



European Network of Councils  
for the Judiciary (ENCJ)

Réseau européen des Conseils  
de la Justice (RECJ)

## Response questionnaire project group Timeliness

### Consiliul Superior al Magistraturii (Romania)

#### 1. The Court System and Available Statistics

##### 1.1. The Court System

**In Romania, the judicial authority consists of the following institutions:**

- the courts;
- the Public Ministry;
- the Superior Council of Magistracy.

**A. According to article 124 and 126 of the Romanian Constitution of 1991, subsequently revised in 2003, the principles of judicial organization are the following:**

- Justice is done in the name of law. Justice is one, impartial, and equal for all.
- Justice is achieved by means of the following courts:

a) The High Court of Cassation and Justice;

b) courts of appeal;

c) tribunals;

c) specialized tribunals;

e) courts of first instance/district courts;

f) military courts.

The **courts of first instance are judicial courts** without legal capacity, organized at the level of counties and at the level of the Bucharest municipality sectors.

Tribunals are courts with **legal capacity** organized at the level of each county and the city of Bucharest which, as a rule, sit in the county capital.

The Courts of appeal are courts with **legal capacity**, in whose circumscription two or several tribunals and specialized tribunals operate.

The military courts are:

- a) the military tribunals - there are 4 military tribunals operating in Bucharest, Cluj-Napoca, Iasi and Timisoara;
- b) Bucharest Territorial Military Tribunal;
- c) Bucharest Military Court of Appeal.

B. **The Public Ministry** exercises its powers in accordance with the law and it is led by the General Prosecutor of the Prosecutor's Office attached to the High Court of Cassation and Justice. Within the judicial activity, the Public Ministry represents the general interests of the society and defends legal order, as well as the citizens' rights and freedoms. Public prosecutors carry out their activity in accordance with the principles of legality, impartiality and hierarchical control, under the authority of the Minister of Justice, under the terms of law.

The following prosecutor's offices operate within the Public Ministry system:

- 1) The Prosecutor's Office attached to the High Court of Cassation and Justice;
- 2) The National Anticorruption Directorate;
- 3) The prosecutor's offices attached to courts of appeal;
- 4) The prosecutor's offices attached to tribunals;
- 5) The prosecutor's offices attached to the tribunals for minors and family;
- 6) The prosecutor's offices attached to courts of first instance;
- 7) Military prosecutor's offices.

Human resources: In 2009, there were **2266 prosecutors** working within the Public Ministry's level (the personnel schemes provide for a number of 2864 prosecutors).

C. The **Romanian Superior Council of Magistracy** was established on **June 1<sup>st</sup> 1909**, under the **Law of March 24<sup>th</sup> 1909** that amended the Law on judicial organization of 1890. In its present configuration, the Superior Council of Magistracy started operating on **January 11<sup>th</sup> 2005**, for a mandate of **6 years**.

In relation to the constitutional mission and the competencies, the Superior Council of Magistracy is an executive body.

In its capacity of "government body for justice" it mainly exercises administrative attributions. Also, it has a legislative component (regarding the elaboration of secondary legisla-

tion), as well as a jurisdictional component (that has in sight the settlement of disciplinary actions exercised against judges, prosecutors or assistant magistrates).

The Superior Council of Magistracy has legal personality and its own budget, being considered main budget administrator.

The Council's budget includes also the budget of the National Institute of Magistracy and of the National School of Clerks.

## 1.2. Statistic information on Courts, judges and cases

In 2009, workload of courts (HCCJ, 15 courts of appeal, 41 tribunals, 4 specialized tribunals, 179 district courts) reached **2.383.770 cases**.

In criminal matters number of registered cases - **275.091** (162.612 cases at the district courts, 84.310 cases at tribunals and 28.169 at courts of appeal)

In civil matters, lato sensu, number of registered cases - **2.108.679** (1.399.970 cases at the district courts, 562.526 cases at tribunals and 146.183 cases at the courts of appeal)

### A. First instance courts/district courts

In 2009, **179 courts of first instance** were functioning in Romania<sup>1</sup>.

Human resources: A number of 1776 judges operate effectively within the courts of first instance (the personnel scheme provides for 2155 judges, meaning that the occupational level is of 82,4%).

Workload: total workload of 1.562.582 cases (the cases on the docket at the end of 2008 +cases registered at the courts in 2009). Out of the total of 1.562.582 cases, 1.139.481 were finalized (72,9%).

According to the workload, the courts can be classified as follows:

- courts with a workload of under Courts with workload under 3000 cases– **54**;
- Courts with workload between 3000 and 5000 cases– **40**;
- Courts with workload between 5.000 and 10.000 cases - **43**;
- Courts with workload between 10.000 and 15.000 cases - **11**;
- Courts with workload between 15.000 and 20.000 cases -**9**;

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<sup>1</sup> The statistical data regarding the number of courts, the number of judges into office, as well as the statistic data regarding the court's workload, the caseload/judge at the level of courts, mentioned throughout the material regard the situation existing in 2009.

- Courts with workload between 20.000 and 30.000 cases -**12**;
- Courts with workload of over 30.000 cases - **10**.

Effective workload/judge – 915 cases

### **B. Tribunals**

There are **41 tribunals** operating in Romania. Also, there are 4 specialized tribunals, i.e.: **Brasov Tribunal for Minors and Family Cases, Argeş Commercial Tribunal, Cluj Commercial Tribunal, Mures Commercial Tribunal.**

Human resources: Within the tribunals, a number of **1290 judges** operate effectively (the personnel scheme provides for 1424 judges, meaning that the occupational level is of 93,8%)

Workload: total workload of 648.836 cases (the cases on the docket at the end of 2008 + cases registered at the courts in 2009). Out of the total of 648.836 cases cases, 460.724 were finalized (71,2%).

Taking into consideration the workload, the courts can be grouped as follows:

- Tribunals with workload under 5.000 cases - **1**;
- Courts with workload between 5.000 -10.000 cases-**15**;
- Courts with workload between 10.000 -15.000 cases-**11**;
- Courts with workload between 15.000 -20.000 cases-**8**;
- Courts with workload between 20.000 -30.000 cases-**4**;
- Courts with workload over than 30.000 cases - **2**.

Effective workload / judge – 860 cases

### **C. Courts of appeal**

There are **16 courts of appeal** functioning in Romania (15 civil courts of appeal and 1 military court of appeal).

Human resources: Within the courts of appeal, a number of 708 judges operate effectively (scheme provides for 752 judges, meaning that the occupational level is of 86,67%).

Workload: total workload of 174.352 cases (the cases on the docket at the end of 2008 + cases registered at the 15 civil courts of appeal in 2009). Out of the total of 174.352 cases, 138.436 were finalized (79,4%).

Comparing the workload, courts of appeal can be classified as follows:

- Courts with a workload under 7000 cases - 5;
- Courts with a workload between 7000 - 15,000 cases - 8;

- Courts with a workload of activity over 15,000 cases - 2.

Effective workload/judge: 595 cases

#### **D. High Court of Cassation and Justice**

Human resources: A number of 112 judges operate within the HCCJ (the personnel scheme provides for 121 judges).

Workload: total workload of 39.786 cases (the cases on the docket at the end of 2008 + cases registered in 2009). Out of the total of 39.786 cases, 27.188 were finalized, out of which: 18.569 second appeals, 948 first instance cases, 5004 requests for changing territorial jurisdiction, competence issues - 510, other – 2157.

Effective workload/judge: 1132 cases

#### **E. Military courts**

- Military tribunals (4):

Workload: total workload of 400 cases, 372 were finalized. Operativity/efficiency level:93%

- Bucharest Military Tribunal

Workload: total workload of 137 cases, 119 were finalized. Operativity/efficiency level:86,9 %

- Bucharest Military Court of Appeal

Workload: total workload of 73 cases, 60 were finalized. Operativity/efficiency level:82,2 %

### **1.3. Statistic information on processing time**

In its annual general *Report on Justice* The CSM reports only aggregated data about the average duration of trials at different levels of jurisdictions and reports on the causes for the exiting delays and backlogs, where applicable.

#### **A. First instance courts/district courts**

**Civil cases – total 1.009.888 out of which:** 161.871 –complaints were processed in a timeframe of under 6 months, 534.501( 84,53% - this figure is report to a total of 848.017 cases, meaning the total 1.009.888 cases – 161.871 complaints) were processed in a timeframe of 0-6 months, 55.509- 8,78% were processed in a timeframe of 6-12 months, 34891 cases -5,52% were processed in a timeframe of 1-2 years and 7455 cases -1,18% were processed in a timeframe of more than 2 years.

**Criminal cases** – total 129.593 cases out of which 117.193 – 90,4% were processed in a timeframe of less than 6 months, 6947 cases -7,7% were processed in a timeframe of 6-12 months, 2088 cases – 1,6% were processed in a timeframe of 1-2 years and 343 cases - 0,3% were processed in a timeframe more than 2 years.

**Operativity/ efficiency level 76,73% .**

Out of the total workload of 1.562.582 cases, 1.139.481 cases were solved/finalized, leaving 432.101 cases pending, including suspended cases of 77.500 .

## **B. Tribunals**

**Civil cases, first instance – 254.501:**

- cases processed in a timeframe of 0-6 months: 215.811 (84,79%)
- cases processed in a timeframe of 6-12 months:25762 (10,12%)
- cases processed in a timeframe of 1-2 years: 9194 (3,61%)
- cases processed in a timeframe of more than 2 years: 3.734 (1,46%)

**Criminal cases, first instance –29.837:**

- cases processed in a timeframe of 0-6 months: 28.320 (94,91%)
- cases processed in a timeframe of 6-12 months:1116 ( 3,74%)
- cases processed in a timeframe of 1-2 years: 327 (1,10%)
- cases processed in a timeframe of more than 2 years: 74 ( 0,25%)

**Civil cases, appeal–19.799:**

- cases processed in a timeframe of 0-6 months: 15.078 (76,16%)
- cases processed in a timeframe of 6-12 months:3449 (17,42%)
- cases processed in a timeframe of 1-2 years: 961 ( 4,85%)
- cases processed in a timeframe of more than 2 years: 311 (1,57%)

**Criminal cases, appeal:**

- cases processed in a timeframe of 0-6 months: 11.175 (87,22%)
- cases processed in a timeframe of 6-12 months: 1.368 (10,68%)
- cases processed in a timeframe of 1-2 years: 238 (1,86%)
- cases processed in a timeframe of more than 2 years: 32 (0,25%)

**Civil cases, second appeal–112.751:**

- cases processed in a timeframe of 0-6 months: 102.282 (90,71%),
- cases processed in a timeframe of 6-12 months: 8.991 (7,97%),
- cases processed in a timeframe of 1-2 years: 1.235 (1,1%)
- cases processed in a timeframe of more than 2 years: 225 (0,22%)

**Criminal cases, second appeal: 31.023**

- cases processed in a timeframe of 0-6 months: 30.479 (98,25%)
- cases processed in a timeframe of 6-12 months: 497 (1,60%)
- cases processed in a timeframe of 1-2 years: 47 (0,15%)

**Operativity/ efficiency level 75,16% .**

Out of the total workload of 646.836 cases, 460.724 cases were solved/finalized, leaving 186.112 cases pending, including suspended cases of 33.859.

**C. Courts of appeal**

**Civil cases, first instance – 15.535:**

- cases processed in a timeframe of 0-6 months: 13.709 (89,40%)
- cases processed in a timeframe of 6-12 months: 1.166 (7,60%)
- cases processed in a timeframe of 1-2 years: 373 (2,43%)
- cases processed in a timeframe of more than 2 years: 87 (0,57%)

**Criminal cases, first instance –3.630:**

- cases processed in a timeframe of 0-6 months: 3.462 (95,37%)
- cases processed in a timeframe of 6-12 months: 145 (3,99%)
- cases processed in a timeframe of 1-2 years: 23 (0,63%)

**Civil cases, appeal–8.240:**

- cases processed in a timeframe of 0-6 months: 6.845 (83,07%)
- cases processed in a timeframe of 6-12 months: 1.022 (12,40%)
- cases processed in a timeframe of 1-2 years: 235 (2,85%)
- cases processed in a timeframe of more than 2 years: 138 (1,67%)

**Criminal cases, appeal:**

- cases processed in a timeframe of 0-6 months: 2.284 (91,36%)
- cases processed in a timeframe of 6-12 months: 181 (7,24%)
- cases processed in a timeframe of 1-2 years: 32 (1,28%)
- cases processed in a timeframe of more than 2 years: 3 (0,12%)

**Civil cases, second appeal–90.054:**

- cases processed in a timeframe of 0-6 months: 86.477 (96,03%),
- cases processed in a timeframe of 6-12 months: 2.811 (3,12%),
- cases processed in a timeframe of 1-2 years: 951 (0,66%)
- cases processed in a timeframe of more than 2 years: 175 (0,19%)

**Criminal cases, second appeal: 18.677**

- cases processed in a timeframe of 0-6 months: 18.298 (97,97%)
- cases processed in a timeframe of 6-12 months: 368 de (1,97%)
- cases processed in a timeframe of 1-2 years: în 11 (0,06%)

**Operativity/ efficiency level 83,42% .**

Out of the total workload of 174.352 cases, 138.436 cases were solved/finalized, leaving 35.916 cases pending, including suspended cases of 8404.

#### D. High Court of Cassation and Justice

Operativity/ efficiency level 70,46 % .

Out of the total workload of 39.786 cases, 27.188 cases were solved/finalized.

Medium timeframe for solving cases is listed below:

<i>Nature of the cases</i>	up to 2 months	2-4 months	4-6 months	over 6 months	<i>TOTAL</i>
<i>Second appeals</i>	2792	3618	5419	6740	18.569
<i>First instance cases</i>	469	320	100	59	948
<i>requests for changing territorial jurisdiction</i>	1645	407	2206	737	5004
<i>competence issues</i>	180	136	126	68	510
<i>extraordinary means of appeal – contestation</i>	176	242	231	298	947
<i>extraordinary means of appeal – revisions</i>	174	126	224	279	803
<i>requests for changing composition of judging panel</i>	21	-	2	-	23
<i>other</i>	102	50	188	44	384
<i>TOTAL</i>	5568	4899	8496	8225	27188

## 2. Statistics, Requirements and Transparency

### 2.1. What statistics are provided for on a regular basis?

On a quarterly, biannual and annual basis, the following statistics are provided for courts and prosecutors offices at all levels of jurisdiction:

- workload at the courts/prosecutors' offices. Workload analysis entails statistics on new cases, backlogs, solved cases.
- operativity/efficiency level
- effective workload/judge, effective workload/prosecutor
- human resources situation.

Plus, annually, in the report on justice the SCM publishes statistical data on: number of functioning courts/ prosecutors' offices, persons submitted to criminal trial, persons definitively convicted, age of defendants, victims' categories, categories of crimes, categories of applied sentences, length of judicial proceedings.

### 2.2. Are provided statistics published?

The report on justice mentioned above is elaborated and published by the Superior Council of Magistracy. The report is presented every year to the Parliament by the SCM. Report is published on the website of the Council at: [www.csm1909.ro/csm/index.php?cmd=24](http://www.csm1909.ro/csm/index.php?cmd=24) .

Thus the report is available to the public. Moreover the Ministry of Justice, the Prosecutors' Office attached to the HCCJ, the HCCJ and all courts of appeal and prosecutors' offices attached to these are involved in the preparation of the report.

The quarterly, biannual and annual reports on the activity of courts and prosecutors offices are submitted to the SCM Plenum for debates and afterwards posted on the website of the Council at the Statistics section [www.csm1909.ro/csm/index.php?cmd=2301](http://www.csm1909.ro/csm/index.php?cmd=2301) and [www.csm1909.ro/csm/index.php?cmd=2302](http://www.csm1909.ro/csm/index.php?cmd=2302) .

Is bench marking encouraged?

Yes and it used in practice. Comparative analysis of courts is realized against the previous years and against the national average measurements. For instance the effective workload/judge is compared against the average workload/judge/level of court.

See also the statistics provided at point 1.2

### 2.3. Is processing time of individual cases transparent?

Yes.

An integrated IT system - the ECRIS system - was developed by the Ministry of Justice and the courts to make the decisions of the courts available to the public. Thus, through externally funded programs, on the website of the Ministry of Justice a publicly available portal to every court in Romania, from all levels of jurisdiction (except the High Court of Cassation and Justice which has its own website) was created [www.portal.just.ro](http://www.portal.just.ro) . The portal is an interface of all the courts in Romania. The internet page of every court (from all levels of jurisdiction) is publicly available for viewing. On the internet page of every court, there is a section for *Cases' Records* through which online access is granted to a certain case. Searching a case by its number on the *Cases' Records* of the website will reveal the name and quality of the parties, date of registration, object of the case (divorce), subject matter of the case (family and minors case) procedural stage (first instance, appeal, second appeal, etc.), progress in the case - number and dates of courts sessions, minutes of each court session, verdict of the court, as well as more general information on the calendar of court sessions, list of cases for a certain session, relevant jurisprudence of the courts of appeal on various types of cases. Thus progression of individual cases is available, not only for interested persons – parties, etc. but also to courts presidents, judges, Judicial Inspection, CSM, Ministry of Justice, etc.

Through the proposed introduction of an updated version of ECRIS 4, other facilities will be available, such as issuing automatic reports regarding length of proceedings at a certain court – per subject of cases, per quality of parties, etc. or to make comparisons between courts on this issue.

#### 2.4. Are requirements for processing time stipulated?

No. There are no clear parameters in the law or judicial practice to establish requirements for processing time.

According to the Regulation and Guide for the professional evaluation of magistrates, individual judges are evaluated on observance of the reasonable deadline for solving cases (sub-indicator of the efficiency criterion), however no clear parameters are stipulated in the law or judicial practice. Reference is made in practice to the jurisprudence of the European Court of Human Rights.

Within the thematic verifications carried out by the Judicial Inspection, one issue to be controlled is identification of cases older than 1 year in first instance and appeal and more than 6 months in second appeal and of the reasons that caused delays.

According to the Law on the statute of magistrates, Law no. 303/2004, judges are committing a disciplinary offence when registering imputable delays in their judicial activity.

2.5. What are the consequences of exceeding required/reasonable processing time according to national rules or practice?

According to the practice of the Judicial Inspection, when delays in the processing times are systemic at a court, revealing the managerial inability of the president of the court, the Judicial Inspection may propose to the SCM Section for Judges in its report that the president of that court be revoked. However, that court is placed under strict monitoring by the Judicial Inspection for a period of time to see whether measures are taken to remedy the deficiencies noted by the Judicial Inspection. All reports containing the findings of the JI and the measures proposed are published on the website of the SCM, together with the decision of the SCM Section for Judges.

In other cases, when delays in the judicial activity are strictly imputable to the judges, the Judicial Inspection may propose to the SCM Section for Judges that disciplinary proceedings be initiated against the respective judge.

2.6. Can the parties and others make a complaint about the processing time?

If so to whom?

Parties may complain about processing times to the Judicial Inspection of the Council. The Judicial Inspection will undertake verifications and issue a report to the SCM section for Judges. The report will contain measures to remedy the deficiencies.

2.7. Are user surveys on processing time carried out?

If so how often?

No. They might be carried out on an ad hoc basis, but not regularly.

For example:

In August – September 2005 Transparency International conducted the *Study on the perception of magistrates on the independence of justice*. The study also identified, among other issues, the state of facts concerning the efficiency of the Romanian judiciary.

Judicial Performance Monitoring: Another relevant study developed in the framework of the World Bank-financed PAL2 was the “Assessment of Judicial Performance Monitoring in

Romania”<sup>2</sup>. The study offered an in-depth assessment of the current stage of judicial performance indicators, as well as a considerable comparative analysis of different evaluation systems of magistrates and courts in Europe. The study also provided a useful tool for the SCM to develop a comprehensive, reliable and meaningful court statistics system, as well as a comprehensive system of objective indicators to measure judicial performance.

The “Opinion and attitude survey (baseline) regarding the implementation of the judicial reform in Romania” has been prepared by Gallup Organization and submitted to SCM in February 2008<sup>3</sup>, being the first baseline survey in this context. The results of the survey served as a baseline for measuring progress under the World Bank-financed project for the reform of the judiciary; it offered also a lot of data on court performance, based on internal survey and households’ survey.

In 2007 the SCM and the Romanian Judiciary benefited also from the Transparency International Romania’s second “Study regarding the magistrates’ perception on the independence of the judiciary” (published in March 2008). It assessed the evolution of perceptions from 2006 to 2007 and the main factors which led to possible positive or negative changes of perception.

Within the WB Judicial Reform Project (LN 4811-RO), the SCM is currently contracting a project for the survey of actual experiences with and attitudes and perceptions about implementation of Judicial Reforms in Romania. See point 5.1

### **3. Reduction of Caseload and Facilitating Court Procedures**

#### **3.1. Which means of reduction of caseload are used?**

- **reducing the vacancies within the judiciary.** Lack of human resources is a largely documented cause of high workload within the judiciary, thus the Council always strives in order to reduce the vacancies at the courts. Measures usually include: possibility for judges who have the right to retire to remain in the system, organization of exams to recruit experienced professionals into the system, etc.

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<sup>2</sup> Jesper Wittrup, *Assessment of Judicial Performance Monitoring in Romania*, December 2005, final Report – April 2006

<sup>3</sup> The final report was approved by the SCM Plenum in February 2008 and published on SCM web page.

- **project on optimum workload**

The stages for the development of the project are as follows:

1. Measuring the optimal duration of judicial activities of trials, according to the judicial level, matter and object (around 1000 types of cases);
2. Measuring the optimal duration of administrative activities of judges/clerks;
3. Setting a percent between the judicial activities and managerial activities, in order to establish the effective time for work available for the judge in order to administer cases also taking into consideration the current and future codes;
4. Identifying an algorithm for setting the optimal workload that shall include all the necessary variables (e.g. maximum work time, optimal time per categories of files, medium volume of cases in the last years, the percentage of a specific type of case in the entire matter of which belongs, cases` complexity levels, etc);
5. Making a software that allows auto-calculation of the optimal level of activity for each court;
6. Setting the neuropsychological load of the magistrates according to the current working conditions, and also confirming that load is appropriate compared to the optimal number of cases that shall be established.

Considering the end of those measurements may be prolonged up to the end of 2011, and because it was necessary to make a partial relief of the judges, especially within the courts with a high workload, the working group decided on a **Provisional optimum workload for courts in 2010**, adopted by Decision no.2119/03 December 2009. Thus maximum limit of new cases registered per the panel was limited to **3.960 points of workload**. Con-crete, it was decided to limit the number of cases to be allotted for a judge by reaching a total of 39.60 point. According to the actual version of ECRIS software, each file newly regis-tered within a court shall receive a level of complexity between 1 and 10. The levels of com-plexity are national and were set by SCM Decision no.830/2007.

Taking into consideration certain statistical measurements, but also the expertise of magistrates involved in the working group, it was appreciated as being reasonable for a judge to solve during **one week** between 10 and 15 cases, that setting a medium workload of circa **90 points** (at an average of 7 of the levels of complexity). Compared to the 44 active weeks in a judicial year it shall result a maximum roughly sum of 3.960 yearly points, irrespective of the level of jurisdiction or judicial stage. The project was experimented in 2010 and the first analysis of the results of the survey carried out revealed that over 90% of the judges experienced an increased quality level of the activity as a result of the project.

- **encouraging mediation.** After the law on mediation was passed in 2006 (Law no. 192/2006), and the mediator's profession was organized accordingly, all judicial and arbitral bodies are under the obligation to inform litigants on the possible use of mediation and its advantages and guide them towards this procedure. Better communication between judicial bodies and the mediation bodies is in place now. Common efforts have been made both by the judiciary, lawyers and Ministry of Justice to support the initiative. Stronger legislative provisions in favour of mediation have been introduced in the recent **law on measures for speeding up trials, Law. no. 202/2010 (will enter into force at the end of November 2010).**

Under the auspices of GEMME – European Association of Magistrates in favour of mediation, the Superior Council of Magistracy organized on the 29<sup>th</sup> of October 2010 a conference on mediation, in cooperation with the Romanian Council for Mediation and the National Institute of Magistracy. This important event gathered Romanian and international magistrates, mediators, lawyers, relevant stake holders –Ministry of Justice, NIM, Council of Mediation, etc. Mediation practices from various perspectives: Romanian, French, Portuguese, USA, Senegalese and Bulgarian were presented. The magistrates responded in favor of the new legislative provisions that entitle them to invite parties to access mediation. Thus, in case a party initially consents to attend a briefing on mediation, but later refuses to participate at the meeting, judges are entitled to fine them.

### 3.2. Are any special easy procedures available?

- In civil matters, certain measures may be taken through interim orders issued by the president of the court: where there is an emergency situation, the issue does not entail consideration of the substance of the claims, the measure is limited in time.
- In criminal matters, procedural aspects are simplified in what regards criminal investigation of flagrante delicto crimes.
- Victims of crime can recover the prejudice suffered as a result of a crime from the offender. For this purpose they are entitled to formulate civil claims - compensation in money, restitution in integrum, etc. – **during a criminal trial.** In case the defendant is convicted, the defendant will have to also repair the prejudice suffered by the victim. When making a criminal complaint or when giving declarations during the criminal investigations and/or during the criminal trials, in this way, it's easier for the vic-

tims to also state on the prejudice occurred and to produce evidence thereof. Victims are given indications regarding this possibility, starting with the criminal investigations phase.

- According to the recently passed **law on measures for speeding up trials, Law. no. 202/2010** (will enter into force at the end of November 2010), special procedures are envisaged in order to speed up trials:
  - ✓ Divorce pronounced by the public officer or the public notary when the parties agree and there are no children resulted out of their marriage;
  - ✓ Divorce pronounced by the court by mutual agreement of the spouses notwithstanding the duration of marriage and whether marriage produced children or not;
  - ✓ Criminal trial with reduced administration of evidence where the defendant enters a plea of guilty;
  - ✓ Civil cases concerning money claims of 2000 lei at the most ( approx. 500 EUR) are tried in first and last instance by the district courts, meaning that no means of attack are available ( appeal or second appeal);
  - ✓ In cases where the social impact of the crime is insignificant (petty crimes, car accidents, etc.), the prosecutor is entitled to terminate criminal investigation on this ground and apply an administrative sanction;
  - ✓ Exemption from appeal of actions regarding alimony, civil and commercial pecuniary claims of 100.000 lei at the most ( approx. 2500 EUR), possession of land claims and other claims.

### 3.3. What simplifications of ordinary procedures are applied?

- As regards administration of the evidence by the courts, when the parties agree the court may set a deadline in which all evidence of the case be administered by the lawyers. Thus, all evidence – witnesses, declarations, expert reports and documents - can be administered by the lawyers in any appropriate location outside court premises, thus reducing the time the court has to deal with evidence administration.
- According to the recently passed **law on measures for speeding up trials, Law. no. 202/2010** (will enter into force at the end of November 2010), simplifications of ordinary procedures are envisaged in order to speed up trials:
  - ✓ If the courts considers necessary will communicate to the parties citations and other documents by phone, by fax or by email;

- ✓ Court may approve communication of documents and requests directly between the lawyers/advocates of the parties.

3.4. Give examples of practices used within ordinary procedures to speed up ordinary procedures

- in practice, judges may limit the time awarded to each party for the final conclusion and ask that the final conclusions be submitted in extenso in writing;
- Commercial cases - especially insolvency cases - are considered urgent and tried accordingly, the time between court sessions is shorter than for other cases, one week for instance.

4. **Increase of Capacity and Improvement of Processing**

4.1. Do you try to limit processing time by an increase of courts or increase or reallocation of judges or cases?

- A joint working group has been set up consisting of SCM and Ministry of Justice representatives with the task of analyzing the activity of small courts (low workload). Proposals coming from the working group consisted in eliminating the small court with low workload and reallocating judges and personnel to other courts with the aim of solving heavy workload and backlogs at the latter.
- Reallocation of vacancies from courts with low workload to courts with high workload, meaning that the position will be filled at the court with high workload, where the need for human resources is more stringent;

4.2. Do you try to limit processing time by taking on assistance from deputy judges, trainee judges, or juridical assistants?

On their second year of training at the National Institute of Magistracy, the auditors of justice are assigned to courts and prosecutors offices for a period of internship. In this period, under the supervision of the tutor – assigned magistrate - they will prepare cases and elaborate judicial decisions or other judicial acts.

Do you try to limit processing time by facilitating processing of cases?

- Due importance is given to the specialization of judges, but since at many courts there were problems with the workload and backlogs at some court sections, proposals were made to introduce the necessary legal provisions to give court leadership the prerogatives to assign judges from one section to another to remedy problems with heavy backlogs and workload.
- ECRIS system make it easier for judges to follow progress in a case and to introduce the minutes of the court hearings and decisions.
- A jurisprudence portal was also created [www.jurisprudenta.org](http://www.jurisprudenta.org) by the Superior Council of Magistracy in cooperation with the Vrancea Tribunal in order to publish the full texts of all judicial decisions rendered by the Romanian courts and to provide on line access to the judicial decisions. The initiative is of assistance to the magistrates since all court decisions, except the decisions of the HCCJ can be easily accessed on line. Recent upgrades include search of the decisions by the subject matter jurisdiction.

4.3. Do you try to limit processing time by giving secretary or juridical assistance to individual judges?

No.

4.4. Do you try to improve court proceedings or increase the capacity of courts by any scientific, experimental or technical project?

- **The Pilot Project on the transfer of the administrative tasks from judges to clerks.**

The main stages and activities of the Pilot Project introduced in 2009 on the transfer of the administrative tasks from judges to clerks are the following:

- *Redesigning the statute of court clerk with higher legal education (introducing the concept of „assistant clerk”)* – The Commission for organizing and functioning of the judicial system of the SCM decided upon the new concept of “assistant clerk” as a court clerk with higher legal education, to be recruited by exam and to be trained within the National school of Clerks for a period of 1 year or 3 months depending upon the recruitment procedure. On December 3<sup>rd</sup> 2009, the SCM Plenum approved this proposal.
- *Identifying the competences of the assistant court clerk, focusing on those competences currently performed by judges and which are to be transferred* - according

to the Commission's proposals, the main duties transferred to the principal clerk will be the following:

- the assistant clerk will make proposals regarding the preliminary measures and presents them to the president of the judging panel,
- the assistant clerk will fill in the sessions' register with details regarding the court's decisions,
- will elaborate the drafts decisions,
- will collect and make available for judges the bibliographical documents needed for the motivating the decisions.

All these proposals aimed at reducing the time a judges has to deal with a case and in providing adequate support to the judges were comprised into a draft law and submitted to the Ministry of Justice.

## 5. Other initiatives

### 5.1 Have other initiatives concerning timeliness been undertaken or are they contemplated?

- **Provisions of the New Criminal Procedure Code (shall enter into force on the 1<sup>st</sup> of October 2011)**

In order to decide on the cases that can stand trial, the *preliminary chamber procedure* was introduced in the draft Criminal Procedure Code. Thus, when the file is received by the criminal court, it will go first to the preliminary chamber judge who will issue a decision of the legality of the indictment, legality of the evidence administered and acts issued by the criminal investigation bodies. In such cases, if the preliminary chamber judge decides the above requirements are met, the file will be referred to trial, meanwhile the files that cannot stand trial will be redirected towards the prosecutor's offices. In this way, the courts are to start proceedings only on cases that can stand trial, instead of having to deal with all criminal cases that are sent to the courts.

Other relevant provisions like trial with guilty plea are introduced thorough the Law. no. 202/2010.

- **The Pilot Project on the transfer of the administrative tasks from judges to clerks.**

The main stages and activities of the Pilot Project introduced in 2009 on the transfer of the administrative tasks from judges to clerks are the following:

- *Redesigning the statute of court clerk with higher legal education (introducing the concept of „assistant clerk”).* The Commission for organizing and functioning of the judicial system of the SCM decided upon the new concept of “assistant clerk” as a court clerk with higher legal education, to be recruited by exam and to be trained within the National school of Clerks for a period of 1 year or 3 months depending upon the recruitment procedure. On December 3<sup>rd</sup>, 2009, the SCM Plenum approved this proposal.
- *Identifying the competences of the assistant court clerk, focusing on those competences currently performed by judges and which are to be transferred* - according to the Commission’s proposals, the main duties transferred to the principal clerk will be the following:
  - the assistant clerk will make proposals regarding the preliminary measures and presents them to the president of the judging panel,
  - the assistant clerk will fill in the sessions’ register with details regarding the court’s decisions,
  - will elaborate the drafts decisions,
  - will collect and make available for judges the bibliographical documents needed for the motivating the decisions.

All these proposals aimed at reducing the time a judges has to deal with a case and in providing adequate support to the judges were comprised into a draft law and submitted to the Ministry of Justice.

- Due importance is given to the specialization of judges, but since at many courts there were problems with the workload and backlogs at some court sections, proposals were made to introduce the necessary legal provisions to give court leadership (court presidents and leading board) the prerogatives to assign judges from one section to another to remedy problems with heavy backlogs and workload, despite the specialization of judges.

- **Within the WB Judicial Reform Project (LN 4811-RO), the SCM is currently contracting a project for the survey of actual experiences with and attitudes and perceptions about implementation of Judicial Reforms in Romania.**

According to the terms of Reference, the Consultant – procedure for selection is pending - will design and implement a survey of experts, court users (comprising (a) individuals representing households and (b) firms) and other stakeholders to assess their actual experiences with, and attitudes and perceptions about, **the performance of the judiciary** (timeliness,

fairness, accessibility, capacity to enforce judicial decisions, transparency, integrity, professionalism) and the status of judicial reforms. The survey respondents will be drawn using an appropriate sampling framework and sampling methodology. Broadly, it is expected that three sets of respondents will be surveyed: (a) experts working in the justice sector (e.g. judges, prosecutors, clerks), (b) court users (i.e. litigants comprising individuals and firms) and (c) legal professionals, such as lawyers.