



EUROPEAN COMMISSION FOR THE EFFICIENCY OF JUSTICE
(CEPEJ)

SCHEME FOR EVALUATING JUDICIAL SYSTEMS 2007

Country: Ukraine

National correspondent

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1. Demographic and economic data

1. 1. General information

1. 1. 1. Inhabitants and economic information

1) Number of inhabitants

46646000,0

2) Total of annual State public expenditure / where appropriate, public expenditure at regional or federal entity level (in €)

	Amount
State level	21082612000
Regional / entity level	

3) Per capita GDP (in €)

1728

4) Average gross annual salary (in €)

2187,07

5) Exchange rate from national currency (non-Euro zone) to € on 1 January 2007

6,65

Please indicate the sources for the questions 1 to 4

Information of the State Committee of the Statistics of Ukraine

1. 2. Budgetary data concerning judicial system

1. 2. 2. Budget (courts, public prosecution, legal aid, fees)

6) Total annual approved budget allocated to all courts (in €)

276961140

7) Please specify

data according to the Law of Ukraine "On State Budget of Ukraine for the year 2007"

8) Does the approved budget of the courts include the following items? Please give for each item (or some of them) a specification of the amount concerned

Annual public budget allocated to (gross) salaries Yes 191875330

Annual public budget allocated to Yes

computerisation (equipment, investments, maintenance)		2430600
Annual public budget allocated to justice expenses	<input checked="" type="checkbox"/> Yes	90856900
Annual public budget allocated to court buildings (maintenance, operation costs)	<input checked="" type="checkbox"/> Yes	5174000
Annual public budget allocated to investments in new (court) buildings	<input checked="" type="checkbox"/> Yes	4812030
Annual public budget allocated to training and education	<input checked="" type="checkbox"/> Yes	2794940
Other (please specify):	<input type="checkbox"/> Yes	

9) Has the annual public budget of the courts changed (increased or decreased) over the last five years?

- Yes
- No

If yes, please specify (i.e. provide an indication of the increase or decrease of the budget over the last five years)

Increased in comparison with the year 2006 to 31263,08 thousand euro and in comparison with the year 2003 to 208389,69 thousand euro or it mean into 4 times.
 In 2003 - 68571.45 (thousand euro)
 In 2004 - 82949.9
 In 2005 - 124678.5
 In 2006 - 245698.06
 In 2007 - 276961,14

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

- for criminal cases?
- for other than criminal cases?

If yes, are there exceptions? Please specify:

11) If yes, please specify the annual income of court fees (or taxes) received by the State (in €)

000000000000000000000000

12) Total annual approved budget allocated to the whole justice system (in €)

285838490

13) Total annual approved public budget allocated to legal aid (in €)

294730

14) If possible, please specify

	the annual public budget allocated to legal aid in criminal cases	the annual public budget allocated to legal aid in other court cases
Amount	294730	

15) Is the public budget allocated to legal aid included in the court budget ? Yes No**16) Total annual approved public budget allocated to the public prosecution system (in €)**

120125950

17) Is the budget allocated to the public prosecution included in the court budget? Yes No**18) Authorities formally responsible for the budget allocated to the courts:**

	Preparation of the total court budget	Adoption of the total court budget	Management and allocation of the budget among the individual courts	Evaluation of the use of the budget at a national level
Ministry of Justice	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Other ministry	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Parliament	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Supreme Court	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Judicial Council	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Courts	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Inspection body	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Other	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>

19) If other Ministry and/or inspection body and/or other, please specify (in regards to question 18):

Other ministry:

- the Ministry of Finance of Ukraine

Other:

- the State Court Administration (for the court of general jurisdiction)
- the Constitutional Court of Ukraine (is responsible for its own budget)
- the specialised courts (are responsible for their budgets)
- the Accounts Chamber
- the Main Audit Department of Ukraine

You can indicate below:

- **any useful comments for interpreting the data mentioned above**
- **the characteristics of your budgetary system and the main reforms that have been implemented over the last two years**
- **if available an organisation scheme with a description of the competencies of the different authorities responsible for the budget process**

Please indicate the sources for the questions 6, 7, 13 et 16

The information of the Ministry of Finance of Ukraine, the State Court Administration of Ukraine, the Law of Ukraine "On State Budget of Ukraine for the year 2007"

2. Access to justice

2. 1. Legal aid

2. 1. 1. Principles

20) Does legal aid concerns:

	Criminal cases	Other than criminal cases
Representation in court	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Legal advice	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Other	<input type="checkbox"/>	<input type="checkbox"/>

21) If other, please specify (in regards to question 20):

22) Does legal aid foresee the covering or the exoneration of court fees?

Yes

No

If yes, please specify:

According to the parts 1 and 6 of the Article 93 of Criminal Procedural Code of Ukraine the court fees should be paid by the convicted person except the sums which were/should be paid to the interpreters or should be accepted by an account of the State.

The remuneration of the defendant labour, in case of appointment to participate in the case, provides by the State in the order and rates defined by the Cabinet of Ministers of Ukraine. In such way the reimbursement of the expenses to the State could be provided by the convicted person/persons who have the property responsibility for the actions of such person with their consent.

According to the articles 84 of Civil procedural Code of Ukraine and 90 of Code of administrative proceedings the expenses connected with the payment of the advocate aid or other expert in law who provides a legal aid on the contract base should be beared by the sides except the cases when according to the law the free of charge legal assistance is provided.

In case when the side is granted a discharge to pay a fee for the legal aid such expenses should be covered by the State.

23) Can legal aid be granted for the fees that are related to the execution of judicial decisions?

Yes

No

If yes, please specify:

24) Number of cases granted with legal aid provided by (national, regional, local) public authorities:

	Number
Total	
Criminal cases	
Other than criminal cases	

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

- Yes
 No

26) Does your country have an income and asset test for granting legal aid:

	No	Yes	Amount
for criminal cases?		X	
for other than criminal cases?		X	

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

- Yes
 No

28) If yes, is the decision for granting or refusing legal aid taken by:

- the court?
 an authority external to the court?
 a mixed decision-making authority (court and external)?

29) Is there a private system of legal expense insurance enabling individuals to finance court proceedings?

- Yes
 No

Please specify:

At the same time the Law of Ukraine "On insurance" establishes the "voluntary insurance" which is performed on the basis of agreement between the insured and the insurer. According to the para 19 of part 4 of the Article 6 of the mentioned Law the insurance of court fees could be one of the case for the voluntary insurance.

State supervision over insurance activity within the territory of Ukraine is exercised by the authorized body and its bodies in regions.

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

	yes	no
criminal cases?	<input checked="" type="checkbox"/>	<input type="checkbox"/>
other than criminal cases?	<input checked="" type="checkbox"/>	<input type="checkbox"/>

You can indicate below:

- any useful comments for interpreting the data mentioned above
- the characteristics of your legal aid system and the main reforms that have been implemented over the last two years

According to the Article 59 of the Constitution of Ukraine everyone has the right to legal assistance. Such assistance is provided free of charge in cases envisaged by law.

Pursuant to the provisions of the Action Plan for the Honouring by Ukraine of its Obligations and Commitments to the Council of Europe (furthermore – the Action Plan) approved by the Decree of the President of Ukraine of 20 January 2006 No. 39 and taking into account the Parliamentary Assembly of the Council of Europe’s Resolution No. 1466 and Recommendation No. 1722 of 5 October 2005 as well as the Report of the PACE on the Honouring of Obligations and Commitments by Ukraine to the Council of Europe and the Parliament Assembly of the Council of Europe’s Opinion No.190 (1995), the Government of Ukraine carries out in practice the activities in the framework of the reform of legal aid.

Taking into account abovementioned, the Ministry of Justice of Ukraine on the basis of its territorial divisions were established the centres for the provision of free legal aid to the citizens with the low income, particularly to the pensioners, disable persons, vets, the members of large families, juveniles under legal age (18 years) etc. which consist in providing of the consultations and explanations in legal questions, helping to fill the legal documents etc. The main aim of such centres is to offer to the citizens the necessary consultations to make the decision in the questions of state or private life, of the rights and freedom protection which are guaranteed by the Constitution of Ukraine as well as the international treaties.

As for today there are several centres for the provision of free legal aid functioning in the cities Kharkiv, Bila Tserkva (Kyiv oblast) and in Khmelnytsky oblast. The question of further opening such centres in other regions of Ukraine now is under discussion.

On 9 June 2006 by the Decree of the President of Ukraine №509/2006 was approved the Concept on the Reform of the System of Free Legal Aid.

According to the Action Plan is still under the development the Draft Law on Free Legal Aid. The deadline for elaboration the abovementioned draft Law is December 2008.

Please indicate the sources for the questions 24 and 26

Question 26 - the information of the Ministry of Justice of Ukraine

2. 2. Users of the courts and victims

2. 2. 1. Rights of the users and victims

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

legal texts (e.g. codes, laws, regulations, etc.)?

yes

www.minjust.gov.ua, www.rada.gov.ua,
www.vasu.gov.ua/ua/news_legislation.html,
www.vasu.gov.ua/ua/register.html

case-law of the higher court/s? yes www.court.gov.ua

other documents (for example forms)? yes www.liga.net

32) Is there an obligation to provide information to the parties concerning the foreseeable timeframe of the proceeding?

Yes

No

If yes, please specify:

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

Yes

No

If yes, please specify:

34) Are there special favourable arrangements to be applied, during judicial proceedings, to the following categories of vulnerable persons:

Victims of rape	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Victims of terrorism	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Children/Witnesses/Victims	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Victims of domestic violence	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ethnic minorities	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Disabled persons	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Juvenile offenders	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Other	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

35) Does your country have a compensation procedure for victims of crimes?

- Yes
 No

36) If yes, does this compensation procedure consist in:

- a public fund?
 a court decision?
 private fund?

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

N.B.

According to the Article 1177 "Indemnification for the Property Damage to an Individual Suffered from Crime" of the Civil Code of Ukraine the following compensation procedure should be provided:

1. Property damage inflicted to the property of an individual as a result of crime shall be indemnified by the state, unless the person that committed a crime is identified or in case he/she is insolvent.
2. Terms and conditions of indemnification for the property damage inflicted to the property of a person that suffered from crime shall be specified by the law.

37) Are there studies to evaluate the recovery rate of the compensation awarded by courts to victims?

- Yes
 No

If yes, please specify:

38) Is there a specific role for the public prosecutor with respect to the (protection of the position and assistance of) victims?

- Yes
 No

If yes, please specify:

According to the Article 264 of Criminal Procedural Code of Ukraine the prosecutor guided by the legislative norms and own moral certainty provides the public prosecution during the court hearings, affords the proofs, takes part in the investigation of the proofs, makes the request and express the opinion on the requests made by other participants of the suit, presents own views concerning the application of the criminal law and the measure of punishment for the person on trial.

The prosecutor shall introduce or support of the made civil claim if it is necessary to protect the rights of individuals or legal persons as well as the state interests.

39) Do victims of crimes have the right to contest a decision of the public prosecution to discontinue a case?

Yes

No

If yes, please specify:

The decision to discontinue the criminal case taken by the agency in charge of investigation, investigator or prosecutor could be contested by the person whose interest it concerns or by he/she representative to the district (city) court of the region where the relevant body which made such decision is situated or of the region of working place of the state person who made such decision.

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

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

excessive length of proceedings?

non execution of court decisions?

wrongful arrest?

wrongful condemnation?

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

On the basis of the Law "On the Procedure of Compensation of Damage Caused to a Citizen by Illegal Actions of Inquest, Pre-Trial Investigation, Office of Public Prosecutor and Judicial Bodies" shall be compensated the damage caused to the citizen as a result of:

- illegal conviction, illegal arraignment as accused, illegal arrest, illegal search performed in the course of investigation or court proceedings, seizure or illegal sequestration on the property, illegal removal from job (post) and other procedural actions which limit the citizens' rights
- illegal administrative arrest or compulsory works, illegal property confiscation or penalty imposition
- illegal conducting of operative search measures.

According to Article 3 of the mentioned Law, a citizen shall be compensated:

1. salary and other monetary incomes which s/he lost as a result of illegal actions

2. the property confiscated or transferred to the state profit by the court
3. penalties imposed for execution of court decision, court expenses and other expenses paid by the citizen
4. the amounts paid by the citizen for granting him legal assistance
5. moral damage.

In accordance with the Article 4 abovementioned Law the compensation of the damage in cases, defined by the para 1,3,4 and 5 of the Article 3, provides by the costs of the state budget of Ukraine.

Concerning the para 1 of the Article 3 of the Law the amount of money compensation should be counted taking into account the sum had to be received by the person during the time of removal from job (post) or the period of execution of the administrative punishment.

41) Does your country have surveys aimed at users or legal professionals (judges, lawyers, officials, etc.) to measure their trust and/or satisfaction with the services delivered by the judiciary system?

- (Satisfaction) surveys aimed at judges
- (Satisfaction) surveys aimed at court staff
- (Satisfaction) surveys aimed at public prosecutors
- (Satisfaction) surveys aimed at lawyers
- (Satisfaction) surveys aimed at citizens (visitors of the court)
- (Satisfaction) surveys aimed at other clients of the courts

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

42) If yes, please specify:

	Yes (surveys at a regular interval: for example annual)	Yes (incidental surveys)
Surveys at national level	<input type="checkbox"/>	<input type="checkbox"/>
Surveys at court level	<input type="checkbox"/>	<input type="checkbox"/>

43) Is there a national or local procedure for making complaints about the performance (for example the length of proceedings) or the functioning (for example the treatment of a case by a judge) of the judicial system?

- Yes
- No

44) If yes, please specify:

	Time limit to respond (Yes)	Time limit for dealing with the complaint (Yes)
Court concerned	<input type="checkbox"/>	<input type="checkbox"/>
Higher court	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Ministry of Justice	<input type="checkbox"/>	<input type="checkbox"/>
High Council of the Judiciary	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Other external organisations (e.g. Ombudsman)	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>

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

3. Organisation of the court system

3. 1. Functioning

3. 1. 1. Courts

45) Number of courts considered as legal entities (administrative structures) and geographic locations (please, complete the table)

	Total number
First instance courts of general jurisdiction (legal entities)	679
Specialised first instance courts (legal entities)	54
All the courts (geographic locations)	

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

The general local courts - 679
 the local administrative courts - 27
 the local economical courts - 27.

According to the Article 124 of the Constitution of Ukraine the jurisdiction of the courts extends to all legal relations that arise in the State. Judicial proceedings are performed by the Constitutional Court of Ukraine and courts of general jurisdiction.

The Article 125 of Constitution defines that in Ukraine, the system of courts of general jurisdiction is formed in accordance with the territorial principle and the principle of specialisation. The Supreme Court of Ukraine is highest judicial body in the system of courts of general jurisdiction. The respective high courts are the highest judicial bodies of specialised courts. Courts of appeal and local courts operate in accordance with the law. The creation of extraordinary and special courts shall not be permitted.

In accordance with the Law "On judicial system of Ukraine" the system of courts of general jurisdiction is made up from:

- local courts
- courts of appeal and the Court of Appeals of Ukraine
- the Court of Cassation of Ukraine
- highest specialized courts
- the Supreme Court of Ukraine.

47) Is there a change in the structure of the courts foreseen (for example a reduction of the number of courts (geographic locations) or a change in the powers of courts)?

- Yes
 No

If yes, please specify:

Starting from 1 September 2005 in Ukraine is going on the process of the creation of 27 administrative local courts and 7 appeal administrative courts in the net of the administrative courts.

The new draft Law of Ukraine "On Judiciary of Ukraine" is adopted by the Parliament of Ukraine in the first hearings.

48) Number of first instance courts competent for a case concerning:

	Number
a debt collection for small claims	--
a dismissal	706
a robbery	679

Please specify what is meant by small claims in your country (answer only if the definition has changed compared to the previous evaluation round):

Please indicate the sources for the question 45

The information of the Supreme Court of Ukraine

3. 1. 2. Judges, courts staff**49) Number of professional judges sitting in courts (present the information in full time equivalent and for permanent posts)**

6893

50) Number of professional judges sitting in courts on an occasional basis and who are paid as such:

	Number
gross figure	NAP
if possible, in full time equivalent	

51) Please specify (answer only if the information has changed compared to the previous evaluation round):

NAP

52) Number of non-professional judges (including lay judges and excluding jurees) who are not remunerated but who can possibly receive a simple defrayal of costs. Please specify (answer only if the information has changed compared to the previous evaluation round):

NAP

53) Does your judicial system include trial by jury with the participation of citizens?

Yes

No

If yes, for which type of case(s)?

for criminal and civil cases

54) If possible, indicate the number of citizens who were involved in such juries for the year of reference?

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

56) If possible, could you distribute this staff according to the 4 following categories:

non-judge staff (Rechtspfleger), with judicial or quasi-judicial tasks having autonomous competence and whose decisions could be subject to appeal Yes

non-judge staff whose task is to assist the judges (case file preparation, assistance during the hearing, keeping the minutes of the meetings, helping to prepare the decisions) such as registrars Yes

staff in charge of different administrative tasks as well as of the management of the courts (human resources management, material and equipment management, including computer systems, financial and budgetary management, training management) Yes

technical staff Yes

Please indicate the sources for the questions 49, 50, 52, 53 and 55

Question 49 - the Supreme Court of Ukraine

Question 53 - the State Court Administration, the Ministry of Justice

3. 1. 3. Prosecutors

57) Number of public prosecutors (present the information in full time equivalent and for permanent posts)

9786

58) Do any other persons have similar duties as public prosecutors?

Yes

No

If yes, please specify:

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

3950

Please indicate the sources for the questions 57 and 59

The information of General Prosecutor's Office

3. 1. 4. Budget and New technologies

60) Who is entrusted with the individual court budget?

	Preparation of the budget	Arbitration and allocation of the budget	Day to day management of the budget	Evaluation and control of the use of the budget
Management Board	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Court President	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Court administrative director	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Head of the court clerk office	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Other	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

61) You can indicate below:

- any useful comments for interpreting the data mentioned above
- if available an organization scheme with a description of the competencies of the different authorities responsible for the budget process in the court

62) For direct assistance to the judge/court clerk, what are the computer facilities used within the courts?

	100% of courts	+50% of courts	-50% of courts	- 10 % of courts
Word processing	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Electronic data base of jurisprudence	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Electronic files	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
E-mail	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Internet connection	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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63) For administration and management, what are the computer facilities used within the courts?

	100% of courts	+50% of courts	-50% of courts	-10% of courts
Case registration system	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Court management information system	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Financial information system	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

64) For the communication between the court and the parties, what are the computer facilities used within the courts?

	100% of courts	+50% of courts	-50% of courts	-10% of courts
Electronic web forms	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Special Website	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Other electronic communication facilities	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

65) Is there a centralised institution which is responsible for collecting statistical data regarding the functioning of the courts and judiciary (answer only if this information has changed compared with the previous evaluation round)?

- Yes
 No

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

State Court Administration of Ukraine
 Lypska str., 18/5
 01021, Kyiv
 Ukraine

You can indicate below:

- any useful comments for interpreting the data mentioned above
- the characteristics of your judicial system and the main reforms that have been implemented over the last two years

The judicial reform in Ukraine is going on. In particular, on 20 January 2006 the President of Ukraine by its Decree №39/2006 has approved the Action Plan for the Honouring by Ukraine of its Obligations and Commitments to the Council of Europe (furthermore – the Action Plan). This document is elaborated with the aim to accomplish the honouring obligations and commitments of Ukraine to the Council of Europe listed in the Parliament Assembly of the Council of Europe's Opinion No. 190 (1995) as well as in the international agreements concluded within this international organization, comments of the experts of the European Commission for Democracy through Law (Venice Commission) and taking into account the Parliamentary Assembly of the Council of Europe's Resolution No. 1466 and Recommendation No. 1722 of 5 October 2005. The Action Plan provides the set activities to ensure independence and effectiveness of the judiciary, completion of the judicial reform, and to that end the Government of Ukraine should: 1. prepare, with participation of the Supreme Court of Ukraine, and submit according to the established procedure to the President of Ukraine the Draft Concept on the Reform of the Judiciary and the Judicial Procedure in Ukraine and the Draft Action Plan to implement thereof 2. prepare and submit according to the established procedure to the President of Ukraine the Draft Law on the amendments to the legislation of Ukraine on the judiciary and the judicial process in Ukraine,

in particular, with regard to:- streamlining the system of courts, bringing it in compliance with the Constitution of Ukraine- enhancing rules on the maintenance of courts and the remuneration of judges - enhancing the order of appointment of presidents of the courts, limiting the scope of their authority - introducing a transparent competitive system of selection of judges and an efficient system of education and training of judges, introducing a random distribution of cases among judges within one court etc.

Please indicate the sources for the questions 62, 63 and 64

The information is given by the State Court Administration of Ukraine, the High Administrative Court of Ukraine and the Supreme Court of Ukraine.

3. 2. Monitoring and evaluation

3. 2. 1. Monitoring and Evaluation

66) Are the courts required to prepare an annual activity report?

- Yes
 No

67) Do you have a regular monitoring system of court activities concerning the:

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

Please specify:

68) Do you have a regular system to evaluate the performance of each court?

- Yes
 No

Please specify:

69) Concerning court activities, have you defined performance indicators?

- Yes
 No

70) Please select the 4 main performance and quality indicators that are used for a proper functioning of courts.

- Incoming cases
 Length of proceedings (timeframes)
 Closed cases
 Pending cases and backlogs
 Productivity of judges and court staff
 Percentage of cases that are treated by a single sitting judge
 The enforcement of penal decisions
 Satisfaction of employees of the courts
 Satisfaction of clients (regarding the services delivered by the courts)
 Judicial and organisational quality of the courts
 The costs of the judicial procedures
 Other

Please specify:

71) Are there performance targets defined for individual judges?

- Yes
 No

72) Are there performance targets defined at the level of the courts?

- Yes
 No

73) Please specify who is responsible for setting the targets:

- executive power (for example the Ministry of Justice)
- legislative power
- judicial power (for example a High Judicial Council or a Higher Court)
- other

Please specify

74) Please specify the main targets applied:

75) Which authority is responsible for the evaluation of the performances of the courts:

- the High Council of judiciary
- the Ministry of Justice
- an Inspection authority
- the Supreme Court
- an external audit body
- other?

Other, please specify:

76) Are there quality standards (organisational quality and/or judicial quality policy) formulated for the courts (existence of a quality system for the judiciary)?

- Yes
- No

If yes, please specify:

77) Do you have specialised court staff which is entrusted with quality policy and/or quality systems for the judiciary?

- Yes
 No

78) Is there a system enabling to measure the backlogs and to detect the cases which are not processed within a reasonable timeframe for:

- civil cases?
 criminal cases?
 administrative cases?

79) Do you have a way of analysing waiting time during court procedures?

- Yes
 No

If yes, please specify:

80) Is there a system to evaluate the functioning of courts on the basis of an evaluation plan (timetable for visits) agreed a priori?

- Yes
 No

Please specify (including an indication of the frequency of the evaluation):

81) Is there a system for monitoring and evaluating the functioning of the prosecution services?

Yes

No

If yes, please specify:

You can indicate below:

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

Please indicate the sources for the the question 70,71, 72 and 76

Questions 70, 71,72 and 76 - the information of the Supreme Court of Ukraine

4. Fair trial

4. 1. Principles

4. 1. 1. General principles

82) What is the percentage of judgements in first instance criminal cases in which the suspect is not attending in person or not represented by a legal professional (i.e. lawyer) during a court session (in absentia judgements) ?

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

Yes

No

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

84) Please give the following data concerning the number of cases regarding Article 6 of the European Convention on Human Rights (on duration and non-execution), for the year of reference

	Cases declared inadmissible by the Court	Friendly settlements	Judgements establishing a violation	Judgements establishing a non violation
Civil proceedings - Article 6§1 (duration)	6	--	46	--
Civil proceedings - Article 6§1 (non-execution)	17	39	245	--
Criminal proceedings - Article 6§1 (duration)	--	--	8	--

Please indicate the sources for the questions 82 and 84

Question 84 - The information of the Office of the Government Agent of Ukraine to the European Court of Human Rights

4. 2. Timeframes of proceedings

4. 2. 1. General information

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

civil cases?

criminal cases?

administrative cases?

If yes, please specify:

During the civil process the court considers the urgent matters within the reasonable term but not longer than 2 months from the date of opening the case. In case of renew on the former job and in case of recovering of the alimony the term of considering of the case by the court should not exceed the term of 1 month.

In the administrative proceedings the short-time for considering the case are foreseen for several categories of the cases. The are indicated in the Chapter 6 of the Section III

of the Code for Administrative Justice of Ukraine.

86) Are there simplified procedures for:

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

If yes, please specify (for example if you have introduced a new law on simplified procedures):

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

- Yes
- No

If yes, please specify:

4. 2. 2. Penal, civil and administrative law cases

88) Total number of cases in the first instance courts (litigious and non-litigious); (please complete the table)

	Pending cases on 1 January 2006	Incoming cases	Decisions	Pending cases on 31 December 2006
Total of civil, commercial and administrative law				

cases (1-7)				
1 Civil (and commercial) litigious cases*				
2 Civil (and commercial) non-litigious cases*				
3 Enforcement cases				
4 Land registry cases**	4553	20823	13915	5828
5 Business register cases**				
6 Administrative law cases	14611	110929	77325	18915
7 Other				
Total criminal cases (8+9)				
8 Criminal cases (severe criminal offences)				
9 Misdemeanour cases (minor offences)				

89) * The cases mentioned in categories 3 to 5 (enforcement, land registry, business register) are excluded from this total and should be presented separately in the table. The cases mentioned in category 6 (administrative law cases) are also excluded from this total for the countries which have specialised administrative courts or units in the courts of general jurisdiction.

**** if applicable**

Note: for the criminal law cases there may be a problem of classification of cases between severe criminal law cases and misdemeanour cases. Some countries might have other ways of addressing misdemeanour offences (for example via administrative law procedure). Please indicate if possible what case categories are included under "severe criminal cases" and the cases included under "misdemeanour cases (minor offences)".

Explanation

90) Total number of cases in the second instance (appeal) courts (litigious and non-litigious); (please complete the table)

	Pending cases on 1 Jan. '06	Incoming cases	Decisions on the merits	Pending cases on 31 Dec. '06
Total of civil, commercial and administrative law cases (1-7)				
1 Civil (and commercial) litigious cases*				
2 Civil (and commercial) non-litigious cases*				
3 Enforcement cases				
4 Land registry cases**			2119	
5 Business register cases**				
6 Administrative law cases	1999	32672	24839	3266
7 Other				
Total criminal cases (8+9)				
8 Criminal cases (Severe criminal offences)				
9 Misdemeanour cases (minor offences)				

91) Total number of cases in the highest instance courts (litigious and non-litigious); (please complete the table)

	Pending cases on 1 Jan. '06	Incoming cases	Decisions on the merits	Pending cases on 31 Dec. '06
Total of civil, commercial and administrative law cases (1-7)	36 000	16 000		36 000
1 Civil (and commercial) litigious cases*	36 000	16 000		36 000
2 Civil (and commercial) non-litigious cases*				
3 Enforcement cases				
4 Land registry cases**				
5 Business register cases**				
6 Administrative law cases	155	307	94	155
7 Other				
Total criminal cases (8+9)	4210	25488	26496	3112
8 Criminal cases (Severe criminal offences)				
9 Misdemeanour cases (minor offences)				

92) Number of divorce cases, employment dismissal cases, robbery cases and intentional homicide cases received and treated by first instance courts (complete the table)

	Pending cases on 1 Jan. '06	Incoming cases	Decisions	Pending cases on 31 Jan. '06
Divorce cases	17662	162428	134731	16856
Employment dismissal cases				
Robbery cases	9372	35576	32200	7927
Intentional homicide case				

93) Average length of proceedings (from the date of lodging of court proceedings)

	% of decisions subject to appeal	% pending cases more than 3 years	1st instance	2nd instance	Total procedure
Divorce cases					
Employment dismissal cases					
Robbery cases					
Intentional homicide					

94) Where appropriate, please specify the specific procedure as regards divorce:

According to the Article 106 of Family Code of Ukraine the marriage dissolution is carried out by the Public Civil Status Act Registration Authority upon the application of spouses that don't have children.

The Article 107 of the mentioned Code sets the cases of the marriage dissolution by the Public Civil Status Act Registration Authority upon the application of one of spouses in case if the other of spouses has been found missing, has been found legally incapable or has been sentenced to at least three years of jail for committing a crime.

The Family Code of Ukraine also sets defines the court procedure for the marriage dissolutions.

95) How is the length of proceedings calculated for the four case categories? (please give a description of the calculation method)

96) Please describe the role and powers of the prosecutor in the criminal procedure (multiple options are possible):

- to conduct or supervise police investigation?
- to conduct investigation?
- when necessary, to demand investigation measures from the judge?
- to charge?
- to present the case in the court?
- to propose a sentence to the judge?
- to appeal?
- to supervise the enforcement procedure?
- to end the case by dropping it without the need for a judicial decision?
- to end the case by imposing or negotiating a penalty without a judicial decision?
- other significant powers?

Please specify:

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

- Yes
- No

If yes, please specify:

In cases determined by the legislation, in the interests of the citizen and a State, the prosecutor can bring the suit (application) to the court, also during the civil and administrative proceedings, as well as to take part in case proceeding, to appeal the unlawful court decisions, to initiate the revision of the court decisions on the ground of appearance of the extra or newfounded circumstances of the case as well as to perform the protection of citizen and a State interests in the process of execution of the court decisions.

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

	Received by the public prosecutor	Discontinued by the public prosecutor	Discontinued by the public prosecutor	Discontinued by the public prosecutor	Concluded by a penalty, imposed or	Charged by the public prosecutor
--	-----------------------------------	---------------------------------------	---------------------------------------	---------------------------------------	------------------------------------	----------------------------------

		because the offender could not be identified	due to the lack of an established offence or a specific legal situation	for reason of opportunity	negotiated by the public prosecutor	before the courts
Total number of 1st instance criminal cases	546178					

You can indicate below:

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

Comment to the question 98:

According to the criminal procedure legislation of Ukraine the prosecutors in Ukraine do not have the power to discontinue the criminal cases in the court. They are authorised only to initiate the question of discontinue the criminal case basing on the relevant reasons (if exist).

Please indicate the sources for the questions 92 to 94 and question 98

Question 92 - the information of the State Court Administration of Ukraine

Question 94 - the Family Code of Ukraine

Question 98 - the information of the General Prosecutor's Office of Ukraine

5. Career of judges and prosecutors

5. 1. Appointment and training

5. 1. 1. Recrutement, nomination and promotion

99) How are judges recruited?

- Through a competitive exam (for instance after a law degree)?
- A specific recruitment procedure for legal professionals with long working experience in the legal field (for example lawyers)?
- A combination of both
- Other

If other, please specify:

100) Are judges initially/at the beginning of their carrier recruited and nominated by:

- an authority composed of judges only?
- an authority composed of non-judges only?
- an authority composed of judges and non-judges?

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

- Yes
- No

If no, please specify which authority is competent for promoting judges:

According to the Law of Ukraine "On Judicial System of Ukraine" the qualification commissions of judges as well as the High qualification commission of judges of Ukraine are assigned with a task of establishing corps of professional judges that are able to administer law in good faith, efficiently and impartially.

The said commissions shall also deal with the issues connected with the judges' dismissal from their posts in cases, determined by the law.

102) Which procedures and criteria are used for promoting judges? (please specify).

According to the Articles 87 and 94 of the Law of Ukraine "On Judicial System of Ukraine" the qualification attestation holds by the qualification commissions and aimed to check the professional level of the judge (the candidate to the post of judge) and to take the decision concerning the assigning of the qualification ranks to the judge as well as to make recommendations of a candidate for a position of a judge including to the court of higher level.

The qualification commission of judges takes its decision according to the level of the professional knowledge, the length of service, the position and the work experience of the judge who should be attested with the aim to:

- 1) assign to a judge the relevant qualification ranks
- 2) remain to a the same qualification ranks
- 3) make decision regarding recommendation of a candidate for a position of a judge
- 4) postpone the attestation for the period not longer than 6 months (in case of insufficient level of professional judge knowledge).

103) How are prosecutors recruited?

- Through a competitive exam? (for example after a law degree)
- A specific recruitment procedure for legal professionals with long working experience in the legal field (for example lawyers)?
- A combination of both
- Other

If other, please specify:

The prosecutors and the investigators could be recruited persons who are the citizens of Ukraine, have the high law degree as well as necessary business and moral qualities. For the persons who do not have the practical experience of their specialization is required the traineeship in the prosecutor bodies at the beginning of their career for the period not longer then 1 year. The question of recruiting the person to the positions of prosecutor/investigator could be resolved only after making relevant verification of having previous convictions.

To the positions of the prosecutors of the Autonomous Republic of Crimea, regions, Kyiv and Sevastopol cities and to the positions of prosecutors with the same status could be appointed the persons not younger then 30 years old, with the experience of work in the prosecutor bodies or in the court not less then 7 years, to the positions of district and cities prosecutors the persons not younger then 25 years old, with the experience of work in the prosecutor bodies or in the court not less then 3 years.

104) Are prosecutors initially/at the beginning of their carrier recruited and nominated by:

- an authority composed of prosecutors only?
- an authority composed of non-prosecutors only?
- an authority composed of prosecutors and non-prosecutors?

105) Is the same authority formally responsible for the promotion of prosecutors?

- Yes
- No

If no, please specify which authority is competent for promoting prosecutors.

Note: the General Prosecutor of Ukraine is also authorised to appoint the prosecutors to the high prosecutor positions except the positions of the prosecutors of the regional level.

106) Which procedures and criteria are used for promoting prosecutors (please specify)

To the positions of the head of the prosecutor bodies and their structural division the person who applies for the position have to assume the following:

- to be the most prepared for the asked position,
- to have the systematical and deep professional knowledge in the relevant field,
- to know well the main directions of the prosecutor and investigator activities,
- to perform successfully the official duties,
- to be initiative and business-like person,
- to raise permanently their professional level,
- to be included into the candidates pool.

The General Prosecutor's Office of Ukraine as well as the offices of the prosecutors on the regional level recruit workers who:

- before the appointment to the position in the regional prosecutors office have the work experience in the prosecutor bodies not less than 3 years
- before the appointment to the position in the General Prosecutor's Office of Ukraine have the work experience in the prosecutor bodies not less than 5 years, including the experience of working in the regional prosecutors offices or on the positions of the prosecutors of the city or the district.

107) Is the mandate given for an undetermined period for judges ?

- Yes
 No

Are there exceptions? Please specify:

108) Is the mandate given for an undetermined period for prosecutors?

- Yes
 No

Are there exceptions? Please specify:

The term of powers of the General Prosecutor of Ukraine and the prosecutors who are subordinated to him is 5 years. For the next term of powers only that prosecutors could be appointed who provide the appropriate efficiency of the prosecutors and investigators activities, have demonstrated the necessary qualities of the chief, who can take the decisions personally, who have the credibility and according to the attestation results are well qualified for relevant position.

The rest of prosecutor workers are appointed for undetermined period.

109) If no, what is the length of the mandate?

Is it renewable?

for judges

 yes, please
specify the
length

for prosecutors

 yes, please
specify the
length
You can indicate below:

- any useful comments for interpreting the data mentioned above
- the characteristics of the selection and nomination procedure of judges and prosecutors and the main reforms that have been implemented over the last two years

The judicial reform in Ukraine is going on.

20 January 2006 the President of Ukraine by its Decree №39/2006 has approved the Action Plan for the Honouring by Ukraine of its Obligations and Commitments to the Council of Europe (furthermore – the Action Plan). This document is elaborated with the aim to accomplish the honouring obligations and commitments of Ukraine to the Council of Europe listed in the Parliament Assembly of the Council of Europe's Opinion No. 190 (1995) as well as in the international agreements concluded within this international organization, comments of the experts of the European Commission for Democracy through Law (Venice Commission) and taking into account the Parliamentary Assembly of the Council of Europe's Resolution No. 1466 and Recommendation No. 1722 of 5 October 2005.

The Action Plan provides the set activities to ensure independence and effectiveness of the judiciary, completion of the judicial reform, and to that end the Government of Ukraine should prepare and submit according to the established procedure to the President of Ukraine the Draft Law on the amendments to the legislation of Ukraine on the judiciary and the judicial process in Ukraine, in particular, with regard to:

- streamlining the system of courts, bringing it in compliance with the Constitution of Ukraine
- enhancing rules on the maintenance of courts and the remuneration of judges
- enhancing the order of appointment of presidents of the courts, limiting the scope of their authority
- introducing a transparent competitive system of selection of judges and an efficient system of education and training of judges, introducing a random distribution of cases among judges within one court.

5. 1. 2. Training**110) Nature of the training of judges.****Is it compulsory?**

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

111) Frequency of the training of judges:

	Annual	Regular	Occasional
Initial training	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
General in-service training	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
In-service training for specialised judicial functions	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
In-service training for management	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

functions of the court			
In-service training for the use of computer facilities in the court	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

**112) Nature of the training of prosecutors.
Is it compulsory?**

- Initial training
- General in-service training
- Specialised in-service training (e.g. specialised public prosecutor)
- In-service training for management functions of the prosecution services (e.g. head prosecutor and/or managers)
- In-service training for the use of computer facilities in the public prosecution service

113) Frequency of the training of prosecutors:

	Annual	Regular	Occasional
Initial training	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
General in-service training	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Specialised in-service training	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
In-service training for management functions of the prosecution services	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
In-service training for the use of computer facilities in the public prosecution service	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

You can indicate below:

- any useful comments for interpreting the data mentioned above
- comments regarding the attention given to the curricula to the European Convention on Human Rights and the case law of the Court
- the characteristics of your training system for judges and prosecutors and the main reforms that have been implemented over the last two years

Note to the question 112:

In the most cases, the prosecutor offices are completing by the persons graduated from the Academy of Prosecutors of Ukraine and other higher law educational institutions with which the General Prosecutor's Office have the relevant contracts to prepare the specialists.

The qualification course for the prosecutors takes place in the Academy of Prosecutors of Ukraine not more then once per 5 years according to the determined programmes in the different aspects of prosecutor activity as well as for the relevant categories of workers.

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The Action Plan provides the set activities to ensure independence and effectiveness of the judiciary, completion of the judicial reform, and to that end the Government of Ukraine should prepare and submit according to the established procedure to the President of Ukraine the Draft Law on the amendments to the legislation of Ukraine

on the judiciary and the judicial process in Ukraine, in particular, with regard to:

- streamlining the system of courts, bringing it in compliance with the Constitution of Ukraine
- enhancing rules on the maintenance of courts and the remuneration of judges
- enhancing the order of appointment of presidents of the courts, limiting the scope of their authority
- introducing a transparent competitive system of selection of judges and an efficient system of education and training of judges, introducing a random distribution of cases among judges within one court.

5. 2. Practice of the profession

5. 2. 1. Salaries

114) Salaries of judges and prosecutors (complete the table)

	Gross annual salary (euro)	Net annual salary (euro)
First instance professional judge at the beginning of his/her career	5640	4709,7
Judge of the Supreme Court or the Highest Appellate Court	35258,6	34388,3
Public prosecutor at the beginning of his/her career	1938,12	1502,04
Public prosecutor of the Supreme Court or the Highest Appellate Instance	8160	6528

115) Do judges and public prosecutors have additional benefits?

	Judges	Prosecutors
Reduced taxation	<input type="checkbox"/>	<input type="checkbox"/>
Special pension	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Housing	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Other financial benefit	<input checked="" type="checkbox"/>	<input type="checkbox"/>

116) If other financial benefit, please specify:

- free of charge using of the all kind of local transport
- installation in the apartment of the security alarm, and using such security alarm for the State costs
- reduced tariff for purchasing the living apartments of the communal fond as well as the premises given for renting
- reduced flat rate and living costs
- free of charge medical services.

117) Can judges combine their work with any of the following other professions?

	Yes with remuneration	Yes without remuneration	No
Teaching	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Research and publication	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Arbitrator	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Consultant	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Cultural function	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Other function			

	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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118) If other function, please specify:

Other - creative activity.

In accordance with the Article 127 of the Consitution of Ukraine professional judges shall not belong to political parties and trade unions, take part in any political activity, hold a representative mandate, occupy any other paid positions, perform other remunerated work except scholarly, teaching and creative activity.

119) Can prosecutors combine their work with any of the following other professions?

	Yes with remuneration	Yes without remuneration	No
Teaching	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Research and publication	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Arbitrator	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Consultant	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Cultural function	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>
Other function	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>

120) If other function, please specify:**121) Do judges receive bonus based on the fulfilment of quantitative objectives relating to the delivering of judgments?**

- Yes
 No

If yes, please specify:

Please indicate the source for the question 114

Concerning the judges data - information of the State Court Administration of Ukraine and of the Supreme Court of Ukraine

Concerning the prosecutors data - information of General Prosecutor's Office of Ukraine

5. 2. 2. Disciplinary procedures**122) which authority is authorized to initiate disciplinary proceedings against judges and/or**

prosecutors? Please specify:

The right to initiate the question concerning the disciplinary proceeding against judges have:

- the People's Deputy of Ukraine
- Ukrainian Parliament Commissioner for Human Rights (Ombudsman)
- the head of Supreme Court of Ukraine
- the head of the higher specialised court in the relation to the judge of relevant specialised court (except the possibility to initiate the question of dismissal of the judge)
- the head of relevant council of judges
- the members of the Council of Judges of Ukraine.

The prosecutor of the regional level and the General Prosecutor of Ukraine have the right to initiate the disciplinary proceedings against prosecutors.

123) Which authority has the disciplinary power on judges and prosecutors? Please specify:

In the judicial system of Ukraine act the qualification commissions of judges of general courts, qualification commission of judges of the military courts, qualification commissions of the relevant specialised courts (administrative, economic), High qualification commission of Ukraine. The disciplinary proceedings bring into force:

- 1) qualification commissions in the relation to the judges of local courts
- 2) High qualification commission of judges of Ukraine in relation to the judges of the courts of appeal
- 3) High Council of Justice in relation to the judges of the high specialised courts and of the Supreme Court of Ukraine.

The disciplinary power on prosecutors have the prosecutor of the regional level and the General Prosecutor of Ukraine.

124) Types of disciplinary proceedings and sanctions against judges and prosecutors: number of disciplinary proceedings initiated

	Judges	Prosecutors
Total number (1+2+3+4)	117	1305
1. Breach of professional ethics	-	41
2. Criminal offence	-	15
3. Professional inadequacy	-	-
4. Other	117	1249

125) Types of disciplinary proceedings and sanctions against judges and prosecutors: number of sanctions pronounced

	Judges	Prosecutors
Total number (total 1 to 9)	108	1305
1. Reprimand	82	1054
2. Suspension	-	-
3. Withdrawal of cases	-	-
4. Fine	-	-
5. Temporary reduction of salary	-	221
6. Degradation of post	-	-
7. Transfer to another geographical (court) location	-	-
8. Dismissal	19	30
9. Other	9	-

You can indicate below:

- **any useful comments for interpreting the data mentioned above**
- **the characteristics of your system concerning disciplinary procedures for judges and prosecutors and the main reforms that have been implemented over the last two years**

6. Lawyers

6. 1. Statute of the profession

6. 1. 1. Profession

126) Total number of lawyers practising in your country

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

Yes

No

128) Number of legal advisors?

129) Do lawyers have a monopoly of representation:

Civil cases*

Criminal cases - Defendant*

Criminal cases - Victim*

Administrative cases*

* If appropriate, please specify if it concerns first instance and appeal. And in case there is no monopoly, please specify the organisations or persons which may represent a client before a court (for example a NGO, family member, trade union, etc) and for which types of cases.

130) Is the lawyer profession organised through:

a national Bar?

a regional Bar?

a local Bar?

Please specify:

The Law "On Bar" defines the Bar as a voluntary professional public association.

Please indicate the source for the question 126

6. 1. 2. Training

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

- Yes
 No

132) Is there a mandatory general system for lawyers requiring continuing professional training?

- Yes
 No

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

- Yes
 No

If yes, please specify:

The attorney can be a citizen of Ukraine, who:

- has higher legal education,
- has work experience not less than two years in the position of an attorney or attorney's assistant
- to have good command of the state language
- has passed qualification examinations
- obtained in Ukraine the certificate, giving the right to practice attorney's activity
- has sworn the Oath of the Attorney of Ukraine.

6. 1. 3. Fees

134) Can users establish easily what the lawyers' fees will be?

- Yes
 No

135) Are lawyers fees:

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

6. 2. Evaluation

6. 2. 1. Complaints and sanctions

136) Have quality standards been formulated for lawyers?

- Yes
- No

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

- the Bar association?
- the legislature?
- other?

Please specify (including a description of the quality criteria used):

138) Is it possible to complain about :

- the performance of lawyers?
- the amount of fees?

Please specify:

The consideration of the complaints regarding to the actions done by the lawers is in the competence of the Discipline Chamber of the Bar Qualification and Discipline Commission of Ukraine.

139) Which authority is responsible for disciplinary procedures:

- the judge?
- the Ministry of Justice?
- a professional authority or other?

Please specify:

The consideration of the complaints regarding to the actions done by the lawyers is in the competence of the Discipline Chamber of the Qualification and Discipline Commission of Advocacy of Ukraine.

**140) Disciplinary proceedings and sanctions against lawyers:
Disciplinary proceedings initiated**

	Breach of professional ethics	Professional inadequacy	Criminal offence	Other
Annual number				

**141) Disciplinary proceedings and sanctions against lawyers:
Sanctions pronounced**

	Reprimand	Suspension	Removal	Fine	Other
Annual number					

You can indicate below:

- any useful comments for interpreting the data mentioned above
- the characteristics of your system concerning the organisation of the Bar and the main reforms that have been implemented over the last two years

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The Action Plan defines the need to draft the new wording of the Law on the Bar concerning the establishment in Ukraine of a professional self-governing institution of the Bar according to Council of Europe standards, reinforcing the guarantees of advocates' activity.

The elaboration of abovementioned draft Law is still in the process.

7. Alternative Dispute Resolution

7. 1. Mediation and other forms of ADR

7. 1. 1. Mediation

142) If appropriate, please specify, by type of cases, the organisation of judicial mediation:

	Possibility of private mediation or court annexed mediation	Private mediator	Public authority	Judge	Prosecutor
Civil and commercial cases	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Family law cases (ex. Divorce)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Administrative cases	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Employment dismissals	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Criminal cases	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

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

Yes

No

If yes, please specify:

144) Can you provide information about the number of accredited mediators?

Yes

No

If yes, please provide the number of mediators:

145) Can you provide information about the total number of judicial mediation procedures concerning:

civil cases?

yes,
number:

family cases?

yes,
number:

administrative cases?

yes,
number:

- employment dismissals? yes,
number:
- criminal cases? yes,
number:

Please indicate the source for the question 145

7. 1. 2. Other forms of alternative dispute resolution

146) Can you give information concerning other forms of alternative dispute resolution (e.g. Arbitration, conciliation)? Please specify:

Today the legislation of Ukraine recognises several types of mechanisms pre-trial and post-trial settlement of disputes which arise out of civil and economic legal relationships.

The Law of Ukraine "On Courts of Arbitration" regulates the procedure of creation and courts of arbitration activity in Ukraine and sets requirements to arbitration consideration with the purpose to defend the property and non-property rights and interests of individuals and legal entities. This Law shall not be applied to international commercial arbitration.

Court of arbitration is a non-state independent body that appears upon agreement or respective decision of an individual and/or legal entities concerned according to the procedure set by the mentioned Law, for settlement of disputes arised out of civil and economic legal relationships.

Legal entities and/or individuals may bring to court of arbitration any dispute that arises out of civil and economic legal relationships, except the cases envisaged by law. The dispute may be passed to consideration of court of arbitration in case, if between parties there is an arbitration agreement, which meets requirements of the Law "On Courts of Arbitration".

The dispute may be passed to court of arbitration until the competent court makes decision in the dispute between the same parties, on the same subject and on the same grounds.

The Economical and Civil Procedural Codes of Ukraine set the definition of the amicable agreement i.e. the agreement made by the parties and approved by the court to be used by the parties in case of arising the dispute question between them which concerns only the rights of the parties and the topic of the dispute.

You can indicate below:

- any useful comments for interpreting the data mentioned above
- the characteristics of your system concerning ADR and the main reforms that have been implemented over the last two years

By the Ministry of Justice of Ukraine was elaborated the draft Law of Ukraine "On amendments to several legal acts of Ukraine" regarding to the mediation procedure (conciliation), draft Law of Ukraine "On Mediation In Criminal Matters" and draft Law "On Amendments to the Criminal Code and the Code of Criminal Procedure of Ukraine with regard to Mediation".

In the framework of cooperation between the Ministry of Justice of Ukraine and the Council of Europe draft Law of Ukraine "On Mediation In Criminal Matters" and draft Law "On Amendments to the Criminal Code and the Code of Criminal Procedure of Ukraine with regard to Mediation" were sent to the Council of Europe to carry out their examination.

The Council of Europe provided the expert opinion on possibilities for mediation in administrative matters under the current code of administrative procedure as well as the expertise on the draft law on mediation in criminal matters.

In the framework of the Joint Programme between the Council of Europe and Ukraine on Improving independence of the Judiciary were also carried out other activities to provide technical assistance in order to improve the Alternative Dispute Resolution Methods to respond to an increasing demand for justice.

8. Enforcement of court decisions

8. 1. Execution of decisions in civil matters

8. 1. 1. Functioning

147) Number of enforcement agents

7089

148) Are enforcement agents:

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

Please specify their status:

The enforcement agent is a civil servant with the special procedural capability.

149) Is there a specific initial training or examination to enter the profession of enforcement agent?

- Yes
- No

150) Is the profession of enforcement agent organised by?

- a national body?
- a regional body?
- a local body?

151) Can users establish easily what the fees of the enforcement agents will be?

- Yes
- No

152) Are enforcement fees:

regulated by law?

freely negotiated?

Please indicate the source for the question 147

The information of the Ministry of Justice of Ukraine

8. 1. 2. Supervision

153) Is there a body entrusted with the supervision and the control of the enforcement agents?

Yes

No

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

a professional body?

the judge?

the Ministry of Justice?

the prosecutor?

other?

Please specify:

155) Have quality standards been formulated for enforcement agents?

Yes

No

If yes, who is responsible for formulating these quality standards and what are the quality criteria used?

156) Do you have a specific mechanism for executing court decisions rendered against public authorities, including for monitoring the execution?

- Yes
 No

If yes, please specify:

Please indicate the sources for the questions 155 and 156

The information of the Ministry of Justice of Ukraine

8. 1. 3. Complaints and sanctions

157) What are the main complaints of users concerning the enforcement procedure? (please indicate a maximum of 3)

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

Please specify:

158) Has your country prepared or has established concrete measures to change the situation concerning the enforcement of court decisions – in particular as regards decisions against public authorities?

- Yes
 No

If yes, please specify:

159) Is there a system measuring the timeframes of the enforcement of decisions:

- for civil cases?
 for administrative cases?

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

- between 1 and 5 days
 between 6 and 10 days
 between 11 and 30 days
 more

Please specify:

161) Disciplinary proceedings initiated against enforcement agents:

- | | |
|-------------------------------|---|
| Breach of professional ethics | <input type="checkbox"/> yes,
number: |
| Professional inadequacy | <input type="checkbox"/> yes,
number: |
| Criminal offence | <input checked="" type="checkbox"/> yes,
number: |
| Other | <input type="checkbox"/> yes,
number: |

162) Sanctions pronounced against enforcement agents:

- | | |
|------------|---|
| Reprimand | <input checked="" type="checkbox"/> yes,
number: |
| Suspension | <input checked="" type="checkbox"/> yes,
number: |
| Dismissal | <input type="checkbox"/> yes,
number: |
| Fine | <input type="checkbox"/> yes,
number: |
| Other | <input type="checkbox"/> yes,
number: |

You can indicate below:

- any useful comments for interpreting the data mentioned above
- the characteristics of your enforcement system of decisions in civil matters and the main reforms that have been implemented over the last two years

The Law of Ukraine "On State Executive Service" sets grounds for organization and activity of state executive service and its tasks, as well as defines legal status of employees of bodies of state executive service and their social protection.

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

Pursuant to this Law, bodies of state executive service are:

- Department of State Executive Service of the Ministry of Justice of Ukraine
- departments of state executive service of the Central Administration of Justice of the Ministry of Justice of Ukraine in the Autonomous Republic of Crimea, oblast, Kyiv and Sevastopol city administrations of justice
- district, city, district in cities departments of state executive service of respective administrations of justice.

As for today the Department of State Executive Service improves the mechanism of the executive proceedings and inculcates the experience of other countries with the developed system of the decisions execution.

Please indicate the sources for the questions 157 and 160

Information of the Department of State Executive Service of the Ministry of Justice of Ukraine

8. 2. Execution of decisions in criminal matters**8. 2. 1. Functioning****163) Is there a judge who is in charge of the enforcement of judgments?**

- Yes
 No

If yes, please specify his/her functions and activities (e.g. Initiative or control functions). If no, please specify which authority is entrusted with the enforcement of judgements (e.g. prosecutor).

According to the Criminal Procedural Code of Ukraine the supervision of the laws while executing the court decisions in criminal cases as well as while the application of the measures of law-enforcement nature connected to the limitation of the personal freedom of the individual is provided by prosecutor.

The prescription of the prosecutor as regarding to the execution of the court decisions, statements and regulations shall be subject to immediate execution by all relevant bodies and officials.

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

Yes

No

If yes, please specify:

You can indicate below:

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

9. Notaries

9. 1. Statute

9. 1. 1. Functioning

165) Do you have notaries in your country? If no, go to question 170.

- Yes
 No

166) Is the status of notaries:

- | | | |
|---|---|------|
| a private one (without control from public authorities)? | <input type="checkbox"/> yes,
number: | |
| a status of private worker ruled by the public authorities? | <input checked="" type="checkbox"/> yes,
number: | 3897 |
| a public one? | <input checked="" type="checkbox"/> yes,
number: | 1288 |
| other? | <input type="checkbox"/> yes,
number and
specify: | |

167) Do notaries have duties:

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

Please specify:

According to the Law "On Notariate" , notariate is a system of bodies and officials obliged to:

- certify rights
- certify facts that have legal value
- perform other notary actions provided by this Law with the purpose to give them the legal credibility.

Please indicate the source for the question 166

The information of the Ministry of Justice of Ukraine

9. 1. 2. Supervision

168) Is there an authority entrusted with the supervision and the control of the notaries?

Yes

No

169) Which authority is responsible for the supervision and the control of the notaries:

a professional body?

the judge?

the Ministry of Justice?

the prosecutor?

other?

Please specify:

You can indicate below:

- any useful comments for interpreting the data mentioned above

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

During the last year

10. Functioning of justice

10. 1. Foreseen reforms

10. 1. 1. Reforms

170) Can you provide information on the current debate in your country regarding the functioning of justice? Are there reforms foreseen? (for example changes in legislation, changes in the structure of the judiciary, innovation programmes, etc). If yes, please specify.

The judicial reform in Ukraine is still going on.

20 January 2006 the President of Ukraine by its Decree №39/2006 has approved the Action Plan for the Honouring by Ukraine of its Obligations and Commitments to the Council of Europe (furthermore – the Action Plan). This document is elaborated with the aim to accomplish the honouring obligations and commitments of Ukraine to the Council of Europe listed in the Parliament Assembly of the Council of Europe's Opinion No. 190 (1995) as well as in the international agreements concluded within this international organization, comments of the experts of the European Commission for Democracy through Law (Venice Commission) and taking into account the Parliamentary Assembly of the Council of Europe's Resolution No. 1466 and Recommendation No. 1722 of 5 October 2005.

In general, the Action Plan is composed of around different 70 activities which must be accomplished by the state bodies with the aim to provide the functioning of the democratic institutions, the rule of law and respect for human rights and fundamental freedoms of a person. The mentioned activities, in general, comprise the elaboration and adoption of the new laws and legal acts of Ukraine or making the amendments to already existing documents with a view to complete the reform of the judicial and the penitentiary systems, to create conditions for the execution of judgements of the European Court of Human Rights, ensuring the right to individual application, in order to ensure the protection of human rights and freedoms etc.

The Action Plan provides the set activities to ensure independence and effectiveness of the judiciary, completion of the judicial reform, and to that end the Government of Ukraine should:

1. prepare, with participation of the Supreme Court of Ukraine, and submit according to the established procedure to the President of Ukraine the Draft Concept on the Reform of the Judiciary and the Judicial Procedure in Ukraine and the Draft Action Plan to implement thereof
2. prepare and submit according to the established procedure to the President of Ukraine the Draft Law on the amendments to the legislation of Ukraine on the judiciary and the judicial process in Ukraine, in particular, with regard to:
 - streamlining the system of courts, bringing it in compliance with the Constitution of Ukraine
 - enhancing rules on the maintenance of courts and the remuneration of judges
 - enhancing the order of appointment of presidents of the courts, limiting the scope of their authority
 - introducing a transparent competitive system of selection of judges and an efficient system of education and training of judges, introducing a random distribution of cases among judges within one court
3. submit proposals on the improvement of the order of funding of courts
4. prepare, with participation of the Supreme Court of Ukraine, and submit according to the established procedure to the President of Ukraine the Draft Law on the Court Fee.

The Action Plan also pays attention to the drafting of Law on the new wording of the Law on the Bar concerning the establishment in Ukraine of a professional self-governing institution of the Bar according to Council of Europe standards, reinforcing the guarantees of advocates' activity.

The President's Decree No 39 also expresses its need to prepare, with participation of the Supreme Court of Ukraine and according to opinion of the Venice Commission and PACE Recommendation 1604 (2003), and submit according to the established procedure to the Cabinet of Ministers of Ukraine the Draft Law on the new wording of the Law of Ukraine "On the Prokuratura" concerning the transformation of the Prokuratura into a democratic institution, whose functions are in compliance with principles of the rule of law.

The Ministry of Justice of Ukraine submits to the Cabinet of Ministers of Ukraine quarterly reports on the implementation of the Action Plan for their analysis and subsequent informing of the President of Ukraine.

As for today the Government of Ukraine has accomplished more than a half all the activities of the Action Plan. Among them are:

- adopted Law of Ukraine «On the Enforcement of Judgments and the Application of the Case-Law of the European Court of Human Rights»
- approved Decrees of the President of Ukraine «On Action Plan for 2006 concerning the improvement of the judicial system and providing the fair trial in Ukraine in accordance with the European standards» of 20 March

2006 №242, «On Concept of Improving of the Judiciary to provide the fair trial in Ukraine in accordance with the European standards» of 10 May 2006 №361, «On Concept of the Formation of the System of Free Legal Aid» of 9 June 2006 № 509, «On National Plan for Ensuring Proper Enforcement of Judgements» of 27 June 2006 № 587,

- published resolution of the Cabinet of Ministers of Ukraine of 31 May 2006 №784 «On Activities to implement the Law of Ukraine «On the Enforcement of Judgments and the Application of the Case-Law of the European Court of Human Rights» and
- issued prescription of the Cabinet of Ministers of Ukraine of 16 November 2005 №459-p «On Approval of the Concept of the State Program of providing the courts with the proper premises for the period 2006 - 2010».

The Government of Ukraine continues to accomplish the tasks set by the Action Plan for the Honouring by Ukraine of its Obligations and Commitments to the Council of Europe.