il des études permettant d'évaluer le taux de recouvrement effectif ?

- ◉ Oui
- ○ Non

191) Si oui, quel est le taux de recouvrement ?

- ☐ 80-100%

- [ ] 50-79%
- [ ] moins de 50%
- [x] ne peut être estimé

Veuillez indiquer la source ayant permis de répondre à cette question:
Information supplied by courts and MPF

H.2
Vous pouvez indiquer ci-dessous :
- tout commentaire utile pour l'interprétation des données indiquées dans ce chapitre
- les caractéristiques de votre système d'exécution des décisions pénales et les réformes majeures mises en œuvre au cours des deux dernières années

Comment for question 190:
The gathering consists of exercising the actions whose purpose is to extinct the fiscal debts. The gathering of the fiscal debts is made according to a debt security or to an enforceable title, as applicable.
The debt security is the document by which, according to law, there is established and individualized the payment obligation concerning the fiscal debts, drawn up by the competent bodies or by other entitled persons according to law. Such titles may be: the prosecutor's ordinance, the conclusion or the operative part of the judgment of the legal court or a certified excerpt drawn up based on these documents in the case of the fines, judicial fees and other fiscal debts established, according to law, by the prosecutor or by the legal court.
To the extent to which the enforceable titles are transmitted for execution to the fiscal bodies, these may determine a rate of cashing depending on the result of the actions performed for the extinction of these debts.

9. Notaires

9. 1. Notaires

9. 1. 1. Notaires

192) Existe-t-il des notaires dans votre pays ? Si non allez à la question 197

- (●) Oui
- ( ) Non

193) Les notaires ont-ils un statut :

Si "autre", veuillez le préciser dans la boîte "commentaire" ci-dessous.

privé (sans contrôle d'une autorité publique)?	☐ nombre	
de profession libérale réglementée par les pouvoirs publics ?	☑ nombre	2 191
public?	☐ nombre	
autre ?	☐ nombre	

Commentaire :

194) Le notaire exerce-t-il une fonction (plusieurs réponses possibles):

- ☑ dans le cadre de la procédure civile ?
- ☑ dans le domaine du conseil juridique ?
- ☑ pour authentifier les actes/certificats ?
- ☑ autre ?

Si "autre", veuillez préciser :
The authentication of the signatures and seals, the authentication of the copies of the documents, giving of certain date to the documents, the certification of some facts, the authentication of the translator’s signature, the reception in deposit of documents and writs, protest acts of the protest bills, cheques and other securities, the issue of duplicates of the notarial documents, the reconstitution of the original documents.

195) Existe-t-il un système de supervision et de contrôle de l’activité des notaires ?

- (●) Oui
- ( ) Non

196) Quelle est l’autorité chargée de superviser et de contrôler les notaires :

- ☑ une instance professionnelle ?
- ☑ le juge ?
- ☑ le ministère de la justice ?
- ☐ le procureur ?
- ☐ autre ?

Si "autre", veuillez préciser :

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

I.1
Vous pouvez indiquer ci-dessous :
- tout commentaire utile pour l'interprétation des données indiquées dans ce chapitre
- les caractéristiques de votre système notarial et les réformes majeures mises en œuvre au cours des deux dernières années

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

10. Interprètes judiciaires

10. 1. Interprètes judiciaires

10. 1. 1. Interprètes judiciaires

197) Le titre d'interprète judiciaire est-il protégé?

- ○ Oui
- ◉ Non

198) La fonction d'interprète judiciaire est-elle régulée par des normes juridiques?

- ◉ Oui
- ○ Non

199) Nombre d'interprètes judiciaires accrédités ou enregistrés :

30 328

200) Existe-t-il des critères relatifs à la qualité de l'interprétation dans les tribunaux ?

- ○ Oui
- ◉ Non

Si oui, veuillez préciser (par exemple avoir passé avec succès un examen particulier) :

201) Les tribunaux sont-ils responsables de la sélection des interprètes judiciaires ? Si non, veuillez indiquer dans la boîte "commentaire" ci-dessous quelle autorité est responsable de la sélection.

- Oui ☐ pour les recruter et/ou les nommer pour un mandat d'une certaine durée
- Oui ☑ pour les recruter sur une base ad hoc en fonction des besoins d'une procédure spécifique
- \- ☐ Non

Commentaire :

J.1
Vous pouvez indiquer tout commentaire utile à l'interprétation des données indiquées dans ce chapitre

Veuillez indiquer la source pour répondre à la question 199 :

Ministry of Justice

11. Experts judiciaires

11. 1. Experts judiciaires

11. 1. 1. Experts judiciaires

202) Dans votre système, les experts interviennent-ils durant la procédure judiciaire comme (choix multiple possible):

- [ ] "Experts témoins" à qui les parties demandent d'apporter leur expertise pour soutenir leur argumentation
- [x] "Experts techniques" qui mettent à la disposition du tribunal leurs connaissances scientifiques et techniques sur des questions de fait
- [ ] "Experts juristes" qui peuvent être consultés par le juge pour des questions de droit spécifiques ou qui ont pour tâche de soutenir le juge dans la préparation du travail judiciaire (mais qui ne participent pas au jugement)

203) Le titre d'expert judiciaire est-il protégé ?

- ( ) Oui
- (•) Non

204) La fonction d'expert judiciaire est-elle régulée par des normes juridiques?

- (•) Oui
- ( ) Non

205) Nombre d'experts judiciaires (experts techniques) accrédités ou enregistrés.

4 587

206) Existe-t-il des critères relatifs à l'exercice de la fonction d'expert judiciaire dans le cadre des procédures judiciaires ?

- (•) Oui
- ( ) Non

Si oui, veuillez préciser, notamment les délais impartis pour présenter un rapport technique au juge :

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

207) Les tribunaux sont-ils responsables de la sélection des experts judiciaires ?

Si non, veuillez indiquer dans la boîte "commentaire" ci-dessous quelle autorité est responsable de la sélection des experts judiciaires?

Oui ☐ pour les recruter et/ou la nommer pour un mandat d'une certaine durée

Oui ☐ pour les recruter sur une base ad hoc en fonction des besoins d'une procédure spécifique

Non ☑ .

Commentaire :
The quality of judicial technical expert is acquired based on exam/interview, organized by the Ministry of Justice, in the conditions of the G.O. no. 2/2000. The person acquiring this capacity is registered in the nominal table containing the judicial technical experts, drawn up on specialities and counties, by the Central Office for Judicial Technical Expertise within the Ministry of Justice. The local offices for judicial technical and accounting expertises within law courts communicate to the courts, to the criminal prosecution bodies and to other bodies with jurisdiction attributions the list of the experts and specialists who may perform judicial expertises. From the above mentioned list, the courts appoint at the request of the parties or ex officio, one or three experts. If the parties do not agree upon the appointment of experts, they shall be appointed by court, by drawing lots, in public session, from the list drawn up and communicated by the local office of expertise.

K.1
Vous pouvez indiquer tout commentaire utile à l'interprétation des données indiquées dans ce chapitre

Veuillez indiquer la source pour répondre à la question 205 :
Ministry of Justice – IT program „Judicial technical experts", where are registered all the judicial technical experts and specialists.

12. Réformes envisagées

12. 1. Réformes envisagées

12. 1. 1. Réformes

208) Veuillez fournir des informations sur le débat actuel dans votre pays sur le fonctionnement de la justice. Des réformes sont-elles en préparation ou envisagées. Si possible, respectez les catégories suivantes:
1. Programmes de réforme généraux
2. Budget
3. Tribunaux et Ministère Public (par exemple pouvoir et organisation, modifications structurelles -par exemple la réduction du nombre des tribunaux-, gestion et méthodes de travail, technologies de l'information, arriéré judiciaire et efficacité, frais de justice, rénovation et construction de nouveaux bâtiments)
4. Conseil supérieur de la Magistrature
5. Professionnels de la justice (juges, procureurs, avocats, notaires, agents d'exécution, etc.) : organisation, formation, etc.
6. Réformes en matière civile, pénale et administrative, de conventions internationales et d'actes de coopération
7. Exécution des décisions de justice
8. Médiation et autres ADR
9. Lutte contrer la criminalité et système pénitentiaire
10. Autres

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

***
A short presentation of the new Civil Procedure Code and the new Criminal Procedure Code
The new Civil Procedure Code (adopted by Law no. 134/2010), by which there are brought substantial legislative changes in the matter of civil procedural law.
The new Civil Procedure Code constitutes the expression of an intensive effort made during several years in view of creating in the civil matter a modern legislative framework which shall completely answer to the imperatives of the modern justice functioning, adapted at the social expectances, as well as at the increase of quality of this public service, representing a turning point in the reform of the institutions of law and justice of Romania.
The provisions of the new Civil Procedure Code aim at ensuring the access of court users to more simple and accessible procedural means and forms and at accelerating the procedure, inclusively in the enforcement phase.
Equally, the project of the new Civil Procedure Code aims at the highlighting, first of all, the preventive dimension of its rules, also answering at the exigencies of predictability of the judicial procedures resulted from the European Convention for the protection of human rights and fundamental freedoms and, implicitly, from those decided in the case-law of the European Court of Human Rights. Rigorously aiming at ensuring the premises for the correct settlement of cases in substance, within the national justice system, the new code has in view the elimination of the deficiencies which led, in several cases, o judgements of the European Court of Human Rights for

the conviction of Romania, both for mainly wronged judicial solutions and for prejudices causes by the excessive duration of the procedures or for the lack of predictability resulted from the inconsistency of the national jurisprudence.
We enumerate the guidelines of the legislative solutions promoted by the new Civil Procedure Code:
- regulation of the fundamental principles governing the civil trial;
- putting back of the material competence;
- optimisation of the procedure for the summoning and service of the procedural documents;
- re-systematization of the civil trial stages (written stage; trial research; trial debate in substance). The new Civil Procedure Code expressly consecrates the duty of the judge to estimate the duration of the trial research. The judge, taking into account the concrete circumstances of the case, at the first trial time-limit and after the parties hearing, shall estimate the duration necessary for the trial research, so that this is settled within a reasonable time-limit. The duration thus estimated shall be reconsidered during the procedure, for grounded reasons and also with the parties hearing. In order to ensure celerity to the settlement of cases, the court has the duty to fix short procedural time-limits, even from one day to another. To the same effect, as well as for guaranteeing the right to a fair trial, the new Civil Procedure Code institutes a special procedure – contestation by the delay of the trial –, having a non-contentious and incidental character. According to the new procedure, the party who considers that the settlement of the case is delayed, by not observing the mentioned right, may require the court to take the legal measures for the removal of this situation;
- rethinking the remedies regime (the appeal shall represent the only ordinary remedy with devolutive effect; the appeal shall have as exclusive purpose the examination of the conformity of the attacked judgment to the applicable rules of law);
- reforming the mechanisms foe ensuring a unitary judicial practice (the appeal in the interest of law; initiation of proceedings before the High Court of Justice and Cassation for the pronunciation of a prior judgment for the resolution of some legal problems);
- reforming the enforcement matter (the purpose of the new civil procedural regulation in the enforcement matter consists in the immediate and effective execution of the enforceable titles obtained within the trial or, as the case may be, recognised as such by law, in the conditions of the strict observance of the procedural rights of the parties, of the creditor and debtor, as well as of any interested person);
- reform and substantial re-systematization of the special procedures matter.

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

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

the criminal investigation bodies' competencies. These provisions shall lead to the diminution of the prosecutors' workflow and to the optimisation of the criminal prosecution.

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