

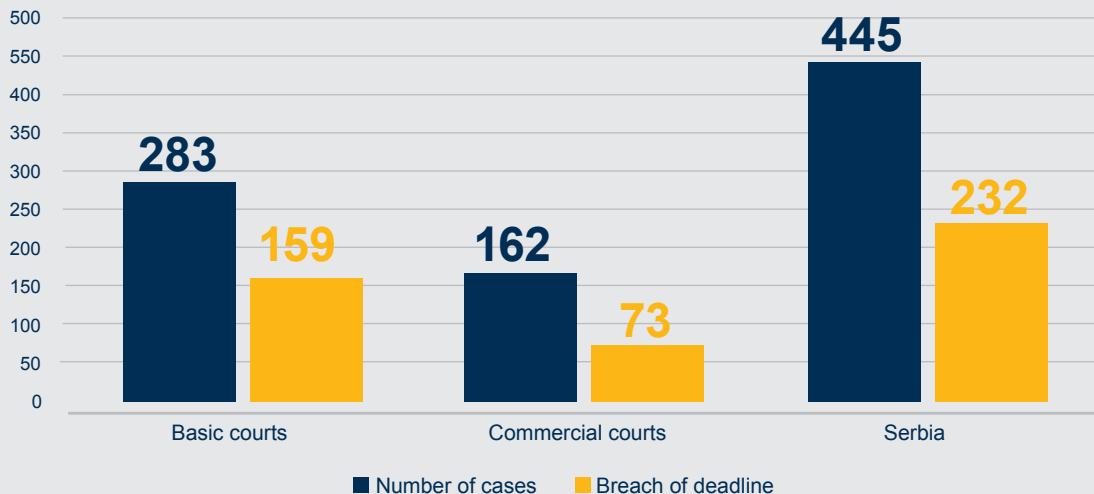
STRENGTHENING ACCOUNTABILITY OF EXPERT WITNESSES

IDENTIFIED ISSUES

Expert witnesses often delay the submission of their opinion. Review of cases recorded as many as **232** instances of delay in submission of expert witness opinion in a total of **445** cases reviewed. **Namely, on average, there was a deadline breach in every other case reviewed.**

232 INSTANCES
OD DELAY
445 CASES

Breach of deadline by expert witness



Expert witness deadline breaches cause trial adjournments.



19%
OBSERVED
CASES

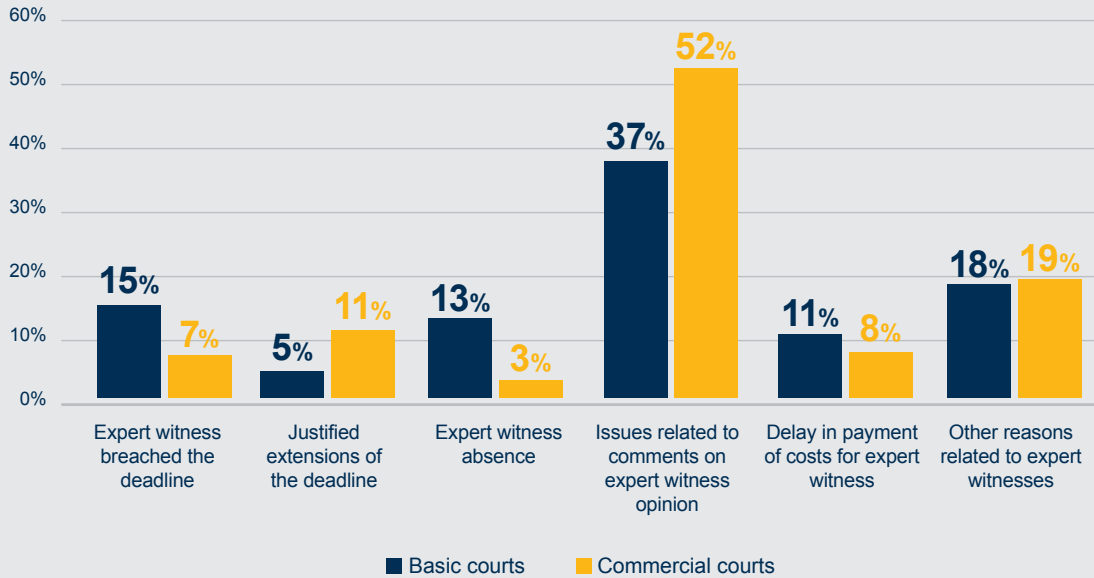
In 19% of observed cases, deadline breaches caused trial adjournments.

Both expert witnesses and judges should better manage timing of when parties are given the right to review expert witness opinion.



Looking at each reason associated with expert witness work (including breach of deadlines by expert witnesses, expert witness absence from hearing and others), requests for additional time to review expert witness opinions caused adjournments almost 50% of the time.

Adjournments caused by sequencing of activities related to expert witness analysis



Poor trial management on the part of courts rather than expert witness inefficiency causes weak trial discipline, adjournments and delays.

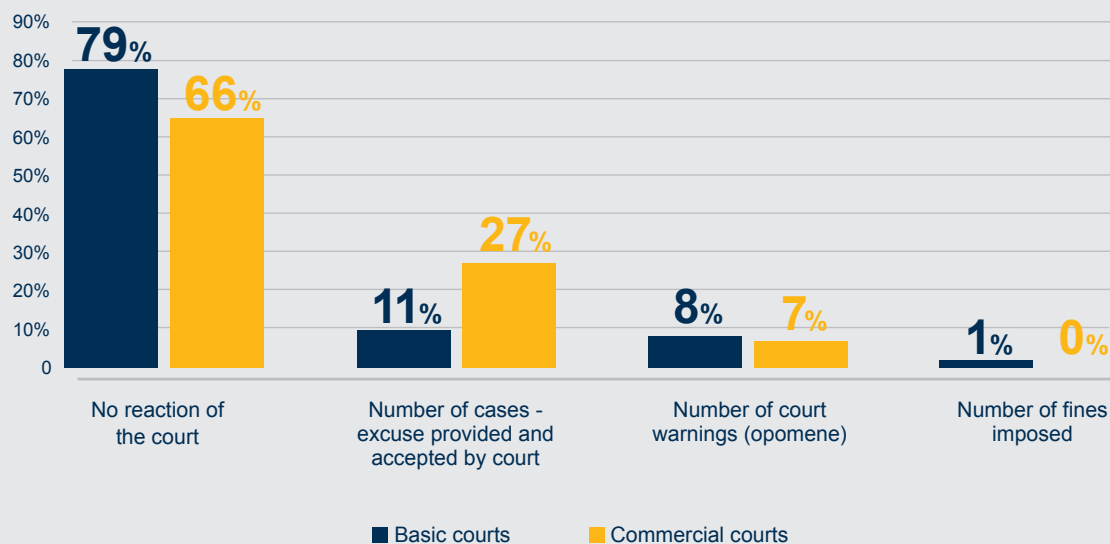


Most expert witness breaches of deadline go with no reaction of the court, warning notices and fines are issued only for severe and repeated breaches.



The statistical data gathered for courts indicates that courts do not react or sanction expert witnesses for breach of deadline. Most breaches go unnoticed (as much as 79% of all recorded breaches in Basic Courts).

Breach of deadline by expert witness - reaction of the court



KEY RECOMMENDATIONS

Courts should do more to manage expert witness work.

Some simple trial management techniques and tools should be used to improve efficiency of trials and strengthen accountability of expert witnesses such as:



Judges should in the request for an expert witness opinion set out an exact date by which the opinion should be received.



Frequently review the case files out of hearing to keep track that all required activities are conducted as scheduled.



Judges should monitor adherence to deadlines and require justifications for breaches. Judges should schedule hearings to allow enough time between hearings. Judges should surrender to the expert witnesses only the part of the case files which is relevant for their analysis (via email).

Courts and parties should be vested with more authority to monitor and sanction the work of expert witnesses.



Parties under the Law on Expert Witnesses should have clear rights to report wrongdoing of expert witnesses to all relevant authorities.

ACTIVITY & AUTHORITY RESPONSIBLE FOR IMPLEMENTATION:

MINISTRY OF JUSTICE



Draft amendments to the Law on Expert Witnesses which would introduce:

- Court competence to conduct proceedings against an expert witness and even revoke licenses;
- Set out rights and processes in which parties can report wrongdoing of expert witnesses to all relevant authorities;
- Clarify the rights and processes for damage claim lawsuits against expert witnesses.

JUDICIAL ACADEMY



- Include good trial management techniques into the curriculum for training of judges and prosecutors.

COURTS (COURT PRESIDENTS)



- Organise the work of court clerks to allow submission of only (electronic) copies of documentation to expert witnesses;



- Organise the court staff to monitor cases out of hearings and signal delays to judges.