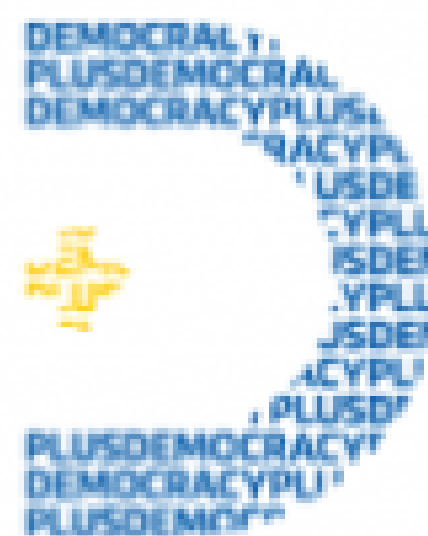




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DEMOCRACY PLUS



Quality of Services Provided by Kosovo Basic Courts

as Evaluated by Lawyers

June 2018

QUALITY OF SERVICES PROVIDED BY KOSOVO BASIC COURTS

AS EVALUATED BY LAWYERS

Pristina, June 2018

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INTRODUCTION

With the aim of collecting the perceptions of lawyers as the most frequent users of services of Basic Courts, this survey collected lawyers' insights with regards to access to court information, efficiency and the prevalence of corruption. Designed by Democracy Plus and commissioned by Justice System Strengthening Program (JSSP), the survey aims to provide information to courts to improve the quality of its services.

This research is intended for the Basic Courts, Kosovo Judicial Council and all other bodies within the judicial system in Kosovo. It attempts to identify gaps in the three areas and improve integrity, efficiency, and communication between lawyers and courts.

USAID's Justice System Strengthening Program is a four-year rule of law activity that builds upon USAID's prior efforts to advance the rule of law in Kosovo and ensure that the justice system operates in a professional, efficient, and accountable manner. The program focuses on promoting a judicial system that adheres to high standards of independence, impartiality, integrity, accountability, and transparency, and on supporting the functioning and integration of judicial structures in the North.

Strengthen efficiency and effectiveness in the administration of justice and the delivery of quality services

Through USAID, the Justice System Strengthening Program assists the Kosovo Judicial Council (KJC) and Kosovo's courts in consolidating gains in efficiency and management at the court level. This is accomplished by facilitating the decentralization of administrative competencies and institutionalizing systems and tools for effective court and case management. Activities under this objective reduce case backlog and procedural obstacles to court efficiency and effectiveness.

Enhance the accountability and professionalism of the justice system

The program works closely with the KJC, judges, and court staff in building capacity to deliver justice professionally and efficiently. It also promotes continuing education and public integrity initiatives as the foundation for a judiciary that is accessible, credible, and effective.

Support the functioning and the integration of judicial structures in the North

The Justice System Strengthening Program supports the KJC and the courts in activating judicial structures in northern Kosovo based on the Justice Sector Agreement that was signed between the governments of Kosovo and Serbia in 2015. This agreement provides for the integration of institutions, court operations, and judicial resources in the north. This USAID program also assists individual courts in the region with case inventories and transfers, backlog reduction, case management, and capacity-building for judges and court staff.

Democracy Plus is an independent, nonprofit and nonpartisan organization founded by a group of activists who believe in further strengthening democratic values in Kosovo. The main objective of D+ is to foster democratic values and practices that will further strengthen the voice of the Kosovar society. D+ aims at contributing in establishing good governance

practices, strengthening the rule of law, assisting political parties and the process of free and fair elections, and fostering respect for human rights and social issues. D+ has implemented different projects that aim to bring decision-makers closer to citizens through policy research, facilitation of dialogue and interaction as well as public education.

I. RESEARCH METHODOLOGY

1.1 VARIABLES UNDER STUDY

1.1.1 Access to Public Information

Access to public information, for the purpose of this study, was measured by the experience of lawyers in obtaining information about their cases from the court where their cases are being tried. It specifically examined the channels used to obtain information - personal inquiries, courts' official web pages, official correspondence, as well as the quality/usefulness of the information provided by the courts, and the speed at which they are able to access information that they need.

1.1.2 Efficiency

Efficiency of basic courts was measured by the perception of lawyers as to the "reasonableness of time" required to get court business done in general, the time it takes for civil and criminal cases to be tried from the moment they are registered until the final verdict, scheduling of hearings and underlying reasons behind delays, the return of cases from the court of appeals and the treatment lawyers receive from judges. At the same time, through this set of questions, we aim to identify the reasons why lawyers think court sessions are postponed, how case processing can be accelerated, what are the main reasons why the higher instance courts return cases to basic courts; as well as if and why judges may show preferential treatment to some lawyers or prosecutors.

1.1.3 Prevalence of Corruption

The prevalence of corruption was again a measure of lawyers' perception from their experience in dealing with the Basic Courts. They were asked to express their views on the percentage of cases that are affected by corruption, whether the outcome of cases is affected by corruption, whether they have personally, or know of colleagues, who have been asked for a bribe by judges or other court employees, and whether they or their clients consider bribery as a means of having their cases resolved faster or in their favor. Finally, respondents were asked about their opinions on what can be done to reduce corruption in the judiciary.

1.2 SURVEY METHODOLOGY

To prepare this report, Democracy Plus conducted surveys with 323 attorneys - licensed by the Kosovo Bar Association and practicing for two or more years, from seven regions of Kosovo: Prishtina, Ferizaj, Gjilan, Prizren, Gjakova, Peja, and Mitrovica. This study builds on a previous, general survey of court users, to focus on attorneys' insights as professional users of court services on issues of access to information, efficiency in processing cases, and the nature of corruption and its prevalence in Basic Courts. The study has a two-fold scope in that it examines the variables under study in each Basic Court, and also looks at these nationwide.

Table I. Practicing lawyers (licensed by the Bar Association)

Region	Number of lawyers
Prishtina Region	399

Prishtinë/Pristina	355
Gračanica/Gracanica	7
Podujevë/Podujevo	9
Fushë Kosovë/Kosovo Polje	6
Lipjan/Lipjane	13
Drenas/Glogovac	9
Ferizaj/Uroševac Region	46
Ferizaj/Uroševac	40
Kaçanik/Kaçanik	4
Strpce/Shtërpçë	2
Gjilan/Gnjilane Region	79
Gjilan/Gnjilane	60
Kamenicë	7
Viti/Vitina	12
Prizren Region	97
Prizren	76
Therandë/Suva Reka	18
Dragash/Dragaš	3
Gjakovë/Djakovica Region	50
Gjakovë/Djakovica	34
Malishevë/Mališevo	9
Rahovec/Orahovac	7
Pejë/Peć Region	99
Pejë/Peć	71
Deçan/Dečani	7
Istog/Istok	7
Klinë/Klina	14
Mitrovicë/Mitrovica Region	65
Mitrovicë/Mitrovica	45
Skenderaj/Srbica	7
Vushtrri/Vučitrn	12
Zvečan/Zveqan	1

The sample size is calculated for each region based on the number of practicing lawyers registered with the Kosovo Bar Association. However, only lawyers who have been practicing for two or more years have been included in the sample with the aim of obtaining insights from those who have been part of the legal system for a considerable amount of time and have experience. Therefore, the research sampling frame is the list of all lawyers certified by the Kosovo Bar Association, as delineated in the book of lawyers published by the KBA for the year 2018. This exhaustive list of practicing lawyers was the *population* from which a representative sample size was calculated for each region based on the number of lawyers practicing therein for two or more years, with a confidence level of 95% and a margin of error of +/- 10%. The sample size consists of 321 respondents. Through this study we were interested in building on the study *Citizens' Score on Basic Court Services* which explored the perceptions of court users on courts efficiency, access to information and prevalence of corruption.

Given that the approach is probabilistic, findings can be used to make statistical inferences about the entire population of practicing lawyers in Kosovo.

D+ used two methods for data collection. First, field enumerators were trained on administering the questionnaire and familiarized with the aim of the study and the methodology. The first data collection was done in collaboration with the KBA which facilitates the licensing training for lawyers every Saturday throughout the month of March, and allowed D+ field enumerators to administer the questionnaire before and after the trainings. In this phase, D+ collected 98 questionnaires. The second data collection method used was walk-ins to lawyer offices in the main cities of the seven regions of Kosovo. Field enumerators were instructed to enter the offices of lawyers and ask them to fill out physical copies of the questionnaire until the sample size reached the predetermined number of respondents. All respondents answered the questionnaires anonymously. Data was entered into an excel database and processed using the R-Studio software for social sciences.

To ensure that each observation in the population is only represented once in the sample, the first question in the questionnaire (please see Annex I of this document) was whether the lawyers had completed the same questionnaire in the KBA trainings. All those who answered “yes”, were disregarded for the purposes of this study.

Table 2. Calculation of sample size for each court

Sample size	Population of practicing lawyers (N)	Sample size for each region
Basic Court		
Prishtinë/Priština	401	78
Ferizaj/Uroševac	46	31
Gjilan/Gnjilane	79	44
Prizren	97	49
Gjakovë/Djakovica	50	32
Pejë/Peć	99	49
Mitrovicë/Mitrovica	65	39
TOTAL	837	321

1.2.1 Demographic Data

The information presented in the tables below show demographic data of the participants in the study. The majority of the participants were men and most of respondents belong to the 31– 40 and 41-50 age groups. The sample of participants is almost identical to the demographics of licensed attorneys in Kosovo (of which 81.94% are men and 18.16% are women).

Table 3. Gender of participants

Men	Women
83.23%	16.77%

Table 4. Respondent age group

Age 22 – 30	Age 31 – 40	Age 41 – 50	Age 51 – 60	Age 60+
9.24%	25.48%	25.16%	18.47%	21.66%

The numbers and percentages of people specializing in each area of specialty are shown in Table 6. Since several respondents selected more than one area of specialty, the percentages only show how many attorneys from the whole sample belong to each category, thus not adding up to 100% across the first row. Most attorneys are specialized in civil cases with 77.24%, followed with 64.14% whose specialty lies in criminal proceedings.

Table 5. Area of specialty

Criminal	Civil	Commercial
64.14%	77.24%	12.07%

2. QUALITY OF SERVICES IN COURTS

Public perception of the judiciary in Kosovo generally engenders a low degree of trust. Findings from Transparency International on the degree of corruption prevalent in the judiciary show a score of 4.1 out of 5, whereby 5 signifies the highest level of corruption perception.¹ Case backlog is one of the major challenges facing Kosovo's justice system. As of November 2017, Basic Courts of Kosovo had a total of 198,199 unresolved cases. The distribution of this number among different courts varies and is not in proportion to the population residing in these specific regions. The latest European Commission country report for Kosovo indicates that the judiciary system in Kosovo remains weak and therefore observed few improvements. While Kosovo institutions have managed to develop the judiciary to encompass a Kosovo-wide system by integrating Serb judges and prosecutors, problems remain, which include vulnerability to political influence and weak capacity of judges and prosecutors, support staff and administration.

3. KEY FINDINGS

This survey on *Quality of Services Provided by Kosovo Basic Courts – as Evaluated by Lawyers* is commissioned by Justice System Strengthening Program/USAID and prepared by Democracy Plus with the participation of 321 attorneys practicing law in seven regions of Kosovo.

Some of the key findings of the study are:

- One quarter of respondents claimed that it is very hard to find information about their cases;
- The majority of respondents claim that the information provided by the court is helpful (50.67%);
- 65.9% of attorneys do not use the court website as a source of information, and of those who do, 53.74% do not find what they were looking for;
- Generally, lawyers who participated in the survey claim that they are able to get court business done in a reasonable amount of time;
- According to respondents, most of the civil cases take 12-24 months to be decided by Basic Courts from the moment the case is filed until the final verdict;
- According to respondents, most of the criminal cases take 6-12 months to be decided by Basic Courts from the moment the case is filed until the final verdict;
- The predominant reasons why hearings are delayed, according to respondents, is the absence of the other party, and procedural errors by the court;
- Lawyers receive hearing notices 2 weeks in advance most of the time;
- According to respondents, it takes on average 3-5 hearings for the most common types of criminal cases to be resolved, and 5-7 hearings for the most common types of civil cases to be resolved;
- A quarter of respondents claimed that judges intentionally make procedural errors when deciding on the merits of a case so that it will be sent back for retrial from the Court of Appeals;
- 76.67% of respondents claim that cases are returned from the Court of Appeals more than two times;
- 13% of respondents said that they have been asked for a bribe by a judge, court employee or an intermediary of a court employee acting on behalf of the former;

¹ "Judicial Integrity in Kosovo – Assessment Report". United Nations Office on Drugs and Crime and UNDP Pristina. 2014

- 16.72% of respondents claimed that they are aware of cases where their colleagues bribed a judge or other court employee;
-

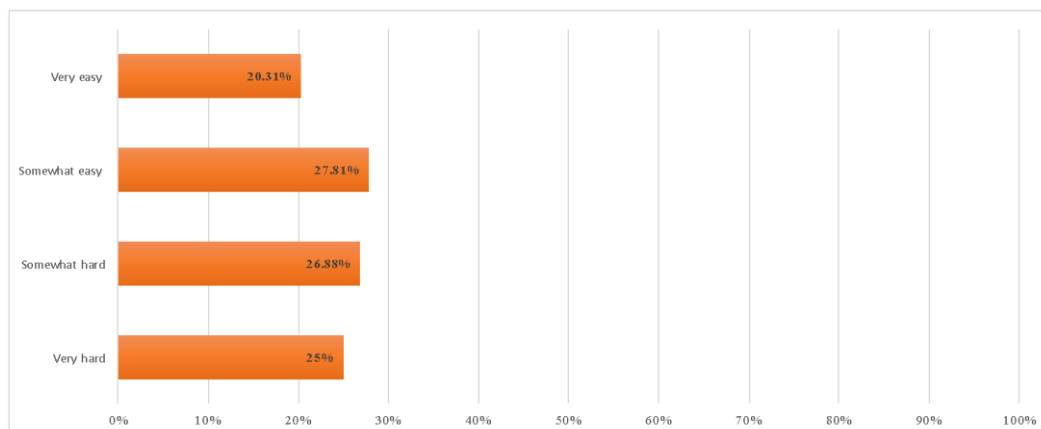
4. ACCESS TO INFORMATION

Lawyers, as frequent court users, are familiar with the justice system and court operations. In the course of their professional work they periodically seek information from the court regarding their cases, which can include legislation, decisions, schedules of hearings and deadlines for case completion, among other matters. In some cases they run into difficulty. The common channels for getting this information are from the court's website, through phone calls or email, or physically going to the court premises to ask court employees. In a well-functioning justice system, obtaining this information should be a smooth and timely process. However, as shown in the findings of this study, accessing information is not as simple as it should be.

4.1 INFORMATION SOUGHT BY LAWYERS

Transparency and access to information are core values in a democratic system and apply to all levels of government decision-making, the judiciary included. The general view is that, in Kosovo state institutions, transparency and access to information are either limited or lag due to various impediments. As shown by the results of this study, only 20% of lawyers believe it is *very easy* to get information from the court about the cases they represent; a majority of respondents find that access to information is either *very hard* or *somewhat hard*.

Chart 1. Ease of getting information about cases from the court



Even the most basic sources about the schedule of hearings - information boards or electronic monitors inside the court premises - are not always reliable. Over half of respondents (59.4%) claimed that they are not always regularly updated.

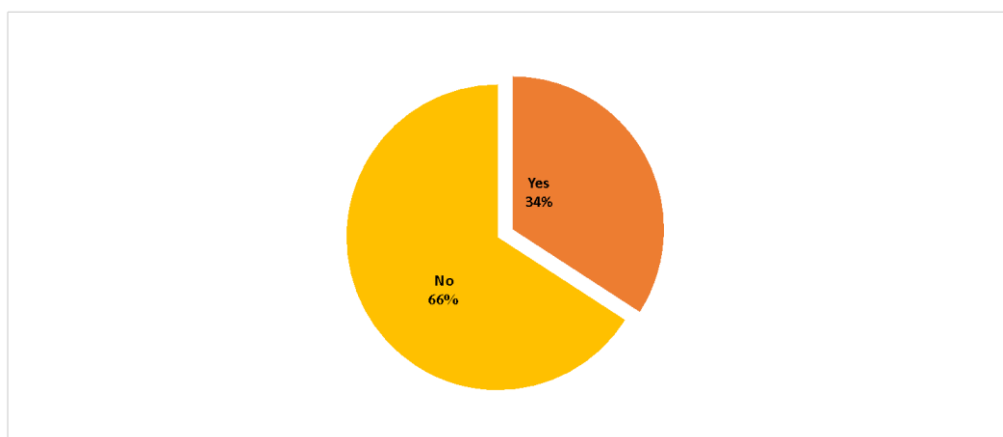
Taken on a region by region basis, these findings present a different picture, with respondents from 5 out of the 7 regions stating that accessing information is *somewhat easy* and *very easy*. The most noticeable percentages in this regard are in Prizren and Peja regions, where the overwhelming majority picked these two answers. However, this impression is entirely reversed in 2 out of 7 regions, where an overwhelming majority in both Pristina and Mitrovica opted for the opposite answers of *very hard* and *somewhat hard*. It bears mention that almost 60% of the lawyers surveyed in the Pristina region found it *very hard* to access the information they need.

Table 6. Ease of getting information about cases from the court, by region

Scales	Very hard	Somewhat hard	Somewhat easy	Very easy
Region				
Prishtinë/Pristina	58.97%	32.05%	7.69%	1.28%
Ferizaj/Uroševac	15.62%	28.12%	31.25%	25.00%
Gjilan/Gnjilane	6.82%	31.82%	34.09%	27.27%
Prizren	4.17%	10.42%	43.75%	41.67%
Gjakovë/Djakovica	16.13%	23.58%	32.26%	29.03%
Pejë/Peć	12.50%	18.75%	41.67%	27.08%
Mitrovicë/Mitrovica	33.33%	43.59%	17.95%	5.13%

While all Basic Courts of Kosovo have official websites which contain information about working hours, branches, departments, as well as schedules of hearings trials, announcements, and decisions, the general sentiment of lawyers surveyed is that these websites only contain a modicum of information needed by lawyers; only 34% of respondents claimed that they use court websites as a source of information, but of that amount only 54% say they are able to find relevant information.

Chart 2. Use of the court’s website as a source of information



Of those who claimed to use the websites as a source of information, 46.26% found what was being searched and 53.74% did not.

A different, and rather contradictory, image appears when we look at Basic Courts individually. Overall, percentages from each region show that lawyers do not use the courts’ website as a source of information, with the exception for the region of Prizren, where 52.27% of them claim that they do use it and the region of Gjakova, where the respondents are split evenly. However, this question had a sub-question, which goes into more detail and asks the lawyers whether they find what they are looking for; it appears that the overwhelming majority of them indeed find relevant information. The most striking figure is the case in the region of Prizren where around 66% claim that they found what they searched for. These figures are rather contradictory and leave much room for interpretation. When comparing the results from national and regional levels, and the results of those who claimed that they use the websites and find what they are searching for, it appears that the problem is two-sided. On one hand, the courts do not upload *the entirety* of what is relevant for lawyers, and on the other hand a large number of lawyers do not use the website at all.

Table 7. Use of the court’s website as a source of information, by region

Response	No	Yes	Found was what searched
Region			
Prishtinë/Pristina	56.16%	43.84%	33.33%
Ferizaj/Uroševac	76.67%	23.33%	36.36%
Gjilan/Gnjilane	66.67%	33.33%	50.00%
Prizren	47.73%	52.27%	65.22%
Gjakovë/Djakovica	50.00%	50.00%	56.25%
Pejë/Peć	89.58%	10.42%	58.33%
Mitrovicë/Mitrovica	78.95%	21.05%	35.29%

When searching for information on the court websites, 15 respondents stated that they checked to see what information is available on the website; 31 attorneys were seeking information on court verdicts; 17 wished to find court schedules, dates of hearings and deadlines for case completion; 16 study participants reported browsing for additional information on court cases such as case numbers; 4 tried to find judge contacts and names; 6 respondents disclosed that they use the court’s website to find established court practices; 4 others used it to read administrative laws and regulations; 3 said they read legal opinions; 20 attorneys said they do not use the court’s website to browse for anything, since they felt it does not contain much information to begin with.

The general expectation when visiting an official website is to find relevant information about that institution. That is not the case with the Kosovo courts, as only 36% of the respondents claimed that they are able to find relevant information, with another 13.83% who said that they always find their desired information.

Table 8. Average percentage of the time when they successfully obtain relevant information from the court’s website

100% of the time	70% of the time	50% of the time	25% of the time
13.83%	27.66%	36.17%	22.34%

The picture would not be complete if the lawyers were not asked about the type of information they would like to see on the website, which adds to the clarification of the relevant information they intend to find. With regard to the type of information attorneys would like to see on the court’s website that is currently unavailable, respondents gave a more limited set of answers. Of those who responded, a total of 33 attorneys expressed interest in seeing more court verdicts, whereas 18 others wished for more complete information on all issues related to the court. While 34 additional study participants would welcome more information on court cases, 14 want to be able to obtain more information on the status of a specific case at court. Altogether 12 respondents said they would like to see more detailed court schedules in the website, whereas 3 would like see which cases have been completed.

In light of this, we wanted to explore deeper into who they get information from through an open-ended question that required a written elaboration from respondents. A total of 68 attorneys stated that they obtain information from the court administration only, whereas 13 report being informed by both the administration and judges. Only two participants said that they are informed through judges’ assistants. Four participants said they consulted the court archive for more information, while

three others were informed through various legal claims. Seven respondents only specify obtaining information through official court departments, while 14 do so by consulting responsible or authorized persons, and 13 do so through official invitations or notifications.

A total of 21 participants are informed by the case judges themselves, although a few are concerned about the inappropriate nature of this transaction of information. While 19 said they only consult the court scribe for further information, 12 others consult the case judges as well. A total of 38 respondents get information on current cases by the court referent office and 7 attorneys consult both the judges as well as the referents. A few respondents complain that the information handed out to them is often inaccurate or difficult to obtain. A total of 6 attorneys claimed they did not receive information from anybody.

4.2 INFORMATION PROVIDED BY COURTS

Interestingly when lawyers obtain the information that they seek, in over 70% of cases, they claim that it is *helpful*, as opposed to only 9% who responded with *very unhelpful*.

Table 9. Helpfulness of information provided by the court

Very unhelpful	Somewhat helpful	Helpful	Very helpful
9.24%	18.79%	50.96%	21.02%

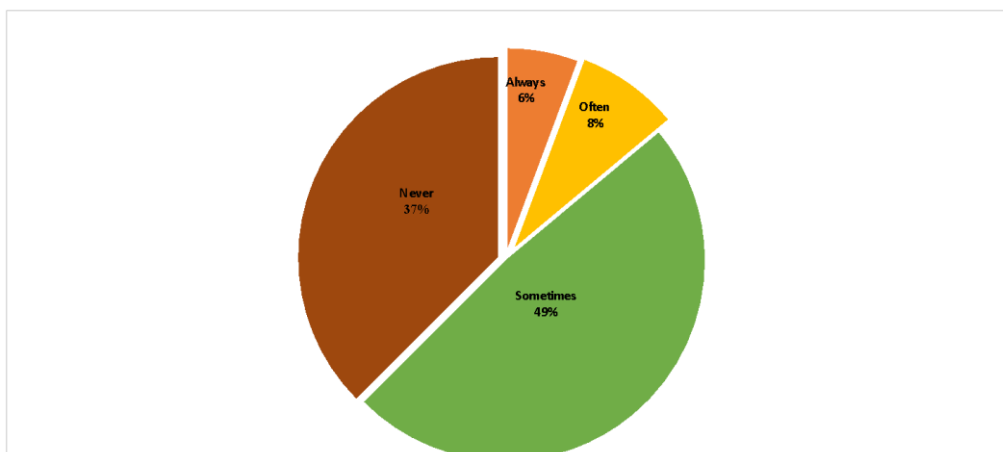
Regionally, many lawyers find that information is helpful. This opinion spikes in Prizren, Gjakova and Mitrovica, with 93%, 80% and 87% of respondents claiming that the information obtained is helpful. In Prizren none of the respondents said that the information is *very unhelpful* and similarly few lawyers in other regions opted for this option (except for Prishtina).

Table 10. Helpfulness of information provided by the court, by region

Scale	Very unhelpful	Somewhat helpful	Helpful	Very helpful
Region				
Prishtinë/Pristina	17.11%	34.21%	28.95%	19.74%
Ferizaj/Uroševac	6.45%	22.58%	51.61%	19.35%
Gjilan/Gnjilane	11.36%	13.64%	52.27%	22.73%
Prizren	0.00%	6.38%	68.09%	25.53%
Gjakovë/Djakovica	6.67%	13.33%	63.33%	16.67%
Pejë/Peć	12.77%	19.15%	51.06%	17.02%
Mitrovicë/Mitrovica	2.56%	10.26%	61.54%	25.64%

A majority of respondents said that they talk to the judge assigned to the case about the status of the case in question. A large share of lawyers participating in the survey, specifically 48.57% reported doing so sometimes, followed by 37.46% who claimed never to do so. A minority of 5.71% said they always talked to judges about their cases.

Chart 3. Talking to the judge about the status of the case



Other sources of information that lawyers are able to use and rely on are the monitors located inside court premises. But in order for these to be reliable, the court administration must regularly update the information. Respondents of the 7 regions have disparate opinions on this issue: when asked whether these monitors are regularly updated, 4 out of five regions say they are not. This is particularly true in the region of Mitrovica, where 92.31% of lawyers claim that the information boards are not updated on regular basis. In contrast, 83% of the respondents in Gjakova say that the monitors in that court are kept up-to-date.

Table 11. Updated information about the sessions in the monitor and/or information board, by region

Answer	Yes	No
Region		
Prishtinë/Priština	8.00%	88.89%
Ferizaj/Uroševac	48.28%	51.72%
Gjilan/Gnjilane	42.11%	57.89%
Prizren	58.33%	41.67%
Gjakovë/Djakovica	83.33%	16.67%
Pejë/Peć	62.22%	37.78%
Mitrovicë/Mitrovica	7.69%	92.31%

5. EFFICIENCY

This section looks into efficiency of Basic Courts as measured by the perception of lawyers. Given that one of the main impediments in the judiciary in Kosovo is the large case backlog with 198,199 unresolved cases in the Basic Courts as of November 2017, this study aims to identify the underlying reasons for this lack of efficiency.

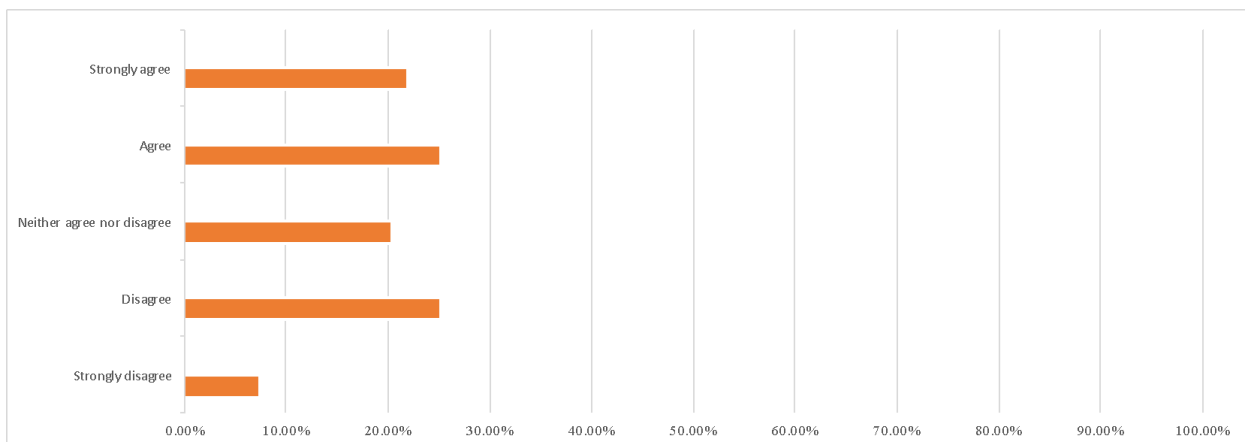
The efficiency in case processing can be affected by many factors, among them statutory limitations, which may be used intentionally by the prosecuting body or by the defendant. This, as well as other anomalies (such as corruption) contribute to the impairment of the system's functionality. Statutory limitation for criminal cases is defined on the Criminal Code of the Republic of Kosovo (Article 106 and 108), and is dependent on the offense. In this regard, the criminal prosecution may not be initiated after the periods foreseen by this Code have elapsed. Additionally, statute-barring on civil cases depends on the type of the case. Most of the circumstances are foreseen on the Law on Obligational Relationships, precisely Article 350, 360 and 361.

To examine how efficient courts are in offering services, we looked at lawyer's experience with (1) efficiency in case processing for both civil and criminal cases, (2) hearings: notifications, delays, number required until the final verdict, and the application of fines for lawyers' absence in hearings, (3) reasons for transfer of cases from Court of Appeals and their handling by Basic Courts; (4) lawyer-judge relations and treatment. Open ended questions serve as an exploratory measure to identify failures in the system that are contributing to the lack of efficiency and thus adding to the case backlog.

5.1 EFFICIENCY IN PROCESSING CASES

How long it takes to get business done in court is a matter of perspective, however, for the purposes of this study, we have defined reasonableness as a measure of lawyer's experience with the cases they represent at the Basic Courts of Kosovo. In other words, we would like to ascertain lawyers' perceptions about the duration of time it takes to close a case from the moment it is registered. Almost 50% of respondents *agree* or *strongly agree* that the time it takes for them to get their business done in court is reasonable, while a minority of 7.32% *strongly disagree* with this statement.

Chart 4. Ability to get court business done in a reasonable amount of time



At the regional level, the split in opinions is stark; some findings are the antithesis of what is found on a national level. In 5 out of 7 regions, the majority of respondents *agree* that the court is able to conduct its business within a reasonable amount of time, while in Peja and Ferizaj, roughly 50% of

respondents either *strongly disagree* or *disagree*. It appears that a more accurate assessment of the efficiency can be determined by looking at data specific to each Basic Court, rather than relying on findings of the national level.

Table 12. Ability to get court business done in a reasonable amount of time, by region

Scale	Strongly disagree	Disagree	Neither agree nor disagree	Agree	Strongly agree
Region					
Prishtinë/Priština	6.85%	34.25%	10.96%	10.96%	36.99%
Ferizaj/Uroševac	6.67%	40.00%	26.67%	6.67%	20.00%
Gjilan/Gnjilane	9.09%	18.18%	20.45%	31.82%	20.45%
Prizren	4.08%	8.16%	22.45%	61.22%	4.08%
Gjakovë/Djakovica	13.33%	10.00%	33.33%	36.67%	6.67%
Pejë/Peć	8.16%	36.73%	26.53%	16.33%	12.24%
Mitrovicë/Mitrovica	5.13%	23.08%	12.82%	15.38%	43.59%

The issue of case turnout, from the study *Citizens' Scores on Basic Courts Services*, was differentiated amongst civil and criminal cases from both survey respondents and focus group discussion participants. Therefore, this section treats efficiency from the perspective of these two court departments, proving the fact that in general civil cases take longer to be solved than criminal cases. Specifically, the majority of these types of civil cases fall in the 12-24 months' time needed to be resolved from the moment they are registered until the final verdict. In fact, 68% of damage compensation and a vast majority (78%) of property claims take 12-24 months, while most of contested divorce cases take 6-12 months.

Table 13. Time it takes for a civil case to be decided by the basic court

	Damage compensation	Contested divorce	Property claims	Labor disputes
Less than 3 months	1.79%	11.04%	0.00%	2.81%
3-5 months	9.32%	23.75%	3.23%	19.30%
6-12 months	20.79%	43.81%	18.64%	32.98%
12-24 months	68.10%	21.40%	78.14%	44.91%

Unlike civil cases, criminal cases take a shorter amount of time to get resolved. As the findings show, in a scale of *less than 3 months* as the shortest period of time, and *12-24 months* as the longest, the highest percentage of respondents chose the options in the middle of the spectrum, namely the *6-12 months*. In another note, the four options obtained a fair share of response in all types of criminal cases which makes it hard to determine the mean time needed to resolve a criminal case, yet it is worth mentioning that for *organized crime and corruption*, and *murder*, 64% and 57% of lawyers respectively, claim that take *12-24 months* to resolve.

Table 14. Time it takes for a criminal case to be resolved

	Theft	Illegal weapon possession	Organized crime and corruption	Murder	Domestic violence	Sexual violence
Less than 3 months	8.08%	13.39%	1.23%	0.42%	26.42%	16.17%
3-5 months	15.77%	16.93%	4.53%	10.46%	24.80%	26.38%
6-12 months	41.15%	42.52%	30.04%	32.22%	32.93%	32.34%
12-24 months	35.00%	27.17%	64.20%	56.9%	15.85%	25.11%

When looking at individual courts closely, the highest percentages in all regions are found at the bottom of both tables, which shows that almost all of the four most common civil cases take from 12 to 24 months to get resolved, although in regions such as Prizren, Gjakova and Mitrovica, a high percentage of responses are in the *6-12 months*' option as well.

Table 15. Time it takes for a civil case to be resolved, by region²

	Damage compensation	Contested divorce	Property claims	Labor disputes
Less than 3 months	PR: 3.51% FR: 3.85% GJL: 2.33% PZ: 0.00% GJK: 3.33% PJ: 0.00% MIT: 0.00%	PR: 3.17% FR: 35.48% GJL: 11.63% PZ: 0.00% GJK: 26.67% PJ: 2.17% MIT: 16.22%	PR: 0.00% FR: 0.00% GJL: 0.00% PZ: 0.00% GJK: 0.00% PJ: 0.00% MIT: 0.00%	PR: 0.00% FR: 10.34% GJL: 2.38% PZ: 0.00% GJK: 10.00% PJ: 2.22% MIT: 0.00%
3-5 months	PR: 5.26% FR: 0.00% GJL: 16.28% PZ: 14.29% GJK: 10.00% PJ: 12.05% MIT: 0.00%	PR: 14.29% FR: 19.35% GJL: 18.06% PZ: 18.37% GJK: 46.67% PJ: 23.91% MIT: 37.84%	PR: 3.51% FR: 3.45% GJL: 2.27% PZ: 4.08% GJK: 10.00% PJ: 0.00% MIT: 0.00%	PR: 1.75% FR: 13.79% GJL: 21.43% PZ: 16.33% GJK: 26.67% PJ: 37.78% MIT: 24.24%
6-12 months	PR: 14.04% FR: 7.69% GJL: 20.93% PZ: 44.09% GJK: 33.33% PJ: 8.33%	PR: 34.92% FR: 41.94% GJL: 44.19% PZ: 51.02% GJK: 20.00% PJ: 65.22%	PR: 8.77% FR: 3.45% GJL: 18.18% PZ: 44.09% GJK: 6.67% PJ: 24.44%	PR: 21.05% FR: 27.59% GJL: 38.01% PZ: 46.94% GJK: 33.33% PJ: 31.11%

² PR – Prishtina; FR: Ferizaj; GJL: Gjilan; PZ: Prizren; GJK: Gjakova; PJ: Peja; MIT: Mitrovica

	MIT: 11.54%	MIT: 43.24%	MIT: 12.00%	MIT: 33.33%
12-24 months	PR: 77.19% FR: 88.46% GJL: 60.47% PZ: 40.82% GJK: 53.33% PJ: 79.17% MIT: 88.46%	PR: 47.62% FR: 3.23% GJL: 25.58% PZ: 30.61% GJK: 6.67% PJ: 8.07% MIT: 2.07%	PR: 87.72% FR: 93.1% GJL: 79.55% PZ: 51.02% GJK: 83.33% PJ: 75.56% MIT: 88.00%	PR: 77.19% FR: 48.23% GJL: 38.01% PZ: 36.73% GJK: 30.00% PJ: 28.89% MIT: 42.42%

In the category of criminal cases, lawyers were asked to assess the time it takes for the most common types of cases – theft, illegal weapon possession, organized crime, murder, domestic violence and sexual violence, to be resolved. Similarly, to the Kosovo wide results, at the level of regions most respondents said that it takes 6-12 months to solve most of the aforementioned criminal cases, showing again that criminal cases have a faster turnout than civil cases. It is important to note though that *organized crime and corruption* as well as *murder* in all regions take the longest of all to get resolved.

Table 16. Time it takes for a criminal case to be resolved, by region²

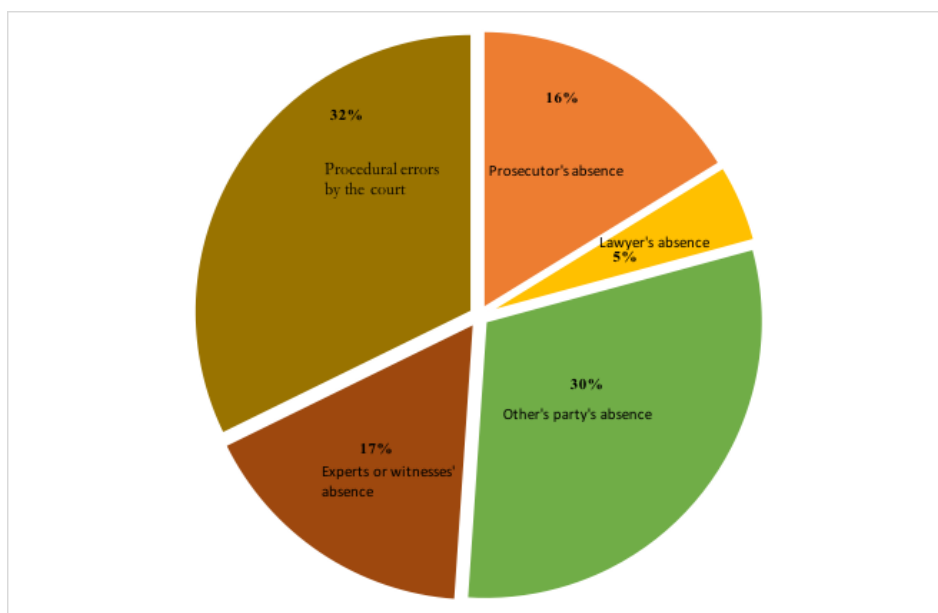
	Theft	Illegal weapon possession	Organized crime and corruption	Murder	Domestic violence	Sexual violence
Less than 3 months	PR: 3.77% FR: 6.25% GJL: 18.06% PZ: 2.02% GJK: 13.33% PJ: 16.00% MIT: 0.00%	PR: 2.00% FR: 12.09% GJL: 34.88% PZ: 2.02% GJK: 20.00% PJ: 25.00% MIT: 3.57%	PR: 0.00% FR: 0.00% GJL: 4.88% PZ: 2.02% GJK: 0.00% PJ: 0.00% MIT: 0.00%	PR: 0.00% FR: 0.00% GJL: 0.00% PZ: 0.00% GJK: 0.00% PJ: 0.00% MIT: 3.85%	PR: 19.15% FR: 22.58% GJL: 26.83% PZ: 10.64% GJK: 50.00% PJ: 45.00% MIT: 30.00%	PR: 4.55% FR: 16.67% GJL: 19.51% PZ: 12.77% GJK: 33.33% PJ: 33.33% MIT: 4.00%
3-5 months	PR: 5.66% FR: 15.62% GJL: 25.58% PZ: 18.75% GJK: 20.00% PJ: 24.00% MIT: 3.45%	PR: 12.00% FR: 3.23% GJL: 20.93% PZ: 18.75% GJK: 40.00% PJ: 16.67% MIT: 17.14%	PR: 6.25% FR: 0.00% GJL: 7.32% PZ: 6.25% GJK: 0.00% PJ: 9.09% MIT: 0.00%	PR: 6.67% FR: 9.68% GJL: 11.09% PZ: 14.58% GJK: 10.71% PJ: 5.26% MIT: 11.54%	PR: 8.51% FR: 25.81% GJL: 41.46% PZ: 21.28% GJK: 36.67% PJ: 20.00% MIT: 23.33%	PR: 13.64% FR: 20.00% GJL: 36.59% PZ: 23.04% GJK: 46.67% PJ: 16.67% MIT: 28.00%
6-12 months	PR: 30.19% FR: 46.88% GJL: 32.56% PZ: 62.05% GJK: 46.47% PJ: 36.00% MIT: 31.03%	PR: 32.00% FR: 41.94% GJL: 34.88% PZ: 66.67% GJK: 40.00% PJ: 45.83% MIT: 32.14%	PR: 8.33% FR: 38.71% GJL: 29.27% PZ: 50.00% GJK: 22.33% PJ: 40.91% MIT: 21.74%	PR: 11.11% FR: 29.03% GJL: 28.57% PZ: 60.42% GJK: 17.86% PJ: 31.58% MIT: 42.31%	PR: 31.91% FR: 35.48% GJL: 24.39% PZ: 59.57% GJK: 10.00% PJ: 35.00% MIT: 23.33%	PR: 20.45% FR: 36.67% GJL: 29.27% PZ: 57.45% GJK: 20.00% PJ: 33.33% MIT: 20.00%

12-24 months	PR: 60.38%	PR: 54.00%	PR: 25.42%	PR: 82.22%	PR: 40.43%	PR: 61.36%
	FR: 31.25%	FR: 41.94%	FR: 61.29%	FR: 61.29%	FR: 16.13%	FR: 26.67%
	GJL: 23.26%	GJL: 9.03%	GJL: 58.54%	GJL: 59.52%	GJL: 7.32%	GJL: 14.63%
	PZ: 16.67%	PZ: 12.05%	PZ: 41.67%	PZ: 25.00%	PZ: 8.51%	PZ: 6.38%
	GJK: 20.00%	GJK: 0.00%	GJK: 76.67%	GJK: 71.43%	GJK: 3.33%	GJK: 0.00%
	PJ: 24.00%	PJ: 12.04%	PJ: 50.00%	PJ: 63.16%	PJ: 0.00%	PJ: 16.67%
	MIT: 65.52%	MIT: 57.14%	MIT: 78.26%	MIT: 42.31%	MIT: 23.33%	MIT: 48.00%

5.2 HEARINGS

Delayed hearings are another factor contributing to a lengthy resolution of case files. This study looks at the reasons behind hearing delays and uses it again as means to measure the efficiency of the courts. The survey presented respondents with a list of potential reasons that hearings are delayed, and found that the most common are *other party's absence* with a share of 30%, and *procedural errors by the court* selected by another 32%. The reason selected by the fewest among of respondents was *lawyer's absence*, but this may be due to the premise that respondents they would not consider their absence to be the reason why hearings are delayed, or admit that they are absent for scheduled hearings.

Chart 5. Reasons why hearings are delayed



Regionally, it appears that the most common reasons for hearing delays are *other party's absence* and *procedural errors by the court*. The region of Gjakova is an exception though, where almost 50% of the respondents selected the former to be the main reason and with fair share among other options. Regarding the lawyer's absence as one of the reasons for court hearings to be delayed, lawyers of the region of Prishtina, roughly 7% of them admit that they themselves sometimes are to blame.

Table 17. Reasons why hearings are delayed

Reason Region	Prosecutor's absence	Lawyer's absence	Other party's absence	Experts and witnesses absence	Procedural errors by the court
Prishtinë/Priština	16.79%	7.3%	23.36%	16.79%	35.77%
Ferizaj/Uroševac	23.21%	3.57%	26.79%	16.07%	30.36%
Gjilan/Gnjilane	12.73%	5.45%	36.36%	18.18%	27.27%
Prizren	1.89%	1.89%	37.74%	28.3%	30.19%
Gjakovë/Djakovica	17.07%	2.44%	48.78 %	14.63%	17.07%
Pejë/Peć	23.38%	5.19%	20.78%	11.69%	38.96%
Mitrovicë/Mitrovica	13.95%	00.00%	39.53%	11.63%	34.88%

Participants were also asked to rank the reasons above from most to least important, as displayed in the table below. *Procedural errors* by the court are most often selected as the most important reason for delayed hearings with 35.14%, followed by *experts and witnesses' absence* as the second most important reason with 30.86%. The third most important reason is mostly identified as the *other party's absence* with 26.7%, whereas the *prosecutor's absence* and the *lawyer's absence* are marked as the fourth and fifth most important reasons with 29.26% and 59.01%, respectively.

Table 18. Most frequent reasons why hearings are delayed

	Prosecutor's absence	Lawyer's absence	Other party's absence	Experts and witnesses absence	Procedural errors by the court
Most important	17.55%	3.73%	31.94%	20.37%	35.14%
Second most important	19.68%	5.59%	27.75%	30.86%	18.38%
Third most important	18.62%	10.56%	26.7%	20.37%	27.57%
Fourth most important	29.26%	21.12%	9.95%	19.75%	7.57%
Fifth most important	14.89%	59.01%	3.66%	8.64%	11.35%

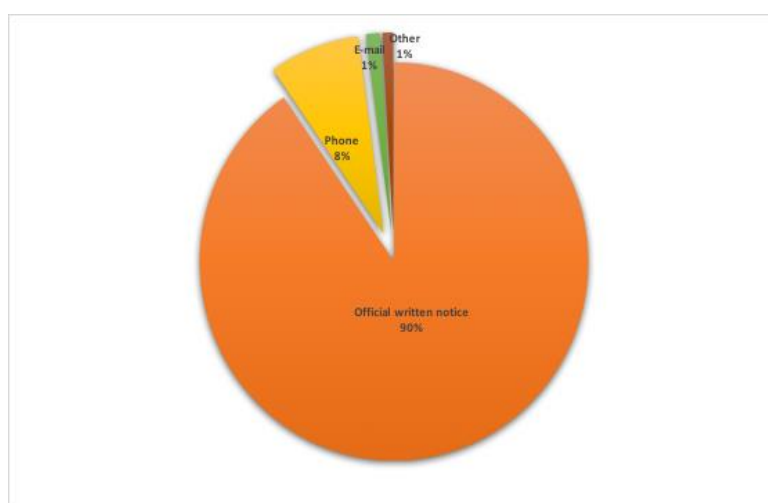
An additional aspect of efficiency with regards to the disposition of cases, are the existing legal and procedural impediments. This study identifies the legal and procedural changes proposed by lawyers based on their knowledge and experience, through an open ended question to which we received a wide variety of answers and opinions. Specifically, 44 of them identified the lack of judges to be a problem for a speedy disposition of cases and 24 complained about the lack of efficiency in handling cases. 16 attorneys claimed that more court employees are needed along more judges, eight asked for more prosecutors, and five asked for more professionalism and work dedication from staff members. 10 study participants were of the opinion that more regular and rigorous reference to laws while

handling cases would result in faster dispositions, whereas 6 attorneys gave precedence to ordering and prioritizing cases. 7 respondents would look forward to setting strict deadlines for case completion and 6 demanded more accountability from court bodies. Respondents also talked about changes in various levels - while some attorneys wanted a change in the civil procedure, 4 expressed the idea of a change in court staff and 3 proposed a radical reform of the entire justice system.

The overwhelming majority of attorneys are notified about a hearing through an official written notice, while a minority 7.51%, 1.2%, and 0.9% are notified via phone, email, or through other means, respectively.

A timely notification regarding scheduled hearings is one of the preconditions for hearings to be conducted without delays. Our findings show that the overwhelming majority (90%) of attorneys are notified about hearings through an official written notice, while other means such as phone and email are used to a very small degree.

Chart 6. Manner of notification about hearings



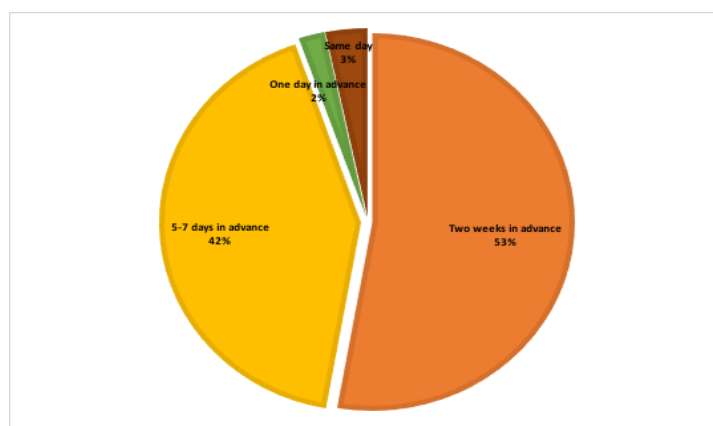
Similarly, on the level of regions the main method used by courts to notify lawyers for hearings is *official written notice*. Email is the least used means of communication, in fact in 5 out of 7 regions, attorneys state they never receive notifications via email.

Table 19. Means of notification about hearings, by region

Means of notification	Official written notice	Phone	E-mail	Other
Region				
Prishtinë/Priština	96.00%	4.00%	0.00%	0
Ferizaj/Uroševac	90.91%	6.06%	0	1.00%
Gjilan/Gnjilane	86.96%	10.87%	2.17%	0
Prizren	97.96%	2.04%	0	0
Gjakovë/Djakovica	87.01%	3.23%	9.68%	0
Pejë/Peć	96.00%	4.00%	0	0
Mitrovicë/Mitrovica	100%	0	0	0

Receiving hearing notification on time, despite the means used, is of high importance to the overall efficiency of courts. Results of our study show that generally lawyers receive the notification in a rather timely manner, with the majority of the respondents (53%) claiming that they are informed about the hearings two weeks in advance, followed by 42% who claim that they are notified 5-7 days in advance. A minority of participants stated that they are notified one day in advance or on the same day as the hearing, with 2% and 3%, respectively. This suggests that lawyers' notifications indeed are not much of an impediment to the general efficiency of courts hearings.

Chart 7. Hearing notices



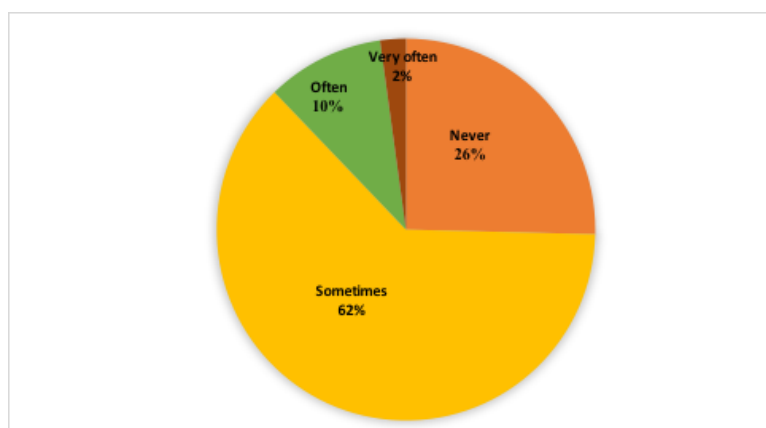
Regionally, notifications are received in a timely manner; most lawyers say they receive the notifications either *two weeks in advance* (in most regions) or *5-7 days in advance*.

Table 20. Hearing notices, by region

Hearing notice	Two weeks in advance	5-7 days in advance	One day in advance	Same day
Region				
Prishtinë/Priština	52.75%	32.97%	6.59%	7.69%
Ferizaj/Uroševac	64.52%	35.48%	0	0
Gjilan/Gnjilane	52.17%	41.03%	0	6.52%
Prizren	30.00%	70.00%	0	0
Gjakovë/Djakovica	41.94%	58.06%	9.68%	0
Pejë/Peć	63.46%	32.96%	1.92%	1.92%
Mitrovicë/Mitrovica	67.5%	32.05%	0	0

While most lawyers are satisfied with receiving notification in a timely manner, there are some cases where postponement of the hearings is requested. In these cases, 62% of the lawyers claim judges deny this request.

Chart 8. Lawyer’s demand for hearing delays, denied by judge



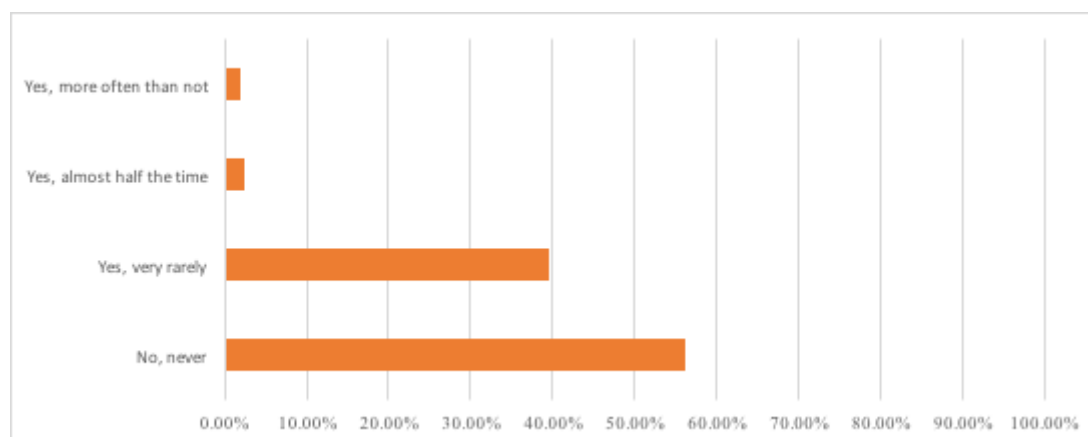
Regionally, most judges appear to deny the request for delays in most of the cases, with the exception of Peja, where 52% of lawyers there claim that judges never deny their request for postponing a hearing. This issue requires further attention to examine the reasons lawyers request hearing postponements and how this affects court efficiency in general.

Table 21. Lawyer’s demand for hearing delays, denied by judge, by region

Scales	Never	Sometimes	Often	Very often
Region				
Prishtinë/Priština	9.21%	68.42%	18.42%	3.95%
Ferizaj/Uroševac	38.71%	54.84%	6.45%	0
Gjilan/Gnjilane	18.18%	68.18%	9.09%	4.55%
Prizren	22.45%	75.51%	2.04%	0
Gjakovë/Djakovica	16.13%	54.84%	22.58%	6.45%
Pejë/Peć	55.01%	40.82%	4.08%	0
Mitrovicë/Mitrovica	28.21%	66.67%	5.13%	0

The unjustified absence of a lawyer in a scheduled hearing is considered to be in violation of the Code of Ethics and the Regulation of the Disciplinary Commission. The court may take disciplinary measures towards the lawyer who fails to show up for a hearing based on the Code of Penal Procedure or the Law on Contested Procedure. However, a hearing may be held without the lawyer (if the absence of the lawyer does not impede the process, and in this case, the lawyer does not have to deal with the disciplinary commission). In this section we aimed at exploring how often are lawyers fined by judges and surprisingly, the majority (56%) of them claim that they have never had disciplinary measures taken against them, followed by another large share of respondents (39%) who claim that it happens very rarely. In sum, we can suggest that the lack of impunity for irresponsible lawyers might make its contribution to the inefficiency of the court work in general.

Chart 9. Lawyers fined by judges if failed to show up for hearing



When this high percentage of those lawyers is divided per region, the findings do not change much from the aggregated results for all Basic Courts. Thus, in 5 out of 7 regions lawyers claim that they are never or very rarely fined, with the most striking case in the region of Peja where roughly 85% of the respondents stated that they never get fined for their absence at the hearings. In the region of Prizren and Mitrovica 57% and 56% respectively, claim that they are fined, though very rarely.

Table 22. Lawyers fined (by judges) if failed to show up for a hearing

Scale	No, never	Yes, very rarely	Yes, almost half the time	Yes, more often than not
Region				
Prishtinë/Priština	46.97%	42.42%	4.55%	6.06%
Ferizaj/Uroševac	60.00%	36.67%	3.33%	0
Gjilan/Gnjilane	70.45%	29.55%	0	0
Prizren	40.82%	57.14%	0	2.04%
Gjakovë/Djakovica	56.67%	40.00%	3.33%	0
Pejë/Peć	84.78%	13.04%	0	2.17%
Mitrovicë/Mitrovica	38.46%	56.41%	5.13%	0

As for the frequency of postponement of scheduled hearings, lawyers were asked to assess their experience based on five categories of frequency from *less than 10%* to *76-100%*. A share of 39.81% of the sample stated that 11-25% of scheduled hearings are postponed, whereas a tiny minority of 0.96% claimed that this occurs in 76-100% of cases. Moreover, the overwhelming majority (90%) of the respondents would like to have a standard schedule of hearings in each case.

Table 23. Frequency of postponed scheduled hearings

Less than 10% of hearings	11-25% of hearings	26-50% of hearings	51-75% of hearings	76-100% of hearings
22.61%	39.81%	28.34%	8.28%	0.96%

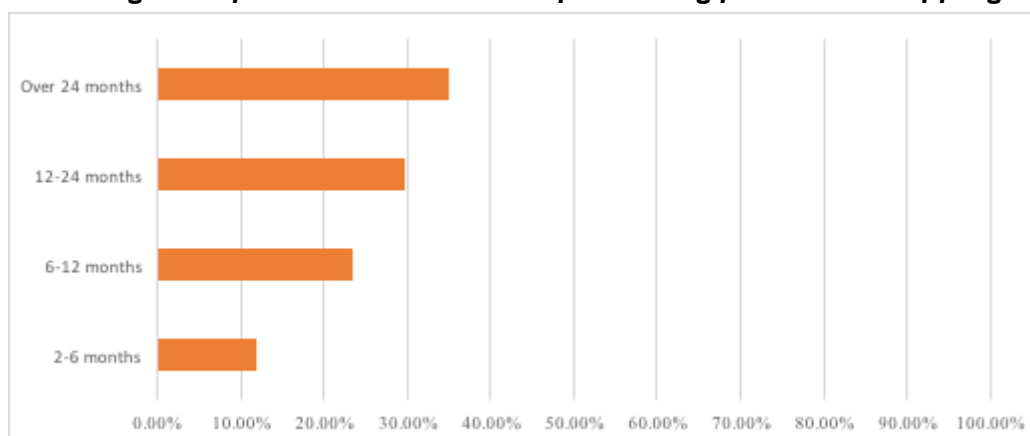
The share of the percentages at the level of regions are the highest in the first three rates, *less than 10%*, *11-25%*, and *26-50%*. In four regions, namely Ferizaj, Prizren, Peja, and Mitrovica a rather high percentage of lawyers claim that *less than 10%* of scheduled hearings get postponed. These findings suggest that hearings are to a large degree not a hurdle to the courts efficiency.

Table 24. Percentage of postponed scheduled hearings, by region

Frequency	Less than 10%	11-25%	26-50%	51-75%	76-100%
Region					
Prishtinë/Priština	13.33%	30.67%	34.67%	18.67%	2.67%
Ferizaj/Uroševac	25.81%	38.71%	35.48%	0	0
Gjilan/Gnjilane	15.56%	46.67%	33.33%	4.44%	0
Prizren	34.69%	40.82%	18.37%	6.12%	0
Gjakovë/Djakovica	19.35%	38.71%	32.26%	9.68%	0
Pejë/Peć	28.26%	45.65%	21.74%	2.17%	2.17%
Mitrovicë/Mitrovica	27.03%	43.24%	21.26%	8.11%	0

Following are the share of percentages of the time it takes for the first hearing to take place after the case gets filed. Most participants (35.05%) state that it can take over 24 months for a case to have the first hearing scheduled, whereas the least selected option (11.9%) is 2-6 months.

Chart 10. Average time for court to schedule the first hearing from the date of filing



Scheduling the first hearing from the date of filing the case, takes quite some time in almost all Basic Courts often even more than 24 months. While in the Basic Court of Gjilan, Prizren, Peja and Gjakova the majority of lawyers picked between the options of *6-12 months* and *12-24 months* to be the longest time; in three other Basic Courts Prishtina, Ferizaj and Mitrovica the overwhelming majority claimed that it takes more than *24 months* for the first hearing to be scheduled from the date of filing.

Table 25. Average time for court to schedule the first hearing from the date of filing

Average time	2-6 months	6-12 months	12-24 months	Over 24 months
Region				
Prishtinë/Priština	8.33%	15.28%	16.67%	59.72%

Ferizaj/Uroševac	0	6.67%	33.33%	60.00%
Gjilan/Gnjilane	16.67%	30.95%	35.71%	16.67%
Prizren	6.12%	59.18%	22.45%	12.24%
Gjakovë/Djakovica	26.67%	20.00%	43.33%	10.00%
Pejë/Peć	22.45%	22.45%	48.98%	6.12%
Mitrovicë/Mitrovica	5.13%	2.56%	17.95%	74.36%

Findings show the number of required hearings held until a case is resolved is generally high and varies for criminal and civil cases. With regards to civil cases, 43% percent of the respondents stated that it takes 3-5 hearings, followed by another 23% who claimed that it takes an average of 7-9 hearings to reach a final verdict. On the other hand, the share of percentages of the responses regarding the number of hearings required until a criminal case reaches its final verdict is almost even with 36% of them claiming that it takes 3-5 hearings and another 32% claiming that it takes 5-7 hearings. These results suggest that, criminal cases require more hearings than civil cases until the final verdict.

Table 26. Average number of hearings until a civil case and a criminal case is resolved

	1-3 hearings	3-5 hearings	5-7 hearings	7-9 hearings	More than 9 hearings
Civil Cases	11.52%	43.03%	23.03%	10.91%	11.52%
Criminal Cases	9.72%	36.46%	31.60%	10.42%	11.81%

The results for each Basic Court individually are similar to the Kosovo wide results. The average number of hearings necessary for both civil and criminal cases to be resolved is between 3-5 hearings and 5-7 hearings. However, in some regions such as Prishtina, Prizren and Gjakova it takes 7-9 hearings or even more than 9 hearings for criminal cases to reach the final verdict. Whilst in the region of Gjilan, 22% of the lawyers claim that it takes only 1-3 hearings for both civil and criminal cases to reach the final verdict.

Table 27. Average number of hearings until a civil case and a criminal case is resolved

Hearings	Type of case	1-3 hearings	3-5 hearings	5-7 hearings	7-9 hearings	More than 9 hearings
Region						
Prishtinë/Priština	Civil	14.29%	27.38%	22.62%	16.67%	19.05%
	Criminal	10.29%	27.94%	26.47%	10.29%	25.00%
Ferizaj/Uroševac	Civil	12.09%	51.61%	32.26%	3.23%	0.00%
	Criminal	13.33%	40.00%	40.00%	6.67%	0.00%
Gjilan/Gnjilane	Civil	22.22%	44.44%	20.00%	4.44%	8.89%

	Criminal	22.22%	53.33%	17.78%	6.67%	0.00%
Prizren	Civil	2.04%	20.41%	44.09%	20.41%	12.24%
	Criminal	0.00%	16.67%	37.05%	22.92%	22.92%
Gjakovë/Djakovica	Civil	6.45%	51.61%	6.45%	19.35%	16.13%
	Criminal	3.33%	56.67%	30.00%	10.00%	0.00%
Pejë/Peć	Civil	10.00%	54.00%	16.00%	6.00%	14.00%
	Criminal	12.09%	51.61%	22.58%	3.23%	9.68%
Mitrovicë/Mitrovica	Civil	10.00%	75.00%	15.00%	00.00%	0.00%
	Criminal	5.56%	25.00%	52.78%	8.33%	8.33%

5.3 TRANSFER OF CASES TO HIGHER INSTANCE COURTS AND BACK

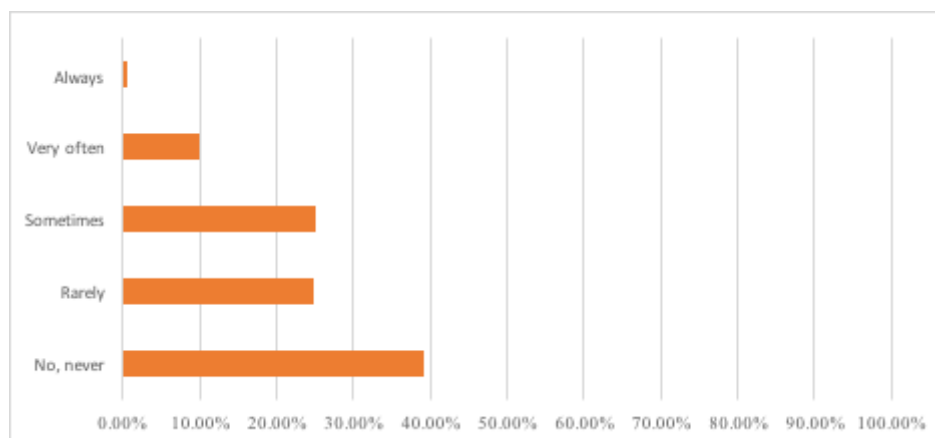
A major finding in the study conducted with court users in November of 2017 is the fact that a considerable amount of criminal cases is transferred back to the Basic Courts from the Court of Appeals. This may happen for one of the following reasons: (1) substantial violations of provisions of criminal procedure, or (2) erroneous or incomplete determination of the factual situation³. Similarly civil cases are transferred to Basic Courts, due to: (1) violation of provisions of contestation procedures; (2) wrong ascertainment or partial ascertainment of the factual state; (3) wrong application of the material rights.⁴ Returned cases, add up to the overall (in)efficiency of the courts. A reason that was mentioned often in focus group discussions is that judges purposefully make procedural errors in order to receive cases back from the Court of Appeals.

However, in this study, the majority of respondents said *no, never* and *rarely*, with a 25% of the answers in the *sometimes* and 10% on the *very often* categories. In line with the reasons for returned cases mentioned above our survey contained specific questions, to assess whether they stand as such. Thus, when lawyers were asked to rate how often the judges purposefully make errors in order to get the cases returned a rather high percentage of them (39%) claimed that it *never* happens. However, it is important to note that the percentage of those who selected *sometimes* for their answer follows right after with 25%.

³ Criminal No. 04/L-123 Procedure Code

⁴ Official Gazette. LAW No. 03/L-006 On Contested Procedure. Article 181 "Reasons on which the verdict could be struck".

Chart 11. Do Judges purposefully make procedural errors when deciding on the merits of the case so that the case will be sent back for retrial from the Court of Appeals



The situation is different when looking at individual Basic Courts regarding purposeful judges' errors with the aim of having cases returned back to Basic Courts. Surprisingly, the largest percentage of the lawyers of 6 out of 7 regions selected the first two options; *no never* or *rarely*, whereas in the region of Pristina 41% of the respondents selected *sometimes*.

Table 28. Do judges purposefully make procedural errors when deciding on the merits of the case so that the case will be sent back for retrial from the Court of Appeals

Frequency	No, never	Rarely	Sometimes	Very often	Always
Region					
Prishtinë/Pristina	15.07%	19.18%	41.01%	21.92%	2.74%
Ferizaj/Urosevac	35.48%	19.35%	32.26%	12.09%	0
Gjilan/Gnjilane	41.86%	16.28%	32.56%	9.03%	0
Prizren	36.73%	53.06%	8.16%	2.04%	0
Gjakovë/Djakovica	51.61%	25.81%	19.35%	3.23%	0
Pejë/Pec	57.45%	17.02%	23.04%	2.13%	0
Mitrovicë/Mitrovica	56.41%	23.08%	10.26%	10.26%	0

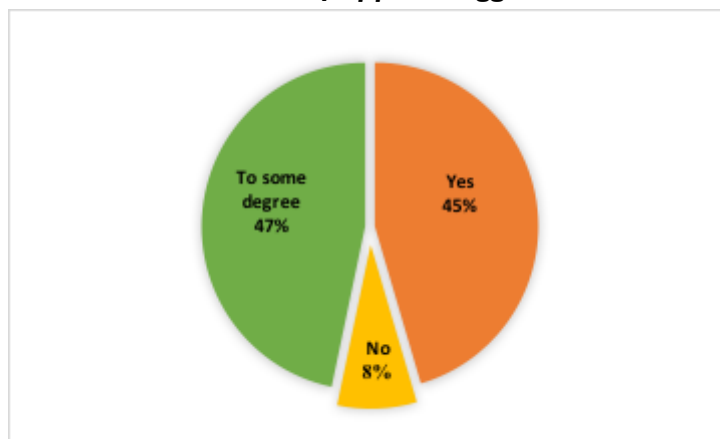
Of the cases that are sent back, 38.17% of lawyers in the sample believe that they are treated faster to some degree, 34.07% said they are not, and 27.76% stated that they are processed more quickly.

Table 29. Court judgments are treated faster when they are sent back from the Court of Appeals for retrial

Yes	No	To some degree
27.76%	34.07%	38.17%

When the Court of Appeals sends cases back to the Basic Court, it usually provides suggestions as to the issues the latter should address. The general opinion of lawyers' is that the Basic Courts address the suggestions regarding the cases that are received back, in fact answers are divided almost evenly between *to some degree* (46.71%) and *yes* (45.45%). Only a minority of 7.84% responded negatively to this question.

Chart 12. Basic Courts address the Court of Appeals suggestions when cases are sent back



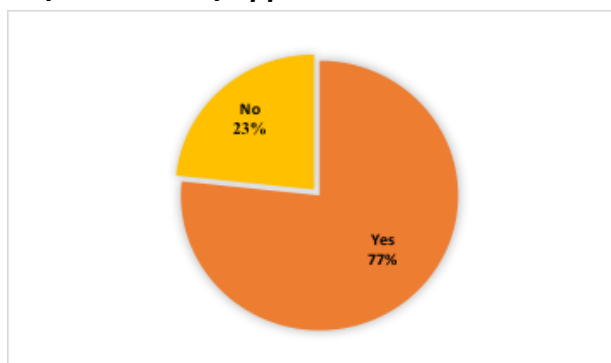
We dismantled this issue to the level of the regions, to see whether the overall sentiment of the entire country differs at different Basic Courts based on their particular challenges. Indeed, the findings show that on average a similar situation appears. Lawyers confirm that Basic Courts address the suggestions made by the Appeal Courts, when cases get returned in the majority of cases.

Table 30. Basic Court address the Court of Appeals suggestions when cases are sent back

Response	Yes	No	To some degree
Region			
Prishtinë/Priština	25.00%	7.89%	67.11%
Ferizaj/Uroševac	36.67%	10.00%	53.33%
Gjilan/Gnjilane	52.27%	4.55%	43.18%
Prizren	36.73%	14.29%	48.98%
Gjakovë/Djakovica	65.62%	3.12%	31.25%
Pejë/Peć	57.14%	2.04%	40.82%
Mitrovicë/Mitrovica	64.01%	12.82%	23.08%

It might be the case that the Court of Appeals returns cases to the Basic Court more than two times. A significant number of the lawyers (77%) confirm it to be the case. This suggests that while the same cases get sent back and forth, many other cases are left on hold, and therefore contributing to the courts' inefficiency.

Chart 13. Returned cases from Court of Appeals more than two times



Similarly, at the level of the regions the overwhelming majority of the respondents' state that cases get returned more than two times from Court of Appeals to the Basic Court. The most striking percentage appears at the region of Ferizaj where 96% of lawyers selected the answer yes.

Table 31. Returned cases from Court of Appeals more than two times

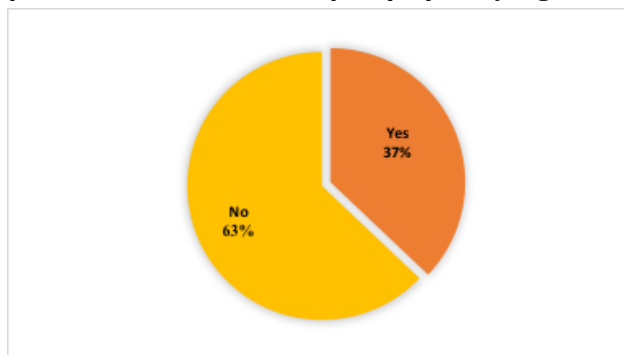
Response	Yes	No
Region		
Prishtinë/Priština	77.27%	22.73%
Ferizaj/Uroševac	96.43%	3.57%
Gjilan/Gnjilane	67.44%	32.56%
Prizren	83.67%	16.33%
Gjakovë/Djakovica	67.74%	32.26%
Pejë/Peć	84.44%	15.56%
Mitrovicë/Mitrovica	60.53%	39.47%

As to the main reasons that the court judgments are sent back to Basic Courts by the Court of Appeals for reexamination, participants gave varied and disparate opinions. However, procedural mistakes on part of the judges and wrongful application of the material law was identified by 178 attorneys as the main reason for the reexamination of court judgments from the Basic Courts. A total of 28 attorneys identified unprofessional verdicts made without full regard of the law, whereas seven others pointed toward a disregard of deadlines as the reason for reexamination. Nine participants complained about a lack of justice or reference to laws, ten about a lack of preparation or evidence, four spoke about a lack of coordination, and three about missing documentation. A fewer number of attorneys mentioned that complaints from parties, corruption, outside intervention, and the large number of cases lead to a reexamination of court judgments. Altogether 6 judges stated that the Court of Appeals does not have solid reasons to send back court verdicts to Basic Courts.

5.4 LAWYER - JUDGE RELATIONS

Since both judges and prosecutors are employees of the state and represent the interests thereof, judges may have the tendency to offer different treatment to them and lawyers. Findings of this study show that the vast majority of the respondents (62%) claim that the predominant majority of lawyers believe that they are not treated equally.

Chart 14. Lawyer and prosecutor are treated equally by the judges



At the level of the regions, findings show that the situation is different, and more so in two regions. In the region of Prizren and Gjakova lawyers state that they are treated equally with the prosecutors. In the 5 remaining regions, findings lean on portraying the same situation as the nationwide results.

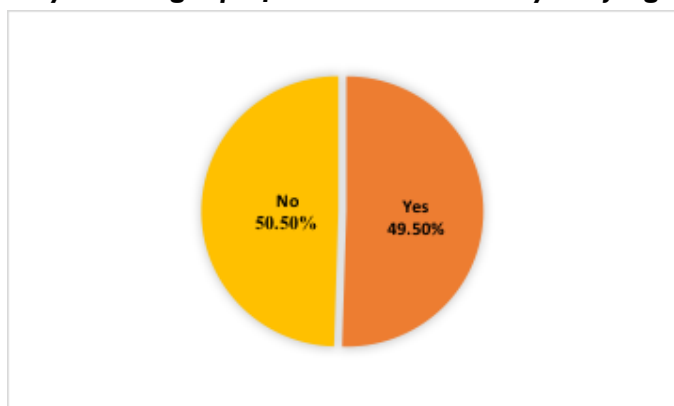
Table 32. Lawyer and prosecutor are treated equally by the judges

Response	Yes	No
Region		
Prishtinë/Priština	17.81%	82.19%
Ferizaj/Uroševac	25.81%	74.19%
Gjilan/Gnjilane	27.91%	72.09%
Prizren	74.47%	25.53%
Gjakovë/Djakovica	51.61%	48.39%
Pejë/Peć	47.92%	52.08%
Mitrovicë/Mitrovica	21.62%	78.38%

Respondents who claimed differential treatment by a judge were asked why they hold that belief, to which 54 respondents explained that judges and prosecutors are considered to have a higher and privileged status compared to attorneys, since both of them are employed by the state and represent its interests. Altogether 23 attorneys identified this difference in position as giving rise to an element of cooperation between judges and prosecutors on various cases and two others stated that judges consider prosecutors as their colleagues, essentially ensuring preferential treatment for prosecutors. 15 participants simply stated that prosecutors are usually tolerated more than attorneys, even when they make procedural or material mistakes. Fewer participants identified other reasons for preferential treatment toward prosecutors, such as antiquated thinking in part of judges, corruption, the fact that prosecutors have more access to evidence, and that they are considered more trustworthy than attorneys. In addition, two respondents claimed that some prosecutors might be afraid of certain judges or they might seek their favors.

As to the opinion of lawyers with regards to preferential treatment of judges towards certain lawyers, respondents' opinions were divided almost equally with 50.5% of them stating that there are lawyers who enjoy that kind of treatment and 49.5% stating that they are all treated equally.

Chart 15. Are there lawyers who get preferential treatment by the judges



Lawyers from different regions are divided into two groups with regards to this topic. The first group comprises of Prishtina, Ferizaj, Gjilan and Mitrovica Basic Courts, where a majority claim that here are lawyers who receive preferential treatment from the judges, as opposed to the other group of regions namely Prizren, Gjakova, and Peja, where findings show that judges of these regions offer equal treatment to all lawyers.

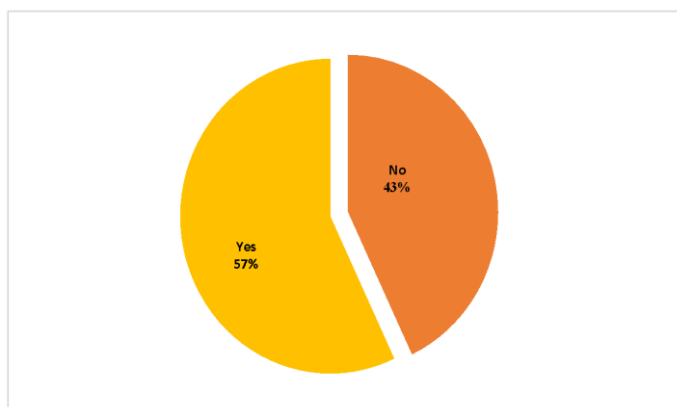
Table 33. Are there lawyers who get preferential treatment by the judges

Response	Yes	No
Region		
Prishtinë/Priština	67.14%	32.86%
Ferizaj/Uroševac	60.00%	40.00%
Gjilan/Gnjilane	59.52%	40.48%
Prizren	17.39%	82.61%
Gjakovë/Djakovica	43.33%	56.67%
Pejë/Peč	40.00%	60.00%
Mitrovicë/Mitrovica	60.53%	39.47%

Respondents were then asked why they get a different treatment, to which 34 participants identified the friendship or family connections/closeness of certain attorneys and judges, 11 others said that some judges become attorneys upon retirement keeping their former relations with current judges intact. 11 other attorneys identified corruption as the source of the preferential treatment, while four others were concerned about political influence and interests affecting the workflow of the courts. A fewer number of respondents spoke about cooperation between judges and attorneys, personal reasons, favoritism, and even the fear of judges toward certain attorneys.

Finally, incomplete or unsubstantiated indictments by prosecutors are another source of inefficiency of court operations. Prosecutors on the first place must not file such indictments and even when they do courts should not proceed with the case. Apparently, in some cases this happens. Our survey data show that 57% of lawyers responded with yes they are aware of cases when courts proceeded with unsubstantiated indictments.

Chart 16. Aware of prosecutors ever filing an incomplete or unsubstantiated indictment and yet the court proceeded with the case



The numbers of attorneys who answered the follow-up question on the percentage of such cases is fairly small, so the results in the table below are presented in number rather than percentages. Altogether 71 attorneys said that such cases are processed 30% of the time, whereas 32 others claimed this occurs in 10% of cases. 27 respondents chose the higher percentage of 70%, whereas only 5 attorneys claimed such cases are processed inappropriately 100% of the time.

Table 34. If yes, what is the average occurrence of these cases

	100%	70%	30%	10%
Number of answers	5	27	71	32

6. PERCEPTION OF CORRUPTION

6.1 CASE OUTCOMES AFFECTED BY CORRUPTION

There is a widespread public perception that the judiciary in Kosovo is affected by corruption. This is substantiated by various study of international and local organizations, and stated in the Progress Report of the European Commission for Kosovo for 2017 and 2018. Specifically, according to these reports: The judiciary is [...] vulnerable to undue political influence and rule of law institutions need sustained efforts to build up their capacities.⁵ The degree to which corruption affects the outcome of cases is now known, however, responses to this section by lawyers, are quite worrisome. Most respondents (37.98%) said that 0-10% of cases are affected by corruption, with the percentage of respondents identifying a larger fraction of affected cases dropping across answers, with the biggest percentage concentrated on the 11-30% of cases.

Table 35. Percentage of case outcomes affected by corruption

0-10% of cases	11-30% of cases	31-50% of cases	51-80% of cases	81-100% of cases
37.98%	28.57%	19.51%	11.50%	2.44%

Lawyers from the region of Prishtina were undecided among three options, regarding the percentage of the outcomes affected by corruption: 11-30%, 31-50% and 51-80%, with each of them receiving a fair share of answers. In contrast, a majority of lawyers practicing in the regions of Ferizaj, Prizren and Mitrovica claim that only 0-10% of cases outcomes are affected by corruption.

Table 36. Percentage of case outcomes affected by corruption, by region

Percentage	0-10% of cases	11-30% of cases	31-50% of cases	51-80% of cases	81-100% of cases
Region					
Prishtinë/Priština	16.13%	27.42%	25.81%	24.19%	6.45%
Ferizaj/Uroševac	50.00%	19.23%	23.08%	7.69%	0
Gjilan/Gnjilane	30.00%	42.05%	15.00%	12.05%	0
Prizren	64.58%	25.00%	8.33%	0	2.08%
Gjakovë/Djakovica	20.00%	26.67%	23.33%	30.00%	0
Pejë/Peć	34.78%	30.43%	13.64%	4.55%	4.55%
Mitrovicë/Mitrovica	60.00%	25.71%	14.29%	0	0

Cases are also improperly influenced by the attorney assigned to the case through ex parte communication with the judge or through other means. To this question, respondents as lawyers themselves, gave most of the answers in the 0-10 and 11-30 percent of the cases.

Table 37. Percentage of cases' outcomes improperly influenced by the case attorney (ex parte communication with judge or through other means)

⁵ Kosovo Progress Report 2018, European Commission <https://ec.europa.eu/neighbourhood-enlargement/sites/near/files/20180417-kosovo-report.pdf>

0-10% of cases	11-30% of cases	31-50% of cases	51-80% of cases	81-100% of cases
42.66%	32.87%	14.69%	8.39%	1.40%

Other factors impacting the outcome of the cases is the influence from ex parte communication with the trial judge. The findings of this study show that in most of the regions lawyers claim that only up to 10% of the case outcomes are improperly influenced by their ex parte communications, with the highest percentages in three regions, namely Ferizaj, Prizren and Mitrovica. A great amount of responses is 11-30% of cases. It is important to note though, that lawyers in Prishtina and Gjakova regions are rather undecided since the share of percentages horizontally through the options is almost equal.

Table 38. Percentage of cases' outcomes improperly influenced by the case attorney (ex parte communication with judge or through other means)

Percentage	0-10% of cases	11-30% of cases	31-50% of cases	51-80% of cases	81-100% of cases
Region					
Prishtinë/Priština	20.31%	34.38%	28.12%	14.06%	3.12%
Ferizaj/Uroševac	50.00%	33.33%	4.17%	12.05%	0
Gjilan/Gnjilane	38.46%	43.59%	12.82%	5.13%	0
Prizren	58.33%	29.17%	10.42%	2.08%	0
Gjakovë/Djakovica	20.00%	26.67%	23.33%	30.00%	0
Pejë/Peć	38.64%	38.64%	13.64%	4.55%	4.55%
Mitrovicë/Mitrovica	72.22%	16.67%	8.33%	2.78%	0

6.2 BRIBERY

One of the main findings in the study *A Survey of Quality of Services Provided by Basic Courts* was that corruption in the judiciary system has evolved and become more sophisticated in that it is an exchange of favors between the two involved parties (legal representative, party in proceeding, and judge or other court employee) rather than the classic exchange of money for favors. The use of bribery, for various reasons related to court business, can be initiated by the parties themselves, their lawyers or court employees. Through this study, we aimed at exploring in further detail the nature and prevalence of bribery, the actors involved and the reasons why they engage in this illegal transaction.

Respondents were asked whether they have been personally asked for a bribe, why and by whom, whether they have paid a bribe, why and to whom, and whether they know of colleague who have bribed court employees or judges. As expected, answers yes to the use of bribery are the result of questions that involve people other than the respondents themselves. So, for example almost 13% of attorneys said that they have been asked for a bribe by a judge, court employee or an intermediary of a court employee acting on behalf of the former, 16.72% said that they are aware of cases when their colleagues bribed a judge or other court employee, and only 3% said that they themselves have offered a bribe to the latter.

Table 39. Asked for a bribe by a judge, court employee or any intermediary acting on behalf of the former

Yes	No
12.58%	87.42%

↓ **IF YES:**

- To fast-track processes: 15 responses
- To obtain the needed documentation: 4 responses
- To have the case ruled in client's favor: 17 responses
- Other: 6 responses

The extremely high non-response rate to this question does not provide statistically meaningful results, nonetheless data show that this phenomenon is especially present in the Basic Court of Gjakova and Ferizaj, where 23% and 13% respectively, of respondents claimed to have been demanded a bribe by a judge, court employee, or any intermediary acting on behalf of the former. Since very few of the respondents provided answers to the reason why they have done so, outcomes are presented as numbers, as percentages would be too small to be meaningful. Of those who answered, the most often cited reason was to have the case ruled in the client's favor, followed by fast-tracking the process.

Table 40. Offered a bribe to a judge or other court employee

Yes	No
3.22%	96.78%

↓ **WHY:**

- To fast-track processes: 4 responses
- To obtain the needed documentation: 3 response
- To have the case ruled in client's favor: 1 response
- Other: 6 responses

↓ **TO WHOM:**

- Judge: 2 responses
- Referent: 5 responses
- Administrator: 0 responses
- Other: 2 responses

On the other hand, when asked about their colleagues bribing a judge or other court employee, almost 18% of respondents claimed that they know of such cases. The frequency of this occurrence is mostly reported in Gjakova (49%) and in Gjilan (23%) with Prishtina following up with 15%.

Table 41. Cases when colleagues bribed a judge or other court employee

Yes	No
16.72%	83.28%

↓ **WHY:**

- To fast-track processes: 18 responses
- To obtain the needed documentation: 5 responses
- To have the case ruled in client's favor: 28 responses
- Other: 8 responses

It is a widespread belief that clients themselves are common initiators of bribery as a means to achieve a faster and/or favorable verdict. However, only 3% of attorneys in this study admit that their clients have asked them or considered to use bribery, while an overwhelming 96.76% denies that their clients had ever done so. Of the 3% that answered positively, three said that it happened multiple times, whereas two others answered "very often". The answers *never*, *very rarely*, *two times*, and *often* had been given by four different respondents. The reasons cited for why clients proposed the use of bribery to them, were the following:

- To fast-track processes: 0 responses
- To obtain the needed documentation: 1 response
- To have the case ruled in client's favor: 6 responses
- Other: 3 responses

Finally, the open-ended question which aimed at gathering ideas from the perspective of lawyers on what could be done to combat corruption in the judiciary, has gathered a wide variety of different answers and suggestions. The categories that attorneys chose in response to this question were splintered and none was supported by a large fraction of respondents. 29 respondents were of the opinion that more oversight would lead to a reduction of corruption in the judiciary; 26 respondents said that this could be achieved through harsher sanctions and penalties towards judges and other court officials who engage in corruption; 17 respondents advocated for more accountability controls put into place; 18 respondents think that raising salaries or improving working conditions would contribute in reducing corruption; 11 respondents suggest increasing the transparency of various court cases and verdicts; 16 respondents take the stance that actively fighting corruption and wetting judges would be the best solution to the current situation; Few respondents mentioned staff reform or new employees, awareness raising, de-politicization, and a radical reformation of the current justice system; and finally 12 respondents deny that there is any corruption in the judiciary.

7. GENERAL RECOMMENDATIONS FROM RESPONDENTS

A fewer respondents gave answers and suggestions to the open ended question about their remarks and observations or any aspects that they would like to see brought to the court's attention for improvement in the functioning of justice. While 10 respondents generally demanded more efficiency from the court in handling cases, nine others identified the need for an increase in the number of judges or other court employees in order to achieve the same. Nine respondents were proponents of more oversight into court functioning, and five other attorneys proposed investigations into the presence of nepotism as the best way to fight corruption in the judiciary. A smaller number of attorneys mentioned efforts to replace antiquated legal thinking, depolarization, harsher penalties, digitalization, and comprehensive system reform.

8. RECOMMENDATIONS FOR IMPROVEMENT

ACCESS TO INFORMATION

Given that 51% of respondents said that it is either somewhat hard or very hard to get information about the cases they represent from the court, access to information is an issue that should be seriously taken into account and addressed by the Courts. This is an issue which requires the commitment of both sides – court management and lawyers. First, Basic Court must update the website on a regular basis, while lawyers should make use of this source of information and communicate their concerns to the Court administration as a way to improve the quality of web navigation and content. This is a matter that should be taken seriously, especially by the Basic Court of Prishtina and Mitrovica where almost 90% and 77% of respondents respectively, claimed that it is hard to get information about their cases from the court. Therefore, the issue of responsiveness needs to be taken more seriously, and both lawyers and the court staff need to take a more proactive approach to the two-way communication thereof. This includes higher responsiveness and more courtesy in both verbal and written communication, and the use of modern means of communication such as telephone and email for exchanging information. Another aspect of this communication impediment is the result of the court's website management, specifically the content of the website. Lawyers who use them, would like to see information about previous cases and decisions so that they may use this information to build on their precedent for their similar cases. Another aspect that needs improvement is the use of the website by lawyers – only 34% use it currently, and of those who do, less than half find the information they were seeking. This issue is especially grave in Gjilan (67%), Ferizaj (77%), Mitrovica (79%) and Peja (90%). Even Gjakova, Prishtina and Prizren who stand a little better than the former, are not satisfactory results. The availability of the website should be promoted by court management, but also the content needs to improve so that lawyers who use it once have a reason to go back to it.

EFFICIENCY

Civil cases need to be processed more efficiently as the majority of the most common civil cases take 12-24 months. This is especially problematic for the Basic Court of Mitrovica where resolution of civil cases can take 12-24 months. Similarly, in Ferizaj, Prishtina and Gjakova 93%, 88%, 83% of property claim cases respectively take 12-24 months. The recommendation that emerges from lawyers' answers is the increase of the number of judges in the department of Civil Cases as their number is small in almost all Basic Courts compared to the volume of cases that they receive. The situation is a little

better for the most common types of criminal cases, the majority of which according to lawyers take 6-12 months to be resolved. The Basic Court of Prishtina stands rather poorly on the efficiency of solving criminal cases, with most of them taking 12-24 months to be solved. Similarly, the Basic Court of Mirovica stands in the same position. Generally, in all Basic Courts, a very small amount of criminal cases are solved in less than three months. Hearing delays are especially caused by procedural errors, a cause that is under the control of the court management and can be easily addressed by developing procedural manuals and offering trainings to the court staff. This is especially true for the Basic Courts of Prishtina, Ferizaj, Peja and Mitrovica. As for the second cause – other's party's absence, especially in the Basic Court of Gjakova, the court must develop and enforce punitive measures for party's who have been timely notified and still miss a hearing, as this adds up to the inefficiency and case backlog.

Lawyers' absence in hearings is also an efficiency issue that needs to be addressed by Courts. In almost 60% of cases they are not fined and this is especially alarming for the courts of Gjilan, Gjakova, Peja and Ferizaj. Enforcing stricter punitive measures for lawyers who miss a hearing when their presence is key would decrease this occurrence and improve the schedule and hence the efficiency of the courts. Scheduling hearings from the date of filing is another issue that courts need to address. Generally, it takes over 24 months for the first hearing to be scheduled from the date the case is filed. The Basic Court of Prishtina, Ferizaj and Mitrovica stand very poorly in this regard. These three courts must take measures to standardize the procedures from the moment the case is filed, and keep track of the time it is taking for the impediment in scheduling hearings, so that the Court can develop policies to improve in this aspect over time. Given that almost half of the respondents claimed that lawyers receive preferential treatment by the court, in this aspect the Basic Court of Prishtina, Ferizaj, Gjilan and Mitrovica should take measures such as vetting judges and offering compulsory training on professional ethics. Finally, prosecutors should also be made aware through trainings and punitive measures that filing incomplete and/or unsubstantiated indictments is not acceptable, while the court staff should be careful to not proceed with these cases.

CORRUPTION

The share of cases when judges, court employees or intermediaries acting on behalf of the former, asking for bribes is almost 13%. This issue needs to be addressed, especially by the Basic Court of Gjakova, Gjilan, Ferizaj and Mitrovica by taking any or all of the following measures: offering free toll numbers and complaint boxes in hallways for lawyers to anonymously report demands for bribes, preventing corruption by vetting judges and offering compulsory trainings on ethics and professional development for all court employees, and adopting stronger policies to hold judges accountable to a higher standard and put oversight measures by a supervisory institution such as the Kosovo Judicial Council.

9. ANNEX I

RECOMMENDATIONS AND PLEDGES FROM ROUND TABLES

The findings of the study "Transparency and Efficiency of Basic Courts of Kosovo" and the two accompanying reports "Citizens' Evaluation on Basic Court Services" and "Basic Court Services as Evaluated by Lawyers" were presented and discussed in six roundtables. Attending these events were the Court Presidents or Vice Presidents of the Basic Courts, who have pledged to engage in improving the quality of the services offered by Basic Courts in line with the findings of the study. Other participants were judges, administrators, lawyers and civil society representatives who provided their recommendations regarding the involvement of the courts in addressing issues arising from this report.

The recommendations and commitments made at the Round Table events by each basic court, are as follows:

Basic Court of Ferizaj:

- The Court President vowed that a work plan will be drafted, the purpose of which is to advance the flow of information to the public;
- The Court President vowed to take into account the recommendations for facilitating reporting of corruption to the court, either through complaint boxes or the provision of free-toll phone numbers.

Basic Court of Gjilan:

- The Court President vowed that, given that the results reveal a high frequency of "ex parte" communication, action will be taken to ensure that this does not occur since it is a direct violation of the Code of Ethics;
- The Information Officer of this court recommended that communication with the public be adapted to citizens' preferences, who visit the court's Facebook page much more than the official web site;

Basic Court of Mitrovica:

- After the transfer of the Basic Court in Mitrovica, the integration of Serbian judges into the Kosovo justice system and the translation of cases from Albanian to Serbian, the President of the Court pledged that the Court will undergo a restructuring of the work within the court, and that human resources will be better utilized;
- The President of the Court pledged that the Court will provide opportunities through which citizens can easily report cases of corruption, among which will be complaint boxes and toll-free phone numbers.
- With the aim of eliminating eventual misuse, special emphasis must be put on improving the way in which statistics are collected on cases reported by judges. This reporting should only be done by the Case Management Office and judges should not be involved in the process.

Basic Court of Peja & Gjakova:

- The presidents of both Basic Courts pledged to put the complaint box at the court building to enable citizens to file complaints about court services in general, as well as reporting misconduct and corrupt behavior by court staff;

- Participants recommended that lawyers' court visits should be managed more strictly and that they should not be permitted to visit judges' offices and inquire information about their cases.

Basic Court of Prizren

- Limiting / Prohibiting Attorneys' Access to Judges Chambers Court without Invitations by the Court to Avoid ex parte communication. The President of this Court has taken this decision and recommends that other Basic Courts follow the example;
- The Court President pledged to follow the recommendations of the report by placing the complaint box within the court facility.

Basic Court of Pristina

- The Court's Vice President expressed the Court's willingness to implement the recommendations of the report;
- Taking into account the work volume of the Information Officer of this Court, as well as the increase of court activities in relation to information and communication with the public, the Vice President presented said that they should plan to increase the number of staff at the information office;
- Civil society activists (specifically BIRN) proposed that within legal possibilities, to avoid the postponement of hearings for insignificant complications such as a lack of notebooks, papers /letters and other similar reasons.
- Civil society activists (specifically BIRN) recommended the abolishment of the KJC's administrative instruction to publish and anonymize judgments, as convicts are sentenced on behalf of the people, and it makes no sense to keep their names hidden.
- It was also recommended that the publication of the timetable of hearings be made by publishing the name of the parties at the main trial.
- The Public Information Officer from the Supreme Court proposed not to approve judges' vacation requests at times when they have trial hearings scheduled;

10. ANNEX 2

Democracy Plus – Survey

Transparency, Accessibility & Efficiency of Basic Courts in Kosovo

Democracy Plus is a subcontractor of USAID’s Justice System Strengthening Program (JSSP), conducting a survey to understand what lawyers think about the efficiency and level of transparency of Kosovo’s Basic Courts. The survey is anonymous and all data will be presented as group data and used solely for the purposes of this project. The survey has 40 questions and 5 sub questions, and it will take no more than 15 minutes to answer. Your input in this questionnaire is of high importance to the study, and we thank you for taking the time to answer it.

DATE OF SURVEY			
TIME OF INTERVIEW			
NUMBER OF INTERVIEW To be filled by Democracy Plus		OUT OF ____	
REGION	<ol style="list-style-type: none"> 1. PRISHTINA 2. MITROVICA 3. PEJA 4. GJAKOVA 5. GJILAN 6. FERIZAJ 7. PRIZREN 		
RESPONDENT SEX	<ol style="list-style-type: none"> 1. MALE 2. FEMALE 		
RESPONDENT AGE GROUP	<ol style="list-style-type: none"> 1. AGE 22 – 30 2. AGE 31 – 40 3. AGE 41 – 50 4. AGE 51 – 60 5. AGE 60+ 		

GENERAL QUESTIONS

Q.1	Have you previously completed this questionnaire	1. Yes 2. No If YES, please do not proceed, as we must avoid double answers to ensure the reliability of the collected data. <p style="text-align: center;">Thank you for your understanding.</p>
Q.2	How many years have you been practicing law?	1. 1-2 years 2. 2 or more years If, answer is 1, please do not proceed with questionnaire. <p style="text-align: center;">Thank you for your understanding</p>
Q.3	What do you consider to be your area of specialty? Choose more than 1 if applicable	<input type="checkbox"/> Criminal <input type="checkbox"/> Civil <input type="checkbox"/> Commercial
Q.4	Are you able to have your case heard in your native language?	1. Yes 2. No

TRANSPARENCY QUESTIONS/ACCESS TO INFORMATION
The experience respondents have in accessing the Court

Q.5	In your experience, how easy is it to get information about your cases at the court?	<i>Please circle one option</i> 1. Very hard 2. Somewhat hard 3. Somewhat easy 4. Very easy
Q.6	Who do you get information from the court about your case?	
Q.7	Generally, how helpful is the information given to you by the court?	1. Very unhelpful 2. Somewhat helpful 3. Helpful 4. Very helpful
Q.8	Do you use the court's website as a source of information?	1. Yes 2. No If YES, please continue to 8a
Q.8a	Do you usually find what you were looking for?	1. Yes 2. No If YES, please provide an average percentage 1. 100 % 2. 70 % 3. 50 % 4. 25%
Q.8 b	What type of information do you usually look for at the court website?	

Q.8c	What type of information would you like to see at the court's website that is currently not available?	
Q.9	Do you talk to the judge about the status of the case you are representing?	<ol style="list-style-type: none"> 1. Always 2. Often 3. Sometimes 4. Never
Q.10	Are the information about the sessions in the monitor or information board at the court regularly updated?	<ol style="list-style-type: none"> 1. Yes 2. No

EFFICIENCY and FAIRNESS QUESTIONS

The experience respondents have in receiving court services

Q.11	I am usually able to get my court business done in a reasonable time?	<ol style="list-style-type: none"> 1. Strongly Disagree 2. Disagree 3. Neither agree or disagree 4. Agree 5. Strongly Agree 												
Q.12	How long does it usually take for a civil case to be decided by the basic court?	<table border="1"> <tr> <td>Damage compensation</td> <td>Contested Divorce</td> <td>Property Claims</td> <td>Labor Disputes</td> </tr> <tr> <td> <input type="checkbox"/> Less than 3 months <input type="checkbox"/> 3-5 months <input type="checkbox"/> 6-12 months <input type="checkbox"/> 12-24 months </td> <td> <input type="checkbox"/> Less than 3 months <input type="checkbox"/> 3-5 months <input type="checkbox"/> 6-12 months <input type="checkbox"/> 12-24 months </td> <td> <input type="checkbox"/> Less than 3 months <input type="checkbox"/> 3-5 months <input type="checkbox"/> 6-12 months <input type="checkbox"/> 12-24 months </td> <td> <input type="checkbox"/> Less than 3 months <input type="checkbox"/> 3-5 months <input type="checkbox"/> 6-12 months <input type="checkbox"/> 12-24 months </td> </tr> </table>	Damage compensation	Contested Divorce	Property Claims	Labor Disputes	<input type="checkbox"/> Less than 3 months <input type="checkbox"/> 3-5 months <input type="checkbox"/> 6-12 months <input type="checkbox"/> 12-24 months	<input type="checkbox"/> Less than 3 months <input type="checkbox"/> 3-5 months <input type="checkbox"/> 6-12 months <input type="checkbox"/> 12-24 months	<input type="checkbox"/> Less than 3 months <input type="checkbox"/> 3-5 months <input type="checkbox"/> 6-12 months <input type="checkbox"/> 12-24 months	<input type="checkbox"/> Less than 3 months <input type="checkbox"/> 3-5 months <input type="checkbox"/> 6-12 months <input type="checkbox"/> 12-24 months				
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Q.13	How long does it usually take for a criminal case to be resolved?	<table border="1"> <tr> <td>Theft</td> <td>Illegal weapon possession</td> <td>Organized Crime and Corruption</td> <td>Murder</td> <td>Domestic Violence</td> <td>Sexual Violence</td> </tr> <tr> <td> <input type="checkbox"/> Less than 3 months <input type="checkbox"/> 3-5 months <input type="checkbox"/> 6-12 months <input type="checkbox"/> 12-24 months </td> <td> <input type="checkbox"/> Less than 3 months <input type="checkbox"/> 3-5 months <input type="checkbox"/> 6-12 months <input type="checkbox"/> 12-24 months </td> <td> <input type="checkbox"/> Less than 3 months <input type="checkbox"/> 3-5 months <input type="checkbox"/> 6-12 months <input type="checkbox"/> 12-24 months </td> <td> <input type="checkbox"/> Less than 3 months <input type="checkbox"/> 3-5 months <input type="checkbox"/> 6-12 months <input type="checkbox"/> 12-24 months </td> <td> <input type="checkbox"/> Less than 3 months <input type="checkbox"/> 3-5 months <input type="checkbox"/> 6-12 months <input type="checkbox"/> 12-24 months </td> <td> <input type="checkbox"/> Less than 3 months <input type="checkbox"/> 3-5 months <input type="checkbox"/> 6-12 months </td> </tr> </table>	Theft	Illegal weapon possession	Organized Crime and Corruption	Murder	Domestic Violence	Sexual Violence	<input type="checkbox"/> Less than 3 months <input type="checkbox"/> 3-5 months <input type="checkbox"/> 6-12 months <input type="checkbox"/> 12-24 months	<input type="checkbox"/> Less than 3 months <input type="checkbox"/> 3-5 months <input type="checkbox"/> 6-12 months <input type="checkbox"/> 12-24 months	<input type="checkbox"/> Less than 3 months <input type="checkbox"/> 3-5 months <input type="checkbox"/> 6-12 months <input type="checkbox"/> 12-24 months	<input type="checkbox"/> Less than 3 months <input type="checkbox"/> 3-5 months <input type="checkbox"/> 6-12 months <input type="checkbox"/> 12-24 months	<input type="checkbox"/> Less than 3 months <input type="checkbox"/> 3-5 months <input type="checkbox"/> 6-12 months <input type="checkbox"/> 12-24 months	<input type="checkbox"/> Less than 3 months <input type="checkbox"/> 3-5 months <input type="checkbox"/> 6-12 months
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							mon ths <input type="checkbox"/> 12- 24 mon ths
Q.I 4	Why are hearings delayed?	Prosecutor's absence Lawyer's absence Other party's absence Experts and witness's absence Procedural errors by the court (non-submission of invitations; non-submission of other party's written submissions; not notifying the parties prior to the hearing if the hearing cannot be held)					
Q.I 4a	Which of the above reasons is most often the result of hearings delayed? Rank them from 1 – 5, where: 1 is the most frequent and 5 is the least frequent	Prosecutor's absence <input type="checkbox"/> Lawyer's absence <input type="checkbox"/> Other party's absence <input type="checkbox"/> Experts and witness's absence <input type="checkbox"/> Procedural errors by the court (non-submission of invitations; non-submission of other party's written submissions; not notifying the parties prior to the hearing if the hearing cannot be held) <input type="checkbox"/>					
Q.I 5	What legal and procedural changes would result in faster disposition of cases?						
Q.I 6	How do you get notified about a hearing?	Official written notice Phone E-mail Other If OTHER, specify:					
Q.I 7	Do you get a timely notice about a hearing?	Typically, I am notified: 2 weeks in advance 5 – 7 days in advance 1 day in advance Same day					
Q.I 8	How often does this happen: lawyers ask for a hearing delay and the request is denied by the judge	Never Sometimes Often Very often					
Q.I 9	Do judges ever fine lawyers if they do not show up to a hearing?	No, never Yes, very rarely Yes, about half the time. Yes, more often than not					

Q.2 0	On average, how many hearings does it take to resolve a civil case?	1-3 hearing(s) 3-5 hearings 5-7 hearings 7-9 hearings More than 9 hearings	
Q.2 1	How long does it take on average for the court to schedule the first hearing from the date of filing?	2 – 6 months 6 – 12 months 12 – 24 months Over 24 months	
Q.2 2	On average, how many hearings does it take to resolve a criminal case?	1-3 hearing(s) 3-5 hearings 5-7 hearings 7-9 hearings More than 9	
Q.2 3	On average, how often are scheduled hearings postponed?	Less than 10% 11% – 25% 26% – 50% 51% – 75% 76% – 100%	
Q.2 4	Would you like to have a standard scheduling of hearings in each case?	Yes No	
Q.2 5	Do you think judges ever purposefully make procedural errors when deciding on the merits of the case so that the case will be sent back from the court of appeals?	No, never Rarely Sometimes Very often Always	
Q.2 6	Do you believe that you and the prosecutor get treated equally by the judges?	Yes No	If NO, why do they get a different treatment?
Q.2 7	Are there any lawyers who get preferential treatment by the judges?	Yes No	If YES, why do they get a different treatment?
Q.2 8	What are the main reasons that the court judgments are sent back to Basic Courts by the Court of Appeals for reexamination?		
Q.2 9	If they are sent back, are they treated faster?	Yes No To some degree	

Q.3 0	Does the Basic Court address the Court of Appeals suggestions when cases are sent back?	Yes No To some degree
Q.3 1	Are there cases where the court of appeals has sent a case back for more than two times?	Yes No

PERCEPTION OF CORRUPTION QUESTIONS

Q.3 2	In your observation, what percentage of cases are affected by corruption?	0 – 10% 11% – 30% 31% – 50% 51% – 80% 81% – 100%		
Q.3 3	In your observation, in what percentage of cases are outcomes improperly influenced by an attorney on the case (through ex parte communication with the judge or other means)?	0 – 10% 11% – 30% 31% – 50% 51% – 80% 81% – 100%		
Q.3 4	Have you ever been asked for a bribe by a judge, court employee or any intermediary acting on behalf of the former?	1. Yes 2. No	If YES, why? To fast-track processes To obtain the needed documentation To have the case ruled in client's favor Other	
Q.3 5	Have you ever offered a bribe to a judge or other court employee?	1. Yes 2. No	If YES, what position did the person hold? Judge Referent Administrator Other	If YES, why? To fast-track processes To obtain the needed documentation To have the case ruled in client's favor Other
Q.3 6	Are you aware of any case when your colleagues bribed a judge or other court employee?	1. Yes 2. No	If YES, why? To fast-track processes To obtain the needed documentation To have the case ruled in client's favor Other	
Q.3 7	Have your clients ever asked you to use/consider bribery to resolve their case to influence cases outcome?	1. Yes 2. No	If YES, why? To fast-track processes To obtain the needed documentation To have the case ruled in their favor Other	
Q.3 7a	If YES, how often has it happened?			

Q.3 8	Are you aware of prosecutors ever filing an incomplete or unsubstantiated indictment and yet the court proceeded with the case?	1. Yes 2. No	If YES, what is the average occurrence of these cases? 100% 70% 30% 10%
Q.3 9	What do you think can be done to reduce corruption in the judiciary?		

CLOSING QUESTION

Q.4 0	Please do not hesitate to tell us if you have any remarks or observation, or would like to bring a certain aspect of the court to our attention in order to improve the functioning of justice: (Do you have anything to add?)		
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