



**Legal & Court System Survey and Focus
Groups
Armenia, Azerbaijan, and Georgia, 2009**

Report of the main findings

July, 2009

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Executive summary

This report examines rule of law in Armenia, Azerbaijan and Georgia. The report is based on the data gathered by the Caucasus Research Resource Centers through a survey of business representatives and the general public, as well as focus groups carried out in the capitals of Armenia, Azerbaijan and Georgia.

The research finds that in all three countries respondents generally have a favorable view of the direction in which the legal system is developing. Similarly, most of the businesses find information on laws and regulations affecting their firms easy to obtain. Moreover, the results of all the focus groups and the surveys in the three countries reveal that there have been significant improvements in the legal environment during the last ten years.

However, the same positive assessment was not given when it came to the courts. While the respondents again stated that the situation has improved during the last ten years, the courts still are seen as largely state-dependent, biased and inefficient. In Armenia especially, corruption in the court system remains a major issue.

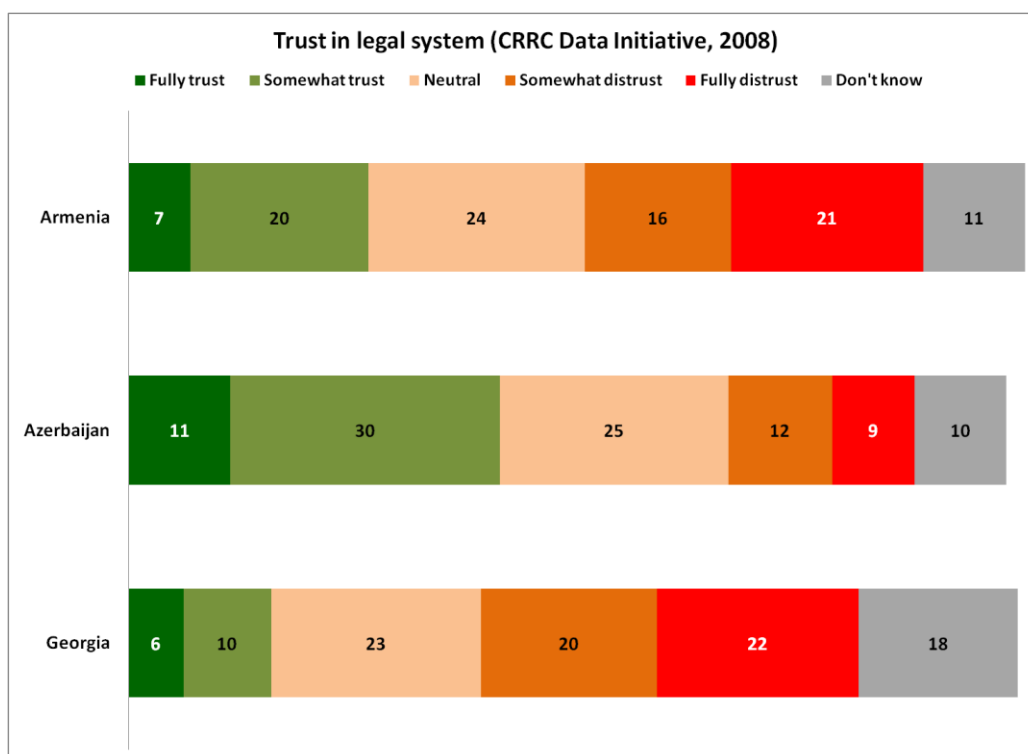
The low level of trust towards courts, along with the national mentality of the population in all three countries makes out-of-court settlement a preferable solution among all the groups -- surprisingly, even among lawyers. In all three countries, personal networks play a significant role in solving problems. In addition to personal connections, in Armenia criminal leaders are believed to have leverage over decision-makers.

Considering these findings, the report recommends improving the image of the courts by making them more transparent, providing information about courts to general public and limiting the dependency of the courts on the state. Further training of judges in specialized fields is necessary for improving the profile of the judges. The findings also suggest the development of arbitration courts in all three countries as an alternative to in court settlements.

The report section by section discusses the general legal environment, attitudes towards the courts, respondents' experience with courts and assessment of arbitration courts, and provides comparative analysis by country.

Introduction

The justice systems in the South Caucasus countries of Armenia, Azerbaijan and Georgia are in a period of transition. Robust rule of law and a transparent, independent court system are necessary conditions for democracy, as well as for stable economic growth. However, according to a number of evaluations carried out by international organizations between 2000 and 2008, the court systems and legal environments of these countries continue to suffer, in various degrees, from corruption, inefficiency, lack of independence, and a shortage of competent professionals. These shortcomings are reflected in the public's fairly pronounced distrust of legal institutions in these countries. In responding to questions on rule of law in their countries as part of the Caucasus Research Resource Center's 2008 Data Initiative survey, citizens in Georgia and Armenia expressed a very low degree of trust in the legal system, with slightly more confidence in Azerbaijan:



The legal climate as it relates to business and economic matters is an issue demanding additional attention. Businesspeople, as a group, generally have more contact with the legal system than ordinary citizens, as they tend to encounter laws and regulations in areas like taxation, registration and imports/exports. The legal environment for business – and entrepreneurs' perception of it – affects the ability of these businesses to operate and invest in that country, and consequently impacts its economic health. Assessments such as the European Neighborhood Progress Reports (2007) indicate that there has been improvement in some areas, especially registration and taxation procedures, but that corruption and lack of transparency continue to plague the legal climate for businesses in these countries.

The purpose of this report is to give an overview of the attitudes and perceptions of citizens of Armenia, Azerbaijan and Georgia related to the court system and legal environment in those countries. It is based on the findings of the "Legal & Court System" project, conducted by Caucasus Research Resource Centers in May 2009. CRRC carried out a series of surveys and focus groups among the general public, entrepreneurs and legal professionals. The data presented here is intended to create a more indicative picture of business people's perceptions of the justice system, and thereby help GTZ identify particular areas of current concerns relating to rule of law in the South Caucasus.

General Legal Environment

Surveys conducted with both business representatives and general public revealed a rather low assessment of the legal environment in all three countries. Georgia, according to the survey results, is doing better than the other two countries with regard to the general legal environment. Another trend that is observed throughout the survey is that business representatives are more positive in their assessments than the general public. This can be explained by long-lasting stereotypes about the courts that influence public opinion and linger even after institutions have begun to improve, while the business representatives' assessment is more experience-driven, and thus more sensitive to change.

Georgian businessmen were the most optimistic in assessing the direction in which the legal environment is developing in their country. More than half of the respondents in Georgia either strongly or somewhat agreed that the legal environment in their country is developing in the right direction, in comparison to 48% of those in Armenia and 44% in Azerbaijan. However, the situation is quite different with the Georgian public's assessment of the developments. Only 25% of the respondents agreed that the legal environment in Georgia is developing in the right direction, versus the 35% in Armenia and 37% in Azerbaijan.

The business representatives assess accessibility of information on laws and regulations affecting their firms rather positively as well. In Armenia and Georgia 81% of the respondents agree that in general such legal information is easy to obtain. In Azerbaijan, that number is at 64%. However, the consistency and predictability of such regulations' interpretation is rated lower: 76% in Georgia, 64% in Armenia and 50% in Azerbaijan. Nevertheless, respondents seem to agree that the situation has improved during the last 3 years.

This block on the "general legal environment" also included questions evaluating different regulatory areas in terms of creating problems for the operation and growth of the business. The areas to assess were the following: business licensing, customs/foreign trade regulations, labor regulations, foreign currency/exchange regulations, fire/safety regulations, tax regulations/administration and high taxes. In most cases due to different regulations and different implementation patterns in the three countries the answers of entrepreneurs indicate different problems (See Table 1).

Table 1 Evaluation of different regulatory areas in terms of creating problems for the operation and growth of the business – "+" means positive assessment (most of businessmen indicate it as no obstacle and minor obstacle), "-" negative (most of businessmen indicate it as major and moderate obstacle), "+/-" neutral (most of businessmen indicate it as minor and moderate obstacle)

	Armenia	Azerbaijan	Georgia
Business licensing	+	+	+
Custom/foreign trade regulations	-	-	+/-
Labor regulations	+/-	+	+
Foreign currency/exchange regulations	+/-	+	+
Fire/safety regulations	+	+/-	+
Tax regulation and administration	-	+/-	-
High taxes	-	+/-	+

As can be seen from the table, business licensing and labor regulations seem to not be very problematic in either of the countries. Most businessmen think that business licensing is either no obstacle or only a minor obstacle for their firms' operation and growth. However, when compared, the answers concerning business licensing indicate that it is least problematic in Georgia and most in Azerbaijan.

Customs and foreign trade regulations show more differentiation. While in Georgia it is a major obstacle for only 8% of respondents and the most popular answer was minor obstacle (33%),

24% of entrepreneurs in Armenia and 36% in Azerbaijan argue that customs and foreign trade regulations are a major hurdle for the operation and growth of their business.

Foreign currency and exchange regulations are not perceived as an obstacle by 43% of Georgian firms and 17% claim that it is a minor obstacle. In Azerbaijan the situation is similar – 63% of respondents agreed that it is either no or minor obstacle. In Armenia, however, all the answers were equally distributed across the options.

Fire and safety regulations are definitely not a problem for most of the entrepreneurs in Armenia and Georgia – 73% in each country answered that it was not an obstacle or only a minor obstacle. In Azerbaijan, fire and safety regulation is more problematic. Only 46% say that it poses no or only a minor obstacle.. It is cited as a moderate obstacle by 33% of respondents. This may suggest that at least in some kind of business these regulations are a barrier for firms' development.

Tax regulation/administration seems to be a common obstacle for all three countries. It was perceived as an obstacle more often than high taxes, which is usually recognized as the most common business hurdle. In each of the three countries, more than 50% of entrepreneurs stated that it was a major or at least moderate obstacle. Nevertheless, the proportions differ. In Georgia, the percentage of respondents choosing major/moderate obstacle combined is 58%, in Azerbaijan 68% and in Armenia 77%, here also 40% citing it as a "major obstacle", the highest rate of all. Such results (keeping in mind that the sample is not fully representative) indicate the need for improvements in this area of legal environment in all three countries, but particularly in Armenia.

High taxes are seen as a problem mainly in Azerbaijan, where 32% claim it is a major obstacle for their business and another 32% see it as a moderate obstacle. In Armenia, the numbers are only slightly lower, with 32% perceiving high taxes as a major hurdle and 26% as a moderate one. One third of Georgian entrepreneurs don't consider high taxes as an impediment at all; only 13% argue that it is a major obstacle and 28% think it is a moderate barrier.

Attitudes towards Courts

The business survey examined attitudes towards the courts extensively. It included questions about the general assessment of the court system, of judges, the quality of legal consultancy and specific features of the legal system. Some of the questions from this area were also asked to the general public and to the participants of all focus groups.

General Court System Performance

Both the businessmen and the public were asked to rate the overall quality and efficiency of services delivered by the judiciary/courts in their countries. There are significant differences both between the countries, and between the two groups when answering this question. The similarity is that in all the countries and among both groups negative opinions prevail. In Azerbaijan and Georgia the public assessment of the services is lower than that of businesses. The opposite trend is observed in Armenia, where entrepreneurs' evaluation is almost twice as poor as that of the public.

Only 27% of the public in Georgia rates the court's services positively and 69% think the quality and efficiency is not good. Georgian entrepreneurs generally assess courts negatively (61%), but 39% argue that they offer good quality. In Azerbaijan, the opinions are less dispersed within each group, but the principle is the same – 32% of the public as compared to 48% of businessmen claim that the services delivered by courts are of good quality. The percentage of respondents who have a negative opinion about this issue is more or less the same in both groups – 55% of the public and 52% of the entrepreneurs. In Armenia, while 40% of people assess court's services positively, only 21% among business respondents think similarly.

To compare developments in more depth, the respondents were asked about their assessment of the general court system overall performance during the last three and ten years. On the whole it can be said that respondents of both categories and in all three countries assess the changes in ten years more positively than in the last three years. In all cases, the performance was assessed more positively over ten years (see Table 2 below).

Table 2 Comparison of general court system's overall performance (GS 3 – general public survey 3 years comparison; GS 10 – general public survey 10 years comparison; BS 3 – business survey 3 years comparison; BS 10 – business survey 10 years comparison)

	Azerbaijan (%)				Armenia (%)				Georgia (%)			
	GS 3	GS 10	BS 3	BS 10	GS 3	GS 10	BS 3	BS 10	GS 3	GS 10	BS 3	BS 10
Much better	0	0	4	12	0	3	3	22	2	2	3	30
Somewhat better	35	37	23	42	27	38	26	39	15	17	44	37
About the same	32	25	50	19	48	35	49	10	38	38	23	7
Somewhat worse	7	10	8	8	7	12	13	13	35	30	17	13
Much worse	8	10	8	4	8	7	3	10	3	7	13	10
DK	15	15	7	15	10	5	6	6	7	7	0	3
RA	3	3	0	0	0	0	0	0	0	0	0	0
Total	100	100	100	100	100	100	100	100	100	100	100	100

A similar tendency can be observed among focus group (FG) participants:

"I see many positive changes in comparison to 10 years ago. Citizens are also more aware of their rights now." (Male, 48, banker, Yerevan)

The respondents in both groups were also asked to estimate the level of corruption today compared to three and ten years ago. Generally, the responses among the two groups and the countries show a fair amount of differentiation (see Table 3 below). The most positive assessment in the last 10 year span is observed in Georgia, where 73% of entrepreneurs argued that the corruption level got much or somewhat lower as compared to ten years ago. When we set the country results side by side, it can be seen that the most negative assessment of changes in corruption level is made by Armenian general public.

Table 3 Comparison of the corruption level in courts (GS 3 – general public survey 3 years comparison; GS 10 – general public survey 10 years comparison; BS 3 – business survey 3 years comparison; BS 10 – business survey 10 years comparison)

	Azerbaijan (%)				Armenia (%)				Georgia (%)			
	GS 3	GS 10	BS 3	BS 10	GS 3	GS 10	BS 3	BS 10	GS 3	GS 10	BS 3	BS 10
Much lower	2	5	4	12	3	13	3	23	5	8	10	43
Somewhat lower	27	25	15	28	15	12	29	26	43	33	33	30
About the same	38	33	39	24	37	27	39	10	22	27	27	7
Somewhat higher	10	7	8	4	21	21	13	16	15	17	10	10
Much higher	7	12	15	16	17	20	13	19	5	5	7	0
DK	10	12	19	16	7	7	3	6	10	10	13	10
RA	7	7	0	0	0	0	0	0	0	0	0	0
Total	100	100	100	100	100	100	100	100	100	100	100	100

FG participants confirmed that survey finding. Generally, they saw positive improvements during the last ten years:

“The level of corruption has significantly decreased.” (Female, 22, lawyer, Tbilisi)

“The structure has become more complicated, but the corruption risks have also been reduced thanks to the new system. So from the institutional point of view, there have been positive changes. I think young judges are more open for new knowledge and information, while older judges have brought the Soviet legacy with them.” (Male, 34, lawyer, Yerevan)

At the same time, however, the participants of focus groups were aware that corruption in courts still exists and moreover, the picture of corrupt courts is present in general public's mind:

“The courts should be more transparent. If everyone talks about how corrupt the courts are, the trust towards the courts is not going rise. I think courts should make the information about solved cases to the public. They should present good examples as well. There are no good examples about the court cases solved, or about good judges. I think the public profile of the courts and the judges is very low.” (Male, 46, business, Yerevan)

Businesses also had to indicate on a 6 point scale (always-never) whether firms like theirs typically needed to make extra, unofficial payments to public officials when dealing with courts. Differences between the countries are quite significant. The most positive assessment occurred in Georgia and the most negative in Armenia. In Georgia, 87% of entrepreneurs chose one of the positive options, moreover 63% claimed that there was “never” a need to pay extra money to public officials when dealing with courts. Such positive assessments are less prevalent in Armenia and Azerbaijan. In Azerbaijan 36% of businessmen had indicated regular payments, out of which 16% chose “always”. In Armenia a little bit more than half (52%) of entrepreneurs admitted that they had to bribe public officials when dealing with courts, 16% claimed they always have to. Note that of course this data only reflects the cases in which respondents admit to paying, so that a more repressive reaction to corruption allegations may impact people's willingness to admit that they actually paid.

The survey of the general population tried to further investigate the public's perception of general quality of court services by asking the respondents on a 5 point scale to assess whether a journalist can count on protection from courts if he/she makes a free statement about a politician.

The picture is quite pessimistic in both Armenia and Azerbaijan. Fifty percent of the respondents in Armenia and 30% in Azerbaijan claim that the journalists can never count on protection from courts, and another 32% say seldom. In Georgia the rates are higher, but still far from positive. Only 13% of respondents claim that a journalist that makes free statements on politicians can always or at least often count on protection from the courts.

The general public was also asked to evaluate the probability of courts making a decision against a politician from the governing party. When assessing this scenario, the respondents in all the countries showed marginally more trust in the courts. In Armenia and Azerbaijan, 20% of the general public believed that courts might decide against a politician from the governing party, while in Georgia the rate was higher and equaled to 30%. The questionnaire did not ask, however, whether the public believed that a case would ever come to court if it was not at least tolerated by higher levels in government.

Business and general public respondents also assessed the chances of making an appeal. There are some differences between the countries, but they are not as significant as in some other categories. The number of respondents with a positive assessment is not very large in any of the three countries. In fact, the neutral answer (50/50) is the most popular one in all countries

and in both groups of respondents. The highest positive assessment (23%) is given by Armenian and Azerbaijani entrepreneurs. In Georgia only 13% of businessmen think that they have a very high or at least somewhat high chance of appealing to a higher court.

The business representatives were asked a number of questions on how biased the courts are when resolving business disputes between different parties. The first question dealt with resolving business disputes between foreign firm and a local firm. Only in Azerbaijan 31% of entrepreneurs claimed that in such cases courts are usually biased towards local firms. At the same time, however, the number of answers indicating that the courts are not biased towards either side is also quite big – 23%.

The second question of this series asked about resolving business disputes between a private entrepreneur and a state-owned or state-sponsored firm. The analysis of answers to this question can indicate (remembering the sample's drawback) whether courts in all South Caucasus countries are perceived as extremely state biased. Respondents tend to agree that in such a case the court will usually or always be partial towards the state owned firm, ranging from 63% in Georgia through 69% in Azerbaijan and to 81% in Armenia.

The next question dealt with resolving business disputes between a large firm and a medium/small firm. In this case there is a little bit more of differentiation among opinions, although the trend is to assess courts as biased towards large firms. Mostly this tendency is present in Armenia, where the majority of entrepreneurs claim that courts are usually (55%) or always (26%) partial towards large firms. This rate is lower, but still high in Azerbaijan and Georgia, where such opinion is expressed by 46% of businessmen.

The fourth question assessed disputes between a firm and an individual. Here the entrepreneurs usually do not express such strong opinions towards either of the parties. However there is a slight tendency to perceive firms being more privileged at courts.

The last question of the series was about resolving disputes between a firm and the state. Again similar to the views about the courts' attitude towards private and state-owned firms, the results show a very strong opinion of respondents. Rates are different from country to country, but the trend is the same – 69% in Azerbaijan, 77% in Georgia and 87% in Armenia claim that in such a case the courts will be biased towards the state.

Another series of questions in the business survey was trying to capture the least fair and efficient procedures that entrepreneurs deal with. On a four point scale (very efficient/fair – not efficient/fair at all) the businessmen were asked to assess first how efficient and then how fair the following procedures are:

- bankruptcy/liquidation
- property rights protection
- contract enforcement
- collateral regulations
- copyright/patent protection

In Georgia, the most of these procedures get more or less the same number of positive and negative estimations in both categories (fairness and efficiency). The only one that deviates from this rule is property rights protection, which is claimed to be not efficient by 60% and not fair by 50% of entrepreneurs. Contract enforcement is not assessed very well either, but mainly when its efficiency is taken into account. The evaluation is mostly based on personal/ in-house experience of the respondents as well as on experience of friends and business partners.

Armenian entrepreneurs assess the above procedures more negatively, although property rights protection is also perceived as the biggest hurdle in terms of efficiency – 71% of businessmen claim that this procedure is not efficient, but only 48% argue that it is not fair. According to 45% respondents, bankruptcy and liquidation procedures are also inefficient, and

52% assert that they are not fair as well. Copyright and patent protection are neither perceived as effective (51% negative vs. 19% positive answers) nor fair (61% vs. 16%). Again, the assessment is mainly based on personal/ in-house experience of the respondents or on experience of friends and business partners.

In Azerbaijan, the only category that is balanced in assessment is collateral regulations. The most negatively assessed category is contract enforcement. This is deemed as mostly inefficient by 56% of respondents, and 48% maintain that it is not fair. Copyright and patent protection was also estimated to be quite poor – only 8% of respondents had a positive opinion about its efficiency (and 12% about fairness) and 44% evaluated it negatively (34% in terms of fairness). Property rights protection and bankruptcy/liquidation procedures had more negative than positive answers as well, both in terms of efficiency and fairness. (See Table 4 below)

Table 4 - Assessment of fairness and efficiency of business procedures - “+” means positive assessment (most of businessmen indicate it as very or mostly efficient/fair), “-“ negative (most of businessmen indicate it as mostly not efficient/not fair; not efficient/fair at all), “+/-“ neutral (most of businessmen indicate it as either mostly efficient/fair or mostly not efficient/not fair):

	Armenia		Azerbaijan		Georgia	
	efficient	fair	efficient	Fair	efficient	fair
bankruptcy/liquidation	-	-	-	+/-	+/-	+/-
property rights protection	-	+/-	-	+/-	-	-
contract enforcement	+/-	+/-	-	-	-	+/-
collateral regulations	+/-	-	+/-	+/-	+/-	+/-
copyright/patent protection	-	-	-	-	+/-	+/-

Participants of FGs presented many valuable thoughts and recommendations about improving performance of court system. Participants of the general public FG in Armenia came to a consensus that institutional changes alone cannot establish the rule of law in Armenia. No legal reform will achieve its goal unless the population is educated about their rights, a culture of law enforcement is created and the profile of the courts is raised:

“We need to bring up our children knowing their rights and standing up for them.” (Female, 32, teacher, Yerevan)

“Yes, our children should be brought up with respect towards the laws. But I think we should start from ourselves.” (Male, 48, banker, Yerevan)

“I think apathy is the biggest problem today. The younger generation is apathetic and the older generation is tired of struggling. This needs to be changed.”(Female, 25, sociologist, Yerevan)

According to Armenian businessmen directions for development of more “user-friendly” court system would be:

- increasing transparency of procedures
- making information about courts/procedures widely available
- increasing the courts’ independence

Lawyers in Armenia emphasized the importance having courts be specialized:

“I think combining the courts made the process less effective. The judges are not competent enough to deal with different issues.” (Male, 34, lawyer, Yerevan)

General public FG participants in Azerbaijan mentioned that courts should not be turned to in all cases, but instead should only be used when a grave issue is at stake. The Azerbaijani FG

participants also said that there is continuing reluctance about going to court since people tend to think that resorting to courts would harm their broader reputation. Yet, the courts were endorsed by the participants, at least ideally, as an institution that should work for the sake of impartiality and fairness in cases:

“People should appeal to courts when there are no other ways to resolve the problem. Small cases should be negotiated between the parties themselves. The negotiations between the parties without appealing to court would prevent from the establishment of culture of extensive court use. But use of courts is an indicator of advanced democratic practice in the country” (Male, 25, economist, Baku)

Business respondents in Azerbaijan were also aware of necessity of advancing the “court culture” in society:

“When resolving a conflict, people should compromise. Before appealing to court, they should try to find another person, an impartial third party, who could help them make a right decision. However, “Court Culture” should be widely propagated. People should not be afraid of appealing to courts.” (Male, 32, business, Baku)

Participants of the general public FG in Georgia listed several factors that would make using courts more “user-friendly”:

- lowering costs
- improving justice
- increasing courts’ independence from the state
- increasing impartiality and equal treatment in courts
- fostering objectivity of judgment
- upgrading qualifications of judges and lawyers
- shortening procedures and decision-making process

Business FG participants also named several factors that would improve court performance:

- running information campaign about court systems to improve knowledge of courts’ procedures in the society
- upgrading qualifications of state-appointed attorneys to increase trust in their abilities
- changing people’s conception of the courts

Also, lawyers participating in the FG discussion outlined changes that need to be made to improve courts’ performance. Apart from factors mentioned already by the general public and the businessmen, the lawyers argued that it is necessary to:

- simplify administrative procedures;
- reduce bureaucracy in courts of first instance;
- implement the right to release claimant from court fees more frequently;
- create a social fund to support and subsidize poor people who take their case to the court.

Specific Features of Court System

The respondents (both business and public) were also asked a series of questions about specific features of the court system. This included: fairness/impartiality, honesty, efficiency/quickness, affordability, consistency, decisions enforcement and competence. The participants of the focus groups also evaluated some of these features.

None of the features were assessed in very positive terms by any of the survey groups. Ratings differ from country to country, but the common feature is that the courts' image is rather poor. FG participants were also generally dissatisfied with court procedures.

Armenia

The respondents of the public survey in Armenia seem to be more critical towards the legal system in the country than the business representatives. Only in one category – competence of the judges– is approval higher among general public (53%) than among the entrepreneurs (33%).

Cumulatively, however, the most positive assessment is that of decision enforcement. First of all, this category was evaluated positively by 70% of businessmen, and at the same time got a relatively high number of positive answers from the public (47%).

Participants of the general public FG expressed general dissatisfaction with law enforcement in the country. However, some noted that the situation has improved during the last 10 years. Also, business FG participants noted that there has been a positive shift in the court system during the last 10 years. Nevertheless, they still expressed general dissatisfaction with court procedures.

Apart from competence and decision enforcement all other features were assessed either negatively or extremely negatively by both groups of survey respondents.

The two questions with the worst assessment were the ones about how fair/impartial and honest/uncorrupt the court system is in resolving disputes. When asked about fairness and impartiality of courts, 92% of general public survey respondents presented a negative opinion. A large percentage of them – as many as 23% – claimed that courts are “never” fair and impartial. The general public was even more critical when honesty was the issue – 93% of the respondents gave negative assessments and 33% within these say that the court system is “never” honest. Businessmen have a better, but still overwhelmingly negative, attitude – 73% of them say that (to various extents) courts are biased and dishonest.

Efficiency and speed seem to not be the strong side of the court system, according to the respondents. Businessmen give the same rating here as in the previous two cases – 73% agree that it is neither efficient nor quick. General public opinion is worse, but not as bad as in case of honesty and impartiality – 81% gave a negative answer.

Affordability and consistency are also assessed negatively, but to a lesser extent. In the two cases the rating was the same – 75% of negative answers in the general public survey (20% positive) and 53% of negative answers among entrepreneurs.

In order to find out which features of court system are most problematic, FG participants were asked if according to them there are parts of the court procedure that should be changed. According to the participants of the general public FG, the following factors make courts unpopular with the population: courts are expensive and time-consuming; judgments are not always fair and seldom predictable; lawyers and judges lack professionalism:

“The courts should become more user-friendly. It takes an absurdly long time to solve a case through the court.” (Female, 32, teacher, Yerevan)

“I think people were less afraid during the Soviet times than now. Now we are living in a society where everything is possible if you have money and power. We live in chaos now.” (Male, 48, baker, Yerevan)

Business representatives participating in the FG also noted that one of the main problems was the time it takes to solve a case through the court. The new reforms according to them have also created some confusion, making the process even more time consuming now.

“The court procedures are so long that it seems like the case never gets solved. There is also a lack of education and professionalism among the judges.” (Female, 46, business, Yerevan)

The lawyers taking part in the FG mentioned that despite positive changes that have occurred in the court system during the last three years the courts have quite a poor reputation among the population. According to the participants, one of the major problems that directly concerned them as professionals working in the legal field was the lack of predictability of the outcomes for the cases. They also noted that judgments are not always followed up properly:

“There is a common belief in the population, that if you don’t have money you will not win the case. There is no trust towards the courts.” (Female, 33, lawyer, Yerevan)

“There is no legal predictability. It is because the courts are often not fair in their judgment. So it is very hard for me as a lawyer to promise something to my client. The lack of legal predictability makes us look bad in the eyes of our clients.” (Male, 46, lawyer, Yerevan)

Azerbaijan

The assessment of the court’s features in Azerbaijan is more positive than in Armenia, but still very negative in both survey groups. Additionally, in Azerbaijan, the “refuse to answer” phenomenon indicates that there may be some discomfort with answering the questions. Every sensitive question (like ones about court’s features) got 3-5% of refusals or responses of “do not know.” Moreover, Azerbaijan is notorious for assessing negative circumstances quite positively, partially because broader expectations are low to begin with. The results should therefore be seen in this context, especially when comparing to other countries.

Only one category – decision enforcement – was evaluated positively, or at least neutrally (receiving at least 50% of positive answers) by both survey groups. Half of the entrepreneurs argued that decisions are always, usually or at least frequently enforced. Among general public the rate of positive answers was even higher – 62%.

Another feature that was reviewed positively was affordability – 47% of general public and 42% of businessmen think that the court system is affordable. However, due to considerable numbers of insignificant answers among general public (10% of “I don’t know” and 5% of “refuse to answer”), the quantity of negative assessments is lower and equals 38%, while among business people it is 58%.

The competence of the court system also has quite a high rating among the general public – 47% positive against 43% negative answers. The business representatives’ opinion is quite different in this respect – only 15% argue that the system is competent and the rest do not agree with this statement. It is competence that has the worst rating among entrepreneurs.

When asked about the court system being fair and impartial both groups had a similar rate of negative answers (73% - business and 75% - public). Only 7% of the public see the court system as honest and uncorrupt, which is the lowest assessment of all the features (90% of answers are negative). The entrepreneurs’ evaluation is a bit better, but also far from good – 81% claim that these features are present only sometimes, seldom or never.

According to most of the respondents, the court system is not quick or efficient either – 64% of the general public and 81% of businessmen give it a negative assessment. There is a slightly greater sense that the court system is consistent – 27% among the general public think so, and 37% among businessmen.

General public FG participants noted that the situation in Azerbaijan has gotten better over the past 3 years, and that 90% of rules are followed by the citizens. According to the participants,

however, people do not think seriously about the rules and procedures and believe that they can be changed depending on the circumstances. This being the case, there remains much room for bribery and corruption in order to have a decision in favor of bribe-giving party

Business FG participants also noted that the situation in the country has gotten better in recent years. Respondents were concerned with the court procedures being time-consuming and costly, lawyer services being expensive and judges making improper decisions in the favor of the opposite parties because of bribery:

“Law is adopted objectively, but followed subjectively. However, the situation has gotten better over the past few years. People are now more likely to follow the rules.” (Male, 27, business, Baku)

“Court procedures are time-consuming. Finding an affordable lawyer is time-consuming. The probability of a just judgment is very hard to guess. All these factors lower the willingness to appeal to courts.” (Female, 35, business, Baku)

During the discussion in the lawyers FG, courts were generally described as far from independent, with judges passing decisions that favor the people who bribe them. Also, due to the absence of advanced implementation mechanisms that could preside over all circumstances, laws remain on paper only. Another important issue is the attitude towards law. According to the respondents, people assume that laws can be changed or interpreted the way they want if they present the courts with certain incentives. Several participants noted that the most significant barrier to the implementation of court decisions is the subordinated structure in the judiciary system. This is particularly because laws have many “unless it is stated otherwise” clauses, and therefore give too much space for discretion. By the time the decision gets to the implementation stage, it goes through many government bodies, sometimes not directly related to the judiciary system. Another problem, according to the respondents, is that people remain ignorant about courts feel that there are taboos against using them. They think an appeal to the court should be the final option, and they do not believe court decisions are impartial, but rather influenced by the political orders.

Some lawyers believed that it takes too long with the documentation and procedural issues when an average person turns to the court. Another concern is that they do not trust the courts, and that it is quite possible that the decision will turn out to be the opposite of what they expect, even if they have the right claim. Another important concern is that many people do not know their rights. That is why people avoid using the courts to resolve their conflicts.

“The rules are followed by people, but there is always a subjective factor of people’s irresponsibility. If government officials want to earn money by any means possible, no rules are able to stop them. The rule of law is directly linked with the educational and human factors. We are talking about a “human crisis”. In order to prevent it, youth should be properly educated at an early age.” (Male, 27, lawyer, Baku)

“Officials in our country do what they want. They don’t care about the rules if the rules contradict their decisions. If the rules are not applied properly, what kind of an executive mechanism are we talking about?” (Male, 35, lawyer, Baku)

Respondents agreed that the major concern is the bad image of courts in people’s minds. For them it is a process of red-tape that does not even guarantee results. The general agreement is that because of the procedural hardships people choose to negotiate among themselves instead of wasting both time and additional money in courts:

“There are two main reasons why people are not applying to courts: first people are afraid of the legal system, of the documentation processes; second it’s time-consuming and costly. The bottom line is that all of these

factors are caused by the low level of education. If a fourteen-year old girl is getting married, why would she care about the rules, courts or legislation?" (Female, 32, lawyer, Baku)

Georgia

Both the public and business people's assessment of the Georgian court system is significantly better than in the other two countries. Respondents of both groups give higher ratings in almost all categories when compared with Armenia and Azerbaijan. However, the overall assessment of the court system in Georgia is not tremendously positive either, but relative to the poor evaluation in the other two countries (especially in some categories) it is visibly better. At the same time, when Georgian business and public reports are put side by side, the opinions of the general public are far more positive than the one of entrepreneurs.

In the general public survey only one category – affordability – was given less positive (42%) than negative (51%) answers, and even in this case the difference is not very great. However, the same category among entrepreneurs was the only one assessed definitely positively – with 64% of affirmative answers.

All remaining features of court system in Georgia receive between 50% and 62% of positive evaluations from the public. Conversely, among entrepreneurs none of the remaining features got more than 40% of positive answers.

When asked about the court system being fair and impartial, half of the general public respondents' assessment is positive, while among businessmen it is only 30%. The difference between the two groups is even bigger when honesty of the court system is at issue – 52% of the public argues that court system in Georgia is honest at least usually or frequently. On the other hand, 28% of entrepreneurs had the same view.

The biggest split between general public's and entrepreneurs' views can be observed when speaking about the quickness and efficiency of courts. While 60% of the public evaluates this feature positively, barely 20% of businessmen expressed such opinion. With 80% of negative answers among business respondents, it is the category that received the worst assessment.

Both the consistency and competence of court system get quite a high rating of 62% from the general public. Entrepreneurs are not so affirmative – according to 23% of them court system is consistent, while 40% of businessmen say it is competent.

The last feature evaluated by the respondents was decision enforcement. While it was assessed quite favorably by the public (59% of positive answers), the entrepreneurs' opinion was more negative – only 31% of answers were affirmative.

In the context of the broadly positive assessment of court system by general public it is quite surprising that the opinion of general public FG respondents does not seem so affirmative. Most of the participants supported the opinion that today the situation in court system is better as compared to 10 years ago; however, it is worse than it was three years ago. Participants' assumptions were mostly not based on personal experience (only one respondent had a case taken to a court), but rather on the information they received from mass media and friends/relatives.

The FG participants named several factors which should be changed in order to make courts work better. The key concerns were the government interfering in court decisions and young, inexperienced judges:

"The system should not allow the government to interfere." (Male, 23, unemployed, Tbilisi)

“A minimum age [for judges] should be defined. They should be more experienced and qualified.” (Female, 48, unemployed, Tbilisi)

According to most of the participants, none of the court departments (solving criminal, civil and business cases) work at a satisfactory level. Nevertheless, there were different opinions regarding the extent to which the courts complied with the laws.

There were different views among business focus group participants regarding the enforcement of court decisions. The majority claimed that the court’s judgments are carried out, although not always reached properly.

Focus group participants had various opinions about whether the situation in courts has changed compared to three years ago. Some of them thought that the situation was the same. A few thought that the situation in courts has gotten better in comparison to three years ago. However, these viewpoints were criticized by other participants who argued that unbiased decisions are only made in civil cases and not when it comes to business or political cases:

“Nonobjective decisions are made not only in political, but also in business cases.” (Male, 27, business, Tbilisi)

All participants of the focus group agreed that the situation in courts is much better compared to ten years ago.

“Compared to ten years ago, the court system is now established. The problems which are so obvious nowadays indicate that the system itself exists.” (Male, 28, business, Tbilisi)

It is remarkable that only two respondents had personal experience with the court and their attitude was pessimistic:

“...Monopolies have a great impact on the court. The organizations are very unprotected and have no resources to defend themselves.” (Male, 28, business, Tbilisi)

“If the government has an interest it interferes with the court process and influences the decision.” (Male, 26, business, Tbilisi)

All participants felt reluctant to use local courts because it is perceived as time-consuming and costly. Respondents named money, time and discomfort as the main concerns when going to the court with a particular case. One of the respondents claimed he would offer his business partners more beneficial conditions if there was an arbitration court to solve the problem in case of a possible dispute in a short period of time - within 2-3 days. The court itself is not very trusted:

“I always require the payments in advance. I can’t rely on the contract and have no hope that the court will defend my rights.” (Male, 27, business, Tbilisi)

The respondents also named what aspects of the court should be improved to make it better. According to them the most urgent issues are simplifying the laws and increasing the competence of judges:

“The law should be simplified and it should take less time to make decisions.” (Female, 26, business, Tbilisi)

The lawyers’ FG participants claimed that execution of court decisions depends on the type of case. The participants claimed that the situation on average has improved in the last three years. They also noted that the situation has significantly improved compared to 10 years ago:

“Before 2004 the situation was much worse. Even simplest court decisions were not executed without a lawyer.” (Female, 27, lawyer, Tbilisi)

The FG participants agreed that the Civil Court is the most efficient, administrative court has improved its performance lately and criminal court works worst of all.

All the participants agreed that all the named factors (efficiency, honesty, lowering the costs, enforcement) need to be improved in courts. Nevertheless, they pointed out other issues as well:

- qualifications of judges, lawyers, prosecutors should be increased;
- situation in regions with respect to infrastructure and qualifications must be improved;
- court fees should be reduced;
- discrepancies in legislation should be eliminated, especially in the executive branch;
- public trust towards courts should be raised

Legal Counsel Assessment

Both business and general public respondents were asked a series of questions concerning the quality of legal consultations in their countries. Tables 5 and 6 below show the attitudes of businesspeople and the public, respectively. (It should be noted when comparing the two groups of respondents that the scales of answers in the surveys differ slightly.)

In general, business respondents in all of the countries assess the quality of legal counsel more positively than the general public. This may be because entrepreneurs, who are on average better off than the typical citizen, can afford better lawyers, and are therefore more pleased with their performance. However, many businesspeople still saw corruption among lawyers as problem.

Table 5 Legal consultation evaluation by business respondents (1 – affordable; 2 – competent; 3 – uncorrupt; 4 – dedicated)

	Azerbaijan (%)				Armenia (%)				Georgia (%)			
	1	2	3	4	1	2	3	4	1	2	3	4
Yes	4	4	4	4	16	16	6	13	20	7	7	10
Mostly yes	76	65	36	80	52	52	39	48	50	63	55	63
Mostly not	20	27	56	16	32	32	42	36	30	27	31	20
Not	0	4	4	0	0	0	13	3	0	3	7	7
Total	100	100	100	100	100	100	100	100	100	100	100	100

Table 6 Legal consultation evaluation by general public respondents (1 – affordable; 2 – competent; 3 – uncorrupt; 4 – dedicated)

	Azerbaijan (%)				Armenia (%)				Georgia (%)			
	1	2	3	4	1	2	3	4	1	2	3	4
Fully agree	12	10	0	0	7	10	5	2	0	0	0	0
Agree	43	33	7	22	28	47	15	27	8	15	8	7
Neither	22	37	23	43	18	23	22	25	25	38	33	35
Disagree	13	12	33	15	37	10	40	28	53	38	43	47
Fully disagree	5	3	35	15	8	5	13	12	10	5	7	7
DK	5	5	2	5	2	5	5	7	3	4	9	4
Total	100	100	100	100	100	100	100	100	100	100	100	100

The largest differences between business and public evaluations are found in Georgia. Interestingly, there was a similar discrepancy in Georgia in the evaluation of the quality of courts, but in the opposite direction: in that case, public opinion was better than that of businesspeople, while here the results are reversed. While 70% of entrepreneurs agree that

legal consultation is affordable and competent, only 8% of public share this opinion with regards to affordability, and only 15% when speaking about competence.

Armenian and Azerbaijani citizens are not so critical towards their lawyers. Their opinion is still worse than that of entrepreneurs, but it is much better than their Georgian counterparts. It is interesting that among the Azerbaijani public, lawyers are perceived as affordable (55% of affirmative answers) and quite competent (43%), but at the same time corrupt (merely 7% agree that lawyers are uncorrupt) and not very dedicated (22%). Also, Azerbaijani businessmen's evaluation of lawyers shows that while they get a very high rating in terms of affordability (80%), competence (69%) and dedication (84%), they are not perceived as uncorrupt to the same extent – only 40% agreed with this statement.

In Armenia, it was the lawyers' competence that received the highest rating both among businessmen and general public – 57% of the public and 68% of businessmen assessed it positively. Affordability got the same evaluation from the business, but was much lower among the public – 35%. Dedication of lawyers was again estimated better by the entrepreneurs, whose positive assessment (61%) was twice as high as the public's (29%). The lowest rating was given to lawyers' corruption – only 20% of public and 45% of businessmen say that lawyers are not corrupt.

Evaluation of Judges

Questions about judges were present in both surveys; however, they were adapted to the respective respondents. There were two questions in common between the two surveys.

First, respondents were asked to what extent they agree with the statement that judges are sufficiently educated/have sufficient legal training. As a rule, business respondents in all three countries evaluate judges' education more negatively than the public. Businesspeople may have a greater knowledge of law (especially business law) than the average citizen. Furthermore, while people generally go to courts to solve their personal cases, businesspeople need to resolve problems of their firms, which requires a different and specific kind of legal training. It might be that judges (especially older ones) lack the training necessary to solve complicated business cases.

The biggest difference can be observed in Armenia, where 60% of the public (the highest rating of all) and 29% of businessmen agree that judges have sufficient legal training (Table 5 below). Number of neutral answers is almost the same in the two groups (19% business and 20% public).

In Azerbaijan the difference is not as big, but also noticeable. Among entrepreneurs there is 30% of affirmative and 37% of negative answers. At the same time, 47% of the public agrees and only 19% disagree that judges' education is sufficient.

The positive opinions of Georgian respondents in both groups correspond most closely. The public positive assessment is also the lowest of all countries – 36% of the public and 27% of businessmen claim that judges' education is sufficient. However when we put the negative opinions side by side, the difference between the two groups of respondents is very similar to other countries – 22% among public and 43% amongst entrepreneurs.

In the public survey, the positive assessments of judges' education are fairly varied between the three countries -- ranging from 27% to 60% -- however, the negative assessments hover consistently around 20% in Armenia, Azerbaijan and Georgia.

Apart from the question about education, the general public respondents were also asked to assess if judges in their countries are quick/efficient and impartial. Very few respondents gave a positive response; however, the percent of negative (versus neutral) assessments varied greatly between the countries (Table 7 below).

When assessing quickness and efficiency of judges, the number of positive answers were very similar in all countries and very scarce – 2% in Armenia, 0% in Azerbaijan and 5% in Georgia. The number of negative answers, however, varies quite a lot because of different quantity of neutral answers.

The highest number of negative evaluations can be observed in Armenia – 85% of respondents disagree with the view that the judges in their country are quick and efficient. In Azerbaijan, the situation is better, but still far from perfect – negative opinions claimed 66% of the total. In Georgia, 38% of respondents have a negative attitude.

When asked about judges being impartial, again a positive assessment was very rare in all of the countries – 2% in Armenia, 5% in Azerbaijan and 3% in Georgia. As in the previous case, the number of negative answers differs from country to country. Once more respondents' opinions are worst in Armenia – 90%. In Azerbaijan and Georgia number of negative views about judges' impartiality is generally similar (52% and 54% respectively), but the distribution of answers is different. While in Azerbaijan, 22% chose "fully disagree", in Georgia it was only 2% of answers.

Table 7 Assessment of judges professional features (1 –sufficiently educated; 2 –quick/efficient; 3 –impartial)

	Armenia (%)			Azerbaijan (%)			Georgia (%)		
	1	2	3	1	2	3	1	2	3
Fully agree	23	0	0	15	0	0	3	0	0
Agree	37	2	2	32	0	5	33	5	3
Neither	20	10	7	27	27	40	37	50	40
Disagree	18	50	55	17	23	30	22	38	52
Fully disagree	0	35	35	2	43	22	0	0	2
RA	0	0	0	2	2	2	0	0	0
DK	2	3	2	7	5	2	5	7	3
Total	100	100	100	100	100	100	100	100	100

Another question asked to respondents in both groups was: "In your view, what percentage of judges in your country follows laws properly?" In evaluating whether judges are law-abiding, the entrepreneurs' opinion is better than the public's in all countries, but still not very positive. An overwhelming majority of the public in Azerbaijan and Armenia feel that less than half of judges follow the law properly, while the Georgian public's assessment is somewhat less negative.

The worst assessment can be observed among the Azerbaijani public. According to 38% of this group, no more than 10% of judges follow laws properly and as many as 88% claim that this rate is not more than 50%. The entrepreneurs' opinion in this respect is somewhat better – 27% of them think that no more than 10% of judges obey laws, and 64% answered this question by stating that 50% or less of judges are law-abiding.

The opinion of Armenian public is not much better than the one in Azerbaijan – 40% of respondents argue that the rate of law obedience among judges is not higher than 10%. When we take into account answers indicating 50% or less, the number of respondents grows to 80%. The entrepreneurs in Armenia are not of much better opinion. The percentage of these who think that 10% or less follow laws properly is 31%, and three fourths (76%) claim that this rate is not more than 50%.

In Georgia the rate of these who think that no more than 10% of judges obey law is the highest – 43%. The same rating was given by 29% of businessmen. However when answers indicating 50% or less are taken into account, this rate is the lowest among all three countries for both groups of respondents – 64% of public and 61% of entrepreneurs think this way.

Although respondents' current opinions of judges seem to be rather dismal, they nevertheless indicate a perception of improvement in the overall quality of the legal profession in the last ten years. In all three countries the number of positive answers is much higher than the negative ones (Table 8 below).

Table 8 Assessment of changes in the overall quality of the legal profession in the last ten years

	Armenia (%)	Azerbaijan (%)	Georgia (%)
Significantly improved	17	3	8
Somewhat improved	42	40	45
Remained the same	13	23	20
Somewhat deteriorated	13	10	18
Significantly deteriorated	10	8	7
DK	5	12	2
RA	0	3	0
Total	100	100	100

Solving potential conflicts

Another part of both surveys and FG discussions was assessing the possibility of solving potential conflicts. Business and general public respondents were asked to estimate how useful each of the given institutions would be in helping them successfully resolve a strong legal claim. The proposed institutions were: lawyer, court, police, friends who are well connected, criminal authorities and arbitration institution.

In general, lawyers were valued highly among both businesspeople and the general public in all three countries; however, citizens in the three countries – especially Armenia and Azerbaijan – said they relied on friends. Looking at the specific data, businessmen in all countries chose lawyers as the most helpful institution; however, the court and well connected friends came in at a close second and third. Police, criminal authorities and arbitration institutions are not perceived as effective in such situations – they received between 2% and 8% of answers, depending on the country.

Georgian businessmen participating in the FG shared very similar opinion. They noted that criminal authorities are no longer efficient for solving serious disputes. In their opinion, friendship still plays a role in resolving conflicts; however, courts and lawyers are the most important:

“In courts of first instance friendship does not influence court decisions as sentences can be adjudicated in higher instance courts.” (Male, 30, lawyer, Tbilisi)

Public respondents also value lawyers highly – they were placed as one of three most helpful institutions by 67% of respondents in Armenia and 77% in Georgia and Azerbaijan. In Armenia and Azerbaijan, however, friends are seen as those who can help to the greatest extent. Courts are perceived as helpful as well – in all three countries they were placed as third institution after friends and lawyer. Criminal authorities and arbitration institutions were not placed very highly.

One notable inter-country difference is that in Armenia criminal authorities have a relatively significant role, while very few Georgians named them as important. While in Armenia and Azerbaijan criminal authorities were chosen as one of three most helpful institutions by 33% and 26% respectively, in Georgia it was only 4%, and nobody put it in first place. Also, trust towards the police in such situations is significantly higher in Georgia. There, it was in fourth place, while in both in Armenia and Azerbaijan it occupied last position.

FG participants in Armenia generally confirmed these opinions; however, they stressed criminal authorities as those who can help most. They agreed that informal ties (criminal leaders specifically) play significant role in solving disputes. Based on their experience, some of the participants also mentioned that even if the case is in court, informal ties still play a significant role.

*“I think criminal leaders play a big role. Our firm had a case and very good lawyers, but my boss still asked a criminal leader for assistance.”
(Male, 35, engineer, Yerevan)*

*“It depends who is your opponent. If you have a case with someone who is on your level you may be fine in the court. But if your opponent has connections with the criminal world, then you are in a big trouble.”
(Female, 25, sociologist, Yerevan)*

In the general public FG in Azerbaijan, it was agreed that money plays the most important role in solving conflicts. They stated that money significantly outweighs the importance of other factors:

“Both money and powerful friends can be useful.” (Male, 45, consultant, Baku)

In Georgia, when asked how useful/important courts, lawyers, police, friends and criminal authorities could be in resolving a legal claim, FG participants expressed different opinions. Some of them rated courts as the most important in solving legal claims, others gave preference to friends. Most of the participants agreed that criminal authorities would not be useful in solving any disputes:

“The most important in solving legal claims is courts, then lawyers, friends and police. It is obvious that a criminal authority cannot properly solve any problem.” (Female, 53, teacher, Tbilisi)

“It depends on the case, but I would first turn to a friend.” (Female, 26, psychologist, Tbilisi)

FG participants talked about solving potential conflicts more extensively. Overall, people in all three countries showed a reluctance to resolve disputes in court (including arbitration institutions), preferring to settle outside of court except as a measure of last resort. FG participants were asked to speak about whether it is generally considered better to settle disputes out of court, or if courts are avoided because they are of poor quality.

In Armenia the general public participants argued that considering the shortcomings of the courts, as well as the national mentality, they would prefer out of court settlement of conflicts:

*“I think people negotiating without the government, without the court is preferable. There is nothing better than an out-of-court development.”
(Male, 48, banker, Yerevan)*

Also, business participants preferred out-of-court settlement for their cases. They explained this by courts being very time-consuming:

“There is no trust toward the courts; today we all prefer dealing with the issues through compromise.” (Female, 57, business, Yerevan)

Business respondents also claimed that they would appeal to courts only when there is no other way to resolve the conflicts. However, many of them noted that appealing to the court would be a measure of last resort. Court appeals are discouraged because of informal payments one has to make to win the case:

*"If you do not have money, nerves and time, you will prefer the unofficial way to solve your case."
(Female, 47, unemployed, Yerevan)*

In Georgia, all but one participants of the general public FG claimed that they would turn to court only if they see no other way of solving a dispute with a neighbor. They mostly preferred negotiating as a solution. Three main reasons are named for not taking the case to a court: expenses, mentality and pointlessness of using courts. The respondents generally preferred to solve disputes outside the court system because of the lack of trust in court systems and a desire to avoid involving what is perceived as "outside" parties:

"Who wants to turn to a court? It is not only about trust in courts. People just prefer to solve disputes among themselves, not involving a third party." (Male, 33, unemployed, Tbilisi)

Business FG participants were also unwilling to solve their conflicts through courts. Several reasons were named for why they are reluctant to engage in solving their business conflicts through courts: expense, time, lack of trust in courts, unpredictability of the solution and an unwillingness to risk spoiling relationships with a business party. Also, some lawyers claimed that there is no tradition of going to the court in Georgia, and that courts have negative associations:

"People are afraid of courts. They even avoid appearing as a witness in the court." (Female, 25, lawyer, Tbilisi)

Court Experience

Both business and general public respondents were asked if they (in case of businesspeople, the question concerned their firm) had a legal case brought to court. About half of entrepreneurs had court experience when running their business (45% in Armenia, 50% in Azerbaijan and 53% in Georgia). Most of the business respondents had multiple contacts with courts. The experience of the majority of respondents is recent, occurring between 2007 and 2009.

General respondents also were asked about their court experience – 45% of respondents (27 persons) in Armenia, 35% in Azerbaijan (21 persons) and only 15% in Georgia (9 people) had a legal case brought to a court. Most cases were dealt with by civil and criminal courts. The majority of respondents were in court as plaintiffs, rather than defendants. There were also a few taking part as witnesses or observers.

Both groups of respondents were asked to evaluate different aspects of their court experience. General respondents were supposed to speak about their most recent case, while business respondents were asked to assess different kinds of cases they had to cope with (if any) when running their business (bankruptcy/liquidation procedures, property rights protection, contract enforcement, copyright/patent protection and tax regulations). Both entrepreneurs and the public were assessing if the trial (including the judgment) was: fair and impartial; honest/uncorrupt; quick/efficient; affordable and understandable.

Due to the very small sample size of those with court experience, drawing conclusions is challenging, but, generally speaking, satisfaction was highest in Azerbaijan and lowest in Georgia. Overall, the respondents from the general public who had had experience in court presented a surprisingly good opinion of their experience, especially when compared with the poor overall views of the court system. Regarding the impartiality of the trial, 47% of respondents¹ in Azerbaijan, 52% in Armenia and 33% (3 persons)² in Georgia argued that the

¹ Percentages used when talking about court experience are counted out of the number of respondents who had court experience, not of all respondents.

trial was fair and impartial. Positive assessments were also presented about the trial's honesty – 29% in Azerbaijan, 45% in Armenia and 77% (7 persons) in Georgia. In Armenia and Azerbaijan, quite a lot of respondents (41% and 57% respectively) agreed that the trial was quick and efficient; in Georgia however only 11% (1 person) shared such opinion. The assessment of affordability is also high, although this differs among countries – it is higher in Azerbaijan (62%) than in Armenia (52%), and lowest in Georgia (44%). The same trend was observed when respondents were asked if the trial was understandable. Again, this feature was assessed more favorably in Azerbaijan (66%), than in Armenia (56%) and least in Georgia (33% – 3 persons). One more item worth noticing is that the percentage of executed judgments is extremely high – 76% in Azerbaijan, 89% in Georgia (8 persons) and 96% in Armenia. Again, a more comprehensive instrument would be needed to make broader generalizations, so the data here is tentative.

Assessment of trials gets more difficult when we take the business survey into account. Because the respondents had experience with different kinds of cases, one must be cautious when attempting to determine trends from this data.

It would be natural to expect that those who won their case would express better opinions about the court proceedings than those who lost it. To check this hypothesis, we chose a case of tax regulations in Georgia where three respondents had their problem solved by court judgment. One of them won the case and two lost. We analyzed answers of respondents assessing different aspects of the trial to compare if the discrepancies of opinions are linked to the trial result (Tables 9-13 below).

Tables 9-13. Cross-tabulations of opinions about trial features with information about winning party

Table 9

	In your opinion was the trial (including the judgment) itself fair and impartial :			Total
	Yes	Mostly not	Not	
Who won the tax My firm regulation case?	1	0	0	1
The other party	0	1	1	2
Total	1	1	1	3

Table 10

	In your opinion was the trial (including the judgment) itself honest/uncorrupt :		Total
	Yes	Mostly not	
Who won the tax My firm regulation case?	1	0	1
The other party	0	2	2
Total	1	2	3

Table 11

	In your opinion was the trial (including the judgment) itself quick/efficient :		Total
	Mostly yes	Not	
Who won the tax My firm regulation case?	0	1	1
The other party	1	1	2
Total	1	2	3

² Number of respondents who had court experience in Georgia is so small (9 persons), that sole percentages might be misleading, that is why there is always a number of persons expressing a certain opinion given in brackets.

Table 12

	In your opinion was the trial (including the judgment) itself affordable :		Total
	Mostly yes	Mostly not	
Who won the tax regulation case?			
My firm	1	0	1
The other party	0	2	2
Total	1	2	3

Table 13

	In your opinion, was the trial (including the judgment) itself understandable :			Total
	Yes	Mostly yes	Mostly not	
Who won the tax regulation case?				
My firm	1	0	0	1
The other party	0	1	1	2
Total	1	1	1	3

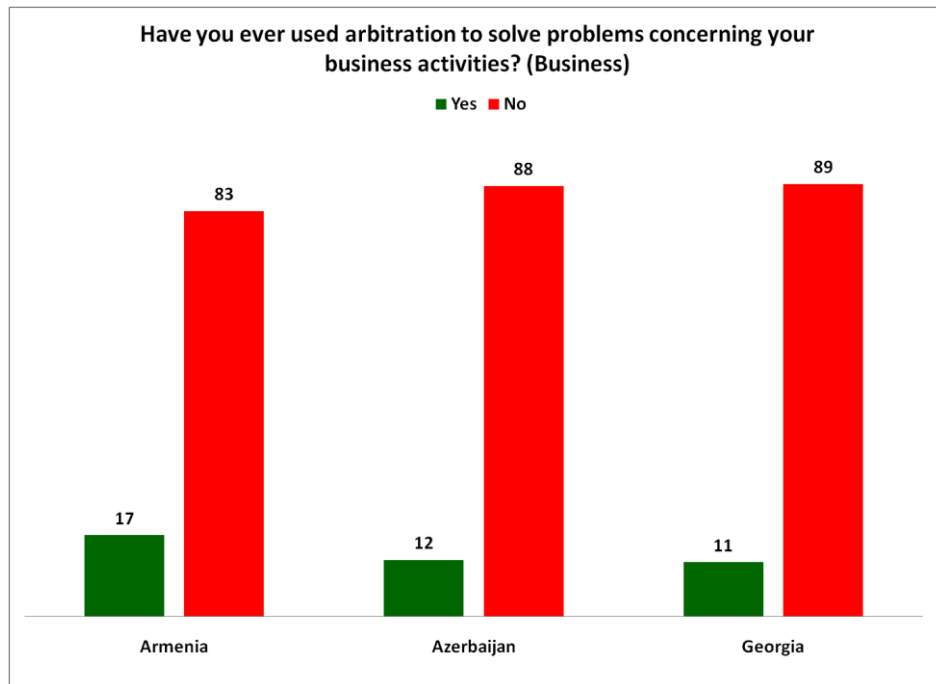
The hypothesis claiming that the opinion about the trial depends on whether a respondent won or lost the case appears plausible (bearing in mind the limitation of three-person “sample”), especially for the fairness and honesty of the trial. These two categories are most subjective of all, and maybe that is why those who won think that the trial was fair, impartial, honest and uncorrupt, while those who lost have an adverse opinion. Also, affordability is assessed positively by those who won the case and negatively by those who lost. The reason might be that, as the given example presents a case of tax regulation, losing such a case was probably linked with some costs that made the trial mostly not affordable. Evaluation of the trial’s speed is not strictly related to who won the case. The same situation exists with regard to understandability. These two categories are more objective and not so much connected to the end result, which may have influenced the opinions.

Comparing the evaluations of those who have had experience in court with the very negative general impressions of the court system described in the section above, one might come to the conclusion that it is the stereotypical image of courts that is very bad, and not the courts themselves.

Arbitration Assessment

Arbitration as a method of conflict resolution is included fairly often in the typical contracts that firms sign (44% of firms in Georgia, 48% in Azerbaijan and 58% in Armenia have such a clause) and some firms include it if the other party asks for it. In Georgia and Azerbaijan, the arbitration courts indicated in typical contracts are usually international ones; in Armenia, local arbitration courts are more popular. The vast majority of entrepreneurs, however, have never used arbitration courts to solve problems concerning business activities – only 11% in Azerbaijan and Georgia and 16% in Armenia have had a case brought to an arbitration institution. This creates the same problems with assessment of arbitration experience as with the court experience. Therefore, this chapter will mainly deal with perceptions and opinions than with real experience.

Most of the businessmen in all of the countries have a neutral attitude towards arbitration as an alternative means of dispute resolution – 71% of entrepreneurs in Azerbaijan, 73% in Armenia and 88% in Georgia. Arbitration is not perceived as a very useful instrument of solving strong legal case. It was placed far behind lawyers, the court and well connected friends. However, these numbers may also indicate a simple lack of experience with arbitration courts (see chart below).



The respondents were asked to rank the institutions in order of preference in a hypothetical situation of having a legal claim that could be solved both by a regular court and an arbitration court (both international and local). Most respondents chose the court as the most appropriate institution. A local arbitration court was second best choice, and international arbitration was mostly placed in third place.

Arbitration was also assessed by FG participants. According to the focus groups, many respondents were unfamiliar with arbitration courts, but they were widely viewed as a positive alternative to the regular courts.

In Armenia, business FG discussants preferred out-of-court settlement for their cases because courts are seen as very time-consuming:

“I think out-of-court development is preferable. In case of the out-of-court settlement you have two sides of the conflict. With the courts you have 5 sides, with costly and time-consuming effects.” (Male, 34, lawyer, Yerevan)

Amongst lawyers, most of the participants did not have clear understanding of how arbitration courts operate, however they all recognized the need for the development of arbitration courts in Armenia:

“We do not have the culture of arbitral court. But it is very preferable.” (Female, 22, lawyer, Yerevan)

“Arbitration court is part of the civil society, and the fact that it does not properly exist in Armenia is connected with the development level of the civil society in the country.” (Female, 32, business, Yerevan)

Business FG participants in Georgia generally had positive attitudes towards the role of arbitration courts; however, they stated that they are not well developed in Georgia. A few respondents had vague ideas about the arbitration courts:

“If you don’t know how they [Arbitration Courts] work, how can you trust them? It is not properly developed and I don’t know much about it.” (Male, 28, business, Tbilisi)

According to the respondents, in case of numerous business disputes, the arbitration court is preferred since it has simplified procedures and require less time compared to courts. Arbitration as a method of dispute solution is not very popular although many respondents argue that it is crucial to develop this method.

Recommendations

Taking into consideration the problems identified by focus group participants and revealed by the surveys, this report sets forth the following non-exhaustive recommendations:

Outreach to improve the image of courts

According to the research findings, the image of courts among the population in the three countries is quite poor. While most of the survey respondents did not have direct experience with the courts, their perception of this institution was mostly negative: the court is seen as biased, corrupt and inefficient. This perception could be a result of the Soviet legacy and stereotypes existing in the societies. Therefore, as also suggested by the FG participants, legal system reforms should be accompanied with better outreach. Making the courts more transparent and making information on the courts and successfully solved cases available to the general public can assist in changing public perception of courts. Limiting the role of the state in the court system would also greatly contribute to building public trust.

Training to improve profile of judges

As discussed earlier in the report the profile of judges, i.e. their young age, level of their professionalism and lack of specific specialization, was one of the concerns highlighted by the respondents in all three countries. There is a need for training judges in specific fields and raising their professionalism.

Developing arbitration courts

The research revealed preferential attitude towards arbitration courts. While arbitration courts are not well developed in all three countries and there is lack of information and understanding of how arbitration courts operate, the respondents still found the concept of arbitration court as a type of out-of-court settlement preferable. As a first step, a thorough study of country specificities and opportunities for the development of arbitration courts should be done.

Developing a law-enforcement culture in the population

There is general lack of knowledge in the population of all three countries. Reforms can be effective if there is a general culture of law-abidance among the population. This should start from the secondary schools. Arguably, the state should primarily emphasize rules that are enforceable, in order to build a consistent rule-of-law culture.

Methodology

The project consisted of three main components simultaneously implemented in Armenia, Azerbaijan and Georgia: a survey of business representatives, a survey of the general public and focus groups. The sample of the business representatives' survey included 90 businesses (30 in each country) belonging to the American Chamber of Commerce. The survey of the general public was conducted in the capital cities of Yerevan, Baku and Tbilisi among 180 respondents (60 in each country).

Nine Focus Group (FG) discussions were conducted in May, 2009 (three in each country) in the capital cities among three groups of respondents: entrepreneurs, legal professionals (judges and lawyers) and the general public.

No doubt the methodology, like any other, suffers from limitations. The relatively small sample size of the surveys makes generalization and comparison between various segments of the population difficult. Numbers are more indicative than fully representative. However, this report seeks to substantiate survey findings by relying on the findings of the focus groups conducted in the framework of this project and data from CRRC's nation-wide surveys.

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