

**DENTONS**



**European Bank**  
for Reconstruction and Development



**Cross-Regional Court Performance Assessment Project**

# Assessment Methodology

Maturity Level Assessment Tool (MLAT) for Online Courts



# Table of contents

Acronyms	3	<b>4. Dimensions and Indicators</b>	9	<b>5. Scoring</b>	36
Acknowledgments	4	Dimension 1. Policies and Infrastructure for e-Justice	9	<b>6. Data collection and verification process</b>	37
<b>1. Purpose</b>	<b>5</b>	Dimension 2. Commercial Dispute Resolution	<b>18</b>	<b>7. Methodological limitations</b>	<b>38</b>
<b>2. Background</b>	<b>6</b>	Dimension 3. Uncontested Procedures for Enforcing a Claim	<b>25</b>	<b>8. Country Reports and Final Assessment Report</b>	<b>39</b>
2.1. Nature and Objective of the Maturity Level Assessment Tool (MLAT)	<b>6</b>	Dimension 4. Small Claims Procedures	<b>31</b>	ANNEX 1	<b>40</b>
2.2. Approach	<b>6</b>			ANNEX 2	<b>68</b>
2.3. Piloting and Refinement of the MLAT	<b>7</b>				
<b>3. Scope of the MLAT</b>	<b>7</b>				



# Acronyms

<b>ADR</b>	Alternative Dispute Resolution
<b>EBRD</b>	European Bank for Reconstruction and Development
<b>eIDAS</b>	Regulation (EU) No 910/2014 of the European Parliament and of the Council of 23 July 2014 on electronic identification and trust services for electronic transactions in the internal market and repealing Directive 1999/93/EC
<b>CEPEJ</b>	European Commission for the Efficiency of Justice
<b>CMS</b>	Case Management System
<b>CoE</b>	Council of Europe
<b>CoOs</b>	EBRD Countries of Operation
<b>CR</b>	Clearance rate
<b>DT</b>	Disposition time
<b>EAP</b>	External Advisory Panel
<b>MLAT</b>	Maturity Level Assessment Tool
<b>ODR</b>	Online Dispute Resolution



# Acknowledgments

This Methodology was designed as part of the work of the Legal Transition Programme administered by the EBRD Office of the General Counsel.

It was coordinated by Ms. Yulia Shapovalova, Ms. Patricia Zghibarta and Mr. Illia Chernohorenko. The EBRD would like to thank Ms. Svetozara Petkova, Mr. Jarosław Beldowski and Mr. Vihar Georgiev, engaged by Dentons in Poland for their invaluable role in leading this assessment. The work was also supported by graphic designer Chloe Richards from Red Rocket.

The team benefited greatly from the support of an External Advisory Panel (EAP) established specifically for providing guidance and feedback on this assessment. The members of the EAP include prominent experts and practitioners, as follows:

- Alejandro Ponce: World Justice Project
- Adam Bodnar: SWPS University of Social Sciences and Humanities
- Erica Bosio: The World Bank
- Georg Stawa: Counsellor (Rule of Law) for SE-Europe, Austrian Embassy Belgrade
- Jos Uitdehaag: International Union of Judicial Officers
- Oleksandra Popova: The World Bank
- Raman Maroz: The World Bank
- Tatjana Zoroska Kamilovska: Head of Postgraduate Studies in Civil Law at Ss. Cyril and Methodius University, Skopje, North Macedonia





# 1. Purpose



The objective of this document is to provide methodological guidance for measuring jurisdictions' levels of readiness for the introduction of online dispute resolution (ODR), by employing a Maturity Level Assessment Tool (MLAT).

In particular, the document outlines

- (1) the nature and objective of the MLAT;
- (2) the approach taken by the tool;
- (3) the process of developing and refining it;
- (4) its scope;
- (5) the four dimensions covered by the MLAT;
- (6) the scoring approach;
- (7) the intended data collection and verification process;
- (8) the methodological limitations; and
- (9) the country reports and final assessment report, which are to be developed based on the tool.

## 2. Background

### 2.1. Nature and Objective of the Maturity Level Assessment Tool (MLAT)

The objective of the MLAT is to measure individual jurisdictions' levels of readiness for the introduction of online dispute resolution (ODR) in the area of commercial justice. The MLAT examines whether the key preconditions for the introduction of an ODR initiative in commercial justice are in place.

The tool is expected to contribute to the overall objective of the Regional Framework Programme on Digital Transformation of Courts, Development of Online Courts for Small Claims, which is to assist some EBRD Countries of Operation (CoOs) in developing online courts for small claims. Furthermore, the MLAT aims to provide guidance and set the performance targets for developing a roadmap for the introduction of online courts.



### 2.2. Approach

While judiciaries are gradually increasing the use of information and communication technologies for the purposes of case management and for facilitating litigants' access to case information, the most developed forms of ODR, i.e., an examination of court cases entirely online, are rare in traditional justice systems. For this reason, evaluating whether a country has ODR in place or not brings little value. With this in mind, this tool recognises that the digital transformation of public services tends to occur in stages. In this process, the introduction of a possibility to examine certain categories of cases entirely online comes as a last stage, only after numerous prerequisites have been met, the necessary infrastructure has been put in place, and stakeholders are ready to seek and provide services electronically.

A traditional set of indicators which only takes a snapshot of the current situation is considered to be sub-optimal for assessing a jurisdiction's readiness for the introduction of ODR due to the numerous prerequisites and early stages of digitization that need to be in place in order for a system to be considered ready for ODR. By contrast, a maturity level assessment tool (MLAT) looks at the digitization of court procedures and differentiated case management as an evolutionary process, which can be measured across various categories. This approach allows establishing the degree to which a jurisdiction may be prepared to transition to fully digital processes but also the types of court procedures which have the highest level of maturity in this respect and are thus the most suitable for testing innovative practices, including the introduction of online courts.

Furthermore, the assessment of levels of readiness as opposed to ranking a jurisdiction's current achievements is intended to provide guidance on future steps on the path towards introducing ODR, rather than focus on ranking or on current status. In that regard, the proposed tool is forward looking, rather than focused on current rankings or results.

Apart from assessing the readiness of jurisdictions for the introduction of ODR, the MLAT approach has additional benefits. The assessment results can help to prioritize improvements that need to be made in order to make the judiciary (or certain processes, procedures, or infrastructure) more effective and efficient. Using the MLAT can help discover areas for court productivity improvement leading to cost savings and/or improved quality management.

The MLAT is available as [Annex 1](#) to this document. The Forms for Local Evaluators are available as [Annex 2](#) to this document.



### 2.3. Piloting and Refinement of the MLAT

The development of this MLAT is based on extensive research into standards and performance measurements in the field of justice subdivided into the following performance areas: (1) Efficiency of court operations (including timelines; outputs; budgets, etc.); (2) Access to justice (including user feedback in the form of satisfaction surveys or needs assessments); (3) Digitisation of justice; (4) Small claims; (5) Online dispute resolution; (6) Human Resources (including training, case/judge ratios); and (7) Commercial justice. The examined standards and measurements<sup>1</sup> encompass international ones (e.g., standards developed by the International Consortium for Court Excellence, the World Justice Project, The World Bank), regional ones (e.g., ones applicable to Council of Europe member states, European Union member states) as well as standards developed at the level of individual states.

Based on the research, initial criteria and measurements pertaining to the level of readiness of jurisdictions for the introduction of ODR were selected. Following an extensive process of internal discussions and refinement, the first iteration of the MLAT was piloted in three jurisdictions, Estonia, Serbia and Uzbekistan. These countries belong to three distinct EBRD regions of operation, namely Central Europe and Baltic States, South-eastern Europe and Central Asia, respectively. Furthermore, these countries fall into three different income categories, per the classification based on Gross National Income per capita (GNI) calculated using the World Bank Atlas method.<sup>2</sup> Specifically, Estonia is a high-income economy, Serbia is an upper-middle income economy and Uzbekistan is a lower-middle income economy.

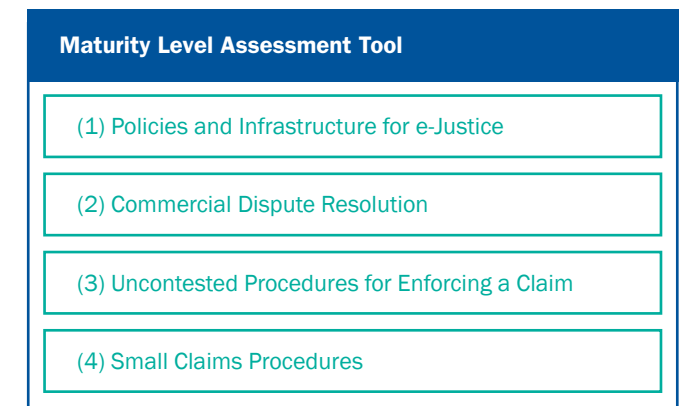
The spread of the testing jurisdictions across different regions and different level of economic development allowed the testing of the indicators in varied contexts. Local experts were engaged in each of the three jurisdictions. The testing of the indicators shed light on numerous issues with data collection. For some of the categories, especially the statistical and the budgetary ones, little reliable information was available. Furthermore, other categories seemed to raise practical issues in terms of interpretation of the question or assigning the score. For those reasons, some questions were removed, since it was established that they could yield no reliable or comparable information; these were often replaced with similar questions related to the same field where information could be obtained in a more reliable way. Furthermore, many definitions were refined to ensure unambiguous interpretation.

Following the piloting of the MLAT, the **draft tool was circulated amongst the members of the External Advisory Panel (EAP)**, which comprises representatives of various international organisations and institutions with vast experience in the area of court performance, commercial dispute resolution and justice-related indices and measurement tools. The EAP was established for the purposes of this instrument. The final refinement of the MLAT was carried out based on **the feedback received from the EAP members**, which focused particularly on issues of data visualisation, scoring and comprehensiveness of questions covered in the questionnaire.

## 3. Scope of the MLAT

The MLAT is designed to assess four key dimensions, each of them being a prerequisite for the introduction of ODR for commercial justice. These four dimensions are: (1) Policies and Infrastructure for e-Justice; (2) Commercial Dispute Resolution; (3) Uncontested Procedures for Enforcing a Claim; and (4) Small Claims procedures. Each dimension is divided into several indicators, evaluating different aspects of the respective dimension.

**Figure 1. Dimensions of the Maturity Level Assessment Tool (MLAT) for Online Dispute Resolution.**



<sup>1</sup> In total, 169 standards and performance measurements for courts and jurisdictions were evaluated.

<sup>2</sup> See <https://datahelpdesk.worldbank.org/knowledgebase/articles/906519-world-bank-country-and-lending-groups>.



### **The first dimension Policies and Infrastructure for e-Justice has the broadest scope.**

Firstly, it seeks to assess the level of digitisation of the jurisdiction as a whole, in terms of available infrastructure (such as broadband internet access or internet penetration), regulatory framework and use of electronic tools in public administration as a whole. This approach recognises that digitisation of court processes does not happen in a vacuum but is usually part of a holistic ecosystem of governmental incentives and infrastructure. Only as a second stage in the evaluation, this dimension of the MLAT looks into justice systems specifically, exploring levels of digitisation through aspects such as availability and quality of case management systems and availability and quality of information about the work of the justice system over the internet. A third aspect evaluated by its dimension is the digitisation of court processes, ranging from e-filing and e-service through videoconferences to enforcement based on an electronic enforceable title. The fourth and last aspect of this dimension assesses the manner in which the jurisdiction seeks to ensure that users of the justice system will increasingly engage in electronic as opposed to paper interactions with the court. It is important to note that since the first dimension of the MLAT is an overarching one, it does not look into any particular field of law (e.g., civil, criminal, commercial), the premise being that a high level of digitisation, even in a single type of court processes, indicates a potential for quick roll-out to other judicial fields.

### **The second dimension Commercial Dispute Resolution examines commercial justice in particular.**

Naturally, not all jurisdictions have a specialised system of commercial courts or even specialised court divisions for such cases or special procedural rules for commercial litigation. Therefore, the MLAT is designed to capture the level of disaggregation or specialisation of commercial litigation even in settings where such cases are examined by the courts of general jurisdiction rather than by specific commercial courts. In this regard, this MLAT is based on the premise that the existence or absence of specialised commercial justice in a jurisdiction depends on its particular characteristics and is not indicative of the quality of litigation as a whole or commercial litigation in particular.

Thus, the MLAT does not see specialisation as an indicator of the quality of commercial litigation. Nevertheless, when a high level of specialisation is available, this may mean that the introduction of ODR specifically in the area of commercial litigation might be appropriate given that businesses are frequently more technology savvy than the lay citizen. Within this second dimension, the MLAT assesses also the availability of ADR tools. It is important to note that the ADR mechanisms being evaluated need not be applicable only to commercial cases; indeed, most of them would be applicable to all civil cases and possibly other types of disputes as well.

### **The third dimension Uncontested Procedures for Enforcing a Claim examines the existence and development of procedures for enforcing uncontested claims (such as order for payment, enforcement based on authentic title, court order and similar) in the assessed jurisdictions.**

The rationale behind the inclusion of this element in the scope of the MLAT is twofold. Firstly, the existence of effective mechanisms that allow creditors to quickly obtain enforceable titles for claims that are not contested by the debtor is key to the efficiency of the justice systems. If such procedures are not in place or are inefficient, increased volumes of cases would be directed to litigation using up valuable court resources. Secondly, uncontested claims procedures, due to their non-litigious nature are especially suitable for full digitization. Thus, many European countries such as Germany, Estonia, Slovenia, have fully digitized such procedures making them a suitable testing grounds for environments similar to those in operation in online dispute

resolution. An efficient, highly digitized uncontested claims system is indicative of a jurisdiction's readiness' to expand digitisation to other procedures. In assessing uncontested claims procedures, the MLAT does not differentiate between commercial and civil claims since in the majority of cases the same procedure for uncontested claims would be applicable to both, regardless of whether it is a commercial court or the general civil court that would examine it.

**The fourth dimension Small Claims procedures examines the existence and efficiency of small claims procedures in the assessed jurisdictions.** The rationale is that small claims procedures are very often suitable testing grounds for innovative approaches, including technological innovations. Furthermore, the very existence of a differentiated small claims procedure may indicate that an ODR project could target it specifically. Like with uncontested claims, this dimension examines small claims procedures regardless of whether they are applicable to only commercial claims or to both commercial and civil ones.

The four dimensions of the MLAT have different functions in the assessment process. While the first one examines the overall readiness of the justice system for the introduction of ODR, the subsequent three dimensions seek to identify not only whether the level of development of certain judicial procedures indicates an overall readiness for digitization, but also whether any specific area, due to its high level of specialisation would be particularly suitable for implementing an ODR initiative.

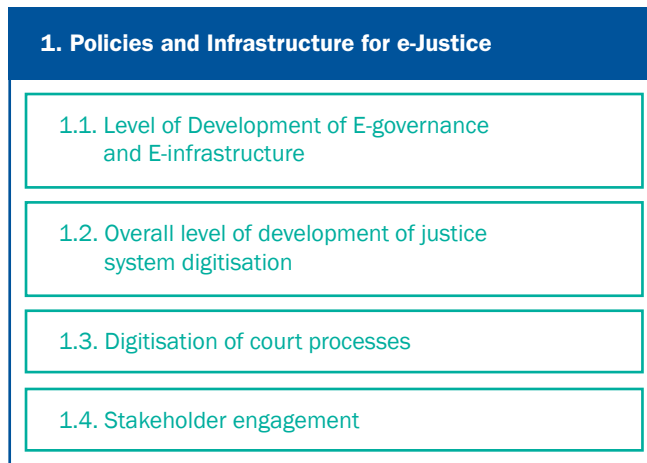


# 4. Dimensions and Indicators

## Dimension 1. Policies and Infrastructure for e-Justice

The purpose of this dimension is to evaluate the level of development of strategic governance for e-Justice, including the legal framework and the technological infrastructure in place. The Dimension comprises six general questions and four indicators. The evaluators shall first collect information on several general topics providing the context of an assessed jurisdiction's ICT environment in the justice sector. Following that, evaluators shall proceed to scoring each sub-indicator of the four indicators as provided below.

**Figure 2. Indicators included in Dimension 1. Policies and Infrastructure for e-Justice.**



### Indicator 1.1. Level of Development of E-governance and E-infrastructure

This indicator focuses on the level of development of e-governance through the assessment of essential building blocks for e-infrastructure and e-governance. The indicator does not examine the justice system but rather the overall ecosystem in which digital interactions occur.

The score for Indicator 1.1. is formed as an average of its six composite sub-indicators detailed below.

#### Sub-indicator 1.1.1. Level of internet penetration

The level of internet penetration is indicative of the extent to which internet usage is widespread among the general population. It is a prerequisite for the accessibility of any ICT solutions in governance. The level of internet penetration is to be understood as Individuals using the Internet (percentage of population).<sup>3</sup> Data for this sub-indicator is to be retrieved based on latest data for the respective country of the International Telecommunication Union (ITU) World Telecommunication/ICT Indicators Database. Suggested ranges are based on averages for Europe & Central Asia (excluding high-income countries), currently at 80% and for middle- and upper middle-income countries (currently at 57% and 73%, respectively).

#### Textbox 1. Sub-indicator 1.1.1. Level of internet penetration

Scoring definition	Score
Less than 70%	1
Between 70% and 81%	2
More than 82%	3

#### Sub-indicator 1.1.2. Level of development of electronic signatures

For citizens to make valid legal statements from a distance, the regulatory framework needs to recognise that confirming one's statements by electronic means may be equated with a handwritten signature. The existence of such a regulatory framework shall be verified by the evaluators by reviewing the legislation in force in the respective jurisdiction. Furthermore, evaluators shall determine, based on their legal practice, interviews with practitioners and other publicly available sources whether electronic signatures are used in practice. For the purposes of this sub-indicator, an electronic signature shall be defined as "data in electronic form which is attached to or logically associated with other data in electronic form, and which is used by the signatory to sign".<sup>4</sup>

<sup>3</sup> Internet users are individuals who have used the Internet (from any location) in the last 3 months.

<sup>4</sup> Article 3 of Regulation (EU) No 910/2014 on electronic identification and trust services for electronic transactions in the internal market and repealing Directive 1999/93/EC. For more details see: <https://ec.europa.eu/cefdigital/wiki/display/CEFDIGITAL/What+is+eSignature>

*Textbox 2. Sub-indicator 1.1.2. Level of development of electronic signatures*

Scoring definition	Score
There is no legislation regulating electronic signatures or there is legislation but the necessary infrastructure (e.g., authorities that license/certify providers of such services; licensed/certified providers of electronic signatures) is not yet in place or is nascent.	1
There is legislation regulating the use of electronic signatures and the necessary infrastructure (e.g., authorities that license/certify providers of such services; licensed/certified providers of electronic signatures) is in place; however, use of electronic signatures is still limited.	2
There is legislation regulating electronic signatures and the necessary infrastructure (e.g., authorities that license/certify providers of such services; licensed/certified providers of electronic signatures) in place. Electronic signatures are used in interactions with governmental/judicial authorities.	3

*Sub-indicator 1.1.3. Level of development of electronic documents*

Since organizing and enabling the transmission and exchange of electronic documents is crucial for online court proceedings, the level of development of electronic documents is essential for the introduction of online courts. “Electronic document” generally means any content stored in electronic form, in particular text or sound, visual or audio-visual recording.<sup>5</sup> To score this sub-indicator, evaluators shall review relevant legislation on electronic documents, and assess the actual use of electronic documents in interactions with governmental/judicial authorities.

*Textbox 3. Sub-indicator 1.1.3. Level of development of electronic documents*

Scoring definition	Score
There is no legislation regulating electronic documents.	1
There is legislation regulating electronic documents but in practice, such documents are either not used or rarely used in interactions with governmental/judicial authorities.	2
There is legislation regulating electronic documents and such documents are commonly used in interactions with governmental/judicial authorities.	3

*Sub-indicator 1.1.4. Level of development of national electronic identification*

A key step in enhancing the access of citizens to a growing number of integrated digital public services is the introduction of a national electronic identification system (e-ID). National electronic identification generally means the integration within national identification documents (such as an ID card) of data in electronic form uniquely representing a natural person. Typically, e-IDs are issued together with or are integrated in the physical ID of the citizen. Evaluators shall review the adopted legal framework, the level of implementation of any legislative provisions in this regard, as well as the actual opportunities to use e-ID to access administrative and/or other services.

*Textbox 4. Sub-indicator 1.1.4. Level of development of national electronic identification*

Scoring definition	Score
There is no legislation governing personal electronic identification.	1
There is legislation governing personal electronic ID but such e-ID is either not being issued or, if it is issued, has no practical use.	2
There is legislation governing personal electronic identification and such e-ID is being issued and it is possible to use it to access administrative and/or other services.	3

<sup>5</sup> Ibid.



*Sub-indicator 1.1.5. Level of online access to administrative services*

The availability of digital services is an overarching enabler of public sector transformation.<sup>6</sup> Interoperable online platforms for administrative services allow for automated access to databases and data exchange, for the creation and transmission of large datasets, and for online searches. For the purposes of this sub-indicator, evaluators shall consider the availability of interactive online access to administrative services based on a review of government websites or portals providing such services.

*Textbox 5. Sub-indicator 1.1.5. Level of online access to administrative services*

Scoring definition	Score
The state does not provide access to online administrative services.	1
The state provides only non-interactive online access to administrative services (i.e. it is possible to track the progress of various administrative procedures online, to check the business registration of companies online; however, it is not possible to interact with public administration electronically).	2
The state provides interactive online access to administrative services (including e-filing and obtaining valid electronic certificates from public administration).	3

*Sub-indicator 1.1.6. Level of broadband internet access*

The availability of broadband internet access is also an essential precondition for the successful implementation of e-Justice solutions and tools. The introduction of big data infrastructures to support digitised court processes leads to an increase in the volume and variety of data being collected, stored and shared with court users. The level of broadband internet access shall be measured on the basis of the data on median fixed broadband download speed according to the Speedtest Global Index<sup>7</sup>. The ranges for the scoring have been set based on the global average of median fixed broadband download speed which is currently 62,52 Mbps.

*Textbox 6. Sub-indicator 1.1.6. Level of broadband internet access*

Scoring definition	Score
Less than 55 Mbps	1
Between 55 Mbps and 70 Mbps	2
Above 70 Mbps	3

<sup>6</sup> OECD, 2020. The OECD Digital Government Policy Framework: Six dimensions of a Digital Government at <https://www.oecd.org/gov/the-oecd-digital-government-policy-framework-f64fed2a-en.htm>, access: 31.01.2022

<sup>7</sup> Available at: <https://www.speedtest.net/global-index>





### Indicator 1.2. Overall level of development of justice system digitisation

This indicator assesses the overall level of development of justice system digitisation, including strategic governance, as well as the corresponding technological resources and capabilities that are important preconditions for further digital transformation. The deployment of new e-Justice systems or tools requires that all or most stakeholders have access to a certain level of ICT infrastructure.

The score for Indicator 1.2. is formed as an average of its five composite sub-indicators detailed below.

#### Sub-indicator 1.2.1. Status of e-Justice strategy

The digitisation of the judiciary requires guidelines and strategies for targeted and successful transformation.<sup>8</sup> Judiciaries cannot take advantage of global trends toward modernized, responsible, and accessible governance, if they are not using a focused, strategic approach to e-Justice. Evaluators should assess the availability and implementation of national e-Justice strategies by identifying key e-justice milestones that are present in the strategy (e.g. “introduction of e-filing by 2019”) and verifying whether these milestones have been met.

#### Textbox 7. Sub-indicator 1.2.1. Status of e-Justice strategy

Scoring definition	Score
There is no e-Justice strategy in the jurisdiction.	1
There is an e-Justice strategy but it is either not being implemented or its implementation largely does not comply with key milestones established therein.	2
There is an e-Justice strategy and its implementation fully or to a large extent complies with key milestones established therein.	3

#### Sub-indicator 1.2.2. Case management system (CMS) deployment rate

Case management systems (CMS) represent software used for registering judicial proceedings and their management. CMS are at the core of court processes and can serve as the backbone of a larger information system that integrates or unifies some very sophisticated functions based on the import and export of data generated by other applications. This sub-indicator evaluates the rate of deployment of CMS in civil and/or commercial courts based on the latest available CEPEJ data<sup>9</sup> (where available).

#### Textbox 8. Sub-indicator 1.2.2. Case management system (CMS) deployment rate

Scoring definition	Score
Less than 50%	1
50-99%	2
100%	3

#### Sub-indicator 1.2.3. Level of integration of the Case Management System

A unified national case management system facilitates an integrated approach towards the development of the IT infrastructure of the judiciary, as well as good interoperability among courts and effective use of investment in ICT for the judiciary. Evaluators shall assess whether there are several different CMSs operating in the jurisdiction, or there is a unified CMS system for the whole judiciary.

#### Textbox 9. Sub-indicator 1.2.3. Level of integration of the Case Management System

Scoring definition	Score
There are several different CMSs operating in the jurisdiction.	1
There are several different CMSs operating in the jurisdiction, but work is underway to build a unified one.	2
There is a unified CMS operating in the jurisdiction.	3

<sup>8</sup> Bundesministerium Justiz, 2020. IT-Anwendungen in der österreichischen Justiz at <https://www.justiz.gv.at/file/2c94848b6ff7074f017493349cf54406.de.0/it-anwendungen%20in%20der%20C3%B6sterreichischen%20justiz%20stand%20august%202020.pdf>, access: 31.01.2022

<sup>9</sup> See countries' responses for CEPEJ Evaluation Report, Question 63-1-1, 2020 Evaluation cycle at <https://www.coe.int/en/web/cepej/replies-by-country>.



#### Sub-indicator 1.2.4. Official information about the justice system available over the internet

The availability of contact information, hearing schedules, and the publication of judgments and other court documents are important preconditions for ensuring transparency and equitable access to justice. This sub-indicator assesses the availability and scope of information provided to the public through the official information portals (websites) of the justice system. Evaluators shall collect data through self-assessment questionnaires with officials responsible for IT in the judicial system<sup>10</sup>, as well as through reviewing the information provided in information portals (websites) of the justice system.

*Textbox 10. Sub-indicator 1.2.4. Official information about the justice system available over the internet*

Scoring definition	Score
The relevant information portals (websites) of the justice system do <u>not</u> provide online any of the following: (1) the contact information of all courts; (2) schedules of court hearings; and (3) forms that can be used by citizens and businesses for various filings with the court.	1
The relevant information portals (websites) of the justice system provide online <u>at least two</u> of the following types of information: (1) the contact information of all or most courts; (2) schedules of court hearings of all or most courts; and (3) forms that can be used by citizens and businesses for various filings with the court.	2
The relevant information portals (websites) of justice system provide online all the following types of information: (1) the contact information of all courts; (2) schedules of court hearings; and (3) forms that can be used by citizens and businesses for various filings with the court.	3

#### Sub-indicator 1.2.5. Publication of court judgments and free online access to them

The credible, prompt and comprehensive publication of court judgments, as well as ensuring free online access to them enhance the transparency and accountability of the judicial system. To score this sub-indicator, evaluators shall review the information provided on the information portals (websites) of the justice system. Potentially, the review of rules on how judgments shall be publicized could also be used. For the purposes of this sub-indicator, the commercial availability of paid systems for access to case law is not taken into account.

*Textbox 11. Sub-indicator 1.2.5. Publication of court judgments and free online access to them*

Scoring definition	Score
There is no systematic publication of and free access to court judgments on the internet. Either no judgments are available, or <u>only some</u> of the judgments of the highest courts are available.	1
<u>All or most</u> judgments of the highest courts are available over the internet free of charge, but either <u>none or very few</u> of the judgments of the lower-level courts with no opportunities for searches based on keywords.	2
<u>All or most</u> judgments of the highest courts are available over the internet free of charge, as well as a <u>significant number</u> of the judgments of the lower-level courts of all instances and keyword searches in the texts of the judgments are available.	3

<sup>10</sup> To be filled out in writing or in an interview.



#### Indicator 1.3. Digitisation of court processes

This indicator assesses the level of digitisation of key court processes. The digitisation of court processes contributes to the increased transparency, efficiency and accessibility of court procedures. In particular, the indicator evaluates both the availability and the actual use of essential e-Justice solutions and tools, while also addressing the level of development of the relevant legal framework.

The score for Indicator 1.3. is formed as an average of its six composite sub-indicators detailed below.

##### Sub-indicator 1.3.1. Availability and use of e-filing

E-filing refers to the submission of a case to courts by electronic means, as well as the possibility to make subsequent submissions to the court in electronic form. Typically, in a country where this process is digitized, a document that is filed electronically would have the same legal effect as an original paper document. In some countries, e-filing is mandatory for professional users such as lawyers, notaries, and court experts. To score this sub-indicator, evaluators shall review the relevant civil procedure code(s) and/or other relevant legislation. Furthermore, the availability and actual use of e-filing throughout the courts shall be assessed based on evaluators' legal practice and/or interviews with practitioners.

Textbox 12. Sub-indicator 1.3.1. Availability and use of e-filing

Scoring definition	Score
There is no legislation governing electronic filing.	1
There is legislation governing electronic filing but such e-filing is either not being used or is used only in the form of filing via email or is used in procedures excluding commercial litigation.	2
There is legislation governing electronic filing; e-filing infrastructure (e.g., websites, online forms, dedicated e-mail addresses) is available; e-filing via dedicated portals or similar infrastructure is commonly being used; and it is available also for commercial litigation.	3



Sub-indicator 1.3.2. Availability and use of electronic service of process (e-service)

For the purpose of this sub-indicator, “electronic service of process” (e-service) shall mean a formal notification to a person or company of the claim or other court documents or notices about court proceedings which is being carried out by electronic means. To score this sub-indicator, evaluators shall review relevant civil procedure code(s) and/or other relevant legislation. Furthermore, the availability and actual use of e-service shall be assessed based on evaluators’ legal practice and/or interviews with practitioners.

Textbox 13. Sub-indicator 1.3.2. Availability and use of electronic service of process (e-service)

Scoring definition	Score
There is no legislation governing e-service in court proceedings and/or there is no adequate infrastructure (e.g. websites, online forms, dedicated e-mail addresses) for e-service.	1
There is legislation governing e-service for at least some court procedures. E-service to participants in court proceedings requires specific agreement/statement that the party accepts electronic service of documents (e.g., service via email).	2
There is legislation governing e-service and there is adequate infrastructure (e.g. websites, online forms, dedicated e-mail addresses) for e-service available for a significant number of court procedures. The use of e-service is mandatory for some categories of parties/other participants.	3

Sub-indicator 1.3.3. Possibility to check case files and track case progress remotely

The possibility for court users to track the various stages of the court proceedings online by consulting a dedicated website or platform is an important and useful functionality for parties to the proceedings. Such tracking systems may also be linked to case management systems and be used to facilitate the management of proceedings. A tracking system may also include an automated functionality for the publication of judgments online.<sup>11</sup> To score this sub-indicator, evaluators shall review the relevant civil procedure code(s) and/or other relevant legislation. Furthermore, they shall assess the availability of tools/services allowing to check case progress and key procedural events, respectively access to the entire digitized case file, based on their own legal practice and/or interviews with practitioners.

Textbox 14. Sub-indicator 1.3.3. Possibility to check case files and track case progress remotely

Scoring definition	Score
Parties cannot check case files and track case progress remotely through websites/information systems of the judicial system.	1
Parties can track progress of the case and key procedural events remotely through websites/information systems of the judicial system.	2
Parties have ongoing access to the entire digitized case file through websites/information systems of the judicial system.	3

<sup>11</sup> CEPEJ, 2017. Use of information technology in European courts (CEPEJ Studies No. 24) at <https://rm.coe.int/european-judicial-systems-efficiency-and-quality-of-justice-cepej-stud/1680786b57>, access: 31.01.2022



*Sub-indicator 1.3.4. Possibility to hold online / videoconference hearings (for any type of case)*

The possibility to hold online / audio / videoconference hearings refers to the official use of audio-visual devices and systems in the framework of judicial proceedings for the hearing of parties. To score this sub-indicator, evaluators shall review relevant civil and criminal procedure code(s) and/or other relevant legislation. Furthermore, they shall assess the availability of tools/services allowing the holding of online / videoconference hearings based on their own legal practice and/or interviews with practitioners.

*Textbox 15. Sub-indicator 1.3.4. Possibility to hold online / videoconference hearings (for any type of case)*

Scoring definition	Score
There is no legislation governing the possibility to hold online / videoconference hearings (for any type of case) and/or there is no adequate infrastructure (e.g. websites, online platforms, audio-visual devices and systems) for online / videoconference hearings.	1
It is possible to question certain participants in the proceedings from a distance in some types of cases (e.g. in criminal cases) and there is adequate infrastructure (e.g. websites, online platforms, audio-visual devices and systems) but holding hearings entirely online is either not done or done very rarely.	2
It is possible to hold the entire hearing online for most types of cases (criminal and civil, at a minimum) and in practice, such hearings are frequently being held.	3

*Sub-indicator 1.3.5. Court fees*

Payment of court fees provides an important area for digitisation and simplification of court processes. Officially administered calculators of court fees allow parties to enter individualised information about their court case and obtain a calculation of the court fee due online. E-payment of court fees means electronic monetary transactions for covering court fees, fines, penalties and judicial deposits. These include payment by credit cards, PayPal, etc. By contrast, the possibility to use online banking to pay the fee and then attach the payment slip to the casefile, even if filed electronically, is not considered to represent electronic payment of court fees. To score this sub-indicator, evaluators shall review the civil procedure code(s) and/or other relevant legislation. Furthermore, they shall assess the availability of tools/services allowing the online payment of courts fees based on their own legal practice and/or interviews with practitioners.

*Textbox 16. Sub-indicator 1.3.5. Court fees*

Scoring definition	Score
There are no official online calculators for determining the amount of court fees due and there are no available means for online payment of court fees.	1
There are either official online calculators for determining the amount of court fees due or available means for online payment of court fees.	2
There are both official online calculators for determining the amount of court fees due and available means for online payment of court fees (e.g. via credit card, PayPal, etc.).	3

*Sub-indicator 1.3.6. Ability to initiate enforcement based on electronic enforceable titles*

This sub-indicator explores whether the enforcement authority could initiate enforcement based on an enforceable title in electronic form. Regardless of which authorities conduct enforcement in respective jurisdictions, an enforceable title needs to be presented to these authorities in order to initiate enforcement. Such title may be a writ of execution or a similar document capable of launching the enforcement procedure. To score this sub-indicator, evaluators shall review the relevant civil procedure code(s) and/or other relevant legislation, and shall assess the availability and actual use of procedures to initiate enforcement based on an electronic enforceable title.

*Textbox 17. Sub-indicator 1.3.6. Ability to initiate enforcement based on electronic enforceable titles*

Scoring definition	Score
There is no legislation governing electronic enforceable titles and enforcement can only be initiated based on an enforceable title presented on paper.	1
There is legislation governing electronic enforceable titles but at this stage, enforcement is initiated based on an enforceable title presented on paper.	2
There is legislation governing electronic enforceable titles and enforcement can be initiated based on an electronic enforceable title.	3



Armenia

### Indicator 1.4. Stakeholder engagement

Successful digital transformation requires an effective change management policy involving all potential stakeholders.<sup>12</sup> Introducing user centricity and establishing user-friendly and responsive system design for all types of users is a must for a successful digitisation initiative. This indicator focuses on a few key stakeholder engagement factors that would contribute to the successful implementation of ODR for commercial justice.

The score for Indicator 1.4. is formed as an average of its four composite sub-indicators detailed below.

#### *Sub-indicator 1.4.1. Existence of an obligation for professional court users to interact with the court only electronically*

The obligation for professional court users to interact with the court only electronically is an important precondition for further digitisation of court processes, and successful ODR implementation. For the purposes of this sub-indicator, “professional court users” shall mean qualified lawyers, court experts, bailiffs and/or other registered users who routinely attend courts. The term “interact” shall include both e-filing (i.e., active communication with the court) and e-service of process (i.e. passive communication). To score this sub-indicator, evaluators shall assess the specific requirements for mandatory electronic communication and interaction with courts in relevant civil procedure code(s) and/or other relevant legislation, and their implementation in practice.

#### *Textbox 18. Sub-indicator 1.4.1. Existence of an obligation for professional court users to interact with the court only electronically*

Scoring definition	Score
There is no legislation governing the obligation for any types of professional court users to interact with the court only electronically.	1
There is legislation governing the obligation for professional court users for some/all types of procedures to interact with the court only electronically, but it is not implemented or not fully implemented.	2
There is legislation governing the obligation for professional court users to interact with the court only electronically and the requirement is implemented in practice.	3

#### *Sub-indicator 1.4.2. Availability of monetary incentives for conducting certain court actions electronically*

Monetary incentives are a useful tool for encouraging a quick uptake of novel digitized court procedures. For the purposes of this sub-indicator, monetary incentives mean for example reduced fee for electronic filing, as well as other reduced court fees due to the use of electronic interactions with the court. To score this sub-indicator, evaluators shall review relevant civil procedure code(s) and/or other relevant legislation and shall assess the availability and actual use of monetary incentives for electronic interactions throughout the courts.

#### *Textbox 19. Sub-indicator 1.4.2. Availability of monetary incentives for conducting certain court actions electronically*

Scoring definition	Score
There are no monetary incentives for conducting certain court actions electronically.	1
There are monetary incentives for conducting certain court actions electronically, but such incentives are either not being used or used rarely.	2
There are monetary incentives for conducting certain court actions electronically, and such incentives are commonly being used.	3

<sup>12</sup> CEPEJ, 2017. Use of information technology in European courts (CEPEJ Studies No. 24) at <https://rm.coe.int/european-judicial-systems-efficiency-and-quality-of-justice-cepej-stud/1680786b57>, access: 31.01.2022



*Sub-indicator 1.4.3. Availability of user guides, help desk and guidance in the e-filing system*

The availability of user guides, help desk and guidance in the e-filing system is very important from the user's perspective. For the purposes of this sub-indicator:

- “Help desk” means a dedicated unit or person that provides assistance and information for problems with the service/system;
- “User guide” means a document containing the full information on how to use the service/system;
- “Frequently asked questions (FAQs)” means a list of common questions users might have while using the service/system;
- “Tutorial videos” means instructional videos for teaching a process or walking through the steps needed to complete a task and/or use a service/system;
- “User notifications” means error messages, alarms, prompts, and labels that are preprogrammed to guide users in online forms.

To score this sub-indicator, evaluators shall review relevant e-filing systems, websites, and information portals, and shall assess the types of user support provided in the e-filing system.

*Textbox 20. Sub-indicator 1.4.3. Availability of user guides, help desk and guidance in the e-filing system*

Scoring definition	Score
No e-filing is available, and/or no user guides, help desk and guidance for e-filing are provided to users.	1
E-filing is available and <u>at least one</u> of the following types of user support is being provided in the e-filing system: (1) user guides; (2) help desk; (3) other forms of user guidance (e.g., frequently asked questions (FAQs); tutorial videos; user notifications in online forms, etc.) or all three types of user support are available for a very limited number of court procedures.	2
E-filing is available and <u>at least two</u> of the following three types of user support are being provided in the e-filing system for a broad array of court procedures: (1) user guides; (2) help desk; (3) other forms of user guidance (e.g. frequently asked questions (FAQs); tutorial videos; user notifications in online forms, etc.).	3

*Sub-indicator 1.4.4. Whether court user surveys are conducted by the courts/ the judicial system on a regular basis*

A solid commitment to developing stakeholder engagement requires mechanisms for collecting user feedback. One of the most popular mechanisms of this type of stakeholder engagement are court user surveys. However, the added value of court user surveys mainly lies in interpreting the results, identifying areas for improvement, and addressing those areas through the strategic planning process of courts. Data on whether regular surveys are carried out is available in the CEPEJ questionnaire.<sup>13</sup> Additionally, evaluators shall collect data on uses of survey responses (if available) based on interviews with justice systems representatives, and/or through available court reports.

*Textbox 21. Sub-indicator 1.4.4. Whether court user surveys are conducted by the courts/ the judicial system on a regular basis*

Scoring definition	Score
Court user surveys are conducted by the courts/ the judicial system sporadically or not at all.	1
Court user surveys are conducted by the courts/ the judicial system on a regular basis (e.g. annually). However, key areas for improvement identified though the surveys are not addressed in the strategic planning process of courts.	2
Court user surveys are conducted by the courts/ the judicial system on a regular basis (e.g., annually). Key areas for improvement identified though the surveys are addressed in the strategic planning process of courts.	3

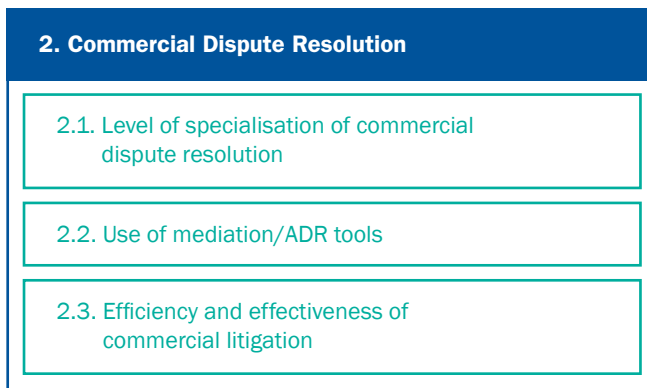
<sup>13</sup> See countries responses at <https://www.coe.int/en/web/cepej/replies-by-country>.

## Dimension 2. Commercial Dispute Resolution

This Dimension seeks to assess the level of development of commercial dispute resolution by specialised commercial courts and/or sub-divisions of regular courts. Specialised commercial courts are those courts, which are created within a jurisdiction to adjudicate in the field of commercial law, typically including all corporate (commercial) disputes/cases.<sup>14</sup> This special jurisdiction is usually exclusive.

Dimension 2 comprises five general questions and three indicators. The evaluators shall first collect information on commercial dispute resolution, including recent reforms and digitization initiatives, as well as the gender balance amongst judges (or other professionals) examining commercial cases. Following that, evaluators shall proceed to scoring each sub-indicator as provided below.

**Figure 3. Indicators included in Dimension 2. Commercial Dispute Resolution.**



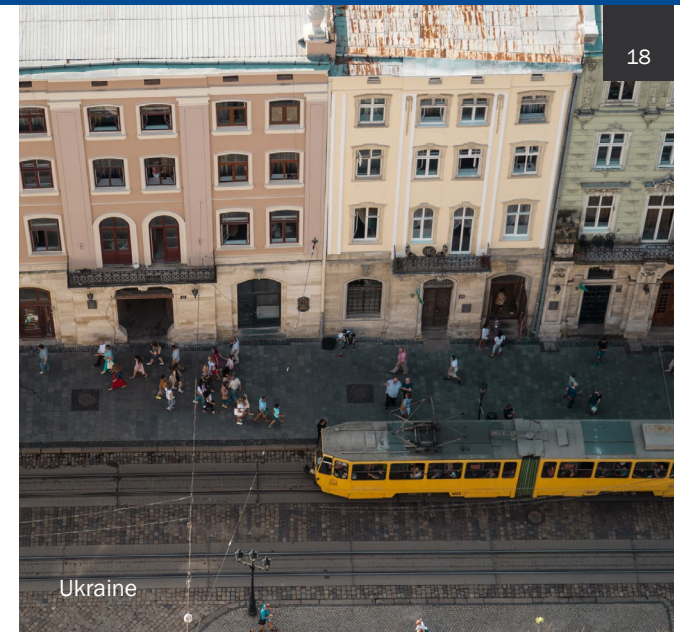
### Indicator 2.1. Level of specialisation of commercial dispute resolution

This indicator seeks to assess the current level of specialisation of commercial dispute resolution in national courts. As previously discussed, given that enterprises are frequently more tech-savvy than the average citizen, the adoption of ODR specifically in the field of commercial litigation may be appropriate when a high degree of court specialisation is already available. Effective specialization frequently means not just that a particular court with specially trained judges will focus on a special set of cases, but also that different, streamlined processes to handle such cases more effectively are in place.<sup>15</sup>

The score for Indicator 2.1. is formed as an average of its five composite sub-indicators detailed below.

#### Sub-indicator 2.1.1. Availability of a specialised commercial court or specialised commercial divisions in courts

Specialised commercial courts are those courts which are created with jurisdiction in the field of commercial law, typically including all corporate (commercial) disputes/cases<sup>16</sup>. This jurisdiction is usually exclusive. Specialised commercial divisions or chambers are usually part of courts and hear specific types of corporate (commercial) disputes. The availability of specialised divisions or chambers would be assessed only for courts that have jurisdiction over corporate (commercial) disputes. For the purposes of this sub-indicator, specialised courts/ divisions for examining only bankruptcies shall not be considered as specialised commercial courts/divisions. To score this sub-indicator, evaluators shall review the relevant civil procedure code(s), laws and regulations on civil court structure and organisation, and/or other relevant legislation.



*Textbox 22. Sub-indicator 2.1.1. Availability of a specialised commercial court or specialised commercial divisions in courts*

Scoring definition	Score
There are no specialised commercial courts or specialised commercial divisions or chambers in courts.	1
There are specialised commercial divisions or chambers <u>in some courts</u> (e.g. in large regional courts).	2
There are specialised commercial divisions or chambers <u>in all courts</u> , or there are specialised commercial courts.	3

<sup>14</sup> For instance, disputes/cases regarding contracts between traders, between credit institutions or between traders and credit institutions, and disputes regarding commercial companies or commercial transactions.

<sup>15</sup> Gramckow, H., Ebeid, O., Bosio, E., & Silva Mendez, J. L., 2016. Good Practices for Courts, The World Bank, at: <https://openknowledge.worldbank.org/bitstream/handle/10986/25101/108234.pdf?sequence=4>, access: 31.01.2022

<sup>16</sup> E.g., disputes/cases regarding contracts between traders, between credit institutions or between traders and credit institutions, and disputes regarding commercial companies or commercial transactions.





#### Sub-indicator 2.1.2. Modifications of the procedural rules in respect of commercial cases as compared to general civil cases

This sub-indicator focuses on modifications of the procedural rules for commercial cases as compared to the general civil cases procedures in four key areas:

- expedited court proceedings;
- special rules regarding evidence;
- special methods or procedures for organising and holding hearings;
- modifications of the general procedural rules aimed at improving quality.

Expedited court proceedings in commercial (corporate) cases may include shortened timelines for procedural actions; no interlocutory appeal;<sup>17</sup> no possibility of raising new circumstances once the court proceedings have started, etc. These special rules should lead to shorter disposition time<sup>18</sup> of commercial (corporate) cases or to improved quality of decision-making. Special rules regarding evidence may include

admissibility of electronic evidence; admissibility of evidence in English and/or other languages; limits in the scope of evidence given in witness statements, etc. Special methods or procedures for organising and holding hearings for commercial cases may include the following: special requirements for case management conferences; special requirements that courtrooms shall be available for multiple days in a row if necessary; special requirements or options to hold online videoconferencing hearings; special rules allowing written-only examination of the case. Finally, modifications aimed at improving quality may entail hearing of commercial cases by a panel composed of more judges or holding of pre-trial hearings in commercial cases where no such hearings are provided for in the general procedure.

To score this sub-indicator, evaluators shall review the relevant civil procedure code(s) and/or other relevant legislation, indicating when the respective modification was introduced for the jurisdiction.

*Textbox 23. Sub-indicator 2.1.2. Modifications of the procedural rules in respect of commercial cases as compared to general civil cases*

Scoring definition	Score
There are no modifications of the general procedural rules in respect of commercial cases as compared to general civil cases.	1
There is <u>at least one</u> of the following types of modifications of the general procedural rules in respect of commercial cases: (1) expedited court proceedings; (2) special rules regarding evidence; (3) special methods or procedures for organising and holding hearings; (4) modifications of the general procedural rules aimed at improving quality (e.g., hearing of commercial cases by a panel composed of more judges or holding of pre-trial hearings in commercial cases where no such hearings are provided for in the general procedure).	2
There are <u>at least two</u> of the following types of modifications of the general procedural rules in respect of commercial cases: (1) expedited court proceedings; (2) special rules regarding evidence; (3) special methods or procedures for organising and holding hearings; (4) modifications of the general procedural rules aimed at improving quality (e.g., hearing of commercial cases by panels composed of more judges or holding pre-trial hearings in commercial cases where no such hearings are provided for in the general procedure).	3

<sup>17</sup> I.e. appeal to court rulings other than the final judgment.

<sup>18</sup> For a definition of disposition times, see Sub-indicator 2.3.2. below.

*Sub-indicator 2.1.3. Inception training in commercial law for commercial judges*

This sub-indicator focuses on the training in commercial law provided to commercial judges upon entry/appointment. The availability of specialised training in commercial law during inception of commercial judges, judicial assistants and other specialised legal clerks is an important precondition for the effective and efficient functioning of commercial courts. For the purposes of this sub-indicator, “commercial judges” shall mean judges in commercial courts, or commercial divisions or chambers of courts (where available). Alternatively, evaluators shall consider all civil judges that might hear commercial cases.

To score this sub-indicator, evaluators shall collect data on the availability of inception training based on self-assessment questionnaires with justice system representatives,<sup>19</sup> and/or through available court reports and/or annual training plans.

*Textbox 24. Sub-indicator 2.1.3. Inception training in commercial law for commercial judges*

Scoring definition	Score
There is <u>no mandatory or voluntary training</u> in commercial law provided to commercial judges upon entry/appointment.	1
There is <u>only voluntary training</u> in commercial law provided to commercial judges upon entry/appointment.	2
There is <u>mandatory training</u> in commercial law provided to commercial judges upon entry/appointment.	3

*Sub-indicator 2.1.4. Continuous (regular) commercial law training for commercial judges*

Continuous training for judges is also a strong predictor of improved court performance.<sup>20</sup> This sub-indicator assesses the availability of mandatory or voluntary training in commercial law provided regularly (continuously) to commercial judges.<sup>21</sup>

To score this sub-indicator, evaluators shall collect data on the availability of continuous commercial law training based on self-assessment questionnaires with justice system representatives,<sup>22</sup> and/or through available court reports and/or annual training plans.

*Textbox 25. Sub-indicator 2.1.4. Continuous (regular) commercial law training for commercial judges*

Scoring definition	Score
There is <u>no mandatory or voluntary training</u> in commercial law provided regularly (continuously) to commercial judges.	1
<u>Voluntary training</u> in commercial law is only provided regularly (continuously) to commercial judges.	2
<u>Mandatory training</u> in commercial law is provided regularly (continuously) to commercial judges.	3

<sup>19</sup> To be filled out in writing or in an interview.

<sup>20</sup> Voigt, S., & El-Bialy, N., 2016. Identifying the determinants of aggregate judicial performance: Taxpayers' money well spent?, European Journal of Law and Economics, 41(2), pp. 283–319, at <https://doi.org/10.1007/s10657-014-9474-8>, access: 31.01.2022

<sup>21</sup> Using the same definition of “commercial judges” as for Sub-indicator 2.1.3. above.

<sup>22</sup> To be filled out in writing or in an interview.

<sup>23</sup> Using the same definition of “commercial judges” as for Sub-indicator 2.1.3. above.

*Sub-indicator 2.1.5. Capacity building for commercial judges' judicial assistants or for other types of specialised judicial clerks engaged in commercial justice (e.g., rechtspflegers)*

This sub-indicator assesses whether commercial judges<sup>23</sup> have judicial assistants or other specialised legal clerks, and whether those judicial assistants receive specialized commercial law training.

To score this sub-indicator, evaluators shall collect data based on interviews with justice system representatives.

*Textbox 26. Sub-indicator 2.1.5. Capacity building for commercial judges' judicial assistants or for other types of specialised judicial clerks engaged in commercial justice (e.g., rechtspflegers)*

Scoring definition	Score
Commercial judges have no judicial assistants or other specialised legal clerks.	1
Commercial judges have judicial assistants and other specialised legal clerks, but they receive no specialised commercial law training.	2
Commercial judges have judicial assistants and other specialised legal clerks, and they receive specialised commercial law training.	3



Serbia

## Indicator 2.2. Use of mediation/ADR tools

Alternative dispute resolution (ADR) encompasses a variety of services that include mediation, conciliation, arbitration, negotiated settlements, judicial settlement conferences, summary jury trials, mini trials, neutral evaluation, online dispute resolution (ODR), and others.<sup>24</sup> This indicator focuses on the actual use of ADR, and mediation in particular, in commercial or civil disputes.

The score for Indicator 2.2. is formed as an average of its five composite sub-indicators detailed below.

### Sub-indicator 2.2.1. Availability of mediation in civil/commercial disputes

This sub-indicator focuses on the general availability of mediation in civil and/or commercial disputes. Mediation is a voluntary and confidential out-of-court ADR procedure in which a third party (mediator) assists the disputing parties to reach agreement on a voluntary basis.<sup>25</sup> Court-annexed (or court-related) mediation usually requires the court to encourage the parties to use a mediation procedure if the court considers that appropriate, and/or the court facilitates the use of such procedure.

To score this sub-indicator, evaluators shall review the law on mediation, relevant civil procedure code(s) and/or other relevant legislation, and other written materials. Where needed, evaluators shall conduct interviews with relevant practitioners.

#### Textbox 27. Sub-indicator 2.2.1. Availability of mediation in civil/commercial disputes

Scoring definition	Score
There is no legislation governing mediation in civil/commercial disputes.	1
There is legislation governing mediation in civil/commercial disputes, but no court-annexed (or court related) mediation is available.	2
There is legislation governing mediation in civil/commercial disputes and there are procedures/projects implementing court-annexed mediation.	3

### Sub-indicator 2.2.2. Availability of an official register of mediators accessible online

This sub-indicator assesses the availability of an official register of accredited mediators online. The accreditation of mediators ensures that the mediators are qualified and skilled. The accessibility of the register online allows citizens and businesses to make informed decisions when selecting mediators. To score this sub-indicator, evaluators shall review the law on mediation, relevant civil procedure code(s) and/or other relevant legislation and shall assess the availability of a register of mediators.

#### Textbox 28. Sub-indicator 2.2.2. Availability of an official register of mediators accessible online

Scoring definition	Score
No accreditation of mediators is required.	1
Accreditation of mediators is required but there is no official registry of mediators publicly available online.	2
Accreditation of mediators is required and there is an official registry of mediators publicly available online.	3

<sup>24</sup> See for more details Gramckow, H., Ebeid, O., Bosio, E., & Silva Mendez, J. L., 2016. Good Practices for Courts, The World Bank, at: <https://openknowledge.worldbank.org/bitstream/handle/10986/25101/108234.pdf?sequence=4>, access: 31.01.2022

<sup>25</sup> See also Article 3 of Directive 2008/52/EC on certain aspects of mediation in civil and commercial matters: <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=celex:32008L0052>



### Sub-indicator 2.2.3. Availability of incentives for mediation

The availability of incentives for mediation in commercial disputes is a contributing factor for the successful implementation and take-up of mediation initiatives and programmes. To score this sub-indicator, evaluators shall review the law on mediation, the relevant civil procedure code(s) and/or other relevant legislation to assess the availability of such incentives.

#### Textbox 29. Sub-indicator 2.2.3. Availability of incentives for mediation

Scoring definition	Score
There are no incentives for the use of mediation in commercial disputes.	1
There is <u>at least one</u> of the following incentives for the use of mediation in commercial disputes after the filing of a claim in court: (1) reduction of court fees upon successful settlement; (2) one or more free mediation session(s); (3) requirement for attempting mediation before litigating some types of disputes.	2
There are <u>at least two</u> of the following incentives for the use of mediation in commercial disputes after the filing of a claim in court: (1) reduction of court fees upon successful settlement; (2) one or more free mediation session(s); (3) requirement for attempting mediation before litigating some types of disputes.	3

### Sub-indicator 2.2.4. Enforceability of mediation settlement agreements

The enforceability of mediation settlement agreements can greatly affect the added value of mediation in civil and commercial disputes. This sub-indicator assesses the level of enforceability of mediation settlement agreements. For the purposes of this sub-indicator, “mediation settlement agreement” shall mean an agreement reached in a mediation procedure. To score this sub-indicator, evaluators shall review the law on mediation, relevant civil procedure code(s) and/or other relevant legislation to assess the enforceability of mediation settlement agreements.

#### Textbox 30. Sub-indicator 2.2.4. Enforceability of mediation settlement agreements

Scoring definition	Score
Mediation settlement agreements of commercial disputes are <u>not directly enforceable</u> .	1
A mediation settlement agreement is directly enforceable and has the legal force of a court judgment, <u>subject to the approval of the competent court or a notary certification</u> .	2
At least some types of mediation settlement agreements signed by the mediator and the parties (or their representatives), are deemed to have the force of a court judgment and are <u>directly enforceable</u> .	3

### Sub-indicator 2.2.5. Availability and use of online solutions for out-of-court settlement

The availability and use of online solutions for out-of-court settlement is significant for speedy and efficient commercial dispute resolution, especially given the context of the COVID-19 pandemic and the fast development of supportive ICT infrastructure for dematerialised communication. Online mediation platforms typically provide e-mediation as a combined service. The platform may include different functionalities, including selection of mediators, online case filing, document upload and storage, logistics scheduling, videoconferencing, chat messaging, etc. To score this sub-indicator, evaluators shall review and assess the availability and actual use of online mediation platforms.

#### Textbox 31. Sub-indicator 2.2.5. Availability and use of online solutions for out-of-court settlement

Scoring definition	Score
No online solutions for out-of-court settlement of disputes are available.	1
There is at least one state or private online mediation platform. However, it is either not being used or used rarely.	2
There is at least one state or private online mediation platform. In addition, the online mediation platform is commonly being used in civil/ commercial dispute resolution and out-of-court settlement.	3

### Indicator 2.3. Efficiency and effectiveness of commercial litigation<sup>26</sup>

This indicator assesses key statistics for the efficiency and effectiveness of commercial litigation. Ideally, such statistics should be available and should allow for a comparison between commercial and general civil cases in order to identify potential areas for improvement. This indicator is to be scored only if the statistical systems of the examined jurisdiction disaggregate between civil and commercial cases.

The score for Indicator 2.3. is formed as an average of its four composite sub-indicators detailed below.

#### Sub-indicator 2.3.1. Clearance rate of first-instance commercial cases for the latest year for which statistics is available

This sub-indicator seeks to explore the clearance rate (CR) of first-instance commercial cases. “Clearance rate” (CR) is the ratio between the number of resolved cases and the number of incoming cases over a specified period of time (usually 1 year). The indicator is calculated as follows:

$$\text{Clearance rate (\%)} = \left( \frac{\text{Resolved cases}}{\text{Incoming cases}} \right) \times 100$$

While no numerical standard is defined for CR, there is wide understanding that a CR above 100% means that backlog is decreasing while a clearing rate below 100% means backlog is increasing.<sup>27</sup>

Textbox 32. Sub-indicator 2.3.1. Clearance rate of first-instance commercial cases for the latest year for which statistics is available

Scoring definition	Score
Clearance rate < 95%	1
Clearance rate 95% – 100%	2
Clearance rate > 100	3

#### Sub-indicator 2.3.2. Disposition time of 1st instance commercial cases as compared to CoE median for first-instance civil/commercial cases

For the purposes of this sub-indicator, “disposition time” (DT) shall be expressed in days and shall be calculated as the ratio between pending cases on 31 December of the respective year and the resolved cases during the same year, multiplied by 365. This measurement demonstrates how long it would take a court to clear its current backlog at its current level of productivity and assuming no new cases are coming in.

The indicator is calculated as follows:<sup>28</sup>

$$\text{Disposition time} = \left( \frac{\text{Pending cases on December 31st}}{\text{Resolved cases}} \right) \times 365$$

The median disposition times for 1st instance civil and commercial cases shall be obtained from the latest CEPEJ Evaluation Report of European Judicial systems. For the examined jurisdiction, disposition times for the latest year for which statistics are available shall be used. For the COE median, the latest CEPEJ Evaluation cycle shall be used.

Textbox 33. Sub-indicator 2.3.2. Disposition time of 1st instance commercial cases as compared to CoE median for first-instance civil/commercial cases

Scoring definition	Score
Disposition time is more than 10% higher than the median disposition times for 1st instance civil and commercial cases in CoE Member states.	1
Disposition time is similar to the median disposition times for 1st instance civil and commercial cases in CoE Member states (i.e. less than 10% higher and up to 10% lower).	2
Disposition time is more than 10% lower than the median disposition times for 1st instance civil and commercial cases in CoE Member states.	3

<sup>26</sup> This indicator should only be assessed if disaggregated statistics are available. Some countries do not take account of these statistics, or do not compile them with the same frequency.

<sup>27</sup> In 2018, the median CR for CoE states has been 101%, and average CR has been 101%. See the European judicial systems CEPEJ Evaluation Report, 2020 Evaluation cycle, pages 111-117: <https://www.coe.int/en/web/cepej/special-file-publication-of-the-report-european-judicial-systems-cepej-evaluation-report-2020-evaluation-cycle-2018-data->

<sup>28</sup> Ibid. While there is no cross-jurisdictional standard for DT, the median DT for CoE states for civil and commercial litigious cases at the first instance in 2018 has been 201 days, and the average DT is 233 days.



*Sub-indicator 2.3.3. Disposition time of commercial cases as compared to the disposition time of general 1st instance civil cases in the latest year for which statistics are available*

This sub-indicator compares the disposition time for commercial cases with the average/median timelines for resolving civil disputes in the respective jurisdiction. If such information can be obtained, it can help assess whether and to what extent commercial litigation is quicker than the general civil litigation route.

*Textbox 34. Sub-indicator 2.3.3. Disposition time of commercial cases as compared to the disposition time of general 1st instance civil cases in the latest year for which statistics is available*

Scoring definition	Score
Disposition time of commercial cases is more than 10% higher than the disposition time for general civil cases.	1
Disposition time of commercial cases is similar to the disposition time for general civil cases (i.e. up to 10% higher or lower).	2
Disposition time is more than 10% lower than the disposition time for general civil cases.	3

*Sub-indicator 2.3.4. Dynamic of commercial cases disposition time over a 3-year period (the latest 3 years for which data is available)*

This sub-indicator seeks to explore the dynamic of commercial case disposition time over a 3-year period. In doing this, it assesses whether the disposition times are improving. An improvement in this measurement would be indicative of an increase in the speed of commercial justice.

*Textbox 35. Sub-indicator 2.3.4. Dynamic of commercial cases disposition time over a 3-year period (the latest 3 years for which data is available)*

Scoring definition	Score
Commercial case disposition time has increased in the last 3 years by more than 10%.	1
Commercial case disposition time has remained stable in the last 3 years (i.e. there is no more than 10% deviation in either direction).	2
Commercial case disposition time has decreased in the last 3 years by more than 10%.	3



### Dimension 3. Uncontested Procedures for Enforcing a Claim

This Dimension explores those elements of the uncontested claims procedures that can serve as an indication of whether the existing procedure is efficient and effective, as well as of their level of their digitisation. Due to their uncontested nature, these procedures easily lend themselves to digitisation and are therefore among the first court activities that jurisdictions may decide to process fully electronically. As previously discussed, Dimension 3 does not differentiate between commercial and civil claims since in the majority of cases the same procedure for uncontested claims would be applicable to both, regardless of whether it is a commercial court or the general civil court that would examine it.

Dimension 3 comprises five general questions and three indicators. The evaluators shall first collect information on the type(s) of uncontested claims procedure(s) available in the respective jurisdiction and the scope of those procedures, as well as the competent authorities and potential monetary threshold(s) for applying the uncontested claims procedure. Following that, evaluators shall proceed to scoring each sub-indicator as provided below.

**Figure 4. Indicators included in Dimension 3. Uncontested Procedures for Enforcing a Claim.**

3. Uncontested Procedures for Enforcing a Claim
3.1. Ease of filing
3.2. Efficient processing
3.3. Effective linkages between the uncontested procedure and the procedure following a statement of opposition

#### Indicator 3.1. Ease of filing

This indicator seeks to assess the ease of filing within the uncontested claims procedures. Due to the non-litigious nature of these procedures, no court hearings or evidence collection are required. As a result, filing the application is the only way for the claimant to formulate his or her request.

The score for Indicator 3.1. is formed as an average of its five composite sub-indicators detailed below.

##### Sub-indicator 3.1.1. Effective self-representation

Ideally, if filing is indeed made easy, claimants should be able to conduct the process themselves, without using legal services. The question whether self-representation is allowed shall be answered based on the provisions of the law. The question whether in practice parties self-represent or engage a lawyer shall be answered based on interviews with one or more judges who examine applications under this procedure.

##### Textbox 36. Sub-indicator 3.1.1. Effective self-representation

Scoring definition	Score
Self-representation is not allowed.	1
Self-representation is allowed but in practice it is difficult to conduct the process without professional help and most creditors tend to engage a lawyer.	2
Self-representation is allowed and the process is simple enough so that most creditors do not engage a lawyer; alternatively, it is not allowed to engage a lawyer in this process or if a lawyer is engaged, expenses thereof are not recoverable.	3

##### Sub-indicator 3.1.2. Availability and use of forms for filing the claim

A well-organized filing process typically includes the use of well-structured forms as well as instructions for the lay user. The availability of mandatory standard forms shall be assessed based on the legislation in force. The availability of non-mandatory forms shall be assessed based on the information for users provided by the court system (or, if the procedure is carried out outside the court system, by the relevant authorities). The user-friendliness of forms shall be evaluated based on interviews with practitioners.

##### Textbox 37. Sub-indicator 3.1.2. Availability and use of forms for filing the claim

Scoring definition	Score
There are no standard forms for filing the claim and creditors are free to choose a format, in which to do it.	1
There are standard forms for filing the claim but they are either not mandatory or are perceived as not user-friendly.	2
There are mandatory standard forms for filing the claim and they are perceived as user-friendly.	3



Kyrgyz Republic

### Sub-indicator 3.1.3. Availability and use of online filing

The availability and encouragement of online filing (e-filing) is a common feature of most modern systems for uncontested claims. This type of filing reduces personal contact between authorities and users. E-filing prevents the court from making transmission errors and saves a significant amount of time when converting data from paper to online entry. To score this sub-indicator, evaluators shall assess the availability and use of online filing based on the relevant legal framework, as well as through interviews with practitioners.

#### Textbox 38. Sub-indicator 3.1.3. Availability and use of online filing

Scoring definition	Score
The claim cannot be filed online.	1
The law allows for e-filing but this option is never or rarely used.	2
Online filing is available and it is used in all or the majority of cases.	3

### Sub-indicator 3.1.4. Level of court fees for filing a claim

For the procedure to be accessible, filing also needs to be inexpensive. The costs for filing depend both on whether it is necessary to engage a lawyer in order to navigate the procedure (examined in the self-representation sub-indicator above), and on the level of court fees. To score this sub-indicator, evaluators shall assess the level of court fees by comparing applicable court/other authority fee tariffs.

#### Textbox 39. Sub-indicator 3.1.4. Level of court fees for filing a claim

Scoring definition	Score
The fee for filing the claim in this procedure is the same or almost the same as the fee for filing a general civil/commercial claim (assuming equal value of the two claims).	1
The fee for filing the claim in this procedure is from 10% to 50% lower than the fee for filing a general civil/commercial claim (assuming equal value of the two claims).	2
The fee for filing the claim in this procedure is more than 50% lower than the fee for filing a general civil/commercial claim (assuming equal value of the two claims).	3

### Sub-indicator 3.1.5. Simplified rules on attachment of evidence to the claim

Simplified rules on attachment of evidence to uncontested claims can further streamline the filing process. Many jurisdictions where this procedure is fully digitised would not require the attachment of evidence at all, based on the premise that evidence shall also be examined in case the debtor objects and the procedure is transferred to the litigious route. To score this sub-indicator, evaluators shall examine the relevant legal framework and, if necessary, shall conduct interviews with practitioners.

#### Textbox 40. Sub-indicator 3.1.5. Simplified rules on attachment of evidence to the claim

Scoring definition	Score
Documentary evidence always needs to be attached to the claim and presented in hard copy.	1
Documentary evidence is required but may also be sent by electronic means.	2
There is no need to attach any evidence in uncontested procedures for a significant group of claims.	3

### Indicator 3.2. Efficient processing

This indicator assesses various aspects of processing uncontested claims after their initial filings. Sophisticated uncontested systems are designed to save the time of judges (or other relevant authorities), allowing them to process a large number of applications quickly.

The score for Indicator 3.2. is formed as an average of its four composite sub-indicators detailed below.

#### Sub-indicator 3.2.1. Predictability of the timelines for pronouncement

The timelines for pronouncement on applications for uncontested claims should be clear, identifiable and predictable. To score this sub-indicator, evaluators shall review information available in the relevant legal framework. Interviews with judges/lawyers working on uncontested claim cases can also be conducted to establish compliance with prescribed timelines.

##### Textbox 41. Sub-indicator 3.2.1. Predictability of the timelines for pronouncement

Scoring definition	Score
The timelines for pronouncements on applications under the procedure are unpredictable as they are not regulated and vary greatly on a case-by-case basis.	1
The timelines for pronouncements on applications under the procedure are set in the law or in another instrument but are not complied with by all courts/judges.	2
The timelines for pronouncements on applications under the procedure are set in the law and/or in another instrument and are complied with across the country.	3

#### Sub-indicator 3.2.2. Length of timelines for pronouncement

Orders for payment and similar documents in the uncontested claims procedure are typically issued in less than a month in well-functioning uncontested claims systems. This sub-indicator measures actual timelines rather than those mandated by law. To score this sub-indicator, evaluators shall assess actual timelines through practitioner interviews.

##### Textbox 42. Sub-indicator 3.2.2. Length of timelines for pronouncement

Scoring definition	Score
The timelines for pronouncements on applications under the procedure can exceed 3 months.	1
The timelines for pronouncements on applications under the procedure are between 1 and 3 months.	2
The timelines for pronouncements on applications under the procedure are less than 1 month.	3





*Sub-indicator 3.2.3. Availability of options for service to the debtor without proof of receipt*

Once the court (or other relevant authority) has reviewed the application and issued the document ordering the debtor to pay, the latter must be served with this document. This is an important stage of the procedure that is viewed as problematic in many jurisdictions since debtors may actively avoid service of process by hiding or otherwise making themselves unavailable. If the law does not allow for the issuance/ entry into force of the enforceable title unless it can be proven that the debtor personally received the notification, this renders procedures for obtaining enforceable titles based on uncontested claims very ineffective because debtors can easily avoid personal service. In the absence of a method to validly serve an order on a debtor with a known address, even if he or she is not available to sign the receipt of service personally, most uncontested claims procedures are being terminated and those claims need to be collected by means of a litigious procedure, which is much more cumbersome and expensive for both parties. Therefore, for the effectiveness of the procedure, it is important that such rules on service of process without proof of receipt be available in the jurisdiction and also be framed in a manner that protects the rights of the parties. In order to assess the availability of such rules and, by extension, the availability to conduct an effective procedure even when the debtor is avoiding service or is otherwise unavailable at his or her address, the MLAT takes as a standard the rules on service without proof of receipt under Regulation (EC) No 1896/2006 creating a European order for payment procedure. Even though the regulation is not applicable in all EBRD CoOs, its development has been based on extensive research and consultation and it therefore sets a standard in this field. The assessment for this sub-indicator shall be based on the jurisdiction's procedural rules on service of process in uncontested claims procedures.

*Textbox 43. Sub-indicator 3.2.3. Availability of options for service to the debtor without proof of receipt*

Scoring definition	Score
<p>The rules of the jurisdiction do not allow the issuance of an enforceable title if there is no proof of receipt by the debtor, even if that debtor has a known address.</p>	1
<p>The rules of the jurisdiction allow the issuance of an enforceable title without proof of receipt by the debtor by <u>at least one</u> of the methods for service without proof of receipt under Art. 14 of Regulation (EC) No 1896/2006 creating a European order for payment procedure.</p> <p>The methods of service without proof of receipt under Art 14 of the regulation are:</p> <ul style="list-style-type: none"> <li>(a) personal service at the defendant's personal address on persons who are living in the same household as the defendant or are employed there;</li> <li>(b) in the case of a self-employed defendant or a legal person, personal service at the defendant's business premises on persons who are employed by the defendant;</li> <li>(c) deposit of the order in the defendant's mailbox;</li> <li>(d) deposit of the order at a post office or with competent public authorities and the placing in the defendant's mailbox of written notification of that deposit, provided that the written notification clearly states the character of the document as a court document or the legal effect of the notification as effecting service and setting in motion the running of time for the purposes of time limits;</li> <li>(e) postal service without proof pursuant to paragraph 3 where the defendant has his address in the Member State of origin;</li> <li>(f) electronic means attested by an automatic confirmation of delivery, provided that the defendant has expressly accepted this method of service in advance.</li> </ul> <p>Furthermore, Service pursuant to paragraph 1(a), (b), (c) and (d) shall be attested by:</p> <ul style="list-style-type: none"> <li>(a) a document signed by the competent person who effected the service, indicating: <ul style="list-style-type: none"> <li>(i) the method of service used; (ii) the date of service; and (iii) where the order has been served on a person other than the defendant, the name of that person and his relation to the defendant;</li> </ul> </li> </ul> <p>or</p> <ul style="list-style-type: none"> <li>(b) an acknowledgement of receipt by the person served, for the purposes of paragraphs (1)(a) and (b).</li> </ul>	2
<p>The rules of the jurisdiction allow the issuance of an enforceable title without proof of receipt by the debtor by <u>at least two</u> of the methods for service without proof of receipt under Art. 14 of Regulation (EC) No 1896/2006 creating a European order for payment procedure.</p>	3



Moldova

#### Sub-indicator 3.2.4. Ease of debtor's objection

The statement of opposition (or objection) that the debtor can file if he or she disagrees with the claim is another important component of the uncontested claims procedure. Filing such statements should be as simple as possible to ensure the debtor's access to justice and right to defence. To score this sub-indicator, evaluators shall review relevant procedural rules, as well as forms/templates of the documents sent to the debtor.

#### Textbox 44. Sub-indicator 3.2.4. Ease of debtor's objection

Scoring definition	Score
When objecting to the claim, debtors need to give justification thereof.	1
Debtors can object to the claim without giving any explanations/justification thereof.	2
Debtors can object without providing any explanation/justification thereof and they are provided with guidance as to the consequences of objecting/not objecting.	3

#### Indicator 3.3. Effective linkages between the uncontested procedure and the procedure following a statement of opposition

If the debtor files a statement of opposition against the claim, the order to pay/writ cannot enter into force. Under such circumstances, the creditor must prove his claim in the framework of a litigious procedure. This indicator evaluates the rules governing how this litigious procedure begins and how closely it is linked to the uncontested one. Systems which have ensured a smooth transition between the uncontested and the contested claims procedures, one where the claimant need not file the same documents or carry out very similar procedural actions twice, would be able to more easily digitise not only the uncontested claims procedure but also the litigious procedure that follows the uncontested claims one.

The score for Indicator 3.3. is formed as an average of its four composite sub-indicators detailed below.

#### Sub-indicator 3.3.1. Consequence of debtor's lack of objection

This sub-indicator evaluates the impact of the debtor's silence on the development of the uncontested claims procedure. In a procedure which is designed to run its course smoothly and effectively, the silence of the debtor would be equated to a confirmation that he or she indeed does not contest the claim and would result in enforcement. This is, naturally, beneficial to the creditor who can enforce quickly but may also be beneficial to the debtor who is spared the expenses of the much more costly litigious procedure. To score this sub-indicator, evaluators shall review the relevant procedural rules.

#### Textbox 45. Sub-indicator 3.3.1. Consequence of debtor's lack of objection

Scoring definition	Score
If the debtor is silent or objects partially, the claim shall not be enforceable.	1
If the debtor is silent, the claim shall be enforceable. If the debtor objects partially, the entire claim cannot be enforced.	2
If the debtor is silent or objects partially, the claim, respectively the part of it against which there has been no objection, shall be enforceable.	3

### Sub-indicator 3.3.2. Launching the litigious stage of the procedure

This sub-indicator examines whether a debtor's objection during an uncontested claims procedure could automatically trigger a litigious procedure. The sub-indicator gives a higher score to jurisdictions where linkages are available, saving the claimant the time of filing a completely new lawsuit while also giving the claimant the flexibility to choose how to proceed. To score this sub-indicator, evaluators shall review relevant procedural rules.

#### Textbox 46. Sub-indicator 3.3.2. Launching the litigious stage of the procedure

Scoring definition	Score
If the debtor lodges a statement of opposition, the uncontested procedure is terminated or suspended and the claimant wishing to pursue the claim may file it under the general procedure.	1
If the debtor lodges a statement of opposition, the uncontested procedure is automatically transferred to a litigious procedure.	2
When filing the claim, the claimant can choose whether the debtor's statement of opposition shall automatically launch the litigious procedure or not.	3

<sup>29</sup> The value has been selected to be both well under the small claims threshold for EU member states (which stands at EUR 5000), given that many of the EBRD CoOs have a lower income level, but at the same time are sufficiently substantial to be meaningful for SMEs and individual litigants.

### Sub-indicator 3.3.3. Link between the fees due in the uncontested claims procedure and in the litigious procedure

To encourage creditors to try the uncontested claims procedure first, regulators typically set court fees in such a way that a creditor who tried the uncontested claims route first and then proceeded to litigation would not end up paying more court fees than a creditor who went straight for the litigious procedure. This sub-indicator assesses whether the sum the fees for the uncontested and for the litigious procedure is equal or lower

than the amount of the fee for the litigious procedure. If the fees for the two procedures are set in a way that makes it impossible to answer this question in the abstract (e.g. there are thresholds that unlock different percentages of court fees), evaluators shall assess this sub-indicator for a claim with a value equivalent to EUR 2000.<sup>29</sup>

#### Textbox 47. Sub-indicator 3.3.3. Link between the fees due in the uncontested claims procedure and in the litigious procedure

Scoring definition	Score
<p>The fee due in a litigious procedure that follows a statement of opposition is of the same amount that would have been due if the litigious procedure was launched without using the uncontested claims procedure first.</p> <p><i>(Example: In a situation where the fee for the uncontested claims procedure is 2% and the fee for a litigious procedure is 5% of the value of the claim, the fee for the litigious procedure would remain 5%, regardless of whether the claimant has, before that, paid a 2% fee for an uncontested claims procedure for the same claim)</i></p>	1
<p>The amount of the fee for the litigious procedure that follows a statement of opposition is reduced as compared to the fee that would have been due if the litigious procedure was launched without using the uncontested claims procedure first but still the sum of the fees for the uncontested and for the litigious procedure is higher than the amount of the fee for the litigious procedure, if used as a stand-alone mechanism.</p> <p><i>(Example: In a situation where the fee for the uncontested claims procedure is 2% and the fee for a litigious procedure is 5% of the value of the claim, the fee for the litigious procedure would be less than 5% (e.g., 4%), if the claimant had resorted to the uncontested claims procedure first. However, the sum of the two fees (2% + 4%) would still exceed the fee for the litigious procedure, is used alone (5%).)</i></p>	2
<p>The amount of the fee for the litigious procedure that follows a statement of opposition is reduced as compared to the fee that would have been due if the litigious procedure was launched without using the uncontested claims procedure first, and the sum the fees for the uncontested and for the litigious procedure is equal or lower than the amount of the fee for the litigious procedure, if used as a stand-alone mechanism.</p> <p><i>(Example: In a situation where the fee for the uncontested claims procedure is 2% and the fee for a litigious procedure is 5% of the value of the claim, the fee for the litigious procedure would be less than 3% or less, if the claimant had resorted to the uncontested claims procedure first so that the sum of the two fees (2% + 3%) would be equal to or lower than the fee for the litigious procedure, is used alone (5%).)</i></p>	3



#### Sub-indicator 3.3.4. Management of statements of opposition

The frequency with which debtors oppose issued orders/writs, as well as the percentage of cases that begin as uncontested claims but progress to a litigious case, are indicators of the effectiveness of the uncontested claims procedure. Such data can be used to identify areas for improvement of the uncontested claims procedure. This sub-indicator assesses whether the jurisdiction tracks and analyses the percentage of statements of opposition to claims filed in uncontested claims procedures. To score this sub-indicator, evaluators shall review available judicial statistics. Interviews with policy makers/judges can also be used.

#### Textbox 48. Sub-indicator 3.3.4. Management of statements of opposition

Scoring definition	Score
The jurisdiction does not track claims that continue as litigious procedures (either by reason of objection or for any other reason).	1
The jurisdiction tracks the percentage of statements of opposition to claims filed in uncontested claims procedures but does not make an analysis thereof.	2
The jurisdiction tracks percentage of statements of opposition to claims filed in uncontested claims procedures and analyses the statistics with improving the efficiency of the procedure / managing frivolous objections.	3



#### Dimension 4. Small Claims Procedures

This Dimension explores the availability and elements of small claims procedures. This dimension is to be evaluated only in case a small claims procedure is available in the jurisdiction. Small claims procedures are intended to assist parties to low value disputes in resolving their disputes quickly and affordably, ideally without resorting to legal assistance. The availability of small claims procedures is considered good practice for building public trust and confidence in the judicial system.<sup>30</sup> Dimension 4 aims to look beyond the mere existence of such small claims procedures, and assess also their quality and effectiveness, as well as their level of or potential for digitisation.

Dimension 4 comprises four general questions and two indicators. Evaluators shall first gather information about the availability of small claims procedures, as well as whether there is a special small claims court or a special court division that handles small claims. Furthermore, evaluators shall examine monetary thresholds as well as other modalities for the procedure's applicability. Following that, evaluators shall proceed to scoring each sub-indicator as provided below.

**Figure 5. Indicators included in Dimension 4. Small Claims Procedures.**

4. Small Claims Procedures
4.1. Ease of filing
4.2. Availability of meaningful procedural simplifications of the small claims procedure

<sup>30</sup> See for more details World Bank, Enforcing Contracts, Good Practices at <https://www.doingbusiness.org/en/data/exploretopics/enforcing-contracts/good-practices>, access: 31.01.2022

### Indicator 4.1. Ease of filing

As with uncontested claims procedures, ease of filing is an essential feature of small claims. It is directly connected to access to justice. Ideally, a lay person should be able to file a small claim without resorting to legal assistance. Indicator 4.1. is intended to record and evaluate, as accurately as possible, the features that make filing in the relevant jurisdiction easier, such as structured forms, online filing, and the availability of assistance for litigants who represent themselves. The assessment approach used entails evaluating whether a certain mechanism has been introduced, as well as whether it is used in practice and/ or is sufficiently user-friendly. To score this sub-indicator, evaluators shall assess the user-friendliness of the available mechanisms in interviews with practitioners.

The score for Indicator 4.1. is formed as an average of its four composite sub-indicators detailed below.

#### Sub-indicator 4.1.1. Effective self-representation

Ideally, if filing is indeed made easy, claimants should be able to do it themselves, without using legal services. The question whether self-representation is allowed shall be answered based on the provisions of the law. The question whether in practice parties self-represent or engage a lawyer shall be answered based on interviews with one or more judges who examine applications under this procedure.

#### Textbox 49. Sub-indicator 4.1.1. Effective self-representation

Scoring definition	Score
Self-representation is not allowed.	1
Self-representation is allowed but in practice it is difficult to conduct the process without professional help and most parties tend to engage a lawyer.	2
(1) Self-representation is allowed, and the process is simple enough so that most parties do not engage a lawyer; or  (2) it is not allowed to engage a lawyer in this process or if a lawyer is engaged, expenses thereof are not recoverable; or  (3) parties can engage a person who is not a lawyer to defend their interests in court.	3

#### Sub-indicator 4.1.2. Existence of forms for filing the claim

Analogous to the uncontested claims procedures, a well-organized filing process for small claims typically includes the use of well-structured forms as well as instructions for the lay user. The availability of mandatory standard forms shall be assessed based on the legislation in force. The availability of non-mandatory forms shall be assessed based on the information for users provided by the court system (or, if the procedure is carried out outside the court system, by the relevant authorities). The user-friendliness of forms shall be evaluated based on interviews with practitioners.

#### Textbox 50. Sub-indicator 4.1.2. Existence of forms for filing the claim

Scoring definition	Score
There are no standard forms for filing the claim and creditors are free to choose a format, in which to do it.	1
There are standard forms for filing claims but they are either not mandatory or are perceived as not user-friendly.	2
There are mandatory standard forms for filing claims and they are perceived as user-friendly.	3

#### Sub-indicator 4.1.3. Availability and use of online filing

The availability and encouragement of online filing (e-filing) is a common feature of advanced small claims procedures. Convenience, speed, and ease of use are some of the advantages of filing small claims online. E-filing can also help ensure that all necessary documentation is submitted properly and on time. To score this sub-indicator, evaluators shall assess the availability and use of online filing based on the relevant legal framework, as well as through interviews with practitioners.

#### Textbox 51. Sub-indicator 4.1.3. Availability and use of online filing

Scoring definition	Score
The claim cannot be filed online.	1
The law allows for e-filing but this option is never or rarely used.	2
Online filing is available and it is used in all or the majority of cases.	3



#### Sub-indicator 4.1.4. Guidance to self-represented litigants

The court's guidance provides litigants in small claims cases with a better understanding of their legal situation and causes them to have more realistic expectations about the likely outcome of their case in court. Self-represented litigants who have received guidance are better prepared, more confident, and better able to present their cases in court.<sup>31</sup> To score this sub-indicator, evaluators shall assess the availability and implementation of special rules that require judges/court clerks to provide guidance to self-represented litigants based on the relevant legal framework, as well as through interviews with practitioners.

#### Textbox 52. Sub-indicator 4.1.4. Guidance to self-represented litigants

Scoring definition	Score
There are no special rules that require judges/court clerks to provide guidance to self-represented litigants.	1
There are special rules that require judges/court clerks to provide guidance to self-represented litigants.	2
There are special rules that require judges/court clerks to provide guidance to self-represented litigants and they are used in practice.	3

#### Indicator 4.2. Availability of meaningful procedural simplifications of the small claims procedure

As previously stated, it is important not only that a small claims procedure exists, but also that it achieves its goals of simplifying the judicial process for both parties and judges. Indicator 4.2. seeks to assess this aspect of the procedure by examining the availability and features of a host of possible procedural simplifications. Depending on the nature of the particular sub-indicator, it could be assessed by reviewing the relevant legal framework and/or by interviewing practitioners.

The score for Indicator 4.2. is formed as an average of its six composite sub-indicators detailed below.

#### Sub-indicator 4.2.1. Statutory timelines in the small claims procedure

This sub-indicator assesses whether the statutory timelines in the small claims procedure are the same as the statutory timelines in the general civil/ commercial procedure, or whether at least some statutory timelines in the small claims procedure are shorter. To score this sub-indicator, evaluators shall assess the relevant statutory timelines based on the relevant legal framework, as well as through interviews with practitioners.

#### Textbox 53. Sub-indicator 4.2.1. Statutory timelines in the small claims procedure

Scoring definition	Score
The statutory timelines in the small claims procedure are the same as the statutory timelines in the general civil/ commercial procedure.	1
Some statutory timelines in the small claims procedure are shorter than the statutory timelines in the general civil/commercial procedure but they are very few and they do not lead to a significantly shorter process overall.	2
Some statutory timelines in the small claims procedure are shorter than the statutory timelines in the general civil/commercial procedure and they lead to a significantly shorter process overall.	3

<sup>31</sup> See for more details Greacen, J. M. (2002). Self Represented Litigants and Court and Legal Services Responses to Their Needs What We Know. California: Center for Families, Children and the Courts.



#### Sub-indicator 4.2.2. Simplified evidentiary rules

Analogous to the uncontested claims procedure, simplified evidentiary rules can further streamline the small claims procedure. Simplified rules can include stricter assessment of evidence by the judge, simplifications regarding the required form of the evidence, and/or limitations to the use of expert witnesses. To score this sub-indicator, evaluators shall assess the availability of simplified evidentiary rules based on the relevant legal framework, as well as through interviews with practitioners.

##### Textbox 54. Sub-indicator 4.2.2. Simplified evidentiary rules

Scoring definition	Score
Evidentiary rules in the small claims procedure are the same as the evidentiary rules in the general civil/commercial procedure.	1
The small claims procedure as compared to the general civil/commercial procedure includes simplified rules in <u>at least one</u> of the following areas: (1) stricter relevance assessment (e.g., in the interest decreasing time and costs for examination of the claim, the judge has broader discretion to reject evidence that he/she considers not sufficiently relevant or repetitive or too costly to collect); (2) simplifications to the required form of the evidence; (3) limitations to the use of expert witnesses.	2
The small claims procedure as compared to the general civil/commercial procedure includes simplified evidentiary rules in <u>at least two</u> of the following areas: (1) stricter relevance assessment (e.g., in the interest decreasing time and costs for examination of the claim, the judge has broader discretion to reject evidence that he/she considers not sufficiently relevant or repetitive or too costly to collect); (2) simplifications to the required form of the evidence; (3) limitations to the use of expert witnesses.	3

#### Sub-indicator 4.2.3. Simplified rules on hearings

Simplified rules on hearings are the cornerstone of small claims procedures. Such simplifications may include the omission of some or all hearings that are mandatory in general civil/commercial procedure, or conducting hearings by using distance communication (e.g., phone, videoconferencing). To score this sub-indicator, evaluators shall assess the availability of simplified rules on small claims hearings based on the relevant legal framework, as well as through interviews with practitioners.

##### Textbox 55. Sub-indicator 4.2.3. Simplified rules on hearings

Scoring definition	Score
The rules on hearings in the small claims procedure are the same as the rules on hearings in the general civil/commercial procedure.	1
The rules on hearings in the small claims procedure as compared to the general civil/commercial procedure are simplified in at least one of the following ways: (1) if the general civil/commercial procedure provides for a preliminary/case management hearing, the small claims procedure allows the court to omit it or hold it by phone; (2) a hearing can be avoided altogether and the case can be decided based only on the written submissions of the parties; (3) the hearing in the small claims procedure can be conducted by using distance communication (e.g., phone, videoconferencing).	2
The rules on hearings in the small claims procedure as compared to the general civil/commercial procedure are simplified in at least two of the following ways: (1) if the general civil/commercial procedure provides for a preliminary/case management hearing, the small claims procedure allows the court to omit it or hold it by phone; (2) a hearing can be avoided altogether and the case can be decided based only on the written submissions of the parties; (3) the hearing in the small claims procedure can be conducted by using distance communication (e.g., phone, videoconferencing).	3

#### Sub-indicator 4.2.4. Special rules on encouraging conciliation or mediation

The use of rules or practices that encourage conciliation or mediation in the framework of small claims can result in a more efficient and effective small claims process. Such rules or practices can help parties to resolve their disputes through mediation/conciliation and to reduce the number of small claims cases that are scheduled for trial. To score this sub-indicator, evaluators shall assess the availability of rules or practices that encourage conciliation or mediation based on the relevant legal framework, as well as through interviews with practitioners.

##### Textbox 56. Sub-indicator 4.2.4. Special rules on encouraging conciliation or mediation

Scoring definition	Score
There are no special rules or practices that encourage conciliation or mediation in the framework of small claims litigation as compared to general litigation.	1
There are special rules or practices that encourage conciliation or mediation in the framework of small claims litigation or before it has commenced as compared to general litigation but they are almost never used in practice.	2
There are special rules or practices that encourage conciliation or mediation in the framework of small claims litigation or before it has commenced as compared to general litigation and they are used in practice.	3

#### Sub-indicator 4.2.5. Simplified content of the judgment

In the interest of saving judges' time, a simplified judgment can omit certain parts that are mandatory for the content of the judgment in the general civil/commercial procedures. The procedural rules may require only a brief explanation of the court's rationale, or the use of plain language in the judgment. To score this sub-indicator, evaluators shall review the relevant legal framework, and shall conduct interviews with relevant practitioners.

#### Textbox 57. Sub-indicator 4.2.5. Simplified content of the judgment

Scoring definition	Score
The rules on the content of a judgment in the small claims procedure are the same as the rules on the content of the judgment in the general civil/commercial procedure.	1
There is a rule allowing the court to simplify judgments in low-value cases but in practice it is not significantly simplified as compared to the judgments in the general civil/commercial procedure.	2
There is a rule allowing the court to simplify judgments in low-value cases and in practice it is significantly simplified as compared to the judgment in the general civil/commercial procedure.	3

#### Sub-indicator 4.2.6. Modifications to the rules on appealing the judgment in the small claims procedure

The rules on appealing the judgment in the small claims procedure can be simplified or streamlined in a number of ways. There might be fewer grounds for appeal, and/or interlocutory appeal<sup>32</sup> might be restricted. In some cases, an appeal might not be allowed for some or all judgments in the small claims procedure. The second-instance court could be empowered to impose cost sanctions, if it finds that the appeal had been vexatious or frivolous.

Finally, the appellate procedure itself could be simplified as compared to the appellate procedure for judgments made in the general civil/commercial procedure. To score this sub-indicator, evaluators shall assess the modifications to the rules on appealing the judgment in the small claims procedure based on the relevant legal framework.

#### Textbox 58. Sub-indicator 4.2.6. Modifications to the rules on appealing the judgment in the small claims procedure

Scoring definition	Score
The rules on the appealing the judgment in the small claims procedure are the same as the rules on appealing the judgment in the general civil/commercial procedure.	1
The rules on appealing the judgment in the small claims procedure as compared to the general civil/commercial procedure are modified in at least one of the following ways: (1) there are fewer grounds for appeal; (2) interlocutory appeals are restricted (i.e., appeals against court rulings other than the final judgments); (3) appeals are not allowed against some/all judgments in the small claims procedure; (4) the second-instance court is empowered to impose cost sanctions if it finds that the appeal had been vexatious or frivolous; (5) the appellate procedure is simplified as compared to the appellate procedure for judgments made in the general civil/commercial procedure.	2
The rules on appealing judgments in the small claims procedures as compared to general civil/commercial procedures are modified in at least two of the following ways: (1) there are fewer grounds for appeal; (2) recourse to interlocutory appeals is restricted (i.e. appeal to court rulings other than the final judgment); (3) appeals are not allowed for some/all judgments in the small claims procedure; (4) the second-instance court is empowered to impose cost sanctions if it finds that the appeal had been vexatious or frivolous; (5) the appellate procedure is simplified as compared to the appellate procedure for judgments made in the general civil/commercial procedure.	3

<sup>32</sup> I.e. an appeal to court rulings other than the final judgment.

# 5. Scoring

The MLAT is defined in a manner that allows for numerical scoring of the level of readiness of targeted jurisdictions. As described above, the four Dimensions consist of several indicators. Each indicator, in turn, is divided into several sub-indicators. The sub-indicators are evaluated on a 1 to 3 scale, based on pre-defined scoring criteria. On the 1 to 3 scale, a score of 1 is considered negative, a score of 2 – neutral, and a score of 3 – positive. Local experts are required to provide justifications and sources for the scoring.

Once every sub-indicator has been assigned a score, these scores shall be averaged at the level of individual indicators. In this manner, the final score for every indicator will represent a numerical value from 1 to 3, including fractions between these numbers, expressed in decimals. This will allow for a wide range of numerical scores and corresponding comparisons among jurisdictions.

The sub-indicators are either qualitative or quantitative in nature.

The definitions and the scoring of the **quantitative** sub-indicators have been developed based on several types of principles:

- When there is a wide understanding of what negative, neutral and positive values are in a certain area, such as in the case of clearance rates, scoring definitions are based on numerical ranges (target values).
- Where appropriate, e.g. with regard to disposition times, median values identified by the CEPEJ Evaluation of Justice Systems are used as a standard, and negative, neutral and positive scores are defined based on that.
- When the sub-indicator seeks to compare the relative effectiveness of a certain type of specialised procedure (e.g. commercial or small claims as compared to general civil claims), the value applicable to general civil litigation is taken as a standard, and the sub-indicator reflects negative or positive deviations from it (e.g. in respect of disposition times).
- When development over time is explored, the definition of the sub-indicator is based on whether the trend over a three-year period is positive, negative or neutral.

The definitions and the scoring of the **qualitative** sub-indicators have been developed based on several types of principles:

- In the area of digitization, qualitative sub-indicators seek to evaluate the situation on paper versus the situation in reality (*de jure* versus *de facto*). Thus, scoring definitions frequently seek to distinguish between situations where a certain topic are not regulated at all, or certain digitization feature is not available at all (evaluated with a negative score); situations where regulation and/or digitization is formally available but in practice they are not utilized (evaluated with a neutral score); and situations where digital solutions are both available and widely used in practice (evaluated with a positive score).
- In evaluating the level of specialization or simplification of certain types of procedures, qualitative sub-indicators propose illustrative lists of possible simplifications or adjustments<sup>33</sup>, and evaluate to what extent these simplifications are available or not.

Qualitative indicators are defined in a manner that is as objective as possible. In order to ensure that local experts use common scoring criteria, each sub-indicator is complete with suggested scoring sources and definitions, as detailed in the MLAT tool.

<sup>33</sup> Based on a review of existing good practices for the respective procedure.



## 6. Data collection and verification process

The MLAT is designed in a manner that enables it to be implemented by both an external organisation or by the jurisdiction itself, as a form of self-assessment. In order to ensure consistency of approach and results, a project management team needs to oversee data collection. In each assessed jurisdiction, one or more local evaluators need to be engaged. Given the subject-matter of the MLAT, the local evaluators should have a legal background, preferably with expertise in commercial and/or civil law and procedure. Knowledge of the local institutional and policy framework is desirable. It is recommended that local evaluators should not be engaged with the executive, to avoid conflicts of interest. Still, judges could be considered for the role given their in-depth understanding of the internal workings of the judiciary, which can be an asset to the assessment process.

The project management team needs to conduct a preliminary information session with the local evaluators to ensure that the purpose of the tool is well understood and that all concepts and terms are interpreted in an unambiguous manner. Particular attention should be given to the collection and interpretation of statistical data since this is an area with which legal practitioners are now frequently well acquainted. Furthermore, filling the questionnaire should be a collaborative process where the project management team shall be available for ongoing communication with the local evaluators so that any questions and needs for clarifications that arise in the assessment process are addressed promptly.

Local evaluators shall use a variety of information and data sources when filling the questionnaire supporting the MLAT. Where the questionnaire seeks information on the legal framework in the targeted jurisdiction, the local legislation shall be consulted. In cases where the information sought relates to the implementation of certain rules or practices, local experts should base their responses on observations from their own legal practice or interviews with legal practitioners. In some cases, international sources or indices (such as CEPEJ or the Speedtest Global Index) shall be consulted. Strategic governmental documents would provide the necessary information in areas relating to governmental policies. Furthermore, in questions related to the information or the functionalities available to court system users, such information systems shall be accessed for verification. For every sub-indicator, the MLAT indicates where the information could be obtained from.

Following the completion of the initial data collection, the questionnaires shall be presented to the project management team for review and verification. The verification shall be conducted by comparing the scoring results with the justification and the sources provided. Where several jurisdictions are assessed in parallel, the project management team shall also ensure that the scoring criteria are applied consistently and uniformly across jurisdictions.

The scope of publicly available information on the operations of the justice system varies considerably across jurisdictions. As a result, certain countries may publicise detailed justice statistics on a regular and proactive basis, while others may not. Furthermore, some countries may be members of international organisations like the Council of Europe or the European Union, which collect some types of standardized information on a regular basis, whereas others might not belong to such organizations. Where parts of the information sought by the MLAT are not publicly available, it is important to establish contact with local authorities and seek to obtain information from official sources.

Despite the best efforts of local evaluators and the project management team, certain types of information may be missing in some jurisdictions. This should be clearly indicated in the country questionnaires. When conducting the assessment, indicators where parts of the sub-indicators are not scored may be excluded from the evaluation. Alternatively, if it is considered that the missing sub-indicator does not greatly affect the overall score of the indicator, the indicator shall be scored based on the sub-indicators where information is available. However, in every case, the assessment shall clearly indicate if a particular indicator has not been scored because of missing sub-indicator scores, or if an indicator has been scored based only on partial scores.

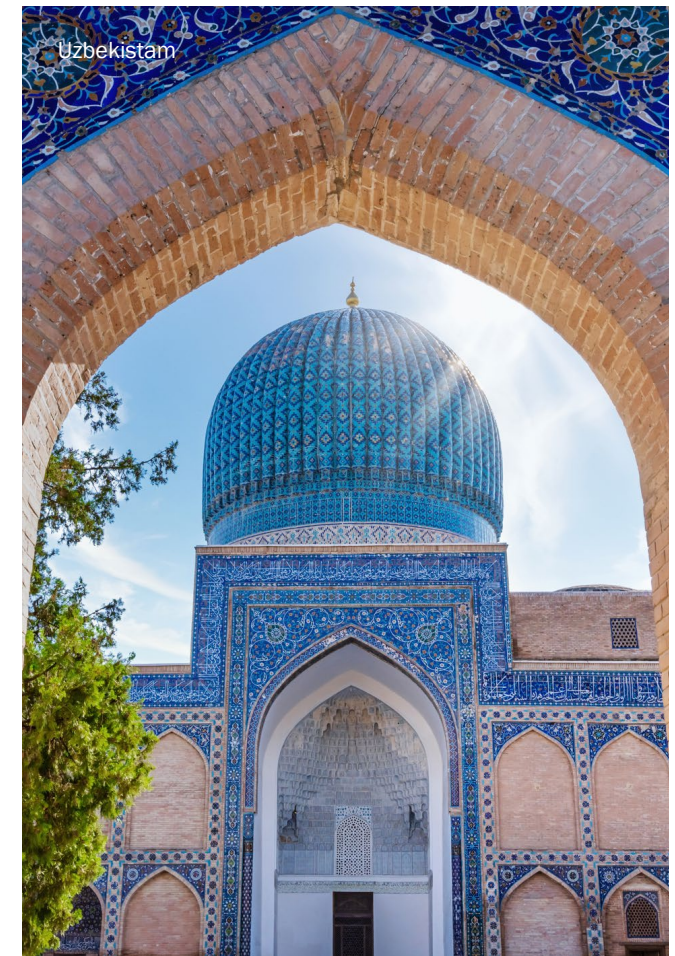
# 7. Methodological limitations

In measuring a country's level of readiness for the introduction of ODR, the MLAT presents certain methodological limitations. Firstly, while numerical scores enable ranking countries based on various aspects of their judiciaries' operations, these scores or rankings are not planned or intended to reflect a judgment of the quality of any judiciary or governance system. They only offer an indication of whether and to what extent certain aspects of a country's governance system or a judiciary's operation may be sufficiently mature for the introduction of some form of ODR to be considered.

Secondly, the tool allows for scoring and ranking within each indicator but is not intended to provide a score per dimension or an overall score per jurisdiction across all four dimensions. The reason for this is that a score per dimension or an aggregate score per jurisdiction would lack granularity and so have no information value. Furthermore, providing a single score for each jurisdiction across all four dimensions may lead to the MLAT being perceived as a system for ranking jurisdictions overall, which it is not. The very practical purpose that the MLAT pursues is to identify levels of readiness, as well as possible milestones on a roadmap for the introduction of ODR.

Thirdly, the MLAT is able to provide a snapshot of the maturity level of jurisdictions at only a particular point in time. Since currently technology is advancing at a very fast rate, it is possible that if a country assessment is repeated within a year's time, it would yield very different results. For example, at a certain point, a country's judiciary may not have a Case Management System at all. However, a new system which is developed at a later stage may overnight surpass in terms of functionalities many relatively outdated systems which have been operational for a longer time. Thus, periodic re-iterations or updates of the assessment across at least several targeted jurisdictions are advised.

Fourthly, even though every sub-indicator comprises very detailed scoring definitions, there is some space for subjectivity in the scoring process, depending on the experience and perception of the individual local evaluator (e.g. in cases where an assessment needs to be made on the practical application of some regulatory rules). The role of the project management team in the assessment process shall be to minimise such subjectivity by requiring solid justification for every score. Nevertheless, the possibility for subjectivity needs to be recognised and its minimisation shall also be sought thorough creating mechanisms for receiving feedback and reflecting it in updates of the country assessments.



# 8. Country Reports and Final Assessment Report



This MLAT is designed to assess readiness for the introduction of ODR in the EBRD's CoOs by producing two types of analytics.

**Firstly**, based on the MLAT, country assessments shall be developed by filling the Forms available as Annex 2 of this document. This would be carried out by local evaluators and a project management team as outlined in the Data collection and verification section of this methodology above. Once the forms are filled, the country assessments shall be completed with (a) an overall score of the country in each indicator, including through graphic representation; (b) a concise description of the key findings and conclusions for the respective jurisdiction, including good practices, areas for improvement and overall maturity level for the introduction of ODR.

**Secondly**, based on the country assessments, a comprehensive assessment report shall be prepared summarizing the outcome of the country assessments dimension by dimension and indicator by indicator. The goal of the assessment report shall be to provide an evaluation of the overall landscape and readiness for the introduction of ODR across targeted jurisdictions, together with visualisations that help better understand the performance of each country vis-à-vis its peers. The following outline is suggested for the comprehensive assessment report:

- **Executive summary:** It shall be based on key findings under each dimension and the conclusion
- **Introduction:** It shall include the background on the EBRD initiative under which the assessment is developed as well as an explanation of the purpose of the assessment.
- **Methodology:** This section shall include a succinct summary of the methodology of the MLAT, with a reference to the detailed assessment methodology outlined herein.
- **Assessment of targeted jurisdictions:** The assessment shall follow the structure of the MLAT and shall provide strategic observations and analysis of an assessed country's overall performance under each indicator rather than commentary on each individual jurisdiction. It shall also discuss which countries are leaders under each indicator and which ones are lagging behind. In order to highlight good practices in particular jurisdictions, or practices that otherwise warrant examination, this section may incorporate textboxes to zoom in on particular country examples. The examination of each indicator and dimension shall include visualisations of the averaged scores per indicator.
- **Conclusions:** This section will include summarized key findings and conclusions from the assessment of the four dimensions above.
- **Annexes:** The country assessments will be included as annexes.



# Annex 1

## MATURITY LEVEL ASSESSMENT TOOL FOR ONLINE DISPUTE RESOLUTION IN COMMERCIAL JUSTICE

No.	Indicator Component	Scoring Definitions	Score	Suggested sources and definitions
<b>Dimension 1. Policies and Infrastructure for e-Justice</b>				
<b>The following general information shall be provided:</b>				
<ul style="list-style-type: none"> <li>• Link to the strategy that covers e-Justice (if any) and time-period of the strategy.</li> <li>• Which body is responsible for digitization of the judiciary?</li> <li>• Which body is responsible for digitization in public administration?</li> <li>• Is there a formal coordination mechanism for digitization projects in the judiciary and public administration? What is it?</li> <li>• Does the Case Management System of the courts allow for auto-generation of parts of the judicial acts?</li> <li>• Can judges work remotely by accessing the Case Management System of the courts from a distance?</li> </ul>				
<b>Indicator 1.1. Level of Development of E-governance and E-infrastructure</b>				
1.1.1.	Level of internet penetration	<p>Less than 70%</p> <p>Between 70% and 81%</p> <p>More than 82%</p>	<p>1</p> <p>2</p> <p>3</p>	<p>Level of internet penetration is to be understood as Individuals using the Internet (% of population).<sup>34</sup> Information is to be retrieved based on the latest data for the respective country of the International Telecommunication Union (ITU) World Telecommunication/ICT Indicators Database. Suggested ranges are based on averages for Europe &amp; Central Asia (excluding high-income countries), currently at 80% and for middle- and upper middle-income countries (currently at 57% and 73%, respectively).</p>

<sup>34</sup> Internet users are individuals who have used the Internet (from any location) in the last 3 months.

No.	Indicator Component	Scoring Definitions	Score	Suggested sources and definitions
1.1.2.	Level of development of electronic signatures	There is no legislation regulating electronic signatures or there is legislation but the necessary infrastructure (e.g. authorities that license/certify providers of such services; licensed/certified providers of electronic signatures) is not yet in place or is nascent.	1	<p>An electronic signature is defined as “data in electronic form which is attached to or logically associated with other data in electronic form, and which is used by the signatory to sign”<sup>35</sup>.</p> <p>Review of the relevant legislation.</p> <p>Expert assessment of the availability and actual use of electronic signatures in interactions with governmental/judicial authorities.</p>
		There is legislation regulating the use of electronic signatures and the necessary infrastructure (e.g. authorities that license/certify providers of such services; licensed/certified providers of electronic signatures) is in place; however, use of electronic signatures is still limited.	2	
		There is legislation regulating electronic signatures and the necessary infrastructure (e.g. authorities that license/certify providers of such services; licensed/certified providers of electronic signatures) in place. Electronic signatures are used in interactions with governmental/judicial authorities.	3	
1.1.3.	Level of development of electronic documents	There is no legislation regulating electronic documents.	1	<p>“Electronic document” means any content stored in electronic form, in particular in visual or audio-visual recording.<sup>36</sup></p> <p>Review of relevant legislation.</p> <p>Expert assessment of the actual use of electronic documents in interactions with governmental/judicial authorities.</p>
		There is legislation regulating electronic documents but in practice, such documents are either not used or rarely used in interactions with governmental/judicial authorities.	2	
		There is legislation regulating electronic documents and such documents are commonly used in interactions with governmental/judicial authorities.	3	

<sup>35</sup> Article 3 of Regulation (EU) No 910/2014 on electronic identification and trust services for electronic transactions in the internal market and repealing Directive 1999/93/EC.

For more details see: <https://ec.europa.eu/cefdigital/wiki/display/CEFDIGITAL/What+is+eSignature>

<sup>36</sup> Ibid.

No.	Indicator Component	Scoring Definitions	Score	Suggested sources and definitions
1.1.4.	Level of development of national electronic identification	There is no legislation governing personal electronic identification.	1	National electronic identification is understood to mean the integration within national identification documents (such as ID cards) of data in electronic form uniquely representing a natural person.
		There is legislation governing personal electronic ID but such e-ID is either not being issued or, if it is issued, has no practical use.	2	Typically, e-IDs are issued together with/integrated in the physical ID of the citizen. The microprocessor embedded in the e-ID card contains the cardholder's digital information such as demographics, facial image and biometrics.
		There is legislation governing personal electronic identification and such e-ID is being issued and it is possible to use it to access administrative and/or other services.	3	Review of relevant legislation. Expert assessment of the opportunities to use e-ID to access administrative and/or other services.
1.1.5.	Level of online access to administrative services	The state does not provide access to online administrative services.	1	Reference shall be provided to government websites/portals providing passive or interactive access to governmental services with explanations as to the options available to users.  Expert assessment of the availability of interactive online access to administrative services.
		The state provides only non-interactive online access to administrative services (i.e., it is possible to track the progress of various administrative procedures online, to check the business registration of companies online; however, it is not possible to interact with public administration electronically).	2	
		The state provides interactive online access to administrative services (including e-filing and obtaining valid electronic certificates from public administration).	3	
1.1.6.	Level of broadband internet access	Less than 55 Mbps	1	The level of broadband internet access shall be measured on the basis of the data on median fixed broadband download speed according to the Speedtest Global Index available at: <a href="https://www.speedtest.net/global-index">https://www.speedtest.net/global-index</a>  The ranges have been set based on the global average of median fixed broadband download speed which is currently at 62,52 Mbps.
		Between 70 Mbps and 55 Mbps	2	
		Above 70 Mbps	3	

**Overall score for Indicator 1.1. (Derived as average of scores obtained from sub-indicators above)**



No.	Indicator Component	Scoring Definitions	Score	Suggested sources and definitions
<b>Indicator 1.2. Overall level of development of justice system digitisation</b>				
1.2.1.	Status of e-Justice strategy	There is no e-Justice strategy in the jurisdiction.	1	The e-Justice strategy may be present either as a stand-alone instrument (where available) or as a distinct part of the e-government strategy or the justice reform strategy of the country.  The assessment on the strategy's implementation shall entail the identification of a few e-Justice milestones that are present in the strategy (e.g. "introduction of e-filing by 2019") and a verification whether these milestones have been complied with.
		There is an e-Justice strategy but it is either not being implemented or its implementation largely does not comply with key milestones established therein.	2	
		There is an e-Justice strategy and its implementation fully or to a large extent complies with key milestones established therein.	3	
1.2.2.	Case management system (CMS) deployment rate	Less than 50%	1	Rate of deployment of CMS in civil and/or commercial courts. CMS represents software used for registering judicial proceedings and their management.  Latest available CEPEJ data <sup>37</sup>
		50-99%	2	
		100%	3	
1.2.3.	Level of integration of the Case Management System	There are several different CMSs operating in the jurisdiction.	1	A unified CMS is a prerequisite for an integrated approach towards the development of the IT infrastructure of the judiciary, as well as for good interoperability among courts and effective use of investment in ICT for the judiciary.
		There are several different CMSs operating in the jurisdiction, but work is underway to build a unified one	2	
		There is a unified CMS operating in the jurisdiction	3	

<sup>37</sup> See countries' responses for CEPEJ Evaluation Report, Question 63-1-1, 2020 Evaluation cycle at <https://www.coe.int/en/web/cepej/replies-by-country>.

No.	Indicator Component	Scoring Definitions	Score	Suggested sources and definitions
1.2.4.	Official information about the justice system available over the internet	The relevant information portals (websites) of the justice system do <u>not</u> provide online any of the following: (1) the contact information of all courts; (2) schedules of court hearings; and (3) forms that can be used by citizens and businesses for various filings with the court.	1	<p>Data shall be collected based on self-assessment questionnaires with officials responsible for IT in the judicial systems to be filled in writing or in interviews.</p> <p>In parallel, such data should be collected based on the review of information provided in the information portals (websites) of the justice system.</p>
		The relevant information portals (websites) of the justice system provide online <u>at least two</u> of the following types of information: (1) the contact information of all or most courts; (2) schedules of court hearings of all or most courts; and (3) forms that can be used by citizens and businesses for various filings with the court.	2	
		The relevant information portals (websites) of justice systems provide online <u>all</u> the following types of information: (1) the contact information of all courts; (2) schedules of court hearings; and (3) forms that can be used by citizens and businesses for various filings with the court.	3	
1.2.5.	Publication of court judgments and free online access to them	There is no systematic publication of and free access to court judgments on the internet. Either no judgments are available, or only some of the judgments of the highest courts are available.	1	<p>For the purposes of this sub-indicator, the availability of paid systems for access to case law is not taken into account. Thus, only free access to judgments is assessed.</p> <p>Data should be collected based on the review of information provided in information portals (websites) of the justice system.</p> <p>Potentially, the review of rules on how judgments shall be publicized could also be used.</p> <p>Expert assessment based on the typology of judgments and court orders of different court instances.</p>
		All or most judgments of the highest courts are available over the internet free of charge, but either none or very few of the judgments of the lower-level courts with no opportunities for searches based on keywords.	2	
		All or most judgments of the highest courts are available over the internet free of charge, as well as a significant number of the judgments of the lower-level courts of all instances and keyword searches in the texts of the judgments are available.	3	

**Overall score for Indicator 1.2. (Derived as average of scores obtained from sub-indicators above)**

No.	Indicator Component	Scoring Definitions	Score	Suggested sources and definitions
<b>Indicator 1.3. Digitisation of court processes</b>				
1.3.1.	Availability and use of e-filing	There is no legislation governing electronic filing.	1	<p>“E-filing” means the possibility to initiate a case by electronic means, for example via an e-mail or via an online form, as well as the possibility to make subsequent submissions to the court in an electronic form.</p> <p>Review of relevant civil procedure code(s) and/or other relevant legislation.</p> <p>Expert assessment of the availability and actual use of e-filing throughout the courts.</p>
		There is legislation governing electronic filing but such e-filing is either not being used or is used only in the form of filing via email or is used in procedures excluding commercial litigation.	2	
		There is legislation governing electronic filing; e-filing infrastructure (e.g., websites, online forms, dedicated e-mail addresses) is available; e-filing via dedicated portals or similar infrastructure is commonly being used; and it is available also for commercial litigation.	3	
1.3.2.	Availability and use of electronic service of process (e-service)	There is no legislation governing e-service in court proceedings and/or there is no adequate infrastructure (e.g. websites, online forms, dedicated e-mail addresses) for e-service.	1	<p>“Electronic service of process” shall mean a formal notification to a person or company of the claim or other court documents or notices about court proceedings which is being carried out by electronic means.</p> <p>Review of relevant civil procedure code(s) and/or other relevant legislation.</p> <p>Expert assessment of the availability and actual use of e-service throughout the courts.</p>
		There is legislation governing e-service for at least some court procedures. E-service to participants in court proceedings requires specific agreement/statement that the party accepts electronic service of documents (e.g. service via email).	2	
		There is legislation governing e-service and there is adequate infrastructure (e.g. websites, online forms, dedicated e-mail addresses) for e-service available for a significant number of court procedures. The use of e-service is mandatory for some categories of parties/other participants.	3	
1.3.3.	Possibility to check case files and track case progress remotely	Parties cannot check case files and track case progress remotely through websites/information systems of the judicial system.	1	<p>Review of relevant civil procedure code(s) and/or other relevant legislation.</p> <p>Expert assessment of the availability of tools/services allowing the checking of case progress and key procedural events, respectively access to the entire digitized case file.</p>
		Parties can track progress of the case and key procedural events remotely through websites/information systems of the judicial system.	2	
		Parties have ongoing access to the entire digitized case file through websites/information systems of the judicial system.	3	



No.	Indicator Component	Scoring Definitions	Score	Suggested sources and definitions
1.3.4.	Possibility to hold online / videoconference hearings (for any type of case)	There is no legislation governing the possibility to hold online / videoconference hearings (for any type of case) and/or there is no adequate infrastructure (e.g. websites, online platforms, audio-visual devices and systems) for online / videoconference hearings.	1	<p>“Online / videoconference hearings” means the official use of audio-visual devices and systems in the framework of judicial proceedings for the hearing of parties.</p> <p>Review of relevant civil and criminal procedure code(s) and/or other relevant legislation.</p> <p>Expert assessment of the availability of tools/services allowing the holding of online / videoconference hearings.</p>
		It is possible to question certain participants in the proceedings from a distance in some types of cases (e.g. in criminal cases) and there is adequate infrastructure (e.g. websites, online platforms, audio-visual devices and systems) but holding hearings entirely online is either not done or done very rarely.	2	
		It is possible to hold the entire hearing online for most types of cases (criminal and civil, at a minimum) and in practice, such hearings are frequently being held.	3	
1.3.5.	Court fees	There are no official online calculators for determining the amount of court fees due and there are no available means for online payment of court fees.	1	<p>Calculators of court fees allow parties to enter individualised information about their court case and obtain a calculation of the court fee due online.</p> <p>E-payment of court fees means electronic monetary transactions for covering court fees, fines, penalties and judicial deposits.</p> <p>Review of relevant civil procedure code(s) and/or other relevant legislation.</p> <p>Expert assessment of the availability of tools/services allowing the online payment of courts fees.</p>
		There are either official online calculators for determining the amount of court fees due or available means for online payment of court fees.	2	
		There are both official online calculators for determining the amount of court fees due and available means for online payment of court fees (e.g. via credit card, PayPal, etc.).	3	

No.	Indicator Component	Scoring Definitions	Score	Suggested sources and definitions
1.3.6.	Ability to initiate enforcement based on electronic enforceable titles	There is no legislation governing electronic enforceable titles and enforcement can only be initiated based on an enforceable title presented on paper.	1	This sub-indicator explores whether the enforcement authority could initiate enforcement based on an enforceable title <u>in electronic form</u> . Regardless of which authorities conduct enforcement in respective jurisdictions, an enforceable title needs to be presented to these authorities in order to initiate enforcement. Such title may be a writ of execution or a similar document capable of launching the enforcement procedure.
		There is legislation governing electronic enforceable titles but at this stage, enforcement is initiated based on an enforceable title presented on paper.	2	
		There is legislation governing electronic enforceable titles and enforcement can be initiated based on an electronic enforceable title.	3	

**Overall score for Indicator 1.3. (Derived as average of scores obtained from sub-indicators above)**

#### Indicator 1.4. Stakeholder engagement

1.4.1	Existence of an obligation for professional court users to interact with the court only electronically	There is no legislation governing the obligation for any types of professional court users to interact with the court only electronically.	1	Professional court users shall mean qualified lawyers, court experts, bailiffs and/or other registered users who routinely attend courts.
		There is legislation governing the obligation for professional court users for some/all types of procedures to interact with the court only electronically but it is not implemented or not fully implemented.	2	The term “interact” shall include both e-filing (i.e., active communication with the court) and e-service of process (i.e. passive communication).  Review of the relevant civil procedure code(s) and/or other relevant legislation.
		There is legislation governing the obligation for professional court users to interact with the court only electronically and the requirement is implemented in practice.	3	Expert assessment of the specific requirements for mandatory electronic communication and interaction with courts.

No.	Indicator Component	Scoring Definitions	Score	Suggested sources and definitions
1.4.2.	Availability of monetary incentives for conducting certain court actions electronically	There are no monetary incentives for conducting certain court actions electronically.	1	Monetary incentives mean for example a reduced fee for electronic filing, as well as other reduced court fees due to the use of electronic interactions with the court.
		There are monetary incentives for conducting certain court actions electronically, but such incentives are either not being used or used rarely.	2	Review of the relevant civil procedure code(s) and/or other relevant legislation.
		There are monetary incentives for conducting certain court actions electronically, and such incentives are commonly being used.	3	Expert assessment of the availability and actual use of monetary incentives for electronic interactions throughout the courts.
1.4.3.	Availability of user guides, help desk and guidance in the e-filing system	No e-filing is available, and/or no user guides, help desk and guidance for e-filing are provided to users.	1	<p>“Help desk” means a dedicated unit or person that provides assistance and information for problems with the service/system.</p> <p>“User guide” means a document containing the full information on how to use the service/system.</p>
		E-filing is available and <u>at least one</u> of the following types of user support is being provided in the e-filing system: (1) user guides; (2) help desk; (3) other forms of user guidance (e.g. frequently asked questions (FAQs); tutorial videos; user notifications in online forms, etc.) or all three types of user support are available for a very limited number of court procedures.	2	<p>“Frequently asked questions (FAQs)” means a list of common questions users might have while using the service/system.</p> <p>“Tutorial videos” means instructional videos for teaching a process or walking through the steps needed to complete a task and/or use a service/system.</p>
		E-filing is available and <u>at least two</u> of the following three types of user support are being provided in the e-filing system for a broad array of court procedures: (1) user guides; (2) help desk; (3) other forms of user guidance (e.g. frequently asked questions (FAQs); tutorial videos; user notifications in online forms, etc.).	3	<p>“User notifications” means error messages, alarms, prompts, and labels that are preprogrammed to guide users in online forms.</p> <p>Review of relevant e-filing systems, websites, and information portals.</p> <p>Expert assessment of the types of user support provided in the e-filing system.</p>



No.	Indicator Component	Scoring Definitions	Score	Suggested sources and definitions
1.4.4.	Whether court user surveys are conducted by the courts/ the judicial system on a regular basis	Court user surveys are conducted by the courts/ the judicial system sporadically or not at all.	1	<p>Data on whether regular surveys are carried out is available in the CEPEJ questionnaire.<sup>38</sup></p> <p>Data on uses of questionnaire responses (if available) shall be collected based on interviews with justice systems representatives.</p> <p>Alternatively or in parallel, such data may be collected based on available court reports.</p>
		Court user surveys are conducted by the courts/ the judicial system on a regular basis (e.g. annually). However, key areas for improvement identified though the surveys are not addressed in the strategic planning process of courts.	2	
		Court user surveys are conducted by the courts/ the judicial system on a regular basis (e.g. annually). Key areas for improvement identified though the surveys are addressed in the strategic planning process of courts.	3	

**Overall score for Indicator 1.4. (Derived as average of scores obtained from sub-indicators above)**

## Dimension 2. Commercial Dispute Resolution

### The following general information shall be provided:

- What is the definition of commercial case for the purposes of determining the jurisdiction of the commercial courts/divisions/chambers (if available in the country)?
- Have significant reforms of commercial dispute resolution been introduced in the previous three years in the country (e.g., changes to the practice and procedure of commercial litigation and/or related alternative dispute resolution (ADR))? Briefly describe the nature and impact of the reforms.
- What has been the impact of the COVID-19 pandemic on commercial litigation in the country, e.g. introducing more electronic interactions?
- Number of female/male judges in the country.
- Number of female/male first-instance commercial judges in the country.

### Indicator 2.1. Level of specialisation of commercial dispute resolution

<sup>38</sup> See countries responses at <https://www.coe.int/en/web/cepej/replies-by-country>.

No.	Indicator Component	Scoring Definitions	Score	Suggested sources and definitions
2.1.1.	Availability of a specialised commercial court or specialised commercial divisions in courts	There are no specialised commercial courts or specialised commercial divisions or chambers in courts.	1	Specialised commercial courts are those courts which are created with jurisdiction to adjudicate in the field of commercial law, typically including all corporate (commercial) disputes/cases (e.g. disputes/cases regarding contracts between traders, between credit institutions or between traders and credit institutions, and disputes regarding commercial companies or commercial transactions). This jurisdiction is usually exclusive.
		There are specialised commercial divisions or chambers <u>in some courts</u> (e.g. in large regional courts).	2	Specialised commercial divisions or chambers are usually parts of courts and hear specific types of corporate (commercial) disputes. The availability of specialised divisions or chambers would be assessed only for courts that have jurisdiction over corporate (commercial) disputes.
		There are specialised commercial divisions or chambers <u>in all courts</u> , or there are specialised commercial courts.	3	Specialised courts/ divisions for examining only bankruptcies shall not be considered as specialised commercial courts/divisions for the purposes of this sub-indicator.  Review of the relevant civil procedure code(s), laws and regulations on civil court structure and organisation, and/or other relevant legislation.

No.	Indicator Component	Scoring Definitions	Score	Suggested sources and definitions
2.1.2.	Modifications of the procedural rules in respect of commercial cases as compared to general civil cases	There are no modifications of the general procedural rules in respect of commercial cases as compared to general civil cases.	1	Expedited court proceedings in commercial (corporate) cases may include shortened timelines for procedural actions; no interlocutory appeal; no possibility of raising new circumstances once the court proceedings have started, etc. These special rules (rules shall be regarded as special where the same rule is not available in the general civil procedure) should lead to shorter disposition time of commercial (corporate) cases or to improved quality of decision making.  Special rules regarding evidence may include the admissibility of electronic evidence; admissibility of evidence in English and/or other languages; limits in the scope of evidence given in witness statements, etc.  Special methods or procedures for organising and holding hearings for commercial cases may include: special requirements for case management conferences; special requirements that court rooms shall be available for multiple days in a row if necessary; special requirements or options to hold online videoconferencing hearings; special rules allowing written-only examination of the case.  Review of the relevant civil procedure code(s) and/or other relevant legislation. <sup>39</sup>
		There is <u>at least one</u> of the following types of modifications of the general procedural rules in respect of commercial cases: (1) expedited court proceedings; (2) special rules regarding evidence; (3) special methods or procedures for organising and holding hearings; (4) modifications of the general procedural rules aimed at improving quality (e.g. hearing of commercial cases by a panel composed of more judges or holding of pre-trial hearings in commercial cases where no such hearings are provided for in the general procedure).	2	
		There are <u>at least two</u> of the following types of modifications of the general procedural rules in respect of commercial cases: (1) expedited court proceedings; (2) special rules regarding evidence; (3) special methods or procedures for organising and holding hearings; (4) modifications of the general procedural rules aimed at improving quality (e.g. hearing of commercial cases by a panel composed of more judges or holding of pre-trial hearings in commercial cases where no such hearings are provided for in the general procedure).	3	
2.1.3.	Inception training in commercial law for commercial judges	There is <u>no mandatory or voluntary training</u> in commercial law provided to commercial judges upon entry/appointment.	1	“Commercial judges” means judges in commercial courts, or commercial divisions or chambers of courts (where available). Alternatively, consider all civil judges that might hear commercial cases.  Data shall be collected based on self-assessment questionnaires with justice system representatives to be filled in writing or in an interview.  Alternatively or in parallel, such data may be collected based on available court reports and/or annual training plans.
		There is <u>only voluntary training</u> in commercial law provided to commercial judges upon entry/appointment.	2	
		There is <u>mandatory training</u> in commercial law provided to commercial judges upon entry/appointment.	3	

<sup>39</sup> If such modifications are available, indicate when the respective modification was introduced.



No.	Indicator Component	Scoring Definitions	Score	Suggested sources and definitions
2.1.4.	Continuous (regular) commercial law training for commercial judges	There is <u>no mandatory or voluntary training</u> in commercial law provided regularly (continuously) to commercial judges.	1	Data shall be collected based on self-assessment questionnaires with relevant justice system representatives to be filled in writing or in an interview.  Alternatively or in parallel, such data may be collected based on available court reports and/or annual training plans.
		There is <u>only voluntary training</u> in commercial law provided regularly (continuously) to commercial judges.	2	
		There is <u>mandatory training</u> in commercial law provided regularly (continuously) to commercial judges.	3	
2.1.5.	Capacity building for commercial judges' judicial assistants or for other types of specialised judicial clerks engaged in commercial justice (e.g., rechtspflegers)	Commercial judges have no judicial assistants or other specialised legal clerks.	1	Interviews with justice system representatives
		Commercial judges have judicial assistants other specialised legal clerks, but they receive no specialized commercial law training.	2	
		Commercial judges have judicial assistants other specialised legal clerks, and they receive specialized commercial law training.	3	

**Overall score for Indicator 2.1. (Derived as average of scores obtained from sub-indicators above)**

No.	Indicator Component	Scoring Definitions	Score	Suggested sources and definitions
<b>Indicator 2.2. Use of mediation/ADR tools</b>				
2.2.1.	Availability of mediation in civil/commercial disputes	There is no legislation governing mediation in civil/commercial disputes.	1	Mediation is a voluntary and confidential out-of-court alternative dispute resolution (ADR) procedure in which a third party (mediator) assists the disputing parties to reach an agreement on a voluntary basis. <sup>40</sup>
		There is legislation governing mediation in civil/commercial disputes, but no court-annexed (or court related) mediation is available.	2	Court-annexed (or court-related) mediation usually requires the court to encourage the parties to use a mediation procedure if the court considers that appropriate, and/or the court facilitates the use of such procedure.
		There is legislation governing mediation in civil/commercial disputes and there are procedures/ projects implementing court-annexed mediation.	3	Review of law on mediation, the relevant civil procedure code(s) and/or other relevant legislation. Review of other written materials or interview with practitioners.
2.2.2.	Availability of an official register of mediators accessible online	No accreditation of mediators is required.	1	
		Accreditation of mediators is required but there is no official registry of mediators publicly available online.	2	Review of law on mediation, the relevant civil procedure code(s) and/or other relevant legislation.
		Accreditation of mediators is required and there is an official registry of mediators publicly available online.	3	Expert assessment of the availability of a register of mediators.

<sup>40</sup> See also Article 3 of Directive 2008/52/EC on certain aspects of mediation in civil and commercial matters: <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=celex:32008L0052>

No.	Indicator Component	Scoring Definitions	Score	Suggested sources and definitions
2.2.3.	Availability of incentives for mediation	There are no incentives for the use of mediation in commercial disputes.	1	Review of law on mediation, the relevant civil procedure code(s) and/or other relevant legislation.
		There is <u>at least one</u> of the following incentives for the use of mediation in commercial disputes after the filing of a claim in court: (1) reduction of court fees upon successful settlement; (2) one or more free mediation session(s); (3) requirement for attempting mediation before litigating some types of disputes.	2	
		There are <u>at least two</u> of the following incentives for the use of mediation in commercial disputes after the filing of a claim in court: (1) reduction of court fees upon successful settlement; (2) one or more free mediation session(s); (3) requirement for attempting mediation before litigating some types of disputes.	3	
2.2.4.	Enforceability of mediation settlement agreements	Mediation settlement agreements of commercial disputes are not directly enforceable.	1	“Mediation settlement agreement” means an agreement reached in a mediation procedure.  Review of law on mediation, the relevant procedural code(s) and/or other relevant legislation.
		A mediation settlement agreement is directly enforceable and has the legal force of a court judgment, subject to the approval of the competent court or a notary certification.	2	
		At least some types of mediation settlement agreements signed by the mediator and the parties (or their representatives), are deemed to have the force of a court judgment and are directly enforceable.	3	



No.	Indicator Component	Scoring Definitions	Score	Suggested sources and definitions
2.2.5.	Availability and use of online solutions for out-of-court settlement	No online solutions for out-of-court settlement of disputes are available.	1	Online mediation platforms provide e-mediation as a combined service. The platform may include different functionalities, including the selection of mediators, online case filing, document upload and storage, logistics scheduling, videoconferencing, chat messaging, etc.  Expert assessment of the availability and actual use of online mediation platforms.
		There is at least one state or private online mediation platform. However, it is either not being used or used rarely.	2	
		There is at least one state or private online mediation platform. In addition, the online mediation platform is commonly being used in civil/ commercial dispute resolution and out-of-court settlement.	3	

**Overall score for Indicator 2.2. (Derived as average of scores obtained from sub-indicators above)**

**Indicator 2.3. Efficiency and effectiveness of commercial litigation (to be assessed only if statistical disaggregation of commercial cases is available)**

2.3.1.	Clearance rate of first-instance commercial cases for the latest year for which statistics are available	Clearance rate < 95%	1	“Clearance rate” (CR) is the ratio between the number of resolved cases and the number of incoming cases over a specified period of time (usually 1 year).
		Clearance rate 95% – 100%	2	The indicator is calculated as follows: Clearance rate (%) = (Resolved cases / Incoming cases) x 100
		Clearance rate > 100	3	While no numerical standard is defined for CR, there is wide understanding that a CR above 100% means that a backlog is decreasing while a clearing rate below 100% means a backlog is increasing. <sup>41</sup>

<sup>41</sup> In 2018, the median CR for CoE states has been 101%, and average CR has been 101%. See European judicial systems CEPEJ Evaluation Report, 2020 Evaluation cycle, pages 111-117: <https://www.coe.int/en/web/cepej/special-file-publication-of-the-report-european-judicial-systems-cepej-evaluation-report-2020-evaluation-cycle-2018-data>

No.	Indicator Component	Scoring Definitions	Score	Suggested sources and definitions
2.3.2.	Disposition time of 1st instance commercial cases as compared to CoE median for first-instance civil/commercial cases	Disposition time is more than 10% higher than the median disposition times for 1st instance civil and commercial cases in CoE Member states.	1	“Disposition time” (DT) shall be expressed in days and shall be calculated as the ratio between pending cases on 31 December of the respective year and the resolved cases during the same year, multiplied by 365
		Disposition time is similar to the median disposition times for 1st instance civil and commercial cases in CoE Member states (i.e. less than 10% higher and up to 10% lower).	2	The indicator is calculated as follows:  Disposition time = (Pending cases on December 31st / Resolved Cases) x 365 <sup>42</sup>
		Disposition time is more than 10% lower than the median disposition times for 1st instance civil and commercial cases in CoE Member states.	3	The median disposition times for 1st instance civil and commercial cases shall be obtained from the latest CEPEJ Evaluation Report of European Judicial systems  For the examined jurisdiction, disposition times for the latest year for which statistics is available shall be used. For the COE median, the latest CEPEJ Evaluation cycle shall be used.
2.3.3.	Disposition time of commercial cases as compared to the disposition time of general 1st instance civil cases in the latest year for which statistics is available	Disposition time of commercial cases is more than 10% higher than the disposition time for general civil cases.	1	Judicial statistics
		Disposition time of commercial cases is similar to the disposition time for general civil cases (i.e. up to 10% higher or lower).	2	
		Disposition time is more than 10% lower than the disposition time for general civil cases.	3	

<sup>42</sup> Ibid. While there is no cross-jurisdictional standard for DT, the median DT for CoE states for civil and commercial litigious cases at the first instance in 2018 has been 201 days, and the average DT is 233 days.

No.	Indicator Component	Scoring Definitions	Score	Suggested sources and definitions
2.3.4.	Dynamic of commercial cases disposition time over a 3-year period (the latest 3 years for which data is available)	Commercial cases disposition time has increased in the last 3 years by more than 10%.	1	Judicial statistics
		Commercial cases disposition time has remained stable in the last 3 years (i.e. there is no more than 10% deviation in either direction).	2	
		Commercial cases disposition time has decreased in the last 3 years by more than 10%.	3	

**Overall score for Indicator 2.3. (Derived as average of scores obtained from sub-indicators above)**

**Dimension 3. Uncontested Procedures for Enforcing a Claim**

- A general description of the uncontested claims procedure shall be provided, answering the following questions:**
- What is the name of the procedure (e.g. order for payment, issuance of a writ of execution based on document, other)? If there are several such procedures, please, describe each of them.
  - Which authority is entrusted with examining claims that may be uncontested by the debtor?
  - If the courts are competent to examine such claims, do the general rules of territorial jurisdiction apply to them or is the process centralized?
  - What claims is the procedure applicable to (i.e., only claims based on certain trustworthy documents such as checks, bills of exchange, notary deeds, utility claims, or also all types of civil and commercial monetary claims)?
  - Is there a monetary threshold for applying the uncontested claims procedure?

**Indicator 3.1. Ease of filing**

3.1.1.	Effective self-representation	Self-representation is not allowed.	1	The question whether self-representation is allowed shall be answered based on the provisions of the law. The question whether in practice parties self-represent or engage a lawyer shall be answered based on interviews with one or more judges who examine applications under this procedure.
		Self-representation is allowed but in practice it is difficult to conduct the process without professional help and most creditors tend to engage a lawyer.	2	
		Self-representation is allowed and the process is simple enough so that most creditors do not engage lawyers; alternatively, it is not allowed to engage a lawyer in this process or if a lawyer is engaged, expenses thereof are not recoverable.	3	

No.	Indicator Component	Scoring Definitions	Score	Suggested sources and definitions
3.1.2.	Availability and use of forms for filing the claim	There are no standard forms for filing claims and creditors are free to choose a format, in which to do it.	1	The availability of mandatory standard forms shall be assessed based on the legislation in force. The availability of non-mandatory forms shall be assessed based on the information for users provided by the court system (or, if the procedure is carried out outside the court system, by the relevant authorities). The user-friendliness of forms shall be evaluated based on interviews with practitioners.
		There are standard forms for filing claims but they are either not mandatory or are perceived as not user-friendly.	2	
		There are mandatory standard forms for filing claims and they are perceived as user-friendly.	3	
3.1.3.	Availability and use of online filing	A claim cannot be filed online.	1	Legal framework; Interviews with practitioners
		The law allows for e-filing but this option is never or rarely used.	2	
		Online filing is available and it is used in all or the majority of cases.	3	
3.1.4.	Level of court fees for filing a claim	The fee for filing a claim in this procedure is the same or almost the same as the fee for filing a general civil/commercial claim (assuming equal value of the two claims).	1	Applicable fee tariffs.
		The fee for filing a claim in this procedure is from 10% to 50% lower than the fee for filing a general civil/commercial claim (assuming equal value of the two claims).	2	
		The fee for filing a claim in this procedure is more than 50% lower than the fee for filing a general civil/commercial claim (assuming the two claims to be of equal value).	3	
3.1.5.	Simplified rules on attachment of evidence to a claim	Documentary evidence always needs to be attached to a claim and presented in paper.	1	Examination of the regulatory framework and, if necessary, interviews with practitioners.
		Documentary evidence is required but may also be sent by electronic means.	2	
		There is no need to attach any evidence in uncontested procedures for a significant group of claims.	3	

**Overall score for Indicator 3.1. (Derived as average of scores obtained from sub-indicators above)**



No.	Indicator Component	Scoring Definitions	Score	Suggested sources and definitions
<b>Indicator 3.2. Efficient processing</b>				
3.2.1.	Predictability of the timelines for pronouncement	The timelines for pronouncement on applications under the procedure are unpredictable as they are not regulated and vary greatly on a case-by-case basis.	1	Information available in the law or other instruments. Interviews with judges/lawyers working on such cases.
		The timelines for pronouncement on applications under the procedure are set in the law or in another instrument but are not complied with by all courts/judges.	2	
		The timelines for pronouncement on applications under the procedure are set in the law and/or in another instrument and are complied with across the country.	3	
3.2.2.	Length of timelines for pronouncement	The timelines for pronouncement on applications under the procedure can exceed 3 months.	1	The timelines measured here are not the ones set by law but actual ones. They should be established in interviews with practitioners.
		The timelines for pronouncement on applications under the procedure are between 1 and 3 months.	2	
		The timelines for pronouncement on applications under the procedure are less than 1 month.	3	

No.	Indicator Component	Scoring Definitions	Score	Suggested sources and definitions
3.2.3.	Availability of options for service to the debtor without proof of receipt	<p>The rules of the jurisdiction do not allow the issuance of an enforceable title if there is no proof of receipt by the debtor, even if that debtor has a known address.<sup>43</sup></p>	1	<p>The assessment shall be made based on the procedural rules on service of process in uncontested claims procedures of the jurisdiction.</p> <p>It should be noted that in developing the scoring definition for this sub-indicator, the rule of Art. 14 of Regulation (EC) No 1896/2006 creating a European order for payment procedure has been used as a form of good practice since such rules enable service of process even for debtors who are actively trying to avoid such service. The availability of such methods is considered important as experience in some jurisdictions shows that the need to serve to the debtor only personally greatly undermines the effectiveness of such procedures for directly obtaining an enforceable title and leads creditors to resort to classic litigation which is less cost effective for claims against which the debtor would not defend.</p>
		<p>The rules of the jurisdiction allow the issuance of an enforceable title without proof of receipt by the debtor by <u>at least one</u> of the methods for service without proof of receipt under Art. 14 of Regulation (EC) No 1896/2006 creating a European order for payment procedure.<sup>44</sup></p> <p>The methods of service without proof of receipt under Art 14 of the regulation are:</p> <ul style="list-style-type: none"> <li>(a) personal service at the defendant’s personal address on persons who are living in the same household as the defendant or are employed there;</li> <li>(b) in the case of a self-employed defendant or a legal person, personal service at the defendant’s business premises on persons who are employed by the defendant;</li> <li>(c) deposit of the order in the defendant’s mailbox;</li> <li>(d) deposit of the order at a post office or with competent public authorities and the placing in the defendant’s mailbox of written notification of that deposit, provided that the written notification clearly states the character of the document as a court document or the legal effect of the notification as effecting service and setting in motion the running of time for the purposes of time limits;</li> <li>(e) postal service without proof pursuant to paragraph 3 where the defendant has his address in the Member State of origin;</li> <li>(f) electronic means attested by an automatic confirmation of delivery, provided that the defendant has expressly accepted this method of service in advance.</li> </ul> <p>Furthermore, Service pursuant to paragraph 1(a), (b), (c) and (d) shall be attested by:</p> <ul style="list-style-type: none"> <li>(a) a document signed by the competent person who effected the service, indicating: <ul style="list-style-type: none"> <li>(i) the method of service used; (ii) the date of service; and (iii) where the order has been served on a person other than the defendant, the name of that person and his relation to the defendant;</li> </ul> </li> <li>or</li> <li>(b) an acknowledgement of receipt by the person served, for the purposes of paragraphs (1)(a) and (b).</li> </ul>	2	
		<p>The rules of the jurisdiction allow the issuance of an enforceable title without proof of receipt by the debtor by <u>at least two</u> of the methods for service without proof of receipt under Art. 14 of Regulation (EC) No 1896/2006 creating a European order for payment procedure.</p>	3	

<sup>43</sup> If the law does not allow for the issuance of the enforceable title unless it can be proven that the debtor personally received the notification, this renders procedures for obtaining enforceable titles based on uncontested claims very ineffective because debtors can easily avoid personal service. In the absence of a method to validly serve to a debtor with a known address, even if he or she is not available to sign the receipt of service personally, most uncontested claims procedures are being terminated and those claims need to be collected by means of a litigious procedure, which is much more cumbersome and expensive for both parties.

<sup>44</sup> While many of the EBRD CoOs are not EU member states, Regulation (EC) No 1896/2006 sets some standards for uncontested claims procedures that can be regarded as good practices. Therefore, some of these standards are used as basis for assessment herein.

No.	Indicator Component	Scoring Definitions	Score	Suggested sources and definitions
3.2.4.	Ease of debtor's objection	When objecting to the claim, debtors need to give justification thereof.	1	Procedural rules; forms of the documents sent to the debtor
		Debtors can object to the claim without giving any explanations/justification thereof.	2	
		Debtors can object without providing any explanations/justification thereof and they are provided with guidance as to the consequences of objecting/not objecting.	3	

**Overall score for Indicator 3.2. (Derived as average of scores obtained from sub-indicators above)**

**Indicator 3.3. Effective linkages between the uncontested procedure and the procedure following a statement of opposition**

3.3.1.	Consequence of debtor's lack of objection	If the debtor is silent or objects partially, the claim shall not be enforceable.	1	Relevant procedural rules
		If the debtor is silent, the claim shall be enforceable. If the debtor objects partially, the entire claim cannot be enforced.	2	
		If the debtor is silent or objects partially, the claim, respectively the part of it against which there has been no objection, shall be enforceable.	3	
3.3.2.	Launching the litigious stage of the procedure	If the debtor lodges a statement of opposition, the uncontested procedure is terminated or suspended and the claimant wishing to pursue the claim may file it under the general procedure.	1	Relevant procedural rules
		If the debtor lodges a statement of opposition, the uncontested procedure is automatically transferred to a litigious procedure.	2	
		When filing the claim, the claimant can choose whether the debtor's statement of opposition shall automatically launch the litigious procedure or not.	3	

No.	Indicator Component	Scoring Definitions	Score	Suggested sources and definitions
3.3.3.	Link between the fees due in the uncontested claims procedure and in the litigious procedure	<p>The fee due in a litigious procedure that follows a statement of opposition is of the same amount that would have been due if the litigious procedure was launched without using the uncontested claims procedure first.</p> <p><i>(Example: In a situation where the fee for the uncontested claims procedure is 2% and the fee for a litigious procedure is 5% of the value of the claim, the fee for the litigious procedure would remain 5%, regardless of whether the claimant has, before that, paid a 2% fee for an uncontested claims procedure for the same claim)</i></p>	1	<p>Relevant tariffs.</p> <p>If the fees for the two procedures are set in a way that makes it impossible to answer this question in the abstract (e.g., there are thresholds that unlock different percentages of court fees), please, answer this question for a claim with a value equivalent to EUR 2000. The value has been selected to be both well under the small claims threshold for EU member states (which stands at EUR 5000) given that many of the EBRD CoOs have a lower income level but at the same time be sufficiently substantial to be meaningful for SMEs and individual litigants.</p>
		<p>The amount of the fee for the litigious procedure that follows a statement of opposition is reduced as compared to the fee that would have been due if the litigious procedure was launched without using the uncontested claims procedure first but still the sum of the fees for the uncontested and for the litigious procedure is higher than the amount of the fee for the litigious procedure, if used as a stand-alone mechanism.</p> <p><i>(Example: In a situation where the fee for the uncontested claims procedure is 2% and the fee for a litigious procedure is 5% of the value of the claim, the fee for the litigious procedure would be less than 5% (e.g. 4%), if the claimant had resorted to the uncontested claims procedure first. However, the sum of the two fees (2% + 4%) would still exceed the fee for the litigious procedure, is used alone (5%).)</i></p>	2	
		<p>The amount of the fee for the litigious procedure that follows a statement of opposition is reduced as compared to the fee that would have been due if the litigious procedure was launched without using the uncontested claims procedure first, and the sum the fees for the uncontested and for the litigious procedure is equal to or lower than the amount of the fee for the litigious procedure, if used as a stand-alone mechanism.</p> <p><i>(Example: In a situation where the fee for the uncontested claims procedure is 2% and the fee for a litigious procedure is 5% of the value of the claim, the fee for the litigious procedure would be less than 3% or less, if the claimant had resorted to the uncontested claims procedure first so that the sum of the two fees (2% + 3%) would be equal to or lower than the fee for the litigious procedure, is used alone (5%).)</i></p>	3	



No.	Indicator Component	Scoring Definitions	Score	Suggested sources and definitions
3.3.4.	Management of statements of opposition	The jurisdiction does not track claims that continue as litigious procedures (either by reason of objection or for any other reason).	1	Judicial statistics; interviews with policy makers/judges
		The jurisdiction tracks percentage of statements of opposition to claims filed in uncontested claims procedures but does not make an analysis thereof.	2	
		The jurisdiction tracks the percentage of statements of opposition to claims filed in uncontested claims procedures and analyses the statistics with improving the efficiency of the procedure / managing frivolous objections.	3	

**Overall score for Indicator 3.3. (Derived as average of scores obtained from sub-indicators above)**

**Dimension 4. Small Claims Procedures (this dimension is to be evaluated only in case a small claims procedure is available)**

**A general description of the small claims procedure is to be provided, answering the following questions:**

- What is the name of the procedure (e.g., small claims procedure, simplified procedure, written procedure, fast-track procedure, other)? If there are several such procedures, please, describe each of them.
- Is there a special small claims court or a special court division examining small claims?
- What is the monetary threshold for the applicability of the procedure?
- What are the claims applicable to the procedure?

**Indicator 4.1. Ease of filing**

4.1.1.	Effective self-representation	Self-representation is not allowed.	1	The question whether self-representation is allowed shall be answered based on the provisions of the law. The question whether in practice parties self-represent or engage a lawyer shall be answered based on interviews with one or more judges who examine applications under this procedure.
		Self-representation is allowed but in practice it is difficult to conduct the process without professional help and most parties tend to engage a lawyer.	2	
		(4) Self-presentation is allowed, and the process is simple enough so that most parties do not engage a lawyer; or (5) it is not allowed to engage a lawyer in this process or if a lawyer is engaged, expenses thereof are not recoverable; or (6) parties can engage a person who is not a lawyer to defend their interests in court.	3	

No.	Indicator Component	Scoring Definitions	Score	Suggested sources and definitions
4.1.2.	Forms of filing claims	There are no standard forms for filing claims and creditors are free to choose a format, in which to do it.	1	The availability of mandatory standard forms shall be assessed based on the legislation in force. The availability of non-mandatory forms shall be assessed based on the information for users provided by the court system (or, if the procedure is carried out outside the court system, by the relevant authorities). The user-friendliness of forms shall be evaluated based on interviews with practitioners.
		There are standard forms for filing claims but they are either not mandatory or are perceived as not user-friendly.	2	
		There are mandatory standard forms for filing claims and they are perceived as user-friendly.	3	
4.1.3.	Availability and use of online filing	The claim cannot be filed online.	1	Legal framework; Interviews with practitioners/expert assessment
		The law allows for e-filing but this option is never or rarely used.	2	
		Online filing is available and it is used in all or the majority of cases.	3	
4.1.4.	Guidance to self-represented litigants	There are no special rules that require judges/court clerks to provide guidance to self-represented litigants.	1	Legal framework; Interviews with practitioners/expert assessment
		There are special rules that require judges/court clerks to provide guidance to self-represented litigants.	2	
		There are special rules that require judges/court clerks to provide guidance to self-represented litigants and they are used in practice.	3	

**Overall score for Indicator 4.1. (Derived as average of scores obtained from sub-indicators above)**

No.	Indicator Component	Scoring Definitions	Score	Suggested sources and definitions
<b>Indicator 4.2. Availability of meaningful procedural simplifications of the small claims procedure</b>				
4.2.1.	Statutory timelines in the small claims procedure	The statutory timelines in the small claims procedure are the same as the statutory timelines in the general civil/ commercial procedure.	1	Legal framework; Interviews with practitioners; statistics on disposition time, if available
		Some statutory timelines in the small claims procedure are shorter than the statutory timelines in the general civil/commercial procedure but they are very few and they do not lead to a significantly shorter process overall.	2	
		Some statutory timelines in the small claims procedure are shorter than the statutory timelines in the general civil/commercial procedure and they lead to a significantly shorter process overall.	3	
4.2.2.	Simplified evidentiary rules	Evidentiary rules in the small claims procedure are the same as the evidentiary rules in the general civil/commercial procedure.	1	Legal framework; Interviews with practitioners
		The small claims procedure as compared to the general civil/ commercial procedure includes simplified rules in <u>at least one</u> of the following areas: (1) stricter relevance assessment (e.g. in the interest decreasing time and costs for examination of the claim, the judge has broader discretion to reject evidence that he/she considers not sufficiently relevant or repetitive or too costly to collect); (2) simplifications to the required form of the evidence; (3) limitations to the use of expert witnesses.	2	
		The small claims procedure as compared to the general civil/ commercial procedure includes simplified evidentiary rules in <u>at least two</u> of the following areas: (1) stricter relevance assessment (e.g. in the interest decreasing time and costs for examination of the claim, the judge has broader discretion to reject evidence that he/she considers not sufficiently relevant or repetitive or too costly to collect); (2) simplifications to the required form of the evidence; (3) limitations to the use of expert witnesses.	3	

No.	Indicator Component	Scoring Definitions	Score	Suggested sources and definitions
4.2.3.	Simplified rules on hearings	The rules on hearings in the small claims procedure are the same as the rules on hearings in the general civil/commercial procedure.	1	Legal framework; Interviews with practitioners
		The rules on hearings in the small claims procedure as compared to the general civil/commercial procedure are simplified in <u>at least one</u> of the following ways: (1) if the general civil/commercial procedure provides for a preliminary/case management hearing, the small claims procedure allows the court to omit it or hold it by phone; (2) a hearing can be avoided altogether and the case can be decided based only on the written submissions of the parties; (3) the hearing in the small claims procedure can be conducted by using distance communication (e.g. phone, videoconferencing).	2	
		The rules on hearings in the small claims procedure as compared to the general civil/commercial procedure are simplified in <u>at least two</u> of the following ways: (1) if the general civil/commercial procedure provides for a preliminary/case management hearing, the small claims procedure allows the court to omit it or hold it by phone; (2) a hearing can be avoided altogether and the case can be decided based only on the written submissions of the parties; (3) the hearing in the small claims procedure can be conducted by using distance communication (e.g. phone, videoconferencing).	3	
4.2.4.	Special rules on encouraging conciliation or mediation	There are no special rules or practices that encourage conciliation or mediation in the framework of small claims litigation as compared to general litigation.	1	Legal framework; Interviews with practitioners
		There are special rules or practices that encourage conciliation or mediation in the framework of small claims litigation or before it has commenced as compared to general litigation but they are almost never used in practice.	2	
		There are special rules or practices that encourage conciliation or mediation in the framework of small claims litigation or before it has commenced as compared to general litigation and they are used in practice.	3	



No.	Indicator Component	Scoring Definitions	Score	Suggested sources and definitions
4.2.5.	Simplified content of judgments	The rules on the content of judgments in the small claims procedure are the same as the rules on the content of judgments in the general civil/commercial procedure.	1	Legal framework; Interviews with practitioners
		There is a rule allowing the court to simplify judgments in low-value cases but in practice it is not significantly simplified as compared to the judgment in the general civil/commercial procedure.	2	
		There is a rule allowing the court to simplify judgments in low-value cases and in practice it is significantly simplified as compared to judgments in the general civil/commercial procedure.	3	
4.2.6.	Modifications to the rules on appealing judgments in the small claims procedure	The rules on the appealing judgments in the small claims procedure are the same as the rules on appealing judgments in the general civil/commercial procedure.	1	Legal framework
		The rules on appealing judgments in the small claims procedure as compared to the general civil/commercial procedure are modified in <u>at least one</u> of the following ways: (1) there are fewer grounds for appeal; (2) restricted right of interlocutory appeal (i.e. appeals against court rulings other than final judgments); (3) appeal is not allowed against some/all judgments in the small claims procedure; (4) the second-instance court is empowered to impose cost sanctions if it finds that the appeal had been vexatious or frivolous; (5) the appellate procedure is simplified as compared to the appellate procedure for judgments made in the general civil/commercial procedure.	2	
		The rules on appealing judgments in the small claims procedure as compared to the general civil/commercial procedure are modified in <u>at least two</u> of the following ways: (1) there are fewer grounds for appeal; (2) the right of interlocutory appeal is restricted (i.e. appeal to court rulings other than the final judgment); (3) appeal is not allowed against some/all judgments in the small claims procedure; (4) the second-instance court is empowered to impose cost sanctions if it finds that the appeal had been vexatious or frivolous; (5) the appellate procedure is simplified as compared to the appellate procedure for judgments made in the general civil/commercial procedure.	3	

**Overall score for Indicator 4.2. (Derived as average of scores obtained from sub-indicators above)**

# Annex 2

## Form for Local Evaluators

No.	Indicator Component	Score	Justification for the scoring and sources
<b>Dimension 1. Policies and Infrastructure for e-Justice</b>			
	Link to the strategy that covers e-Justice (if any) and time-period of the strategy.		[please insert your answers here]
	Which body is responsible for digitization of the judiciary?		
	Which body is responsible for digitization in public administration?		
	Is there a formal coordination mechanism for digitization projects in the judiciary and public administration? What is it?		
	Does the Case Management System of the courts allow for auto-generation of parts of the judicial acts?		
	Can judges work remotely by accessing the Case Management System of the courts from a distance?		

No.	Indicator Component	Score	Justification for the scoring and sources
<b>Indicator 1.1. Level of Development of E-governance and E-infrastructure</b>			
1.1.1.	Level of internet penetration	[please insert score 1 or 2 or 3 here]	[please insert justification and sources for the score you have provided here]
1.1.2.	Level of development of electronic signatures		
1.1.3.	Level of development of electronic documents		
1.1.4.	Level of development of national electronic identification		
1.1.5.	Level of online access to administrative services		
1.1.6.	Level of broadband internet access		
<b>Indicator 1.2. Overall level of development of justice system digitisation</b>			
1.2.1.	Status of e-Justice strategy		
1.2.2.	Case management system (CMS) deployment rate		
1.2.3.	Level of integration of the Case Management System		
1.2.4.	Official information about the justice system available over the internet		
1.2.5.	Publication of court judgments and free online access to them		

No.	Indicator Component	Score	Justification for the scoring and sources
<b>Indicator 1.3. Digitisation of court processes</b>			
1.3.1.	Availability and use of e-filing		
1.3.2.	Availability and use of electronic service of process (e-service)		
1.3.3.	Possibility to check case files and track case progress remotely		
1.3.4.	Possibility to hold online / videoconference hearings (for any type of case)		
1.3.5.	Court fees		
1.3.6.	Ability to initiate enforcement based on electronic enforceable titles		
<b>Indicator 1.4. Stakeholder engagement</b>			
1.4.1.	Existence of an obligation for professional court users to interact with the court only electronically		
1.4.2.	Availability of monetary incentives for conducting certain court actions electronically		
1.4.3.	Availability of user guides, help desk and guidance in the e-filing system		
1.4.4.	Whether court user surveys are conducted by the courts / the judicial system on a regular basis		

No.	Indicator Component	Score	Justification for the scoring and sources
<b>Dimension 2. Commercial Dispute Resolution</b>			
	What is the definition of commercial case for the purposes of determining the jurisdiction of the commercial courts/divisions/chambers (if available in the country)?		
	Have significant reforms of commercial dispute resolution been introduced in the previous three years in the country (e.g. changes to the practice and procedure of commercial litigation and/or related alternative dispute resolution (ADR))? Briefly describe the nature and impact of the reforms.		
	What has been the impact of the COVID-19 pandemic on commercial litigation in the country, e.g. introducing more electronic interactions?		
	Number of female/male judges in the country.		
	Number of female/male first-instance commercial judges in the country.		
<b>Indicator 2.1. Level of specialisation of commercial dispute resolution</b>			
2.1.1.	Availability of a specialised commercial court or specialised commercial divisions in courts		
2.1.2.	Modifications of the general procedural rules in respect of commercial cases as compared to general civil cases		
2.1.3.	Inception training in commercial law for commercial judges		
2.1.4.	Continuous (regular) commercial law training for commercial judges		
2.1.5.	Capacity building for commercial judges' judicial assistants or for other types of specialised judicial clerks engaged in commercial justice (e.g. rechtspflegers)		



No.	Indicator Component	Score	Justification for the scoring and sources
<b>Indicator 2.2. Use of mediation/ADR tools</b>			
2.2.1.	Availability of mediation in civil/commercial disputes		
2.2.2.	Availability of an official register of mediators accessible online		
2.2.3.	Availability of incentives for mediation		
2.2.4.	Enforceability of mediation settlement agreements		
2.2.5.	Availability and use of online solutions for out-of-court settlement		
<b>Indicator 2.3. Efficiency and effectiveness of commercial litigation (to be assessed only if statistical disaggregation of commercial cases is available)</b>			
2.3.1.	Clearance rate of first-instance commercial cases for the latest year for which statistics is available		
2.3.2.	Disposition time of 1st instance commercial cases as compared to the CoE median for first-instance civil/commercial cases		
2.3.3.	Disposition time of commercial cases as compared to the disposition time of general 1st instance civil cases in the latest year for which statistics are available		
2.3.4.	Dynamic of commercial cases disposition time over a 3-year period (the latest 3 years for which data is available)		

No.	Indicator Component	Score	Justification for the scoring and sources
<b>Dimension 3. Uncontested Procedures for Enforcing a Claim</b>			
	What is the name of the procedure (e.g. order for payment, issuance of a writ of execution based on document, other)? If there are several such procedures, please, describe each of them.		
	Which authority is entrusted with examining claims that may be uncontested by the debtor?		
	If the courts are competent to examine such claims, do the general rules of territorial jurisdiction apply to them or is the process centralized?		
	What claims is the procedure applicable to (i.e. only claims based on certain trustworthy documents such as checks, bills of exchange, notary deeds, utility claims, or also all types of civil and commercial monetary claims)?		
	Is there a monetary threshold for applying the uncontested claims procedure?		
<b>Indicator 3.1. Ease of filing</b>			
3.1.1.	Effective self-representation		
3.1.2	Availability and use of forms for filing the claim		
3.1.3.	Availability and use of online filing		
3.1.4	Level of court fees for filing a claim		
3.1.5.	Simplified rules on attachment of evidence to the claim		

No.	Indicator Component	Score	Justification for the scoring and sources
<b>Indicator 3.2. Efficient processing</b>			
3.2.1.	Predictability of the timelines for pronouncement		
3.2.2.	Length of timelines for pronouncement		
3.2.3	Availability of options for service to the debtor without proof of receipt		
3.2.4.	Ease of debtor's objection		
<b>Indicator 3.3. Effective linkages between the uncontested procedure and the procedure following a statement of opposition</b>			
3.3.1.	Consequence of debtor's lack of objection		
3.3.2.	Launching the litigious stage of the procedure		
3.3.3.	Link between the fees due in the uncontested claims procedure and in the litigious procedure		
3.3.4.	Management of statements of opposition		

No.	Indicator Component	Score	Justification for the scoring and sources
<b>Dimension 4. Small Claims Procedures (this dimension is to be evaluated only in case a small claims procedure is available)</b>			
	What is the name of the procedure (e.g. small claims procedure, simplified procedure, written procedure, fast-track procedure, other)? If there are several such procedures, please, describe each of them.		
	Is there a special small claims court or a special court division examining small claims?		
	What is the monetary threshold for the applicability of the procedure?		
	What claims is the procedure applicable to?		
<b>Indicator 4.1. Ease of filing</b>			
4.1.1.	Effective self-representation		
4.1.2.	Existence of forms for filing the claim		
4.1.3.	Availability and use of online filing		
4.1.4.	Guidance to self-represented litigants		

No.	Indicator Component	Score	Justification for the scoring and sources
<b>Indicator 4.2. Availability of meaningful procedural simplifications of the small claims procedure</b>			
4.2.1.	Statutory timelines in the small claims procedure		
4.2.2.	Simplified evidentiary rules		
4.2.3.	Simplified rules on hearings		
4.2.4.	Special rules on encouraging conciliation or mediation		
4.2.5.	Simplified content of the judgment		
4.2.6.	Modifications to the rules on appealing the judgment in the small claims procedure		



## Contact

Yulia Shapovalova  
Principal Counsel  
Legal Transition Team  
European Bank for Reconstruction & Development

[ShapovaY@ebrd.com](mailto:ShapovaY@ebrd.com)

## © European Bank for Reconstruction and Development, 2023

All rights reserved. Reproduction and dissemination of material contained in this publication for educational or other non-commercial purposes are authorised without any prior written permission from the copyright holders, provided the source is fully acknowledged and a notification is sent to: [permissions@ebrd.com](mailto:permissions@ebrd.com).

The contents of this publication reflect the opinions of individual authors and do not necessarily reflect the views of the EBRD. Terms and names used in this report to refer to geographical or other territories, political and economic groupings and units, do not constitute and should not be construed as constituting an express or implied position, endorsement, acceptance or expression of opinion by the European Bank for Reconstruction and Development or its members concerning the status of any country, territory, grouping and unit, or delimitation of its borders, or sovereignty.

Designed by Red Rocket Graphic Design | [\*\*www.redrocket.co.uk\*\*](http://www.redrocket.co.uk)