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Poboljšanje sustava ovrhe u Republici Hrvatskoj

Improvement of the Enforcement system in the Republic of Croatia









Improvement of the Enforcement System in the Republic of Croatia

Contract Number: 2010-01-23-010101 Twinning Number: HR/10/IB/JH/04



MISSION REPORT

Activity 3.1.1

Conducting consultations with all stakeholders in order to gather useful information and proposals about raising public awareness on enforcement system.

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1. EXECUTIVE SUMMARY

| EXECUTIVE SUMMARY | | | | | |
|---------------------|--|--|--|--|--|
| EXECUTIVE SUIVIIVIA | IKT | | | | |
| Experts | Ms. María Rosario Palacios González, Mr. Cristóbal Guzmán López | | | | |
| Mission | Activity 3.1.1 : Conducting consultations with all stakeholders in order to gather useful information and proposals about raising public awareness on enforcement system. | | | | |
| Dates | 11 to 22 May, 2015. | | | | |
| Places | Zagreb. | | | | |
| Objectives | Main objective: To conduct consultations with all stakeholders in order to gather useful information and proposals about raising public awareness on enforcement system. As specific objectives, this Activity pursues: To work in close cooperation with representatives from the beneficiary institution, as stated in the contract. To take into account the information gathered during the implementation of Activity 1.1.2. To conduct further consultations with stakeholders, focus on the perception of citizens about the civil enforcement system. To draft a report with conclusions, recommendations and proposals, all aimed to the preparation of the Communication Plan to be developed under Activity 3.1.2. | | | | |
| Methodology | Designing and drawing up a questionnaire addressed to the stakeholders and representatives from other institutions or legal practitioners involved in civil enforcement in order to obtain the perception of citizens about the civil enforcement system. Distribution of the questionnaire and collection of the answers. | | | | |











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| | Interviews of verification with prominent stakeholders. Classification, analysing and processing findings from the previous Activity 1.1.2 Preliminary identification conclusions, recommendations and proposals. Validation of final conclusions, | | | | |
|-----------------|---|--|--|--|--|
| Recommendations | recommendations and proposals. Recommendations and Proposals: | | | | |
| | To improve the level of legal literacy of citizens. | | | | |
| | To encourage the voluntary compliance of obligations. | | | | |
| | To provide more information about legal costs of enforcement. | | | | |
| | 4. To promote the use of Electronic Public Auctions and new electronic services: <i>e-Bulletin, e-Predmet, e-signature</i> | | | | |
| | To enhance the websites so they are comprehensive and more user-friendly. | | | | |
| | 6. To prepare a detailed Communication Plan. | | | | |
| | (For more details see Section 5.2 of this report) | | | | |











2. SUMMARY OF FINDINGS FROM ACTIVITY 1.1.2

In this Activity 3.1.1, the first one of Component III, which aim is to provide the STEs with a sound knowledge of the perception of general public about enforcement system, it is advisable to take into account the information gathered during the implementation of Activity 1.1.2.

In the previous Activity 1.1.2, a survey was conducted by the Mission Group in order to know the opinion of different stakeholder's institutions in the Croatian Enforcement System on civil matters (judges, bailiffs, court advisers, civil servants, notaries, consumers associations, police departments, lawyers) about the degree of effectiveness of the Croatian Enforcement System.

In view of the answers received to that questionnaire, the Mission Group identified some findings and conclusions that may be linked with the purpose of the present activity: public awareness about the enforcement system.

Among those findings we can select the following related to the Activity 1.1.2:

- The public opinion is that the time efficiency of enforcement system is slow or very slow.
- The main complaint of users concerning the enforcement system is the excessive length.
- The respondents were also concerned for the high costs of enforcement that enforcement creditor must bear and the uncertainty of the final cost of the procedure.
- Another main compliant of survey respondents is the lack of information about enforcement proceedings and the impossibility to obtain the information on debtor's assets.
- The stakeholders consider that there is an excessive backlog of cases in the enforcement system.
- Many participants indicated the lack of uniform criteria in Courts as an important obstacle and that identical cases not always have the same solution.
- Some participants suggested that it would be useful to raise the level of legal literacy of citizens through the work of various civic associations, legal counselling or within state institutions through a joint national campaign.
- A great group of legal practitioners identifies the lack of a central register of movable and immovable property as a crucial weakness of the enforcement system.
- The privatization or outsourcing of enforcement services is not considered as an appropriate measure in order to improve the enforcement system.











3. COMMUNICATION REGARDING ENFORCEMENT ON THE WEBSITES

The Mission Group has also analysed the current situation on different Websites of the main institutions in charge of civil enforcement in the Republic of Croatia. In recent times Internet access is widespread among the citizens. Therefore one of the most important channels of information is the Website designed by enforcement institutions. With these tools (WebPages), general public is able to access immediately and free of charge the information they require.

An initial study has been carried out on the websites of the most relevant organizations regarding enforcement system: the Ministry of Justice, the Municipal Courts (pages from Zagreb, Rijeka, Split and Dubrovnik), the Chamber of Notaries and FINA. And the main findings of the research are the following:

- On the Ministry of Justice's Website, we find that the citizen can see which law regulates the enforcement procedure (Official Gazette 112/2012, 25/2013 and 93/14), the purpose of enforcement proceedings, what are the enforceable documents, the main features of proceedings, and the enforcement debtor's rights. On this Website we can also discover more than thirty Frequently Asked Questions (FAQ), such as: "Can FINA block the account without prior notification? How is it possible that for the claim of HRK 80 at the end one has to pay almost HRK 900.00 or 1,100% more than the original debt?, etcetera."
- On the Webpage of FINA, we have noticed that it presents widespread and comprehensive information about enforcement proceedings but maybe not very reader-friendly and understandable for ordinary citizens. The information given includes the most important regulations that govern the process of enforcement over monetary assets and a list of assets exempt from the enforcement is defined. The page contains links where public can obtain standard models or forms in order to facilitate the submission of their claims. It is important to highlight that there are links to inform about the fees for the services provided by Financial Agency (FINA). They don't have any Frequently Asked Questions (FAQ). The enforcement information is distinguished between Enforcement of monetary assets and Enforcement of immovable and movable assets and in this section the new e-Auction Procedure is explained.
- The <u>Chamber of Notaries Webpage</u> defines the involvement of Notaries in the enforcement system when the enforcement is based on authentic documents made by Public Notary. The Website includes a list of Frequently Asked Questions (FAQ)











and like FINA Web Page contains a link with information about the fees for the services provided by Notaries.

■ <u>Websites of Municipal Courts</u>. From the long list of Municipal Courts' Websites we have explored pages of the courts in Zagreb, Split, Rijeka and Dubrovnik, and no information related to the enforcement could be found, none of them provide Frequently Asked Questions (FAQ), nor standard models or forms or information about the cost of the procedure.

FINDINGS:

- On the pages of different institutions involved in the enforcement system the concept and the main features of the enforcement procedure are included.
- The websites of the Ministry of Justice and the Chamber of Notaries contain a list of Frequently Asked Questions.
- The information about the costs of procedure is publicized on the sites of FINA and Chamber of Notaries.
- Only the FINA websites offers standardised forms to general public.
- None of the previous kind of information is facilitated by the websites of Municipal Courts.

| WEBSITE ENFORCEMENT SYSTEM | DEFINITION AND IMPLEMENTATION OF ENFORCEMENT SYSTEM | FREQUENT ANSWERS AND QUESTIONS (FAQs) | INFORMATION ABOUT COSTS | ACCESS TO FORMS |
|----------------------------------|---|---|--|---|
| MINISTRY OF JUSTICE | https://pravosudje.go v.hr/ovrha/6185 | https://pravosudje.go v.hr/istaknute- teme/ovrha/najcesca- pitanja-i-odgovori- 6436/6436 | n.a. | n.a. |
| MUNICIPAL COURTS | n.a. | n.a. | n.a. | n.a |
| FINA | http://www.fina.hr/D efault.aspx?sec=1490 (MONETARY ASSETS) http://www.fina.hr/D efault.aspx?sec=1754 (AUCTIONS) | http://www.fina.hr/D efault.aspx?sec=1490 (MONETARY ASSETS) http://www.fina.hr/D efault.aspx?sec=1754 (AUCTIONS) | n.a. | http://www.fina.hr/D efault.aspx?sec=1490 (MONETARY ASSETS) http://www.fina.hr/D efault.aspx?sec=1754 (AUCTIONS) |
| CHAMBER OF NOTARIES | http://www.hik.hr/Bilj eznicke-usluge/Cesto- postavljana-pitanja | http://www.hik.hr/Bilj eznicke-usluge/Cesto- postavljana-pitanja | http://www.hik.hr/Bilj eznicke-usluge/Cesto- postavljana-pitanja | n.a. |











4. QUESTIONNAIRE ANALYSIS

4.1. INTRODUCTION: OBJETIVES OF THIS APPROACH

For this Activity 3.1.1, entitled "Conducting consultations with all stakeholders in order to gather useful information and proposals about raising public awareness on enforcement system", the MG implemented a questionnaire addressed to different stakeholder institutions in the Croatian Enforcement System on civil matters (Judges, Court advisers, Notaries, FINA, Ministry of Finance, Lawyers, etc.) in order to gather information on current situation regarding public awareness about the enforcement system in the Republic of Croatia, and with the goal to collect some proposals or recommendations to be included in a future Communication Plan in order to improve the perception of general public about enforcement system.

4.2. - TECHNICAL DATA AND ANSWERS

The survey structure is based on questionnaire structured in two sets of questions with a total of 10 points.

In the first block of eight questions, under the heading or epigraph "Analysis of current situation", the target is to obtain a sound knowledge about the perception of general public about enforcement system. The objective of this questionnaire has been to obtain the citizens' opinion about how the enforcement system works, how efficient the system is, what are the reasons for the image of inefficiency, which is the best evaluated body or institution involved in the enforcement system, how informed the public feels about civil Enforcement system, if the new e-Auction system is well known by citizens and if they use the latest technological developments introduced in the enforcement system.

The second block of questions, under the heading of "Proposals and Recommendations", was drafted with the purpose of giving the opportunity to the respondents to evaluate various proposals to improve public awareness of the Enforcement system.

Finally, a third section was introduced where the participants could suggest freely all kind of proposals, recommendations and conclusions.

With regard to the type of questions, the Mission Group has prepared three types of survey questions: closed questions, partially categorized questions, and open-ended questions. There are six closed questions with a list of possible answers from which respondents must choose, four ordinal questions in order to ask respondents to rank a series of responses where the participants have to rate each option from 1 to 5, being 1 the lowest and 5 the highest. In the questionnaire there is one open-ended question (3) in order to ask participants to come up with their own suggestions











about proposals, conclusions and recommendations to improve the public awareness of the Enforcement system.

According to the Working Plan the questionnaire was widely disseminated among the representatives from the following stakeholders: Municipal Courts, Ministry of Justice, Ministry of Finance, Bar Association, Chamber of Public Notaries, Commerce and Social Committee, Ministry of the Interior, FINA and nongovernmental organizations.

The survey was conducted between 12th and 21th May 2015, and only 14 answers in total were received.

4.3 QUESTIONNAIRE RESULTS:

4.3.1 ANALISYS OF CURRENT SITUATION

The answers that respondents have given to the eight questions related to this issue are the following:

QUESTION Nº 1. - Overall, would you say that general public understands how the Croatian civil enforcement system works?

With this question the Mission Group intended to know the level of knowledge of general public regarding the enforcement procedure. Four answers were offered to participants: Yes very well, yes, not very much and absolutely not.

The result of answers shows that a vast majority of the respondents (86%) believe that citizens do not know very much about how the Croatian enforcement system works. Seven per cent think that public absolutely doesn't know and another seven per cent consider that citizens know about how the Croatian enforcement system works.

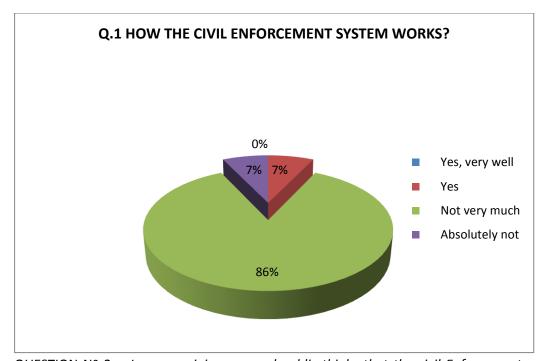












QUESTION Nº 2. - In your opinion, general public thinks that the civil Enforcement system is:

This question was asked in order to allow stakeholders to express their opinion from the point of view of citizens on the time efficiency of enforcement giving them the ability to choose one of three responses: Very effective, relatively effective and ineffective.

The answers show that nobody believes that the enforcement system is very effective; the majority think that it is relatively effective or say that the system is ineffective, 50% for each option.

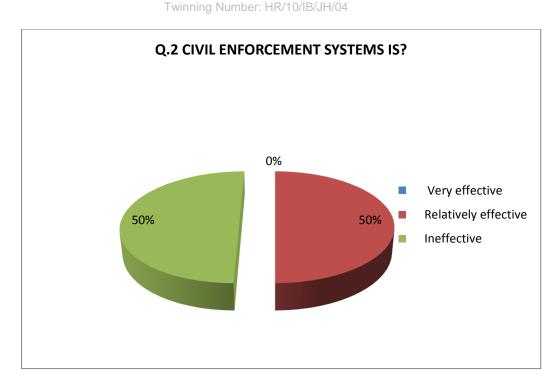












QUESTION Nº 3. - In your opinion, as a citizen user of the civil enforcement system, the reasons why it has an image of low efficiency are:

The purpose of this question is to inquire the participants' perception about the main reasons why the enforcement system has an image of low efficiency among citizens and the respondents were asked to rate four proposals from least important to most important by punctuating from one to five and a box was left so that they can suggest any other reason. The options to choose were the following:

- A. Enforcement procedures are complex and slow.
- B. The large number of pending enforcement cases and failure to comply with a deadline.
- C. Institutions and authorities do not have enough resources for the fulfilment of resolutions.
- D. Excessive bureaucracy.

The twenty eight per cent estimate the two main reasons are: the complexity and slowness of enforcement procedures and the large number of pending enforcement cases and failure to comply with a deadline. The twenty two per cent believe that the reason is the excessive bureaucracy and the same percentage thinks the motivation for the image of low efficiency is that Institutions and authorities do not have enough resources for the fulfilment of resolutions.

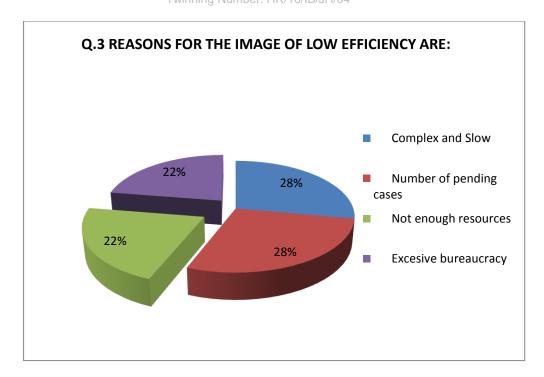












The free suggestion that participants have made about the reasons of low efficiency are:

- Legal remedies (appeal and motion for postponement of enforcement) that debtors use frequently and unjustifiably significantly prevent the implementation of enforcement.
- It's too expensive.
- Lack of motivation of persons involved in the enforcement procedure.

QUESTION N^{o} 4. - Among the following bodies or authorities involved in the Enforcement system, which one inspires you the greatest confidence?

The aim of this question is to find out which one of the institutions involved in the enforcement is the most highly evaluated by the citizens. To this end the respondents were required to rate each stakeholder (Judges and Court Advisors, Bailiffs, Notaries, FINA, Lawyers) from 1 to 5.

The results show that the highly appreciated institutions are Judges and Court advisors with twenty six per cent of the answers, followed by FINA that scores the twenty three per cent, the Notaries with twenty per cent, the bailiffs with sixteen and the lawyers with the fifteen per cent of the answers.

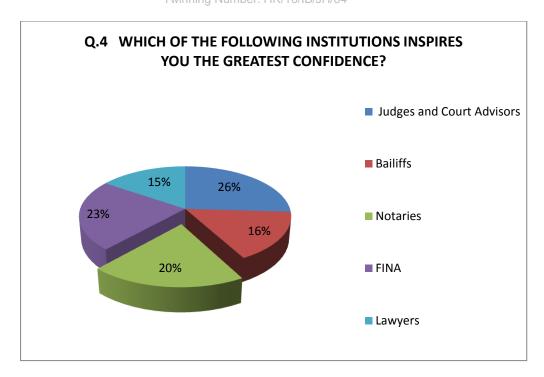












Question N^{o} 5. - In your opinion, how informed the public feels about civil Enforcement system, do they know the users' rights?

This question was asked in order to allow stakeholders to express their opinion on how informed are the citizens about the system enforcement, and whether they know their rights on this issue.

The participants had the ability to choose one of three answers: very well, well and not informed.

The results of this question show that the majority of respondents (72%) believe that 'neither citizens are informed about civil Enforcement system nor they know their rights'. The twenty one per cent think that general public is well informed and only the seven per cent appreciate that citizens are very well informed and they perfectly know their rights.

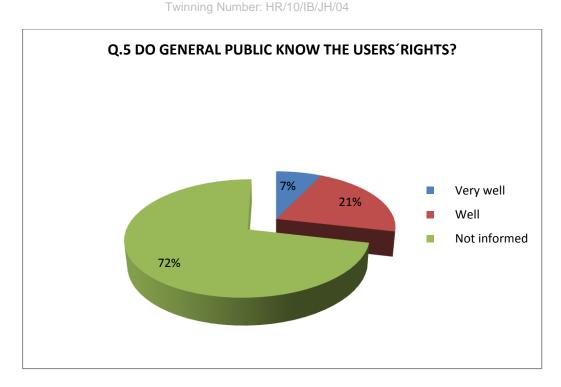












QUESTION N^{o} 6. - Do you find that the parties and their representatives receive on time and correctly the more relevant information about their files?

The purpose of this question is to inquire the participants' perception about the access of citizens involved in enforcement procedures to the files processed by competent authorities. The respondents have to choose one of four options proposed: Yes; Yes, most of the times: Hardly ever; and Never.

As to the results of this point of survey, the answers collected show that fifty-seven per cent think that general public is well informed most of the times, the thirty six per cent that hardly ever, the seven per cent that they are well informed and nobody believes that citizens have never been given the more relevant information about their files on time and correctly.

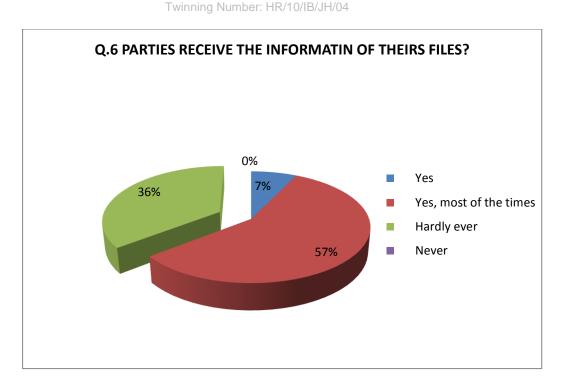












QUESTION No. 7. - Do you think that the new Electronic Public Auction is known enough by citizens?

With this question the Mission Group intended to know the level of knowledge about the new Electronic Public Auction, taking into account that this legislative innovation has entered into force at the beginning of the year.

The respondents could choose among three answers depending on whether they thought the public knows well the e-Auctions, slightly or they do not know how it works.

It is clear from the results of questionnaires that the general public does not know the new system of Electronic Public Auction; the ninety three per cent think that citizens do not know the new system and the seven per cent that the knowledge is slight.

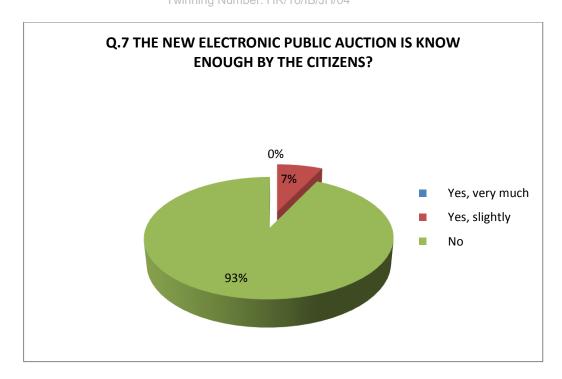












QUESTION No. 8. - In your opinion, do you feel that latest technological developments introduced in the enforcement system are sufficiently known and used by general public? (e-Bulletin, e-Predmet, e-signature, etc.)

The main goal of this question is to find out if the citizens are taking advantage of the latest technological developments introduced in the enforcement system. The respondents have to choose one of four options proposed: Yes very much, enough, not very and not at all.

And the results, like the previous question, is that the general public is not aware of the latest technological developments and consequently do not use them. In particular, the fifty seven per cent believe that general public does not know very much about the latest technological tools like e-Bulletin, e-Predmet, e-signature. And the forty three per cent think the citizens do not know about all these technologies.

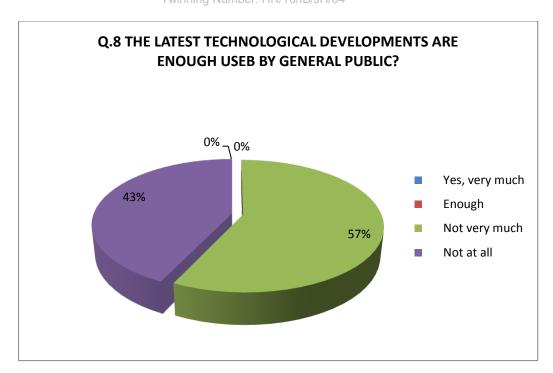












4.3.2 PROPOSALS AND RECOMMENDATIONS

QUESTION No. 9. - In order to improve public awareness of the Enforcement system among the following proposals, could you evaluate its usefulness and efficacy?

This question was asked in order to allow stakeholders to express their opinion about the usefulness and efficiency of some proposals in order to improve public awareness of the Enforcement system. The participants were asked to rate from 1 to 5 each of the following six proposals:

- To draft informative leaflets and booklets about the main features of the Enforcement system.
- To set up a range of comprehensive questions and answers (FAQ) regarding the enforcement system.
- Distribution among the public (citizens) of standardized forms for their claims.
- To provide the public information about the indicative cost of enforcement proceedings.
- To encourage the use of the latest electronic tools among citizens (e-bulletin, e-Predmet, e-signature, etc.)
- To create promotional videos.

From the answers received we can conclude that the most valued proposal is to set up a range of comprehensive questions and answers (FAQ) regarding the enforcement system, with the twenty per cent of answers, there are two proposals with the same percentage of eighteen per cent and are as follows: Distribution among the public (citizens) of standardized forms for their claims and to provide the





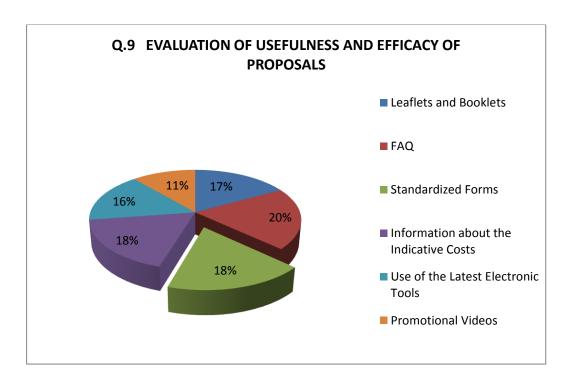






public information about the indicative cost of enforcement proceedings. The seventeen per cent think the best channel is to draft informative leaflets and booklets about the main features of the Enforcement system. The sixteen per cent believe to encourage the use of the latest electronic tools among citizens (e-bulletin, e-Predmet, e-signature, etc.) would be a good proposal and the least appreciated proposal has been 'to create promotional videos'.

The respondents were offered to suggest any kind of proposal but none was received.



QUESTION Nº 10. - In your opinion, what is the effectiveness of the next information channels to improve the awareness of the general public about the Enforcement system?

The purpose of this question is that the participants indicate which channel is the best way to reach the citizens in order to improve the awareness of the general public about the Enforcement system.

The respondents were asked to rate from 1 to 5 each of the following seven channels:

- To disseminate leaflets and booklets in Courts, public offices, consumers associations, etc.







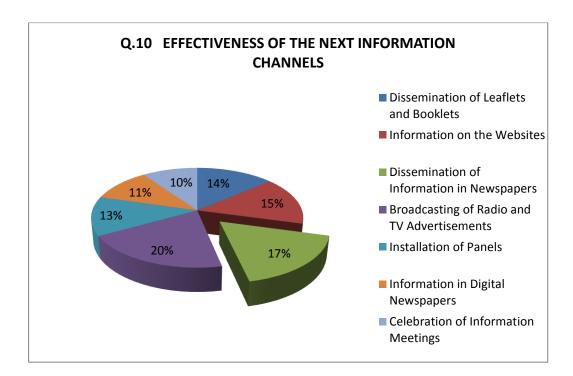




- To publish information on the websites of Ministry of Justice, FINA and Chamber of Notaries, etc.
- To disseminate information in newspapers and magazines.
- To broadcast advertisements in radio and TV.
- To install information panels in: Courts, public offices, FINA, etc.
- To set up information in digital newspapers (banners).
- To celebrate meetings to inform on Enforcement System throughout the country.

The results show that the highly appreciated channel is 'radio and television advertisements' with twenty per cent of answers, followed by the 'dissemination in newspapers' that scores the seventeen per cent, the 'information on websites' with fifteen per cent, the 'leaflets and booklets' with fourteen, the 'installation of panels' the thirteen, the 'information in digital newspapers' with eleven per cent and finally the 'celebration of information meetings' is the channel less valued with the ten per cent of the answers.

The stakeholders have suggested 'free educational seminars for financial and legal consulting' as a new proposal.



4.3.2. OTHER PROPOSALS, RECOMMENDATIONS AND CONCLUSIONS











Finally the survey included a section where the participants were invited to formulate their own proposals, recommendations and conclusions and they have provided the following inputs:

- 1. General public should be informed in detail on the provisions governing delivery of the writ of execution, especially the consequences of not registering accurately their address with the Ministry of the Interior. Most of the citizens are not aware of the possibility that the writ of execution can become final and enforceable once published on the bulletin board of the Court.
- 2. There is a public misconception about the purpose of enforcement proceedings; most people see it as "second chance" litigation, where they can reverse the decision, rather than a technical stage of execution of a final decision.
- 3. There is reluctance on the part of Courts and Police to perform and complete the seizures of real estate due to great public opposition against these measures. The frequent postponements of proceedings lead to the lost confidence in the overall legal system.











5. CONCLUSIONS, RECOMMENDATIONS AND PROPOSALS

Taking into account grounds and main findings laid down in previous sections, the following final considerations can be drawn:

5.1. CONCLUSIONS:

- **1. Lack of knowledge.** General public does not have a sound knowledge of the enforcement system in the Republic of Croatia. They do not understand the operation of the procedural system not only as regards Courts but also with other competent authorities.
- **2. Image of inefficient system.** There is a widespread opinion among the citizens that the Enforcement system is inefficient. They think that the enforcement proceedings are prolonged too much on time.
- **3. Reasons of Inefficiency.** The public believe that low effectiveness is because of the large number of pending causes, the complexity of the system, the excessive bureaucracy, and Institutions and authorities do not have enough resources for the fulfillment of resolutions.
- **4. Issues related to costs.** General public complains that the cost of the enforcement procedures is too high and they do not have enough information about the legal costs before starting the process.
- **5. Users are not informed.** The vast majority of citizens consider that they are not well informed about civil Enforcement system or about their rights.
- **6. Good transparency.** It is generally thought that the enforcement system meets the standards of transparency. The parties and their representatives receive the more relevant information about their files on time and correctly.
- **7. Uneven level of information on Web Sites**. In almost all websites of the different institutions involved in the enforcement system are included information about the concept and the main features of the enforcement procedure. Even though, this information could be completed and in many cases it is not very reader-friendly and understandable for ordinary citizens.











- **8. Standardized forms are not available.** Rarely the websites provide Standardized forms available to citizens.
- **9.** Lack of knowledge on Electronic Public Auctions. There is a remarkable ignorance of the new system of Electronic Public Auctions, started on 1st January, 2015.
- **10.** Lack of use of new electronic services. The latest technological developments introduced in the enforcement system are not sufficiently known and used by general public.(e-Bulletin, e-Predmet, e-signature).
- **11. Effectiveness of information channels.** In this Activity the usefulness and efficacy of the following information channels have been evaluated: leaflets and booklets, websites, newspapers, radio and TV, panels, digital newspapers, and meetings

5.2. RECOMMENDATIONS AND PROPOSALS:



- ❖ 1. Improvement of the level of legal literacy. It is advisable to raise the level of legal literacy of citizens in the field of civil enforcement, paying special attention to the latest legal developments.
- **2.** Encouragement of the voluntary compliance of obligations. It is recommended to spread the message of the voluntary compliance of their obligations among the citizens and to avoid the civil enforcement that involves unnecessary expenses and inconveniences.
- **3.** Promotion of the correct address registration. It would be desirable to inform the public about the consequences of not registering accurately their address with the Ministry of the Interior in order to avoid that citizens are surprised by notifications published through the Bulletin Board.
- **4. More information about legal costs.** It is desirable to provide suitable and accurate information about the legal costs.. All the associate expenses such as expert witness, fees, deposit, handing assets, etc. should be known before starting an enforcement procedure.











- **5. Promotion of Electronic Public Auctions.** It is relevant to promote the new system of Electronic Public Auctions among general public.
- **6. Information on new electronic services.** It is advisable to make known the latest technological developments introduced in the enforcement system among citizens and to encourage them to use these tools.
- ❖ 7. Websites comprehensive and user-friendly. The information given about the enforcement system in the institutional Websites should be improved. It is recommended to include reader-friendly and understandable information about the concept and the main features of the enforcement procedure, Frequently Asked Questions, the information about the costs of procedure and public standardized forms.
- **8.** Preparing a detailed Communication Plan. The previous considerations shall be developed in a detailed Communication Plan to raise public awareness of the Enforcement system, as stated in activity 3.1.2.

6. ANNEX:

6.1. QUESTIONAIRE

(See separate PDF file)

