



“Monitoring the Justice Sector Reform for Increased Government Accountability”

Quarterly Monitoring Report No. 4 on the Implementation of the Justice Sector Reform Strategy

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ABBREVIATIONS

CHRM	Center for Human Rights of Moldova
CPC	Civil Procedure Code
CPO	Central Probation Office
CPP	Criminal Procedure Code
CS	Customs Service
DPI	Department of Penitentiary Institutions
ECtHR	European Court of Human Rights
GD	Government Decision
GDL	General Directorate for Legislation
GPI	General Police Inspectorate
ICMP	Integrated Case Management Program
JSRS	Justice Sector Reform Strategy
LRCM	Legal Resources Center of Moldova
MITC	Ministry of Information Technologies and Communications
MLSPF	Ministry of Labor, Social Protection and Family
MOE	Ministry of Economy
MOF	Ministry of Finance
MOH	Ministry of Health
MIA	Ministry of Internal Affairs
MOJ	Ministry of Justice
MRDC	Ministry of Regional Development and Constructions
NAC	National Anticorruption Center
NCJEE	National Center for Judicial Expert Examination
NIC	National Integrity Council
NIJ	National Institute of Justice
NLAC	National Legal Aid Council
NSB	National Statistics Bureau
NUJO	National Union of the Judicial Officers
PGO	Prosecutor General's Office
ROLISP	USAID Rule of Law Institutions Support Program
SCJ	Supreme Court of Justice
SCM	Supreme Council of Magistrates
SCP	Supreme Council of Prosecutors
SIS	Information and Security Service
WG	Working Group

INTRODUCTION

This Report was prepared within the project “Monitoring the Justice Sector Reform for Increased Government Accountability”, implemented by the Promo-LEX Association and the Association for an Efficient and Responsible Governance (AGER), with the financial support of the European Union.

The monitoring focused on the observation of two main components: assessing the implementation of activities contained in the Action Plan for Justice Sector Reform Strategy implementation, and trial monitoring.

The monitoring mission employs 36 national monitors, whose work is coordinated by a Network Coordinator, and three national experts that form the Analytical Team. The monitors within the network attend trial hearings in precinct and district courts, in the courts of appeal and the Supreme Court, and in specialized courts. Overall, 1872 trials will be monitored throughout the project. The monitors produce quarterly reports on the progress registered in implementing the activities listed in the Action Plan, verified in the field.

Methodology. *The Methodological Guidebook for Monitoring the Implementation of the Justice Sector Reform Strategy in Moldova* provides a mechanism for monitoring the activities contained in the Action Plan, including interviewing relevant subjects/institutions to determine the outcome of these actions (conducted studies, developed bills, approved methodologies, etc.). The findings herein were formulated based on the responses to the questions in the Quarterly Report. In each district center, monitors interviewed lawyers, enforcement officers, notaries, mediators and representatives of regional offices of the National Legal Aid Council to determine whether these subjects were aware of particular actions, and in what capacity; whether or not they were involved in the implementation of these actions, and their opinion on the respective actions. At the same time, in order to effectively assess the implementation of each activity, interviews were conducted with representatives of all institutions responsible for their implementation, but also with beneficiary organizations.

Two categories of actions/activities were analyzed for the purpose of this report, as follows:

- Actions due by: quarter 4, 2013;
- Overdue actions (to be completed by 30 September 2013).

Moreover, in order to be tracked more easily, actions were grouped into the following seven categories:

Group I. Studies and needs assessments examining current practices; proposing recommendations for reform

Group II. Development of methodological recommendations and training curricula

Group III. Improving the legal framework and drafting bills and regulations

Group VI. Professional training activities for various judicial actors

Group V. Development and use of awareness and information tools

Group VI. Procurement and installation of equipment; software upgrades

Group VII. Creating and increasing the efficiency of judicial bodies (committees, colleges, etc.)

Additionally, for the purpose of this report, we used a new instrument to assess the impact of changes produced in the context of implementing the reform. Thus, having identified the expected results for each specific area of intervention of the JSRS Action Plan, we produced questionnaires for five categories of respondents: judges, prosecutors, lawyers, bailiffs (court enforcement officers) and court clerks. The complete responses are presented in diagrams in Annex 1 of this report; the most important findings of the survey are briefly described in the executive summary and in conclusions.

The Promo-LEX Association and the Association for an Efficient and Responsible Governance (AGER) sincerely thank all those who devoted time and attention to the monitors and answered their questions thus contributing to the development of this Report.

EXECUTIVE SUMMARY

The results of the Forth Quarterly Monitoring Report for the Implementation of the JSRS allow us to draw some significant conclusions.

Unfortunately, we found that progress in the implementation of the Action Plan has slowed down compared with the previous Quarters of 2013. Thus, of the 257 actions due for implementation by the end of 2013, 144 were implemented, and 113 remain overdue, which represents a ratio of 56% to 44%, respectively. Another worrisome fact is that of the 45 actions due for completion in Quarter 4 of 2013, only 11, or 24%, were implemented, and the remaining 34, or 76%, were not completed. And this represents only the assessment of the degree of implementation of actions planned under the JSRS Action Plan, which form the basis for the reform of the justice sector, while the largest effort will reside in the implementation of documents and measures provided in the context of the Strategy. Namely, passing a package of bills and amendments to fight corruption does not automatically mean their enforcement nor does it guarantee the fact that some quasi-legal ways can be found to circumvent them.

An example is the sacking of three judges who were to be transferred to another court following reshuffles at the District Commercial Court. Thus, although the SCM had information presented by the President of the country on the biased examination of certain cases, confirmed by SIS reports, it proceeded to recommend the President to sack the judges under Article 26/2 of the Law on the Status of the Judge. This procedure provided dismissing the magistrates based on their letters of resignation (which the judges in question did not submit), which allows those three to benefit from all the allowances and social guarantees provided by the law.¹ The President accepted the SCM recommendation, and dismissed the three magistrates under Art. 26/2.²

With regard to court hearings, we note that, according to the surveys and monitors' reports, the level of satisfaction of court users with the general act of justice in the courtrooms maintains a positive dynamic. Run against data from the previous reports, the data obtained in Quarter 4 show a positive trend of maintaining a high level of total persons satisfied with the act of justice.

The highest rates of unsatisfied respondents account for court facilities, indicators to and inside courts, as well as the use of court websites. Among lawyers, 14%, 22% and 8%, respectively, said they were completely dissatisfied with those aspects. A similar percentage of dissatisfied respondents were registered among prosecutors. Respondents, parties to trial except lawyers and prosecutors, were most dissatisfied with the access to the court practice as well as with the court facilities and indicators to and inside the courthouse – approximately 10%.

With regard to the highest rates of satisfied respondents, we note that over 71% of lawyers were completely satisfied with the accessibility of the case file and time allowed between the summon and the hearing, and 73% were very satisfied with the publicity of the trial. Prosecutors were most satisfied with the politeness and attitude of the registry staff. 76% of the prosecutors were totally satisfied with the accessibility of the case file and the time allowed between

1 See SCM decision in that case: <http://www.csm.md/files/Hotaririle/2014/01/8-1.pdf>

2 <http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=351194>

the summoning and the hearing. 81% and 86% of prosecutors, respectively, were satisfied with the politeness and professionalism of the judges. A similar dynamic is observed with regard to court users, most of whom were totally satisfied with the accessibility of the case file and the time allowed between the summon and the hearing. At the same time, 80% of court users were completely satisfied with the politeness and professionalism of the judges.

Chapter I

ASSESSMENT OF IMPLEMENTATION OF ACTIONS UNDER PILLAR I

Institutional capacity. During the fourth Quarter of 2013, the WG for monitoring the implementation of actions under Pillar I of the Strategy met in three sessions, on 23 October, 28 November, and 19 December. The Work plan for 2013 was approved only at the meeting on 23 October, with significant delay, which points to a rather formal approach to this document.

Worth noting is the effort made to strengthen the capacities of the WG Secretariat, including by adding staff. Thus, there are results of the effort to organize the meetings of the Working Groups and posting materials on the Ministry's website.

1. ACTIONS DUE BY: QUARTER 4, 2013

Group I. Studies and needs assessments examining current practices; proposing recommendations for reform.

Specific area of intervention 1.2.4: Create a mechanism ensuring the implementation of a unified judicial practice that will provide security for legal relations.

Action 1.2.4 section 1: *Conduct a study on the implementation of a unified judicial practice to provide security to legal relations.*

- Deadline: Quarter 4, 2013
- Responsible institution: SCM, SCJ
- Performance indicator: Study developed, recommendations formulated
- **Assessment: action not implemented**

This action was not implemented at the time of writing this report. The project's observer discussed with a SCM representative (as the interim chair of the SCM unfortunately refused to speak) who opined that this action is outside the competence of the Council. Nevertheless, the SCM was included as a responsible institution for this action. It was thus to take measures to seek its implementation or raise their concerns at the meetings of the coordinating WG, which could have absolved them of the responsibility to carry out this action.

At the same time, the SCM representative told the observer that the study in question had been developed and is posted on the SCJ website. Unfortunately, we could not find the text of the study on the SCJ website nor could we find evidence that it was there, so we are compelled to assess this action as not implemented.

In accordance with Article 16 of Law no.789 of 26 March 1996 on the SCJ (published on 22 January 2013 in the Official Monitor No. 15-17),

The Plenary of the SCJ:

.....

- c) examines the results of generalizing the judicial practice and adopts explanatory decisions;
- d) to ensure a unified judicial practice, issues, at the request of courts, consultative advisories on identified issues in the application of the law;

There are consultative advisories, SCJ recommendations, as well as adopted and drafted explanatory decisions of the SCJ Plenary on the SCJ website. Relevant SCJ jurisprudence in civil and criminal cases can also be found on the website.

Specific area of intervention 1.1.6: Establish clear, objective, transparent and merit-based criteria for the selection, appointment and promotion of judges.

Action 1.1.6 section 5: *Conduct a study on the duration of the initial appointment of judges and the criteria regarding the selection of judges to the Supreme Court of Justice based on international standards and best practices in the field.*

- Deadline: Quarter 4, 2013
- Responsible institution: MOJ, SCM
- Performance indicator: Study developed, recommendations formulated
- **Assessment: action not implemented**

This action has not been implemented, although the MOJ (agency responsible for its implementation) 2013 activity report notes that “it was decided that the next action, namely action 1.1.6 section 6, which provides for drafting the respective bill, be implemented without a prior study”.³ However, no decision in that regard was made within the responsible WG (at least!!!), which is not to say that an action contained in the JSRS Action Plan cannot simply be eliminated by the MOJ.

Group II. Development of methodological recommendations and training curricula.

Specific area of intervention 1.3.2: Revising the programmes of the National Institute of Justice to ensure their correspondence with the real training needs of judges, prosecutors and other actors of the judiciary sector and avoid overlapping with university curricular.

Action 1.3.2 section 2: *Create an online communication program between the NIJ and trainees to identify training areas and organize training seminars.*

- Deadline: Quarter 4, 2013
- Responsible institution: NIJ
- Performance indicator: 1. Online program created; 2. Training plan based on requests and recommendations developed and approved
- **Assessment: action not implemented**

This action is pending on establishing a system for determining training needs, as provided by action 1.3.2 section 1, which has not been carried out yet.

³ http://www.justice.gov.md/public/files/file/planurirapoarte/RAPORT_MOJ_pentru_2013_din_10-01-2014.pdf

Group III. Improving the legal framework; developing draft laws and bylaws.

Specific area of intervention 1.1.1: Optimize the map of courts location, with the purpose to strengthen the institutional capacities of courts and correlate the number of judges, and ensure the most efficient use of available resources.

Action 1.1.1 section 2: Draft a bill to amend Law no. 514-XIII of 6 July 1995 on the organization of the judiciary.

- Deadline: Quarter 4, 2013
- Responsible institution: MOJ, SCM
- Performance indicator: Bill drafted and sent to the Government for review
- **Assessment: action not implemented**

Implementing this action depends on the development and presentation of a study on the optimization of the map of courts location, which was commissioned to the LRCM and will be publicized in early 2014. Thus, clearly, the action will be implemented beyond the established timeframe.

Specific area of intervention 1.1.9: Strengthen the self-administration capacities of the judiciary, by revising the role, membership and competencies of the SCM and its subordinated institutions.

Action 1.1.9 section 3: Draft an amendment to the Constitution to specify the role of the SCM in the self-administration of the judiciary, its composition and competencies.

- Deadline: Quarter 4, 2013
- Responsible institution: MOJ
- Performance indicator: Amendment drafted and sent for review to the Constitutional Court
- **Assessment: action not implemented**

The respective bill was drafted and is to be sent for review and coordination.

Group IV. Professional training activities for various subjects of the justice sector.

Specific area of intervention 1.3.1: Reforming the NIJ and making its operations more efficient.

Action 1.3.1 section 5: Preparing training plans for initial and continuous training, including in the field of training methodology.

- Deadline: Quarter 4, 2013
- Responsible institution: NIJ
- Performance indicator: 1. Training programs developed; 2. Training course conducted; 3. Number of trainers trained
- **Assessment: action implemented**

Seven such seminars were conducted in 2013, training a total of 115 trainers. As the JSRS Action Plan does not provide for a minimum number of trainers to be trained under this action, we deem this action implemented.

Group VI. Procurement and installation of equipment; software upgrades.

Specific area of intervention 1.1.11: Enhance the security of court premises.

Action 1.1.11 section 4: *Re-equip courtrooms by uninstalling the isolation cages for defendants in the trial in order to observe the presumption of innocence.*

- Deadline: Quarter 4, 2013
- Responsible institution: SCM, courts of law, MOJ
- Performance indicator: Isolation mechanisms uninstalled
- **Assessment: action not implemented**

In several courts, the grated cages for isolating defendants in trial have been uninstalled, and, in some cases, replaced with glass booths. At the same time, according to the data collected by monitors in the field, there is no consensus between the judges and the court chairs on the need to uninstall the said mechanisms.

Specific area of intervention 1.3.3: Ensure the specialization of judges for specific cases and consider the possibility of creating administrative courts.

Action 1.3.3 section 3: *Include a component on the specialization of judges in the courts' information system (software).*

- Deadline: Quarter 4, 2013
- Responsible institution: MOJ, SCM
- Performance indicator: Courts' computerized information system revised
- **Assessment: action implemented**

The MOJ activity report for 2013 notes that version 4 of the ICMP allows for judges specialized in certain cases. Although this action comes after action 1.3.3 section 1, which provides for drafting a study on the specialization of judges, this does not rule out the possibility to change the software used in courts so as to include the necessary module when the study is ready.

Group VII. Create and streamline the work of justice sector bodies (commissions, colleges etc.).

Specific area of intervention 1.3.1: Reforming the NIJ and making its operations more efficient.

Action 1.3.1 section 4: *Create a legal information center to be accessible for judges, prosecutors and representatives of other legal professions.*

- Deadline: Quarter 4, 2013
- Responsible institution: NIJ
- Performance indicator: Center opened and functional
- **Assessment: action not implemented**

According to the NIJ, this action was postponed to 2014.

2. OVERDUE ACTIONS (to be completed by 30 September 2013)

Group I. Studies and needs assessments examining current practices; proposing recommendations for reform.

Specific area of intervention 1.1.1: Optimize the map of courts location, with the purpose to strengthen the institutional capacities of courts and correlate the number of judges, and ensure the most efficient use of available resources.

Action 1.1.1 section 1: *Conduct an opportunity study for the optimization of the map of courts location to strengthen the courts' institutional capacities and correlate the number of judges, and ensure a more efficient use of available resources.*

- Deadline: Quarter 4, 2012
- Responsible institution: MOJ, SCM
- Performance indicator: Study developed and recommendations formulated
- **Assessment: action not implemented**

The implementation of this action was delegated to the LRCM, and the deadline for presenting the study was extended to the end of 2013, and then to early 2014. Note that the study will set the basis for the optimization of the system of courts, and it is an essential for the successful implementation of ulterior reforms.

Specific area of intervention: 1.1.2. Ensure access to a judicial system that is affordable.

Action 1.1.2 section 1: *Conduct a study of the current legislation that regulates the amounts and procedures for calculating court fees as well as the practice of using these fees.*

- Deadline: Quarter 2, 2012
- Responsible institution: MOJ, SCM
- Performance indicator: Study developed, recommendations formulated
- **Assessment: action not implemented**

As presented in the previous report, the MOJ managed to obtain support from abroad for the implementation of this action - namely, legal expertise from Romanian MOJ. As the 1st Quarterly Report for 2013 on the implementation of actions under Pillar I, the study was being finalized and was to be posted on the MOJ website. The Ministry's activity report for 2013 also notes that the study had been completed and is to be published. At the time of this report, the study was not found on the MOJ's website nor was it published in another way.

Specific area of intervention: 1.1.12. Institutional capacity building for courts, including by considering the possibility of placing all Chisinau courts into one premise, and building / renovating courts across the country.

Action 1.1.12 section 1: *Conducting a feasibility study taking into account the previous studies conducted in this area.*

- Deadline: Quarter 4, 2012
- Responsible institution: MOJ

- Performance indicator: Criteria for allotting funds for the maintenance and renovation of court premises developed and approved
- **Assessment: action not implemented**

This action remains unfulfilled at this moment. Previously, the WG discussed the possibility that it had been implemented via the ROLISP-sponsored court assessment study. However, this action is slightly different and the provided study should, along with the one on the optimization of the map of courts location, serve as a basis for building an efficient and accessible court system.

Action 1.1.12 section 3: *Establish criteria for allotting funds for the maintenance and renovation of court premises.*

- Deadline: Quarter 2, 2013
- Responsible institutions: MOJ, MOF, MRDC
- Performance indicator: criteria for allotting funds for the maintenance and renovation of court premises developed and approved
- **Assessment: action not implemented**

The court assessment report conducted by the ROLISP project group courts into categories according to their maintenance or renovation needs. However, the performance indicators for this action specifically provide for “criteria for allotting funds for maintenance and renovation of courts premises developed and approved.”

This subject was discussed in WG I meetings and it was established that the criteria set out in the study are used by court chairs when they work on their budgets. However this happens voluntarily and there is no official document establishing these criteria and their mandatory for court chairs. It was thus decided that these criteria will be formalized in a document and adopted as soon as possible. To date, we have not been able to prove the existence of such a document.

Specific area of intervention 1.2.4: Create a mechanism ensuring the implementation of a unified judicial practice that will provide security for legal relations.

Action 1.2.4 section 3: *Conduct a study on the opportunity of creating a single information portal of all courts in order to optimize their websites.*

- Deadline: Quarter 4, 2012
- Responsible institution: MOJ, SCM, E-Government Center
- Performance indicator: Study developed, recommendations formulated
- **Assessment: action not implemented**

No such study was presented in this respect, and although there is a portal of Moldovan courts, courts.justice.md, all it does is redirect the user to the page of the requested court. It is also possible to improve the portal without the said study.

The action is to be assessed, and, if found no longer relevant/necessary, WG VII should be advised to suggest the appropriate amendments to the Action Plan.

Specific area of intervention 1.3.3: Ensure the specialization of judges for specific cases and consider the possibility of creating administrative courts.

Action 1.3.3 section 1: *Conduct a study and formulate recommendations on the need for specialization of judges.*

- Deadline: Quarter 4, 2012
- Responsible institution: SCM, MOJ
- Performance indicator: Study conducted, recommendations formulated
- **Assessment: action not implemented**

At the time of this report, the LRCM, which was hired to conduct the action with funding from the U.S. Embassy in Chisinau, did not complete and/or publicly present the study. According to information presented at the last meeting of the working group in charge of Pillar I, the study was to be presented in January 2014.

Action 1.3.3 section 5: *Conduct a study on the opportunity of creating a system of administrative courts.*

- Deadline: Quarter 3, 2012
- Responsible institution: SCM, MOJ
- Performance indicator: Study developed, recommendations formulated
- **Assessment: action not implemented**

Although the Action Plan treats them as two separate actions, actions 1.3.3 sections 1 and 5 could be a single action with a single product: a study to assess the need for specialization of judges, incorporating the need to create administrative courts. However, if this is not provided in the specifications submitted to the LRCM, which is responsible for the first action, these actions should be treated separately. At the time of writing this report, such a study has not been presented.

Group II. Development of methodological recommendations and training curricula.

Specific area of intervention 1.2.3: Revise procedural rules, as necessary to streamline and enhance transparency and efficiency of the judicial process.

Action 1.2.3 section 5: *Develop a training plan for judges on the management of cases and rules of delay during the examination of cases.*

- Deadline: Quarter 4, 2012
- Responsible institution: SCM, NIJ
- Performance indicator: Training plan developed
- **Assessment: action not implemented**

It is difficult to establish the stage of implementation of this action. The 2012 Annual Report on JSRS implementation, and the preliminary report for 2013 assess this action as implemented although, under “taken measures” the reports mention studying the European practice and the fact that the training plan will be developed only after a data analysis of the number of cases postponed by all courts and all judges.

On 10 September 2013, the NIJ held a seminar for judges on the topic: “Case management and compliance with the rules for postponing the examination of cases.” The seminar outlines the

importance of an efficient and accurate case management to ensure compliance with reasonable deadlines for the adjudication of cases.

Although we have not found a training plan on that specific subject, we established that it has been included in the NIJ training plan for 2014.⁴

Specific area of intervention 1.3.1: Reforming the NIJ and making its operations more efficient.

Action 1.3.1 section 1: *Develop a new concept of continuous training of judges, prosecutors and other legal professions.*

- Deadline: Quarter 2, 2012
- Responsible institution: NIJ, SCM, SCP, PGO, Lawyers' Union, NUJO, Mediation Council, MOJ
- Performance indicator: 1. Concept developed; 2. Number of staff for implementation of concept established
- **Assessment: action implemented**

The concept was approved on 27 September 2013 and placed on the NIJ website.⁵ It fits the format of a training concept, although we believe that the second performance indicator for this action, "number of personnel needed to implement the new concept determined", rather refers to a training plan or strategy, which consists of a series of specific actions. We therefore assess this action as implemented despite the fact that the second indicator is not met, and we recommend to revisit or eliminate this indicator.

Group III. Improving the legal framework and drafting bills and regulations.

Specific area of intervention: 1.1.2. Ensure access to a judicial system that is affordable.

Action 1.1.2 section 2: *Draft amendments to Law no. 1216-XII of 3 December 1992 on the state fee, of the CPC no. 225-XV of 30 May 2003 and other normative acts.*

- Deadline: Quarter 4, 2012
- Responsible institution: MOJ, SCM, MOF
- Performance indicator: Bill drafted and sent to the Government for review
- **Assessment: action not implemented**

This action depends directly on the implementation of action 1.1.2 section 1. It seems though that the MOJ has another opinion. In its annual activity report, it assessed the action as carried out, explaining that both the MOF and the SCM believe that state tax law does not need any amendments, without any support for this opinion based on a study developed in this regard, as provided by JSRS Action Plan. Moreover, if the Steering Group discusses and decided that indeed some actions are no longer relevant, they are labeled as such, and not as implemented actions.

Specific area of intervention 1.2.1: Increased transparency of the judiciary self administration mechanisms and of the institutions of the judiciary self administration.

⁴ <http://inj.md/node/18> (as accessed on 31 October 2013)

⁵ <http://www.inj.md/node/7>

Action 1.2.1 section 2: *Revise SCM regulations on the transparency of activities of the Council and subordinated bodies.*

- Deadline: Quarter 4, 2012
- Responsible institution: SCM
- Performance indicator: Amendments to regulations drafted and approved
- **Assessment: action not implemented**

At the time of writing this report, we could not find evidence that these regulations had been drafted. The JSRS Implementation Report for the 1st half of 2013 creates confusion in reporting this action. It reports that the action is “partially implemented”, and under “taken measures”, it mentions regulations that refer, for instance, to conferring honorary titles such as “Dean of the judiciary” or others of the same kind. The language of the performance indicator does not allow for a consistent interpretation of the action, so it is quite difficult to assess when could the action be finalized, because recently approved SCM regulations also refer to increasing the transparency of the SCM. But they are sufficient, or should there be other bylaws?

LRCM monitored the functioning of SCM activities and found, among other things, that SCM meetings are public, and the agenda of the meetings and most of the Council’s decisions are published on its website. However, transparency is not yet the norm for all areas of activity of the SCM, its colleges and the Judicial Inspection.

It would therefore be advisable to reiterate the LRCM recommendations and enhance the efforts to ensure transparency in the SCM work.

Specific area of intervention 1.2.3: Revise procedural rules, as necessary to streamline and enhance transparency and efficiency of the judicial process.

Action 1.2.3 section 2: *Draft amendments to Code of Contraventions no. 218-XVI of 24 October 2008.*

- Deadline: Quarter 3, 2012
- Responsible institution: MOJ
- Performance indicator: Bill drafted and sent for review to the Government
- **Assessment: action not implemented**

A draft amendment to the Contravention Code was approved, submitted to public debate on 23 July 2013, and sent to the Government for consideration, and on 23 December 2013, it was approved by Parliament. Unfortunately, the JSRS Action Plan does not mention what should those amendments foresee, and we conclude, solely on the basis of the specific area of intervention, that they should aim at reviewing the procedural rules for the optimization, increased transparency and efficiency of administration of justice. The amendments passed in December largely referred to customs and trade. We thus conclude that the amendments are not within the scope of this action.

However the 2013 annual report on the implementation of actions for Pillar I notes that the bill is to be submitted for coordination and approval.

Action 1.2.3 section 4: *Develop standards on the duration of procedures during the examination of a case, and develop the methodology for using them.*

- Deadline: Quarter 4, 2012
- Responsible institution: SCM, SCJ

- Performance indicator: 1). Standards and methodology developed; 2). Decision of SCJ Plenary on the duration of procedures under the examination of a case approved; 3). Number of controls conducted by the Judicial Inspection; 4). Number of ensued reports
- **Assessment: action not implemented**

While maintaining our findings from the previous report, we note that this action remains unfulfilled. Although the SCM has created a working group for this purpose back in August 2013, no progress has been communicated to date on this issue.

Specific area of intervention 1.3.1: Reforming the NIJ and making its operations more efficient.

Action 1.3.1 section 2: *Draft amendments to certain laws, including Law no. 152-XVI of 8 June 2006 on the NIJ, Law no. 544-XIII of 20 July 1995 on the status of the judge, and Law no. 294-XVI of 25 December 2008 on the prosecution.*

- Deadline: Quarter 4, 2012
- Responsible institution: MOJ, NIJ
- Performance indicator: Bill drafted and submitted for review to the Government
- **Assessment: action not implemented**

Proposals for draft amendments to the Law no. 152 -XVI of 8 June 2006 on the NIJ were examined and incorporated into a bill which was submitted to NIJ on 10 June 2013, and was discussed in a joint meeting with representatives to NIJ on 28 June. In October, the MOJ Department for approval of normative acts sent its comments and objections to the bill. It has not been yet submitted to the Government for review.

Specific area of intervention 1.3.1: Reforming the NIJ and making its operations more efficient.

Action 1.3.1 section 8: *Establish objective criteria for determining the amount of funds needed for initial and continuous training (NIJ).*

- Deadline: Quarter 2, 2013
- Responsible institution: NIJ
- Performance indicator: 1. Criteria established; 2. NIJ revised in accordance with its real needs
- **Assessment: action not implemented**

This action is not implemented, although it was previously reported that various measures were taken in this regard, including hiring experts with support from the ROLISP project. There was also conflicting information presented at the WG 1 meeting of 19 December 2013, so it is unclear what was the impediment for implementing the action: absence of funds or failure to identify an expert.

Specific area of intervention 1.3.2: Revising the programmes of the NIJ to ensure their correspondence with the real training needs of judges, prosecutors and other actors of the judiciary sector and avoid overlapping with university curricular.

Action 1.3.2 section 1: *Create a system that would allow establishing, in a complete and timely manner, the training needs of the justice sector representatives (methodology for establishing training needs developed and approved).*

- Deadline: Quarter 2, 2013
- Responsible institution: NIJ
- Performance indicator: methodology for establishing training needs developed and approved
- **Assessment: action not implemented**

According to information presented at previous meetings, the Methodology for determining initial and continuing training needs is developed with support from the ROLISP project.

The Methodology for establishing the initial training needs of the candidates for judge and the Methodology for establishing continuous training needs of judges have been developed in partnership with ROLISP, USAID, and approved by NIJ Council Decision no. 13/3 of 27 December 2013.

Methodologies for determining initial and continuous training needs of prosecutors and other justice sector representatives are yet to be developed.

Group III. Improving the legal framework and drafting bills and regulations.

Specific area of intervention 1.1.4: Introduce an adequate, consistent and sustainable funding mechanism for the judicial system, by increasing funding and unifying the budgeting process for the judiciary.

Action 1.1.4 section 2: *Draft amendments to Law no. 514-XIII of 6 July 1995 on the organization of the judiciary as well as to other relevant bylaws.*

- Deadline: Quarter 2, 2013
- Responsible institution: MOJ, SCM, SCJ, courts
- Performance indicator: 1. Bill drafted and submitted to the Government for review; 2. Amendments to bylaws developed and approved
- **Assessment: action not implemented**

These amendments were to be drafted after conducting a study of the recent practice of funding the judiciary and the international practice in the field (action 1.1.4 section 1). This study, conducted with support from the ROLISP project, was introduced in December 2013. Thus, the action was postponed to 2014.

Specific area of intervention 1.3.1: Reforming the NIJ and making its operations more efficient.

Action 1.3.1 section 3: *Draft amendments to the internal regulations of the National Institute of Justice in accordance with changes to the legislation.*

- Deadline: Quarter 2, 2013
- Responsible institution: NIJ
- Performance indicator: Internal regulations amended
- **Assessment: action not implemented**

Changing the NIJ's internal regulatory framework should follow after amending the Law on the NIJ, which has not yet been done.

Specific area of intervention 1.3.3: Ensure the specialization of judges for specific cases and consider the possibility of creating administrative courts.

Action 1.3.3 section 2: *Develop and approve bylaws on the specialization of judges.*

- Deadline: Quarter 2, 2013
- Responsible institution: SCM
- Performance indicator: SCM bylaws and regulations developed and approved
- **Assessment: action not implemented**

This action depends on the completion of the action 1.3.3 section 1, *Conduct a study and make recommendations on the need for specialization of judges in specific cases*. The latter had to be carried by the end of 2012, but according to the LRCM, which was contracted to do the study, it will be presented in early 2014.

Group VI. Procurement and installation of equipment; software upgrades.

Specific area of intervention 1.2.2: Efficient and functional use of the IT system for the judiciary, as needed to exclude the human factor from the case management system; implementation of an *e-justice system*.

Action 1.2.2 section 4: *Improving the Integrated Case Management Program in order to:*

- a) ensure random distribution of cases;
 - b) ensure creation of panels of judges and assignment of chairs;
 - c) create programs to ensure transparency and efficiency of the act of justice;
 - d) create a technical vetting mechanism for the computerized case management process;
 - e) insert a module to ensure protection of personal data.
- Deadline: Quarter I, 2013
 - Responsible institution: MOJ, SCM, Center for Special Telecommunications
 - Performance indicator: 1. System of random distribution of cases improved and implemented; 2. System of establishing panels of judges and establish their chairs established and implemented; 3. Technical vetting mechanism established; 4. Personal data protection module inserted; 5. Other programs developed and integrated, if needed
 - **Assessment: action not implemented**

Improvements to the ICMP are made all the time, but it is still deficient, and allows excessive interference of the human factor, which is contrary to the very central idea of this system - random distribution of cases.

Group VII. Create and streamline the work of justice sector bodies (commissions, colleges, etc.).

Specific area of intervention 1.2.6: Revise the procedures regulating the work of instruction judges, as needed to include these judges into the common judicial body and make them specialized judges.

Action 1.2.6 section 2: *Performance evaluation of instruction judges.*

- Deadline: Quarter 3, 2012
- Responsible institution: SCM
- Performance indicator: Performance evaluation carried out
- **Assessment: action implemented**

As it was decided that extraordinary performance evaluation of instruction judges would be carried out only if they need reconfirmation as judges of the common law, only a few instructions judges were evaluated in 2013 (see details in the previous report).

Although it is difficult to assess the action as implemented or not implemented under present performance indicators, and given the specificity of the action, we deem the action implemented, and trust that responsible institutions will follow the procedures established for performance evaluation.

On 11 December 2013 the LRCM released policy document “reform of the instruction judge institution: issues, risks, and solutions.” The policy document highlights deficiencies in the reform concerning judges, the risks these deficiencies pose, and recommends solutions to eliminate them and improve efficiency of instruction judges.

In 2012, Parliament passed a law that changed the status of instruction judges and ordered the evaluation of all instruction judges. However this law has its shortcomings. It does not regulate the way instruction judges are to be assessed, evaluation criteria and their future career. There is no prohibition to current instruction judges to continue to exercise their powers after their integration into the general body of judges. On the other hand, if they are appointed as instruction judges, judges of common law are not adequately trained and are prepared to perform the duties of instruction judge.⁶

The LRCM came up with several proposals, namely: establish a period of two years, during which current instruction judges, which will be integrated into the general body of judges, will not act as instruction judges; establish a 2-year term position of instruction judge and prohibition of exercising the role of instruction judge for more than two terms; testing the knowledge needed to be included into the general body of judges; adequate training of both instruction judges who want to become judges of the common law and vice versa; changing the assessment criteria of the work of instruction judges.⁷

Specific area of intervention 1.3.4: Unifying the system of accession into the profession of judge.

Action 1.3.4 section 2: *Create a single examination commission for NIJ graduates and persons with professional experience.*

- Deadline: Quarter 2, 2012
- Responsible institution: NIJ, SCM, MOJ, PGO
- Performance indicator: Single commission created
- **Assessment: action not implemented**

This action depends largely on changing the legal framework, in particular on the NIJ. To date, this action remains unfulfilled.

⁶ http://crjm.org/app/webroot/uploaded/CRJM.policy.brief.judecatori.instructie_dec.2013.pdf

⁷ Idem

Chapter II

ASSESSMENT OF IMPLEMENTATION OF ACTIONS UNDER PILLAR II

Institutional capacity. In Quarter 4 of 2013, WG II met in three sessions, on 16 October, 20 November, and 18 December of 2013. As of 20 January 2014, minutes of only two of those meetings were posted on the website of the justice reform, and the minutes for the meeting on 16 October were missing. Thus, delays in publishing minutes from meetings persist.

At the same time, the minutes from the WG meeting on 18 December was incomplete, as it failed to include the discussions and decisions passed by the members of the WG with regard to the bill on the reform of the prosecution, and including this item as a separate subject in the agenda of the January 2014 WG meeting. After a conversation on the phone, the Secretariat of the WG admitted to the mistake and proceeded to update the minutes. However the Secretariat refused to include the bill on the reform of prosecution in the agenda of the January 2014 meeting despite the fact that the WG members had passed a decision in that regard. The argument of the Secretariat was that there would not be sufficient time to discuss that subject at the said meeting.

According to the meetings' agendas, the WG discussed organizational issues, and planned actions due for completion in the respective time periods. Unfortunately, a general trend for all WG meetings is that subjects on the agenda are discussed without a prior presentation of documents to confirm the implementation of actions proposed for discussion. During the reporting period, only once did WG members receive materials to confirm progress on one action included in the agenda of a WG meeting. As a rule, the meetings consist of verbal presentations by persons delegated by the institutions represented in the WG, without any documentation to prove their statements.

1. ACTIONS DUE BY: QUARTER 4, 2013

Group II. Development of methodological recommendations and training curricula.

Specific area of intervention 2.2.1: Revise the procedure for the appointment of the General Prosecutor and his deputies and establish clear and transparent criteria for the selection of candidates to these functions.

Action 2.2.1 section 2: *Draft amendment to Constitution with regard to the procedure of appointing and dismissing the Prosecutor General and the duration of his mandate.*

- Deadline: Quarter 4, 2013
- Responsible institution: MOJ, PGO
- Performance indicator: Bill drafted and sent for review to the Constitutional Court
- **Assessment: action not implemented**

The subject of the implementation of this action was included in the agenda of the WG meeting of 20 November 2013. At this meeting, the representative of PGO said that the bill has not yet been drafted, and that the only publicly available draft at the moment was the concept of reforming the Prosecution. According to the Concept, the Prosecutor General is appointed for a term of seven years by the President of the country, at the recommendation of the SCP, without the right to be re-elected to the post. This proposed change entails amendments to the Constitution. However, no draft amendments to the Constitution were made public during the period.

From these considerations, and taking into account that performance indicators set out in the action plan were not fully met during the reporting period, and the deadline for implementation of the action was not met, action 2.2.1 point 2 is considered not implemented.

Specific area of intervention 2.2.2: Establish clear, transparent, objective and merit-based criteria and procedure for the selection appointment and promotion of prosecutors.

Action 2.2.2 section 3: *Draft regulations, bylaws and required amendments to Law no. 294-XVI of 25 December 2008 on the Prosecution.*

- Deadline: Quarter 4, 2013
- Responsible institution: PGO and SCP
- Performance indicator: Regulations developed and approved
- **Assessment: action not implemented**

The implementation of this action was included in the agenda of the WG meeting of 18 December 2013. At the meeting, the representative of PGO said that a working group specifically established by the Prosecutor General and Minister of Justice, and led by Vladislav Gribincea, drafted a bill based on the Concept of Prosecution. Mr. Gribincea confirmed that the bill was drafted and submitted for approval to the Prosecutor General and Minister of Justice. He mentioned however that it could not be made public without the consent of those officials. Thus, it is clear that the internal regulations of the Prosecution Office have not been adjusted, because the respective legal framework has not yet been adopted.

At the hearing, members of the WG coordinating and monitoring actions under Pillar II asked the Prosecutor General and the Minister of Justice to present the bill, as the implementation of several actions were connected to it. The bill was to be presented to WG members at the next meeting scheduled for January 2014. Unfortunately, the agenda of the January WG meeting sent out to WG members did not include discussing the bill on Prosecution reform, despite a WG decision in that regard.

For these considerations, and taking into account that performance indicators presented in the action plan were not fully met during the reporting period, and the deadline for implementation of the action was not observed, action 2.2.2 section 3 is considered not implemented.

2. OVERDUE ACTIONS (to be completed by 30 September 2013)

Group I. Studies and needs assessments examining current practices; proposing recommendations for reform.

Specific area of intervention 2.5.1: Liberalization of penal policies by using non-custodial sanctions and preventive measures for certain types of persons and offences.

Action 2.5.1 section 2: *Assessment of the effectiveness of use of custodial and non-custodial criminal sanctions.*

- Deadline: Quarter 2, 2013
- Responsible institution: MOJ
- Performance indicator: Study developed and recommendations formulated
- **Assessment: action not implemented**

This action was to be completed by 30 June 2013. According to the MOJ Annual Activity Plan for 2013, CPO and DPI were to implement the action by 1 July 2013. The implementation of this action was included in the agenda of the WG meeting of 12 June 2013, but later postponed to another meeting at the request of the responsible institution. At the next meeting of the WG on 11 September, it was reported that an expert was selected to conduct the study, which was to be presented by 20 September. However, by the end of September, the study was not presented to the WG members, and it is impossible to establish whether or not it was conducted. Subsequently, the subject was included in the agenda for the WG meeting of 16 October 2013, when the study again was not presented. Moreover, according to the MOJ 2013 action plan⁸, the action was set for completion by 31 December 2013, six months longer than specified in the JSRS Action Plan. According to the MOJ activity report for 2013⁹, the CPO conducted the study, but it was not made public.

From these considerations and taking into account that the performance indicators established in the action plan for the reporting period have not been met, and the deadline for implementation of the action was deliberately extended for six months by the MOJ, action 2.5.1 section 2 is deemed as not implemented.

Specific area of intervention 2.1.5: Amending the Criminal Procedure Law to exclude the contradictions between the Law and standards for the protection of human rights and fundamental freedoms.

Action 2.1.5 section 2: *Conduct a study of the legislation, including criminal procedure law, to establish its compliance with standards in defending human rights and liberties.*

- Deadline: Quarter 4, 2012
- Responsible institution: MOJ, PGO, MIA, NAC, SIS, CS
- Performance indicator: Study conducted, recommendations formulated
- **Assessment: action not implemented**

This action was due for completion by 31 December 2012. MOJ representatives told a WG meeting of 15 May 2013 that the study would be completed in the fall of 2013. At the meeting

8 http://www.justice.gov.md/public/files/file/planurirapoarte/Planul_anual_de_actiuni_al_Ministerului_Justitiei_pentru_anul_2013.pdf p.16

9 http://www.justice.gov.md/public/files/file/planurirapoarte/RAPORT_MOJ_pentru_2013_din_10-01-2014.pdf p.29

of 11 September 2013, the MOJ reported creating a task force responsible for the action, which met several times. The issue was subsequently discussed at the hearing on 16 October 2013. However, during the reporting period, the performance indicators for this action have not been presented to WG members or the general public.

The purpose of this action is to adjust the criminal procedure legislation to European standards, and we cannot overlook the fact that, absent a study in that regard, significant changes were made to the criminal procedure law under the Laws [LP222 of 27 September 2013, MO238-242/25.10.13 Art. 674](#); [LP158 of 28 June 2013, MO152-158/19.07.13 Art.483](#), mostly designed to ensure the protection of human rights and fundamental freedoms.

Amendments provided in LP252 of 8 November 2012, MO263-269/21.12.12, Art.855; LP274 of 30 November 2012, MO273-279/28.12.12, Art. 870; LP304 of 26 December 2012, MO48/05.03.13, Article 150; and LP38 of 21 March 2013, MO75-81/12.04.13, Art.233, also aimed to amend and supplement the Moldovan CPP to improve the legal framework for defending human rights in criminal proceedings.

From these considerations, and taking into account that performance indicators indicated in the action plan were not met during the reporting period, action 2.1.5 section 2 is deemed not implemented.

Specific area of intervention 2.2.6: Examination of staff requirements for the prosecutor's office bodies and development of proposals for the optimization of the number of prosecutors and auxiliary staff.

Action 2.2.6 section 1: *Study the staffing needs of the prosecution bodies and the needs for optimization of prosecutors and auxiliary staff.*

- Deadline: Quarter 1, 2013
- Responsible institution: PGO
- Performance indicator: Study conducted, recommendations formulated
- **Assessment: action not implemented**

This action was to be completed by 31 March 2013. According to PGO announcements in WG meetings, the LRCM was assigned to conduct a comprehensive study on the optimization of judges and prosecutors, but also their specialization. According to WG meetings reports, the study would be completed by the end of June, and later the period has been extended to the end of November. This action was included in the agenda of the WG meeting of 16 October 2013, but no documents confirming the completion of the study were sent to WG members. Thus, WG members did not have access to the study during the reporting period.

From these considerations, and taking into account that performance indicators established in the action plan for the reporting period were not met, action 2.2.6 section 1 is deemed incomplete.

Specific area of intervention 2.5.2: Create conditions for broader application of simplified procedures, including alternative dispute settlement methods.

Action 2.5.2 section 1: *Conduct a study on the efficiency of simplified procedures.*

- Deadline: Quarter 3, 2013
- Responsible institution: MOJ, PGO

- Performance indicator: Study conducted, recommendations formulated
- **Assessment: action not implemented**

This action was due for completion on 30 September 2013. According to the MOJ Annual Action Plan for 2013¹⁰, the action was to be completed only by 15 November 2013, with a 1.5-month deviation from the deadline specified in the JSRS. According to information presented at a meeting of the Mediation Council of 6 September 2013¹¹, the ToR for the conducting the study had been prepared and submitted to the MOJ. The implementation of the action was only included on the agenda of the WG meeting of 11 September 2013, when a progress report was presented on actions under Pillar II. At the time of the meeting, the action was deemed not implemented.

Only on 4 October 2013, the MOJ's procurement group published an ad¹² for acquisition of services of conducting a Study on the effectiveness of simplified (mediation) procedures. The implementation period assigned was: 21 October 2013 – 20 December 2013. According to the MOJ activity report for 2013¹³, the IRP is responsible for conducting the study, but its development has been delayed. During the reporting period, the implementation of the action was not discussed at any other meeting of the WG.

For these reasons and given the fact that the performance indicators for this action have not been met in the reporting period, action 2.5.2 section 1 is deemed not implemented.

Specific area of intervention: 2.5.3. Strengthen the human rights protection mechanism.

Action 2.5.3 section 1: *Conduct a study on the current mechanism of defense of offence victims' rights, their protection and rehabilitation.*

- Deadline: Quarter 3, 2013
- Responsible institution: MOJ, PGO
- Performance indicator: Study conducted, recommendations formulated
- **Assessment: action not implemented**

This action was due for implementation by 30 September 2013. According to the MOJ Annual Action Plan for 2013¹⁴, this action was to be conducted by 20 September 2013. The subject of implementing the action was not included on the agenda of any of WG meetings during the reference period, and WG members were not provided any information about the stage of implementation of this action. WG members had no access to the study during the reporting period. The study has not been published on the MOJ website intended for publication of drafts and studies. On the other hand, the MOJ activity report for 2013¹⁵ states that the study was prepared and submitted to the MOJ in February 2013.

For these reasons and given that the performance indicators have not been met during the reporting period, action 2.5.3 section 1 is deemed not implemented.

10 http://www.justice.gov.md/public/files/file/planurirapoarte/Planul_anual_de_actiuni_al_Ministerului_Justitiei_pentru_anul_2013.pdf p.16

11 <http://promediere.files.wordpress.com/2013/09/proces-din-06-09-2013.pdf> p.3

12 <http://justice.gov.md/libview.php?l=ro&idc=4&id=1569> (as accessed on 1 November 2013)

13 http://www.justice.gov.md/public/files/file/planurirapoarte/RAPORT_MOJ_pentru_2013_din_10-01-2014.pdf p.30

14 http://www.justice.gov.md/public/files/file/planurirapoarte/Planul_anual_de_actiuni_al_Ministerului_Justitiei_pentru_anul_2013.pdf p.16

15 http://www.justice.gov.md/public/files/file/planurirapoarte/RAPORT_MOJ_pentru_2013_din_10-01-2014.pdf p.32

Group III. Improving the legal framework and drafting bills and regulations.

Specific area of intervention 2.2.2: Establish clear, transparent, objective and merit-based criteria and procedure for the selection appointment and promotion of prosecutors.

Action 2.2.2 section 2: *Draft amendments to Law 294-XVI of 25 December 2008 on the prosecution.*

- Deadline: Quarter 2, 2013
- Responsible institution: MOJ, SCP, PGO
- Performance indicator:
 1. Bill drafted and sent for review to the Government;
 2. Criteria for the selection, appointment, transfer and promotion of prosecutors developed and approved;
 3. Criteria for a regular performance assessment developed;
 4. Bodies in charge with the selection, appointment, transfer, promotion and regular assessment of prosecutors established;
 5. Number of prosecutors subjected to performance assessment, under the new criteria, established;
 6. Analysis report on the implementation of assessment criteria, developed.
- **Assessment: action not implemented**

The implementation of this action was due by 30 June 2013. During the reporting period, on 11 July 2013, the Minister of Justice and Prosecutor General jointly signed a decree establishing a task force to draft bills and amendments to promote the reform of the Prosecution. The task force presented a Concept of legislative amendments, including the implementation of the action in question, as required, by 13 August 2013. On 16 October, the subject was discussed in the meeting of the WG, but the Concept was not made available to WG members. However, in November 2013, the Concept of reforming the prosecution¹⁶ was made publicly available.

At the WG meeting on 18 December 2013, following the general discussion on the subject of the drafting bills on the basis of the Concept of reforming the prosecution, a PGO representative said that a bill has been drafted. However, to date, it was not presented to WG members or the general public.

For these considerations and given that performance indicators established in the action plan were not met during the reporting period, action 2.2.2 section 2 is deemed not implemented.

Specific area of intervention 2.3.3: Capacity building for the centers of judicial expertise and judicial experts.

Action 2.3.3 section 2: *Draft new bill on the judicial expertise, which will regulate the criteria for obtaining the status of judicial expert; conditions for recognizing the judicial expertise in Moldova for persons who obtained their qualification abroad; admission and examination criteria for candidates to the position of judicial expert; draft amendments to other laws and bylaws.*

- Deadline: Quarter 2, 2013
- Responsible institution: MOJ, MIA, MS, NAC, SIS

¹⁶ http://justice.gov.md/public/files/concept.ref.procuratur.fin.06.11.2013.v.g_redactari_PGO_11.11.2013_12.11.2013_final.pdf

- Performance indicator: Bills drafted and sent for review to the Government
- **Assessment: action not implemented**

The achievement of this action expired on 30 June 2013. However, no announcements on the procedure of public debates of this bill were published on the MOJ website during the reporting period. Moreover, according to the MOJ Annual Action Plan for 2013¹⁷, the National Center for Judicial Expertise and the DGL were to complete the action by 31 October. At the WG meeting on 11 September, the rapporteurs noted that the bill had been drafted and had to be reviewed by the management of the institution. The subject was later included in the agenda of the meeting of the WG meeting on 16 October 2013, however, the bill was not presented to WG members. No public consultations on the said bill were announced on the <http://particip.gov.md> website during the reporting period.

For these reasons and given that performance indicators established in the action plan were not met during the reporting period, action 2.2.3 section 2 is deemed not implemented.

Specific area of intervention 2.1.1: Optimization of institutional, organizational and functional framework of the MIA.

Action 2.1.1 section 1: *Improve the legal framework of the operation of the police and carabinieri by drafting a bill on the status of the police and police officer; a bill on the carabinieri service, and other relevant bills, and amend bylaws to bring them in line with these bills.*

- Deadline: Quarter 4, 2012
- Responsible institution: MIA
- Performance indicator: Bills drafted and sent for review to the Government; amendments to bylaws drafted or passed
- **Assessment: action not implemented**

This action has set to be implemented by 31 December 2012, and it was completed, in broad terms, as also reported by the respective WG. Moreover, this is a complex action that requires amendments to multiple laws and bylaws, based on the concept of reforming the MIA¹⁸. The previous Quarterly Report drew attention to certain shortcomings in MIA's implementation of the Concept, including of the action in question. The situation of the carabinieri was presented as an example to this claim. The report noted that, in 2012, the MIA prepared a bill on carabinieri's reform¹⁹ but the Government rejected it. The bill was to be amended. On 5 June 2013, a new bill on the reorganization of carabinieri²⁰ was published. However things have not evolved since.

Contrary to the Concept of MIA reform, the reforms undertaken have not led to the creation of a Department of Criminal Investigation, thus limiting the guarantees of the structural and functional independence of the criminal investigation. Similarly, no visible reforms were carried out in the implementation of the concept of community police, and transfer of judicial police functions to the MOJ.

17 http://www.justice.gov.md/public/files/file/planurirapoarte/Planul_anual_de_actiuni_al_Ministerului_Justitiei_pentru_anul_2013.pdf p.15

18 <http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=337008>

19 www.mai.gov.md/sites/default/files/images/carabinieri%20nou%2006.06.2012.doc

20 <http://particip.gov.md/proiectview.php?l=ro&idd=917>

However, during the reporting period, the MIA organized public debates of a series of bills aimed at improving the legal and regulatory framework governing the work of MIA and subordinated subdivisions. The following bills could be mentioned, in this context:

- Draft Law on amending and supplementing the Law on the Service of Civil Protection and Emergencies no.93 -XVI of 05 April 2007;
- Draft GD “On regulating the organization of forces and means of the Service of Civil Protection and Emergencies of the MIA”;
- Draft GD amending GD no.778 of 27 November 2009 on the approval of the Regulation on organization and operation of the MIA, the structure and personnel of the ministry’s central apparatus, and GD no. 986 of 24 December 2012 on the structure and personnel of the GPI of the MIA;
- Draft GD on “On approving the Regulation on the organization and operation of the Department of Migration of the MIA, its structure and personnel.”

Given the complexity of the action, it is impossible to deem it as fully implemented, because further adjustments of the legal framework are required.

Thus, under these considerations and given the fact that not all performance indicators established in the action plan and the Concept of reforming the MIA were met during the reporting period, action 2.1.1 section 2 is deemed not implemented.

Specific area of intervention 2.2.8: Demilitarization of the prosecutor’s office institution, and considering the possibility of granting magistrate’s status to prosecutors.

Action 2.2.8 section 2: *Draft amendments to Law no. 294-XVI of 25 December 2008 on the prosecution, to the CPP no. 122-XV of 14 March 2003, etc. to demilitarize the institution of prosecution.*

- Deadline: Quarter 1, 2013
- Responsible institution: MOJ, PGO
- Performance indicator: Bill drafted and sent for review to the Government
- **Assessment: action not implemented**

This action was due for completion by 31 March 2013. As already mentioned above and with regard to other actions, on 11 July 2013, the Minister of Justice and the Prosecutor General signed a joint order on the creation of a task force responsible for drafting bills in order to achieve and promote the reform of the Prosecution. The task force developed a concept of legislative amendments, including the implementation of the action in question, in due time, by 13 August 2013. In November 2013, the concept of reforming the Prosecution has been made public²¹.

At a WG meeting on 18 December 2013, following a general discussion on the subject of drafting bills on the basis of the Concept of reforming the Prosecution, a PGO representative said that a bill in that regard has been drafted. However, to date, it has not been presented to the WG members or the general public.

For these considerations and taking into account that the performance indicators set out in the action plan were not met during the reporting period, action 2.2.8 section 2 is considered to be unfulfilled.

²¹ http://justice.gov.md/public/files/concept.ref.procuratur.fin.06.11.2013.v.g._redactari_PGO_11.11.2013_12.11.2013_final.pdf

Specific area of intervention 2.2.3: Enhancing the capacities and independence of the Superior Council of Prosecutors to ensure an efficient administration of the prosecutor's service.

Action 2.2.3 section 1: *Draft amendments to Law no. 294-XVI of 25 December 2008 on the prosecution, which would create a separate budget, the necessary personnel and assign a venue for the SCP.*

- Deadline: Quarter 3, 2013
- Responsible institution: MOJ, PGO
- Performance indicator: 1. Bill drafted and sent for review to the Government; Own budget established; 3. Venue assigned
- **Assessment: action not implemented**

The deadline for this action expired on 30 September 2013. According to the MOJ Annual Action Plan for 2013²², the action was to be completed by 20 December 2013, that is, three months later than the date set out in the JSRS action plan.

On the other hand, the implementation of this action was delegated to the task force formed on 11 July 2013 by joint order of the Minister of Justice and the Prosecutor General, and whose task was to draft bills to help implement and promote the reform of the Prosecution. The task force developed a Concept of legislative amendments, including the implementation of the action in question, in due time, by 13 August 2013. Unfortunately, the concept was not made public during the reporting period, and only an unofficial version was available in the media. The concept was presented to members of WG for Pillar II only after the end of the reporting period. Moreover, in November 2013, the Concept of reforming the Prosecution was made available for the public²³.

At a WG meeting on 18 December 2013, following a general discussion on the subject of drafting bills on the basis of the Concept of reforming the Prosecution, a PGO representative said that a bill in that regard has been drafted. However, to date, it has not been presented to the WG members or the general public.

For these considerations and taking into account that the performance indicators set out in the action plan were not met during the reporting period, action 2.2.3 section 1 is considered to be unfulfilled.

Specific area of intervention 2.2.5: Ensure the specialization of prosecutors and consider the possibility of liquidating specialized prosecutor's offices.

Action 2.2.5 section 2: *Draft amendments to Law No. 294-XVI of 25 December 2008 on the prosecution, and other laws and bylaws.*

- Deadline: Quarter 3, 2013
- Responsible institution: MOJ, PGO
- Performance indicator: 1. Bill drafted and sent to the Government for review; 2. Structure of prosecution bodies changed
- **Assessment: action not implemented**

²² http://www.justice.gov.md/public/files/file/planurirapoarte/Planul_anual_de_actiuni_al_Ministerului_Justitiei_pentru_anul_2013.pdf p.16

²³ http://justice.gov.md/public/files/concept.ref.procuratur.fin.06.11.2013.v.g_redactari_PGO_11.11.2013_12.11.2013_final.pdf

The achievement of this action expired on 30 September 2013. On 12 April 2013, the PGO presented a study on the need for specialization of prosecutors in specific cases. Amendments to the Law on the Prosecution and several parliament decisions were to be made in accordance with the conclusions and recommendations of the study.

However, although a study had been conducted, the action was delegated to the task force formed on 11 July 2013 by the Minister of Justice and Prosecutor General. Thus, things have not evolved beyond developing the Concept for reforming the Prosecution (as described above, under action 2.2.3 section 1).

In November 2013, the concept of reforming the prosecution was made published²⁴. At a WG meeting on 18 December 2013, following a general discussion on the subject of drafting bills on the basis of the Concept of reforming the Prosecution, a PGO representative said that a bill in that regard has been drafted. However, to date, it has not been presented to the WG members or the general public.

For these considerations and taking into account that the performance indicators set out in the action plan were not met during the reporting period, action 2.2.5 section 1 is deemed to be unfulfilled.

Specific area of intervention 2.2.6: Examination of staff requirements for the prosecutor's office bodies and development of proposals for the optimization of the number of prosecutors and auxiliary staff.

Action 2.2.6 section 2: *Draft amendments to the legal framework with regard to prosecution personnel.*

- Deadline: Quarter 3, 2013
- Responsible institution: PGO, MOF
- Performance indicator: Bill drafted and sent to the Government for review
- **Assessment: action not implemented**

The achievement of this action expired on 30 September 2013. At the WG meeting of 11 September 2013, the representative of the Prosecutor's Office reported that a study regarding the staffing needs of prosecution would be developed under an agreement of 10 June 2013 signed between the LRCM and the PGO, with funding from the U.S. Embassy. The findings of the study will serve as basis for developing and proposing legislative amendments necessary to carry out the action 2.2.6 section 2. According to the rapporteur, the study was to be completed towards the end of November 2013. Subsequently, an appropriate bill was to be drafted.

However, during the reporting period, the subject was not included on the agenda of the WG meetings, although the action was overdue. For these considerations and taking into account that the performance indicators set out in the action plan were not met during the reporting period, action 2.2.6 section 6 is deemed to be unfulfilled.

Specific area of intervention 2.4.2: Revised and uniform methods for collection and processing of statistical data related to criminal justice and ensure database inter- operability.

²⁴ http://justice.gov.md/public/files/concept.ref.procuratur.fin.06.11.2013.v.g._redactari_PGO_11.11.2013_12.11.2013_final.pdf

Action 2.4.2 section 2: *Draft a regulation on the unified analysis and processing of statistical data related to criminal justice.*

- Deadline: Quarter 3, 2013
- Responsible institution: MIA, PGO, NAC, CS, NSB, MOJ, SCJ
- Performance indicator: Regulation developed and implemented
- **Assessment: action not implemented**

The achievement of this action expired on 30 September 2013. During the reporting period, action 2.4.2 section 2 was not included for discussion on the agenda of the WG meetings, and the subject was touched upon lightly at the meeting on 11 September 2013, then the interim report on Pillar II was approved. At that stage it was noted that a task force was created by the MOJ to draft the regulation. However, the WG members have not been provided any documents confirming the completion of the action in question. The subject was not included on the agenda of any subsequent WG meetings. No draft in that regard was posted on the <http://particip.gov.md> website for public consultation, even if the adoption of the regulation was one of the priorities of MIA's Directorate General for Analysis, Monitoring and Evaluation²⁵.

For these considerations and taking into account that the performance indicators set out in the action plan were not met during the reporting period, action 2.4.2 section 2 is deemed to be unfulfilled.

Group VII. Staff optimization.

Specific area of intervention 2.1.1: Optimizing the institutional, organizational and functional framework of the MIA.

Action 2.1.1 section 2: *Implement changes to the institutional, organizational and functional framework of the MIA and subordinated bodies.*

- Deadline: Quarter 2, 2013
- Responsible institution: MIA
- Performance indicator: Changes implemented
- **Assessment: action not implemented**

The implementation of this action was due by 30 June 2013. Given that the action is correlated with the completion of action 2.1.1 section 1, which is currently in progress, this action cannot be assessed as implemented. On a worse note however, the progress in achieving this action has never been included on the agenda of WG meetings during the reporting period. Note that the action is very broad and ambitious, and dividing it into several specific actions would have allowed for an easier implementation of these actions, and better monitoring of their implementation.

For these considerations and taking into account that the performance indicators set out in the action plan were not met during the reporting period, action 2.1.1 section 2 is deemed to be unfulfilled.

²⁵ <http://www.mai.gov.md/content/26457>

Chapter III

ASSESSMENT OF IMPLEMENTATION OF ACTIONS UNDER PILLAR III

Institutional capacity. The work of the secretariat of WG III has significantly improved. The agenda of the WG meetings was available on MOJ's website before the meetings, while the minutes of the WG meetings were posted in due time. The meetings held on 29 October 2013, 19 November 2013 and 17 December 2013 were efficient, addressing both the completed and the ongoing actions.

1. ACTIONS DUE BY: QUARTER 4, 2013

Group I. Assessment of current needs and practices; formulation of recommendations for reform.

Specific area of intervention 3.1.3: Promoting legal culture and information and reducing legal nihilism.

Action 3.1.3 section 1: *Test the system of primary legal aid provided through paralegal experts at community level.*

- Deadline: Quarter 4 2013
- Responsible institutions: NLAC, MOJ, MLSPF
- Performance indicator: 1. survey conducted; 2. assessment report drafted; recommendations formulated
- Respondents: Heads of territorial offices and lawyers that provide state guaranteed legal aid (six people)
- **Assessment: action completed**

In relation to the testing of the paralegal experts it should be noted that Soros-Moldova Foundation jointly with NLAC implemented a pilot project involving 30 paralegal experts to provide aid in 30 localities. 15 paralegal experts were paid by NLAC, while the other 15 were paid by a project. The website www.parajurist.md was launched in December 2013. It contains information about the aid provided by the paralegal experts. NLAC also put in place a mechanism to monitor the performance of the paralegal experts. Although ready at the end of December 2013 the report was made public at the end of January 2014. It makes a review of the work of the paralegal experts and their performances and formulates recommendations for improvements.

Two of the six respondents said they had taken part in the testing of paralegal experts, while the other four had not. Three of the respondents said they are familiar with the findings of the evaluation report.

Specific area of intervention 3.2.2: Developing quality standards for the services provided by representatives of justice related professions.

Action 3.2.2 section 1: *Developing quality standards for the acts/actions by representatives of justice related professions.*

- Deadline: Quarter 4 2013
- Responsible institutions: Professional self-administration bodies, MOJ
- Performance indicator: 1. working groups created; 2. standards developed and approved
- Respondents: 41 lawyers, 39 court bailiffs, 41 notaries, 20 mediators
- **Assessment: action not implemented**

This action was discussed by WG III on 17 December 2013, when it was reported that no working group had been created and no standards had been developed to this end. WG III found that the reason was a budget-accounting issue, as the funds required for this action had been found too late. Therefore, this action was not implemented in due time.

On the other hand, only a few of the justice-related professions said they were aware of this action. Therefore, 12 out of 41 interviewed lawyers said they were aware of the need to develop new quality standards. 17 out of the 39 interviewed court bailiffs said they had heard about this action and only 12 out of 41 interviewed notaries said they were familiar with it. Only three out of the 41 mediators said they were aware of the need to develop quality standards. Most of the respondents said they knew nothing about the activities under this action.

Specific area of intervention 3.2.6: Promotion and implementation of the ethical standards for justice-related professions.

Action 3.2.6 section 1: *Conduct a survey of the ethical standards laid out in the codes of conduct for the justice-related professions.*

- Deadline: Quarter 4 2013
- Responsible institutions: MOJ, professional self-administration bodies
- Performance indicator: 1. survey conducted and recommendations formulated
- Respondents: 41 lawyers, 39 court bailiffs, 41 notaries, 20 mediators
- **Assessment: action not implemented**

In relation to the survey of the ethical standards laid down in the codes of conduct of the representatives of the justice-related professions, it should be noted that this issue was raised at the meeting of the WG on 17 December 2013, when it was reported that experts had been identified to conduct the survey for mediators and lawyers only. As for other professions, no consultants had been identified to be willing to conduct this survey. The survey had not been conducted and no recommendations had been formulated by the end of the reporting period.

Only 17 out of 41 lawyers, 22 out of 39 interviewed court bailiffs, 21 out of 41 notaries and only 4 out of 20 mediators said they were aware with the need to conduct this survey.

Specific area of intervention 3.2.7: Strengthening the civil liability insurance system.

Action 3.2.7 section 1: *Conduct a survey of the professional civil insurance system.*

- Deadline: Quarter 4 2013
- Responsible institutions: MOJ, professional self-administration bodies
- Performance indicator: survey conducted and recommendations formulated

- Respondents: 41 lawyers, 39 court bailiffs, 41 notaries, 20 mediators
- **Assessment: action not implemented**

This action was not addressed at the meetings of the WG III held during Quarter 4. Similarly to the previous action consultants for the professional civil insurance of lawyers and mediators only had been identified. As for the other professions no consultants had been identified to conduct this survey.

Only 12 out of 41 interviewed lawyers, 12 out of 39 court bailiffs, 10 out of 41 notaries and only 4 out of 20 mediators said they were familiar with the need to conduct this survey.

Specific area of intervention 3.2.8: Strengthening the disciplinary mechanisms.

Action 3.2.8 section 1: *Conduct a survey of the disciplinary liability mechanisms for every justice-related profession.*

- Deadline: Quarter 4 2013
- Responsible institutions: MOJ, professional self-administration bodies
- Performance indicator: survey conducted and recommendations formulated
- Respondents: 41 lawyers, 39 court bailiffs, 41 notaries, 20 mediators
- **Assessment: action not implemented**

This action was not addressed at the meetings of the WG III during Quarter 4. Similarly to the previous actions, only the consultants for professional civil insurance of lawyers and mediators had been identified. As for the other professions no consultants could be identified to conduct this survey.

Only 16 out of the 41 interviewed lawyers, 19 out of 39 court bailiffs, 14 out of 41 notaries and 3 out of 20 mediators said they were aware of this action.

Group III. Improvement of the legal framework and drafting of laws and bylaws.

Specific area of intervention 3.2.9: Establishing a unified tax, social security and medical insurance regime for justice-related professions.

Action 3.2.9 section 2: *Draft amendments to the legislative framework in order to unify the fiscal, social security and medical insurance regime.*

- Deadline: Quarter 4 2013
- Responsible institutions: MOJ, MOF, MLSPF, MOH, professional self-administration bodies
- Performance indicator: draft law developed and submitted for Government review
- **Assessment: action not implemented**

This action was addressed by WG III on 17 December 2013, when it was reported that its implementation was not possible unless a survey of the tax, social security and medical insurance regime is conducted according to action no.3.2.9. section 1. The action had not been implemented by the end of the reporting period.

2. OVERDUE ACTIONS (to be completed by 30 September 2013)

Group I. Assessment of the current needs and practices; formulation of recommendations for reforms.

Specific area of intervention 3.2.9: Establishing a unified tax, social security and medical insurance regime for justice-related professions.

Action 3.2.9 section 1: *Conduct a survey of the tax, social security and medical insurance regime for the justice-related professions.*

- Deadline: Quarter 4 2012
- Responsible institutions: MOJ, MOF, MLSPF, MOH, professional self-administration bodies
- Performance indicator: survey conducted and recommendations formulated
- **Assessment: action not implemented**

The contract with the consultants that will conduct the survey and formulate relevant recommendations was signed in Quarter 4. According to MOJ such contract was signed on 24 November 2013. The survey was expected to be conducted by the end of January 2014.

Specific area of intervention 3.3.2: Strengthening the institutional and functional capacity of the newly created system of private bailiffs.

Action 3.3.2 section 1: *Conduct a survey of the operation of the Licensing Commission and the Disciplinary College to identify means for the institutional and functional strengthening of these entities.*

- Deadline: Quarter II 2012
- Responsible institutions: MOJ, NUJO
- Performance indicator: survey conducted and recommendations formulated
- **Assessment: action not implemented**

No survey of the operation of the Licensing Commission and the Disciplinary College to identify the means for the institutional and functional strengthening of these entities was conducted. WG III addressed on 29 October 2013 the need for information on the implementation of this action and such information was to be reported at the next meetings of WG III. This action, however, was not debated at the meetings of WG III on 19 November 2013 and 17 December 2013.

Specific area of intervention 3.3.1: Impact assessment of the current regulatory framework and the implementing mechanism for enforcement of judgments, including ECtHR judgments.

Action 3.3.1 section 1: *Monitor the impact of current regulations on the enforcement of judgments, including ECtHR judgments.*

- Deadline: Quarter III 2012
- Responsible institutions: MOJ, NUJO
- Performance indicator: monitoring conducted; monitoring report drafted and made public
- **Assessment: action not implemented**

According to the 2013 Interim Report on Pillar III, the reporting period: Quarter 4 2011 - Quarter II 2013, this action is completed²⁶. However, the documentary evidence mentioned includes several letters that have not been made public and a briefing note on a bill. It should also be noted that no monitoring report has been published; therefore, this performance indicator has not been achieved and we deem the action as not completed.

It should also be noted that the previous reports pointed to these issues. Yet, this action was not discussed at the WG III meetings held in Quarter 4.

Specific area of intervention 3.3.3: Improving information management and communication system by providing access to databases.

Action 3.3.3 section 1: *Conduct a survey to detect the deficiencies of the information management and communication system that have negative implications on the enforcement of court judgments.*

- Deadline: Quarter III 2012
- Responsible institutions: NUJO, MOJ
- Performance indicator: survey conducted and recommendations formulated
- **Assessment: action not completed**

The monitoring team considers that this action has not been implemented. According to the work plan of WG III no deadline has been set, because according to the Interim Report²⁷ this action has been implemented. However, there is no evidence of achieving the performance indicator – survey conducted and recommendations formulated. Therefore, despite some actions that have been taken (gathering of official information), they cannot account for a complex survey.

It should be noted that the previous reports pointed to these issues. This issue, however, was not discussed at the WG III meetings held during Quarter 4.

Specific area of intervention 3.3.5: Improving the mechanism for recognition and enforcement of foreign court judgments.

Action 3.3.5 section 1: *Conduct a survey of the efficiency of the mechanism in place for recognition and enforcement of the foreign court judgments.*

- Deadline: Quarter III 2012
- Responsible institutions: MOJ, NUJO, SCM
- Performance indicator: survey conducted and recommendations formulated
- **Assessment: action not implemented**

At the meeting held on 29 October 2013 MOJ reported that no expert had been identified to conduct this survey. This action was not addressed at the following meetings of WG III.

Specific area of intervention 3.1.1: Strengthening organizational and management capacities of the legal aid system.

Action 3.1.1 section 2: *Conduct a study on the staffing needs of the territorial offices of NLAC and adjust the organizational chart based on that analysis, given the Council's expanded competencies.*

²⁶ http://www.justice.gov.md/public/files/file/reforma_sectorul_justitiei/Pilonul_III_Raport_intermediar_2013.Pdf page 12.

²⁷ Idem, page 22.

- Deadline: Quarter II 2013
- Responsible institutions: MOJ, MOF, NLAC
- Performance indicator: survey conducted and recommendations formulated; organizational chart adjusted
- **Assessment: action not implemented**

According to NLAC, there is a draft of the survey and the final draft is to be submitted for final review in January-February 2014.

Specific area of intervention 3.1.2: Improving the quality and accessibility of legal aid services (criminal and non-penal cases).

Action 3.1.2 section 7: *Conduct a study on the new methods of providing qualified state-guaranteed legal aid and, based on its findings, implement a pilot project.*

- Deadline: Quarter II 2013
- Responsible institutions: NLAC, MOJ
- Performance indicator: 1. survey conducted and recommendations formulated; 2. pilot project implemented, if appropriate
- **Assessment: action not implemented**

This action was discussed at the meeting of WG III on 19 November 2013. It was reported that the design procedures would not be completed in Quarter 4. WG III decided to postpone it for the debates to be held in February 2014.

Specific area of intervention 3.1.3: Promoting legal culture and access to legal information and reducing legal nihilism.

Action 3.1.3 section 2: *Conduct a survey of the mechanism of providing primary legal aid by public associations.*

- Deadline: Quarter II 2013
- Responsible institution: NLAC
- Performance indicator: survey conducted and recommendations formulated
- **Assessment: action not implemented**

This action was discussed at the meeting of WG III on 19 November 2013. It was reported that the delay in its implementation was due to technical reasons, rather than substance, and that it was close to completion. This survey was not made public at the end of the reporting period and was posted on NLAC's website on 29 January 2014²⁸. Therefore, this action will be reported as completed in Quarter I, 2014.

Specific area of intervention 3.2.3: Design of integrated, clear and accurate mechanisms for calculation of tariffs of services.

Action 3.2.3 section 1: *Conduct a survey of the tariff-setting mechanisms for the services delivered by the justice-related professions.*

²⁸ http://cnaigs.md/ro/noutati-si-anunturi/detalii-stire/news/studiu_cu_privire_la_mecanismul_de_acordare_a_asistentei_juridice_primare_de_catre_asociatiile_ob.html (as accessed on 2 February 2014)

- Deadline: Quarter III 2013
- Responsible institutions: MOJ, professional self-administration bodies
- Performance indicator: survey conducted and recommendations formulated
- **Assessment: action not implemented**

Although due for completion in Quarter III, this action was not implemented. The consultants and experts that are expected to conduct the survey were selected in Quarter 4, while the survey is to be completed in Quarter I, 2014.

Group II. Development of methodological recommendations and training programs.

Specific area of intervention 3.1.1: Strengthening organizational and management capacities of the legal aid system.

Action 3.1.1 section 4: *Design the cost recovery mechanism for the state guaranteed legal aid.*

- Deadline: Quarter 4 2012
- Responsible institutions: MOJ, NLAC
- Performance indicator: working group created; amendments to the legal framework drafted and submitted for Government review
- **Assessment: action not implemented**

This action was addressed at the meeting of WG III held on 29 October 2013, when it was reported that it had not been implemented. Neither could it be found among the implemented actions in Quarter 4.

Specific area of intervention 3.1.2: Improving the quality and accessibility of legal aid services (criminal and non-penal cases).

Action 3.1.2 section 2: *Design the mechanism for quality monitoring of the state guaranteed legal aid.*

- Deadline: Quarter II 2013
- Responsible institutions: NLAC, Union of Lawyers in Moldova
- Performance indicator: methodology developed and approved
- **Assessment: action not implemented**

This action was discussed at the WG meeting held on 19 November 2013. NLAC reported that the implementation of this action was underway and was to deliver more detailed information in February 2014. Two additional competitions were held to hire experts to conduct this survey, but the winners have not been selected.

Specific area of intervention 3.2.5: Providing initial and continuous training for justice-related professions, including joint trainings, enhancing the role of NIJ in this process.

Action 3.2.5 section 1: *Develop a curriculum for the initial training and an education plan for the continuous training of representatives of justice-related professions.*

- Deadline: Quarter II 2013
- Responsible institutions: NIJ, self-administration bodies
- Performance indicator: curricula and education plan developed
- **Assessment: action not implemented.**

This action was not implemented in Quarter 4 because of the inactivity of the self-administration bodies of the justice-related professions. According to NIJ the representatives of the self-administration bodies had not formulated proposals for the curricula and education plan.

Group III. Improvement of the legal framework and drafting of laws/regulations.

Specific area of intervention 3.2.1: Encouraging capacity building for representatives of justice-related professions at the level of professional unions with particular focus on management skills.

Action 3.2.1 section 4: *Draft a new bill on notaries.*

- Deadline: Quarter 4 2012
- Responsible institution: MOJ
- Performance indicator: working group created; law drafted and submitted for Government review
- **Assessment: action not implemented**

The final draft of the law and the briefing note were submitted for coordination on 5 November 2013²⁹. The draft was withdrawn, however. Therefore, no draft law was consulted with and approved by the representatives of the notary profession.

Specific area of intervention 3.2.1: Encouraging capacity building for representatives of justice-related professions at the level of professional unions with particular focus on management skills.

Action 3.3.1 section 2: *Draft amendments to the regulatory framework aiming to address the deficiencies in the enforcement of judgments.*

- Deadline: Quarter 4 2012
- Responsible institutions: MOJ, NUJO
- Performance indicator: amendments to the regulatory framework drafted and submitted to the Government
- **Assessment: action not implemented**

WG held several meetings in Quarter 4 to work on the final draft of the law. The bill, however, had not been submitted to the Government by the end of the reported period.

Specific area of intervention 3.3.1: Impact assessment of the regulatory framework and the mechanism for enforcement of judgments, including the ECtHR ones.

Action 3.3.1 section 3: *Draft a Regulation on the enforcement of ECtHR judgments.*

²⁹ <http://www.justice.gov.md/pageview.php?l=ro&idc=192> (as accessed on 30 October 2013)

- Deadline: Quarter 4 2012
- Responsible institutions: MOJ, MOF, NECEO
- Performance indicator: regulation drafted and submitted to the Government
- **Assessment: action not implemented**

This action was not implemented during Quarter 4. At its meetings WG III addressed the need to reword this action that cannot be implemented as it is and that other types of documents need to be drafted instead of the mentioned ones.

Specific area of intervention 3.3.3: Ensuring compliance with reasonable deadlines for enforcement of judgments.

Action 3.3.3 section 2: *Draft amendments to the legal framework to address the deficiencies of the information management and communication system, including in terms of the access to databases.*

- Deadline: Quarter 4 2012
- Responsible institutions: MOJ, NUJO, authorities administering databases
- Performance indicator: amendments to the regulatory framework drafted and submitted for Government review
- **Assessment: action not implemented**

This action was to be preceded by action 3.3.3 section 1: conduct a survey to determine the deficiencies of the information management and communication system that impact the enforcement of court judgments. This study, however, has not been conducted and published. Therefore, this action was not implemented during Quarter 4.

Specific area of intervention 3.3.5: Improvement of the mechanism for recognition and enforcement of foreign court judgments.

Action 3.3.5 section 2: *Draft amendments to the legal framework on the mechanism of recognition and enforcement of judgments issued by foreign courts.*

- Deadline: Quarter I 2013
- Responsible institutions: MOJ, NUJO, SCM
- Performance indicator: law drafted and submitted for Government review
- **Assessment: action not implemented**

This action was reported as completed in the 2013 Interim Sector Report for Pillar III, reporting period: Quarter 4, 2011 - Quarter II, 2013. A number of bills and passed laws were included as performance indicators to prove the completion of the action³⁰. Yet, at the meeting of WG III held on 1 July 2013 it was admitted that this action had not been implemented.

Specific area of intervention 3.1.1: Strengthening the organizational and management capacities of the legal aid system.

Action 3.1.1 section 5: *Design the mechanism to access databases to check the incomes of applicants for state guaranteed legal aid.*

30 http://www.justice.gov.md/public/files/file/reforma_sectorul_justitiei/Pilonul_III_Raport_intermediar_2013.Pdf p.26

- Deadline: Quarter III 2013
- Responsible institutions: MOJ, NLAC, MITC and Agency of Land Relations and Cadaster
- Performance indicator: law drafted and submitted for Government approval
- **Assessment: action not implemented**

This action was addressed at the meeting of WG III on 17 December 2013. Although a bill was drafted, there have been some difficulties in getting its clearance from other central public authorities, such as MOF and the Main State Inspectorate. This draft had not been submitted for Government approval by the end of the reporting period.

Group VII. Creation and streamlining of the work of justice sector bodies (commissions, colleges etc.).

Specific area of intervention 3.1.2: Improving the quality and accessibility of legal aid services (criminal and non-penal cases).

Action 3.1.2 section 4: *Create offices of public defenders in the communities where NLAC has territorial offices.*

- Deadline: Quarter II 2013
- Responsible institutions: MOJ, NLAC, Union of Lawyers
- Performance indicator: number of offices created and refurbished; increased number of public defenders
- **Assessment: action not implemented**

Although in Quarter II changes were approved to the staffing lists of regional offices, no public defenders' offices were created and refurbished in the localities where NLAC has territorial offices. Things did not change in Quarter 4 when, because of lack of funding, it was not possible to open such offices.

Specific area of intervention 3.3.2: Strengthening the institutional and functional capacity of the newly created system of private bailiffs.

Action 3.3.2 section 2: *Draft amendments to the regulatory framework aiming at institutional and functional consolidation of the Licensing Committee and Disciplinary Board.*

- Deadline: Quarter 4 2012
- Responsible institutions: MOJ, NUJO
- Performance indicator: law drafted and submitted to the Government
- **Assessment: action not implemented**

During the reporting period, MOJ sent for consultation to authorities a bill on the regulatory framework to build the institutional and functional capacity of the Licensing Commission and Disciplinary College³¹. The period between 8 August and 2 September 2013 was allocated for

31 <http://justice.gov.md/pageview.php?l=ro&idc=192>
http://justice.gov.md/public/files/proiecte_spre_coordonare/Nota_informativ_la_proiectul_de_lege_pentru_modificarea_i_completarea_unor_acte_legislative-07-05-2013.pdf
http://justice.gov.md/public/files/proiecte_spre_coordonare/Proiect_de_modif.Legii_cu_privire_la_executorii_judectoreti_24.04.2013.pdf

consultation. As the final draft was not sent to the Government after that date, the action remains unfulfilled.

Specific area of intervention 3.2.1: Encouraging capacity building for representatives of justice-related professions at the level of professional unions with particular focus on management skills.

Action 3.2.1 section 2: *Draft amendments to the Law no.113 of 17 June 2010 on bailiffs and Enforcement Code no. 443-XV of 24 December 2004.*

- Deadline: Quarter 4 2012
- Responsible institutions: MOJ, NUJO
- Performance indicator: law drafted and submitted to the Government
- **Assessment: action not implemented**

Similarly to action 3.3.2 section 1, MOJ drafted and sent the law to authorities for consultation. Yet, by the end of Quarter 4 there had been no information available about the submission of the draft to the Government on the institution's website.

Chapter IV

ASSESSMENT OF IMPLEMENTATION OF ACTIONS UNDER PILLAR IV

Institutional capacity. During the fourth Quarter of 2013 the WG for monitoring the implementation of actions under Pillar 4 of the Strategy met in three sessions – on 25 October, 29 November and 20 December.

It should be noted that the developed staff capacities of the Working Group's Secretariat significantly improved the organization and running of meetings and the information posted on the reform's website.

1. ACTIONS DUE BY: QUARTER 4, 2013

Group II. Formulation of methodological recommendations and training programs.

Specific area of intervention 4.1.4: Clear regulation of the behavior of judges, prosecutors, criminal investigators, lawyers and bailiffs in relation to other people in order to fight corruption and create a mechanism to ensure an integral behavior.

Action 4.1.4 section 2: *Build the capacities to ensure an anticorruption behavior by formulating relevant methodological recommendations.*

- Deadline: Quarter 4 2013
- Responsible institutions: SCM, SCP, MIA, NAC, self-administration bodies of the related professions
- Performance indicator: recommendations drafted and approved
- **Assessment: action not implemented**

Group III. Improvement of the legal framework and drafting laws and bylaws.

Specific area of intervention 4.1.4: Clear regulation of the behavior of judges, prosecutors, criminal investigators, lawyers and bailiffs in relation to other people in order to fight corruption and create a mechanism to ensure an integral behavior.

Action 4.1.4 section 4: *Revise the legislative framework in order to regulate the margin of discretion of the representatives of the justice sector and draft amendments to the relevant regulatory framework.*

- Deadline: Quarter 4 2013
- Responsible institutions: MOJ, SCJ, PGO, SCM, SCP, self-administration bodies of the related professions
- Performance indicator: 1. working group created; 2. regulations drafted and submitted for Government review
- **Assessment: action not implemented**

At one of its meetings WG agreed to recommend finding this action as irrelevant.

Specific area of intervention 4.1.5: Design and application of efficient tools to prevent any interference in doing justice and the corruptive behavior by actors in the justice sector.

Action 4.1.5 section 2: *Draft amendments to the regulatory framework in order to regulate the procedure for application of tools to prevent any interference in doing justice and corruptive behavior.*

- Deadline: Quarter 4 2013
- Responsible institutions: MOJ, NAC, SCM, SCP, PGO
- Performance indicator: amendments to the regulatory framework drafted and submitted for Government review
- **Assessment: action not implemented**

At the meeting on Pillar 4 held on 29 November 2013 the WG agreed that this action, along with the next one (4.1.5. section 3), is obsolete or irrelevant, because relevant amendments have already been made to the legislation and the activities that were initially planned towards its achievement are not appropriate.

Specific area of intervention 4.2.1: Standardization and refinement of ethical standards for all actors of the justice sector.

Action 4.2.1 section 1: *Amend or, if appropriate, draft codes of conduct for all the representatives of the justice sector.*

- Deadline: Quarter 4 2013
- Responsible institutions: MOJ, NAC, SCM, SCP, PGO, MIA, unions of justice-related professions
- Performance indicator: codes of ethics drafted and approved
- **Assessment: action implemented**

The actors targeted by this action largely have approved or recently revised codes of conduct. Therefore, although not fully implemented, as long as at least one institution did not revise its code of conduct, this action should be assessed as implemented.

Specific area of intervention 4.2.3: Improving the mechanisms and capacity building of bodies responsible for observing the professional ethics.

Action 4.2.3 section 1: *Amend or, if appropriate, develop the regulatory framework on the performance of the entities in charge of investigating noncompliance with the professional ethics.*

- Deadline: Quarter 4 2013
- Responsible institutions: MOJ, NAC, SCM, PGO, MIA, unions of justice-related professions
- Performance indicator: regulations drafted and submitted for Government review
- **Assessment: action not implemented**

This action was not implemented at the time of this report.

Specific area of intervention 4.2.5: Involving the society in monitoring the compliance with the professional ethics of justice sector actors.

Action 4.2.5 section 1: *Draft a regulation on the involvement of the civil society representatives in the monitoring of the legislation on the professional ethics of the justice sector representatives.*

- Deadline: Quarter 4 2013
- Responsible institutions: MOJ, SCM, SCP, MIA, NAC, NIC
- Performance indicator: 1. regulation drafted and submitted for Government review; 2. number of civil society representatives involved
- **Assessment: action not implemented**

This action had not been implemented by the time of this report.

According to the draft annual report on the implementation of actions under Pillar 4 of JSRS the announcement on the initiation of the procedure for amending the regulatory framework was posted on the MOJ's official website on 5 September 2013 for consultation and feedback from other institutions. This report also states that no feedback/recommendations were received from the civil society institutions and that new letters were sent to the largest NGOs in this sense.

Holding an event gathering together the representatives of the civil society and the relevant institutions to address this issue would probably be appropriate.

Group VI. Procurement and installation of equipment; software upgrades.

Specific area of intervention 4.1.5: Design and application of efficient tools to prevent any interference in doing justice and corruptive behavior of actors in the justice sector.

Action 4.1.5 section 7: *Procure polygraphs to detect simulated behavior.*

- Deadline: Quarter 4 2013
- Responsible institutions: SCM, PGO, MIA, NAC, CS
- Performance indicator: equipment procured
- **Assessment: action not implemented**

Polygraphs were procured for NAC only.

2. OVERDUE ACTIONS (to be completed by 30 September 2013)

Group I. Assessment of current needs and practices; formulation of recommendations for reform.

Specific area of intervention 4.3.4: Publication and media coverage of court decisions on sentencing of justice sector actors for corruption.

Action 4.3.4 section 1: *Conduct a survey of the appropriateness to amend the legal framework regarding the publication and media coverage of court judgments convicting justice sector representatives for acts of corruption.*

- Deadline: Quarter 4 2012
- Responsible institutions: SCM, MOJ

- Performance indicator: 1. survey conducted and recommendations formulated; 2. bill drafted and submitted for Government review
- **Assessment: action not implemented**

WG for the coordination and monitoring of the implementation of Pillar 4 doubts that this action is necessary and considers it obsolete recommending that it should be removed from the action plan³². We agree with this recommendation given that such a survey is not necessary and simply allocating some room for posting such decisions on the courts' websites when they are issued would be enough.

Group III. Improvement of the legal framework and drafting of laws and bylaws.

Specific area of intervention 4.1.1: Substantially increase the salaries of justice sector actors and simplify criteria for calculating salaries.

Action 4.1.1 section 1: *Amend the regulatory framework to simplify the procedure for calculating salaries and revise the social guarantees of the justice sector actors.*

- Deadline: Quarter 4 2012
- Responsible institutions: MOJ, MOF, MLSPF
- Performance indicator: law drafted and submitted to the Government
- **Assessment: action not implemented**

While action 4.1.1 section 2 may be assessed as partially implemented, due to the amendments made in 2013 (more specifically the Law no. 328 of 23 December 2013 on the salaries of judges; increased salaries and social guarantees for the NAC staff provided for in the amendments to the Law no.120 of 25 May 2012 and the 30% increase in the base salaries approved for the GPI of MIA), this action has not been implemented and WG for Pillar 4 should clarify whether the simplification of the procedure for salary calculation and revision of social guarantees of the justice sector actors is still appropriate.

Specific area of intervention 4.3.2: Development and implementation of measures to encourage the actors in the justice sector to promote an integral behavior and develop a culture of intolerance towards corruption.

Action 4.3.2 section 2: *Develop the regulatory framework for the voluntary polygraph testing of representatives of the justice sector.*

- Deadline: Quarter II 2013
- Responsible institutions: NAC, PGO, SCM, MIA
- Performance indicator: regulation drafted and submitted for Government review
- **Assessment: action not implemented**

WG addressed the appropriateness to develop the regulatory framework on **voluntary** polygraph testing, given that the legislation already regulates the compulsory testing.

³² See: INTERIM SECTOR REPORT - PILLAR 4, REPORTING PERIOD: QUARTER 4, 2011 – QUARTER II, 2013, approved at the meeting of the WG for the coordination and monitoring of the implementation of Pillar IV of the Justice Sector Reform Strategy of 13 September 2013, which reflects the implementation status as of that date: <http://www.justice.gov.md/category.php?l=ro&idc=155> (as accessed on 31 Oct 2013)

Group V. Development and use of awareness raising and outreach mechanisms.

Specific area of intervention 4.3.3: Strengthening the whistle-blower system (inside and outside the system).

Action 4.3.3 section 2: *Create internal institutional mechanisms to allow whistle-blowers to signal irregularities (SCM, SCP, PGO, NAC, MIA)*

- Deadline: Quarter II 2013
- Responsible institutions: SCM, SCP, PGO, NAC, MIA
- Performance indicator: internal mechanisms created
- **Assessment: action not implemented**

NAC drafted a framework regulation on this issue, approved by Government on 9 September 2013. The responsible institutions are now to draft own regulations and create internal mechanisms in the near future.

At the time of this report, however, only NAC had its internal regulation on whistle-blowers posted on its website. MIA reported at one of the WG meetings to have adopted such an internal regulation. The latter, however, was not found on MIA's website. Moreover, since the other institutions have not approved such regulations, we consider that this action has not been implemented.

Action 4.3.3 section 4: *Media coverage of the whistle-blower institution.*

- Deadline: Quarter II 2013
- Responsible institution: NAC
- Performance indicator: number of press releases
- **Assessment: action not implemented**

The annual report on the implementation of the Pillar 4 actions states that NAC delivered training on the whistle-blower institute, informing the trainees in particular about the legal framework, their whistleblowing right and protection they will enjoy. In 2013 NAC held 25 training events for 774 people. From November 14 to December 20, 2013 NAC delivered in the Academy of Public Administration 17 training courses on the whistle-blower institution.

This action cannot be considered as fully implemented yet. First of all, the number of press releases issued is very little (two on NAC's website and two in the national media, although not issued by NAC). Secondly, as long as not all the institutions targeted by action 4.3.3 section 2 designed the required internal mechanism, there is no efficient communication or media coverage of the whistle-blowers, that don't exist yet.

Chapter V

ASSESSMENT OF IMPLEMENTATION OF ACTIONS UNDER PILLAR V

Institutional capacity. In Quarter 4 of 2013 WG V met in three sessions – on 17 October 2013, 29 November 2013 and 16 December 2013. According to the agenda and minutes of the meetings, the discussions were to be focused on the delayed actions and actions that are to be implemented during this Quarter. MOJ published the minutes of the WG meetings in a timely manner.

Unfortunately, traditionally the supporting evidence of the implementation of the actions to be addressed at WG meetings is not delivered beforehand. In the reporting period only after one WG meeting the members received the supporting documents on the status of implementation of just one action. Therefore, the meetings are based on the verbal reports delivered by delegates to WG, without any supporting evidence being delivered before such meetings.

1. ACTIONS DUE BY: QUARTER 4, 2013

Group II. Improvement of the legal framework and drafting of laws and bylaws.

Specific area of intervention 5.1.2: Development of guiding principles for the use of alternative dispute resolution mechanisms (criminal, civil, commercial) and development of arbitration and mediation institutions as alternative means of litigation settlement.

Action 5.1.2 section 2: *Draft amendments to the regulatory framework on mediation in specific sectors (family, civil and commercial, labor, administrative, consumer protection disputes).*

- Deadline: Quarter 4 2013
- Responsible institutions: MOJ, Mediation Council, Chamber of Commerce and Trade
- Performance indicator: amendments to the regulatory framework drafted and submitted for Government review
- **Assessment: action not implemented**

This action was due for completion by 31 December 2013. During the reporting period it was put on the agenda of the meeting held on 16 December 2013, when MOJ reported to have taken a number of actions related to the revision of the mediation bill. The revised bill³³ was posted on the website www.particip.gov.md for public consultations. It, however, was not put on the agenda of the Government meeting, or reviewed by the Government during the reporting period.

Therefore, given that the performance indicators have not been achieved, action 5.1.2 section 2 is assessed as not implemented.

33 http://particip.gov.md/public/documente/131/ro_1323_Proiectmediere-14-12-2013.pdf

Group III. Developing methodological recommendations and professional training programs.

Specific area of intervention 5.2.2: Strengthening the status of administrators of insolvency procedure in order to ensure the stability of the profession, growth of their integrity and professionalism.

Action 5.2.2 section 3: *Develop the manual of the authorized administrator.*

- Deadline: Quarter 4 2013
- Responsible institutions: NIJ, MOJ, ME
- Performance indicator: manual developed and shared
- **Assessment: action not implemented**

This action was due for completion by 31 December 2013. It was on the agenda of the meeting held on 29 November 2013. The WG members received no training manual. Also NIJ did not specify how many manuals were developed and delivered.

Therefore, given that the performance indicators laid down in the action plan were not achieved in the reporting period, action 5.2.2 section 3 is assessed as not implemented.

Group IV. Training activities for different justice sector actors.

Specific area of intervention 5.1.2: Development of guiding principles for the use of alternative dispute resolution mechanisms (criminal, civil, commercial) and development of arbitration and mediation institutions as alternative means of litigation settlement.

Action 5.1.2 section 3: *Mediation and arbitration training of trainers.*

- Deadline: Quarter 4 2013
- Responsible institution: NIJ
- Performance indicator:
 1. Trainers recruited/training institutions selected
 2. Methodology for training of trainers developed
 3. Number of training courses delivered
 4. Number of trained trainers
- **Assessment: action implemented**

This action was due for completion by 31 December 2013. NIJ's 2013 work plan³⁴ included training of trainers in mediation and arbitration. During the reporting period this action was on the agenda of the meeting held on 29 November 2013, when NIJ reported that relevant training seminars had been held.

Therefore, given that the performance indicators laid down in the action plan were achieved during the reporting period, action 5.1.2 section 3 is assessed as implemented.

³⁴ www.inj.md/files/u1/icare_Plan_formare_formatori_2013_-_integral_0.doc

Group V. Development and use of awareness raising and outreach mechanisms (e.g. websites for publishing court judgments).

Specific area of intervention 5.3.3: Providing free access to information from electronic registries of economic agents and e-services supply by registries' holders.

Action 5.3.3 section 2: *Upgrade the electronic system of free of charge and paid delivery of information on businesses.*

- Deadline: Quarter 4 2013
- Responsible institutions: MOJ, MOE, e-Government Center, MITC
- Performance indicator: streamlined electronic system
- **Assessment: action not implemented**

This action was due for completion by 31 December 2013. During Quarter 4, 2013 the issue was never on the WG's agenda. In its performance report³⁵ for 2013 MOJ states that the implementation of this action depends on the creation of the single electronic register of businesses and non-commercial organizations – activity to be completed by the end of 2016.

Therefore, given that the performance indicators laid down in the action plan were not achieved in the reporting period, action 5.3.3. section 2 is assessed as not implemented.

2. OVERDUE ACTIONS (to be completed by 30 September 2013)

Group I. Assessment of current needs and practices; formulation of recommendations for reform.

Specific area of intervention 5.1.1: Handing over of economic cases to common law courts, including by providing that judges shall be specialized on these categories of cases.

Action 5.1.1 section 1: *Conduct the survey of the statistical data on:*

- a) *the number of economic cases filed with courts located in the range of the parties' office (residence);*
- b) *the number of businesses registered in territorial administrative units that could be involved in economic litigations.*

- Deadline: Quarter III 2012
- Responsible institutions: MOJ, SCM, NBS
- Performance indicator: survey conducted and recommendations formulated
- **Assessment: action not implemented**

This action was due for completion by 30 September 2012. According to the report delivered at the Working Group meeting on 11 April 2013, the action should not have been implemented because it was necessary to facilitate the amendment of the relevant legislation. The rapporteur noted that Law no. 29 of 6 March 2012 performed sufficient changes to exempt the relevant institution from the implementation of the action 5.1.1 section 1 of the Action Plan. Note that the same arguments were presented at the end of 2012 for the approval of the 2012 Annual Report

35 http://www.justice.gov.md/public/files/file/planurirapoarte/RAPORT_MOJ_pentru_2013_din_10-01-2014.pdf p. 53

of the WG³⁶. The WG meeting on 12 September 2013 resumed talks on this action. WG members decided that the implementation of this action was no longer necessary and did not assess it in any way. However, the Interim Report³⁷ for Pillar V published on the MOJ's website assesses this action again as not implemented.

The authors of this report believe that since the action is no longer relevant because of the changes in legislation, the JSRS Action Plan needs to be revised, while the WG is not entitled to make amendments to the bills passed by the Parliament. Another solution would be conducting a study to look at the issues in discussion by corroborating them with the existent legislation, and proposing that no other legislative amendments were necessary. In this case, the action can be loosely assessed as completed.

For these reasons and given that the performance indicators laid down in the action plan for the reporting period have not been achieved, action 5.1.1 section 1 is assessed as not implemented.

Specific area of intervention 5.1.2: Developing guiding principles for the use of alternative dispute resolution mechanisms (criminal, civil, commercial) and development of arbitration and mediation institutions as alternative means of litigation settlement.

Action 5.1.2 section 1: *Conduct surveys on the performance of the mediation institution in specific fields (family, civil, commercial or labor disputes, administrative, consumer protection litigations) and the opportunity of developing a community mediation system and the institution of arbitration.*

- Deadline: Quarter 4 2012
- Responsible institutions: MOJ, MLSPF, MOE, Mediation Council, SCM, Chamber of Commerce and Industry
- Performance indicator: surveys conducted and recommendations formulated
- **Assessment: action not implemented**

This action was due for completion by 31 December 2012. According to the Annual Report drafted at the end of 2012 the action was assessed as partially implemented based on a survey that had been conducted on a specific intervention area. At the WG meeting held on 12 September 2013 the action remained partially implemented, because besides the arbitration survey, no mediation survey had been conducted. According to the rapporteurs, the findings of the conducted survey were included in the draft law on mediation subjected to public consultations³⁸ on 16 January 2013, but not enough outreach is being done for this draft. According to the MOJ's work plan for 2013³⁹, however this action is due for completion by 30 December 2013.

At the meeting held on 17 October 2013 MOJ reported that it had prepared a report⁴⁰ on the monitoring of the Law on mediation. According to the rapporteur, this survey also looked at the issues related to mediation by specific areas. Following the debates WG agreed to assess this action as implemented.

36 http://www.justice.gov.md/public/files/file/reforma_sectorul_justitiei/rapoarte/2012/Pilonul_V_Raport_anual_2012.pdf p.3

37 http://www.justice.gov.md/public/files/file/reforma_sectorul_justitiei/pilon_V_Raport_sectorial_2013.pdf p.2

38 <http://particip.gov.md/proiectview.php?l=ro&idd=698>

39 http://www.justice.gov.md/public/files/file/planurirapoarte/Planul_anual_de_actiuni_al_Ministerului_Justitiei_pentru_anul_2013.pdf p.21

40 http://www.google.ro/url?sa=t&rct=j&q=&esrc=s&source=web&cd=2&cad=rja&ved=0CDQQFjAB&url=http%3A%2F%2Fwww.justice.gov.md%2Fpublic%2Ffiles%2FMINISTERUL_JUST_MEDIAREA_134.doc&ei=TQDqUpirOluY1AX72oGwDg&usg=AFQjCNFB5PCQ04x4kqkRJeX6kqCIDKYuRw&bvm=bv.60444564,d.Yms

It should be noted that in 2013 another survey⁴¹ was conducted on the performance of the mediation profession in Moldova. Yet, none of these surveys fully respond to the questions formulated in this action. Therefore, the report on the monitoring of the law on mediation was developed in 2011 before the approval of JSRS, while the survey published in 2013 does not look, in fact, at the mediation by specific areas. Moreover, according to the MOJ's 2013 performance report⁴² the action was not implemented.

For these reasons and given that the performance indicators set out in the action plan for the reporting period were not met, the implementation deadline has been extended for one year, action 5.1.2 section 1 is deemed as not implemented.

Specific area of intervention 5.3.1: Modernization of the system of electronic registration of economic agents.

Action 5.3.1 section 1: *Conduct a study on ways to upgrade the system of electronic registration of companies.*

- Deadline: Quarter 4 2012
- Responsible institutions: e-Government Center, MOJ, MOE, MITC
- Performance indicator: survey conducted and recommendations formulated
- **Assessment: action not implemented**

This action was due for completion by 31 December 2012. According to the available information, a taskforce established back in October 2012 by MOJ decree is working on this action. WG members did not receive detailed information about the work of the taskforce responsible for the action. The meeting on 12 September 2013 and the Interim Report both assessed the action as partially completed namely because there was a taskforce apparently working on it.

At the meeting held on 17 October 2013 it was reported that a company from Macedonia had been contracted to conduct this survey and implement the measures under action 5.3.2 section 1 and 5.3.3. section 1. The surveys were due for completion by the end of December, but they were not made public during the reporting period.

For these reasons and given that the performance indicators set out in the action plan for the reporting period were not achieved, action 5.3.1 section 1 is deemed to be unfulfilled.

Specific area of intervention 5.3.2: Creating a unified electronic registry for the registration of economic agents and non-profit organizations.

Action 5.3.2 section 1: *Conduct a study on a unified registry of businesses and non-profit organizations.*

- Deadline: Quarter 4 2012
- Responsible institutions: e-Government Center, MOJ, MOE, MITC
- Performance indicator: Survey conducted and recommendations formulated
- **Assessment: action not implemented**

41 http://www.justice.gov.md/public/files/file/Directia%20notariat%20si%20avocatura/studiu_functionarea_profesiei_de_mediator-04-07-2013.pdf

42 http://www.justice.gov.md/public/files/file/planurirapoarte/RAPORT_MOJ_pentru_2013_din_10-01-2014.pdf p. 49

These actions were due for completion by 31 December 2012. According to the reports delivered at the WG meetings, the implementation of this action is combined with the implementation of action 5.3.1. section 1. On 5 July 2013 MOJ posted on its website an announcement on recruitment of an expert to conduct the survey. At the meeting held on 17 October 2013 it was reported that a company from Macedonia was contracted to conduct this survey and implement the actions under actions 5.3.1 section 1 and 5.3.3. section 1. The surveys were due for completion by the end of December, but they were not made public during the reporting period. The survey was not published on the MOJ's website.

For these reasons and given that the performance indicators set out in the Action Plan for the reporting period were not achieved, action 5.3.2 section 1 is deemed as not implemented.

Group II. Improvement of the legal framework and drafting of laws and bylaws.

Specific area of intervention 5.1.4: Establishing/improving the mechanisms of recognition and enforcement of judgments issued by foreign arbitration courts.

Action 5.1.4 section 2: *Amend the legal framework to regulate the mechanisms of recognition and enforcement of judgments issued by foreign arbitration courts.*

- Deadline: Quarter II 2013
- Responsible institutions: MOJ, courts, Chamber of Commerce and Industry, NUJO
- Performance indicator: amendments to the regulatory framework drafted and submitted for Government review
- **Assessment: action not implemented**

This action was due for completion by 30 June 2013. During the reporting period, WG members received no evidence supporting the implementation of this action. No information on the implementation of this action was published on the website of the relevant institution by the set deadline. This issue was raised at the WG meetings held on 17 October 2013 and 29 November 2013, but no evidence was provided to support the implementation of this action. Moreover, according to the MOJ's 2013 performance report⁴³ this action was assessed as partially implemented and the related regulatory framework was scheduled for amendment in 2014.

For these reasons and given that the performance indicators set forth in the action plan for the reporting period were not met, action 5.1.4 section 2 is assessed as not implemented.

Specific area of intervention 5.2.1: Creating the required regulatory framework for the efficient organization and functioning of the administrators of insolvency procedure.

Action 5.2.1 section 2: *Create the institutional framework for exercising the profession of authorized insolvency administrator.*

- Deadline: Quarter III 2012
- Responsible institutions: MOJ, MOE
- Performance indicator: institutional framework for exercising the profession of authorized insolvency administrator.
- **Assessment: action not implemented**

⁴³ http://www.justice.gov.md/public/files/file/planurirapoarte/RAPORT_MOJ_pentru_2013_din_10-01-2014.pdf p. 52

The completion of this action was due by 30 September 2012. According to the MOJ's 2013 Work Plan⁴⁴, the GDL and the Directorate for Legal Professions and Services were responsible for the completion of this action by 30 September 2013. According to the information provided at WG meetings by the authorities responsible for carrying out the action, there is a conflict between the MOJ and MOE on the bill on authorized administrators. This, in turn, impedes the implementation of action 5.2.1 sections 2 and 3 of the Action Plan.

Following the debates on this issue on 17 October 2013, the WG found that the representatives of MOE and MOJ disagree on the way this action should be implemented in terms of its contents.

For these reasons and given that the performance indicators laid down in the action plan were not met in the reporting period, action 5.2.1 section 2 is deemed not implemented.

Specific area of intervention 5.2.1: Creating the required regulatory framework for the efficient organization and functioning of the administrators of insolvency procedure.

Action 5.2.1 section 3: *Draft relevant regulations for the admission to the profession of insolvency administrator and supervision of this activity.*

- Deadline: Quarter 4 2012
- Responsible institution: MOJ
- Performance indicator: regulations drafted and approved
- **Assessment: action not implemented**

The implementation of this action was due for completion by 31 December 2012. According to the MOJ's Work Plan⁴⁵ for 2013, the GDL and the Directorate for Legal Professions and Services were responsible for the completion of this action by 20 December 2013.

According to the information provided at WG meetings by MOJ and MOE - the agencies responsible for carrying out the action, there is a conflict between the two institutions on the text of the bill on authorized administrators. This, in turn, challenges the implementation of this action.

For these reasons given that the performance indicators laid down in the action plan for the reporting period were not met, action 5.2.1 section 3 is deemed to be not implemented.

44 http://www.justice.gov.md/public/files/file/planurirapoarte/Planul_anual_de_actiuni_al_Ministerului_Justitiei_pentru_anul_2013.pdf
p.22

45 http://www.justice.gov.md/public/files/file/planurirapoarte/Planul_anual_de_actiuni_al_Ministerului_Justitiei_pentru_anul_2013.pdf
p.22

Chapter VI

ASSESSMENT OF THE IMPLEMENTATION OF ACTIONS UNDER PILLAR VI

Institutional capacity. During Quarter 4 of 2013, WG-VI met three times: on 8 October, 19 November and 17 December 2013. All the meetings had a quorum. According to the meetings' agendas and minutes, the discussions focused on how to implement the overdue and ongoing actions and the actions expected to be completed in Quarter 4 of 2013. The minutes of all the WG meetings were posted on the MOJ website. Regretfully, the failure to deliver beforehand evidence supporting the implementation of the actions to be debated continues to be specific for the WG meetings. Therefore, the meetings are largely based on the verbal reports delivered by the delegates to the WG, with no supporting evidence provided before the meetings.

1. ACTIONS DUE BY: QUARTER 4, 2013

Group I. Assessment of current needs and practices; formulation of recommendations for reform.

Specific area of intervention 6.1.1: Reviewing the membership of and criteria for selecting judges to the Constitutional Court.

Action 6.1.1 section 1: *Conduct a study on the regulatory framework on the performance, membership of and criteria for selecting judges to the Constitutional Court.*

- Deadline: Quarter 4, 2013
- Responsible institutions: Constitutional Court, MOJ
- Performance indicator: working group created, study conducted and recommendations formulated
- **Assessment: action not implemented**

This action was due for completion by 31 December 2013. In spite of being on the agenda of the meeting held on 17 December 2013, this action was not addressed because the Constitutional Court had not delivered any information. Moreover, its representative did not even come to the WG meetings held during this Quarter. At the meeting mentioned above the WG agreed that the action had not been implemented.

On 21 November 2013 the Constitutional Court of Moldova posted on its website⁴⁶ an announcement on the launch of the public competition for the design of the survey on the reinforcement of the Constitutional Court's role. The first component of this survey focuses on the performance, membership of and criteria for selecting judges to the Constitutional Court. Yet, the survey had not been made public by the end of the reporting period.

For these reasons and given that the performance indicators laid down in the action plan for the reporting period were not met, action 6.1.1 section 1 is deemed to be not implemented.

⁴⁶ <http://constcourt.md/libview.php?l=ro&idc=7&id=505&t=/Prezentare-generală/Serviciul-de-presă/Noutăți/Concurs-public-de-elaborare-a-studiului-privind-consolidarea-rolului-Curtii-Constitutionale>

Specific area of intervention 6.2.4: Strengthening the capacity of the ombudsman to protect and promote children's rights.

Action 6.2.4 section 1: *Conduct a study of the performance of the ombudsman for children's rights protection, including the appropriateness of creating the institution of child's advocate as a separate institution.*

- Deadline: Quarter 4 2013
- Responsible institution: CHRM
- Performance indicator: study conducted and recommendations formulated
- **Assessment: action not implemented**

This action was due for completion by 31 December 2013. It was on the agenda of the meeting held on 19 November 2013, when CHRM reported that at that point the draft of a new law on ombudsman was under discussion, as it was too early to conduct the study. Therefore, the implementation of the action will be delayed.

For these reasons and given that the performance indicators laid down in the action plan for the reporting period were not met, action 6.2.4 section 1 is deemed as not implemented.

Specific area of intervention 6.3.3: Strengthening the system of juvenile probation.

Action 6.3.3 section 6: *Assess the necessary financial, material and human resources for the probation system.*

- Deadline: Quarter 4 2013
- Responsible institution: MOJ
- Performance indicator: assessment conducted and recommendations formulated
- **Assessment: action not implemented**

This action was due for completion by 31 December 2013. It was on the agenda of the meeting held on 17 December 2013, when MOJ reported that a WG had been established and it had met for the first time on 16 December 2013 and developed a plan of actions. Further a report on the implementation of this action was to be developed. The WG for monitoring pillar 4 assessed this action as partially implemented. However, no survey or report on the implementation of this action was delivered to the WG members or published on MOJ's website by the end of the reporting period.

For these reasons and given that the performance indicators laid down in the action plan for the reporting period were not met, action 6.3.3 section 6 is deemed as not implemented.

Specific area of intervention 6.3.5: Strengthening the system of collecting and analyzing the data on children in contact with the justice system.

Action 6.3.5 section 1: *Review the regulatory framework on collection and processing of data on the children in contact with the justice system and, if appropriate, draft amendments to it.*

- Deadline: Quarter 4 2013
- Responsible institutions: CHRM, MIA, PGO, MOJ, SCM, MLSPF, NBS
- Performance indicator: review conducted and recommendations formulated; if appropriate, amendments to the regulatory framework drafted and submitted for review
- **Assessment: action not implemented**

This action was due for completion by 31 December 2013. It was on the agenda of the meeting held on 19 November 2013 when CHRM reported they had been facing challenges in the implementation of this action because of a large number of institutions involved in it. Yet a WG was created and expected to review the regulatory framework in place and formulate recommendations to improve the data collection and processing mechanism. A survey or a report on the implementation of this action was not delivered to the WG members or posted on MOJ's website by the end of the reporting period. Moreover, no draft amendments to the regulatory framework were posted on the website www.particip.gov.md.

For these reasons and given that the performance indicators laid down in the action plan for the reporting period were not met, action 6.3.5 section 1 is deemed as not implemented.

Specific area of intervention 6.4.2: Development of the technical-material basis and infrastructure in accordance with the European standards in all places of freedom deprivation.

Action 6.4.2 section 1: *Detailed review of the financial needs of the penitentiary institutions in order to gradually increase the budgets allocated to these institutions.*

- Deadline: Quarter 4 2013
- Responsible institutions: MOJ, MOF
- Performance indicator: review conducted and recommendations formulated
- **Assessment: action not implemented**

This action was due for completion by 31 December 2013. It was on the agenda of the meeting held on 17 December 2013, when it was addressed and when the WG agreed that it had not been implemented, because this is an annual action, separate for every institution. Yet, the WG members said that these reviews could be done based on the available funds allocated from the state budget and system's real needs. Besides, a similar study was conducted and submitted for public consultation for courts. Therefore, a similar study could be conducted for the penitentiary system.

The expected study had not been delivered to the WG members, nor published on the MOJ's website by the end of the reporting period. Moreover, no draft amendments to the regulatory framework were posted on the website www.particip.gov.md.

For these reasons and given that the performance indicators laid down in the action plan for the reporting period were not met, action 6.4.2 section 1 is deemed to be not implemented.

Group II. Improvement of the legal framework and drafting of laws and bylaws.

Specific area of intervention 6.3.2: Strengthening the instruments for protecting the children victims and witnesses of crimes in criminal proceedings.

Action 6.3.2 section 1: *Formulate comments to the legislation on the review of cases with children victims or witnesses of crimes.*

- Deadline: Quarter 4 2013
- Responsible institutions: PGO, SCM, MIA, NLAC
- Performance indicator: comments formulated and published
- **Assessment: action not implemented**

This action was due for completion by 31 December 2013. It was on the agenda of the meeting held on 19 November 2013, when the PGO representative reported that only the technical specifications for contracting foreign assistance to formulate comments had been developed. According to the PGO's 2014 work plan this action is to be implemented in the first Quarter of 2014.

For these reasons and given that the performance indicators laid down in the action plan for the reporting period were not achieved, action 6.3.2 section 1 is deemed as not implemented.

Specific area of intervention 6.3.4: Ensuring the observance of the rights of children in detention.

Action 6.3.4 section 3: *Develop the methodology of individual planning of sentence execution by children in detention.*

- Deadline: Quarter 4 2013
- Responsible institution: MOJ
- Performance indicator: methodology drafted and approved
- **Assessment: action not implemented**

This action was due for completion by 31 December 2013. It was on the agenda of and addressed at the meeting held on 17 December 2013. The DPI representative reported that the piloting of the Program for improvement of social rehabilitation of children in detention was approved through the DPI's decree no.116 of 8 May 2013, along with the pilot-methodology of individual planning of sentence execution by children in detention. The WG members agreed that this action could be assessed as partially implemented, because the Methodology had not been approved as a compulsory document, but just as a pilot methodology. The DPI representative added that when the piloting is over, more specifically at the end of 2013 – the first Quarter of 2014, the revised methodology can be approved as a compulsory document.

DPI issued no decree on the final approval of the pilot methodology by the end of 2013. At least it was not delivered as supporting evidence to the WG members or the public.

For these reasons and given that in the reporting period the performance indicators laid down in the action plan were not achieved, action 6.3.4 section 3 is assessed as not implemented.

Specific area of intervention 6.3.4: Ensuring the observance of the rights of children in detention.

Action 6.3.4 section 5: *Develop programs to prepare children for their release from prison.*

- Deadline: Quarter 4 2013
- Responsible institution: MOJ
- Performance indicator: programs developed
- **Assessment: action not implemented**

This action was due for completion by 31 December 2013. It was on the agenda of and addressed at the meeting held on 17 December 2013. According to the DPI representative, to implement this action DPI's director issued instructions on the development of a program to prepare children for their release from prison. According to this instruction a multi-professional taskforce was created. Yet, this program is to be completed in 2014, because there is a partnership with

the Government of Romania to pilot the program.

DPI approved no decree on the final approval of the program by the end of 2013. At least no such decree was provided as supporting evidence to the WG members or the public.

For these reasons and given that the performance indicators laid down in the action plan were not achieved in the reporting period, action 6.3.4. section 5 is assessed as not implemented.

Specific area of intervention 6.5.1: Introducing a modern probation concept to contribute to community safety through effective rehabilitation of offenders in the society.

Action 6.5.1 section 4: *Develop the probation officer's occupational standard and link the probation performance indicators with the new system of performance indicators in the justice sector.*

- Deadline: Quarter 4 2013
- Responsible institution: MOJ
- Performance indicator: probation officer's occupational standard developed and performance indicators revised
- **Assessment: action not implemented**

This action was due for completion by 31 December 2013. It was on the agenda of and addressed at the meeting held on 19 October 2013. According to the CPO representative the services of an institution were procured to develop this occupational standard. According to the contract, the deadline for its submission was 20 December 2013. No supporting evidence, however, was delivered to the WG members or the public by the end of 2013.

For these reasons and given that the performance indicators laid down in the action plan were not achieved in the reporting period, action 6.5.1 section 4 is assessed as not implemented.

Specific area of intervention 6.5.7: Promoting and implementing ethical standards in the probation services and penitentiary system.

Action 6.5.7 section 1: *Draft/amend the codes of conduct of probation officer and employee in the penitentiary system.*

- Deadline: Quarter 4 2013
- Responsible institution: MOJ
- Performance indicator: codes of conduct drafted/amended and approved
- **Assessment: action implemented**

This action was due for completion on 31 December 2013. It was on the agenda of and addressed at the meeting held on 17 December 2013. According to the CPO representative this action was fully implemented. Therefore, on March 21, 2013 the Government approved the Probation Officer's Code of Conduct through its decision no. 210⁴⁷.

For these reasons and given that the performance indicators laid down in the action plan for this reporting period were achieved, action 6.5.7 section 1 is assessed as implemented.

⁴⁷ <http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=347199>

Group III. Development of methodological recommendations and training programs.

Specific area of intervention 6.3.1: Ensuring specialization of the justice system actors in their work with children.

Action 6.3.1 section 2: *Assess the training needs of the staff working with the children in contact with the justice system; revise and/or develop training programs.*

- Deadline: Quarter 4 2013
- Responsible institutions: NIJ, Academy of Public Administration, “Stefan cel Mare” Academy, SCM, PGO, MIA, MOJ, Ministry of Education, MLSPF, NLAC, local governments.
- Performance indicator: needs assessed, number of training programs revised/ developed and approved
- **Assessment: action implemented**

This action was due for completion by 31 December 2013. It was on the agenda of and addressed at the meeting held on 17 December 2013. According to the NIJ representative the training needs of the staff working with the children in contact with the justice system had been assessed and the agendas of the training seminars developed. The curricula on ensuring child’s rights in prison had been also approved. Moreover, training seminars had been held for about 600 persons covered by the assessment.

For these reasons and given that the performance indicators laid down in the action plan for this reporting period were achieved, action 6.3.1 section 2 is assessed as implemented.

Specific area of intervention 6.4.1: Streamlining the application of coercive procedural and preventive measures in order to ensure effective observance of the right to freedom and physical safety.

Action 6.4.1 section 3: *Develop the training program for judges, prosecutors and criminal investigation officers in application of preventive and other procedural coercive measures.*

- Deadline: Quarter 4 2013
- Responsible institutions: NIJ, “Stefan cel Mare” Academy
- Performance indicator: training program developed and approved
- **Assessment: action implemented**

This action was due for completion by 31 December 2013. It was on the agenda of and addressed at the meeting held on 17 December 2013. According to the NIJ representative, the training program is approved on a yearly basis by the institution. Therefore, the 2013 ongoing training program was approved on 20 August 2012. It covers issues related to the application of preventive measures and other procedural coercive measures. Moreover, about 300 people have already been trained under this program. Similarly, MIA reported that 40 criminal investigation officers received training in this area.

For these reasons and given that the performance indicators laid down in the action plan for this reporting period were achieved, action 6.4.1 section 3 is assessed as implemented.

Group V. Development and use of awareness and information tools.

Specific area of intervention 6.5.4: Strengthening partnerships between the probation service and other public or private organizations, civil society members, families and communities to promote rehabilitation and social inclusion of former detainees.

Action 6.5.4 section 4: *Accession of the Central Probation Office to the European Organization for Probation (CEP).*

- Deadline: Quarter 4 2013
- Responsible institution: MOJ
- Performance indicator: membership achieved
- **Assessment: action implemented**

This action was due for completion by 31 December 2013. The Central Probation Office joined the European Organization for Probation⁴⁸ in Quarter I, 2012.

For these reasons and given that the performance indicators laid down in the action plan for this reporting period were achieved, action 6.5.4 section 4 is assessed as implemented.

Group VI. Procurement and installation of equipment.

Specific area of intervention 6.4.2: Develop the technical-material basis and infrastructure in accordance with the European standards in all places of freedom deprivation.

Action 6.4.2 section 2: *Installation of video surveillance system in prisons.*

- Deadline: Quarter 4 2013
- Responsible institutions: MIA, MOJ, NAC
- Performance indicator: equipment installed and video surveillance systems functional
- **Assessment: action implemented**

This action was due for completion by 31 December 2013. It was on the agenda of and addressed at the meeting held on 17 December 2013. According to the MIA representative, since 2012 MIA has installed 44 video surveillance systems in 44 Police Inspectorates, except for the Remand Center in Bender, including 268 video cameras. The processors are in the operational management section. The data are stored for 72 hours and deleted afterwards. The operational management sections have access to these data. MIA considers that 72 hours is appropriate for storage.

For these reasons and given that the performance indicators laid down in the action plan for this reporting period were achieved, action 6.4.2 section 2 is assessed as implemented.

⁴⁸ <http://www.cep-probation.org/page/73/member-organisations>

Group VII. Improving staffing and/or performance of services.

Specific area of intervention 6.5.3: Ensuring continuity of the individualized probation process starting with the pre-trial stage and ending with post-detention assistance services.

Action 6.5.3 section 3: *Design and implement a pilot project on psychosocial assistance at pre-trial stage.*

- Deadline: Quarter 4 2013
- Responsible institution: MOJ
- Performance indicator: area of the pilot project identified; pilot project designed and implemented
- **Assessment: action implemented**

This action was due for completion by 31 December 2013. It was on the agenda of and addressed at the meeting held on 17 December 2013. According to the CPO representative, CPO approved through the order no.163 of 16.12.2013 the algorithm of the pilot project on psychosocial assistance at pre-trial stage and its implementation methodology. According to the rapporteur, 14 probation offices were identified and the necessary funds were allocated for the implementation of the pilot project.

For these reasons and given that the performance indicators laid down in the action plan for this reporting period were achieved, action 6.5.3. section 3 is assessed as implemented.

2. OVERDUE ACTIONS (to be completed by 30 September 2013)

Group I. Assessment of current needs and practices; formulation of recommendations for reform.

Specific area of intervention 6.5.5: Strengthening the system of submission and review of complaints on the activity of the probation services and penitentiary system.

Action 6.5.5 section 1: *Conduct a study on the procedures for dealing with complaints relating to the activity of the probation services and penitentiary system.*

- Deadline: Quarter II 2013
- Responsible institution: MOJ
- Performance indicator: study conducted and recommendations formulated
- **Assessment: action not implemented**

This action was due for completion by 30 June 2013. WG members received no information on its implementation during the reporting period.

In the MOJ's 2013 performance report⁴⁹ this action is described as implemented, because on 25 June 2013 a meeting was held at MOJ on a survey of the claim procedures, during which it was agreed to contract an expert in this sense and two working meetings took place.

49 http://www.justice.gov.md/public/files/file/planurirapoarte/RAPORT_MOJ_pentru_2013_din_10-01-2014.pdf p.65

However, no survey on the achievement of performance indicators was made public, while holding working meetings does not mean that the expected results were achieved. Moreover, there is no information about the availability of the study on the websites of the relevant authorities (MOJ assigned the implementation of this action to DPI).

The action appears to have been implemented after the reporting period, the survey being published on 22 January 2014.

For these reasons and given that the performance indicators laid down in the action plan for the reporting period were not achieved, action 6.5.5 section 1 is assessed as not implemented and the next report will assess it as implemented.

Specific area of intervention 6.5.1: Introducing a modern probation concept to contribute to community safety through effective rehabilitation of offenders in the society.

Action 6.5.1 section 1: *Develop a concept of the probation institution that will contribute to community safety through effective rehabilitation of offenders.*

- Deadline: Quarter I 2013
- Responsible institution: MOJ
- Performance indicator: study conducted and recommendations formulated; concept developed and approved
- **Assessment: action not implemented**

This action was due for completion by 31 March 2013. A concept of the development of the probation institution⁵⁰, aimed at contributing to community safety through effective reintegration of offenders into the society, was posted on the CPO website on an unspecified date. The 1st Quarterly report for 2013 prepared by MOJ states that that the action was partially completed. On 10 September 2013 it was reiterated that the concept had been published. Yet no supporting evidence was provided for achievement of all the performance indicators. It is also unclear whether or not the concept was approved and by what institution. Thus, while we can admit that one of the performance indicators has been achieved, the remaining indicators have not.

For these reasons and given that not all the performance indicators laid down in the action plan for the reporting period were achieved, action 6.5.1 section 1 is assessed as not implemented.

Specific area of intervention 6.5.2: Ensuring the institutional autonomy of the probation service.

Action 6.5.2 section 2: *Optimize the system of probation bodies.*

- Deadline: Quarter I 2013
- Responsible institution: MOJ
- Performance indicator: probation service optimized; service organizational chart revised
- **Assessment: action implemented**

The completion of this action was due by 31 March 2013. A draft Government Decision⁵¹ on the optimization of the system of probation bodies was published on 2 April 2013. According

50 www.probatiiune.gov.md/tc_userfiles/file/Recomand%C4%83ri/Conceptia%20de%20dezvoltare%20a%20institui%C8%9Biei%20proba%C8%9Bii%20care%20s%C4%83%20contribuie%20la%20siguran%C8%9Ba%20comunit%C4%83%C8%9Bii%20prin%20reabilitarea%20defectiv%C4%83%20%C3%AE%20societate%20a%20delincven%C8%9Bilor.docx

51 <http://particip.gov.md/proiectview.php?l=ro&idd=813>

to the 2013 Interim Report approved at the WG meeting on 10 September 2013, the action was assessed as completed, while the announcing that the system of probation was optimized by transferring it from under DPI to the MOJ, on 1 January 2013.

The number of CPO staff was reduced from 250 to 243 based on the G.D. 735 of 03.10.2012 on the optimization of the structure, performance of MOJ and its subordinated administrative authorities. The organizational chart was revised and cleared by the State Chancellery with no. 01.3.3.1 of 23 January 2013 and the CPO's payroll was approved by MOF with no. 12/257 of 20.02.2013.

For these reasons and given that the performance indicators laid down in the action plan for the reporting period were achieved, action 6.5.2 section 2 is deemed to be implemented.

Specific area of intervention 6.5.6: Review of employment policy and personnel recruitment system for penitentiary institutions; complete demilitarization of the penitentiary system.

Action 6.5.6 section 1: *Conduct a comparative study on the employment policy and personnel recruitment system in penitentiary institutions and on the full demilitarization of the penitentiary system.*

- Deadline: Quarter III 2013
- Responsible institution: MOJ
- Performance indicator: study conducted and recommendations formulated
- **Assessment: action implemented**

This action was due for completion by 30 September 2013. Under the MOJ Work Plan for 2013⁵², this action was due by 1 September 2013. The implementation of this action was never debated during the reporting period. WG members received no information on the progress of this action; moreover, none of the websites of the authorities responsible for implementation contained information about the study.

On 30 August 2013 through DPI's letter no. 3/3735 the comparative study on the employment policy, recruitment system and demilitarization of the penitentiary system was submitted to MOJ for consultation.

For these reasons and given that the performance indicators laid down in the action plan for the reporting period were met, action 6.5.6 section 1 is assessed as implemented.

Group II. Development of methodological recommendations and training programs.

Specific area of intervention 6.3.3: Strengthening the system of juvenile probation.

Action 6.3.3 section 1: *Develop case management recommendations for dealing with minors on probation.*

- Deadline: Quarter II 2013
- Responsible institutions: MOJ, MLSPC

⁵² http://www.justice.gov.md/public/files/file/planurirapoarte/Planul_anual_de_actiuni_al_Ministerului_Justitiei_pentru_anul_2013.pdf pp. 25-26

- Performance indicator: methodical recommendations drafted and approved
- **Assessment: action implemented**

The completion of this action was due by 30 June 2013. According to the MOJ interim report for the Quarter I of 2013, the action is deemed completed because certain measures were taken towards its implementation. On the other hand, the report notes that an expert was to be selected by the end of that Quarter to develop the methodological recommendations. At the WG meeting on 25 June 2013, the MOJ's representative reported that the action had not been completed. The same was mentioned at the meeting on 10 September, when the WG Interim Sector Report was discussed. However, during the reporting period the Criminal Sciences and Applied Criminology Institute developed the case management methodology for children on probation. Moreover, the recommendation on the case management for children on probation was approved through the PCO's decree no. 27 of 17.12.2013.

For these reasons and given that the performance indicators set out in the action plan for the reporting period were achieved, action 6.3.3 section 2 is deemed to be implemented.

Specific area of intervention 6.2.3: Strengthening management, investigation, research and analysis skills and competences of the CHRM personnel and of the ombudsman institution.

Action 6.2.3 section 1: *Develop the curriculum for the initial training of new CHRM employees and a study plan for continuous training of CHRM (including CHRM representatives), with a focus on the skills to identify and report on human rights violations*

- Deadline: Quarter 4 2012
- Responsible institutions: CHRM, Academy of Public Administration, NIJ
- Performance indicator: curriculum and training plan developed
- **Assessment: action implemented**

The completion of this action was due by 31 December 2012. The curriculum for the initial and continuous training of CHRM staff was not published on the website of the institution responsible for implementing the action during the reporting period. On the other hand, a training plan⁵³ for the first half of 2013, which results from such a curriculum, was published. According to the rapporteurs the training was scheduled only for the first Quarter of 2013 and this is why the action may be assessed as implemented.

For these reasons and given that the performance indicators set out in the action plan for the reporting period were achieved, action 6.2.3 section 1 is deemed to be implemented.

Group III. Improvement of the legal framework and drafting of laws and bylaws.

Specific area of intervention 6.4.3: Strengthening capacities of institutions responsible for deprivation of freedom (the police, the penitentiary system, NAC, psychiatric institutions, psycho-neurological boarding homes and asylums) to prevent and combat torture and ill treatment.

Action 6.4.3 section 2: *Create internal and independent disciplinary mechanisms for the examination of complaints regarding acts of torture and ill treatment.*

⁵³ http://ombudsman.md/sites/default/files/dezvoltare_strategica/planul_fc_cpdom_10_06_13_1.pdf

- Deadline: Quarter 4 2012
- Responsible institutions: PGO, MOJ, MIA, NAC
- Performance indicator: regulation drafted; number of complaints dealt with
- **Assessment: action not implemented**

This action was due to be completed by 31 December 2012. During the monitoring period, the responsible institutions took no effective measures to implement the action. No regulations, including internal rules for the examination of such cases, were published on the websites of the institutions responsible for its implementation. On the other hand, after the reporting period was over, the members of the WG for the implementation of Pillar II actions received a briefing note apparently prepared on 7 September 2013 on the actions taken by PGO to implement the Action Plan for JSRS 2011-2016 in the period 2012 - Quarter III, 2013. According to the note, a study of national legislation was conducted in the context of this action. However, PGO hesitated to share the study with the WG members. Moreover, according to the performance indicators, a single regulation was to be developed for all the law enforcement institutions involved.

By the end of the reporting period, the WG was informed that the Methodological recommendations for efficient investigation of crimes of torture, ill or degrading treatment were approved through the Decree of General Prosecutor no. 76/8 of 30 December 2013. Yet, not all the performance indicators laid down in the action plan were achieved.

For these reasons and given that not all the performance indicators set out in the action plan for the reporting period were achieved, action 6.4.3 section 2 is assessed as not implemented.

Specific area of intervention 6.4.3: Strengthening capacities of institutions responsible for deprivation of freedom (the police, the penitentiary system, NAC, psychiatric institutions, psycho-neurological boarding homes and asylums) to prevent and combat torture and ill treatment .

Action 6.4.3 section 4: *Draft amendments to the regulatory framework to ensure a direct subordination of anti-torture prosecutors to the Prosecutor General's Office.*

- Deadline: Quarter 4 2012
- Responsible institutions: MOJ, PGO
- Performance indicator: amendments to the regulatory framework drafted and submitted for Government review
- **Assessment: action not implemented**

The completion of this action was due by 31 December 2012. The relevant institutions did not draft a bill to subordinate the anti-torture prosecutors directly to PGO during the reporting period, nor was such a bill subjected to public debates.

According to the Interim Sector Report approved at the meeting on 10 September 2013, the action was assessed as partially completed, as it had been shifted to the responsibility of the joint WG created on 11 July 2013 by the Minister of Justice and Prosecutor General. We note though that this group is not responsible for the action, according to its listed responsibilities. Furthermore, the study conducted under action 2.2.5 section 1 did not look into the possibility of subordinating the anti-torture prosecutors to the Prosecutor General's Office.

For these reasons and given that not all the performance indicators set out in the action plan for the reporting period were achieved, action 6.4.3 section 4 is assessed as not implemented.

Specific area of intervention 6.4.4: Create a system of records and registration of apprehension, arrest and detention cases that is standardized and protected against manipulation.

Action 6.4.4 section 1: *Develop a concept of a system of registration and records of apprehension, detention and arrest cases; draft relevant amendments to the legal framework, if appropriate.*

- Deadline: Quarter 4 2012
- Responsible institutions: MIA, PGO, NAC, SCM, MOJ
- Performance indicator: WG created; concept drafted, if appropriate; amendments to the regulatory framework drafted and submitted for Government review
- **Assessment: action not implemented**

This action was due to be completed by 31 December 2012. According to the draft of the PGO's Strategic Development Program for 2012-2014, this action is set to be completed by January 2014. According to the information provided to the members of the WG for Pillar VI, the responsible institutions took sporadic measures to carry out the action, while the operation of MOJ's taskforce was not transparent. WG-VI members did not receive any evidence supporting the achievement of all the performance indicators.

For these reasons and given that not all the performance indicators set out in the action plan for the reporting period were achieved, action 6.4.4 section 1 is assessed as not implemented.

Specific area of intervention 6.4.5: Fighting efficiently against acts of torture and ill-treatment.

Action 6.4.5 section 1: *Draft amendments to the legal framework to ensure the professional independence of medical workers in detention facilities by transferring them to the MOH in order to grant probative value to their independent examination in alleged cases of torture, to eliminate contradictions with regard to qualifying actions as acts of torture, and to introduce more serious sanctions for acts of torture depending on the severity of these acts.*

- Deadline: Quarter 4 2012
- Responsible institutions: MOJ, CHRM, PGO, MIA, NAC, CS, MOH
- Performance indicator: amendments to the regulatory framework drafted
- **Assessment: action not implemented**

This action was due to be completed by 31 December 2012. During the reporting period, things did not change. No regulations were drafted. Moreover, as already mentioned above, according to the draft of the PGO's Strategic Development Program for 2012-2014, the deadline for implementing measures to enhance and strengthen capacities in combating and effective prevention of torture and ill-treatment is scheduled for December 2014.

The information provided by the main agencies responsible for carrying out the action shows a conflict of views between DPI and the MOH on the place and role of health workers in prisons. During the monitoring period, WG-VI members and the public did not receive any evidence supporting the achievement of all the performance indicators laid down in the action plan.

For these reasons and given that not all the performance indicators laid down in the action plan for the reporting period were achieved, action 6.4.5 section 1 is deemed not implemented.

Specific area of intervention 6.4.6: Create effective mechanisms to rehabilitate victims of torture and ill treatment.

Action 6.4.6 section 1: *Develop the regulatory framework necessary for the rehabilitation of victims of torture and ill-treatment.*

- Deadline: Quarter 4 2012
- Responsible institutions: MOJ, MLSPF
- Performance indicator: regulation drafted and submitted for Government review
- **Assessment: action not implemented**

The completion of this action was due by 31 December 2012. During the monitoring period, no measures were taken to implement the action. According to the MOJ 2013 Annual Work Plan⁵⁴, GDL was to complete this action by 30 September 2013.

According to the information provided to Pillar 4 WG members, efforts are taken to complete the action. However, the members did not receive any documents to assess the progress of implementation.

For these reasons and given that not all the performance indicators laid down in the action plan for the reporting period were achieved, action 6.4.6 section 1 is assessed as not implemented.

Specific area of intervention 6.5.1: Introducing a modern probation concept to contribute to community safety through effective rehabilitation of offenders in the society.

Action 6.5.1 section 2: *Draft amendments to the regulatory framework on probation.*

- Deadline: Quarter I 2013
- Responsible institutions: MOJ
- Performance indicator: law drafted and submitted for Government review
- **Assessment: action implemented**

This action was due for completion by 31 March 2013. During the reporting period, the proposed amendments to the Law nr.297-XIV of 24.02.1999 on the social adaptation of the detainees released from detention (art.1, 1'1, 4 and other) was registered at the Parliament⁵⁵ with number 299. On 13 November 2013 the bill was reviewed⁵⁶ by the Parliamentary Commission for social protection, health and family.

For these reasons and given that the performance indicators laid down in the action plan for the reporting period were achieved, action 6.5.1 section 2 is deemed to be implemented.

54 http://www.justice.gov.md/public/files/file/planurirapoarte/Planul_anual_de_actiuni_al_Ministerului_Justitiei_pentru_anul_2013.pdf
p.24

55 http://www.google.ro/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&cad=rja&ved=0CC4QFjAA&url=http%3A%2F%2Fwww.parlament.md%2FLegislationDocument.aspx%3Fd%3Db18bcc0f-fe45-4787-a162-4efdc91d6151&ei=KAL9UobSGO2u7Abpn4G4DQ&usg=AFQjCNGWRej6hmUP1go7P7_zZ1BsjHyCPg&bvm=bv.61190604.d.bGE

56 <http://www.parlament.md/LinkClick.aspx?fileticket=ZgUJkHMIZ48%3D&tabid=130&mid=507&language=en-US>

Chapter VII

ASSESSMENT OF IMPLEMENTATION OF ACTIONS UNDER PILLAR VII

Institutional capacity. During Quarter 4 of 2013, the Coordination Group for the implementation of the Strategy held one meeting, on 1 October, during which it approved the Report on the implementation of the JSRS Action Plan in the first semester of 2013.

1. ACTIONS DUE BY: QUARTER 4, 2013

Group VII. Creating and increasing the efficiency of judicial bodies (committees, colleges, etc.).

Specific area of intervention 7.1.4: Building the capacities of each institution involved in the justice sector reform to participate in the reform process.

Action 7.1.4 section 2: *Draft and implement structural and functional changes in the institutions involved in the justice sector reform to make them active players in the reform process.*

- Deadline: Quarter 4 2013
- Responsible institutions: justice sector institutions
- Performance indicator: 1. structural and functional changes developed; 2. number of institutions that made the required structural and functional changes
- **Assessment: action not implemented**

The implementation of this action depends on the implementation of action 7.4.1 section 1, more specifically the functional review of the institutions involved in reform. The review process started with the support of the EU project to support Coordination of Justice Sector Reform, but it hasn't been completed yet.

Group VI. Procurement and installation of equipment; software upgrades.

Specific area of intervention 7.1.6: Establish and maintain a system for collecting, analyzing and exchanging relevant information among key institutions of the justice sector.

Action 7.1.6 section 1: *Design the concept of and deploy the integrated informational system of collecting, analysis and exchange of information on reform implementation.*

- Deadline: Quarter 4 2013
- Responsible institution: MOJ
- Performance indicator: IT system designed and deployed
- **Assessment: action not implemented**

2. OVERDUE ACTIONS (to be completed by 30 September 2013)

Group I. Assessment of current needs and practices; formulation of recommendations for reform.

Specific area of intervention 7.1.4: Building the capacities of each institution involved in the justice sector reform to participate in the reform process.

Action 7.1.4 section 1: *Review the functions and structure of each institution involved in the Justice Sector Reform process.*

- Deadline: Quarter 4 2012
- Responsible institutions: justice sector institutions
- Performance indicator: review conducted and recommendations formulated
- **Assessment: action not implemented**

At the time of this report, the action was not fulfilled. This action is carried out with the support of the Justice Sector Reform Coordination Project funded by the European Union.

Specific area of intervention 7.2.3: Increase public access to the regulatory framework (database).

Action 7.2.3 section 1: *Develop a study on the public access to regulations (database).*

- Deadline: Quarter II 2012
- Responsible institutions: MOJ, e-Government Center
- Performance indicator: study developed and recommendations formulated
- **Assessment: action not implemented**

The Justice Sector Reform Coordination Project supports MOJ efforts to optimize the database of the regulatory framework (the next action in the Action Plan), but the need for such a study is questionable.

Group II. Development of methodological recommendations and training programs.

Specific area of intervention 7.2.2: Improvement of the legislative drafting process in order to ensure stability, predictability and clarity of legislation.

Action 7.2.2 section 4: *Develop a handbook on drafting legislation.*

- Deadline: Quarter 4 2012
- Responsible institution: MOJ
- Performance indicator: handbook drafted
- **Assessment: action not implemented**

This action is closely connected with Action 7.2.2. section 3 and, therefore, can be implemented immediately after the relevant amendments to the legislation are approved.

Group III. Improvement of the legal framework and drafting of laws and bylaws.

Specific area of intervention 7.2.2: Improvement of the legislative drafting process in order to ensure stability, predictability and clarity of legislation.

Action 7.2.2 section 2: *Draft amendments to the Law no. 780-XV of 27 December 2001 on Legislative Acts and Law no. 317-XV of 18 July 2003 on Normative Acts of the Government and other central and local public authorities to ensure stability, predictability and clarity of the legislation.*

- Deadline: Quarter II 2012
- Responsible institution: MOJ
- Performance indicator: law drafted and submitted to the Government
- **Assessment: action implemented**

The bill on the regulatory acts was submitted for Government review on 20 September 2013⁵⁷. At the time of this report it had not been yet passed by Parliament.

Action 7.2.2 section 3: *Develop regulatory framework on ex-ante methodology.*

- Deadline: Quarter II 2012
- Responsible institutions: MOJ, State Chancellery
- Performance indicator: law drafted and submitted to the Government
- **Assessment: action not implemented**

The amendments to the regulatory framework have not yet been submitted for Government approval.

Group VI. Procurement and installation of equipment; software upgrades.

Specific area of intervention 7.2.3: Increase public access to the regulatory framework (database).

Action 7.2.3 section 2: *Optimize the database of secondary legislation* Deadline:

- Quarter II 2013
- Responsible institutions: MOJ, e-Government Center
- Performance indicator: database optimized with a functional search engine
- **Assessment: action not implemented**

This action is underway supported by the Justice Sector Reform Coordination project.

⁵⁷ <http://www.justice.gov.md/pageview.php?l=ro&idc=230> (as accessed on 1 November 2013)

Chapter VIII

TRIAL MONITORING AND ASSESSMENT OF THE LEVEL OF USER SATISFACTION WITH THE ACT OF JUSTICE

A. APPEARANCES OF THE ADMINISTRATION OF JUSTICE - PERCEPTIONS OF PARTIES TO THE PROCEEDINGS AND THEIR REPRESENTATIVES

The survey is aimed at measuring the perception of the parties in the trial and their representatives (not the perception of the observer) regarding the act of justice based on the following indicators (parameters):

1. Availability of Information and Transparency;
2. Quality of Facilities and E-justice;
3. Access to justice;
4. Capacity, Independence and Impartiality of Judges;
5. Fairness of Proceedings;
6. Quality of the Outcome of the Proceedings (Judgments);
7. General State and Trends in the Quality of Administration of Justice.

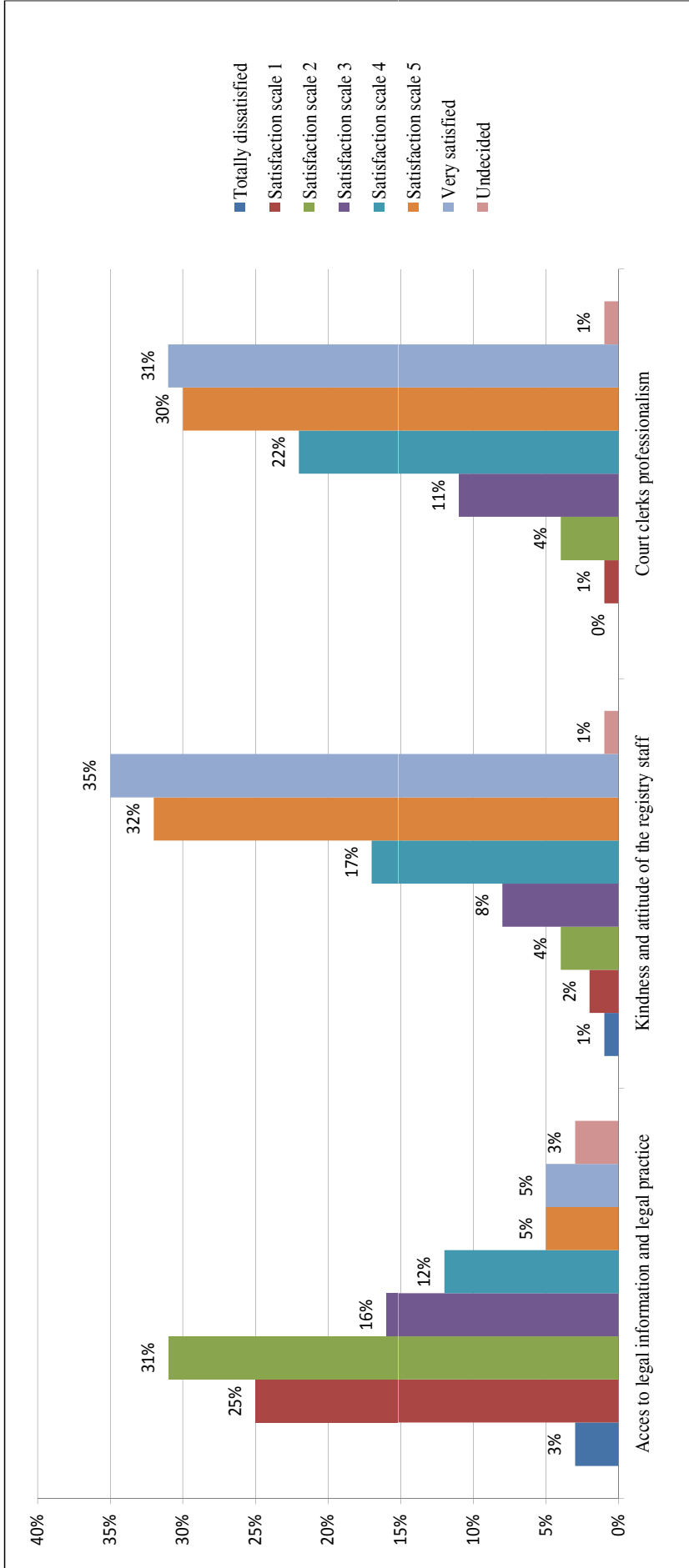
Thus, the 22 questions of the survey were divided by the above categories. The respondents were asked to choose between 7 levels of satisfaction, where level 1 is the lowest and level 7 is the highest. The option “undecided” was also included for the cases when the question was not applicable or the respondent chose not to answer it. In order to better reflect the perception of the parties, the answers were divided into three categories: “very satisfied”, which encompasses the answers from very satisfied to satisfaction scale 5; “totally dissatisfied”, includes totally dissatisfied and satisfaction scale 1; and “partially satisfied”, which includes the answers on satisfaction scales 2 to 4.

The parties to the trials observed by the monitors during Quarter IV were asked to fill in these questionnaires. A total of 467 questionnaires were completed. Given the different level of training and understanding of judiciary proceedings of the participants in the survey, it was suggested to divide the respondents into three categories:

1. **Lawyers** - 154 persons;
2. **Prosecutors** - 69 persons;
3. **Court users** (which include plaintiffs, defendants, witnesses, respondents and victims) - 244 persons.

I. LAWYERS

1. Availability of Information and Transparency

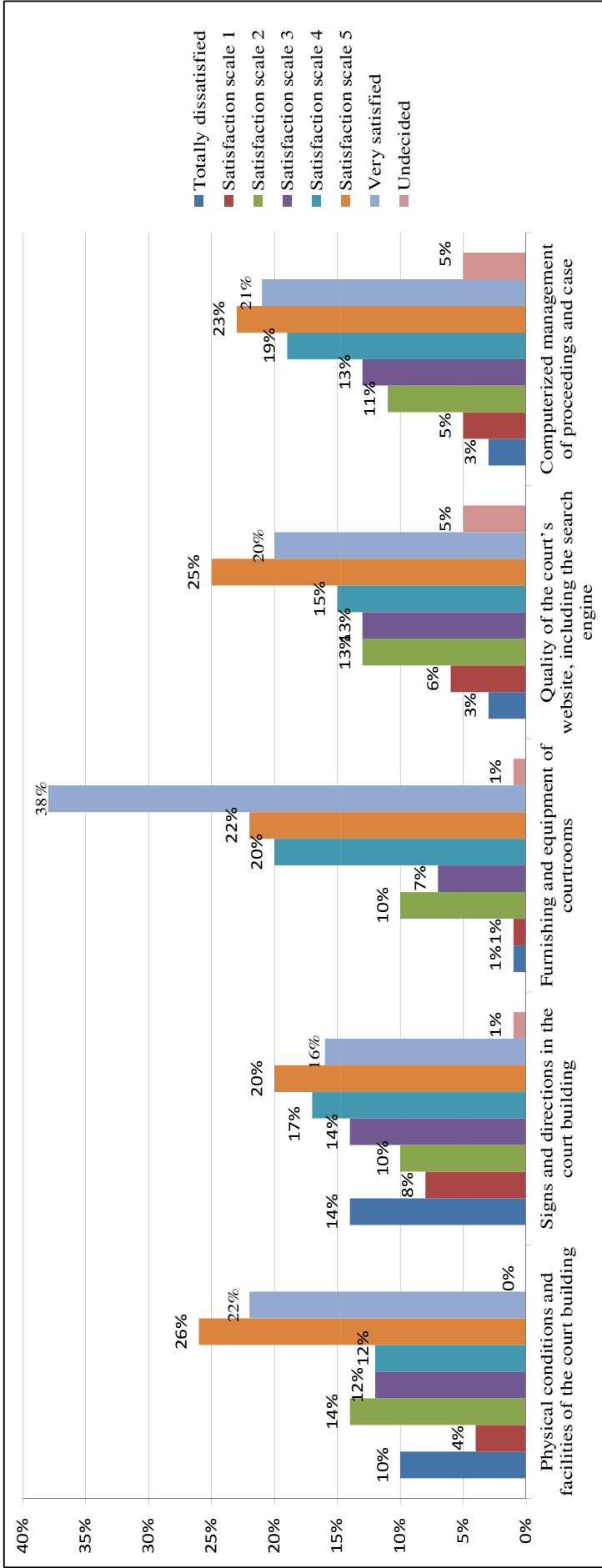


Note: With regard to access to legal information and practice (brochures, flyers, etc.), of the total 154 respondents, 10% said they were very satisfied, this indicator in significant decrease versus the last quarter (58%); 28% said they were totally dissatisfied, which is 20% more than in the previous quarter, and 59% said they were partially satisfied.

With regard to the attitude and politeness of the court registry staff, 67% of respondents were very satisfied with the conduct of registry members, only 3% were totally dissatisfied with the services, and some 29% said they were partially satisfied

As per the professionalism and legal training of the court registry staff, 61% of respondents were very satisfied with their professionalism, 1% was totally dissatisfied, and approximately 37% said they were partially satisfied.

2. Quality of Facilities and e-Justice



Note: Assessing the court building facilities (the possibility of disabled access to the building, chairs on the hall, a room to study the case file, room for lawyers/prosecutors, toilets and so on), of the total 154 respondents, approximately 48% said they were very satisfied, the number of those totally unsatisfied was 14%, and 38% of the respondents said they were partially satisfied with the facilities. The data is similar to the previous quarters.

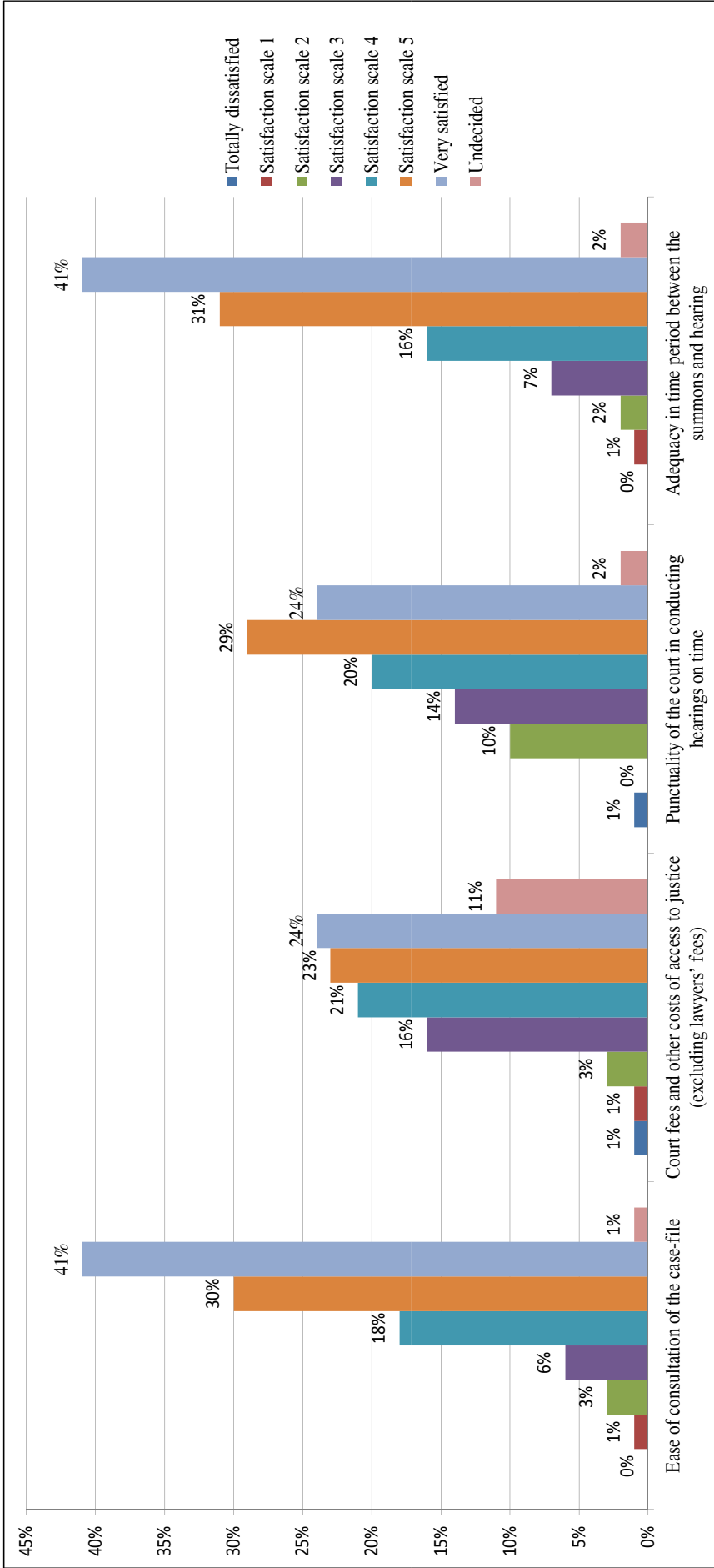
On the indicators outside and inside the court building, about 36% said they were very satisfied (similar to previous quarters), while 22% said they are totally dissatisfied, or a 6% decrease from Q3 of 2013, and another 41% of respondents said they were partially satisfied with their location and visibility.

The furniture and equipment of the courtroom were assessed as follows: 60% said they were very satisfied with them, while 2% were totally dissatisfied, and another 37% of respondents said they were partially satisfied.

Some 45% of respondents were very satisfied with the quality of the website of the court, including its search engine, while 9% were totally dissatisfied; 41% were partially satisfied with the website.

Regarding the computerized management of cases and the judicial process, including the operation of the electronic case management system, 44% of respondents were very satisfied and 8% were totally dissatisfied with how it worked; 43% were partially satisfied. Similar data were registered in the previous quarters.

3. Access to Justice (in this particular case)



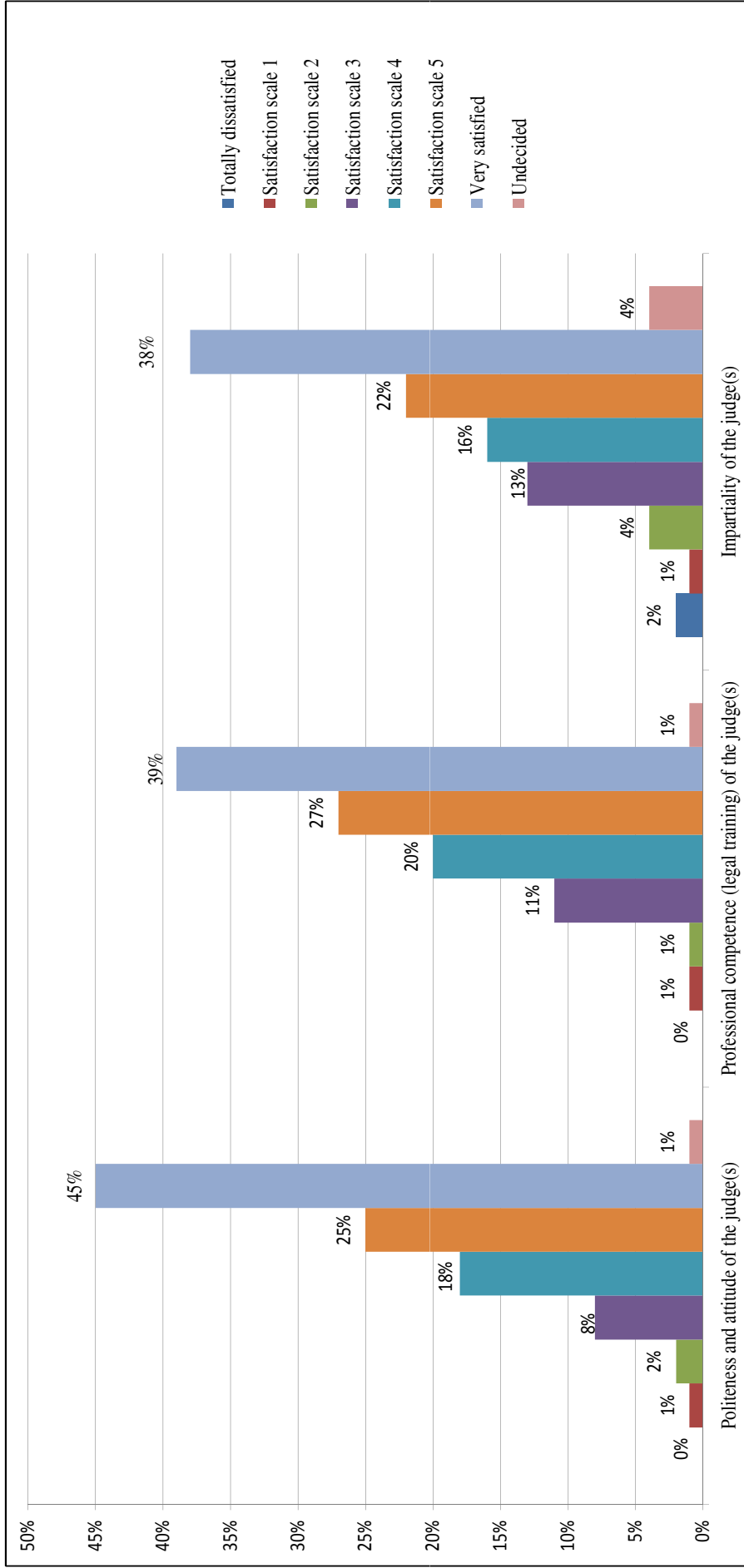
Note: As regards access to justice, namely the availability of the case file, 71% of respondents said they were very satisfied with the possibility to study the case, while only 1% said they were completely dissatisfied; 27% were partially satisfied.

The respondents' satisfaction about the judicial costs and other costs (excluding attorneys' fees) was as follows: 47% were very satisfied, 2% were totally dissatisfied, and 40% were partially satisfied with the costs.

Respondents assessed the timely conduct of scheduled hearings as follows: 53% were very satisfied, 1% were totally dissatisfied, and 44% were partially satisfied.

Regarding the assessment of the time allowed between the presentation of the citation and the conduct of the hearing (to allow the parties to prepare for trial), 72% of respondents said they were very satisfied, while only 1% said they totally dissatisfied; 25% were partially satisfied with the allotted time. Similar data are registered in the previous quarters.

4. Capacity, Independence and Impartiality of Judge(s) (in the particular case)

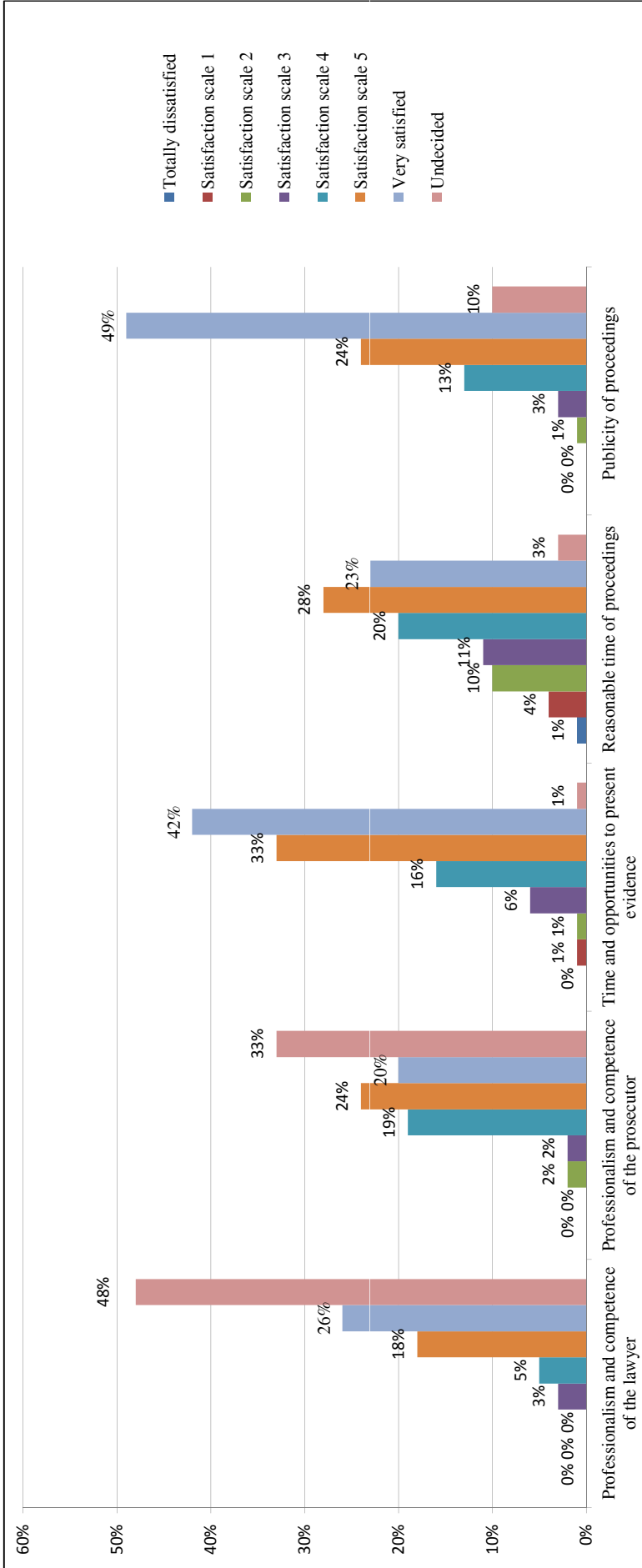


Note: Assessing the politeness and attitude of judges 70% of respondents were very satisfied with the politeness and attitude of judges, 1% said they were totally dissatisfied, and 28% were partially satisfied.

The same dynamic is observed with reference to the professionalism and competence of judges: 66% of respondents were very satisfied, which is 8% less than in the previous quarters, and only 1% of the respondents were totally unsatisfied; the rate of those partially satisfied is 32%.

60% of people surveyed said they are very satisfied with the impartiality of judges, down 10% compared with the previous quarter, while 3% were totally dissatisfied; another 33% of participants were partially satisfied.

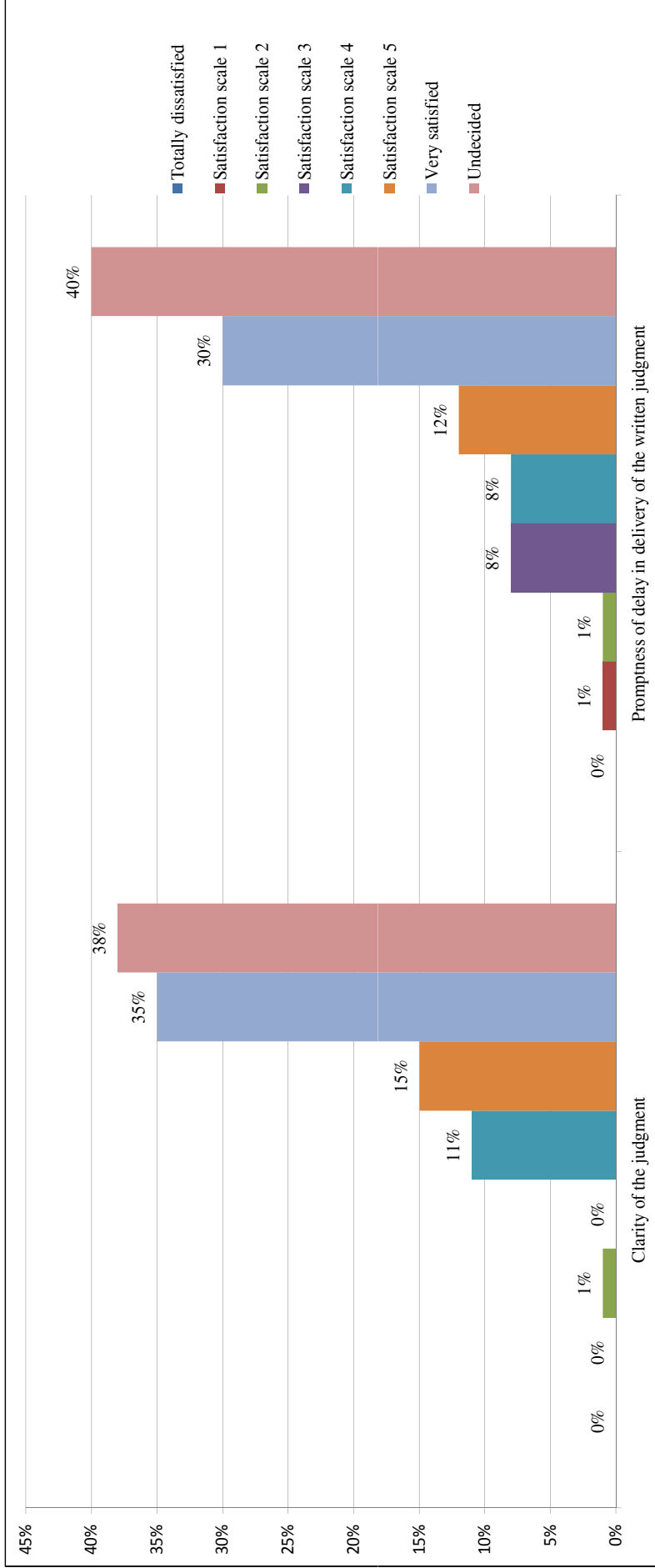
5. Fairness of Proceedings



Note: Assessing the fairness of the trial, the respondents answered as follows:

- On the professionalism and competence of the lawyer, the interviewed lawyers were asked to assess the work of their colleagues: 44% of respondents said they were very satisfied, and 26% were partially satisfied; the rest refused to assess their colleagues' work.
- 44% of respondents were very satisfied with the professionalism and competence of the prosecutor, 23% were partially satisfied; there were no totally dissatisfied responses.
- With reference to the question whether sufficient time and opportunities were allowed each party to the proceedings for presenting their cases and rebate the evidence brought by the adversary part, 75% were very satisfied; 1% were totally dissatisfied; 23% were partially satisfied.
- As for assessing the reasonable time of the trial, 51% of respondents were very satisfied, 5% said they were totally dissatisfied; and partially satisfied were 41%.
- 73% of respondents said they were very satisfied with the public nature of the trial for third parties and the media, 10% more than in the previous quarter and no totally dissatisfied.

6. Quality of Outcome of Proceedings (in this particular case; only if court judgment was pronounced)

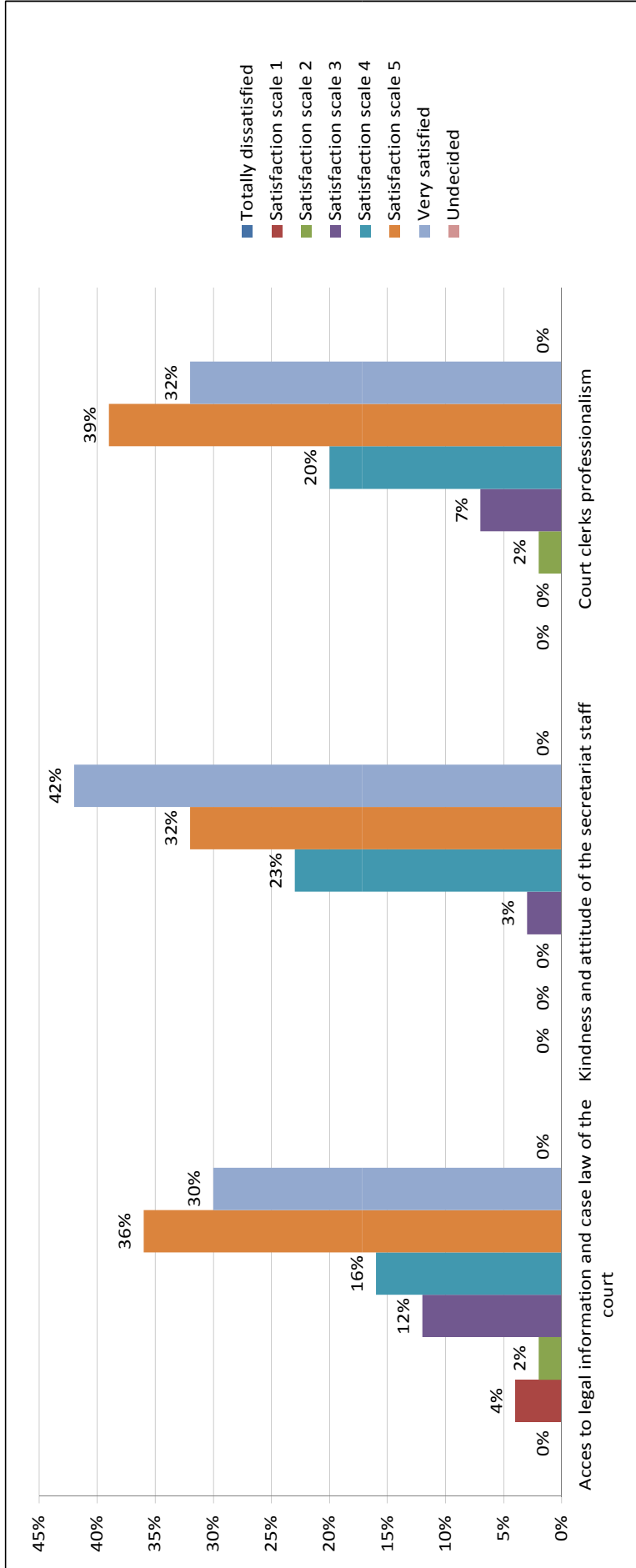


Note: With regard to the outcome of the trial, 50% of respondents said they were very satisfied with the clarity of the court’s ruling (not necessarily the verdict), none totally dissatisfied; 12% were partially satisfied.

42% of respondents said they were very satisfied with the timeliness of submission of the written judgment, while 1% was totally dissatisfied; partially satisfied were 17%.

II. PROSECUTORS

1. I. Availability of Information and Transparency

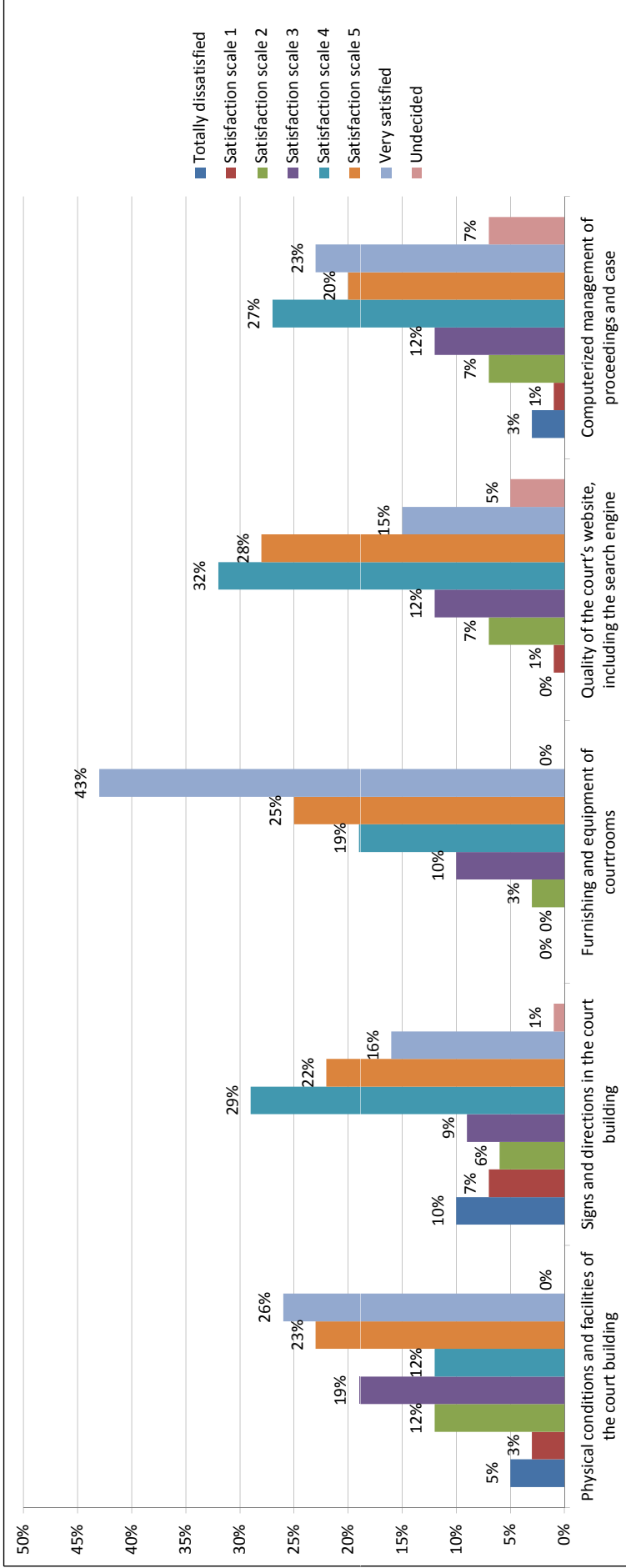


Note: On the access to legal information and practice (brochures, flyers, etc.), of the total number of 69 prosecutors surveyed, 66% said they were very satisfied, 4% said they were totally dissatisfied, and 30% said they were partially satisfied.

Regarding the attitude and politeness of the registry staff, 74% of respondents were very satisfied with the conduct of the staff – a decrease of 16% compared with the previous quarter; no one was totally dissatisfied, and 26% said they were partially satisfied.

With regard to the legal training of the clerks, 71% of respondents were very satisfied with their professionalism, no one said they were totally dissatisfied, and 29% said they were partially satisfied.

2. Quality of Facilities and e-Justice



Note: Assessing the court building facilities (disabled access to the building, chairs in the hall, rooms to study the case file, rooms for lawyers/prosecutors, toilets and so on), about 51% of the total number of 69 respondents said they were very satisfied, while 8% said they were totally dissatisfied; another 43% of respondents said they were partially satisfied with the facilities. The data are similar to previous quarters.

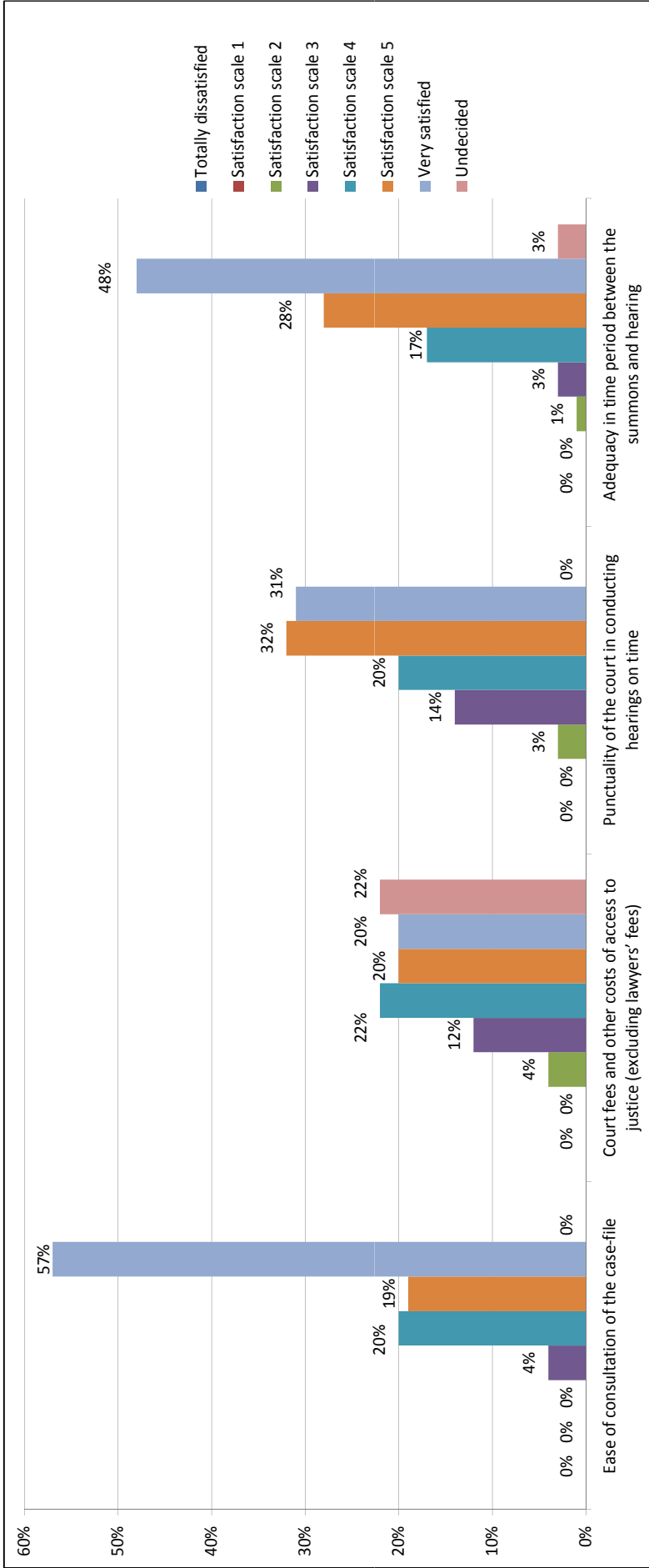
38% of the prosecutors said they were very satisfied with the indicators outside and inside the court building, 17% said they were totally dissatisfied, 6% more than in the previous quarter, and another 44% of respondents said they were partially satisfied.

The furnishing and equipment of the courtroom were assessed as follows: about 68% said they were very satisfied, another 32% of respondents said they were partially satisfied, no one said they were totally dissatisfied.

43% of the respondents said they were very satisfied with the quality of the website of the court, including its search engine, 1% was totally dissatisfied, and 51% were partially satisfied.

On the computerized management of cases and the judicial process, including the operation of the electronic case management system, 43% of respondents were very satisfied, while 4% are totally dissatisfied; 46% were partially satisfied.

3. Access to Justice (in this particular case)



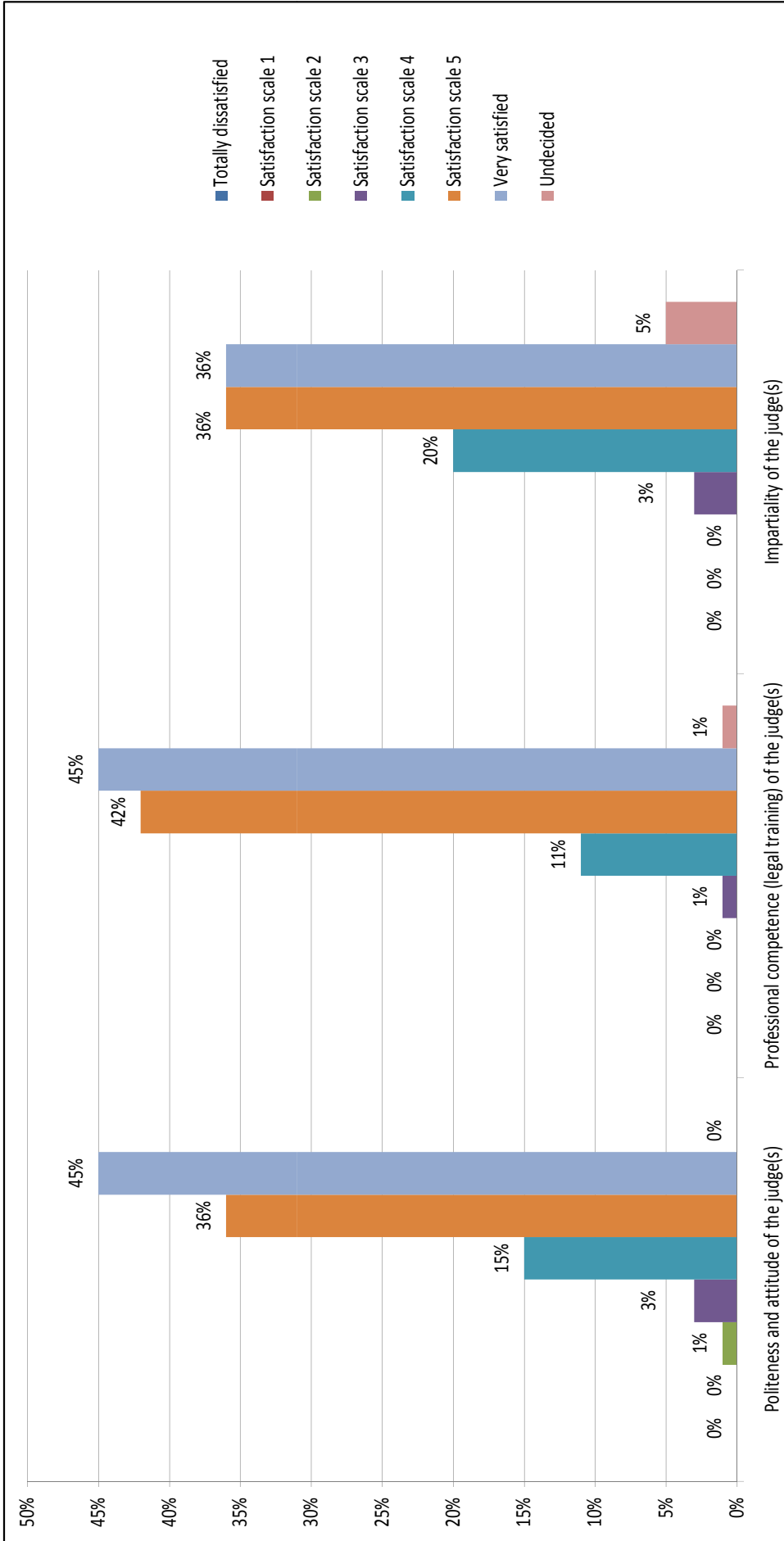
Note: As regards access to justice, namely the availability of the case file, 76% of respondents said they were very satisfied with the freedom to study the case, and 24% were partially satisfied.

40% of the respondents were very satisfied with the judicial and other costs (excluding attorneys' fees), no totally dissatisfied; and 38% said they were partially satisfied.

Respondents assessed the timely conduct of scheduled hearings as follows: 63% were very satisfied, none was totally dissatisfied, and 37% were partially satisfied.

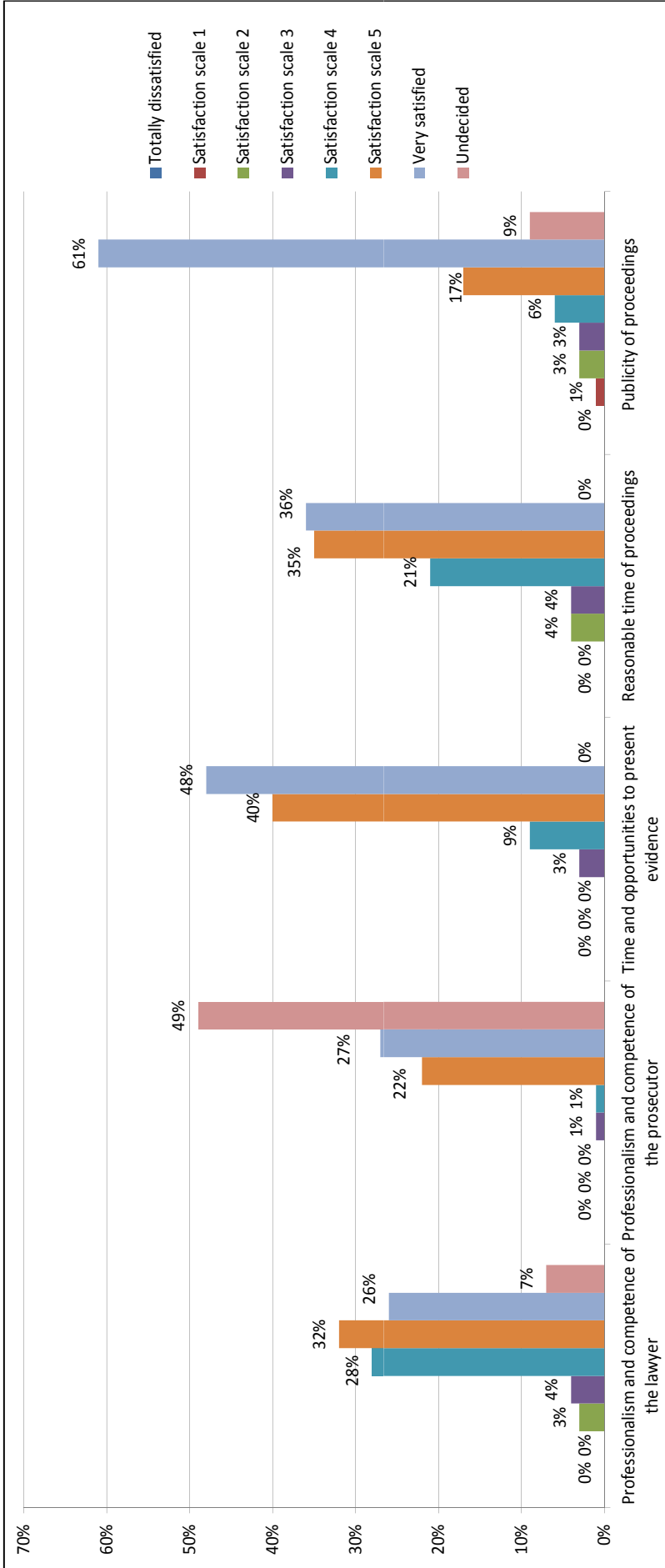
Assessing the time between the citation to court and the conduct of the hearing (to allow the parties to prepare for trial), 76% of respondents said they were very satisfied, no one was totally dissatisfied, and 21% were partially satisfied.

4. Capacity, Independence and Impartiality of Judge(s) (in the particular case)



Note: 81% of respondents said they were very satisfied with the politeness and attitude of judges, none were totally dissatisfied, 18% said they were partially satisfied. With regard to the professionalism and competence of judges, 87% of respondents were very satisfied, none was totally unsatisfied, and 12% were partially satisfied. 72% of the respondents were very satisfied with the impartiality of judges, none was totally dissatisfied, and 23% were partially satisfied.

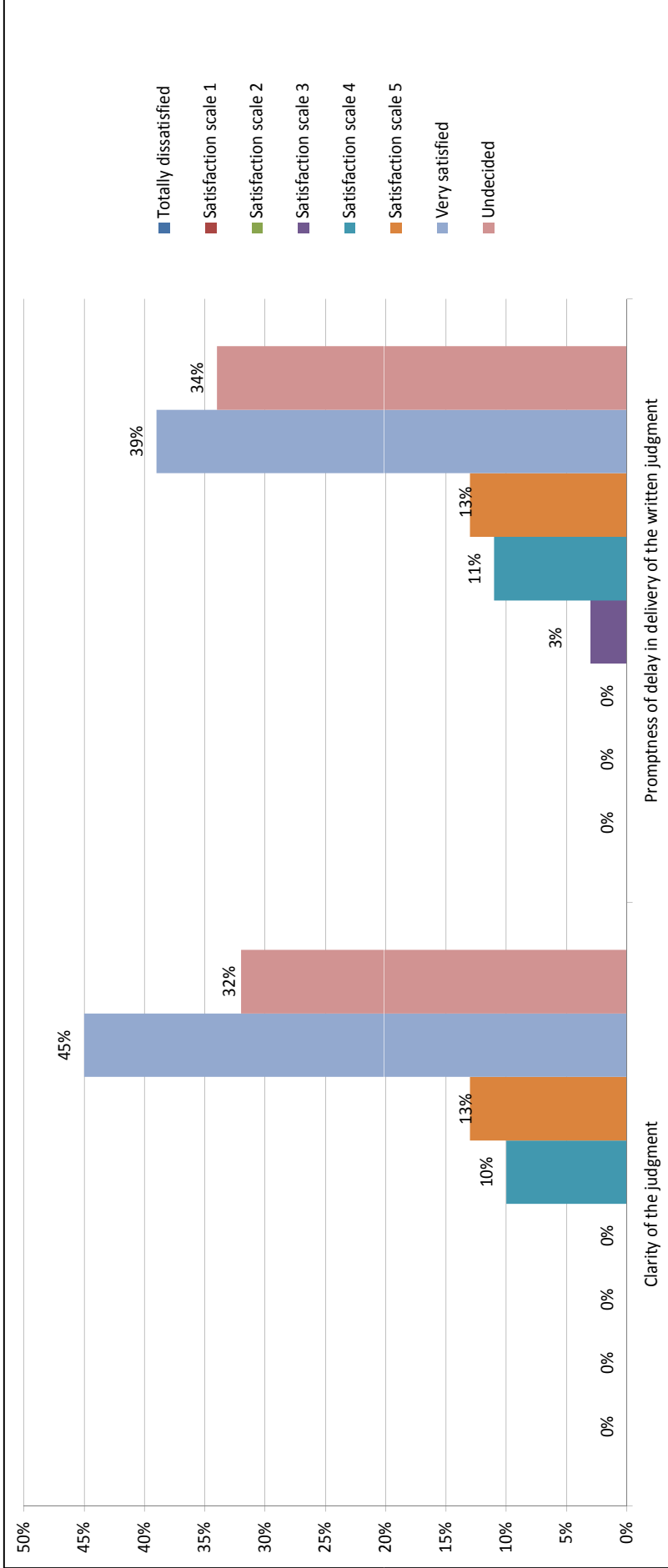
5. Fairness of Proceedings



Note: Assessing the fairness of the trial, the respondents answered as follows:

- On the lawyers' professionalism and competence, 58% said they were very satisfied, and 35% were partially satisfied.
- On the professionalism and competence of prosecutors, the respondents were asked to assess the work of their fellow prosecutors: 49% were very satisfied, 2% were partially satisfied, and none was totally dissatisfied.
- On the question whether sufficient time and opportunities were provided to both parties to the proceedings to present their cases and refute the evidence presented by the adversary party, 88% were very satisfied, none was totally dissatisfied, and 12% were partially satisfied.
- Assessing the reasonable time of the trial, 71% said they were very satisfied, 29% were partially satisfied, and none were totally dissatisfied.
- 78% of respondents said they were very satisfied with the public nature of the trial for third parties and the media, and only 1% was totally dissatisfied.

6. Quality of Outcome of Proceedings (in this particular case; only if court judgment was pronounced)

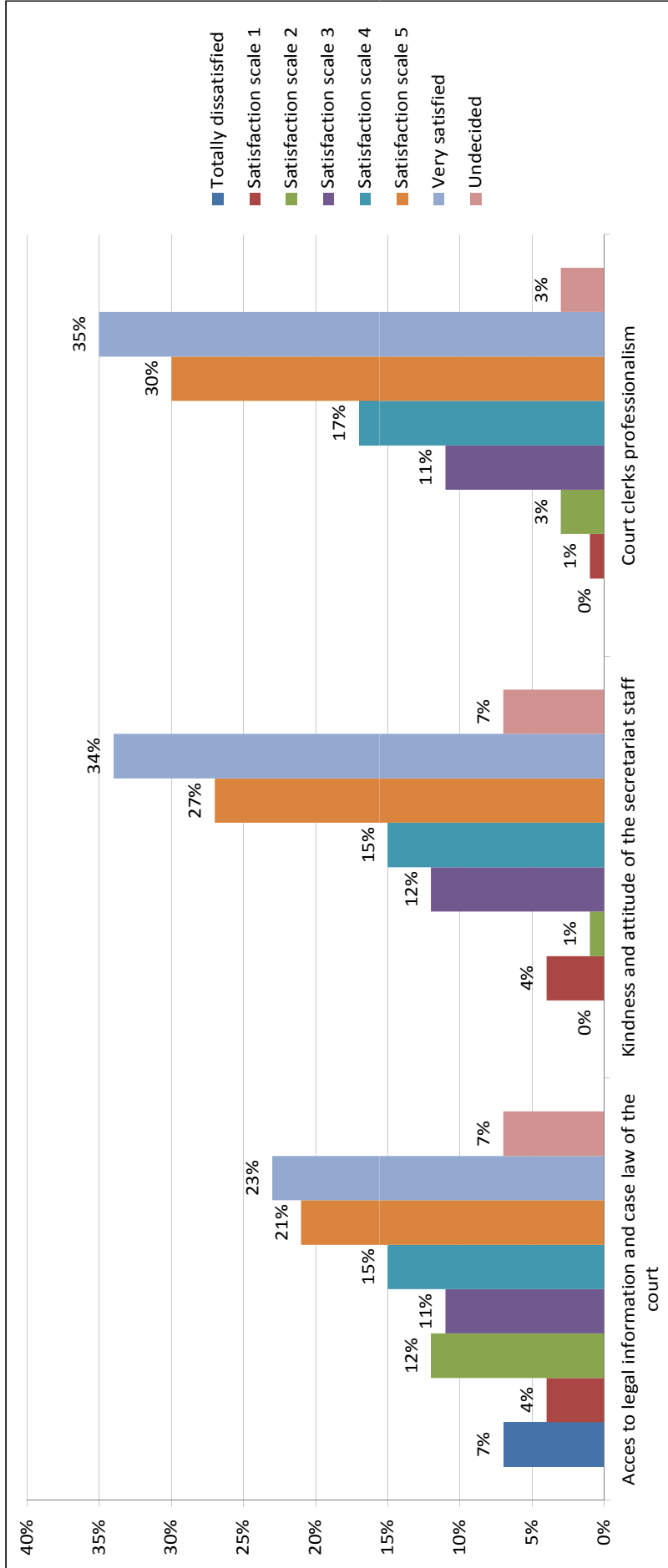


Note: With regard to the “outcome of the trial”, 58% of respondents said they were very satisfied with the clarity of the court ruling (not necessarily with the verdict), none said they were totally dissatisfied with it; 10% said they were partially satisfied with it.

As regards the timeliness or delay in the presentation of the written judgment, 52% of the respondents said they were very satisfied, and 14% were partially satisfied. None was totally dissatisfied.

III. COURT USERS

1. Availability of Information and Transparency

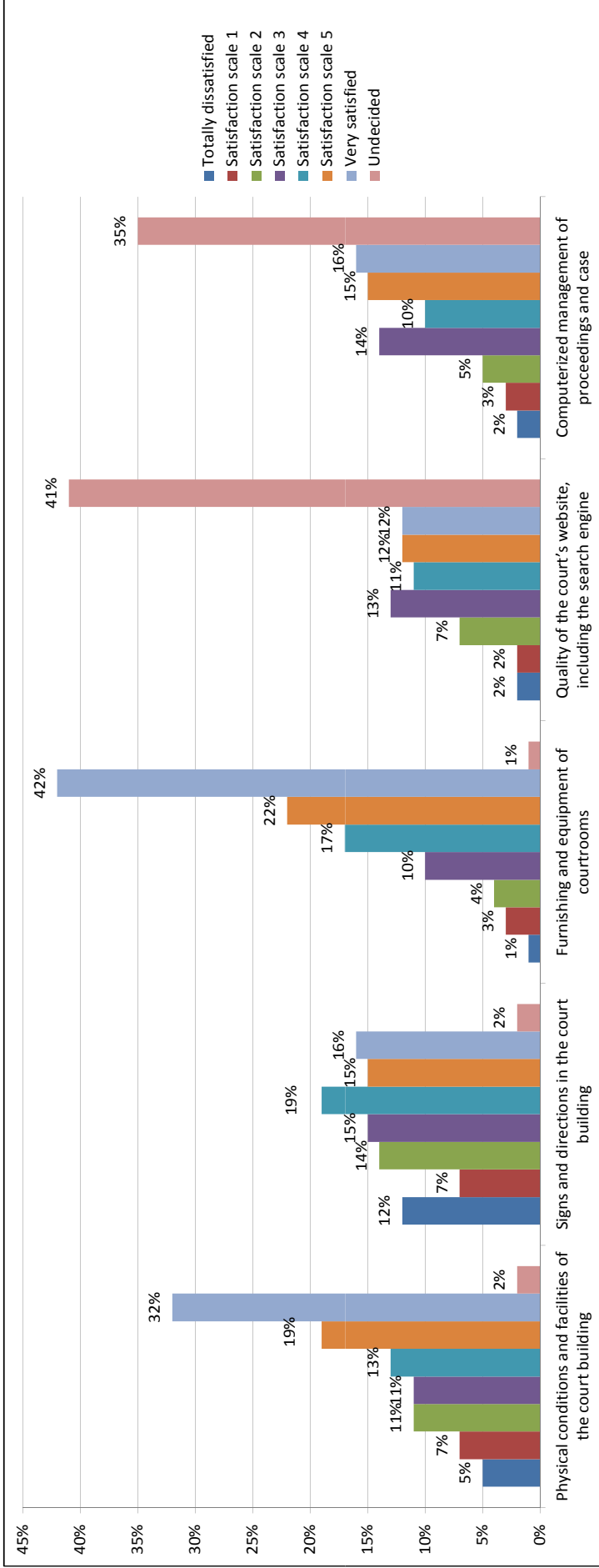


Note: With regard to the access to legal information and practice (brochures, flyers, etc.), of the total number of 244 surveyed users, 44% said they were very satisfied, 11% said they were totally dissatisfied, 38% were partially satisfied.

Regarding the attitude and politeness of the registry staff, 61% were very satisfied with the conduct of the court’s staff, only 4% were totally dissatisfied, and 28% said they were partially satisfied.

65% of respondents are very satisfied with the professionalism and legal training of clerks, only 1% was totally dissatisfied, and 31% said they were partially satisfied. The reports for the previous quarters revealed similar data.

2. Quality of Facilities and e-Justice



Note: Assessing the court building facilities (the possibility of disabled access to the building, chairs in the hall, rooms to study the case file, rooms for lawyers/prosecutors, toilets, etc.), 51% of the total number of 244 respondents said they were very satisfied, while 12% said they were totally dissatisfied; 35% of the respondents said they were partially satisfied.

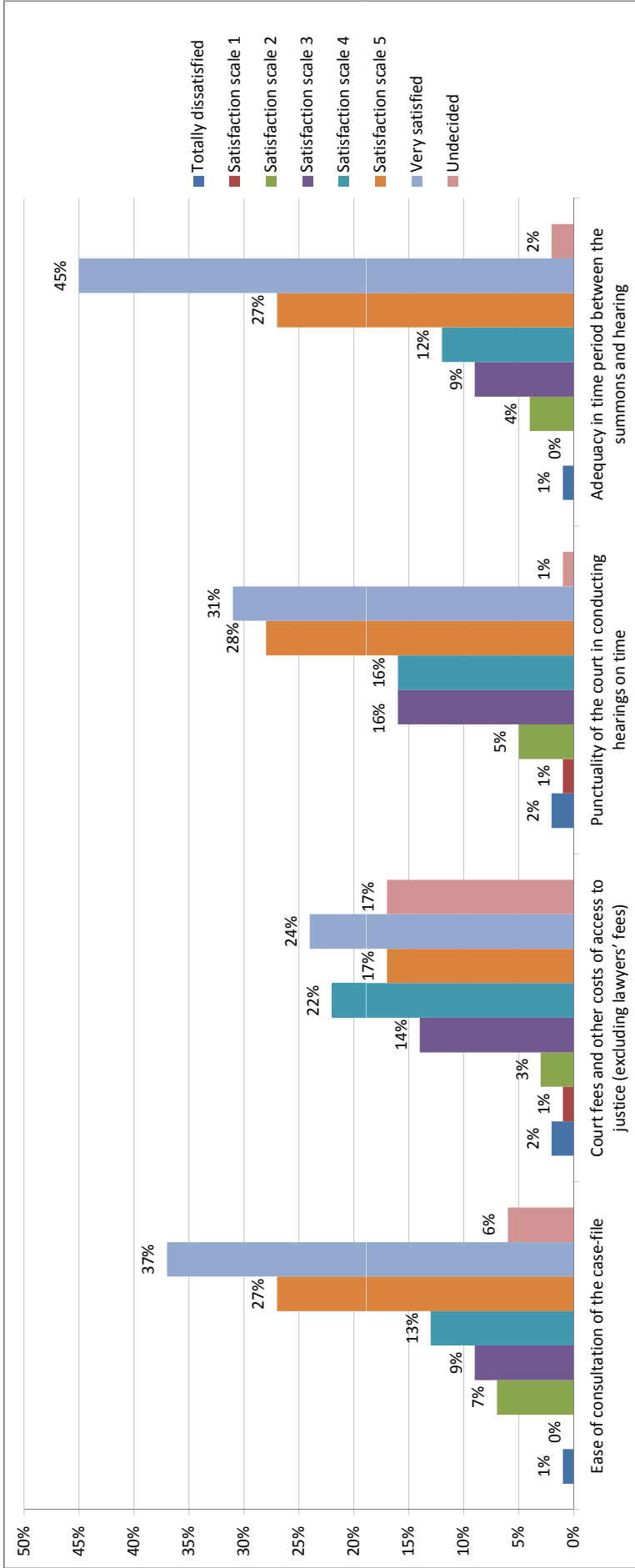
Some 31% said they were very satisfied, while 19% said they were totally dissatisfied, with the indicators outside and inside the court building; 48% of respondents said they were partially satisfied with the signage.

The furnishing and equipment of courtrooms were assessed as follows: 64% said they were very satisfied, 4% were totally dissatisfied; 31% of respondents said they were partially satisfied.

24% of the respondents said they were very satisfied with the quality of the website of the court, including its search engine, 4% were totally dissatisfied, and 31% were partially satisfied.

Regarding the computerized management of cases and the judicial process, including the functioning of the electronic case management system, 31% of respondents were very satisfied with it, while 5% were totally dissatisfied and 29% were partially satisfied.

3. Access to Justice (in this particular case)

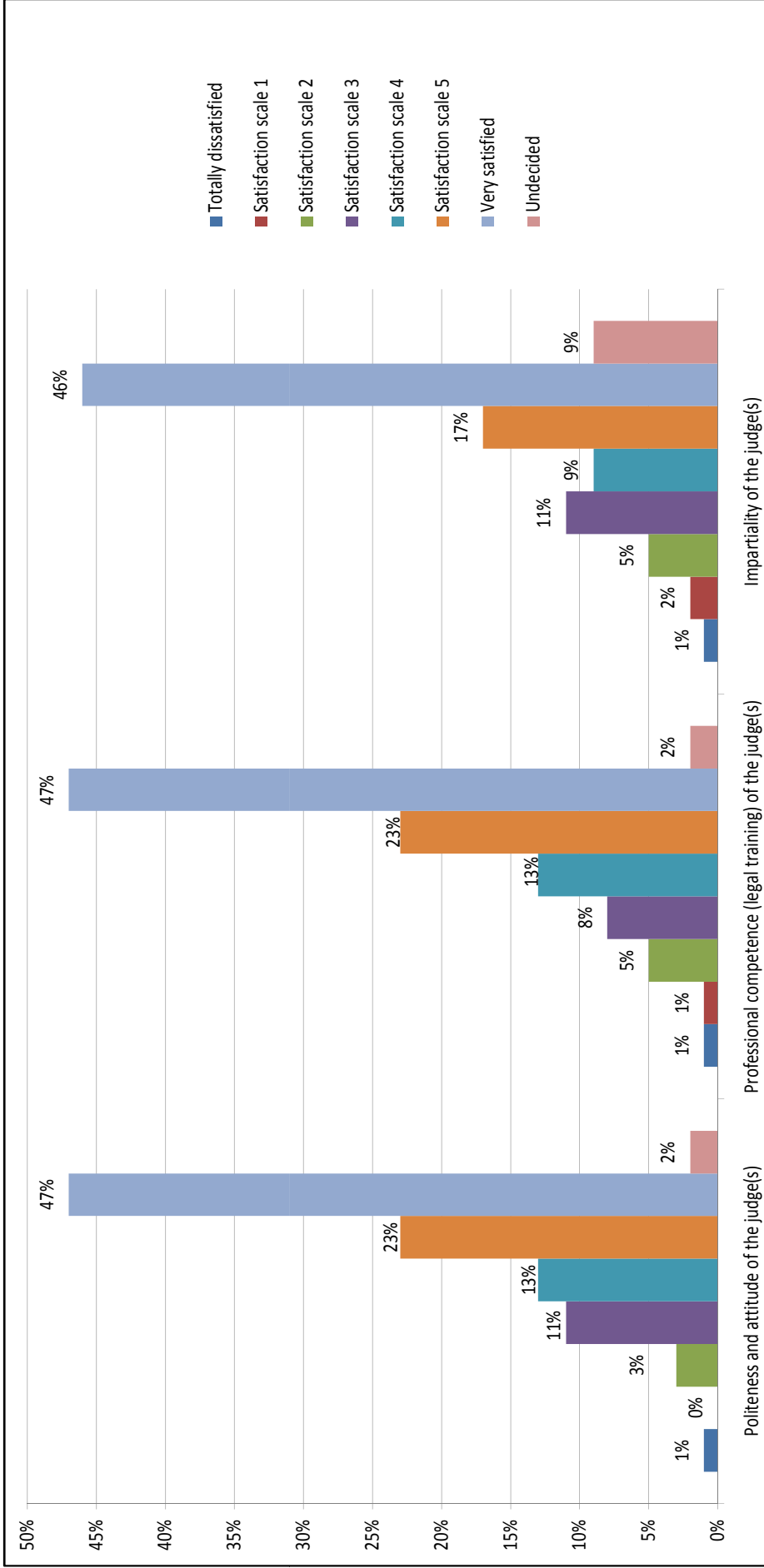


Note: As regards the access to justice, namely the availability of the case file, 64% of respondents said they were very satisfied with the possibility to study the case file; only 1% were totally dissatisfied, and 29% were partially satisfied.

41% of the respondents were very satisfied with the judicial and other costs (excluding attorneys' fees), while 3% were totally dissatisfied with the costs; 53% said they were partially satisfied.

The respondents assessed the timely conduct of scheduled hearings as follows: 63% were very satisfied; none totally dissatisfied, another 37% were partially satisfied. Assessing the time between the citation to court and the conduct of the hearing (to allow the parties to prepare for trial), 72% of the respondents said they were very satisfied, 1% was totally dissatisfied, and 25% were partially satisfied.

4. Capacity, Independence and Impartiality of Judge(s) (in the particular case)

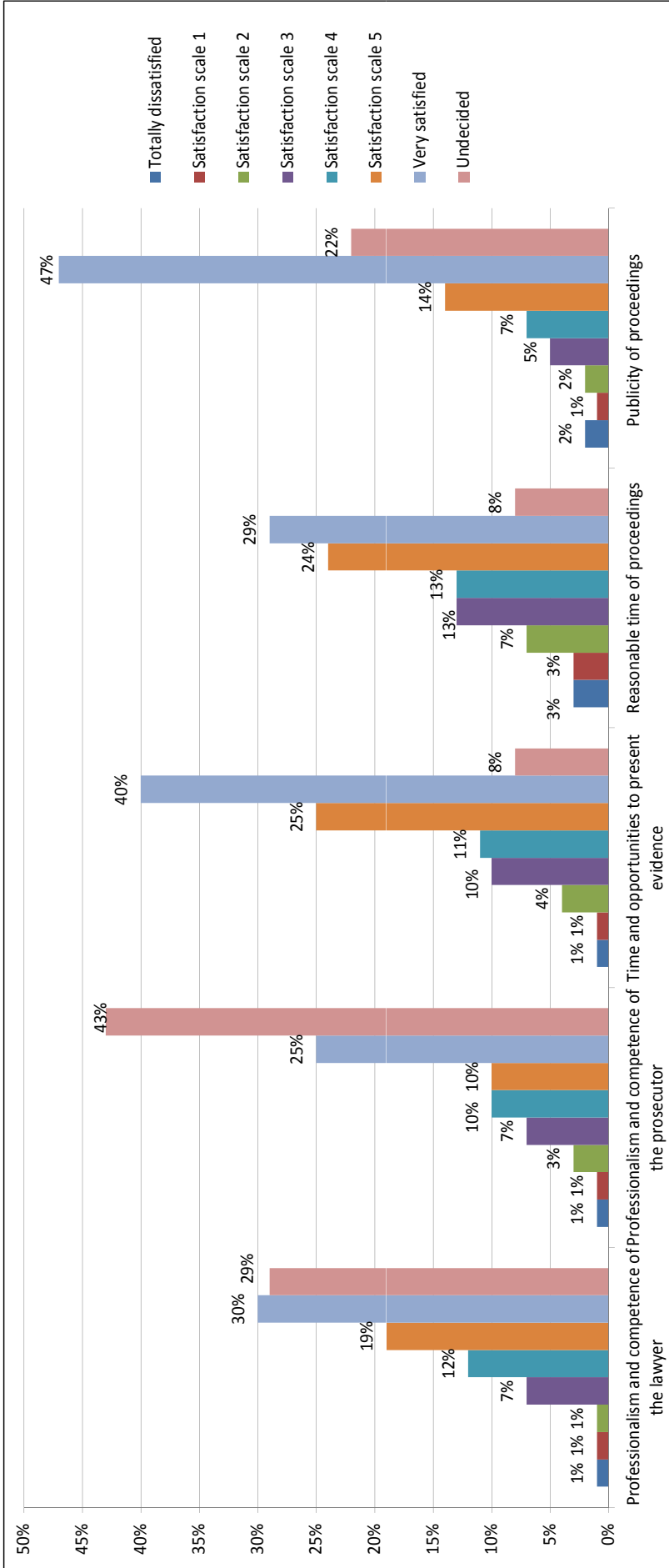


Note: As regards the politeness and attitude of judges, 70% of respondents said they were very satisfied with it, while 1% was totally dissatisfied and another 27% said they were partially satisfied.

With reference to the professionalism and competence of judges: 70% of the respondents were very satisfied, down by 2% from the previous Quarter, 2% were totally dissatisfied, and 26% were partially satisfied.

63% of those questioned said they were very satisfied with the impartiality of judges, 25% were partially satisfied and 3% were totally dissatisfied.

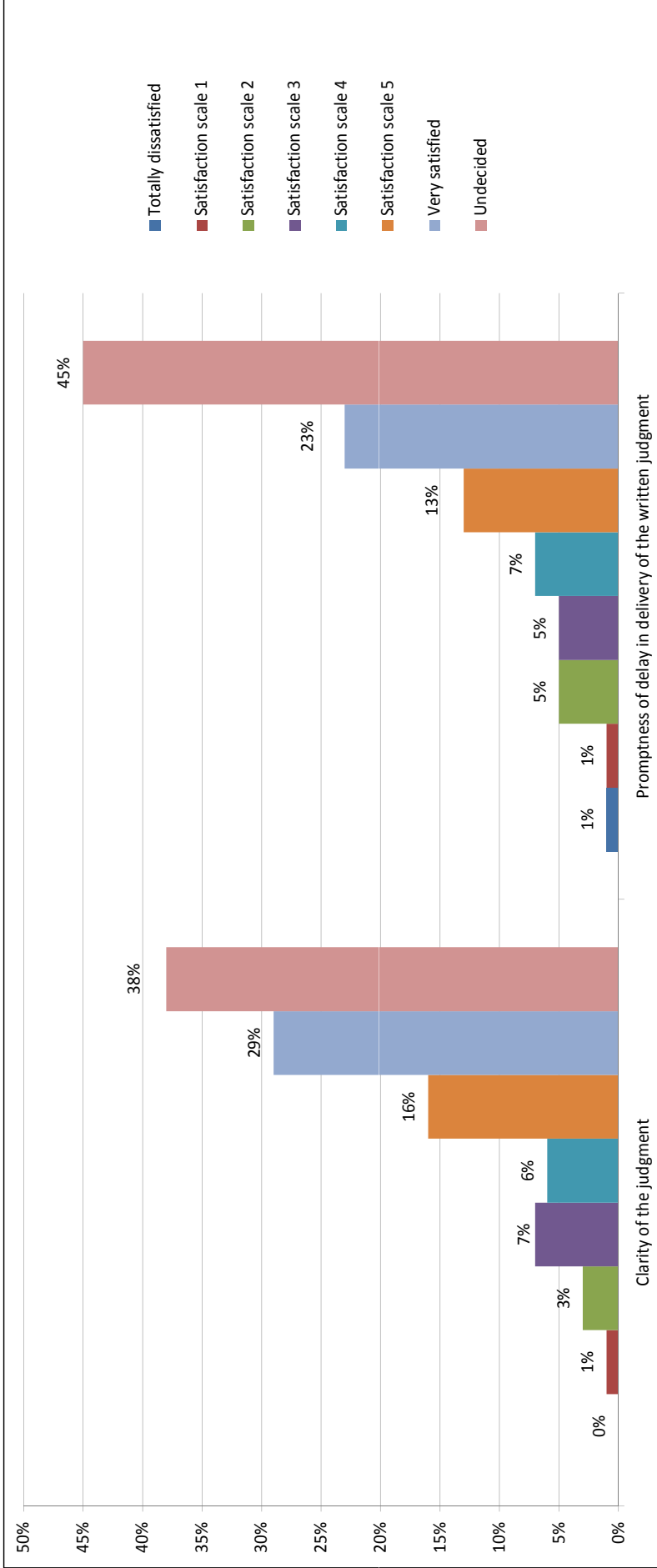
5. Fairness of Proceedings



Note: Assessing the fairness of the trial, the respondents answered as follows:

- 49% were very satisfied with the professionalism and competence of lawyers, 2% were totally dissatisfied and 20% were partially satisfied.
- 35% of respondents were very satisfied with the professionalism and competence of the prosecutor, 2% were totally dissatisfied, and 2% were partially satisfied.
- With reference to the question whether sufficient time and opportunities was provided for each party to the proceedings for presenting their case and rebating the evidence presented by the adversary party, 65% were very satisfied, 2% was totally dissatisfied, 25% were partially satisfied.
- Assessing the reasonable time of the trial, 53% were very satisfied, 6% were totally unsatisfied; and 33% were partially satisfied.
- 61% of respondents said they were very satisfied with the public character of the trial for third parties and the media; 3% were totally dissatisfied; 14% were partially satisfied.

6. Quality of Outcome of Proceedings (in this particular case; only if court judgment was pronounced)



Note: In terms of the “trial outcome”, 45% of the respondents said they were very satisfied with the clarity of the court ruling (not necessarily with the verdict), while 1% said they were totally dissatisfied with it; 16% were partially satisfied.

On the timeliness or delay in the submission of the written judgment, 36% of respondents said they were very satisfied, 2% were totally dissatisfied; and 17% were partially satisfied.

B. CHARTS FOR MEASURING THE QUALITY OF JUSTICE VIA DIRECT OBSERVATION OF COURT HEARINGS

To develop the diagrams presented below, the authors analyzed 300 questionnaires completed by the field monitors in the period between 1 October and 30 December 2013. The methodology of developing the diagrams consisted of entering the direct numerical values corresponding to each questionnaire response options (yes, no, undecided, not applicable). The undecided value was used in situations where an objective assessment of response was not possible; it was not entered in cases where the action to which it refers did not take place/occur during the hearing.

The questionnaire was put together based on a methodology developed as part of this project, but also on other instruments, such as: the [Model Methodology for Measuring User Satisfaction of the European Commission for the Efficiency of Justice \(CEPEJ\)](#), [OSCE Legal Bulletin on International Rights to a Fair Trial](#) and [Council of Europe Manual on Article 6 of the European Convention of Human Rights](#). The monitoring effort involved 36 observers who monitored meetings in all types of courts, including specialized courts, courts of appeal and the Supreme Court of Justice. Thus, according to analyzed data, hearings were monitored in courts of different levels, as follows: 252 trials were monitored in regular courts, 12 – in specialized courts, 30 – in courts of appeal, and six – in the Supreme Court. All observers had previously been involved in civic monitoring of democratic processes, benefited from in-depth training on the principles mentioned above, and were consulted during the monitoring effort.

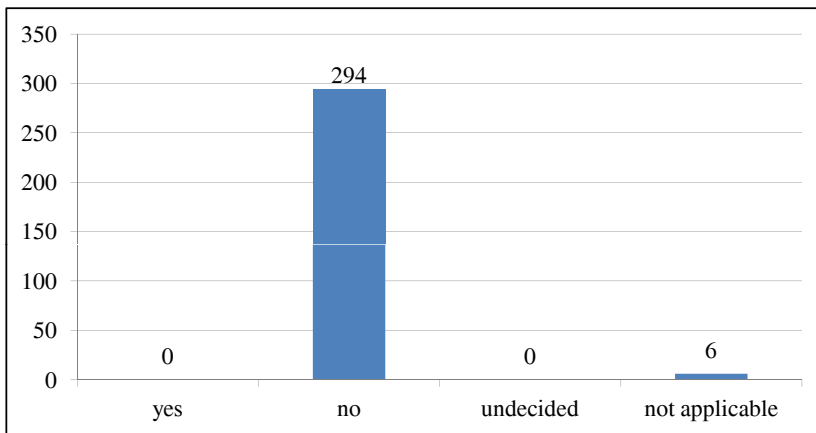
The results below arise from personal evaluation of the monitor during the observation of the court proceedings. Particular attention was paid to:

1. Access to Justice and Equality;
2. Competent, Independent and Impartial Court;
3. Publicity of Hearings;
4. Specific Aspects of Fairness of Criminal Trials, including Presumption of Innocence;
5. Adversarial Principle, Equality of Arms and Defense Rights;
6. Public, Timely and Reasoned Judgment and Quality of Outcome of Proceedings.

Unlike the first part of the Monitoring Survey, this part involved a personal evaluation of the monitor of the procedural realities observed. Hearings were randomly selected: some lasted several minutes, while others went on for hours. In effect, the observers did not fill the parts in the questionnaires related to stages in the hearing they did not attend/observe. Half of the monitored hearings referred to civil and litigation cases; the other half related to criminal and administrative cases. Only criminal cases were monitored at the Supreme Court of Justice, and the monitors observed only civil cases in specialized courts. So the numbers are equal: 150 or trials on civil cases, and 150 trials on criminal/administrative cases.

1. ACCESS TO JUSTICE AND EQUALITY

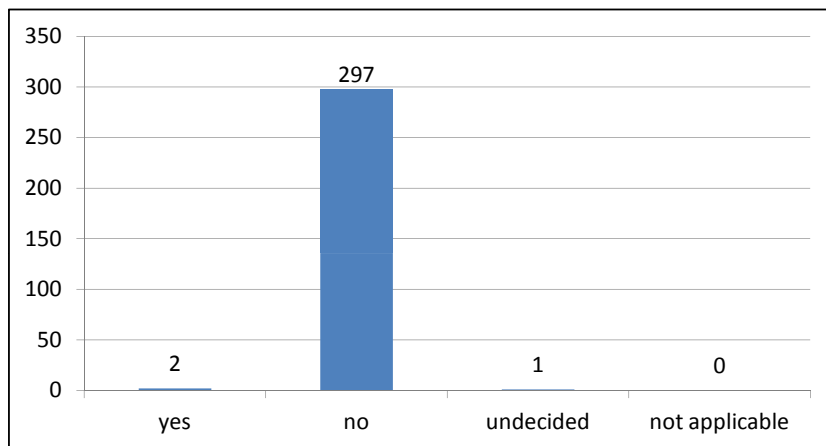
1. Were there any restrictions imposed on the ability to summon to court, or to submit claims or complaints in court?



Note: Of the total 300 monitored cases, in 294, the monitors believe that no restrictions were imposed on the ability to summon to court, or to submit claims or complaints in court. The number of such appreciations is increasing compared to the previous Quarters of 2013.

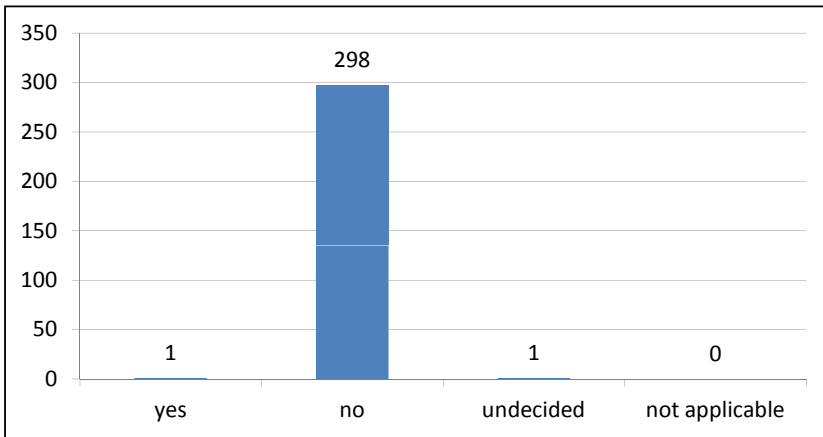
2. COMPETENT, INDEPENDENT AND IMPARTIAL COURT

2. Were there any suspicions regarding the independence of the court, in particular the presence of any influence, pressure or threats?



Note: In the majority of observed cases (297), the monitors noticed the nervousness of the judges in regard to the presence of the media in the courtroom.

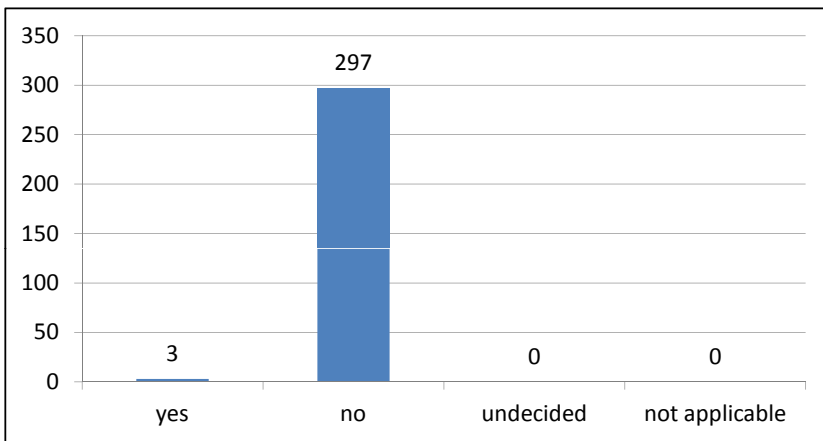
3. Were there reasons to believe that the court was partial? Were there grounds to disqualify the judge from the case (the judge showed bias, prejudice or a pre-determined attitude towards the examined case; the judge expressed his opinion on the guilt of a person during the trial, inside or outside the courtroom; the judge communicated with the prosecutor or the defense counsel before the hearing or between proceedings, was there a potential conflict of interests that raised reasonable fear that the judge could not act impartially)?



Note: Almost in all of the sittings observed (298), the monitors declared no visible reason for disqualifying the judge. In a single case, the observer believed that the judge had a predetermined opinion on the case.

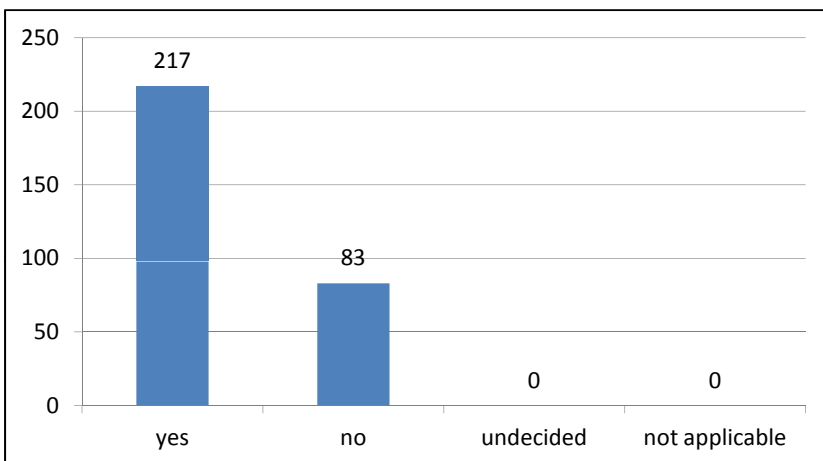
3. PUBLICITY OF HEARINGS

4. Did the court ask certain categories (media, public, observers, etc.) to leave the hearing?



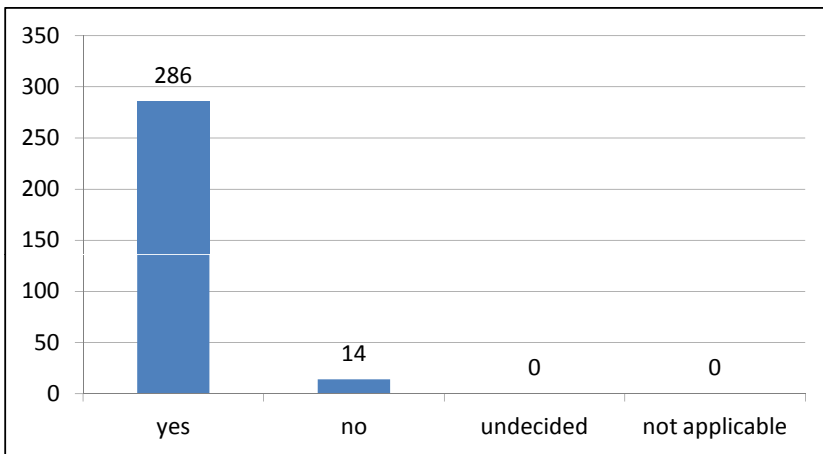
Note: Observers noted that the court demanded that certain groups leave the courtroom (in three trials, as shown in above diagram) in cases when the applicable procedure provided for a closed hearing, without any procedural abuses. No other restrictions of public participation at the trial were registered in the remaining 297 cases.

5. Was the hearing held in a courtroom?



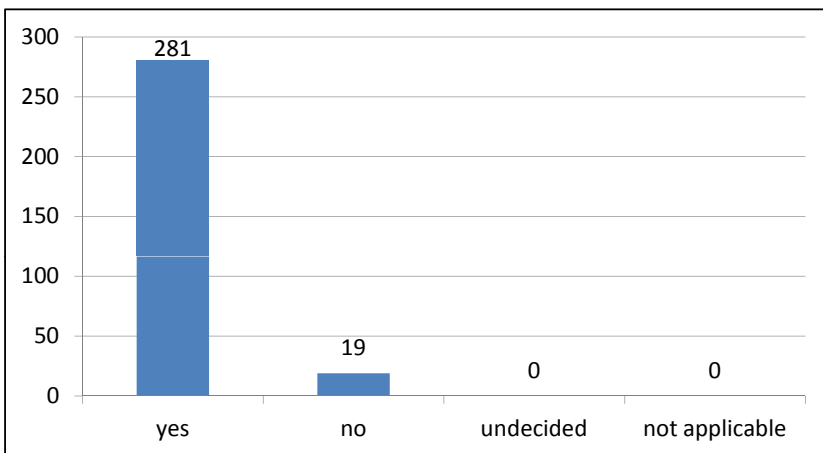
Note: The ratio of hearings held in courtrooms is similar with that of Quarter 3, when 217 of the 300 monitored hearings were held in a courtroom and 83 – in judges’ offices.

6. Was the size of the courtroom adequate to accommodate all the participants in the case?



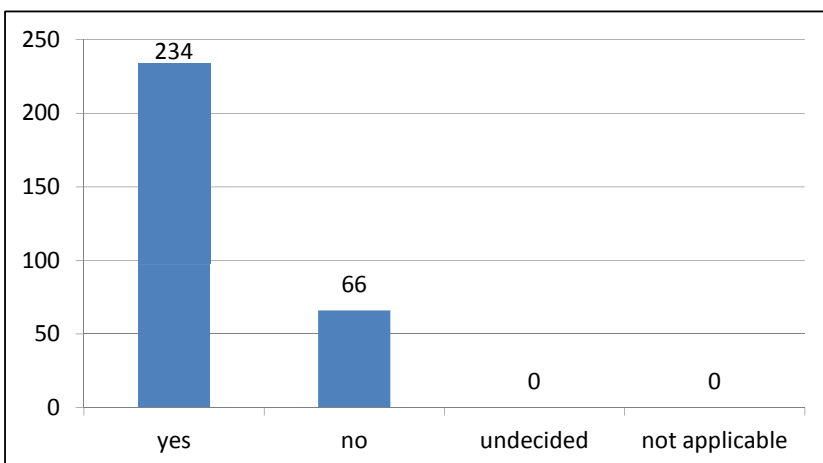
Note: In 286 of 300 monitored trials, the rooms used to conducting the hearings were spacious enough to accommodate all the parties in the trial. In 14 cases, it was established that the venues did not ensure the necessary comfort and conditions for the conduct of the trial. Similar data was revealed in the previous reports. The ratio of the venues not ensuring the necessary conditions can be established in the courts of Chisinau districts.

7. Was the courtroom equipped with the necessary furniture?



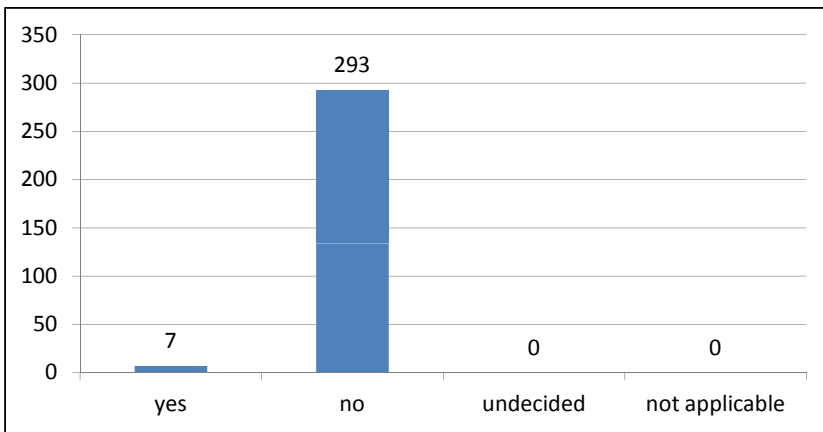
Note: 281 of the 300 monitored court hearings were conducted in well-furnished rooms, and 19 hearings were held in facilities insufficiently furnished to allow the parties to take notes or hold their papers.

8. Was the court hearing audio-recorded?



Note: The data analysis shows that the ratio of recorded trials is constantly growing; thus, in Quarter 4, 234 of 300 trials were recorded, while in Quarter 3 the number was 206, in Quarter 2 it was 179, and in Quarter 1 it was 118.

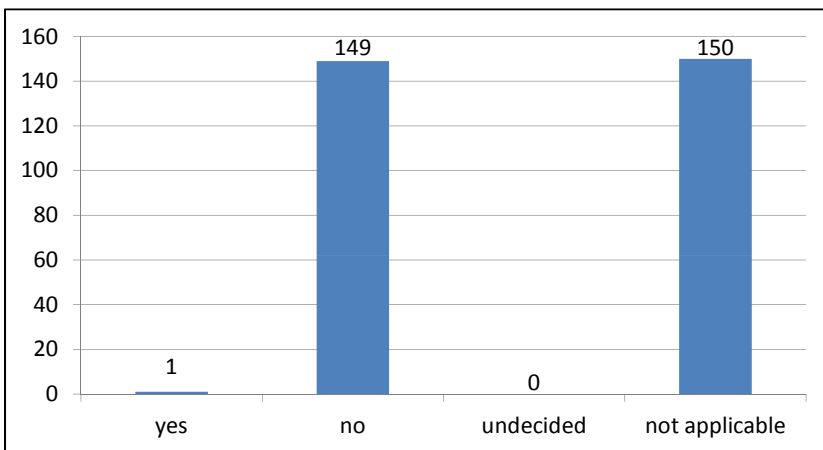
9. Was any person denied access to the courtroom?



Note: In the overwhelming majority of the monitored trials (293 cases), there were no instances of denying anyone the right to enter the courtroom. In 7 cases, access was denied to the meeting rooms.

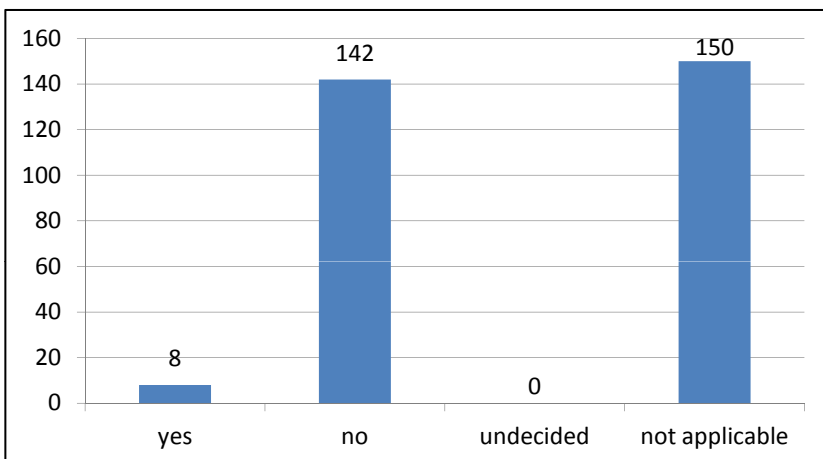
4. SPECIFIC ASPECTS OF FAIRNESS OF CRIMINAL TRIALS, INCLUDING PRESUMPTION OF INNOCENCE

10. Did the court pre-determine the guilt or innocence of the defendant (offender)?



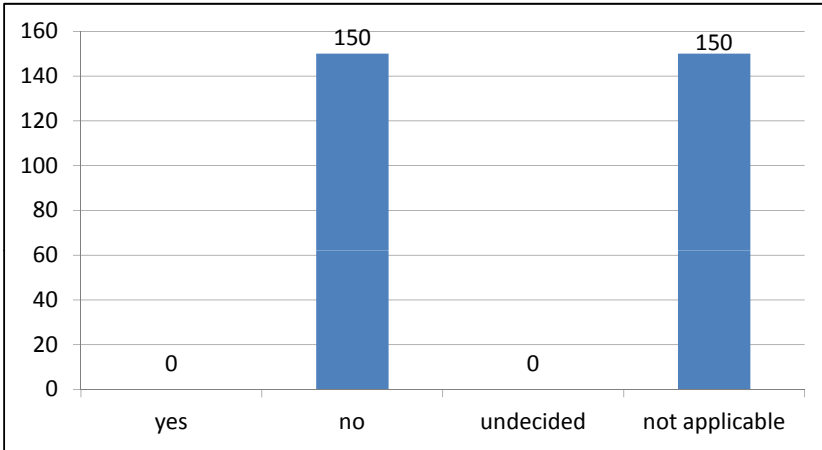
Note: Only on one case of the 150 of criminal and administrative cases monitored was it established that the court pre-determined the offender/defendant's guilt, and the judge had a biased attitude towards the defendant.

11. Was the defendant (offender) treated in any way such as to indicate that he is guilty (i.e. was he kept in handcuffs during the hearing, was he kept in a cage, etc.)?



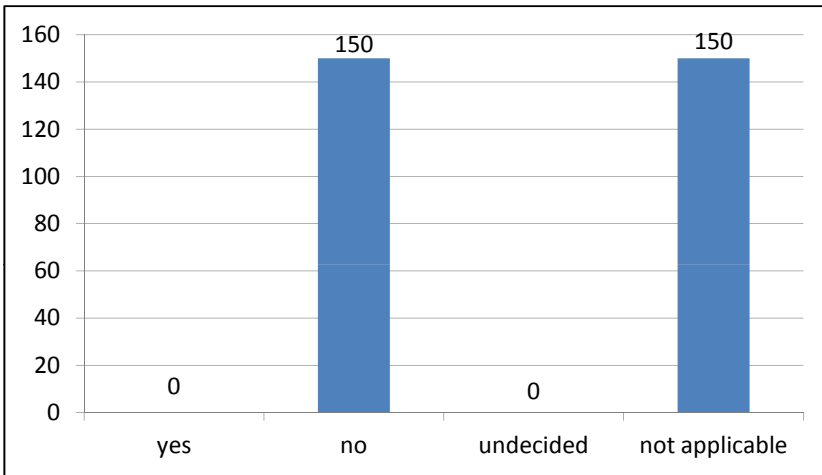
Note: Of the 150 hearings of criminal case trials monitored, in 8 hearings, it was found that the defendant/offender was treated in a way as to indicate that he was guilty; in the remaining 142 cases, this was not observed. The conclusions are based on the monitors' observations of the behavior of judges.

12. Did the news coverage of the case undermine the presumption of innocence and encouraged bias of judges against the defendant (offender)?



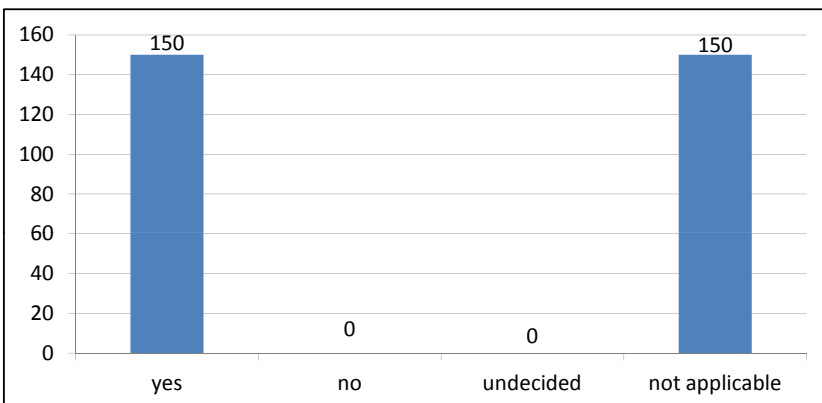
Note: In all cases, it was reported that the news coverage of the case did not undermine the presumption of innocence or encouraged bias of judges against the defendant.

13. Did any public authority make an unequivocal declaration on the defendant (offender)'s guilt before his conviction?



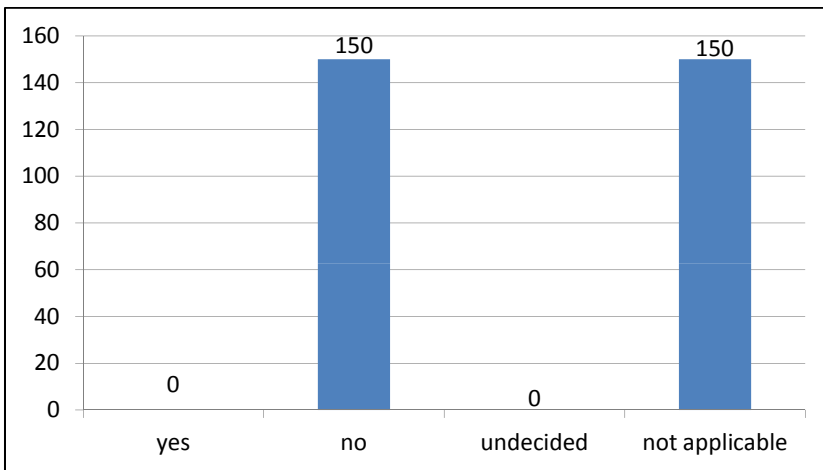
Note: In all hearings, it was found that no statements regarding the guilt of the defendant have been made before conviction.

14. Did the defendant (offender) enjoy the privilege against self-incrimination? Did the judge explain to the defendant his right not to testify against himself?



Note: In all hearings of criminal or administrative cases, the court explained to the defendant/respondent their right not to testify against themselves.

15. Was the defendant compelled to give testimony in court?

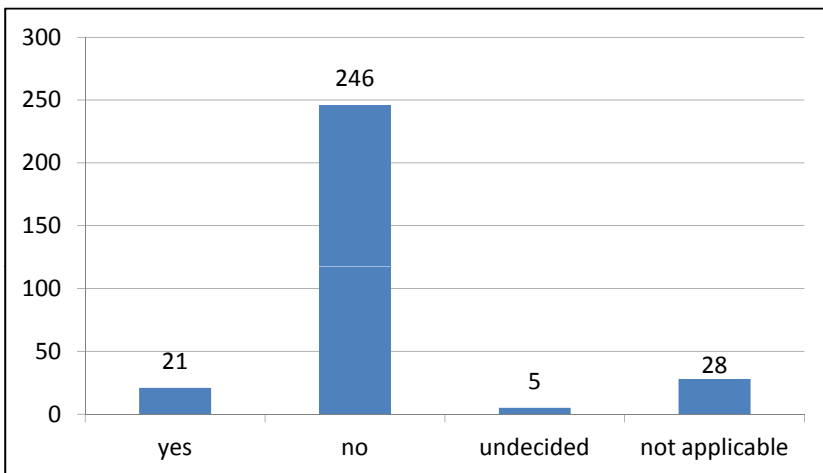


Note: No cases of defendants/respondents compelled to testify have been reported.

5. ADVERSARIAL PRINCIPLE, EQUALITY OF ARMS AND DEFENSE RIGHTS

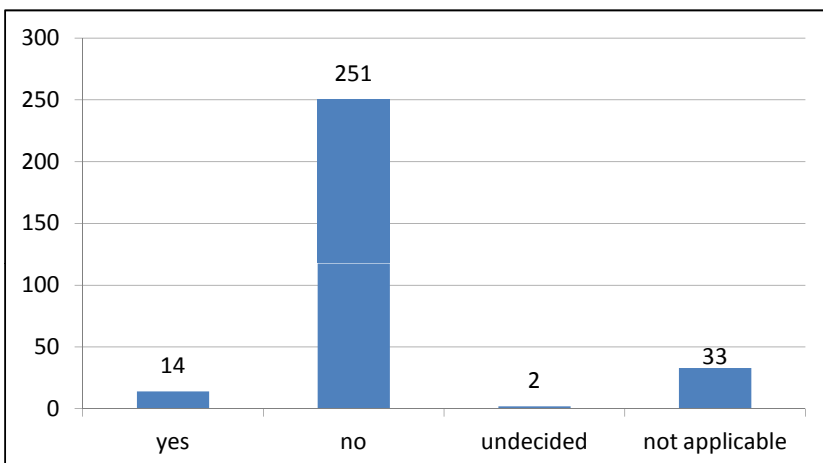
A. Adequate Preparation for the Case

16. Did the parties have „adequate time” to prepare the case?



Note: Of the monitored trials, in 21 hearings it was reported that the parties had insufficient time to prepare for the trial, within 246 hearings, such circumstances were not found.

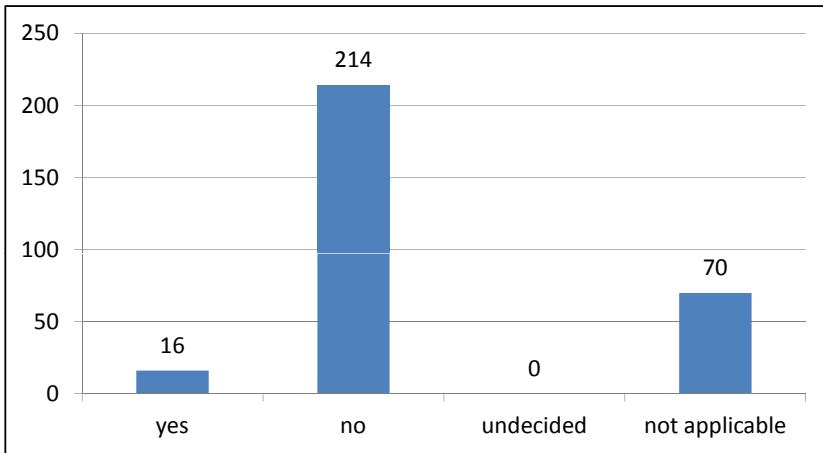
17. Weere there any objections from the parties to the trial that they had not been communicated all the information relevant to the case or that they did not have time to familiarize themselves with documentary evidence held by the adverse party?



Note: With regard to the objections from the parties to the trial that they had not been communicated all the information relevant to the case or that they did not have time to familiarize themselves with the documentary evidence held by the adverse party, 14 such cases were reported; at the same time, in 251 cases, such circumstances were not reported.

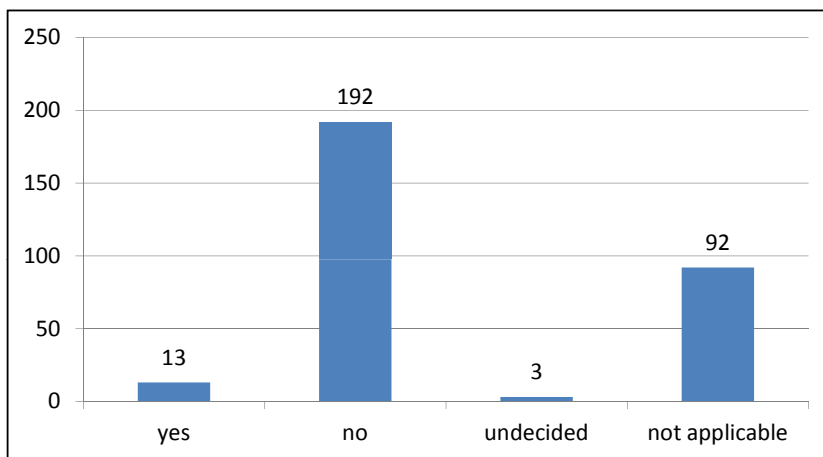
B. Timely Hearing

18. Were procedural delays or postponements of the hearing unreasonable, given the circumstances of the case?



Note: With regard to reasonable delays, the monitors found that, in 16 trials, the monitors assessed the delays as unreasonable, while in 214 cases the delays were deemed reasonable. Similar comparative data are presented in the reports for Quarters 2 and 3.

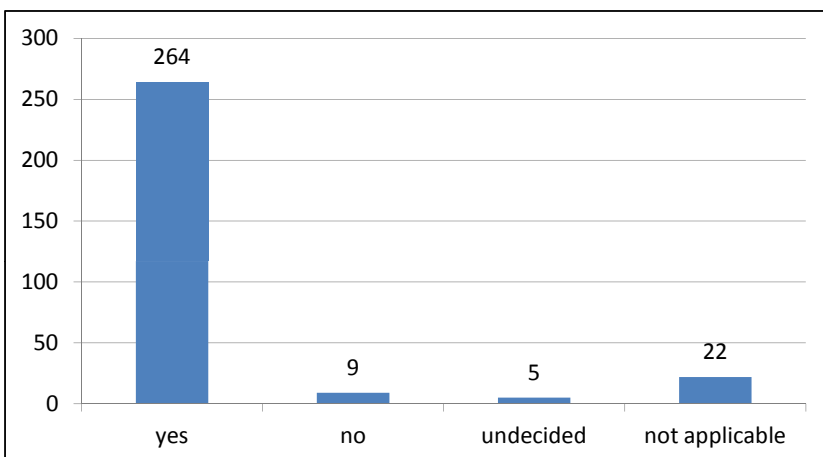
19. Did the delays have any detrimental effect upon the individual's legal practical position (for instance, where he has been detained in custody or during trial) or his legal position (questions related to statute of limitations, etc.)?



Note: With regard to hearing postponements that could have harmed the trial, monitors found that in 13 hearings such delays could have harmed the trial, while in 192 cases the delays did not affect the trial.

C. Right to Presence at Hearing and Effective Participation

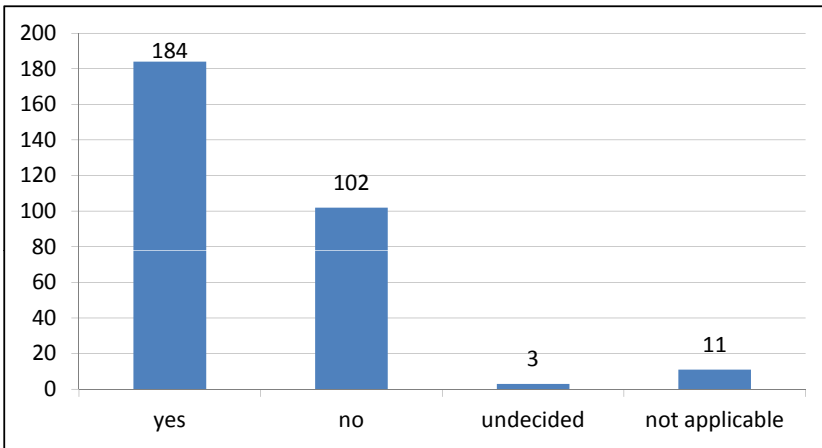
20. Was the respondent (defendant/offender) given the opportunity to participate in a hearing to present his case?



Note: In the absolute majority of cases (264), the respondent (defendant/offender) was given a real opportunity to participate at the trial to present their case. Only in 9 cases such participation was not possible.

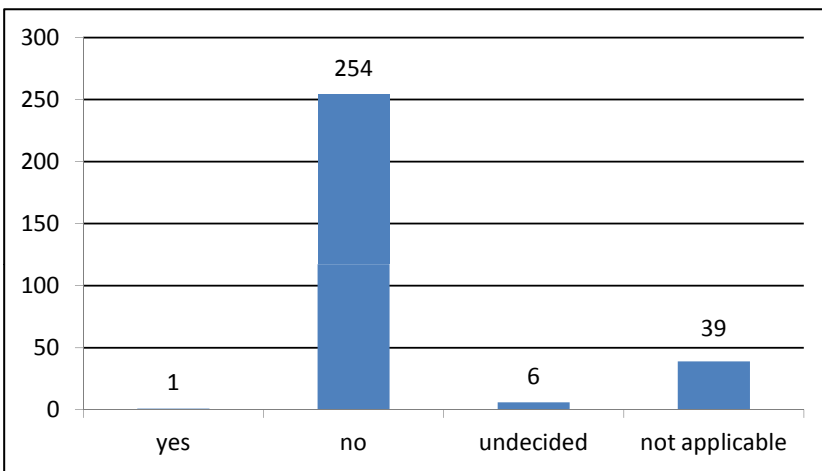
D. Right to Legal Representation or Self-Representation

21. Did the parties to trial have representation?



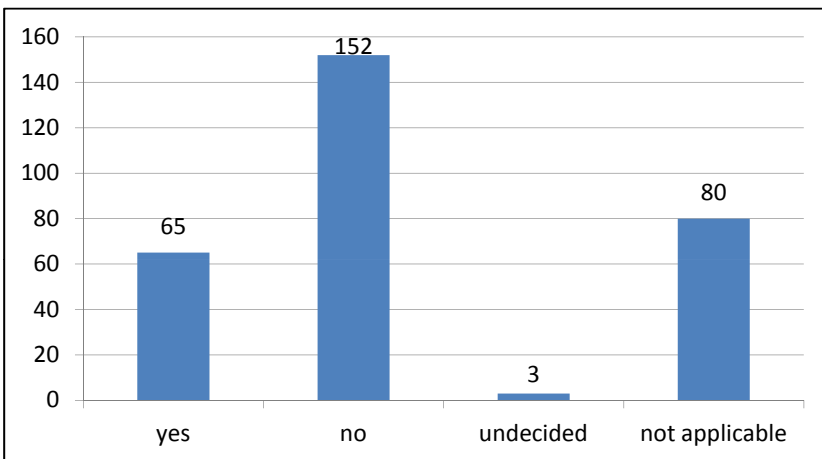
Note: In the majority (184) of court hearings, the parties were represented by lawyers or legal representatives; in 102 cases, the parties did not have legal counsel or representation.

22. Were the parties prohibited to represent themselves during the hearing?



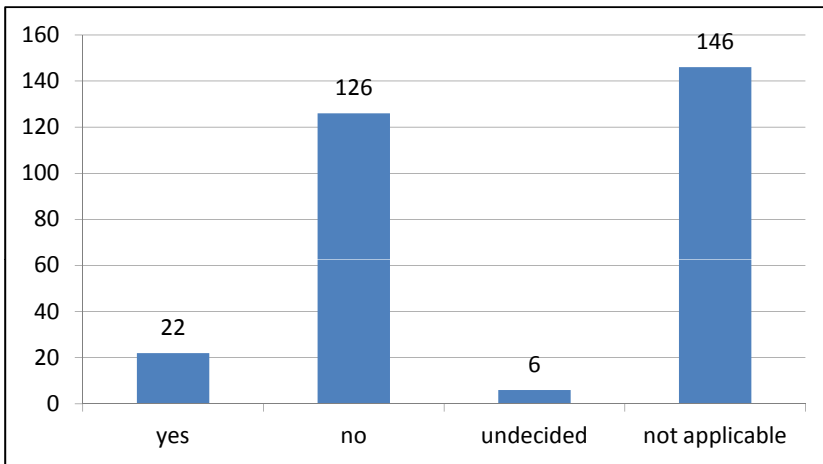
Note: In the absolute majority of trials, the parties were not denied self-representation (254), and in one criminal case, the court demanded that the defendant be provided with a lawyer.

23. Did one or more parties seek representation by counsel?



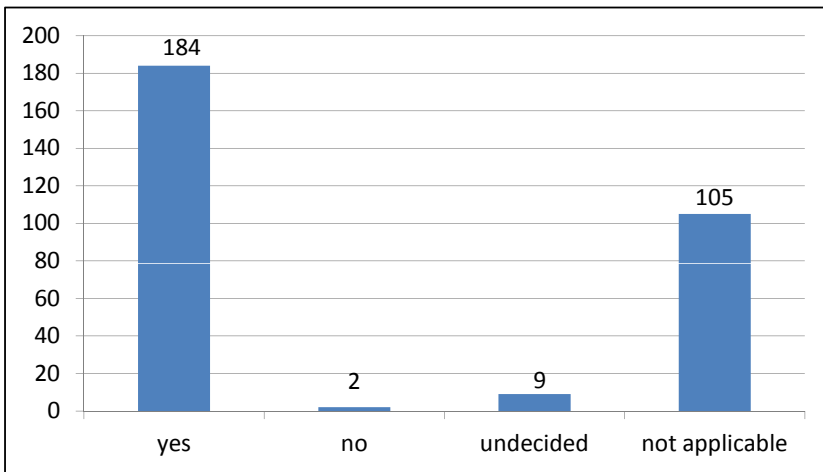
Note: In 65 monitored trials, a lawyer’s assistance was requested; in other 152 hearings, such requests were not submitted.

24. If the party did not have sufficient means for legal assistance, did it request state-guaranteed legal aid?



Note: A lawyer from the NLAC was requested in 22 hearings; this number represents a slight increase compared with the previous reports.

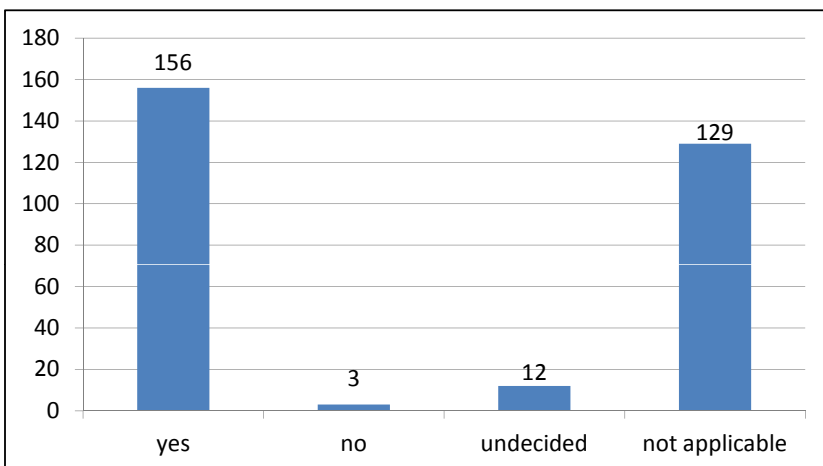
25. Did the counsel act in an independent, competent and efficient manner?



Note: In 184 hearings where lawyers were present, the monitors noted that the lawyers acted in an independent, competent and efficient manner; in other 2 hearings, this was not the case.

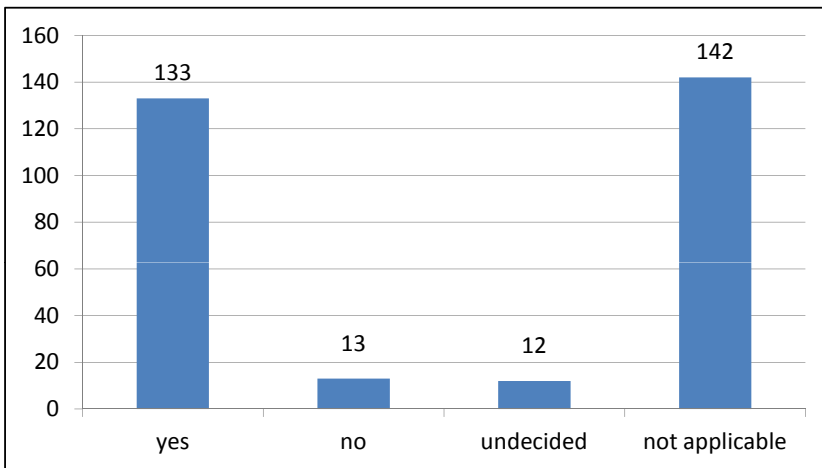
E. Examination of Witnesses

26. Were the parties provided with the same opportunities to examine witnesses and experts, which had been summoned to testify at trial?



Note: In most of the hearings (156), monitors found that the sides had equal possibilities to interview witnesses and experts

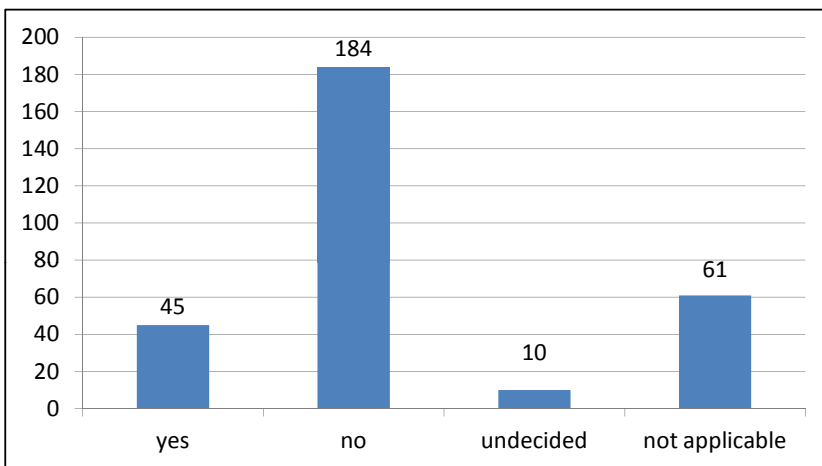
27. Were there all measures taken to ensure the participation of all witnesses and experts summoned by the court/parties?



Note: In 133 cases, the court took all measures to ensure the presence of all witnesses and experts (146)

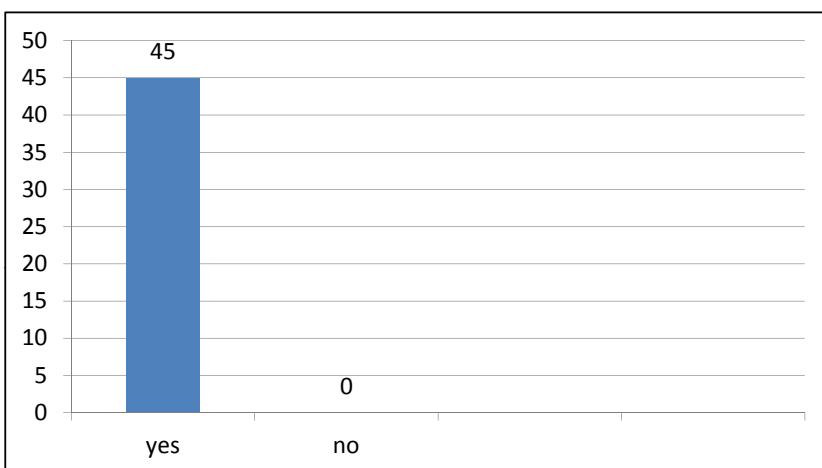
F. Interpretation and Translation

28. Did the parties request the presence of a translator/interpreter?



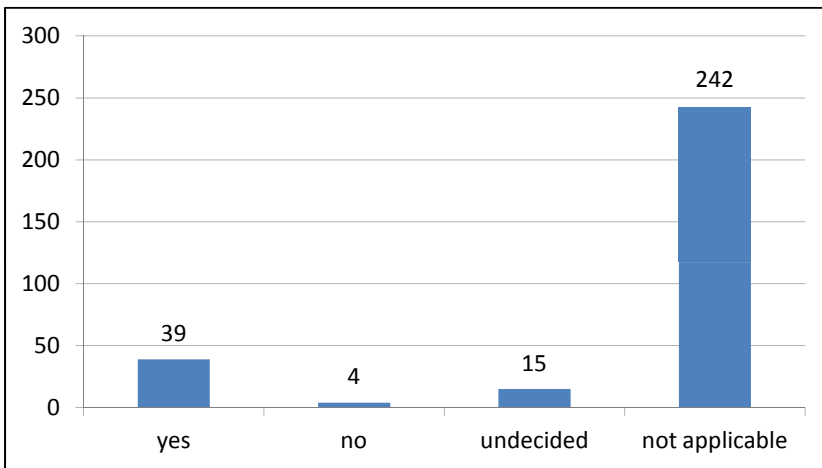
Note: The assistance of a translator was requested only in 45 hearings.

29. Was the appointed translator/interpreter an official court interpreter selected from the list of court interpreters?



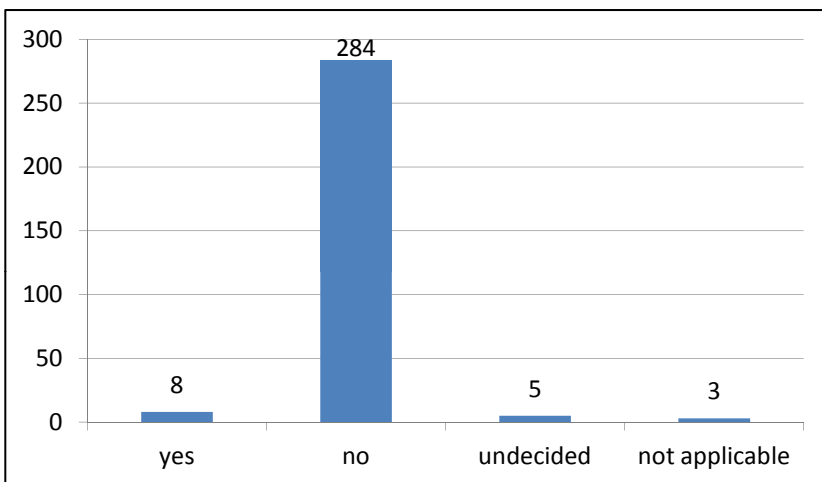
Note: In all of the cases, interpreters were selected from the list of authorized interpreters.

30. Did the defendant/parties appear to fully understand the translated questions?



G. Additional General Question on the Equality of Arms

31. Was there anything else about the conduct of the hearing that might have resulted in substantive inequality between the parties or inability of one party to have ample opportunities to state its case and contest evidence that it considered false?

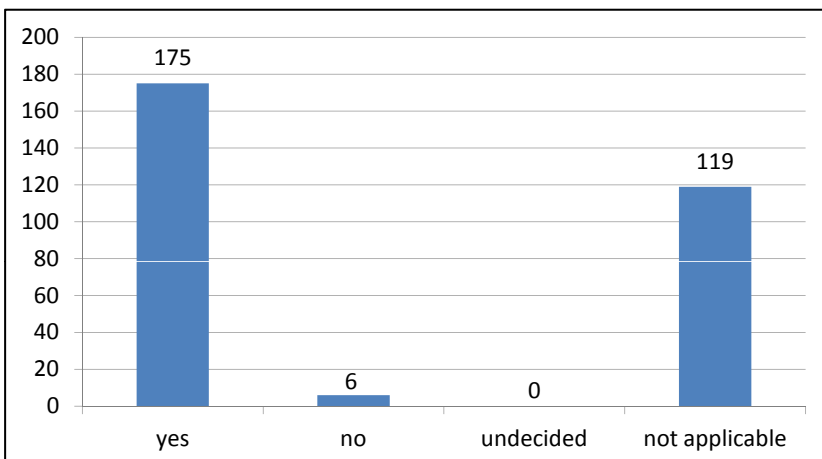


Note: In 284 cases, no such elements were reported; only in 8 cases did the parties indicate to inequality of arms in some aspects of the trials.

6. PUBLIC, TIMELY AND REASONED JUDGMENT AND QUALITY OF OUTCOME OF PROCEEDINGS

A. General Requirements

32. Was the court's judgment in this case clear?



Note: In 175 cases, the pronounced courts' judgment was quite clear; and only in 6 cases the solution was not clear.

CONCLUSIONS

Unfortunately, we found that progress in the implementation of the Action Plan has slowed down compared with the previous Quarters of 2013. Thus, of the 257 actions due for implementation by the end of 2013, 144 were implemented, and 113 remain overdue, which represents a ratio of 56% to 44%, respectively. Another worrisome fact is that of the 45 actions due for completion in Quarter 4 of 2013, only 11, or 24%, were implemented, and the remaining 34, or 76%, were not completed. And this represents only the assessment of the degree of implementation of actions planned under the JSRS Action Plan, which form the basis for the reform of the justice sector, while the largest effort will reside in the implementation of documents and measures provided in the context of the Strategy. Namely, passing a package of bills and amendments to fight corruption does not automatically mean their enforcement nor does it guarantee the fact that some quasi-legal ways can be found to circumvent them.

An example is the sacking of three judges who were to be transferred to another court following reshuffles at the District Commercial Court. Thus, although the SCM had information presented by the President of the country on the biased examination of certain cases, confirmed by SIS reports, it proceeded to recommend the President to sack the judges under Article 26/2 of the Law on the Status of the Judge. This procedure provided dismissing the magistrates based on their letters of resignation (which the judges in question did not submit), which allows those three to benefit from all the allowances and social guarantees provided by the law.⁵⁸ The President accepted the SCM recommendation, and dismissed the three magistrates under Art. 26/2.⁵⁹

With regard to court hearings, we note that, according to the surveys and monitors' reports, the level of satisfaction of court users with the general act of justice in the courtrooms maintains a positive dynamic. Run against data from the previous reports, the data obtained in Quarter 4 show a positive trend of maintaining a high level of total persons satisfied with the act of justice.

The highest rates of unsatisfied respondents account for court facilities, indicators to and inside courts, as well as the use of court websites. Among lawyers, 14%, 22% and 8%, respectively, said they were completely dissatisfied with those aspects. A similar percentage of dissatisfied respondents were registered among prosecutors. Respondents, parties to trial except lawyers and prosecutors, were most dissatisfied with the access to the court practice as well as with the court facilities and indicators to and inside the courthouse – approximately 10%.

With regard to the highest rates of satisfied respondents, we note that over 71% of lawyers were completely satisfied with the accessibility of the case file and time allowed between the summon and the hearing, and 73% were very satisfied with the publicity of the trial. Prosecutors were most satisfied with the politeness and attitude of the registry staff. 76% of the prosecutors were totally satisfied with the accessibility of the case file and the time allowed between the summoning and the hearing. 81% and 86% of prosecutors, respectively, were satisfied with the politeness and professionalism of the judges. A similar dynamic is observed with regard to court users, most of whom were totally satisfied with the accessibility of the case file and the time allowed between the summon and the hearing. At the same time, 80% of court users were completely satisfied with the politeness and professionalism of the judges.

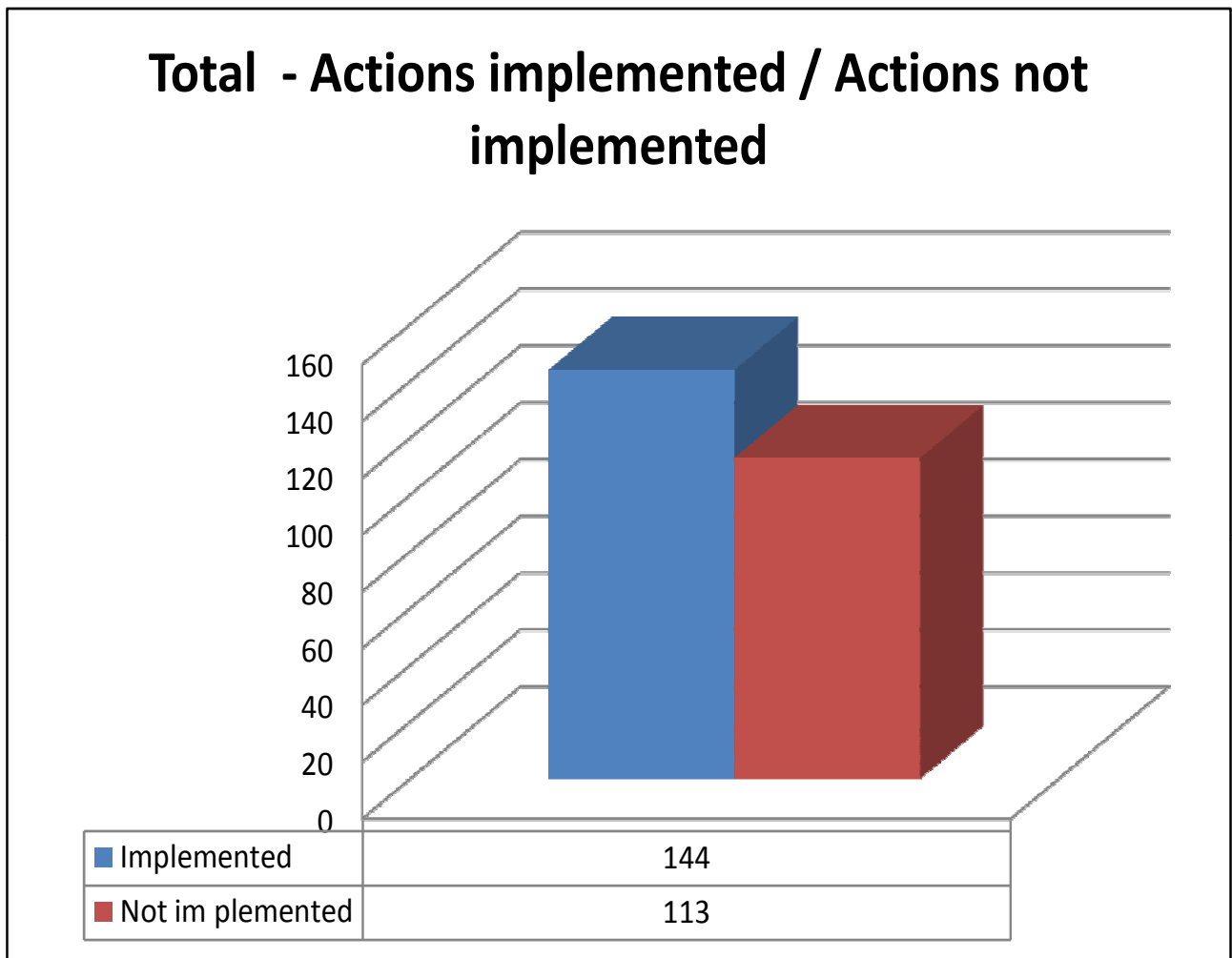
58 See SCM decision in that case: <http://www.csm.md/files/Hotaririle/2014/01/8-1.pdf>

59 <http://lex.justice.md/index.php?action=view&view=doc&lang=1&id=351194>

Table 1 - Implementation of actions per Pillar

Responsible institution	Pillar 1			Pillar 2			Pillar 3			Pillar 4			Pillar 5			Pillar 6			Pillar 7			Total			Actions implemented / not implemented / %		
	Total	I	N/I	Total	I	N/I	Total	I	N/I	Total	I	N/I	Total	I	N/I	Total	I	N/I	Total	I	N/I	Total	% I	% NI			
	Ministry of Justice	42	29	13	21	12	9	24	3	21	12	8	4	13	5	8	30	20	10	16	5	163	93	70	57%	43%	
Supreme Council of Magistrates	19	11	8	0	0	0	0	0	0	4	0	4	0	0	0	0	0	0	0	0	23	11	12	48%	52%		
National Institute of Justice	12	6	6	1	1	0	1	0	1	2	1	1	5	4	1	3	3	0	0	0	24	15	9	63%	38%		
National Anticorruption Center	0	0	0	3	3	0	0	0	0	4	2	2	0	0	0	0	0	0	0	0	7	5	2	71%	29%		
National Legal Aid Council	0	0	0	0	0	0	6	3	3	0	0	0	0	0	0	0	0	0	0	0	6	3	3	50%	50%		
National Union of Judicial Officers	0	0	0	0	0	0	1	0	1	0	0	0	0	0	0	0	0	0	0	0	1	0	1	0%	100%		
Ministry of Internal Affairs	0	0	0	3	3	0	0	0	0	0	0	0	0	0	0	2	1	1	0	0	5	1	4	20%	80%		
Prosecutor General's Office	0	0	0	10	6	4	0	0	0	0	0	0	0	0	0	3	1	2	0	0	13	7	6	54%	46%		
Center for Human Rights of Moldova	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	6	4	2	0	0	6	4	2	67%	33%		
National Council for Reforming the Law Enforcement Bodies	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	1	1	1	0	100%	0%		
National Integrity Commission	0	0	0	0	0	0	0	0	0	2	2	0	0	0	0	0	0	0	0	0	2	2	0	100%	0%		
Parliament	0	0	0	0	0	0	0	0	0	1	1	0	0	0	0	0	0	0	0	0	1	1	0	100%	0%		
Central Public Administration	0	0	0	0	0	0	0	0	0	1	1	0	0	0	0	0	0	0	0	0	1	1	0	100%	0%		
E-Governance Center	0	0	0	0	0	0	0	0	0	0	0	0	1	0	1	0	0	0	0	0	1	0	1	0%	100%		
Justice sector Institutions	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	2	2	2	0	2	0%	100%		
Constitutional Court	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	1	0	1	0	0	1	0	1	0%	100%		
TOTAL	73	46	27	38	22	16	32	6	26	26	15	11	19	9	10	45	29	16	24	17	7	257	144	113	56%	44%	
Total for Quarter IV	9	2	7	2	0	2	6	1	5	7	1	6	4	1	3	15	6	9	2	0	2	45	11	34	24%	76%	

Chart 1 – Total actions: implemented and not implemented



Implementation of actions under Pillar I

A total of 123 actions are provided for implementation under the Action Plan for the implementation of the Justice Sector Reform Strategy for 2011–2016. 73 actions were due for completion by the end of Quarter 4 of 2013 (31 December 2013). Of these, 46 were implemented, and 27 were not implemented. Two of 9 actions planned for the reporting period (1 October – 31 December 2013) were implemented.

Implementation of actions under Pillar II

A total of 84 actions are provided for implementation under Pillar II of the Action Plan for the implementation of the Justice Sector Reform Strategy for 2011–2016. 38 of these actions were due for completion by the end of Quarter 4 of 2013 (31 December 2013). Of them, 22 were implemented, and 16 - not implemented. None of 2 actions due for the reporting period (1 October – 31 December 2013) was implemented.

Implementation of actions under Pillar III

A total of 55 actions are provided for implementation under Pillar III of the Action Plan for the implementation of the Justice Sector Reform Strategy for 2011–2016. 32 of these actions were due for completion by the end of Quarter 4 of 2013 (31 December 2013). Of them, 7 were implemented, and 25 remain overdue. Only 1 of 7 actions due by the end of the reporting period (1 October – 31 December 2013) was implemented. Examples include *action 3.2.1 section 2*: Drafting an amendment to Law 113 of 17 June 2010 on Court Enforcement Officers (bailiffs) and Execution (enforcement) Code 443-XV of 24 December 2004, or *action 3.3.2 section 2*: Drafting a bill to amend the legal framework to functionally and institutionally strengthen the Licensing Commission and its Disciplinary College. These actions had been reported as completed, citing the bills that were sent to the Government for approval on 22 November 2013, although the MOJ website does not feature the texts of the bills. Also note *action 3.1.2 section 4*: Establishing offices of public attorneys in NLAC regional office towns, which was also reported as implemented, when in fact the authors of the report admitted themselves that the offices were not opened because of insufficient funding.

Implementation of actions under Pillar IV

A total of 56 actions are provided for implementation under Pillar IV of the Action Plan for the implementation of the Justice Sector Reform Strategy for 2011–2016. 26 of these actions were due for completion by the end of Quarter 4 of 2013 (31 December 2013). Of them, 15 were implemented, and 11 remain overdue. Only 1 of 7 actions due by the end of the reporting period (1 October – 31 December 2013) was implemented.

Implementation of actions under Pillar V

A total of 28 actions are provided for implementation under Pillar V of the Action Plan for the implementation of the Justice Sector Reform Strategy for 2011–2016. 19 of these actions were due for completion by the end of Quarter 4 of 2013 (31 December 2013). Of them, 9 were implemented, and 10 remain overdue. Only 1 of 4 actions due by the end of the reporting period (1 October – 31 December 2013) was implemented.

Implementation of actions under Pillar VI

A total of 100 actions are provided for implementation under Pillar VI of the Action Plan for the implementation of the Justice Sector Reform Strategy for 2011–2016. 45 of these actions were due for completion by the end of Quarter 4 of 2013 (31 December 2013). Of them, 29 were implemented, and 16 remain overdue. 6 of 15 actions due by the end of the reporting period (1 October – 31 December 2013) were implemented.

Implementation of actions under Pillar VII

A total of 44 actions are provided for implementation under Pillar VII of the Action Plan for the implementation of the Justice Sector Reform Strategy for 2011–2016. 24 of these actions were due for completion by the end of Quarter 4 of 2013 (31 December 2013). Of them, 17 were implemented, and 7 remain overdue. None of the 2 actions due by the end of the reporting period (1 October – 31 December 2013) was implemented.

ASSESSMENT OF JSRS ENVISAGED RESULTS

In addition to the questionnaires disseminated among participants in hearings to assess the effectiveness of justice, as part of this monitoring exercise we developed a set of questions to assess the respondents' perception about the positive changes that have occurred over the last two years in the implementation of the reform.

The questionnaire targeted the following categories of respondents: judges, prosecutors, lawyers, bailiffs (court enforcement officers) and court clerks. In total, we interviewed 208 people, and their responses were registered by categories.

We highlight below the answers to the questions that the experts found to be most important, as well as the number of positive and negative responses. The detailed information on responses to this questionnaire can be found in Annex 1.

Thus, responding to the question “**Do you think that the procedure for the selection, appointment and promotion of judges is based on objective and transparent criteria**, guaranteeing the independence of the judiciary, following legislative amendments operated during in 2012-2013”, 28 judges said *yes*, and four said *no*, while among lawyers the ratio was 10 to 18.

Asked about the **funding of the judiciary** (Has the funding of the judicial system become unified, coordinated and connected to the real needs of this system following legislative amendments operated in 2012-2013?), most respondents gave a negative answer. Thus, 64 of the respondents answered *yes*, 77 – *no*, and 52 were not sure.

Curiously, even judges were not very optimistic when answering the question: “Has the system of disciplinary accountability of judges become more effective following legislative amendments carried out in 2012-2013?” Thus, 15 judges think that the system is effective, while 12 are of a different opinion, and the ratio among lawyers' responses is 9 to 18.

Discussing the question regarding the strengthening of state guaranteed legal aid, most of respondents said that the services of lawyers providing state guaranteed legal assistance have become more accessible, diversified and of higher quality. In this regard, 101 respondents answered *yes*, and 66 said *no*.

However most respondents felt that, in 2013, the **justice-related professions** (lawyers, notaries, mediators, bailiffs, court experts, insolvency administrators, translators/interpreters) have become more independent, capable to organize themselves and provide quality services. Thus, 112 of the 208 respondents said *yes*, while 32 said *no*. At the same time, the overwhelming majority opined that the failure to implement actions listed in the plan affects the functioning of these professions.

With regard to **enforcement of court judgments**, in 2013, the enforcement system functioned more efficiently compared to 2012. Of the 208 respondents, 111 said *yes*, and 54 gave a negative response. However, note that, in this question, lawyers and prosecutors had a generally more negative outlook compared with judges, bailiffs and court clerks.

With regard to the results of the “**criminal justice**” reform, it is noteworthy that most of the respondents, regardless of their status, found that amendments to the criminal procedure law carried out in 2012-2013 have streamlined the criminal procedures. Thus, 139 respondents acknowledged the impact of reforms, 33 felt it was not the case, and another 39 said they were undecided.

On the other hand, when asked about the **strengthening of the role, status and capacity for self-organization of prosecution** following legislative amendments passed in 2012-2013, the respondents were more reserved in their assessment. Thus, only 69 respondents gave an affirmative answer, assessing the impact as a positive one, while other 59 saw the effort to be negative, and another 80 said they were undecided.

A similar situation is observed with regard to the question on the **independence of prosecution in exercising its powers**. Thus, 64 of the respondents believe that the prosecution became more independent; another 69 believe that the prosecutors’ independence decreased; 75 were undecided. The assessment of efforts to amend the **accountability system of prosecutors** and improve criteria and procedures for selection, appointment, transfer and promotion thereof has not been significantly different. We noted that a relative majority of respondents appreciated the efforts of the authorities in those regards. At the same time, the sum of those who did not appreciate the efforts of the authorities and those undecided is significantly larger.

With regard to **professional training**, we registered a slight increase in the assessed professionalism of those involved in special investigative activities compared with criminal prosecution officers. Thus, while 62 and, respectively, 63 respondents answered *yes* regarding the perception of the professional training of investigation and criminal prosecution officers, then negative answers to the same categories were provided by 49 and 61 respondents, respectively.

Respondents noted that the **system of collection and analysis of statistical data related to criminal justice** (the electronic storage of case files and unified processing of collected data) became more objective following legislative amendments carried out in 2012-2013.

Thus, 118 people responded *yes*, another 31 gave negative responses, and 59 people said they were undecided.

A similar situation was observed on the **humanization of criminal policies towards simplified procedures** in relevant cases and strengthening the rights of victims of offences. Thus,

103 respondents rated those efforts as positive, 44 did not appreciate them, and 61 said they were undecided regarding the use of simplified procedures. At the same time, 94 respondents assessed as positive, 39 did not, and 55 said they were undecided with regard to strengthening the rights of victims.

In conclusion, we point out that considerable efforts have been made in certain segments specified in the strategy, a fact noted by respondents. In other segments however, such as, for example, the reform of prosecution, things have largely stagnated.

Regarding the results of the reform of the “**role of justice in economic development**”, in particular strengthening the system of alternative dispute resolution, respondents were largely undecided on the effects of legislative amendments passed in 2012-2013. 81 respondents said they were undecided, 63 have rated the efforts as positive, and 64 did not appreciate them.

It should also be noted that respondents believe that sufficient efforts have not been made to **inform the public and actors of the justice sector about the benefits of using alternative mechanisms**. Thus, 91 of the respondents appreciated the efforts of the authorities, 50 did not appreciate those efforts, and 64 said they were undecided.

With regard to **strengthening the status of authorized administrators**, respondents are largely undecided, as mostly likely due to insufficient action by the authorities in this area. 113 respondents said they were unsure, 44 appreciated the efforts as positive, and 52 did not appreciate them.

On the **access to information about businesses**, respondents were also mostly disappointed. Thus, 76 respondents did not appreciate the efforts of the authorities in that regard, 60 appreciated those efforts, and 72 said they were undecided regarding the modernization and providing full access to that information.

In conclusion, the respondents did not actually feel the positive effect of the reforms aimed at strengthening the role of justice in economic development.

Some relevant aspects are still to be specified with regard to the efforts of the authorities to implement the actions provided under the “**respect for human rights in the justice sector.**”

The majority of respondents believe that **the circle of subjects with the right to petition the Constitutional Court should be expanded**. The questionnaire showed that 105 respondents noted that the circle of such persons should be expanded, 67 were against the expansion, and another 36 said they were undecided.

A similar situation is observed with regard to the need to **strengthen the role and capacity of the Ombudsperson institution**. According to the interviews, 139 respondents noted that the role and capacity of the institution should be enhanced, 23 were against that, and another 46 said they were undecided.

We cannot overlook the respondents’ perception of the government’s efforts to **strengthen the juvenile justice system**. Thus, the absolute majority of respondents, 160 in total, said that the justice system has become more child-friendly and capable to ensure compliance and effective implementation of the rights of children in contact with justice system following the legislative amendments carried out in 2012-2013.

A similar situation is observed with regard to ensuring optimal conditions for child victims or witnesses of crimes following amendments to the legislation passed in 2012-2013. According

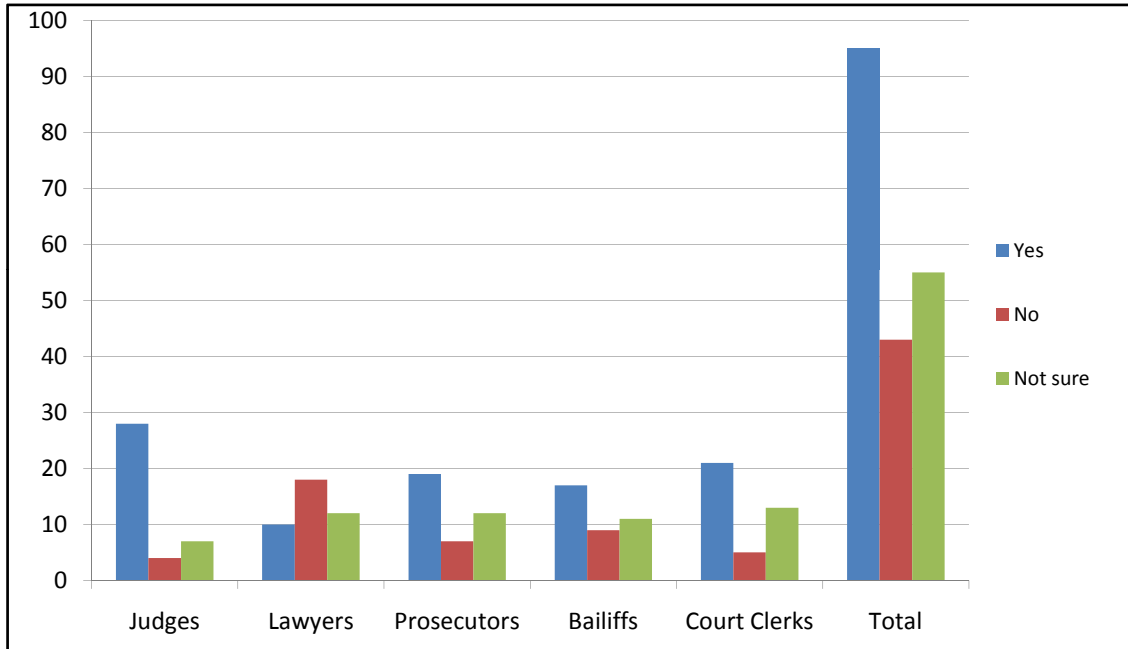
to the interviews, 120 respondents appreciated the effort, 36 said they did not observe any changes in that respect, and 52 said they were undecided

Also worth noting is the respondents' perception of the **observing the rights of convicts, and elimination of torture and ill treatment**. Thus, 139 respondents noted that the mechanism for using coercive procedures and preventive measures improved following amendments to the legislation operated in 2012-2013, 28 did not observe positive changes in that respect, and 41 said they were undecided. A similar situation is observed with regard to **strengthening the culture of zero tolerance to acts of maltreatment**, where 104 respondents appreciated the efforts of the authorities, 33 were rather skeptical about them, and 71 were undecided.

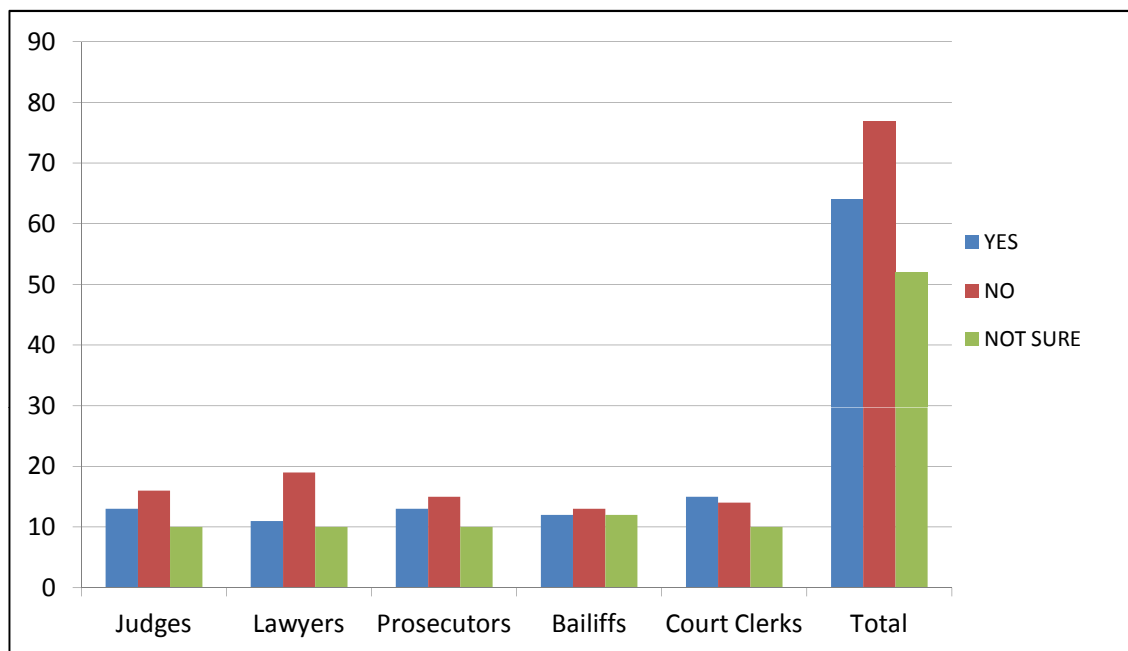
However respondents did not sense the effects of efforts to strengthen the capacities for **re-inclusion and reintegration of ex-convicts in the society, and bring detention conditions in line with international standards**. According to the interviews, 87 respondents did not sense any efforts to enhance the capacity for social inclusion of ex-convicts, while only 38 noticed some changes in that regard, and another 83 remained undecided. At the same time, 82 people criticized the authorities' efforts to bring the conditions of detention in line with international standards, 55 others have noticed some positive changes in that regard, and 71 said they were undecided.

1.1. Ensuring the accessibility and independence of the justice system

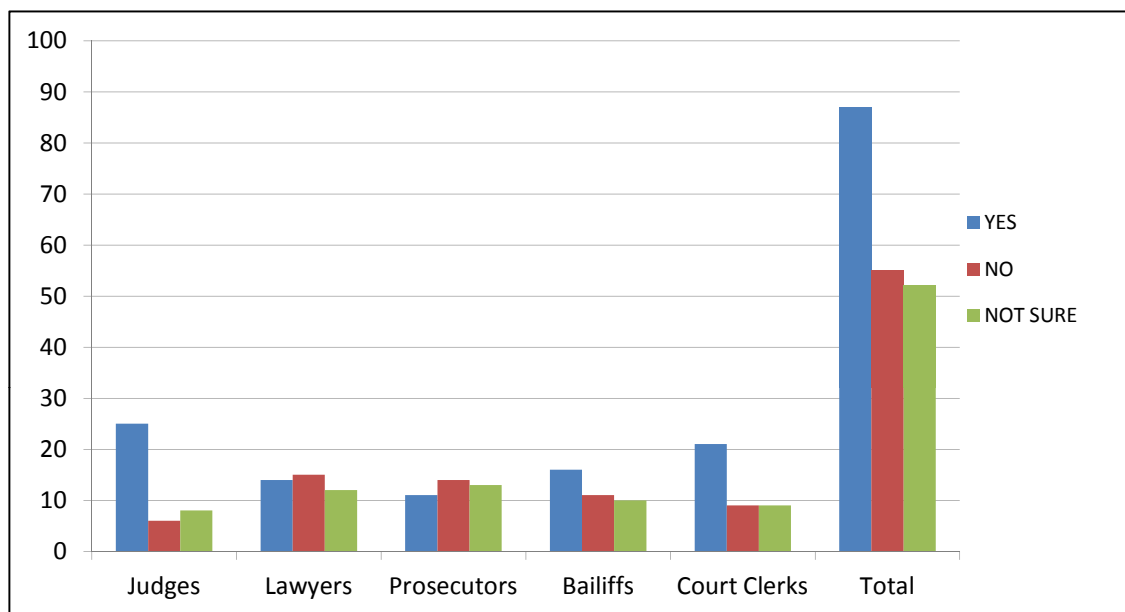
1. Is the procedure of selection, appointment and promotion of the judges based on objective and transparent criteria guaranteeing the independence of the justice system, after the legislation amendments carried out throughout 2012-2013?



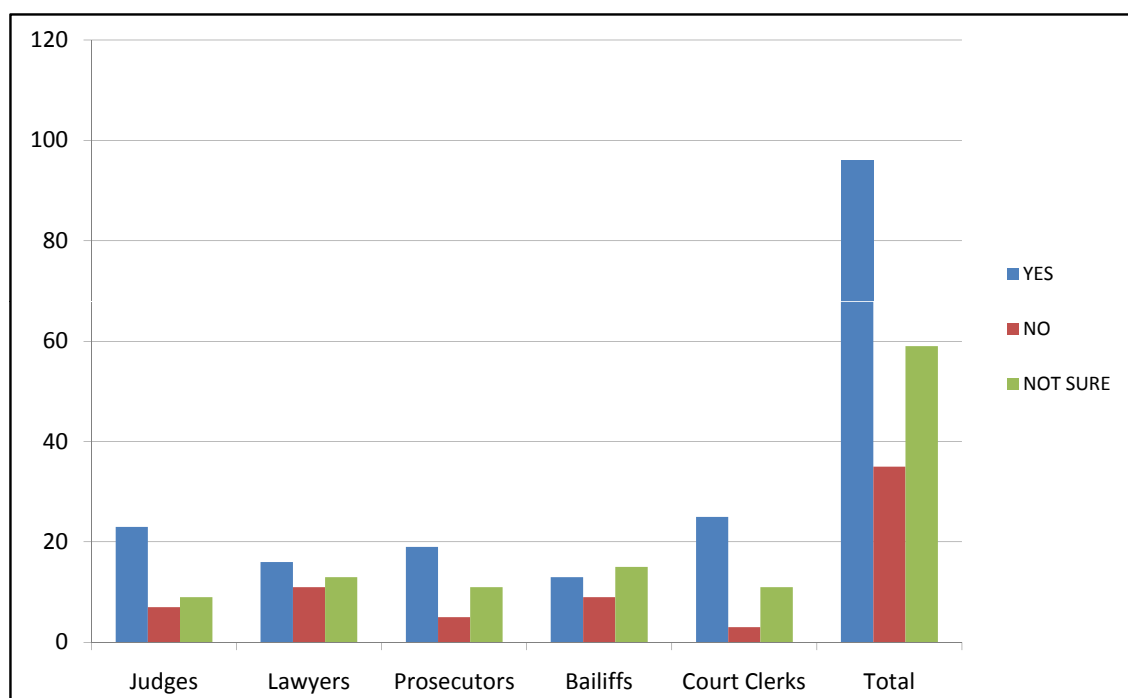
2. Is the process of funding of the justice system centralized, coordinated and bound to the real needs of this system as a result of the amendments to the legislation carried out throughout 2012-2013?



3. Is the process of calculation of the court fees transparent, ballanced and accessible to the citizens?

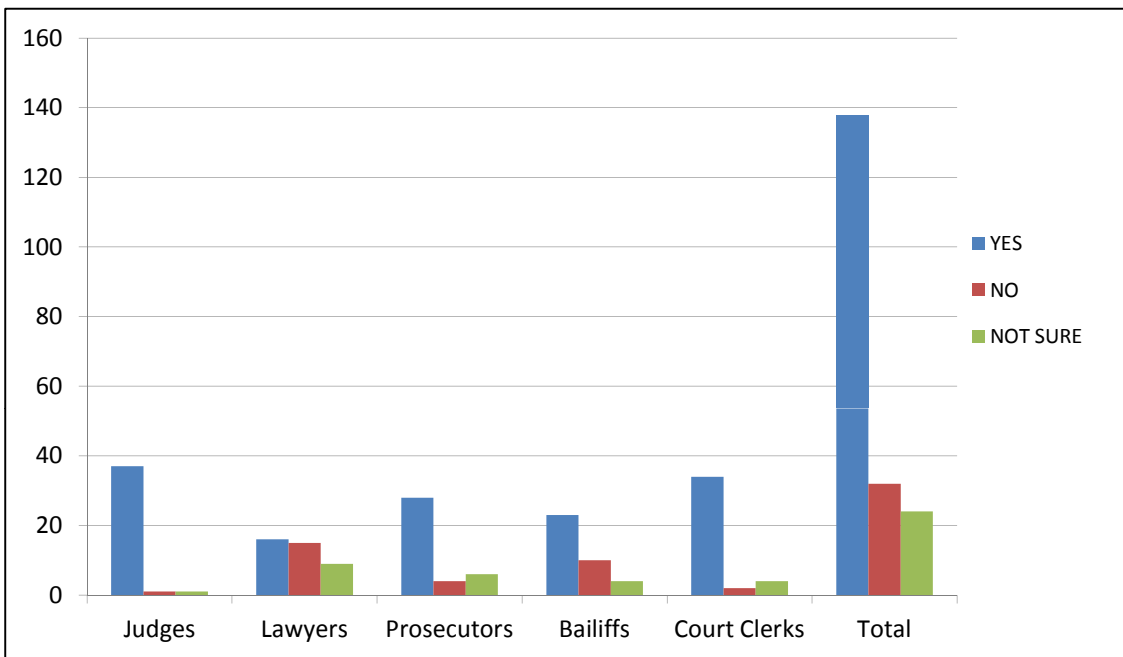


4. Have the self management capacity and independence of the justice system been strengthened as a result of the amendments to the legislation throughout 2012-2013?

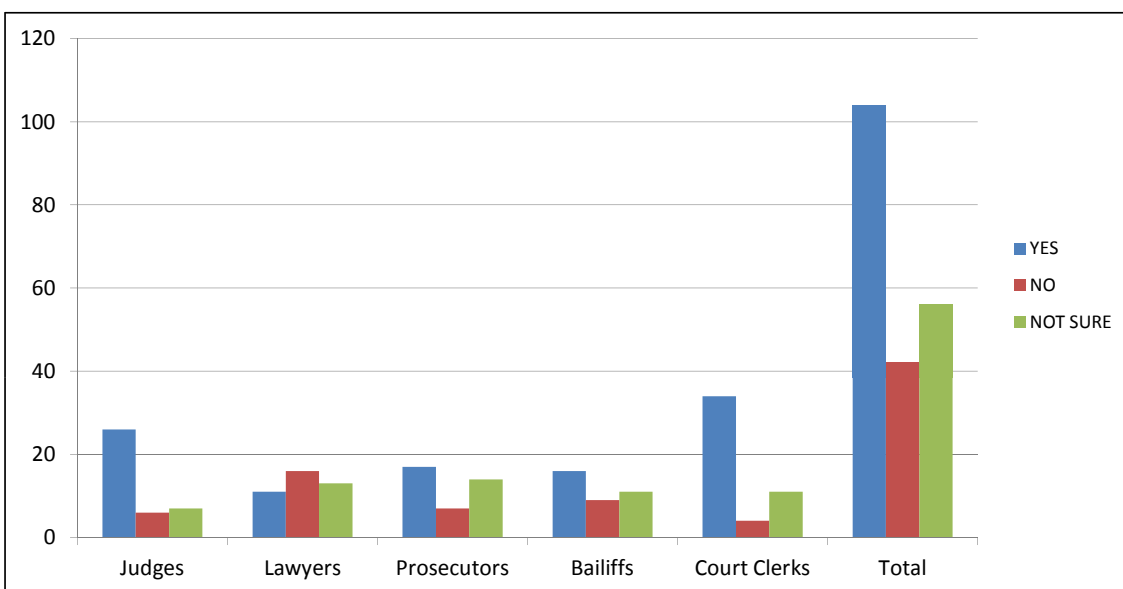


1.2. Increase of the degree of transparency and efficiency of the justice system

1. Is the appeal system is clear, coherent and logical as a consequence of the amendments to the legislation carried out throughout 2012-2013?

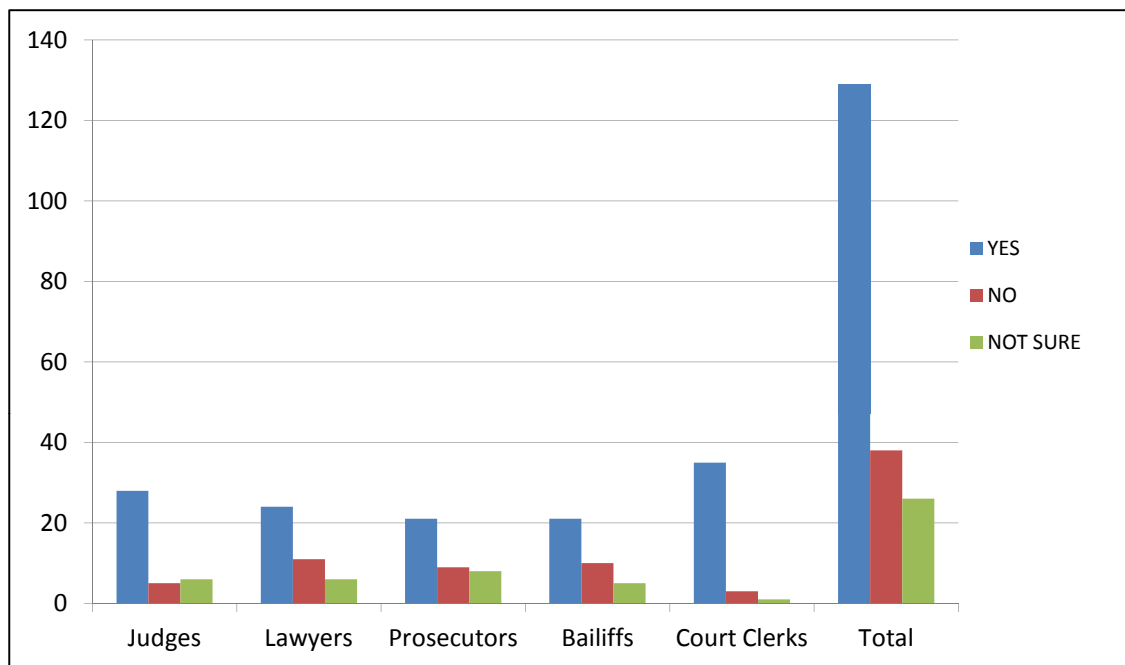


2. Is the mechanism for ensuring a uniform judicial practice created, as a consequence of the amendments carried out throughout 2012-2013?

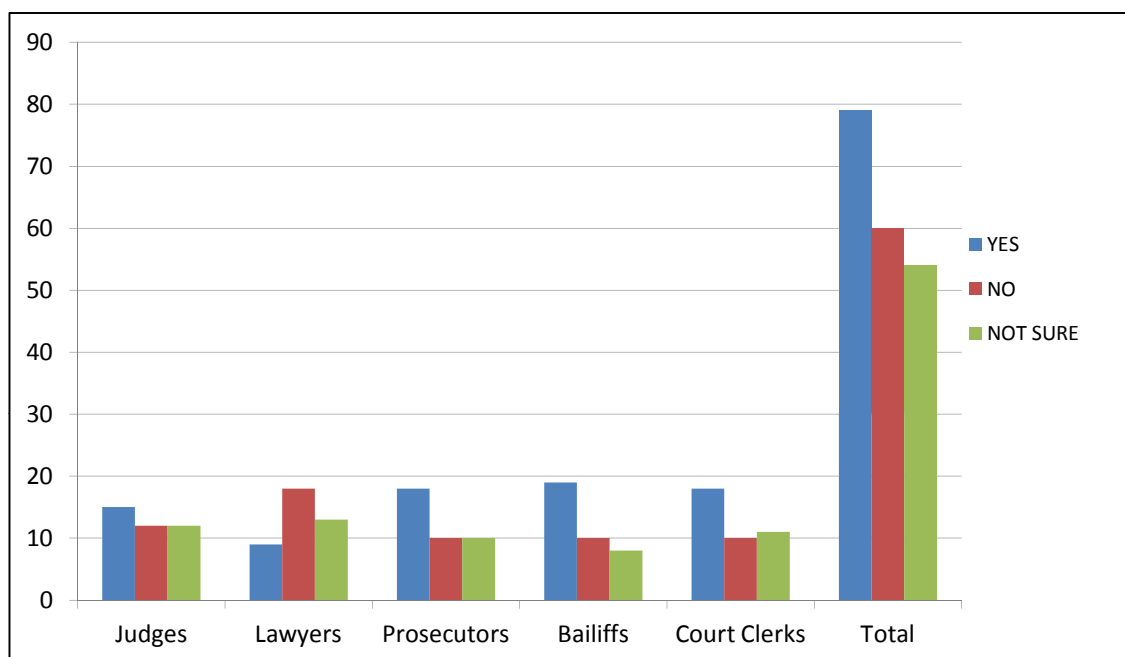


1.3. Increasing the level of professionalism and accountability of the persons involved in justice administration

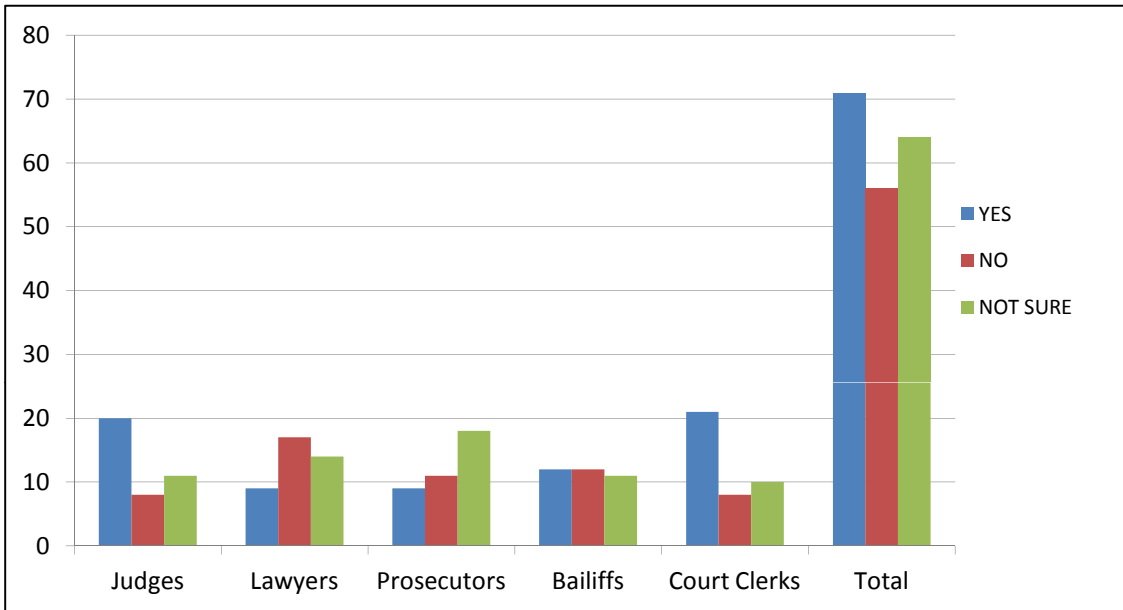
1. Is the National Institute of Justice functional and capable of ensuring initial and continuous training of the judges after the 2012-2013 legislation amendments?



2. Has the system of disciplinary sanctioning of the judges become more efficient following the 2012-2013 legislation amendments?

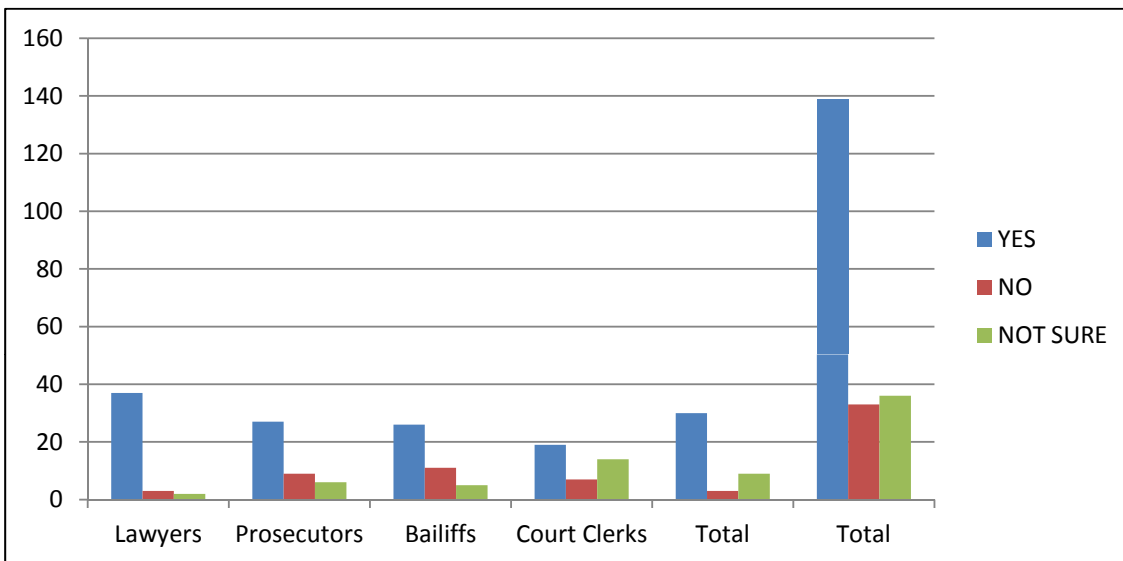


3. Is the policy of evaluation of the Judges and Courts performance based on clearly defined transparent and measurable indicators including a system of evaluation of the Courts performances by „end users“?



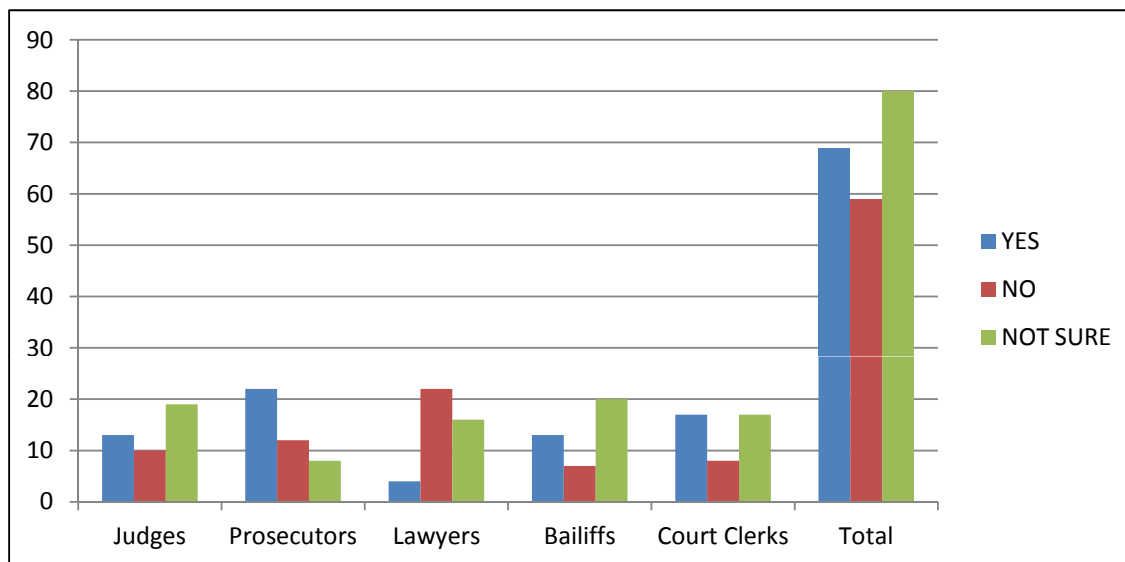
2. 1. Revision of pre-trial phase and concept

1. Have the amendments to the Criminal Procedure Code operated throughout 2012-2013 made criminal prosecution more efficient?

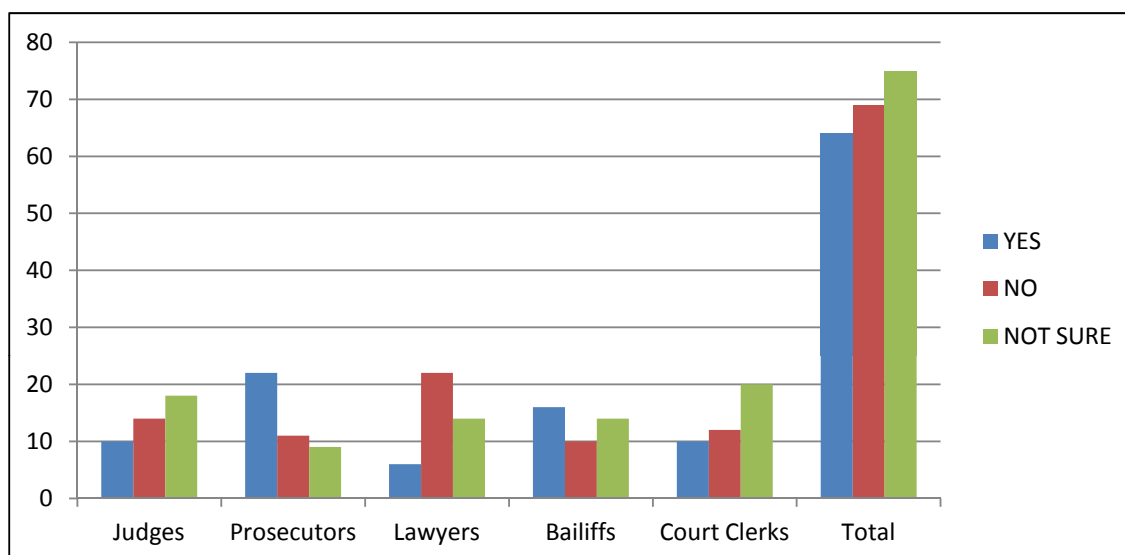


2. 2. Strengthening the professionalism and independence of the Prosecutor's Office

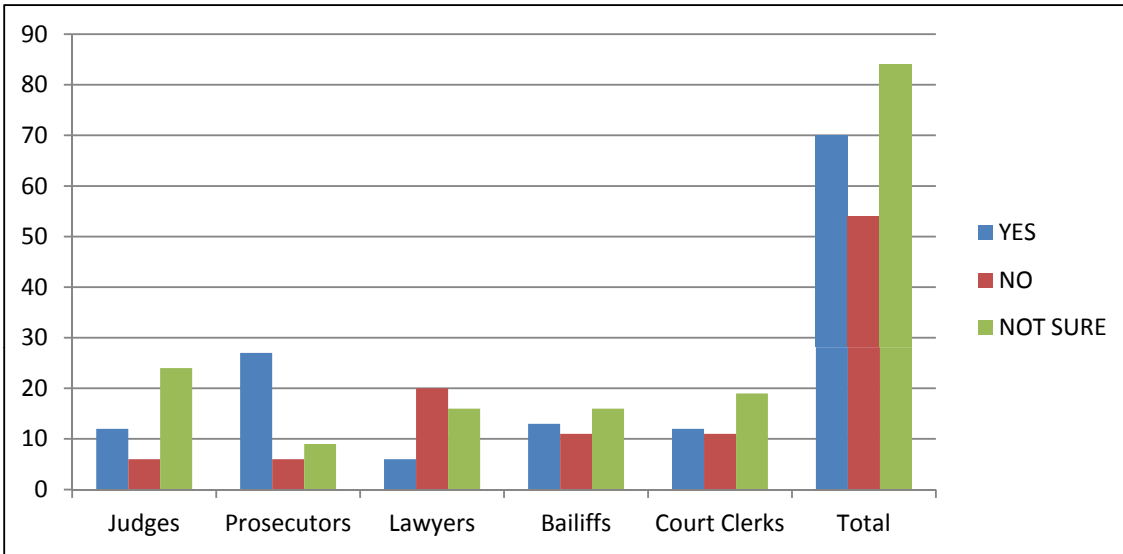
1. Have the role, status and capacities of the prosecution offices self administration bodies strengthened after the legislation amendments of the 2012-2013?



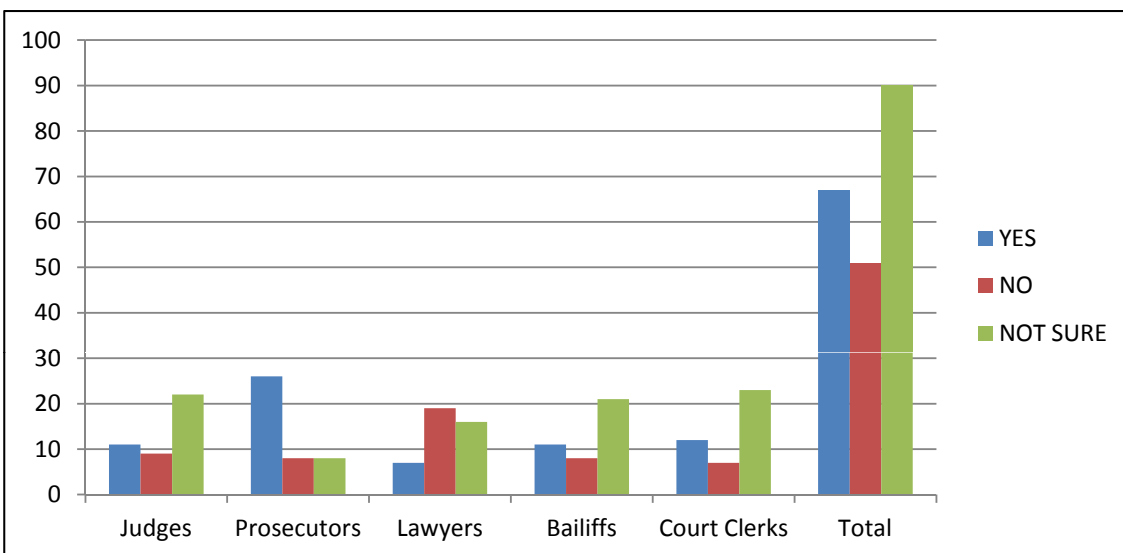
2. Has the prosecution system gained more independence in the implementation of its job duties after the legislation amendments of 2012-2013?



3. Has the system of prosecutors' accountability become more functional following the 2012-2013 legislation amendments?

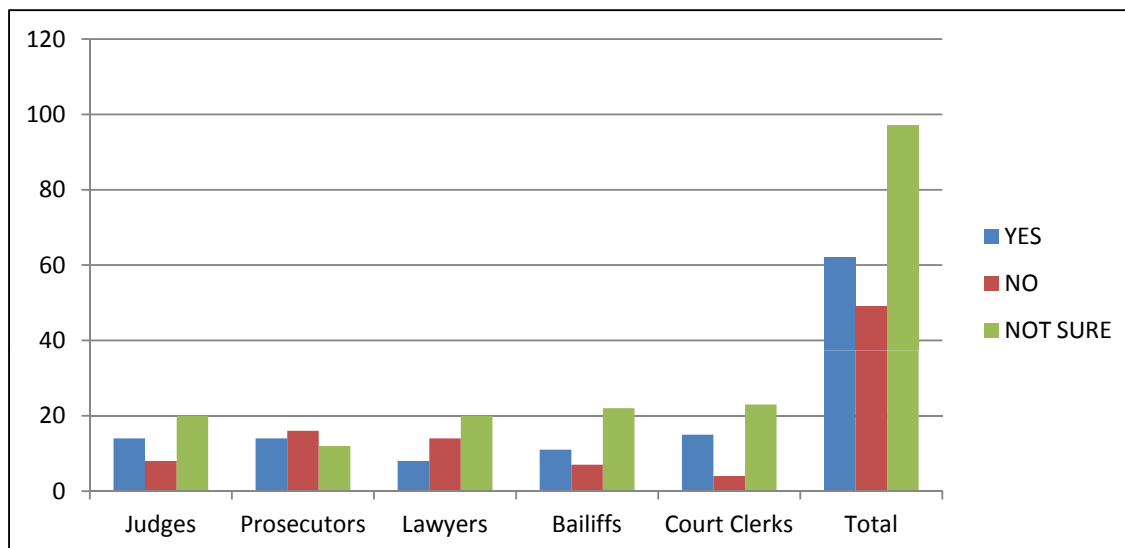


4. Have the criteria for selection, appointment, transfer and promotion of the prosecutors become more efficient after the 2012-2013 legislative amendments?

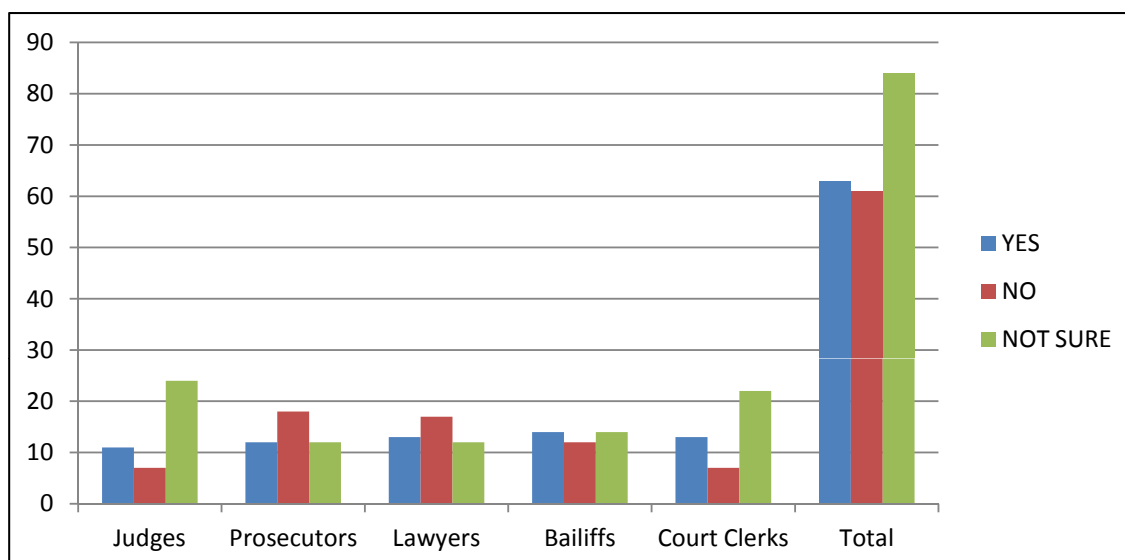


2.3 Development for professional capacities of individuals and institutions with regard to criminal investigations

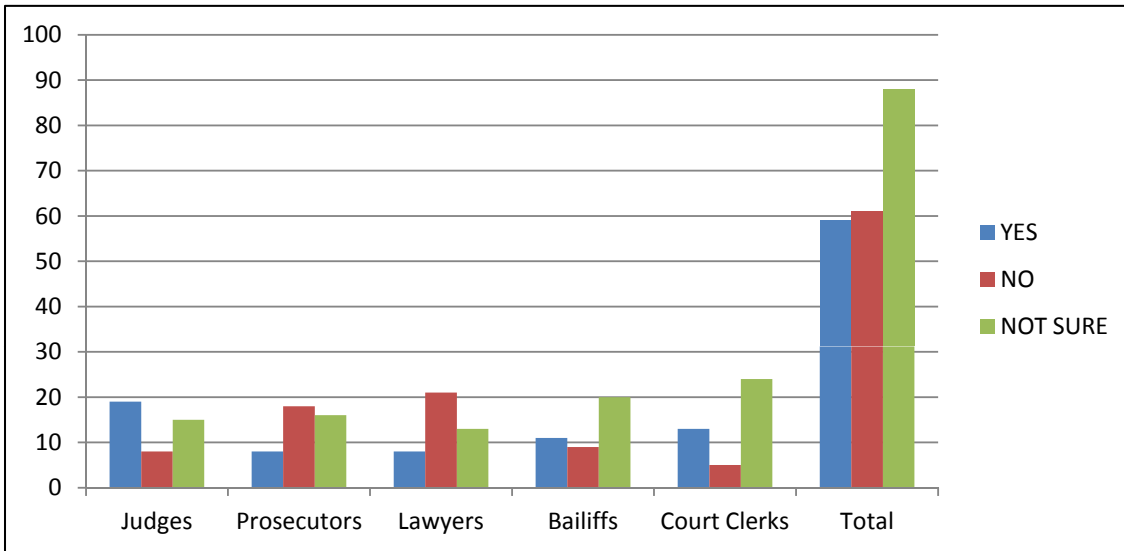
1. Has the professionalism of the persons involved in special investigative activities been improved following relevant trainings held during 2012-2013?



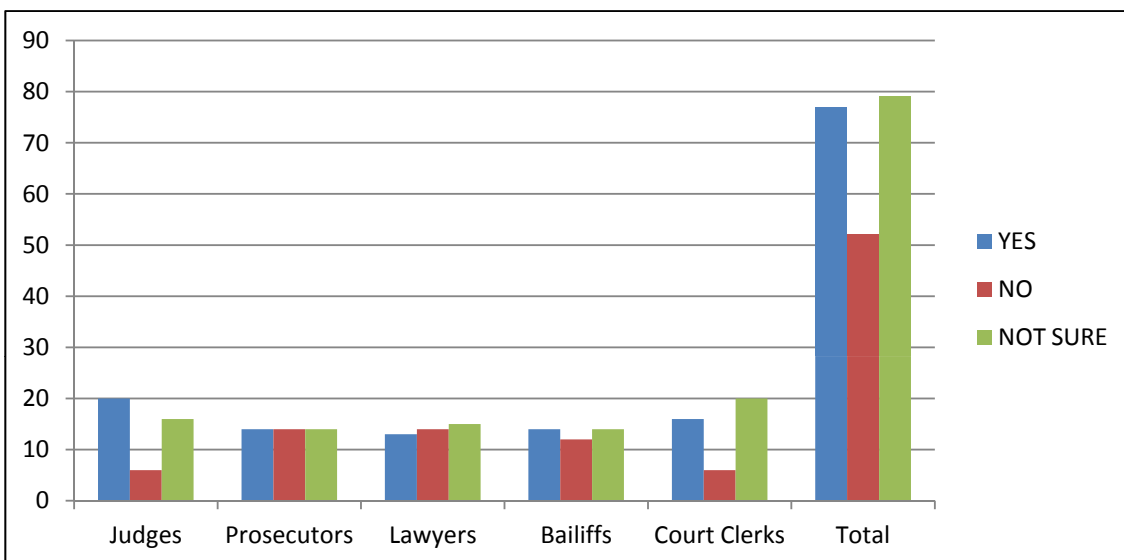
2. Has the professionalism of criminal prosecution officers been enhanced after attending relevant trainings in 2012-2013?



3. Have the capacities of the judicial expertise centers been strengthened in 2012-2013?

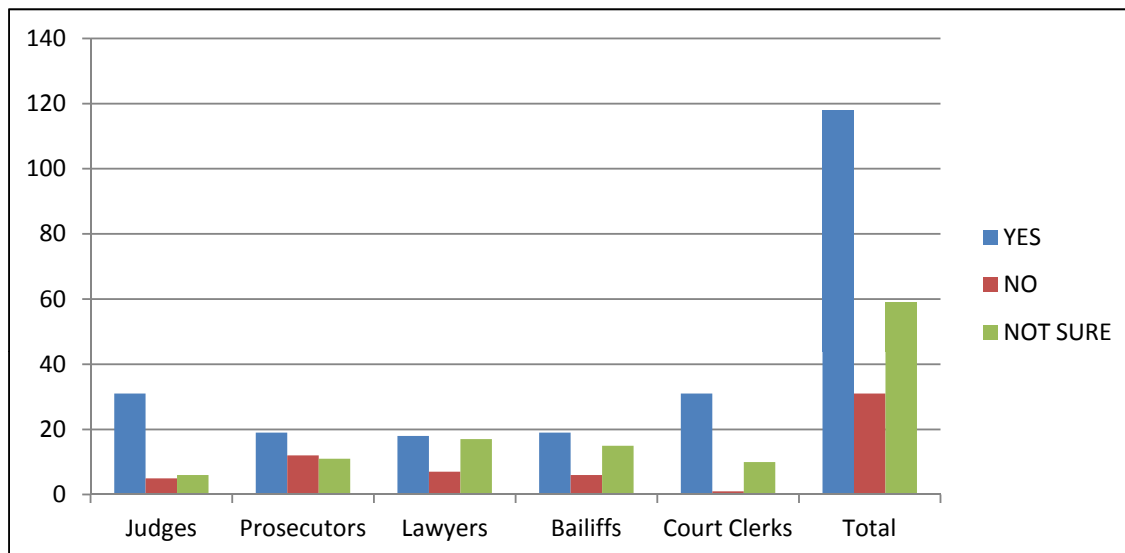


4. Have criminal procedures been streamlined and modernized following amendments to criminal procedure law carried out in 2012-2013?

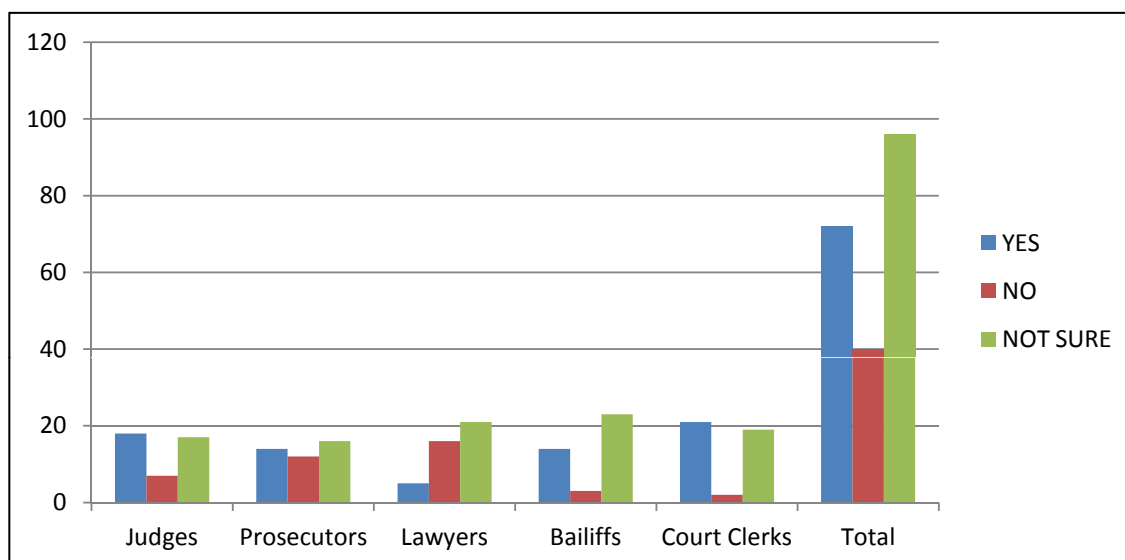


2. 4. Modernization of the system of collection of statistical data and evaluation of individual and institutional performance

1. Has the system of criminal justice statistical data collection and analysis (computerized storage of files and si unified processing of collected data) become more objective following legislative amendments of 2012-2013?

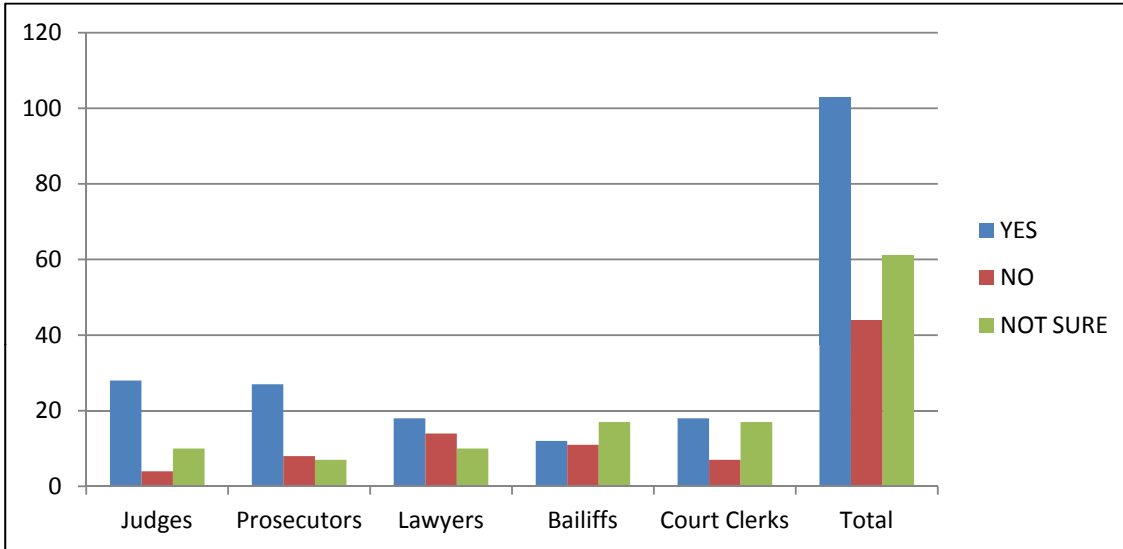


2. Has an objective and efficient system of performance indicators been developed in 2013-2013 to allow individual and institutional assessment of the operation of justice bodies and their representatives?

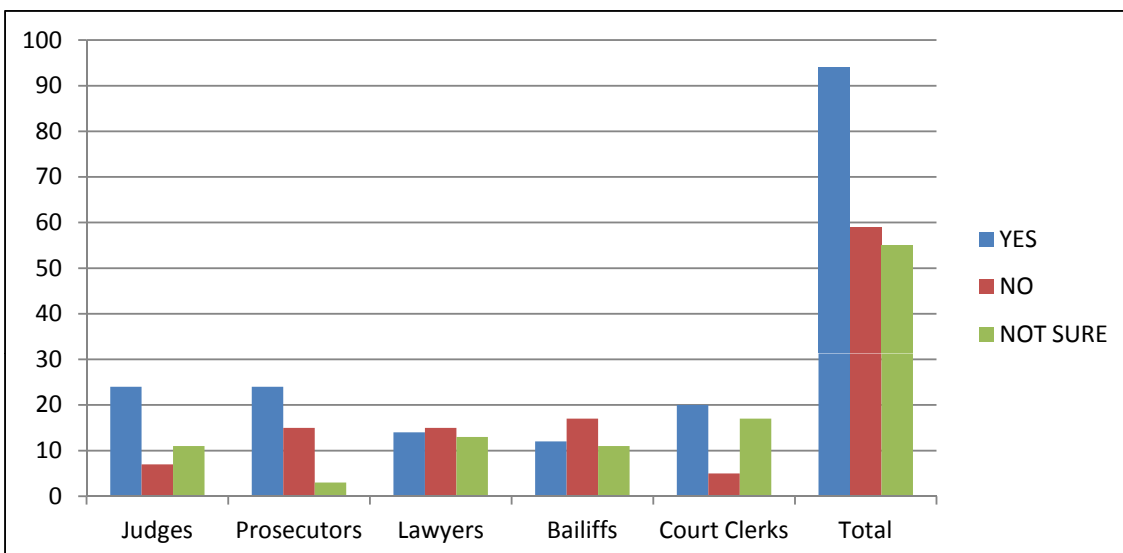


2.5 Humanization of the criminal policies and strengthening of the human rights protection mechanism

1. Were simplified procedures and non-custodial sanctions used in all relevant causes in 2012-2013?

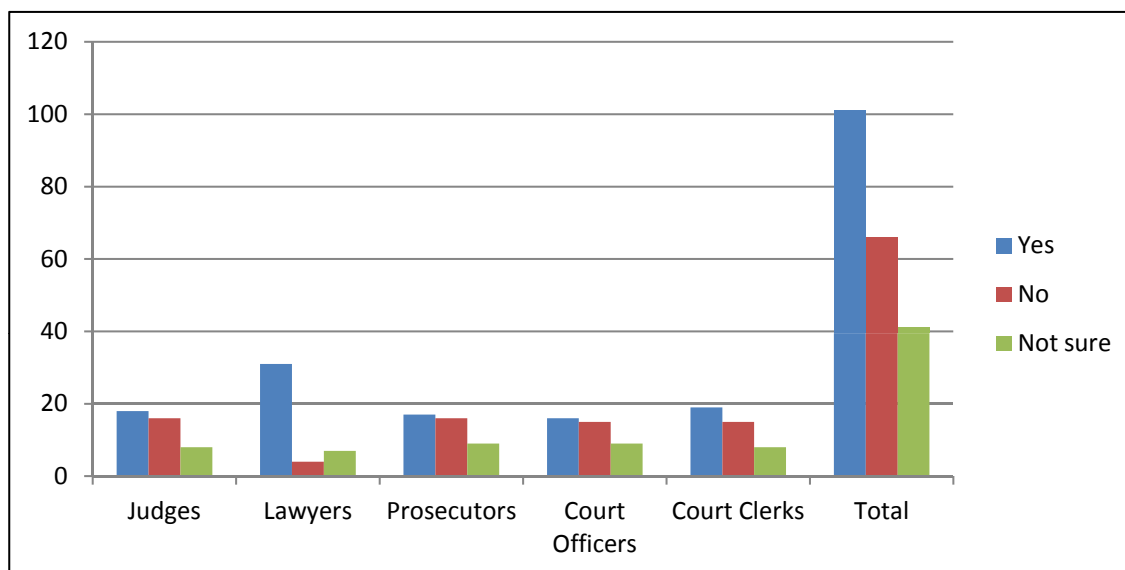


2. Have the rights of the offence victims been strengthened following legislative amendments carried out in 2012-2013?

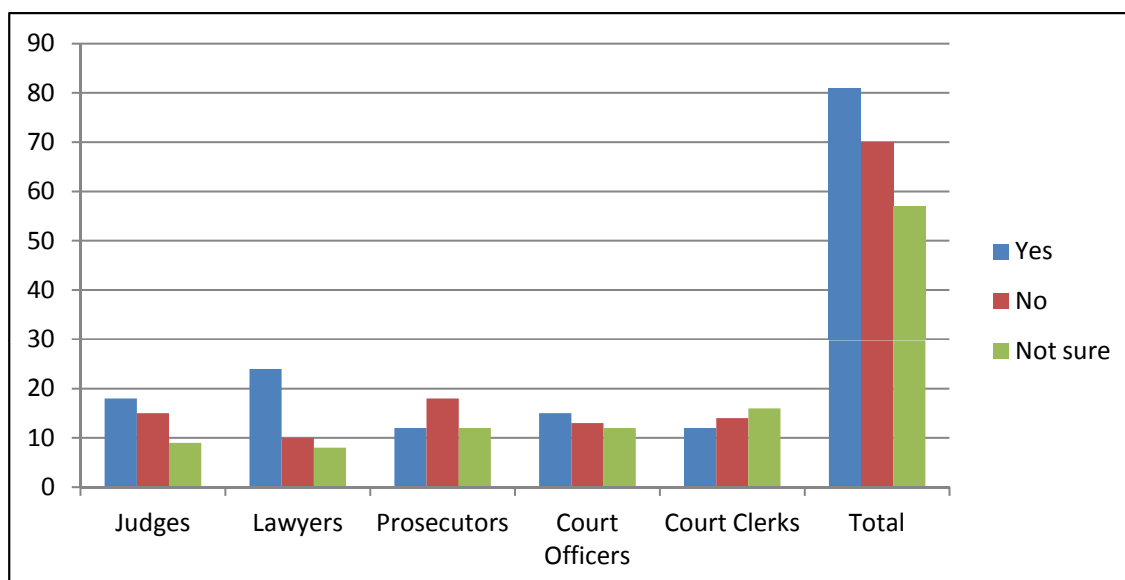


3. 1. Strengthening the system of state guaranteed legal aid (SGLA)

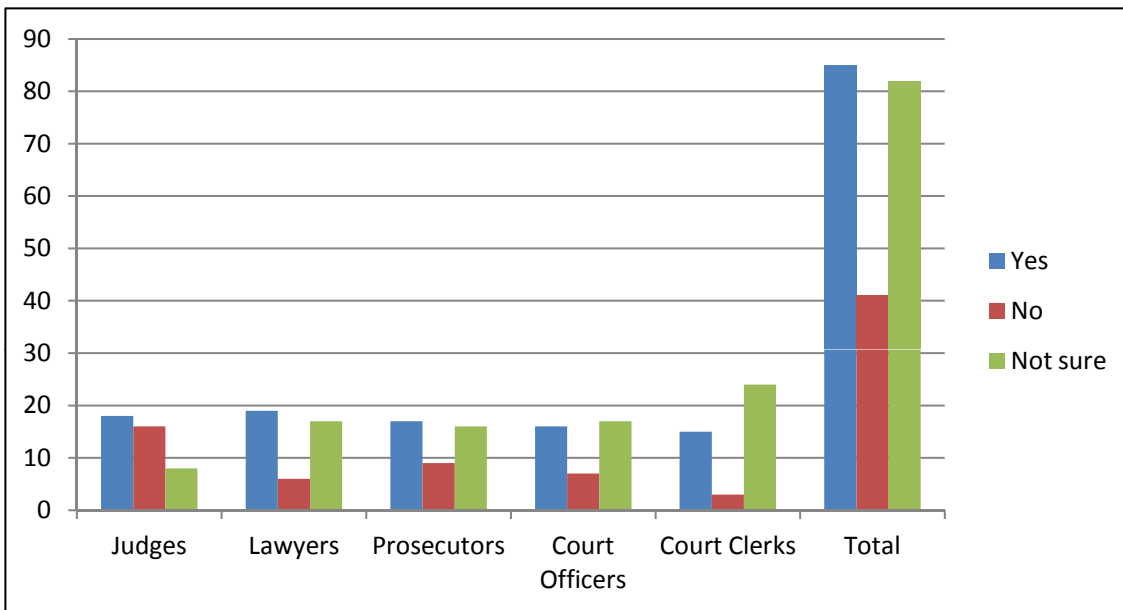
1. Have the services of public attorneys providing state guaranteed legal aid become more accessible, qualitative and diverse?



2. Are the beneficiaries of state-guaranteed legal aid better informed about the possibility of challenging the quality of the provided counsel?

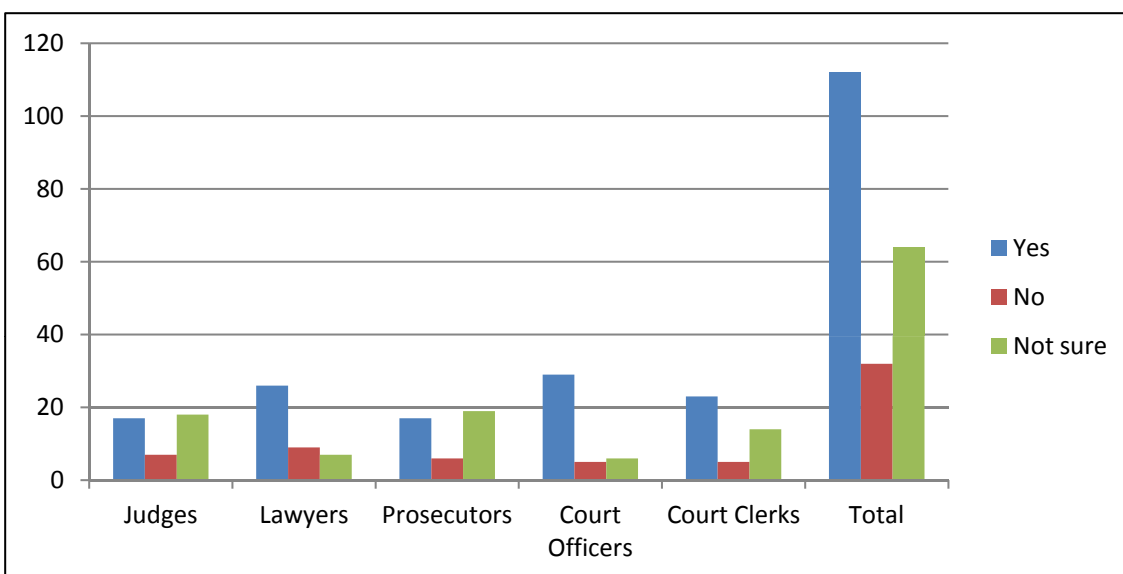


3. Does the failure to implement actions indicated in the justice reform plan concerning the state guaranteed legal aid (SGLA) affect its performance?

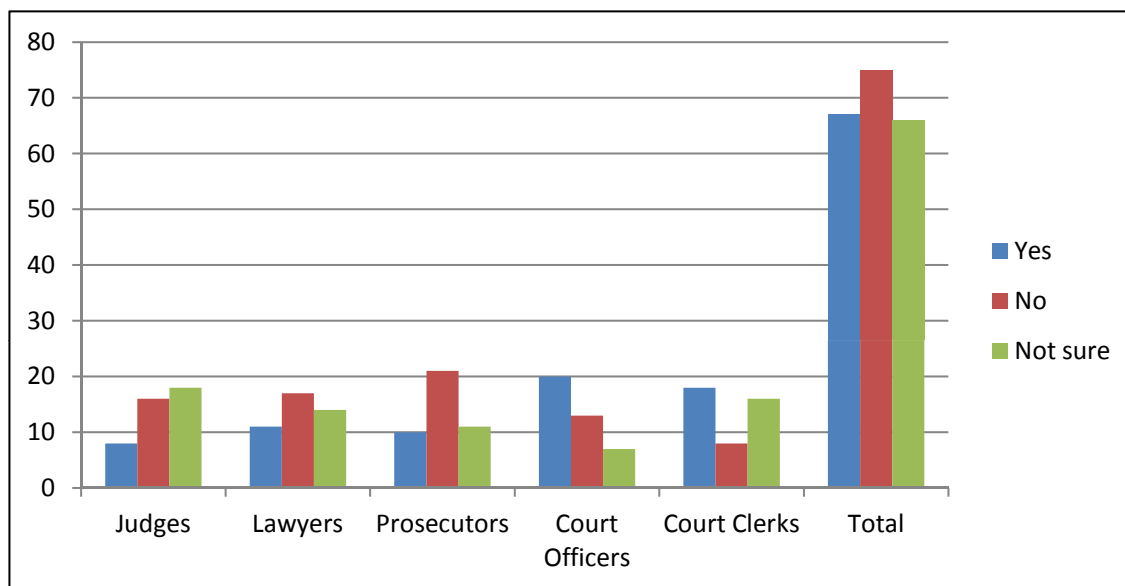


3. 2. Strengthening institutional capacities and professional development of representatives of justice-related professions

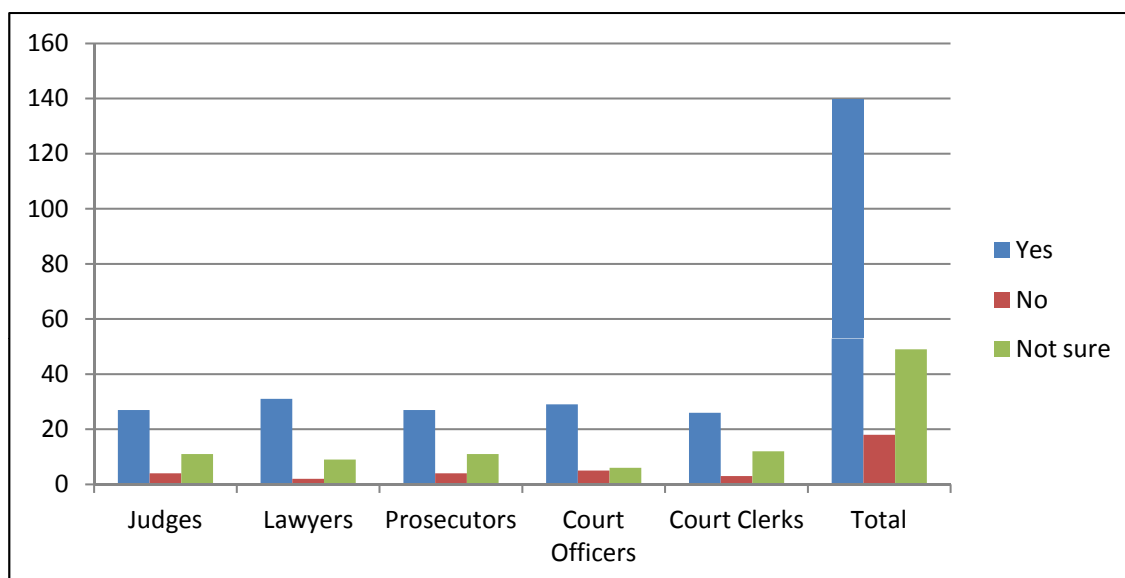
1. Have justice-related professions (lawyers, attorneys, mediators, bailiffs, legal experts, administrators of insolvencies, translators/interpreters) become more independent, capable of self organizing and providing better services in 2012-2013?



2. Are the representatives of connected services sufficiently involved in the implementation of the justice reform?

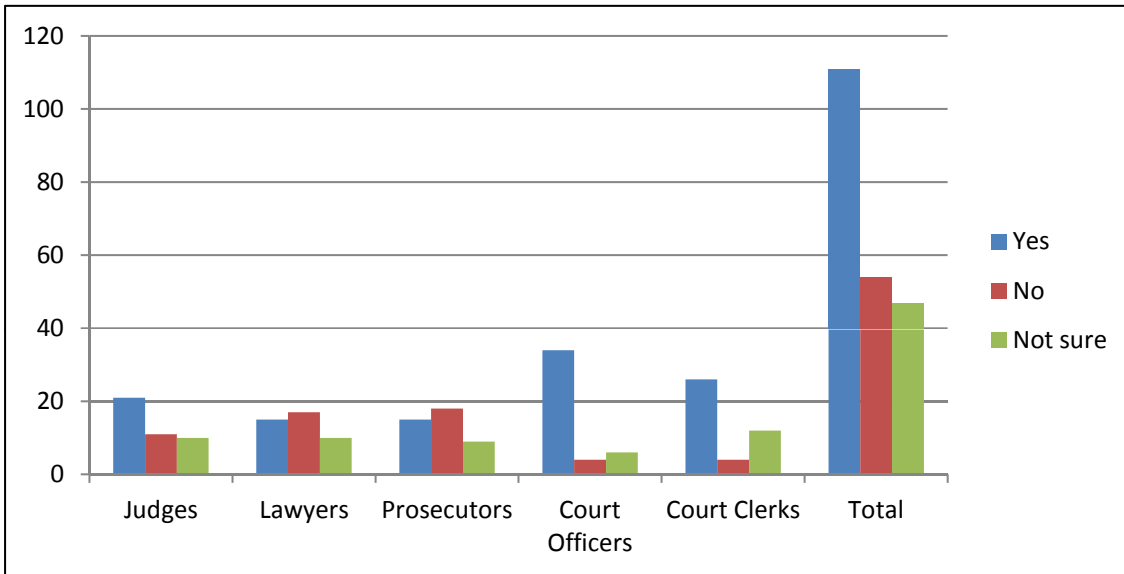


3. Does the failure to implement actions provided in the justice reform plan affect the situation of the jobs connected to justice?

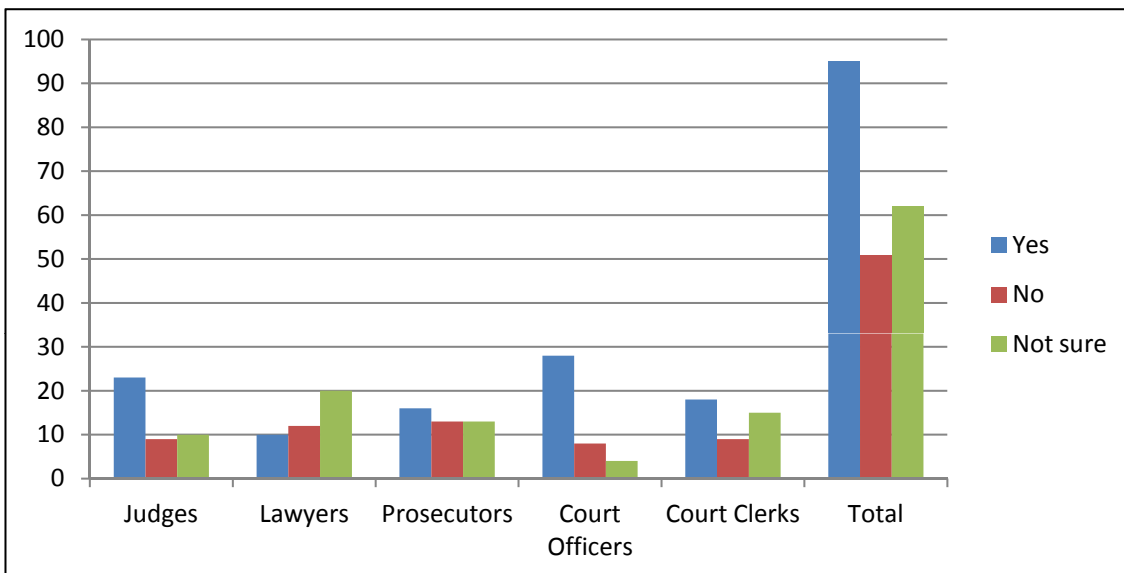


3. 3 Effective enforcement of the court decisions

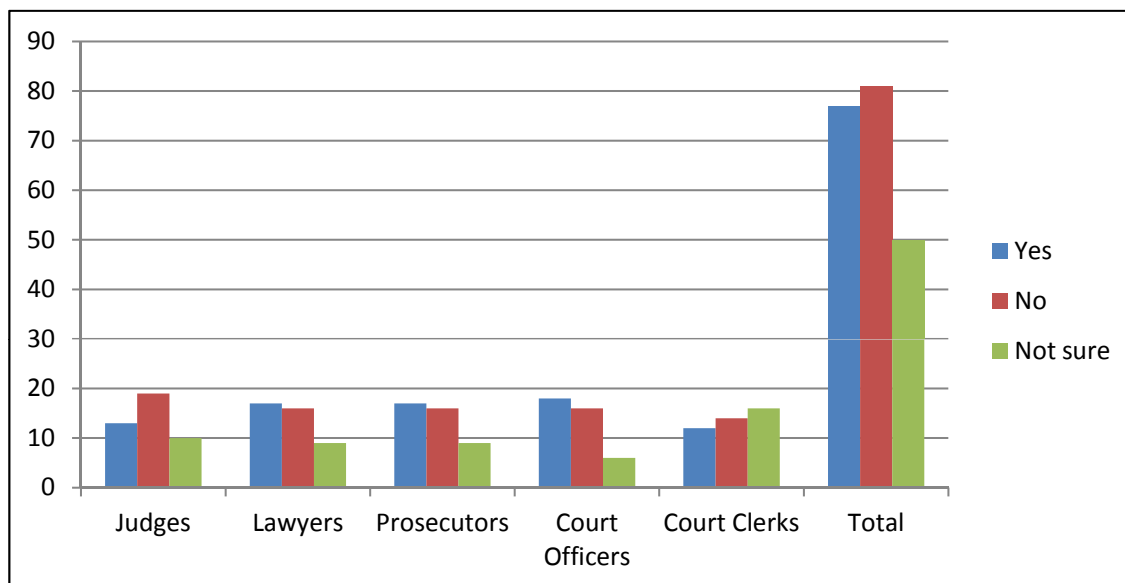
1. Did the system of enforcing court decisions in civil cases function more efficiently in 2012-2013?



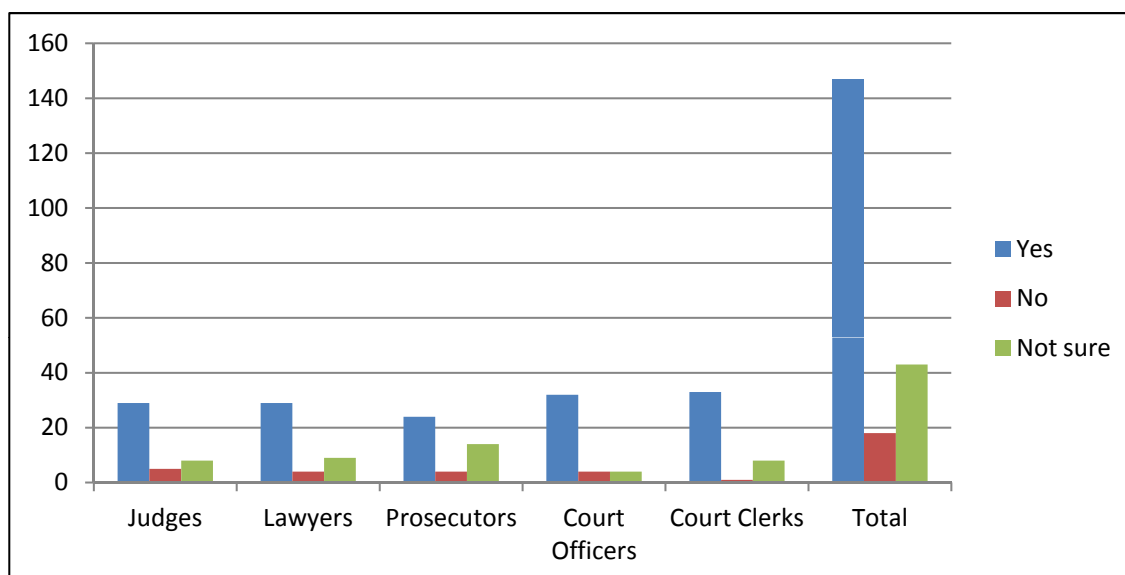
2. Has enforcement of court decisions, including rulings of the ECtHR, improved?



3. Is the number of complaints against the actions of the court enforcement officers (bailiffs) determined by the strategy of justice reform implementation?

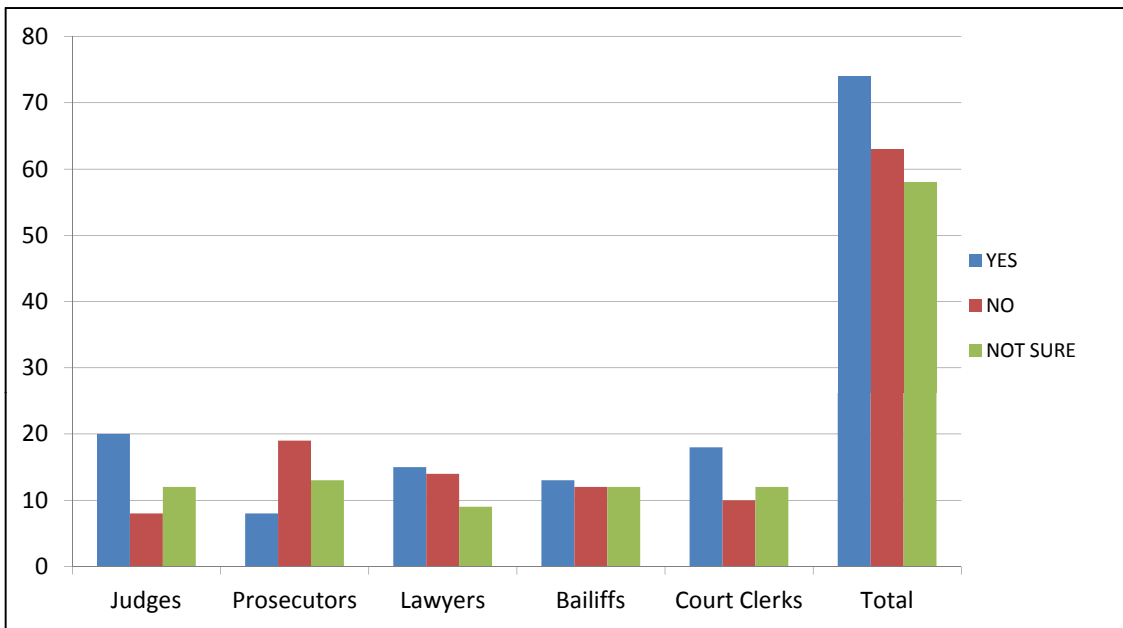


4. Does the failure to implement actions indicated in the justice reform plan affect the system of court officers (bailiffs)?



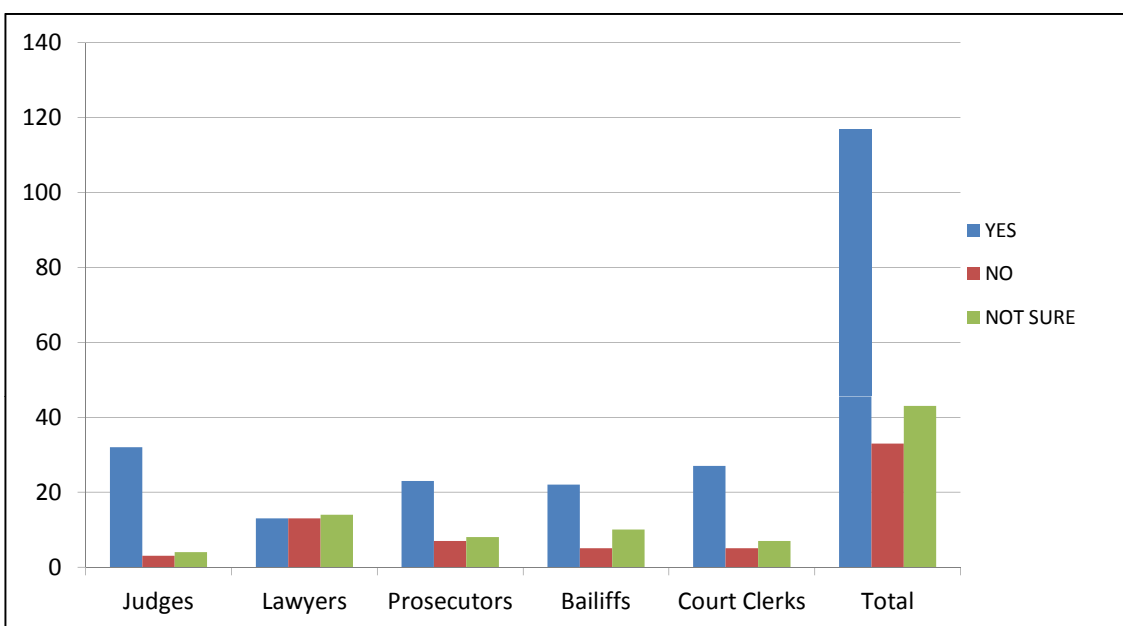
4.1 Effective fight against corruption in the justice system

1. Has an effective corruption prevention and fighting mechanism been implemented in the justice sector following the 2012-2013 amendments to the legislation?

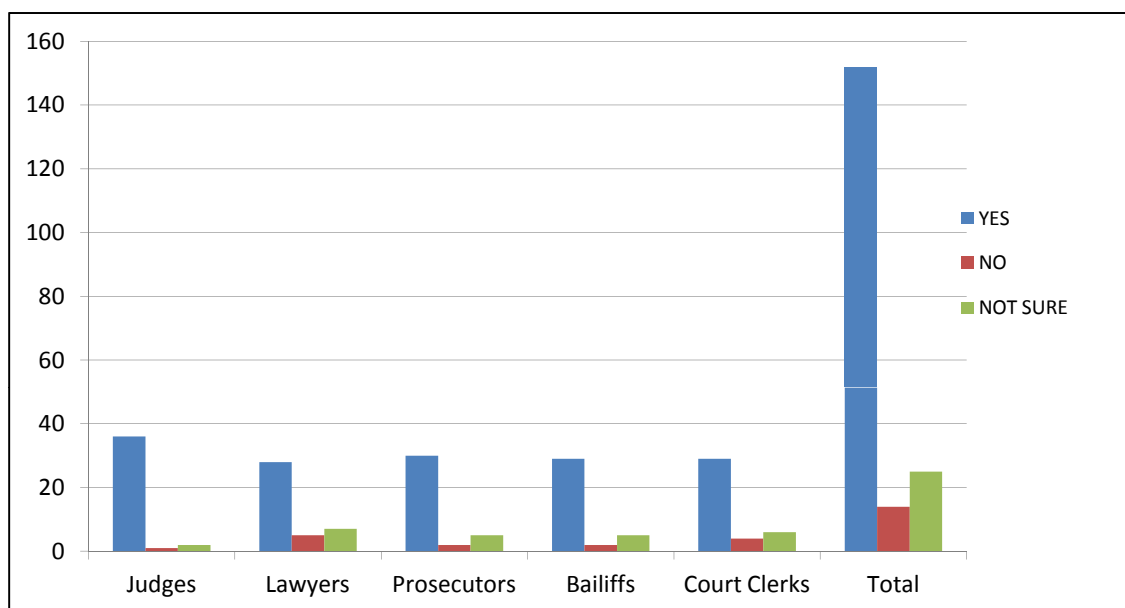


4.2. Strengthening ethical standards and anticorruption conduct mechanisms in all justice sector institutions

1. Have the mechanisms to ensure the respect of professional ethics become more efficient as a result of the amendments to the legislation carried out in 2012-2013?

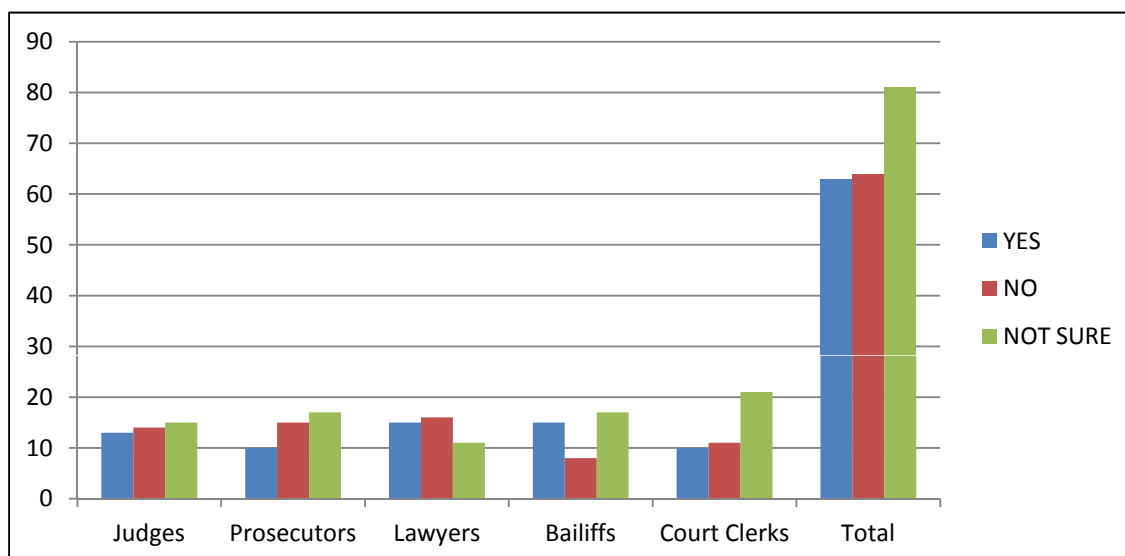


2. Are you sufficiently informed about the ethical standards of the justice sector players?

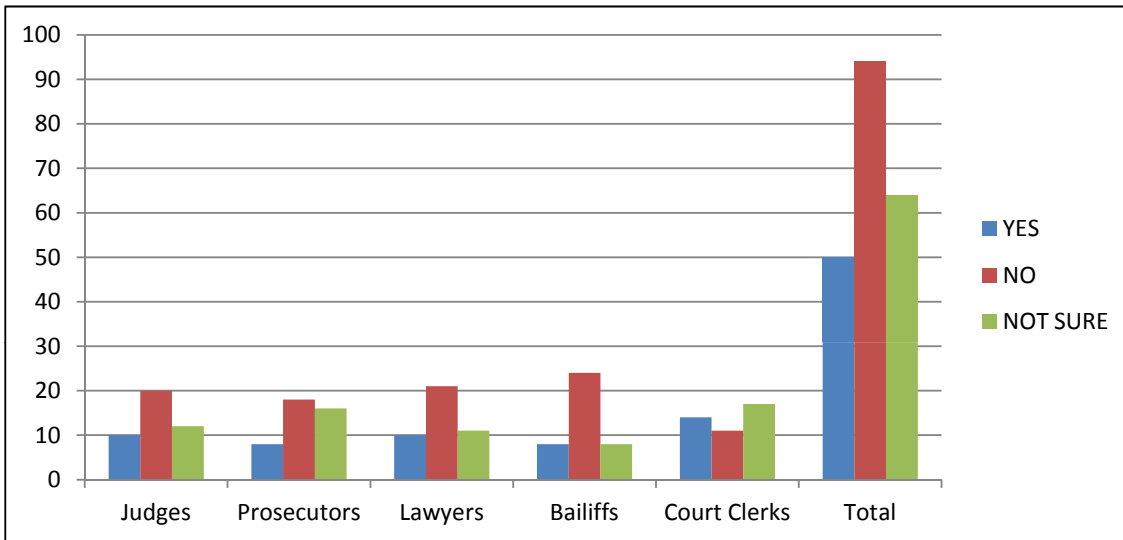


5.1 Strengthening the alternative dispute resolution system

1. Has the system of alternative resolution of disputes been strengthened as a result of the 2012-2013 legislation amendments?

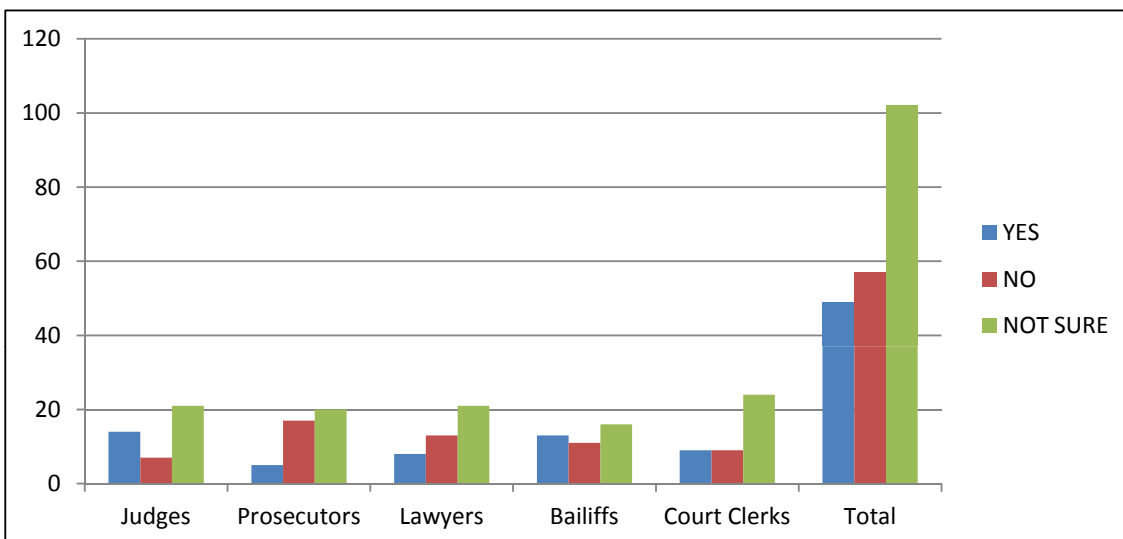


2. Are the general public and the justice sector representatives sufficiently informed regarding the benefits of alternative dispute resolution mechanisms?

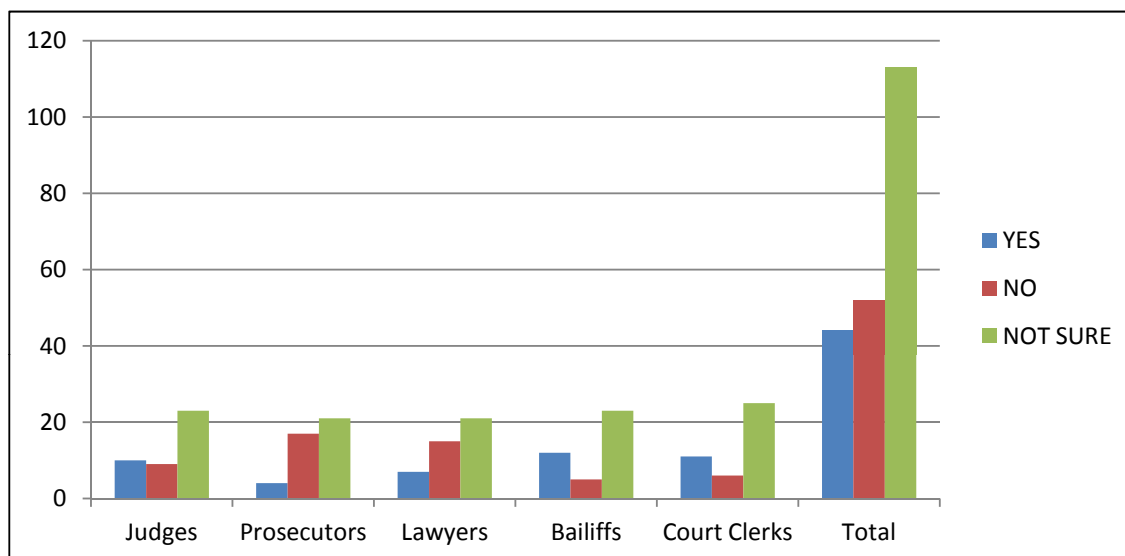


5. 2. Improving the insolvency procedure

1. Has the insolvency procedure administration become more efficient and transparent in 2012-2013?

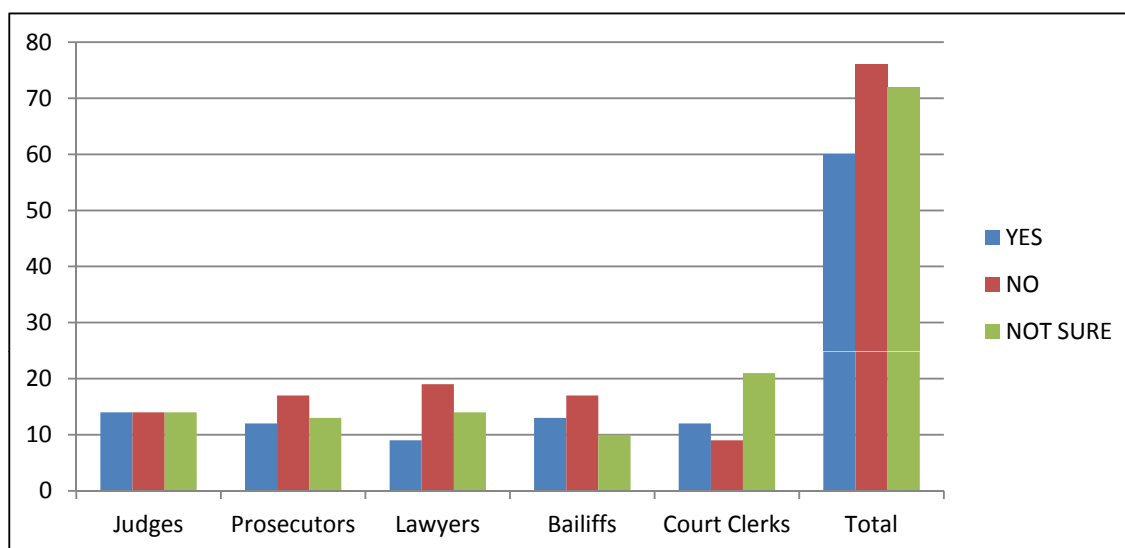


2. Has the status of the insolvency administrators been strengthened in 2012-2013?



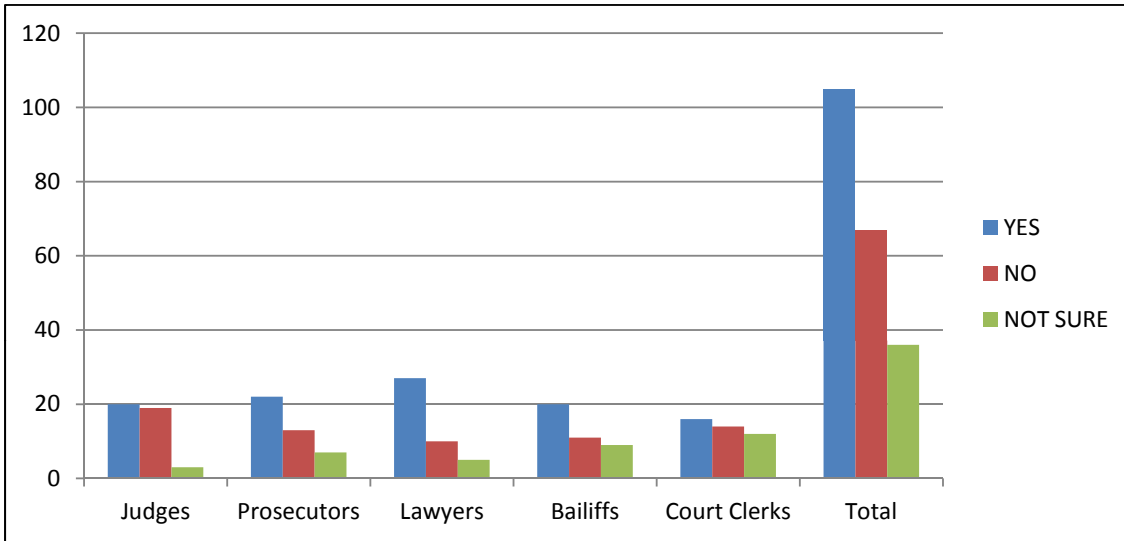
5.3 Modernization of the system of filing and access to data regarding businesses

1. Has the system of access to data regarding businesses been modernized and fully ensured in 2012-2013?



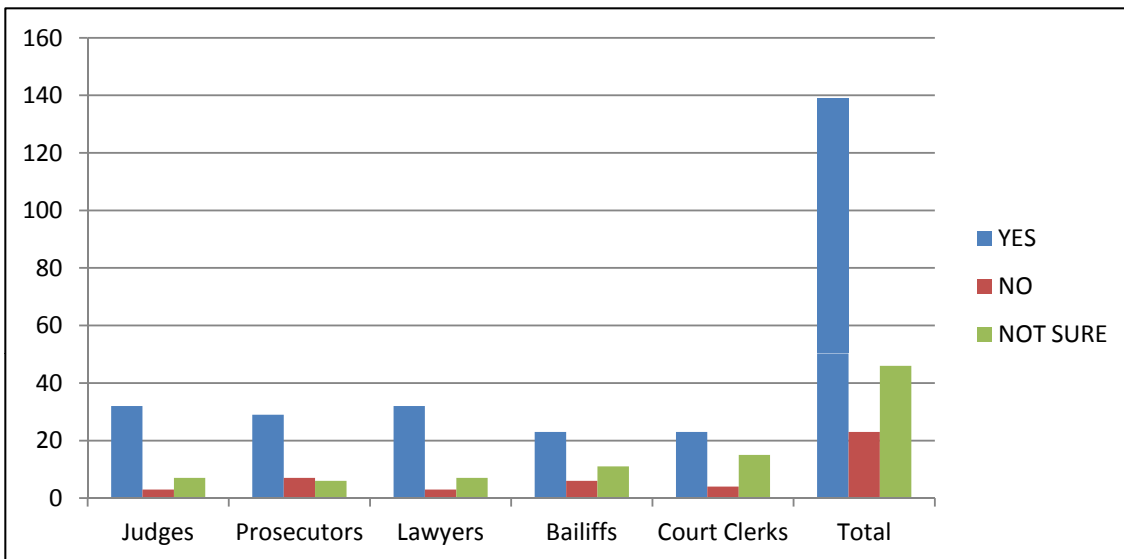
6. 1. Strengthening the role of the Constitutional Court

1. Should the circle of subjects with a right to adress the Constitutional Court be expanded?



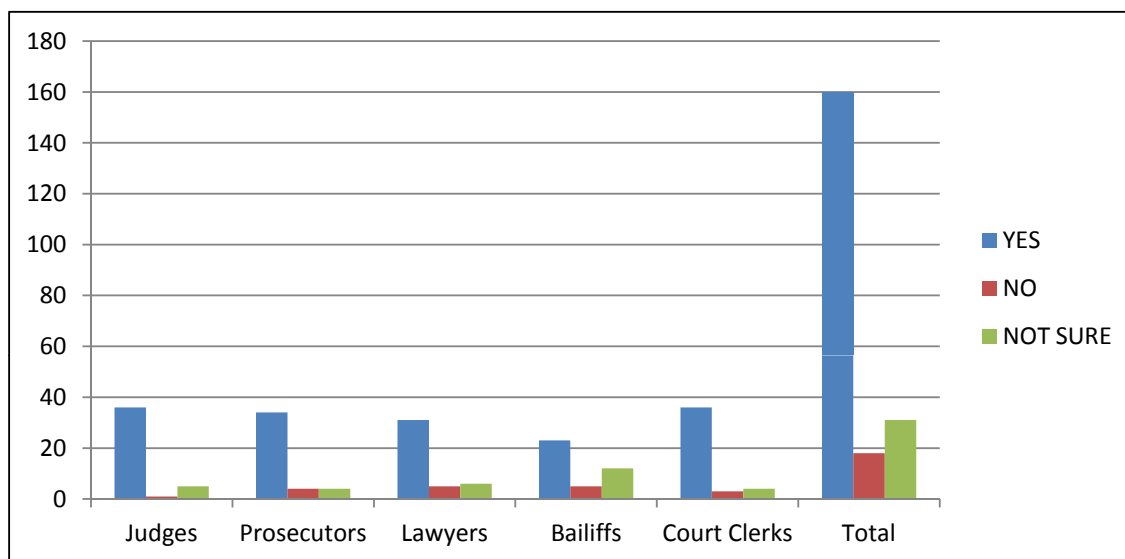
6. 2. Strengthening the capacities of the Center for Human Rights and the Ombudsperson institution

1. Do the capacities of the Ombudsperson institution need strengthening?

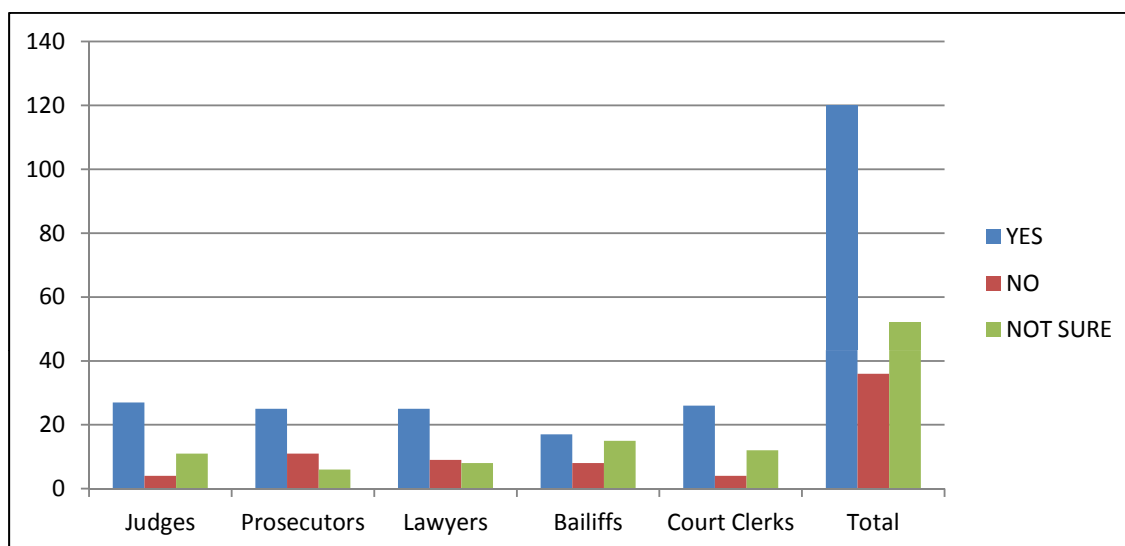


6. 3. Strengthening the juvenile justice system

1. Has the existing juvenile justice system become more child-friendly and more able to guarantee the respect of the rights of children that enter in contact with the justice system?

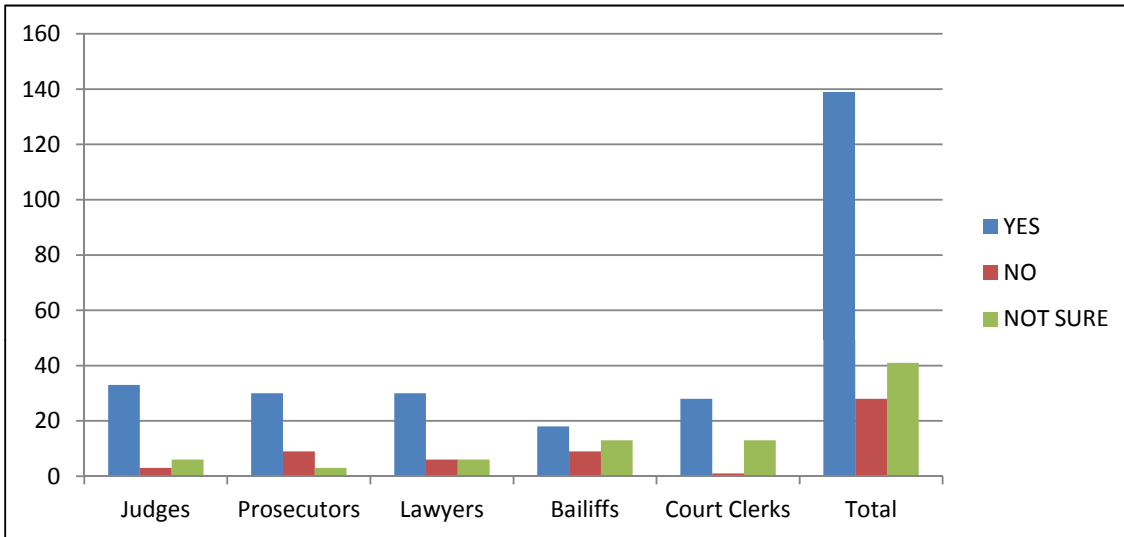


2. Do children victims or witnesses of offences enjoy optimal conditions of protection of their rights during the criminal investigation following the 2012-2013 legislative amendments?

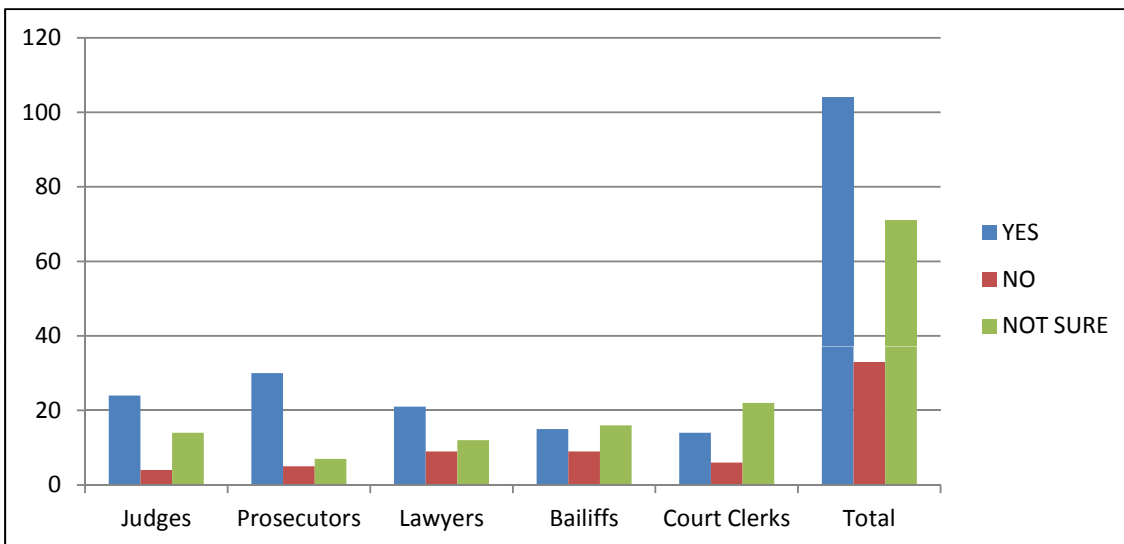


6.4 Respecting the rights of convicts, elimination of torture and prevention of ill treatments.

1. Have coercive and preventive procedural mechanisms improved as a result of the 2012-2013 legislative amendments?

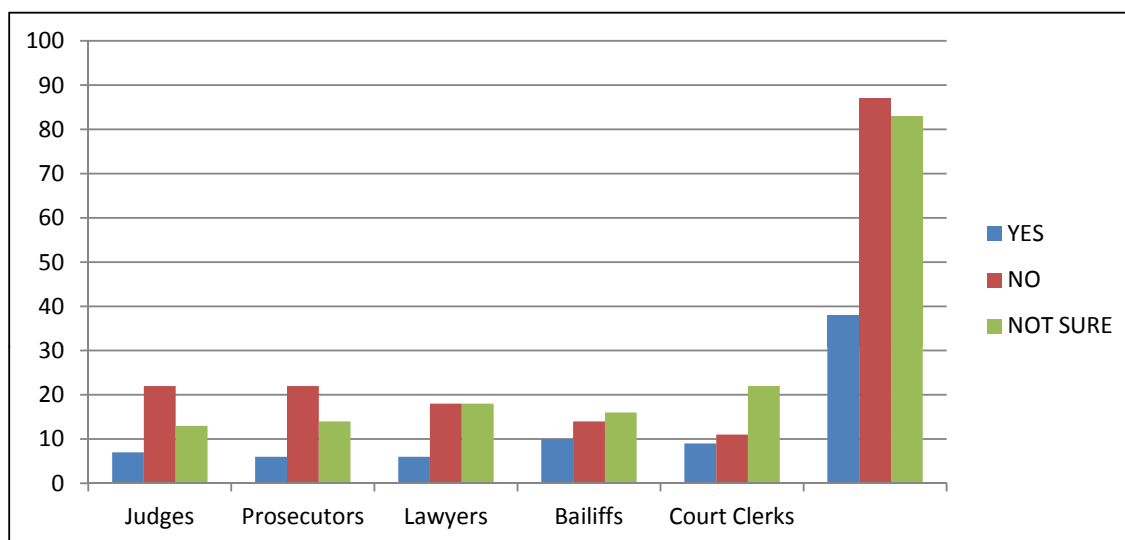


2. Has the culture of zero tolerance towards ill treatment been strengthened in 2012-2013?

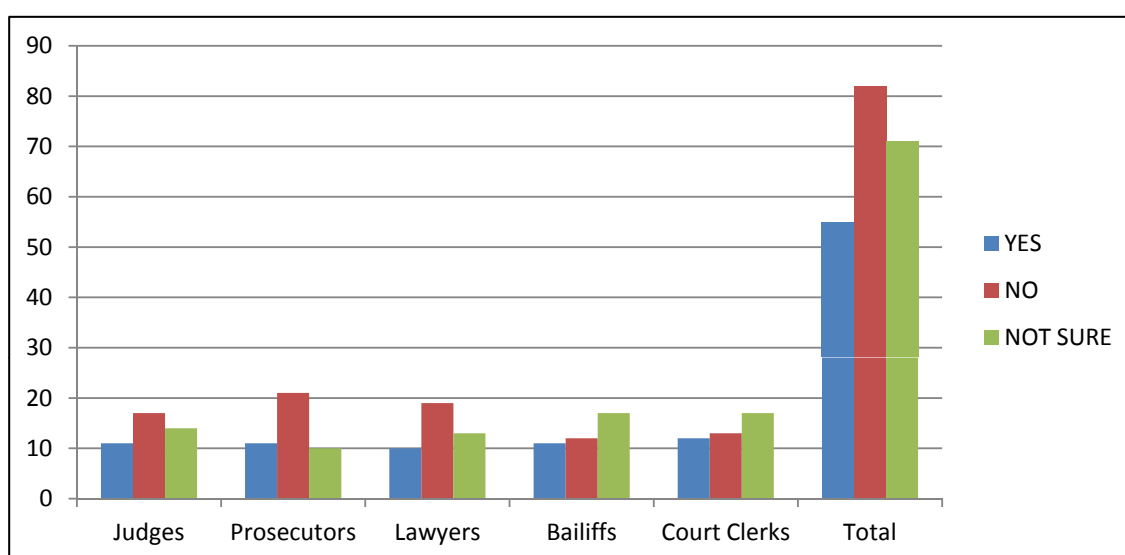


6.5 Strengthening the probation and penitentiary systems

1. Have the capacities to reintegrate former convicts into the society been strengthened, reducing the number of repeat offences, after 2012-2013 legislative amendments?

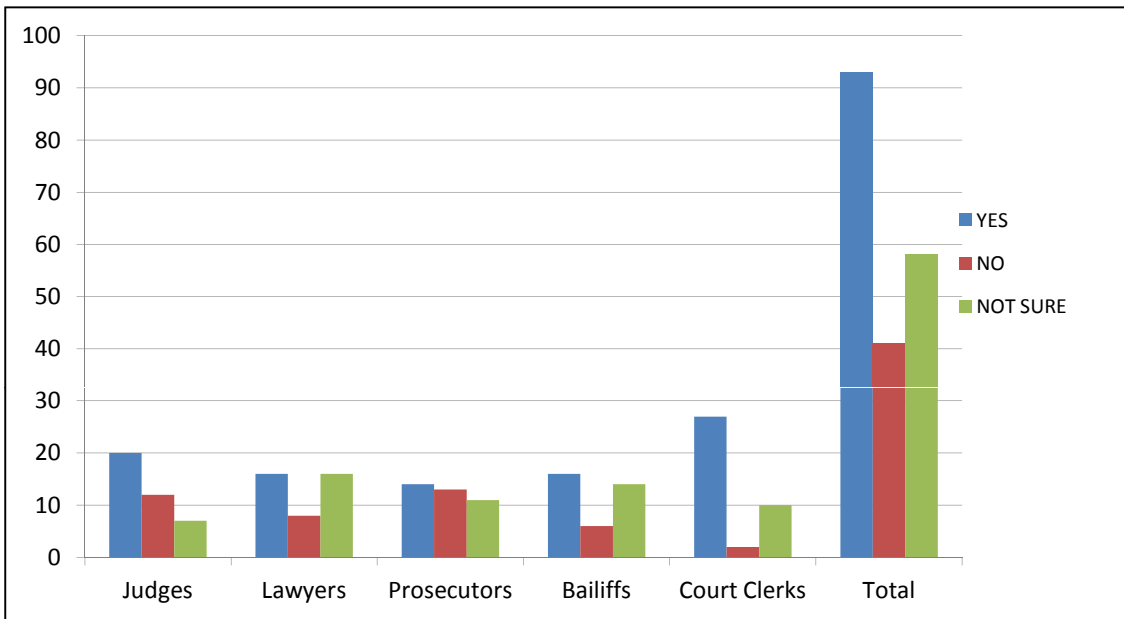


2. Are conditions in penitentiaries closer to international standards following actions taken by government bodies in that regard?



7.2 Harmonization of the justice sector's institutional and legal frameworks with European standards

1. Has the quality of bills improved following the legislative amendments of 2012-2013?



2. Has the public access to legislative data and ease of use improved?

