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*Promoting Rule of Law  
in Georgia (PROLoG)*



# VIEWS OF BUSINESSES ON THE COURT SYSTEM IN GEORGIA

OCTOBER 31, 2021

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THE USAID ECONOMIC GOVERNANCE PROGRAM

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## EXECUTIVE SUMMARY

CRRC-Georgia conducted a mixed methods study in the period of May-July 2021 with the goal of studying the attitudes, experiences, and challenges the business community has in relation to the judiciary. The USAID Promoting Rule of Law in Georgia (PROLoG) Activity and the USAID Economic Governance Program supported the research.

The study consisted of a telephone survey of businesses, in-depth interviews with large businesses and law firms, and focus groups with medium and small businesses in Tbilisi, Adjara, Samegrelo, and East Georgia and with microfinance institutions (MFIs). MFIs were added due to the large number of court cases they are involved in.

In recent years, there have been several changes in the court system that affected business. A commercial court was established, resulting in a number of judges specializing in commercial issues. Recognition and enforcement of arbitration decisions was tied to the Court of Appeal. Approval of individuals to investigate their movable property for enforcement purposes was established. Despite the reforms, there are a few challenges that businesses encounter in the court system that hinder their work and the development of the country.

The business survey showed that, overall, businesses report quite positive attitudes towards the court system. While a plurality (43%) assesses court performance as average, more businesses think the courts perform well than poorly. Businesses express trust in the courts in Georgia, with more than half saying they partially trust and 17% saying they fully trust courts. Assessments of competence show a similar picture with about half of businesses believing that judges are partially competent in Georgia and 13% saying they are very competent. At the same time, a plurality of businesses think that judges are only partially independent. Businesspeople, who believe that judges are not fully independent most frequently say that judges depend on the ruling party, on the government of Georgia, and on the clan in the court system.

Interestingly, on the only question with a five-point scale, over 40% of respondents chose the middle response option, “average”. On other evaluative questions, where there was no middle response option, responses tended towards positive assessments such as “partially trust”, “partially competent”, and “more independent than dependent”.

In contrast, in-depth interviews and focus groups identified more critical views of the court system. This may suggest that business people chose to be more reserved on the telephone survey.<sup>1</sup> Qualitative respondents had more experience with courts in the last five years, and with a few exceptions had suspicions about the independence of judges. They tended to criticize their competence in commercial law and business. They mentioned an influential clan in the court system, which they felt controlled judges through financial and other incentives. They felt that some judges violated professional ethics in serving the clan.

Business people questioned the independence of judges, and felt they considered the interests of their colleagues, neighbors, and/or relatives. A respondent reported a judge reduced the interest rate of a debtor, because that financial institution provided a low salary to a relative of the judge were mentioned. Another said a judge made a subjective decision in a case involving a pharmaceutical company, because s/he was not satisfied with the service in the company’s drugstore.

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<sup>1</sup> The qualitative data presented in this study are largely based on the views of large and medium businesses and lawyers. Small business people had very general views and often did not have experience with many issues within the study.

Business people did not see fairness as particularly problematic. However, they criticized the courts for taking the side of the “weak”, such as employees in labor disputes. One respondent described this as “inadequate and ungrounded socialism.” The respondent felt that there were violations of a variety of procedural principles as well.

Across the study, trial length and delays were the most commonly named obstacle that businesses reported facing in the court system. Three years was named as the average amount of time for a case. However, respondents remembered examples of cases that lasted for nine or more years. According to many respondents, the delays made courts ineffective for business people. They were often unable to recover the disputed amounts, died waiting for justice, or lost money due to currency fluctuations and monetary devaluation over time. Respondents in the qualitative component of the study highlighted problems with the enforcement of court decisions as well. They felt this led to dishonest behavior among commercial entities and individuals who knew cases would take years to resolve.

Medium and small business people named small tasks that took courts weeks to complete, and large business people spoke of delays of more than a year in receiving court decisions or injunctions, which were then backdated. Problems with communications with courts and judges seemed to be more common among large businesses and MFIs compared to small ones, especially during the Covid-19 pandemic. This is in line with the finding that very small business people have had court experience in the last five years.

Business people criticized the court system for lacking an understanding of the way businesses operate and disregarding their interests. In the qualitative component of the study, respondents mostly discussed challenges and problems they experienced in the court system. They felt that these issues stemmed from the court system being closed to the outside legal world. They highlighted that the court system attempted to promote people who were already working at the courts to the position of judges. The lack of social guarantees for judges, and lack of accountability of judges were also noted as problems.

Specialization in different domains of law have been introduced to the Tbilisi City Court and Court of Appeal. However, medium and small business people from outside the capital were not aware of the commercial chamber. They also were unaware that some judges specialized in commercial disputes. Medium businesses in Tbilisi, micro-finance institutions, and large businesses saw some benefits to judges specializing in specific domains and the establishment of the commercial chamber. Specifically, they pointed to quicker resolution of cases with a value over GEL 500,000 and greater consistency within the small pool of judges. However, MFIs spoke about persistent problems with their disputes that were assigned to a small number of judges. This prolonged court case times. Other respondents were not satisfied with the qualifications of judges. They highlighted the frequent rotation of judges, which limited their chances of on-the-job training.

In addition to looking at the views and experiences of businesses in the court system, the study explored corruption in the courts. SMEs outside Tbilisi and MFIs did not report corruption. However, some large businesses in Tbilisi spoke about influence peddling in courts. They specifically mentioned the clan within the courts and their ties in business circles. They felt that if a large commercial case was resolved in a very short time, it was an indicator of either corruption or lack of independence.

The views of businesspeople are split almost equally when judging how positive or negative an impact the current situation in the courts has on Georgia’s economy, with regard to attracting foreign investment, and expanding local business activities. Unlike questions on general assessments

of the court system, which collected quite positive responses, the questions on the impact of the current situation in the courts on the economy and business showed more critical views. In this domain, there were large differences in the views survey respondents expressed and the views expressed in qualitative data collection. Almost all respondents in the in-depth interviews and focus groups claimed that the current state of the court system had a negative effect on economic and business development in the country. They felt it was particularly negative for the investment climate. Some lawyers and large businesses noted that many investors putting Georgian courts in contracts, and understood or had experienced themselves that the money they invested in Georgia was not always safe.

A business association representative outlined in detail how untimely and inefficient court decisions in credit disputes affected the interest rates of loans in Georgia. They noted that financial institutions had to take into consideration the risk of debtors defaulting, and as a result having to engage in extended court proceedings. As a result, interest rates are higher in the country, according to the respondent.

Small business people from outside Tbilisi said that due to lengthy and delayed trials, large companies were advantaged, hurting small businesses.

Only 8% of businesses said that they have had court experience in the past five years. A larger share of medium and large-sized businesses had court experience than small-sized businesses. Notably, when trying to identify respondents from SMEs for the qualitative component of the study, it was particularly challenging to find people outside Tbilisi with court experience. Notably, a third of the businesses with court experience reported that their cases were still ongoing and forty percent said the case ended in their favor. About a third of businesses said that their trials lasted for more than a year.

The survey asked business people in what cases they would go to court. Most commonly businesses would go to court for tax disputes. About a third of them also named a breach of contract, and problems recovering money/loans.

Only 5% of businesses said they had a need to go to court but did not. They mainly reported not going due to the length of trials, high court fees, and ineffective enforcement of court decisions. Costs were especially problematic for medium and small businesses from outside Tbilisi. Some said they do not go to court, because they feel they have no chance of winning, especially in dispute against a state entity or a large business.

In terms of the impact of the Covid-19 pandemic on court experiences, large businesses, MFIs, and law firms spoke positively about online trials. However, they felt the pandemic exacerbated trial timelines. In addition, MFIs said the pandemic affected the enforcement process, as enforcement professionals were not allowed to enter property for evaluations, and instead could only call from outside the property.

Only a tenth of businesses think that court decisions are enforced in a timely manner. Half of businesses have never had contact with the National Bureau of Enforcement. Most of them never had contact with private enforcement institutions.

Large businesses, lawyers, and MFIs spoke about significant delays in enforcement. Some of the large businesses pointed out that enforcement was particularly problematic outside Tbilisi, as local enforcers warned people prior to their visit. As a result, people would hide their valuables. As a result, they used private enforcement firms. MFIs did the same, because the National Bureau of Enforcement was often several months late.

Some of the large and medium business people said that courts refused to uphold injunctions on bank accounts. They were also sometimes late in issuing injunctions, taking longer than the 24-hour time limit. Small and medium business people from outside Tbilisi considered it unfair to have an injunction on a bank account as, it deprived them from earning money that was needed to pay off their debt or fine.

One of the large business people spoke about problems with injunctions on mobile property, which companies could not get without providing a list of property to the court. This is difficult to obtain, because it requires the consent of the individual whose property is being investigated. As a result, business people felt mobile property injunctions were pointless.

The survey asked respondents to evaluate the performance of alternative dispute resolution mechanisms such as arbitration and court annexed mediation. The majority of businesses had no information about these mechanisms. Interestingly, a larger share of small and large businesses were unaware about arbitration as medium-sized businesses. Accordingly, most businesspeople could not assess their trust towards arbitration and court mediation. About a fifth of businesses expressed trust towards arbitral institutions and court mediation.

Businesses outside Tbilisi mostly had not heard of arbitration and mediation. Large and medium business people and lawyers from Tbilisi tended to evaluate it negatively, because the recognition and enforcement of arbitration decisions was linked with the Court of Appeal, making the process take an extended amount of time. They noted that sometimes an arbitration decision made in 10 days could be delayed by the Court of Appeal for several years.

Some of the large business people did not trust arbitration and expected it to be biased towards the company which owned it. They noted that one of the banks had an arbitration firm it was associated with.

Large business people said arbitration was not effective in cases when there was a need to change practice, which was not a rare happening as there was a lot of uncertainty in the court system in Georgia.

Law firms were particularly positive about arbitration as, according to them, it saved time (even with the involvement of the Court of Appeal). They also felt that arbitration had more qualified professionals than the courts, where you could end up with “God knows what judge”.

On mediation, many respondents from large and medium businesses, and MFIs, claimed that they exhaust all forms of negotiation and agreement with the disputed party before going to court. This includes using elements of mediation internally. As a result, they felt there was no point for them to choose mediation as an alternative dispute resolution mechanism.

## INTRODUCTION

From May to July 2021, CRRC-Georgia conducted a study on the views of businesses on the judiciary. The USAID Promoting Rule of Law in Georgia (PROLoG) Activity and the USAID Economic Governance Program supported the research.

The goal of the study was to assess the attitudes of businesses towards the court system in Georgia, their experience with courts in the past five years, and the difficulties that businesses encounter due to the current state of the judiciary.

To address the above-described research questions, CRRC-Georgia carried out a mixed methods study, including a survey of businesses, in-depth interviews with large businesses and the Association of Law Firms of Georgia, and focus groups with medium and small business people in Tbilisi, Adjara, Samegrelo and East Georgia, and micro-finance institutions. The latter was included as a separate group due to the large number of court cases related to loans, which contributes to the heavy caseload in the courts.<sup>2</sup>

The study is organized as follows. The next section presents the results, including chapters on:

- (1) General assessments of the court system, including views on independence, competence and fairness of judges; the challenges that businesses face with regards to the court system; their evaluations of judicial specialization, and perceptions of corruption in the courts;
- (2) The impact of the current state of the court system on the economic and business development of the country;
- (3) Court experience of businesses, court referrals, and reasons for choosing not to go to court and the impact of the Covid-19 pandemic on the experience of businesses in courts;
- (4) Enforcement of court decisions and views on the effective use of injunctions;
- (5) Attitudes and experiences of alternative dispute resolution mechanisms, including arbitration and mediation.

The report finishes with conclusions. It has three annexes, including: (1) a detailed methodology of the study, (2) frequency and cross-tabulation tables of the survey, and (3) focus group and in-depth interview respondent list.

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<sup>2</sup> According to court statistics, in 2020 loan-related cases were the largest category both in the list of complete cases (11,520) and the list of incomplete cases (almost 20,000 cases) at the end of the accounting period. Source: <https://tcc.court.ge/ka/Statistics>

## FINDINGS

This section presents the results of the research. Each section within the current chapter starts with key findings and then describes the data in detail. The chapter is organized as described in the last paragraph of the previous section.

### General assessments of the court system and key challenges for businesses

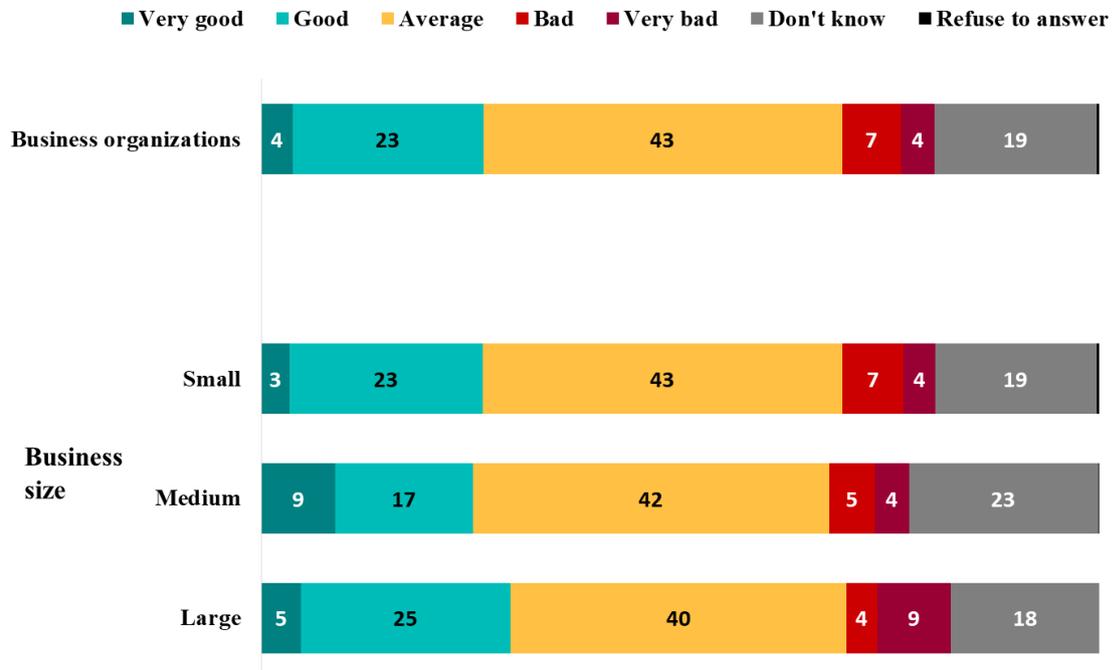
#### Evaluating court performance, independence, competence, and fairness of judges

- Overall, businesses reported positive attitudes towards the court system. A plurality (43%) assesses court performance as average. More businesses think that courts perform well than think they perform poorly;
- More than half of business people (56%) partially trust courts in Georgia, while 17% report full trust towards them. There is a similar picture in terms of assessments of the competence and independence of judges. The majority or the plurality chooses a positive assessment while also not reporting that judges are very competent or fully independent;
- In contrast, in the qualitative data, few respondents reported having no issues with the independence of judges. Respondents tended to be suspicious, and few felt judges made independent decisions. SMEs from outside Tbilisi had little experience with courts, however, in their perception courts were not always independent;
- In the survey, respondents frequently said judges depended on the ruling party. The next most common responses were the executive government and the clan in the court system. In in-depth interviews, large businesses mostly focused on the clan, which they report exercises its influence by creating a comfort zone for judges who chose to serve their interests, even at the expense of professional ethics;
- Qualitative data suggests businesses think judges take into account the interests of their colleagues, neighbors, and/or relatives. Respondents provided several examples of this type of perceived bias;
- When evaluating the competence of judges, large and medium business people and lawyers spoke about the lack of commercial law competence among judges. MFIs did not note particular difficulties with the competence of judges, reporting that their disputes were simple and quite similar to one another;

The survey data suggest that businesses' attitude towards the justice system is positive. A plurality of business people (43%) assessed the performance of the courts in Georgia as average. About a tenth of businesses (11%) evaluated the performance of the courts negatively (as bad or very bad), while about a quarter of them (26%) held positive views (as good or very good). A plurality of businesspeople, who had court experience in the past five years, assessed the performance of courts averagely (36%). Also, a plurality of businesses without court experience reported the same (44%). It should be noted that only 8% of businesses had court experience in the past five years; therefore, comparison of groups should be treated with caution.

Figure 1: Assessments of court performance

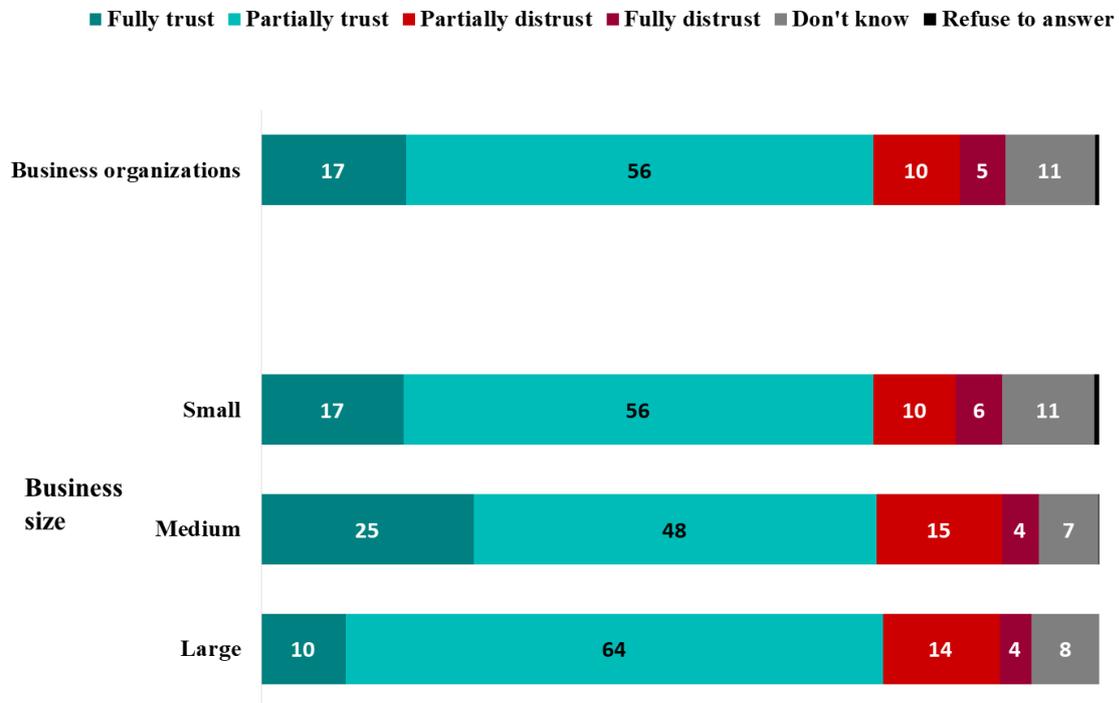
### How would you assess the performance of courts in Georgia? (%)



Businesses tend to report trust in courts. More than half of the businesspeople (56%) reported they partially trust courts. Interestingly, the majority of large (64%) and small (56%) businesses said that they have partial trust in courts, while a smaller share of medium-sized businesses (48%) reported the same. A plurality of businesses that had court experience in the past five years said that they trust courts partially (45%), while the majority of businesses without court experience during the past five years reported the same (57%).

Figure 2: Trust in courts in Georgia

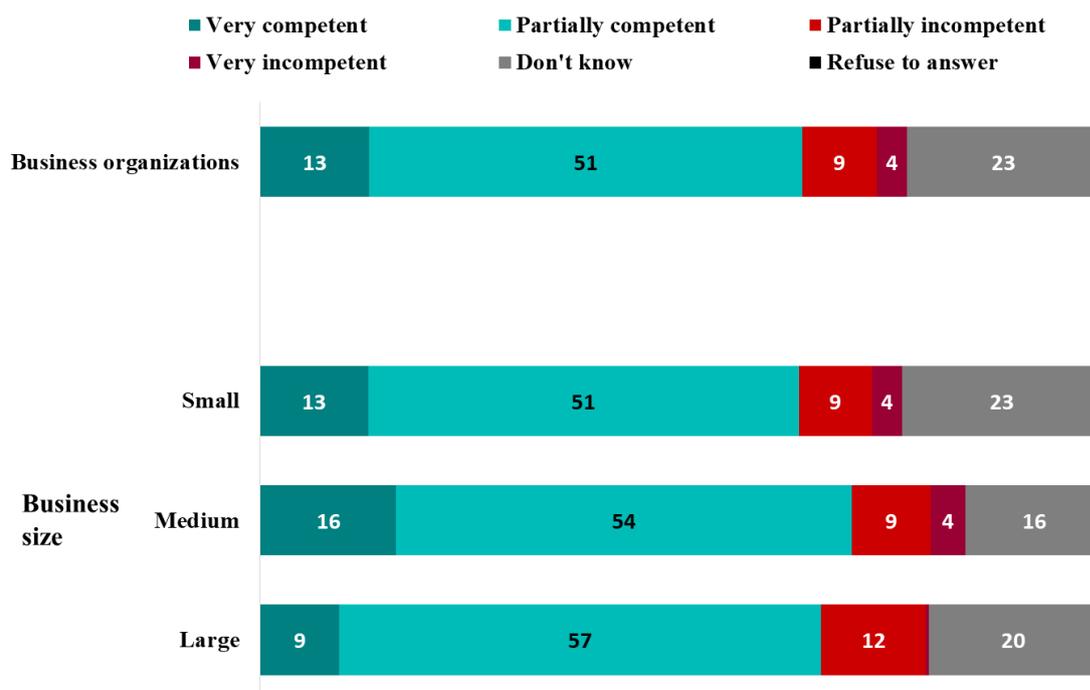
### How much do you trust or distrust courts in Georgia? (%)



The survey asked respondents to assess the competence of judges as well. About half of the businesses (51%) considered judges partially competent. Twelve percent thought that judges were very competent. Only 8% of businesses believed judges were partially incompetent, and 4% thought that they were very incompetent. There was almost no difference between assessments by businesses of different size. About half of small businesses (51%), and medium businesses (54%) said that judges were partially competent. A majority (57%) of large-sized organizations shared the same opinion. Apart from this, most businesses with court experience in the past five years thought that judges were partially competent (62%). About half of the businesses without court experience reported the same (51%).

Figure 3: Perceptions of judges' competence

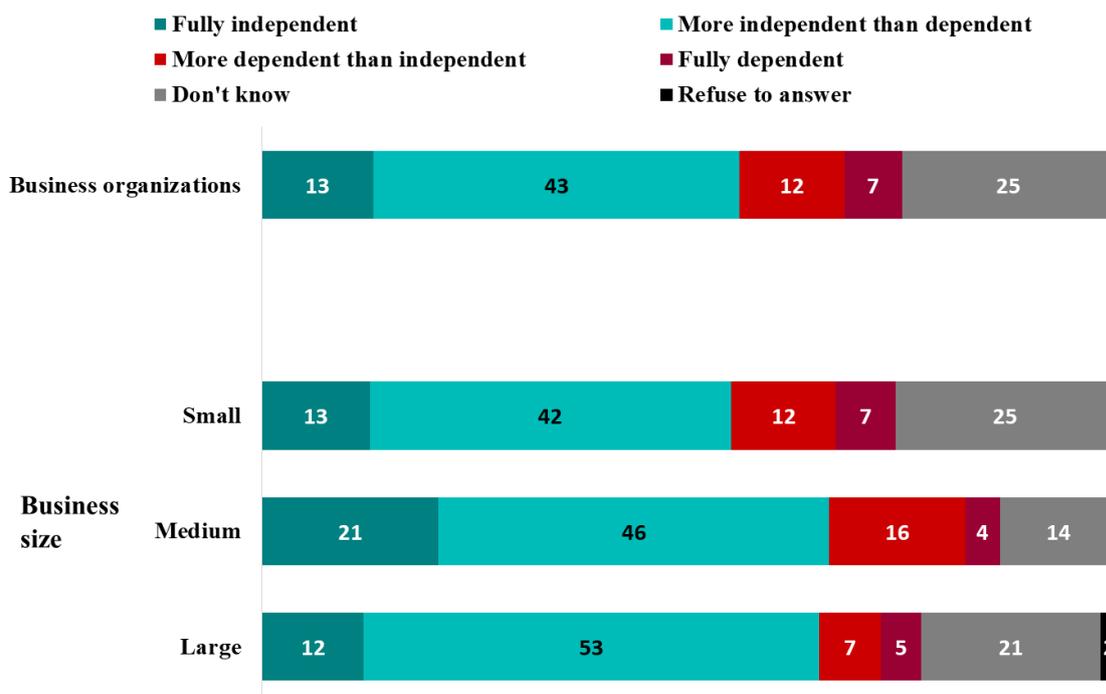
### How competent are judges in Georgia nowadays? (%)



A plurality of businesses (43%) considered judges to be partially independent in Georgia. More than half of large businesses (53%) agreed with this sentiment, while less than half, but still a plurality of small and medium businesses reported the same (42% and 46%, respectively).

Figure 4: Perceptions of judicial independence

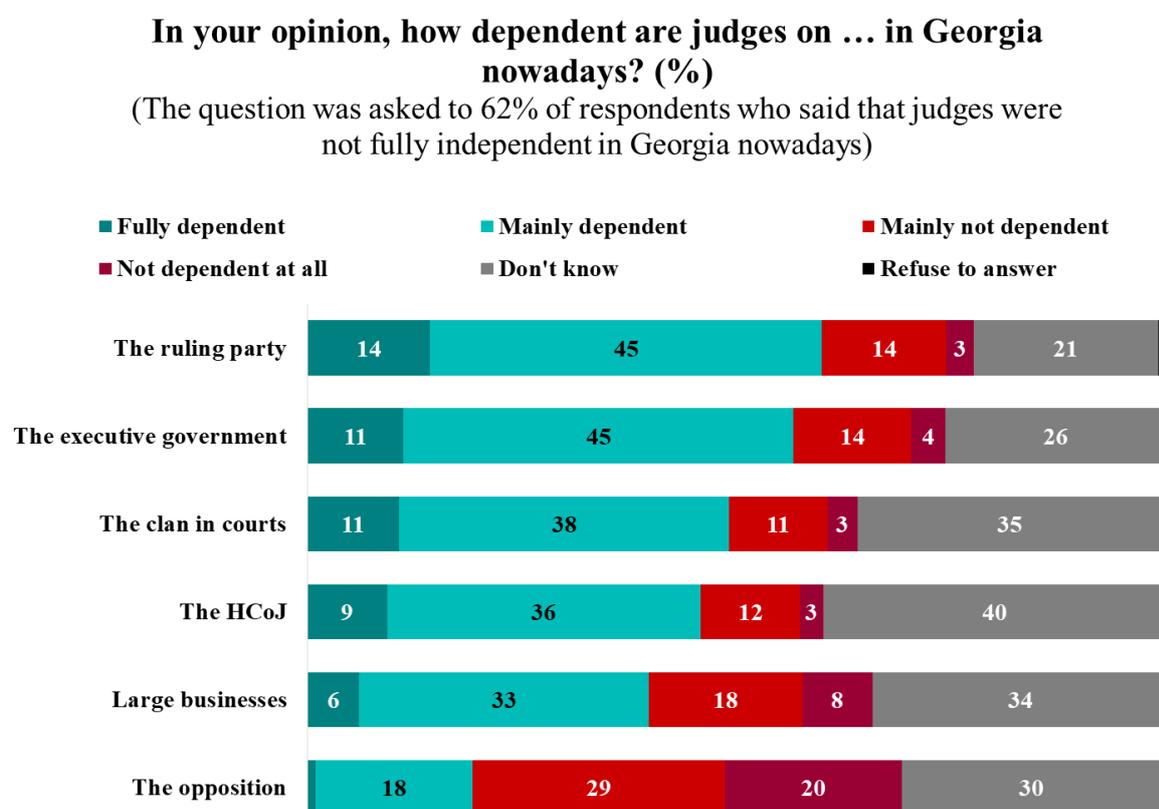
### How independent are judges in Georgia nowadays ? (%)



Regarding businesses with court experience, 52% said that judges were partially independent in Georgia, while less than half of businesses (42%) without court experience reported the same.

Business people, who considered judges to be fully dependent, partially dependent, or partially independent, most commonly believed that judges were dependent on the ruling party (59%). More than half of them also thought that judges were partially or fully dependent on the executive government (56%). About half of them said that judges were dependent on a clan in the court system (49%). Less than half of the businesspeople believed that judges were fully or partially dependent on the High Council of Justice (45%) or large businesses (39%). About a fifth of the businesses considered judges to be dependent on the opposition (19%).

Figure 5: Judicial dependence on different actors



In in-depth interviews and focus groups, business people, law firms and MFIs discussed the performance of the court system in Georgia in more detail and shared their views of the independence, competence, and fairness of courts in Georgia.

### Independence

In terms of independence, lawyers and medium sized business people in Tbilisi said they were not in a position to point to any particular judge and say that he or she was not independent. However, in certain cases court decisions were “so badly grounded, so incompetent” that they often doubted that “a judge was not independent when making the decision and had directions from above” (Medium business, representative of a German company in Tbilisi, operates in Georgia, has court experience in the last five years). Microfinance institution representatives did not see any problems with court independence or fairness in their disputes. Of the large business people and lawyers, only a few said they had never seen a judge make a decision that they felt was dependent on someone else. Others expressed suspicions about the independence of judges.

In this context, a lawyer described a case involving the expropriation of a large property in Georgia that was worth over USD 70 million. The land was taken away from its owner during Mikheil Saakashvili’s presidency. After about a decade, when the new government came to power, the law firm filed a lawsuit demanding the return of the property to 22 shareholders. The lawsuit was against

the Ministry of Economy, since the seizure of the property involved all 22 shareholders coming to the Ministry of Economy on the same day and “voluntarily” giving the property to the state. According to the respondent, although it was hard to prove that there was pressure on the shareholders, the matter was quite clear. The dispute had lasted for nine years without any result, and the case was now at the Supreme Court of Georgia. The lawyer said, “Meanwhile four of the shareholders have died without a chance of ever finding justice.” The lawyer claimed this was an example of state interference in the judiciary.

Some of the large business people also doubted the independence of judges. A large business person from the banking sector who was also a former judge spoke about an influential clan in the court system. The clan did not necessarily force judges to “obey”, but provided benefits and salary additions to those who did. The business person stated, “No one is coming to your office and forcing you to do something. The system works this way... If you want to be in the comfort zone, you give up [your] principles” (Large business, banking, operates in Georgia).

Another issue was judges taking into consideration the interests of their colleagues, neighbors, and/or relatives. A large business representative described a case where the judge’s daughter-in-law happened to be working at a bank involved in a case, and was not receiving a sufficient salary in the judge’s opinion. In the court case, the judge reduced the interest rate the debtor had to pay the bank. He did not hide that he wanted to “hurt” the bank with “whatever was within his power.” Another example was brought up involving a pharmaceutical company. In this case, the large business people described how one of the judges started a trial by saying that he had a bad experience with the company’s staff at one of their drugstores. They believed that the fact that the judge was not happy with the service of one of the pharmacy staff resulted in a subjective decision from the judge.

SMEs outside Tbilisi who did not have extensive experience with courts and whose views were largely based on public information sources mentioned a lack of judicial independence. According to a sole proprietor in Adjara that did have court experience, it was clear that the accused in a court case they were involved in had protection. As a result, the court was not able to do anything. S/he stated, “Now, from my problem, I know that the person who misappropriated our millions has a protector. Therefore, the court cannot do anything. Protection comes from above. It is a great injustice, and there is no independent judiciary” (Individual entrepreneur, Dutch flower supply, operates in Adjara and Guria, has court experience in the last five years).

Small business people in Adjara thought that a case in court would not be judged properly if one did not have someone “who would call and get things done.” Respondents in Samegrelo also mentioned that judges are biased towards the state. One said, “Entrepreneurs and business interests are not protected. I think the court is always on the side of the state. Businesses are always fined. This is like a trend” (Small business, operates in Zugdidi, no court experience in the last five years).

Despite the above, SMEs in Adjara, Samegrelo and East Georgia did report cases involving themselves or friends which were judged competently, fairly, and quite independently. “In the end, I cannot say that they made an incompetent and unfair decision. We did not feel any pressure. On the contrary, they helped us. I do not think the degree of independence was low” (Medium business, operates in Zugdidi, has court experience in the last five years).

### *Competence*

Microfinance institution representatives did not name any particular difficulties in terms of the competence of judges, since their disputes were usually simple. One stated, “I cannot say bad things about the judges’ decisions on our category of disputes. We have been dealing with the same stuff

for years. We even know the technique [of what to write and what to say]. We have such frequent communication with each other, and I cannot really blame anyone in terms of competence” (Microfinance organization, operates in Georgia).

In contrast, large business people and SMEs in Tbilisi felt judges were often unqualified. One stated, “Often, because of lack of competence, they [judges] are in a bad situation and say stupid things... They are totally far from the [business] environment, have not seen such deals, transactions, have not attended a corporate meeting” (Law firm, Association of Law Firms of Georgia).

A large business person from the construction sector said the field was quite complex and specific, which made the job hard for judges. However, judges had the platform and opportunity to study the case, collect information, and to learn from the trials. S/he stated, “In some cases, despite judges having large possibilities of working on themselves, we have had cases when the attitude of judges was very superficial...” (Large business, construction, operates in Tbilisi and Batumi).

### *Fairness*

While some of the small business people were not happy with the fines they were given, the focus group participants in Tbilisi highlighted labor disputes as particularly problematic. They felt the state attempted to save face in these cases, and the attitude was that labor disputes should be resolved in favor of employees. A medium sized business person stated, “I have nothing against the fairness principle, but it should fit the legal framework.” He spoke of his experience in the first and second instance courts when the Court of Appeal kept in force a decision of the Rustavi City Court, which, according to him, was absurd because the court did not have the authority to interfere in the agreement of the sides. Therefore, he felt it was an intrusion of the judge into the autonomy of the will of the sides and the only explanation for it could be that it was due to the court policy and the fact that “judges and certain public figures want to get public approval” (Medium business, representative of a German company in Tbilisi, operates in Georgia, has court experience in the last five years). While large and medium business people participating in the study seemed to agree with that this was the case, some of the large business people from the banking sector said the courts had balanced their approach with labor disputes to a certain extent in recent years.

Almost all of the large business people spoke about how judges viewed disputes that involved them as battles between “the strong and the weak.” They felt this put large companies at a disadvantage even if they were right. Large business people felt the courts attempted to protect consumers to an “unjustifiably high level,” and in doing so violated a number of principles, procedural and otherwise. They described this as “inadequate and ungrounded socialism.” A large business representative from the banking sector said the public had the perception that if there was a foreign investor on one side, and an individual with little resources on the other, the court would take into account the individual’s lack of resources. A large business person stated, “The public already has this perception that if he is an Indian and has a lot of money, then we could grab his house, because I am Georgian” (Large business, banking, operates in Georgia). The respondent found it very problematic.

A large business person from working in the food production and sales sector said court cases were problematic when there was a large company on one side and a small one or an individual on the other. The court could tell the large company directly that as a business operator and large taxpayer it had more obligations. A large business person from the pharmaceutical sector said they often felt a negative attitude from judges. They felt judges shame them for being large and having disputes related to administrative fines. The business person stated, “The attitude is that you are such a large company and... how come you went to court for GEL 6,000? ... One of the judges told us directly that they were issuing fines for pharmacies smaller than ours. I think the attitude is very negative that

we are a monster company. We are in an unequal situation” (Large business, pharmacy, operates in Georgia).

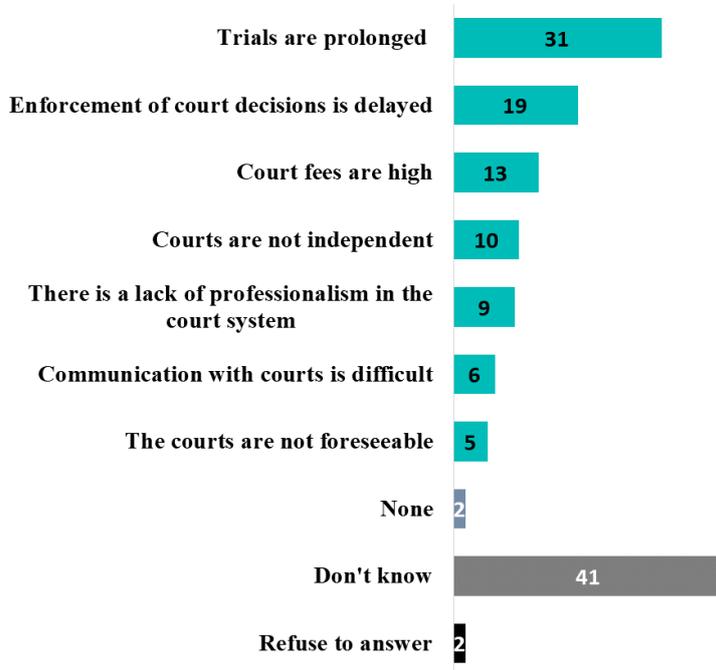
### Challenges that businesses face in the court system

- The extended timeline of trials is the most commonly named obstacle that businesses report facing with regards to the court system, with three years named as an average timeline for going through the three instances of one court case, with exceptions lasting from four to nine and more years;
- Problems with timely justice make the system ineffective for business people, as they are often unable to receive compensation. Some have died while waiting for justice, or lost money due to currency fluctuations and monetary devaluation over time;
- Respondents in the qualitative component of the study highlighted not only delayed and lengthy trials, but also problems with the enforcement of court decisions, which led to other problems, such as dishonest behavior from commercial entities and individuals;
- SMEs said courts take too long to complete small actions, such as responding to the court application, uploading files to the electronic system, providing the user ID and password for access to the electronic system, that took courts weeks to complete. Large businesses spoke of delays of more than a year in receiving court decisions or injunction documents, which were returned backdated. Large businesses and microfinance institutions spoke of problems with communications with courts on case updates, which were aggravated during the pandemic;
- Business people and lawyers complained that judges often lacked an understanding of the way businesses operate and disregarded their interests;
- Respondents in the qualitative component of the study discussed challenges and problems they encountered with regards to the court system in Georgia and reasons for those shortcomings. The system being closed to the outside was named as a reason for problems in the court, along with a lack of social guarantees and accountability for judges.

In addition to general attitudes and assessments, the survey asked respondents to name challenges they might face with regards to the court system. Forty-one percent of businesses could not name any difficulties. The most frequently named obstacles included, long timelines for trials (31%), delayed enforcement of court decisions (19%), and high court fees (12%). Other obstacles were named rarely (see Figure 6).

Figure 6 ?????????????????????????????????

### In your experience, what challenges do business organizations face in the justice system in Georgia? (%)



Note: Multiple answers were allowed. Therefore, the shares above do not sum to 100%.

All types of businesses who participated in the qualitative component of the study named extended timelines for court cases and delays in trials as the main challenge for businesses in Georgia. Large business people and lawyers highlighted the importance of timely procedures and provided many examples of how the delays and long timelines damaged business and even encouraged dishonest behavior.

A lawyer said the best illustration of the situation was the prospectus of Georgian companies listed on the London stock exchange. The document includes a chapter on legal issues and risks. The document notes that Georgian courts are in the process of being reformed and that the qualifications of judges are low, especially in corporate and commercial law. The lawyer stated, “So, the country has this label, at least in the business sector, and trust towards the services is very low... We cannot explain to our clients why they need to be in court for nine years... The feeling that court is a service for business does not exist at all” (Law firm, Association of Law Firms of Georgia).

Medium and small business people said delays were the largest problem with the courts in Georgia. Court cases go on for years, and quick justice was a serious challenge as businesses lose interest in recovering money, especially with enforcement being problematic as well. Microfinance institutions disapproved of delayed trials, and said it meant large sums of money were “frozen and dropped out of turnover.”

Lawyers representing large and medium companies in Tbilisi said on average a court case took about three years to complete, including all court instances. Some said it took longer. Some felt that enforcement could prolong the case for a year or even more. Microfinance institutions estimated the

average case time as between six months to several years. A large business person highlighted unenforced decisions as a major challenge in the system. Another challenge a large business person noted was unenforced decisions that “merely stayed on paper”. A lawyer said, “We have one dispute, and I don’t even remember for how long we have had that. I was young then. Sometimes we laugh. My colleague did not have children and now he has two. One of them goes to school” (Law firm, Association of Law Firms of Georgia).

Another problem with prolonged trial timelines medium sized business people and lawyers in Tbilisi mentioned was that exchange rate fluctuations. Even if a company wins the case and receives the disputed money in several years, the value of the money was lower by the time it was received. Lawyers representing medium sized companies in Tbilisi added that it all led to a careless attitudes among contract violators, who gained not only peace but value through the long timeframes in which cases are resolved. A business association representative stated, “The contract sides do not have any caution or shame in violating the contract. It becomes a norm, their interest, that you sue them as it will give them a certain peace of mind and a gain in value after three, four, five years when the court will release its decision” (A business association representatives).

Lawyers and large business people said that delayed court trials lead to dishonest behavior, which resulted in illegal activity. One stated, “The law on entrepreneurs is so unregulated, court decisions are left so unenforced, there are no leverages to such an extent that it is encouraging dishonest people to use the unregulated legislation, get personal profit, while knowing that nothing will be done against them” (Large business, pharmacy, operates in Georgia). MFIs said consumers went to court with the goal of prolonging a trial to earn time. They stated, “The bad client knows that courts prolong cases, because the case will be delayed indefinitely. This negative side is used by unscrupulous and disorderly borrowers, and this also shows that in this regard, very long trials have a very bad effect on our business” (Microfinance organization, operates in Georgia). They added that if cases in courts were resolved on time, debtors would choose to negotiate with the finance institution. As a result, the number of cases in courts would eventually decline.

A lawyer spoke about a dispute between a citizen and a bank whose branch manager stole several hundred dollars from the depositor. The person was arrested and sentenced to seven years in prison. The depositor sued the bank to get back the money. The court case was in the Supreme Court, but it was delayed for so long that the culprit served his term and got out of prison. The respondent stated, “Today I am at the Supreme Court. The person served his term, and is free now, and the family could not receive the money until now. It is profitable for a bank to have delays and prolong the case as the money that stays in the bank brings it money every day” (Law firm, Association of Law Firms of Georgia).

Other challenges respondents highlighted during in-depth interviews and focus groups included courts taking weeks or months to complete small tasks, such as responding to the court application, uploading certain files to the electronic system, providing the user ID and password for access to the electronic system, and handing in court decisions. They also noted problems in communication with courts, which became worse during the pandemic. A respondent stated, “Getting updates on the case from the [court] chancellery is a complicated task as there’s no point in calling. No one is ever picking up the phone... Even if you go there, they tell you the document is not ready or forward you to someone else. Overall, a five-day job can take three months” (Large business, food production and retail stores, operates in Georgia). Large business people also described cases when deadlines were violated but documents were provided with a back date. A respondent stated, “We were waiting for the injunction document for two years, and the date on the document was from two

years ago. This is a common practice in courts that they hand us documents with a back date” (Large business, pharmacy, operates in Georgia).

Some of the medium and large business people said that judges did not understand how businesses operated. They complained about bad administration of trials and not valuing their time. There are sometimes ten case trials set for the same time without people knowing the sequence of cases. The respondent added that this was due to a lack of supervision. Businesses outside Tbilisi added that a lack of trust towards courts was another challenge along with high court fees.

Some respondents discussed their views of the causes of these problems. They noted that the court system was closed to the outside legal world. They felt that only court staff with connections were promoted to judge positions. They also felt that qualified lawyers often had little incentive to become a judge as it paid little and involved a great deal of work.

Another reason several respondents mentioned was low salaries and insufficient social guarantees for judges. As a result, they felt that judges tried to leave “everyone grateful” so that after retiring they could become a lawyer or do some other work.

An important reason for court issues several large business people mentioned was an ineffective chain of responsibility within the court system. They felt it is hard to identify who is responsible for issues in the court system. Therefore, judges did not feel accountable. A large business representative who was also a former judge and knew the system well both internally and externally felt this was accurate. He stated, “Go and ask a judge if s/he needs help or training. You will see the reaction. No one wants to have the status that they are not doing things well... They were given the opportunity, those who came to the court system to create a comfort zone and use their power, so they do it... It’s not that they cannot do something. They are not asked to do something...” (Large business, banking, operates in Georgia). However, some respondents noted that there were some judges that are professional, responsible, and care about their reputation. Respondents were happy if their case was assigned to a good judge.

Almost all of the respondents who participated in the study spoke about civil and administrative law. This is where they operated and have experience in. There was only one large business person who mentioned criminal law. They said that criminal law judges were entirely different. The respondent stated, “They believe they are elite types. They have large ambitions and are generally tough. Their trials are different as well. They hate any difference of opinion. They believe they are the gods of the trial” (Large business, banking, operates in Georgia).

#### Commercial chamber / Narrow specialization of judges in courts

- Narrow specializations have been introduced in all areas of disputes in the Tbilisi City Court and Court of Appeal. Views differed on this issue between medium and large business people;
- Medium and small business people from outside Tbilisi were not aware of the commercial chamber and judges having narrow specialization on commercial disputes. MFIs spoke about persistent problems with their disputes that were assigned to a small number of judges, resulting in long timelines for court cases;
- Large and medium business people in Tbilisi and lawyers generally liked the idea that cases over GEL 500,000 would be assigned to the commercial chamber and discussed more quickly. They also felt that it could establish common practice. However, they felt that the qualifications of judges were unsatisfactory. They also noted high judge turnover, making it harder for them to specialize in the specifics of a certain dispute category.

While narrow specializations have been introduced to all areas of disputes in the Tbilisi City Court and Court of Appeal<sup>3</sup>, medium and small business people from outside Tbilisi were unaware of the introduction of narrow specializations for large commercial disputes. The MFIs liked the idea that the same category of cases were assigned to a small circle of judges and said that it simplified communication with judges. However, they felt the cases took too long. A respondent stated, “The presumed purpose of this was to ease the burden for all judges in courts and assign certain judges to the same category of cases... However, it seems that there are too many cases accumulated with a small number of judges, and the cases are prolonged even more” (Microfinance institution, operates in Georgia).

Large and medium business people and lawyers from Tbilisi held a range of views on the narrow specialization of judges. A business association representative recalled the initial plan to create commercial chambers in courts, which the Ministry of Justice worked on together with foreign experts. The plan included chambers with highly professional judges, training for them, and additional social guarantees and benefits. However, he said that the High Council of Justice took over the initiative, and created a chamber which considers disputes valued at above GEL 500,000. He stated, “At some stage, the HCoJ rushed and outpaced the Ministry of Justice... The problem is that the chamber is comprised of the same judges from the system, and it does not change much... Much larger scale work was needed” (A business association representative).

Another issue pointed out during the Tbilisi focus group was that, according to a legal consultant from Tbilisi, judge turnover was high within the specialized chambers and collegiums. S/he stated, “Imagine that a judge who had been working on the law of obligations for seven years is moved to asset law, which has totally different particularities, and it takes time before s/he gets all the specifics down. Then, in a year, s/he might be transferred somewhere else” (Legal consultant of medium and large businesses, Tbilisi).

A lawyer said the reform was not “healthy” as the competence of the five people who were assigned to the chamber did not satisfy the needs of the chamber. S/he stated “There are on-the-job trainings now, and they may have learned something, but then the independence issue comes in, as all the important disputes accumulate in the same hands” (Law firm, Association of Law Firms of Georgia). A large business person from the banking sector expressed a similar view saying that judges from the commercial chamber needed more qualifications to understand the content of disputes and/or to overcome embarrassment over asking questions, inviting specialists, and/or asking for a forensic analysis. S/he stated that the court has trapped itself in a specific habitus. They act as if, “whatever you say, I will still decide how I want” (Large business, banking, operates in Georgia).

A large business person from the construction sector generally supported the idea of having narrow specializations for judges so that they learned the specifics of a field. However, she had issues with the automatic distribution of cases to specialized judges. She felt there were too few of them. As a result, if your case was rejected by one, and then re-submitted, it would often end up with the same judge for review. She stated, “When you file a lawsuit for the second time, it goes to the same judge, and we did not have a good experience in that regard... We are talking about accepting the lawsuit for further judgement and you may be left without the constitutional right, because of this approach” (Large business, construction, operates in Tbilisi and Batumi).

Respondents also said the reform improved timelines for cases. One stated, “I had a recent case when the dispute exceeded GEL 500,000. It was judged by the respective [narrow specialization]

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<sup>3</sup> <https://transparency.ge/ge/post/vicro-specializaciebis-porma-saerto-sasamartloebis-sistemashi>

judge and the dispute was resolved quite quickly and the decision was right... So, no problem with either the competence or the timeframe” (Medium business, representative of a German company in Tbilisi, operates in Georgia, has court experience in the last five years). Large business people shared the view, and said that due to the low number of cases judges resolved them more quickly. Others added that it helped develop common precedents among the three or four judges.

### Perceptions of corruption in court

- Medium and small business people outside Tbilisi, MFIs, and most large enterprises had not heard of cases of corruption in the courts. Medium business people in Tbilisi and lawyers from the Association of Law Firms of Georgia spoke about influence peddling in courts. When speaking about this, respondents were referring to the existence of influential circles within the court system and/or business circles;
- A lawyer described large commercial cases that showed clear signs of corruption. They felt that if large commercial cases were resolved in a short time period, this was a likely indication of corruption.

Medium and small business people outside Tbilisi and some large business people had not heard of cases of corruption in the courts. Medium sized business people and lawyers from Tbilisi could not describe specific instance of corruption either. However, they mentioned that there was influence peddling in the courts. By influence peddling, they meant the existence of influential circles within the court system and business circles. The business association representative mentioned that there was a demand for lawyers who could “settle things” in courts. The existence of someone to “settle things” implies corruption. S/he stated, “Corruption is not only running with a suitcase full of money. It includes influence peddling. There are not many cases that leave us suspicious of [influence peddling]. However, I can name at least one such case. The Phillip Morris case.<sup>4</sup> The decision on which was luckily changed in the Court of Appeal” (A business association representative).

A lawyer saw clearer signs of corruption in cases that involved large commercial entities. He recalled a large corporation’s case of civil law that ended about five years ago through a Supreme Court decision. After the change of government, an interested group divided those completed cases and revived them by filing lawsuits. The judge satisfied their lawsuit and assigned the corporation to pay tens of millions of USD. “I see direct corruption in the courts. They earned tens of millions of USD” (Law firm, Association of Law Firms of Georgia). He noted that the court case went very quickly, and said that this is often an indication of corruption. He stated, “The general rule is that court cases are delayed and never fit into the set terms. If a court case goes within the set terms, in eight out of ten cases, there are [powerful, interested parties]. [It is] either corruption or some other influence” (Law firm, Association of Law Firms of Georgia). Another quick trial respondents mentioned involved investors. The case ended 20 days after the suit was filed. A respondent stated, “A judge held a nine-minute trial, and took away a half a billion GEL property from the investor. The case ended in 20 days after submitting the lawsuit. The judge made the decision, and gave the property to a Georgian company” (Law firm, Association of Law Firms of Georgia). According to the respondent, this sent a negative message to investors.

### The impact of the current state of the court system on the development of economy and business

- According to the survey, the views of businesspeople were split almost equally when judging how positive or negative an impact the current situation in the courts has on Georgia’s

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<sup>4</sup> A brief description of the case and evaluation of the court decision by the Transparency International Georgia can be found here: <https://www.transparency.ge/en/blog/court-decision-imposition-gel-93-million-philip-morris-raises-questions>

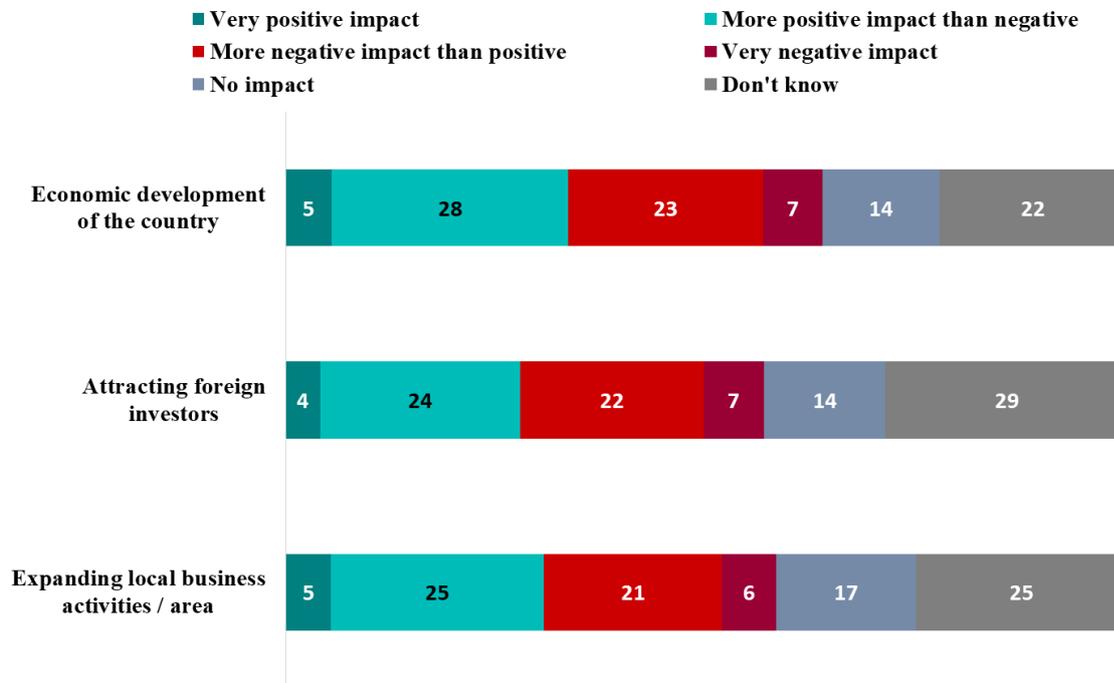
economy, attracting foreign investors, and expanding local business activities. Unlike questions on general assessments of the court system, which collected quite positive responses, the questions on the impact of the current situation in courts on the economy and business showed more critical views;

- There were large differences in the views expressed by respondents in the telephone survey and in the in-depth interviews and focus groups. Almost all focus group and in-depth interview participants claimed that the current state of the court system had a negative effect on economic and business development in the country. They noted it was particularly negative for the investment climate. Small and medium businesses outside Tbilisi had only general views, while large businesses and lawyers were more informed;
- Respondents said that the situation in the Georgian judiciary was no secret to investors, and it affects their investment decisions. Some lawyers and large business people described cases when investors went to great lengths to avoid putting Georgian courts in contracts. They understood or knew from direct experience that the money they invested here was not always safe;
- The business association representative detailed how untimely and inefficient court decisions in relation to credit disputes affected the interest rates of loans in Georgia as financial institutions had to take included judicial risk in risk modeling;
- Small business people from outside Tbilisi said that due to lengthy trial timelines, large companies can put small businesses out of business. They felt this contributed to Georgia's poor economic environment;
- A few small and medium business people from outside Tbilisi said that the current state of courts helped businesses and contributed to development.

The survey asked businesspeople for their views of the impact of the current situation in the court system on Georgia's economy, attracting foreign investors, and expanding local business activities. Views were divided. Thirty-three percent of businesses reported that the current situation in the courts had a positive impact on the country's economic development, while about a third (30%) said the opposite. In total, 29% reported the situation had a positive impact on attracting foreign investors. A similar share believed that it had a negative impact. The attitude was similar when assessing the influence of the current state of courts on expanding local business activities. Thirty-one percent of businesses believed the current situation in the courts had a positive impact on local business activities, while 28% thought the effect was negative. In general, 22%-29% of businesspeople could not provide a response.

Figure 7 ??????????????????????

### How positive or negative an impact does the current situation in Georgian court system have on ...? (%)



All types of respondents, except for small businesses outside Tbilisi, in the qualitative research mentioned that the court system has a negative impact on the economic development of the country. They felt it was particularly negative for the investment climate. Small businesses outside Tbilisi did not have much to say about this issue. Others provided a number of examples of the negative impact.

A lawyer from Tbilisi who represented a medium sized company said none of the foreign investors s/he worked with expressed trust in the Georgian court system. As a result, they tried to avoid putting Georgian courts in contracts. This was particularly true of contracts involving large financial transactions. Instead, they preferred international arbitration. The lawyer stated, “I am not an economic expert, but the negative result of our court being in such a hard situation lies on the palm of a hand. I mean prolonged cases, lack of trust among investors... Almost none of them trust the Georgian courts and judiciary and highlight their wish to have potential disputes discussed at international arbitration institutions” (Medium business, representative of a German company in Tbilisi, operates in Georgia, has court experience in the last five years). S/he also added that when a foreign investor who came to Georgia lost labor cases that had no logical explanation, they had no wish to include Georgian courts in any of their contracts. A large business representative from the banking sector said unpredictability in the court system was a large hindrance for businesses and investors. S/he stated, “When you invest money, you have a requirement to protect it so that you can at least get it back if something does not work out. And in the current situation, there are few possibilities for that” (Large business, banking, operates in Georgia). Another large business representative mentioned that foreign investors already know that the courts can be very ineffective. As a result, they might decide not to invest in Georgia.

A business association representative stated that the slow turnaround on cases involving loans increases interest rates for everyone. He said that since court cases could take several years to resolve and enforcement was often ineffective. As a result, banks included this in their risk models, which resulted in higher interest rates. He stated, “If, on average, two out of ten debtors cannot pay back the loan, it is reflected in the interest rates from the beginning” (A business association representative).

According to small business people from outside Tbilisi, large companies can take over small companies, because of the long timelines for cases. They felt the situation around this was at a crisis level. One stated, “I just heard it takes a very long time to make court decisions and large companies still take over small companies. So there is a crisis” (Small business, retail sales, operates in Batumi, no court experience in the last five years).

One of the respondents said that the legislation around the business environment is inadequate. He said the courts do not create an enabling environment for small businesses. The respondent stated, “The legislation is so inadequate in our case in terms of business development. The court must be adequate to the situation to enable them to develop business. They do not take into account the interests of small businesses. If something is wrong with a small business, it will sink completely, and they will not allow to breathe” (Small business, retail sales, operates in Khashuri, no court experience in the last five years).

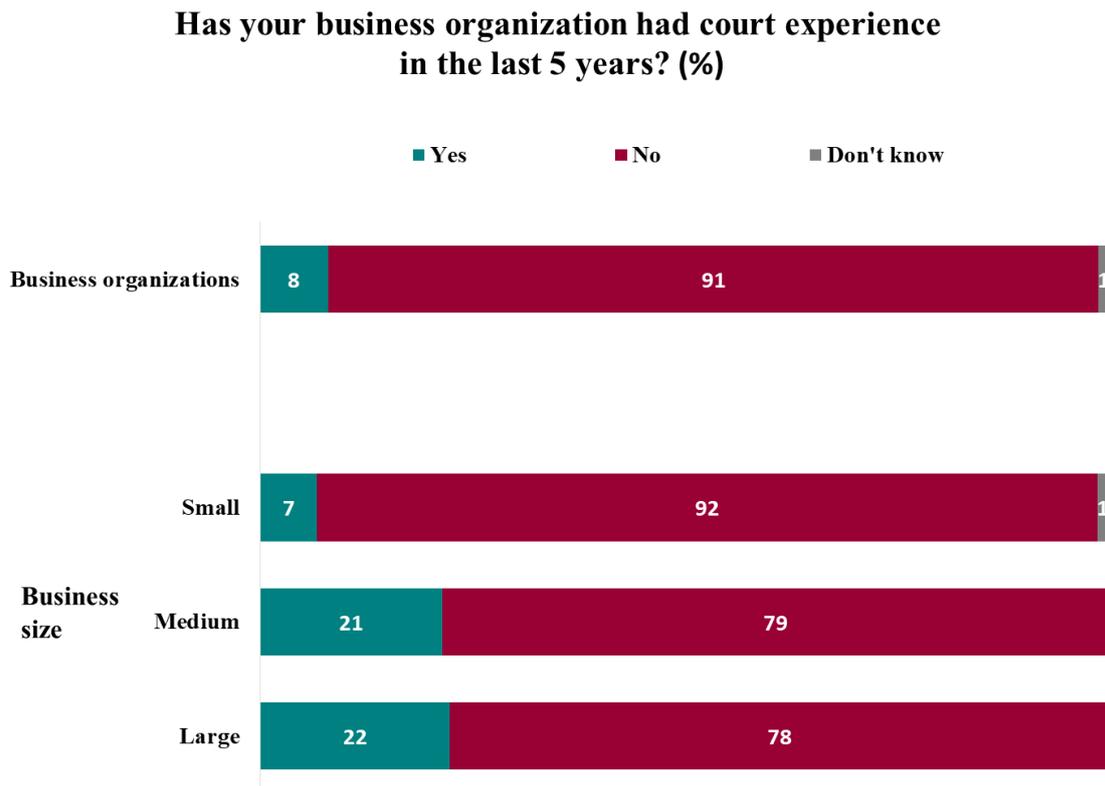
Only a few respondents, from small and medium businesses outside Tbilisi, said that courts contributed to business development. One noted an example of a court decision that helped the business maintain its property.

## Court experience

- Only 8% of businesses have had court experience in the past five years. Medium and large businesses were more likely to have court experience than small businesses;
- A third of the businesses with court experience report that their cases are ongoing. A plurality (40%) say the case ended in their favor, and only 11% said they lost the case;
- About a third of businesses with court experience report that their cases lasted more than a year.

Eight percent of businesses had court experience in the past five years. A larger share of medium (21%) and large (22%) businesses had experienced court proceedings compared to small businesses (7%) (Figure 8).

Figure 8 ?????????????????????????????????



Of businesses that had court experience (8%), a fifth said that trials took one month or less (25%), 13% report that trials lasted 2-6 months, about a fifth of them (19%) reported that trials lasted 7-12 months, and approximately a third of businesses (37%) said that trials lasted more than a year. Seven percent of businesspeople did not name a time period and answered “don’t know” or “refuse to answer” (see Annex 2, Table 8, and Table 9).

One-third of businesses with court experience (33%) reported that their cases were still ongoing. Forty percent of the businesses said that the case ended in their favor, while 11% said that the case ended against their business. The case ended in a settlement for 14% of the businesses (see Annex 2, Table 11). A plurality of the businesses (43%) reported that they were partially satisfied, and 19% said they were very satisfied with the trial. In contrast, about a fifth of the businesses (21%) reported they were partially dissatisfied, and 16% said they were very dissatisfied with the trials (see Annex 2, Table 11). The main reasons for partial or full dissatisfaction were trials were very lengthy (61%) and the court did not take into account the interests of the businesses (28%) (see Annex 2, Table 12).

#### Referrals

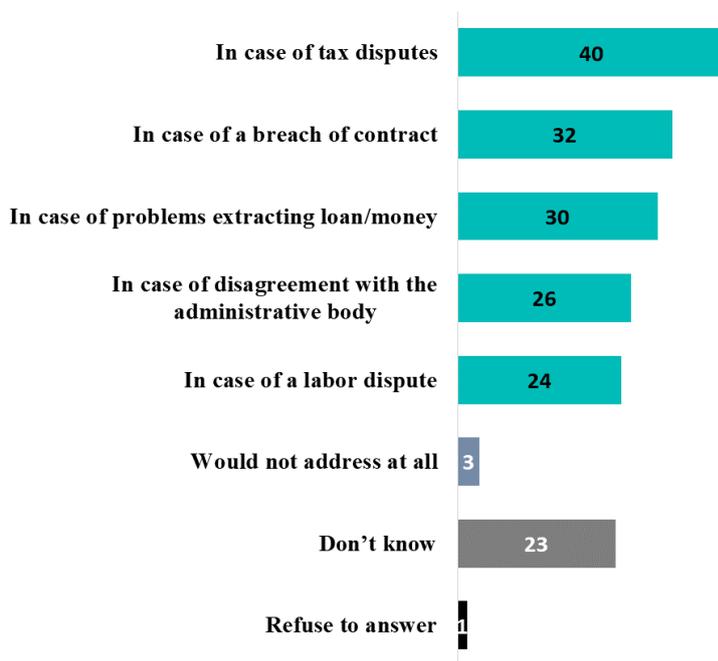
- Businesses mainly go to court over tax disputes;
- In the past five years, the majority of businesses did not have the need to go to court;
- Only 5% of businesses say that they needed to go to court, but decided not to. The main reasons for not taking a suit to court were trial length and court costs.
- The qualitative data suggest large businesses and MFIs viewed courts as a last resort, which they always tried to avoid. They said they preferred negotiations with the parties to the dispute parties to reach an agreement. The main reasons for they avoided courts was long trial lengths, high costs, and ineffective enforcement of court decisions. Costs were named as particularly problematic for small and medium business people from outside Tbilisi;

- SMEs from outside Tbilisi said they sometimes decided not to go to court, because they had no hope of winning the case. This was particularly true of cases against administrative bodies or large businesses.

In the survey, business people were asked in when they would go to court. Forty percent of businesses reported they would go to court over tax disputes. About a third (32%) would go to court for breach of contract. Thirty percent would address the court over problems with recovering money/loans. Twenty-four percent reported that they would go to court over labor disputes (see Figure 9).

Figure 9 ???

### In which case would your business organization go to court? (%)



Note: Multiple answers were allowed. Therefore, the responses do not sum to 100%.

The majority of businesses (88%) did not have any need to go to court during the past five years. Only 6% said that they needed to and addressed the court. A further 5% said that they needed to address the court, but decided not to. The main reasons why the businesses that had the need to address a court, but decided not to do so were trial length (27%), high court fees, (12%), or both (12%). Other reasons, such as lack of trust in courts or simply that “it was not worth it” were named rarely (see Annex 2, Table 17, and Table 17\_a).

Qualitative data largely explain the results of the survey. Some of the large business people said they viewed going to court as a last resort and always tried to avoid it. One stated, “Very often [our company had the need to go to court but decided not to]. We believe that going to court is not an effective mechanism for business. We do this when we have no other choice... We always avoid courts and think that even if it brings results, it will happen very late and will not be effective anymore” (Large business, construction, operates in Tbilisi and Batumi). A large business person in the pharmaceutical sector said they often tried to reach an agreement with the other party of the dispute rather than, “go from one instance court to another, with years passing, and us having nothing to hold” (Large business, pharmacy, operates in Georgia).

MFIs held a similar view. They preferred settling cases through negotiations. They choose arbitration or mediation instead of the courts due to trial length. Alternative dispute resolution mechanisms tend to lead to quicker dispute resolution. They stated, “It is quite a loss for companies to have problematic contracts. We try alternative ways to resolve cases as timely as possible. We manage to complete cases in arbitration in a very short time, but even in this case there are court delays at the Court of Appeal where we wait for enforcement documents” (Microfinance institution, operates in Georgia).

For SMEs from outside Tbilisi, the court was associated with high costs and a lot of time. As a result, respondents preferred to avoid litigation. If the dispute was not over large sums of money, they would not go to court. One stated, “Entrepreneurs have the feeling that the fee to be paid in court cases is a large amount, cases are delayed, and attorneys are an expensive pleasure. Hence entrepreneurs simply refuse to go to court” (Medium business, operates in Zugdidi, has court experience in the last five years).

Some small business people from outside Tbilisi mentioned they lacked trust in courts, and as a result do not file suits. One stated, “There is no trust in the court, and therefore there is no prospect of recovering money. It’s all double expense. It is better to solve the case through negotiations or to let it go” (Small business, retail sales, operates in Khashuri, no court experience in the last five years).

SMEs from outside Tbilisi recalled cases where they needed to go to court. However, they decided not to, because they had no hope of winning. One stated, “I had a case with an energy company when an incorrect power tariff was written, but at the consultation level, we were told that the energy company has a judge who always decides the case in their favor, and there was no point in filing a lawsuit” (Small business, operates in Zugdidi, no court experience in the last five years).

#### The impact of the Covid-19 pandemic on the court system

- Large businesses, microfinance institutions, and lawyers spoke about online trials positively. Delayed trials were considered a negative pandemic related effect;
- MFIs said the pandemic affected the enforcement process, as enforcers were not allowed to enter property for evaluations and could only make phone calls from outside.

As the study took place during the pandemic, it tried to explore related challenges. Medium and small business people from outside Tbilisi did not have much to say about the impact of the pandemic on court performance. Some mentioned trial delays as a negative effect. Others said online trials were a positive outcome of the pandemic.

Large business people, MFIs, and lawyers felt online trials were positive. They did not need to physically go to courts and could connect online. One stated, “Having trials remotely is very comfortable. One reason is that you would not be able to take volumes of case documents with you, and remotely it becomes possible to look through them during online trials. Moreover, it enabled us to avoid traffic jams in Tbilisi, and frustration from postponed trials when you had to travel to the regions for that. It saved much time” (Large business, construction, operates in Tbilisi and Batumi). MFIs also mentioned e-litigation was free of charge during the pandemic.

Some of the large business people mentioned delays in trials due to the two-week state holidays announced twice during the pandemic, during which courts did not work. Some large business people said the sides sometimes claimed they had technical difficulties joining the trial online, using this argument to prolong cases.

MFIs said the pandemic negatively affected enforcement. An administrative act adopted in the beginning of 2020, disallowed enforcers from entering property for evaluations. A respondent stated, “The situation worsened, since the adoption of an administrative act in the spring of 2020, which outlined special measures to manage the enforcement process. The situation worsened for more

than a year. Generally, entry is prohibited for the enforcer and the evaluation of the property may be inadequate, as it only decides on the value of the property based on pictures taken from the outside” (Microfinance institution, operates in Georgia).

Some of respondents praised the electronic system of the first instance courts called Info Court. This portal gathers all documents from a case in one place. However, the system was not developed for the Court of Appeal, which the large business people said would be a positive step.

Respondents did not sue anyone nor have they been sued during the pandemic due to COVID related issues. In this regard, their court experience was not related to the pandemic.

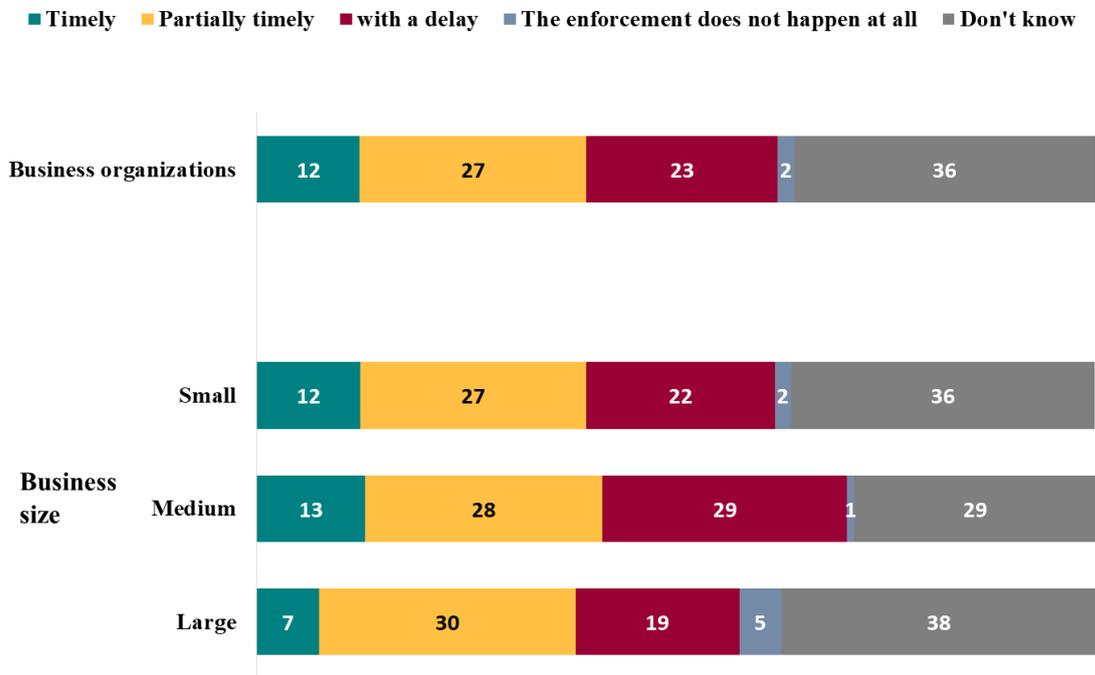
## Enforcement of court decisions

- About a tenth of businesses reported that court decisions were enforced timely. About half reported court decisions were enforced in a somewhat timely manner or with a delay;
- Half of the businesses never had any contact with the National Bureau of Enforcement. About a fifth of businesspeople assessed their performance as average;
- The majority of businesses have never had a connection with private enforcement institutions. Fourteen percent of businesspeople assessed their performance as average;
- Large businesses, lawyers, and MFIs had more experience with enforcement of court decisions than small business people from outside Tbilisi. They spoke about significant delays in enforcement;
- Some of the large businesses pointed out that enforcement was particularly problematic outside Tbilisi as local enforcers warned people prior to their visit. As a result, people hid their valuables. Therefore, they preferred using private enforcers. Private enforcement services were used by MFIs, in part, because the National Bureau of Enforcement took months to enforce court decisions;
- Some of the large and medium businesses said that courts refuse to uphold injunctions on bank accounts, and were sometimes late with issuing injunctions. Small and medium business people from outside Tbilisi considered it unfair to have an injunction on a bank account as it deprived them from the opportunity to earn the money that was needed to pay off the debt or fine;
- One of the large business people spoke about problems with injunctions on movable property. Courts needed the list of movable property. Companies can only obtain this list with the consent of the owner of the property. This made asking for an injunction on movable property pointless.

The survey asked businesses about the enforcement of court decisions. Only 12% of businesses said that enforcement of court decisions happened in a timely manner. About a fifth of businesses (27%) considered court judgments to be enforced in a timely manner sometimes. Twenty-three percent of them thought that court judgments were enforced with a delay (see Figure 10). Interestingly, a larger share of businesspeople (40%) who had court experience reported that court judgments are enforced with a delay compared to businesses without court experience (21%).

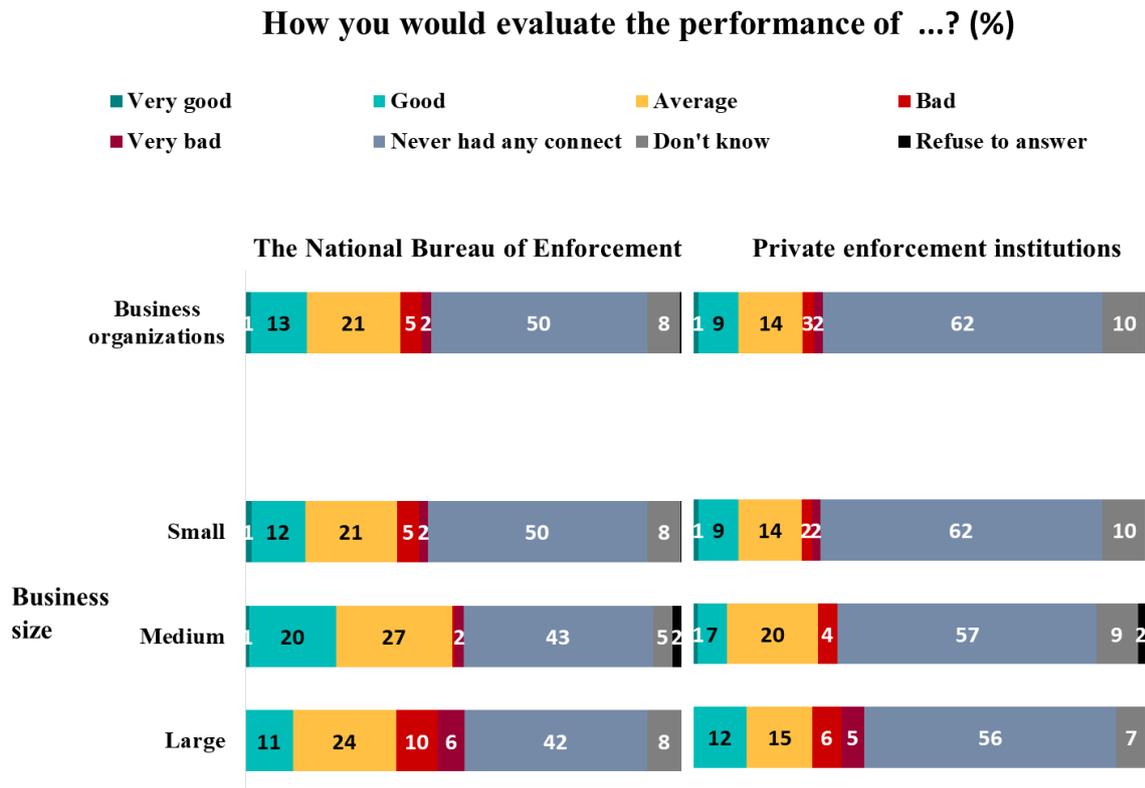
Figure 10 ??????????????????????

### How timely is the enforcement of court decisions? (%)



Half of the businesses (50%) reported never having contact with the National Bureau of Enforcement. About a fifth of businesses evaluated the performance of the National Bureau of Enforcement as average. Fourteen percent thought that the performance was good, while 7% saw it as bad (see Figure 9). Regarding private enforcement institutions, a larger share of businesses (62%) said they never had any contact with them. Fourteen percent assessed private enforcement institutions' work as average. A smaller share of businesses assessed the performance either as good (10%) or bad (4%) (see Figure 11).

Figure 11



#### Evaluations of enforcement of court decisions

SMEs outside Tbilisi did not have much court experience. From what they had heard, the respondents mostly said the enforcement of court decisions was not a particularly lengthy or problematic domain. Others said it depended on the case. If the court did not want the case to be completed in a timely manner, then the enforcement would take an extended time period as well. One respondent stated, “There was a case where the court issued a decision and it was still not enforced. The enforcement did not take place anyway, and the case was delayed” (Small business, retail sales, operates in Batumi, no court experience in the last five years).

Large and medium businesses and lawyers had more experience with enforcement of court decisions. Some said enforcement improved after the appointment of the new head of the National Bureau of Enforcement. They said that only the enforcement of disputes over unsecured loans was problematic. Others said that the enforcement of court decisions took quite a long time. They also noted that there were issues with courts upholding injunctions in a timely manner. This allowed companies to register their property to other people/companies, thus avoiding payment. One of the medium sized businesses from Tbilisi said enforcers were responsible for the timelines. S/he stated, “I don’t know the reason. Maybe they have much to do, or they are not motivated themselves, but why should it matter to me. I had many cases that the enforcer was not active him/herself, was sending notifications late, etc.” (Medium business, representative of a German company in Tbilisi, operates in Georgia, has court experience in the last five years).

A large business person said enforcement of court decisions could take more than a year. They noted that enforcement can be stretched out for poor reasons, resulting in further court appeals and disputes with the National Bureau of Enforcement. A lawyer described a labor dispute involving a government agency and the resulting challenges. S/he stated, “It was a labor dispute against a state entity and the Supreme Court decided in favor of the employee. It was a GEL 20,000 dispute ...

When the enforcement document was brought to the Ministry, the minister was so enraged that s/he called the Prosecutor General and demanded that s/he started a criminal case against the complainant...” (Law firm, Association of Law Firms of Georgia).

A large business person from the banking sector said enforcement was particularly problematic outside Tbilisi. S/he said enforcers often warned people prior to their visit, and they would hide their valuables. S/he stated, “There were cases when they would say their cow was eaten by a wolf, and you could never find out if it was true or not” (Large business, banking, operates in Georgia). As a result, this company uses private enforcers who operated from Tbilisi. MFIs also said that they used private enforcement services, because as the National Bureau of Enforcement takes months to enforce decisions. A respondent stated, “We have private enforcers in Eastern and Western Georgia. The system is effective because the enforcement at the Public Enforcement Bureau can take six months or more. For example, an auction may be scheduled at a time when the property has expired for auction, so it is only natural that the private enforcement services should be actively used” (Microfinance institution, operates in Georgia).

On enforcement, some of the medium sized businesses from Tbilisi said they had communication issues with enforcers. To get updates on the status and news about a certain case required making appointments with an individual enforcer. The respondent wished that communications were simpler and that they could have online consultations. Some of the large business people said the enforcers were often inactive. As a result, businesses had to investigate and track people independently.

### *Injunction/seizure*

Some of the large and medium businesses from Tbilisi recalled when courts used injunctions actively and they were effective. However, they feel the situation has changed, and the courts refuse to uphold injunctions. This decreased the chances of decisions being enforced. A respondent stated, “The injunction used to be imposed on an account of an Ltd, and their first reaction was making all possible efforts to pay the amount and continue working, because all businesses need a bank account. However, recently, starting from last year, the practice is that I have asked for an injunction many times, but the court is not satisfying the request” (Medium business, wine production sector, operates in Kakheti and sells in Georgia, has court experience in the last five years). Some of the small business people had different experiences with court injunctions. They considered them unfair, because they need a bank account to earn money to pay off the disputed amount. One stated, “A person should be able to find this money. If they completely take away his accounts, he will not be able to do anything. He will not really be able to pay this fine” (Small business, man, East Georgia).

A large business from the food sector described a dispute valued at around GEL 53,000. In the dispute, they asked the court to uphold an injunction, so that they could enforce the decision. An injunction usually takes 24 hours. However, it was done after three days of continuous and persistent communication with the judge’s assistant. S/he stated, “The argument from the court was that the judge had a lot of work. The injunction order itself had a back date, as if it was issued within 24 hours. It damages business, because in three days you can expropriate your property, merge it, do everything...” (Large business, food production and retail stores, operates in Georgia).

One of the large businesses said injunctions on movable property are problematic, because they need a list of movable property from the Service Agency. They cannot get this without the agreement of the owner. The respondent stated, “How do you imagine someone agreeing to be investigated in order for his/her property to be seized? This is absurd. So, for us, this legal right is limited in all possible ways. It loses any sense. Practically, we cannot ask for an injunction on movable property” (Large business, pharmacy, operates in Georgia).

MFIs noted problems with courts upholding injunctions. They said it almost never happened on accounts, as the court took into consideration the general social situation in the country. An even larger problem was loans under GEL 2000. Injunctions are not allowed in these cases. As a result, some clients decided not to pay these loans. As a result of these circumstances, MFIs refrain from going to court.

## Alternative dispute resolution mechanisms

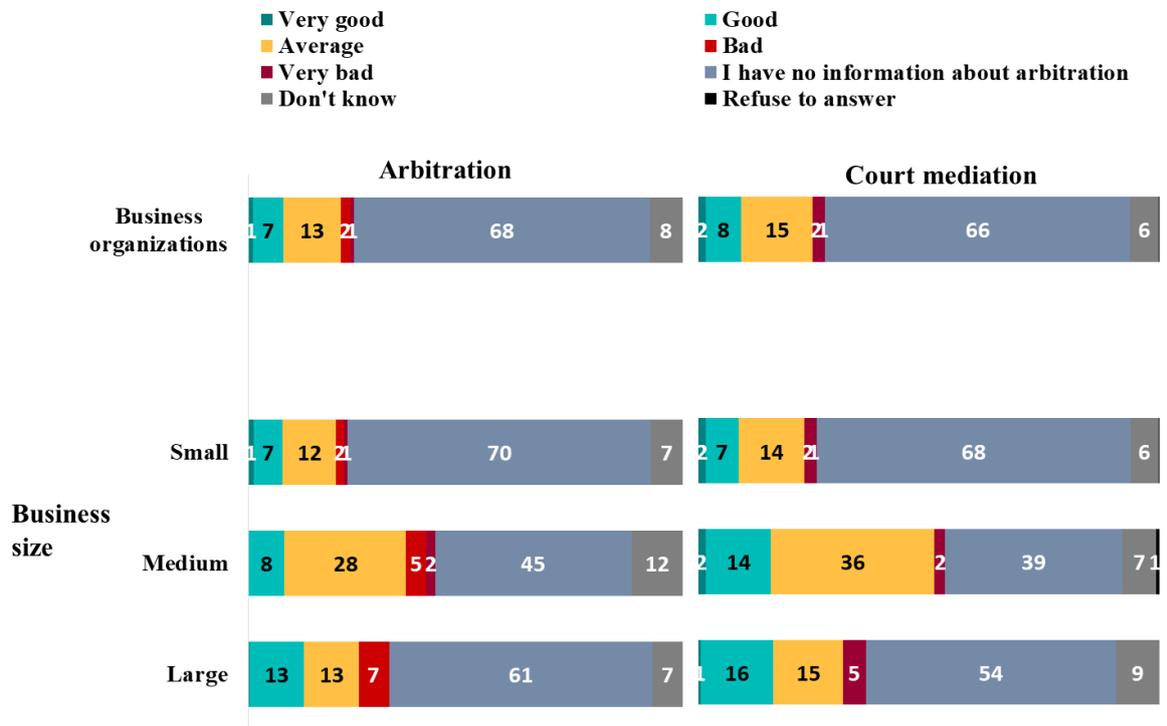
- The survey suggests that the majority of businesses have no information about arbitration or court mediation. Medium sized businesses are more aware of ADR than large and small businesses;
- Most businesspeople could not assess their trust in arbitration and court mediation. About a fifth of businesses said they trust arbitral institutions and court mediation partially or fully;
- The qualitative component of the study showed that businesses outside Tbilisi generally had not heard of arbitration or mediation. Some of them did not trust arbitration as they expected that arbiters would decide in favor of large businesses;
- The views of large and medium business people and lawyers from Tbilisi on arbitration were split. Some evaluated it negatively, because the Court of Appeal had to perform the recognition and enforcement of arbitration decisions. This makes the process extend in time. As a result some businesses refuse to use arbitration;
- Some of the large businesses did not trust arbitration, and expected it to be biased towards the company which owned the arbitration firm;
- Large business people said arbitration was ineffective in cases when there was a need to change precedents, which was relatively common. This creates uncertainty. Respondents reported that arbitration decisions were often based on the Supreme Court decisions. However, sometimes they were faulty, and businesses were willing to appeal to the Constitutional Court to try to change the precedent;
- Lawyers were particularly positive about arbitration, because they feel it saves time (even with the involvement of the Court of Appeal). They also felt that a more qualified professional could be selected as the judge;
- On mediation, many large and medium businesses and MFIs said that they tried to use mediation internally through negotiating with the disputing parties. As a result, they had relatively little need for mediation;
- Some of the medium sized businesses in Tbilisi and lawyers had negative experiences using mediation, after which they still had to go to court. As a result, there trials were longer than they would have been without mediation.

The survey asked respondents to assess the performance of alternative dispute resolution mechanisms. Most businesses said they did not have information about arbitration (68%) or court mediation (66%). Only 1% of businesspeople reported that they had used arbitration, and only 2% had used court mediation in the past five years (see Figure 11).

Interestingly, a larger share of small and large businesses had no information about arbitration (70% and 61%, respectively) compared to medium-sized businesses (45%). Thirteen percent of businesses assessed the performance of arbitral institutions as average. Eight percent of businesses thought that they worked well, while 3% believed that arbitral institutions performed badly. A larger share of small and large businesses had no information about court mediation (68% and 54%, respectively) compared to medium-sized businesses (39%). Fifteen percent of businesses assessed the performance of arbitral institutions as average. Nine percent believed the performance of court mediation was partially or very good, while 3% thought that court mediation performed badly (see Figure 12).

Figure 12 ??????????????????

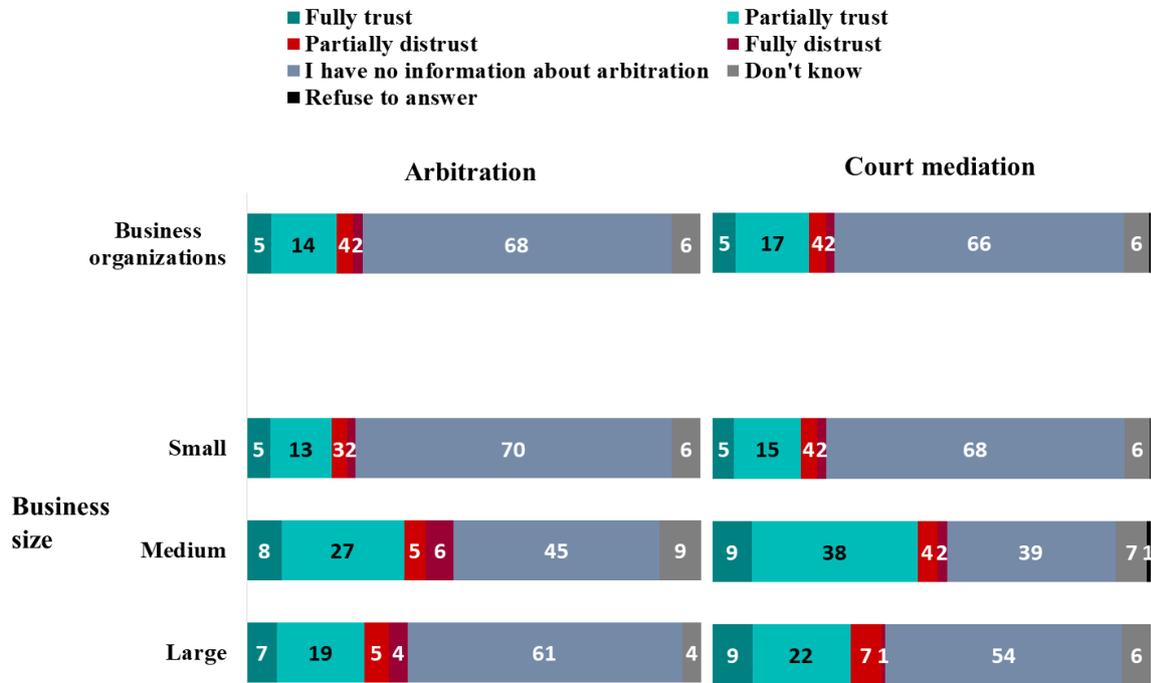
### How would you assess the performance of arbitration/court mediation in Georgia? (%)



Since most businesspeople did not have information about alternative dispute resolution institutions, they could not assess their trust in arbitration and court mediation. A fifth of businesspeople (20%) trusted arbitral institutions partially or fully and 6% of them expressed partial or full distrust. Similarly, 22% of businesspeople trusted court mediation partially or fully, while 6% expressed partial or full distrust (see Figure 13).

Figure 13 ?????????????????????????????????

### How much do you trust or distrust arbitration/court mediation in Georgia? (%)



Most medium and small business people outside Tbilisi who participated in the study have not heard of arbitration or mediation. One of the focus group participants, a sole proprietor from Adjara, lacked trust towards this institution and would not sign a contract that had arbitration in it. Another small business person from Samegrelo had a negative attitude towards arbitration as he believed, “80 percent of arbitration disputes are settled in favor of a large entrepreneurial entities” (Small business, operates in Zugdidi, no court experience in the last five years).

There were other small and medium business people in focus groups who generally had positive attitudes towards arbitration and considered it an effective mechanism for quick case resolution. However, they noted it was not commonly used in Georgia. The same positive assessments of the idea of mediation were also expressed during focus groups with business people from outside Tbilisi. However, respondents had experienced only Revenue Service and Ministry of Finance mediation mechanisms and not court mediation.

Large and medium business people and lawyers in Tbilisi had more experience with arbitration. Some of them evaluated it negatively as the decision of the arbitration court had to be recognized and enforced through the Court of Appeal, prolonging the process. A lawyer from Tbilisi said that none of the enforcement documents of arbitration decisions were handed to her by the Court of Appeal in less than two years. The only exception was a recent case where a judge gave her copies of the documents in a year and a half. She stated, “Do you realize how catastrophic this is? They gave me copies of enforcement papers in a year and a half, of a decision of the arbitration taken in ten days” (Medium business, wine production sector, operates in Kakheti and sells in Georgia, has court experience in the last five years). A large business representative said enforcement could take up to four years in the second instance. Some of the large business people felt that after linking the recognition and enforcement of arbitration decisions with the courts, arbitration became less

attractive and their company stopped using it. They felt that arbitration was not a quick mechanism for dispute resolution, and it was very costly. Some of the respondents expressed issues with trust in arbitration, especially when a company had its own arbitration firm. A respondent stated, “When a company has its own arbitration firm, what grounds do I have to trust it? This is not based on a territorial principle” (Large business, pharmacy, operates in Georgia). The respondent added that both arbiters and judges could be biased. However, courts had more legal boundaries. Hence, she had more trust in courts.

Another problem with arbitration large business people mentioned was the development of precedent. All arbitrations in Georgia use Supreme Court precedent to ensure that their decisions were recognized and enforced later. As Georgia is developing law and uncertainty was one of the main problems, there could be a faulty precedent. A respondent stated, “If we consider the precedent faulty, we as a business would like to change the precedent, and it would be impossible in arbitration” (Large business, banking, operates in Georgia).

Lawyers from the Tbilisi focus group further highlighted that investors knew the courts were unreliable. As a result, they prefer arbitration. However, the long time frame for cases hinders development of arbitration. In this regard, they highlighted that recognition and enforcement of arbitration decisions takes up to two years, since it goes through the courts. A lawyer stated, “The motivation to go to arbitration will be killed. Alright, arbitration will lead to a decision in three days, but then I will have to wait for the recognition-enforcement of the decision for two years” (A business association representative). Additionally the business association representative said the Court of Appeal often interfered in the competence of arbitration. S/he stated, “Judges have put on the ‘robe of social justice goddesses’ and under this robe, they are trying to decide all disputes, disregarding principles of lawfulness and fairness, but based on who has more money. If you are a large company, then you lie.” He discussed a case wherein a company director who had a bank loan was not paying it. The director had said that he was inexperienced to have signed the contract, and the court agreed, without any evidence. The business association representative stated, “It was not a physical entity. It was a company director, and the court said, ok, then you don’t have to pay the credit” (A business association representative).

The lawyers had a more positive view of arbitration. They said arbitration excluded disputes that lasted for many years. They also noted that arbiters are increasingly qualified. One lawyer stated, “I tell my clients: what do you prefer that your dispute was judged by God knows which judge or someone from the list, unbiased, with good reputation? In both qualification and timing, arbitration is better. It also excludes the moment of people telling you, whatever, go and sue me as you can get back to them in a few months... Arbitration will not take as long as three court instances and could take the same time as a one court instance” (Law firm, Association of Law Firms of Georgia).

On mediation, some of the large business people said if there was room for mediation in their dispute, it was in their own interest to use it. Whenever possible, they tried to reach an agreement. Some said that for that reason mediation was pointless as they had already tried to reach a settlement. One stated, “We don’t go to court unless we exhaust all resources for agreement and if no such resource is left, then mediation has no point” (Large business, pharmacy, operates in Georgia). MFIs held similar views on mediation. They said they used elements of mediation internally. A respondent stated, “For the category of cases we conduct, I think it is not effective to use mediation. Elements of mediation are also present in internal resources. I think that is enough to convince the customer to voluntarily fulfill the obligation. The effect of mediation is nothing more. We tried mediation, but this did not work” (Microfinance institution, operates in Georgia).

Some of the representatives of medium sized businesses in Tbilisi and lawyers had negative experiences with mediation, as it did not resolve their issues. As a result, the case went to court. A respondent stated, “I had several cases, and they ended without any results. Much time was lost and

we returned to court” (Legal consultant of medium and large businesses, Tbilisi). The business association representative said that dishonest parties even used the situation to their benefit and sought mediation if they wanted to win time. S/he stated, “Often sides, dishonest sides use this [mediation], in order to prolong the case in time and put afar the inconvenient result for them” (A business association representative).

## CONCLUSIONS

Overall, the survey results suggest that businesses' attitudes towards the judiciary are quite positive. While over 40% assess the performance of courts as average (the only 5-point scale question), the majority provide positive answers to questions on trust towards courts, as well as evaluations of the competence and the independence of judges. The focus groups and in-depth interviews though found more critical views. However, their assessments were often based on the assumption that it depends what the case is about and who the sides in the case are. The differences in the results of the survey and the qualitative component of the study can be attributed to (1) businesses avoiding saying something critical over the telephone; and (2) the difference between the respondents of the survey, which included a random sample of all businesses in Georgia, and the qualitative component of the study, which tried to select businesses with experience in courts.

Unlike the positive assessments given in the survey, respondents of in-depth interviews and focus groups reported concerns over the independence of judges and criticized their competence in business disputes and commercial law. They spoke of an influential clan in the system, and instances of courts taking the side of the state, especially in large commercial disputes. Participants felt judges took into account the interests of their colleagues, relatives, and neighbors, resulting in subjective rulings. Large and medium businesses in Tbilisi also spoke about the court taking the side of the "weak", no matter what they did, in labor cases and other disputes involving large companies. They felt the judges often even shamed them for going to court for the recovery of several thousand lari.

Across the entire study, the length of trial and accompanying delays were the most commonly named obstacle that businesses face in the court system. Businesses reported that cases take three years named on average. Respondents also remembered cases that lasted for nine or more years. According to many respondents, the timing issues made courts ineffective for business people. They were often unable to recover the disputed amounts, sometimes died waiting for justice, or lost money due to currency fluctuations and monetary devaluation over time. Qualitative study participants also discussed problems with the enforcement of court decisions which lead to dishonest behavior among commercial entities and individuals. Specifically, they would delay trials and enforcement to avoid paying and to wait for the value of the dispute to decrease from inflation.

Business people also criticized the court system for lacking an understanding of the way businesses operate, disregarding their interests, and not valuing their time and money. In the qualitative component of the study, respondents noted that some of the issues stem from the court system being closed to outsiders. They also noted a lack of social guarantees for judges and lack of accountability for judges.

Narrow specializations are introduced in all areas of disputes in the Tbilisi City Court and Court of Appeal. However, medium and small business people from outside Tbilisi were not aware of the commercial chamber or judges having specializations in commercial disputes. Medium businesses in Tbilisi, MFIs and large business people felt these reforms had a number of benefits. These included the quicker resolution of cases with a value over GEL 500,000 and opportunities for setting precedent within a small pool of judges. However, MFIs spoke about persistent problems with their disputes as they were assigned to a small number of judges and it prolonged court case time even more. Other respondents were not satisfied with the qualifications of judges due to their frequent turnover. They felt this limited their opportunities for on-the-job training.

In addition to exploring the views and experiences of businesses in the court system, the study tried to collect perceptions around corruption in courts. Few reported corruption. Large and medium

business people in Tbilisi spoke about influence peddling in courts though. By influence peddling, they meant that there are influential judges in the court system and businesses that worked with each other. They added that if a large commercial case was resolved in a very short time, this was a likely indication of corruption or lack of independence.

Views were split on whether the current situation in the courts has a positive or a negative impact on Georgia's economy, the attraction of foreign investors, and the expansion of local business activities in the survey. At the same time, almost all qualitative research participants reported the courts have a negative effect on the economy and business development. Respondents said it was particularly clear with foreign investors. One of the respondents noted that the slow turnaround on court decisions raised interest rates for everyone.

Small business people from outside Tbilisi said that due to lengthy and delayed trials, large companies took over smaller business, which was a significant problem for the economy.

The survey showed that only 8% of businesses had court experience in the past five years. A larger share of medium and large-sized businesses have court experience than small businesses. This was reflected in focus group and in depth interview discussions, wherein small business people had little information or interest in the court system.

In the past five years, most businesses have not had the need to go to court. Only 5% of businesses said they had a need but did not go the court, mostly due to the length of trials and high court fees. The qualitative data also showed that lack of enforcement of court decisions was another reason businesses do not go to court.

Large businesses, MFIs, and lawyers felt online trials were a positive outcome of the pandemic. Delayed trials were named as a negative side effect. MFIs said the pandemic negatively affected the enforcement process, as enforcers were not allowed to enter into property for evaluations, and could only call from outside.

Only a tenth of businesses think that court decisions are enforced in a timely manner. Half never had any contact with the National Bureau of Enforcement. Most never had contact with private enforcement institutions.

Large business people, lawyers, and MFIs spoke about significant delays in enforcement. Some large business people reported that enforcement was particularly problematic outside Tbilisi. For these reasons, some large businesses and MFIs used private enforcement services.

Respondents highlighted issues with injunctions. They said bank accounts were almost never seized and courts were late in issuing injunctions. Small and medium business people from outside Tbilisi considered it unfair to have an injunction on a bank account, as it made it harder for them to pay off fines and debts.

A large business person spoke about problems with injunctions on mobile property, which companies could not get without providing a list of property to the court. This information can only be obtained with the consent of the person who owned the property. Respondents felt this made injunctions pointless.

The majority of businesses had no information about arbitration and mediation. A larger share of small and large businesses had no information about arbitration than medium-sized businesses. Most businesspeople could not assess their trust towards arbitration and court mediation. Only about a fifth of businesses express trust towards arbitral institutions and court mediation.

This was confirmed during focus groups and interviews. Businesses outside Tbilisi mostly had not heard of arbitration and mediation. Large and medium businesses disliked that recognition and enforcement of arbitration decisions was linked with the Court of Appeal, resulting in delays. Lawyers were positive about ADR as it saved time and more qualified people decided the case.

Large business people said arbitration was ineffective in cases when there was a need to change precedent, which was a common occurrence due to the youth of Georgia's legal system.

Large and medium businesses in Tbilisi and MFIs did not consider mediation effective. They reported they try to negotiate anyway. As a result, there remains no room for mediation by the time they are approaching the courts.

## ANNEXES

### Annex I: Methodology

From May to early July 2021, CRRC-Georgia conducted a study of the views of businesses on the judiciary. The study was supported by the USAID Promoting Rule of Law in Georgia (PROLoG) Activity and the USAID Economic Governance Program.

The goal of the study was to explore businesses' attitudes to the work of courts and the court system in Georgia, their experience in the past five years with courts, and any difficulties that businesses may encounter due to the current state of the judiciary in Georgia.

To address these research questions, CRRC-Georgia carried out a mixed methods study, including (1) a survey of businesses, (2) in-depth interviews with representatives of large businesses, and the Association of Law Firms of Georgia, and (3) focus groups with medium and small business people in Tbilisi, Adjara, Samegrelo, and East Georgia and with MFIs. The latter was included as a separate group due to the large number of court cases related to loans, which contribute to the heavy caseload in courts.<sup>5</sup> In addition, interviews with large businesses included representatives of two large banks in Georgia.

(1) The survey was conducted using the computer assisted telephone interviewing (CATI) in Georgian between June 16-30, 2021. The sample for the survey was drawn from the registry of businesses using a stratified simple random sample. The survey collected 1,301 completed interviews. The data is representative of businesses in Georgia, excluding the occupied territories of South Ossetia and Abkhazia.

(2) In-depth interviews were conducted with large business people. They were mainly lawyers and heads of law departments of large businesses (five interviews). They came from a variety of sectors including banking, construction, pharmaceuticals, retail, and the head of the Association of Law Firms of Georgia (two interviews). Interviews were conducted in May 2021.

(3) Focus groups were conducted with medium and small business people in Tbilisi, Adjara, Samegrelo, East Georgia, and microfinance organizations. The latter were selected due to the high number of court cases by or against them in courts. With SMEs, one of the main recruitment criteria was court experience in the last five years. Outside Tbilisi, it was very hard to find SMEs with court experience. Therefore, the majority of focus group respondents did not have such experience and spoke from their general knowledge and information they had received from the media and their acquaintances. Medium sized business people in Tbilisi were mainly experienced lawyers who represented a specific business or several companies. A representative of a business association also participated in the discussion.

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<sup>5</sup> According to court statistics, in 2020 loan cases were the largest category both in the list of complete cases (11,520) and the list of incomplete cases (almost 20,000 cases) at the end of the accounting period. Source: <https://tcc.court.ge/ka/Statistics>

## Annex 2: Frequencies and cross-tabulations

i1. Legal status of businesses (%)				
	Business size			Businesses
	Small	Medium	Large	
Joint liability company	0	4		0
Limited liability company	38	85	93	42
Joint stock company	1	4	4	1
Cooperative	0		2	0
Branch of a foreign enterprise	0			0
Individual entrepreneur	61	7	0	56
Partnership	0			0
Don't know	0	0		0
Refuse to answer	0			0
<b>Total</b>	<b>100</b>	<b>100</b>	<b>100</b>	<b>100</b>

i2. Annual turnover of business in 2019 (%)				
	Business size			Businesses
	Small	Medium	Large	
Less than GEL 100 000	22	10	3	21
GEL 100 000 - 250 000	2	2	0	2
GEL 250 001 - 500 000	0	3	3	1
GEL 500 001 - 1 500 000	1	6	0	1
More than GEL 1 500 000	0	4	21	1
Don't know	68	68	48	67
Refuse to answer	7	6	23	7
<b>Total</b>	<b>100</b>	<b>100</b>	<b>100</b>	<b>100</b>

i3. Business sector (%)				
	Business size			Businesses
	Small	Medium	Large	
Agriculture, hunting and forestry	1	0	0	1
Fishing	0	0	0	0
Mining and quarrying	0	1	1	0
Manufacturing	7	7	11	7
Electricity, gas and water supply	0	1	0	0
Construction	3	9	13	4
Wholesale and retail trade; repair of motor vehicles, motorcycles and personal and household goods	35	50	44	36
Hotels and restaurants	3	3	2	3
Transport, storage and communication	5	5	8	5
Financial intermediation	1	0	0	1

Real estate, renting and business activities	8	9	9	8
Public administration and defense; compulsory social security	0		2	0
Education	2	4	4	2
Health and social work	2	3		2
Other community, social and personal service activities	3	1	4	3
Activities of households	0			0
Extra-territorial organizations and bodies	0			0
Unknown	29	6	0	27
<b>Total</b>	<b>100</b>	<b>100</b>	<b>100</b>	<b>100</b>

**I4. Please tell me, in which region / regions of Georgia does your business organization operate? (%)**

	Business size			Businesses
	Small	Medium	Large	
<b>Tbilisi</b>	39	51	55	40
<b>Adjara</b>	10	11	12	10
<b>Guria</b>	2	1	3	2
<b>Samegrelo/Zemo Svaneti</b>	8	3	7	8
<b>Imereti</b>	14	6	8	13
<b>Racha-Lechkhumi/Kvemo Svaneti</b>	1		3	1
<b>Shida Kartli</b>	6	3	11	6
<b>Samtskhe-Javakheti</b>	3	5	4	4
<b>Kvemo Kartli</b>	7	6	11	7
<b>Mtskheta-Mtianeti</b>	2	1	3	2
<b>Kakheti</b>	6	3	7	6
<b>All regions of Georgia</b>	4	12	14	4
<b>Beyond the borders of Georgia</b>	1	2	3	1

**I. Please tell me, how you would assess the performance of the courts in Georgia? You would assess it as ...**

	Business size			Businesses
	Small	Medium	Large	
<b>Very bad</b>	4	4	9	4
<b>Bad</b>	7	5	4	7
<b>Average</b>	43	42	40	43
<b>Good</b>	23	17	25	23
<b>Very good</b>	3	9	5	4
<b>Don't know</b>	19	23	18	19
<b>Refuse to answer</b>	0	0		0
<b>Total</b>	<b>100</b>	<b>100</b>	<b>100</b>	<b>100</b>

<b>2. Please tell me, how much you trust or distrust courts in Georgia? (%)</b>				
	Business size			Businesses
	Small	Medium	Large	
<b>Fully distrust</b>	6	4	4	5
<b>Partially distrust</b>	10	15	14	10
<b>Partially trust</b>	56	48	64	56
<b>Fully trust</b>	17	25	10	17
<b>Don't know</b>	11	7	8	11
<b>Refuse to answer</b>	1	0		1
<b>Total</b>	100	100	100	100

<b>3. Please tell me, in your opinion, how competent judges are in Georgia nowadays? (%)</b>				
	Business size			Businesses
	Small	Medium	Large	
<b>Very incompetent</b>	4	4	0	3
<b>Partially incompetent</b>	9	9	12	9
<b>Partially competent</b>	51	54	57	51
<b>Very competent</b>	13	16	9	13
<b>Don't know</b>	23	16	20	23
<b>Refuse to answer</b>	0	0	1	0
<b>Total</b>	100	100	100	100

<b>4. Please tell me, in your opinion, how independent the judges are in Georgia nowadays? (%)</b>				
	Business size			Businesses
	Small	Medium	Large	
<b>Fully dependent</b>	7	4	5	7
<b>Partially dependent</b>	12	16	7	12
<b>Partially Independent</b>	42	46	53	43
<b>Fully independent</b>	13	21	12	13
<b>Don't know</b>	25	14	21	25
<b>Refuse to answer</b>	1	0	2	1
<b>Total</b>	100	100	100	100

<b>5_1. In your opinion, to what extent are judges in Georgia dependent on the ruling party nowadays? (%)</b>				
	Business size			Businesses
	Small	Medium	Large	
<b>Fully dependent</b>	15	10	7	14
<b>More dependent than independent</b>	45	58	33	45
<b>More independent than dependent</b>	14	16	20	14
<b>Fully independent</b>	3	4	7	3
<b>Don't know</b>	22	12	25	21
<b>Refuse to answer</b>	1		8	2

<b>Total</b>	100	100	100	100
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**5\_2. In your opinion, to what extent are judges in Georgia dependent on the opposition nowadays? (%)**

	Business size			Businesses
	Small	Medium	Large	
<b>Fully dependent</b>	1		1	1
<b>More dependent than independent</b>	19	13	12	18
<b>More independent than dependent</b>	27	51	43	29
<b>Fully independent</b>	21	17	24	20
<b>Don't know</b>	31	20	21	30
<b>Refuse to answer</b>	1			1
<b>Total</b>	100	100	100	100

**5\_3. In your opinion, to what extent are judges in Georgia dependent on large businesses nowadays? (%)**

	Business size			Businesses
	Small	Medium	Large	
<b>Fully dependent</b>	6	7	6	6
<b>More dependent than independent</b>	34	23	42	33
<b>More independent than dependent</b>	17	29	16	18
<b>Fully independent</b>	7	21	16	8
<b>Don't know</b>	36	17	20	34
<b>Refuse to answer</b>	0	3		0
<b>Total</b>	100	100	100	100

**5\_4. In your opinion, to what extent are judges in Georgia dependent on the executive government nowadays? (%)**

	Business size			Businesses
	Small	Medium	Large	
<b>Fully dependent</b>	11	15	12	11
<b>More dependent than independent</b>	45	40	43	45
<b>More independent than dependent</b>	13	21	10	14
<b>Fully independent</b>	4	3	4	4
<b>Don't know</b>	26	17	31	25
<b>Refuse to answer</b>	1	3		1
<b>Total</b>	100	100	100	100

**5\_5. In your opinion, to what extent are judges in Georgia dependent on the clan in courts nowadays? (%)**

	Business size			Businesses
	Small	Medium	Large	
Fully dependent	11	13	5	11
More dependent than independent	39	36	31	38
More independent than dependent	11	15	5	11
Fully independent	4	0		3
Don't know	34	33	58	35
Refuse to answer	1	3		1
Total	100	100	100	100

**5\_6. In your opinion, to what extent are judges in Georgia dependent on the High Council of Justice nowadays? (%)**

	Business size			Businesses
	Small	Medium	Large	
Fully dependent	9	11	5	9
More dependent than independent	37	30	40	36
More independent than dependent	10	30	10	12
Fully independent	3	0	2	3
Don't know	40	26	43	40
Refuse to answer	0	3		1
Total	100	100	100	100

**6. In your experience, what challenges do businesses face in the justice system in Georgia? (%)**

	Business size			Businesses
	Small	Medium	Large	
Trials are prolonged	31	30	45	31
The courts are not foreseeable	5	5	3	5
Court fees are high	12	19	25	13
Enforcement of court decisions is delayed	18	27	27	19
Communication with courts is difficult	6	9	7	6
There is a lack of professionalism in the court system	9	15	13	9
Courts are not independent	10	9	5	10
Other	0		5	0
None	2	1	3	2
Don't know	42	33	22	41
Refuse to answer	2	1	1	2

**7\_1. In your opinion, how positive or negative an impact does the current situation in Georgian court system have on the economic development of the country? (%)**

	Business size			Businesses
	Small	Medium	Large	
<b>Very positive impact</b>	5	7		5
<b>More positive impact than negative</b>	27	36	32	28
<b>More negative impacts than positive</b>	23	17	27	23
<b>Very negative impact</b>	7	8	18	7
<b>No impact</b>	14	12	8	14
<b>Don't know</b>	23	19	16	22
<b>Refuse to answer</b>	0			0
<b>Total</b>	100	100	100	100

**7\_2. In your opinion, how positive or negative an impact does the current situation in Georgian court system have on attracting foreign investors? (%)**

	Business size			Businesses
	Small	Medium	Large	
<b>Very positive impact</b>	4	2	4	4
<b>More positive impact than negative</b>	23	35	28	24
<b>More negative impacts than positive</b>	22	21	25	22
<b>Very negative impact</b>	7	11	19	7
<b>No impact</b>	15	8	9	14
<b>Don't know</b>	30	24	14	29
<b>Refuse to answer</b>	0			0
<b>Total</b>	100	100	100	100

**7\_3. In your opinion, how positive or negative an impact does the current situation in Georgian court system have on expanding local business activities / area? (%)**

	Business size			Businesses
	Small	Medium	Large	
<b>Very positive impact</b>	5	7	1	5
<b>More positive impact than negative</b>	24	35	33	25
<b>More negative impacts than positive</b>	21	16	26	21
<b>Very negative impact</b>	6	13	18	6
<b>No impact</b>	17	7	13	17
<b>Don't know</b>	26	20	10	25
<b>Refuse to answer</b>	0	2		0
<b>Total</b>	100	100	100	100

**8. Please tell me if your business organization had a court experience in the last 5 years? This includes lawsuits filed by your organization and lawsuits against your organization. (%)**

	Business size			Businesses
	Small	Medium	Large	
<b>Yes</b>	7	21	22	8
<b>No</b>	92	79	78	91

<b>Don't know</b>	1			1
<b>Refuse to answer</b>	0			0
<b>Total</b>	100	100	100	100

<b>9. Please tell me how long did the court process last/still continues? (months) (%)</b>				
	Business size			Businesses
	Small	Medium	Large	
<b>1</b>	27	21	5	24
<b>2</b>	8	0		6
<b>3</b>	5	10		5
<b>4</b>	0	2		1
<b>5</b>			13	1
<b>7</b>	4	13		5
<b>9</b>	2		5	2
<b>12</b>	10	9	39	12
<b>14</b>			2	0
<b>15</b>	5			4
<b>18</b>	6		1	5
<b>24</b>	8	11		8
<b>30</b>	1		13	2
<b>36</b>	7	19		8
<b>40</b>			22	2
<b>48</b>	4	8		4
<b>60</b>	1	1		1
<b>96</b>	1			1
<b>97</b>	1			1
<b>99</b>	5	6		5
<b>100</b>	2			1
<b>144</b>	2			1
<b>Total</b>	100	100	100	100

<b>10. Please tell me, what the outcome of your organization's case in court was. (%)</b>				
	Business size			Businesses
	Small	Medium	Large	
<b>The case ended in favor of the business organization</b>	37	58	37	40
<b>The case ended against the business organization</b>	12	12		11
<b>The case ended in a settlement</b>	15	16		14
<b>The case is still ongoing</b>	34	14	63	33
<b>Don't know</b>	2			1
<b>Total</b>	100	100	100	100

**11. Please tell me, in general, how satisfied are you with the court process? (%)**

	Business size			Businesses
	Small	Medium	Large	
<b>Very dissatisfied</b>	14	11	35	16
<b>partially dissatisfied</b>	25	3	15	21
<b>partially satisfied</b>	41	55	45	43
<b>Very satisfied</b>	18	31	5	19
<b>Don't know</b>	2	1		1
<b>Refuse to answer</b>	0			0
<b>Total</b>	100	100	100	100

**12. Please tell me why you are dissatisfied? (%)**

	Business size			Businesses
	Small	Medium	Large	
<b>The trial was very lengthy</b>	61	75	55	61
<b>The court does not take into account the interests of the business</b>	32	25		28
<b>Other</b>	7		45	11
<b>Total</b>	100	100	100	100

**13. Please tell me, in your experience, how timely is the enforcement of court decisions? (%)**

	Business size			Businesses
	Small	Medium	Large	
<b>With a delay</b>	22	29	19	23
<b>Partially timely</b>	27	28	30	27
<b>Timely</b>	12	13	7	12
<b>The enforcement does not happen at all</b>	2	1	5	2
<b>Don't know</b>	36	29	38	36
<b>Refuse to answer</b>	0			0
<b>Total</b>	100	100	100	100

**14. Please tell me, how you would evaluate the performance of the National Bureau of Enforcement? As ... (%)**

	Business size			Businesses
	Small	Medium	Large	
<b>Very bad</b>	2	2	6	2
<b>Bad</b>	5	0	10	5
<b>Average</b>	21	27	24	21
<b>Good</b>	12	20	11	13
<b>Very good</b>	1	1		1
<b>I had no contact with the National Bureau of Enforcement</b>	50	43	42	50
<b>Don't know</b>	8	5	8	8
<b>Refuse to answer</b>	0	2		0
<b>Total</b>	100	100	100	100

**15. Please tell me, how you would evaluate the performance of private enforcement institutions. As ... (%)**

	Business size			Businesses
	Small	Medium	Large	
<b>Very bad</b>	2		5	2
<b>Bad</b>	2	4	6	3
<b>Average</b>	14	20	15	14
<b>Good</b>	9	7	12	9
<b>Very good</b>	1	1		1
<b>I had no contact with private enforcement institutions</b>	62	57	56	62
<b>Don't know</b>	10	9	7	10
<b>Refuse to answer</b>	0	2		0
<b>Total</b>	100	100	100	100

**16. Please tell me, in which case your business organization would go to court. (%)**

	Business size			Businesses
	Small	Medium	Large	
<b>In case of a labor dispute</b>	24	24	28	24
<b>In case of problems extracting loan/money</b>	29	34	54	30
<b>In case of a breach of contract</b>	31	36	51	32
<b>In case of disagreement with the administrative body</b>	25	39	29	26
<b>In case of tax disputes</b>	41	29	23	40
<b>Other</b>	1	0		0
<b>Would not address at all</b>	3	3		3
<b>Don't know</b>	24	18	4	23
<b>Refuse to answer</b>	2			1

**17. During the last 5 years, did your business organization have the need to go to court but decided not to? (%)**

	Business size			Businesses
	Small	Medium	Large	
<b>Yes (your business had the need to go to court but decided not to)</b>	5	16	1	5
<b>No, your business organization had the need and went to court</b>	5	12	20	6
<b>No (your business organization did not have the need to go to court)</b>	89	72	74	88
<b>Don't know</b>	1			1
<b>Refuse to answer</b>	0		5	0
<b>Total</b>	100	100	100	100

**17a. If your business had the need to go to court in the last 5 years but decided not to, please tell me why. (%)**

	Business size			Businesses
	Small	Medium	Large	
<b>Due to prolonged trials over time</b>	32	4		27
<b>Due to high costs</b>	9	30		12
<b>Due to costs and time (prolonged trials)</b>	12	15		12
<b>Courts are not independent</b>	2			2
<b>We solved it by ourselves</b>	3	35	100	9
<b>It was not worth</b>	14			11
<b>Due to the bureaucracy</b>	2	12		4
<b>Do not trust courts</b>	8	4		8
<b>Did not have time</b>	2			2
<b>Addressed to Tbilisi Controversial issue service</b>	2			1
<b>Don't know</b>	11			9
<b>Refuse to answer</b>	3			2
<b>Total</b>	100	100	100	100

**18. Please tell me, how you would evaluate the performance of arbitration in Georgia? As... (%)**

	Business size			Businesses
	Small	Medium	Large	
<b>Very bad</b>	1	2		1
<b>Bad</b>	2	5	7	2
<b>Average</b>	12	28	13	13
<b>Good</b>	7	8	13	7
<b>Very good</b>	1		0	1
<b>I have no information about arbitration</b>	70	45	61	68
<b>Don't know</b>	7	12	7	8
<b>Total</b>	100	100	100	100

**19. Please tell me, how much you trust or distrust arbitration in Georgia? (%)**

	Business size			Businesses
	Small	Medium	Large	
<b>Completely distrust</b>	2	6	4	2
<b>Partially Distrust</b>	3	5	5	4
<b>Partially trust</b>	13	27	19	14
<b>Completely trust</b>	5	8	7	5
<b>I have no information about arbitration</b>	70	45	61	68
<b>Don't know</b>	6	9	4	6
<b>Refuse to answer</b>	0			0

<b>Total</b>	100	100	100	100
<b>20. Please tell me if you have used arbitration in the last 5 years? (%)</b>				
	Business size			Businesses
	Small	Medium	Large	
<b>Yes</b>	1	4	0	1
<b>No</b>	98	93	100	98
<b>Don't know</b>	1			1
<b>Refuse to answer</b>	0	3		0
<b>Total</b>	100	100	100	100

<b>21. Please tell me, in general, how satisfied are you with arbitration? (%)</b>				
	Business size			Businesses
	Small	Medium	Large	
<b>Very dissatisfied</b>		50		13
<b>partially dissatisfied</b>	28	50		33
<b>partially satisfied</b>	58			43
<b>Very satisfied</b>	14		100	11
<b>Total</b>	100	100	100	100

<b>22. Please tell me, how you would assess the performance of court mediation in Georgia? As ... (%)</b>				
	Business size			Businesses
	Small	Medium	Large	
<b>Very bad</b>	1	2		1
<b>Bad</b>	2	0	5	2
<b>Average</b>	14	36	15	15
<b>Good</b>	7	14	16	8
<b>Very good</b>	2	2	1	2
<b>I have no information about court mediation</b>	68	39	54	66
<b>Don't know</b>	6	7	9	6
<b>Refuse to answer</b>	0	1		0
<b>Total</b>	100	100	100	100

<b>23. Please tell me, how much you trust or distrust court mediation in Georgia? (%)</b>				
	Business size			Businesses
	Small	Medium	Large	
<b>Fully distrust</b>	2	2	1	2
<b>Partially Distrust</b>	4	4	7	4
<b>Partially trust</b>	15	38	22	17
<b>Fully trust</b>	5	9	9	5
<b>I have no information about court mediation</b>	68	39	54	66
<b>Don't know</b>	6	7	6	6

<b>Refuse to answer</b>	0	1		0
<b>Total</b>	100	100	100	100

<b>24. Please tell me if you have used court mediation in the last 5 years? (%)</b>				
	Business size			Businesses
	Small	Medium	Large	
<b>Yes</b>	1	10	3	2
<b>No</b>	98	90	97	98
<b>Don't know</b>	1			1
<b>Total</b>	100	100	100	100

<b>25. Please tell me, in general, how satisfied you are with court mediation. (%)</b>				
	Business size			Businesses
	Small	Medium	Large	
<b>Very dissatisfied</b>	6	19		10
<b>partially dissatisfied</b>	18			11
<b>partially satisfied</b>	29	40		31
<b>Very satisfied</b>	39	41	100	43
<b>Don't know</b>	8			5
<b>Total</b>	100	100	100	100

## Annex 3: Focus group and in-depth interviews respondents

### Focus group with small business people in Adjara

- Small business, retail sales, operates in Batumi, no court experience in the last five years
- Individual entrepreneur, operates in Batumi, no court experience in the last five years
- Small business, sewing shop, operates in Batumi, no court experience in the last five years
- Small business, retail sales, operates in Batumi, no court experience in the last five years
- Individual entrepreneur, Dutch flower supply, operates in Adjara and Guria, has court experience in the last five years
- Small business, retail sales, operates in Batumi and Tbilisi, no court experience in the last five years
- Individual entrepreneur, beauty salon, operates in Batumi, has court experience in the last five years
- Small business, construction sector, operates in Batumi, no court experience in the last five years

### Focus group with medium and small business people in East Georgia

- Small business, retail sales, operates in Khashuri, no court experience in the last five years
- Medium business, retail sales, operates in Khashuri, no court experience in the last five years
- Small business, retail sales, operates in Khashuri, no court experience in the last five years
- Small business, metal processing, operates in Kakheti, no court experience in the last five years
- Small business, retail sales, operates in Telavi, no court experience in the last five years
- Small business, retail sales, operates in Kareli, no court experience in the last five years

### Focus group with medium and small business people in Samegrelo

- Medium business, operates in Samegrelo-Zemo Svaneti, no court experience in the last five years
- Medium business, operates in Zugdidi, has court experience in the last five years
- Small business, operates in Zugdidi, no court experience in the last five years
- Medium business, operates in Zugdidi, no court experience in the last five years
- Small business, operates in Zugdidi, no court experience in the last five years
- Medium business, operates in Zugdidi, has court experience in the last five years

### Focus group with medium business people and lawyers in Tbilisi

- Medium business, representative of a German company in Tbilisi, operates in Georgia, has court experience in the last five years
- Medium business, wine production sector, operates in Kakheti and sells in Georgia, has court experience in the last five years
- Legal consultant of medium and large businesses, Tbilisi
- Medium business, metal casting manufacturing, operates in Georgia, has court experience in the last five years
- A business association

### Focus group with micro-finance institutions

- Microfinance organization, operates in Western Georgia
- Microfinance organization, operates in large cities of Georgia
- Microfinance organization, operates in Georgia

### In-depth interviews

- Large business, construction, operates in Tbilisi and Batumi

- Large business, banking, operates in Georgia
- Large business, food production and retail stores, operates in Georgia
- Large business, banking, operates in Georgia
- Large business, pharmacy, operates in Georgia
- Law firm, Association of Law Firms of Georgia
- Law firm, Association of Law Firms of Georgia