

# **Justice in Serbia: A Multi-Stakeholder Perspective**

**Survey Feedback on Judiciary Efficiency, Quality, Accessibility, Fairness, Integrity, Costs, and Reform Expectations**

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## **PREFACE**

This report summarizes a survey of perceptions, experiences, and reform expectations with regard to the Serbian judiciary. The survey was conducted in 2010 and 2011 by the company, Ipsos. The survey was funded by the Multi Donor Trust Fund for Justice Sector Support (MDTF-JSS), established with generous contributions from the United Kingdom Department for International Development (DFID), the Swedish International Development Cooperation Agency (SIDA), Norway, Denmark, the Netherlands, Slovenia, Spain, and Switzerland. More information about the trust fund is available at [www.mdtf-jss.org](http://www.mdtf-jss.org).

The report was drafted by Ipsos and edited by a World Bank Team composed of Jens Kromann Kristensen (Senior Public Sector Specialist and Task Team Leader), Claire Louise Greer (Consultant), Domagoi Illic (Consultant), Gregory Kisunko (Senior Public Sector Specialist), and Srdjan Svircev (Program Coordinator). The report was peer reviewed by Christina Biebesheimer (Chief Counsel), Stephen Knack (Lead Economist), and David F. Valera (Senior Public Sector Specialist).

The team worked in close consultation with Mr. Loup Brefort (Country Manager for Serbia) and under the general guidance of Ms. Jane Armitage (Regional Director for the Western Balkans Country Department) and Mr. William L. Dorotinsky (Sector Manager, Public Sector and Institutional Reform, Europe and Central Asia Region). The report was cleared by Mr. William L. Dorotinsky.

The team would like to thank the Serbian officials consulted for this report, particularly those in the Ministry of Justice, for their time, hospitality, and availability to discuss the issues raised by this survey in a frank and open manner.

## **ABBREVIATIONS AND ACRONYMS**

|          |   |
|----------|---|
| HJC      | High Judicial Council                             |
| MDTF-JSS | Multi Donor Trust Fund for Justice Sector Support |
| NJRS     | National Judicial Reform Strategy                 |
| EU       | European Union                                    |
| EUR      | Euro  |
| NGO      | Non-Governmental Organizations                    |
| IDP      | Internally Displaced Persons                      |
| N        | Number  |
| SPC      | State Prosecutorial Council                       |

## EXECUTIVE SUMMARY

This report presents findings from a survey of stakeholder experiences, perceptions, and reform expectations with regard to the justice system in Serbia. The objective of the survey was to: (i) provide a baseline against which future reform results could be assessed; and (ii) help identify areas for further judiciary reform<sup>1</sup>. The survey particularly focused on efficiency, quality of services, accessibility, fairness, integrity, and costs.

The survey polled the general public, business sector representatives, members of the legal profession working in private practice, and judiciary employees. The survey also looked at experiences, perceptions, and expectations among vulnerable groups, including members of the Roma community, Internally Displaced Persons (IDPs), and refugees.

This report therefore presents a multi-dimensional, multi-stakeholder snapshot of experiences with, and views on, Serbia's judiciary.

The top findings and possible reform implications are as follows:

- Efficiency - measured here as the time of case processing – is raised as a major concern by all stakeholders.
- The analysis provides a strong case for increasing transparency and accountability for performance of the judiciary. Different perceptions among different stakeholders could be bridged by clarifying what should be expected by and from the judiciary.
- Differences in reform expectations and knowledge of reform objectives among stakeholder groups call for enhanced change management and internal and external communications on judiciary reforms.
- Administrative services currently provided by courts could be modernized to reduce waiting time. One-stop shops and electronic service delivery could be considered.

The findings and implications are further summarized below.

### *Efficiency*

All findings in this survey point to efficiency as one of the main challenges to the Serbian judiciary. Court users reported inefficiency in court proceedings as reflected in the duration of court proceedings and in the frequency and quality of hearings. The time intervals between scheduled hearings were reported to be long, and a significant percentage of hearings were reportedly adjourned. Additionally, respondents asserted that a significant percentage of the hearings did not contribute to the resolution of the case. Assessments by lawyers and prosecutors generally coincided with those of the general public. Legal professionals highlighted that the duration of court proceedings was affected by appeals against the judgment.

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<sup>1</sup> In this survey “the judiciary” refers to the courts and prosecutors offices. It does not include the police, penal system and Ministry of Justice.

Administrative services provided by the courts were also evaluated as inefficient. Court users' perceptions were that they spent too much time on administrative tasks, and most respondents needed to visit the courts multiple times to complete an administrative task, regardless of its type. Around half of respondents believed that these tasks could have been completed in less time. Respondents identified unmotivated staff, understaffed departments, and complicated procedures as the main reasons for delay.

### *Quality of Services*

While a large majority of judges and prosecutors found the quality of services to be high or very high, the general population and lawyers evaluated the general quality of these services to be average or low.

According to citizens and business representatives, the main cause of quality deficiencies was the poor work produced by judges and poor organization in the courts. Lawyers thought that the judiciary's work quality suffered due to the poor organization within institutions. Judges most frequently found unclear laws to be the main reason for poor quality, while prosecutors found the principal cause to be understaffing (to the extent that they agreed there was a problem).

The perceived quality of administrative services varied depending on the administrative task. Verification and court registry tasks were ranked lowest, while land registry and business-related tasks were much better rated.

### *Accessibility*

A majority of court users and legal professionals found the judicial system to be accessible in terms of the ease of use of court buildings and accessibility of information. Court users drew on both formal and informal sources to seek information about their case, but mainly turned to their lawyers for help. Most court users expressed satisfaction with the source of information used.

The cost of proceedings was to some extent a problem, but perceptions of how reasonable costs were depended significantly on whether respondents were satisfied with the quality of services.

All survey findings showed that, from the users' perspective, the accessibility of administrative services provided by courts was satisfactory. Navigating courthouses and accessing relevant information were not issues for a great majority of users. Other aspects of visiting courthouses were mainly evaluated as satisfactory, except for the time spent waiting in line.

### *Fairness*

A majority of court users and professionals who participated in court proceedings found that the judicial system was not fully fair. Citizens usually gave the handling of their own cases a moderate rating for fairness. The most dissatisfied were parties to civil cases, and the most satisfied were users of court services for "business cases," nearly half of whom considered their processes to be completely fair.

Of the lawyers surveyed, 43 percent assessed that the judicial system was not fair, while 76 percent of judges and 77 percent of prosecutors found the judicial system to be “mainly fair.” Fairness was affected, in the professionals’ opinion, by an overburdened judiciary, poor organization, poor laws, and politicization of the judiciary.

At the same time, a majority of professionals believed that the judicial system treated all citizens equally regardless of their gender, age, nationality, place of residence, education, or disabilities. However, 40 percent of lawyers, 22 percent of prosecutors, and 14 percent of judges stated that citizens of varying socioeconomic status were not treated equally. Together with inconsistent court practice and inconsistent interpretation of laws, the fairness of laws was identified as a problem, with a majority of professionals finding them to be biased, unfair, and unclear.

### *Integrity*

Integrity was identified as one of the biggest concerns with Serbia’s judicial system. A large majority of citizens (97 percent), business sector representatives (95 percent), judges (89 percent), prosecutors (88 percent), and lawyers (98 percent) felt that the judicial system was not fully independent.

According to legal professionals, the entities that most endangered the independence of the judiciary were politicians, political parties, and the media. Legal professionals (84 percent of judges, 85 percent of prosecutors, and 91 percent of lawyers) also responded that the duration of court proceedings undermined judicial integrity.<sup>2</sup> The duration of court proceedings was found to lessen businesses’ trust in the judiciary, while citizens’ trust was negatively affected by perceptions of corruption and by politicians’ perceived influence on judges and prosecutors.

A majority of citizens (88 percent), lawyers (91 percent), judges (77 percent), and prosecutors (75 percent) perceived corruption to be present in the judicial system. Ten percent of citizens reported having been asked to resort to some informal means to have their case adjudicated more efficiently.

Most users of administrative court services provided in courts perceived corruption to be present, impairing perceptions of the integrity of those services.

### *Costs*

A majority of citizens with experience of the court system found trial costs to be too high. Perceptions of whether costs were reasonable were strongly influenced, however, by the respondents’ assessment of the quality of court performance. The greater the assessed quality, the greater the willingness to bear the costs.

A majority of respondents found the cost of administrative services to be a moderate burden given their income.

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<sup>2</sup> The court’s participation in, or acquiescence to, the undue lengthening of a trial by, for example, allowing multiple hearings to be adjourned essentially incurs to the benefit of one party.

### ***Reform Expectations***

Stakeholders generally did not feel they were well informed about ongoing judiciary reforms. The general public was more optimistic than lawyers were about the outcome of reforms, and a majority of the general public expected that the judicial system would improve as a result of reform.

Prosecutors were optimistic about the possible effect of current reforms on fairness, efficiency, and integrity in the judiciary, and pessimistic about their potential effect on the quality of working conditions, on accessibility, and in fostering a more rational approach to spending the judicial budget.

Judges were also most optimistic about the potential for improvements in fairness and integrity, and least optimistic about the effect of reform on the quality of working conditions and in engendering a more rational approach to judicial budget execution. However, a majority of judges (72 percent) and prosecutors (68 percent) found that the number of judges was too small.

Lawyers were generally the most pessimistic group with regard to the ongoing judicial reforms. A majority of lawyers expected that reforms would not bring about any change or would worsen judicial system performance.

Most lawyers, judges, and prosecutors could not identify opportunities to reduce court costs. The same respondents identified employee training and the modernization of equipment as investments that could result in future savings for the judiciary.

### ***Gender***

Only a few gender-related differences in treatment and experience were recorded in the survey. The statistically significant differences that were recorded were sporadic, and there were no connections among them that would indicate unequal treatment of women and men by the judicial system. The differences that were identified related to women and men bringing different types of cases to court.

As regards perceptions, male respondents evaluated the quality of services more critically, while female respondents evaluated fairness more negatively. A higher percentage of women found that the Serbian judicial system did not treat all citizens equally regardless of their gender, age, national origin, place of residence, and disability.

### ***Vulnerable Groups***

The survey of members of the Roma community yielded ambiguous results. Data on members of the Roma community who have had experience with court cases did not show that the Roma have been treated differently by the courts than other court users. Yet the survey found that perceptions of the judicial system were often more negative among members of the Roma community than among other respondents. This finding of negative experiences despite

insignificant differences on a number of key dimensions is not necessarily inconsistent. Limitations in the data on personal experience do not allow for reliable analysis that would reveal the differences in treatment of Roma versus the general population. The discrepancy in findings based on objective and subjective questions suggests that further investigation of this issue is needed.

### ***Effects of Personal Experiences with the Justice System***

The portion of the general public who had experience with court cases gave broadly more negative ratings to the functioning of the judiciary, the quality and fairness of its services, and its general accessibility, as compared to those who had no experience with court cases. However, those with court experience generally rated the speed of proceedings and the court's ability to enforce court judgments higher than members of the general public who had no court experience. Citizens with court experience rated the quality of court service in their own case higher than the overall quality of services.

In general, personal experience with administrative services did not significantly influence respondents' assessments of the judicial system as a whole. However, users of administrative services—as compared to those who had no experience of the system—gave lower ratings for the efficiency, quality of services, and fairness of the judicial system. As would be expected, respondents whose cases were resolved in their favor held more positive views than those whose cases were not.

### ***Reform Implications***

As noted above, the results of the judiciary survey provide a baseline against which future reform results can be assessed and identify areas of focus for subsequent phases of judiciary reform. The following reform implications could be considered in light of the survey findings:

#### ***Transparency and accountability***

The differing assessments of performance between providers in the judiciary (judges, prosecutors, and administrative staff) on one side and court users and the general public on the other side point to variations in expectations as well as experiences. Establishing clear performance standards and reporting against these could help bridge these gaps and increase transparency and accountability. Clearer standards and related reporting that is published could also contribute to mitigating perceptions of unequal treatment of IDPs and members of the Roma community.

#### ***Communications and change management***

While supportive, judges, prosecutors, and especially administrative staff appear to be less enthusiastic about ongoing reform efforts than court users and the general public. This finding places involvement, communications, and change management at center stage. As lawyers are particularly pessimistic about reform results, efforts could be made to reach out to this group and involve them in reform design, implementation, and monitoring.

Reform expectations among users and the general public are high, and there is a risk that it will not be possible to deliver on these expectations in a short period of time. It is important that reforms are designed realistically and not “oversold” to the general public.

### *Reform priorities*

The survey showed that efficiency, quality, and integrity are assessed least favorably, while access and fairness are evaluated most favorably. Views on independence fall in between. As a result, reform efforts that aim to increase efficiency and quality, reduce corruption, and increase judicial independence could usefully be the focus of reform attention on which consensus between stakeholders could possibly be reached, at least with regard to overall reform objectives.

### *Court efficiency*

Given agreement among groups of survey respondents that at least one-third of cases take longer than they should, there appears to be consensus for focusing reform efforts on increasing court efficiency.

Possible actions for tackling the efficiency agenda are manifold. The survey highlighted the large number of hearings per case, the high number of adjourned hearings, and ineffective hearings as key challenges. Concrete measures to address these challenges could include the establishment of case tracks, introduction of major step timelines, and limits to postponements.

### *Access to justice*

Court fees and lawyer costs were identified as the main constraints to accessing justice, further supporting ongoing efforts to provide free legal aid. The survey also suggested, however, that there is a need for further empirical analysis of obstacles to access.

### *Integrity*

Judicial integrity was a key concern identified in the survey, and several reform actions could be considered to address this issue. Clarity on procedures for how to deal with corruption could be improved, including provisions for whistle-blowing and reporting by users. Perceptions of corruption can also be the result of contradictory or unclear laws and regulations, insufficient staff, or judicial capacity limitations. Considering the relatively high perceptions of corruption in Serbia’s judiciary, it will be important to explore the underlying causes and to develop countermeasures, such as: (i) more streamlined and automated processes that reduce opportunities for corruption; (ii) monitoring processes to better detect integrity breaches; (iii) stronger focus on management and prevention of corruption opportunities; and (iv) better public education to enhance public understanding of how the judiciary should work, where to turn to with complaints, and general reporting on integrity enhancement actions.

It is possible that differences in corruption perceptions between court users and professionals inside the judiciary reflect the character of media coverage of court proceedings in Serbia.

Clearer and more professional communication by the judiciary to the media, including a communications strategy and training, could be considered.

### *Independence*

Issues of judicial independence have been on the agenda in Serbia since the regime change ten years ago and were widely debated during survey data collection (Chapter 1). Finding a solution to the reelection process and establishing procedures accepted by all stakeholders as ensuring the independence of the judiciary in appointing and promoting judges and prosecutors could take center stage.

While it is beyond the scope of this analysis to establish whether there is political interference in the adjudication of cases in the Serbian judiciary, the data presented here indicate that this could be the case. At least the perception is thus and could be addressed following further research into this issue.

### *Administrative services*

Survey instruments cannot quantify the extent of corruption, as some respondents are reluctant to report being involved in illegal activities and perceptions can differ from actual actions. Despite these limitations, the survey raised some red flags indicating the likelihood of petty corruption and informality in the delivery of administrative services. Survey results highlighted other concerns regarding administrative services, including excessive waiting time, the need to go to several windows, and the need to go to the court several times to complete a given transaction. Possible reform measures include: (i) exploring the possibility of establishing “one-stop shops” and more streamlined operations for these services; (ii) examining the reasons behind multiple visits to the court to complete a transaction; and (iii) reviewing options for reducing waiting times, including the potential for providing some services electronically.

## CHAPTER 1 – INTRODUCTION

### 1.1 Background

1. *The Serbian judiciary is undergoing profound change, and significant reforms have been implemented over the past ten years.* In May 2006, the National Assembly of the Republic of Serbia adopted the National Judicial Reform Strategy (NJRS), followed by an Action Plan for its implementation. In 2008, the new coalition government brought a more active and visible commitment to reforms in support of accession to the European Union (EU), enacting a package of laws governing fundamental elements of the justice system. In 2010, several major reform initiatives were rolled out to further implement the NJRS and the package of judicial laws. Key reforms to date include a change in the court structure; a reduction in the number of district courts, judges, and prosecutor positions; increased responsibilities for the High Judicial Council and the State Prosecutorial Council; the introduction of new information and communication technology solutions; and the reappointment or re-election of all judges and prosecutors. Many laws were also enacted or amended.

2. *The EU accession process has been a key driver of judicial reforms in recent years—more so than popular demand.* Serbia signed a Stabilization and Association Agreement with the EU in 2008 and submitted a full candidate application in 2009. Numerous legislative activities have been initiated and completed as part of the harmonization of Serbia’s legislation with the EU *acquis communautaire* and the introduction of European standards in the judiciary. The incentives provided through the accession process, including on reform design and implementation approaches, are expected to have a significant influence on the success of reform efforts in the years to come.

3. *Many observers consider the results of Serbia’s judiciary reform to be mixed.*<sup>3</sup> The 2006 reform strategy was well designed, and political commitment to judicial reforms—driven by the Ministry of Justice and particularly by the coalition government that came to power in 2008—has been strong. Other stakeholders have been more reluctant about the reforms. Yet some key initiatives have been controversial, resulting in adversarial relations among stakeholders.

4. *New structures were approved in 2009 for the courts and prosecution services.* The passage of the Law on the Organization of Courts and the Law on Seats and Territorial Jurisdiction of Courts and the Public Prosecutor’s Offices in 2009 has provided a framework for the new network of courts and prosecution offices. The new court structure consists of basic courts, higher courts, appellate courts, administrative courts, commercial courts, the high commercial court, the supreme court of cassation, and the constitutional court. The magistrate courts and higher magistrate courts, which were previously a part of the executive branch, are now an integral part of the judiciary. Prosecution services are divided into basic, higher, and appellate prosecution offices, with special departments for war crimes and organized crime.

5. *Two institutions were strengthened to ensure the independence of the judiciary.* The High Judicial Council (HJC) and State Prosecutorial Council (SPC) were given much stronger

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<sup>3</sup> European Commission. 2010. “Serbia 2010 Progress Report.” and Council of Europe and MDTF-JSS. 2010. “Support to the Reform of the Judiciary in Light of Council of Europe Standards.”

mandates to help guarantee the independence and autonomy of courts and judges, in the case of the former, and of prosecutors, in the case of the latter. The responsibilities of these new councils also include the election and promotion of judges and prosecutors.

6. *To align with the new court structure, the number of judges and prosecutors was reduced by approximately 23 percent.* This change was conducted through a general election process, under which all positions for judges and prosecutors were advertised. Both current judges and prosecutors and candidates outside the judiciary could apply for the positions. All judges and prosecutors were to be elected competitively on the basis of competence and qualifications. However, the EU's Serbia 2010 Progress Report voiced "serious concern" regarding the implementation of recent reforms to the justice system, including the reappointment process. Most international organizations and civil society observers agree that the re-election process was not conducted according to the Council of Europe's recommendations and lacked the necessary transparency.

7. *More than 700 non-elected judges have challenged the Constitutional Court's decision, but the HJC has defended the process and its results.* The HJC claims that the re-election process removed poor-quality staff, particularly those inherited from the Slobodan Milosevic era in the 1990s. In May 2010, the Constitutional Court reached its first decision on an appeal from a non-elected judge, ordering the HJC to review its decision and provide adequate justification for the judge's removal. In this case, the Constitutional Court dismissed the HJC's decision, remarking that justification for the non-election was "insufficient and not in the line with the Law on Judges."

8. *Other legislative changes have focused on strengthening judicial procedures.* In October 2010, the National Assembly adopted amendments to the Criminal Procedure Code stipulating that detention may be ordered for individuals reasonably suspected of committing a crime that is punishable by imprisonment of more than five years (previously ten years). New provisions were introduced for plea bargaining in cases of high corruption. A new Law on Expert Witnesses, adopted in June 2010, regulates requirements for the conduct of expert testimony, procedures for appointing and dismissing expert witnesses, procedures for registering expert witnesses and dismissing them from the register, and the rights and duties of expert witnesses. It is anticipated that these new regulations will reduce corruption and delays, and guarantee adequate professionalism and accountability of expert witnesses.

9. *The National Assembly adopted a package of anticorruption laws at the end of 2008,<sup>4</sup> but implementation of the Anticorruption Action Plan has been slow.* Corruption rates remain low, particularly for high-profile cases. The new Anticorruption Agency became effective as a separate, independent institution in January 2010. The Agency's mandate is to support corruption prevention and to supervise conflict of interest cases and the funding of political parties. It issued rules on the financial reports of political parties in March 2010.

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<sup>4</sup> The package of anticorruption laws comprises the Law on the Anticorruption Agency, Law on Amendments to the Law on Financing of Political Parties, Law on Seizure and Confiscation of the Proceeds from Crime, Law on the Liability of Legal Entities for Criminal Offenses, Law on Personal Data Protection, and Law on Confirmation of the Additional Protocol to the Council of Europe Convention for the Protection of Individuals with regard to Automatic Processing of Personal Data.

10. *Despite the adoption of new laws during 2009 and 2010, the controversial re-election process has dominated the judicial landscape as well as the focus of international stakeholders.* Attention to other important judicial reform activities has suffered despite the continuing challenges of implementing the new legislative framework and ensuring the effective functioning of the new institutions.

11. *The Government remains committed to continued reforms and to solving current problems and disagreements.* At the request of the Serbian Ministry of Justice, the World Bank, through the Multi-Donor Trust Fund for Justice Sector Support in Serbia (MDTF-JSS), commissioned the Council of Europe to undertake a review of the implementation of the 2006 NJRS. The review concluded that, while some reforms have been implemented, much remains to be done. Given the political support for reforms in Serbia and the continued importance of judiciary reforms to the country's EU accession prospects, a subsequent phase of judiciary reforms is being considered.

## **1.2 Survey Objectives and Approach**

12. *It is against this background that the survey reviewed in this report aimed to measure experiences with, perceptions of, and reform expectations for the justice system in Serbia.* The objective of the survey was to: (i) provide a baseline against which future reform results could be assessed; and (ii) help identify areas for further judiciary reform. This report recognizes that perception surveys cannot be the only contribution to identifying problems, reform priorities, or even benchmarks for reform achievement. This report is therefore to be seen as one of several inputs into the deliberations over and design of the next phase of judiciary reform in Serbia. Other contributions will include the Council of Europe's review of NJRS implementation and a Judiciary Public Expenditure and Institutional Review (both funded by the MDTF-JSS), together with various inputs from reform stakeholders in Serbia and from international partners.

13. *The judiciary survey has aimed to measure performance against the core values and expectations of the Serbian justice system.* Internationally, values often emphasized include independence, fairness, equality, impartiality, competence, timeliness, integrity, accessibility, and transparency. These and similar dimensions are commonly found in national and international approaches to measuring and managing judiciary performance. In Finland, for example, a court performance management initiative measured dimensions related to process, decisions, treatment of the parties and the public, promptness of proceedings, competence and professional skills of the judge, and organization and management of adjudication. Similarly, the United States Trial Courts Performance Standards focus on access to justice, expedition and timeliness, equality, fairness and integrity, independence and accountability, and public trust and confidence. In the Netherlands, a quality control system for the courts reached consensus around measuring the impartiality and integrity of judges, expertise of judges, personal interaction with litigants, unity of law, and speed and timeliness of proceedings. In this survey of Serbia's judiciary, the following values have been selected to reflect the common measures used in performance frameworks internationally:

- *Efficiency* is measured by the average duration of proceedings, number of hearings, number of hearings adjourned, cases appealed, the enforcement of judgments, and the degree to which court users are satisfied with court efficiency.

- *Quality of services* is measured by perceptions of the quality of judicial work and of the judicial institution.
- *Accessibility* is measured by court users' views on physical accessibility and by the perceived accessibility of services based on court users' age, economic status, education, ethnicity, gender, etc.
- *Fairness* is measured by the perceived fairness of the judgment and relevant legislation, as well as perceptions of whether the age, economic status, education, ethnicity, gender, etc., of court users influenced the outcome.
- *Integrity* is measured by public trust in judiciary institutions, the perceived independence of the judiciary, perceived levels of corruption, and the role of justice service providers.
- *Costs* are included in the survey by measuring the cost of cases and assessments of the potential for increasing cost-effectiveness.

14. *In addition to resolving criminal and civil cases, the courts in Serbia are responsible for notary and other administrative services.* This survey covered both types of services. While a majority of the general public will have had some experience with administrative services, fewer will have had experience with criminal and civil cases. In addition, the survey measures knowledge of and expectations about ongoing judiciary reform efforts.

15. *Questions for each of these values and services were selected based on experience with similar surveys in other countries, and adapted to reflect the needs of the Serbian judiciary.*<sup>5</sup> The questions were designed to combine experiences, perceptions, and reform expectations in each area. The questions were also designed to be time-bound: justice service providers and members of the legal profession responded to questions relating to 2009, court users responded to questions on cases that had rendered a first-instance judgment between 2007 and 2009, and users of administrative services responded to questions about services provided in 2009. All areas covered in the surveys are listed in Annex 1. The methodology is described in Annex 2.

### **1.3 Strengths and Limitations of Judiciary Surveys**

16. *Surveys can map experiences, perceptions, and expectations from the point of view of various stakeholders, thus providing an indication of the judiciary's popular legitimacy that cannot be measured in other ways.* It is important to address the perceptions of the general public and of the users of the justice system, as perception data can point to areas where there may be a need to follow up with administrative data.

17. *It is often argued, however, that there are limitations to using perception data to measure performance.* First, the perceptions of members of the general public who have not had personal contact with the justice system could be influenced by media coverage of cases at the time of the survey, such that survey results could fluctuate randomly over time and measure a general mood rather than system performance. Both factors could render surveys less useful as baselines for measuring reform progress over time and as tools for identifying reform priorities. Another argument is that perceptions and reform expectations could be influenced by whether or not the respondent has received an advantageous verdict, for example. Thus, the argument goes,

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<sup>5</sup> The Questions were derived using the BEEPS Data Portal at <http://beeps.prognoz.com>.

responses would not measure the quality of the process and the system but the respondent's opinion of the outcome of the case.

18. *The current survey has attempted to address these concerns by looking into experiences as well as perceptions and expectations.* In addition, the survey examined multiple dimensions of judiciary performance, compared the perceptions of multiple stakeholders, and explicitly recognized the limitations of the survey instrument. By comparing perceptions and expectations, it is possible to identify common and divergent trends among stakeholders and thus to identify the effects of, for example, whether or not a respondent has had experience with the judiciary, whether or not the case was decided to his or her benefit, how time and cost may have influenced perceptions, whether certain segments of the population have varying experiences with the justice system, and whether and how this influences their perceptions.

#### **1.4 Structure of the Report**

19. *This survey review is organized as follows.* Chapters 2-8 present the survey results. Chapter 2 compares assessments of various performance dimensions by the stakeholders included in the survey. Chapter 3 presents general assessments of court proceedings, and Chapter 4 examines how these assessments have been affected by personal experience with the justice system. Chapter 5 presents general assessments of court administrative services and examines the effect of personal experience with these services on these assessments. Chapter 6 identifies differences in perceptions and experiences among men and women. Chapter 7 looks more deeply at the perceptions and experiences of vulnerable groups in Serbia. Reform expectations are the subject of Chapter 8. Possible implications for the judiciary reform agenda are included throughout the report and are summarized in Chapter 9.



## CHAPTER 2 – PERCEPTIONS OF JUDICIARY PERFORMANCE

### 2.1 *Comparison of Perceptions across Survey Groups*

20. *This chapter presents a rough comparison of perceptions of the judiciary's performance on five values.* The comparisons are rough due to variations in the measurement scales used for each value.<sup>6</sup> Despite this imprecision, the figures may be taken as an illustrative summary of the general perceptions of judicial performance among court users and justice service providers. Subsequent chapters present a more in-depth look at perceptions and experiences.

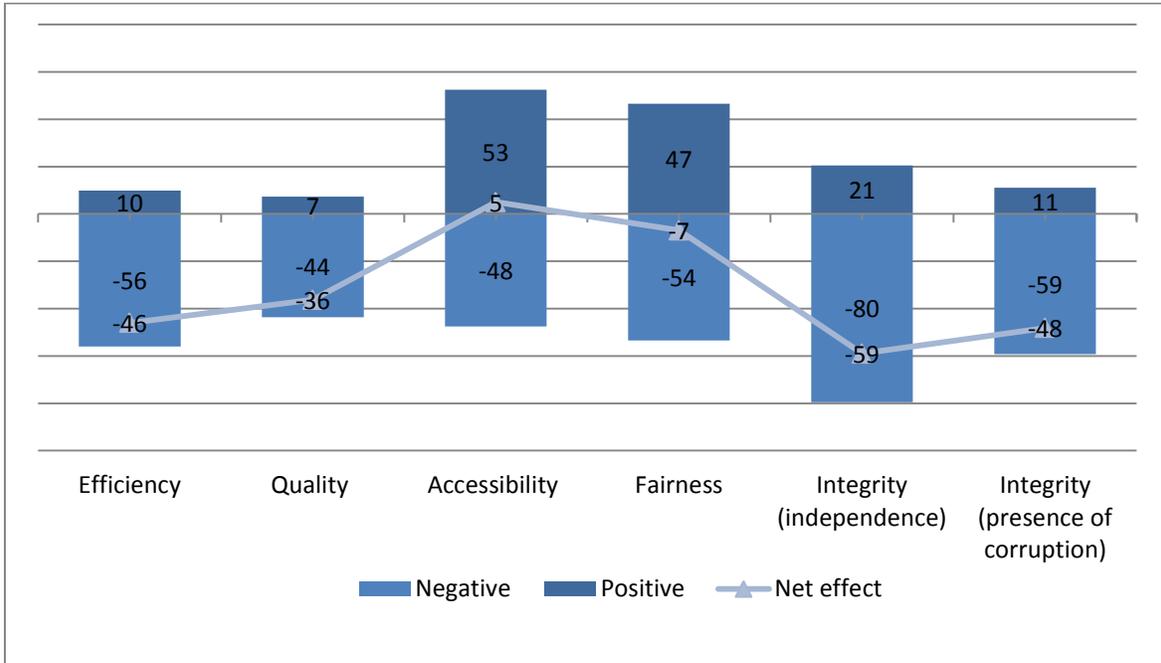
21. *Court efficiency and integrity were perceived by all groups surveyed to be of greatest concern within the Serbian judiciary* (Figures 2.1–2.7). The highest negative net effects of the evaluations (that is, the percentage of positive evaluations minus the percentage of negative evaluations) were found for efficiency and integrity. A majority of all the groups surveyed, with the exception of judges, evaluated performance on these values negatively (low efficiency and low integrity). On quality of service, there was a negative net effect of the evaluations in all groups except prosecutors and judges, but it was not as high as in the case of efficiency and integrity. Finally, the net effects for accessibility and fairness were mainly positive, meaning that more people evaluated these two values with positive ratings rather than negative ratings. The exception here was the general public's experience with court services, in which fairness was accorded a somewhat higher percentage of negative ratings. Accessibility was found to be the most positively assessed value of judiciary performance.

22. *It is striking that providers of court services, particularly judges, evaluated all dimensions much more positively than users of services and lawyers* (Figures 2.5–2.7). The greatest concurrence was recorded on the issue of efficiency, on which the ratings of court staff and users of services differed the least.

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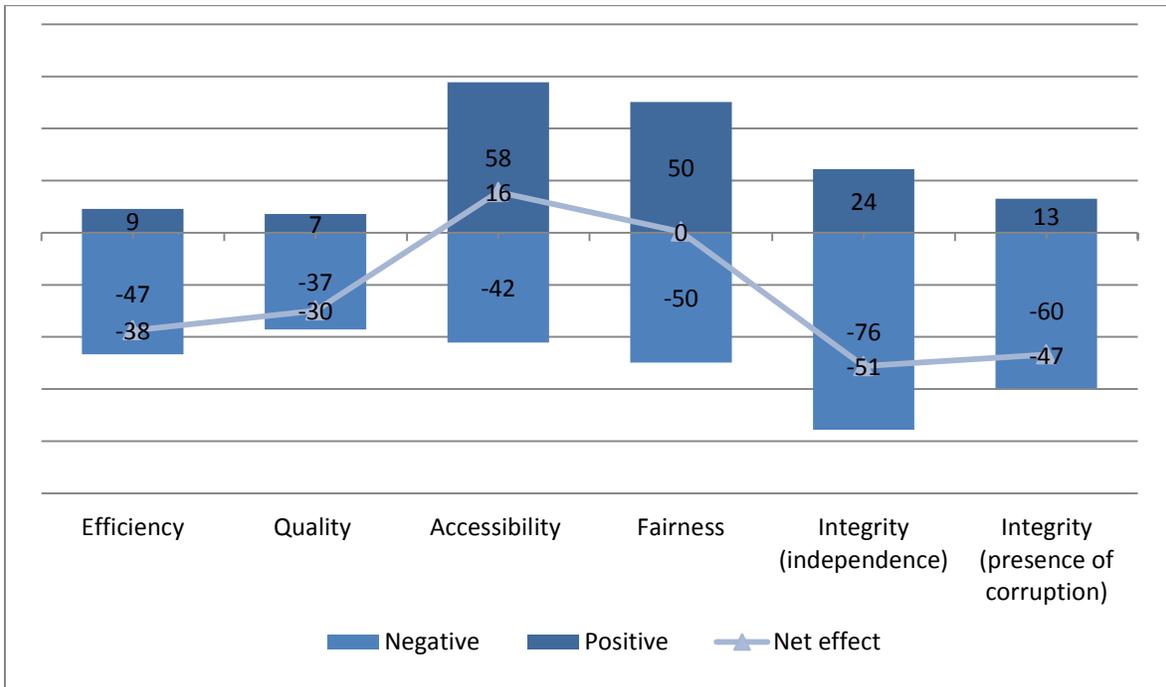
<sup>6</sup> General perception and quality were measured on a 4-point scale, whereas the remaining values were measured on a 5-point scale. Middle ratings have been excluded from the 5-point scales. It can be assumed that, had a 4-point scale been used for quality and efficiency, we would have had higher percentage on both sides for these questions. The sixth value identified in Chapter 1, cost-effectiveness, is not included in this overview because the scale used for these values is not comparable with the other scales.

**Figure 2.1: Evaluation of the Five Values – General Public with Court Experience**



Note: efficiency: N=842 (99%) quality: N= 839 (99%), accessibility: N= 806 (95%), fairness: N=834 (98%), integrity (independence):N=787 (93%), integrity (presence of corruption): N=820 (96%).<sup>7</sup>

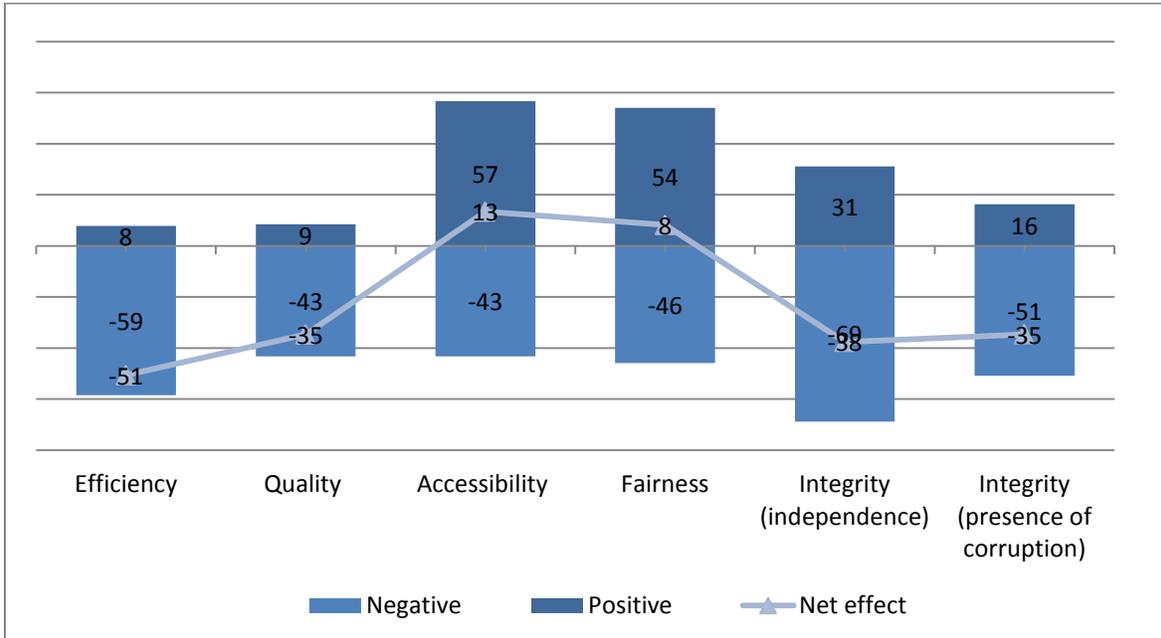
**Figure 2.2: Evaluation of the Five Values – General Public without Court Experience**



Note: efficiency: N=1352 (100%) quality: N= 1337 (99%), accessibility: N= 1254 (93%), fairness: N=1326 (98%), integrity (independence):N=71228 (91%), integrity (presence of corruption): N=1278 (94%).

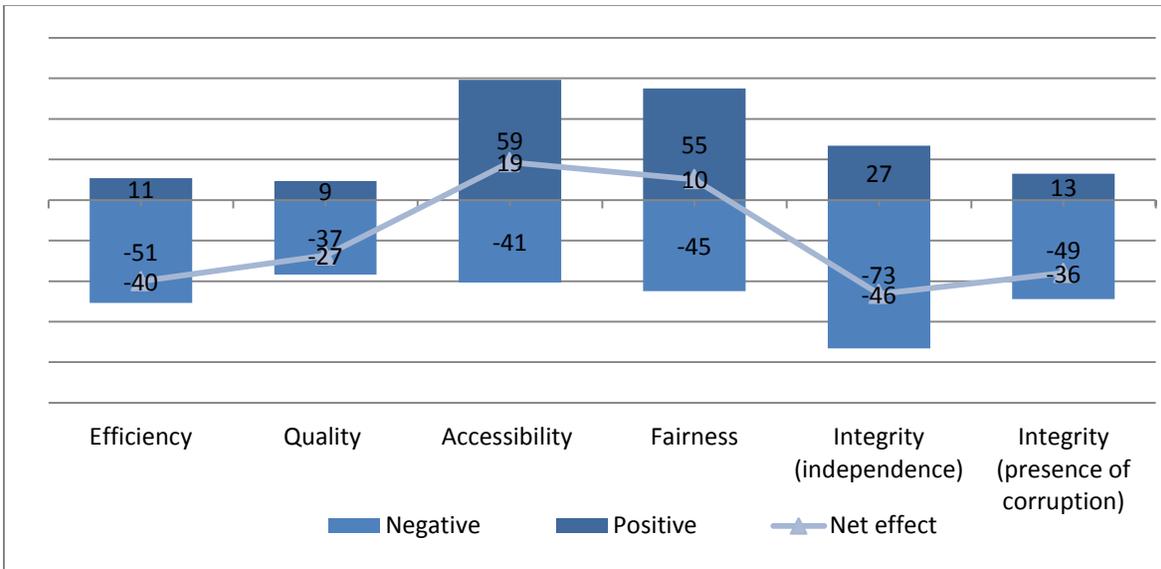
<sup>7</sup> In all figures, the N presented is raw (unweighted).

**Figure 2.3: Evaluation of the Five Values – Business Sector Representatives with Court Experience**



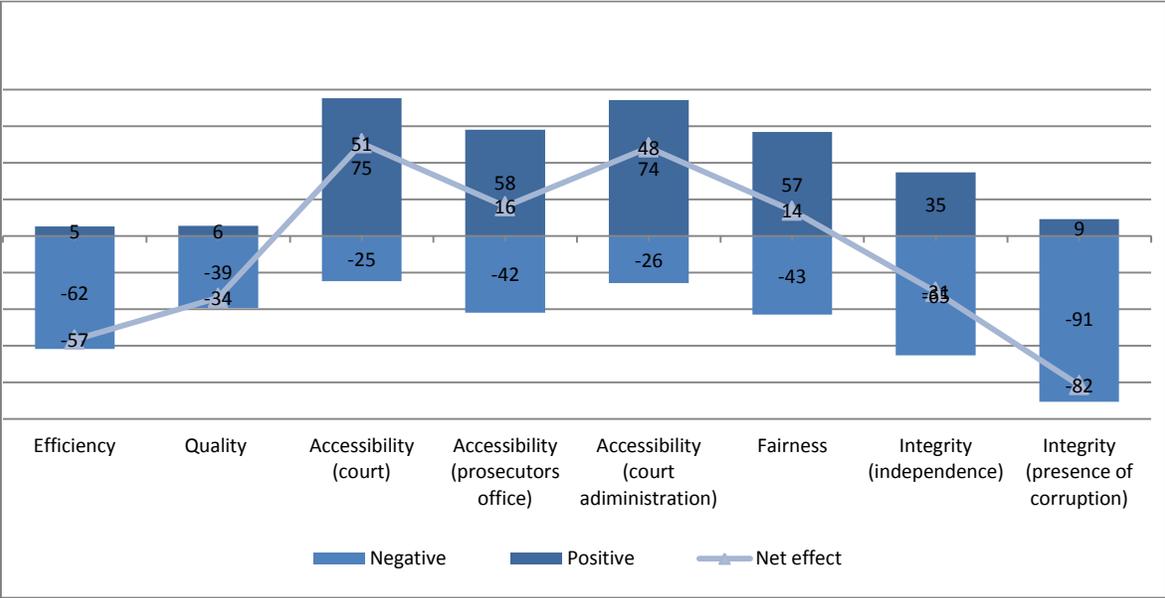
Note: efficiency: N=449 (100%), quality: N= 441 (98%), accessibility: N= 413 (92%), fairness: N=439 (98%), integrity (independence):N=4078 (90%), integrity (presence of corruption): N=450 (100%)

**Figure 2.4: Evaluation of the Five Values – Business Sector Representatives without Court Experience**



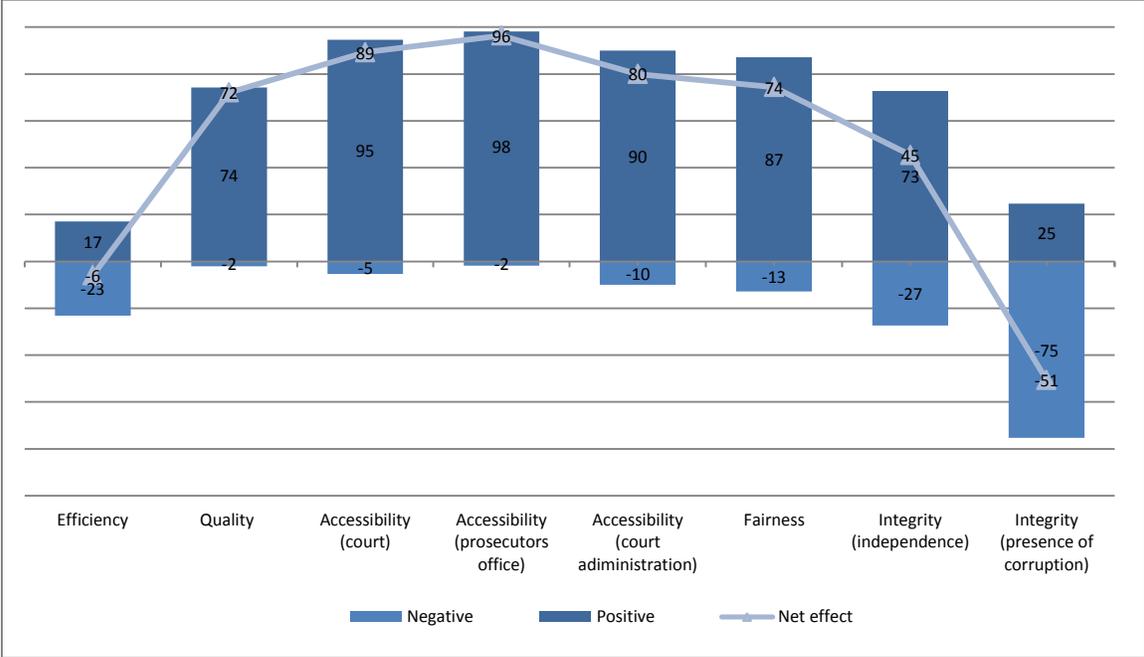
Note: efficiency: N=612 (100%), quality: N= 596 (97%), accessibility: N= 552 (90%), fairness: N=590 (96%), integrity (independence):N=567 (92%), integrity (presence of corruption): N=615 (100%)

**Figure 2.5: Evaluation of the Five Values – Lawyers**



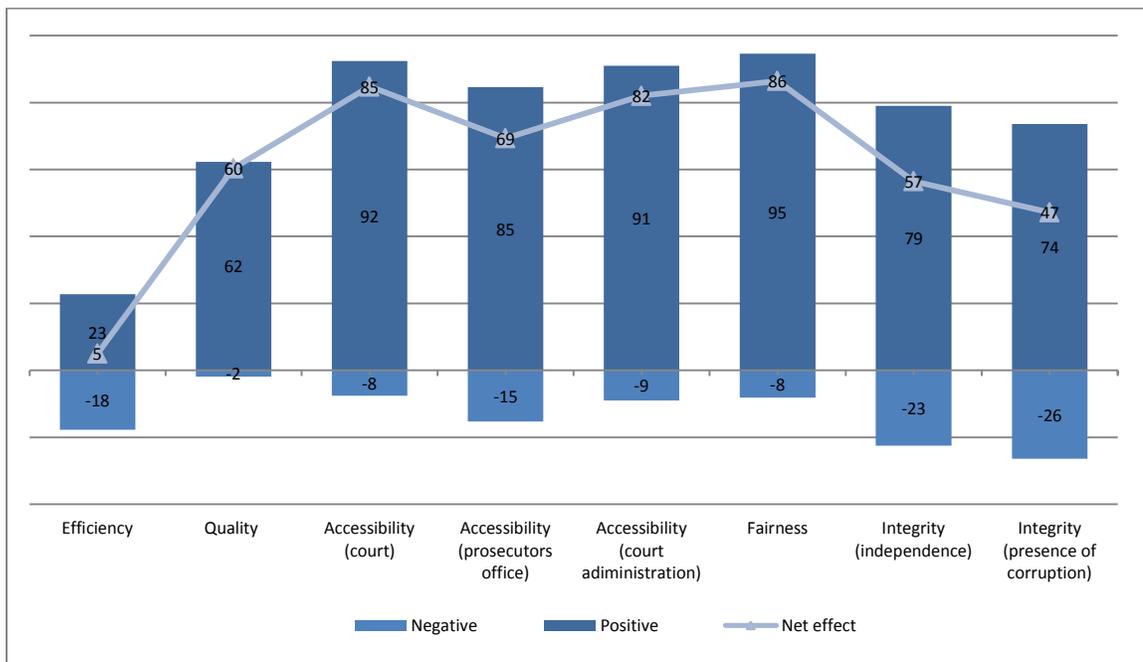
Note: efficiency: N=799 (100%), quality: N= 800 (100%), accessibility: N= 784 (98%), fairness: N=798 (100%), integrity (independence):N=772 (97%), integrity (presence of corruption): N=639 (80%)

**Figure 2.6: Evaluation of the Five Values – Prosecutors**



Note: efficiency: N=321 (92%), quality: N= 333(96%), accessibility: N= 316 (91%), fairness: N=321 (92%), integrity (independence):N=322 (93%), integrity (presence of corruption): N=324 (93%)

**Figure 2.7: Evaluation of the Five Values – Judges**



Note: efficiency: N=1085 (95%), quality: N= 1084 (94%), accessibility: N= 1041 (91%), fairness: N=1070 (93%), integrity (independence):N=1059 (92%), integrity (presence of corruption): N=994 (87%)

### **Reform Implications**

23. *The profile of assessments is more or less identical across different stakeholder groups. Efficiency, quality, and integrity are assessed least favorably, while access and fairness are evaluated most favorably. Views on independence fall in between. Reform efforts aimed at increasing efficiency and quality, reducing corruption, and strengthening independence could therefore be a focus of attention. Initiatives in these areas have the potential to form an agenda on which consensus between stakeholders could be reached, at least on reform objectives.*

24. *It may be useful to introduce reforms to increase transparency through explicitly defined performance standards and public reporting on judiciary performance. Court users, whether citizens or businesses and irrespective of whether or not they have experience with the Serbian judiciary, have markedly less favorable views of the judiciary than do judges and prosecutors. Possible explanations for this result are as follows: (i) professionals could have more knowledge of the judiciary than users and non-users of court services, leading to better-informed assessments; (ii) professionals and court users could have different performance expectations and norms to define satisfactory performance, such that similar perceptions and experiences could still lead to different assessments based on divergences between expectations and reality; and/or (iii) professionals and users/non-users of court services could have different conceptions of the value dimensions being examined—for example, a judge might assess the quality of the judiciary against legal standards, whereas a user might judge quality according to his or her own views on what quality is in the judiciary. These possible explanations point to a need for greater transparency on the performance of the judiciary and efforts to improve it.*

25. *A greater focus on change management, outreach, and consultation with the prosecutors and judges at the center of the reforms may be required to ensure successful implementation.* Reforms could be more difficult to sell to professionals in the judiciary than to users and the general public. While stakeholders outside the judiciary may see a need for reforms based either on their experience with court services or their broader understanding of judiciary performance, professionals could hold different views.

## CHAPTER 3 – COURT PROCEEDINGS

### 3.1 Overview

26. *Lack of efficiency in the judicial system was identified as one of the main problems with court proceedings in Serbia.* The duration of court proceedings, frequency and quality of hearings, time intervals between scheduled hearings, and frequent cancellation of hearings were identified by court users as factors that contributed to low efficiency. Respondents also asserted that a significant percentage of the hearings that were held did not contribute to the resolution of the case. The assessments of lawyers and prosecutors on this issue generally coincided with those of court users among the general public, as legal professionals responded that a significant percentage of hearings in 2009 were adjourned or inefficient.

27. *The duration of court proceedings was affected by appeals against the judgment.* Appeals were filed in 42 percent of civil cases, 38 percent of criminal cases, 14 percent of misdemeanor cases, and 31 percent of business cases. Of those cases appealed, one-third were retried. The survey responses of legal professionals supported this finding: lawyers indicated that appeals were filed in 70 percent of their cases in 2009; this figure was 43 percent among responding prosecutors<sup>8</sup> and 35 percent among judges, though the latter varied substantially by department. The highest percentages of appeals were reported by judges working in the departments of civil and criminal law (51 percent and 50 percent, respectively). The percentages of appeals reported by judges working in commercial courts and misdemeanor authorities were substantially lower (26 percent and 12 percent, respectively). Though the exact figures varied, it should be stressed that the range of percentages of reported appeals was nearly identical between judges and users of court services.

### 3.2 Efficiency

28. *In the context of this survey, efficiency refers to the time it takes the justice system to handle a case from the point of view of the immediate court user, including the steps involved in a proceeding from beginning to end.* Efficiency is measured in the survey by the average duration of proceedings, number of hearings, number of hearings adjourned, cases appealed, enforcement of judgments, and court users' satisfaction with the level of efficiency.

29. *Data on case processing time are generally perceived to be of doubtful quality in Serbia, though an analysis of the existing data is beyond the scope of this report.*<sup>9</sup> In addition, it is necessary to ask respondents about their experiences to analyze whether and how the length of proceedings and number of hearings may have influenced perceptions. It should be noted that the case processing times presented below (Figures 4.1, 4.4, and 4.6) reflect respondents'

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<sup>8</sup> The differences between the responses of lawyers and prosecutors might be explained by the fact that lawyers are generally involved in different types of cases, while prosecutors mainly deal with criminal cases. The percentage reported by citizens involved in criminal cases is close to that reported by prosecutors.

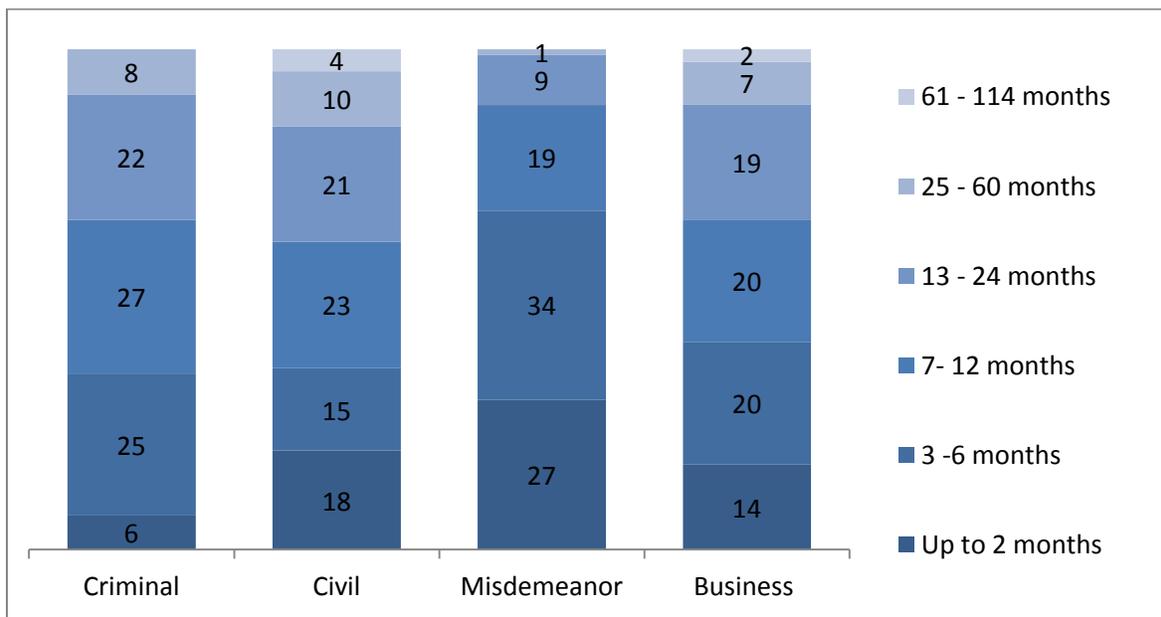
<sup>9</sup> An analysis is included in World Bank. Forthcoming. Serbia: Spending for Justice. A Judicial Public Expenditure and Institutional Review.

. Central control of data quality, including uniformity in definitions, has been limited and data have been recorded and reported manually.

recollections and that actual average processing time may deviate from the numbers derived through the survey methodology.

30. As shown in Chapter 2, and in line with other analyses,<sup>10</sup> efficiency is a key issue in the Serbian judiciary. The average duration of civil cases was reported by survey respondents to be around 15 months. Ten percent of the cases lasted between two and five years, and 4 percent lasted more than five years. Some cases took nearly ten years to close. Criminal cases lasted for about one year on average, though nearly 22 percent of the cases lasted between one and two years, and 8 percent between two and five years (Figure 4.1).

**Figure 3.1: Duration of the Case -- Number of Months from Case Filing to First-Instance Judgment, as Reported by Court Users**



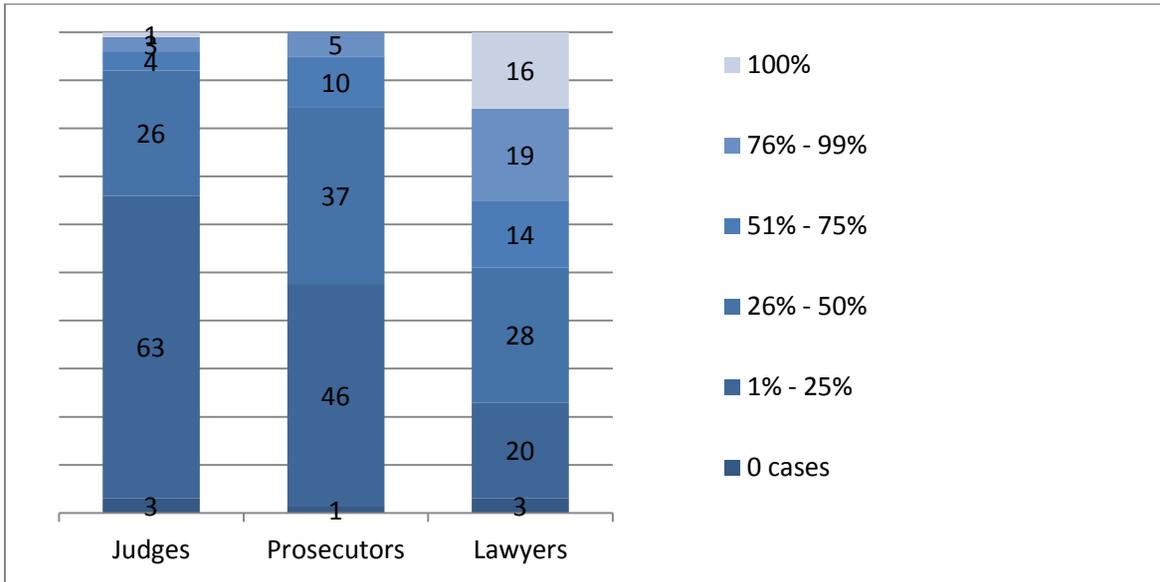
Note: N=180 (90%) for criminal cases. N=390 (87%) for civil cases. N=176 (88%) for misdemeanor cases. N=359 (76%) for business cases.

31. Not surprisingly, around 80 percent of court users among the general public and business sector representatives found that their respective court cases lasted longer than necessary. Nearly all prosecutors, judges, and lawyers estimated that at least some of their cases in 2009 lasted longer than they should have (Figure 4.2). According to prosecutors,<sup>11</sup> 32 percent of their cases, on average, lasted longer than needed. According to judges, 24 percent of their cases, on average, lasted longer than needed; the highest percentage of these were in the department of civil law at 28 percent, on average, and the lowest in commercial courts at 14 percent, on average (Figure ). Lawyers reported that 55 percent of their cases lasted longer than needed.

<sup>10</sup> See, for example, United States Department of State, Bureau of Democracy. 2010. [2009 Country Reports on Human Rights Practices](http://www.state.gov/g/drl/rls/hrrpt/2009/eur/136056.htm). <http://www.state.gov/g/drl/rls/hrrpt/2009/eur/136056.htm>; and Belgrade Center for Human Rights. 2010, *Human Rights in Serbia 2009*, Belgrade, p. 274, <http://english.bgcentar.org.rs/images/stories/Datoteke/human%20rights%20in%20serbia%202009.pdf>.

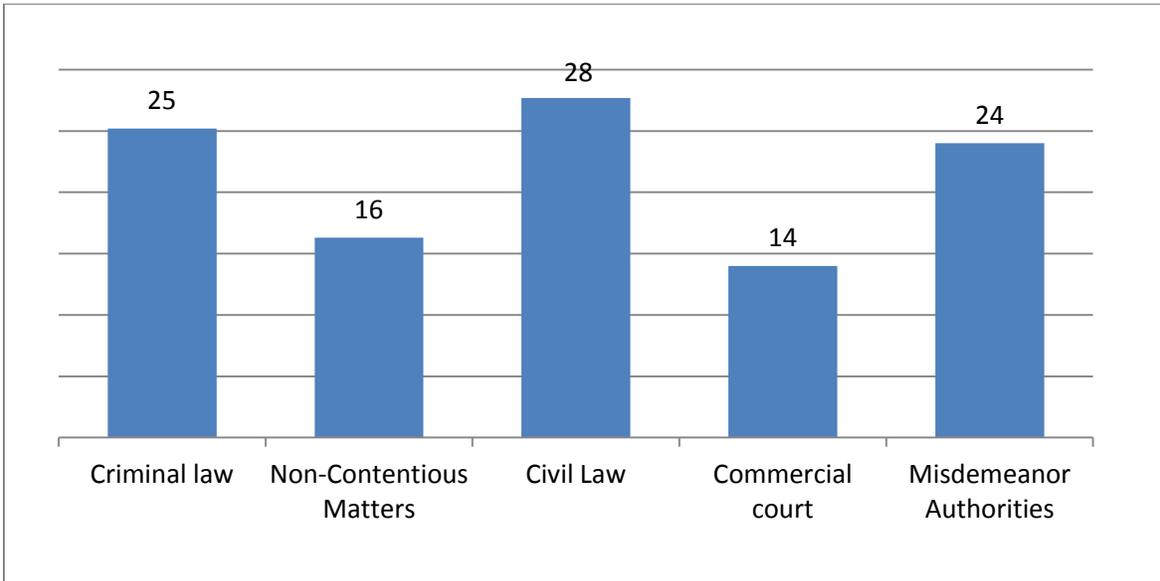
<sup>11</sup> This question was answered by 72 percent of prosecutors and 76 percent of judges, and the listed percentages refer to this portion of the population.

**Figure 3.2: Estimated Percentage of 2009 Cases That Lasted Longer than They Should Have for Any Reason**



Note: N=872 (76%) for judges, N=790 (99%) for lawyers, and N=250 (72%) for prosecutors.

**Figure 3.3: Estimated Percentage of 2009 Cases That Lasted Longer than They Should Have for Any Reason**

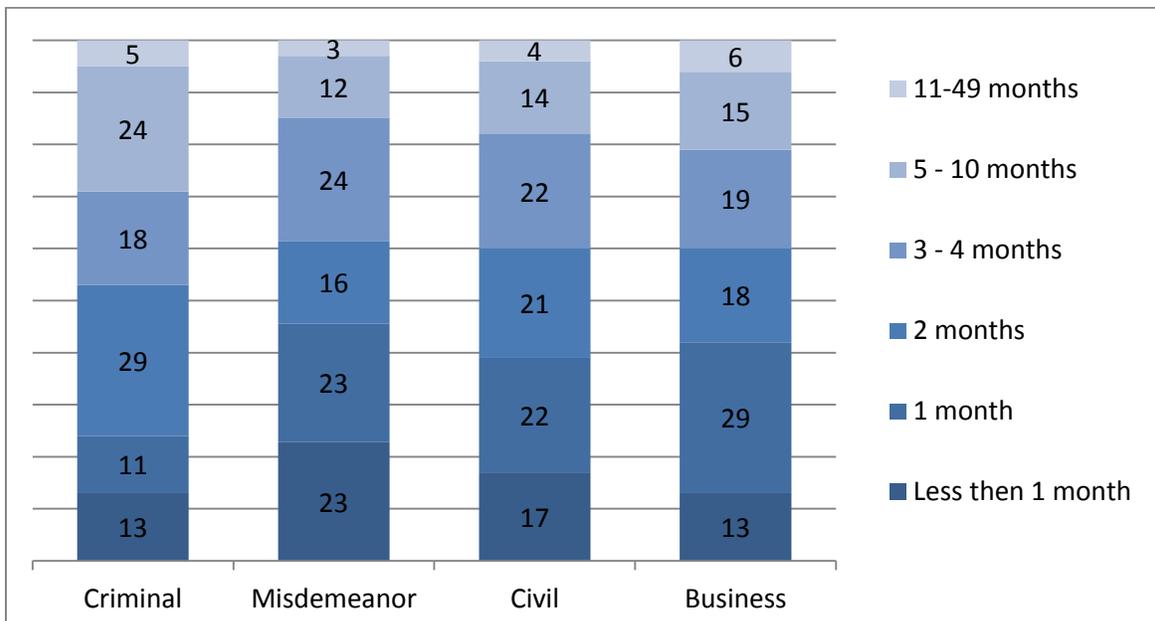


Note: N=836 (73%) for judges, average.

32. An average of four months passed between the filing of a criminal case and a party's appearance in court (Figure 4.4). The time ranged between five and ten months in 24 percent of cases, and was greater than 11 months in 5 percent of cases. For civil cases, an average of three months passed between case filing and court appearance, ranging between five and ten months in 14 percent of cases, and taking longer than 11 months in 4 percent of cases. Misdemeanor cases took slightly less than three months, on average, ranging between five and ten months in 24 percent of cases and taking longer than 11 months in 3 percent of cases. In business sector cases,

an average of three months passed between filing and appearance, ranging between five and ten months in 15 percent of cases and taking more than 11 months in 6 percent of cases.

**Figure 3.4: Number of Months That Passed between a Case Being Filed and a Party Appearing in Court, as Reported by Court Users**

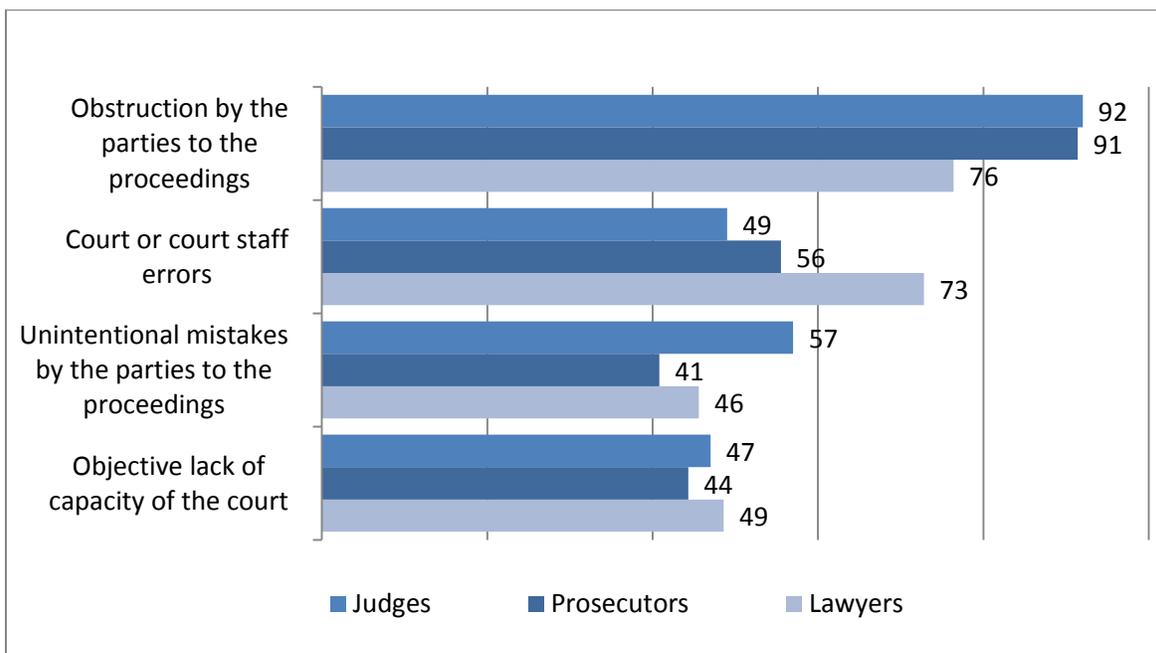


Note: N= 187 (94%) for criminal cases, N=391 (87%) for civil cases, N=179 (90%) for misdemeanor cases, and N=400 (89%) for business cases.

33. Significant percentages of prosecutors,<sup>12</sup> judges, and lawyers surveyed (56 percent, 49 percent, and 73 percent, respectively) reported that, at least occasionally, if not often, the courts were to blame for the excessive duration of court proceedings (Figure 4.5). This was believed to be the case occasionally among 41 percent of prosecutors, 33 percent of judges, and 36 percent of lawyers, and 15 percent of prosecutors, 17 percent of judges, and 37 percent of lawyers believed that this was often the case. According to prosecutors and lawyers, the duration of court cases was one of the key factors undermining the judicial system’s integrity by the end of 2009.

<sup>12</sup> This question was answered by 83 percent of prosecutors, and the listed percentages refer to this part of the population.

**Figure 3.5: Main Reasons Why Cases Lasted Longer than They Should Have, Prompted, % Answering “Occasionally” or “Often”**



Note: N=941–1,010 (82–88%) for judges, N=293 (83%) for prosecutors, and N=790 (99%) for lawyers.

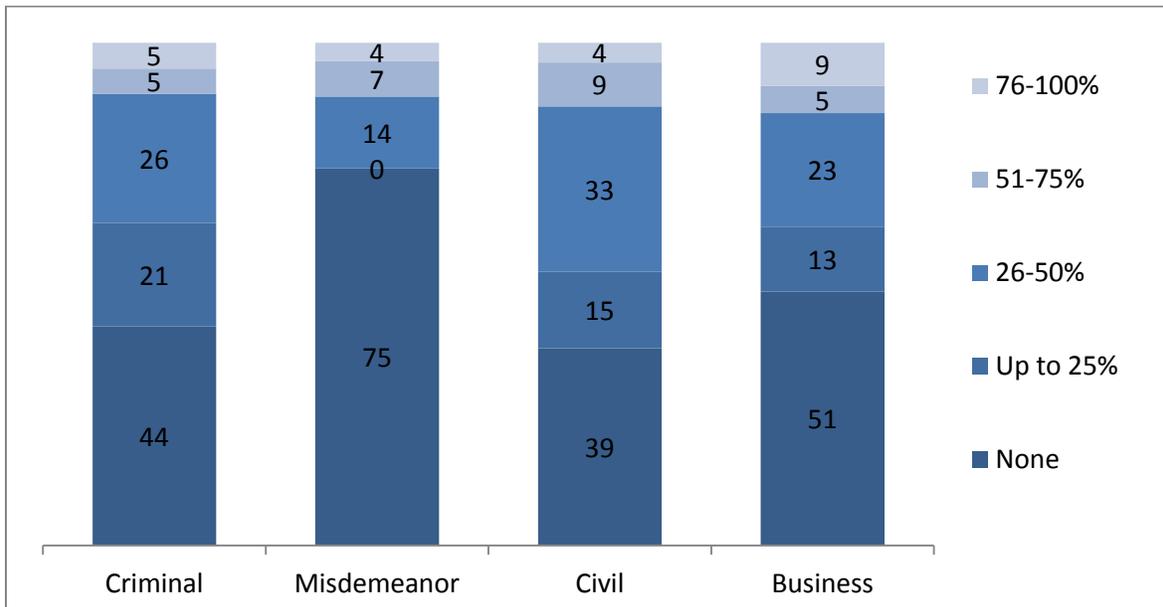
34. *Court users from the general population reported that an average of 4.8 hearings were held for criminal cases, 5.3 for civil cases, and 1.9 for misdemeanor cases.* The number of scheduled hearings ranged from one to fifty, and 57 percent of criminal and 52 percent of civil cases ended with three or fewer hearings. In 34 percent of criminal and 39 percent of civil cases, between four and ten hearings were scheduled, and in 8 percent of criminal and 6 percent of civil cases, 11 to 20 hearings were scheduled. Finally, in 1 percent of criminal and 3 percent of civil cases, between 21 and 50 hearings were scheduled. The number of scheduled hearings reported for business sector cases was approximately the same as for criminal cases.

35. *Respondents reported long intervals between scheduled hearings.* On average, three to four hearings were scheduled per year in criminal cases and three per year in civil cases. Courts scheduled hearings more than three months apart, on average, in criminal cases (about one hearing every 3.4 months), and four to five months apart in civil cases, both in the private and business sectors.

36. *A significant percentage of scheduled hearings were adjourned.* On average, 25 percent of criminal case hearings, 27 percent of civil case hearings, and 4 percent of misdemeanor case hearings were reported to be adjourned (Figure 4.6). According to prosecutors participating in the survey,<sup>13</sup> an average of 34 percent of scheduled hearings were adjourned in 2009. Judges and lawyers reported this figure to be 26 percent and 27 percent on average, respectively.

<sup>13</sup> This question was answered by 54 percent of prosecutors, and the listed percentages refer to this part of the population.

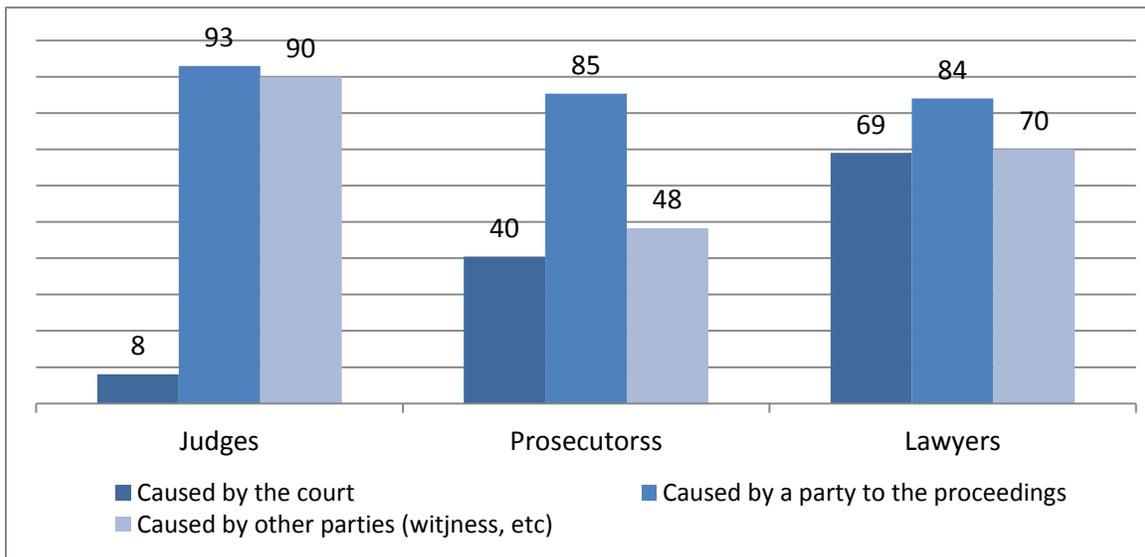
**Figure 3.6: Hearings Adjourned, as % of Total Scheduled Hearings, as Reported by Court Users**



Note: N= 163 (81%) for criminal cases, N=382 (85%) for civil cases, N=132 (66%) for misdemeanor cases, and N=417 (93%) for business cases.

37. A significant number of prosecutors (40 percent), and a majority (69 percent) of lawyers believed that hearing cancellations were occasionally, if not often, caused by the court itself. Only 8 percent of judges shared this opinion (Figure 4.7).

**Figure 3.7: Frequency with Which a Given Circumstance Caused Hearings to be Adjourned, Prompted, % Answering “Occasionally” or “Often”**



Note: N=895 (78%) for judges, N=782 (98%) for lawyers, and N=278 (80%) for prosecutors.

38. A significant percentage of hearings held were assessed to have been inefficient in terms of their contribution to resolving cases. Prosecutors,<sup>14</sup> lawyers, and judges reported that 22

<sup>14</sup> This question was answered by 44 % of prosecutors and the listed percentages refer to this part of the population

percent, 30 percent, and 17 percent of hearings, respectively, were not efficient. A similar evaluation was obtained from the general public,<sup>15</sup> who deemed 24 percent of hearings in criminal cases and 23 percent of hearings in civil cases to be inefficient. Parties to commercial cases found 17 percent of related hearings to be inefficient.

39. *The data on scheduled, adjourned, effective, and ineffective hearings can be used to calculate an efficiency index for each group surveyed.*<sup>16</sup> This index captures the percentage of hearings that contributed to the resolution of cases, as compared to the total number of scheduled hearings.

40. *The efficiency indexes calculated on the basis of the experiences of respondents from the general public show values above 50 percent for all cases except misdemeanor cases* (Figure 4.8). The respective values were 54 percent in criminal, 73 percent in misdemeanor, 50 percent in civil, and 56 percent in business sector cases. Using the efficiency indexes and the average duration of cases, it can be estimated that one productive hearing occurred every five months in criminal and misdemeanor cases and every eight months in civil cases.

41. *The efficiency indexes calculated on the basis of responses from prosecutors and lawyers correspond to those drawing on the responses of the general public* (Figure 4.8).<sup>17</sup> The share of scheduled hearings in 2009 that contributed to the resolution of cases was reported by prosecutors and lawyers to be 52 percent and 51 percent, respectively. Around 53 percent of hearings, on average, were considered efficient according to data obtained from the general public and business sector representatives (excluding misdemeanor cases).

42. *The indexes based on responses from judges differ from those based on data from other groups.* The overall index for judges, which represents an average across departments, is higher than the other indexes. The department-specific indexes for judges also differ from those calculated on the basis of information provided by users of the respective departments' services. According to judges, 61 percent of scheduled hearings were effective, on average. The highest efficiency index was obtained from judges who worked in commercial courts in 2009, at 73 percent, as compared to the respective business sector representative index at 56 percent (Figure 4.9). The lowest index was obtained from judges who worked as misdemeanor authorities in 2009, at 52 percent as compared to an index value of 73 percent obtained from citizens who had experience with this department.<sup>18</sup> Indexes based on data from judges who worked in the criminal and civil law departments in 2009 were higher than the corresponding citizen assessments.

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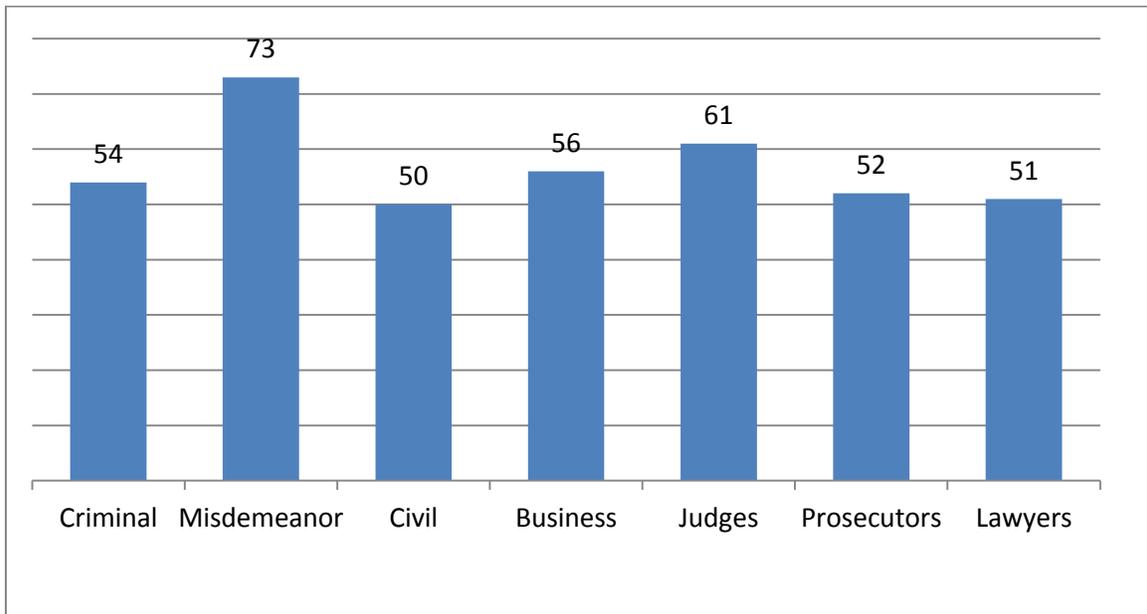
<sup>15</sup> A substantial portion of the members of the general public who were surveyed were unable to evaluate the efficiency of the hearings. The reported percentages are based on the responses of 67 percent of the general public who had participated in criminal and civil cases and 60 percent of those who had participated in misdemeanor cases.

<sup>16</sup> Efficiency indexes were calculated on the basis of court user data as follows: (total number of scheduled hearings – number of canceled hearings – number of hearings failing to contribute to the resolution of a case) / total number of scheduled hearings \* 100. Efficiency indexes were calculated on the basis of data reported by prosecutors and lawyers as follows: 100% - % of canceled hearings in the course of 2009 - (% unproductive hearings\*% held/100) in the course of 2009. Indexes are presented as average values (arithmetic means).

<sup>17</sup> Lawyers and prosecutors were not asked to provide data on the type of case in 2009.

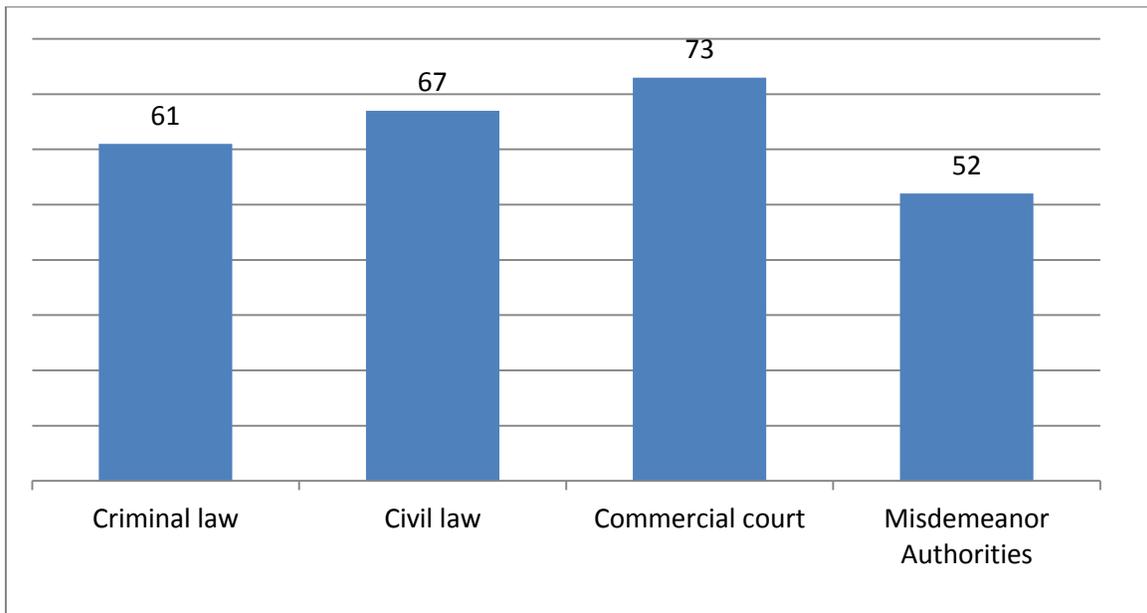
<sup>18</sup> This was the highest efficiency index obtained from users of court proceedings.

**Figure 3.8: Efficiency Index**



Note: ,General public, court users N=535 (62%), business sector N=377 (83%), prosecutors N=134 (34%), lawyers N=763 (95%), and judges N=688 (60%).

**Figure 3.9: Efficiency Index, Judges by Department in Which They Worked in 2009**



Note: Criminal law N=225 (87%), civil law N=249 (75%), commercial courts N=86 (85%), and misdemeanor authorities N=241 (73%).

43. A correlation of the efficiency indexes and the total number of scheduled hearings indicates that the number of productive hearings declines as the number of hearings increases. The same negative correlation can be found in analyzing the correlation between the efficiency indexes and the total duration of cases. This shows that the duration of cases has not been caused simply by a larger number of productive hearings (reflecting a case's complexity and thorough

consideration), and that productivity goes down as the duration and number of hearings increases.<sup>19</sup>

44. *As would be expected, appeals to higher courts and retrials before the first-instance court prolong the duration of court proceedings.* In a significant percentage of cases, as reported by respondents, an appeal was lodged to the higher court following the first-instance court judgment. In slightly fewer than one-third of the cases, the original judgments were overturned and a retrial before the first-instance court was ordered. According to data obtained from the general public, appeals to the higher court were lodged for 42 percent of civil, 38 percent of criminal, 14 percent of misdemeanor, and 31 percent of business sector cases. According to lawyers, an appeal to the higher court was lodged for 70 percent of their cases in 2009.<sup>20</sup> Prosecutors<sup>21</sup> assessed that first-instance judgments in the course of 2009 were appealed in 43 percent of cases, which corresponds approximately with the data received from members of the general public who had experience with criminal cases. Judges who worked in the criminal and civil law departments reported somewhat higher percentages, at 50 percent and 51 percent, respectively. Judges working in commercial courts and misdemeanor authorities reported appeals in 26 percent and 12 percent of cases, respectively.

45. *The legal deadline for the enforcement of judgments was not of particular interest to respondents.* Many members of the general public were unable to answer whether the judgment in their case was enforced within the legal deadline. Slightly more than half of the judges and prosecutors (56 percent and 57 percent, respectively) responded to this question. Among those who answered, 25 percent of judges and 43 percent of prosecutors were dissatisfied with the enforcement of judgments over the last five years. A larger number of lawyers responded to this question, 69 percent of whom reported being dissatisfied with the enforcement of court judgments.

### ***Reform Implications***

46. *Stakeholders agreed that cases took longer than they should.* Even judges, who tended to be less concerned about this than other stakeholders, believed that about one-third of cases took longer than they should. The speed of a proceeding and the overall effectiveness of a court are influenced by a wide variety of factors, including work planning, staffing and other resources, case types, procedural requirements, and case management technology. Moreover, based on the survey's finding that only 50 to 60 percent of scheduled hearings contributed positively to resolving cases, several reforms could be considered to reduce the number of adjourned hearings, such as: (i) conducting a review of the reasons for the cancellation of hearings, including potential obstacles to participants' attendance (such as a lack of information about when and

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<sup>19</sup> Correlations between the efficiency index and both the total number of scheduled hearings and the total duration of a case are negative, with Pearson  $r=-0.35$  and  $r=-0.38$ . These two measures are partly redundant, since longer cases imply more hearings. However, since this correlation is not perfect either, discussing both measures eliminates possible uncertainties.

<sup>20</sup> Appellate courts tend to overturn convictions, order retrials, or lessen sentences imposed by trial judges. There is often little deference paid to the trial judge as fact finder, and in the former Socialist Federal Republic of Yugoslavia system, most trial court errors will trigger a retrial. This could explain these high numbers.

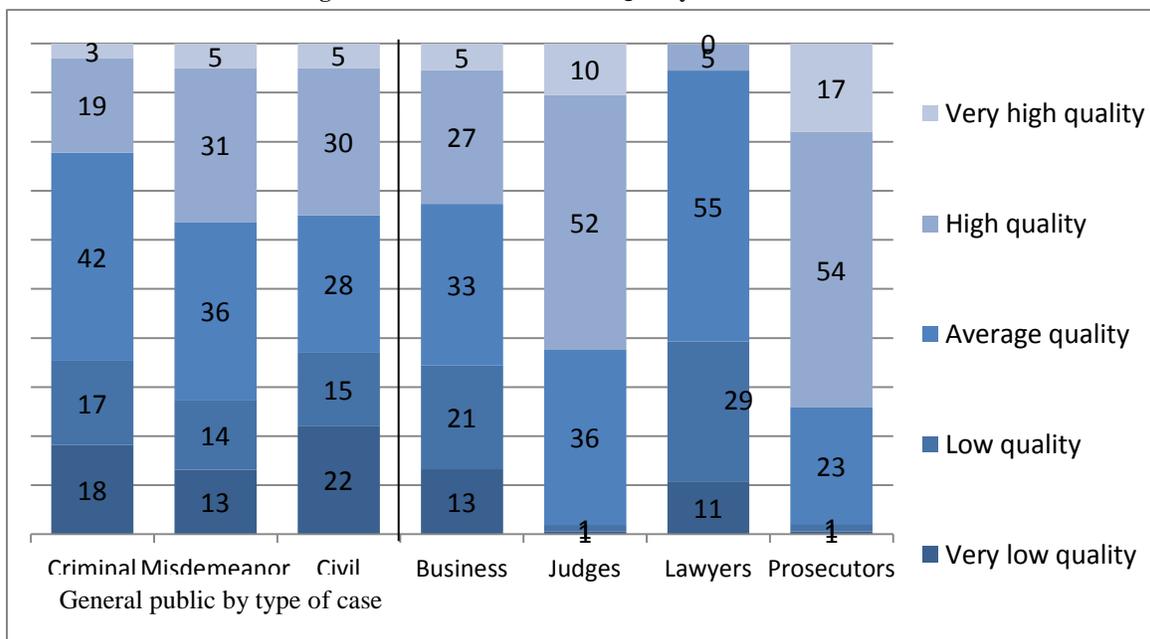
<sup>21</sup> This question was answered by 69 percent of prosecutors, and the listed percentages refer to this part of the population

where to appear) or to proper preparation on the part of legal professionals; (ii) increasing fines for parties and witnesses who fail to appear; (iii) increasing witness payments; (iv) improving communication about the scheduling of hearings; (v) establishing clear and predictable timelines for the scheduling of hearings; (vi) limiting the acceptable reasons for postponement and requiring proof of illness, for example; (vii) allowing the judge to render a default decision in civil cases if the other party does not attend; and (viii) allowing for an attorney in a civil case to represent an absent client with the client’s authorizing affidavit.

### 4.3 Quality of Services

47. A majority of the general public, business sector representatives, and lawyers evaluated the quality of the judiciary’s work as average or low, where as a majority of judges and prosecutors considered the work of the institutions for which they worked to be of high or very high quality. A small minority of the general public, business sector representatives, and lawyers assessed the quality to be very high (Figure 4.10). Only 5 percent of lawyers considered the quality of judicial work to be high, and none rated its quality as very high. In contrast, a majority of judges (62 percent) and prosecutors (73 percent) assessed the quality of work of the institutions they worked in during 2009 as high or very high.

Figure 3.10: Evaluation of the Quality of Judicial Work

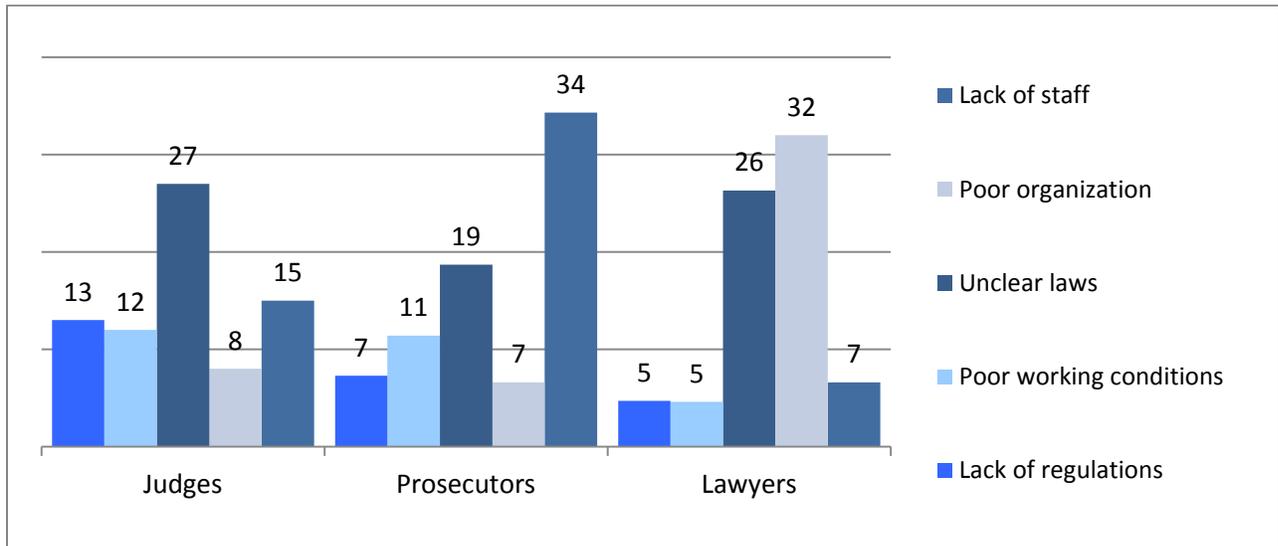


Notes: (a) Data for the general public and business sector representatives refer to those who used court services and reflect their evaluation of their particular case. Data for lawyers reflect a general evaluation for 2009, while data for prosecutors and judges reflect their evaluation of the quality of work in the institution in which worked in 2009. (b) N= 199 (100%) for criminal cases, N=199 (100%) for misdemeanor cases, N=448 (100%) for civil cases, N=441 (98%) for business, N=800 (100%) for lawyers, N=333 (95%) for prosecutors, and N=1,084 (94%) for judges.

48. The reasons behind respondents’ assessments of the quality of judicial services varied across groups of survey participants. Representatives of the general public and business sector most often cited “judge did not do his/her job well” or “poor organization” as the most important reason for their assessment of the quality of judicial work. Among the possible reasons for the low quality of judicial work, judges most often identified unclear laws (27 percent), prosecutors

indicated a lack of staff (34 percent), and lawyers pointed to poor organization (32 percent). Both prosecutors and lawyers found that laws left room for inconsistent interpretation, with 19 percent of prosecutors and 26 percent of lawyers indicating that low-quality laws were the main reason for low-quality judicial work (Figure 4.11).

**Figure 3.11: Most Important Reason Why the Quality of Judicial Work Was Not Higher, % of Most Frequent Answers**

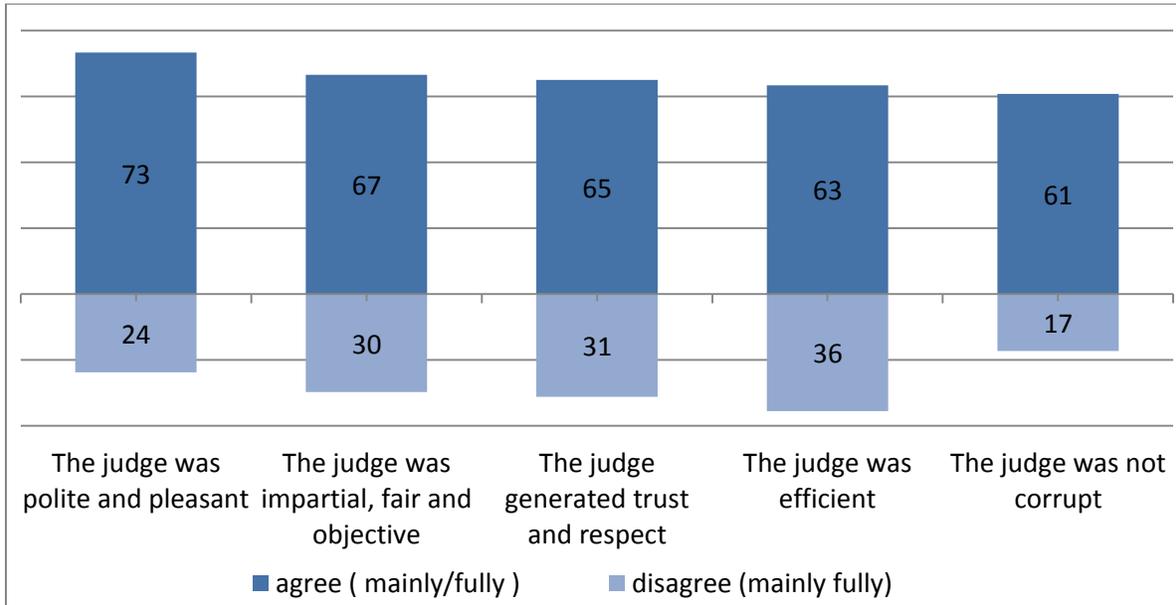


Note: N=1,033 (90%) for judges, N=301 (87%) for prosecutors, and N=712 (89%) for lawyers.

49. *Specific aspects of a judge's work and behavior were evaluated more favorably than the quality of judicial work overall* (Figure 4.12). In general, between 60 and 70 percent of the general public who had experience with court proceedings had favorable opinions of the judge involved. One-quarter of the general public (24 percent) found that the judge was not polite and pleasant, 30 percent that the judge was not fair and objective, 31 percent that the judge did not generate respect and trust, 36 percent that the judge was not efficient, and 17 percent that the judge was corrupt. The most negative assessments of judges were given by members of the general public who had been tried for criminal offenses.

50. *There was only a moderate tendency to generalize impressions across the five attributes.* One-fifth of respondents gave positive ratings to all five attributes of the judge's performance, and 14 percent gave negative ratings to all five attributes. Approximately one-third of respondents did not provide any negative ratings (all grades were either positive or neutral), another third did not provide any positive ratings (all grades were either negative or neutral), and 13 percent used all ratings to evaluate the judge's performance.

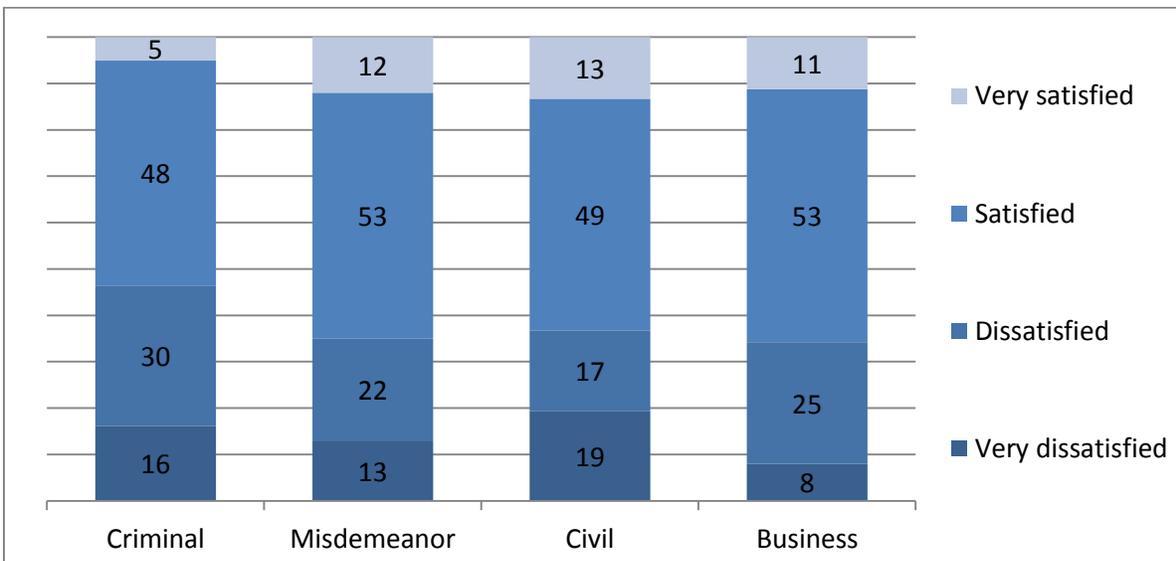
**Figure 3.12: Extent to Which Respondents Agreed with Assertions about the Judge’s Attributes, General Public, All Types of Cases**



Note: N=824 (97%), except for the fifth attribute, where N=655 (77%).

51. A majority of court users were satisfied with the judge’s work. A substantial share of court users were dissatisfied, and a small percentage were very satisfied (Figure 4.13).

**Figure 3.13: Degree of Satisfaction with the Work of the Judge in the First-Instance Court**

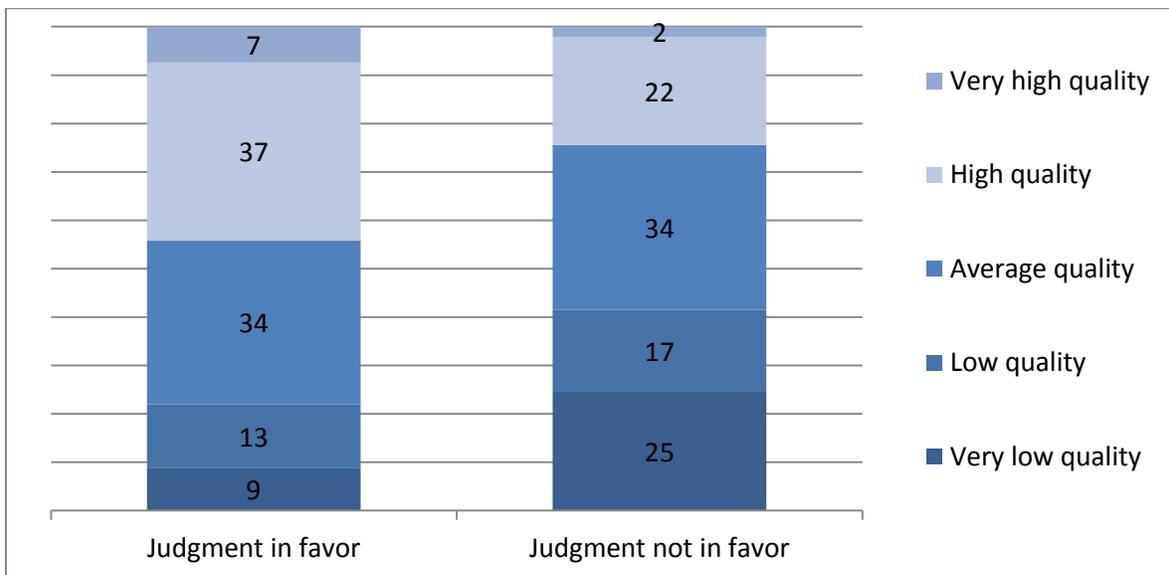


Note: N=197 (99%) for criminal cases, N=447 (99%) for civil cases, N=200 (100%) for misdemeanor cases, and N=437 (97%) for business cases.

52. It is important to note that evaluations of the quality of judicial work and satisfaction with the work of the judge were significantly related to the outcome of the judgment. Members of

the general public who received a verdict in their favor,<sup>22</sup> found the quality of judicial work to be higher, on average, and were more satisfied with the work of the judge (Figure 4.14).<sup>23</sup> Similarly, a significantly higher percentage of members of the general public who had received a favorable judgment were satisfied with the work of the judge, as compared to those who had lost their cases (Figure 4.15). Still, one-fourth of those with favorable judgments were dissatisfied with the work of the judge, and more than half those with unfavorable judgments were satisfied. Chapter 4 further explores the effect of the outcome of judgments on respondents' perceptions.

**Figure 3.14: Evaluations of the Quality of Judicial Work, General Public, Average for All Types of Cases**

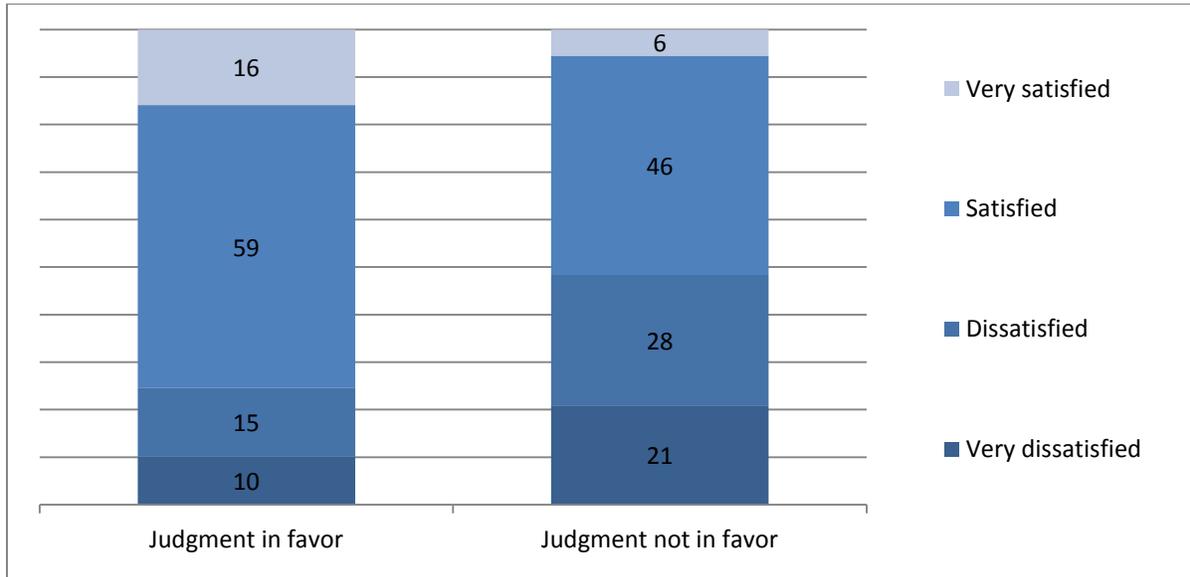


Note: N=290 (99%) for judgment in favor, and N=464 (99%) for judgment not in favor.

<sup>22</sup> If the respondent was a defendant, “in favor” means that he/she was acquitted. If the respondent was a plaintiff, it means that the defendant was found guilty. In civil cases, responses of “in favor” indicated that the judgment was in favor of the responding party, while responses of “partly in favor” were treated as not in favor.

<sup>23</sup> Statistical tests (Chi-square) showed that the differences between these two groups in evaluating the quality of judicial work and satisfaction with the work of the judge were statistically significant.

**Figure 3.15: Degree of Satisfaction with the Work of the Judge in the First-Instance Court, General Public, Average for All Types of Cases**

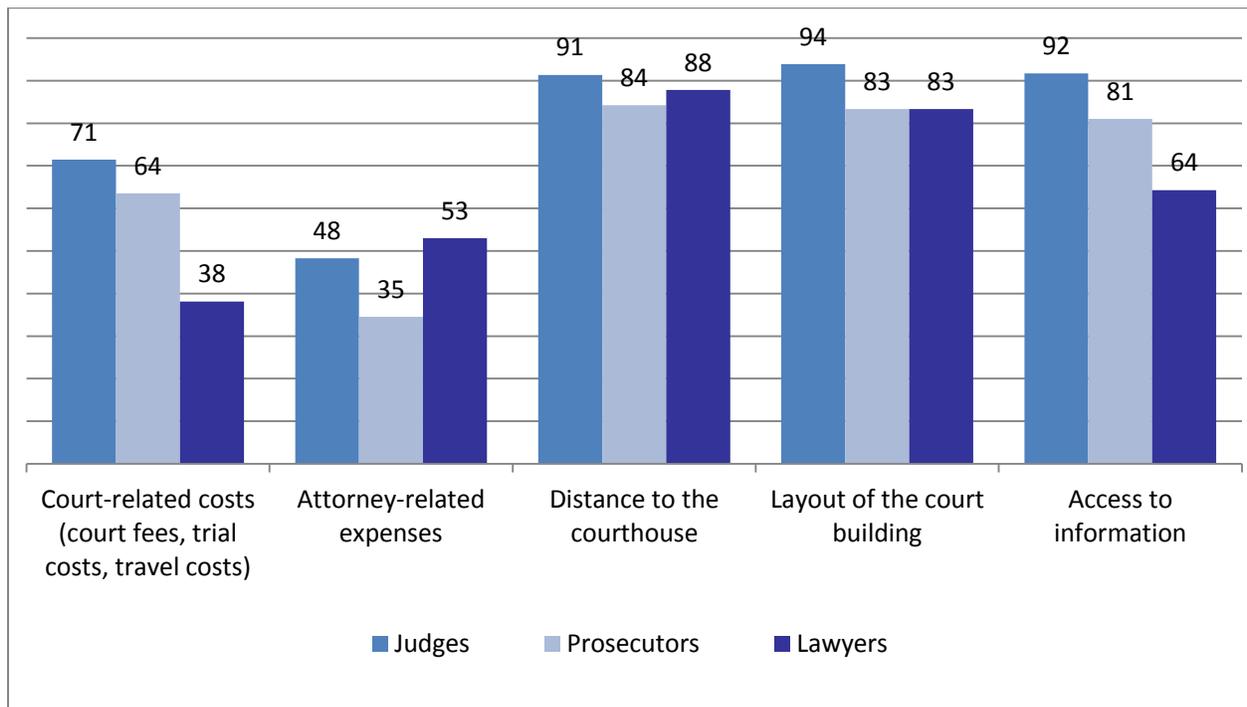


Note: N=288 (99%) for judgment in favor, and N=463 (99%) for judgment not in favor.

### 3.4 Accessibility

53. Regarding the accessibility of the judiciary, survey results showed that judges, prosecutors, and lawyers considered the cost of court proceedings to be the most important issue. Prosecutors and judges believed that lawyers' fees were of greatest importance, while lawyers found court-related costs such as fees, hearings, and travel expenses to be most important (Figure 4.16).

**Figure 3.16: Extent to Which Judicial System Was Accessible to the General Public up to the End of 2009, % of Lawyers and Prosecutors Responding “Mostly” or “Fully” Accessible**



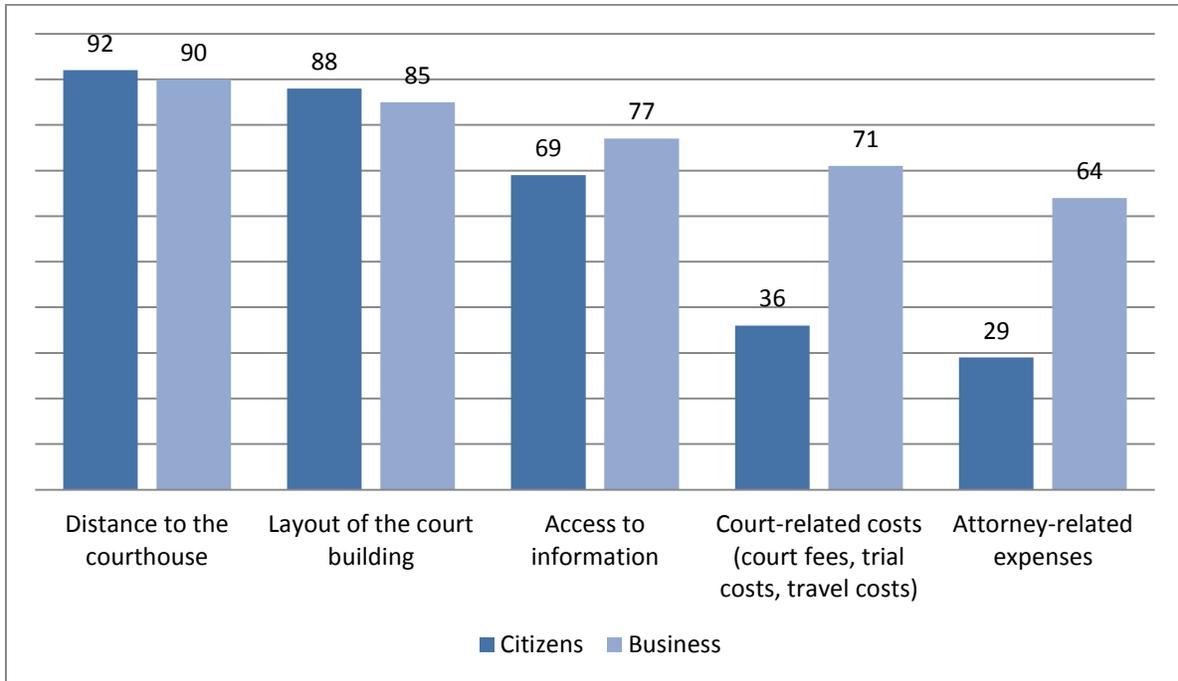
Note: N=1,051–1,061 (92–93%) for judges, N=789 (99%) for lawyers, N=317 (91%) for prosecutors.

54. *Members of the general public who had experience with court proceedings identified court costs as the most significant constraint to accessibility, whereas business sector representatives found the judiciary to be more easily accessible (Figure 4.17). Most of the general public considered court-related costs in their particular case to have been a significant burden for their personal budgets. This was the case for 68 percent of the general public involved in criminal cases, 56 percent in civil cases, and 46 percent in misdemeanor cases. Only 36 percent of the general public found the judicial system to be generally accessible to them in terms of court-related costs, and only 29 percent in terms of lawyer-related expenses. These figures are similar to lawyers’ responses on court-related costs, and prosecutors’ responses on lawyer-related costs. Assessments of whether the costs were a burden were independent of respondents’ incomes. A majority of business sector representatives found that accessing judiciary services posed less of a burden in terms of the cost to their companies.*

55. *Survey respondents generally agreed on the physical accessibility of the judiciary, while access to information was considered to be slightly lower. Over 80 percent of prosecutors and lawyers, and around 90 percent of the general public and business sector representatives believed the judiciary to be largely accessible to the general public from the point of view of geographical distance of courts and court building layout (Figure 4.18). In terms of access to information, 69 percent of the general public and 64 percent of lawyers believed that, in 2009, the judiciary was mostly or fully accessible to the general public. This opinion was shared by 77 percent of business sector representatives, 84 percent of judges, and 81 percent of prosecutors. With regard*

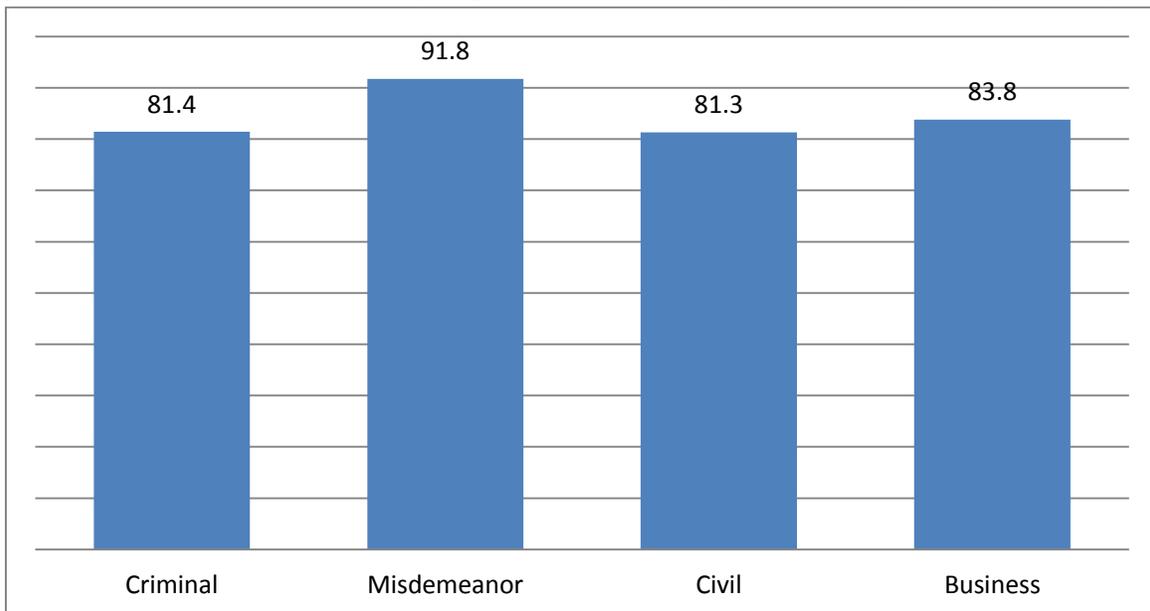
to information on their particular cases, most representatives of the general public and business sector found it mostly or very easy to access (Figure 4.19).<sup>24</sup>

**Figure 3.18: Degree to Which Judicial System Was Accessible, Personally or for Respondent’s Company, up to the End of 2009, % Responding “Mostly” or “Very” Accessible**



Note: N=850 (100%) for citizens, and N=450 (100%) for business.

**Figure 3.19: Access to Case Information by Respondent or His/Her Lawyer, % Responding “Mostly” or “Very” Easy**

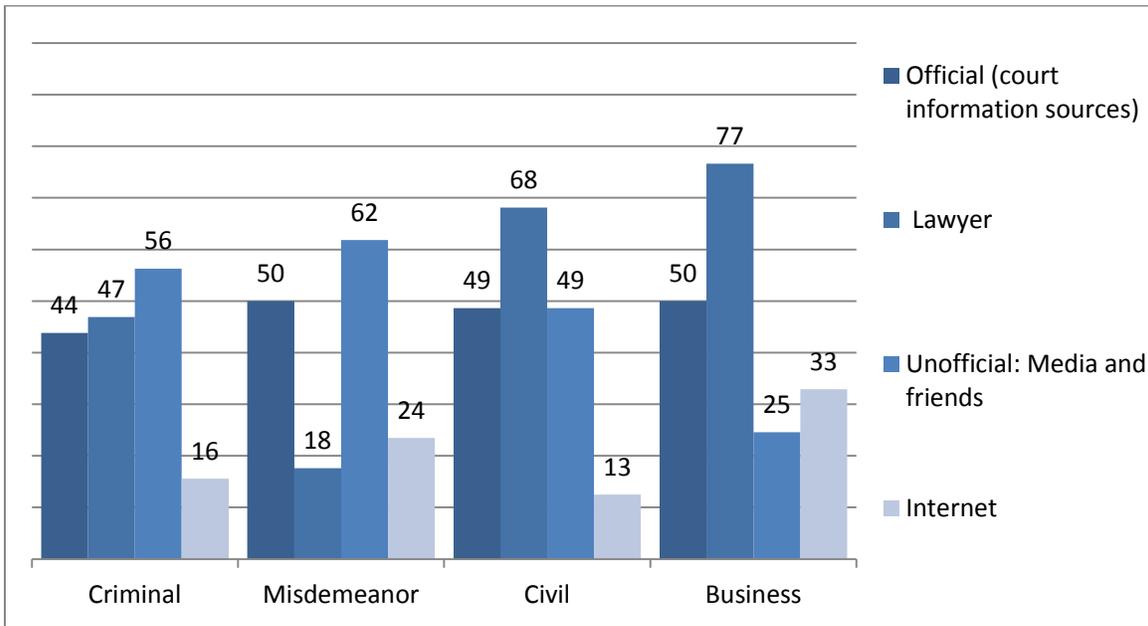


Note: N=143 (71%) for criminal cases, N=180 (90%) for misdemeanor cases, N=300 (67%) for civil cases, and N=446 (99%) for business cases.

<sup>24</sup> This question was answered by 70 percent of those in the general public who had experience with criminal cases and 75 percent of those who had experience with civil cases. Data are presented for this portion of the population.

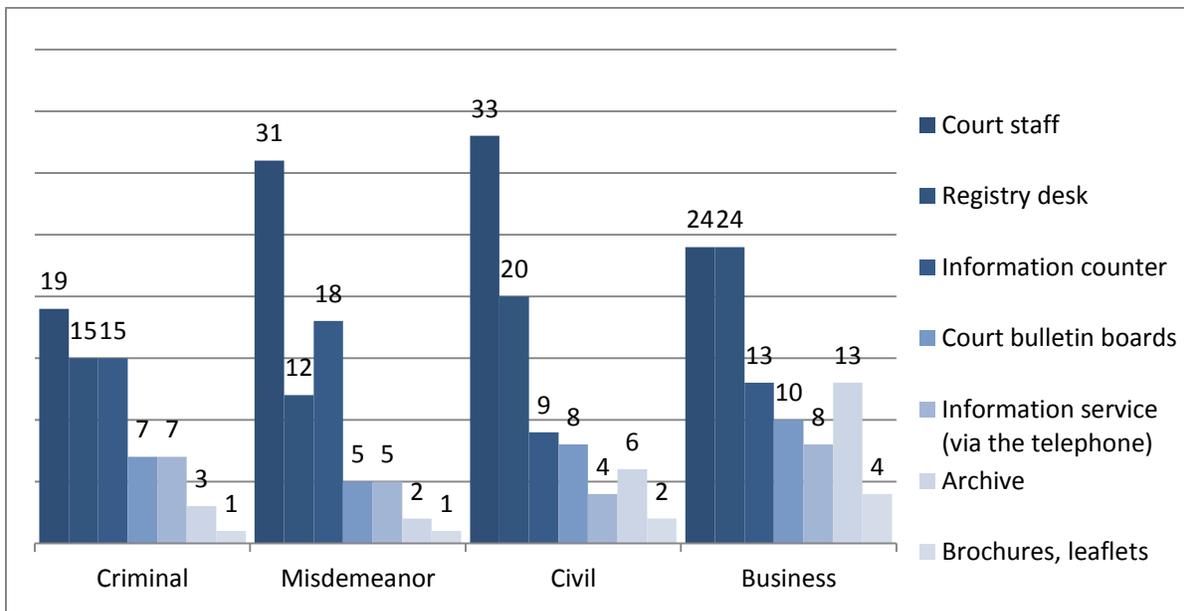
56. The general public and business sector used various sources to find information they needed on their specific case (Figure 4.20). About half used at least one official source of information, and a substantial number used unofficial sources such as the media and friends, particularly in criminal and misdemeanor cases. Among official sources of information, court staff and the registry desk were used most often (Figure 4.21). Over 70 percent of those in the general public and business sector who used official information sources were satisfied.

**Figure 3.20: Information Sources Used by Court Users to Find Case-Specific Information, Prompted, Multiple Responses**



Note: N=141 (99%) for criminal cases, N=296 (99%) for civil cases, N=141 (95%) for misdemeanor cases, and N=431 (96%) for business cases.

**Figure 3.21: Official Information Sources Used to Find Case-Specific Information**



Note: N=141 (99%) for criminal cases, N=296 (99%) for civil cases, N=141 (95%) for misdemeanor cases, and N=431 (96%) for business cases.

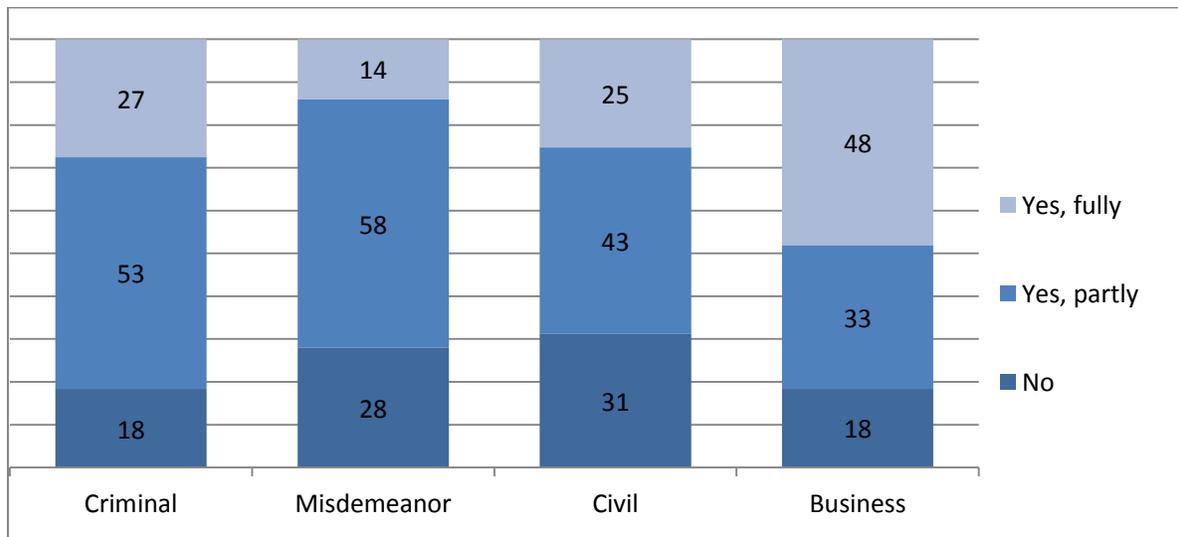
### Reform Implications

57. *Court related costs – i.e. court fees – and lawyer related costs are the primary issues reported in regard to access to justice in Serbia.* This suggests that creation of the free legal aid system is an area of priority. It should be pointed out however, that further data collection and analysis would be needed to fully shed light on the access to justice agenda.

### 3.5 Fairness

58. *In general, respondents across the survey groups characterized the Serbian judiciary and laws as “partly fair” up to the end of 2009.* Most members of the general public believed their proceedings were only partly fair or not fair at all (Figure 4.22). Those among the general public who had experience with civil cases were most dissatisfied with the fairness of trials; one-quarter of the general public responded that the trial was fully fair, 43 percent that it was partly fair, and 31 percent that it was unfair. Business sector representatives were more satisfied with the fairness of the judiciary, as just under half believed their trial was fair and only 18 percent that it was unfair.

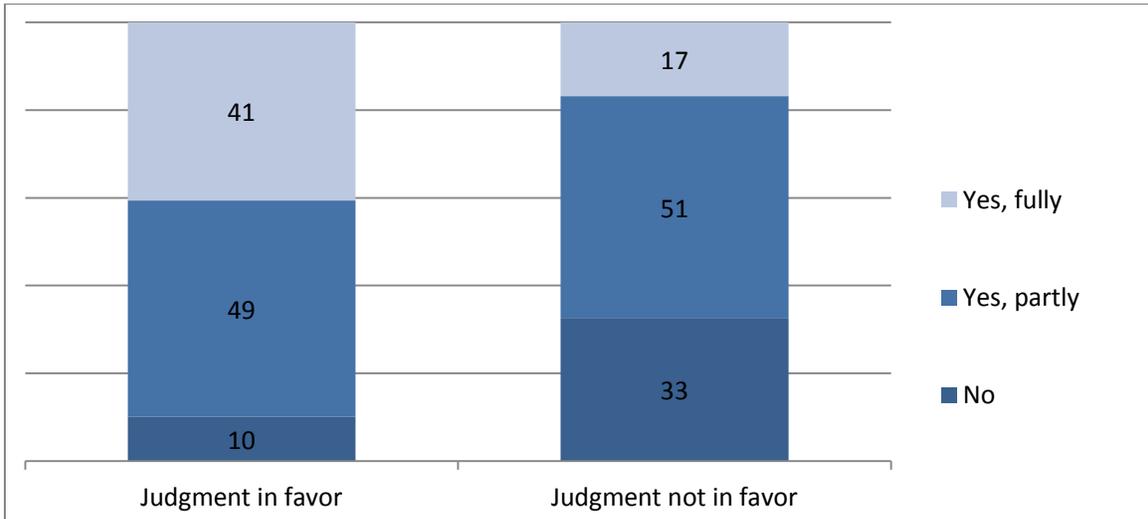
Figure 3.22: Respondents Who Felt They Had Received a Fair Trial, Notwithstanding the Outcome of Court Proceedings



Note: N=196 (98%) for criminal cases, N=446 (99%) for civil cases, N=200 (100%) for misdemeanor cases, and N=448 (99%) for business cases.

59. *As in evaluations of other aspects of judicial work, such as quality, evaluations of fairness were also related to the outcome of the judgment.* A significantly higher percentage of those among the general public who had received a favorable judgment perceived that the judgment was fully fair, as compared to those who had received an unfavorable judgment (Figure 4.23). Regardless of the outcome of their judgment, however, approximately half of those in the general public estimated that their trial was only partly fair.

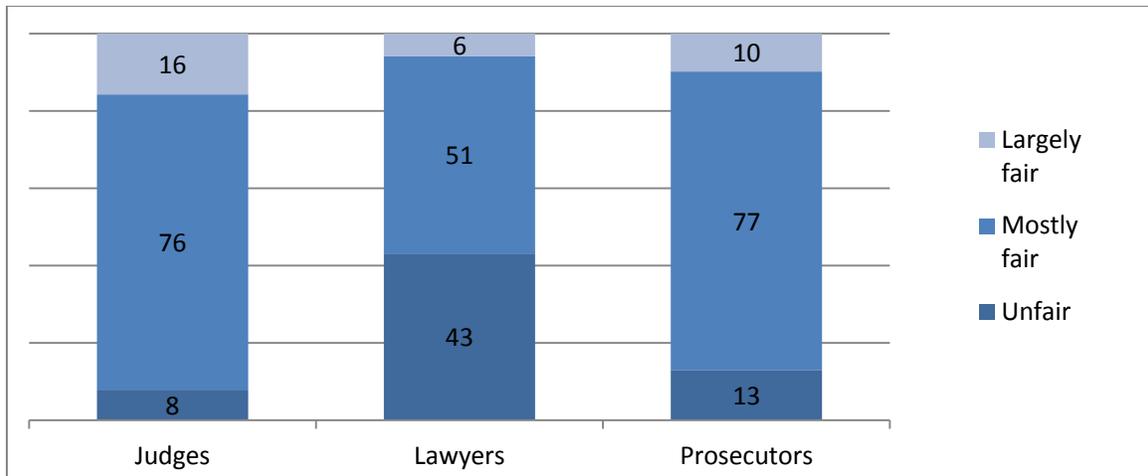
**Figure 3.23: Respondents Who Felt They Had Received a Fair Trial, Notwithstanding the Outcome of Court Proceedings, General Public, Average for All Types of Cases**



Note: N=290 (99%) for judgment in favor, and N=463 (99%) for judgment not in favor.

60. The majority of prosecutors and judges found the judiciary to be mostly fair, while lawyers were more evenly divided between the opinion that the judiciary was mostly fair and that it was unfair. In total, 43 percent of lawyers, 13 percent of prosecutors, and 8 percent of judges who responded to the survey believed that the judiciary was not fair. In each group, only a small minority assessed the judiciary to be largely fair in 2009 (Figure 4.24).

**Figure 3.24: Extent to Which the Judiciary System Was Fair in 2009**

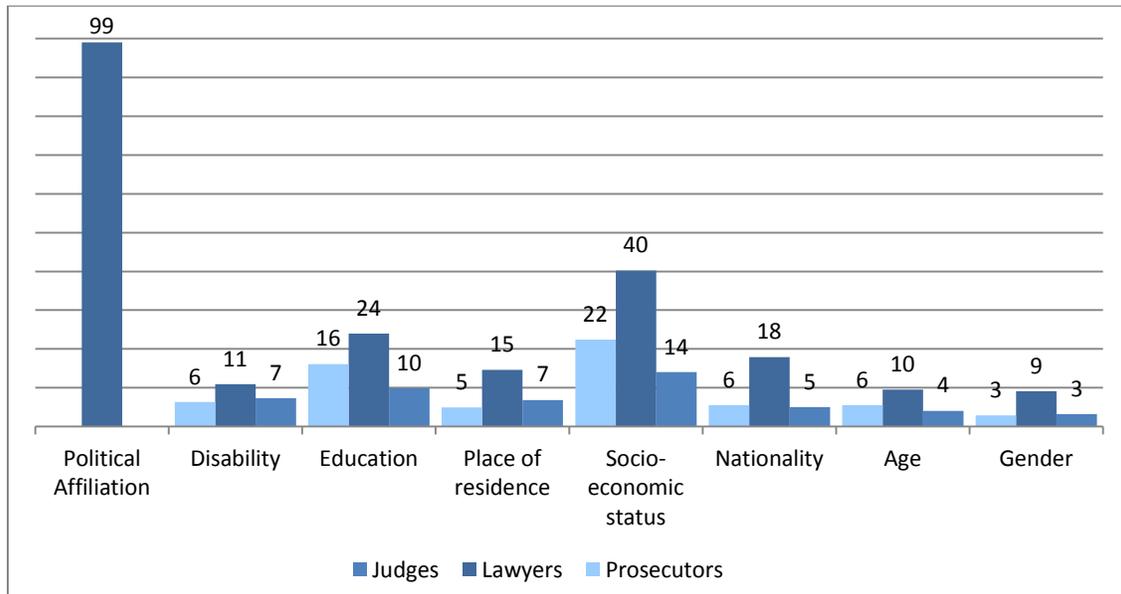


Note: N=1,070 (93%) for judges, N=798 (99%) for lawyers, and N=321 (92%) for prosecutors.

61. Political affiliations and socioeconomic status were named as the main causes of unequal treatment of the general public before the court. Nearly all lawyers believed that political affiliations led to unequal treatment of the general public before the court,<sup>25</sup> while 40 percent of lawyers, 22 percent of prosecutors, and 14 percent of judges responded that socioeconomic status was the main source of unequal treatment of the general public (Figure 4.25).

<sup>25</sup> Prosecutors were not asked this question

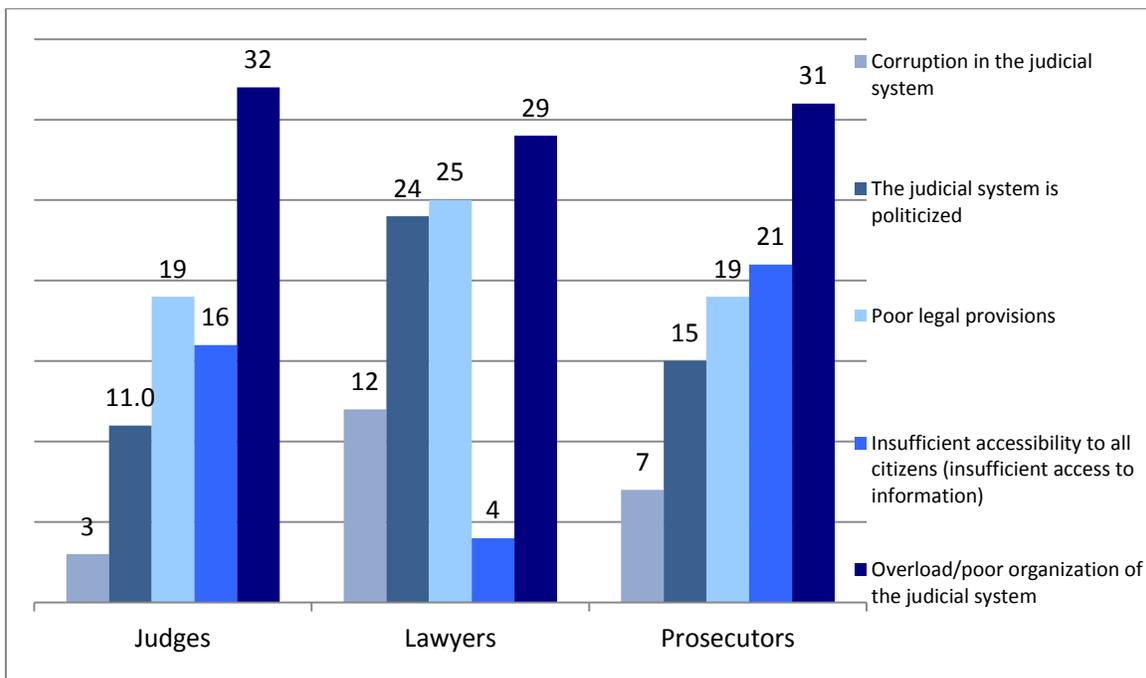
**Figure 3.25: Share of Respondents Indicating That the Judicial System Did Not Treat All Members of the General Public Equally, Notwithstanding Their...**



Note: N=1,073 (94%) for judges, N=317 (91%) for prosecutors, and N=796 (99%) for lawyers.

62. Prosecutors, judges, and lawyers most often cited overloaded courts and poor organization as the primary reason for low fairness in the judiciary to be low (Figure 4.26). Bad laws and politicization of the judiciary were other frequent responses. In addition, 12 percent of lawyers, 3 percent of judges, and 7 percent of prosecutors indicated that corruption was the main reason for lack of fairness.

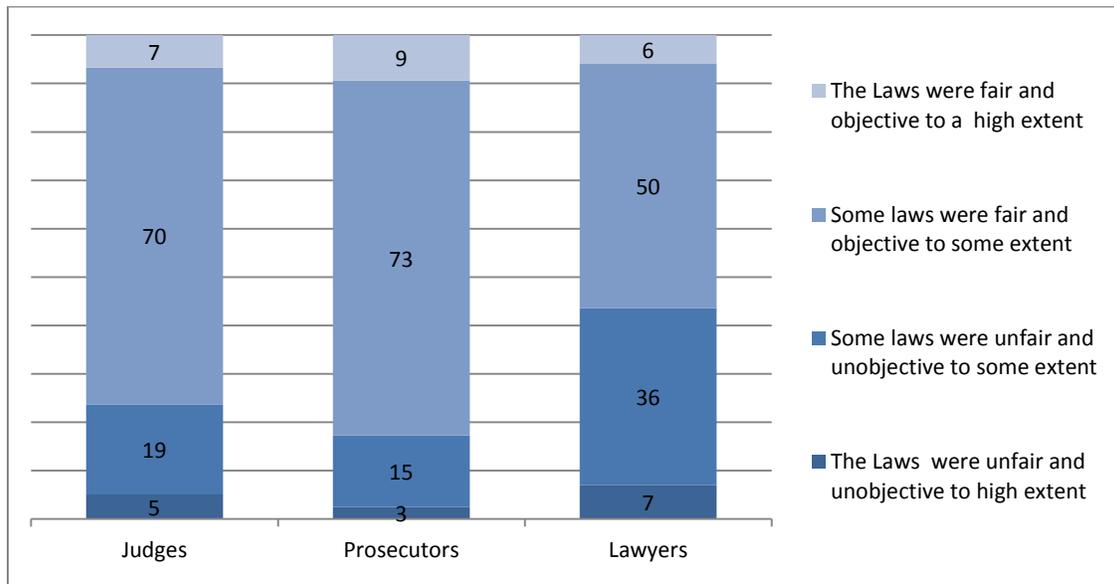
**Figure 3.26: Primary Reason for Evaluating the Judiciary System as Unfair in 2009, Prompted**



Note: N=957 (83%) for judges, N=740 (92%) for lawyers, and N=251 (72 %) for prosecutors.

63. A significant number of judges, prosecutors, and lawyers believed that unfair and biased laws negatively affected the fairness of the judiciary system. In total, 22 percent of judges, 18 percent of prosecutors, and 43 percent of lawyers found that at least some laws were unfair and biased (Figure 4.27). Only 7 percent of judges, 9 percent of prosecutors, and 6 percent of lawyers stated that laws were fair and objective to a great extent.

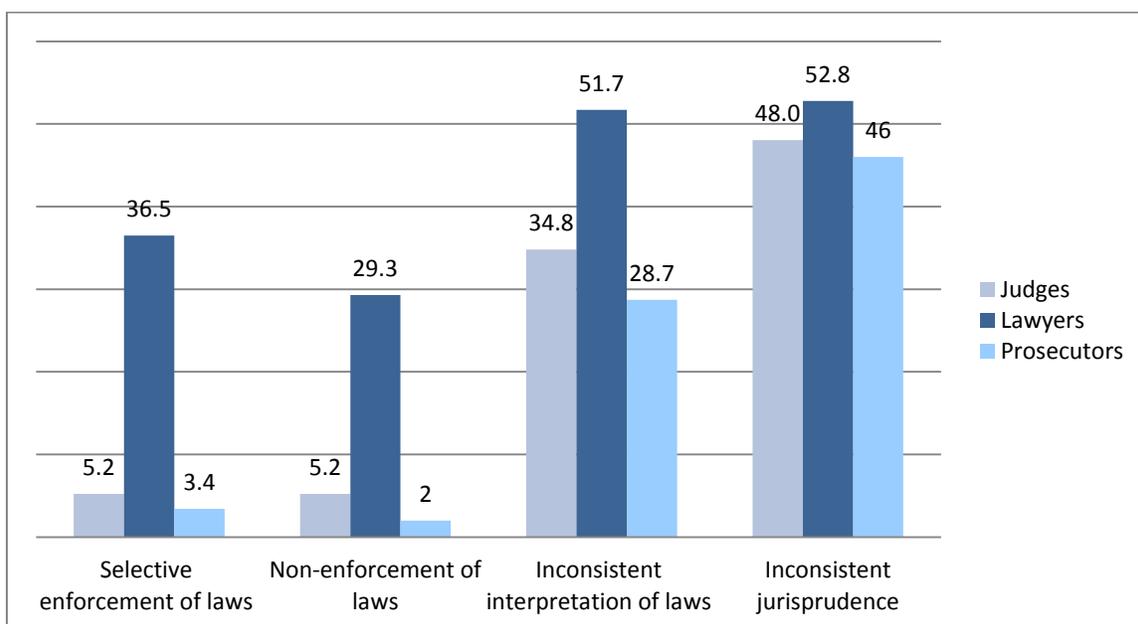
Figure 3.27: Extent to Which Serbian Laws Were Fair and Objective in 2009



Note: N=1,063 (93%) for judges, N=793 (99%) for lawyers, and N=319 (91%) for prosecutors.

64. Legal professionals frequently experienced problems regarding the enforcement of laws. Inconsistent jurisprudence, followed by inconsistent interpretation of laws, caused the most difficulties for judges, prosecutors, and lawyers in the enforcement of laws (Figure 4.28).

**Figure 3.28: Share of Respondents Who Found That Problems Occurred Often in the Enforcement of Laws during 2009**



Note: N=985–1,058 (86–92%) for judges, N=789 (99%) for lawyers, and N=311 (89%) for prosecutors.

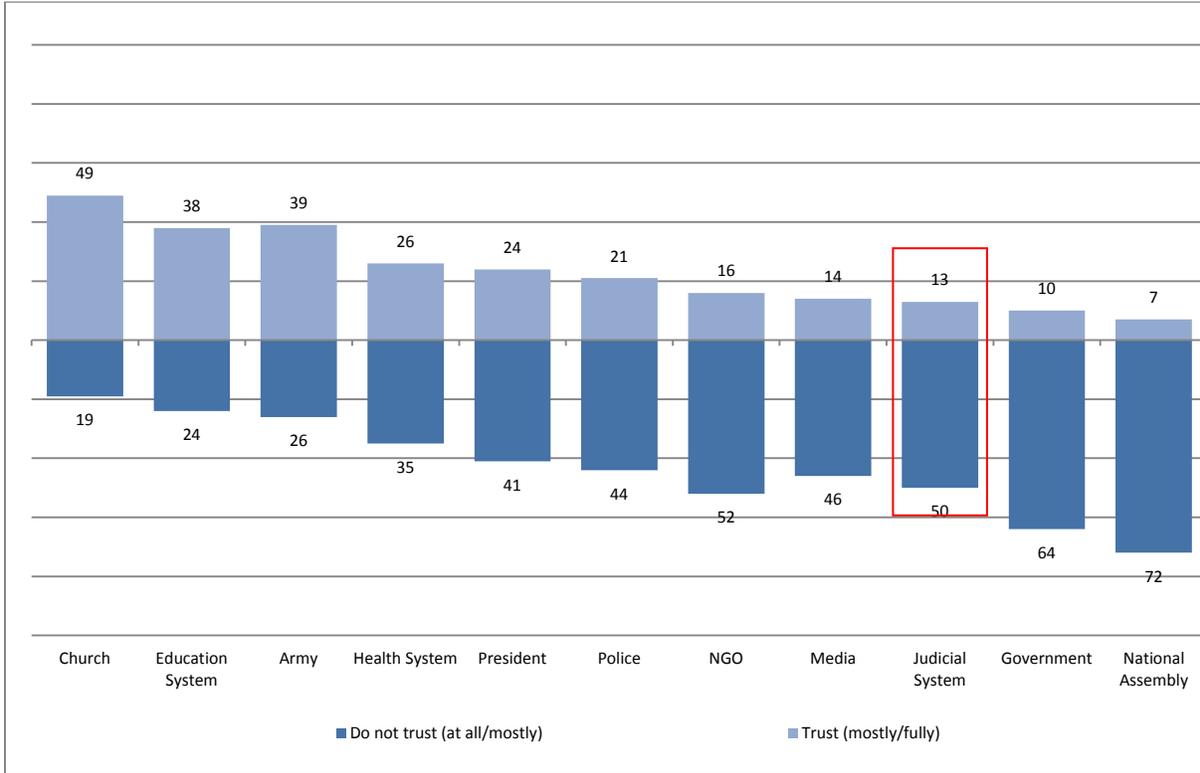
### ***Reform Implications***

65. *Respondents did not consider the fairness of the judiciary to present a major challenge.* However, to the extent that fairness was seen an issue, it appears that politicization, the quality of laws, and the application of laws in trials are the main obstacles. This finding underscores the need for efforts to ensure the independence of the judiciary (for example, with regard to the appointment and promotion of judges and prosecutors) and to improve the quality of the legislative process. Though some elements of the legislative process are difficult to address within a justice reform agenda given their direct link to the political process, some initiatives could usefully be included in the agenda, including the development and strengthening of consultative procedures and efforts to improve the quality of legal drafting in the Ministry of Justice.

### ***3.6 Integrity***

66. *The integrity of the judiciary was a serious concern for survey respondents up to the end of 2009.* The judiciary was one of the institutions in Serbia that the general public trusted the least; only 13 percent of members of general public who had experience with court proceedings expressed trust in the judiciary (Figure 4.29).

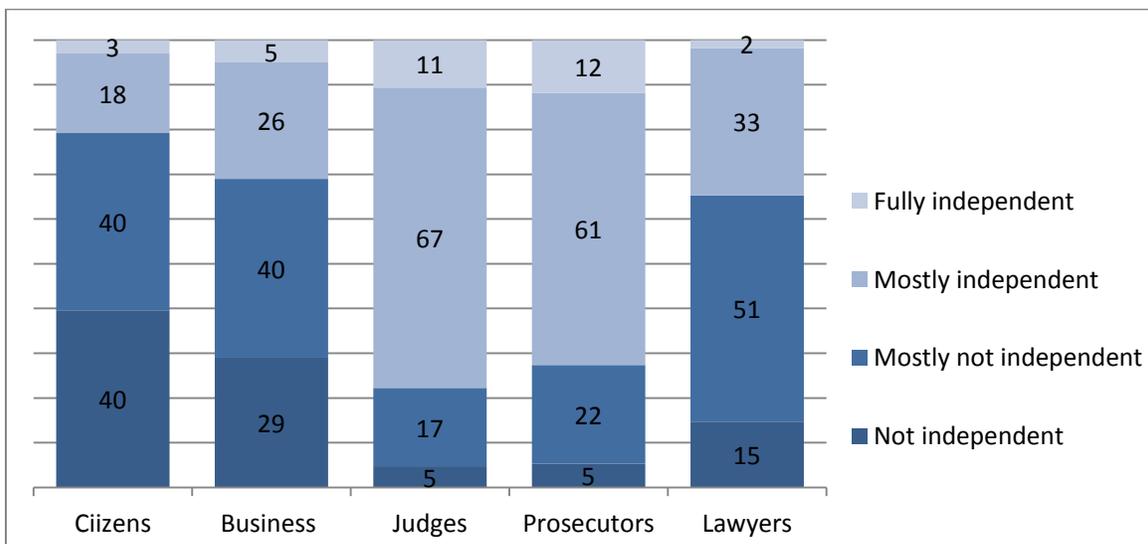
**Figure 3.29: Trust in Institutions on a Scale of 1 to 5, % of General Public Responding “Do Not Trust” and “Trust,” All Case Types**



Note: (a) Figure does not report neutral responses (3 on the 5-point scale); (b) N=815 (95%).

67. A majority of court users and lawyers, and roughly one-quarter of judges and prosecutors felt that the judiciary was not independent (Figure 4.30). Only a small share of all groups believed that the judiciary was fully independent.

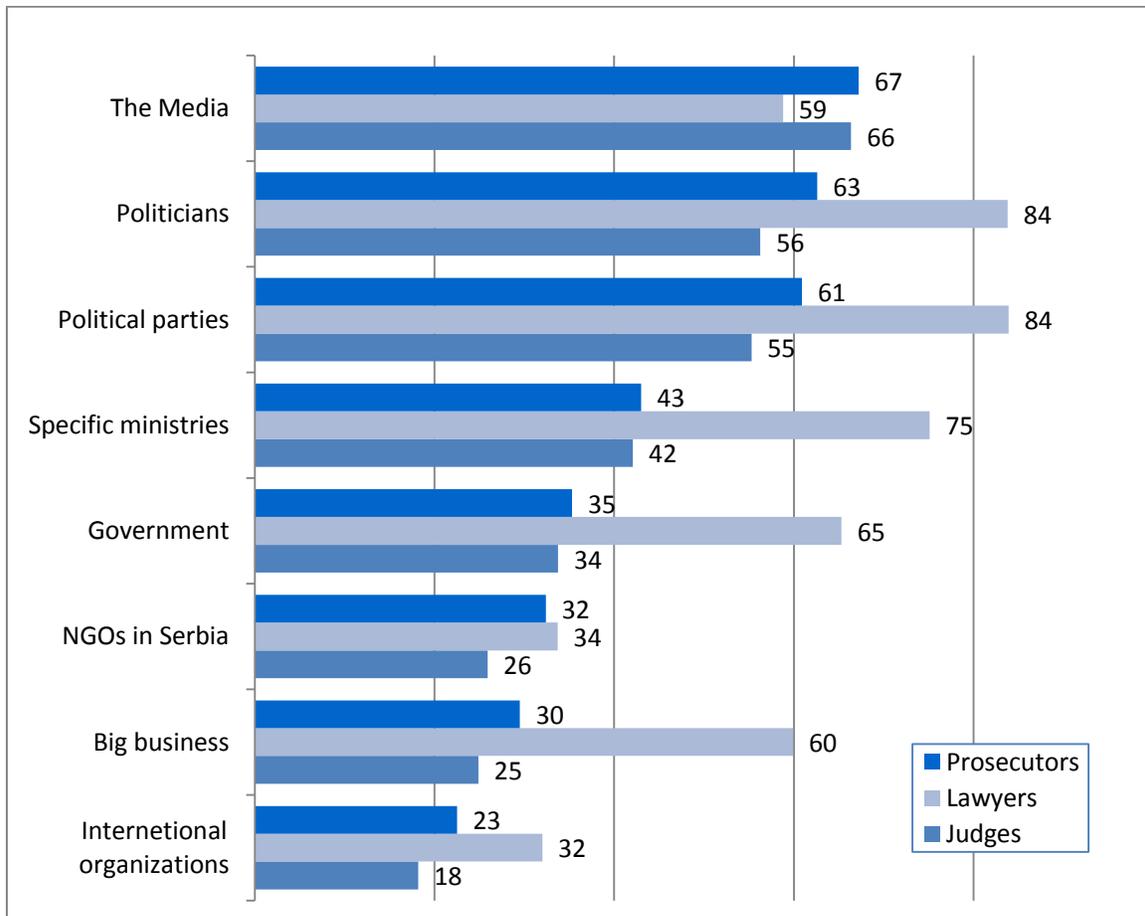
**Figure 3.30: Extent to Which Judicial System Was Considered Independent from Executive Authority (Politics) in 2009**



Note: N=787 (92%) for citizens, N=407 (90%) for business, N=1,058 (92%) for judges, N=772 (97%) for lawyers, and N=322 (92%) for prosecutors.

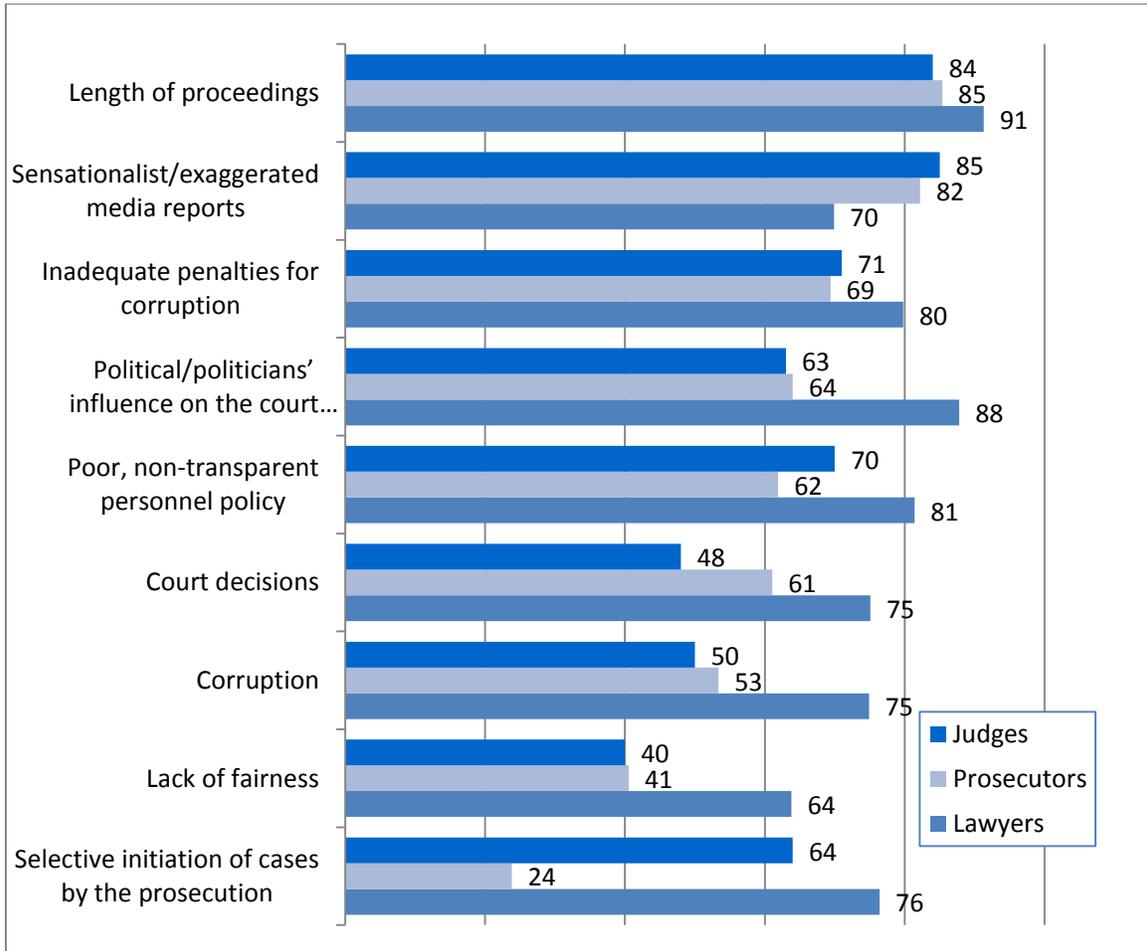
68. *Legal professionals, especially lawyers, felt strongly that a variety of few institutions played a role in weakening the independence of the judiciary.* Politicians, political parties, and the media were most often perceived as the institutions that jeopardized judicial independence (Figure 4.31). Interestingly, the majority of judges (66%), lawyers (59%), and prosecutors (67%) found that the media had a negative impact on judicial integrity in Serbia. Moreover, 86 percent of judges, 52 percent of lawyers, and 75 percent of prosecutors believed that the media created a less favorable image of the judiciary than was the reality.

**Figure 3.31: Share of Respondents Who Found that Listed Institutions Undermined Judicial Independence “To an Extent” or “To a Great Extent” in 2009,**



Note: N=790 (99%) for lawyers, N=294 (84%) for prosecutors, and N= 955 (83%) for judges.

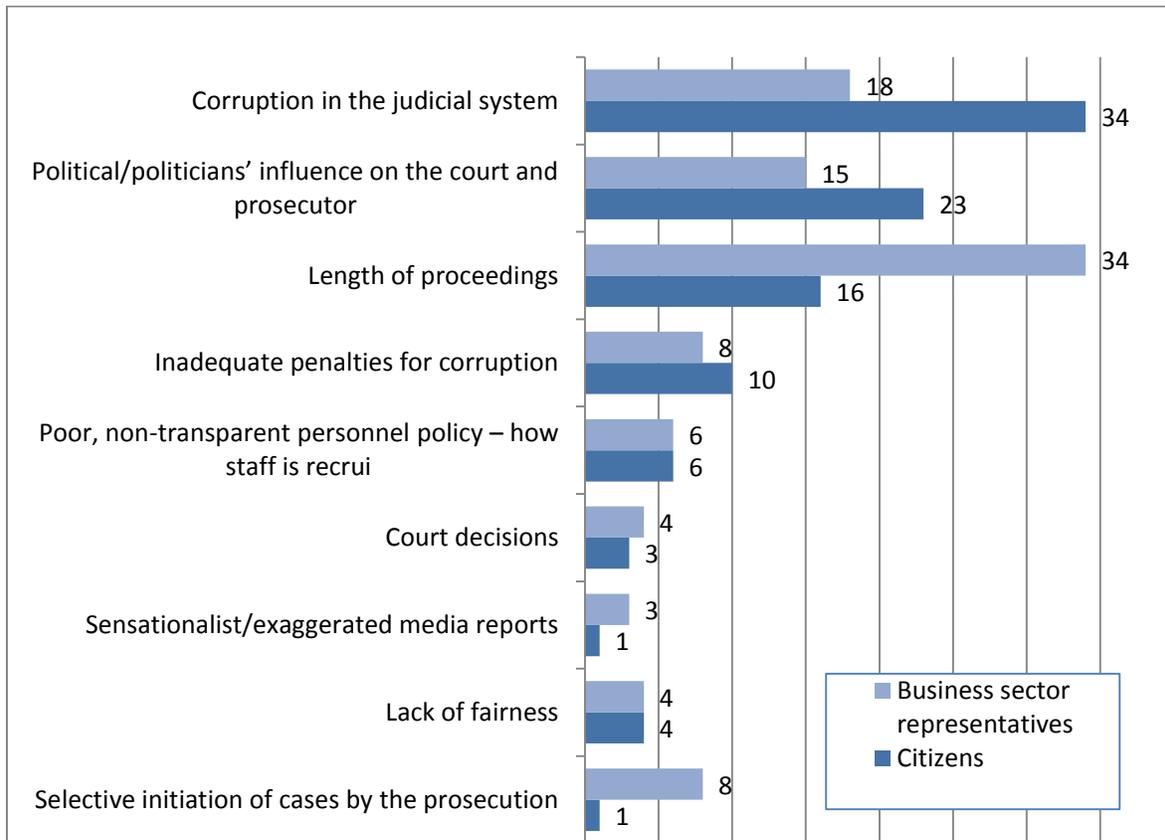
**Figure 3.32: Share of Respondents Who Found that Listed Factors Undermined Judicial Independence “To an Extent” or “To a Great Extent” in 2009**



Note: N=953–1,022 (83–89%) for judges, N=792 (99%) for lawyers, and N=308 (89%) for prosecutors.

69. *In identifying the factors that undermined their trust in the judiciary, the general public most often mentioned corruption and political influence on judges and prosecutors, while business sector representatives most often cited the length of proceedings. Contrary to the opinion of legal professionals, neither the general public nor business sector representatives saw the media as responsible for undermining judicial integrity (Figure 4.33).*

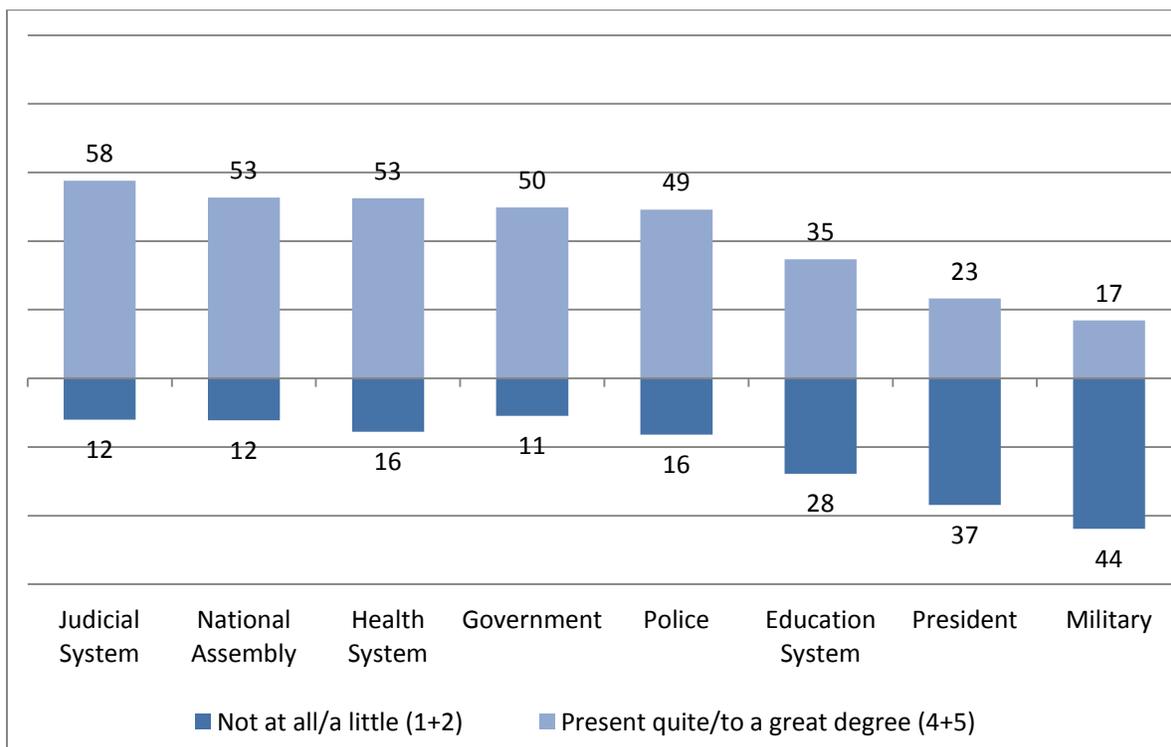
**Figure 3.33: Main Factor Undermining Public and Business Trust in the Judicial System in 2009**



Notes: (a) Respondents were asked to choose one principal factor from a list.  
 (b) N=765 (90%) for citizens, and 395 (88%) for business sector representatives.

70. *The general public perceived the judiciary to be the most corrupt institution in Serbia.* Only 12 percent of the general public believed there was little or no corruption in the judiciary (Figure 4.34). Similarly, 9 percent of lawyers, 23 percent of judges, and 25 percent of prosecutors believed that there was no corruption in the judiciary. A significant number of those who believed that corruption existed considered it “systematic,” including 33 percent of lawyers, 15 percent of judges, and 12 percent of prosecutors.

**Figure 3.34: Presence of Corruption in Listed Sectors and Institutions on a Scale of 1 to 5, % of General Public Responding “Not Present” and “Present, All Case Types**



Notes: (a) Figure does not report neutral responses (3 on the 5-point scale); (b) N=2,203.

71. *Just over 10 percent of the general public reported that they had been offered “informal” means in the course of proceedings, a figure that contrasts with the general perception of high corruption in the judiciary.* It is generally assumed<sup>26</sup> that survey respondents are reluctant to volunteer information on actual corrupt behavior, and a discrepancy between perceptions and reported experiences can therefore be expected. However, the discrepancy between high perceptions of corruption (58 percent of citizens believed that corruption was present in the judiciary, as shown in Figure 4.34) and limited experience with corruption is too large to be explained only by socially desirable answering. This gap could be explained in large part by media coverage. The influence of the media on corruption perceptions, particularly through sensationalistic stories with negative evaluations and articles highlighting examples of bad judiciary practice, is a complex topic that would benefit from further analysis.

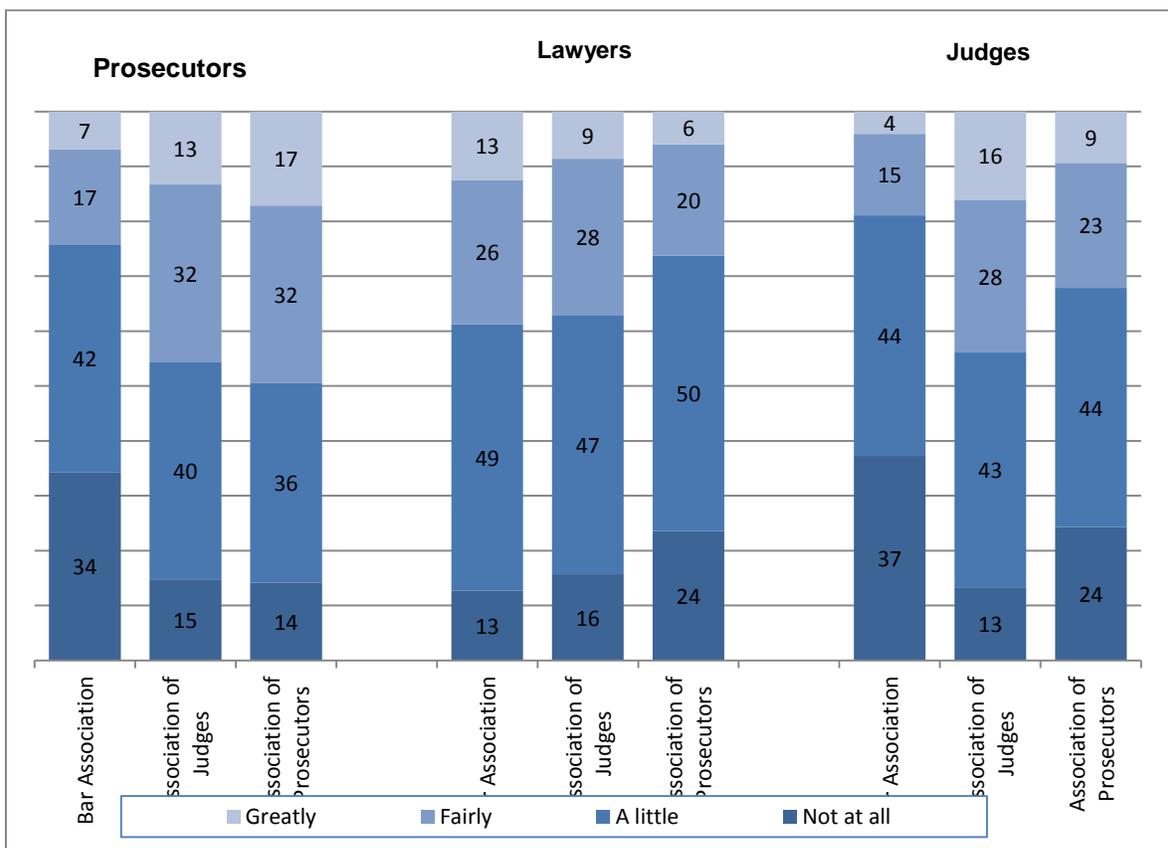
72. *A majority of legal professionals considered internal control to be an important factor in strengthening the integrity of the judiciary.* The concept of judicial audit has received some international attention in recent years. If housed within the judiciary and given a degree of independence from the judicial managers themselves, such internal control mechanisms can be useful in identifying loopholes, inefficiencies, and ineffective court practices, and advising court

<sup>26</sup> Source: For example, in the SOSAC (Social assessment survey Serbia) survey commissioned by the World Bank and conducted by Ipsos Strategic Marketing in 2004, only 11 percent of citizens responded that they had to pay informally for health services, while 88 percent stated that informal payments are occasionally, often, or very often present in the health system. For more on socially desirable answering in surveys, see for example Roger Tourangeau, Lance J. Rips, and Kenneth Rasinski. 2000. *The Psychology of Survey Response*. Cambridge University Press. Of particular interest is Chapter 9 on “Editing of Responses: Reporting about Sensitive Topics.”

managers on how to correct these problems. In Serbia’s judiciary survey, internal control was described as very important by 66 percent of lawyers, 62 percent of prosecutors, and 46 percent of judges, while 26 percent of lawyers, 35 percent of prosecutors, and 45 percent of judges believed it to be important to a certain extent.

73. *Legal professionals responded that professional organizations only marginally helped to strengthen the integrity of the judiciary.* Prosecutors and judges were most critical of the Bar Associations, and lawyers were most critical of the Associations of Prosecutors. Surprisingly, at least half of those within each group found their own association to be of little help (Figure 4.35).

**Figure 3.35: Extent to Which Professional Associations Help Strengthen the Integrity of the Profession They Represent**



Note: N=792 (99%) for lawyers, N=290 (83%) for prosecutors, and N=971 (85%) for judges.

### Reform Implications

74. *The Serbian judiciary has a mixed reputation among citizens and businesses on issues of corruption, independence, and trust.* This reputation should be of concern to members of the judiciary, as it indicates low levels of legitimacy. While some judges and prosecutors recognize the problems that exist, most tend to hold much more favorable views of their own independence and integrity than citizens more broadly. These findings correspond to the assessment above that perceived politicization is the main contributor to a perception that the judiciary system is unfair.

75. *This diagnosis of perceptions regarding judicial integrity offers some useful insights in developing a judiciary reform agenda.* Clearer procedures for how to deal with corruption could be established and published, including provisions for whistle-blowing and reporting by users. Perceptions of corruption can also be the result of contradictory or unclear laws and regulations, insufficient staff, or judicial capacity limitations. Considering the relatively high perceptions of corruption in Serbia’s judiciary, it will be important to explore the underlying causes and to develop countermeasures, such as: (i) more streamlined and automated processes that reduce opportunities for corruption; (ii) monitoring processes to better detect integrity breaches; (iii) stronger focus on management and prevention of corruption opportunities; and (iv) better public education to enhance public understanding of how the judiciary should work, where to turn to with complaints, and general reporting on integrity enhancement actions. Moreover, it is possible that differences in the perceptions of court users and judiciary professionals reflect the character of media coverage of court proceedings in Serbia. As such, it may be useful to work toward clearer and more professional communication with the media by the judiciary, including by developing a communications strategy and providing associated communications training.

76. *Finding a solution to the judicial reappointment process and establishing procedures that are accepted by all stakeholders as ensuring judicial independence in the appointment and promotion of judges and prosecutors could take center stage in reform discussions.* Issues of judiciary independence have been on the agenda in Serbia since the regime change ten years ago and continue to be widely debated. While it is beyond the scope of this analysis to establish whether there is political interference in the adjudication of cases in the Serbian judiciary, the data presented here indicate that this could be the case. At least the perception is thus and could be addressed following further research into this issue.

#### 4.7 Costs

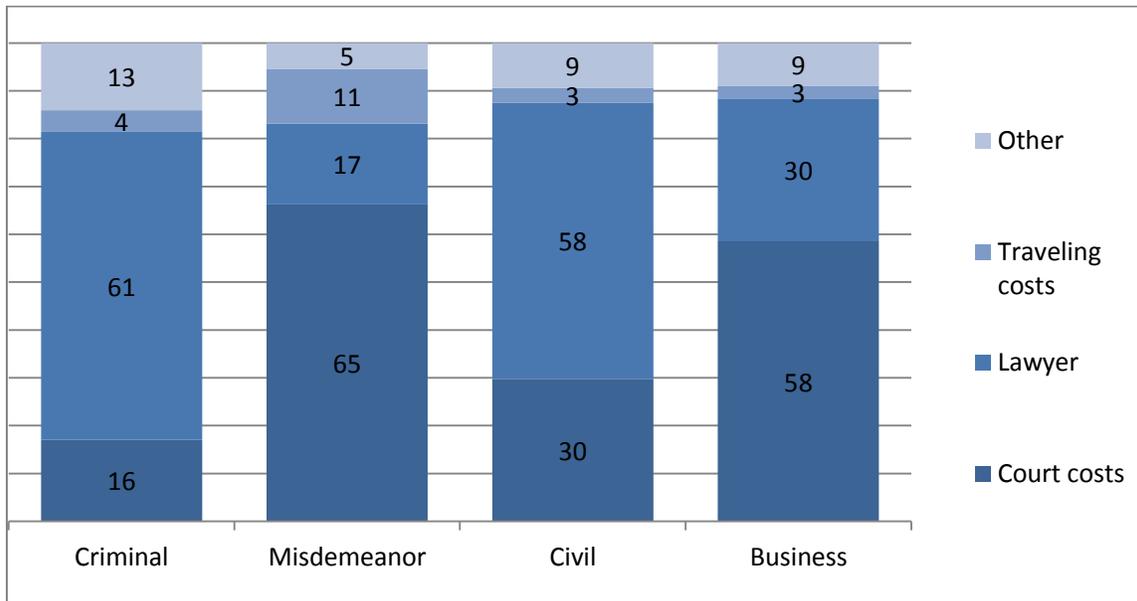
77. *The element of costs explored by the survey varied according to respondent groups.* For the general public, cost questions related to the quality of services as compared to their cost. Questions posed to court staff focused on the possibilities of cutting expenses and of investing to obtain better results. As a point of departure, respondents were asked to report the costs of their cases (Table 4.1). Unsurprisingly, the reported cost of misdemeanor cases was lowest and that of business sector cases was highest. In misdemeanor and business sector cases, most costs were court-related, while most of the costs in criminal and civil cases were related to lawyers’ fees (Figure 4.36).

**Table 3.1: Reported Total Case Costs for Court Users, Euros<sup>27</sup>**

| Case type       | Average | Median | Minimum | Maximum |
|-----------------|---------|--------|---------|---------|
| Criminal        | 608     | 200    | 0       | 26,000  |
| Misdemeanor     | 148     | 27     | 0       | 10,000  |
| Civil           | 571     | 245    | 0       | 10,000  |
| Business Sector | 2,091   | 750    | 20      | 80,000  |

<sup>27</sup> Costs are computed using unweighted data.

Figure 3.36: Cost Breakdown, %

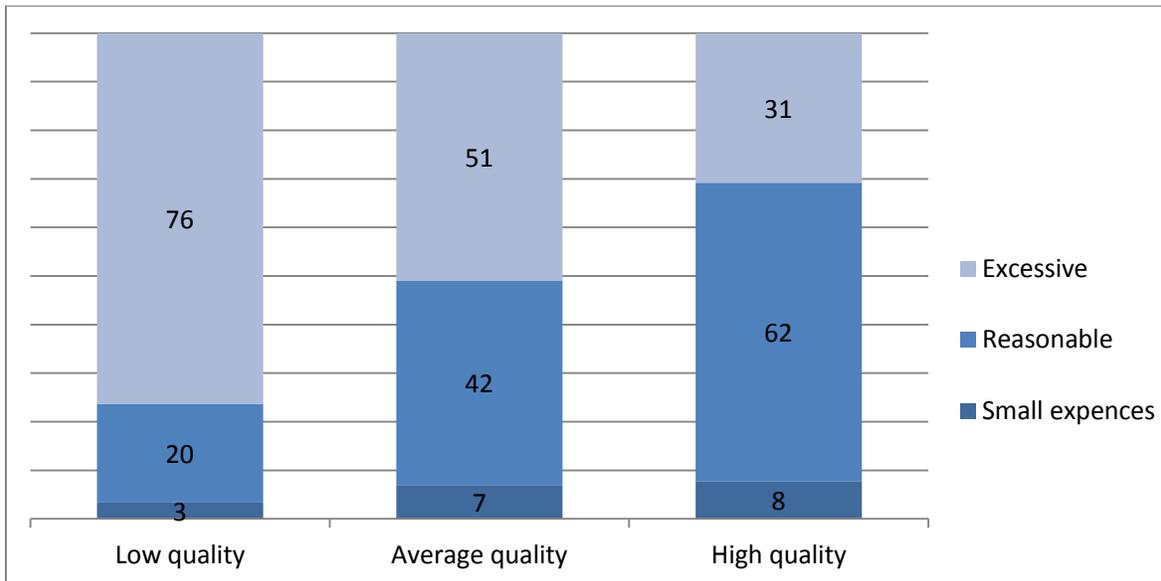


Note: N=177 (88%) for criminal cases, N=185 (93%) for misdemeanor cases, N=400 (89%) for civil cases, and N=422 (94%) for business cases.

78. Most members of the general public who had experience with criminal and civil cases found that the cost of proceedings was excessive (62 percent and 55 percent, respectively, as compared to 40 percent in misdemeanor cases). This corresponds to the finding that court-related costs in court users' own cases represented a significant burden on personal budgets (paragraph 71). However, perceptions of relative cost (small, reasonable, fairly high) depended more on the assessed quality of the court's work than on the actual sum of money spent on court proceedings (Figure 4.37).<sup>28</sup> Correspondingly, the survey found that the higher the quality of the court's work, the less of a burden the cost was perceived to be on the court user's budget (Figure 4.38).

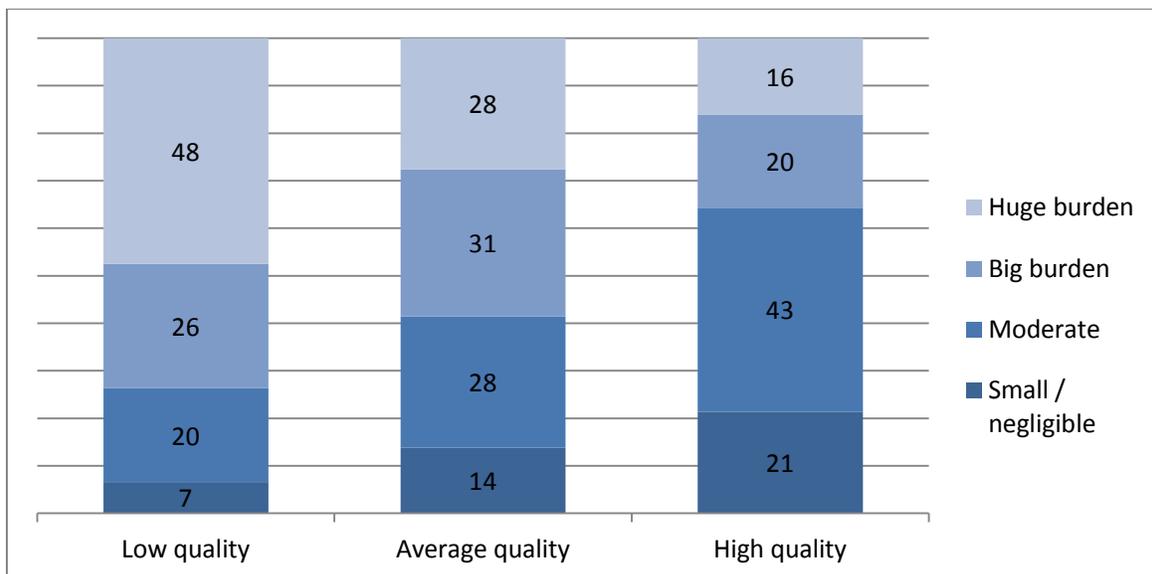
<sup>28</sup> Regression analysis shows that the evaluation of the quality of the court's work was a statistically significant predictor of the assessment of related costs, in contrast to the total cost amount.

**Figure 3.37: General Public Evaluations of the Quality of Court Services and the Overall Expense of the Service Given the Quality of the Service**



Note: N=284 (91%) for low quality, N=270 (93%) for average quality, and N=280 (85%) for high quality.

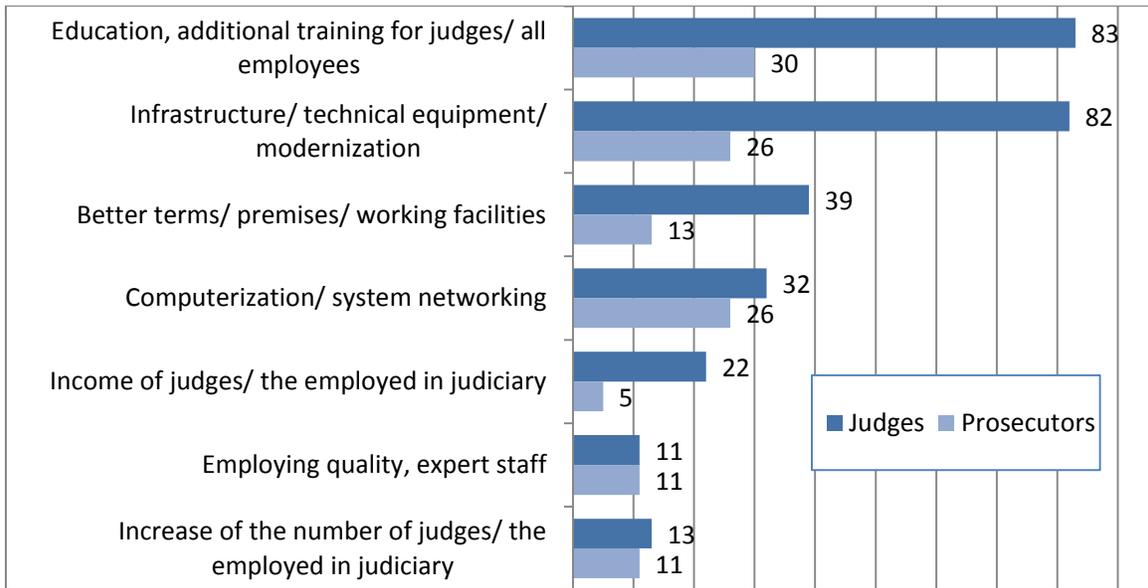
**Figure 3.38: General Public Evaluations of the Quality of Court Services and the Burden of the Costs**



Note: N=301 (97%) for low quality, N=283 (97%) for average quality, and N=226 (92%) for high quality.

79. A majority of judges (60 percent) and prosecutors (59 percent) could not identify opportunities to reduce court costs. Moreover, a majority of the same respondents (53 percent of judges and 56 percent of prosecutors) could not name in what area of the judiciary (if at all) the additional funds could be invested in order to improve judicial efficiency and cut costs in the long run. Out of those who did answer, most identified employee training and the modernization of equipment as investments that could result in future savings for the judiciary (Figure 4.39).

**Figure 3.39: Areas Where Additional Funds Should Be Invested to Cut Costs in the Long Term through Improved Judicial Efficiency**



Note: N=535 (47%) for judges, and N=152 (44%) for prosecutors.

***Reform Implications***

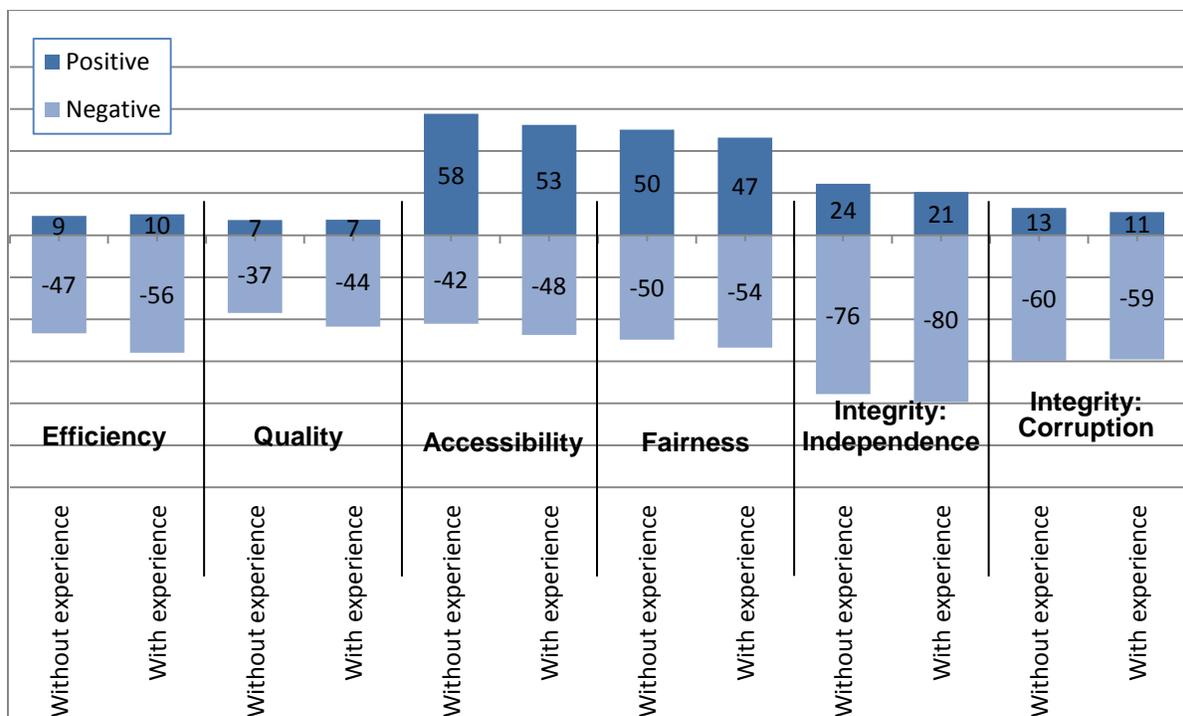
80. *Court fees are not a main issue and the results in this section supports a greater need for reform related to „quality“ improvement then to cost. Suggestions for both were outlined in prior sections.*

## CHAPTER 4 – EFFECTS OF PERSONAL EXPERIENCE ON ASSESSMENTS OF COURT PROCEEDINGS

### 4.1 Overview

81. *The effect of experience with court proceedings on respondents' perceptions of the Serbian judiciary was generally negative. A slightly higher percentage of members of the general public who had experience with court proceedings provided a negative assessment of how the judicial system functioned with regard to the quality of services, accessibility, and fairness, as compared to those who had no direct experience with the judiciary.<sup>29</sup> Perceptions of integrity, independence, and the presence of corruption were equally negative among those in the general public, regardless of whether they had experience with court proceedings (Figure ). Business sector representatives who had experience with court proceedings also held more negative views about the efficiency and quality of judiciary services than their counterparts without court experience (Figure 5.2). There was no difference in the perceptions of business representatives with and without court experience on the other dimensions of performance.*

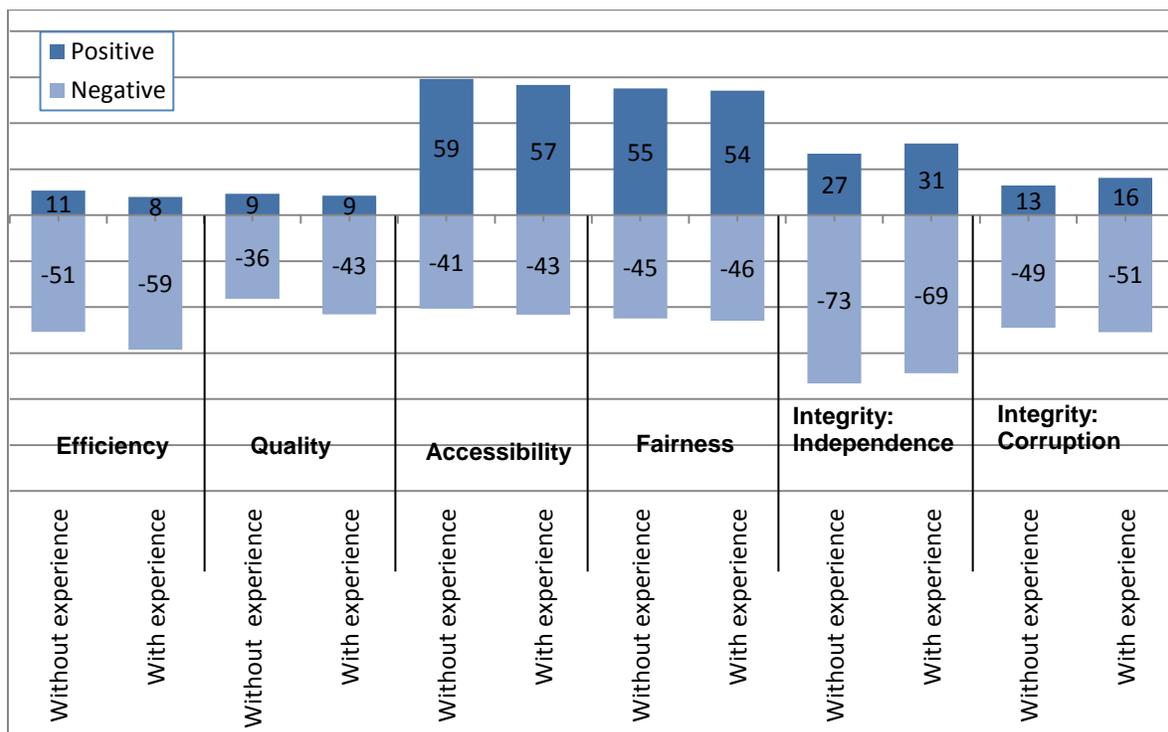
**Figure 4.1: Share of Positive and Negative Evaluations on Five Dimensions of Judiciary Performance by Those in the General Public With and Without Experience with Court Proceedings**



Note: N=820 (96%) for general public with court experience, and N=1296 (96%) for general public without court experience.

<sup>29</sup> Statistical tests (Chi-square) showed that these differences were statistically significant.

**Figure 4.2: Share of Positive and Negative Evaluations on Five Dimensions of Judiciary Performance by Business Sector Representatives With and Without Experience with Court Proceedings**

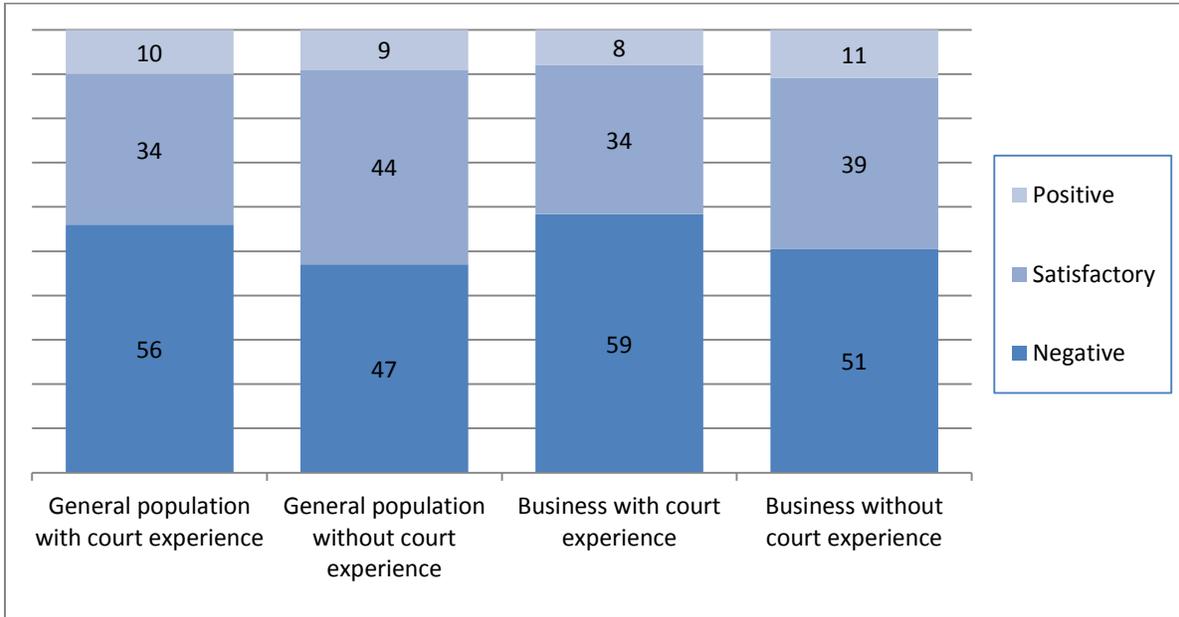


Note: N=427 (95%) for business sector with experience, and N=580 (94%) for business sector without court experience.

#### 4.2. Efficiency

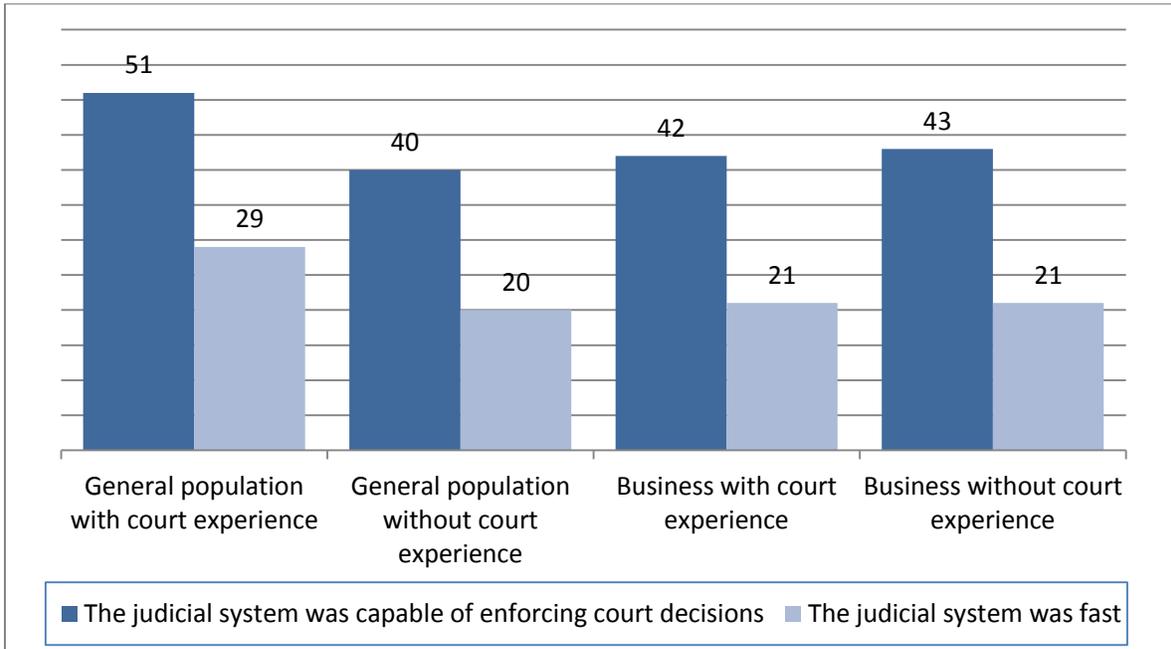
82. *The functioning of the judicial system was assessed more negatively by those in the general public and business sector who had experience with court proceedings than by those who did not (Figure 5.3). However, two aspects of judiciary performance were evaluated more positively by those who had experience with court proceedings: the ability to enforce court decisions and efficiency in terms of the speed of the judicial system (Figure 5.4).*

**Figure 4.3: General Opinions on the Functioning of the Judicial System over the Past Few Years, up to the End of 2009**



Note: N=842 (99%) for general population with court experience, N=1,352 (99%) for general population without court experience; N=449 (99%) for business with court experience, and N = 612 (99%) for business without court experience.

**Figure 4.4: Degree of Agreement with Statements about Judicial Performance, % Responding “Mostly” or “Fully” Agree**



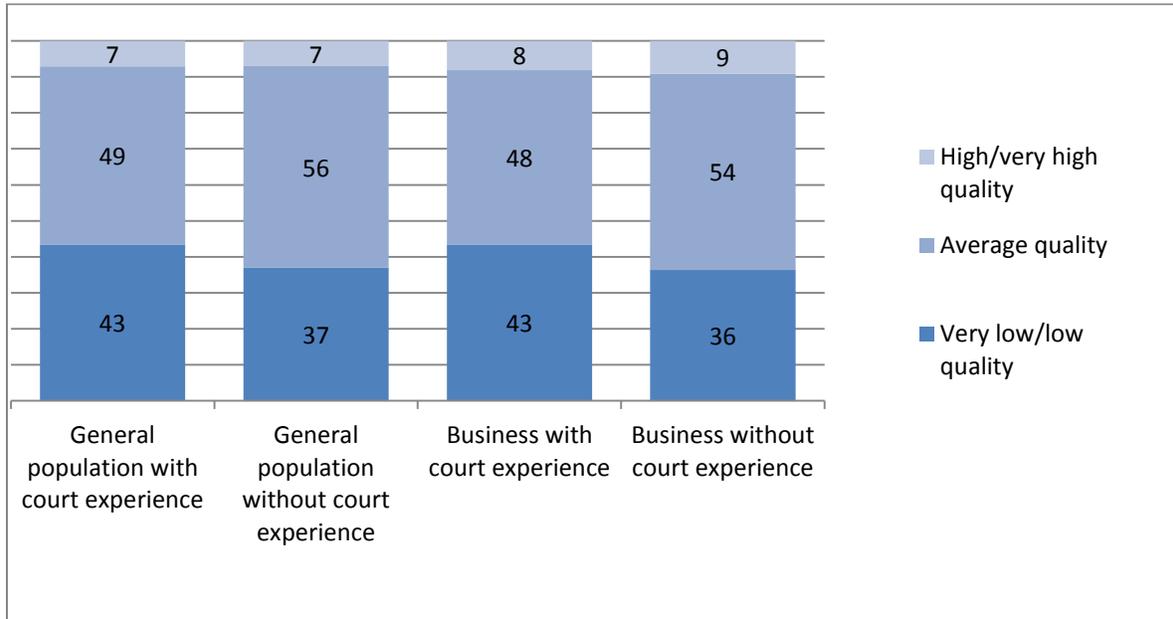
Note: N=825 (97%) for general public with court experience, N=1,255 (93%) for general public without court experience, N=440 (97%) for business with court experience, and N=591 (96%) for business without court experience.

### 4.3 Quality of Services

83. *The quality of the court’s work was not rated highly by either general public or business sector representatives, though ratings were higher among those who had personal experience*

with court proceedings (Figure 5.5). Only 7 percent of those among the general public, regardless of their experience, assessed the quality of court work to be high or very high; the level was similar among business sector representatives. The work of the judiciary was evaluated as low or very low by 43 percent of those with court experience, as compared to just over 35 percent by those without court experience.

**Figure 4.5: General Impressions of the Quality of the Judiciary’s Work in the Past Few Years, up to the End of 2009**

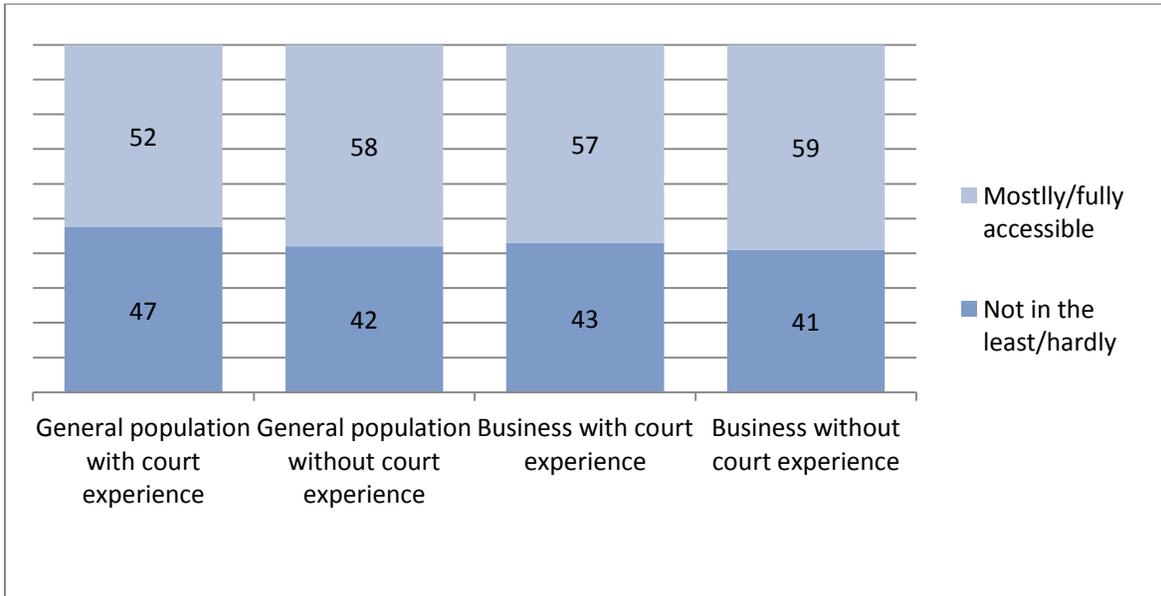


Note: N=839 (99%) for general public with court experience, N=1,337 (99%) for general public without court experience, N=441 (98%) for business with court experience, N=596 (97%) for business without court experience.

#### 4.4 Accessibility

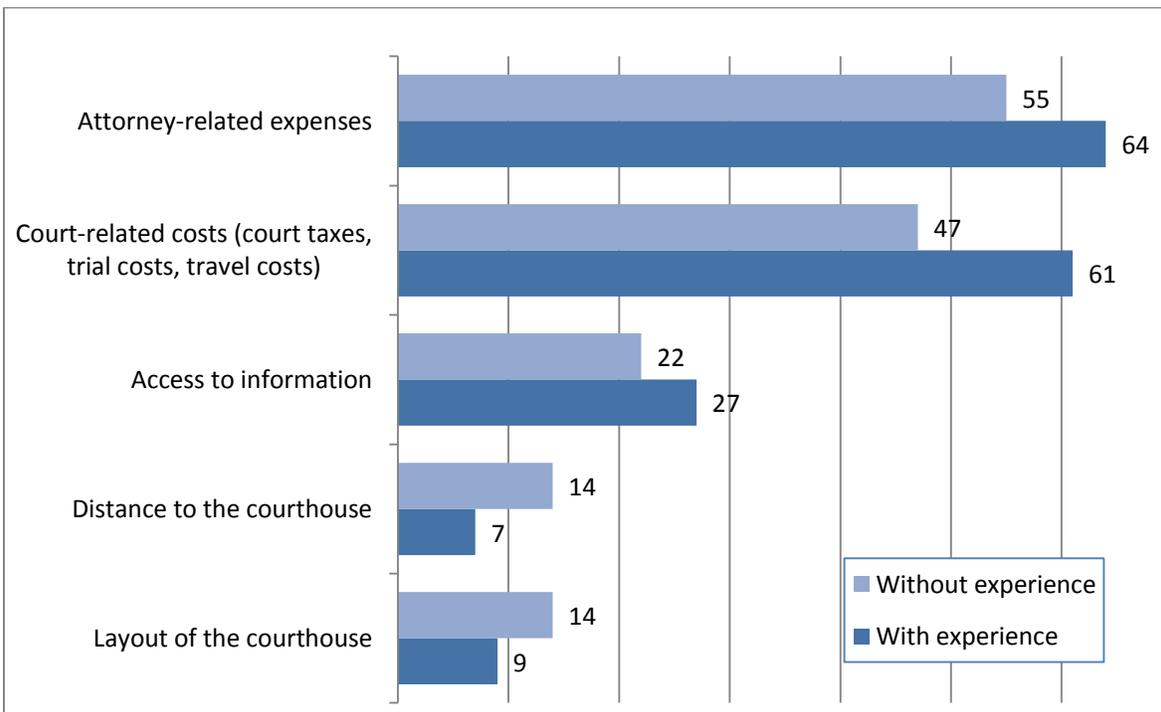
84. Among members of the general public, those who had experience with court proceedings were slightly more likely to consider the judicial system to be inaccessible. This was the case in terms of both accessibility to all the general public (Figure 5.6) and accessibility in terms of cost (Figure 5.7).

**Figure 4.6: Extent to Which the Judicial System in Serbia Was Considered Equally Accessible to all the General Public notwithstanding Their Age, Education Level, Financial Status, Nationality, Handicap, or Language**



Note: N=806 (95%) for general public with court experience, N=1,254 (93%) for general public without court experience, N=413 (92%) for business with court experience, and N=552 (90%) for business without court experience.

**Figure 4.7: Degree to Which Respondents among the General Public Found the Judicial System Personally Inaccessible up to the End of 2009, % Responding “Mainly” or “Fully” Inaccessible**

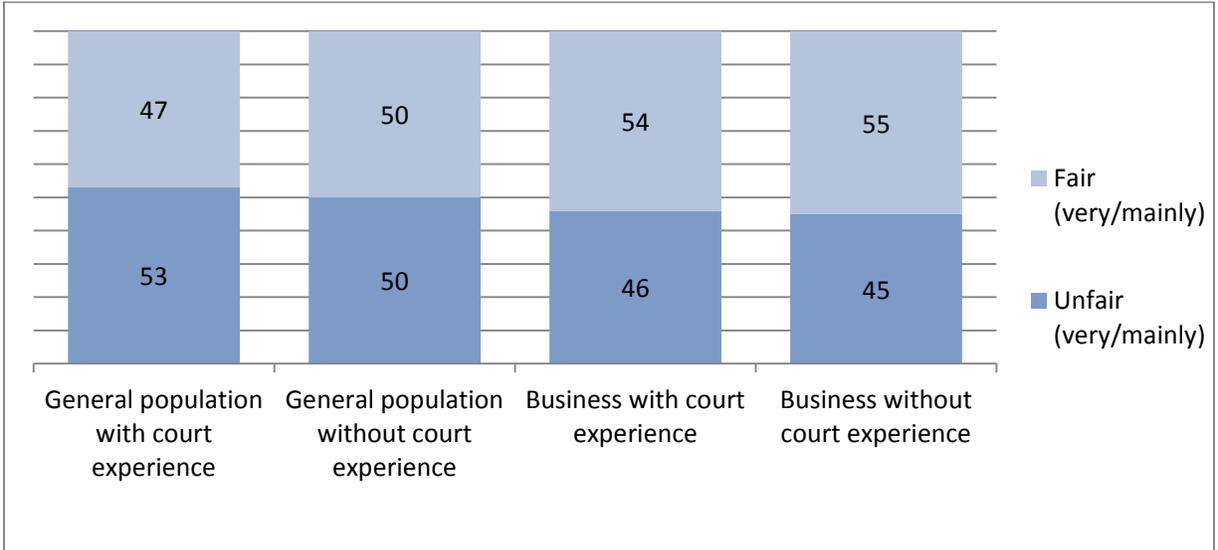


Note: N=850 for general public with experience, and N=1,353 for general public without experience.

#### 4.5 Fairness

85. *There were no significant differences in perceptions of fairness between members of the general public with and without court experience. A similar result was reached for business sector representatives (Figure 5.8).*

Figure 4.8: Fairness of the Judicial System in 2009

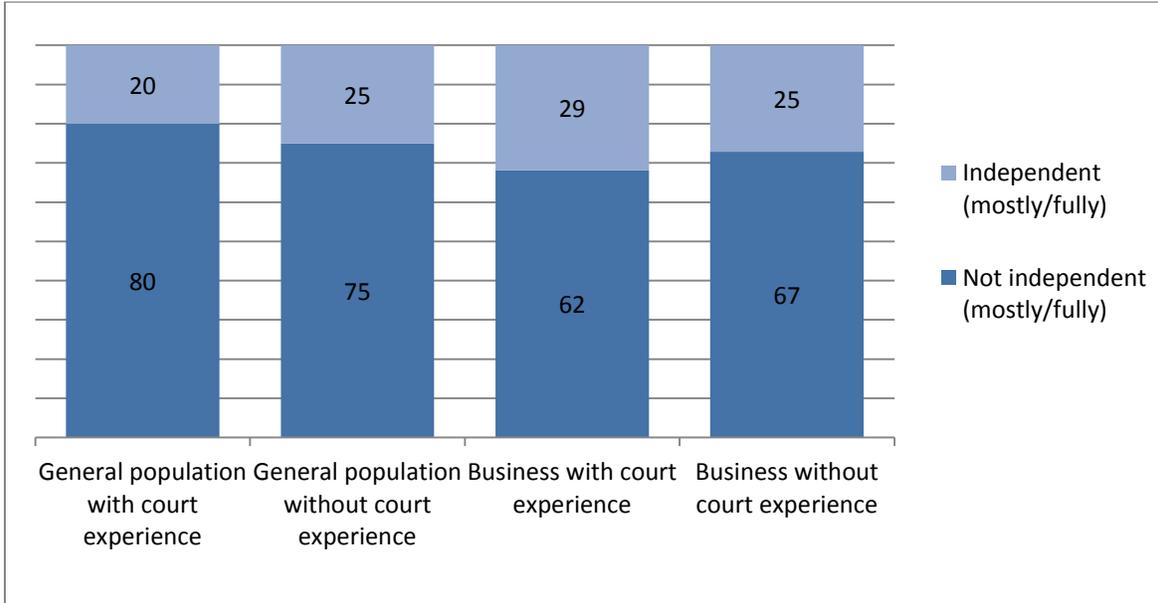


Note: N=834 (98%) for general public with court experience, N=1,326 (98%) for general public without court experience, N=439 (98%) for business with court experience, N=590 (96%) for business without court experience.

#### 4.6 Integrity

86. *Experience with court proceedings did not seem to have an influence on evaluations of judicial system integrity by members of the general public and business sector representatives. A majority within each group felt that the judicial system was not independent during 2009, regardless of court experience (Figure 5.9). Similarly, most members of the general public (59 percent of those with court experience and 60 percent without) and business sector representatives (55 percent of those with court experience and 54 percent of those without) considered corruption to be present in the judiciary.*

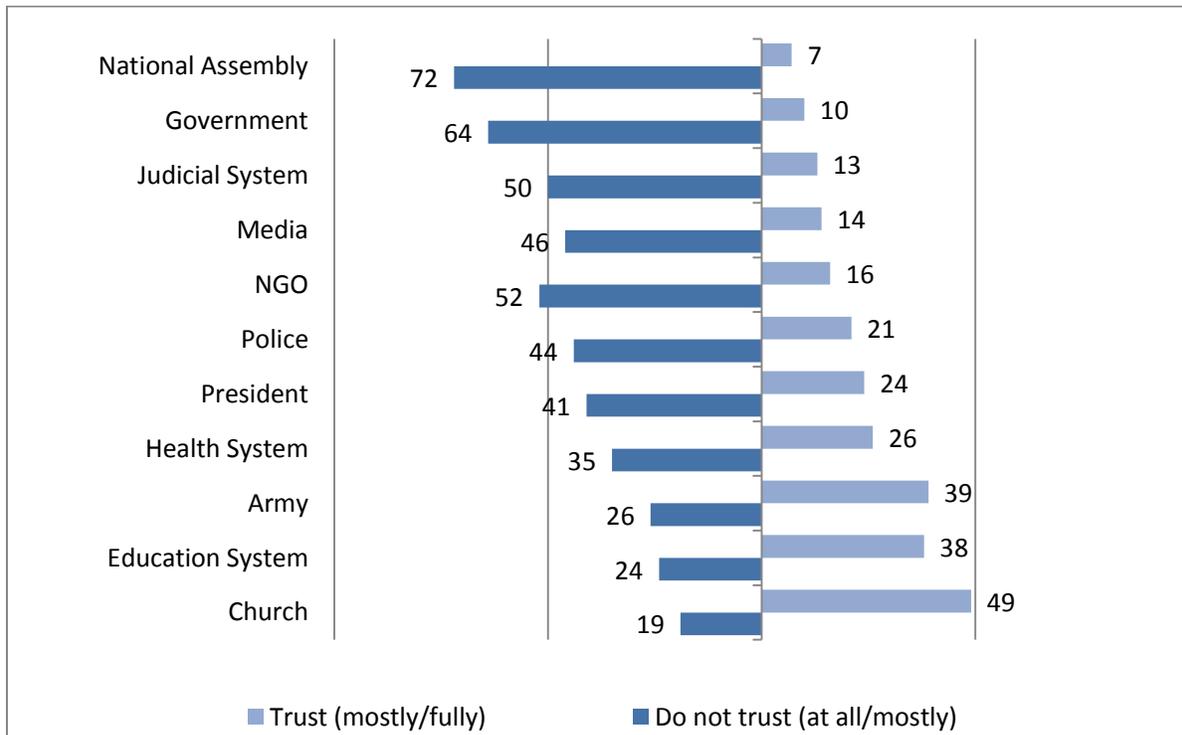
**Figure 4.9: Extent to Which the Judicial System Was Truly Independent from Executive Authorities (Politics) in 2009, By Court Experience**



*Note:* N=787 (93%) for general public with court experience, N=1,228 (91%) for general public without court experience, N=407 (90%) for business with court experience, and N=564 (92%) for business without court.

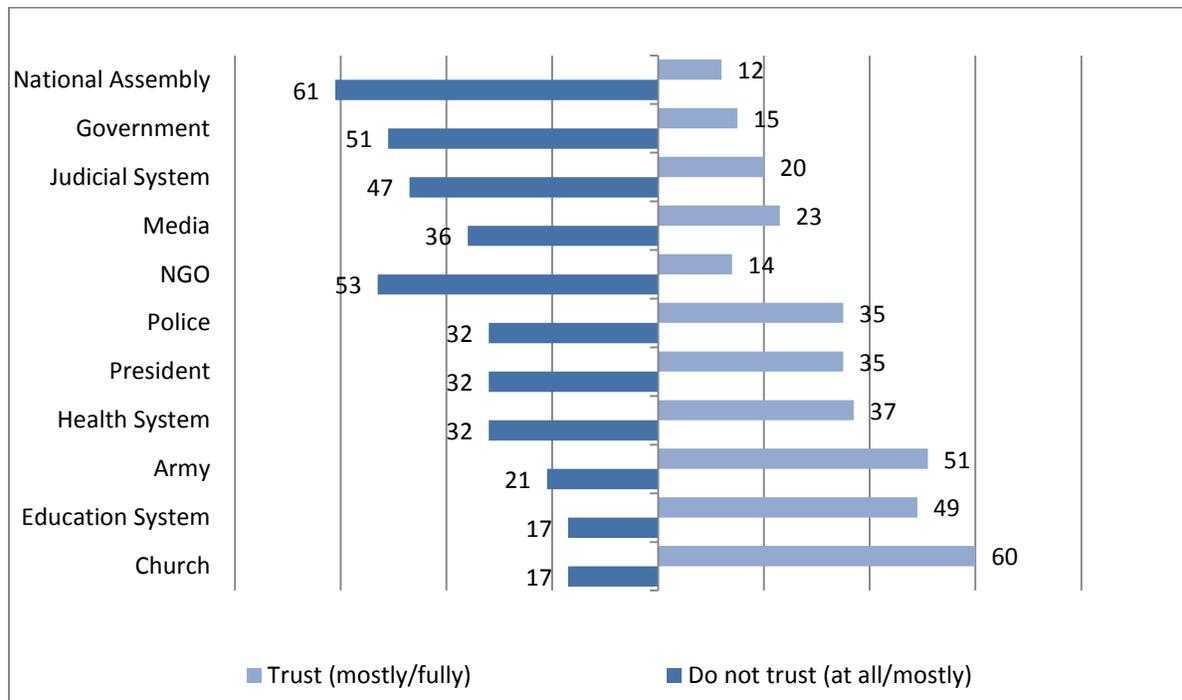
87. *It should be noted that members of the general public who did have judicial experience demonstrated less confidence in all judiciary institutions. Only 13 percent of those with judicial experience and 20 percent without it stated they fully trusted the judiciary (Figures 5.10–5.11). However, among those with and without court experience, the judiciary ranked at the bottom of the list, along with the government and parliament.*

**Figure 4.10: Degree of Trust in Listed Sectors and Institutions, General Public With Court Experience**



Note: N=815 (95%).

**Figure 4.11 Degree of Trust in Listed Sectors and Institutions, General Public Without Court Experience**



Note: N = 1,298 (96%).

### ***Reform Implications***

88. *The analysis of the effects of court experience on perceptions of judicial performance did not yield concrete implications for the reform agenda.* However, the finding that experience with court proceedings generally resulted in a more negative opinion of the Serbian judiciary does weaken the argument that media coverage of the judiciary is disproportionately negative. If this were the case, members of the general public who did not have experience with the judiciary would be expected to have a more negative perception than those who had been in contact with the judiciary. It would thus be useful to focus research efforts on better understanding why court users have more negative opinions of the judiciary and whether these perceptions vary by other factors such as locality, age, or gender, so as to help focus the reform agenda on areas that are most in need of improvement.

## CHAPTER 5 – ADMINISTRATIVE SERVICES

### 5.1 Overview

89. *Serbian courts are responsible for providing a range of administrative services in addition to court proceedings.* These services include the verification of documents, services related to land registration, access to archives, and a variety of information and legal services at performed by the registry desk.<sup>30</sup>

90. *The efficiency and integrity of administrative services were generally perceived by all surveyed groups of court users to be of greatest concern.* A majority of all survey groups evaluated performance on these dimensions negatively. These results mirror court users' opinions of judicial proceedings, as presented above. The highest negative net assessments (percentage of positive evaluations minus percentage of negative evaluations) were found for efficiency and integrity. The highest negative net effect on these two dimensions was found among lawyers, and the lowest (which was still negative) among prosecutors. The net effect of prosecutors' evaluations was high and negative on perceptions of the presence of corruption, but was positive on independence. By contrast, court administrative staff described the work as efficient and a majority of them did not consider corruption to be present in their sector. A negative net assessment was found for all groups on the quality of services, but at a lower level than that found for efficiency and integrity. The net effects for accessibility and fairness were mainly positive, though members of the general public who had experience with court services provided more negative than positive assessments on fairness. Evaluations of accessibility were most positive.

91. *This chapter presents the results of three surveys of court users among the general public, court users among business sector representatives, and administrative staff in courts.* The general public survey included Serbian citizens above eighteen years of age who had experience with administrative services in courts but not with court cases. The administrative services most often used were verification of documents, land registry services, and registry desk services, and the following analysis is based on those types of services. The survey of business sector representatives included private enterprises that had experience with court administrative services but not with court cases. Since most administrative services completed by business sector representatives were verification services, all administrative services of this target population were analyzed together. Finally, the survey of court administrative staff included administrative staff who worked in this sector of the judiciary up to the end of 2009, from all departments that existed in the court covered by the survey.<sup>31</sup> The analysis is based on the department in which court staff worked up to that period. The following departments were covered: the registry desk; the reception, verification, and expedition department; and other departments (such as archives, enforcement, and land registry, whose respondent groups were too small for disaggregated analysis. Questionnaires were designed to measure perceptions and

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<sup>30</sup> Registry desks provide information about cases and offer the possibility to read or obtain a copy of a case file. They also allow for suits to be filed and various kinds of certificates or decisions to be obtained. The jurisdiction of registry desk depends on the size and organization of the court and it is determined for each court individually.

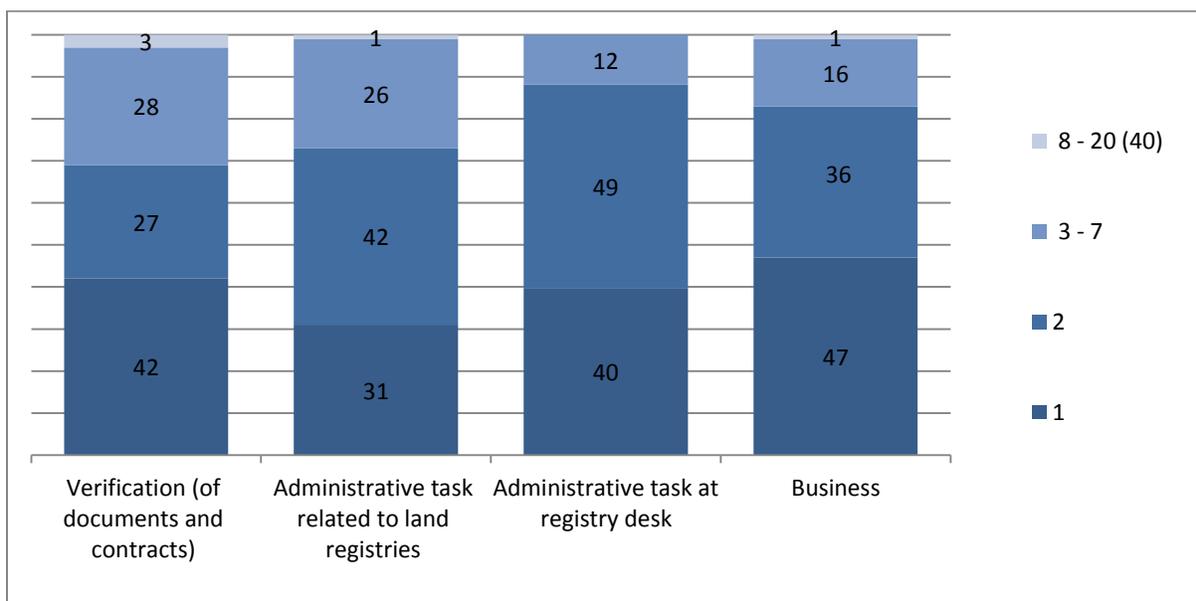
<sup>31</sup> The specific organization (including the number and type of departments) of administrative services is determined by an internal act developed for each court and depends on court's size and workload.

experience along the same six dimensions of performance covered by the surveys of court procedures: efficiency, quality of services, accessibility, fairness, integrity, and cost.

## 5.2 Efficiency

92. *As in the evaluation of court proceedings, efficiency was reported by court users to be the most serious issue with court administrative services.* Lack of efficiency is indicated by the number of courthouse visits one needed to make and the number of offices and/or counters within the building that one needed to visit in order to complete one administrative service. Only 42 percent of verification services, 31 percent of land registry services, 40 percent of court registry desk services, and 47 percent of administrative services related to the business sector<sup>32</sup> were completed in one visit to the courthouse. In the remaining cases, it was necessary to visit the court building several times (Figure 6.1). On average, 2.4 visits were required for verification, 2.2 for land registration, 1.8 for court registry desk services, and 2.2 for the business sector.

Figure 5.1: Number of Courthouse Visits Required to Complete Administrative Tasks

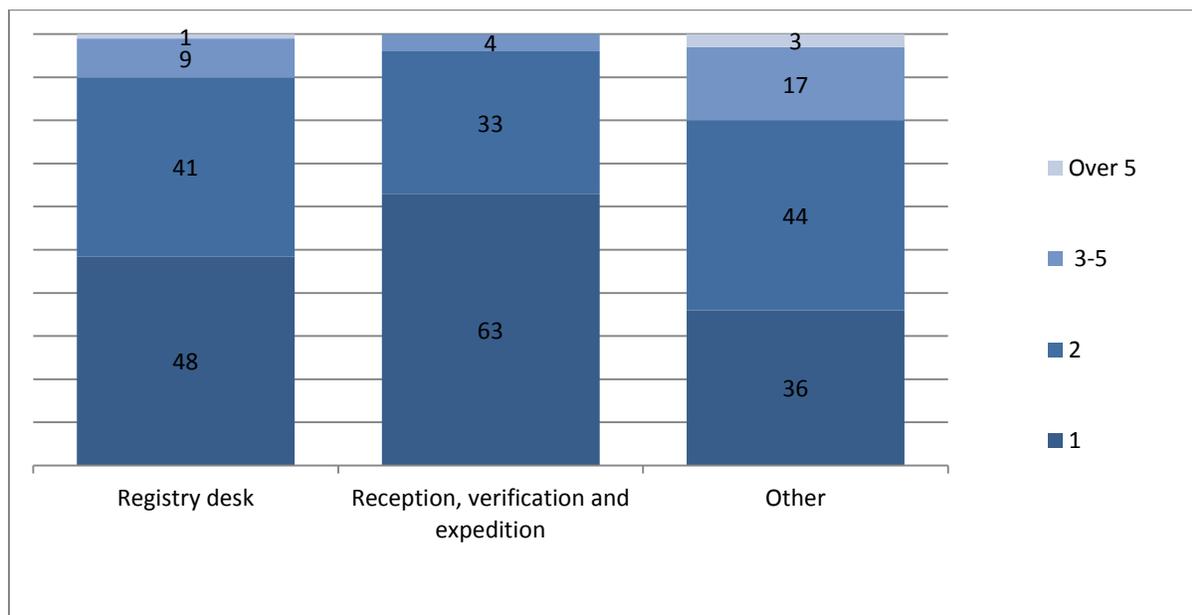


Note: N=235 (99%) for the general public, and N=576 (99%) for the business sector.

93. *According to court administrative staff, less than half of administrative tasks could be completed in one visit* (Figure 6.2). Overall, the completion of one administrative task was reported to take an average of 1.8 visits to the court building. This finding is in line with the responses of court users. Within service categories, the completion of one administrative task in reception, verification, and expedition was reported to require an average of 1.4 visits, while completing tasks at the registry desk and other tasks took an average of 2.1 visits.

<sup>32</sup> Most (82 percent) of the administrative services that business sector representatives needed to complete were verification services, and fewer than 7 percent of enterprises needed other administrative services. As a result, in the business sector survey, all administrative services were studied together and hereinafter will be referred to as “administrative services related to the business sector.”

**Figure 5.2: Number of Times, on Average, That a Client Needed to Come to Respondent’s Service Counter/Department to Complete One Administrative Task, Court Administrative Staff**



Note: N=427 (74%).

94. Court users reported that, in many cases, it was not possible to complete everything at one place (counter/office). Of those who used the courts to conduct an administrative task, half indicated that they needed to go from door to door. This was the case for 50 percent of those among the general public who needed verification services, 56 percent of those who came to the courts for land registration, 44 percent of those who came to the court registry desk, and 47 percent of business sector representatives.

95. By contrast, the majority of court administrative staff (57 percent) reported that their clients could finish the bulk of administrative tasks in their office and that it was rarely necessary for the client to go to other offices or service windows. About one-third of court administrative staff (32 percent) stated that clients could finish the greater part of administrative tasks in their office, but that it was occasionally necessary to go to other offices.

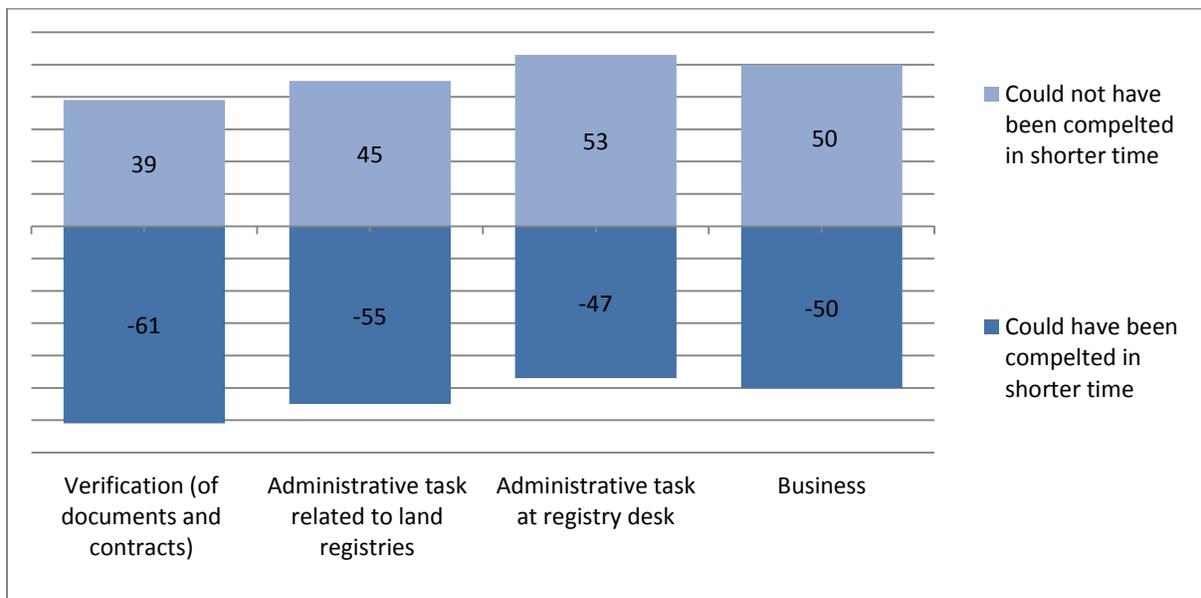
96. The differences in the responses of court users and administrative staff on the issue of courthouse and department visits can be explained by a number of factors. First, court users were asked to report the precise number of visits made to the courthouse for a specific case, whereas administrative staff were asked to estimate the average number of visits needed to complete a task. Also, as mentioned above, the administrative departments that make up this comparison are in charge of different tasks—often wide range of them—so the estimates of administrative staff were not necessarily based on just one type of administrative task.

97. The time spent by court users on an administrative service ranged from ten minutes to ten hours, though the types of tasks being evaluated varied widely in content and complexity. On average, verification services required 2.1 hours (1.3 hours in the courthouse), services related to land registration took 2.5 hours (1.6 hours in the courthouse), registry desk services required 3.8 hours (0.9 hours in the courthouse), and administrative services related to the business sector took 5.5 hours (2.5. hours in the courthouse).

98. Court administrative staff reported spending an average of 10.3 minutes with clients during one visit. Only 9 percent indicated that they spent more than 15 minutes with clients. The average time spent with each client was shortest for reception, verification, and expedition services, at 6 minutes, while administrative staff from the registry desk spent an average of 10 minutes per visit with each client. A comparison of data from two sources, service users and service providers, reveals a significant gap between the total time spent by service users in the courthouse and the time spent interacting with court staff. However, the data do not explain what actions were performed during that time and whether they included necessary actions such as filling out paperwork or just time spent waiting in line and navigating between service windows.

99. Half of court users assessed the time required to complete administrative services to be too long considering the complexity of the work involved (Figure 6.3). Members of the general public thought the inefficiency in completing the verification of documents could be explained principally by a lack of interest on the part of staff (49 percent) and by understaffing (41 percent). The main explanation identified for inefficiency in registry desk services, besides a lack of staff interest (40 percent), was the procedure itself, which was considered too complicated (66 percent). The time taken to complete services related to land registration and the business sector was considered to be a result of understaffing (37 percent for land registration, 36 percent for the business sector) and complex procedures (29 percent for land registration, 43 percent for the business sector).

**Figure 5.3: Court Users' Opinions on Whether Administrative Task Could Be Completed in Less Time Given Its Complexity**



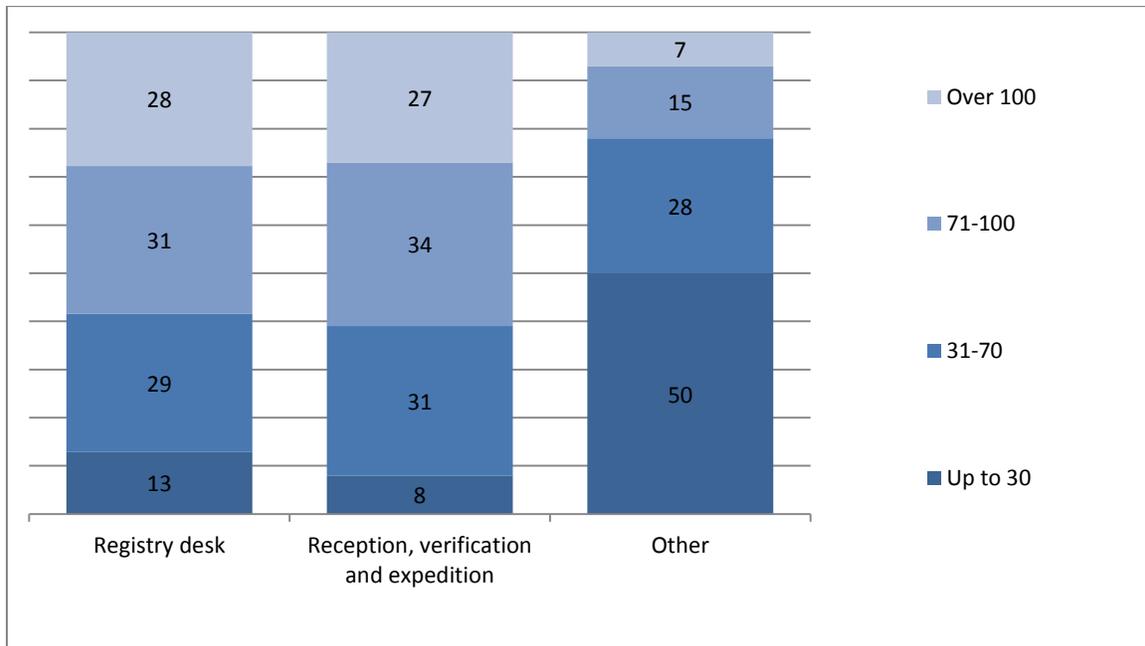
Note: N=236 (100%) for general public, and N=583 (100%) for business sector.

100. By contrast, a large majority of court administrative staff (80 percent) considered the time needed to complete administrative tasks in their sector to be optimal. However, when asked what would help cut down the time it took to complete a task, 67 percent of court administrative staff singled out higher salaries. About two-thirds of court administrative staff believed that higher staff salaries would reduce the time needed for completing the tasks. Other factors that survey respondents felt would speed up the completion of administrative tasks included

expanding the number of service counters and/or staff (57 percent), simplifying the procedure (46 percent), and installing better technical equipment such as computers (43 percent).

101. *Administrative staff reported working on 99 cases per day, on average.* The biggest workload was recorded among staff working at the registry desk, with an average of 121 cases per day (Figure 6.4). Half of surveyed administrative staff viewed their workload as average compared to previous years, while others found it to be heavier. Only 3 percent of staff evaluated their workload to be smaller.

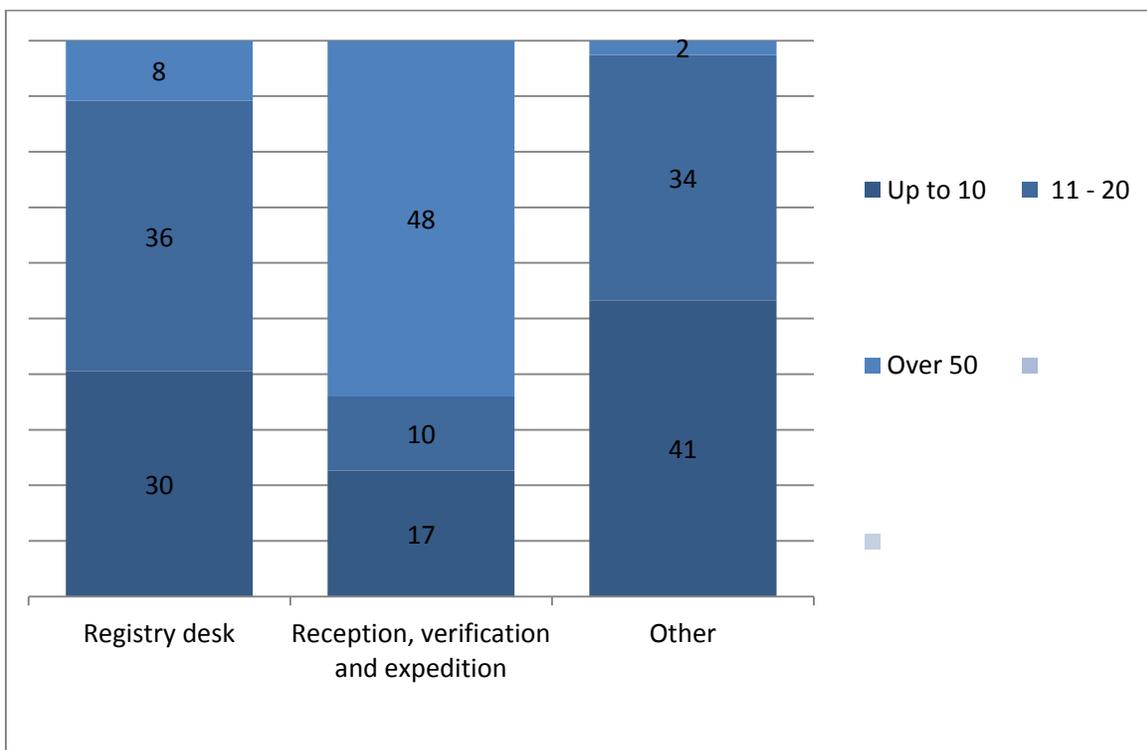
**Figure 5.4: Average Number of Cases Handled Daily in 2009**



Note: N=445 (78%).

102. *Administrative staff reported working with an average of 31 clients per day.* Staff working in the reception, verification, and expedition department reported more client contact (68 per day, on average). Overall, about 60 percent of administrative staff who worked with clients handled fewer than 21 clients a day, while 25 percent were in contact with 21 to 50, and 13 percent with over 50 (Figure 6.5). Respondents were divided regarding historical comparisons of client contact; half stated that 2009 was an average year, while the other half believed that they had greater daily contact with clients than in previous years.

Figure 5.5: Average Number of Daily Client Contacts



Note: N= 430 (75%).

103. Overall efficiency ratings were in line with the above findings. One-third of court users from both survey populations (35 percent) expressed dissatisfaction with work efficiency, while only 8 percent were very satisfied. Business sector representatives expressed a slightly higher degree of satisfaction at 17 percent. Administrative staff had more positive opinions of their work. Nine out of ten administrative staff reported being satisfied with their department's efficiency, and 84 percent believed that citizens were satisfied with the efficiency of administrative services. Those who thought there were differences between staff and client evaluations of the efficiency of court administrative services believed that this was principally because citizens were not well informed about legal regulations.

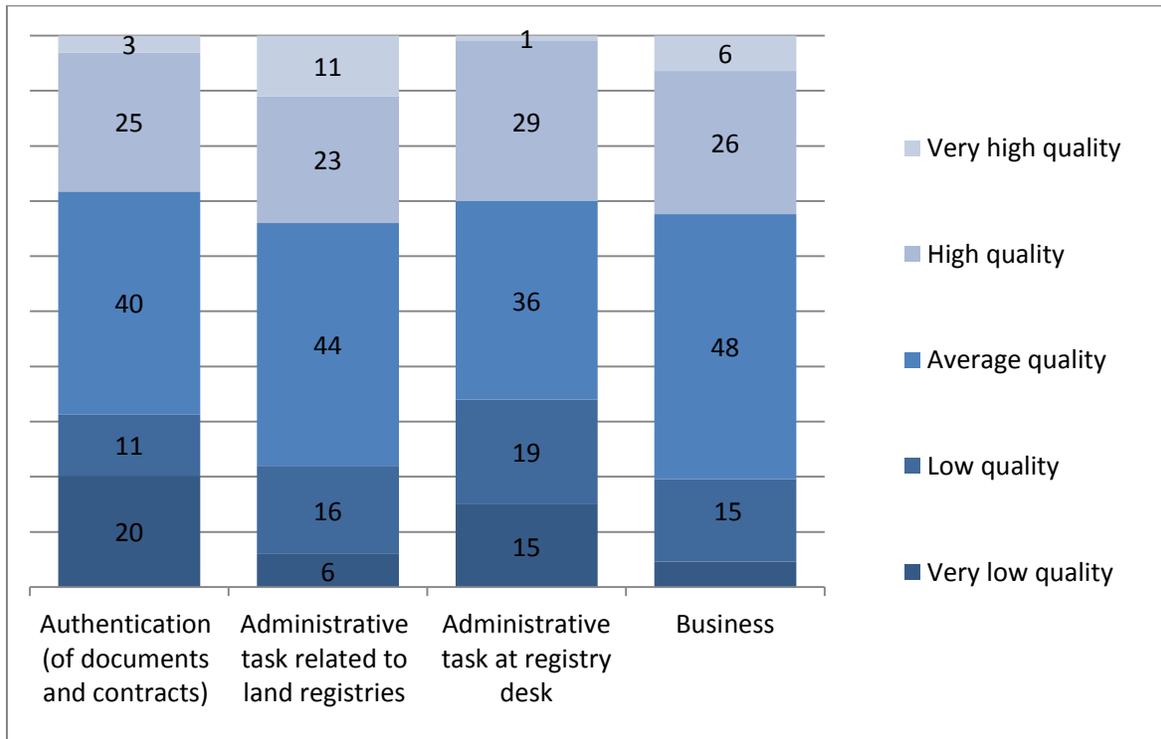
### Reform Implications

104. The key issues regarding the efficiency of administrative services related to the time spent waiting for service, the need to go to several windows to complete a task, and having to go to the courthouse several times to complete the transaction. These issues tentatively point to the potential usefulness of including the following initiatives in the reform agenda going forward: (i) exploring the possibility of establishing "one-stop shops" for these services; (ii) further defining the reasons for the need to make more than one courthouse visit to complete a transaction; and (iii) reviewing options for reducing wait times, including the potential for providing some of the services electronically.

### 5.3 Quality of Services

105. Court users found administrative work to be of average quality (Figure 6.6). The highest positive marks were given to land registration services by representatives of the general public and business sector, while the most negative evaluations were given to the court’s registry desk and verification services.

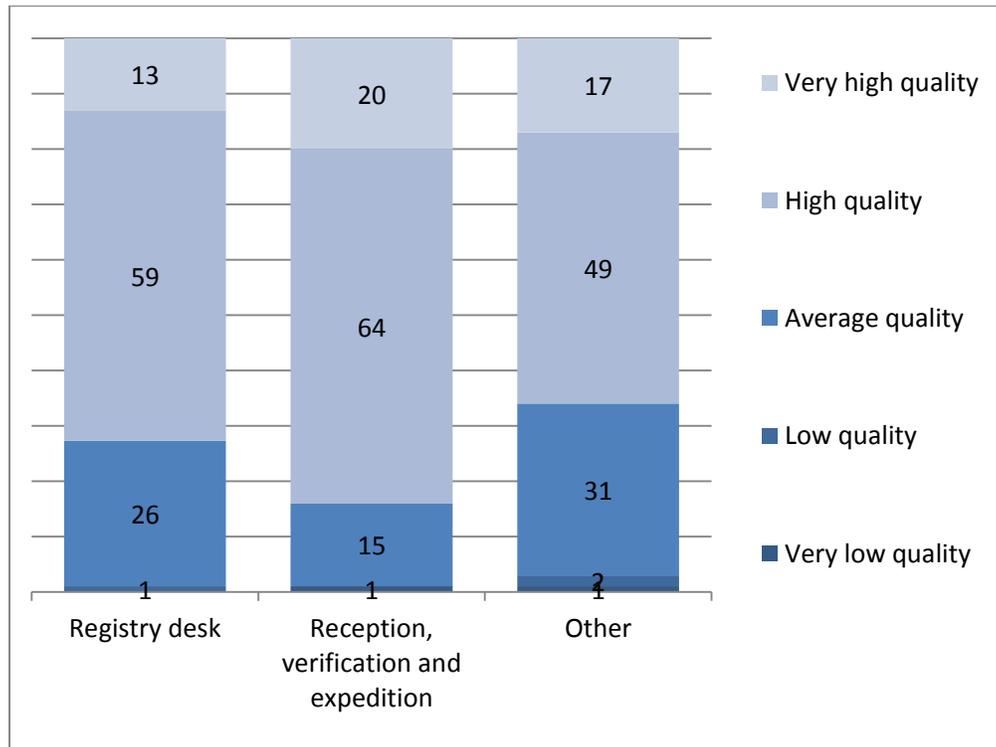
Figure 5.6: General Impressions of Administrative Work Quality in Respondent’s Specific Case



Note: N=236 (100%) for the general public, and N=582 (99%) for the business sector.

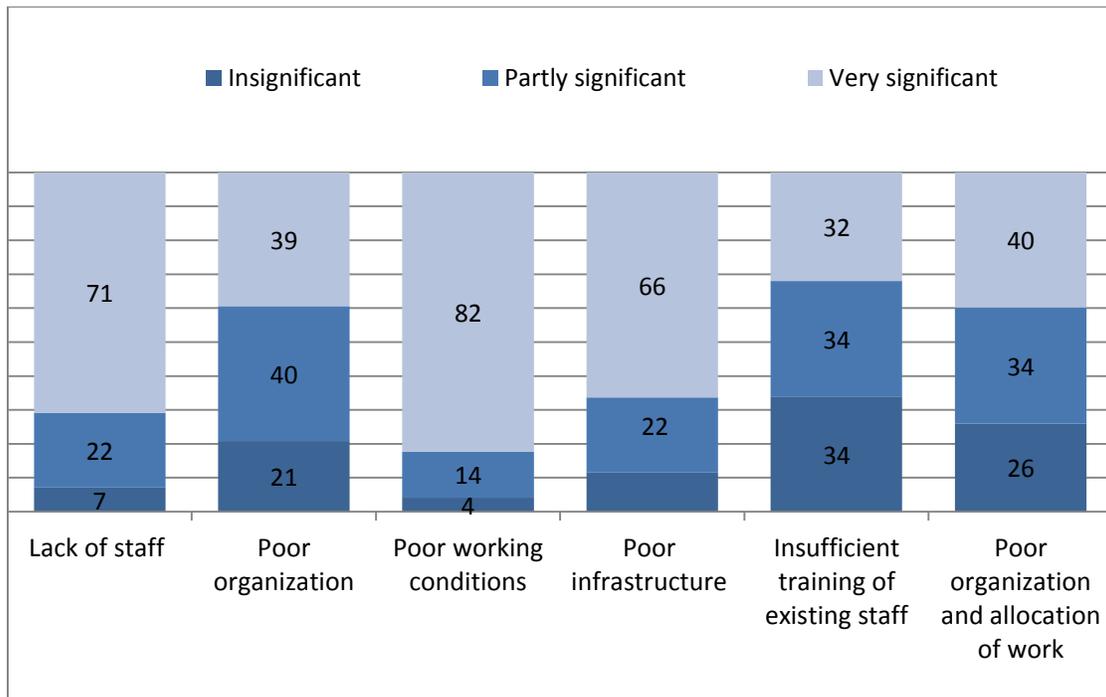
106. Court administrative staff evaluated the quality of work more positively than court users did. Most staff (72 percent) gave positive marks, while almost none of them (2 percent) found work quality to be low (Figure 6.7). These evaluations did not differ across administrative departments. Employees were generally aware that citizens did not share their opinion; almost half of administrative staff (49 percent) thought that citizens would rate work quality as average, which corresponds with data obtained from court users. Even so, 43 percent of staff believed that users would consider their work to be of high quality, while only 29 percent of users gave such high marks. Staff considered the main reasons for the discrepancies in staff and court user evaluations to be the court users’ lack of information about legal regulations and their personal, biased attitude. Also mentioned were some department characteristics, such as the degree of organization, working conditions, and length of procedures. When asked about the most important reasons why the quality of work in their department was not higher (Figure 6.8), court administrative staff mentioned poor working conditions to be “very significant” (82 percent), followed by lack of staff (71 percent), and poor infrastructure (66 percent). Poor working conditions were most often singled out (46 percent).

**Figure 5.7: Court Administrative Staff Evaluations of the Quality of services Rendered to Clients by the Sector in Which They Worked in 2009**



Note: N=565 (99%).

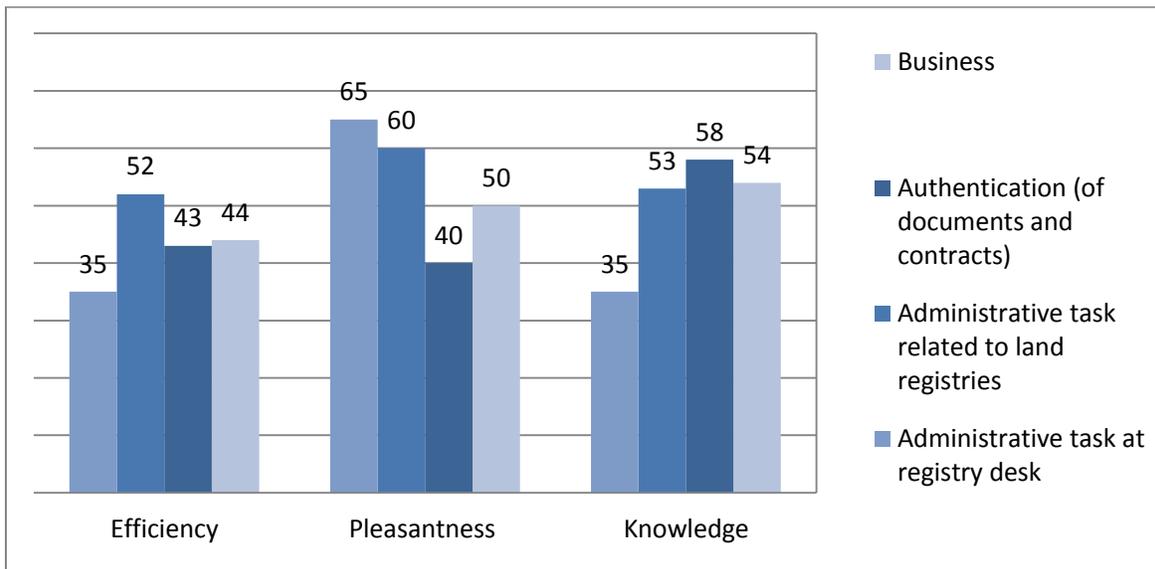
**Figure 5.8: Reasons Why the Quality of Work Was Not Higher, Court Administrative Staff**



Note: N=464 (81%).

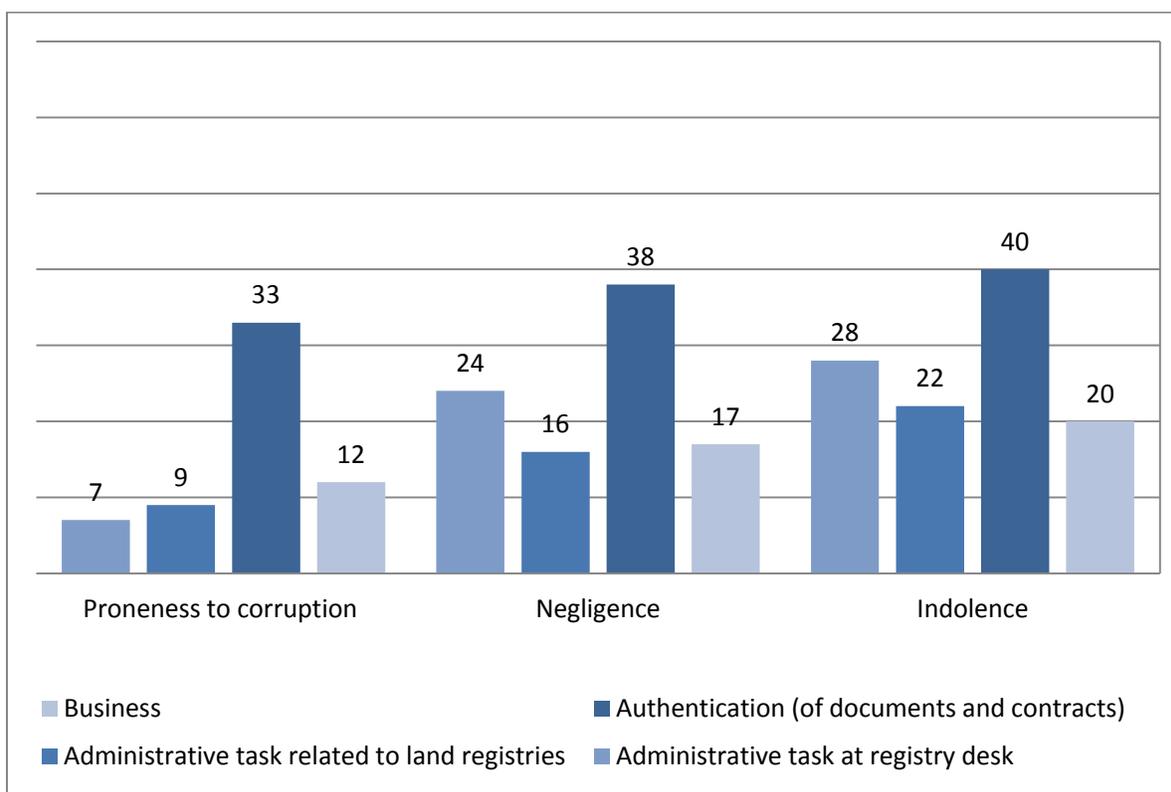
107. Assessments of staff knowledge, pleasantness, efficiency, and negligence were generally favorable (Figures 6.9–6.10). Verification services again received the highest number of negative marks; while the knowledge of the staff in charge of these services was usually rated highly, they were assessed as unkind, negligent in their work, and prone to corruption. One-third of survey respondents who had used the services of this department believed the staff member handling their case was prone to taking a bribe. Employees at the court’s registry desk were assessed as polite, but mainly inefficient and less skillful. Employees in charge of land registration and business sector services were usually assessed as polite and not prone to negligence, sloppiness, or corruption; one-third of respondents found these staff members to be efficient and knowledgeable, as well.

**Figure 5.9: Ratings of Court Administrative Staff on Listed Features: high and very high level of feature**



Note: N=231 (98%) for the general public, and N=571 (98%) for the business sector.

**Figure 5.6: Ratings of Court Administrative Staff on Listed Features: high and very high level of feature**



Note: N=211 (90%) for the general public, and N=531 (91%) for the business sector.

108. While users were asked to evaluate the quality of provided services, administrative staff were asked to evaluate the quality of various aspects of work in their institution. A large majority of administrative staff (75 percent or more) evaluated cooperation with superiors, court judges, non-administrative sectors, and other administrative sectors positively. The same was the case for the organization of work and work climate in general. Negatively evaluated aspects were salary (which 95 percent of employees found unsatisfactory), and premises and equipment (63 percent). Court administrative staff usually did not attend any organized training for the assignments they performed (58 percent) or attended only one training session (21 percent). This could be of concern, as nearly half of surveyed staff felt that they needed additional training in order to perform their job well. One-third of administrative staff who communicate directly with clients reporting facing difficulties during that process. According to them, misunderstandings arose mainly because clients did not understand the information communicated by employees (52 percent) or because clients lacked information about their case (35 percent).

### ***Reform Implications***

109. Survey findings suggest that improving service quality – compared to other performance dimensions - is not as pressing a concern to the stakeholders included in the survey. With the possible exception of services as the registry desk, on which about 35 percent of service users reported below-average service quality, few problems were reported.

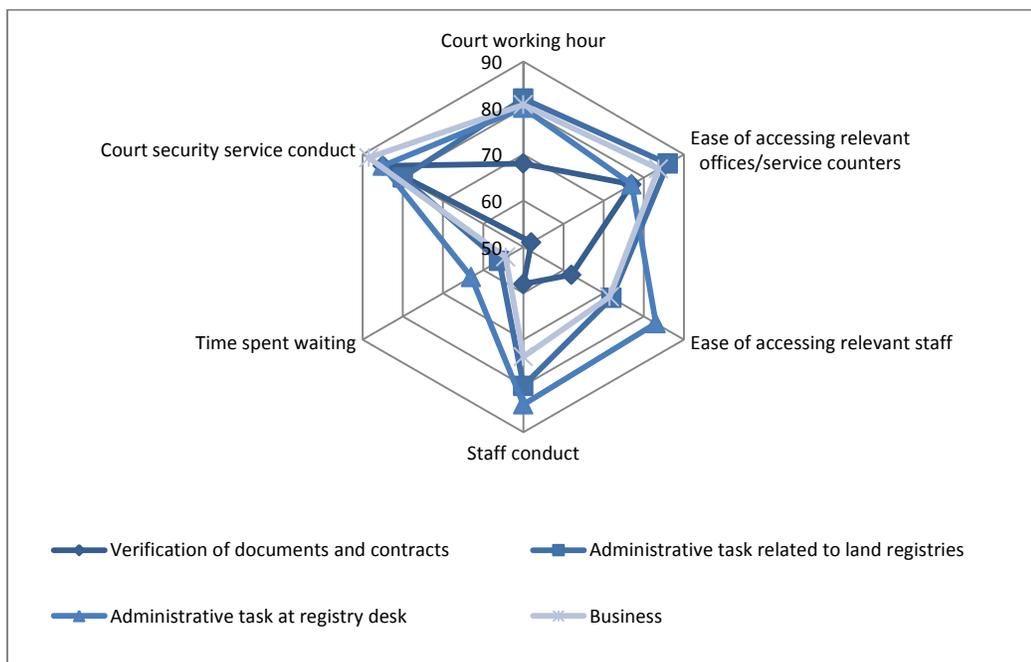
## 5.4 Accessibility

110. All surveyed groups found the accessibility of court administrative services to be satisfactory (Figure 6.11). Three-quarters of users (75 percent) and a large majority of staff (95 percent) believed that the court’s administrative services were accessible to all. Service users did not report any problems finding their way in courthouses, and most employees considered court buildings to be easy to access. However, 23 percent of court users who needed to verify documents reporting having trouble finding their way. Most court staff found administrative services to be accessible in terms of cost (82 percent), geography (93 percent), and access to information (94 percent). Some difficulties were noted regarding access to information needed for the verification of documents (24 percent had trouble obtaining information).

111. A large number of court users drew on an official source to gain information, while only one-third of court users relied on unofficial sources and the media. The most often used official sources were information counters and court staff, and all information resources used were considered satisfactory. Information counters were also mentioned by court administrative staff as the most efficient way to inform court users, together with the Internet and court bulletin boards.

112. Most aspects of visiting a courthouse were marked as satisfactory from an access point of view. Members of the general public were most satisfied with staff working at the registry desk and the land registry and most dissatisfied with the behavior of staff working on verification services. Many representatives of the general public and business sector were content with the accessibility of offices and service counters, though for certain services, court users were less satisfied with the ability to access a relevant person on the premises. The lowest level of satisfaction reported related to the time spent waiting.

**Figure 5.11: Court Users’ Degree of Satisfaction with Various Aspects of Courthouse Visits**



Note: N=230 (97%) for the general public, and N=572 (98%) for the business sector.

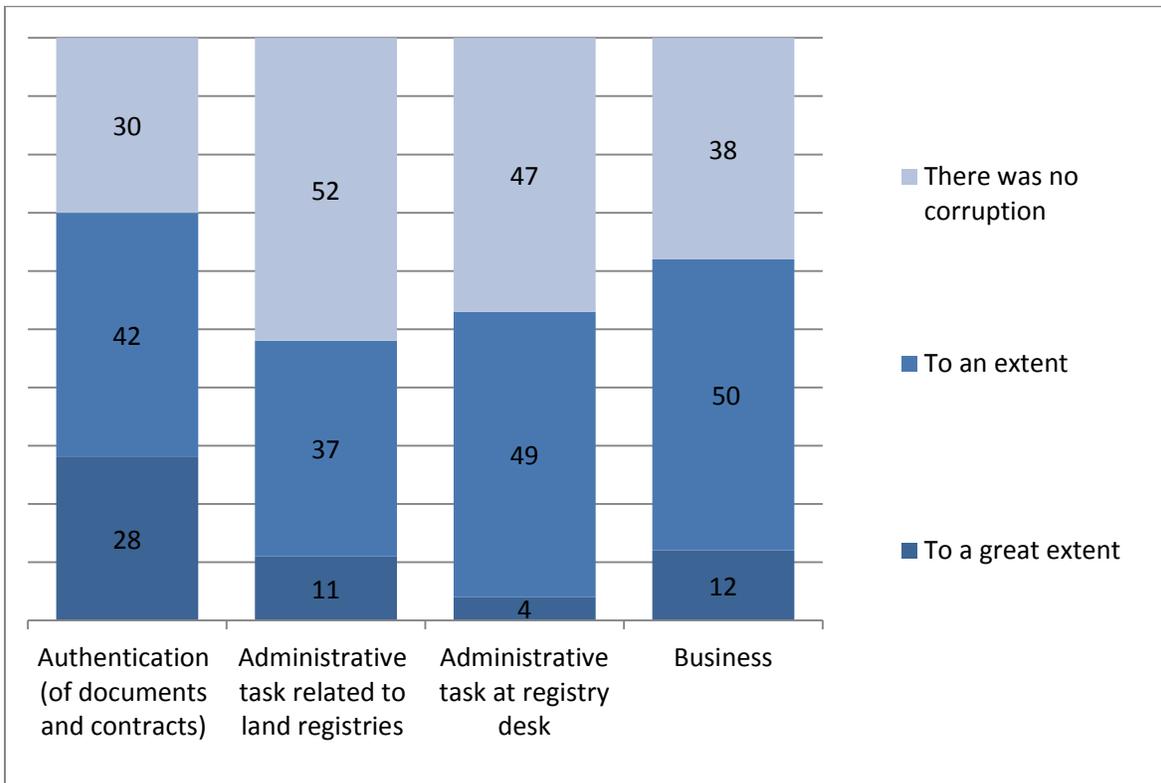
**Reform Implications**

113. *Survey findings indicate that improved access should not be the main focus of reforms. Focus could instead be on reducing waiting times (paragraph 121).*

**5.5 Integrity**

114. *Views on the integrity of court administrative services are impaired by the perceived presence of corruption. The prevailing opinion among users of administrative services was that corruption was present in this sector; 62 percent of business sector representatives, 53 percent of the general public dealing with the court’s registry desk, 48 percent of the general public dealing with land registry services, and up to 70 percent of those who needed documents verified by the court believed that corruption was present in administrative services (Figure 6.12).*

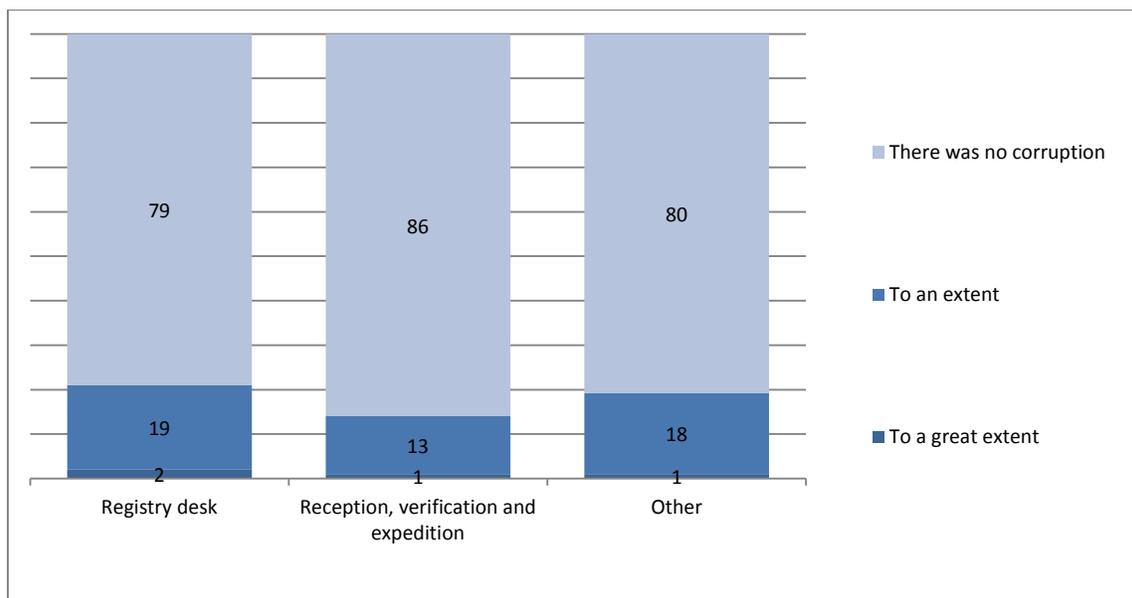
**Figure 5.12: Court Users’ Perceptions of Corruption in Court Administrative Services**



*Note:* N=236 (100%) for the general public, and N=429 (74%) for the business sector.

115. *By contrast, a large majority of administrative staff did not consider corruption to be present in administrative services. However, around one-fifth of court administrative staff (21 percent of registry desk staff; 14 percent of staff in the reception, verification, and expedition department; and 19 percent of other staff) believed that corruption was present in their department (Figure 6.13).*

**Figure 5.13: Extent to Which Court Administrative Staff Perceived Corruption to Be Present in Court Administrative up to the End of 2009**



Note: N=524 (92%).

116. A small number of those in the general public and business sector reported having been advised to use informal means such as an additional payments, gifts, and pulling strings to speed up the completion of an administrative task. Among the members of the general public who dealt with the registry desk, 8 percent reported having been advised to use informal means to speed up the process; only 1 percent reported having used such informal means. Among those dealing with land registry services, 24 percent received the same suggestion and 23 percent reported having resorted to informal means. The corresponding figures for those seeking document verification were 22 percent and 19 percent, respectively, and for business sector representatives 13 percent and 14 percent, respectively.<sup>33</sup>

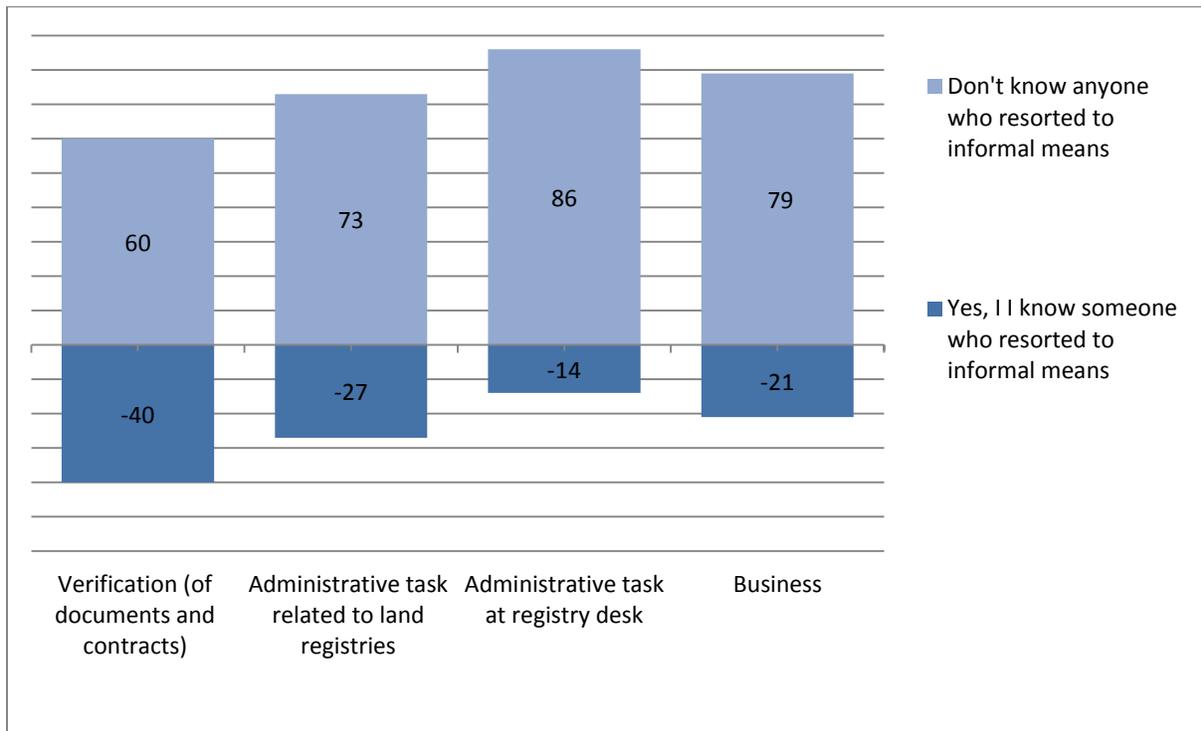
117. One-fifth of court administrative staff reported that they had at some point found themselves in a situation in which a client tried to influence their work using informal means. About 6 percent of surveyed administrative staff reported having accepted some form of compensation for their work. In most cases, they claimed that they did a favor for “someone they knew,” while pecuniary compensation was rarely mentioned.

118. A large number of court users stated that they knew someone who used informal means to speed up their court services (Figure 6.14). The most common informal methods used included pulling strings, finding personal acquaintances, using political influence, and offering gifts. Of

<sup>33</sup> This situation, in which a the percentage of administrative service users who reported using informal means was higher than the percentage of service users who were approached to do so, is given how survey questions were formulated. The questions were phrased as follows: “During the proceedings, did anyone (attorney, court employee) suggest that you would complete your administrative task in court faster if you resorted to informal means (made an additional payment, offered a gift, pulled strings...)?” and “Did you ever find yourself in circumstances in which you resorted to informal means (made an additional payment, offered a gift, pulled strings...) to complete your administrative task in court faster?” The second question thus refers only to the use of informal means, regardless of whether this action was taken in response to a specific suggestion.

the members of the general public who came to the courthouse to authenticate documents, 40 percent reported knowing someone who used informal means to complete this process, as did 27 percent of those who used land registry services and 14 percent of those who used the registry desk. Among business sector representatives, 21 percent had heard of other companies using such means to get things done and 18 percent reported having been asked for favors.

**Figure 5.14: Court Users' Knowledge of the Use of Informal Means to Speed Up the Completion of an Administrative Task in Court among Acquaintances**



Note: N=236 (100%) for the general public, and N=575 (99%) for the business sector.

119. *Less than one-fifth (15 percent) of court administrative staff claimed to know someone whose client tried to resort to informal means to influence his/her work. Less than half of them (45 percent) knew someone from work who agreed to receive compensation for completed tasks. The informal method most commonly observed by court administrative staff was pulling strings.*

120. *The presence of internal control mechanisms within administrative service departments in 2009 was noticed by 60 percent of administrative staff. Internal control was considered by 40 percent of staff to include evaluation and control of work and by 35 percent to include control and supervision of managers. Nine out of ten employees in administrative departments were aware that their work was being evaluated, and 78 percent of them reported that their work was being evaluated by their sector manager. Over one-third of administrative staff (37 percent) had heard of individuals who had been subject to disciplinary measures as a result of gaps in their work. There was a statistically significant difference between the share of men who had heard of individuals being disciplined (54 percent) as compared to women (32 percent). There were also regional differences, as half of court administrative staff in Central Serbia had heard of disciplinary cases as compared to only one-fifth of staff in Vojvodina. About 80 percent of court administrative staff thought that citizens were able to report gaps in their work.*

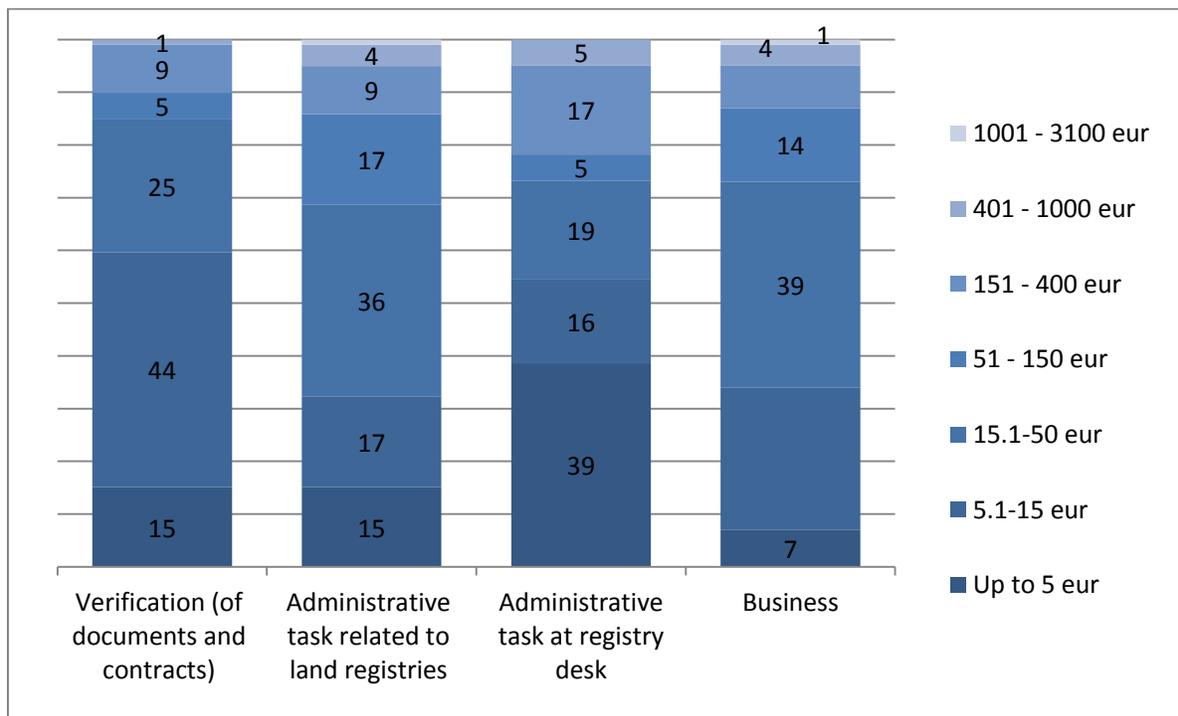
## Reform Implications

121. Given the survey responses, it is likely that there is some petty corruption and informality in the delivery of administrative services in Serbia's courts. It is important to note that survey instruments cannot quantify the extent of corruption, as some respondents are reluctant to report involvement in illegal activities and perceptions can differ from actual actions. Despite these limitations, however, the findings in this section indicate that some degree of corruption is more likely than not to be present in court administrative services. Further analysis would be needed to determine the precise nature of the problem and its possible solutions.

### 5.6. Costs

122. The cost of most administrative services in Serbia's courts fell under €50 (Figure 6.15). Nevertheless, the cost of some registered cases ranges between €400 and €1,000, with a few cases costing as much as €3,000. The higher costs tend to fall into the categories of land registry cases and business sector services.

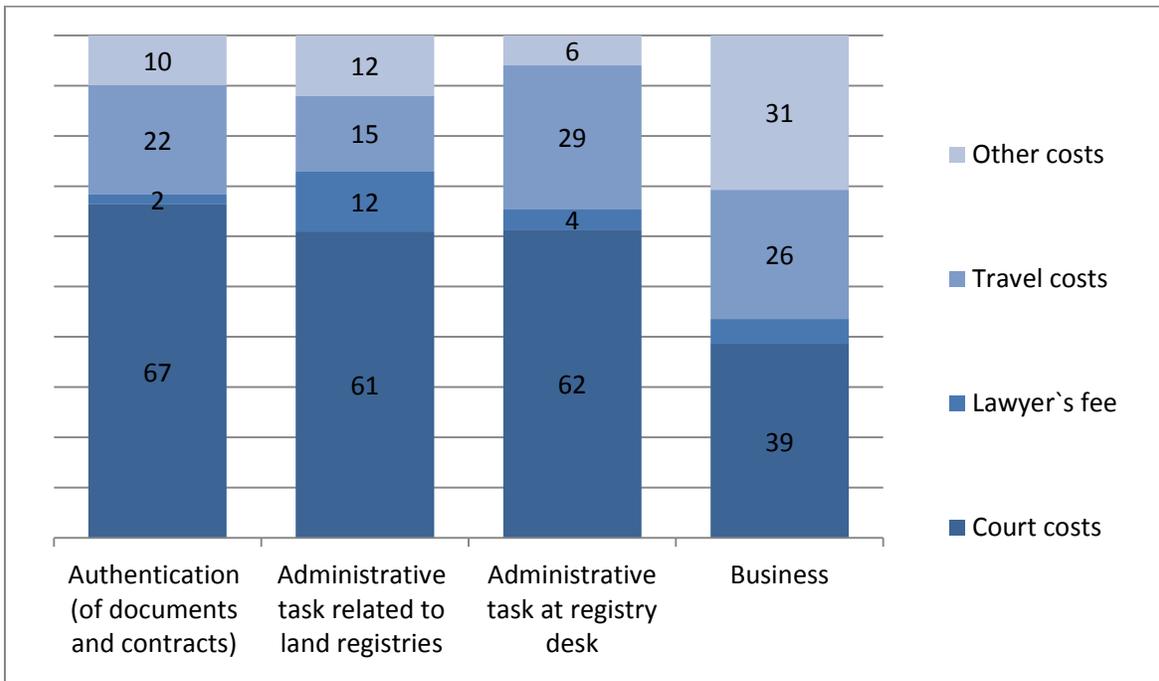
Figure 5.15: Costs of Administrative Services



Note: N=209 (89%) for the general public, and N=513 (88%) for the business sector.

123. The structure of costs showed that the general public spent the most money on court-related expenses (over 60 percent), while the rest was spent on travel and other expenses (Figure 6.16). Money allocated for lawyers' services was significant only in land registration cases (12 percent). Spending on business sector administrative services comprised, on average, 39 percent for court-related expenses, 5 percent on lawyers' fees, 26 percent for travel, and up to 31 percent for other expenses.

**Figure 5.16: Components of Administrative Service Costs**

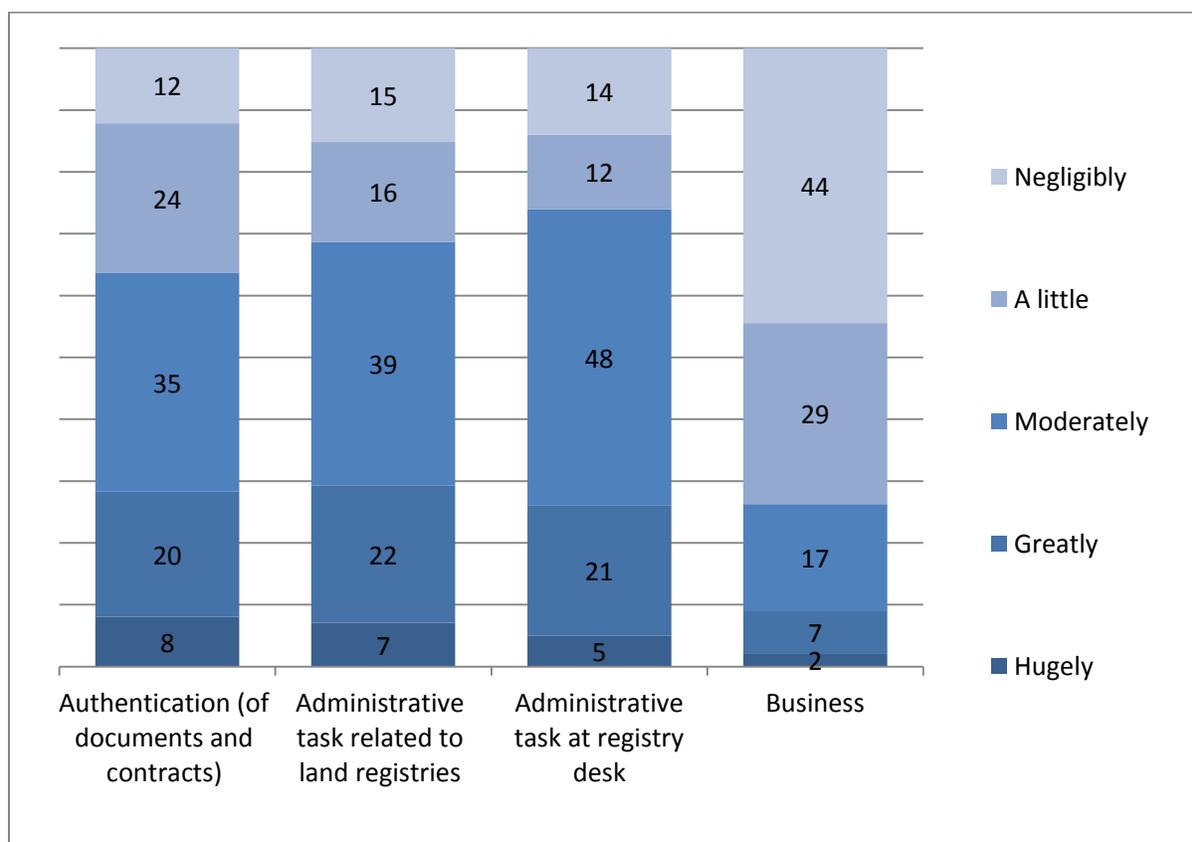


Note: N=236 (100%) for the general public, and N=583 (100%) for the business sector.

124. Court users were asked to evaluate the extent to which the cost of administrative services presented a burden to their budget (regardless of the amount of money they spent). Survey results showed that these costs presented at least a small budget burden for 63 percent of those among the general public who completed verification services, 68 percent who used land registry services, and 74 percent who used registry desk services (Figure 6.17). For a majority of those surveyed, costs presented a moderate burden to their household budget. The budget burden was less heavy for companies, though 26 percent of business sector respondents reported that administrative costs posed a serious financial burden.

125. Court administrative staff did not feel that it was possible to cut costs in their sector. Only about one-third of those surveyed responded to questions on this subject and half of those stated that there was no potential for reducing costs (49 percent). Among those who did feel that costs could be cut, suggested areas in which spending could be reduced included: delivery and courier services organization, and modernization of equipment. Employees also identified areas where they felt that investing additional funds could cut costs in the long run by improving efficiency. These areas included modernizing technical equipment (40 percent), improving working conditions and facilities (32 percent), and increasing salaries (19 percent).

**Figure 5.17: The Budget Burden Posed by Administrative Costs**



Note: N=236 (100%) for the general public, and N=573 (98%) for the business sector.

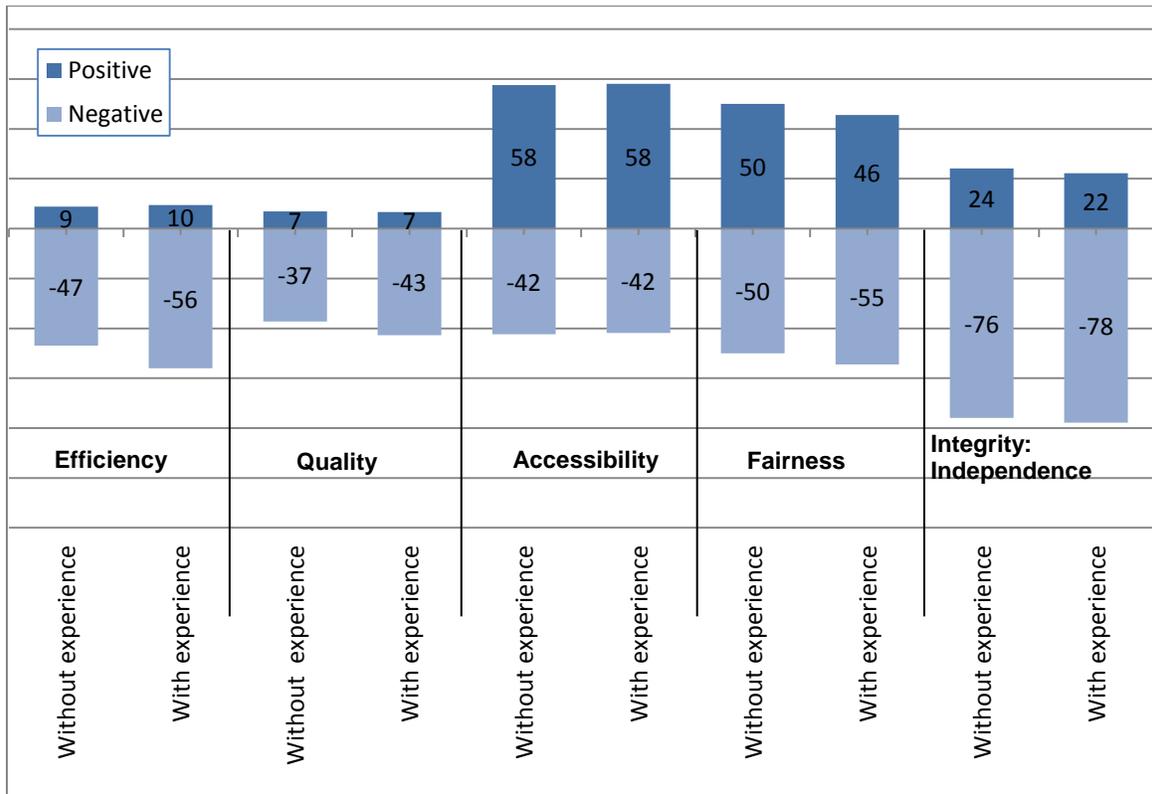
### ***Reform Implications***

126. *The formal cost of court services did not appear to be a major issue and should not be a main focus of reforms.*

### ***5.7 The Effect of Personal Experience with Administrative Services on Perceptions of Performance***

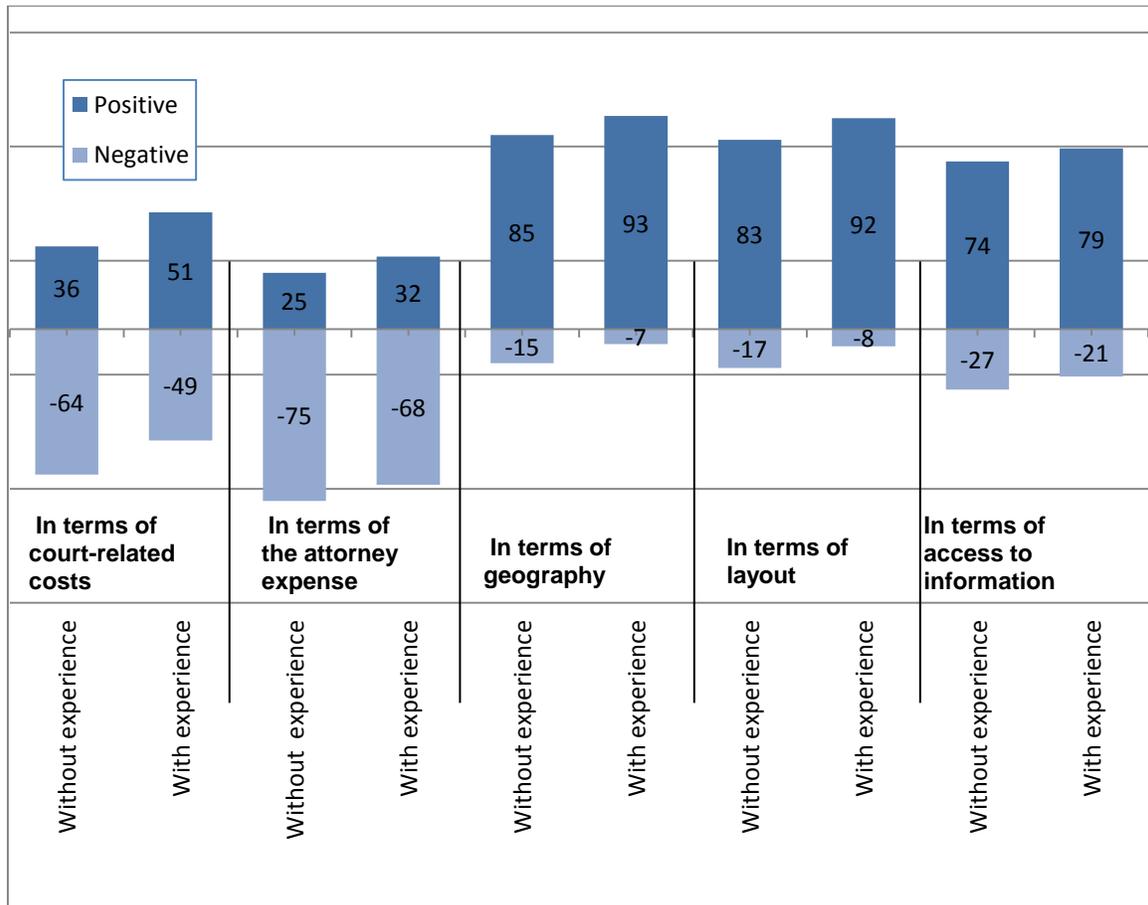
127. *Survey results showed that personal experience with administrative services influenced respondents' assessment of judicial system performance on some dimensions but not others. On efficiency, quality of services, and fairness, users of administrative services had more negative views than those who did not have personal experience with the judicial system (Figure 6.18). On the other hand, users of administrative services had more favorable assessments of physical accessibility, availability of information, and costs than those respondents with no experience (Figure 6.19).*

**Figure 5.18: Evaluation of the Five Values among Members of the General Public With and Without Experience with Administrative Services**



*Note:* N=230 (97%) for the general public with experience with administrative services, and N=1,070 (96%) for the general public without experience with administrative services.

**Figure 5.19: Evaluation of Service Accessibility among Members of the General Public With and Without Experience with Administrative Services**



Note: N=219 (93%) for the general public with experience with administrative services, and N=900 (81%) for the general public without experience with administrative services.

## CHAPTER 6 – GENDER DIFFERENCES

128. *This chapter examines the varying perceptions and experiences of women and men with regard to judicial performance in Serbia.* The analysis is based on the survey of the general public and includes both users and non-users of court services.

### 6.1 Overview

129. *The survey found some gender-related differences in respondent's perceptions of and experience with court cases.* The identified differences can primarily be attributed to the type of case and its subject, as well as to the role of the men and women in the cases. Substantially more men (82 percent) were parties to criminal cases than women (18 percent). The distribution was similar for misdemeanor cases (87 percent men, 13 percent women). In civil cases, there was equal participation among men and women (52 percent men, 48 percent women). Men were more often plaintiffs (51 percent, as compared to 36 percent women), while women were more often defendants (26 percent men, 48 percent women). In criminal cases, men were more often defendants (81 percent, as compared to 43 percent of women), while women were more often the victims (19 percent men, 57 percent women).

130. *No differences were recorded between men and women on any dimension regarding experience with administrative services.* Accordingly, this chapter does not discuss these results.

### 6.2 Efficiency

131. *A significant difference was found in the average length of criminal cases for men and women.* Criminal cases involving women lasted 16.2 months, on average, as compared to 10.7 months for cases involving men. These differences cannot be attributed to the influence of gender, however, as the content of cases often varied between men and women and this could affect the length of the process. This interpretation is supported by the fact that a similar difference was not observed for other types of court cases.

132. *The period between filing a case and the first court appearance was not found to be significantly different.* The total number of scheduled hearings and the average time between two scheduled hearings also did not vary significantly between men and women.

133. *A significant difference was noted in analyzing the average share of canceled, unproductive, and efficient hearings, but only with regard to criminal cases.* The average percentage of canceled hearings reported for criminal cases was 23 percent for men and 34 percent for women. Regarding the effectiveness of hearings, the calculated “efficiency index” (paragraphs 54–58) was 58 percent for men and 40 percent for women, but this difference was not statistically significant.<sup>34</sup>

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<sup>34</sup> As discussed in paragraph 54, the efficiency index refers to the share of effective hearings in criminal cases. F=.108, sig=.744, t=1.91, sig=0.59.

134. *While the number of appeals to a higher court was equal courting criminal and misdemeanor cases, in civil cases appeals were more common when men were parties to the case.* Appeals were lodged for 49 percent of civil cases involving men, as compared to 34 percent involving women. In civil cases involving women, it was more often the case that the higher court's decision overturned the trial court's decision and ordered a retrial. A retrial was ordered in 40 percent of cases involving women but only 24 percent of cases involving men.

135. *No gender-related differences were found in the efficiency of the enforcement of judgments.* Similarly, there were no differences in the legal deadline by which the judgment was required to be enforced.

### **6.3 Quality of Services**

136. *Women with court experience were slightly more positive in evaluating judicial system quality than men.* Women more often found the quality of work in their particular case to be high or very high, with 41 percent of women giving a positive evaluation as compared to 28 percent of men. Men more often evaluated quality as average (38 percent men, 25 percent women), although this difference was statistically significant only for participants in criminal cases.

137. *Men were less satisfied with the work of the judges in their court case and expressed dissatisfaction more often than women did.* Survey responses showed that 43 percent of men and 29 percent of women were dissatisfied or very dissatisfied. Women evaluated the efficiency of judges more positively than men (30 percent of women gave positive evaluations, as compared to 20 percent of men). Men were more likely to criticize the impartiality, fairness, and objectivity of the judge, with 34 percent of men giving negative assessments of these traits, as compared to 21 percent of women gave a negative assessment. More women than men believed strongly that the judge generated respect and trust (36 percent of women *fully agreed*, as compared to 23 percent of men).

### **6.4 Accessibility**

138. *Men and women found the judicial system equally accessible in terms of both finding their way in the court buildings and obtaining information.* No significant differences were recorded in of the information sources used by men and women, or their degree of satisfaction with those sources.

### **6.5 Fairness**

139. *Court judgments were not related to the gender of the parties to the case.* For each type of case, there was no statistically significant difference between women and men in the type of judgment rendered. Similar percentages of defendants were found guilty or acquitted and received judgments in their favor or against them. Reflecting this finding, both men and women evaluated the fairness of the process in the same way.

## 6.6 Integrity

140. Male and female participants in court proceedings were advised in equal measure to use an informal method to resolve their case. An equal percentage of each group also found themselves in a position to use an informal method.

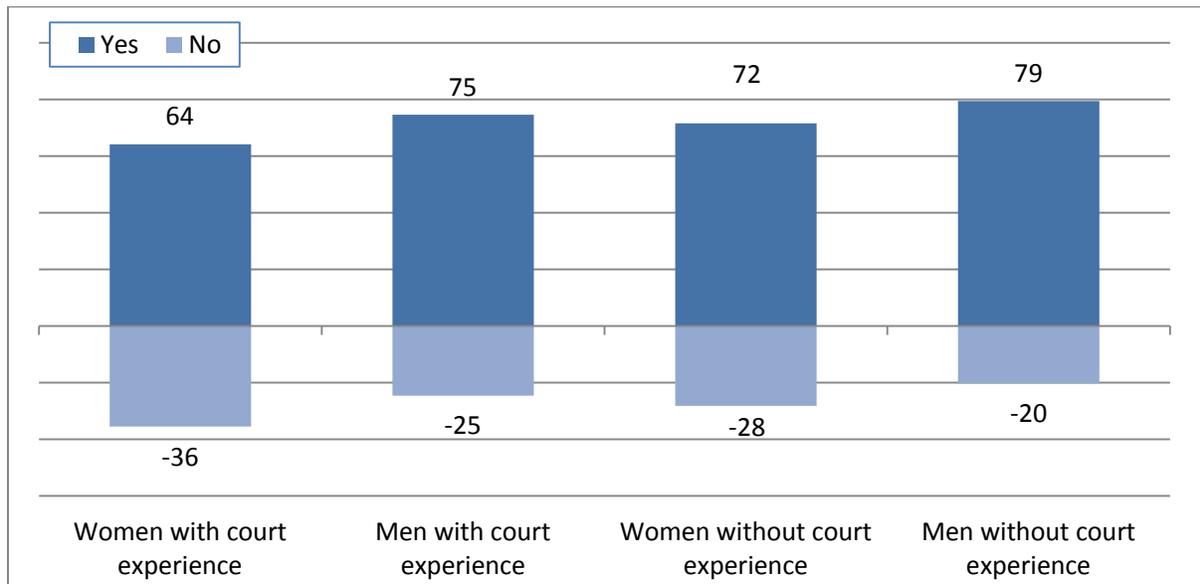
## 6.7 Cost

141. Court costs did not differ significantly between men and women. Similarly, there were no differences in the extent to which such costs were perceived to be a financial burden.

## 6.8 The Effects of Personal Experience

142. Significant differences were recorded between men and women's perceptions of the quality and fairness of judicial services, but perceptions of efficiency, accessibility, and integrity did not vary. Men, both with and without court experience, expressed more critical views than women on the quality of services. Among court users, men gave somewhat lower ratings; 22 percent of men gave the lowest quality score as compared to 12 percent of women. Regardless of court experience, a higher percentage of women thought that the judicial system did not treat all members of the general public equally (Figure 7.1).

**Figure 6.1: Respondents' Opinion on Whether the Judicial System Treated All Members of the General Public Equally in 2009, Regardless of their Gender**



Note: N=322 (99%) for women with court experience, N=524 (99%) for men with court experience, N=744 (99%) for women without court experience, and N=601 (99%) for men without court experience.

143. Men felt they were better informed about ongoing judicial system reforms than did women, while women reported slightly higher expectations about reform results. Women believed to a greater extent that ongoing reforms would lead to improvements on almost all values measured in this survey: efficiency, equity, accessibility, integrity, and costs.

## **6.9 Reform Implications**

144. *Although women hold more favorable views of the judiciary than men, the survey did not identify any differences in the results of adjudications.* Accordingly, the survey does not point to a need to give special attention to gender issues in future reform efforts. However, as discussed above, the current survey instrument may not be the best tool to assess all dimensions of access to justice, and further analysis may be warranted.

## CHAPTER 7 – VULNERABLE GROUPS

145. *In addition to exploring the perceptions and experiences of the general public, legal professionals, and court staff, the judiciary survey examined the perceptions and experiences of two vulnerable groups: members of the Roma community, and refugees and IDPs.*<sup>35</sup> Because the sample groups were small in both cases, analysis by type of court case was not possible. As a result, this chapter reviews the responses of each group as a whole.

### 7.1 Overview

146. *The survey of members of the Roma community yielded ambiguous results with regard to the differences in the perceptions and experiences of this vulnerable group as compared to the broader population.* Data on the experiences of members of the Roma community with court cases did not show that the Roma were treated differently by the courts than were other court users. Yet perceptions of judicial system performance were often more negative among members of the Roma community than among the general public. While the finding of negative experiences is not necessarily inconsistent with the statistically differences in a number of key questions, limitations in the data on personal experience prevented reliable analysis of any possible differences in treatment of Roma versus general population. The discrepancy between findings based on objective and subjective questions suggest the need for further investigation.

147. *In the survey of refugees and IDPs, some efficiency questions implied the cases in which these groups were involved were less efficient, on average, than those of the general public.* It was not possible to detect the reasons behind this finding, for example whether low efficiency was connected to the nature of their cases, with documentation problems, or with something else.

148. *Only 27 members of the Roma community and 28 refugees and IDPs had experience with administrative departments of the court.* Therefore, it was not possible to conduct a detailed analysis of the experiences of these two vulnerable groups with administrative departments.

### 7.2 Efficiency

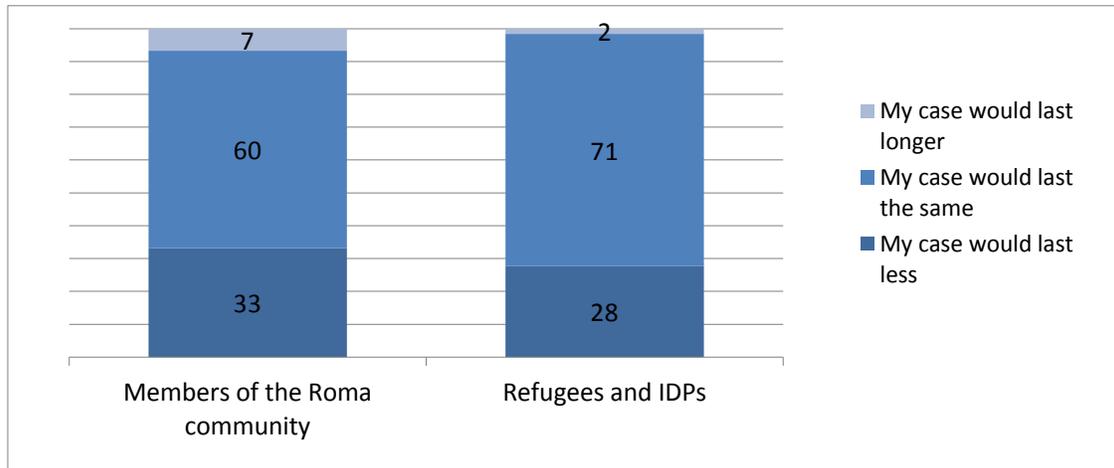
149. *One-third of those in the Roma community who had experience with the judicial system thought their case would have lasted less time if they had not been members of the Roma community* (Figure 8.1). A similar opinion was shared by 28 percent of refugees and IDPs. However, in looking at the data on the length of court cases as reported by the survey respondents, no statistically significant differences were found between the experiences of members of the Roma community and those of the general public in terms of the average duration of court cases, the number of scheduled hearings, the share of adjourned or inefficient

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<sup>35</sup> For this reason, a weighting procedure was used to provide the same structure by case type among Roma and IDP/refugee respondents as in the general population. This allowed for comparative analysis of those with court experience from the two vulnerable groups with users of court services from general population. As in the rest of the report, this section only presents and comments on differences that are statistically significant at the 0.05 level.

hearings, the average interval between two hearings, or the efficiency index for court cases, as discussed in Chapter 3 (paragraphs 54–58).<sup>36</sup>

**Figure 7.1: Respondents’ Opinions on Whether Their Case Would Have Taken a Different Amount of Time Had They Not Been Members of a Vulnerable Group**



Note: N=140 for Roma community, and N=121 for refugees/IDPs.

150. *On the other hand, differences were found between the experiences of refugees and IDPs and those of the general public on some aspects of efficiency.* The average interval between two hearings and the share of adjourned and inefficient hearings were somewhat higher in cases involving refugees and IDPs, resulting in a smaller efficiency index (as defined in foot note 16 on page 19 above). The efficiency index for hearings in cases involving refugees and IDPs was 43 percent, as compared 55 percent for cases involving the general public.

### 7.3 Quality of Services

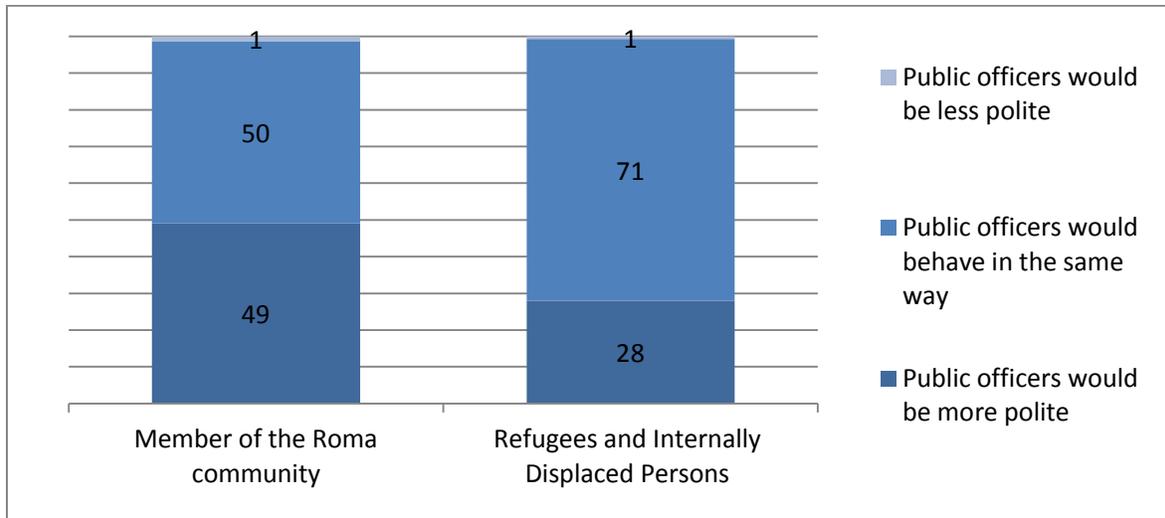
151. *Members of the Roma community, and refugees and IDPs provided similar ratings of the quality of judicial work in their case to those of the general public.* However, members of both of these vulnerable groups were often dissatisfied with the work of the judge, more specifically. More than half (54 percent) of both members of the Roma community and refugees and IDPs rated the work of the judge negatively, as compared to 38 percent of the general public. Half of those in the Roma community did not agree that the judge was unbiased, just, and fair, or that the judge evoked respect and confidence, while half of refugees and IDPs did not agree that the judge was efficient.

152. *Almost half of those in the Roma community who had experience with court cases thought that court staff would have been kinder to them if they had not been members of the Roma community (Figure 8.2).* A similar opinion was shared by one-quarter of refugees and IDPs. Almost one-quarter of responding members of the Roma community and one-fifth of refugee and IDP respondents stated that they had faced problems during their interaction with the justice system that they perceived to be caused by the fact that they were members of a vulnerable group. Disrespect, impoliteness, and prejudiced, unfair trials were the most frequently reported problems perceived by members of the Roma community to be the result of their ethnicity.

<sup>36</sup> In Chapter 4, the efficiency index for the general public is calculated by case type.

Refugees and IDPs more often reported difficulties in obtaining or checking documents and with burdensome court costs.

**Figure 7.2: Respondents' Opinions on How Public Officers Would Have Behaved Toward Them Had They Not Been Members of a Vulnerable Group**



Note: N=143 for Roma community, and N=121 for refugees/IDPs.

#### 7.4 Accessibility

153. *There were no significant differences between members of vulnerable groups and the general public in their assessments of judicial accessibility.* This was the case both for physical accessibility, in terms of finding one's way in the court building, and for the accessibility of information.

#### 7.5 Fairness

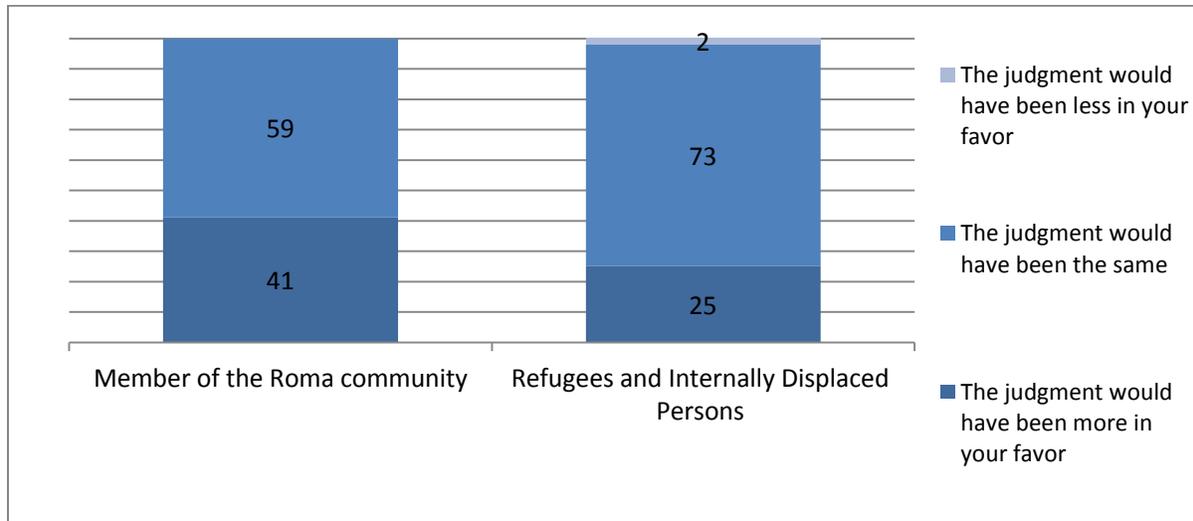
154. *Among those in the Roma community who had experience with court cases, 41 percent believed that their case would have come out more in their favor had they not been members of the Roma community.* One-quarter of refugees and IDPs shared this opinion with regard to their own vulnerable group (Figure 8.3). In cases where the respondents were defendants,<sup>37</sup> however, the share of those who were found guilty was similar across survey groups (80 percent of those in the general public, 85 percent of members of the Roma community, and 81 percent of refugees and IDPs).<sup>38</sup> The share of respondents receiving prison sentences, as opposed to other types of

<sup>37</sup> The samples of persons with court experience within the general public on one hand and among the Roma and refugees/IDPs on the other, are rather balanced according to the reason for their participation in court cases. Namely, 30 percent of respondents from the general public participated as the plaintiff, 49 percent as the accused, and 21 percent as a party to a case, whereas among the Roma these percentages were 30 percent, 55 percent, and 15 percent, and among refugees they were 40 percent, 38 percent, and 21 percent, respectively.) These differences were not statistically significant, but we should be aware that weighting was used to adjust these two groups to the structure of the general public sample by type of case.

<sup>38</sup> These differences were not statistically significant.

sentences, was 22 percent for the general public, 22 percent for members of the Roma community, and 6 percent for refugees and IDPs.<sup>39,40</sup>

**Figure 7.3: Respondents' Opinions on How Their Court Judgment Would Have Differed Had They Not Been Members of a Vulnerable Group**



Note: N=141 for Roma community, and N=121 for refugees/IDPs.

155. *As compared to members of the general public, a significantly higher percentage of those in the Roma community and among refugees and IDPs believed that their trial was not fair. Among those in the Roma community, 44 percent believed that their trial had not been fair. This opinion was shared by 38 percent of refugees and IDPs but only 23 percent of those among the general public.*

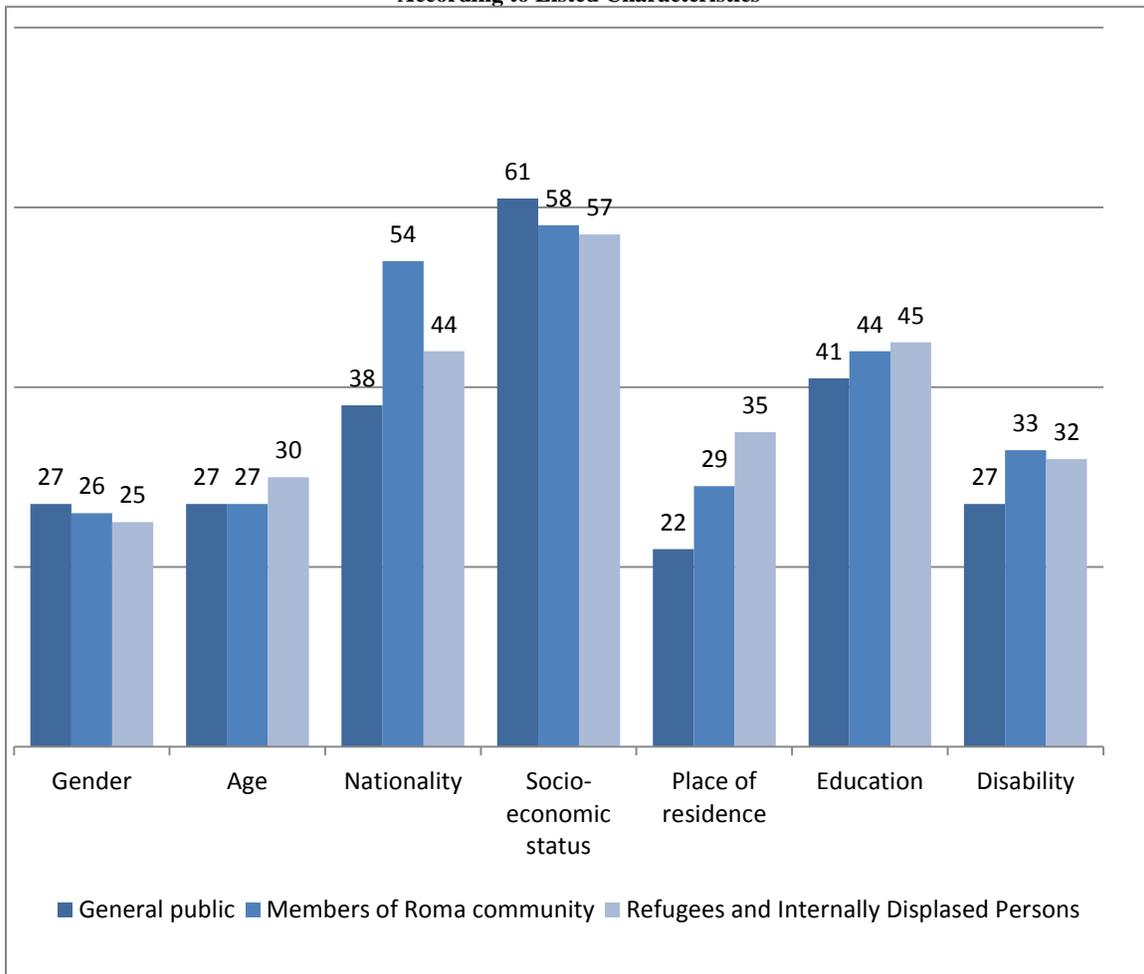
## 7.6 The Effects of Personal Experience

156. *In line with the differences found between members of the general public who did and did not have court experience, members of the Roma community perceived the functioning of the judiciary differently depending on whether or not they had experience with the judicial system (Figure 8.4). Members of the Roma community who did have court experience assessed the fairness of the judiciary significantly more negatively than did those without court experience. Members of the Roma community, and refugees and IDPs shared the opinion that courts do not treat all members of the general public equally, regardless of their socioeconomic status or place of residence. Additionally, members of the Roma community felt that the courts did not treat all members of the general public equally, regardless of their nationality. As in the general public survey, members of the Roma community who had experience with court cases perceived the quality of service provided by the judiciary more negatively than did those without experience. These differences were not found among refugees and IDPs.*

<sup>39</sup> These percentages were calculated only for those who answered the question: 99 percent of the general public, 87 percent of the Roma community, and 95 percent of refugees and IDPs.

<sup>40</sup> Cases where representatives of vulnerable groups participated as plaintiffs could not be analyzed separately because too few respondents answered this question: 22 Roma and 33 refugees/IDPs.

**Figure 7.4: Share of Respondents Who Felt the Judicial System Did Not Treat All Citizens Equally in 2009, According to Listed Characteristics**



Note: N=1,580 (on average) for the general public, N=318 (on average) for Roma, N=290 (on average) for refugees/IDPs.

## 7.7 Reform Implications

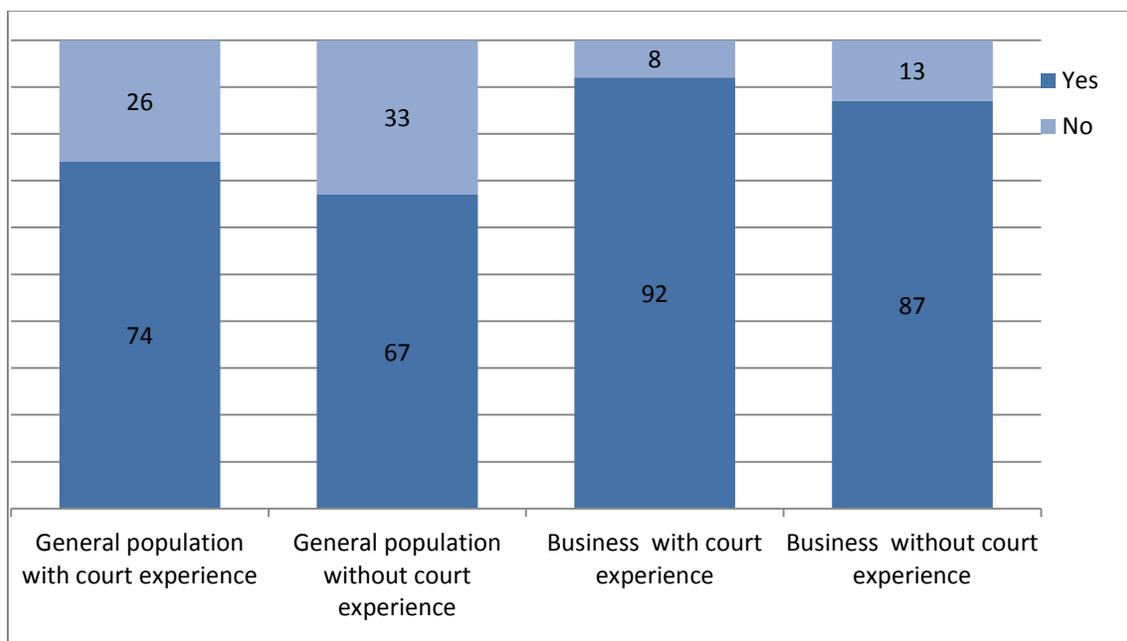
157. *The survey found that members of the Roma community, refugees, and IDPs are treated much like other users of the Serbian judiciary but feel that they are treated differently. As a result, there may be a case for strengthening the dissemination of information about the standards to be expected from the judiciary and actual results. Outreach in the form of an educational program among these groups could also empower these groups. This could help adjust expectations and inform the public about the services provided by courts to court users overall.*

## CHAPTER 8 – REFORM EXPECTATIONS

### 8.1 Review of Findings

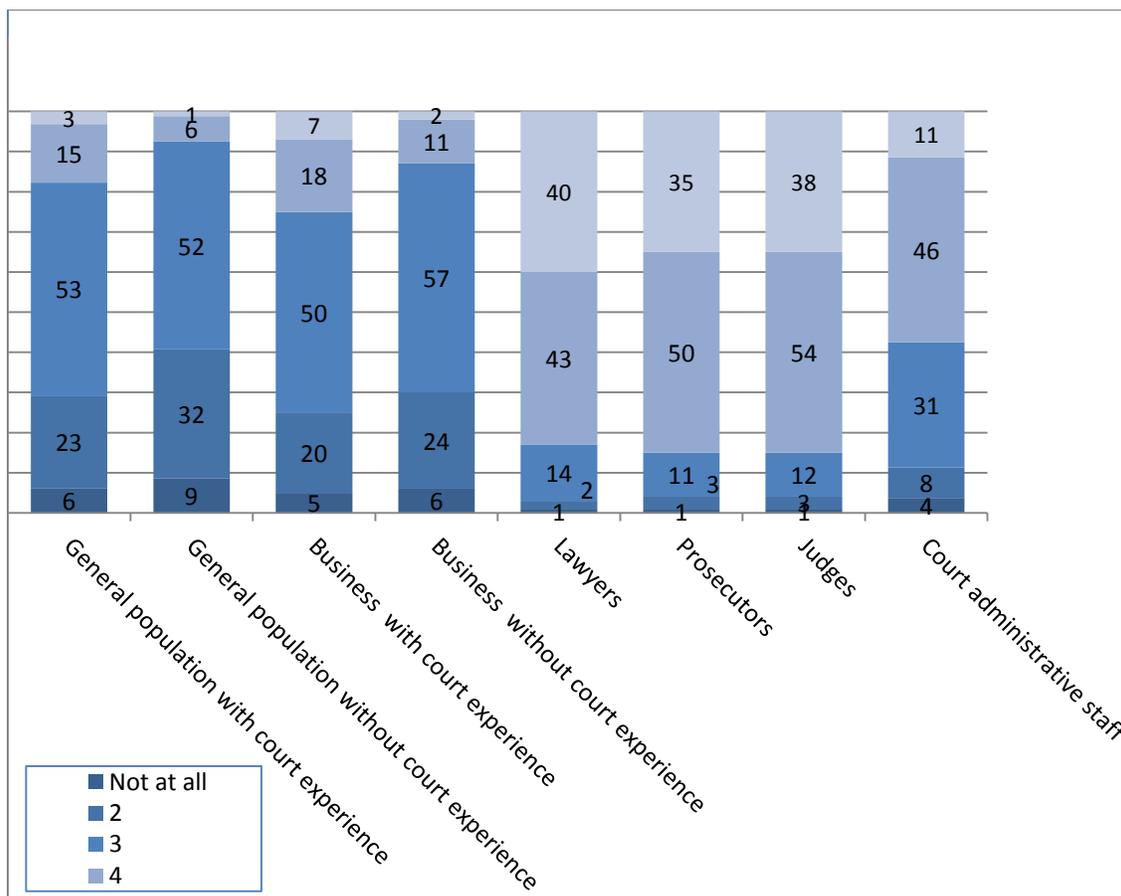
158. Most representatives of the general public and business sector were aware of ongoing judicial system reforms (Figure 9.1), but they felt they were poorly informed about the content of these reforms (Figure 9.2). Among members of the general public, only 18 percent of those with court experience and 7 percent of those without it believed they were informed about the reforms. Among business sector representatives, the percentages were slightly higher at 25 percent and 13 percent, respectively. As expected, high percentages of lawyers, prosecutors, judges, and court administrative staff considered themselves to be well informed about the judicial reform program.

**Figure 8.1: Share of Respondents Who Had and Had Not Heard about the Judicial System Reform Launched on January 1, 2010**



*Note:* N=850 (100%) for general public with court experience, N=1,117 (83%) for general public without court experience, N=450 (100%) for business sector with court experience, N=615 (100%) for business sector without court experience.

**Figure 8.2: Extent to Which Respondents Were Informed about the Judicial System Reform Launched on January 1, 2010**



Note: N=539 (74%) for general public with experience, N=680 (67%) for general public without experience, N=416 (87%) for business sector with experience, N=535 (92%) for business sector without experience, N=799 (70%) for lawyers, N=312 (70%) for prosecutors, N=1,067 (93%) for judges, and N=542 (95%) for court administrative staff.

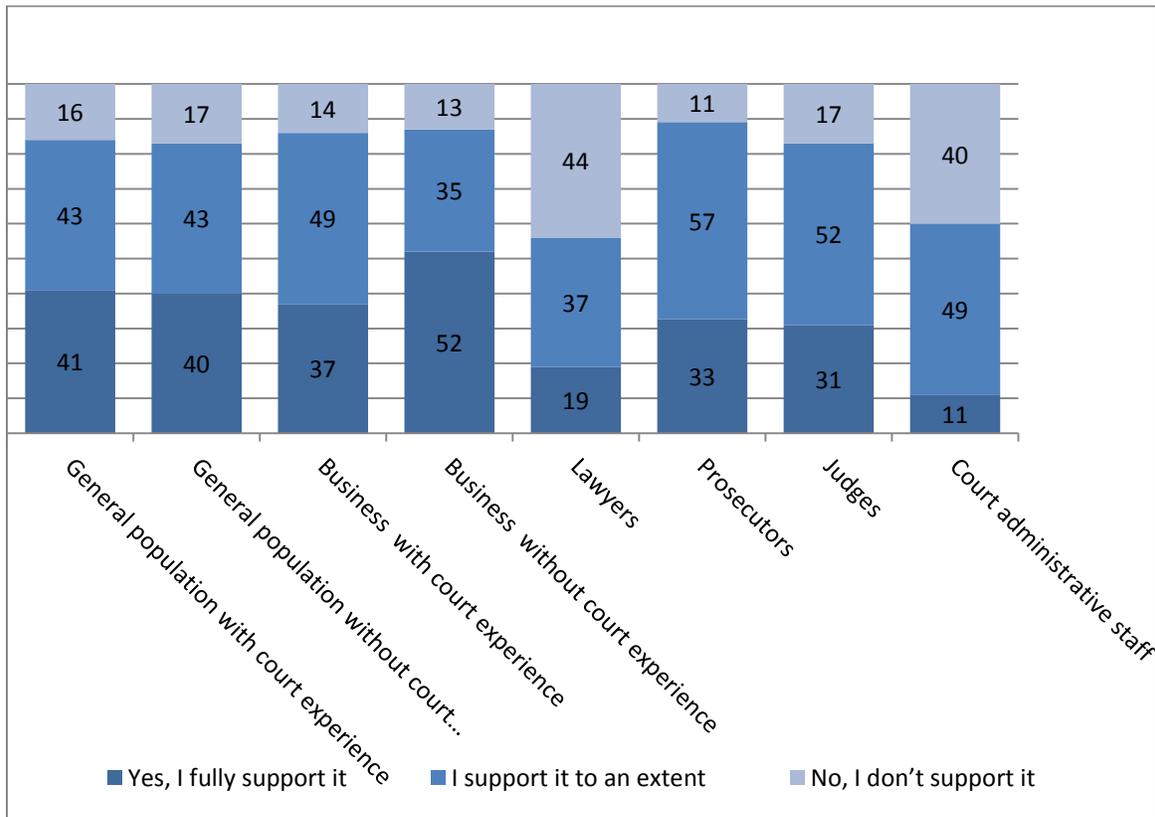
159. *The main source of information on judicial reforms was reported to be the media by 90 percent of the general public and 78 percent of business sector representatives. Only 8 percent of business sector representatives said lawyers were their main of source of information about the reforms. A large number of lawyers (60 percent), prosecutors (50 percent), and court administrative staff (70 percent) also cited the media as one of the most important sources of information, together with official sources.*

160. *The re-election of judges and prosecutors was the issue most closely associated with the reforms. Nearly half (49 percent) of the general public mentioned the re-election as one of the reform processes; other processes were not cited in significant numbers. The downsizing of staff and judges was mentioned by 16 percent of the general public and efficiency enhancements by 11 percent of the general public.*

161. *None of the survey groups showed strong opposition to the reforms. The strongest support came from the general public, and the lowest from lawyers and court administrative staff (Figure 9.3). Only one-third of prosecutors and judges, 19 percent of lawyers, and 11 percent of court administrative staff fully supported the reforms, as compared to about 40 percent of those*

in the general public. The support of business sector representatives depended on personal experience with the courts; those with court experience supported the reform more strongly than those without court experience (52 percent as compared to 37 percent). Among judges, those who worked in the civil law department in 2009 were least enthusiastic about the reforms, with 22 percent stating that they did not support the reforms.

Figure 8.3: Degree of Support for the Current Judicial Reform in General



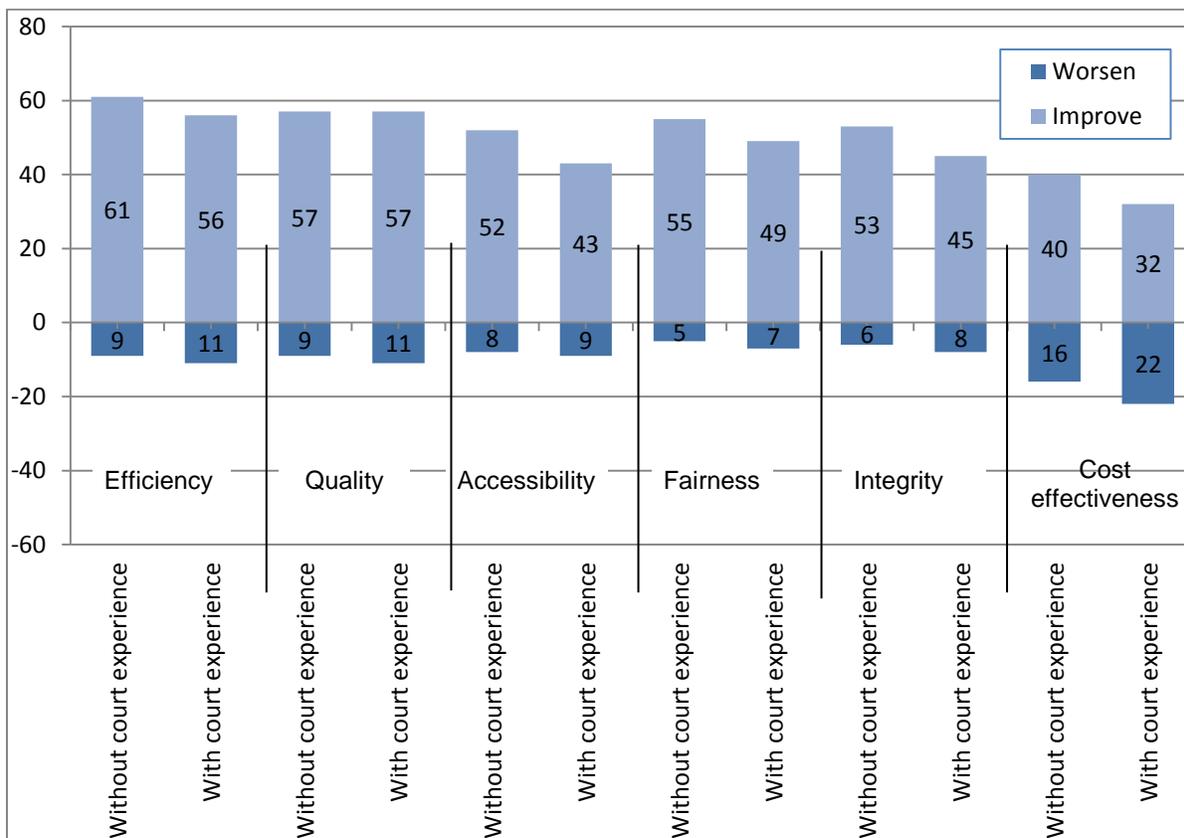
Note: N=541(85%) for general public with experience, N=683 (82%) for general public without experience, N=418 (84%) for business sector with experience, N=536 (76%) for business sector without experience, N=792 (99%) for lawyers, N=319 (92%) for prosecutors, N=1,056 (92%) for judges, and N=551 (96%) for court administrative staff.

162. Among the reasons for supporting reforms, the general public cited the potential for increased judicial efficiency and speed, fairer and less biased court cases, and reduced corruption in the judiciary. The main reasons for not supporting the reforms lay in questions about its implementation, expectations and fears of political interference in the reform process, and concerns about the lack of objectivity in the re-election of judges. Lawyers most often cited the biased selection of judges during the re-election process, the disorganized state of the courts as a result of the new court network, the insufficient number of judges envisaged by the reforms, and political interference in the reform process as the reasons for their lack of support for reforms.

163. Members of the general public had generally positive expectations for the impact of reforms on judicial system performance, as measured against the six values used in this survey (Figure 9.4). The highest expectations related to efficiency improvements and the lowest to more rational spending of the budget. Business sector representatives provided similar assessments of

reform expectations; 50 to 60 percent believed that judiciary performance would improve across all dimensions except integrity (46 percent) and rational spending of the budget (41 percent). Among representatives of the general public and business sector, those without court experience were more optimistic than those with court experience.

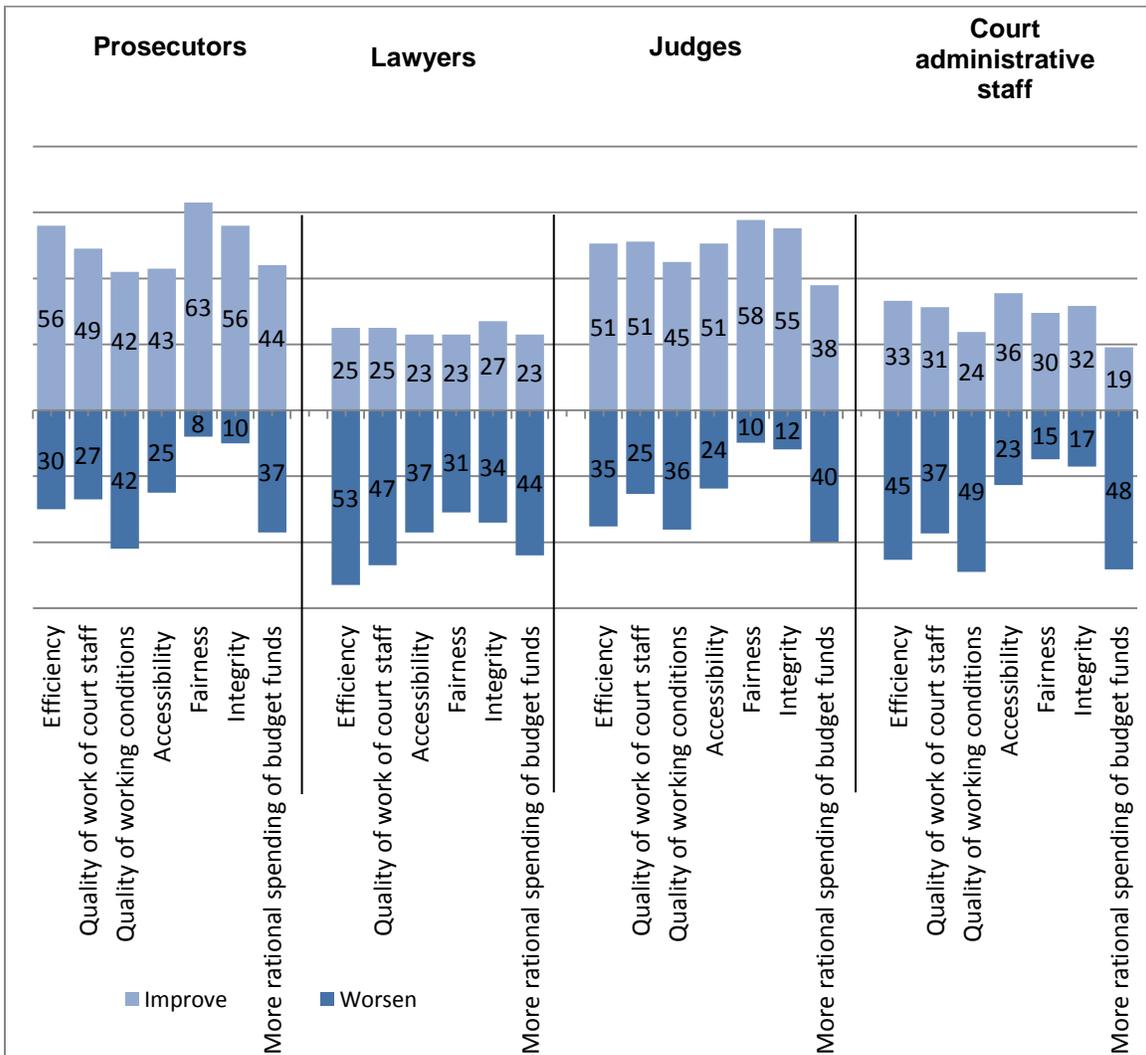
**Figure 8.4: Expectations among the General Public Regarding the Influence of Judicial Reform on the Six Values**



Note: N= 490 (90%) for general public with experience, and N=780 (90%) for general public without experience.

164. *Prosecutors and judges expected reforms to have the most impact on the fairness and integrity of the judicial system, and the least impact on working conditions, accessibility, and budget spending; lawyers were the most pessimistic about the reforms.* Although the majority of prosecutors and judges expressed positive expectations for efficiency, a substantial percentage believed that reforms would reduce efficiency (Figure 9.5). Many prosecutors and judges believed that reforms would worsen the judicial system in certain respects. Most lawyers expected no changes from the reform or believed that reforms would worsen the functioning of the judicial system.

Figure 8.5: Expectations of Legal Professionals Regarding the Influence of Judicial Reform on the Six Values



Note: N= 10 (90%) for prosecutors, N=800 (100%) for lawyers, N=1,010 (88%) for judges, and N=514 (90%) for court administrative staff.

165. *More than half of lawyers (53 percent) believed that the reform would negatively affect their work, 37 percent believed it would not have a great impact, and only 10 percent thought it would have a positive impact.* Those who believed the reform program would have a negative impact most often gave the following reasons: (i) it would slow down the procedures and decrease efficiency; (ii) it would negatively affect the ability to schedule hearings; (iii) a lower number of judges would lower efficiency due to work overload; and (iv) the courts were poorly organized and difficult to access.

166. *In general, court administrative staff felt that reform would bring negative changes. More than half of them believed that the volume of work would increase, and about 20 percent expected a reduction in the number of employees. The most negative impacts were expected on efficiency and quality of working conditions. More than one-third of court administrative staff did not believe that the reform would have a strong impact on the quality of administrative*

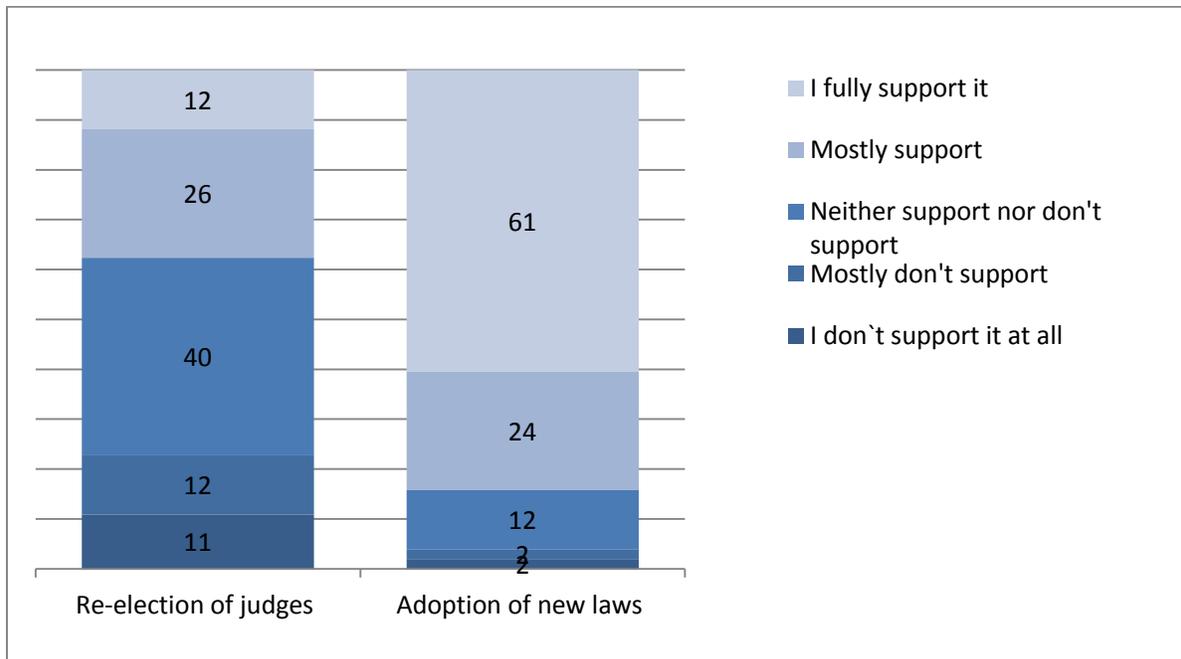
services, 46 percent of court administrative staff shared this opinion with regard to accessibility, and 58 percent on integrity.

167. *Legal professionals were skeptical about the potential for the new organization of courts to contribute to improved work efficiency and quality of judicial services.* More than 40 percent of prosecutors, judges, and lawyers felt that the new organization would not contribute to improvements. Although similar skepticism was expressed toward the introduction of mandatory attendance at the Judicial Academy, all three groups expressed more trust in the mandatory seminars for court staff that had been introduced by the reform framework. Three-quarters of prosecutors, judges, and lawyers considered the current number of judges to be very low, taking into account all the other changes brought about by the reform.

168. *Members of the general public were aware of the re-election of judges, but did not have a clear opinion about it.* Among those in the general public, 93 percent indicated that they were aware of the re-election process. Yet citizens' opinions about this process varied widely, with 22 percent against it, 37 percent supporting it, and up to 41 percent undecided (Figure 9.6).

169. *As compared to the re-election of judges, more support was expressed for the adoption of new laws.* Although a lower percentage of the general public had heard about the adoption of the new Seizure of Assets Act (71 percent had heard about the law or of a case that fell under it, and 16 percent had heard about the law but were unaware of its usage), opinions on this law were far more positive than on the re-election of judges, with 85 percent of citizens supporting it.

**Figure 8.6: Support among the General Public for Key Aspects of Judicial Reform**



Note: N=1,095 for the re-election of judges (84%), and N=997 (82%) for adoption of new laws.

## 8.2 Reform Implications

170. *Regardless of their degree of experience with court services, the general public have heard about the ongoing judiciary reforms and support them.* While more judges and prosecutors are supportive than not, their expectations for what reforms can accomplish are more measured than those of court users and the general public. Lawyers and court administrative staff are the least supportive and optimistic about reform. These differences between court users and legal professionals are to be expected given their different assessments of judicial performance, as reported above. Judges and prosecutors, who tend to hold more positive views of their performance, can be expected to have lower expectations about the potential for improvement. It is important to note that the relatively favorable views reported by the judges and prosecutors responding to the survey could reflect the fact that only re-elected judges and prosecutors were surveyed. The negative views and reform expectations among lawyers are more surprising.

171. *Survey findings on reform expectations offer a few key implications for the next stage of judiciary reform.* First, reform expectations among the general population are high, and there is a significant risk that reforms will not be able to deliver on these expectations within a short period of time—not least in light of the differences in perceptions of performance from outside and within the judiciary. In this situation, it is particularly important that the reform agenda be developed on the basis of what can realistically be implemented, and communication about reform goals should be clear about this. Moreover, the lack of support for reforms among lawyers—a key stakeholder group—is cause for concern. Efforts could be made to reach out to this group and involve them in reform design, monitoring, and implementation. Similarly, there is a need to reach out to administrative staff in courts, as this group is the least informed about reform plans and is the group within the judiciary that holds the most negative view of reform.

172. *A full assessment of outreach and involvement needs and options will have to go beyond this survey.* The survey did not include non-elected judges and prosecutors and did not map the views of institutional stakeholders such as the High Judicial Council, State Prosecutorial Council, professional associations, political parties, nongovernmental organizations, and other important decision makers. A thorough analysis of the political economy of reforms would provide a better foundation for designing reforms that have the highest potential for full and sustainable implementation.

## CHAPTER 9 – SUMMARY OF REFORM IMPLICATIONS

173. *In early 2010, after years of preparatory work and smaller reform initiatives, Serbia initiated the implementation of a far-reaching program of judiciary sector reforms.* Against this background, the objectives of the judiciary sector survey were to: (i) provide a baseline against which future reform results could be assessed; and (ii) help identify areas for further judiciary reform. Regarding the first objective, the data presented in Chapters 3–8 of this study provide a baseline against which future reforms can be assessed when the survey is repeated in three to four years. Regarding the second objective, the survey results highlight several possible implications for the design and implementation of subsequent phases of judiciary reform. This chapter provides an overview of these possible implications.

### 9.1 *Transparency and Accountability*

174. *Court users, whether citizens or businesses and irrespective of whether they have experience with the Serbian judiciary, have markedly less favorable views of the judiciary than do judges and prosecutors.* There are a number of possible explanations for this. First, legal professionals could have more knowledge of the judiciary than users and non-users of court services, so that their assessments could be better informed. Second, professionals and court users could have different expectations for performance and norms to define satisfactory performance, such that similar perceptions and experiences could still lead to different assessments based on divergences between expectation and reality. Finally, legal professionals and users/non-users of court services could be evaluating the different performance dimensions according to different conceptions of those dimensions. One way to address these possible explanations would be to increase transparency by making standards explicit and by reporting on performance.

175. *Members of the Roma community, and refugees and IDPs have been treated much like other users of the Serbian judiciary while perceiving that they have been treated differently.* Disseminating more information about the standards to be expected from judiciary services and about the general performance of the judiciary could help to overcome this challenge by adjusting expectations and helping members of these vulnerable groups compare the treatment and services experienced by the Roma community, refugees, and IDPs with those experienced by other users.

### 9.2 *Reform Communications and Change Management*

176. *The differences between the performance assessments of court users and those of providers in the judiciary could imply that it is more difficult to “sell” reforms to judiciary professionals than to court users and to the general public.* While stakeholders outside the judiciary may see a strong need for reforms, professionals may hold more measured views about the importance and usefulness of reform. This scenario would put change management, outreach, and consultation with prosecutors and judges at center stage to help ensure reform success.

177. *Given the wide disparity in perceptions of performance, the survey identified corresponding differences in support for reform and expectations regarding the results of*

*reforms.* These findings offer a few key implications for the next stage of judiciary reform. First, reform expectations among the general population are high, and there is a significant risk that reforms will not be able to deliver on these expectations within a short period of time—not least in light of the differences in perceptions of performance from outside and within the judiciary. In this situation, it is particularly important that the reform agenda be developed on the basis of what can realistically be implemented, and communication about reform goals should be clear about this. Moreover, the lack of support for reforms among lawyers—a key stakeholder group—is cause for concern. Efforts could be made to reach out to this group and involve them in reform design, monitoring, and implementation. Similarly, there is a need to reach out to administrative staff in courts, as this group is the least informed about reform plans and is the group within the judiciary that holds the most negative view of reform.

178. *A full assessment of outreach and involvement needs and options will have to go beyond this survey.* The survey did not include the non-elected judges and prosecutors and did not map the views of institutional stakeholders such as the High Judicial Council, the State Prosecutorial Council, professional associations, parties, nongovernmental organizations, and other important decision makers. A thorough analysis of the political economy of reforms would provide a better foundation for designing reforms. A preliminary review along these lines is included in the World Bank’s forthcoming Judicial Public Expenditure and Institutional Review.

### **9.3 Reform Priorities**

179. *Overall, the efficiency, quality, and integrity of the judicial system were assessed least favorably in the survey, while accessibility and fairness were evaluated most favorably.* Views on judicial independence fell in between. On this basis, reform efforts that aim to strengthen efficiency and quality, reduce corruption, and increase independence could usefully be the focus of reform attention on which consensus among stakeholders could possibly be reached, at least with regard to overall reform objectives.

#### ***Court Efficiency***

180. *Stakeholders agreed court cases took longer than they should.* The speed of a proceeding and the overall effectiveness of a court are influenced by a variety of factors, including work planning, staffing and other resources, case types, procedural requirements, and case management technology. Moreover, based on the survey’s finding that only 50 to 60 percent of scheduled hearings contributed positively to resolving cases, several reforms could be considered to reduce the number of adjourned hearings, such as: (i) conducting a review of the reasons for the cancellation of hearings, including potential obstacles to participants’ attendance (such as a lack of information about when and where to appear) or to proper preparation on the part of legal professionals; (ii) increasing fines for parties and witnesses who fail to appear; (iii) increasing witness payments; (iv) improving communication about the scheduling of hearings; (v) establishing clear and predictable timelines for the scheduling of hearings; (vi) limiting the acceptable reasons for postponement and requiring proof of illness, for example; (vii) allowing the judge to render a default decision in civil cases if the other party does not attend; and (viii) allowing for an attorney in a civil case to represent an absent client with the client’s authorizing affidavit.

## ***Access to Justice***

181. *Court-related costs, such as court fees, and lawyer-related costs were reported to be the primary problem with access to justice in Serbia.* This finding points to legal aid as a reform priority. Further data collection and analysis would be needed, however, to fully shed light on the reform agenda for increasing access to justice

182. *Although women held more favorable views of the judiciary than men, the survey did not identify any differences in the results of adjudications across gender lines.* Accordingly, the survey does not point to a need to give special attention to gender issues in future reform efforts. However, the current survey instrument might not be the best tool to assess all dimensions of access, and further analysis of gender equality in access to justice may be warranted.

## ***Integrity***

183. *The Serbian judiciary has a mixed reputation among citizens and businesses on issues of corruption, independence, and trust.* While some judges and prosecutors recognize the problems that exist, they generally hold much more favorable views of their own independence and integrity than citizens do. These findings point to the following implications for the judiciary reform agenda. Clearer procedures for how to deal with corruption could be established and published, including provisions for whistle-blowing and reporting by users. Perceptions of corruption can also be the result of contradictory or unclear laws and regulations, insufficient staff, or judicial capacity limitations. Considering the relatively high perceptions of corruption in Serbia's judiciary, it will be important to explore the underlying causes and to develop countermeasures, such as: (i) more streamlined and automated processes that reduce opportunities for corruption; (ii) monitoring processes to better detect integrity breaches; (iii) stronger focus on management and prevention of corruption opportunities; and (iv) better public education to enhance public understanding of how the judiciary should work, where to turn to with complaints, and general reporting on integrity enhancement actions.

184. *It is possible that differences in the perceptions of court users and judiciary professionals reflect the character of media coverage of court proceedings in Serbia.* As such, it may be useful to work toward clearer and more professional communication with the media by the judiciary, including by developing a communications strategy and providing associated training.

185. *Finding a solution to the judicial reappointment process and establishing procedures that are accepted by all stakeholders as ensuring the judicial independence in the appointment and promotion of judges and prosecutors could take center stage in reform discussions.* Issues of judiciary independence have been on the agenda in Serbia since the regime change ten years ago and continue to be widely debated. While it is beyond the scope of this analysis to establish whether there actually is political interference in the adjudication of cases, survey findings indicated that this could be the case. At least the perception is thus and could be addressed following further research into this issue.

186. *There is likely to be some petty corruption and informality in the delivery of administrative services.* Further analysis is needed to determine the exact nature of the problem and its solution.

### ***Administrative Services***

187. *The key issues raised by the survey with regard to the efficiency of administrative services related to the time spent waiting for service, the need to go to several windows to complete a task, and having to go to the courthouse several times to complete the transaction.* These issues point to the potential usefulness of including the following initiatives in the reform agenda going forward: (i) exploring the possibility of establishing “one-stop shops” for these services; (ii) further defining the reasons for the need to make more than one courthouse visit to complete a transaction; and (iii) reviewing the options for reducing wait times, including the potential for providing some of the services electronically.

188. *The survey also pointed out a number of areas that were not priorities for reform of court administrative services at this time.* These included changes to the formal cost of administrative services, improvements in the quality of administrative services, and improvements in access to administrative services.

### ***Next Steps***

Would you like to insert a concluding para on next steps – publication of this report; consultations with stakeholders; periodic repetition of this survey (e.g. every 2-3 years) to track progress on reform outcomes, etc etc – that could give it a nice finishing touch

## ANNEX 1 – DIMENSIONS INCLUDED

### ***I. Court cases***

#### ***(a) Efficiency***

- The average duration of proceedings (with maximum–minimum range) before the first-instance judgment (court users) / the percentage of cases in 2009 that lasted longer than they should have for any reason (justice service providers and lawyers)
- The total (average) number of hearings (court users) / average number of hearings per week in 2009 (justice service providers and lawyers)
- Percentage of canceled hearings, hearings that did not contribute to progress, and perceived reasons - percentage of reasons perceived to be caused by the court (court users, justice service providers and lawyers)
- Percentage of cases appealed and number of decisions delivered by a higher court - percentage of retrials in the cases reported by court users / percentage of appeals overturned for retrial in 2009 (justice service providers and lawyers)
- Percentage of judgments enforcement within the legal deadline (court users) / satisfaction with the procedure for enforcing court judgments (justice service providers and lawyers)
- Overall satisfaction with efficiency (court users, justice service providers and lawyers)

#### ***(b) The quality of services***

- Perceived overall quality of judicial work in the reported cases (court users) / perceived overall quality of the judiciary institution the employed worked for in 2009 (justice service providers) / overall quality of judicial services in 2009 (court users, justice service providers, lawyers)
- Perceived reasons for the quality not being better / personnel, organization of work, facilities (court users, justice service providers, lawyers)

#### ***(c) Accessibility***

- Experiences with accessibility in the cases reported by court users (difficulties with court building layout, accessibility of information, and associated costs)
- Perceived accessibility of the judiciary to the general public (independent of age, economic status, education, disability, and nationality) from the point of view of costs, geographical distance, building layout, and access to information (court users, justice service providers and lawyers)

#### ***(d) Fairness***

- Perceived fairness in cases reported by court users (taking the judgment into account)

- Perceived fairness of the judiciary in general, and main reasons for a lack of complete fairness (if fairness is not perceived as high) (court users, justice service providers, lawyers)
- Perceived fairness of equality (gender, age, nationality, economic status, education, disability) (court users, justice service providers, lawyers)
- Perceived fairness of legislation (ambiguity of laws, objectivity, enforcement) (court users, justice service providers, lawyers)

***(e) Integrity***

- Trust in institutions (position of the judiciary within the main state institutions, media and NGO) and factors perceived to undermine trust in the judiciary (court users)
- Perceived independence of the justice system (court users, lawyers and justice service providers) / institutions perceived to jeopardize independence of the judiciary in 2009 (lawyers and justice service providers)
- Factors that jeopardized the independence of the judiciary in 2009 (lawyers and justice service providers)
- Experience with corruption in the judiciary and perceived presence of corruption in the judiciary in 2009 (court users, lawyers and justice service providers)
- Internal control, forms of control, and how they functioned in 2009 (justice service providers and lawyers)
- External control - role of professional associations, media and NGOs in 2009 (justice service providers and lawyers)
- Perceived reputation of judges, prosecutors, judicial staff, and lawyers in 2009 (court users, justice service providers, and lawyers)

***(f) Cost***

- Estimated cost of the reported case (court costs, lawyers, travel, and other) and affordability (court users)
- Opinions on possible areas to cut judicial costs in 2009 (justice service providers, lawyers)
- Opinions on investments to reduce costs in the longer term (justice service providers and lawyers)
- Awareness of mediation processes (court users) / Opinions on mediation from the point of view of cost-effectiveness (justice service providers and lawyers)

***II. Court administrative services (general public and business sector representatives)***

***(a) Efficiency***

- Complexity of actions needed to complete the service (“windows” and locations to go)
- Total time spent to complete the service
- Overall satisfaction with efficiency

***(b) Quality of services***

- Perceived overall quality of court administrative services
- Evaluation of staff performance: knowledge, efficiency, pleasantness, proneness to corruption, indolence, and negligence

***(c) Accessibility***

- How easy / difficult is it to navigate in the court building
- Accessibility of information regarding administrative services
- Accessibility of staff (accessing relevant offices, time spent waiting)

***(d) Integrity***

- Personal experience with informal payments (asked and/or offered)
- Perceived general presence of corruption in court administrative services

***(e) Cost***

- Estimated cost of reported administrative service used (resolved by costs of court, lawyer, and traveling), and affordability
- Perceived value for money for the quality of service

## ANNEX 2 – METHODOLOGY

### 2.1 Introduction

189. *The survey of Serbia’s judiciary targeted four segments of the population. These included: (i) the general public (citizens of Serbia above eighteen years of age, including both users and non-users of court services); (ii) business sector representatives (including both users and non-users of court services); (iii) members of the legal profession working in private practice; and (iv) employees in the judiciary. Employees of the judiciary and prosecutors’ office participated in the first round of the survey, conducted in May and June 2010. Judges and court administrative staff participated in the second round of the survey, conducted in the second half of December 2010 and January 2011.*

### 2.2 Sample and Selection Method

#### *General Public*

190. *The survey of the general public was conducted on a nationally representative sample of a three-stage stratified random sample.<sup>41</sup> In addition to the representative sample of the general public, a “booster” sample of users of court services was surveyed based on a combined sample of geographical criteria and a quota based on case type. The quotas were based on court statistics (Table 2.1).<sup>42</sup> Respondents for the booster sample of court users were selected by quasi-random techniques. These included: (i) snowball selection through the main survey, in which respondents from the nationally representative sample of the general public were asked if they knew anyone who had been involved in a court case in the last three years; and (ii) selection through the survey with legal professionals, as lawyers who participated in the survey were asked to recommend clients who would be willing to speak about their experience with court cases.*

Table 2.1: Booster Sample with Court Users, Quotas by Type of Case

| Type of Court Case      | Number of Cases Started, 2008 | Total Sample Size (n) |
|-------------------------|-------------------------------|-----------------------|
| Criminal                | 62,119                        | 200                   |
| Civil                   | 700,000 (approx.)             | 300                   |
| Misdemeanor Authorities | 60,000 (approx.)              | 100                   |
| <b>Total</b>            |                               | <b>600</b>            |

191. *This selection approach could imply a selection bias, though the data do not suggest that some groups of court users were systematically under- or over-represented in the sample.*

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<sup>41</sup> A three-stage stratified random sample implies that the sampling procedure consists of three stages. In each stage, the units were selected using random techniques. The first stage drew on polling station territories using a PPS procedure (that is, Sampling with Probabilities Proportional to Size). The second stage focused on households using random walk. The third stage focused on respondents using a Kish scheme.

<sup>42</sup> While official statistics for criminal cases are well administrated by the Statistical Republic Office, there are no statistics on civil cases or on misdemeanor authorities. We could not find official estimates of the number of civil and misdemeanor cases that were comparable with the figures from our survey. The *Report of the Supreme Court of Serbia* (2009) shows figures on the number of cases in process in 2008, while this survey gained information about the number of completed cases.

Although the snowballing method usually implies a certain bias, the selection of snowballing “sources” (those who suggested potential respondents) was random. As such, it can be argued that snowballing contained some random elements. Bias was also reduced by creating quotas for geographical units and for types of court cases. There are other theoretical approaches that would guarantee lower levels of bias, but given the financial and time costs implied by these methods and the already small bias levels foreseen in this survey, the snowballing approach was considered to be acceptable.

192. *Court users were defined as members of the general public aged over eighteen years who had taken part in a case that had been closed between the start of 2007 and the end of 2009. The case could have started earlier, but a first-instance judgment had to have been rendered in that period. The court cases were criminal, civil, or misdemeanor cases. The respondent had to have been a party to the proceedings, not a witness. It was anticipated that 1,000 members of the general public and 600 court users would be interviewed. In fact, 1,035 interviews were carried out on the general public random sample (Table 2.2) and 555 on the sample of court users (Table 2.3). The response rate of the general public was 72 percent.*

**Table 2.2: Sample Description – General Public**

| Category                    |                   | Sub-category             | Unweighted<br>N=2,203 | Weighted<br>% |
|-----------------------------|-------------------|--------------------------|-----------------------|---------------|
| Experience                  |                   | Court services           | 850                   | 8.2           |
|                             |                   | Administrative services  | 236                   | 16.9          |
|                             |                   | Without any experience   | 1,117                 | 74.8          |
| Gender                      |                   | Male                     | 1,132                 | 47.3          |
|                             |                   | Female                   | 1,071                 | 52.7          |
| Age                         |                   | 18 - 29                  | 462                   | 19.4          |
|                             |                   | 30 - 44                  | 644                   | 24.4          |
|                             |                   | 45 - 59                  | 680                   | 27.5          |
|                             |                   | 60+                      | 417                   | 28.7          |
| Education                   |                   | Low                      | 597                   | 37.3          |
|                             |                   | Medium                   | 1,231                 | 47.3          |
|                             |                   | High                     | 375                   | 15.4          |
| Household Income Per Capita |                   | Low                      | 799                   | 29            |
|                             |                   | Medium                   | 484                   | 26.1          |
|                             |                   | High                     | 478                   | 23.5          |
|                             |                   | Decline to answer        | 442                   | 21.4          |
| Region                      |                   | Belgrade                 | 495                   | 22.5          |
|                             |                   | Central Serbia           | 1,173                 | 50.8          |
|                             |                   | Vojvodina                | 535                   | 26.7          |
| Settlement Type             |                   | Urban                    | 1,540                 | 58.1          |
|                             |                   | Other                    | 663                   | 41.9          |
| Population                  | Mainstream        | Court services           | 636                   | 8             |
|                             |                   | Administrative services  | 181                   | 16.6          |
|                             |                   | Without any experience   | 773                   | 72.5          |
|                             | Roma              | With court services      | 121                   | 0.2           |
|                             |                   | No experience with court | 198                   | 2.5           |
|                             | IDPs and Refugees | With court services      | 93                    | 0             |
|                             |                   | No experience with court | 201                   | 0.1           |

**Table 2.3: Sample Description – General Public, Users of Court Services**

| Category                    | Sub-category          | Unweighted N=850 | Weighted % |
|-----------------------------|-----------------------|------------------|------------|
| Gender                      | Male                  | 527              | 65.2       |
|                             | Female                | 323              | 35.4       |
| Age                         | 18 - 29               | 201              | 27.1       |
|                             | 30 - 44               | 305              | 37         |
|                             | 45 - 59               | 262              | 27.6       |
|                             | 60+                   | 82               | 8.8        |
| Education                   | Low                   | 178              | 21.5       |
|                             | Medium                | 516              | 60.2       |
|                             | High                  | 156              | 18.8       |
| Household Income Per Capita | Low                   | 281              | 25.4       |
|                             | Medium                | 191              | 27.6       |
|                             | High                  | 205              | 28.2       |
|                             | Decline to answer     | 173              | 19.3       |
| Region                      | Belgrade              | 175              | 23.8       |
|                             | Central Serbia        | 455              | 52.5       |
|                             | Vojvodina             | 220              | 23.8       |
| Settlement Type             | Urban                 | 729              | 88.4       |
|                             | Other                 | 121              | 11.6       |
| Population                  | Mainstream            | 636              | 97.8       |
|                             | Roma                  | 121              | 2.2        |
|                             | IDPs and refugees     | 93               | 0          |
| Type of Court               | Municipal Court       | 576              | 71.8       |
|                             | District Court        | 74               | 7.7        |
|                             | Misdemeanor Authority | 200              | 20.4       |
| Type of Case                | Criminal              | 200              | 25.4       |
|                             | Misdemeanor           | 200              | 20.4       |
|                             | Civil                 | 450              | 54.1       |

**Table 2.4: Sample Description – General Public, Users of Administrative Services**

| Category                    | Sub-category                                   | Unweighted N=236 | Weighted % |
|-----------------------------|--|------------------|------------|
| Gender                      | Male   | 131              | 58.2       |
|                             | Female   | 105              | 41.8       |
| Age                         | 18 - 29  | 31               | 13.7       |
|                             | 30 - 44  | 52               | 19.8       |
|                             | 45 - 59  | 95               | 38.9       |
|                             | 60+  | 58               | 27.6       |
| Education                   | Low  | 47               | 31.1       |
|                             | Medium   | 121              | 42.4       |
|                             | High   | 68               | 26.5       |
| Household Income Per Capita | Low  | 65               | 21.4       |
|                             | Medium   | 57               | 23.6       |
|                             | High   | 64               | 30.3       |
|                             | Decline to answer                              | 50               | 24.7       |
| Region                      | Belgrade                                       | 66               | 27.1       |
|                             | Central Serbia                                 | 112              | 48         |
|                             | Vojvodina                                      | 58               | 24.9       |
| Settlement Type             | Urban  | 144              | 62.2       |
|                             | Other  | 92               | 37.8       |
| Population                  | Mainstream                                     | 181              | 98.1       |
|                             | Roma   | 27               | 1.9        |
|                             | IDPs and refugees                              | 28               | 0          |
| Administrative Task         | Authentication (of documents and contracts)    | 113              | 41.3       |
|                             | Administrative task related to land registries | 54               | 27.6       |
|                             | Administrative task at registry desk           | 39               | 18.2       |
|                             | Other  | 30               | 12.9       |
| Lawyer Assistance           | Yes  | 26               | 10.7       |
|                             | No   | 210              | 89.3       |

## Vulnerable Groups

193. An additional survey was conducted with representatives of two key vulnerable groups in Serbia to capture their experiences with the judicial system. These two groups are recognized as vulnerable groups in the Poverty Reduction Strategy Paper for Serbia,<sup>43</sup> and prior analyses show that access to justice is a pertinent issue for these groups. It was anticipated that 200 representatives from Roma settlements and among refugees and IDPs would be randomly selected in addition to 100 court users from each group. The booster sample of court users within these vulnerable groups was selected using the same methodology as the general public booster sample. A total of 613 interviews were carried out: 214 members of the Roma community were randomly selected within Roma settlements, and an additional 105 members of the Roma community who had participated in court proceedings were selected within these settlements (Table 2.5); similarly, 211 IDPs and refugees were randomly selected, and an additional 83 IDPs and refugees who had participated in court proceedings were selected (Table 2.6). The response rate of the vulnerable groups was 78 percent for the population of Roma communities and 74 percent for population of IDPs and refugees.

**Table 2.5: Sample Description – Roma**

| Category                    | Sub-category             | Unweighted N=319 | Weighted % |
|-----------------------------|--------------------------|------------------|------------|
| Gender                      | Male                     | 120              | 50.1       |
|                             | Female                   | 28               | 49.9       |
| Age                         | 18 – 29                  | 40               | 36.9       |
|                             | 30 – 44                  | 64               | 33.8       |
|                             | 45 – 59                  | 38               | 21.2       |
|                             | 60+                      | 6                | 8.1        |
|                             |                          |                  |            |
| Education                   | Low                      | 125              | 80.7       |
|                             | Medium                   | 21               | 18.5       |
|                             | High                     | 2                | 0.8        |
| Household Income Per Capita | Low                      | 125              | 81.0       |
|                             | Medium                   | 5                | 5.0        |
|                             | High                     | 6                | 3.4        |
|                             | Decline to answer        | 12               | 10.5       |
| Region                      | Belgrade                 | 47               | 29.1       |
|                             | Central Serbia           | 67               | 45.9       |
|                             | Vojvodina                | 34               | 25.0       |
| Settlement Type             | Urban                    | 140              | 87.7       |
|                             | Other                    | 8                | 12.3       |
| Experience                  | With court services      | 121              | 7.4        |
|                             | No experience with court | 198              | 92.6       |
| Type of Court               | Municipal Court          | 62               | 52.0       |
|                             | District Court           | 12               | 10.1       |
|                             | Misdemeanor Authority    | 47               | 37.8       |
| Type of Case                | Criminal                 | 42               | 36.0       |
|                             | Misdemeanor              | 47               | 37.8       |
|                             | Civil                    | 32               | 26.1       |

<sup>43</sup> Government of Serbia. 2003. Poverty Reduction Strategy Paper for Serbia. Belgrade, <http://www.prsp.gov.rs>.

**Table 2.6: Sample Description – IDPs**

| Category                    | Sub-category             | Unweighted N=294 | Weighted % |
|-----------------------------|--------------------------|------------------|------------|
| Gender                      | Male                     | 145              | 48.8       |
|                             | Female                   | 149              | 51.2       |
| Age                         | 18 – 29                  | 45               | 20.0       |
|                             | 30 – 44                  | 88               | 25.0       |
|                             | 45 – 59                  | 103              | 28.3       |
|                             | 60+                      | 58               | 26.7       |
| Education                   | Low                      | 130              | 53.5       |
|                             | Medium                   | 146              | 41.0       |
|                             | High                     | 18               | 5.5        |
| Household Income Per Capita | Low                      | 195              | 68.3       |
|                             | Medium                   | 44               | 12.8       |
|                             | High                     | 14               | 4.9        |
|                             | Decline to answer        | 41               | 13.9       |
| Region                      | Belgrade                 | 63               | 29.6       |
|                             | Central Serbia           | 216              | 66.7       |
|                             | Vojvodina                | 15               | 3.8        |
| Settlement Type             | Urban                    | 145              | 47.4       |
|                             | Other                    | 149              | 52.6       |
| Experience                  | With court services      | 93               | 5.1        |
|                             | No experience with court | 201              | 94.9       |
| Type of Court               | Municipal Court          | 57               | 59.7       |
|                             | District Court           | 10               | 10.0       |
|                             | Misdemeanor Authority    | 26               | 30.3       |
| Type of Case                | Criminal                 | 12               | 14.4       |
|                             | Misdemeanor              | 26               | 30.3       |
|                             | Civil                    | 55               | 55.3       |

### ***Business Sector Representatives***

194. A one-stage stratified sample was used for business sector representatives. The sample was stratified by geographic region, economic activity, and size of the enterprise. The enterprises were randomly chosen from the listings of the Serbian Business Registers Agency. The questionnaire was given to two persons within each business: an available top manager who was answering the questions about general perception of the judicial system and the person most familiar with court proceedings and administrative services who was answering on questions about experience with the specific court case. This could be the manager who was answering on the perception question or lawyer within or outside of the company who was engaged in the court case. However, the “respondent unit” was the business, not the respondents within the business, meaning that even if two persons were involved in answering the questionnaire, only one questionnaire was collected from each business. It was anticipated that 800 randomly selected registered enterprises would be surveyed, along with an additional sample of 200 enterprises that had taken part in court proceedings. Actual interviews conducted included a random sample of 853 private enterprises (Table 2.7) and 212 court users (Table 2.8). The booster sample of court users was selected using the same methodology as the random sample of enterprises, with the exception that only the enterprises that were identified through telephone screening as users of court services were interviewed. The survey of businesses that had used court services revealed that 67 them had been involved in what is known in Serbia as civil cases and 33 percent in economic offenses cases. No important differences were found between these two groups, so all business sector cases are presented as one group and referred to in this report

as “business sector cases.” The response rate among business sector representatives was 62 percent.

**Table 2.7: Sample Description – Business Sector**

| Category          | Sub-category             | Unweighted N=1,065 | Weighted % |
|-------------------|--------------------------|--------------------|------------|
| Size of Company   | 3 - 10                   | 597                | 69.4       |
|                   | 11 - 49                  | 284                | 24.4       |
|                   | 50 - 249                 | 140                | 5.4        |
|                   | 250+                     | 44                 | 0.8        |
| Activity          | Manufacturing            | 294                | 27.3       |
|                   | Commerce                 | 422                | 40.1       |
|                   | Other                    | 349                | 32.5       |
| Region            | Belgrade                 | 423                | 40.7       |
|                   | Central Serbia           | 357                | 33.5       |
|                   | Vojvodina                | 285                | 25.8       |
| Origin of Capital | Foreign                  | 66                 | 4.7        |
|                   | Domestic                 | 938                | 91.1       |
|                   | Mixed                    | 61                 | 4.2        |
| Type of Court     | District/Municipal Court | 77                 | 4          |
|                   | Higher/Commercial Court  | 373                | 20.6       |
| Type of Case      | Litigation               | 305                | 16.2       |
|                   | Economic offense         | 145                | 8.4        |

**Table 2.8: Sample Description – Business Sector, Users of Court Services**

| Category          | Sub-category             | Unweighted N=450 | Weighted % |
|-------------------|--------------------------|------------------|------------|
| Size of Company   | 3 - 10                   | 203              | 59.2       |
|                   | 11 - 49                  | 124              | 28.2       |
|                   | 50 - 249                 | 90               | 10.7       |
|                   | 250+                     | 33               | 1.9        |
| Activity          | Manufacturing            | 134              | 27.9       |
|                   | Commerce                 | 182              | 44.3       |
|                   | Other                    | 134              | 28.2       |
| Region            | Belgrade                 | 201              | 43.9       |
|                   | Central Serbia           | 154              | 36.3       |
|                   | Vojvodina                | 95               | 20.2       |
| Origin of Capital | Foreign                  | 40               | 7.6        |
|                   | Domestic                 | 371              | 85.1       |
|                   | Mixed                    | 39               | 7.6        |
| Type of Court     | District/Municipal Court | 77               | 16.4       |
|                   | Higher/Commercial Court  | 373              | 83.6       |
| Type of Case      | Litigation               | 305              | 66         |
|                   | Economic offense         | 145              | 34         |

## ***Lawyers***

195. *The Serbian Bar Association’s database of registered lawyers was used to select the sample of lawyers interviewed.* Respondents were randomly selected from the Serbian Bar’s list of eight regional bars in Belgrade, Čačak, Kragujevac, Niš, Požarevac, Zaječar, Šabac, and Vojvodina. A total of 800 lawyers were interviewed (Table 2.9). The response rate was 65 percent for lawyers.

**Table 2.9: Sample Description – Lawyers**

| Category               | Sub-category           | Unweighted N=800 | Weighted % |
|------------------------|------------------------|------------------|------------|
| Gender                 | Male                   | 555              | 69.3       |
|                        | Female                 | 245              | 30.8       |
| Dominant Type of Cases | Criminal               | 96               | 12         |
|                        | Civil                  | 583              | 72.6       |
|                        | Commercial             | 75               | 9.5        |
|                        | No dominant case       | 46               | 5.9        |
| Civil Type of Cases    | Family                 | 63               | 7.9        |
|                        | Labor                  | 68               | 8.4        |
|                        | Property               | 343              | 42.8       |
|                        | No dominant civil case | 109              | 13.6       |
| Region of Commerce     | Vojvodina              | 176              | 22.1       |
|                        | Belgrade               | 337              | 43.4       |
|                        | Central Serbia         | 287              | 34.5       |
| Commerce               | Belgrade               | 337              | 43.4       |
|                        | Cacak                  | 72               | 8.6        |
|                        | Kragujevac             | 42               | 5.3        |
|                        | Nis                    | 80               | 9.3        |
|                        | Pozarevac + Zajecar    | 54               | 6.4        |
|                        | Sabac                  | 39               | 4.9        |
|                        | Vojvodina              | 176              | 22.1       |

## ***Judiciary Employees***

### *Prosecutors*

196. *The questionnaire was sent to all prosecutors’ offices and to all prosecutors and staff who were employed in the office in 2009. Because all members of the defined target group were asked to take part in the survey, there was no sampling procedure for this target group. In total, 453 prosecutors (and deputy prosecutors) and a number of associates and practitioners took part in the survey (Table 2.10). The response rate among prosecutors (and deputy prosecutors) was 50 percent; 348 prosecutors’ office staff members filled out the questionnaire, but 124 of them were prosecutors’ associates and practitioners. Owing to the fact that no sampling method was applied and to the self-administration method used, some questions had a relatively high non-response rate. Data presented in this report refer to “valid” values; in other words, it ignores the non-responses and calculates presented figures on the basis of those respondents who did answer the question. The number of prosecutors on whose answers the presented result is based is shown next to each graph.*

**Table 2.10: Sample Description – Prosecutors**

| Category                      | Sub-category                      | Unweighted N=348 | Weighted % |
|-------------------------------|-----------------------------------|------------------|------------|
| Age                           | Up to 35                          | 104              | 29.9       |
|                               | 36-50                             | 172              | 49.4       |
|                               | 51 and above                      | 72               | 20.7       |
| Gender                        | Male                              | 154              | 44.3       |
|                               | Female                            | 194              | 55.7       |
| Respondent's Position in 2009 | Prosecutor/Deputy Prosecutor      | 224              | 64.4       |
|                               | Prosecutor Professional           | 124              | 35.6       |
|                               | Associate/Prosecutor Practitioner |                  |            |
| Region in 2009                | Belgrade                          | 70               | 20.1       |
|                               | Vojvodina                         | 108              | 31         |
|                               | Central Serbia                    | 170              | 48.9       |
| Prosecution Office in 2009    | Republican                        | 10               | 2.9        |
|                               | District                          | 82               | 23.6       |
|                               | Municipal                         | 252              | 72.4       |

### Judges

197. *The questionnaire was distributed to all judges who served in that capacity in 2009, and who were re-elected and continued to work as judges at the time of the survey.* There are obvious drawbacks to basing the survey on only the re-elected judges, as the experiences, perceptions, and opinions of the judges who were not re-elected might differ and thus allow for a more complete picture. However, given that the survey's primary aim is to help reforms, data collected from the judges who are currently involved in the process of reforms are crucial. This is especially true from the point of view of the planned follow-up survey, as only the judges who have been involved in the process could provide information relevant to measuring the effects of reform.

198. *The estimated population of judges is 1,900 judges, of whom 1,148 judges completed the questionnaire (Table 2.11).* This represents a response ratio of 60 percent. Neither the judges nor prosecutors were selected by systematic sampling procedure, but the surveys in both cases was done on the entire populations of those who accepted to take part in the survey, that is, the obtained results reflect the opinions of those judges who accepted to participate in the survey by returning the completed questionnaire. Because the questionnaires were self-administered, there is considerable variation in the percentage of non-responses from one question to the next. This report presents the results for the number of judges who answered a particular question, as in the case of data collected from prosecutors.

**Table 2.11: Sample Description – Judges**

| Category   | Sub-category                  | Unweighted N=1,148 | Weighted % |
|--|-------------------------------|--------------------|------------|
| Age  | Up to 50                      | 629                | 55         |
|  | 51 and above                  | 508                | 45         |
| Gender   | Male                          | 329                | 29         |
|  | Female                        | 804                | 71         |
| Authority in which Respondent Worked in 2009                                   | Court of General Jurisdiction | 710                | 62         |
|  | Commercial court              | 101                | 9          |
|  | Misdemeanor Authorities       | 331                | 29         |
| Department of Court of General Jurisdiction in which Respondent Worked in 2009 | Criminal law                  | 259                | 40         |
|  | Non-contentious matter        | 52                 | 8          |
|  | Civil law                     | 332                | 52         |
| Region in 2009   | Belgrade                      | 178                | 19         |

|  |                |     |    |
|--|----------------|-----|----|
|  | Vojvodina      | 243 | 25 |
|  | Central Serbia | 535 | 56 |

### *Court administrative staff*

199. *The questionnaire was distributed to administrative staff in 43 courts who worked in this sector until the end of 2009.* The courts were selected so the number of selected administrative staff in each of the three regions was proportional to the number of judges in that region. In cooperation with the Chief of the Administration Sector in each court, questionnaires were distributed to each department. The number of questionnaires was proportional to the number of employees in each department, such that the largest number of questionnaires was distributed to staff working at the Registry Desk of each court, which has the most employees. The method of data collection was self-administered. Out of 898 distributed questionnaires, 571 were completed and returned for a response rate of 64 percent (Table 2.12).

**Table 2.12: Sample Description – Court Administrative Staff**

| Category   | Sub-category  | Unweighted N=571 | Weighted % |
|--|---|------------------|------------|
| Age  | Up to 35  | 105              | 18         |
|  | 36-50   | 344              | 60         |
|  | 51+   | 122              | 22         |
| Gender   | Male  | 123              | 22         |
|  | Female  | 448              | 78         |
| Authority in which Respondent Worked in 2009                                   | Court of General Jurisdiction/<br>Misdemeanor Authorities | 480              | 84         |
|  | Commercial Court  | 91               | 16         |
| Department of Court of General Jurisdiction in which Respondent Worked in 2009 | Registry desk   | 339              | 59         |
|  | Reception, verification, and expedition                   | 86               | 15         |
|  | Other   | 146              | 26         |
| Region in 2009   | Belgrade  | 159              | 27         |
|  | Vojvodina   | 129              | 23         |
|  | Central Serbia  | 283              | 50         |

### **2.3 Data Collection Method**

200. *Data were collected through face-to-face interviews for all surveyed groups, except that a self-completion method was applied for judiciary employees to maintain trust in the survey's anonymity.* Surveys of the general public and vulnerable groups were conducted in respondents' homes, and surveys of business sector representatives and lawyers were conducted at their place of work, following a telephone screening interview. The decision to collect data from judiciary employees using a self-completion method was taken after the piloting of the survey instrument. The pilot showed that judiciary employees were uncomfortable completing the questionnaire in the presence of interviewers and were more comfortable with self-completion because it introduced an extra layer of confidentiality. Several questions were also rephrased following the pilot.

### **2.4 Implementation Timetable**

201. *The survey was conducted in the first half of 2010, some months after the main judicial reform initiatives described in Chapter 1 came into effect.* Respondents were asked to focus on their experiences with and perceptions of the judicial system up to the beginning of 2010 in order

to obtain evaluations of the situation prior to the implementation of the most recent wave of judiciary reforms. The survey of the general population and lawyers was conducted from May 14–June 30, 2010. Surveys in the prosecutor’s offices were conducted from June 10–July 9, 2010. Surveys with judges and court administrative staff were conducted from December 21, 2010 to January 25, 2011.

## **2.5 Weighting Procedure**

202. *This survey used a rim-weighting procedure.*<sup>44</sup> A representative sample of the general public was weighted by strata, type of settlement, gender, age categories, and education.<sup>45</sup> The incidence of court case experience recorded in the weighted database of the general public was then used as a margin for weighting of the total sample for the general public (including the representative sample and the booster sample of those with court case experience), together with the already listed variables.<sup>46</sup> The same procedure was used in the samples of members of the Roma community and of IDPs and refugees, and the same list of variables was used for weighting.<sup>47</sup> The business sector representative population was weighted by strata, main activity, and number of employees. The sample of lawyers was weighted by the number of lawyers in each of the strata and by the lawyers’ chambers.

203. *As discussed above, the datasets of prosecutor’s staff, judges, and administrative staff were not weighted because respondents were not chosen by a sampling method that would allow post-stratification procedures.* The questionnaires were allocated for self-administration to the entire population of judges and prosecutors and their associates, while questionnaires for administrative staff were allocated by quota. It should be noted, however, that the datasets for these three target groups consisted only of those respondents who returned questionnaires, so they include a selection of the survey population based on a willingness to participate rather than a representative population of these three target groups.

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<sup>44</sup> Rim-weighting uses a mathematical algorithm to help provide an even distribution of results across the entire dataset, while balancing certain categories such as age or gender to predetermined totals. This method weights the specified characteristics simultaneously and disturbs each variable as little as possible.

<sup>45</sup> “Strata” refers to geographical regions within Serbia. In of the survey of the general population and lawyers, a division of six strata was used for weighting: South Serbia (Vojvodina), Belgrade, Sumadija, East Serbia, West Serbia, and Northeast Serbia. The surveys of the Roma communities, IDPs/refugees, and business sector representatives used a division of three strata for weighting: South Serbia (Vojvodina), Belgrade, and Central Serbia. Type of settlement refers to urban versus rural.

<sup>46</sup> The booster sample of court users was not reweighted by type of case. Although quotas, based on the data that could be found on court statistics, were used to select the booster sample (Table 2.1), official court statistics do not have comparable data for different types of cases. It was thus impossible to reweight the data based on official statistics. Also, the number of users examined in representative samples (81 in the representative sample of the general population) was too small to be reliable in weighting the booster sample. As a result, the previously defined quotas by case type was not reweighted.

<sup>47</sup> For the purpose of conducting a comparison analysis of results on vulnerable groups and on the general population, additional adjustments were made to the samples of Roma and IDPs/refugees; the weighting procedure was used to provide the same structure by case type among Roma and IDP/refugee respondents as in the general population.