



USAID

NGA POPULLI AMERIKAN
OD AMERIČKOG NARODA

Part II: Assessment of the Procedural Justice Application Tools Across Eighteen Court Branches in Kosovo

May 2023





**PART II: ASSESSMENT OF
THE PROCEDURAL JUSTICE
APPLICATION TOOLS
ACROSS EIGHTEEN COURT
BRANCHES IN KOSOVO**

AUTHOR:

Dr. Albana Rexha
Senior Policy Analyst



Visit our website
www.dplus.org

Find out more about our latest publication, news,
infographics online.



Find us on Facebook
[@democracyplus](https://www.facebook.com/democracyplus)



Find us on LinkedIn
[@democracy-plus](https://www.linkedin.com/company/democracy-plus)



Find us on Twitter
[@democracy_plus](https://twitter.com/democracy_plus)



Find us on Youtube
[@Democracy-Plus](https://www.youtube.com/Democracy-Plus)

Our offices:

Rruga Bajram Kelmendi, Nr.92, Kati V
Prishtinë, 10000
Kosovë

+383 (0) 38 749 288
info@dplus.org

DISCLAIMER: This publication was produced for review by the United States Agency for International Development. It was prepared by Democracy Plus, a subcontractor of USAID Justice Activity. The views expressed in this publication do not necessarily reflect the views of the United States Agency for International Development or the United States Government.

Contents

Introduction.....	6
Methodology	7
Demographics Data.....	8
Main Findings	9
Observation Court Results	13
Policy Recommendations	22
ANNEX I	23

Introduction

This assessment is an expansion of a previous study entitled “[Assessment of the Procedural Justice Application Tools Across Seven Basic Courts](#)”. As the title suggests, the previous study covered only the seven basic courts in Kosovo, while this study covers the eighteen (18) court branches including Istog, Lipjan, Dragash, Glogovc, Malisheva, Vushtrri, Skenderaj, Kacanik, Rahovec, Kamenica, Decan, Suhareka, Novobardo, Viti, Podujeva, Shterpce, Gracanica, and Klina. This assessment across the above mentioned 18 court branches is the first time such an assessment has been conducted and is supported by the USAID Justice Activity Project in Kosovo.

This study assesses the implementation of procedural justice across eighteen (18) court branches, based on the findings of the Observation Survey, which was conducted by D+. This Observation Survey (the survey) was conducted inside the court building in courtroom or judge’s office during the period of October-November 2022. This survey contains 18 questions as shown in Annex I. Thus, the survey results will serve as evidence for court branches to improve the application of procedural justice.

The USAID Justice Activity is a five-year program that aims to strengthen Kosovo’s justice system by applying a people-centered justice approach to improve institutional capacity to provide people access to quality services and multiple means to solve their justice needs and everyday legal problems, and to generate greater public trust in the justice system and the rule of law. The activity will achieve this through three distinct but interrelated objectives:

- **Quality and Accessibility of Justice Services Improved.** Support improved citizen access to justice by increasing procedural justice, expanding legal aid services, and continuing to improve administration and management policies and practices in courts. Through these efforts, the activity will support Kosovo institutions and key stakeholders to properly understand the priority needs of citizens to improve existing mechanisms or identify

new measures, ensure all citizens receive fair and unbiased services, and citizen users better understand their legal rights and court procedures.

- **Citizen Understanding, Engagement, and Trust of the Justice System Improved.** Engage communities and practitioners in defining problems and proposing improvements to the delivery of legal services and information to disparate justice seekers where they live and on the issues they often confront. Working through responsible Kosovo institutions, the activity facilitates practitioner fora, including the community of practice for public information officers, to institutionalize critical and practical resources to engage with court users in soliciting their feedback and outreach and information sharing on justice services provision.
- **Effective Innovations in the Justice Sector Developed.** Create the Justice Innovation Incubator to help channel the capacity to innovate based on the challenges that justice institutions and their users face. In the people-centered justice paradigm, these innovations are likely to enhance the user-friendliness of policies and procedures, increase the affordability and accessibility of justice services, or improve justice seekers’ feelings of fairness and trust in the justice system.

Democracy Plus (D+) is an independent, nonprofit, and non-partisan 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 to contribute in establishing good governance practices, strengthening the rule of law, assisting 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, and public education.

Methodology

D+ conducted the Observation Survey across 18 court branches including Istog, Lipjan, Dragash, Glllogovc, Malisheva, Vushtrri, Skenderaj, Kacanik, Rahovec, Kamenica, Decan, Suhareka, Novoberdo, Viti, Podujeva, Shterpce, Gracanica, and Klina.

To conduct the survey, during the period of 18 October to 30 November, 2022, one enumerator observed court cases in each court branch. Court cases observed were in the courtroom or in the judge's office. All enumerators were trained by the Center for Justice Innovation in USA, with the support of USAID Justice Activity. In addition, all enumerators were trained by D+ staff few days prior to starting their work in the field and provided an electronic tablet. This training equipped them with knowledge, skills, and instructions on how to conduct the observation survey, while the electronic tablet enabled real-time supervision of data collection and verification of location of entry.

Observations in all court branches were conducted at a rate of 100% of the judges working in the civil and criminal chambers, inclusive of serious crimes, to capture a minimum of 2-3 hours of observation time per judge. These observations excluded the Minor Offense and Juvenile Offender case types as well as any other hearings sealed pursuant to the current legal framework.

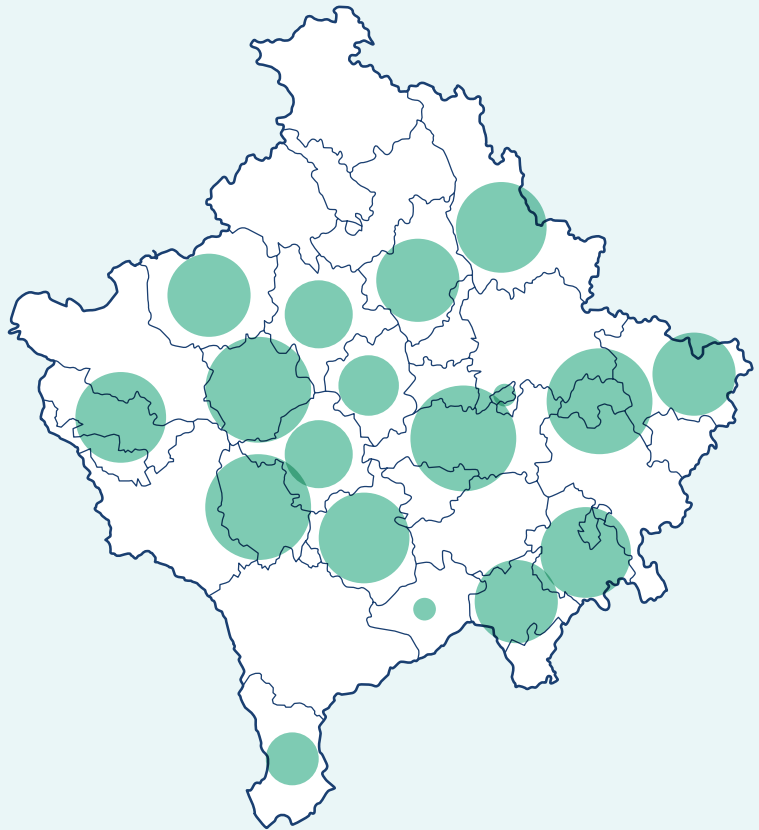
Moreover, D+ signed an MoU with the Kosovo Judicial Council through which it ensured that all enumerators enter the court premises to conduct the survey without any challenges.

In total as shown below, D+ enumerators have observed 533.38 hours of court cases across 18 court branches.

In total as shown below, D+ enumerators have observed **533.38 hours of court cases across 18 court branches.**

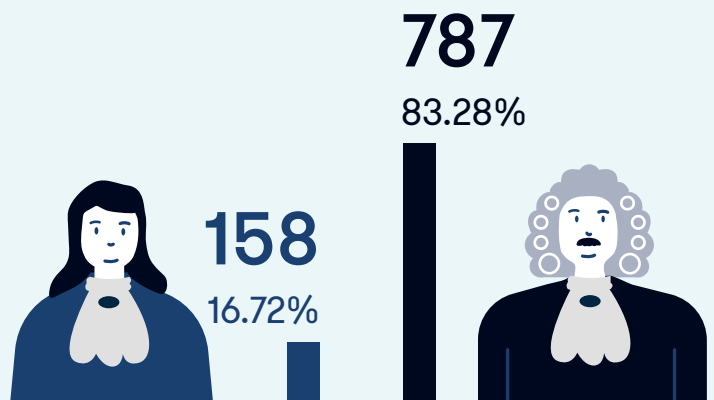
■ Number of hours in which court cases were observed per branch court

Region	Duration in hours
Decan	35.22
Dragash	19.80
Glllogoc	23.72
Istog	30.00
Kacanik	32.38
Kamenica	39.32
Klina	38.83
Lipjan	42.77
Malisheva	26.35
Novobordo	42.03
Podujeva	31.40
Rahovec	44.78
Skenderaj	21.50
Suhareka	31.47
Viti	33.08
Vushtrri	27.65
Gracanica	7.88
Shterpce	5.40
Total	533.58

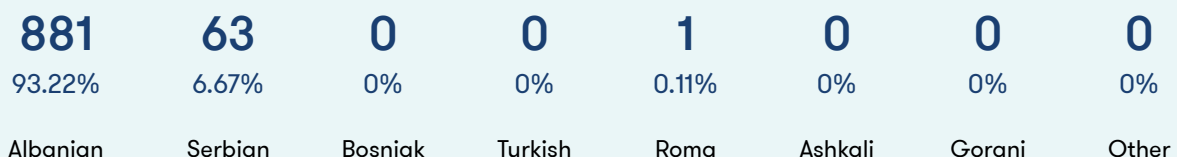


Demographics Data

Judge's gender disaggregated data show that in 83.28 % of court cases observed, the presiding trial judge was a man and in 16.72% of cases the presiding trial judge was a woman.



Judge's ethnicity disaggregated data shows the ethnicity of the presiding trial judge.





Main Findings

Main Findings

Overall, the findings suggest that court branches are doing a better job of welcoming people into the courtroom and have better time management practices compared to basic courts. However, there is still room for improvement in terms of judges introducing themselves, apologizing for delays, and ensuring that parties understand court etiquette and rules. On the positive side, judges generally present a professional demeanor, make eye contact with parties, and refer to parties by name, and they make sure that parties understand their legal rights and what they need to do to comply with the court's expectations.

- Observation results in court branches shows that in 88.04% of court cases monitored, people entering the courtroom were greeted by court staff. This result is higher by 4.96 percentage points across the seven basic courts.¹ This data indicates that the basic courts explore ways to enhance the results in terms of welcoming people into the courtroom.
- In 91.29% of court cases observed, the judge's name was not visibly posted on the bench, which means that people attending the court might not know the judge's name. Only in 8.71% of cases the judge's name was visible, but mainly in the judge's offices rather than in the courtroom. This result is lower than in other basic court by 25.75 percentage points, where judge's name was more often visible in the courtroom
- The data shows that in 74.81% of court cases observed, the hearing started on time, which is a positive indicator of timely and efficient court proceedings. Moreover, this percentage is higher by 9.27 percentage points when compared to court cases observed across seven basic courts. This suggests that court branches had better time

management practices than the basic courts. However, there is still room for improvement as more than one-fourth of the court cases observed did not start on time.

- In 66.98% of court cases observed, the judge introduced themselves, while in 33.02% of cases, they did not. However, in basic courts this was not a challenge, as the judge presented themselves in 95.6% of court cases observed. This suggests that there may be room for improvement in ensuring that the judges introduce themselves by name in a larger percentage of cases, as it can contribute to creating a respectful and professional environment in the courtroom.
- In 60.92% of court cases observed, the judge apologized in case of delay, at the start of the hearing, while in almost 40% of cases, the judges did not apologize for any delay and did not show respect towards the parties. Additionally, the data indicates that the percentage of judges who apologized for delays in seven basic courts is higher by 13.08 percentage points. This suggests that there is room for improvement in terms of judges showing respect towards parties and acknowledging any delays that may occur in court proceedings.
- In 92.17% of court cases observed, the judge made sure to notify all parties about their rights and obligations during the proceeding. This is an important aspect of ensuring fairness and justice in the legal process, as it helps to ensure that all parties understand their legal rights and responsibilities. However, in a small minority of case (7.83%), the judge did not provide this important information, which could, contribute to a lack of understanding and voice for the parties involved in the case.

¹ Please refer to Democracy Plus study: Assessment of Procedural Justice Application Tools Across Seven Basic Courts in Kosovo (2022). Available at <https://dplus.org/publikimet/raport-vleresimi-mbi-aplikimin-e-drejtises-procedurale-ne-shtate-gjykatat-themelore-te-kosoves/13384/>

- In 74.39% of court cases observed, the judge or other court staff explained court etiquette and rules at the beginning of the hearing. However, this is lower than the percentage observed across basic courts by 22.51 percentage points. This suggests that there may be a need for improvement in the court branches when it comes to ensuring that the parties understand the court procedure and rules, which is essential for procedural justice.
- In 84.87% of court cases observed, the judges provided an overview of the hearing process, which included information about the current hearing and the overall case adjudication process. However, this result was lower by 10.13 percentage points compared to basic courts where judges provided such an overview in a higher proportion of cases. This indicates that basic courts may be more effective in providing parties with a clear understanding of the hearing process and their role in it.
- In 96.93% of court cases observed, judges made eye contact with the parties during the hearing, which can be seen as a positive aspect of procedural justice. Making eye contact can show respect to parties and help create a sense of trust and fairness in the court proceedings.
- In 98.84% of court cases observed, the judges presented in a professional demeanor while speaking in a clear and calm manner. This indicates that the vast majority of judges were able to maintain a professional demeanor while performing their duties. Additionally, the data suggests that this is a consistent finding across basic courts, as similar results are observed in seven basic courts, with 99.2% of judges presenting a professional demeanor.
- In 92.17% of court cases observed, the judge referred to the parties involved in the case by their name. This indicates that most judges show respect to parties by addressing them directly and using their names, rather than referring to them in a generic or impersonal way.
- In 96.72% of court cases observed, the judges made sure that the parties involved in the case understood their legal rights. This indicates that the vast majority of judges in these cases took the necessary steps to ensure that the parties were fully informed and understood their legal rights as they pertained to the case. The data also suggest that this is a consistent finding across both basic and branch courts, with an overall score above 96%. Furthermore, the data shows that the result is even higher in basic courts, with a 2.08 percentage point increase, indicating that judges in basic courts may be particularly adept at ensuring that parties understand their rights. Overall, this positive behavior is a positive indicator of the justice system's commitments to ensuring that all parties have access to justice and understand their rights.
- In 91.64% of court cases observed, judges clearly described to the parties what they needed to do in order to comply with the court's expectations, interim orders, and/or judgments. This indicates that the majority of judges in these cases made a clear effort to explain to the parties what was expected of them in order to comply with court's decisions. Additionally, the data shows that across basic courts, the judges achieved this standard in 99% of court cases observed, indicating a significant increase of 7.36% compared to the overall data. This suggests that judges in basic court may be particularly skilled at explaining to parties what they need to do in order to comply with the court's decision and may have a high level of understanding for the parties involved.
- In 92.7% of court cases observed, the parties were permitted to ask questions or make comments during the court proceedings. This indicates that parties were allowed to participate in the proceedings, which is an important aspect of ensuring a

fair and transparent judicial process. The data also shows that, in basic courts, parties were permitted to ask questions or make comments in 97.3% of cases, which represents a 4.6 percentage point increase compared to the overall data. Yet, in both, basic courts and court branches, this is not observed as a major challenge.

- In 82.22% of court cases observed, the judge asked the parties to repeat back their understanding of their role, actions required/next steps, including any fees they had to pay, documents submitted etc. This result indicates that a significant portion of judges may not be fully prioritizing the importance of ensuring that parties fully understand the proceedings and their role in them.
- In 97.57% of court cases observed, the judge used plain language to explain legal terms or acro-

nyms making sure that parties understand what is being said in the court session. Similar positive results are shown across basic courts, in particular in 99% of court sessions monitored, the judge used plain language. This is important because legal proceedings can often involve complex terminology that may be difficult for no-lawyers to understand and it is crucial that parties fully comprehend the proceedings in order to participate effectively.

- In 79.26% of court cases monitored, the parties were consulted regarding when the next date would be set, whereas in basic courts they were consulted in 76% of cases. In both, basic courts and court branches, this is depicted as a challenge.

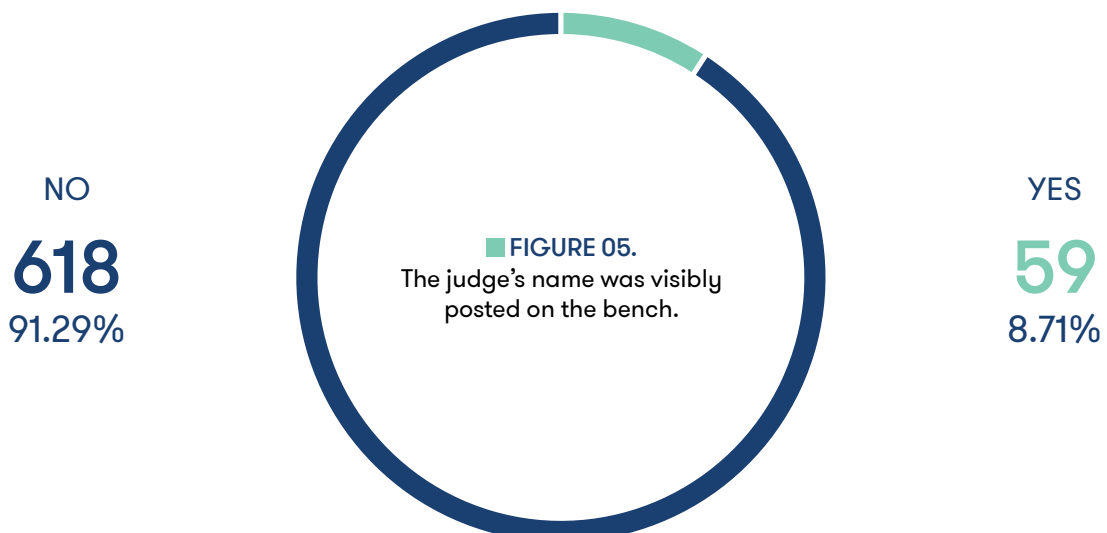
Observation Court Results

In this section, each observational question result is interpreted in the same order as listed in the survey (Annex I).

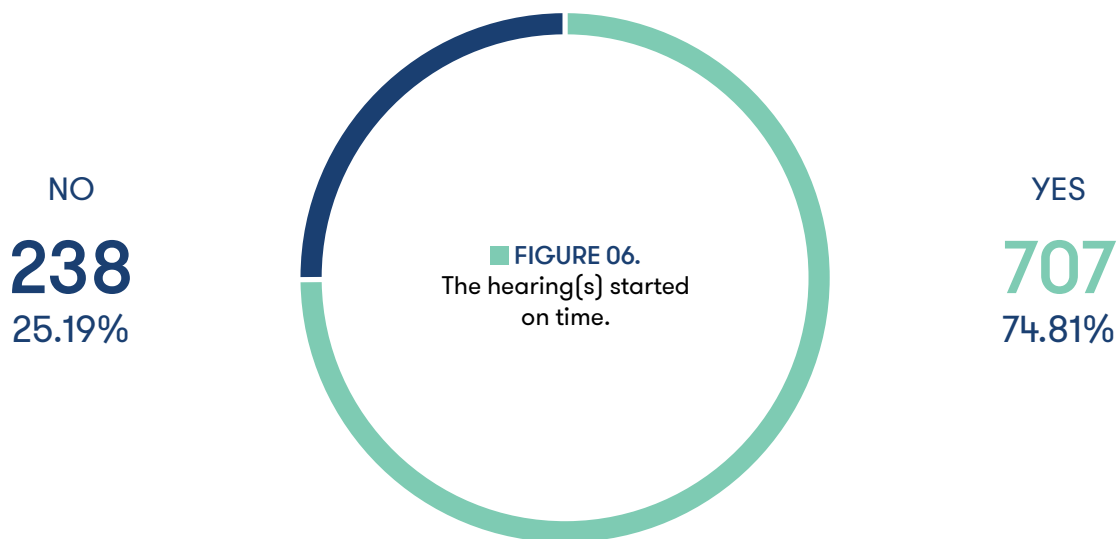
The first observational question concerns greetings of court staff made to people entering the courtroom. In 88.04% of cases observed people entering the courtroom were saluted by court staff, whereas in 11.96% of instances they were not greeted.



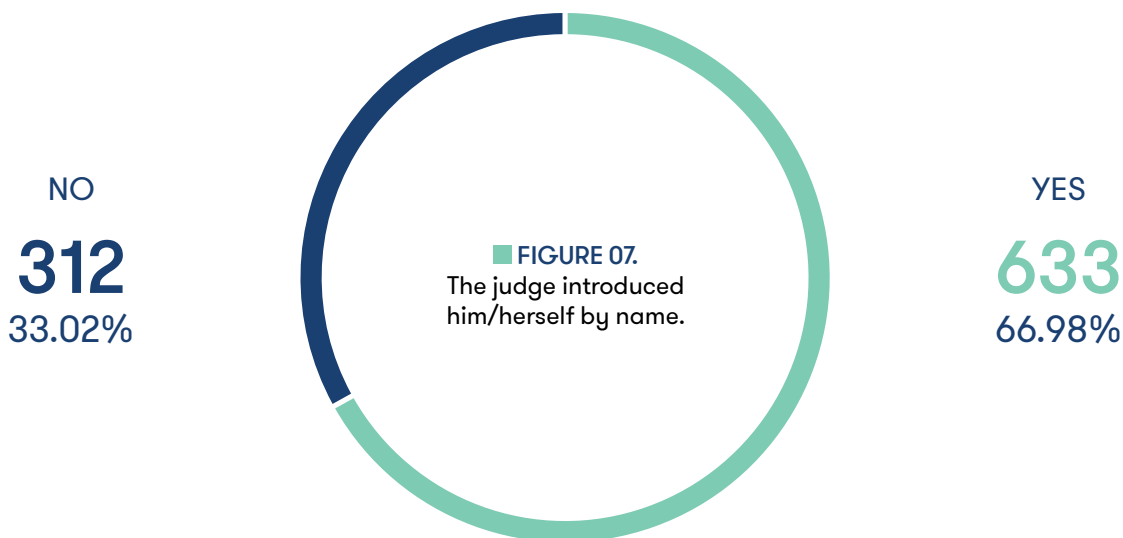
Another aspect observed, was the visibility of judge's name in the display. The monitoring results indicate that in 91.29% of cases, the judge's name was not visibly posted on the bench, whereas only in a few cases (8.71%) the name was visible.



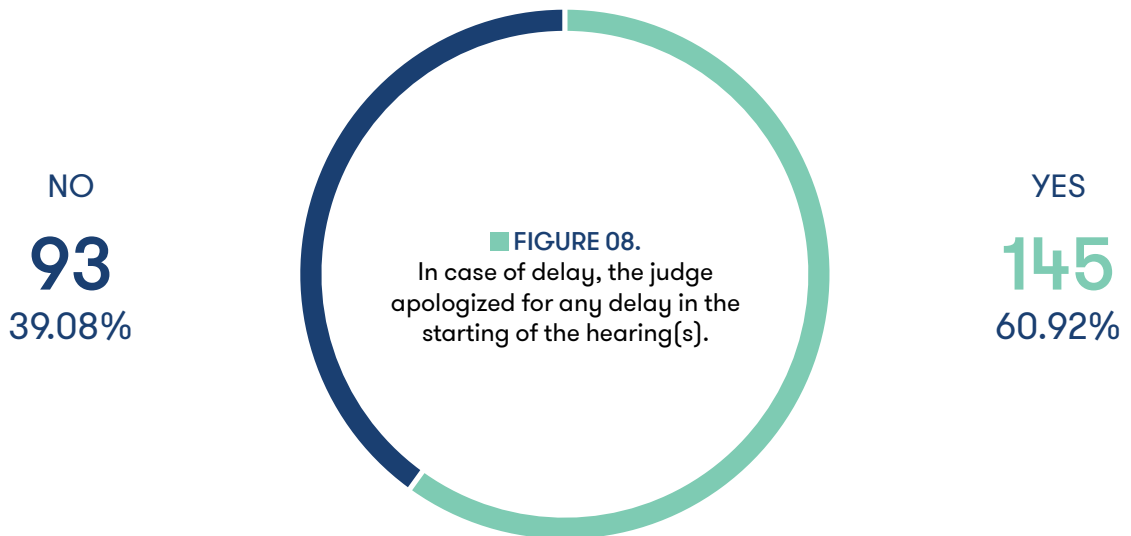
Moreover, the court cases were observed whether they started the hearings on time. The table illustrates that in 74.81% of the cases, the hearings started on time, while in 25.19% of cases, they did not start on time.



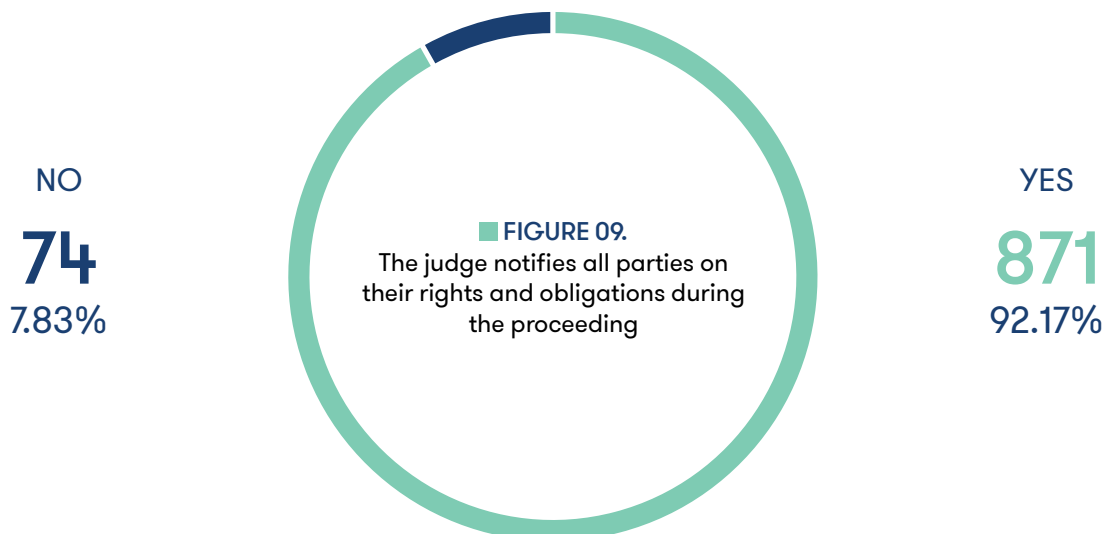
The observation data demonstrates that in 66.98% of cases, the judge introduced her/himself by name, while in 33.02% of the cases, she/he did not.



Thus, the below figure shows, in 60.92% of the monitored court cases, judges apologized for any delay at the beginning of the hearing showing respect toward parties. On the other hand, in 39.08% of the sessions, judges did not apologize for the delay.



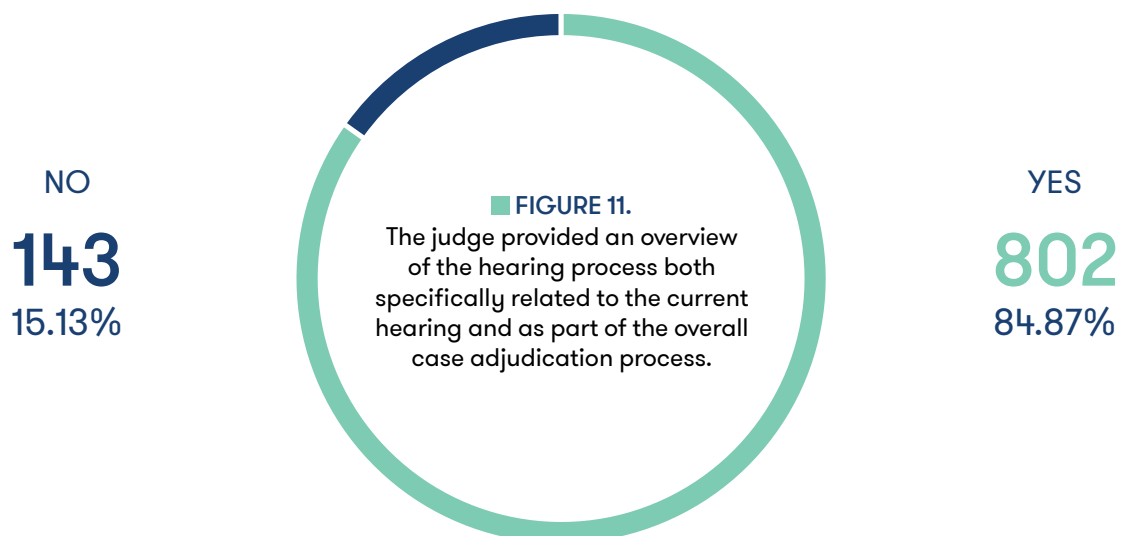
The observation data depicts that in the majority of cases (92.17%), judges notified parties about their rights and obligations during the proceeding. On the other hand, in a small number of court cases (7.83%) parties were not notified.



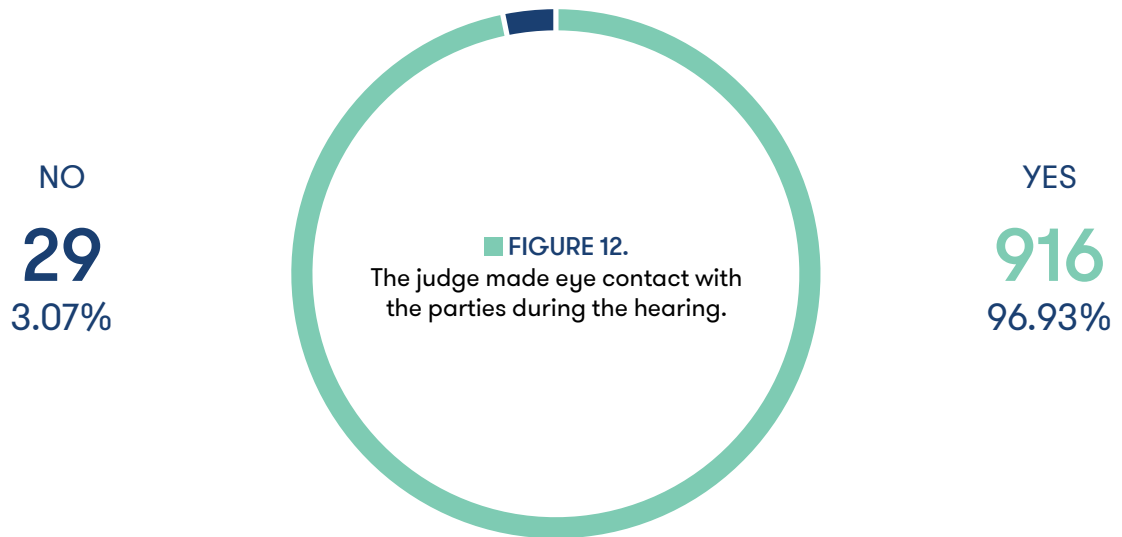
As shown in figure 10, in 74.39% of monitored court sessions the judge or other court staff clearly explained court etiquette and rules at the beginning of the court hearing. On the contrary, in 25.61% of court cases monitored, the judge or other court staff did not provide such an explanation.



Another aspect observed during court sessions was whether the judge provided an overview of the hearing process both specifically related to the current hearing and as part of the overall case adjudication process. The data in the below table shows that in 84.87% of cases, the judges provided an overview of the hearing process both specifically related to the current hearing and as part of the overall case adjudication process, while in 15.13% of cases, they did not.



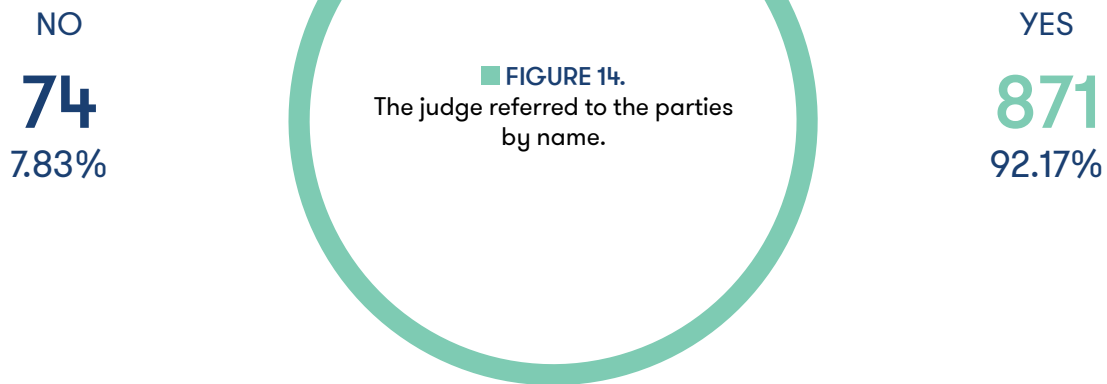
During court sessions, judges were monitored whether they made eye contact with the parties during the hearing. As shown below, in 96.93% they did, while in 3.07% they did not.



Judges were also observed whether they spoke in a clear and calm manner. The observation data shows that this is not a challenge as in 98.84% of court cases monitored the judge presented in a professional demeanor, speaking in a clear and calm manner.



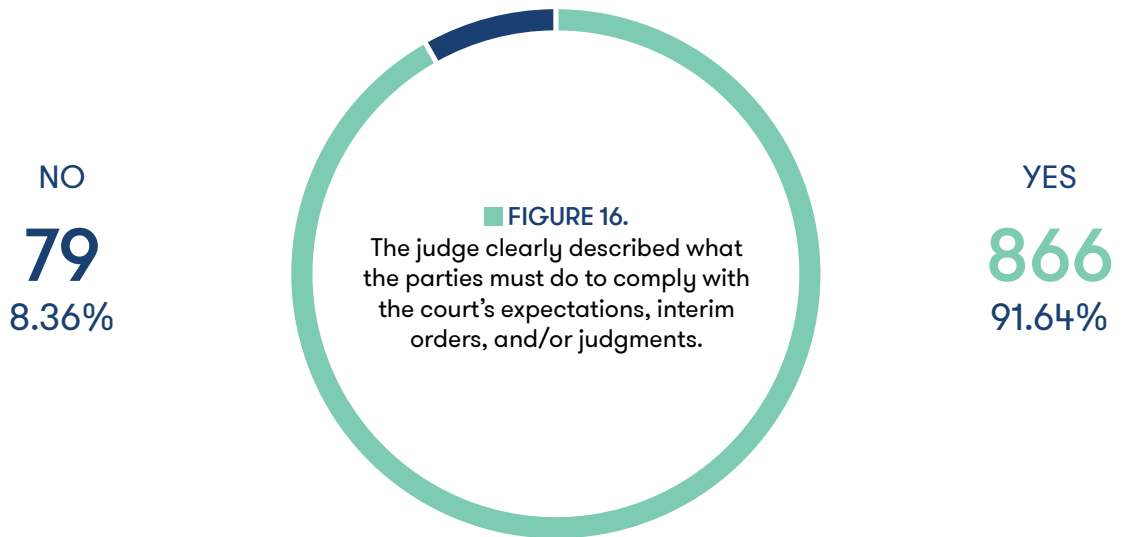
The figure below shows the number/percentage of cases the judge referred to the parties by name. In 92.17% of cases the judge referred to the parties by name showing respect toward them, while in 7.83% the judge did not.



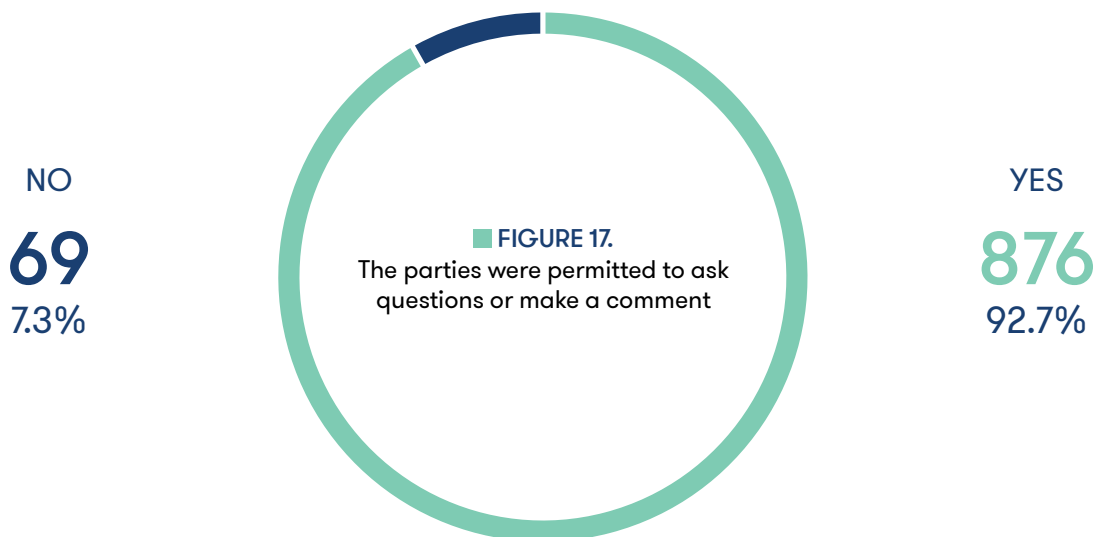
Another aspect observed was whether the judge made sure that the parties understood their rights. In 96.72% of cases the judge made sure that the parties understood their rights showing understanding toward parties, while in only 3.18% they did not.



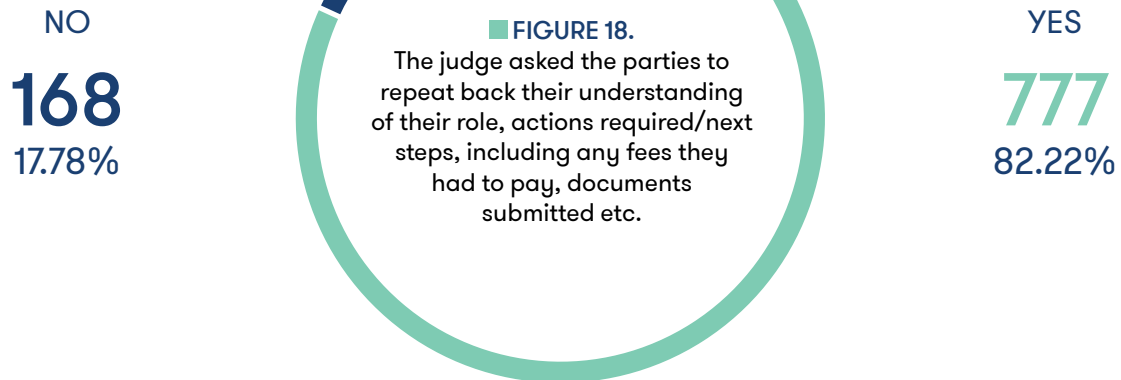
Moreover, in 91.64% of court cases observed the judge also clearly described what the parties must do to comply with the court's expectations, interim orders, and/or judgments, while in 8.36% they did not.



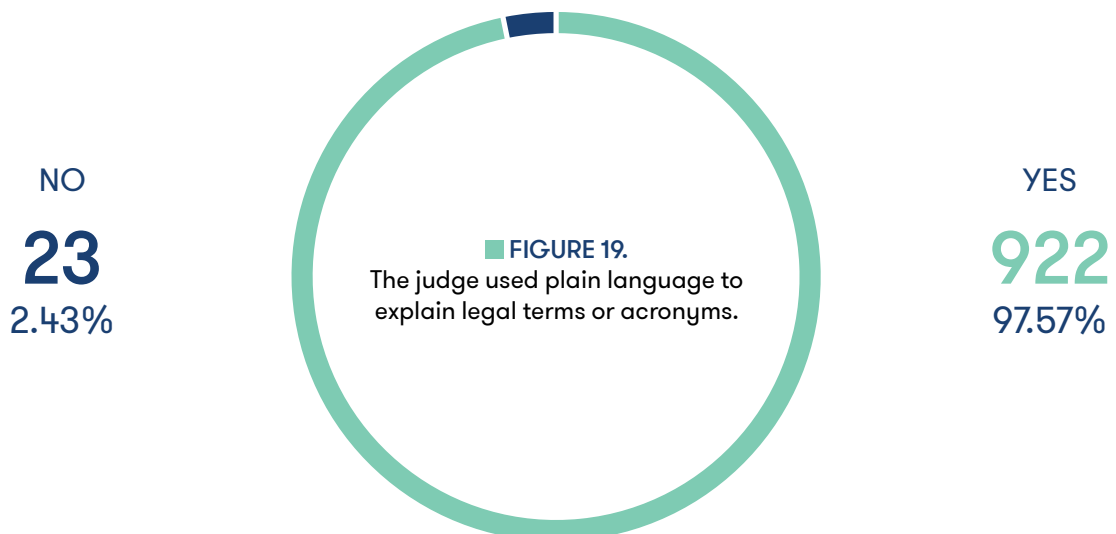
Additionally, as shown below the parties were permitted to ask question or make a comment in the majority of cases observed, 92.7% of cases. On the contrary, in 7.3% they were not permitted to ask questions or make a comment.



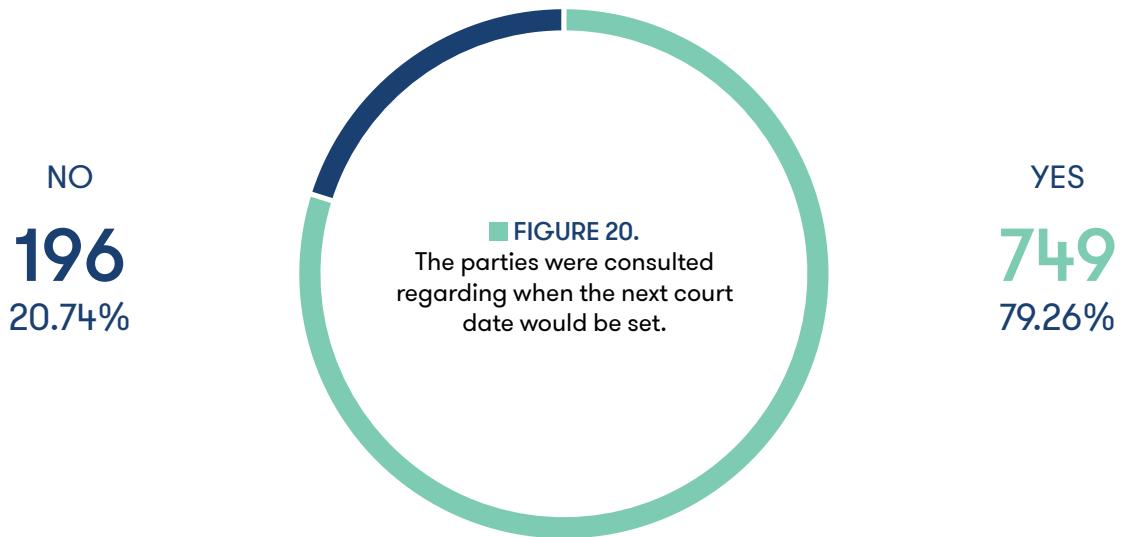
In 82.22% of cases the judges asked the parties to repeat back their understanding of their role, actions required/next steps, including any fees they had to pay, documents submitted etc., whereas in 17.78% of cases they did not.



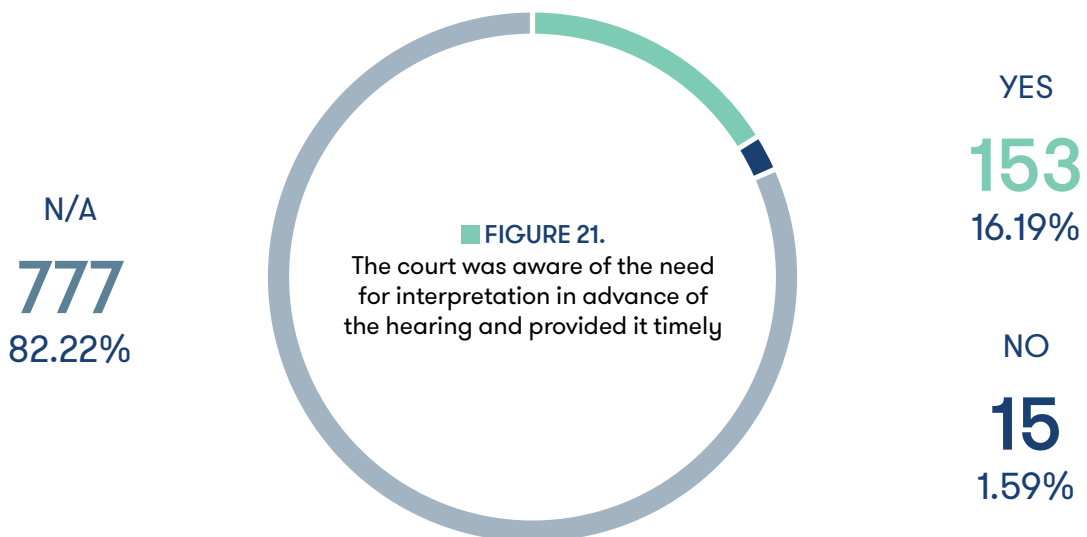
The figure below shows that in 97.57% the judge used plain language to explain legal terms or acronyms, while in a very small percentage of cases - 2.43% - the judge did not use plain language to explain legal terms of acronyms.



In the majority of court cases observed, 79.26%, the parties were consulted regarding the next court date, while in 20.74% of cases they were not consulted according to D+ court case observations.



The final aspect observed was whether the court was aware of the need for interpretation in advance of the hearing and provided it timely. The observation data shows that in 153 cases it was provided timely while in 15 court cases it was not. Overall, in 82.22% of court cases interpretation was not needed.



Policy Recommendations

Overall, observation data shows positive results on procedural justice application tools across court branches in Kosovo. Yet, court branch results seem to perform lower once compared with basic court results in terms of the time the hearing started, the judge introducing him/herself by name, in case of delay and apologizes, explaining court etiquette and rules at the beginning of the court hearing, providing an overview of the hearing process both specifically related to the current hearing and as part of the overall case adjudication process, amongst others. An explanatory factor of better results across basic courts could be the number and type of trainings basic court judges had access to compared to judges across court branches.

Based on the observation survey findings and with the aim of improving the application of procedural justice across the court branches in Kosovo, D+ has compiled the following list of policy-based recommendations:

- **STANDARDIZATION OF COURT PROCEDURES:** There should be a standardized set of procedures that all courts must follow to ensure that parties receive consistent treatment. This could include requirements for judges to introduce themselves, post their names on the bench, and provide an overview of the hearing process. It could also include guidelines for apologizing for delays and consulting parties regarding setting the next court date.
- **TRAINING FOR JUDGES:** There is a need for comprehensive training programs for judges, particularly in the areas of procedural justice and effective communication. The training should focus on the importance of greeting parties, introducing themselves, apologizing for delays, explaining court etiquette and rules, and referring to parties by name. Additionally, the training should emphasize the need to use plain language and to consult parties regarding setting the next court date.
- **COURT STAFF TRAINING:** Provide additional training for court staff to improve their communication skills and customer service, specifically focusing on greeting people entering the courtroom, and explaining court etiquette and rules.
- **TECHNOLOGY IMPLEMENTATION:** The use of technology, such as electronic scheduling systems and online resources for parties, could help to streamline court procedures and reduce delays. Additionally, technology could be used to improve communication with parties, such as through the use of automated messages to remind parties of upcoming court dates or to provide updates on the status of their case.
- **REGULAR MONITORING AND EVALUATION OF COURT PROCEDURES:** This should be conducted to ensure that judges are following standardized procedures and that parties are receiving fair and consistent treatment. This could involve the use of court user and court observation surveys to gather feedback on their experiences in court.
- **PROMOTION OF PROCEDURAL JUSTICE:** There should be a greater emphasis on promoting procedural justice in the court system. This could include public education campaigns to raise awareness of procedural justice principles and the importance of fair and consistent treatment in the court system. Additionally, judges should be encouraged to prioritize procedural justice in their interactions with parties and to communicate the importance of procedural justice to courts.

Annex I

Observational Questions

-
- Y** **N** **1.** People entering the courtroom were greeted by court staff.
-
- Y** **N** **2.** The judge's name was visibly posted on the bench.
-
- Y** **N** **3.** The hearing(s) started on time.
-
- Y** **N** **4.** The judge introduced him/herself by name.
-
- Y** **N** **5.** In case of delay, the judge apologized for any delay in the starting of the hearing(s).
-
- Y** **N** **6.** The judge or other court staff clearly explained court etiquette and rules at the beginning of the court hearing.
-
- Y** **N** **7.** The judge provided an overview of the hearing process both specifically related to the current hearing and as part of the overall case adjudication process.
-
- Y** **N** **8.** The judge made eye contact with the parties during the hearing.
-
- Y** **N** **9.** The judge presented a professional demeanor, speaking in a clear and calm manner.
-
- Y** **N** **10.** The judge referred to the parties by name.
-
- Y** **N** **11.** The judge made sure that the parties understood their rights.
If no, explain why:
-
- Y** **N** **12.** All speakers - judges, attorneys and parties were easy to hear.
-
- Y** **N** **13.** The judge clearly described what the parties must do to comply with the courts expectations, interim orders, and/or judgments.
-
- Y** **N** **14.** The parties were permitted to ask questions or make a comment.
-
- Y** **N** **15.** The judge asked the parties to repeat back their understanding of their role, actions required/next steps, including any fees they had to pay, documents submitted etc.
-
- Y** **N** **16.** The judge used plain language to explain legal terms or acronyms.
-
- Y** **N** **17.** The parties were consulted regarding when the next court date would be set.
-
- Y** **N** **18.** The court was aware of the need for interpretation in advance of the hearing and provided it timely. (circle here if translation was not required)
-



USAID
NGA POPULLI AMERIKAN
OD AMERIČKOG NARODA