



“Monitoring the Justice Sector Reform for Increased Government Accountability”

Quarterly Monitoring Report No. 1 on the Implementation of the Justice Sector Reform Strategy

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ABBREVIATIONS

AGER	– Association for Efficient and Responsible Governance
CC	– Constitutional Court
CEPEJ	– European Commission for the Efficiency of Justice
CHRM	– Center for Human Rights in Moldova
CPC	– Civil Procedure Code
CPP	– Penal Procedure Code
ECtHR	– European Court for Human Rights
GPI	– General Police Inspectorate
ICMP	– Integrated Case Management Program
JSRS	– Justice Sector Reform Strategy
LRCM	– Legal Resources Center of Moldova
MOI	– Ministry of Internal Affairs
MOJ	– Ministry of Justice
NHSGLA	– National House for State-Guaranteed Legal Aid
NIJ	– National Institute of Justice
NUCEO	– National Union of Court Enforcement Officers
OSCE	– Organization for Security and Cooperation in Europe
PGO	– Prosecutor General’s Office
ROLISP	– USAID Rule of Law Institutional Strengthening Program
SCJ	– Supreme Court of Justice
SCM	– Superior Council of Magistrates
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 House for State-Guaranteed Legal Aid 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 for completion in the first quarter of 2013.
- Overdue actions that had to be completed in 2012.

We note that this Report includes only overdue actions for 2012 that were automatically transferred for implementation to 2013. Actions that are due for completion in the first quarter of 2013 are analyzed in full and assessed in this Report, respectively, as implemented or not implemented.

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 IV. Professional training activities for various judicial actors;

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

Group VI. Procurement and installation of equipment; program modernization/software upgrade;

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

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

EXECUTIVE SUMMARY

We note that the work of the Working Groups (WG) established to monitor the implementation of the Justice Sector Reform Strategy Action Plan was largely productive. Although the number of WG meetings varied from one group to another during the first quarter of 2013, most meetings were deliberative in the sense that they were attended by representatives of most of the institutions with the right to vote. However, in one instance, WG 5 had to postpone a meeting due to lack of quorum.

The documents produced as part of the Justice Sector Reform Strategy (JSRS) are undoubtedly very important. At the same time, we found that only a small part of the developed studies are posted on the website of the Ministry of Justice (MOJ), in the Justice Sector Reform compartment. In this context, we suggest that all documents developed as part of JSRS implementation be placed on the MOJ website, in the section dedicated to the reform. It is currently difficult for an interested person from outside the system to locate a specific document or find who developed it. The same applies to studies, reports and bills. Another suggestion to Working Groups is that meeting agendas be posted on the website in advance, while the time period for the content analysis of actions planned, either implemented or not, match the problems addressed.

Implementation of actions due in Quarter I, 2013

With regard to the implementation of actions provided in Pillar I, “Judicial System”, we state the following: three actions were due for completion by the end of the first quarter of 2013 (*Action 1.1.9 s.2, Action 1.2.2 s.4, and Action 1.3.8 s.2*), of which only one, and namely the latter, was implemented. At the same time, we note that Action 1.1.9. s.2 was completed in April 2013, and will therefore be analyzed and marked as implemented in the next Quarterly Report. We also note that many actions are overdue since 2012. Of the total 21 overdue actions, only six actions were completed in the first quarter of 2013, while the remaining 15 actions are not implemented.

Five actions were due for completion in the first quarter of 2013 in Pillar II, “Criminal Justice” (*Action 2.2.5 s.1, Action 2.2.6 s.1, Action 2.2.7 s.1, Action 2.2.8 s.2 and Action 2.4.2 s.1*). Other two important actions (*Action 2.1.1 s.1 and Action 2.1.5 s.2*), overdue since 2012, were also closely monitored. Although the responsible institutions did take certain steps toward implementing the mentioned actions, none of these activities (overdue since 2012 or due by end of quarter 1, 2013) was completed by the end of the reporting period.

A single action included in Pillar III, “Access to Justice and Enforcement of Court Decisions”, was due in the first quarter of 2013, and remained unfulfilled: *Drafting a bill to amend the law on the mechanism of recognition and enforcement of judgments issued by foreign courts*. Other 13 actions, which had to be completed by the end of last year, remained unfulfilled.

None of the actions included in Pillar IV, “Integrity of Actors in the Justice Sector”, was due by the end of quarter I of 2013. At the same time, four actions (*Action 4.1.5 s.1, Action 4.3.2 s.1, Action 4.3.4 a.1, and Action 4.1.1 a.1*) remained overdue since 2012 and were not completed.

Pillar V, “Role of Justice for the Economic Growth”, did not provide for any actions that were due in quarter 1, 2013. At the same time, the monitoring focused on other six important actions (*Ac-*

tion 5.1.1 s.1, Action 5.1.2 s.1, Action 5.3.1 s.1, Action 5.3.2 a.1, Action 5.2.1 s.2, and Action 5.2.1 a.3) overdue since 2012. None of these actions was completed during the monitoring period.

Pillar VI, “Observance of Human Rights in the Justice Sector”, provides for six actions to be completed in quarter 1 of 2013 (*Action 6.5.1 s.1, Action 6.5.2 s.2, Action 6.5.1 s.2, Action 6.5.4 s.1*). At the same time, other nine important actions (*Action 6.2.3 s.1, Action 6.2.1 s.2, Action 6.3.2 s.3, Action 6.4.3 s.2, Action 6.4.3 s.4, Action 6.4.4 s.1, Action 6.4.5 s.1, Action 6.4.6 s.1, and Action 6.2.3 s.3*), overdue since 2012, were also monitored. Only Action 6.2.3 s.3, overdue since 2012, was fully implemented in the reporting period, and the Ombudsman’s webpage was officially launched. The other 12 actions, overdue since 2012 or due by the end of the first quarter of 2013, remained unfulfilled, although, in some cases, significant progress was made towards their completion.

There were no actions due for completion in the first quarter of 2013 in Pillar VII, “Well-Coordinated, Well-Managed and Responsible Justice Sector”. At the same time, of the five actions overdue since 2012 (*Action 7.1.4 s.1, Action 7.2.3 s.1, Action 7.2.2 s.4, Action 7.2.2 s.2, and Action 7.2.2 s.3*), none was completed in the monitoring period.

All the unfulfilled actions are transferred to the next period and will be monitored until their successful completion.

Trial monitoring and Assessment of the Level of User Satisfaction with the Act of Justice

The monitoring mission employed 36 monitors, who operated in the first three months of 2013. They received advanced training on the methodology and principles of monitoring, reporting and interviewing. All monitors had been previously involved in civic monitoring activities of democratic processes, carried out by the Promo-LEX.

To assess the level of user satisfaction with the act of justice, a questionnaire was developed within the project to be completed by each participant in the court proceedings attended by observers. A total of 354 questionnaires were distributed and completed voluntarily by trial participants. Thus, we can present an overview of the level of satisfaction of the involved parties. We note, in this regard, that, in most of the questionnaires, the rate of persons who were more satisfied with the act of justice was higher than that of less satisfied users. Even if trial participants themselves provided the answers, they seem to divert from reality in a context when the judiciary is very much criticized in opinion polls and investigations.

Other indicators worth noting are: the rate of 80% of respondents who said they were fully satisfied with judges’ politeness and attitude, 69% of respondents fully satisfied with the availability of case materials, and 70% of respondents fully satisfied with the professional training of the court clerks; in contrast, only 43% of people were satisfied with court facilities and buildings, and 33% were satisfied with the quality of court websites. Most of the user suggestions referred to the need to improve the technical conditions of the courts; a timely start of hearings; lack of information on how cases are examined, and increasing the professionalism of judges, prosecutors and lawyers.

In order to measure the quality of justice through direct trial monitoring, during the three months of the first quarter of 2013, monitors sat in 300 hearings, which were randomly selected from all national courts. Thus, according to analyzed data, court hearings were monitored in different

levels of courts, as follows: 252 trials in regular courts, 12 trials in special courts, 30 trials in Courts of Appeal, and six trials at the Supreme Court of Justice. Unlike the above indicators, this type of monitoring involved a personal assessment of the observer. The trials were selected randomly; some lasted several minutes, others took many hours. It is important to note that, in terms of access to justice, independence and impartiality of judges, the assessment was mostly positive. However, about one half of the monitored trials were not audio recorded. Also, in more than two thirds of the hearings, cases were examined in judges' offices.

Both questionnaires were based on the methodology developed within the project, which was inspired from the **Model Methodology for Measuring User Satisfaction of the European Commission for the Efficiency of Justice (CEPEJ)** and the **Council of Europe's Handbook on Article 6 of the European Convention on Human Rights**.

CHAPTER I

ASSESSMENT OF IMPLEMENTATION OF ACTIVITIES UNDER PILLAR I

Institutional capacity. In Quarter 1, 2013, the Working Group (WG) for monitoring the implementation of Pillar I of the Strategy met in three sessions, on 11 February, 15 March, and 12 April. WG meetings were attended by a majority of members with voting rights. The main subjects for discussion were the plan of activities for 2013, activities that were due in the first quarter of 2013, and outstanding activities that remained unfulfilled in 2012.

ACTIONS DUE BY: QUARTER 1, 2013

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

Specific area of intervention 1.1.9: Consolidation of the self-administration capacity of the judicial system by revisiting the role, composition and competences of the Superior Council of Magistrates

Action 1.1.9 section 2. *Conducting a study on the functioning of the SCM focused on the legal framework and practical activities*

- Deadline: Quarter 1, 2013
- Responsible for implementation: Ministry of Justice (MOJ), SCM
- Performance indicator: study conducted and recommendations formulated
- **Assessment: action not implemented**

The study was to be presented to the public in late April 2013. It was conducted by the Legal Resources Center in Moldova (RLCM) with the financial support of the Soros Foundation-Moldova. Although the action was implemented with a slight delay, we note that the survey in the field showed positive responses to the development of the study. Thus, of the 40 judges interviewed (mainly court presidents), 35 knew about the development of the study, and only five were not aware of that. Moreover, most judges surveyed (21 of 40) reported that they were in some way involved in the development of the study.

Specific area of intervention 1.3.8: Revising the range of disciplinary misconducts and disciplinary procedure in order to adjust them to the realities in the system and to European standards

Action 1.3.8 section 2. *Draft amendments to certain legislative acts, including Law No.544-XIII of 20 July 1995 on the Status of Judges and Law No.950-XIII of 19 July 1996 on the Disciplinary Board and Disciplinary Responsibility of Judges*

- Deadline: Quarter 1, 2013
- Responsible for the implementation: MOJ, SCM
- Performance indicator: bill drafted and submitted to the Government
- **Assessment: action implemented**

A new bill on the disciplinary responsibility of judges was developed by the working group established by order of the minister of Justice and submitted for public discussions on the website of the National Council for Participation: <http://www.particip.gov.md/proiectview.php?l=ro&idd=593>.

At the time of drafting this report, we could not confirm the dates when the bill would be approved by the Government and submitted to the Parliament.

We welcome the development of the draft Law on disciplinary responsibility of judges, along with developing draft Regulations on the criteria for selection, promotion and transfer of judges, on the procedure and criteria for assessing the performance of judges, and on the organization, competence and functioning of the judicial inspection.

It is important to note that there were some differences between the bill and draft regulation on the selection, promotion and transfer of judges. In particular, sections 3.1 and 4.1 of the Regulation stipulate, among the prerequisites for promotion to a higher court (or to vice-president or president of the court, respectively), a lack of disciplinary sanctions in the past year. Meanwhile, in the bill, the action time for a disciplinary warning is one year, and that of a reprimand is two years. A comparative analysis of these two draft documents shows that a judge who received a reprimand a little over one year before applying for promotion may be admitted. At the same time, it must be taken into account that Art.211 of the Labor Code provides that the validity of a disciplinary sanction may not exceed one year from the time of application of the sanction.

Firstly, the terms in both drafts and in other enacted laws must be coordinated. **A general recommendation is that the requirements for promotion of a judge to a higher court or to vice-president or president of the court be stricter.** Undoubtedly, certain instances of misconduct may occur during any public office career, but given the importance of the profession of judge, it would be advisable to set a limit to the total number of disciplinary sanctions accumulated during the career as a prerequisite for promotion.

At the MOJ request of 27 November 2012, the Office for Democratic Institutions and Human Rights of the Organization for Security and Cooperation in Europe (OSCE/ODIHR) gave its opinion on the draft Law on disciplinary responsibility of judges.

Among the recommendations of the OSCE-appointed expert, one is contained in p.28: *It would be helpful to clarify whether the post of civil society representative on the Disciplinary Board is open to anyone or only to those persons who are affiliated with [registered] civil society organizations.*¹

A comprehensive opinion on the draft Law on disciplinary responsibility of judges was provided by Raisa Botezatu, a Supreme Court judge in honored resignation and an expert in justice and human rights. The opinion followed the call for cooperation launched by the *Justice and Human Rights* Working Group of the National Council for Participation, which developed a table of recommendations proposed for the amendment and completion of the draft Law on disciplinary responsibility of judges.²

Finally, we recommend revisiting the performance indicators set for actions related to amending the legislative framework. They are limited to “draft developed and sent to the Government

1 <http://www.osce.org/ro/odihr/98253>, p.13 (as seen on 8 May 2013)

2 <http://www.cnp.md/ro/produse/avize-propuner/justiie/item/1443-recomand%C4%83ri-la-pr-lege-privind-r%C4%83spunderea-disciplinar%C4%83-a-judec%C4%83torilor> (as seen on 8 May 2013)

for consideration". On the one hand, the work of the institutions involved can be considered fulfilled at this stage. On the other hand, how can the expected outcome be considered achieved when the bill is not approved by the Government or may suffer significant changes, including in parliamentary debates?

Group VI. Procurement and Installation of Equipment. Program Modernization

Specific area of intervention 1.2.2: Implementation of the e-Justice system for an efficient and functional use of the information system of justice in order to rule out the human factor in the administrative case management process

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

- a) ensure a random distribution of cases;*
- b) ensure the establishment of the judge panels and appointment of their chairmen;*
- c) develop other programs to ensure transparency and efficiency of justice;*
- d) create a technical mechanism of verification of the electronic case management process;*
- e) integrate a module that will ensure the protection of personal data.*

- Deadline: Quarter 1, 2013
- Responsible for implementation: MOJ, SCM, Center for Special Telecommunications
- Performance indicators: 1. the system of random distribution of cases improved and implemented; 2. a system of constitution of panels of judges and appointment of their chairmen created and implemented; 3. a technical verification mechanism created; 4. a personal data protection module integrated; 5. other programs developed and implemented as appropriate
- **Assessment: action not implemented**

According to the JSRS Implementation Report for 2012, this action is performed with the support of USAID Rule of Law Institutions Strengthening Program (ROLISP). The data gained from the reports submitted by the MOJ and the ones offered by observers show that the action is in progress. Its need is indisputable, as many presidents of Moldovan courts currently believe that the ICMP functions in a deficient way, distributing a larger number of cases to some judges in the detriment of others. In addition, the system memory space is restricted, which, at the moment, makes it impossible to introduce new data into the system. At the same time, the system currently allows unlimited manual intervention, so a court president may "click" as many times as he wants on a particular file to get it distributed to a particular judge, thus defying the purpose of the program.

ACTIONS OVERDUE SINCE 2012

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

Specific area of intervention 1.1.1: Optimization of the courts location map in order to strengthen the institutional capacities of courts, optimize the number of judges and ensure the most efficient use of available resources

Action 1.1.1 section 1. *Conducting an opportunity study for the optimization of the courts location map in order to strengthen the institutional capacities of courts, optimize the number of judges and ensure the most efficient use of available resources*

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

This action is in progress and the first results will be presented during the month of May. The LRCM was contracted for the implementation of this action, with the financial assistance provided by the U.S. Embassy in Chisinau.

According to observers' reports, 34 of the 40 interviewed judges are aware of the development of such a study (more exactly, with the findings of the study), and 20 of the 40 judges were involved in conducting it. The interpretation of data allows us to conclude that judges participated in some events where this subject was addressed and probably were questioned or approached by experts responsible for developing the study.

Specific area of intervention 1.1.2: Ensuring access to justice in terms of costs

Action 1.1.2 section 1. *Conducting a study of the current legislation that regulates the quantum and mode of calculating judicial expenditures and their enforcement mechanisms*

- Deadline: Quarter 2, 2012
- Responsible for implementation: MOJ, SCM
- Performance indicator: study developed and recommendations formulated
- **Assessment: action not implemented**

The study was not developed to the date of presenting this report. In the Strategy Implementation Report for 2012, a proposed remedy for this problem was to involve the Supreme Court along with the creation of a working group with the participation of the Department of Judicial Administration, the SCM and the SCJ. Unfortunately, an analysis of the implementation of actions that provide for "conducting studies and analyses" shows that an overwhelming majority of such studies are carried out with the assistance of experts. Thus, it would be more efficient if, for this action, the Working Group would be assisted by a specialist, which, in addition to achieving the action itself, would help increase the capacity of institutions in developing analytical documents.

At the same time, given that, according to Art. 90 letter i of the Moldovan Civil Procedure Code, trial costs on a case also include the costs for legal assistance, and according to Art. 227 p. 2 item 3 of the Moldovan Criminal Procedure Code, judicial expenses include amounts *to be paid for the state-guaranteed legal aid*, we deem it appropriate to include representatives of the National Bar Association, and of the National House for State-Guaranteed Legal Aid (NHSGLA) as members of the working group for drafting the study (one member per institution), and *a bill to amend the Law No.1216-XII of 3 December 1992 on the State Tax, the CPC No.225-XV of 30 May 2003 and other legislative acts.*

Specific area of intervention 1.1.12: Strengthening the institutional capacities of courts, including examination of the opportunity of building a common premise for all the courts in the Chisi-

nau municipality as well as the construction/renovation of the premises of all the courts in the country

Action 1.1.12 section 1. *Conducting a feasibility study taking into consideration earlier studies conducted in this field*

- Deadline: Quarter 4, 2012
- Responsible for implementation: MOJ
- Performance indicator: study developed and recommendations formulated
- **Assessment: action not implemented**

The JSRS Implementation Report for 2012 states that, in order to prepare this study, studies on courts financing courts map optimization are needed; neither of these studies has been developed. At the same time, given the complexity of the study, there is discussion about the need to employ experts for its development.

It would be appropriate to propose an adjusted deadline for implementing this action if the delay is inevitable.

Specific area of intervention 1.2.4: Establishing a mechanism allowing for the creation of a unified judicial practice and respect for the principle of security of juridical relations

Action 1.2.4 section 3. *Conducting a study on the opportunity of establishing a single information portal of all courts in order to optimize their web pages*

- Deadline: Quarter 4, 2012
- Responsible for the implementation: MOJ, SCM, e-Government Center
- Performance indicator: study developed and recommendations formulated
- **Assessment: action not implemented**

This action was not fulfilled at the time of writing this report. At the same time, the JSRS Implementation Report for 2012 describes the action as “not implemented” without providing reasons/explanations or making proposals to remedy the situation. MOJ representatives said, during a meeting of the Monitoring Group, that such a single portal exists – although it clearly does not include all the aspects of interoperability – and that a more advanced version is underway.

If it is found that some activities set in the Action Plan are no longer actual/necessary, we suggest that the Action Plan be adjusted regularly, possibly on an annual basis, to avoid reporting and continuous monitoring of actions that have become obsolete. While, if a certain action is no longer needed, the Annual Report should provide more explanations on this fact.

Specific area of intervention 1.3.3: Ensuring the specialization of judges in specific cases and examining the opportunity to create a system of administrative courts

Action 1.3.3 section 1. *Conducting a survey and making recommendations on the need for specialization of judges in specific cases*

- Deadline: Quarter 4, 2012
- Responsible for implementation: SCM, MOJ
- Performance indicator: survey conducted and recommendations formulated
- **Assessment: action not implemented**

The LRCM was contracted in order to complete this action, with the financial support of the U.S. Embassy in Chisinau. At the same time, the action was described as «partially implemented» in the 2012 Annual Report, without providing details on contracting experts to conduct the study (they were probably not contracted at that time). We note a superficial approach to assessing actions when general phrases such as “studying the European practice (...)” are used. Survey results showed that most judges were informed about the development of this study (33 of 39), and 19 of 39 judges said they have been in one way or another involved in its development. A majority of interviewed judges support the idea of specialization in specific cases – especially in the courts of appeal, the Supreme Court, and in courts with a higher numbers of judges – on the grounds that such a practice could be applied effectively at the level of district courts, for example.

Actions 1.3.3 section 5. *Conducting a study on the opportunity of creating a system of administrative courts*

- Deadline: Quarter 3, 2012
- Responsible for implementation: SCM, MOJ
- Performance indicator: study conducted and recommendations formulated
- **Assessment: action not implemented**

Comments on previous activities are also valid in this case. With regard to actions by responsible institutions, the 2012 JSRS Implementation Report notes that “a project is in development to be sponsored by donors”, while the action is assessed as “partially implemented”. In conclusion, a more serious approach is advisable when monitoring groups develop progress reports on the implementation of the Strategy in order to avoid suspicions of superficiality.

Survey results showed that 12 of the 36 judges interviewed participated in discussions on this subject, and about the same number of judges have a positive attitude towards the creation of administrative courts.

Group II. Developing Methodological Recommendations and Training Curricula

Specific area of intervention 1.2.3: Revising procedural rules in order to optimize and increase the transparency and efficiency of the judicial process

Action 1.2.3 section 5. *Developing a curriculum for training judges on case-file management and rules for postponement of consideration of cases*

- Deadline: Quarter 4, 2012
- Responsible for implementation: SCM, National Institute of Justice (NIJ)
- Performance indicator: curriculum developed
- **Assessment: action not implemented**

It is quite difficult to determine the stage at which the action currently is. The 2012 Annual JSRS Implementation Report qualifies this action as “implemented”, although the “measures taken” graph contains references to studying of the European practice and states that a training plan could be developed only after analyzing the number of postponed cases per each court and judge. Moreover, the “challenges” graph reads “lack of relevant legislation” without specifying any particular law. At the same time, most judges surveyed are aware of the development of such a plan (32 of 39), and 23 of 37 said they participated in this work.

We could not find information regarding the development of such a training plan on the NIJ website.

Specific area of intervention 1.2.6: Revising the status of instruction judges to include them in the corps of judges as judges specialized in that field

Action 1.3.1 section 1. *Developing a new concept of continuous training of judges, prosecutors and other justice sector representatives*

- Deadline: Quarter 2, 2012
- Responsible for implementation: NIJ, SCM, the Superior Council of Prosecutors, General Prosecutor's Office (GPO), the Bar Association, the National Union of Execution Officers (NUCEO), the Mediation Council, MOJ
- Performance indicators: 1. concept developed; 2. the number of staff needed to implement the concept established
- **Assessment: action not implemented**

The ROLISP program agreed to support the implementation of this action, and contracted the LRCM to develop the respective concept (to be presented in August 2013). In order to implement this action, a working group was created composed of representatives of the responsible institutions. The results of the field survey confirmed that representatives of the courts and prosecutors were aware of the development of this concept and were involved in the process. Thus, 36 of the 40 judges interviewed and a similar number of prosecutors said they knew about the development of this concept. At the same time, 29 of the 40 judges (idem for prosecutors) said that they were in some way involved in the development of the concept.

Group III. Improving the Legal Framework and Developing Bills and Regulations

Specific area of intervention 1.1.2: Ensuring access to justice in terms of costs

Action 1.1.2. section 2. *Developing a bill to amend the Law on the State Tax No.1216-XII of 3 December 1992, the CPC No.225-XV of 30 May 2003, and other legal acts*

- Deadline: Quarter 4, 2012
- Responsible for implementation: MOJ, SCM, Ministry of Finance
- Performance indicator: bill drafted and submitted to the Government
- **Assessment: action not implemented**

This action is strictly dependent on the fulfillment of Action 1.1.2 section 1, because, as long as the study is not conducted, legislation amendments are not advisable. At the same time, the 2012 JSRS Implementation Report explains why the action has not been implemented without proposing remedies or another deadline by which the action is to be implemented.

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

Action 1.1.6 section 2. *Developing SCM Regulations on the criteria and procedure of selection, appointment and promotion of judges*

- Deadline: Quarter 2, 2012
- Responsible for implementation: SCM
- Performance indicator: regulations developed and approved
- **Assessment: action implemented**

The Law No.154 on the Selection, Performance Evaluation and Career of Judges was adopted on 5 July 2012 and enforced on 14 December 2012. Article 30 of the Law states:

- (1) Before the enactment of this law, the SCM will:
- a) adopt laws and bylaws provided under this law;
 - b) bring its bylaws in conformity with this law.

The Regulation on the selection and career of judges was adopted in March 2013 and published in the Official Gazette on 12 April 2013, in disregard with the deadline set by the Law, and especially the one set in the Action Plan for JSRS implementation.

Specific area of intervention 1.1.7: Unification and ensured transparency of the procedure of appointment of court presidents and vice-presidents; establish clear and transparent criteria for selection of candidates for these positions

Action 1.1.7 section 2. *Development of SCM Regulation on the criteria and procedure for selection and appointment of court presidents and vice-presidents*

- Deadline: Quarter 1, 2012
- Responsible for implementation: SCM
- Performance indicator: regulation developed and approved
- **Assessment: action implemented**

At the time of writing this report, we could not find information of this Regulation. The JSRS Implementation Report for 2012 notes that the draft Regulation had been prepared by a working group established for this purpose, and proposed to the SCM for approval. However, the document is absent from the SCM website, both from the legal framework section and the sections of draft regulations.

Also, note that a Regulation for the selection and career of judges was adopted on 5 March 2013 by SCM Decision No.211/8, and was posted on the SCM website.³ Chapter IV of this Regulation sets mandatory requirements and selection criteria for promotion of judges for president or vice president of a court.

One can also find on the SCM website the Procedure of accession in the register of participants to the competition for filling in the vacancies of judge, vice-president or president of a court, approved by SCM Decision No.87/4 on 29 January 2013⁴.

Should one understand, in this case, that developing a Regulation dedicated to selection criteria, along with the procedure of selection and appointment of court presidents and vice presidents, is no longer necessary? The next monitoring report of the responsible Working Group should provide an explanation of this fact, and the JSRS Action Plan should be adjusted.

³ http://www.csm.md/files/Acte_normative/Reg%20criterii%20selectie%20APROBAT.pdf (as seen on 7 May 2013)

⁴ http://www.csm.md/files/Acte_normative/Registru_procedura.pdf (as seen on 7 May 2013)

Action 1.2.1 section 2. *Revising SCM regulations on the transparency of operation of the Council and subordinated institutions*

- Deadline: Quarter 4, 2012
- Responsible for implementation: SCM
- Performance indicator: draft amendments to regulations developed and approved
- **Assessment: action not implemented**

We could not find evidence of the development of this Regulation at the time of writing this report. In reporting on this action, the JSRS Implementation Report for 2012 takes further the confusion. The action is assessed as “partially implemented”, while, under “measures taken” there is a superficial description of a launched process of development and learning similar practices in other countries, and under “challenges” it says that there is no relevant law, without mentioning which one, specifically. Probably this refers to amending the Law on the SCM. However, this Law was amended on 5 July 2012, when Article 8(1) on the “Transparency of SCM activities” was introduced. We suggest that the report remarks on the implementation or met challenges be more explicit and consistent, and a new deadline for implementation of the action be proposed.

In the same line of ideas, the LRCM conducted a monitoring of the SCM activities. The main findings are that SCM meetings are public, and the agenda of the meetings and most decisions are published on the SCM website. However, transparency has not yet become a norm in all areas of work of the SCM, its colleges and the Judicial Inspection. See, for instance, the organization of the SCM meetings, where the discussion of subjects on the agenda takes place mostly in “deliberations” - a practice taken from the courts, but totally irrelevant to the SCM. Deliberations should be excluded in favor of public meetings, except for certain categories of issues that need to be considered in closed sessions⁵.

Specific area of intervention 1.2.2: Implementation of an e-Justice system for an efficient and functional use of the information system of justice in order to rule out the human factor in the administrative case management process

Actions 1.2.2 section 3. *Preparing amendments to SCM Regulations on the ICMP operation*

- Deadline: Quarter 4, 2012
- Responsible for implementation: SCM
- Performance indicator: draft amendments to regulations developed and approved
- **Assessment: action implemented**

The Regulation on the random distribution of cases for examination in courts, approved by SCM Decision No.110/5 on 5 February 2013⁶, and the Regulation on the way of establishing panels of judges and the changes of their members, approved by SCM Decision No.111/5 from 5 February 2013⁷ were both published on the SCM website.

Specific area of intervention 1.2.3: Revisit procedural rules for the optimization, increased transparency and efficiency of the judicial process

⁵ <http://crjm.org/news/view/238>

⁶ http://csm.md/files/Acte_normative/regulament_dosare.pdf (as seen on 6 May 2012)

⁷ <http://csm.md/files/Hotaririle/2013/5/111-5%281%29.pdf> (as seen on 6 May 2012)

Action 1.2.3 section 2. *Drafting amendments to Contravention Code No.218-XVI of 24 October 2008*

- Deadline: Quarter 3, 2012
- Responsible for implementation: MOJ
- Performance indicator: draft law developed and sent for examination to the Government
- **Assessment: action not implemented**

The draft law on amending and completing the Contravention Code No.218-XVI of 24 October 2008, containing approximately 250 interventions for the amendment, addition or exclusion of certain contravention norms, accompanied by an informative note and a summary of objections and proposals, was posted on the MOJ website⁸. The informative note to the bill reads: *“This project was already coordinated with interested parties. However, given that some changes were introduced only recently, a repeated consultation of these parties is needed.”*

The website of the Moldovan Association of Judges published an opinion on the bill on amending and supplementing the Contravention Code by Sergiu Furdui, PhD in Law, Associate Professor, (presently) vice-chair of the Criminal Division of the Supreme Court of Justice, written in reply to MOJ address No.03/7281 4 September 2012, which solicits a personal opinion regarding the bill on the amendment of the Contravention Code of the Republic of Moldova No.218-XVI of 24 October 2008⁹.

Advocating for concrete, consistent and efficient activities, which may result, by objectively merging jurisprudence, doctrine and legislation, in a qualitative law, Dr. Sergiu Furdui supports actions to improve the contravention legislation and, in the context of above considerations, calls for the establishment, under Art.16 of the Law on Legislative Acts, of a the working group for drafting a Law on the Code on Contraventions. Dr. Furdui proposes to the public an earlier draft provided in that regard by the Constitutional Court (CC)¹⁰.

An announcement on the launch by the Ministry of Internal Affairs (MOI), on 1 March 2013, of public consultations on a bill on amending and supplementing the Contravention Code No.218-XVI of 24 October 2008, and a supporting informative note, was posted on the website of the National Council for Participation¹¹. We emphasize that the MOI-sponsored bill diverts from the one posted on the MOJ website.

Action 1.2.3 section 4. *Develop standards for the duration of proceedings for the examination of a case and develop a methodology of control of their application*

- Deadline: Quarter 4, 2012
- Responsible for implementation: SCM, SCJ
- Performance indicators: 1. standards and methodology developed; 2. a SCJ decision of on the duration of proceedings for the examination of a case adopted; 3. a number of checks carried out by the Judicial Inspection; 4. a number of reports prepared
- **Assessment: action not implemented**

⁸ <http://justice.gov.md/pageview.php?l=ro&idc=192> (as seen on 6 May 2012)

⁹ <http://ajm.md/public/2012/11/06/opinie-cu-privire-la-proiectul-de-lege-privind-modificarea-si-completarea-codului-contraventional-al-republicii-moldova-nr-218-xvi-din-24-10-2008/>

¹⁰ ibidem

¹¹ <http://particip.gov.md/proiectview.php?l=ro&idd=774> (as seen on 6 May 2012)

This action was not implemented despite the fact that the 2012 Annual Report on JSRS Implementation describes it as “partially implemented”, while, under “measures taken”, it reads: “studying European practices”, and under “challenges”, mentions “lack of relevant legislation”, without specifying the exact laws. Such an approach reveals a shallow approach to compiling monitoring reports.

At the same time, field observers interviewed 37 judges (presidents of courts), of which 28 said they were aware of the document. This response can be interpreted in two ways. Either judges meant to say they knew about the intention to develop such standards or that such an action is provided in the Action Plan, or we can speak about a sense of embarrassment on the part of the judges who are ashamed to admit that they do not know/do not have sufficient information on the matter. Furthermore, 16 of the interviewees said they were involved in drafting the document, and 26 claimed they used its recommendations.

Opinions are generally divided on this subject. SCM and some judges feel that there is no need to set specific deadlines for the examination of cases, while most judges believe that such a practice is positive and useful.

Specific area of intervention 1.2.6: Revisit the status of instruction judges to include them in the corps of judges as judges specialized in that field

Action 1.2.6 section 4. *Develop SCM Regulations on the procedure and conditions for the appointment of instruction judges*

- Deadline: Quarter 3, 2012
- Responsible for implementation: SCM
- Performance indicator: regulations developed and approved
- **Assessment: action implemented**

This action was carried out in Quarter 1 of 2013; the Regulation was approved on 2 February 2013 and posted on the SCM website: <http://www.SCM.md/files/Hotaririle/2013/6/145-6%281%29.pdf>.

Specific area of intervention 1.3.1: Reforming and streamlining the activities of the National Institute of Justice

Action 1.3.1 section 2. *Develop a bill amending 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 Judges, and Law No.294-XVI of 25 December 2008 on the Prosecution*

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

According to the 2012 Annual Report on the JSRS Implementation, the bill was to be submitted to the Government in March 2013. At the date of writing this report, the bill has not yet been subjected to public discussions.

Specific area of intervention 1.3.5: Establish a system of periodic merit-based performance evaluation of judicial actors based of clear, objective and transparent criteria

Actions 1.3.5 section 2. Develop SCM Regulations required for performance evaluation of judges

- Deadline: Quarter 2, 2012
- Responsible for implementation: SCM
- Performance indicator: regulations developed and approved
- **Assessment: action implemented**

The Regulation on the criteria, indicators and procedure of performance evaluation of judges was approved on 5 March 2013, and posted on the SCM website before that date for public discussion. At the time of writing this report, the Regulation had not been published in the Official Gazette. At the same time, the College for performance evaluation of judges adopted a series of decisions at its meeting on 5 April 2013 based on the Regulation which *de facto* has not been enacted (especially since Section 34 of the Regulation provides that it shall enter into force upon its publication in the Official Gazette).

Group VII. Create and Increase the Efficiency of Judicial Bodies (committees, colleges, etc.)

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

Action 1.1.6 section 3. Establish a College responsible for the selection and promotion of judges, and a College responsible for the performance evaluation of judges

- Deadline: Quarter 2, 2012
- Responsible for implementation: SCM
- Performance indicators: commissions created and their members appointed/elected
- **Assessment: action implemented**

For this action, we will only refer to the creation of the College for the selection and career of judges, not the one for the performance evaluation of judges, as the latter refers to *Action 1.3.5. section 3* of the Action Plan and will be addressed below.

The College was created, and most members were elected/appointed at the end of 2012, while one person was appointed in February 2013. The College is composed of seven members, four of whom are judges elected by the General Assembly of Judges, and three are elected by SCM among the civil society, based on a public competition. It should be noted that, although the composition of the College is good, it is unfortunate that the three members from the civil society represent the academia, and none of the members were selected from non-profit associations actively working in the field of justice and/or human rights.

In this case, civil society is not represented in the College. One representative of the academic medium would have sufficed, while the other two members could have been selected from various segments of the civil society.

There is no public information on the procedure for appointing the president of the College for the selection and career of judges. According to Art.6 of Law No.154 of 5 July 2012 on the Selection, Performance Evaluation and Career of Judges, *"The president of the selection College is elected by open vote at the first meeting of the College. The candidate who garnered the majority of the voted of members elected/appointed to the College is elected president."*

The Agenda of the meeting of the College for the selection and career of judges of 19 April 2013, posted on the SCM website, does not contain an item on the election of the College president¹². The website however remains the only official source from which we learned that Svetlana Filincova became president of the College for the selection and career of judges.

Specific area of intervention 1.2.6: Revisit the status of instruction judges to include them in the corps of judges as judges specialized in that field

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

- Deadline: Quarter 3, 2012
- Responsible for implementation: SCM
- Performance indicator: performance evaluation conducted
- **Assessment: action not implemented**

According to the information provided by the SCM at a Monitoring Group meeting, the evaluation of instruction judges will be carried out along with that of judges of common law, which is not unreasonable. However, since this activity is planned in the JSRS Action Plan, it would be useful to at least include this explanation in the JSRS Progress Report to replace general language such as “process launched”, “development of assessment criteria” or “lack of funding”.

Specific area of intervention 1.3.4: Unified system of access to the profession of judge

Action 1.3.4 section 2. *Create a single examination committee for NIJ graduates and persons with work experience*

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

The implementation of this action depends largely on changing the legal framework, in particular the laws on the NIJ. The action remains unfulfilled, and the Annual Report does not provide details regarding the timeline of its implementation.

12 <http://csm.md/files/Ordinea%20CSC/2013/1/Ordinea%20de%20zi%2019%20aprilie.pdf> (as seen on 1 May 2013)

CHAPTER II

ASSESSMENT OF IMPLEMENTATION OF ACTIVITIES UNDER PILLAR II

Institutional capacity. WG II met in two sessions during Quarter 1 of 2013, on 6 February and 6 March 2013. A quorum was met at both sessions. According to meeting agendas and minutes, the main subjects discussed were the planned actions set for implementation in 2013, the implementation of actions planned for 2012 (and declared overdue), and actions due for completion in the first quarter of 2013.

ACTIONS OVERDUE SINCE 2012

Group I. Studies and Needs Assessments Examining Current Practices. Proposing Recommendations for Reform

Specific area of intervention 2.1.5: Improving criminal procedure legislation to eliminate contradictions with the standards of protection of human rights and fundamental freedoms.

Action 2. *Conducting a study on legislation, including criminal procedural law, to determine its compliance with existing standards for the protection of human rights and fundamental freedoms.*

- Deadline: Quarter 4, 2012
- Responsible for implementation: MOJ, PGO, Ministry of Interior (MOI), Center for Combating Economic Crimes and Corruption/National Anti-Corruption Center, Information and Security Service, Customs Service
- Performance indicator: study conducted and recommendations formulated
- **Assessment: action not implemented**
- **Respondents: 34 district prosecutors; 34 chiefs of territorial police inspectorates**

The deadline for this action expired on 31 December 2012. Only on 22 February 2013, by order of the minister of Justice, a working group was created to develop the study. The working group did not have any meetings during the first quarter of 2013. The composition of the working group and its work plan were not publicized.

Promo-LEX monitors conducted field interviews to check the extent to which local law enforcement officials were informed about the reforms carried out at the national level, in particular the development of a study on determining the compliance of criminal procedure law with existing standards for the protection of human rights. A total of 34 district prosecutors and 34 chiefs of district police inspectorates were interviewed. The monitors found that, unfortunately, the respondents provided untruthful answers to their questions. Thus, 31 prosecutors and 29 district police chiefs said they were aware of the findings and recommendations of the study, which has not even been developed. Only three prosecutors and five police chiefs said they were not aware of the recommendations of the study. According to Promo-LEX, this situation may be interpreted as follows: prosecutors and police inspectorate chiefs are *de facto* aware of the Justice Sector Reform Strategy, but are ashamed to admit not being aware of some of its results or products. However, it is possible that many studies and analyses of the subject in question are discussed among professionals and the respondents may have confused certain things.

ACTIONS DUE BY: QUARTER 1, 2013

Group I. Studies and Needs Assessments Examining Current Practices. Proposing Recommendations for Reform

Specific area of intervention 2.2.5: Ensure specialization of prosecutors on specific cases; examine the opportunity to establish specialized prosecution offices

Action 1. *Conduct a study on the need for prosecutors' specialization on specific cases and on the opportunity to establish specialized prosecution offices*

- Deadline: Quarter 1, 2013
- Responsible for implementation: PGO
- Performance indicator: study conducted and recommendations formulated
- **Assessment: action not implemented**
- **Respondents: 34 district prosecutors**

The deadline for finalizing this action expired on 31 March 2013. According to the information provided by the PGO in WG meetings, the LRCM was assigned with developing a comprehensive study on the optimization of judges and prosecutors as well as their specialization. However, LRCM representatives said they did not work on such a study.

Without a study on the need for specialization of prosecutors on specific cases and the opportunity of specialized prosecution offices, undertaking two other actions would be premature: Drafting a bill to amend Law No.294-XVI of 25 December 2008 on the Prosecution and other laws, and Developing NIJ training programs and the organization of specialized courses for prosecutors on specific areas.

For this action, too, Promo-LEX monitors conducted field interviews to check the extent to which district prosecutors knew about the reforms carried out at the national level, in this case, about the development of a study on the need for specialization of prosecutors. A total of 34 district prosecutors were interviewed. This time again, there were cases when respondents provided untruthful answers to the monitors.

According to collected data, 18 prosecutors said they had been involved in some way (interviews, providing statistics, etc.) in the development the study. Other 16 prosecutors said they were not involved in any way in the development of that study.

At the same time, 27 prosecutors said they were aware of the findings and recommendations of the study, which has not yet been developed. Only seven prosecutors admitted they were not aware of the study. Promo-LEX believes that this situation may be interpreted as follows: prosecutors and police inspectorate chiefs are *de facto* aware of the Justice Sector Reform Strategy, but they are ashamed to admit not being aware of some of its results or products. However, it is possible that many studies and analyses of the subject in question are discussed among professionals, and the respondents may have confused certain things.

Specific area of intervention 2.2.6: Examination of staffing needs of the prosecution and developing proposals for optimizing the number of prosecutors and support staff

Action 1. *Conducting a study on the staffing needs of prosecution and optimizing the number of prosecutors and support staff*

- Deadline: Quarter 1, 2013
- Responsible for the implementation: PGO
- Performance indicator: study conducted and recommendations formulated
- **Assessment: action not implemented**
- **Respondents: 34 district prosecutors**

The completion of this action was due on 31 March 2013. According to the information provided by the PGO in WG meetings, the LRCM is responsible for developing a comprehensive study on the optimization of judges and prosecutors as well as their specialization. LRCM representatives said that the study would be completed during the course of 2013.

For this action, too, Promo-LEX monitors conducted field interviews to check the extent to which relevant local professionals were aware of the reforms carried out at the national level, in this case, of the development of a study on the need for specialization of prosecutors. A total of 34 district prosecutors were interviewed. This time again, there were instances when respondents provided untruthful answers to the monitors.

According to collected data, 22 prosecutors said they were involved in some way (interviews, providing statistical data, etc.) in the development of the study. Other 12 prosecutors said they were not involved in any way in that process.

At the same time, 31 prosecutors said they were aware of the findings and recommendations of the study, although it has not yet been developed. Only two prosecutors admitted they were not aware of the study. Promo-LEX believes that this situation may be interpreted as described above.

Specific area of intervention 2.2.7: Review the mechanisms of financing the prosecution

Action 1. *Conduct a study on the practice of prosecution financing in the recent years and international practices in the field*

- Deadline: Quarter 1, 2013
- Responsible for implementation: PGO
- Performance indicator: study conducted and recommendations formulated
- **Assessment: action not implemented**
- **Respondents: 34 district prosecutors**

The completion of this action was due on 31 March 2013. According to information provided by the PGO in the WG meetings, a chapter of the study focused on the analysis of prosecution financing in recent years has been completed. However, the chapter examining the experience of other countries in prosecution funding was not finalized. Other organizations were invited to contribute to writing that chapter so that the study may be finalized during the course of this year.

Promo-LEX monitors conducted field interviews to check the extent to which relevant local professionals were aware of the reforms carried out at the national level, in this case, of the development of a study on international practices in prosecution financing. A total of 34 district

prosecutors were interviewed. This time again, there were instances when respondents lied to the monitors.

According to the data collected, nine prosecutors said they were involved in some way (interviews, providing statistics, etc.) in the development of the study. Another 25 prosecutors said they were not involved in any way in that process.

At the same time, 17 prosecutors said they were aware of the findings and recommendations of the study, although it has not yet been developed. The other 17 prosecutors admitted they were not aware of the study. Promo-LEX believes that this situation may be interpreted as described above.

Specific area of intervention 2.4.2: Revising and unifying the criminal justice related statistical data collection and analysis system and ensuring inter-operability of databases

Action 1. *Conduct a study on the collection and analysis of statistical data related to criminal justice and the problems in this area*

- Deadline: Quarter 1, 2013
- Responsible for implementation: PGO, MOI, Center for Combating Economic Crimes and Corruption/ National Anti-Corruption Center, Customs Service, Information and Security Service, the National Bureau of Statistics, MOJ, SCJ
- Performance indicator: study conducted and recommendations formulated
- **Assessment: action not implemented**
- **Respondents: 34 district prosecutors**

This action was due for completion on 31 March 2013. The PGO reported in WG meetings that the study is in development, without providing details. Moreover, there were discussions within the WG meetings about the need for such a study, and, in particular, about the need for collaboration between law enforcement bodies to unify the practice of collecting, processing, analyzing and storing statistical data related to criminal justice. The MOI, which is a co-responsible institution to this action, reported that it operates an integrated database, which collects information and data from other law enforcement agencies. However, an agency in charge of developing the study it was not identified/assigned.

Promo-LEX monitors conducted field interviews to check the extent to which relevant local professionals were aware of the reforms carried out at the national level, in this case, of the development of a study on the collection and analysis of statistical data on criminal justice. A total of 34 district prosecutors were interviewed. This time again, there were instances when respondents were not truthful with the monitors.

According to aggregated data, 22 prosecutors said they were involved in some way (interviews, providing statistics, etc.) in developing the study. Other 12 prosecutors said they were not involved in any way in that process.

At the same time, another 28 prosecutors said they were aware of the findings and recommendations of the study, although it has not yet been developed. In this case, only six prosecutors admitted they were not aware of the study. Promo-LEX believes that this situation can be interpreted as described above.

ACTIONS OVERDUE SINCE 2012

Group II. Improving the Legal Framework and Drafting Bills and Regulations

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

Action 1. *Improvement of the legal framework of the police and carabinieri work by drafting a Law on Police and Status of Police Officer, a Law on the Carabinieri Service and other relevant legislation, and amending current legislation in accordance with their provisions.*

- Deadline: Quarter 4, 2012
- Responsible for implementation: MOI
- Performance indicators: bills drafted and submitted to the Government; other laws/by-laws drafted or amended
- **Assessment: action not implemented**

This action was set for completion by 31 December 2012 and it was largely implemented, which is also confirmed by the relevant Working Group reports. This is one of the most complex actions contained in the Action Plan for Pillar II, as it includes several stages and provides for the adoption of a number of draft laws and bylaws. For these reasons, it is difficult to assess if the responsible institutions complied with the requirements of a transparent decision making process, as some bills were publicly debated, including in parliamentary committees (for example, Law on the Police and Status of the Policeman¹³), while other, less visible projects were approved without public consultation (see Government Decree on the structure and maximum personnel of the MOI¹⁴).

At this stage, we should note the MOI passivity with regard to promoting a draft law on Carabinieri Service, and adjusting bylaws to the new legislative provisions.

We note in particular the fundamental problem related to the place and role of the criminal investigation authority within the MOI, and its ungrounded subordination to the General Police Inspectorate (GPI)¹⁵. From our point of view, in the current situation, after the enactment, on 5 March 2013, of Government Decree No.986 of 24 December 2012, and without operating further amendments to the Criminal Procedure Code and the Law on the Status of the Criminal investigation officer, MOI criminal investigation officers are not assigned to the proper body, expressly established in the CPP. In this way, criminal investigation officers apparently exercise their powers illegally, which may lead to violations of the rights of persons involved in criminal procedures, and to general contestations of all actions taken by these officers in the course of the investigation.

Moreover, even if some bills were submitted for public consultation, including the draft Government Decree amending the Decree on the structure and the maximum personnel of GPI and the bills amending the CPP and the Law on the Status of the Criminal Investigation Officer, and Promo-LEX sent their opinions repeatedly, on 18 February and 19 March 2013, the authors did not react in any way, ignoring them.

¹³ <http://www.parlament.md/Actualitate/Noutati/tabid/89/NewsId/673/Default.aspx>

¹⁴ <http://www.promolex.md/index.php?module=press&cat=0&&item=1135>

¹⁵ <http://www.promolex.md/index.php?module=press&cat=0&&item=1124>

ACTIONS DUE BY: QUARTER 1, 2013

Group II. Improving the Legal Framework, Drafting Bills and Regulations

Specific area of intervention 2.2.8: Demilitarization of prosecution, including by examining the possibility of granting prosecutors a magistrate status

Action 2. *Draft a bill amending Law No.294-XVI of 25 December 2008 on the Prosecution, CPP No.122-XV of 14 March 2003, etc. in order to demilitarize the prosecution* Deadline: Quarter 1, 2013

- Responsible for implementation: MOJ, PGO
- Performance indicator: bill drafted and submitted for examination to the Government
- **Assessment: action not implemented**

This action was due for completion on 31 March 2013. The websites of the PGO, MOJ and www.particip.gov.md did not provide information on consultations on this bill. According to the PGO reports in the WG meetings, no actions were taken to develop the bill. For its part, the MOJ, which is the main responsible institution for the action, did not take measures in this sense.

CHAPTER III

ASSESSMENT OF IMPLEMENTATION OF ACTIVITIES UNDER PILLAR III

Institutional capacity. During the first quarter of 2013, WG III met in two sessions, on 4 February and 11 March 2013. Meetings were held in the presence of a quorum. According to meeting agendas and minutes, the group discussed ways to implement the actions set for completion in 2012 (and declared overdue), and actions to be completed in Quarter 1 of 2013. The MOJ and the NHSGLA were assigned as reporting institutions. At the same time, WG III adopted an *Annual Sectoral Monitoring Report for 2012*, which was discussed and proposed for approval to the WG for Pillar VII (which is the Coordination Group for JSRS implementation).

ACTIONS DUE BY: QUARTER 1, 2013

Group II. Improving the Legal Framework, Drafting Bills and Regulations

Action 3.3.5 section 2. *Drafting amendments to the Law on the Mechanism of Recognition and Enforcement of Judgments issued by Foreign Courts.* Specific area of intervention - *Improve the mechanism of recognition and enforcement of judgments issued by foreign courts.*

- Deadline: Quarter 1, 2013
- Responsible for implementation: MOJ, NUCEO, SCM
- Performance indicator: bill drafted and submitted to the Government for approval
- **Assessment: action not implemented**

According to the *2012 Annual Progress Report on the Implementation of the JSRS for the years 2011-2016*, this action was implemented in 2012 by drafting the bill and submitting it to the Government for approval.

However, the bill was not discussed in public consultations before being submitted to the Government. According to the leadership of the National Union of Court Enforcement Officers, although NUCEO is part of the working group in charge of drafting this bill, it attended only two of its meetings during the course of 2012, and the final draft of the bill was not consulted with the Union. The bill was not publicly commented by any organization and is absent from the websites of responsible institutions. It should be noted that, according to the Action Plan for JSRS implementation, the completion of this action should be preceded by conducting a study on the effectiveness of the mechanism of recognition and enforcement of judgments issued by foreign courts. Action 3.3.5 section 1 (*Conducting a study on the effectiveness of existent mechanisms of recognition and enforcement of judgments issued by foreign courts*) was assessed as not implemented in 2012, and was transferred for completion in 2013. Note that the action may be deemed partially completed, after the publication of a study on the recognition of foreign arbitration decisions¹⁶. However, it is still necessary to develop a separate study on the general execution of foreign courts judgments.

¹⁶ Zinaida Gutu, Regulation and Application of Mechanisms for Recognition and Enforcement of Foreign Arbitral Decisions in the Republic of Moldova, (conducted) with the support of UNDP project “Transitional Capacity Support for the Public Administration of Moldova”, Chisinau, 2012, 45 p, <http://justice.gov.md/pageview.php?l=ro&idc=389&>

For its part, NUCEO said that it had developed proposals to improve the existing legal framework in this field. The existence of these proposals is confirmed by 25 of the 39 court enforcement officers interviewed in the field. At the same time, 14 court enforcement officers said they did not know anything about these recommendations. Nine of them said they were directly involved in developing these proposals.

The NIJ organized two seminars in collaboration with NUCEO on “*Recognition and enforcement of foreign courts and foreign arbitration decisions*”, in Quarter 1, 2013, as per Action 3.3.5 section 3. The seminars trained 29 judges, 22 enforcement officers, and 18 prosecutors.

ACTIONS OVERDUE SINCE 2012

Group 1. Studies and Needs Assessments Examining Current Practices. Proposing Recommendations for Reform

Action 3.2.9 section 1. *Conduct a study on the tax, social security and health insurance system in place for representatives of justice-related professions as part of the specific area of intervention Establishing a uniform tax, social security and health insurance regime for representatives of justice-related professions*

- Deadline: Quarter 4, 2012
- Responsible for implementation: MOJ, Ministry of Finance, Ministry of Labor, Social Protection and Family, Ministry of Health, self-administration bodies of the justice system related professions
- Performance indicator: study conducted and recommendations formulated
- Respondents: 40 lawyers, 39 court enforcement officers, 15 mediators, 41 notaries
- **Assessment: action not implemented**

The problem of the application of the current tax, social security and health insurance regimes is probably on the agenda of each of the judicial-related professions. In each district center, we interviewed a representative of the largest local bar association, as well as court execution officers, notaries and mediators on the importance of strict regulations of the fiscal regime.

Of 40 lawyers interviewed, 22 did not know that such a study was to be developed, and only 18 knew about the need for such a study as part of the justice reform. Only six lawyers said they were involved in providing information, interviews, and in participating in discussions on the proposals for the study, while 34 did not participate in any way in this process.

Of the 39 the enforcement officers, 17 have not heard about the development of such a study in the reform of the judiciary, while 22 said they had heard about this. Ten said they were involved in the development of certain recommendations and 29 were not involved in this process.

Of the 15 mediators, 11 had not heard about the development of such a study as part of the justice reform, and only one mediator said he was involved in formulating certain opinions for the study.

Of the 41 notaries questioned, 21 said they had not heard about the development of such a study as part of the justice reform, and only 20 said they had heard about this. Only six notaries said they had made proposals for the study, while 35 were not involved in any way.

According to the MOJ, this action remains unfulfilled, as it was not assigned to a specialized association or group of experts who would be responsible for developing such a comprehensive study, even if the terms of reference for conducting the study have been developed, and financial sources to cover the analytical work have been identified. At the same time, in the reporting period, certain suggestions were made¹⁷ that may serve as a basis for this comprehensive study, and notes for the generalization of fiscal practices were developed¹⁸.

Action 3.3.2 section 1. *Conducting a study on the activity of the Licensing Commission and the Disciplinary Board to identify ways to strengthen the institutional and operational capacity of these institutions within the specific areas of intervention Institutional and functional strengthening of the new system of private court enforcement officers/bailiffs.*

- Deadline: Quarter 2, 2012
- Responsible for implementation: MOJ, NUCEO
- Performance indicator: study conducted and recommendations formulated
- Respondents: 39 court enforcement officers
- **Assessment: action not implemented**

The study has not been conducted because the Licensing Commission and the Disciplinary Board did not have any activities provided by Law 113 on Court Enforcement Officers. However, of the 39 enforcement officers interviewed, 25 had heard about the need for this study and 10 of the respondents said they contributed comments. MOJ Order No.189 of 19 April 2012 amended and supplemented the Regulation on the Disciplinary Board of enforcement officers, approved by MOJ Order No.75 of 9 March 2011. The Board convened in three working sessions: two organizational sessions, and a session where it examined cases of application of disciplinary sanctions. However, the subsequently developed analysis is informal, and was described by WG III as only one part of the study. Therefore additional time was allocated to finalize the action.

Action 3.3.1 section 1. *Monitoring the impact of the current regulations in the field of enforcement of court decisions, including European Court of Human Rights (ECtHR) decisions in the framework of the specific area of intervention Impact assessment of the current regulatory framework on execution of judgments and of the mechanism of enforcing judgments, including ECtHR decisions*

- Deadline: Quarter 3, 2012
- Responsible for implementation: MOJ, NUCEO
- Performance indicator: monitoring conducted; monitoring report developed and publicized
- **Assessment: action not implemented**

It is worth noting that this action is unclearly formulated. The content of the first sentence does not state clearly what decisions are to be monitored: earlier rulings decided by the ECtHR, such as pilot or other cases that impact legislation (see case *Olaru and Others v. Moldova*), or all judgments issued by national courts that are in the process of enforcement. Also, the Government contribution in monitoring the impact of ECtHR judgments' regulations is unclear, given

17 Guidelines for Attorneys on the Accounting and Taxation of Lawyers, signed by Natalia Curagau, PhD in Econ., Assoc. Prof., ASEM, chief accountant at the Office of Attorneys at Law "Turcan Cazac" http://avocatul.md/files/documents/Indrumar_nr_3_Cont_si_fisc_avoc_fin%5B1%5D.pdf

18 State Principal Tax Inspectorate Letter No.26-08/1-10-24/202/2 of 12 January 2012 on *Income Taxation of Judicial Officers and Regulations on Determining the Fiscal Obligations pertaining to the Income Tax*, approved by Government Decree No.77 of 30 January 2008; SPTI Letter No.17-6-06/570 from 13 July 2007 on *The Determination of Fiscal Obligations of Notaries*

that Art.46 of the European Convention on Human Rights and Fundamental Freedoms expressly reads that the Committee of Ministers of the Council of Europe will monitor this process, and national governments are only required to submit individual action plans.

Another obstacle lays in the expression: “*the impact of current regulations in the field of enforcement of court decisions*”. The action was due in Quarter 3 of 2012, and it is not clear¹⁹ which period will be considered actual¹⁹, since the monitoring period for this action was extended. MOJ and NUCEO were assigned the responsibility for implementing this action. However, they have not prepared or published any studies on the matter. NUCEO said it was not involved in the preparation of any studies; the MOJ did not submit any reports on this action either.

Another action, which partially covers the MOJ and NUCEO tasks in this action is the report “*Enforcement of ECtHR Decisions by the Republic of Moldova, the years 1997 – 2012*”, prepared and released by the LRCM. According to the authors, the purpose of the study was to contribute to the implementation of the JSRS for 2011-2016. However, the study cannot justify the failure to implement the action, and the monitoring of the subject should be adjusted accordingly.

Action 3.3.3 section 1. *Conducting a study to determine the weaknesses in the information management and communication system, which impact the execution of court judgments as part of the specific area of intervention: Improving the information management and communication system by providing access to databases.*

- Deadline: Quarter 3, 2012
- Responsible for implementation: NUCEO, MOJ
- Performance indicator: study conducted and recommendations formulated
- Respondents: 39 court enforcement officers/bailiffs
- **Assessment: action not implemented**

The leadership of the NUCEO announced that it had submitted to public authorities managing databases a list of problems in the area, along with a set of proposals and recommendations for a better functioning of the court enforcement process.

The problem of access to databases was resolved in part by signing agreements between the S.C. “Cadastru”, MOI Traffic Police Department, S.E. “Registry”, National Health Insurance House, and the “Access” WEB Computerized Information System. Following these agreements, participants also discussed the opportunity of setting up an electronic system for registering interdictions applied by court enforcement officers, which would be accessible to the public authorities concerned.

Note that 46,194 Euros were allocated for developing an operating system for monitoring enforcement procedures, and the project was implemented in 2011²⁰. However, the system was dismissed by the NUCEO on grounds that it did not meet legislative requirements governing the activities of court enforcement officers and was incompatible with other *e-government* programs.

On 15 February 2013, the MOJ announced that it would receive financial support from the Konrad Adenauer Foundation to develop an electronic information system for court enforcement

¹⁹ Report on the Execution of ECtHR Judgments by the Republic of Moldova, 1997-2012, Legal Resources Center in Moldova, 2012

²⁰ Estonian Development Cooperation Projects in 2011, <http://www.vm.ee/?q=en/node/11917>

officers and create a regulatory framework adequate for its operation²¹. However, the NUCEO claims they do not know how this activity will be carried out.

Of the 39 interviewed enforcement officers, 25 said they had heard about the need to develop the study, while 14 said they did not know anything about it. 12 court enforcement officers were involved in developing proposals for the study, while 27 did not participate in any way. In absence of a publicly available study, this action is assessed as not implemented.

Action 3.3.5 section 1. *Conducting a study on the effectiveness of the mechanism of recognition and enforcement of judgments issued by foreign courts as part of the specific area of intervention: Improving the mechanism of recognition and enforcement of judgments issued by foreign courts*

- Deadline: Quarter 3, 2012
- Responsible for implementation: MOJ, NUCEO, SCM
- Performance indicator: study conducted and recommendations formulated
- Respondents: 39 execution officers/bailiffs
- **Assessment: action not implemented**

The action is assessed as not implemented, because only an analysis of the mechanism of recognition of foreign arbitration decisions (see Action 3.3.5 section 2) was conducted. There is no comprehensive study of all decisions, including judgments on criminal and civil matters. At the same time, only 25 out of 39 court enforcement officers have heard about the study development, while 14 said they did not know anything about that. Nine enforcement officers were involved in drafting proposals, and 30 did not participate in any way.

Group II. Development of Recommendations and Training Curricula

Action 3.1.1 section 4. *Developing cost recovery mechanisms for state-guaranteed legal aid within the specific area of intervention: Strengthening the organization and administration of the state-guaranteed legal aid system*

- Deadline: Quarter 4, 2012
- Responsible institution: MOJ, NHSGLA
- Performance indicator: WG created; draft amendments to the legal framework developed and submitted to the Government
- **Assessment: action not implemented**

The action was due for completion in the fourth quarter of 2012. A working group was established by Ministerial Order No.541 of 10 October 2012 to develop a cost recovery mechanism for the state-guaranteed legal aid. With the support of the Soros Foundation-Moldova, NHSGLA was set to hire experts in February 2013, so that in March the study could be developed. Note that NHSGLA failed to hire experts on time, and the deadline for submission of tenders was extended until the end of March 2013 (http://cnaigs.md/ro/noutati-si-anunturi/detalii-stire/news/prelungirea_concursului_de_selectare_a_expertilor_pentru_elaborarea_studiilor_in_domeniul_sistemul.html). Given the MOJ prerogatives and the fact that the Ministry was assigned

21 Konrad Adenauer Foundation provides support for designing an electronic information system for court enforcement officers <http://justice.gov.md/libview.php?l=ro&idc=4&id=1304>

as the responsible institution in this respect, the action was assessed as not implemented, as no information on the current stage of implementation of the action was presented at the WG meeting of 8 April 2013.

Action 3.1.2 section 1. *Revise the criteria for selecting lawyers to provide qualified state-guaranteed legal aid and ensuring transparency in the selection of lawyers (draft amendment to the Regulation on the competition to select lawyers to provide qualified state-guaranteed legal aid) within the specific area of intervention: Strengthening the capacity of organization and administration of the state-guaranteed legal aid system*

- Deadline: Quarter 4, 2012
- Responsible for implementation: NHSGLA, Bar Association
- Performance indicators: The draft amendment to the Regulation on the competition to select lawyers to provide qualified state-guaranteed legal aid
- Respondents: 8 people
- **Assessment: action not implemented**

Just as Action 3.1.1.4, Action 1.3.2 section 1 could not be completed to time. On 16 July 2012, the NHSGLA adopted Resolution No.8 establishing a working group for revising the criteria for selecting lawyers to provide state-guaranteed legal aid. At the same time, the Soros Foundation hired an expert to conduct a study on this subject. According to the NHSGLA, the study is in the final stage, and the NHSGLA gathered sufficient relevant information for the completion of the study and the project in whole. The action was partially implemented, and the National Bar Association gave its opinion on it. An assessment of the action will be provided in the second quarter of 2013.

In connection with this action, four coordinators of regional bar associations and four lawyers from these Bars were interviewed. Six of the eight were aware of the document; the same number was involved in drafting recommendations/training curricula.

Group III. Improving the Legal Framework and Drafting Bills and Regulations

Action 3.2.1 section 2. *Developing amendments to Law No.113 of 17 June 2010 on Court Enforcement Officers and Execution Code No.443-XV of 24 December 2004 within the specific area of intervention: Encouraging capacity building of representatives of justice system related professions within professional unions, with particular emphasis on management skills*

- Deadline: Quarter 4, 2012
- Responsible for implementation: MOJ, NUCEO
- Performance indicator: bill prepared and submitted to the Government for approval
- **Assessment: action not implemented**

During the reporting period, the MOJ has taken steps to finalize the bill; however, NUCEO noted that the process was not transparent and that, often, NUCEO opinions were ignored.

Action 3.2.1 section 4. *Drafting a new bill on notaries within the specific area of intervention: Encouraging capacity building of representatives of justice system related professions within professional unions, with particular emphasis on management skills*

- Deadline: Quarter 4, 2012
- Responsible for implementation: MOJ
- Performance indicator: WG formed; bill prepared and submitted to the Government for consideration
- **Assessment: action not implemented**

Although the action was extensively debated on during the course of 2012, no progress was reported in the first quarter of 2013, although it was included on the agenda of the meeting of 8 April. Despite the opinion of professional associations of notaries that drafts should be developed in compliance with the JSRS Action Plan, WG III accepted the MOJ proposal to develop three bills: *1.Law on the organization of notary activity; 2.Law on notarial procedure; and 3.Law on Notary Fees.*

Only the first bill, on notary activity, was subjected to public debates in Quarter 1 of 2013, while the second and third bills were not publicly discussed.

Action 3.3.1 section 2. *Drafting amendments to the legislation to eliminate the deficiencies in the enforcement of judgments within the specific area of intervention: Encouraging capacity building of representatives of justice system related professions within professional unions, with particular emphasis on management skills*

- Deadline: Quarter 4, 2012
- Responsible for implementation: MOJ, NUCEO
- Performance indicator: draft amendments to the regulatory framework developed and submitted to the Government
- **Assessment: action not implemented**

This action also illustrates the issues in the relation between the MOJ and NUCEO. The two institutions have divergent views on the challenges in this field. NUCEO developed and submitted to the MOJ a draft amendment to the legal framework back in 2011 and, in their opinion, the proposals were not taken into account. Furthermore, the title of the action leaves the impression that it should reflect the interests of those who are directly involved in the enforcement of court judgments. Depending on the situation, it would be appropriate to conduct an analysis of challenges, which may serve as a basis for proposals. We note that NUCEO has not published any reports outlining these challenges.

Action 3.3.1 section 3. *Develop a Regulation on the execution of ECtHR judgments within the specific area of intervention: Impact assessment of the current regulatory framework on the execution of judgments and the mechanism for implementing these judgments, including ECtHR decisions*

- Deadline: Quarter 4, 2012
- Responsible for implementation: MOJ, Ministry of Finance, NUCEO
- Performance indicator: regulation drafted and submitted to the Government for examination
- **Assessment: action not implemented**

This action, too, raises questions both in terms of content and of proposed implementation. Thus, according to the Action Plan, a draft Regulation was to be developed and sent to the

Government for consideration. However, the European Convention already provides a system of enforcement of its judgments, which is valid in all the countries that have ratified the Convention. A Regulation is inferior to a law, it is approved by the Government and is developed based on current, significantly altered, legislation, and in line with the reform of the system of examination and enforcement of ECtHR judgments. On the other hand, in the reference period, several proposals in this regard were produced by MPs, who are subjects of legislative initiative.

Action 3.3.2 section 2. *Drafting amendments to the legal framework to strengthen the institutional and functional capacity of the Licensing Commission and the Disciplinary Board within the specific area of intervention: Institutional and functional strengthening of new system of private enforcement officers/bailiffs*

- Deadline: Quarter 4, 2012
- Responsible for implementation: MOJ, NUCEO
- Performance indicator: draft law prepared and submitted to the Government
- **Assessment: action not implemented**

During the reporting period, the MOJ has taken measures to finalize the bill. However, NUCEO reported that the authors' work was not transparent and NUCEO opinions were ignored repeatedly.

Action 3.3.3 section 2. *Drafting amendments to the legislation to eliminate deficiencies in information management and communication system, including in respect to ensuring access to databases within the specific area of intervention: Ensuring observance of reasonable deadlines for the execution of judgments*

- Deadline: Quarter 4, 2012
- Responsible for implementation: MOJ, NUCEO, authorities administering the databases
- Performance indicator: draft amendments to the regulatory framework developed and submitted to the Government
- **Assessment: action not implemented**

With regard to this action, it should be noted that MOJ and NUCEO have not reached a consensus on the core structure of the database and of the agency that would manage the process.

This action has to be preceded by Action 3.3.3 section 1 - *Conducting a study to determine the deficiencies in the information and communication management system that have an impact on the enforcement of judgments* (see details above).

CHAPTER IV

ASSESSMENT OF IMPLEMENTATION OF ACTIVITIES UNDER PILLAR IV

Institutional capacity. During the first quarter of 2013, the Working Group for monitoring the implementation of Pillar IV of the JSRS met in two sessions, on 12 February and 22 March. The WG meetings were attended by a majority of members with the right to vote. The main topics of discussion were the Plan of activities for 2013, actions that were due in Quarter 1 of 2013, and those that remained unfulfilled in 2012. We state with regret that, over one month after the second meeting, and more that two months and a half after the first one, the minutes of the meetings have not yet been posted on the website dedicated to reform.

ACTIONS OVERDUE SINCE 2012

Group I. Studies and Needs Assessment Examining Current Practices. Proposing Recommendations for Reform

Action 4.1.5 section 1. *Conducting a study on tools for the prevention of interference in the work of justice and prevention of corruptible behavior*

- Deadline: Quarter 4, 2012
- Responsible for implementation: MOJ, Center for Combating Economic Crimes and Corruption/National Anti-Corruption Center
- Performance indicator: study conducted and recommendations formulated
- **Assessment: action not implemented**

The study is currently developed by the Center for Analysis and Prevention of Corruption; it will be finalized at the end of May 2013.

Specific area of intervention 4.3.2: Development and application of measures of encouragement of judicial actors to promote a righteous behavior and develop a culture of intolerance towards corruption

Action 4.3.2 section 1: *Conduct a study on the voluntary polygraph testing of judicial actors*

- Deadline: Quarter 4, 2012
- Responsible for implementation: Center for Combating Economic Crimes and Corruption/National Anti-Corruption Center, SCM, PGO, MOI
- Performance indicator: study conducted and recommendations formulated
- **Assessment: action not implemented**

The study is currently developed by the Center for Analysis and Prevention of Corruption; it will be finalized at the end of May 2013.

Specific area of intervention 4.3.4: Publication and publicizing of court decisions condemning judicial actors for acts of corruption

Action 4.3.4 section 1. *Conducting a study on the opportunity to change of the legal framework regarding the publication and publicizing of court decisions condemning judicial actors for acts of corruption*

- Deadline: Quarter 4, 2012
- Responsible for implementation: MOJ, SCM
- Performance indicators: 1. study conducted and recommendations formulated; 2. bill drafted and submitted to the Government
- **Assessment: action not implemented**

This action remained unfulfilled at the time of writing this report. The monitoring of court websites shows that they are not yet adapted to publishing court decisions convicting justice officials for corruption, and highlighting these judgments. On the other hand, some of the judges interviewed said they would like to publish such judgments on their websites, but that, at this moment, there are no decisions to publish.

Group III. Improving the Legal Framework and Drafting Bills and Regulations

Specific area of intervention 4.1.1: A significant raise in wages of judicial actors and simplification of criteria for calculating salaries

Action 4.1.1 section 1. *Changing the regulatory framework to simplify the procedures for calculating wages, and re-evaluation of social guarantees of justice sector actors*

- Deadline: Quarter 4, 2012
- Responsible for implementation: MOJ, Ministry of Finance, Ministry of Labor, Social Protection and Family
- Performance indicator: bill drafted and submitted to the Government for examination
- **Assessment: action not implemented**

This action can be considered partially implemented since a bill was registered in Parliament on 18 December 2012 (see <http://www.parlament.md/ProcesulLegislativ/Proiectedeacteleghislativ/tabid/61/LegislativId/1514/Default.aspx>). However, the document covers only the judges, and not the other actors in the justice sector.

We believe that the reports developed by monitoring group should be more explicit about the next steps necessary to implement this action.

At the same time, we must mention that an analytical and well documented report on the need to draft a bill to provide adequate remuneration to prosecutors in association to the remuneration of judges, in accordance with international documents and existing best practices in advanced European democracies in Europe, was developed and published on the website of the Ministry of Justice²².

²² <http://www.justice.gov.md/pageview.php?l=ro&idc=275> (as seen on 4 May 2012)

CHAPTER V

ASSESSMENT OF IMPLEMENTATION OF ACTIVITIES UNDER PILLAR V

Institutional capacity. During the first quarter of 2013, Working Group V gathered in two meetings, on 7 February and 14 March. Only one of meetings was held with a voting quorum. According to meeting agendas and minutes, the main topics of discussion referred to the implementation of actions overdue since 2012 and actions due in Quarter 1 of 2013.

ACTIONS OVERDUE SINCE 2012

Group I. Studies and Needs Assessments Examining Current Practices. Proposing Recommendations for Reform

Specific area of intervention 5.1.1: Taking over examination of economic cases by the courts of common law, including ensuring specialization of judges in these types of cases

Action 1. *Conduct a study of statistical data on:*

- a) *the number of applications for economic cases in courts in the vicinity of the litigants' headquarters (residence);*
- b) *the number of businesses registered in the administrative-territorial units that may be involved in economic cases*

- Deadline: Quarter 3, 2012
- Responsible for implementation: MOJ, SCM, National Bureau of Statistics
- Performance indicator: study conducted and recommendations formulated
- **Assessment: action not implemented**

The deadline for implementing this action expired on 30 September 2012. According to reports presented during WG meetings, the MOJ lacks the funds to develop this study, and the needed foreign assistance has not been identified yet.

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

Action 1. *Conducting studies on the functioning of the mediation in specific areas (family, civil and commercial disputes, labor, administrative, consumer rights disputes) and on the opportunity of developing a system of community mediation and enhancing the institution of arbitration*

- Deadline: Quarter 4, 2012
- Responsible for implementation: MOJ, Ministry of Labor, Social Protection and Family, MOE, Board of Mediation, SCM, Chamber of Commerce and Industry
- Performance indicators: studies conducted and recommendations formulated
- **Assessment: action not implemented**

This action was due for completion on 31 December 2012. Data presented in WG meetings show that this action has not been implemented. According to the MOJ and the Ministry's Plan of activities for 2013²³, the Mediation Council was assigned responsibility for this action, and the deadline was postponed to 30 December 30 2013.

On the other hand, at the end of 2012, a study was published on the MOJ website²⁴ on the *assessment of the national legal framework on arbitration*, developed, as part of the implementation of Action 5.1.2 section 1 of the JSRS Action Plan, in order to identify international and domestic legal instruments in the field of arbitration and to determine the objectives of strengthening and improving the legal framework for the functional and effective use of arbitration as an alternative litigation method. Nevertheless, this study cannot be treated as an instrument to promote mediation in specific areas of intervention because it refers solely to relevant aspects of national and international standards.

Specific area of intervention 5.3.1: Modernization/Upgrade of the electronic business records system

Action 1. *Conducting a study on the methods of modernizing the system of electronic recording of economic entities*

- Deadline: Quarter 4, 2012
- Responsible for implementation: E-Governance Center, MOJ, MOE, Ministry of Information and Communications Technology
- Performance indicator: study conducted and recommendations formulated
- **Assessment: action not implemented**

The implementation of this action was due by 31 December 2012. According to information provided in WG meetings, the MOJ will contract an expert to develop the study. The deadline was extended to June-July 2013.

Promo-LEX monitors conducted field interviews to check the extent to which relevant actors in regions know about the reforms carried out at the national level, in this case, the study on the ways to modernize the system of electronic recording of economic entities. A total of 34 district level economists and tax collection experts were interviewed. We note with regret that the respondents had mixed or confused certain aspects and studies.

Thus, 20 out of 34 interviewed experts said they were aware of the findings and recommendations of the study, although it has not yet been developed. Only 14 specialists admitted that they were not aware of such a study. Promo-LEX believes that this situation may be interpreted as follows: district officials are *de facto* aware of the Justice Sector Reform Strategy, but they are ashamed to admit that they do not know some of its results or products. However, it is possible that many studies and analyses of the subject in question are discussed among professionals and the respondents may have simply confused certain things.

Specific area of intervention 5.3.2: Creating a single electronic register of businesses and non-profit organizations

²³ www.justice.gov.md/public/files/Planul_de_activitate_al_Ministerului_Justitiei_pentru_anul_2013.doc, p.19

²⁴ www.justice.gov.md/public/files/file/studii/evaluarea_cadrului_legal_national_in_materie_de_arbitraj.doc

Action 1. *Conduct a study on the single register of businesses and non-profit organizations*

- Deadline: Quarter 4, 2012
- Responsible for implementation: e-Governance Center, MOJ, MOE, Ministry of Information and Communications Technology
- Performance indicator: study conducted and recommendations formulated
- **Assessment: action not implemented**

The deadline for implementing this action expired on 31 December 2012. According to information presented in WG meetings, the issues in this area will be addressed in the study mentioned in the previous Action, which is due in June-July 2013.

Promo-LEX monitors conducted field interviews to check the extent to which relevant actors in regions know about the reforms carried out at the national level, in this case, the study on the methods of modernizing the system of electronic recording of economic entities. A total of 34 district level economists and tax collection experts were interviewed. We note with regret that the respondents have confused certain aspects and studies.

Thus, 17 out of 34 interviewed experts said they were aware of the findings and recommendations of the study, although it has not yet been developed. The other 17 specialists interviewed admitted that they were not aware of the study. Promo-LEX believes that this situation may be interpreted as follows: district officials are *de facto* aware of the Justice Sector Reform Strategy, but they are ashamed to admit not knowing some of its results or products. However, it is possible that many studies and analyses of the subject in question are discussed among professionals, and the respondents may have confused certain things.

ACTIONS OVERDUE SINCE 2012

Group II. Improving the Legal Framework and Drafting Bills and Regulations

Specific area of intervention 5.2.1: Creating the legal framework necessary for the effective organization and functioning of administrators of insolvency proceedings

Action 2. *Creating the institutional framework for practicing the profession of authorized administrator*

- Deadline: Quarter 3, 2012
- Responsible for implementation: MOJ, MOE
- Performance indicator: structures for conducting the activities of authorized administrators established
- **Assessment: action not implemented**

The deadline for implementing this action expired on 30 September 2012. However, in October of last year, a bill on authorized administrators was submitted for public consultations and posted on: <http://particip.gov.md/proiectview.php?l=ro&idd=515>. The bill was not examined by the Government or sent to Parliament. According to the MOJ Plan of activities for 2013²⁵, the General Legislation Division and the Professions and Legal Services Division are responsible for completing this action by 30 September 2013.

25 www.justice.gov.md/public/files/Planul_de_activitate_al_Ministerului_Justitiei_pentru_anul_2013.doc, p.20

Specific area of intervention 5.2.1: Establishing the legal framework necessary for the effective organization and functioning of administrators of insolvency proceedings

Action 3. *Drafting legislation on admission to the profession of authorized administrator and oversight of these activities*

- Deadline: Quarter 4, 2012
- Responsible for implementation: MOJ
- Performance indicator: draft legislation developed and approved
- **Assessment: action not implemented**

The deadline for implementing this action expired on 30 September 2012. In October of last year, a bill on authorized administrators was submitted for public consultations and posted on: <http://particip.gov.md/proiectview.php?!=ro&idd=515>. The bill was not examined by the Government or sent to Parliament. According to the MOJ Plan of activities for 2013²⁶, the General Legislation Division and the Professions and Legal Services Division are responsible for completion of this action before 30 September 2013, along with the preparation of the general legal framework for the organization and operation of authorized administrators and development of draft laws and bylaws related to admission to the profession and oversight of this work.

26 www.justice.gov.md/public/files/Planul_de_activitate_al_Ministerului_Justitiei_pentru_anul_2013.doc, p.20

CHAPTER VI

ASSESSMENT OF IMPLEMENTATION OF ACTIVITIES UNDER PILLAR VI

Institutional capacity. Working Group VI met twice during the first quarter of 2013, on 8 February and 5 March 2013. Both meetings were held with a quorum. According to meeting agendas and minutes, the main topics of discussion were the ways to implement the actions provided for 2012 (and declared overdue), and actions to be completed in the first quarter of 2013. Unfortunately, WG minutes have not been posted on the MOJ website.

ACTIONS DUE BY: QUARTER 1, 2013

Group I. Studies and Needs Assessments Examining Current Practices. Proposing Recommendations for Reform

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

Action 1. *Develop a concept of probation that will contribute to community safety through effective rehabilitation of offenders into the society*

- Deadline: Quarter 1, 2013
- Responsible for implementation: MOJ
- Performance indicators: study conducted and recommendations formulated, concept developed and approved
- **Assessment: action not implemented**²⁷

Although the deadline for completing this action expired on 31 March 2013, the concept has not been made public. MOJ representatives said in an interview that they were aware that such a study had been prepared, and that the ministry's recommendations had been taken into account by the authors of the study. The interviewee did not provide details about the authors of the study or if the document was made public.

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

Action 2. *Optimization of the system of probation bodies*

- Deadline: Quarter 1, 2013
- Responsible for implementation: MOJ
- Performance indicator: probation service optimized, probation staffing schedule revised
- **Assessment: action not implemented**²⁸

²⁷ A draft Government Decree to implement the action was made public during the course of writing the present report (2 April 2013), but outside the reporting period.

²⁸ A draft Government Decree to implement the action was made public during the course of writing the present report, but outside the reporting period.

The action was due for completion on 31 March 2013. To date, no concept of optimizing the probation system has been made public by the MOJ.

ACTIONS OVERDUE SINCE 2012

Group II. Development of Methodological Recommendations and Training Curricula

Specific area of intervention 6.2.3: Enhancing management, investigation, research and analysis skills of the Center for Human Rights (CHRM) staff and the Ombudsman institution

Action 1. *Develop a curriculum for initial training of new employees, and a continuous training plan for the CHRM staff (including its representatives) to include the skills to identify and report human rights violations*

- Deadline: Quarter 4, 2012
- Responsible for implementation: CHRM, Academy of Public Administration, NIJ
- Performance indicator: curriculum and training plan developed
- **Assessment: action not implemented**

This action was set for completion by 31 December 2012. CHRM assessed the training needs, and a training curriculum will be completed by the NIJ. No decision on a **training curriculum** for the CHRM staff was published on the NIJ website²⁹ during the course of Quarter 1 of 2013. At the same time, the CHRM Action Plan for 2013³⁰ does not provide for staff training activities either. However, according to information presented in WG meetings by CHRM employees, certain funds were allocated for training for the year 2013, and the training process will start in the second quarter of the year.

Group III. Improving the Legal Framework and Drafting Bills and Regulations

Specific area of intervention 6.2.1: Institutional reform of the CHRM and the Ombudsman institution; changing the way of appointment and performance evaluation of the Ombudsman

Action 2. *Draft a new version of the Law on the Ombudsman Institution, draft amendments to the CHRM Regulation*

- Deadline: Quarter 4, 2012
- Responsible for implementation: MOJ, CHRM
- Performance indicator: draft legislation developed and submitted to the Government
- **Assessment: action not implemented**³¹

The deadline for completing this action expired on 31 December 2012. Nevertheless, active work continued during the first quarter of 2013, when these drafts were developed, and the civil society was asked for inputs and opinions. In late March, the drafts were to be finalized and submitted for public consultation.

29 <http://inj.md/node/545>.

30 http://ombudsman.md/sites/default/files/dezvoltare_strategica/plan_actiuni_2013_0.pdf

31 On 15 April 2013, outside the reporting period, an information on public consultations on the new draft Law on the Ombudsman was posted on the MOJ website (<http://www.particip.gov.md/proiectview.php?l=ro&idd=839>)

Specific area of intervention 6.3.2: Strengthening instruments of protection of child victims and witnesses of crime in criminal proceedings

Action 3. *Amending the legal framework to grant the right to state-guaranteed legal aid to child victims of crime*

- Deadline: Quarter 4, 2012
- Responsible for implementation: MOJ, NHSGLA
- Performance indicator: bill drafted and submitted for examination to the Government
- **Assessment: action not implemented**

The deadline for implementing this action expired on 31 December 2012. Nevertheless, active work continued during the first quarter of 2013, when the bill was developed and finalized at the end of February. On 27 February 2013, the bill was posted online³² for public consultation. During the reporting period, there was no report on the results of the consultations, and the bill was not examined by the Government or in Parliament.

Specific area of intervention 6.4.3: Strengthening the capacity of institutions responsible for deprivation of liberty (the police, penitentiaries, Center for Combating Economic Crimes and Corruption/National Anti-Corruption Center, psychiatric institutions, psycho-neurological boarding schools and asylums) to prevent and combat torture and ill-treatment

Action 2. *Create internal, independent disciplinary mechanisms for examination of allegations of acts of torture and other ill-treatments*

- Deadline: Quarter 4, 2012
- Responsible for implementation: PGO, MOJ, MOI, Center for Combating Economic Crimes and Corruption/National Anti-Corruption Center
- Performance indicator: regulation developed, the number of complaints examined
- **Assessment: action not implemented**

The implementation of this action was due on 31 December 2012. The PGO prepared a study of the national legislation, based on which internal regulations of the partner institutions were to be developed. However, during the first quarter of 2013, such internal regulations that would establish mechanisms of independent review of torture-related complaints were not presented. Moreover, the websites of the institutions responsible for implementing the action did not contain any regulations, including internal ones, on the examination of such cases.

Specific area of intervention 6.4.3: Strengthening the capacity of institutions responsible for deprivation of liberty (the police, penitentiaries, Center for Combating Economic Crimes and Corruption/National Anti-Corruption Center, psychiatric institutions, psycho-neurological boarding schools and asylums) to prevent and combat torture and ill-treatment

Action 4. *Draft amendments to the regulatory framework for the direct subordination of anti-torture prosecutors to the PGO*

- Deadline: Quarter 4, 2012
- Responsible for implementation: MOJ, PGO

32 <http://www.particip.gov.md/proiectview.php?l=ro&idd=770>

- Performance indicator: draft amendments to the regulatory framework prepared and submitted to the Government
- **Assessment: action not implemented**

This action was due for completion by 31 December 2012. However, by the end of Quarter 1, 2013, a bill amending the existing legal framework to subordinate anti-torture prosecutors to the PGO was not prepared. Moreover, there is no common vision within the Prosecution office on the need for such changes.

Specific area of intervention 6.4.4: Creating a standardized evidence system for cases of arrest or detention that is protected against manipulation

Action 1. *Develop a concept of an evidence system for cases of arrest or detention; if applicable, develop a bill to amend the legal framework*

- Deadline: Quarter 4, 2012
- Responsible for implementation: MOI, PGO, Center for Combating Economic Crimes and Corruption/National Anti-Corruption Center, Customs Service, MOJ
- Performance indicators: WG created; concept developed; if appropriate, draft amendments to the regulatory framework developed and submitted for examination to the Government
- **Assessment: action not implemented**

The deadline for finalizing this action expired on 31 December 2012. The working group involving members from all responsible institutions has not been created. On the other hand, some institutions (Department of Penitentiary Institutions) continued to work separately on developing internal record systems of detainees, but these have not been made public.

Specific area of intervention 6.4.5: Effective combating of torture and ill-treatment

Action 1. *Drafting amendments to the regulatory framework to ensure the professional independence of health workers assigned in detention facilities through their transfer to the Ministry of Health in order to grant probative value to the independent medical examination in cases of alleged torture, eliminate inconsistencies in the classification of actions as acts of torture, and to ensure harder sanctions for acts of torture correlated with the severity of these acts*

- Deadline: Quarter 4, 2012
- Responsible for implementation: MOJ, CHRM, PGO, MOI, Center for Combating Economic Crimes and Corruption/National Anti-Corruption Center, Customs Service, Ministry of Health
- Performance indicator: amendments to the regulatory framework drafted
- **Assessment: action not implemented**

This action was due for completion by 31 December 2012. However, things did not improve in Quarter 1, 2013. No draft amendments have been prepared in this regard.

Specific area of intervention 6.4.6: Create effective mechanisms for rehabilitation of victims of torture and ill-treatment

Action 1. *Develop the legal framework necessary for the rehabilitation of victims of torture and other ill-treatment*

- Deadline: Quarter 4, 2012
- Responsible for implementation: MOJ, Ministry of Labor, Social Protection and Family
- Performance indicator: bills prepared and submitted to the Government
- **Assessment: action not implemented**

This action was not completed by the deadline set on 31 December 2012 or by the end of Quarter 1 of 2013. In order to streamline the elaboration of bills, the Working Group suggested combining this action with Action 2.5.3 section 1, which, however, only provides for developing a study on the rehabilitation of victims. Note that Action 2.5.3.1 is not intended to develop amendments to the regulatory framework.

ACTIONS DUE BY: QUARTER 1, 2013

Group III. Improving the Legal Framework and Drafting Bills and Regulations

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

Action 2. *Drafting amendments to the legislation on probation*

- Deadline: Quarter 1, 2013
- Responsible for implementation: MOJ
- Performance indicator: bill drafted and submitted to the Government
- **Assessment: action not implemented**

This action was due for completion by 31 March 2013. During the reporting period, the bill had not been presented. At the same time, no such bill was found on the website of the responsible institution or on www.particip.gov.md.

ACTIONS OVERDUE SINCE 2012

Group IV. Development and Use of Awareness and Information Mechanisms

Specific area of intervention 6.2.3: Enhancing management, investigation, research and analysis skills of the CHRM staff and the Ombudsman institution

Action 3. *Changing the CHRM website to ensure its interactivity*

- Deadline: Quarter 4, 2012
- Responsible for implementation: CHRM
- Performance indicator: website changed
- **Assessment: action implemented**

This action was due to be completed on 31 December 2012, but the updated website was still in testing mode on that date. During the first quarter 2013, the action was completed and the website is available in normal mode.

ACTIONS DUE BY: QUARTER 1, 2013

Group IV. Development and Use of Awareness and Information Mechanisms

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

Action 1. *Develop a communication strategy with the public and partners of the probation service*

- Deadline: Quarter 1, 2013
- Responsible for implementation: MOJ
- Performance indicator: strategy developed and approved
- **Assessment: action not implemented**
- **Respondents: 34 probation officers**

This action was due for completion by 31 March 2013. A public communication strategy was not publicly available by that deadline. On the other hand, Promo-LEX monitors interviewed 34 probation officers, 31 of whom reported using a public communication strategy, and only 3 said they were not aware of the existence of such a strategy.

CHAPTER VII

ASSESSMENT OF IMPLEMENTATION OF ACTIVITIES UNDER PILLAR VII

Institutional capacity. During the first quarter of 2013, the Coordinating Group for the JSRS implementation met in one session, on 18 March. The main subjects on the agenda were the presentation of the 2012 Annual Report for JSRS Implementation, discussions on the the plan of activities for 2013, and the various issued faced by the Working Groups on different pillars.

ACTIONS OVERDUE SINCE 2012

Group I. Studies and Needs Assessments Examining Current Practices. Proposing Recommendations for Reform

Action 7.1.4 section 1. *Functional and structural analysis of every institution involved in the Justice Sector Reform process*

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

By the time of this report, this action is not fulfilled. Unfortunately, we find that the responsible institutions do not have sufficient capacity to undertake most of the analytical activities (development studies, analyses, etc.), and they become dependent on external support.

Specific area of intervention 7.2.3: Increase public access to legal acts (database)

Action 7.2.3 section 1. *Conduct a study on the public accessibility of (the database of) normative acts*

- Deadline: Quarter 2, 2012
- Responsible for implementation: MOJ, E-Governance Center
- Performance indicator: study developed and recommendations formulated
- **Assessment: action not implemented**

Group II. Development of Recommendations and Training Curricula

Specific area of intervention 7.2.2: Improve the process of legislative drafting to ensure stability, predictability and clarity of legislative acts

Action 7.2.2 section 4. *Developing a handbook on drafting laws and bylaws*

- Deadline: Quarter 4, 2012
- Responsible for implementation: MOJ
- Performance indicator: handbook developed
- **Assessment: action not implemented**

This action is closely related to the Action 7.2.2 section 3, and, respectively, could be achieved immediately after the approval of the relevant legislative amendments.

Group III. Improving the Legal Framework and Drafting Bills and Regulations

Specific area of intervention 7.2.2: Improve the process of legislative drafting to ensure stability, predictability and clarity of legislative acts

Action 7.2.2 section 2. *Drafting amendments to Law No.780-XV of 27 December 2001 on Legislative Acts and Law No.317-XV of 18 July 2003 on the Acts and Regulations of the Government and other Bodies of Central and Local Government to ensure the stability, predictability and clarity of the legal framework*

- Deadline: Quarter 2, 2012
- Responsible for implementation: MOJ
- Performance indicator: bill drafted and submitted to the Government
- **Assessment: action not implemented**

The bill on normative acts that unifies the Law on Legislative Acts and the Law on Acts and Regulations issued by the Government (...) was subjected to public discussion in December 2012. The new draft *Law on Normative Acts* provides a unified legal framework to the legal drafting process, while providing sufficient guarantees of efficiency, transparency and predictability of normative acts regardless of the issuing body³³.

The draft Law on Normative Acts was submitted for prior approval of all central government bodies, the Parliament Secretariat, and the State Chancellery. A large number of amendments were suggested during these consultations, and it was decided to incorporate them in the bill and submit it for repeated approval.

Action 7.2.2 section 3. *Developing the legal framework for ex-ante evaluation methodology*

- Deadline: Quarter 2, 2012
- Responsible for implementation: MOJ, State Chancellery
- Performance indicator: bill drafted and submitted to the Government
- **Assessment: action not implemented**

According to the information presented in the 2012 Annual Report for the JSRS implementation, these provisions are included in the bill for the implementation of the Action above; however, the current stage of preparation of the bill is unclear.

³³ <http://particip.gov.md/proiectview.php?!=ro&idd=479>

Capitolul VIII

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

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

To produce the charts enclosed hereinafter, the authors analyzed 354 questionnaires filled in by the participants in trials monitored by the network of local observers during the period 10 February - 30 March 2013.

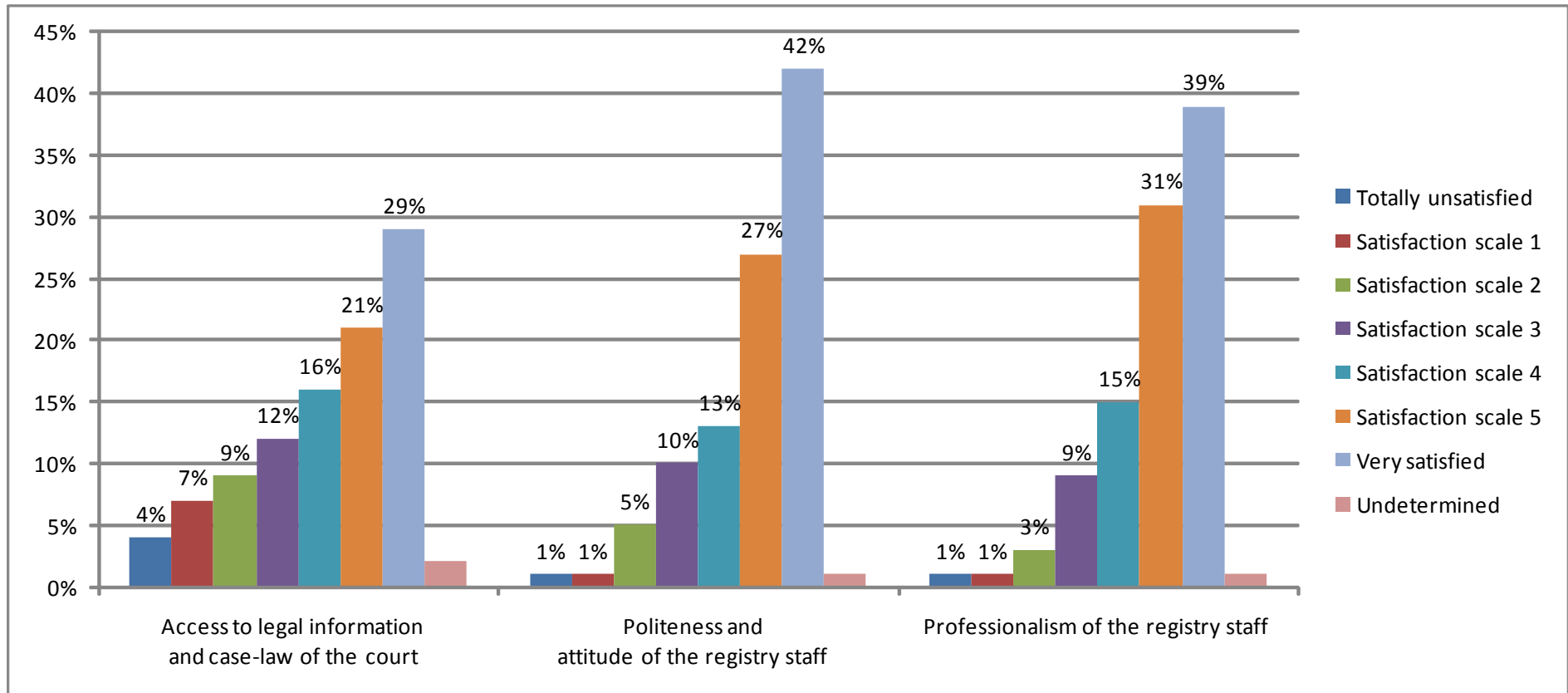
The survey aims at measuring perceptions of parties present at the court hearing and their representatives (not perceptions of the observer) of the act of justice, based on the following indicators (parameters):

- 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.**

The level of satisfaction was assessed on a scale of 0 to 6, where 0 means completely dissatisfied, and 6 - very satisfied. If the interviewee refused or failed to answer the questions, it was assessed as undecided/undetermined. For a comprehensive analysis of the data, we classified satisfaction levels 0 and 1 as completely dissatisfied, and levels 5 and 6 as fully satisfied. Levels 2-4 were judged to indicate an average level of satisfaction with the issues discussed.

The following categories of parties to trial were interviewed: Lawyers – 103, Prosecutors – 50, Applicants – 80, Respondents – 51, Defendants – 35, Injured parties – 26, Offender – 1, Official examiner – 1, Petitioner – 1, Intervener – 3, Representative – 2, Military prosecutor – 1.

1. Availability of Information and Transparency

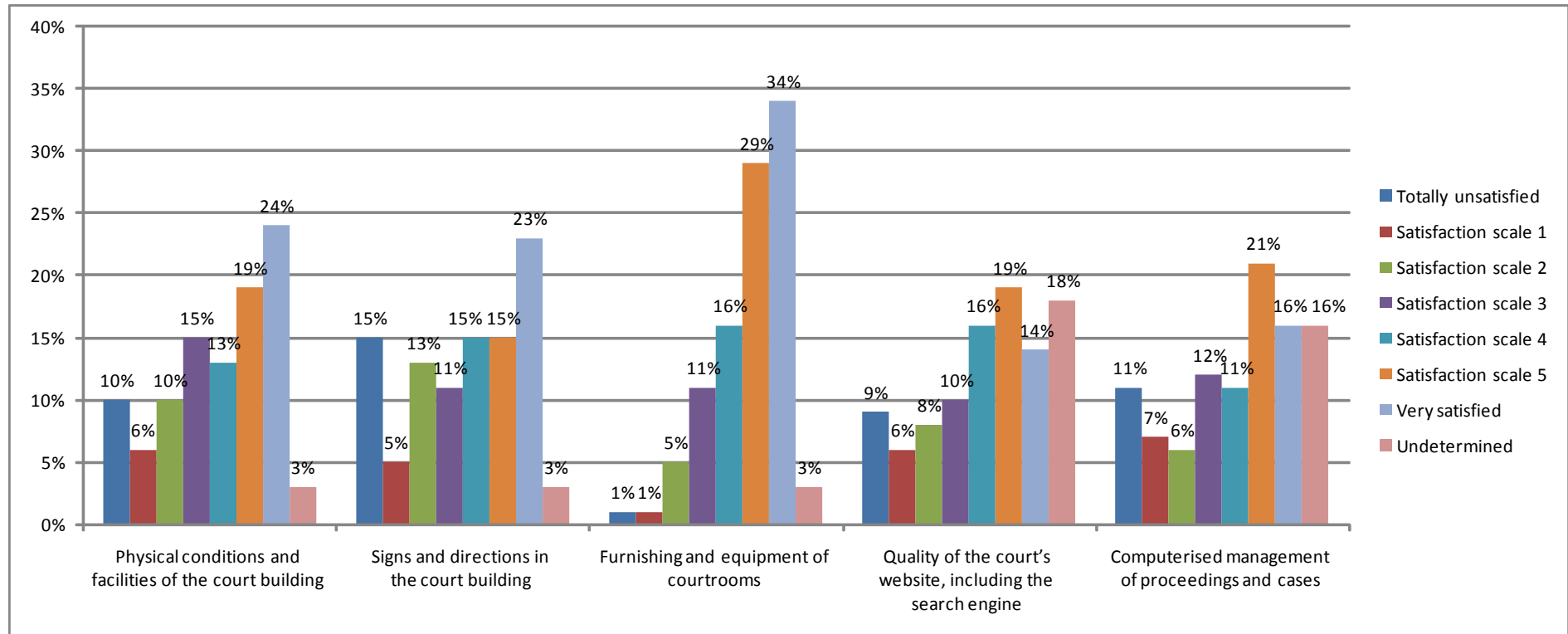


Note: With regard to the access to legal information and case-law (via brochures, flyers, etc.), of the total 354 respondents, 50% said they are fully satisfied, while 11% said they were completely dissatisfied, and 37% indicated an average level of satisfaction; only 2% of respondents were undecided/undetermined.

At the same time, on the politeness and attitude of the registry staff, 69% replied they were fully satisfied with the conduct of courts registry members, only 2% were completely unsatisfied, some 28% said they were averagely satisfied, and 1% of respondents were undecided.

A nearly identical dynamic is registered on the question regarding the professionalism of registrars: 70% of respondents were fully satisfied with their professionalism, only 2% were completely unsatisfied, some 27% said they were satisfied on average, and only 1% of the respondents were undecided.

2. Quality of Facilities and e-Justice



Note: Assessing the quality of court building facilities (access to premises for disabled persons, presence of chairs in the hall, existence of rooms for studying case materials, rooms for lawyers/prosecutors, toilets, etc.) out of 354 respondents, 43% said they were fully satisfied, while 16% said they were completely dissatisfied, some 38% of respondents said they were satisfied on average, and only 3% of respondents were undecided.

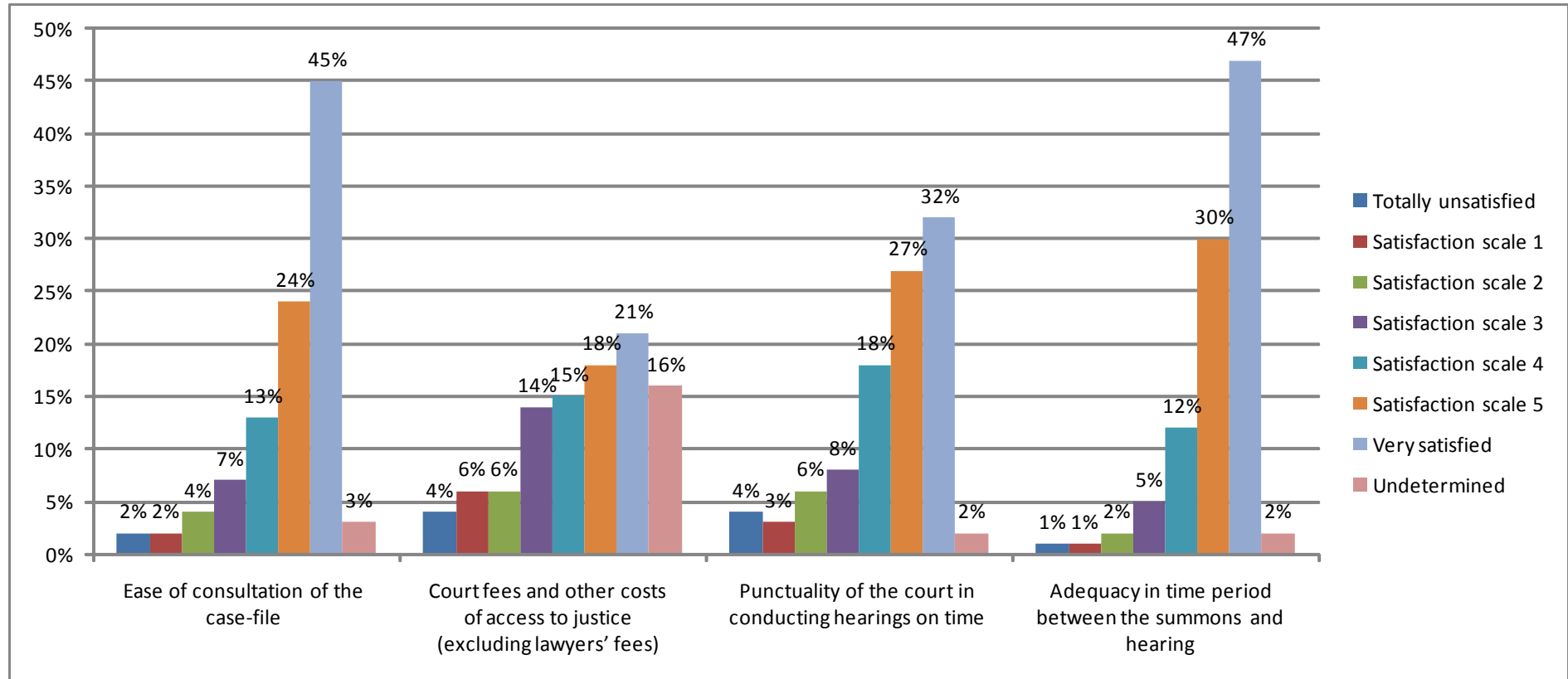
As for signs and directions in the court building, of 354 respondents 38% said they were fully satisfied, while 20% said they were completely dissatisfied; 39% of respondents reported average satisfaction, and 3% were undetermined.

The furnishing and equipment of the courtrooms were assessed as follows: 63% were fully satisfied, while 2% said they were completely dissatisfied, 32% of respondents said they were averagely satisfied, and 3% of respondents were undecided.

33% of the respondents were fully satisfied with the quality of the court's website, including the search engine, while 15% were totally unsatisfied; 34% were averagely satisfied, while 18% were undetermined.

Regarding the computerized management of proceedings and cases, including the functioning of an electronic case management system, 37% of respondents said they were fully satisfied, while 18% were completely dissatisfied, 29% were averagely satisfied, and some 16% of all participants were undetermined.

3. Access to Justice (in this particular case)



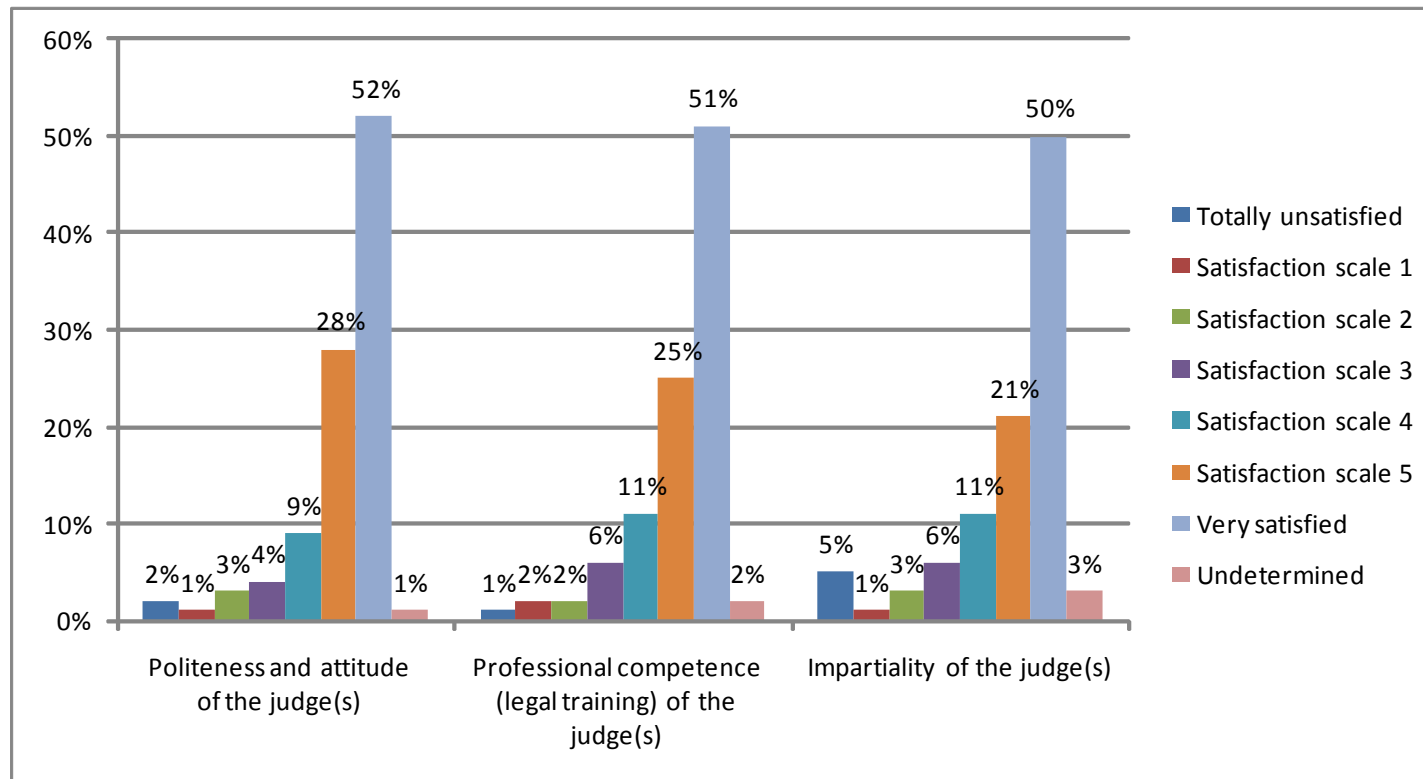
Note: With regard to access to justice, namely the availability of case materials, 69% of respondents said they were completely satisfied with the freedom to study the case-file, while only 4% said they were completely dissatisfied; 24% were somewhat satisfied, while 3% were undetermined.

Regarding their satisfaction with court fees and other costs (excluding lawyers' fees), 39% of the respondents were fully satisfied with the costs, while 10% were completely unsatisfied; 35% reported a medium level of satisfaction, while 16% were undetermined.

This is how respondents assessed the punctuality of conducting hearings as scheduled: 59% were fully satisfied, 7% were completely dissatisfied, 32% are averagely satisfied, while 2% said they were undetermined.

A similar dynamic can be observed in the assessment of the time period between the summons and the hearing (to allow the parties to prepare for trial). Thus, 77% of respondents said they were completely satisfied, while only 2% said they were completely dissatisfied with the allotted time, 19% were somewhat satisfied, and 2% were undetermined.

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

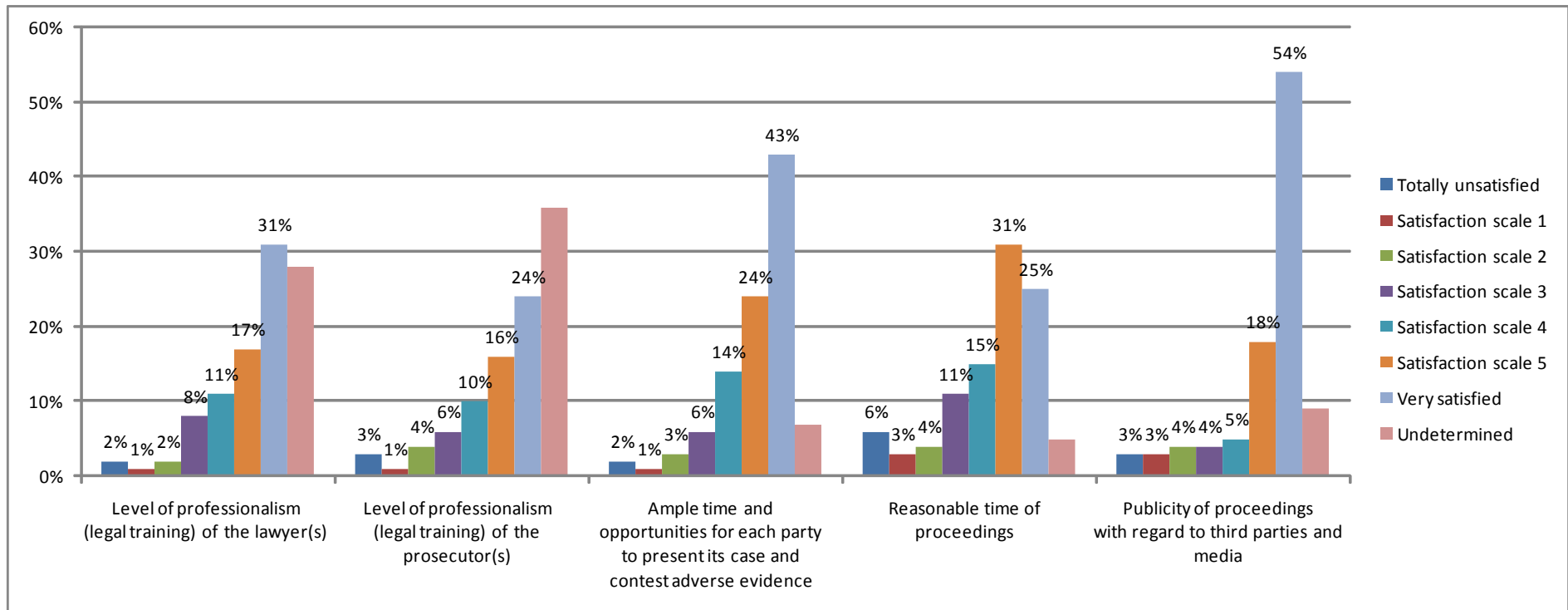


Note: Of the total of 354 respondents, 80% said they were completely satisfied with the politeness and attitude of judges, while 3% said they were completely dissatisfied, 16% were said they were averagely satisfied, while 1% were undecided.

The same dynamic is seen with reference to the professionalism and competence of judges: 76% of respondents were fully satisfied, while only 3% said they were completely dissatisfied, 19% reported an average level of satisfaction, and 2% were undetermined.

71% of those questioned said they were fully satisfied with the impartiality of judges, while 6% were completely unsatisfied, 20% showed average satisfaction, and 3% of respondents were undecided.

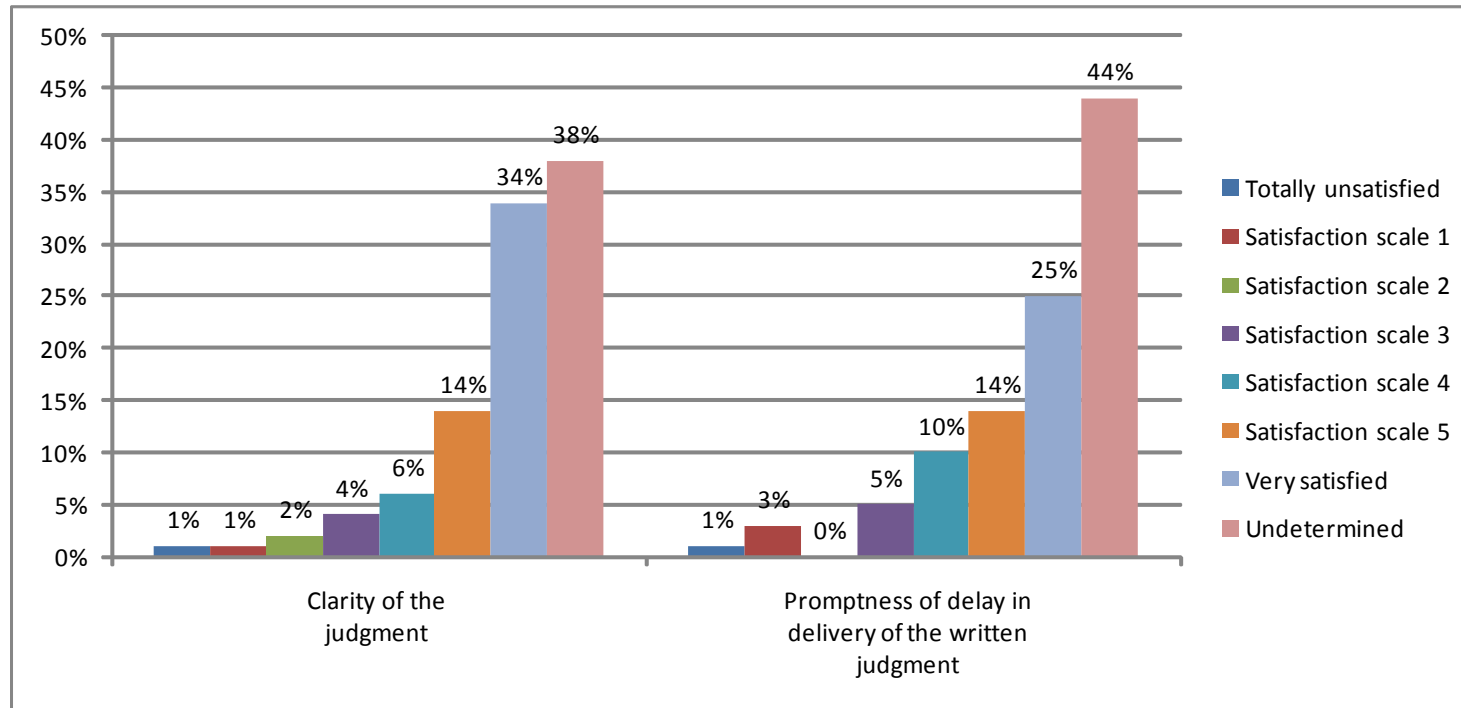
5. Fairness of Proceedings (in this particular case)



Note: Assessing the fairness of proceedings, respondents answered as follows:

- Regarding the professionalism and competence of lawyers: 48% of the respondents said they were fully satisfied, while 3% were completely unsatisfied, 36% were somewhat satisfied, and 29% were undecided.
- The prosecutor's professionalism and competence: 40% of respondents were fully satisfied, 4% were completely unsatisfied, 20% were averagely satisfied, and 36% were undecided.
- With reference to the question whether each party to the process had sufficient time and opportunities for presenting its arguments and contest adverse evidence, 67% said they were fully satisfied, while 3% were completely dissatisfied; 23% were averagely satisfied, and 7% were undecided.
- Assessing the reasonable duration of the proceedings: 56% of respondents were fully satisfied, while 9% were completely unsatisfied, 30% were averagely satisfied, and 5% were undetermined.
- On the publicity of the proceedings with regard to third parties and the media, 72% of the respondents said they were fully satisfied, 6% were completely unsatisfied, 13% were averagely satisfied, and 9% were undetermined.

6. Quality of Outcome of Proceedings (in this particular case; only if 1st instance judgment was pronounced)



Note: With regard to the “outcome of proceedings”, 48% of respondents said they were completely satisfied with the clarity of the court's decision (while not necessarily agreeing with the solution), and 2% said they were completely dissatisfied; 12% said they were averagely satisfied, and 38% of responses to this question were undetermined (not applicable).

As per promptness of delay in delivering the written judgment, 39% of respondents said they were fully satisfied, 4% were completely dissatisfied, 15% were averagely satisfied, and for 44% of respondents the situation was not applicable.

7. Proposals and Suggestions from Respondents

Most of the suggestions from the parties in the proceedings and their representatives referred to improving the technical conditions in courts, timely start of court hearings, absence of information about how cases are examined, raising the professionalism of judges, prosecutors and lawyers, and a better functioning of the court registry.

B. DIAGRAMS 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 10 February and 30 March 2013. The methodology of developing the diagrams consisted of entering the direct numerical values corresponding to each questionnaire response options (yes, no, undetermined/undecided, not applicable). The undetermined 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.

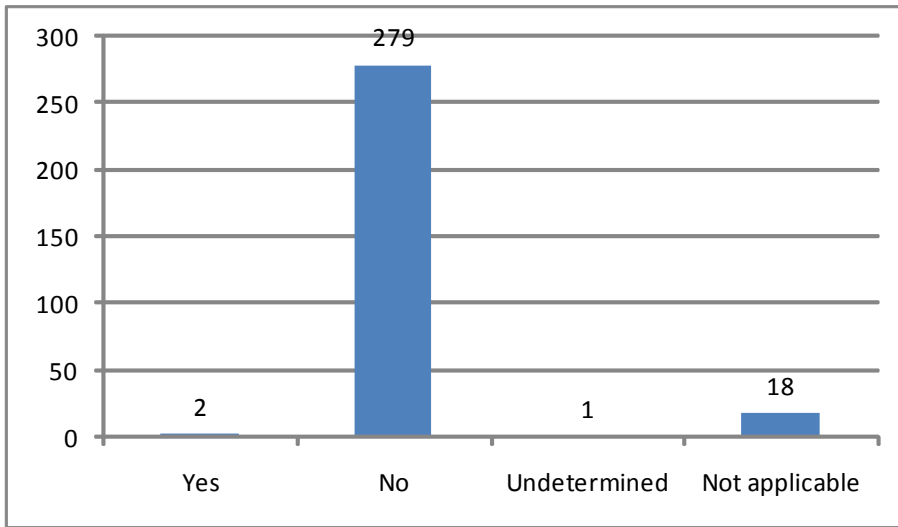
The results below arise from personal evaluation of the monitor during the observation of the court proceedings. Particular attention was paid to:

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.

1. Access to Justice and Equality

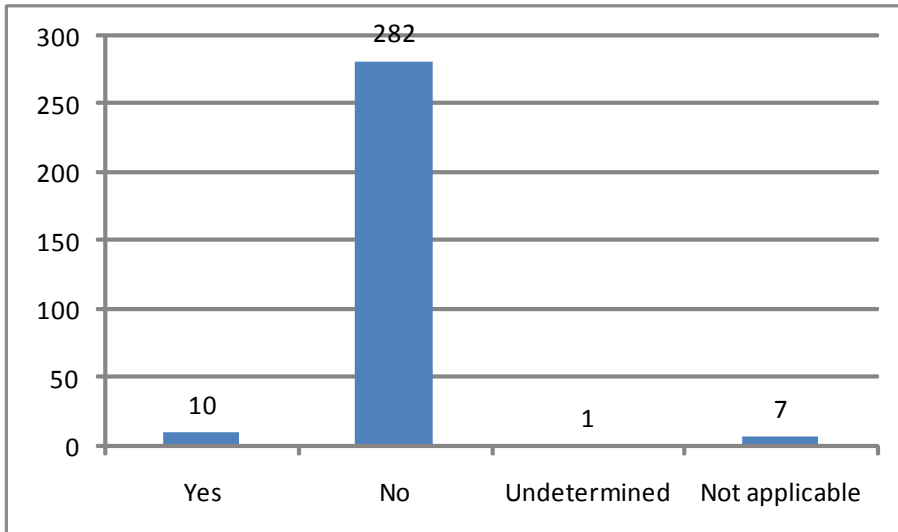
1. Were there any restrictions imposed on the ability to summon to court, or to submit claims or complaints in court?



Note: Of the 300 respondents, 279 opined that no restrictions had been imposed for submission of summons to court/complaints in court, while two respondents stated that such restrictions were imposed (one respondent was undecided, while in 18 cases the answer was not applicable).

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: Observers noted that, in one of the monitored cases, the judge showed some bias towards the representative of the representative of the defendant, expressing his attitude towards the dispute with a particular kind of behavior.

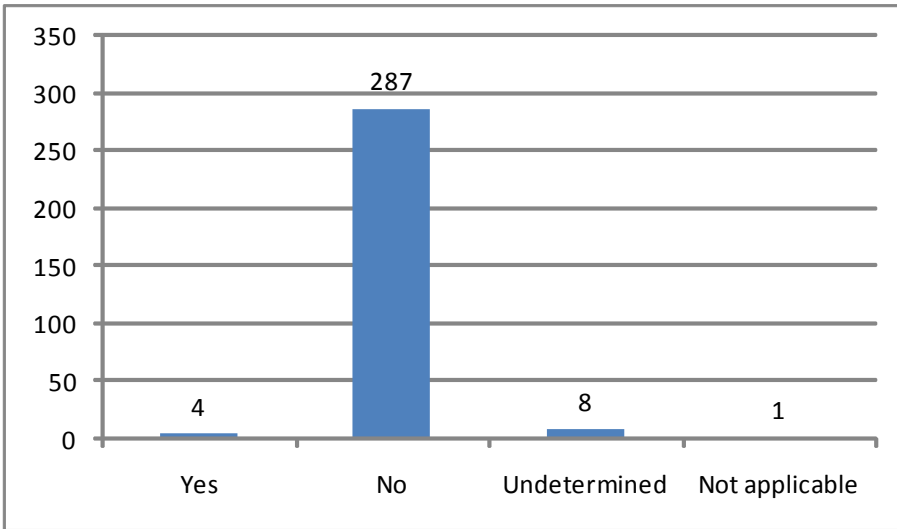
In another case, the observer reported that the judge's behavior was rough and negligent against the defendant. It should also be noted that the judge did not accept the presence of the observer at the hearing, although it had not

been declared closed, and the parties to trial had no objection to his presence in the room.

In another analyzed case, it was found that the court used offensive terms and phrases that made the respective party to trial uneasy and had a negative influence on the act of justice.

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: Observers monitoring the hearings noted that, in the nine cases when the court was biased (see diagram), the following reasons were observed:

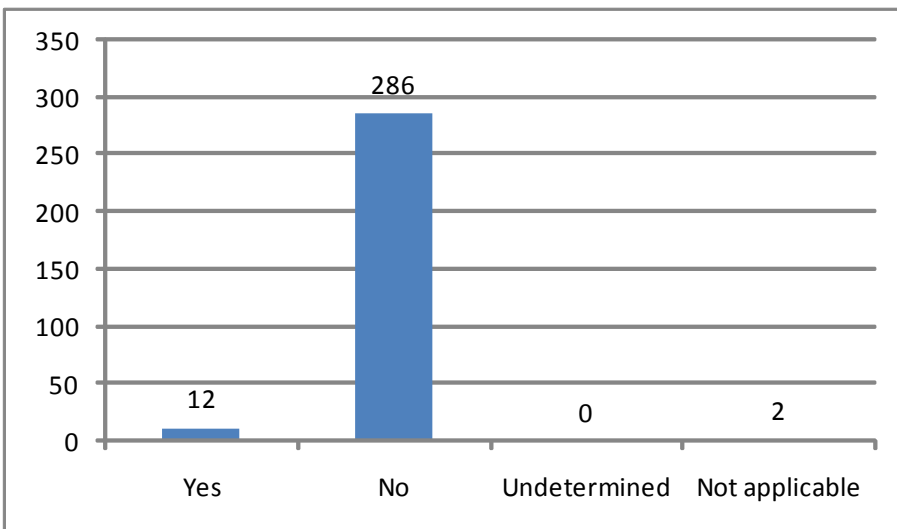
- the defendant demanded the judge’s recusal on the grounds that the applicant would have boasted in his village that the court would decide in his favor before the judgment was pronounced;
- the court did not announce the commencement of hearings, the judge invited the de-

fense counsel of one of the parties to the trial to his office, and prohibited the observer to attend the meeting; soon, the attorney left the judge’s office; the adverse party did not show up;

- the court uses offensive terms and phrases that make a party in trial uneasy;
- the court did not allow the applicant time to study additional materials to the case-file that had been introduced in the same hearing.

3. Publicity of Hearings

4. Did the court ask certain categories (media, public, observers, etc.) to leave the hearing?



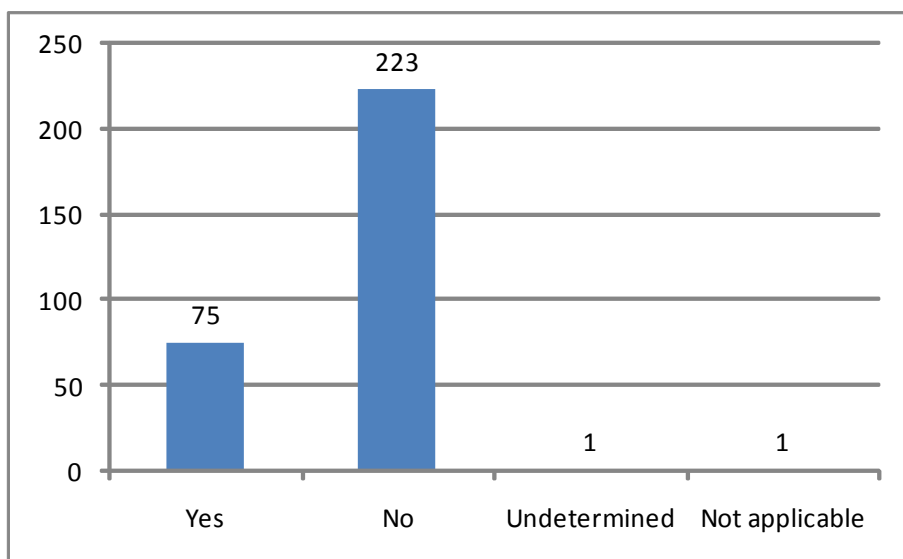
Note: Observers noted that the court requested some persons to leave the courtroom (12 cases according to the diagram) in the following circumstances:

- in two cases, the court asked minors, present in the hearing with their parents, to leave the room;
- an intern was asked to “take a walk” during the trial because there weren’t enough chairs in the judge’s office;
- the observer was informed that the hearing was declared closed;

• the court did not accept the presence of the observer, although the hearing had not been declared closed, and the parties in the trial had no objection to his presence;

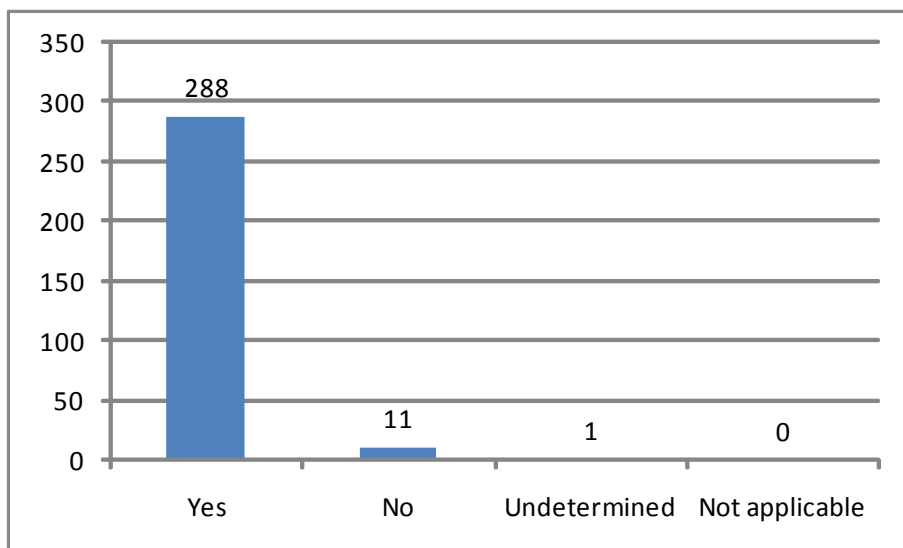
• the court deprived the monitor of the opportunity to attend the meeting, but when the monitor entered the judge’s office, he overheard a conversation between the judge and the counsel of one of the parties – this despite the fact that an announcement posted on the office door read that the access of parties in a trial to the judge’s office outside court hearings is prohibited.

5. Was the hearing held in a courtroom?



Note: Evidently, many courts do not have a sufficient number of meeting rooms to conduct multiple hearings simultaneously. The survey was not intended to determine whether the judge was able to convene the hearing in a courtroom. Regardless of circumstances, conducting hearings in judges’ offices, not in the courtroom, creates less-than-solemn conditions. Often, judges’ offices are not spacious enough, so that parties in the trial cannot seat at a table, take notes, or work with the file.

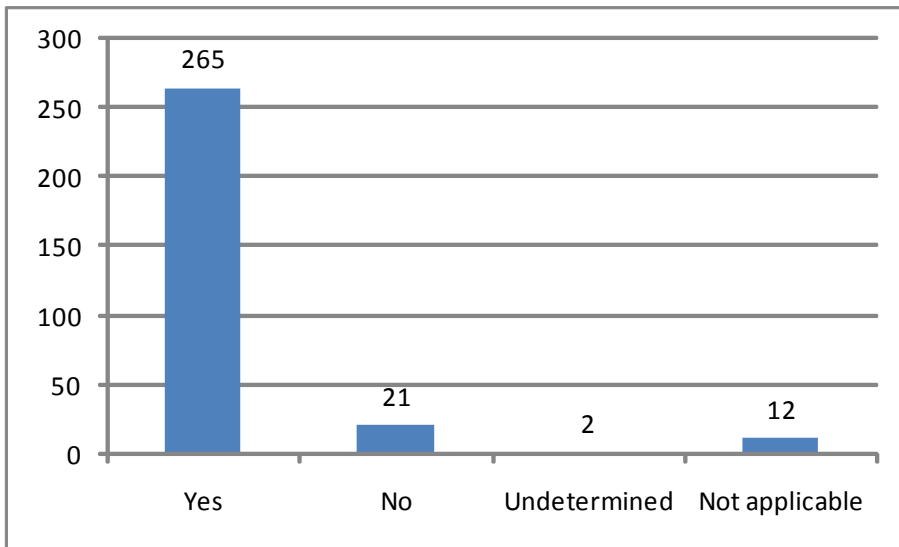
6. Was the roomsize adequate to accommodate all the participants in the case?



Note: Observers stated the following data on the availability of courtrooms:

- the hearing was attended only by one party to the trial; if all parties attended, the room did not have the capacity to provide seats to all;
- the office where the hearing was held was very small, of 10-12 sqm;
- several cases were examined consecutively in the same courtroom, which is not equipped to accommodate the entire audience,
- the judge’s office where the hearing was held lacked furniture, equipment, etc.;
- the judge’s office where the case was examined had fewer chairs than people present;
- the lawyer did not have a table to be able to work with the case file.

7. Was the courtroom equipped with the necessary furniture?

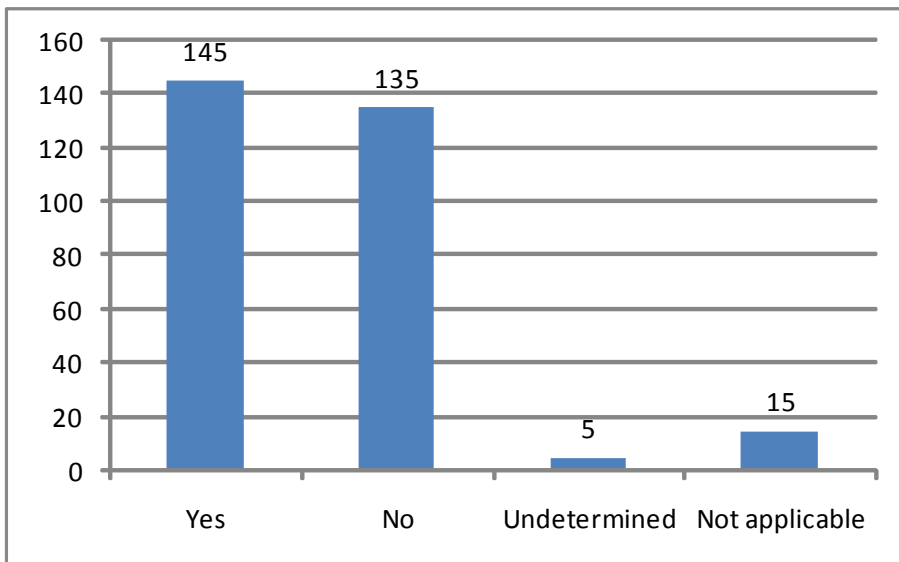


Note: Observers noted the following situations:

- there weren't tables for participants, not chairs (in many monitored courts);
- the room did not have a rostrum needed for witness testimonials, making the oath swearing uncomfortable;
- in the judge's office (of approx. 10 sq.m.) where the case was examined, there was no table for the judicial clerk; lawyers did not have a peg to leave their coats/ robes, some

judges had luxurious offices, while in others, the furnishing was in a precarious condition.

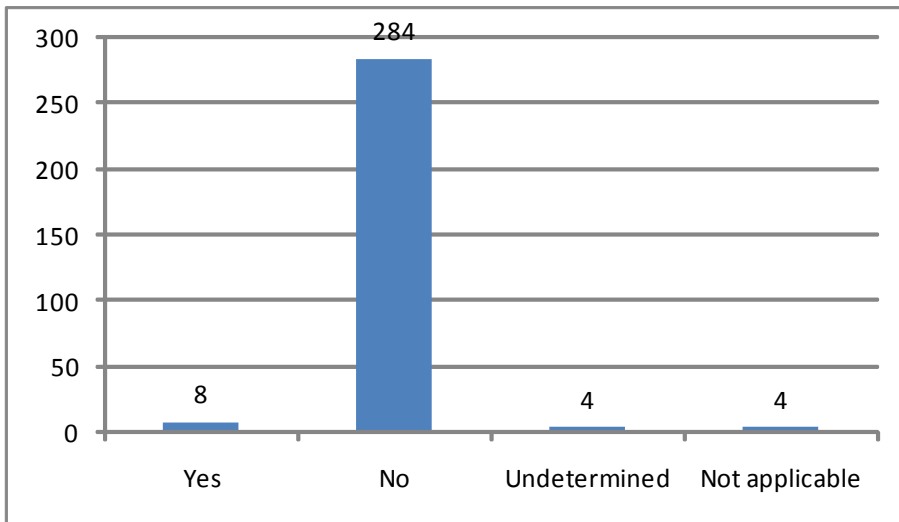
8. Was the court hearing audio-recorded?



Note: The diagram shows that only half of the monitored hearings were recorded. In 15 cases, the recording/non-recording was not announced, because the hearings had been delayed from the start. These data correspond to a recently released report CLRM, which states that six courts use a full recording system, 19 courts use a partial system of recording hearings, and other 25 courts don't use a recording system at all³⁴.

34 Report on the Assessment of Moldovan Courts, Legal Resources Center of Moldova, 2013, http://crjm.org/files/reports/Raportul_de_evaluare_a_instantelor_judecatoresti_din_RM_2012.pdf

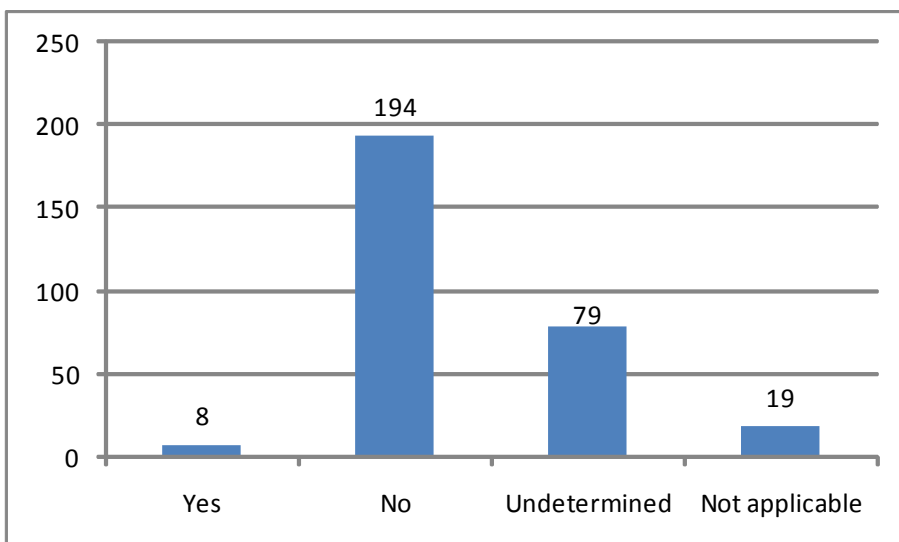
9. Was any person denied access to the courtroom?



Note: Out of the total number of respondents (300), 284 said no one was refused access to the courtroom, while eight said they were such cases (four of the respondents were undetermined, and in four cases, this was not applicable).

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)?



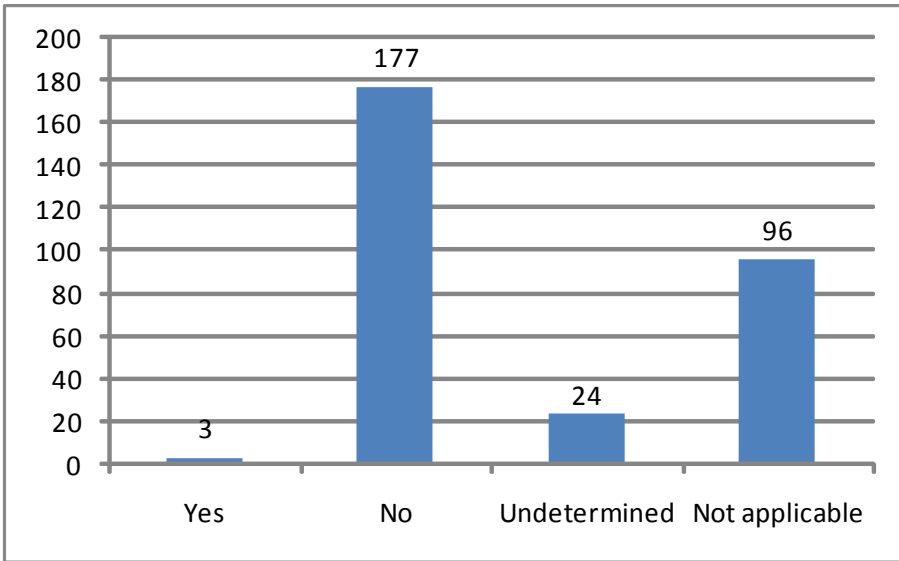
Note: Observers noted that the judge had a pre-determined attitude towards the guilt/innocence of the defendant in the following circumstances:

- the behavior of the judge and the tone with which (s)he addressed the defendant at the hearing judge suggested a pre-determined attitude;
- college members had a pre-determined position on the grounds that the meeting lasted only 10 minutes;
- there was insufficient evidence to establish the

defendant's guilt;

- the comments of the judge to the plaintiff on the plaintiff's claims to the defendant suggested that the judge believed the plaintiff was responsible for the prejudice suffered.

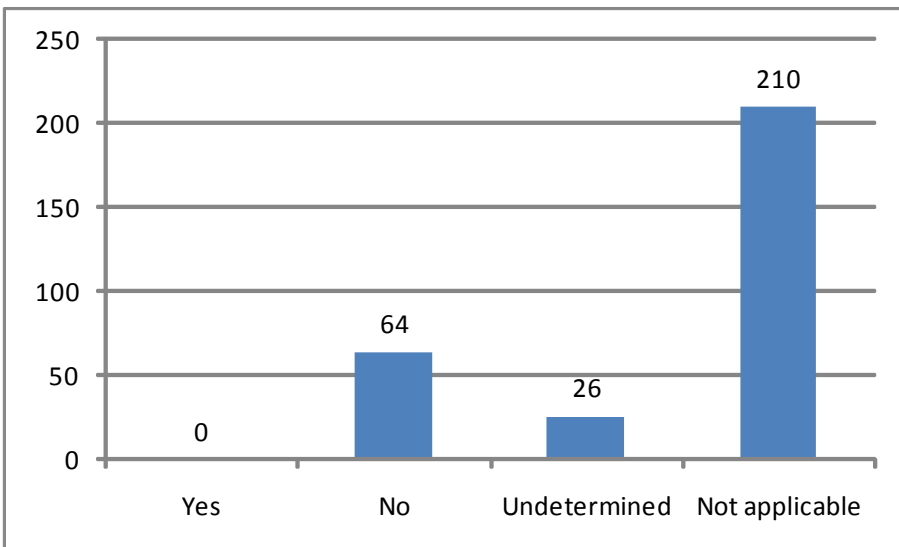
11. Was the defendant (offender) treated in any way such as to indicate that he is guilty (i.e. was he kept in handcuffs during the hearing, was he kept in a cage, etc.)?



Note: Observers noted the following circumstances:

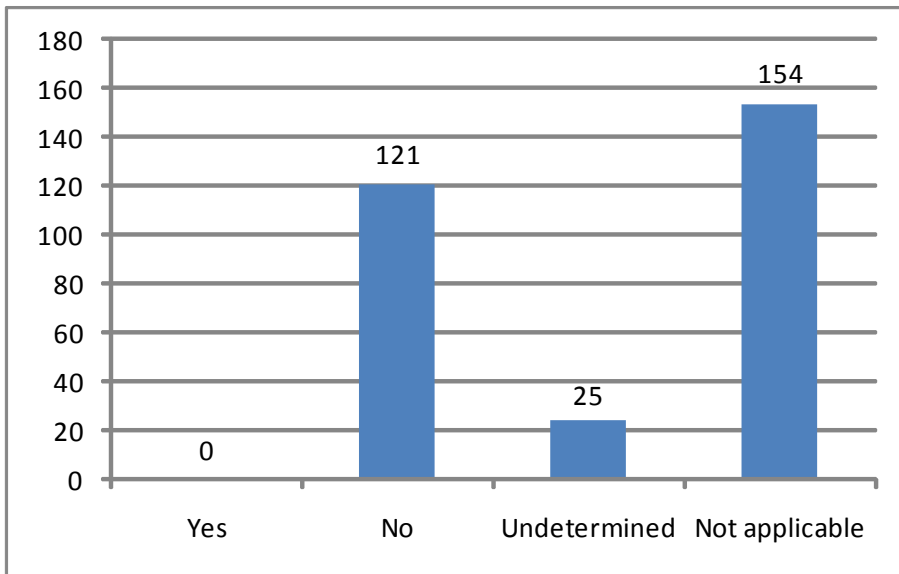
- the defendant was brought to the hearing in handcuffs and was supervised by prison guards who escorted him into court;
- the defendant was handcuffed, although he was accompanied by two guards;
- the defendant was not wearing handcuffs, but was supervised by two guards.

12. Did the news coverage of the case undermine the presumption of innocence and encouraged bias of judges against the defendant (offender)?



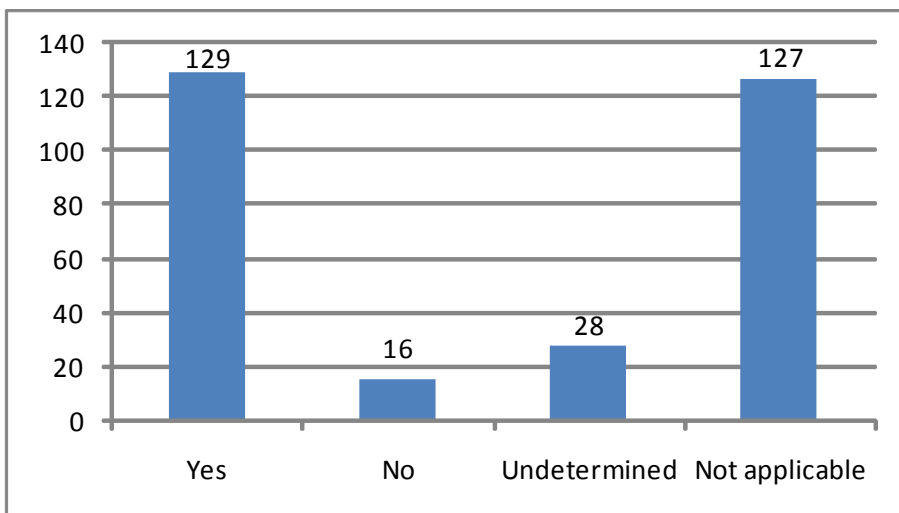
Note: Of the survey participants, 64 stated that media coverage of the case had not undermined the presumption of innocence or encouraged a biased treatment by the judges against the defendant; there were no instances claiming the contrary. 210 people said that this detail was not applicable.

13. Did any public authority make an unequivocal declaratio on the defendant (offender)'s guilt before his conviction?



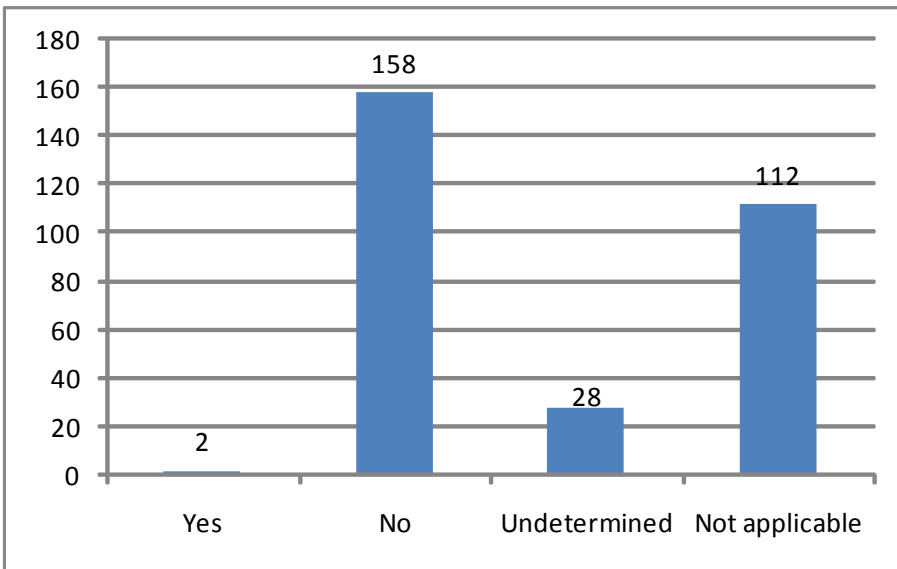
Note: 121 of the respondents stated that no public authority has made statements about the defendant's guilt before his conviction, while 179 respondents did not provide any details, meaning they were undecided or this detail did not apply to them.

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: Most of the respondents - 129 - said the defendant (in their case) had the right to not self-incriminate, and the judge explained to him the right not to testify against himself, while 16 said the opposite; 155 respondents were offered no details on this aspect.

15. Was the defendant compelled to give testimony in court?

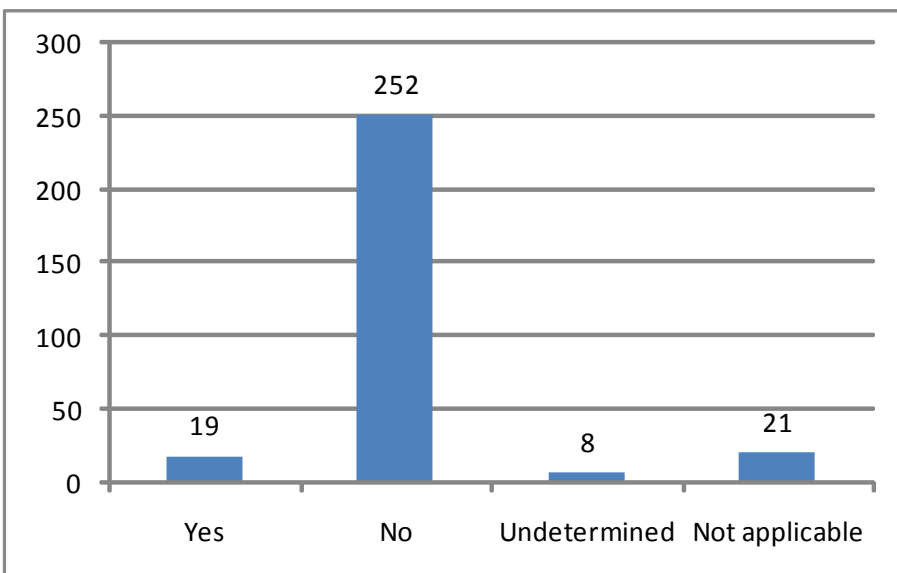


Note: In two of the 300 cases analyzed, the respondents stated that the defendant was compelled to testify in court, in 158 of the cases, observers said that did not happen, and in 140 cases the observers did not provide details, which meant they were undetermined or the question was not applicable to the case.

5. Adversarial Principle, Equality of Arms and Defense Rights

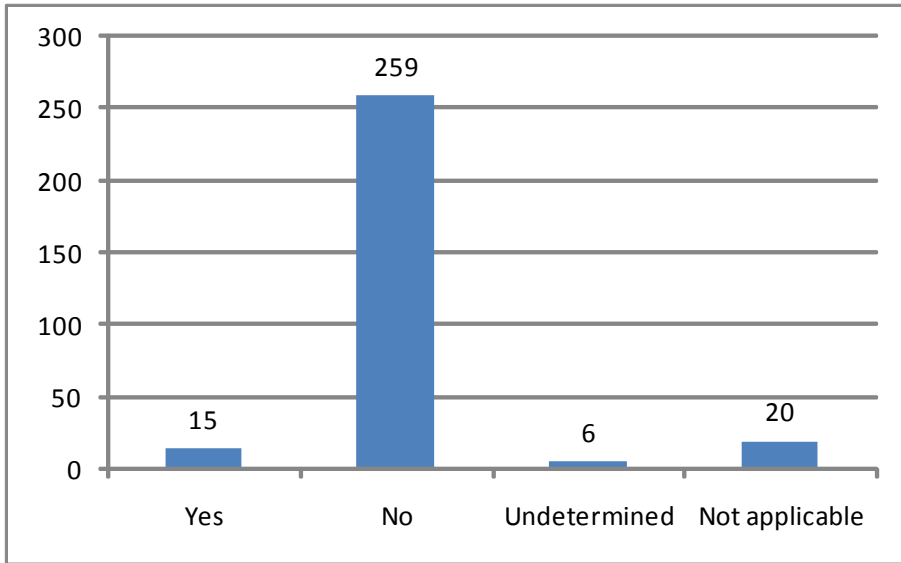
A. Adequate Preparation for the Case

16. Did the parties have „adequate time” to prepare the case?



Note: In 252 of the surveyed cases, observers said that the parties did not have enough time to prepare their cases, while only in 19 cases were the parties satisfied with the allotted time (30 responses remained undetermined).

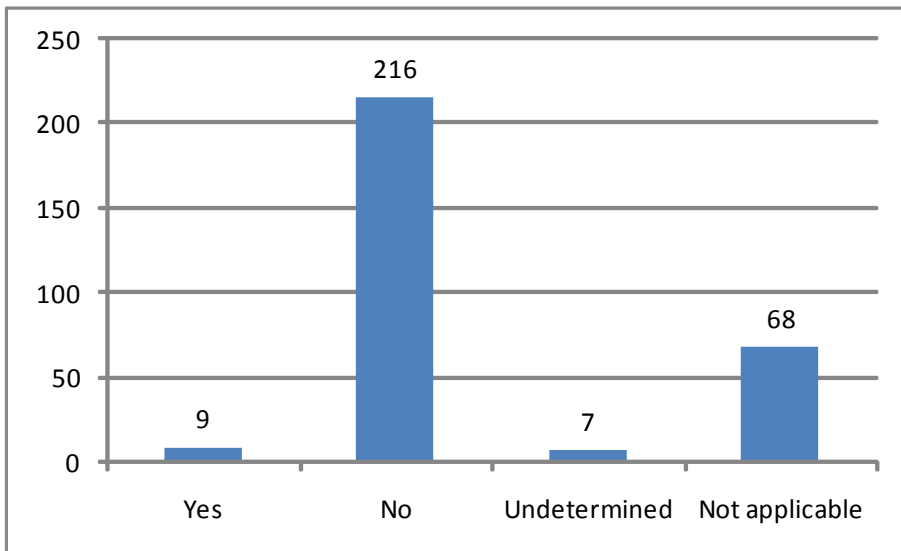
17. Were there any objections from the parties to the trial that they had not been communicated all the information relevant to the case or that they did not have time to familiarise themselves with documentary evidence held by the adverse party?



Note: 259 of the respondents had no objections on the communication of all information relevant to the case or the time taken to familiarize with the evidence held by the adverse party. In 15 questionnaires, participants had objections in this regard, and in 26 questionnaires, the answer was undetermined.

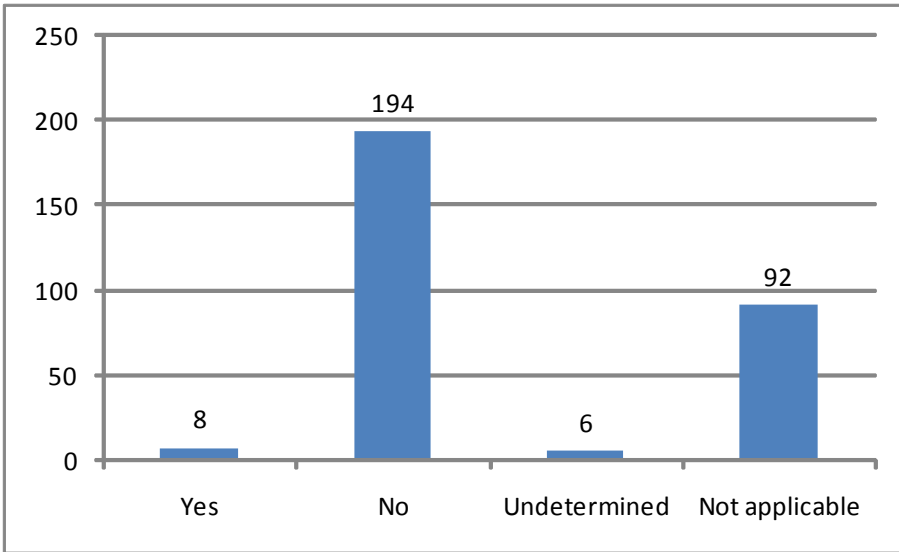
B. Timely Hearing

18. Were procedural delays or postponements of the hearing unreasonable, given the circumstances of the case?



Note: 216 respondents (300 in total) stated that the procedural delays or postponements of hearings were NOT unreasonable, under the circumstances of the cases. However, nine respondents reported unreasonable delays (75 responses were undetermined).

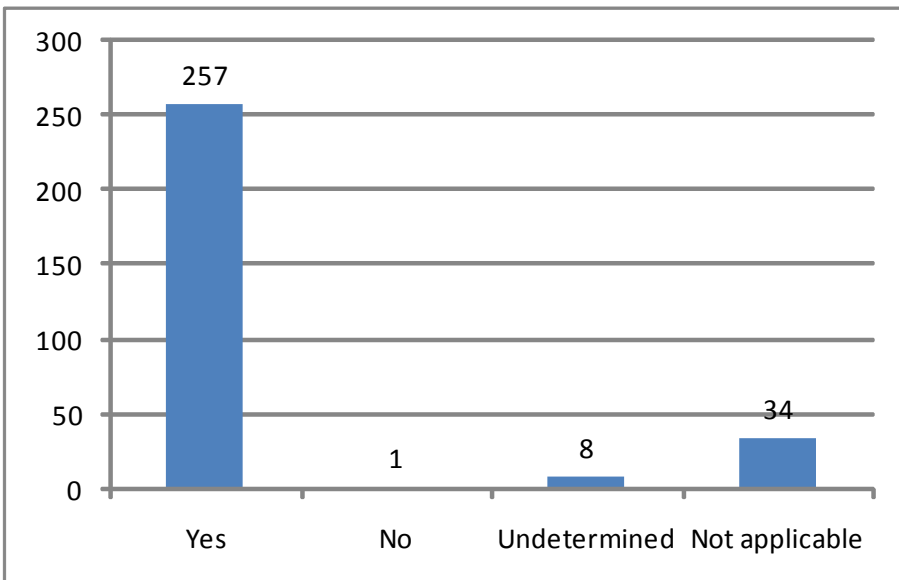
19. Did the delays have any detrimental effect upon the individual's legal practical position (for instance, where he has been detained in custody or during trial) or his legal position (questions related to statute of limitations, etc.)?



Note: 194 of the respondents consider that the delays had NO negative effects on the legal practical situation of a person (for instance, being detained in custody or during trial) or his/her legal situation (imposing statutory limitations, etc.) and 8 have reported the opposite (98 cases were undetermined)..

C. Right to Presence at Hearing and Effective Participation

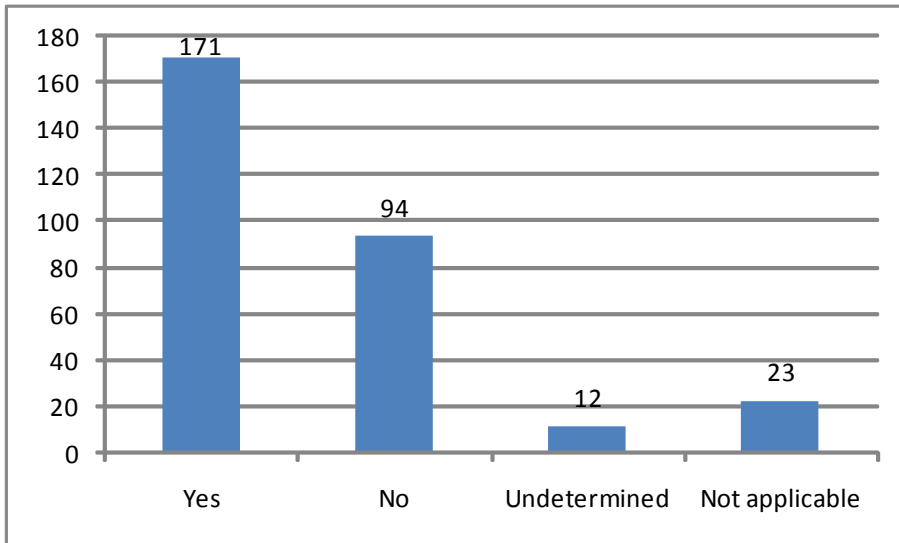
20. Was the respondent (defendant/offender) given the opportunity to participate in a hearing to present his case?



Note: 257 respondents (out of 300) stated that the respondent (defendant/offender) has been given a real opportunity to attend the meeting to present their case, and one person reported the contrary (42 of the responses were undetermined).

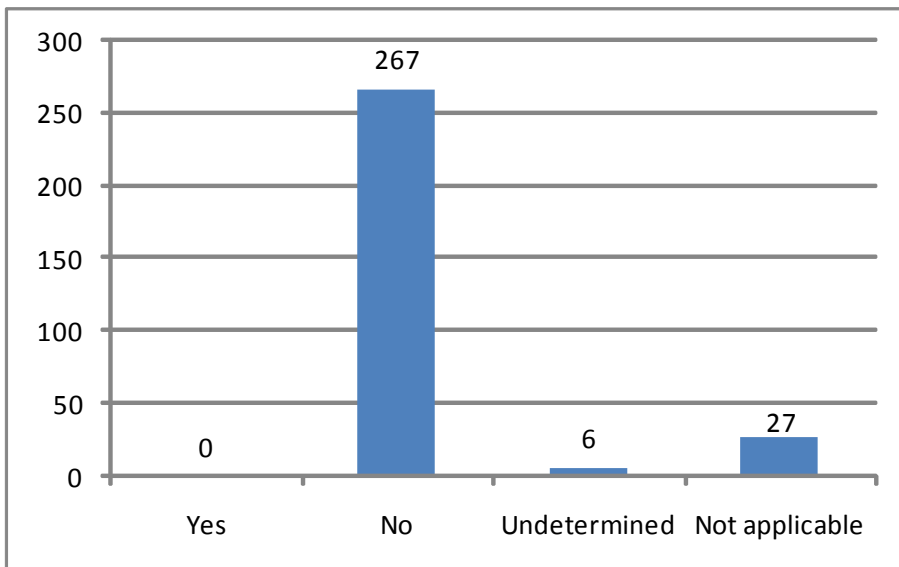
D. Right to Legal Representation or Self-Representation

21. Did the parties to trial have representation?



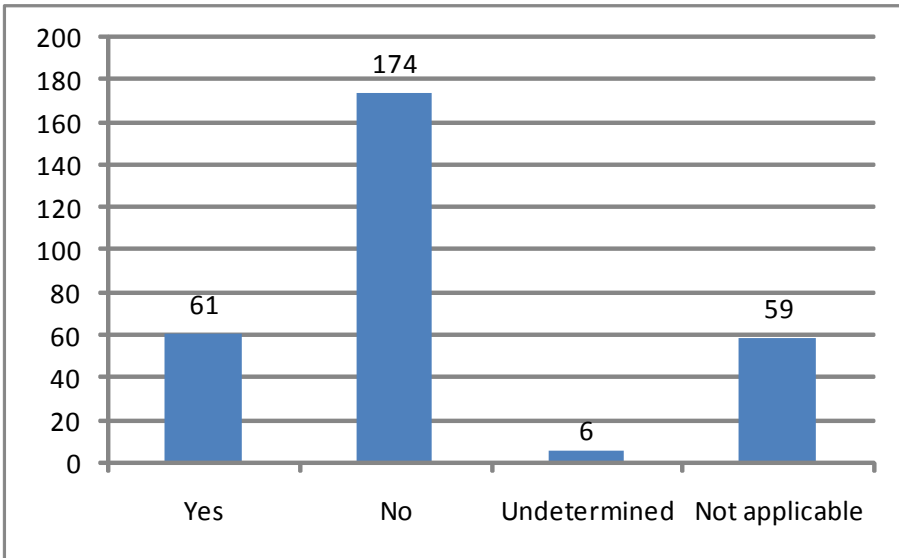
Note: When asked if the parties were assisted by someone: 171 said YES, 94 - NO, and 35 responses were undetermined.

22. Were the parties prohibited to represent themselves during the hearing?



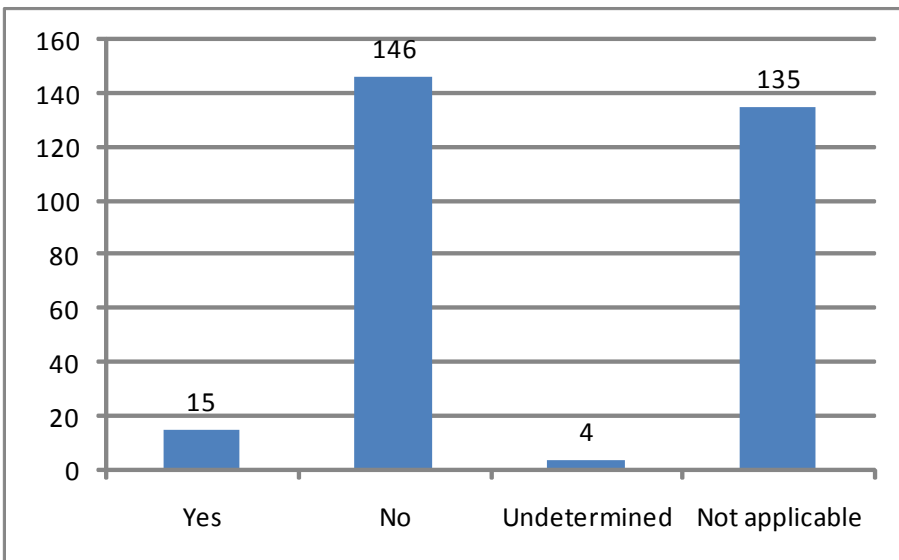
Note: In 267 of 300 questionnaires analyzed, participants stated that the parties were not denied self-representation at trial, and no case of violation of this right has been recorded (33 responses were undetermined).

23. Did one or more parties seek representation by counsel?



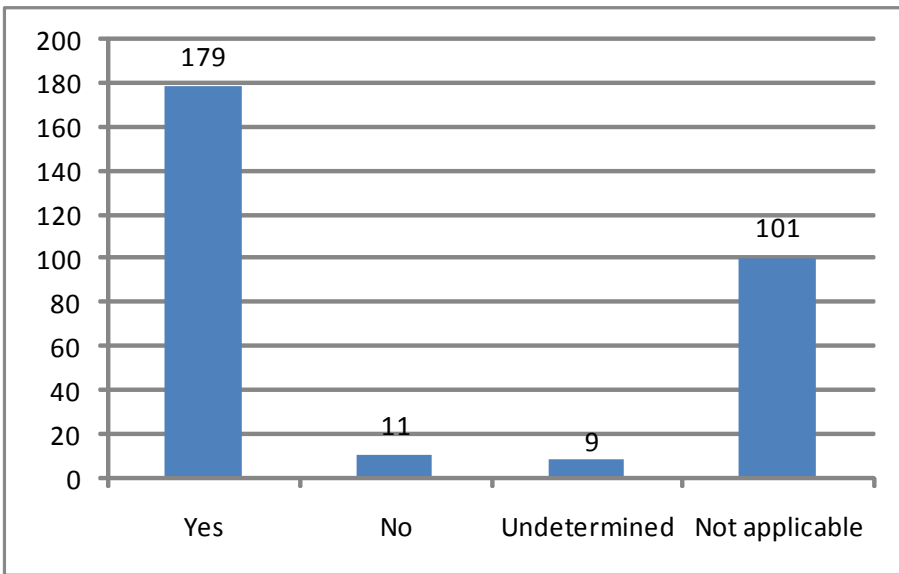
Note: 174 of the respondents said that the party/parties asked to be represented by counsel, and 61 reported the opposite (65 responses were undetermined).

24. If the party did not have sufficient means for legal assistance, did it request state-guaranteed legal aid?



Note: 146 of the respondents said that, when the party did not have sufficient means to pay for legal representation, it did NOT request state guaranteed legal aid, and only 15 questionnaires reported the opposite (139 of answers were declared undetermined).

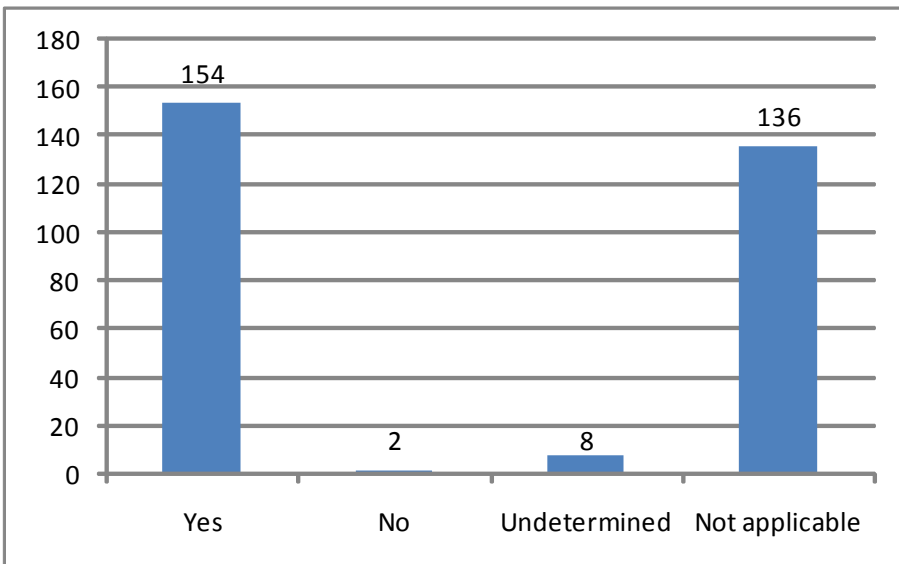
25. Did the counsel act in an independent, competent and efficient manner?



Note: In 179 of the 300 cases analyzed, respondents said that the lawyer acted independently, competently and efficiently, while in 11 cases the opposite was reported (110 responses were undetermined).

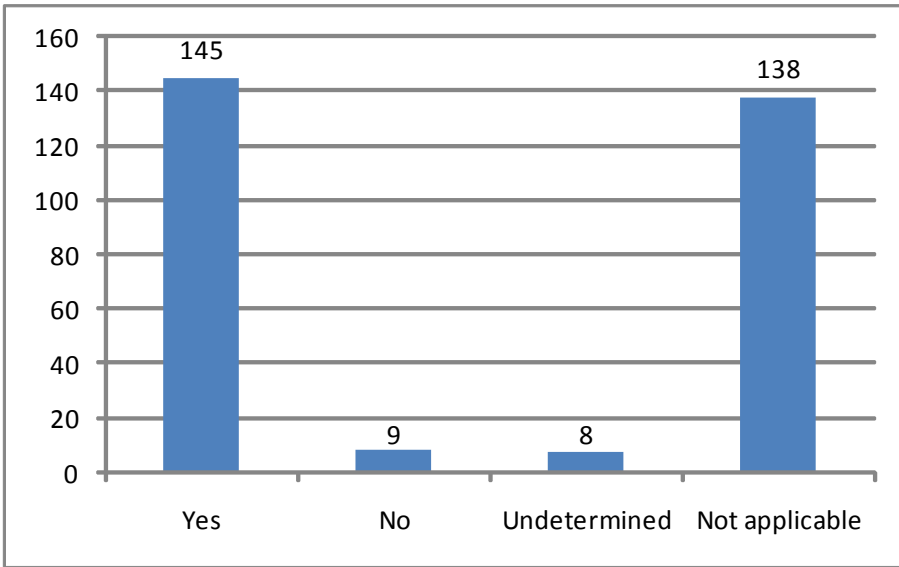
E. Examination of Witnesses

26. Were the parties provided with the same opportunities to examine witnesses and experts, which had been summoned to testify at trial?



Note: Respondents to 154 of the 300 questionnaires established that the parties had equal opportunity to examine witnesses and experts summoned to testify at trial, while only two respondents stated otherwise (144 answers were undetermined).

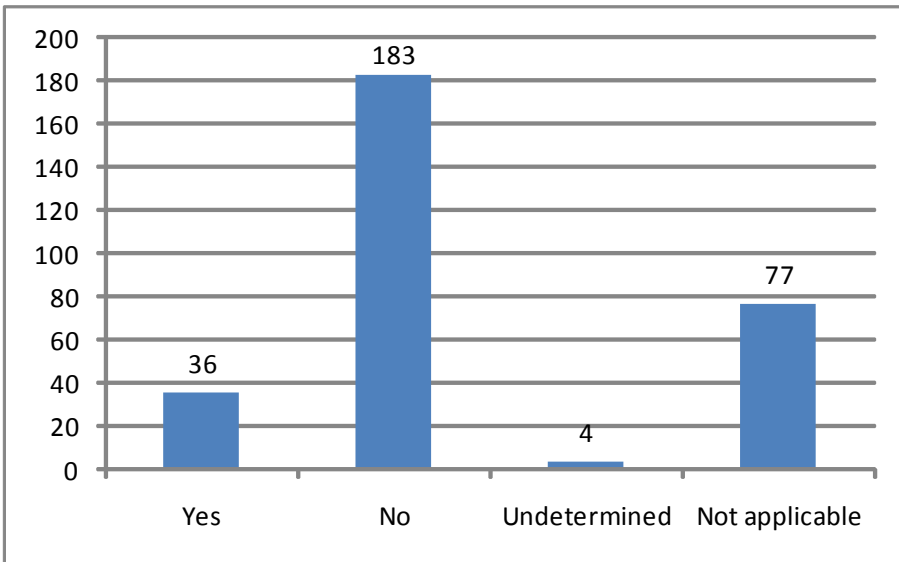
27. Were there all measures taken to ensure the participation of all witnesses and experts summoned by the court/parties?



Note: 145 of the respondents reported that all measures were taken to ensure the participation of all witnesses and experts summoned by the court and/or parties, while nine respondents said the opposite (146 responses were undetermined).

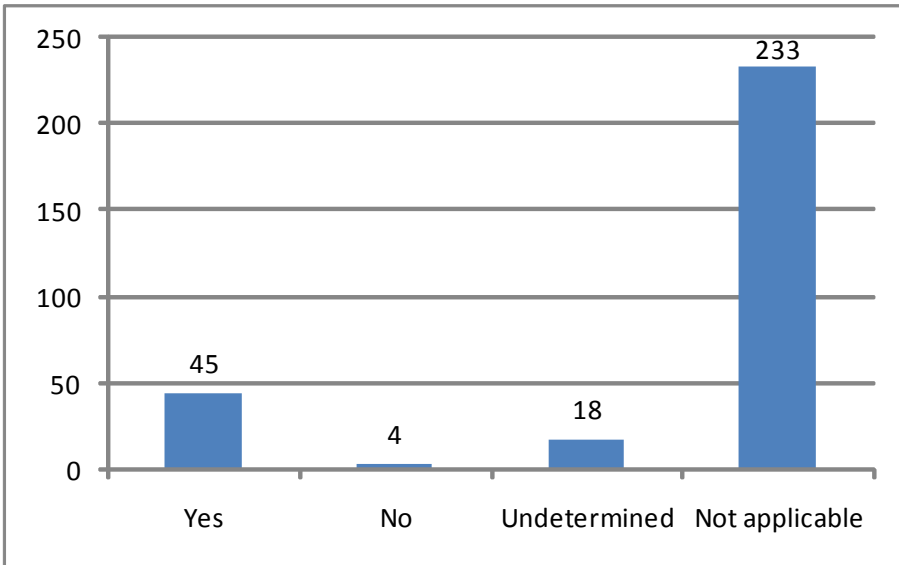
F. Interpretation and Translation

28. Did the parties request the presence of a translator/interpreter?



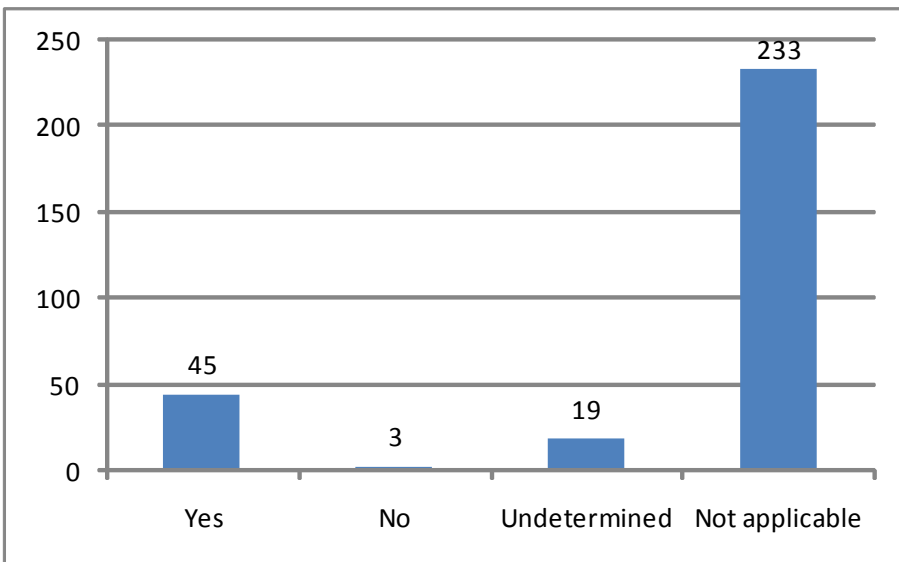
Note: In the 183 analyzed cases, parties did NOT request the presence of an interpreter, while in 36 cases they did (81 responses were undetermined).

29. Was the appointed translator/interpreter an official court interpreter selected from the list of court interpreters?



Note: In 45 out of 300 analyzed cases, survey participants said that the designated interpreter was authorized, selected from the list of court interpreters, and only 4 respondents stated otherwise. We note that 251 responses were undetermined/not applicable in this case.

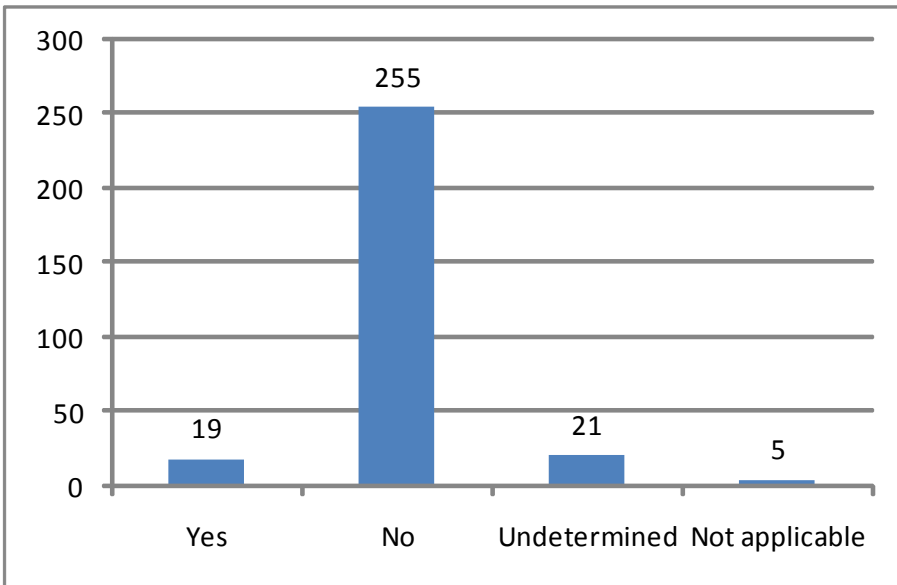
30. Did the defendant/parties appear to fully understand the translated questions?



Note: 45 of the respondents believe that the defendant/parties fully understood the translated questions, while three believed the opposite (of the total of 300 questionnaires). We note that responses in 252 questionnaires were undetermined/not applicable.

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 an 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?

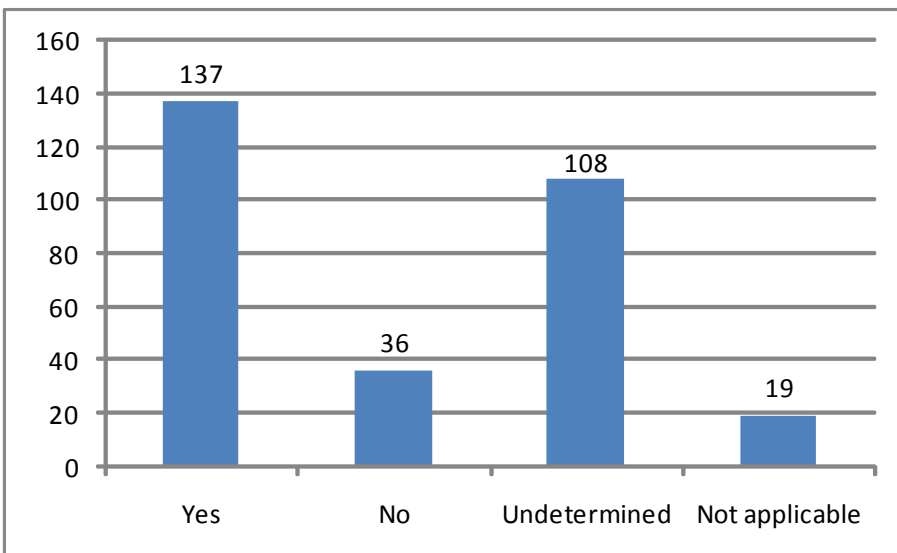


Note: 255 of the participants in the survey stated that there were no other issues in the conduct of the hearing which would have led to substantive inequality between the parties or failure of a party to present its case fully and to challenge evidence they consider false; 19 questionnaires of the total 300 reported the opposite (26 responses were undetermined).

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: 137 of the survey questionnaires state that the court’s judgment in this case was clear, 36 of the total of 300 suggest that the solution was not clear (in 127 questionnaires, the answers were undetermined).

CONCLUSIONS AND RECOMMENDATIONS

Some actions have unclear formulations, which leads to their different interpretations by the parties involved in their implementation and, as a result, they remain unfulfilled or are deemed only partially implemented. Moreover, some experts suggest that certain actions should be deemed inappropriate, such as, for example, developing a Regulation on the execution of ECtHR judgments, or the need for various studies, when there are analyses and proposals available in the respective institutions, and the actual need is to amend certain legal provisions. Therefore, it is necessary to adjust the JSRS Action Plan by eliminating or adding relevant actions, and changing the timeframes for certain actions.

Probably the best interagency cooperation was noted in the strategic direction „Improving the System of State-Guaranteed Legal Aid”. Moreover, this area received substantial and continuous support from donors, and the planned actions were executed in time or with deviations that did not affect the activity plan.

On the other hand, the large number of unfulfilled actions pertaining to strategic direction 3.3 points to the lack of good cooperation between the MOJ and court execution officers’ administration body. Therefore, in this section, a strict delimitation of responsibilities of the MOJ and NUCEO for each action is advisable.

We noted that the MOJ is established as a directly responsible institution for most of the actions included in the Action Plan. In consequence, the Ministry is overloaded with work because of the requirement to develop various studies, conduct working groups, draft bills and so on. Hence a formula must be found to delegate some of those responsibilities to other structures (within their functional competencies), or the MOJ should hire additional staff for certain strategic directions of the JSRS.

The inclusion in the Action Plan of a large number of studies, and the direct involvement in justice reform processes of many legal professional associations and national experts led to a sudden decrease in offers from eligible persons to develop studies and recommendations. For example, specific directions 3.2. and 3.1 remain unfulfilled due to a lack of expertise, although there are financial resources to carry out the actions. This situation creates other risks, such as inviting foreign experts, who are not entirely familiar with the Moldovan law and practice, to develop studies. See, for example, the court enforcement officers’ information system project.

Another conclusion lies in the fact that the studies and bills developed within the various working groups and the results of public discussions organized by the Ministry of Justice and other relevant associations are not aggregated on a single web portal that would contain all the information on the Justice Sector Reform.

The work of Working Group 5 is endangered because of the systematic and massive absence of WG members from its meetings. For the first time, a WG meeting had to be adjourned because of a lack of quorum.

Seven actions provided in Pillar II were set for completion during the monitoring period. None of these actions was finalized.

Six actions provided in Pillar V were set for completion during the monitoring period. None of them was finalized.

Thirteen actions included in Pillar VI were to be completed in the monitoring period. Of 13, only one action was completed, and the other 12 remain unfulfilled.

The analysis of the actions contained in the JSRS Action Plan allowed us to highlight some important issues which might be useful to the parties involved, both in the context of future strategic planning and in the implementation of current actions.

Thus, it appears that the institutions responsible for implementing the largest number of actions provided in Pillar I, especially the MOJ and the HCM, are doing quite well in the field of „developing bills, regulations, etc.“ However, the performance indicators established for such actions should be revised. These indicators are limited to general formulations such as „bill developed and sent to the Government for consideration.“ The job of the institutions responsible for these actions may be considered fulfilled at this stage - but how can a result be considered achieved when the bill is not approved by the Government or suffers significant changes, including in parliamentary debates?!

We also note the reduced capacity of the responsible institutions to develop studies and analyses, and their heavy reliance on external assistance in this regard. Thus, of the three relevant actions due in the first quarter of 2013, two were fulfilled largely because of external assistance.

With regard to the degree of implementation of actions overdue since 2012, the largest arrears refer to Pillar I, where, of the 21 actions reported as unfulfilled by the 2012 Monitoring Group Annual Report, 15 remained unfulfilled at the time of publishing this report.

The assessment of certain actions in the pillar activity reports also raises concerns. Thus, for example, action 1.2.1 s.2, *Revising SCM regulations on the transparency of the work of the Council and subordinate institutions*, is qualified as “partially implemented”; the “measures taken” graph contains a very general description of a started process of regulation development and reference to studying the practice of other countries, while the “challenges” graph says that there is no relevant law (what law?).

We suggest that the comments contained in the reports on the implementation or challenges faced during the implementation of actions, be more explicit and consistent, and that the deadlines for implementing actions be extended.

A general recommendation would be that the webpage dedicated to the Justice Sector Reform be updated to include all publications developed in the context of implementing the Action Plan. Otherwise, unless (s)he participates in the relevant working group meetings, an interested person has no way of finding out who prepared a certain study and where one can find it.

Finally, to refer to the degree of implementation of actions provided in Pillars I, IV and VII, the picture is as follows: three actions provided in Pillar I were due by the end of the first quarter of 2013, of which two were implemented, and one remained unfulfilled. Of the ones overdue since 2012, six were implemented, and other 15 remain unfulfilled. Pillar IV had four outstanding actions since 2012 that have not been implemented; five actions contained in Pillar VII remain to be finalized.