



EUROPEAN COMMISSION FOR THE EFFICIENCY OF JUSTICE
(CEPEJ)

SCHEME FOR EVALUATING JUDICIAL SYSTEMS 2011

Country: Ukraine

National correspondent

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1. Demographic and economic data

1. 1. General information

1. 1. 1. Inhabitants and economic information

1) Number of inhabitants (if possible on 1 January 2011)

45 778 500

2) Total of annual public expenditure at state level and where appropriate, public expenditure at regional or federal entity level (in €) - (If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP)

	Amount
State level	29 106 607 981
Regional / federal entity level (total for all regions / federal entities)	NA

3) Per capita GDP (in €)

2 257

4) Average gross annual salary (in €)

2 378

5) Exchange rate from national currency (non-Euro zone) to € on 1 January 2011

10.57

A.1

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

Q4 : The State general fund revenues have increased and this permitted to increase the level of minimum monthly wage in Ukraine.

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

1. 2. Budgetary data concerning judicial system

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

6) Annual approved public budget allocated to the functioning of all courts, in €(if possible without the budget of the public prosecution services and without the budget of legal aid):

TOTAL annual approved budget allocated to the functioning of all courts (1 + 2 + 3 + 4 + 5 + 6 + 7)	<input checked="" type="checkbox"/> Yes	264 262 150
1. Annual public budget allocated to (gross) salaries	<input checked="" type="checkbox"/> Yes	146 973 360
2. Annual public budget allocated to computerisation (equipment, investments, maintenance)		NA
3. Annual public budget allocated to justice expenses (expertise, interpretation, etc), without legal aid. NB: this does not concern the taxes and fees to be paid by the parties.		NA
4. Annual public budget allocated to court buildings (maintenance, operating costs)	<input checked="" type="checkbox"/> Yes	6 766 912
5. Annual public budget allocated to investments in new (court) buildings		NA
6. Annual public budget allocated to training		

and education	<input checked="" type="checkbox"/> Yes	453 280
7. Other (please specify):	<input checked="" type="checkbox"/> Yes	110 068 598

7) If you cannot separate the budget of the public prosecution services and the budget of legal aid from the budget allocated to all courts, please indicate it clearly. If "other", please specify:

For the purpose of functioning of all courts the State Budget of Ukraine for 2010 is separately allocated to:

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

The TOTAL annual approved budget allocated to the mentioned bodies is 264 262 150 euro.

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

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

8) Are litigants in general required to pay a court tax or fee to start a proceeding at a court of general jurisdiction:

- for criminal cases?
 for other than criminal cases?

If yes, are there exceptions to the rule to pay court a tax or fee? Please provide comments on those exceptions:

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

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

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

9 174 192

10) Annual approved public budget allocated to the whole justice system, in €(this global budget does not include only the court system as defined under question 6, but also the prison system, the judicial protection of juveniles, the operation of the Ministry of Justice, etc.)

NA

727 216 001

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

Court system	Yes
Legal aid	Yes
Public prosecution services	Yes
Prison system	Yes
Probation services	No
Council of the judiciary	Yes
Judicial protection of juveniles	No
Functioning of the Ministry of Justice	Yes
Refugees and asylum seekers services	Yes
Other	No

Comment :

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

12) Annual approved public budget allocated to legal aid, in €- If one or several data are not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP.

	Total annual approved public budget allocated to legal aid (12.1 + 12.2)	12.1 Annual public budget allocated to legal aid in criminal law cases	12.2 Annual public budget allocated to legal aid in non criminal law cases
Amount (in €)	NA	178253	NAP

13) Total annual approved public budget allocated to the public prosecution services (in €). Please indicate in the "comment" box below any useful information to explain the figures provided.

 Amount

115 165 081

Comment :

14) Authorities formally responsible for the budgets allocated to the courts (multiple options possible) :

	Preparation of the total court budget	Adoption of the total court budget	Management and allocation of the budget among the individual courts	Evaluation of the use of the budget at a national level
Ministry of Justice	No	No	No	No
Other ministry	Yes	No	No	Yes
Parliament	No	Yes	No	No
Supreme Court	Yes	No	No	No
Judicial Council	No	No	No	No
Courts	No	No	No	No
Inspection body	No	No	No	No
Other	Yes	No	Yes	Yes

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

"Other Ministry" - the Ministry of Finance;

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

A.2

You can indicate below:

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

The Verkhovna Rada of Ukraine approves the State Budget of Ukraine and introduces amendments to it; controls the implementation of the State Budget of Ukraine and adopts decisions in regard to the report on its implementation. The State Budget of Ukraine and the budgetary system of Ukraine is determined exclusively by the laws of Ukraine. The budgetary system of Ukraine is built on the principles of just and impartial distribution of social wealth among citizens and territorial communities.

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

The State aspires to a balanced budget of Ukraine.

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

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

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

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

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

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

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

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

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

The State Court Administration makes "budget requests" (information about total annual funds needed by all courts (the exception is for the Supreme Court of Ukraine, the High Specialized Court of Ukraine on Civil and Criminal Cases, the High Administrative Court of Ukraine and the High Commercial Court of Ukraine), main areas of appropriate expenses, grounds for such expenses etc. The Supreme Court, the High Specialized Court on Civil and Criminal Cases, the High Administrative Court and the High Commercial Court make their "budget requests" by themselves. Budget requests are submitted to the Ministry of Finance. It drafts the Law On the State Budget for the appropriate year taking into account the budget requests and budget resources. The Law on the State Budget is approved by the Parliament.

Question 6#2#7 : There is a decrease of 87.20% of the annual public budget allocated to training and education between 2008 and 2010. The annual public budget allocated to training and education was limited because the State's expenditure was redistributed in favor of other budget programs.

Question 9 :

Costs of court proceedings include:

(1) court taxes; and

(2) so-called information and technical support fee (only in civil and commercial proceedings).

The amount given in the Scheme is the annual income of fees received by the State from paying the fees for the information and technical support of the court proceedings.

The amount of annual income of court taxes is not available.

The annual income of court taxes or fees received by the State between 2008 and 2010 increased because the rates of the court taxes is calculated on the basis of the level of minimum wage set in law on the State budget for the relevant year. Between 2008 and 2010 the level of minimum wage increased and thus the rates of court taxes have also increased. Also, the increased number of complaints lodged with the courts should also be taken into account.

Question 12 : The annual approved public budget in respect legal aid is allocated only to legal aid in criminal law cases.

Please indicate the sources for answering the questions 6, 9, 10, 11, 12 and 13.

Law of Ukraine "On the State Budget of Ukraine for 2010".

2. Access to Justice and to all courts

2. 1. Legal aid

2. 1. 1. Principles

16) Does legal aid apply to:

	Criminal cases	Other than criminal cases
Representation in court	Yes	Yes
Legal advice	Yes	No

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

Yes

No

If yes, please specify:

18) Can legal aid be granted for the fees that are related to the enforcement of judicial decisions (e.g. fees of an enforcement agent)?

Yes

No

If yes, please specify:

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

	Criminal cases	Other than criminal cases
	No	No

Comment :

20) Number of cases referred to the court and for which legal aid has been granted. Please specify in the "comment" box below, when appropriate. If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP.

[This question concerns only the annual number of cases for which legal aid has been granted to those referring a case to a court. It does not concern legal advice provided for cases that are not brought before the court.]

	Number
Total	NA
in criminal cases	NA
other than criminal cases	NA

Comment :

21) In criminal cases, can individuals who do not have sufficient financial means be assisted by a free of charge (or financed by a public budget) lawyer? Please specify in the "comment" box below.

Accused individuals	Yes
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Victims	No
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Comment :

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

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

- Yes
 No

23) Does your country have an income and assets evaluation for granting legal aid to the applicant ? Please provide in the "comment" box below any information to explain the figures provided. If you have such a system but no data available, please indicate NA. If you do not have such a system, please indicate NAP.

	amount of annual income (if possible for one person) in €	amount of assets in €
for criminal cases	NAP	NAP
for other than criminal cases?	NAP	NAP

Comment :

24) In other than criminal cases, is it possible to refuse legal aid for lack of merit of the case (for example for frivolous action or no chance of success)?

- Yes
 No

If yes, please explain the exact criteria for denying legal aid:

NAP

25) Is the decision to grant or refuse legal aid taken by :

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

26) Is there a private system of legal expense insurance enabling individuals (this does not concern companies or other legal persons) to finance court proceedings?

- Yes
 No

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

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

Insurance of legal expenses in Ukraine is a growing phenomenon.

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

criminal cases?	Yes
other than criminal cases?	Yes

B.1

You can indicate below:

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

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

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

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

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

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

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

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

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

Please indicate the sources for answering the questions 20 and 23

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

2. 2. Users of the courts and victims**2. 2. 1. Rights of the users and victims****28) Are there official internet sites/portals (e.g. Ministry of Justice, etc.) for which the general public may have free of charge access to the following:**

The websites mentioned could appear in particular on the internet website of the CEPEJ. Please specify in the "comment" box below what documents and information the addresses for "other documents" include:

- | | | |
|---|---|--|
| <input type="checkbox"/> legal texts (e.g. codes, laws, regulations, etc.)? Internet address(es): | <input checked="" type="checkbox"/> Yes | www.court.gov.ua,
www.rada.gov.ua
www.scourt.gov.ua, |
| <input type="checkbox"/> case-law of the higher court/s? Internet address(es): | <input checked="" type="checkbox"/> Yes | www.sc.gov.ua,
www.arbitr.gov.ua,
www.vasu.gov.ua |
| <input type="checkbox"/> other documents (e.g. downloadable forms, online registration)? | <input checked="" type="checkbox"/> Yes | www.court.gov.ua,
www.minjust.gov.ua |

Comment :

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

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

- Yes
 No

If yes, please specify:

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

- Yes
 No

If yes, please specify:

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

31) Are there special favourable arrangements to be applied, during judicial proceedings, to the following categories of vulnerable persons. If "other vulnerable person" and/or "other special arrangements", please specify it in the "comment" box below.

[This question does not concern the police investigation phase of the procedure and does not concern compensation mechanisms for victims of criminal offences, which are addressed under questions 32 to 34.]

	Information mechanism	Special arrangements in court hearings	Other
Victims of rape	No	Yes	No
Victims of terrorism	No	No	No
Children (witnesses or victims)	No	Yes	No
Victims of domestic violence	No	No	No
Ethnic minorities	No	Yes	No
Disabled persons	No	Yes	No
Juvenile offenders	No	Yes	No
Other (e.g. victims of human trafficking)	No	No	No

Comment :

As to the special arrangements in court hearings:

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

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

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

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

- Yes
 No

If yes, for which kind of offences

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

33) If yes, does this compensation consist in:

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

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

- Yes
 No

If yes, please inform about the recovery rate, the title of the studies, the frequency of the studies and the coordinating body:

35) Do public prosecutors have a specific role with respect to the victims (protection and assistance)?

- Yes
 No

If yes, please specify:

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

36) Do victims of crime have the right to dispute a public prosecutor's decision to discontinue a case?

Please verify the consistency of your answer with that of question 105 regarding the possibility for a public prosecutor "to discontinue a case without needing a judicial decision".

- Yes
 No
 NAP (the public prosecutor cannot decide to discontinue a case on his/her own. A judicial decision is needed).

If necessary, please specify:

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

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

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

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

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

The Law "On Procedure for Compensation of Damage Caused to Citizen by Unlawful Actions of Bodies of Inquiry, Pre-trial Investigation, Prosecutors and Courts" provides a right for compensation in case of: the court acquittal; unlawful charge, unlawful detention, unlawful search while criminal investigation or court consideration, unlawful seizure, unlawful property arrest, unlawful removal from the office and other procedural actions restricting or infringing the civic rights and freedoms, unlawful operational search actions what is duly found in the acquittal or other court judgment (except the decision or the ruling of the court to remit the case for additional investigation or fresh consideration).

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

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

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

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

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

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

39) If possible, please specify:

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

40) Is there a national or local procedure for making complaints about the functioning of the judicial system (for example the treatment of a case by a judge or the duration of a proceeding)?

Yes

No

41) Please specify which authority is responsible for dealing with such complaints and inform whether there is or not a time limit to respond and/or a time limit for dealing with the complaint (multiple options possible). Please give information concerning the efficiency of this complaint procedure in the "comment" box below.

	Time limit to respond (e.g. to acknowledge receipt of the complaint, to provide information on the follow-up to be given to the complaint, etc.)	Time limit for dealing with the complaint	No time limits
Court concerned	No	No	No
Higher court	No	No	No
Ministry of Justice	No	No	No
High Council of the Judiciary	Yes	Yes	No
Other external bodies (e.g. Ombudsman)	Yes	Yes	No

Comment :

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

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

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

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

A copy of decision on opening a disciplinary case by the High Qualifications Commission of Judges of Ukraine should be sent to the judge against whom the case was initiated and to the person whose application was the basis for initiating the case not later than three days after the decision had been made. Furthermore, according to Article 20 of the Law of Ukraine "On Applying of Citizens" applications are considered and solved within not more than one month from the date of their receiving, and those, which do not need additional consideration - immediately, but not later than within fifteen days from date of their receiving.

3. Organisation of the court system

3. 1. Functioning

3. 1. 1. Courts

42) Number of courts considered as legal entities (administrative structures) and geographic locations. If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP.

	Total number
42.1 First instance courts of general jurisdiction (legal entities)	720
42.2 First instance specialised Courts (legal entities)	NAP
42.3 All the Courts (geographic locations) (this includes 1st instance courts of general jurisdiction, first instance specialised courts, all second instance courts and courts of appeal and all supreme courts)	768

43) Number (legal entities) of first instance specialised courts (or specific judicial order). If "other specialised 1st instance courts", please specify it in the "comment" box below. If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP.

Total (must be the same as the data given under question 42.2)	NAP
Commercial courts	NAP
Labour courts	NAP
Family courts	NAP
Rent and tenancies courts	NAP
Enforcement of criminal sanctions courts	NAP
Administrative courts	NAP
Insurance and / or social welfare courts	NAP
Military courts	NAP
Other specialised 1st instance courts	NAP

Comment :

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

The system of courts of general jurisdiction is composed of:

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

Number of local courts (first instance courts) which consider:

criminal cases - 666;
commercial cases - 27;
administrative cases - 27.

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

- Yes
 No

If yes, please specify:

The change in the structure of courts, in particular, the reduction of the number of courts and the change in the powers of courts, has been made by the adoption of amendments to the Law of Ukraine "On the Judiciary and the Status of Judges" on 7 July 2010.

45) Number of first instance courts (geographic locations) competent for the following cases. If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP.

	Number of courts
a debt collection for small claims	NAP
a dismissal	NAP
a robbery	NAP

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

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

Decree of the President of Ukraine of 20 May 2011 N 591/2011 "On network issues of local general courts and courts of appeal";

Law of Ukraine "On the Judiciary and the Status of Judges" as amended on 7 July 2010.

3. 1. 2. Judges and non-judge staff

46) Number of professional judges sitting in courts (if possible on 31 December 2010) (please give the information in full-time equivalent and for permanent posts actually filled for all types of courts - general jurisdiction and specialised courts). If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP.

Please provide in the "comment" box below any useful comment for interpreting the data above.

[Please make sure that public prosecutors and their staff are excluded from the following figures (they will be part of questions 55-60). If a distinction between staff attached to judges and staff attached to prosecutors cannot be made, please indicate it clearly.]

Please indicate the number of posts that are actually filled at the date of reference and not the theoretical budgetary posts.]

	Total	Males	Females
Total number of professional judges (1 + 2 + 3)	8823	NA	NA
1. Number of first instance professional judges	6162	NA	NA
2. Number of second instance (court of appeal) professional judges	2382	NA	NA
3. Number of supreme court professional judges	279	NA	NA

Comment :

The mentioned number of posts are actually filled on 31 December 2010.

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

Q46#1#1 : The total number of professional judges between 2008 and 2010 increased due to the actual fulfilment of vacant positions of professional judges.

47) Number of court presidents (professional judges). If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP.

	Total	Males	Females

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

48) Number of professional judges sitting in courts on an occasional basis and who are paid as such (if possible on 31 December 2010). If necessary, please provide in the "comment" box below any information to explain the answer under question 48.

Gross figure NAP
If possible, in full-time equivalent NAP

Comment :

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

49) Number of non-professional judges who are not remunerated but who can possibly receive a simple defrayal of costs (if possible on 31 December 2010) (e.g. lay judges and "juges consulaires", but not arbitrators and persons sitting in a jury).

Gross figure NAP

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

- Yes
 No

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

All types of cases

51) Number of citizens who were involved in such juries for the year of reference:

NA

52) Number of non-judge staff who are working in courts for judges (if possible on 31 December 2010) (this data should not include the staff working for public prosecutors; see question 60) (please give the information in full-time equivalent and for permanent posts actually filled). If "other non-judge staff", please specify it in the "comment" box below.

Total non-judge staff working in courts (1 + 2 + 3 + 4 + 5)	NA
1. Rechtspfleger (or similar bodies) with judicial or quasi-judicial tasks having autonomous competence and whose decisions could be subject to appeal	NAP
2. Non-judge staff whose task is to assist the judges (case file preparation, assistance during the hearing, court recording, helping to draft the decisions) such as registrars	NA
3. Staff in charge of different administrative tasks and of the management of the courts (human resources management, material and equipment management, including computer systems, financial and budgetary management, training management)	NA
4. Technical staff	NA
5. Other non-judge staff	NA

Comment :

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

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

54) Have the courts delegated certain services, which fall within their powers, to private providers (e.g. IT services, training of staff, security, archives, cleaning)?

Yes

No

If yes, please specify:

C.1**You can indicate below:**

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

see C.3

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

The order of the State Judicial Administration of Ukraine of 17 January 2011, N 11 "On determining the number of judges in local general courts, regional courts of appeal, courts of appeal of cities of Kyiv and Sevastopol, the Court of Appeal of the Autonomous Republic of Crimea";
official statistics on the website of the Judicial Power of Ukraine ("Судова влада України") (www.court.gov.ua).

3. 1. 3. Public prosecutors and staff

55) Number of public prosecutors (if possible on 31 December 2010) (please give the information in full-time equivalent and for permanent posts actually filled, for all types of courts – ordinary and specialised jurisdictions). If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP. Please provide in the "comment" box below any useful information for interpreting the data.

	Total	Males	Females
Total number of prosecutors (1 + 2 + 3)	11 400	NA	NA
1. Number of prosecutors at first instance level	7 551	NA	NA
2. Number of prosecutors at second instance (court of appeal) level	3 164	NA	NA
3. Number of prosecutors at supreme court level	685	NA	NA

Comment :

Question 55#1#4 : This is the number of prosecutors in the General Prosecutor's Office).

56) Number of heads of prosecution offices. If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP. Please provide in the "comment" box below any useful information for interpreting the data.

	Total	Males	Females
Total number of heads of prosecution offices (1 + 2 + 3)	853	NA	NA
1. Number of heads of prosecution offices at first instance level	820	NA	NA
2. Number of heads of prosecution offices at second instance (court of appeal) level	32	NA	NA
3. Number of heads of prosecution offices at supreme court level	1	1	0

Comment :

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

- Yes
 No

Number (full-time equivalent)

58) If yes, please specify their title and function:

59) If yes, is their number included in the number of public prosecutors that you have indicated under question 55?

- Yes
 No

60) Number of staff (non-public prosecutors) attached to the public prosecution service (if possible on 31 December 2010) (without the number of non-judge staff, see question 52) (in full-time equivalent and for permanent posts actually filled).

Number

NA

C.2

You can indicate below:

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

see C.3

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

Question 60 : Information provided by the General Prosecutor's Office.

3. 1. 4. Court budget and new technologies

61) Who is entrusted with responsibilities related to the budget within the court? If "other", please specify it in the "comment" box below.

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

Comment :

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

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

Word processing	+50% of courts
Electronic data base of jurisprudence	+50% of courts
Electronic files	+50% of courts
E-mail	+50% of courts
Internet connection	+50% of courts

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

Case registration system	+50% of courts
Court management information system	-50% of courts
Financial information system	-50% of courts
Videoconferencing	-10% of courts

64) For the electronic communication and exchange of information between the courts and their environment, what are the computer facilities used by the courts?

Electronic web forms	+50% of courts
Website	+50% of courts
Follow-up of cases online	0 % of courts
Electronic registers	0 % of courts
Electronic processing of small claims	0 % of courts
Electronic processing of undisputed debt recovery	0 % of courts
Electronic submission of claims	0 % of courts
Videoconferencing	-10% of courts
Other electronic communication facilities	0 % of courts

65) The use of videoconferencing in the courts (details on question 65). Please indicate in the "comment" box below any clarification on the legal framework and the development of videoconferencing in your country.

	65.1 In criminal cases, do courts or prosecution offices use videoconferencing for hearings in the presence of defendants or witnesses?	65.2 Can such court hearing be held in the police station and/or in the prison?	65.3 Is there any specific legislation on the conditions for using videoconferencing in the courts / prosecution offices, especially in order to protect the rights of the defence?	65.4 Is videoconferencing used in other than criminal cases?
	No	No	No	No

Comment :

Until June 2011 the national legislation of Ukraine did not provide the use of videoconferencing by the courts.

C.3

You can indicate below:

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

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

Justice in Ukraine is administered exclusively by the courts. The delegation of the functions of the courts, and also the appropriation of these functions by other bodies or officials, is not permitted.

The jurisdiction of the courts extends to all legal relations that arise in the State.

The court system of Ukraine consist of courts of general jurisdiction and the court of constitutional jurisdiction.

The courts of general jurisdiction form a unified system of courts; the Constitutional Court of Ukraine is the sole body of constitutional jurisdiction in Ukraine.

Judicial decisions are adopted by the courts in the name of Ukraine and are mandatory for execution throughout the entire territory of Ukraine.

According to the Constitution of Ukraine the system of courts of general jurisdiction is based on the principles of

territorial division, specialization, and instanceness.

The Supreme Court of Ukraine is the 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 is not permitted.

The system of courts of general jurisdiction is composed of:

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

The highest judicial body in the system of courts of general jurisdiction is the Supreme Court of Ukraine. The highest judicial body of specialized courts are the respective high specialized courts (the High Specialized Court on Civil and Criminal Cases, covering civil and criminal cases; the High Administrative Court of Ukraine, covering administrative cases; the High Commercial Court of Ukraine, covering economic and commercial cases).

Law of Ukraine «On the Judicial System and the Status of Judges» of 7 July 2010 (hereinafter referred to as the "Law"), which became effective on 30 July 2010, substantially reformed the court system of Ukraine and modified the procedural rules for all types of court proceedings.

The amendments to the Code of Commercial Procedure of Ukraine, introduced by the Law, particularly provide for:

- the implementation of an automatic system of document circulation aiming at, inter alia, the automatic assignment of judges to consider cases. Any breach of this automatic order of assignment of a judge to a case will be a ground for challenging such judge's competence over the particular dispute;
- the possibility for an interested party to change the subject matter and/or the grounds of the dispute only before the commencement of the consideration of the dispute on the merits;
- the possibility for the respondent in the dispute to file its counter-claim against the plaintiff only before the commencement of the consideration of the dispute on the merits;
- an exhaustive list of court rulings subject to further appeal separately from the court decision;
- the possibility of challenging decisions of the first instance court with the High Commercial Court of Ukraine only after their review in the appellate procedure;
- the restriction of the authority of the Supreme Court of Ukraine to review decisions of the High Commercial Court of Ukraine only to cases (1) where there exists a different application by the cassation instance court of the same substantive rules in similar relations, which results in the rendering of different decisions in similar cases; or (2) where an international judicial institution, recognized by Ukraine, establishes a violation by Ukraine of its international obligations while considering a dispute.

Furthermore, the Law amends the Ukrainian Codes of Criminal, Civil, Commercial, and Administrative Procedure by shortening the time limitations for the consideration of disputes by the first instance court, as well as for the further challenge of first instance court decisions/rulings with the respective courts of the appellate and cassation instances.

In addition, the Code of Administrative Procedure, as amended, now explicitly provides for the possibility of e-mailing or faxing a court's summons to the subject of governmental authority involved in the dispute, as well as to the other parties, provided that such other parties have informed the court of their e-mail addresses/fax numbers and have not objected to their obtaining of court documents by e-mail/fax.

The Law also eliminates the existing system of military courts, and provides for the establishment by 1 October 2010, of a totally new High Specialized Court on Civil and Criminal Cases as the cassation instance court for civil and criminal disputes. At the same time, the Law restricts the authority of the Supreme Court of Ukraine to review the decisions of those specialized courts of the cassation instance described above.

Finally, the Law of Ukraine "On the Status of Judges", the Resolution of the Verkhovna Rada of Ukraine "On the Order on the Entering into Effect of the Law of Ukraine "On the Status of Judges"", the Law of Ukraine "On the Judicial System", and the Law of Ukraine "On the Order of the Election and Dismissal of a Professional Judge by the Verkhovna Rada of Ukraine" have been cancelled by the Law.

3. 2. Performance and evaluation

3. 2. 1. Performance and evaluation

66) Is there a centralised institution that is responsible for collecting statistical data regarding the functioning of the courts and judiciary?

Yes

No

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

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

67) Are individual courts required to prepare an annual activity report (that includes, for example, data on the number of cases processed or pending cases, the number of judges and administrative staff, targets and assessment of the activity)?

Yes

No

68) Do you have, within the courts, a regular monitoring system of court activities concerning:

The monitoring system aims to assess the day-to-day activity of the courts (namely, what the courts produce) thanks in particular to data collections and statistical analysis (see also questions 80 and 81).

number of incoming cases?

number of decisions delivered?

number of postponed cases?

length of proceedings (timeframes)?

other?

If other, please specify:

69) Do you have a system to evaluate regularly the activity (in terms of performance and output) of each court?

The evaluation system refers to the performance of the court systems with prospective concerns, using indicators and targets. The evaluation may be of more qualitative nature (see questions 69-77). It does not refer to the evaluation of the overall (good) functioning of the court (see question 82).

Yes

No

Please specify:

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

Yes

No

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

incoming cases

length of proceedings (timeframes)

closed cases

pending cases and backlogs

productivity of judges and court staff

percentage of cases that are processed by a single sitting judge

enforcement of penal decisions

satisfaction of court staff

satisfaction of users (regarding the services delivered by the courts)

judicial quality and organisational quality of the courts

costs of the judicial procedures

other:

If other, please specify:

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

- Yes
 No

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

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

If other, please specify:

74) Are there performance targets defined at the level of the court (if no please skip to question 77)?

- Yes
 No

75) Who is responsible for setting the targets for the courts?:

- executive power (for example the ministry of Justice)?
 legislative power
 judicial power (for example a High Judicial Council, Higher Court)
 other

If other, please specify:

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

77) Who is responsible for evaluating the performance of the courts (see questions 69 to 76)? (multiple options possible)

- High Council of judiciary
 Ministry of justice
 inspection authority
 Supreme Court
 external audit body
 other

If other, please specify:

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

78) Are quality standards determined for the whole judicial system (are there quality systems for the judiciary and/or judicial quality policies)?

- Yes
 No

If yes, please specify:

79) Do you have specialised court staff that is entrusted with these quality standards?

- Yes
 No

80) Do you monitor backlogs and cases that are not processed within a reasonable timeframe for:

- in civil law cases
 in criminal law cases
 in administrative law cases

81) Do you monitor waiting time during court procedures?

- Yes
 No

If yes, please specify:

82) Is there a system to evaluate the overall (smooth) functioning of courts on the basis of an evaluation plan (plan of visits) agreed beforehand?

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

- Yes
 No

Please specify the frequency of the evaluation:

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

- Yes
 No

If yes, please give further details:

C.4**You can indicate below:**

- any useful comments for interpreting the data mentioned in this chapter
- the characteristics of your court monitoring and evaluation systems

According to Article 32 of the Law of Ukraine "On Judiciary and Status of Judges" high specialized courts analyze court statistics, study and generalize the case law.

As to the State Administration of Ukraine, this body:

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

4. Fair trial

4. 1. Principles

4. 1. 1. General information

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

NAP

85) 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):

86) Number of cases regarding Article 6 of the European Convention of Human Rights on duration and non-execution. If data is not available, please indicate NA.

	Cases declared inadmissible by the Court	Friendly settlements	Judgements establishing a violation	Judgements establishing a non violation
Civil proceedings - Article 6§1 (duration)	NA	6	42	0
Civil proceedings - Article 6§1 (non-execution)	NA	5	1	0
Criminal proceedings - Article 6§1 (duration)	NA	0	17	0

Please indicate the sources:

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

D.1

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

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

4. 2. Timeframes of proceedings

4. 2. 1. General information

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

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

If yes, please specify:

88) Are there simplified procedures for:

- civil cases (small disputes)?
 criminal cases (small offences)?
 administrative cases?

there is no simplified procedure

If yes, please specify:

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

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

The court order may be issued if:

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

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

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

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

Yes

No

If yes, please specify:

4. 2. 2. Caseflow management and timeframes of judicial proceedings

90) Comment:

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

91) First instance courts: number of other than criminal cases. If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP.

Note 1: cases mentioned in categories 3 to 5 (enforcement, land registry, business register) should be presented separately in the table. Cases mentioned in category 6 (administrative law) should also be separately mentioned for the countries which have specialised administrative courts or separate administrative law procedures or are able to distinguish in another way between administrative law cases and civil law cases.

Note 2: check if the figures submitted are (horizontally and vertically) consistent. Horizontal consistent data means: "(pending cases on 1 January 2010 + incoming cases) – resolved cases" should give the correct number of pending cases on 31 December 2010. Vertical consistency of data means that the sum of the individual case categories 1 to 7 should reflect the total number of other than criminal law cases.

	Pending cases on 1 Jan. '10	Incoming cases	Resolved cases	Pending cases on 31 Dec. '10
Total of other than criminal law cases (1+2+3+4+5+6+7)*	586 712	3 965 136	3 959 961	591 887
1. Civil (and commercial) litigious cases (if feasible without administrative law cases, see category 6)*	370 197	2 262 838	2 330 634	302 401
2. Civil (and commercial) non-litigious cases, e.g. uncontested payment orders, request for a change of name, etc. (if feasible without administrative law cases; without enforcement cases,	NA	NA	NA	NA

registration cases and other cases, see categories 3-7)*				
3. Enforcement cases	NAP	NAP	NAP	NAP
4. Land registry cases**	NAP	NAP	NAP	NAP
5. Business register cases**	NAP	NAP	NAP	NAP
6. Administrative law cases (litigious and non-litigious)	216 515	1 702 298	1 629 327	289 486
7. Other cases (e.g. insolvency registry cases)	NA	NA	NA	NA

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

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

94) First instance courts: number of criminal law cases. If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP.

Note: please check if the figures submitted are (horizontally and vertically) consistent. Horizontal consistent data means that: "(pending cases on 1 January 2010 + incoming cases) – resolved cases" should give the correct number of pending cases on 31 December 2010. Vertical consistency of data means that the sum of the categories 8 and 9 for criminal cases should reflect the total number of criminal cases.

	Pending cases on 1 Jan. '10	Incoming cases	Resolved cases	Pending cases on 31 Dec. '10
Total criminal cases (8+9)	49 458	200 279	198 109	51 628
8. Criminal cases (severe criminal offences)	NA	NA	NA	NA
9. Misdemeanour and / or minor offences cases	NA	NA	NA	NA

95) The classification of cases between severe criminal cases and misdemeanour and/or minor criminal cases may be difficult. Some countries might have other ways of addressing misdemeanour offences (for example via administrative law procedures).

Please indicate, if feasible, what case categories are included under "severe criminal cases" and the cases included under "misdemeanour and /or minor criminal cases".

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

96) Comments on questions 91 to 95. You can indicate, for instance, the specific situation in your country, give explanations on NA or NAP answers or explain the calculation of the total number of other than criminal law cases or differences in horizontal consistency, etc.

Q91#1#1 : The total of other than criminal law cases / pending cases on 1 Jan.'10 between 2008 and 2010 decreased due to the prompt consideration of cases in accordance with terms set by the provisions of the procedural laws.

Q91#2#1 : The total of other than criminal law cases / incoming cases between 2008 and 2010 increased due to the considerable activity of citizens in respect of challenging the non-payment of social benefits provided by relevant laws of Ukraine and challenging the illegal actions, omissions and decisions of the state and local authorities.

Q91#3#1 : The total of other than criminal law cases / Resolved cases between 2008 and 2010 increased due to growth of the incoming cases and prompt consideration of cases in accordance with terms set by the provisions of the procedural laws.

Q94#1#1 : The total criminal law cases / Pending cases on 1 Jan.'10 between 2008 and 2010 decreased due to the lowering of the number of violations of time-limits for assigning a case for trial.

Q94#2#1 : The total criminal law cases / Incoming cases between 2008 and 2010 decreased due to the long-pending investigations of criminal cases. The number of incoming cases actually depends on the work of the pre-trial investigation bodies in respect of prompt and full disclosures of crimes, identification of persons guilty in commitment of crimes and ensuring the correct application of the criminal law to them.

Q94#3#1 : The total criminal law cases / Resolved cases between 2008 and 2010 decreased due to the diminution of incoming cases and lengthy consideration of criminal cases for various reasons.

Q94#4#1 : The total criminal law cases / Pending cases on 31 Dec.'10 between 2008 and 2010 increased because of the lengthy consideration of criminal cases for various reasons, for instance, adjournments of court hearings.

General comment : In 2010 considerably increased the activity of citizens in respect of judicial protection of their socio-economic rights, in particular, right to social protection via social benefits, guaranteed by different Social Laws of Ukraine.

97) Second instance courts: total number of "other than criminal law" cases. If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP.

Note: the total of "other than criminal" cases includes all of the following categories (categories 1 to 7).

	Pending cases on 1 Jan. '10	Incoming cases	Resolved cases	Pending cases on 31 Dec. '10
Total of other than criminal law cases (1+2+3+4+5+6+7)	358 251	674 667	756 237	213 644
1. Civil (and commercial) litigious cases (if feasible without administrative law cases, see category 6)*	18 129	421 762	348 648	91 243
2. Civil (and commercial) non-litigious cases, e.g. uncontested payment orders, request for a change of name, etc. (if feasible without administrative law cases; without enforcement cases, registration cases and other cases, see categories 3-7)*	NA	NA	NA	NA
3. Enforcement cases	NAP	NAP	NAP	NAP
4. Land registry cases	NAP	NAP	NAP	NAP
5. Business register cases	NAP	NAP	NAP	NAP
6. Administrative law cases (litigious and non-litigious)	340 122	252 905	407 589	122 401
7. Other cases (e.g. insolvency registry cases)	NA	NA	NA	NA

98) Second instance courts: total number of criminal law cases. If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP.

	Pending cases on 1 Jan. '10	Incoming cases	Resolved cases	Pending cases on 31 Dec. '10
Total criminal cases (8+9)	3 065	34 235	33 594	3 706
8. Criminal cases (Severe criminal offences)	NA	NA	NA	NA
9. Misdemeanour and/or minor offences cases	NA	NA	NA	NA

Comment :

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

99) Highest instance courts: total number of "other than criminal law" cases. If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP.

Note: the total of "other than criminal law cases" includes all of the following categories (categories 1 to 7).

	Pending cases on 1 Jan. '10	Incoming cases	Resolved cases	Pending cases on 31 Dec. '10
Total of other than criminal law cases (1+2+3+4+5+6+7)	68 847	71 511	80 870	59 450
1. Civil (and commercial) litigious	1 420	28 114	24 422	5 112

cases (if feasible without administrative law cases, see category 6)				
2. Civil (and commercial) non-litigious cases, e.g. uncontested payment orders, request for a change of name, etc. (if feasible without administrative law cases; without enforcement cases, registration cases and other cases, see categories 3-7)	NA	NA	NA	NA
3. Enforcement cases	NA	NA	NA	NA
4. Land registry cases	NA	NA	NA	NA
5. Business register cases	NA	NA	NA	NA
6. Administrative law cases (litigious and non-litigious)	67 427	43 397	56 448	54 338
7. Other cases (e.g. insolvency registry cases)	NA	NA	NA	NA

100) Highest instance courts: total number of criminal law cases. If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP.

	Pending cases on 1 Jan. '10	Incoming cases	Resolved cases	Pending cases on 31 Dec. '10
Total criminal cases (8+9)	NAP	2 146	1 653	493
8. Criminal cases (severe criminal offences)	NA	NA	NA	NA
9. Misdemeanour cases (minor offences)	NA	NA	NA	NA

Comment :

The High Specialized Court on Civil and Criminal Cases, which covers civil and criminal cases, started his activity from 1 November 2010.

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

101) Number of litigious divorce cases, employment dismissal cases, robbery cases and intentional homicide cases received and processed by first instance courts. If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP.

	Pending cases on 1 Jan. '10	Incoming cases	Resolved cases	Pending cases on 31 Jan. '10
Litigious divorce cases	20 764	152 109	153 471	19 402
Employment dismissal cases	473	1 567	1 521	519
Robbery cases	15 348	74 882	73 948	16 282
Intentional homicide	1 241	2 840	2 760	1 321

102) Average length of proceedings, in days (from the date the application for judicial review is lodged). If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP.

[The average length of proceedings has to be calculated from the date the application for judicial review is lodged to the date the judgment is made, without taking into account the enforcement procedure. New: the question concerns first, second and third instance proceedings.]

	% of decisions subject to appeal	% pending cases more than 3 years	Average length in 1st instance (in days)	Average length in 2nd instance (in days)	Average length in 3rd instance (in days)	Average total length of the total procedure (in days)
Litigious divorce cases	NA	NA	NA	NA	NA	NA
Employment dismissal cases	NA	NA	NA	NA	NA	NA
Robbery cases	NA	NA	NA	NA	NA	NA
Intentional homicide	NA	NA	NA	NA	NA	NA

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

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

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

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

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

(a) Non-litigious divorce

A marriage can be terminated in the following two ways:

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

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

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

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

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

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

(b) Litigious Divorce

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

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

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

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

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

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

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

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

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

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

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

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

NA

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

- to conduct or supervise police investigation
- to conduct investigations
- when necessary, to 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 enforcement procedure
- to discontinue a case without requiring a judicial decision (ensure consistency with question 36!)

- to end the case by imposing or negotiating a penalty or measure without requiring a judicial decision
- other significant powers

If "other significant powers", please specify:

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

- Yes
- No

If yes, please specify:

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

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

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

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

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

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

107) Case proceedings managed by the public prosecutor: total number of 1st instance criminal cases. If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP.

	Received by the public prosecutor	Cases discontinued by the public prosecutor (see 108 below)	Cases concluded by a penalty or a measure imposed or negotiated by the public prosecutor	Cases charged by the public prosecutor before the courts
Total number of 1st instance criminal cases	NA	NA	NA	NA

108) Total cases which were discontinued by the public prosecutor. If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP.

	Number
Total cases which were discontinued by the public prosecutor (1+2+3)	NA
1. Discontinued by the public prosecutor because the offender could not be identified	NA
2. Discontinued by the public prosecutor due to the lack of an established offence or a specific legal situation	NA
3. Discontinued by the public prosecutor for reasons of opportunity	NA

109) Do the figures include traffic offence cases?

- Yes

No

D.2

You can indicate below:

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

Q97#1#1 : The total of other than criminal law cases / Pending cases on 1 Jan.'10 between 2008 and 2010 increased due to the general growth of the work-load of the courts of appeal and the lengthy consideration of cases for various reasons.

Q97#2#1 : The total of other than criminal law cases / Incoming cases between 2008 and 2010 increased due to the growth of appeals against the court's decisions and judgments held by the first instance courts, in particular, judgments held in respect of challenging the judgments concerning social benefits provided by relevant laws of Ukraine.

Q97#3#1 : The total of other than criminal law cases / Resolved cases between 2008 and 2010 increased due to the vast growth of incoming cases, in particular, cases in respect of challenging the judgments concerning social benefits provided by relevant laws of Ukraine.

Q98#1#1 : The total criminal law cases / Pending cases on 1 Jan.'10 between 2008 and 2010 decreased due to the prompt consideration of incoming cases in accordance with terms set by the provisions of the procedural laws.

Q98#2#1 : The total criminal law cases / Incoming cases between 2008 and 2010 decreased due to the diminution of appeals against the judgments held by the first instance courts.

Q98#3#1 : The total criminal law cases / Resolved cases between 2008 and 2010 decreased due to the diminution of incoming cases.

Q99#2#1 : The total of other than criminal law cases / Incoming cases between 2008 and 2010 decreased due to the diminution of cassation appeals against the judgments held by the lower courts and improvement of the quality of judgments held by the courts of appeal.

Q99#3#1 : The Total of other than criminal law cases /Resolved cases between 2008 and 2010 increased due to court's examination of the vast number of pending cases on 1 January 2010 and consideration of incoming cases in accordance with terms set by the provisions of the procedural laws.

Q100#2#1 : The total criminal law cases / Incoming cases between 2008 and 2010 decreased due to the diminution of cassation appeals against the judgments held by the lower courts and improvement of the quality of judgments held by the courts of appeal. Also, the number of incoming cases is given as of 1 November 2010 (when the new cassation court - High Specialized Court on Civil and Criminal Cases - started his activity).

Q100#3#1 : The total criminal law cases / Resolved cases between 2008 and 2010 decreased due to the diminution of incoming cases.

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

As to the questions 91, 94, 97, 98, 99, 100, 101 the information was provided by the State Judicial Administration of Ukraine (which is responsible for organization of the statistic work), High specialized courts: High Specialized Court on Civil and Criminal, High Administrative Court of Ukraine and High Commercial Court of Ukraine.

As to the questions 107 and 108 the information was provided by the General Prosecutor's Office.

5. Career of judges and public prosecutors

5. 1. Recrutement and promotion

5. 1. 1. Recrutement and promotion

110) How are judges recruited?

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

If other, please specify:

111) Authority(ies) in charge: are judges initially/at the beginning of their carrier recruited and nominated by:

[This question strictly concerns the authority entrusted with the decision to recruit (not the authority formally responsible for the nomination if different from the former)].

- An authority made up of judges only?
- An authority made up of non-judges only?
- An authority made up of judges and non-judges?

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

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

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

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

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

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

- Yes
- No

If no, which authority is competent for the promotion of judges ?

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

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

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

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

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

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

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

- Yes
 No

115) Is the status of prosecution services:

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

Please specify:

116) How are public prosecutors recruited?

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

If "other", please specify:

117) Authority(ies) in charge: are public prosecutors initially/at the beginning of their carrier recruited by:

[This question concerns the authority entrusted with the responsibility to recruit only (not the authority formally responsible for the nomination if different from the former).]

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

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

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

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

- Yes
 No

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

119) Which procedures and criteria are used for promoting public prosecutors? Please specify:

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

120) Is there a system of qualitative individual assessment of the public prosecutors' activity?

- Yes
 No

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

- Yes
 No

If yes, are there exceptions? (e.g. dismissal as a disciplinary sanction)? Please specify:
 For the first time the judges are appointed to the office for a period of 5 years, however this term cannot be considered a probation period. Following this period the judges can be appointed for an undetermined period (for life).

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

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

122) If there is a probation period for judges (e.g. before being appointed "for life"), how long is this period? If the situation is not applicable in your country, please indicate NAP.

	Duration of probation period (in years)
	5

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

- Yes
 No

If yes, are there exceptions (e.g. dismissal as a disciplinary sanction)? Please specify:

The the Prosecutor General shall be dismissed in the following cases:

- 1) for health reasons;
- 2) for the breach of combining jobs prohibition;
- 4) for the violation of oath;
- 5) being convicted for crime;
- 6) forfeiting of citizenship;
- 7) for his own motion;
- 8) after the termination of the period, he was appointed for.

The prosecutors are to be dismissed in the following cases:

- 1) for the violation of oath;
- 2) being convicted for crime;
- 3) forfeiting of citizenship;
- 4) breach of legal requirements as to the prosecution service;
- 5) as a result of disciplinary proceedings.

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

	Duration of the probation period (in years)
	1

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

- Yes
 No

Please indicate the length of the mandate in years:

5

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

Yes

No

Please indicate the length of the mandate (in years)

5

E.1

You can indicate below:

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

5. 2. Training

5. 2. 1. Training

127) Training of judges

Initial training (e.g. attend a judicial school, traineeship in the court)	Compulsory
General in-service training	Compulsory
In-service training for specialised judicial functions (e.g. judge for economic or administrative issues)	No training offered
In-service training for management functions of the court (e.g. court president)	No training offered
In-service training for the use of computer facilities in courts	No training offered

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

General in-service training	Regular (e.g. every 3 months)
In-service training for specialised judicial functions (e.g. judge for economic or administrative issues)	No training offered
In-service training for management functions of the court (e.g. court president)	No training offered
In-service training for the use of computer facilities in courts	No training offered

129) Training of public prosecutors

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

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

General in-service training	Regular (e.g. every 3 months)
In-service training for specialised functions (e.g. public prosecutor specialised on organised crime)	Occasional (e.g. at times)
In-service training for management functions of the court (e.g. Head of prosecution office, manager)	Occasional (e.g. at times)
In-service training for the use of computer facilities in office	No training offered

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

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

	Initial training only	Continuous training only	Initial and continuous training
One institution for judges	No	No	Yes
One institution for prosecutors	No	Yes	No
One single institution for both judges and prosecutors	NAP	NAP	NAP

Comment :

Training institution for prosecutors is the National Academy of Prosecution of Ukraine (special institute within the Academy). The general budget of the National Academy of Prosecution of Ukraine for 2011 is around 3 million euros. Initial and continuous training institution for judges is the National School of Judges of Ukraine. Its budget for 2011 is around 7 thousand euros.

E.2

You can indicate below:

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

5. 3. Practice of the profession**5. 3. 1. Practice of the profession****132) Salaries of judges and public prosecutors.**

	Gross annual salary in €, on 31 December 2010	Net annual salary in €, on 31 December 2010
First instance professional judge at the beginning of his/her career	6 120	4 872
Judge of the Supreme Court or the Highest Appellate Court (please indicate the average salary of a judge at this level, and not the salary of the Court President)	20 388	16 080
Public prosecutor at the beginning of his/her career	5 232	4 116
Public prosecutor of the Supreme Court or the Highest Appellate Instance (please indicate the average salary of a public prosecutor at this level, and not the salary of the Public prosecutor General)	5 520	4 927

Comment :

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

The salary indicated in the column "Judge of the Supreme Court or the Highest Appellate Court" is an average annual salary of a judge of the Highest appellate court. The gross average annual salary of a judge of the Supreme Court of Ukraine is around 27960 euros, net annual salary is around 23328 euros.

133) Do judges and public prosecutors have the following additional benefits?

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

134) If other financial benefit, please specify:

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

135) Can judges combine their work with any of the following other functions ?

	With remuneration	Without remuneration
Teaching	Yes	Yes
Research and publication	Yes	Yes
Arbitrator	No	No
Consultant	No	No
Cultural function	Yes	Yes
Political function	No	No
Other function	No	No

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

No authorisation required

137) Can public prosecutors combine their work with any of the following other functions ?

	With remuneration	Without remuneration
Teaching	Yes	Yes
Research and publication	Yes	Yes
Arbitrator	No	No
Consultant	No	No
Cultural function	Yes	Yes
Political function	No	No
Other function	No	No

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

No authorisation required

139) Productivity bonuses: do judges receive bonuses based on the fulfilment of quantitative objectives in relation to the delivery of judgments (e.g. number of judgments delivered over a given period of time)?

Yes No

If yes, please specify the conditions and possibly the amounts:

5. 4. Disciplinary procedures

5. 4. 1. Disciplinary procedures

140) Who is authorised to initiate disciplinary proceedings against judges (multiple options possible)?

- Citizens
- Relevant Court or hierarchical superior
- High Court / Supreme Court
- High Judicial Council
- Disciplinary court or body
- Ombudsman
- Parliament
- Executive power
- Other?
- This is not possible

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

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

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

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

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

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

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

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

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

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

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

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

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

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

	Judges	Public prosecutors
Total number (1+2+3+4)	877	602
1. Breach of professional ethics	NA	24
2. Professional inadequacy	NA	578
3. Criminal offence	NA	NA
4. Other	NA	NA

Comment :

145) Number of sanctions pronounced against judges and public prosecutors. If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP.

If "other", please specify it in the "comment" box below. If a significant difference between the number of disciplinary proceedings and the number of sanctions exists, please indicate the reasons in the "comment" box below.

	Judges	Public prosecutors
Total number (total 1 to 9)	46	602
1. Reprimand	46	583
2. Suspension	NA	NA
3. Removal of cases	NA	NA
4. Fine	NA	NA
5. Temporary reduction of salary	NA	NA
6. Position downgrade	NA	NA
7. Transfer to another geographical (court) location	NA	NA
8. Resignation	NA	19
9. Other	NA	NA

Comment :

According to the information available, 5 recommendations as to the dismissal of judges were submitted to the High Council of Justice.

E.3

You can indicate below:

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

Please indicate the sources for answering questions 144 and 145

General Prosecutor's Office and the High Qualification Commission of Judges of Ukraine

6. Lawyers

6. 1. Status of the profession and training

6. 1. 1. Status of the profession and training

146) Total number of lawyers practising in your country.

102 540

147) Does this figure include "legal advisors" who cannot represent their clients in court (for example, some solicitors or in-house counsellors)?

Yes

No

148) Number of legal advisors who cannot represent their clients in court:

NA

149) Do lawyers have a monopoly on legal representation in (multiple options are possible):

Civil cases?

Criminal cases - Defendant?

Criminal cases - Victim?

Administrative cases?

There is no monopoly

If there is no monopoly, please specify the organisations or persons that may represent a client before a court (for example a NGO, a family member, a trade union, etc) and for which types of cases:

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

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

a national bar?

a regional bar?

a local bar?

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

Yes

No

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

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

Yes

No

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

Yes

No

If yes, please specify:

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

F.1

Please indicate the sources for answering questions 146 and 148:

Comments for interpreting the data mentioned in this chapter:

Question 146

The source of answering this is the Union of Lawyers of Ukraine.

This figure shows the number of members of the Union of Lawyers of Ukraine being practising legal professionals. It appears that the number of legal professionals practising in Ukraine is bigger, however, there is no other mechanism of calculation of their number. Additionally, the number of advocates who have respective certificates is 31 572.

6. 2. Practising the profession

6. 2. 1. Practising the profession

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

Yes

No

155) Are lawyers' fees freely negotiated?

Yes

No

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

Yes laws provide rules

Yes standards of the bar association provide rules

No, neither laws nor bar association standards provide rules

F.2

Useful comments for interpreting the data mentioned in this chapter:

6. 3. Quality standards and disciplinary proceedings

6. 3. 1. Quality standards and disciplinary proceedings

157) Have quality standards been determined for lawyers?

Yes

No

If yes, what are the quality criteria used?

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

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

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

- the bar association?
 the Parliament?
 other?

If "other", please specify:

159) Is it possible to file a complaint about :

- the performance of lawyers?
 the amount of fees?

Please specify:

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

160) Which authority is responsible for disciplinary procedures?

- the judge
 the Ministry of justice
 a professional authority
 other

If other, please specify:

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

161) Disciplinary proceedings initiated against lawyers. If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP. If "other", please specify it in the "comment" box below.

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

	Total number of disciplinary proceedings initiated (1 + 2 + 3 + 4)	1. Breach of professional ethics	2. Professional inadequacy	3. Criminal offence	4. Other
Number	491	349	NA	NA	142

Comment :

142 disciplinary proceedings were initiated against for the reasons of non-appearance before the court in a hearing (74) and adn violation of Law of Ukraine On Advocacy (68).

162) Sanctions pronounced against lawyers. If data is not available, please indicate NA. If the situation is not applicable in your country, please indicate NAP.

If "other", please specify it in the "comment" box below. If a significant difference between the number of disciplinary proceedings and the number of sanctions exists, please indicate the reasons in the "comment" box below.

	Total number of sanctions (1 + 2 + 3 + 4 + 5)	1.Reprimand	2. Suspension	3. Removal	4. Fine	5. Other (e.g. disbarment)
Number	116	NA	NA	NA	NA	NA

Comment :

F.3

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

7. Alternative Dispute Resolution

7. 1. Alternative Dispute Resolution

7. 1. 1. Alternative Dispute Resolution

163) Does the legal system provide for mediation procedures? If no skip to question 168

[Judicial mediation: in this type of mediation, there is always the intervention of a judge or a public prosecutor who facilitates, advises on, decides on or/and approves the procedure. For example, in civil disputes or divorce cases, judges may refer parties to a mediator if they believe that more satisfactory results can be achieved for both parties. In criminal law cases, a public prosecutor can propose that he/she mediates a case between an offender and a victim (for example to establish a compensation agreement).]

Yes

No

164) Please specify, by type of cases, the organisation of judicial mediation:

	Court annexed mediation	Private mediator	Public authority (other than the court)	Judge	Public prosecutor
Civil and commercial cases	No	No	No	No	No
Family law cases (ex. Divorce)	No	No	No	No	No
Administrative cases	No	No	No	No	No
Employment dismissals	No	No	No	No	No
Criminal cases	No	No	No	No	No

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

Yes

No

If yes, please specify:

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

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

NA

167) Number of judicial mediation procedures.

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

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

Comment :

168) Does the legal system provide for the following ADR.

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

Mediation other than judicial mediation?	No
Arbitration?	Yes

Conciliation?	No
Other alternative dispute resolution?	Yes

Comment :

G.1

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

Please indicate the source for answering question 166:

8. Enforcement of court decisions

8. 1. Execution of decisions in civil matters

8. 1. 1. Functioning

169) Do you have enforcement agents in your judicial system?

- Yes
 No

170) Number of enforcement agents

6 357

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

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

Please specify their status and powers:

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

State bailiffs are state officials.

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

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

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

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

- Yes
 No

173) Is the profession of enforcement agents organised by?

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

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

- Yes
 No

175) Are enforcement fees freely negotiated?

- Yes
 No

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

Yes

No

Please indicate the source for answering question 170:

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

8. 1. 2. Efficiency of enforcement services

177) Is there a body entrusted with supervising and monitoring the enforcement agents' activity?

Yes

No

178) Which authority is responsible for supervising and monitoring enforcement agents?

a professional body?

the judge?

the Ministry of justice?

the public prosecutor?

other?

If other, please specify:

179) Have quality standards been determined for enforcement agents?

Yes

No

If yes, what are the quality criteria used?

The enforcement agents as state officials shall:

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

180) If yes, who is responsible for establishing these quality standards?

a professional body

the judge

the Ministry of Justice

other

If "other", please specify:

The parliament is responsible for establishing the quality standards

181) Is there a specific mechanism for executing court decisions rendered against public authorities, including for supervising such execution?

Yes

No

if yes, please specify

182) Is there a system for monitoring the execution?

- Yes
 No

If yes, please specify

national legislation provides for hierarcical monitoring system within the body.

183) What are the main complaints made by users concerning the enforcement procedure?

Please indicate a maximum of 3.

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

If other, please specify:

184) Has your country prepared or 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:

On 9/09/2011, a draft law "On state guarantees concerning execution of judicial decisions" was adopted by Parliament at the first reading. This draft law foresees a new procedure for the execution of judicial decisions delivered against the state. It also addresses some issues at the origin of the violations found by the Court. On 14/09/2011, the Committee of Ministers adopted a fourth Interim Resolution, strongly encouraging Ukraine to bring the legislative process to an end without further delay as well as calling upon the authorities to ensure that the draft law in question meets the principles of the Convention as set out in the Court's case-law, in order to constitute an appropriate response to the pilot judgment.

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

- for civil cases?
 for administrative cases?

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

NA

187) Number of disciplinary proceedings initiated against enforcement agents. If other, please specify it in the "comment" box below.

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

Total number of disciplinary proceedings (1+2+3+4)	NA
1. for breach of professional ethics	NA
2. for professional inadequacy	NA
3. for criminal offence	NA
4. Other	NA

Comment :

188) Number of sanctions pronounced against enforcement agents.

If "other", please specify it in the "comment" box below. If a significant difference between the number of disciplinary proceedings and the number of sanctions exists, please indicate the reasons in the "comment" box below.

Total number of sanctions (1+2+3+4+5)	<input type="checkbox"/> number:	1 473
1. Reprimand	<input type="checkbox"/> number:	979
2. Suspension		NA
3. Dismissal	<input type="checkbox"/> number:	7
4. Fine		NA
5. Other	<input type="checkbox"/> number:	487

Comment :

Among other disciplinary sanctions, applied to the state bailiffs, are: warning on partial professional inadequacy, 1 year delay in next rank conferring and 1 year delay in promotion to the higher office.

H.1

You can indicate below:

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

As regards question 172

Before being appointed for office the state bailiff shall pass special examination, which is obligatory for any state official before entering a position.

As regards question 173

The State Bailiffs' Service is a State body having its inner system of local, regional and central departments.

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

For the question 188 the source for answering is the Ministry of Justice of Ukraine

8. 2. Execution of decisions in criminal matters

8. 2. 1. Execution of decisions in criminal matters

189) Which authority is in charge of the enforcement of judgments in criminal matters? (multiple options possible)

- Judge
- Public prosecutor
- Prison and Probation Services
- Other authority

Please specify his/her functions and duties (initiative or monitoring functions). If "other authority", please specify:

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

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

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

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

190) Are the effective recovery rates of fines decided by a criminal court evaluated by studies?

- Yes
 No

191) If yes, what is the recovery rate?

- 80-100%
 50-79%
 less than 50%
 it cannot be estimated

Please indicate the source for answering this question:

H.2

You can indicate below:

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

9. Notaries

9. 1. Notaries

9. 1. 1. Notaries

192) Do you have notaries in your country? If no go to question 197

- Yes
 No

193) Are notaries:

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

private professionals (without control from public authorities)?	<input type="checkbox"/> number	
private professionals under the authority (control) of public authorities?	<input checked="" type="checkbox"/> number	5 466
public agents?	<input checked="" type="checkbox"/> number	1 368
other?	<input type="checkbox"/> number	

Comment :

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

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

If "other", please specify:

Notaries are empowered to conduct the following notarial actions:

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

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

- Yes
 No

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

- a professional body?
 the judge?
 the Ministry of justice?
 the public prosecutor?
 other?

If other, please specify:

I.1

You can indicate below:

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

10. Court interpreters

10. 1. Court interpreters

10. 1. 1. Court interpreters

197) Is the title of court interpreters protected?

Yes

No

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

Yes

No

199) Number of accredited or registered court interpreters:

NAP

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

Yes

No

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

201) Are the courts responsible for selecting court interpreters? If no, please indicate in the "comment" box below which authority selects court interpreters.

Yes for recruitment and/or appointment for a specific term of office

Yes for recruitment and/or appointment on an ad hoc basis, according to the specific needs of given proceedings

- No

Comment :

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

J.1

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

According to the national procedural legislation in force (civil,commercial,criminal and administrative) an interpreter is a participant of the court proceedings. This shall be a person with a free command of both a language of court proceedings and other (foreign) language, or a person able to communicate with deaf, dumb or deaf-and-dumb people.

An interpreter shall be involved in court proceedings following the party's application (for civil cases) or on court's initiative in order to ensure the right to defence.

Please indicate the sources for answering question 199:

11. Judicial experts

11. 1. Judicial experts

11. 1. 1. Judicial experts

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

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

203) Is the title of judicial experts protected?

- Yes
- No

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

- Yes
- No

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

7 328

206) Are there binding provisions regarding the exercise of the function of judicial expert within judicial proceedings?

- Yes
- No

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

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

207) Are the courts responsible for selecting judicial experts?

If no, please indicate in the "comment" box below which authority selects judicial experts?

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

Comment :

The authority empowered to select and accredit judicial experts is Central Expert and Qualification Commission and its local subdivisions.

K.1

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

Please indicate the sources for answering question 205:

The source for answering question 205 is the Ministry of Justice of Ukraine

12. Foreseen reforms

12. 1. Foreseen reforms

12. 1. 1. Reforms

208) Can you provide information on the current debate in your country regarding the functioning of justice? Are there foreseen reforms? Please inform whether these reforms are under preparation or have only been envisaged. If possible, please observe the following categories:

1. (Comprehensive) reform plans

2. Budget

3. Courts and public prosecution services (e.g. powers and organisation, structural changes - e.g. reduction of the number of courts -, management and working methods, information technologies, backlogs and efficiency, court fees, renovations and construction of new buildings)

4. High Judicial Council

5. Legal professionals (judges, public prosecutors, lawyers, notaries, enforcement agents, etc.): organisation, education, etc.

6. Reforms regarding civil, criminal and administrative laws, international conventions and cooperation activities

7. Enforcement of court decisions

8. Mediation and other ADR

9. Fight against crime and prison system

10. Other

1. Comprehensive reforms in the field of justice

Judicial system and status of judges

On July 7, 2010 the Parliament of Ukraine adopted the Law On Judicial System and Status of Judges which comprehensively reformed the judicial system in accordance with European standards, and is called to solve existing problems and shortcomings.

The Law introduced a new mechanism for selection of judges, which is built on principles of competitiveness and transparency, which should improve the efficiency of the judiciary. According to the Law a candidate for the office of a judge shall pass special training and then a qualifying exam (through anonymous testing). The Law has also improved the disciplinary procedures for judges. Namely, the High Qualification Commission of Judges of Ukraine, through its disciplinary inspectors, had been empowered to decide issues related to the disciplinary proceedings against the judges of local and appellate courts.

Further, the Law provides for the procedure of appointing judges to administrative positions in courts. The authority responsible for appointing the heads and deputy heads of courts of general jurisdiction (except for the Supreme Court of Ukraine) is the High Council of Justice of Ukraine, which is an independent collegiate body.

It is important to note that most innovations of this law are aimed at ensuring the independence of judges and to help prevent and reduce corruption in the judiciary. The Law has introduced an automatized system of document circulation and distribution of cases in all courts of general jurisdiction. With the new rules, the courts' presidents are deprived of any possibility to affect the result of proceedings in any way.

In addition to the above, the Law improved the system of courts. In particular, it introduces a unified system of courts of cassation together with the corresponding higher courts. Thereby the problem of "dual cassation" (a situation when it was possible to review the judgments of general courts in cassation in a higher specialized court, with further possible review of decisions of these courts by the Supreme Court of Ukraine) that existed in Ukraine before the new law came into force had been solved.

Also, the Law amended the procedural codes, with the aim of optimizing the court proceedings and reducing their length. In particular, the terms of hearing of cases in appellate and cassation instances were cut by half; a new order of filing appeals was introduced; the courts of appeal were deprived of the right to return cases for new consideration etc.

Court fees

On 1 November 2011 a new Law On Court Fee entered into force. The Law envisages that the court fee is a fee collected on the entire territory of Ukraine for filing claims and complaints with the courts, and for the issuing of documents by courts; it is included in court expenses.

The payers of court fee are: citizens of Ukraine, foreigners, stateless persons, enterprises, institutions, organizations, other legal entities (including foreign ones), and individual persons – entrepreneurs that address courts. Article 4 of the Law provides for clear and foreseeable fee rates. The Law provides also for the procedure of use of the paid court fees, namely that the amounts of court fees are directed to ensure the execution of justice, improve the state of material and technical resources of courts, including creation and ensuring of functioning of the Unified Court Information System, the judicial power web-portal, local computer networks, modern court proceedings recording systems, purchase and maintenance of computer and copy equipment, implementation of digital signatures, and other needs.

The Law also introduces appropriate amendments to the Commercial Code and Commercial Procedural Code of Ukraine, the Civil Procedural Code of Ukraine, the Code of Administrative Proceedings of Ukraine, the Laws of Ukraine "On Consumer Rights Protection", "On Access to Judicial Decisions", "On Execution Procedure", and the Decree of the Cabinet of Ministers of Ukraine "On State Duty".

Criminal procedural legislation

To date the Criminal Procedural Code of Ukraine, which was adopted in 1960, is obsolete and requires cardinal amendments.

That's why the working group, created by the Administration of the President of Ukraine, in summer 2011 drafted the new Criminal Procedural Code of Ukraine and in August 2011 submitted it to the Council of Europe bodies for consideration.

2. Reforms regarding legal professionals

Advocates

The main Law that regulates the status, powers, duties and obligations of advocates in Ukraine is the Law On Advocacy of 1992. For the time being the Law requires comprehensive amendments.

In this context, by the Decree of the President of Ukraine of 22 November 2011 there was established a working group on reform of prosecutors' service and advocacy, which is to prepare proposals for reforms in the field of legal profession in accordance with international democratic standards.

To date the working group has drafted the Law On Advocacy, with regard to the recommendations of the Venice Commission and individual experts from the Council of Europe as regards previous drafts on the same issue.

Prosecutors

In order to bring the status and powers of the prosecutors' service in accordance with the standards of the Council of Europe the Ministry of Justice of Ukraine with the participation of the General Prosecutor's Office of Ukraine shall within the period of a year after the adoption of a new Criminal Procedural Code of Ukraine draft the Law On Amendments to the Law of Ukraine "On Prosecution".

Notaries

The main Law that regulates the status, powers, duties and obligations of notaries in Ukraine is the Law On notariat of 1993. As far as the law requires certain amendments in December 2010 the Ministry of justice adopted a Conception of reforming of notarial system of Ukraine. The first reform introduced concerned the establishment of High Qualification Commission of Notary, for the purpose of what Article 10 of the Law was amended and the Regulations On High Qualification Commission of Notary were adopted (April-August 2011). The following step in reforming notarial system was the adoption of Regulations on state registration of wills and inheritance contracts, Regulations on inheritance register, Regulations on state registration of private notaries etc.

To date the draft law On Amendments to the Law on Notariat is submitted to the Cabinet of Ministers for consideration. This draft Law provides for the status of a notary being a public officials and legal professionals; the status of assistant notary; introduces new transparent procedure of training of notaries and their admission to this activity in accordance with the requirements of the Constitution of Ukraine and international legal acts. The procedure proposed shall ensure real possibility for citizens regardless of their status to obtain a position of notary.

Further, the draft Law improves the methods of public control over the compliance of notarial activity with law, extends the legal grounds for bringing the notaries to justice for unlawful or improper performance of their professional duties. Moreover, the draft Law envisages the equalization of fees of public and private notaries.

3. Enforcement of judgments

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

This draft Law provides inter alia for:

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

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

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

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

4. Mediation

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

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

5. Fight against crime

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

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

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

