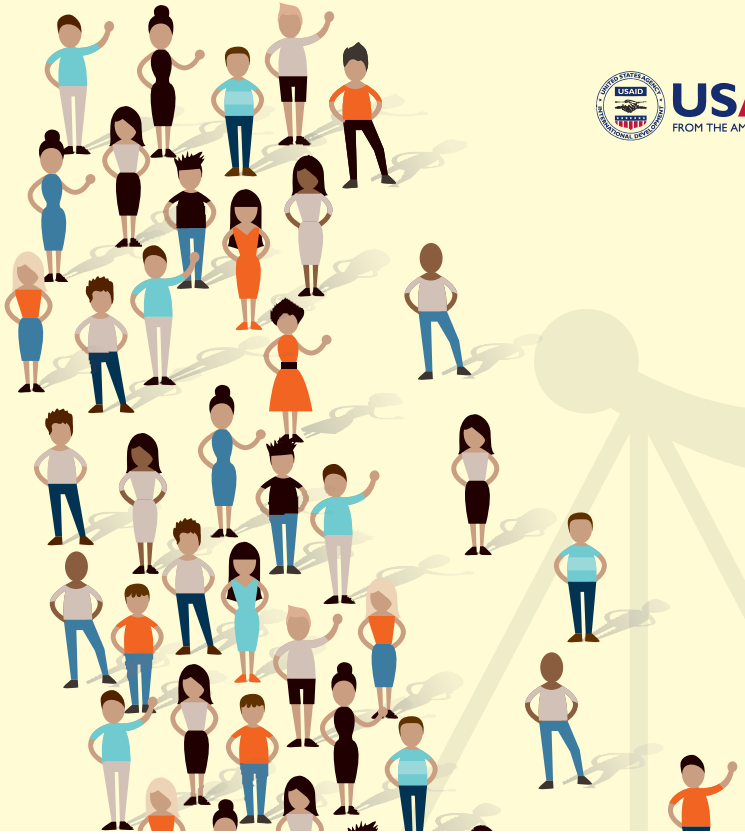

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Results of a Survey Conducted in Uzbekistan's Civil Courts

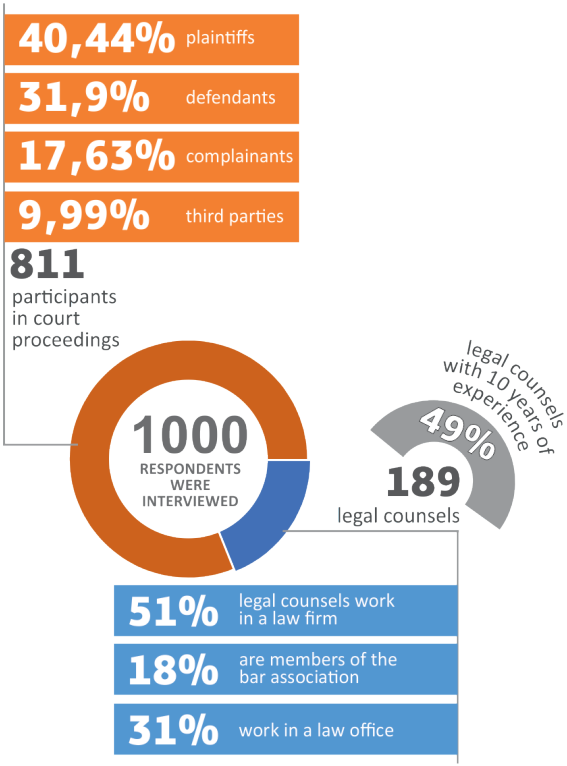
INTRODUCTION

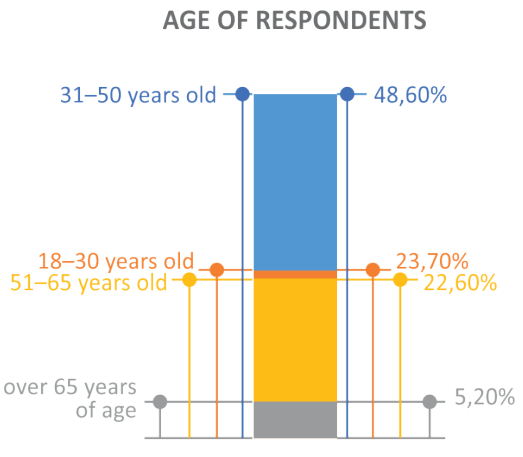
The administration of justice in Uzbekistan's civil courts and its entire judicial system as a whole, have come under scrutiny by both Uzbekistan's community and the global society, specifically with regards to systemic and structural reforms implemented in the country.

The policy of ongoing and open dialogue with the population has been a main direction of reform. Additionally, the motto proclaimed by the President of the Republic of Uzbekistan "It is not the people who serve public authorities, it is the public authorities that serve the people" has become the grounds for the increased application of public satisfaction survey mechanisms for the critical analysis and identification of problems and gaps in the work of courts.

This fact also corresponds with foreign experience, in which satisfaction survey mechanisms are incorporated into systems for evaluating courts performance. Moreover, most international ratings are based on surveys among the public and/or experts.

As part of the joint project of the Supreme Court of the Republic of Uzbekistan, the





United States Agency for International Development (USAID) and the United Nations Development Programme 'Rule of Law Partnership in Uzbekistan', a survey has been conducted at eight inter-district civil courts of Tashkent city and the Tashkent region, with a view of identifying levels of participant satisfaction with court work proceedings. 1,000 respondents were interviewed over the course of this survey, including 811 participants in court proceedings and 189 legal counsels. A gender balance was maintained between the respondents.

Most participants in judicial proceedings are citizens aged 31 to 50, who make up 48.6% of the respondents. Respondents in the 18-30 years old age group make up 23.7% of the surveyed participants in proceedings, while the age group of 51–65 are 22.6%, and respondents over 65 years of ageare only 5.2%.

The survey covered representatives of both plaintiffs, being 40.44% of the total number of respondents, and defendants who are 31.9% of the total number of respondents. The rest of the respondents complainants made up 17.63%, and third parties made up 9.99%.

Professionals with at least 10 years of experience prevailed among the interviewed legal counsels, representing 49%. 51% of legal counsels work in a law firm, while 18% are members of the bar association, and 31% work in a law office.

The results of the survey, with the exception of minor deviations in individual parameters, have generally coincided with the results of sociological surveys regarding the level of trust in the courts, conducted annually by the Izhtimoiy Fikr Public Opinion Research Center.[1]

At the same time, the survey results revealed

[1] https://www.gazeta.uz/ru/2017/10/24/justice/

that a 'key factor affecting the assessment of civil courts work was the lengths of proceedings.

Length of proceedings is essential for parties and persons participating in cases. Many cases brought before civil courts are linked to various aspects of life, including family, employment and social protection. An ordinary person deals with the judicial system once in a lifetime, and therefore for that individual, just one prolonged judicial proceeding can leave a permanent negative impression of the entire judicial system.

Unduly lengthy court proceedings clearly demonstrate the legal principle that "delay in justice is a denial of justice", affecting the level of trust in the judicial system, and also diminishing the court's credibility. In addition, unduly lengthy court proceedings, without an appropriate interim remedy, may preclude the execution of a court decision.

Considering the fact that civil courts hear disputes, the basis of which in most cases are interpersonal social conflicts, unduly-long court proceedings can result in further strained relations between parties, nullifying the already low probability of peaceful dispute settlements.

Unduly lengthy court proceedings also raise costs for parties associated with visits to the courthouse to obtain information about cases under consideration, with demands from trial participants to file complaints to other state authorities, thereby increasing their workload and reducing the effectiveness of grievance mechanisms.

KEY SURVEY RESULTS

An analysis of survey results have shown that the examined courts received the most negative evaluations regarding the duration and punctuality of proceedings. Nearly a third of respondents, or 32.06%, rated the case-processing time as being slow or very slow. 29.59% of respondents rated it as generally being not very fast.

The assessment by legal counsels is identical, but they are more unsatisfied with the length/punctuality of the court hearings (34.3%), than with the length of case consideration (25.4%).

According to assessments by court parties, the slowest case hearings took place at the Zangiata inter-district civil court of the Tashkent region. 34% of the respondents rated case hearings in this court to be very slow, while 15% rated them as slow. According to the general assessment, considering both the 'very quickly' and 'quickly' ratings in general (51%), the

Chart 1. **Opinions of parties regarding the speed of case proceedings**

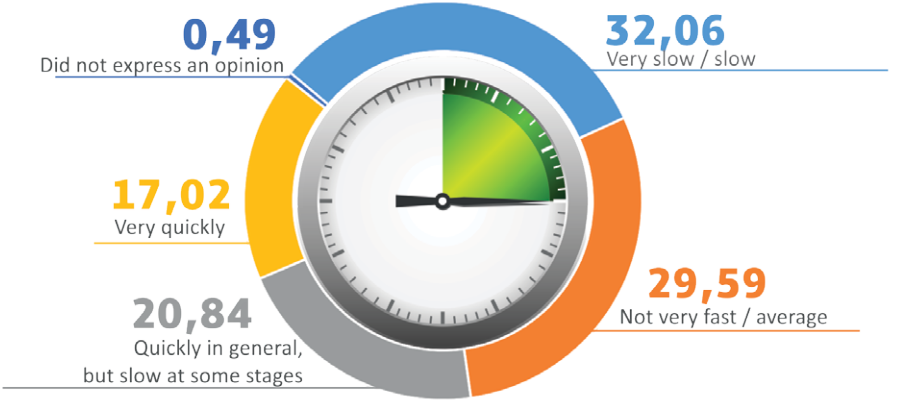
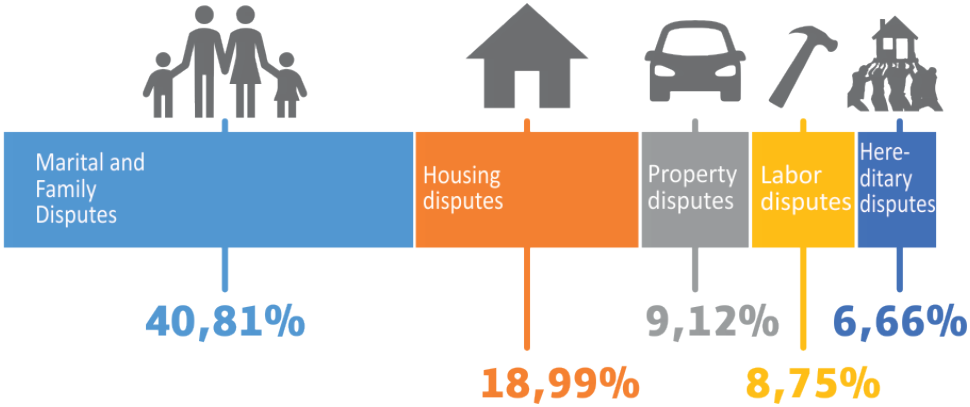


Chart 2. **The most common types of cases, according to survey results**

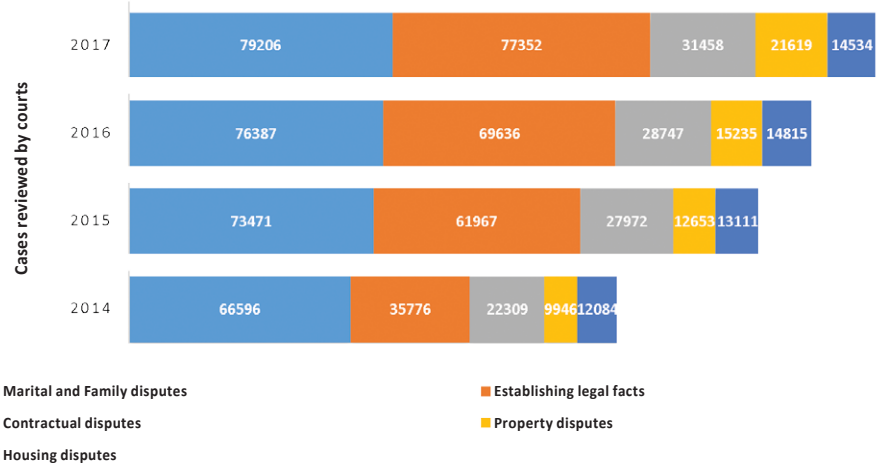


Yakkasaray Inter-district Civil Court is the one that hears cases most quickly. In terms of the 'very quickly' indicator, the Yukorichirchik inter-district civil court leads at 33%.

In addition, according to survey results, 40.81% of respondents have approached courts on disputes arising from marital and family relations, while 18.99% of respondents have approached courts on disputes arising from housing relations. In general, the survey results have shown that approximately 85% of respondents approached courts for disputes arising from the five branches of the law, including marital and family, housing, property, labour, and inheritance.

Similar figures have been cited in statistical information on the courts' work. In 2017, over 80% of cases reviewed by courts have been based on requirements arising from seven branches of the law, including marital and family law, housing, property, contractual, establishing legal facts, public utility services, and other claim disputes. It has been observed since 2014 that this trend, regarding certain branches of legislation, has

Chart 3. **The most topical types of cases, according to judicial statistics for 2014-2017**



constituted much of the workload of the judicial system.

Accordingly, despite the impressive figures, the bulk of court workload constitutes cases arising from individual branches of the law, or 'similar cases'. The proper approach for analysing such cases can reduce court workload, or increase the efficiency of their consideration.

FACTORS AFFECTING LENGTHS OF PROCEEDINGS

The Republic of Uzbekistan belongs to a group of countries where civil procedural legislation contains fixed procedural time limits[1].

The Supreme Court of the Republic of Uzbekistan closely monitors courts' adherence to established procedural time limits. According to statistics of

Table 1. **Some procedural time limits for the consideration of civil cases**

	Cases specified in paragraph 2 of article 131 of the Civil Procedure Code of the Republic of Uzbekistan (if the parties are in the same district or city)	Cases specified in paragraph 2 of article 131 of the Civil Procedure Code of the Republic of Uzbekistan (if the parties are NOT in the same district or city)	'Ordinary' cases (i.e. not specified in paragraph 2 of article 131 of the Civil Procedure Code of the Republic of Uzbekistan)	Particularly complicated cases*
Phase 1. Resolving the issue on initiating civil proceedings	**10 days**	**10 days**	**10 days**	**10 days**
Phase 2. Pre-trial preparation	**10 days**	**10 days**	**10 days**	**20 days**
Phase 3. Court hearing	**10 days**	**20 days**	**1 month**	**2 months**
Phase 4. Preparing reasoned judgment	**0 days**	**0 days**	**0 days**	**3 days**
Phase 5. Issuing a judicial act	**5 days**	**5 days**	**5 days**	**5 days**
TOTAL*:**	**35 days**	**45 days**	**55 days**	**98 days ** **

* The Civil Procedure Code of the Republic of Uzbekistan, which is in force at the time of the survey, does not contain a definition of a 'particularly complicated cases' concept.

** This table does not include procedural actions that suspend these time limits, for example suspending a case in connection with the commissioning of expert evidence.

*** In addition to the time limits given in this table, there is also a time limit beyond which the court's ruling becomes enforceable. In accordance with Article 320 of the Civil Procedure Code of the Republic of Uzbekistan, 'A court's ruling may be appealed to a court of appeal within 20 days from the date of the court's ruling'.

[1] This group also includes the Russian Federation, Armenia, Azerbaijan, Kazakhstan and other mainly CIS countries.

Table 2. **Number of civil cases reviewed with the violation of established procedural time limits**

	2012	2013	2014	2015	2016	2017
Total number of civil cases reviewed	160,538	170,901	213,611	258,636	275,399	284,741
Including those reviewed with violations of the procedural time limits	124	384	554	168	177	117
% of the total number of civil cases reviewed	0.08 %	0.22 %	0.26 %	0.06 %	0.06 %	0.04 %

the Supreme Court of the Republic of Uzbekistan, the number of civil cases reviewed by inter-district (district and city) civil courts, with violation of established procedural time limits, does not exceed 1% of the total number of cases reviewed by the courts.

Low rates of violation of the time limits for the consideration of civil cases are common to civil courts in CIS countries. Therefore, according to judicial statistics of the Supreme Court of the Republic of

Kazakhstan in 2017, 0.9% of civil cases were considered by courts for more than 2 months3, and the courts of the Russian Federation considered 1.4% of civil cases beyond the time limits of procedural legislation[1].

The problem of case consideration duration is common to all judicial systems. According to the study 'Judicial performance and its determinants: across-country perspective', the average length of civil cases in the courts of first instance of countries with a legal system based on French law, particularly Belgium, France, Greece, Italy, Luxembourg, Mexico, the Kingdom of the Netherlands, Portugal, Spain and Turkey, is 304 days. By contrast, according to this study's methodology, the average length of case consideration in Uzbekistan in 2017 was 31 days.

Therefore the domestic judicial system has quite good indicators when compared to foreign judicial systems, as well as positive statistics of courts, in terms of the length of the consideration of cases by civil courts.

[1] http://www.cdep.ru/index.php?id=79&pg=0

Despite this, the consumers of judicial services **negatively perceive the length of the consideration of cases, for the following reasons.**

Complicated procedures for filing applications to civil courts.

Disputes before civil courts are diverse, and can arise from various branches of legislation. This affects the requirements for the preparation and execution of petitions to the court, including the appendix of documents confirming claims, and the amount of state duty payable when filing the petition. A variety of civil complaints, together with no detailed information in the courts on each type of dispute, compels complainants to either consult legal counsels or seek advice from courts when the judge receives the population.

Table 3. **Average length of civil cases at courts of first instance**

	Average length of civil cases in courts of first instance (days)	Average length of civil cases in courts of first instance, according to the study 'Doing Business 2013'
Countries with a legal system based on the British common law system (Australia, England, Wales, Ireland, New Zealand, Northern Ireland, Scotland and South Africa)	**243**	**494**
Countries with a legal system based on French law (Belgium, France, Greece, Italy, Luxembourg, Mexico, the Kingdom of the Netherlands, Portugal, Spain and Turkey)	**304**	**560**
Countries with a legal system based on German law (Austria, Czech Republic, Estonia, Germany, Hungary, Japan, Korea, Poland, Slovakia, Slovenia and Switzerland)	**200**	**535**
Countries with a legal system based on the Nordic law system (Denmark, Finland, Iceland, Norway and Sweden)	**195**	**398**
Countries of the former socialist camp (Russia)	**176**	**281**

The methodology for calculating the length of cases consideration as used in the OECD study – Economics Policy paper series.

Since in the countries under study there are no statistics regarding the actual length of the consideration of cases, specifically the absence of a calculation of the number of days from the moment of filing an application to a court to the time of the case being heard, the following formula was used in the study:

$$\frac{Pi + Pf}{R + I} * 365$$

Here:
Pi is the number of pending cases at the beginning of the year (the remainder from the previous year);
Pf is the number of pending cases at the year's end (the remainder for the next year);
I is the number of cases within a year;
R is the number of completed cases.

According to this formula, the average length of the consideration of cases in Uzbekistan in 2017 was 31 days

Judges receive the population according to the schedule of population reception, which is available only in the courthouse. A high number of complainants and the poor-quality organization of the process for receiving the population results in a queue, which creates an additional inconvenience. When receiving petitions the receiving judge checks the petition lodged, including the amount of the paid state duty, and may recommend complementing the petition or pointing out the unduly paid amount of state duty, and demand additional payment of state duty with a bank receipt of payment of the state duty. The absence of the cashier's desk for state duty or other means of paying the state duty in the courts, such as terminals, online payment systems and others, makes people go to the nearest bank to pay the state duty and return to the court to provide the bank receipt of payment of the state duty. All this is complicated by the security system of the courthouse building, which is based on the access control system which restricts access to the courthouse. Therefore, very rarely, it is possible to file a claim or petition to the court in one court visit.

The need to visit the court to a) obtain information on the status of the petition, or b) receive judicial acts on the case under consideration (already considered).

The inefficiency of judicial correspondence and the delivery systems for judicial acts, as

The introduction of modern ICT into the activities of courts and the provision of interactive services by courts could eliminate most of the above reasons for visiting courts. However there are several limiting factors, including the judges' ineffective use of e-proceedings systems, the population's lack of ICT literacy, the small number of e-mail users in Uzbekistan5, and the lack of procedural norms for equalizing the delivery of judicial acts (judicial correspondence) and information regarding the status of cases under consideration with physical delivery of judicial correspondence to the postal addresses of persons participating in cases. All these do not allow for the effective use of interactive services in delivering judicial correspondence in an electronic form. As a result, despite efforts to introduce e-proceeding systems, the consumers of court services prefer to interact with courts in the 'old-fashioned', non-digital way.

[1] https://data.gov.uz/ru/datasets/4795

well as unsatisfactory work with consumers of judicial services, compels plaintiffs and other civil litigation participants to visit courthouses to obtain information about the status of petitions, the status of cases under consideration, or to receive judicial acts on cases. As noted above, the poor quality of work with consumers of court services, as well as the access control system of courts, complicates this process, which in turn also causes discontent.

The need to visit courts to participate in court hearings

Court hearings are an integral part of civil proceedings. Most often, non-attendance at a court hearing ends with an adjournment of the court hearing. For individuals participating in the case, non-appearance in a court hearing without a reasonable excuse (if there are additional conditions) may have legal implications.

The existing practice of courts on adjourning court hearings by adopting protocol ruling, for instance by including information on the adjournment of a court hearing in the protocol, is not conducive to the effective collection of information on the reasons for adjourning court hearings. However, both according to the judges and from the point of view of persons participating in the case, the most common reasons for adjourning court hearings include:

- Non-attendance at a court hearing by one of the parties, for example, due to an emergency, which can be recognized by the court as valid, etc.;
- Other situations when hearing the case in a court session is impossible, for example due to wilful non-participation in a court hearing (for various reasons, this is typical in divorce proceedings), etc.

One of the reasons for a person's non-attendance at a court hearing, may be that a date was set for the hearing, without consulting the persons participating in the case. The problem of the non-attendance of parties at a court hearing is also an issue regarding the effective mechanism for exchanging information between courts and persons participating in the case, when each party including both the person participating in the case and the court itself, can promptly notify others of the impossibility of attendance, or can postpone the court hearing to a new date.

Another reason for adjourning court hearings, and therefore repeating visits to courts by those participating in the case, is the ineffective preparation of cases for trial.

The consideration of cases in civil proceedings includes a number of stages, such as the initiation of a civil case, the preparation of a case for trial, and the trial itself. Each of these stages has its own meaning and purpose,

Table 4. **Implications of non-appearance in a court hearing without reasonable excuse**

Procedural status	Implications
Persons participating in the case	If there is no information on the serving (delivery of) subpoenas or other notifications - postponing the case
Legal counsel	Legal counsel ruling with the notification of the certification board of the relevant local office of the Chamber of Lawyers of the Republic of Uzbekistan.
Prosecutor	Prosecutor's special ruling, with the notification of the superior prosecutor.
Parties	Without there being a reasonable excuse at a secondary summons, an application can be dismissed without prejudice
Witness	Without there being a reasonable excuse at a secondary summons, a court's ruling can be reconducted

Table 5. **Adjournment of cases**

Region	Number of cases considered by the courts in 2014-2016	The number of cases considered with more than 2 to 3 adjournments of court hearings	%
Andijan region	51,803	33,735	65.12
Navoi region	27,456	12,346	44.97
Namangan region	47,890	16,008	33.43
Sirdaryo region	30,180	18,362	60.84
Fergana region	75,152	28,253	37.59
Khorezm region	36,091	21,716	60.17
Total:	**268,572**	**130,420**	**48.56**

with the implementation of a coming stage depending on the proper implementation of the previous one. For example, if at the stage of initiating a civil case the judge incorrectly determines the jurisdiction, then the case should be dismissed at the trial stage. Or if, for example at the preparatory stage the judge did not fully define the range of evidence required to adjudicate the case, then during the trial, the parties could present more and more new evidence and thereby cause protracted litigation.

Preparation of the case for trial is an independent part of the proceedings in the court of first instance, which includes a set of procedural actions to be undertaken by the judge and the persons participating in the case, aimed at ensuring the timely and proper adjudication of the case. Preparation of the case for trial is the main stage at which judges can take active procedural actions aimed at establishing each case's truth.

However, in practice, this stage is limited to the formal ruling on preparation, and sending the defendant a copy of the claim for the following reasons:

- The time limit for the pre-trial preparation is not enough;
- The Civil Procedure Code does not regulate the procedure for conducting procedural actions at the stage of preparing a case for trial (rules governing the procedure for questioning, the procedure

for summoning the parties to the questioning, and the consequences of failing to abide by this procedure and timing for questioning, are not specified);

- There are no methodological explanations for judges, which would allow them to determine the preparedness of the case for consideration at court hearings.

CONCLUSION

The key problem of the negative perceptions held by court services consumers, with regards to the work of courts, is **that the judicial system does not have detailed information about the substantive claims considered by civil courts, or rather this information is unavailable,** while there is also a **low level of interaction between courts and the consumers of court services.**

The availability and accessibility of detailed information on substantive claims for consumers of court services will further simplify the filing of appeals to civil courts, since consumers will be able to properly prepare an appeal to the court, collect necessary documents for filing an appeal to the court, and will be able to file documents in one court visit.

For this paper, detailed information about substantive claims considered by civil courts include:

- ✓ Information on persons who may file to the court a specific substantive claim, if there are restrictions in the legislation;
- ✓ Minimum information recommended for specification in appeals, particularly on the statement of claim or complaint, for the timely consideration and resolution of a specific substantive claim under the jurisdiction of civil courts;
- ✓ Minimum list of documents recommended for submission to the court, when filing a specific substantive claim arising from a particular branch of legislation;
- ✓ The amount of state duty payable upon filing a specific substantive claim;
- ✓ The list of laws, by-laws, and Plenums of the Supreme Court of the Republic of Uzbekistan, which regulate a specific substantive claim.

Detailed information about the substantive claims will serve as a standard, limiting the capacity of judges and court staff to require additional documents or information when filing appeals to courts. All documents and information not specified in the detailed information should be requested by the judge, during the preparation for trial.

For their part it will be easier for courts to carry out the primary processing of such appeals, which will shorten the length of resolving the issue of initiating or refusing to initiate a civil case.

The correct determination of the legal relations of parties, and the regulatory legislation and evidence required for the timely consideration of cases, is a task for judges in preparing cases for trial. The inclusion of this information in a list of information on substantive claims will help enhance the effectiveness of preparing civil cases for consideration and, as a result, will improve the predictability of the consideration of cases and reduce the number of court hearings on one case, since detailed information on substantive claims will serve as a checklist for judges.

Improving the work of courts in reviewing similar cases being brought before the courts from year to year, which make up the biggest part of the courts' workload, can reduce the workload of courts by about 40%.

Along with improving knowledge about disputes before civil courts, it is necessary to take measures for raising the level of interaction between courts and consumers of court services.

In particular, it is necessary to create a service to work with consumers of court services, the main purpose of which is to provide information services to consumers of court services with regards to appeals filed or civil cases under consideration. This service should be able to provide information services not only to consumers visiting courts, but also to consumers using modern means of communication, such as mobile communications, e-mail, and others.

However, access to the service to work with consumers of court services should not be limited by the courts' access-control systems which, however, can be retained for those consumers who visit the courthouse to participate in court hearings.

The Court Management Information System should support the bilateral exchange of data and documents between the judge and participants in proceedings. This goal requires not only the improvement of procedural legislation in terms of receiving

complaints and petitions in electronic format, and sending judicial acts and judicial notifications in electronic form, but also taking measures to popularize the use of electronic mail by consumers of court services, as well as actions to integrate with systems of other government authorities. One of the measures applied to ensure the widespread use of e-mail by consumers, could be the provision of citizens with personal e-mail (registered e-mail address), which would have official status, and through which bilateral communication between government agencies and citizens could take place.