

Integrity Plan Verification from the Perspective of The Experience of Court Service Users

Methodology

Verification of integrity plans in courts has been carried out through research on the experience of a total of 1,320 service users in 30 courts of general and special jurisdiction, including both basic and high courts.

The research was conducted using the direct interview technique. For these purposes, 38 interviewers were trained.

Field research was conducted from April 20 to May 17, 2013.

Key research findings

More than half of the respondents (55%) claimed to be either for the most part informed or very well informed on the procedures they encounter in court. However, the fact that one third (33%) claimed to be for the most part uninformed, while 12% claimed not to have any information whatsoever on the procedures (which makes a total of 45%) is discouraging, since this constitutes the first and fundamental precondition for an effective exercise of rights before any public authority, including courts – in other words, it is one of the basic prerequisites for preventing different types of manipulation. Other research similarly revealed that the courts' communication with their users is relatively poor, which suggests that courts should strengthen this segment of their work in order to reduce the risk of irregularities.

Two thirds of users have complete (14%) or moderate (53%) confidence in the courts they communicate with. On the other hand, one third of the users of court services (33%) have little to no confidence in the courts' work – that is to say, they do not believe courts can adequately protect the exercise of their rights and their interests. Low confidence of injured parties and witnesses is indicative of the courts' work, since they make up a crucial part of trials.

Users were asked to rate certain aspects of the courts' work on a scale of 1 to 5 (school grading system). "Acting efficiently and within reasonable deadlines" got the lowest average grade of 2.72; "equal treatment" followed with 2.98, while fair and professional proceedings were rated best (both with 3.34), as aspects with which users are apparently most satisfied. In any case, all the rated areas may pose a potential risk of corruption – the lower the rating and assessment of an aspect of courts' work, the higher the risk of turning to corrupt acts, and vice versa.

One in eleven court service users (9%) see the work carried out by courts as highly untransparent, while 23% assessed it as "mostly untransparent". All in all, this data shows that approximately one third of court service users are dissatisfied with the courts' openness in communication with users seeking to exercise their rights and obligations.

Almost one in five users of a court service (a total of 19%) have tried to influence a court proceeding (speed it up, slow it down, change its course, depending on needs) using informal means (pulling strings, acquaintances among court staff). Attempts at influencing the content of a court ruling are fewer in number than attempts at influencing proceedings – a total of 10% of service users admits to have tried influencing a court ruling's content: this finding indicates the need for better and more efficient oversight of trials.

Only 1% of all respondents said that they had been directly and openly asked for a bribe at a court. In addition, 9% of respondents said they had been asked for a bribe indirectly, for instance, by the staff unnecessarily stalling the process and indirectly pointing out that procedures may be influenced by some kind of bribery. Reactions to cases where bribes were requested are different: on average, a third of respondents who found themselves in such a situation “had given what was requested”, while two thirds had ignored the request, or at least claimed they did. Regarding types of staff requesting or accepting the bribes, 4.6% of court service users have at least once paid a bribe to a court administration officer (accounting for 66% of all who have ever paid a bribe to someone in court); in the case of judges, the number is 1.2% of all service users (17% of all those who had had experience with corruption). These results suggest that administration is in fact the “weakest link” in the work of courts when it comes to corruption. There is hardly anyone reporting corruption or reacting in any other way – a fact indicating that there is a lack of trust in the system’s capability of dealing with this phenomenon among its own ranks, as well as that users often choose to take the easy way out.

In addition to bribe requests coming from employees, judges or other employees, respondents were also asked whether and to what degree they give presents to employees of their own accord. A total of 22% of service users said that they had done so at least once and usually after “the job was done”, as a token of gratitude for the “favor”. This is another important work aspect where courts would have to intervene, for instance by adopting internal rules either imposing a ban on the acceptance of any gifts, or establishing procedures for handling the gifts received (whether they are to be reported and to whom, the maximum allowed value of a gift, etc.). As long as there is vagueness as to the legal status of giving gifts and leaving the issue of morality of the matter up to individual judgment, the view that gifts can accomplish something outside regular proceedings will persist, and the question of whether the system is trying to combat corruption loses all meaning.

When asked to assess the work of the administration, court service users provided the following responses: knowledge and experience of the staff were the highest ranked (69% of citizens find the administration meets this condition, whereas a quarter feels the opposite); the second highest ranked was professionalism (60% of respondents find the administration’s work professional, 34% do not); however, the lowest grade was given to the administration’s readiness to inform and direct the users regarding the further course of proceedings and procedures (53% as opposed to 37%). Indeed, judging by numerous parameters used in the research, the administration was assessed as the riskiest part of the judicial system, which has been dealt with in further detail within the integral part of the report.

Close to a third of respondents (32%) feel that they have suffered a detriment at least once due to failures in court administration work.

Although 35% of service users feel that they have had cause to file a complaint about the court administration’s work in the past, only 2% have actually done so. This fact points to a lack of procedures aimed at reporting irregularities, lack of information about such procedures, as well as lack of trust that the system is capable of correcting and repairing itself in line with citizens’ complaints, which constitutes a serious lack of integrity in any institution, especially the one dealing with the area of justice. A situation of this kind is common for all categories of court staff.

More than 40% of the service users who have had experience with judges' work, that is to say, who have taken part in a trial, claim to have suffered a detriment due to certain errors made by judges at least once (a total of 43%). With regard to types of consequences, there are more people complaining that they lost a case due to what they see as a judge's error, than those who missed a deadline or a certain activity due to the same errors. This suggests that any assessment of the work of judges, such as subjective evaluations of work errors and the resulting damage ("those who lose, complain"), should be taken with reservations, as it is precisely this subjectivism that influences objective assessments.

Although as much as 46% of respondents feel they have had reasons to file a complaint against the work of a judge, only 6% of them actually did it. Most of them claim that they do not file complaints about judges' work, behavior, or procedures because they do not believe that the internal court system would be able to respond to their complaints and change something about judges' actions (26%). At the same time, 14% of respondents lack knowledge, information, or time needed to file a complaint.

Parties in proceedings who have had experience with expert witnesses are mostly satisfied with their knowledge and skills (62%), somewhat fewer as regards their professionalism (58%), whereas what they find least satisfactory of the three tested elements is their objectivity (impartiality) – 55%.

Parties who were assigned attorneys/lead counsels were for the most part satisfied with all aspects of their work – more than 60% were satisfied with their knowledge, objectivity, and professionalism. Nevertheless, the number of people who were unsatisfied ranges from 25% to 32%, which suggests there is definitely room for improvement of their work. Despite the fact that it is claimed that there are procedures for assigning attorneys and lead counsels, compared with previous results this finding also suggests that favoring certain attorneys and counsel leads does not occur solely during the process of assigning, but is also present in the attitude of judges toward some of them.

Similar to the case of expert witnesses or temporary attorneys, and lead counsel, most of those who came into contact with enforcement officers are satisfied with their work (almost 60%). Nevertheless, on average a third of those who use their services do not find their competence, objectivity, and professionalism satisfactory, which is enough proof for the fact that their work is in need of improvement.

The respondents were least satisfied with the time needed for the enforcement of the ruling. More than half of them (57%) said they had to wait for the enforcement for more time than could be considered a reasonable timeframe, a fact that confirms a long-held view that enforcement is one of the biggest problems of the Serbian judiciary.