

## **THE COMPUTERIZATION OF COURTS. IMPLICATIONS OF THE JUDICIAL MANAGEMENT IN THE ASSESSMENT OF THE TRANSPARENCY AND ACCESIBILITY OF LEGAL SERVICES**

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### **Abstract**

*The modernization and streamlining of judicial management involves major changes in information technology as well, in agreement with the new type of society that has emerged, the information society. Implementation of information technology in the judicial sector should be treated with due importance and considered as a guarantee that such legal services become more effective and efficient, more transparent and more accessible to citizens. The study aims to examine the progress in the field and the changes in judicial management down with the computerization of courts. It is important to investigate whether computerization creates prerequisites only theoretically, or in practice, there is a growing perception of the litigants towards the transparency and accessibility of the judiciary. Meanwhile, the study aims at identifying other important matters, besides computerization of court, that could influence the accessibility and transparency of judicial services.*

**Keywords :** *information technology, judicial organizations, judicial management, transparency, accessibility, quality*

**JEL classification:** *K 00*

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### **1. Introduction**

Judiciary shall be evaluated on the quality of all services provided by the court therefore efficiency, accessibility and transparency are improving the public confidence in the institution of justice.

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Unlike private management concentrated on a rational management of resources in order to obtain a maximum profit, public management is characterized by the role of public organizations to serve the general interest.

The public manager has a direct responsibility toward the citizen, responsibility which it is not encountered in the private companies. Courts' managers have an increased responsibility toward the citizen due to the judicial system's organizations specific objectives, namely the defense of legal order and the citizens' rights. The court's manager has to achieve a real mission, the right course of justice.

Thus, attaining political and social values requires at the level of the public institutions' organization the accomplishment of some indispensable changes that not always relate to costs and efficiency, but rather to principles such as transparency of public services, system's independence, facilitating citizens' access to public services and information of general interest.

An efficient and accessible judicice involves low indirect costs for participants in the process, full accessibility of the parties to all relevant documentation in a timely manner, hearings with finality, without eternal adjournments for procedural issues, predictability of the results based on arguments and interpretation of the evidence- a stability of judicial rules.

From the judicial management's perspective, the transparency and accessibility of justice require certain measures taken by the judicial managers to ensure the accessibility of data prior judicial sessions, the availability of public documents in the file, including the provisions preceding the sentence and the pleadings and argumentation of all parties. Transparency involves the publicity of sessions allowing open access to public and also the access to minutes of hearings by anyone. Finally, access to judicial decisions must be provided immediately to all interested parties on the website of the courts. *The judicial managers are ultimately the ones responsible for implementing the accessibility and transparency of judicial documents and procedures.*

## **2. Computerisation in the context of modernizing public management**

The last decades are characterized by profound changes in almost all areas, especially by the emergence of a new type of organization, the informational organization, whether we speak about the private or the public sector. The new informational organization is considered by the specialists the century's new type of organization in the context of which the reality proves

that the information itself is the symbol of this period characterized by the addition of specific tools: computers, telephones, multiplier, faxes, etc. (Cândea, D., 2010)

We can affirm, without any doubt, that the information has become one of the most important strategic resource for all organizations. Collecting, processing, transmission and storage of data are essential for the quality of decisions and their final purpose. (Androiceanu, A., 2004)

Implementing the information technology in organizations form public sector it is considered as an opportunity for government services which can become more accessible and transparent but also more effective and efficient. David Mc.Kewitt, a well-known specialist in the field of public management, states that the access to public information gives some transparency to the management process and clearly sustains the development of the society as a whole.( Mc.Kewitt, D., Lawton, A., 1994 )

The impact of this trend over the public management system in Romania presumes changing the perception over the flow of information in the area of administrative and judicial system, which does not fit in a linear track. (Cândea, D., 2010).

The first step of Romanian public management's modernization was achieved beginning with the year 1998 by the informatization of the domain, when in February 1998 was approved by government decision the *National Strategy for Informatization and urgent implementation of the Information Society* and the *Program Action* regarding the widespread use and development of information technology field in Romania.

In 2001, the Romanian Government through the *Ministry of Public Administration* has developed the *National Action Plan "e-Administration"* enclosing the following coordinates:

- computerization of the activities in public institutions through which will be ensured the increase of operational efficiency within central and local government bodies;
- public services computerization for the citizens' use, economic operators at the central and local government level.

The same trend was recorded also in the justice field where, since 2005, has been a priority the computerization and considered to be a reform of the judicial system. Thus, by the Government resolution 543/2005 was adopted the *Informatization Strategy of the Judicial System 2005-2009*.

The most important achievements as a result of the strategy's implementation were: the judicial institutions' endowment with computers and software licenses, development of LAN and WAN networks, the development of ECRIS information system of the document's management at the level of the courts and prosecutors, and the development of the documents' electronic archiving.

### **3. The New Informatization Strategy of the Judicial System for 2013-2014**

Remarkable progress recorded by the judicial system in accordance with the Informatization Strategy of the Judicial System during 2005-2009 should be continued, and a number of enhancements should be realized so that the information system to meet the requirements and changes. Implementation of IT solutions should be seen as a continuous process, it is known that all physical systems become worn and out dated in maximum 7-10 years since implementation. So, on the one hand to remain functional the systems require constant updating and renewal, taking into account new technologies and products but also the practice indicates some deficiencies that are required to be fixed.

Information system development contribute to the modernization of judicial management and the efficient justice administration through prompt communication between the judicial system's organizations, procedures standardization, easier access to information, its quality, promptness.

New Informatization Strategy aims to improve the judicial procedures' efficiency, increase the transparency of the judicial system, ensure the information security and integrated management of human, financial and material resources.

All this outline four major areas of action:

- a) efficient judicial procedures;
  - b) increasing the level of transparency;
  - c) increase the level of information security;
  - d) integrated management of human, financial and material resources.
- (Strategy on computerization the field of justice 2013-2014)

#### **4. Computerization as a guarantee of transparency and accessibility of justice within the Judiciary's Development Strategy for the period 2015-2020**

The strategy project was prepared by the Ministry of Justice and is based on the recommendations made by World Bank experts, the project "Functional analysis of the justice sector in Romania" and contains the main targets for the development of the judiciary for the period 2015-2020.

One of the priorities is to ensure transparency of the act of justice using computerization giving a meaning to the concept of Open Justice.

For increasing the transparency of justice the relevant court decisions will be published and a system to access online files will be implemented, as measures with a direct impact on the perception of citizens about the judicial system as a whole.

The strategy highlights the need for considerable improvements in electronic instruments that are currently available to the judiciary ensuring the online publication of motivated decisions and other relevant data on cases that stand before the courts. Only through continuous improvement they can serve the purpose for which they were created: on one hand, unification of jurisprudence, and on the other hand, increasing transparency and trust in the act of justice.

One of the most important challenges of the Strategy is to meet World Bank recommendation to "reduce and eventually eliminate paper records and to improve electronic document management capabilities."

#### **5. Informatization of justice – essential condition for justice transparency**

An effective and efficient justice is not about the finality of judicial activities, carrying out the right act of justice, conducted within a reasonable time but also ensure transparency throughout the procedures by facilitating the justice seeker's access to information. Important progress has been achieved in this regard by providing some applications such as courts portal ([www.portaljust.ro](http://www.portaljust.ro)) or ECRIS Infokiosk where can be accessed information from the ECRIS system regarding the open cases.

The justice's transparency as main direction for achieving the justice reform and modernization of judicial management it is claimed, requiring continuous efforts materialized through measures such as:

- sustained efforts to improve information systems that ensure random distribution of cases as a guarantee of transparency and impartiality of judicial services;
- ensuring the citizens' access to public information, continuously updated through the Ministry of Justice, Superior Council of Magistracy, the High Court of Cassation and Justice and other courts' websites.
- openness toward the mass-media and NGOs by providing online public information about the court's activity and other activities with public character;
- designed and distribution of guides for litigants;
- introducing and improving judicial platforms which can provide the parties with an interest in the cases, litigants and other professional categories - lawyers, experts, current information regarding the status of the case, filed documents, procedural steps performed;
- electronic -services for citizens, lawyers and other professionals involved in the act of justice;
- online services provided by the National Trade Register Office for the business community, citizens, public administration and other entities.

### **5.1. ECRIS system and random distribution of cases**

ECRIS is a national system of electronic management of court's documents. ECRIS was originally developed by the Indaco company, later version being developed by the Greek company - European Dynamics. Different development contracts of the ECRIS system were financed with European funds totaling tens of millions of euros.

The need of ECRIS system's implementation came after the period 1990 - 2000, when the system of case assignment to judicial panels were the responsibility of the president of the court.

The European Commission requested to change the system because the used system presented the risk that the presiding judge to "direct" the cases to a panel of judges which could fully know it's "favorable" for the defendant. The same incidents, the preferences for a particular panel of judges seriously affect the presumption of impartiality and independence, transparency of the justice services, and for other causes, civil, commercial, etc.

For the rectification of these serious deficiencies that affected the transparency and especially functional independence and the impartiality of the act of

justice it was established the randomly assigning cases, legally regulated by art. 11 and 53 of Law no. 304/2004.

Random assignment of cases to the panel of judges began in August 2004.

## **5.2 Portal just - the first portal of the courts in Romania**

Portal just as the first courts' portal was developed in the project *The development of electronic tools for managing the communication procedures of the subpoenas and the insertion into the court's portal of a general search engine*, a project co-funded by the European Union specific Programme "Criminal Justice".

Portal just brings the main novelty elements([www.portaljust.ro](http://www.portaljust.ro)):

- performant search-engine of the information from the portal;
- citing the people with unknown residence using the publicity for
- facilities for people with disabilities;
- programmatic access to the data from the portal for interested individuals and institutions;
- access from mobile devices (smartphones, iPads).

The portal provides to any interested person information about the courts in Romania in terms of presentation of the courts and the organization, contact information, public information regarding the courts of Romania the meeting lists, cases and implicated parties, decisions of the courts. The portal also provides information regarding the jurisprudence relevant at national level giving the possibility of search by number, year, area.

**Citing through advertising**, as novelty facilitates summoning the persons with the unknown residence in a transparent way, the portal enabling the search of the subpoenas by introducing the party's cited name, display of the subpoenas containing information about the cited part, the other parties, the place and date of the hearing, the file.

We can see that the portal brings considerable improvements as well as in the stages of increasing the transparency of the legal services and also regarding the free access to public information by creating headings / subdomains like : The Court in Figures, Information of Public Interest, Contests, Public Procurement, Good to Know.

### **The Courts' websites**

In Romania each court has a websites hosted by this portal. The information on this portal is introduced and upgraded directly by court's staff, except for the information about the cases and meetings. This information is

automatically taken from the management' system of the case in the court - ECRIS CDMS. At the central level (MJ) is maintained (added, updated, deleted, etc.) the information about the constituencies (postal codes).

### **Information about cases and meetings**

Information about the **files** and the sessions are automatically updated, daily, at the central level (portal's database) at the courts' level (ECRIS CDMS database of that specific court). Then, the updated information is indexed by the search engine for the proper portal to be quickly found when the information it is needed.

The up-to-date information about the cases (reported to the internal management application of the case in court ECRIS CDMS) is the information available at Infokiosk ECRIS application that can be accessed from Infokiosk terminals present in each court.

The portal contains information about the cases that are pending in court, and not about the cases that were solved and are now in the court's "passive" archives.

The portal's applications and Infokiosk there are no information available about all the cases in court, some of these being confidential (ie. cases of adoption).

To comply with current legislation regarding the protection of personal data through the portal or the Infokiosk application are not provided other information (eg. PIC, UIC) except those already mentioned in the cases' page of details.

In order to increase accessibility to information stored, the portal's user manual (.doc) can be downloaded.

Cases search can be done by the following query parameters: the case's number, the case's object, the names of the parties in the case, the court at which is pending the case, the period of time (cases within a time).

The information obtained by introducing a sufficient number of search parameters, the unique case number being the most accurate and relevant, are:

- case number (unique number format);
- number- old format (if any);
- the case date;
- court's case;
- the department (section);
- the case's category;
- procedural stage of the case;

- the case's parties;
- the case's list of terms;
- lodging appeals list;

Interested persons can find information, on the portal regarding the court's hearings, using the following parameters: the date of the hearing and the court, both the parameters being mandatory.

The information that can be received are:

- the department (section);
- panel of judges;
- date of the meeting;
- time of the meeting;
- list of cases scheduled in that meeting;

### **5.3. Computerization of justice through the Romanian Institute for Legal Information**

Also in terms of transparency of justice, another significant measure is applicable in the adoption by the Superior Council of Magistracy of the Decision no. 884 / august 20, 2013 through which the courts have been authorized to provide for the Foundation "The Romanian Institute for Legal Information" – ROLLI, the judgments delivered in order to be published, in compliance with the Law no. 677/2001 on the protection of individuals with regard to the processing of personal data and on the free circulation of such data, as amended and supplemented.

Publishing the judgments delivered on the internet is at the moment an assumed obligation by the Romanian government in the context of the Cooperation and Verification Mechanism after the EU adherence in the field of the justice's reform and the fight against corruption. According to the principle of free access, free and general to the court ruling, the citizens have the right to know any verdict given by the Romanian courts, regardless of their degree, except those which by their subject, involving confidentiality, and the authorities have the obligation to guarantee the exercise of this right through free and full publication of all verdicts, in their original form, without any intervention other than the removal of personal data.

With this purpose, the Superior Council of Magistracy considered that it is necessary to reorganize the existing program JURINDEX as a National Institute of Judicial Information, extending the program to all courts and the diversification of the sources of documentation published. As a result, in 2012 was founded the Foundation "The Romanian Institute for Legal Information"

– ROLLI and the founding members being the Superior Council of Magistracy and the National Institute of Magistracy. One of the mentioned objectives of this foundation is to support, develop and promote free access to legal public information by creating the appropriate framework necessary in order that the legal information resulted from the public authorities and institutions' activity to be made available to every citizen free of charge, in electronic format and in particular via the internet.

For achieving its goals, through the activities to be developed by the Foundation are included the administration and the development of the JURINDEX program - National Jurisprudence Portal, which since the time of the Foundation's establishment, is part of its heritage, and its main activity is the publication on the Internet the courts' decisions, having an open, general, free of charge and anonymously access. The decision of the Superior Council of Magistracy no. 884/2013, mentioned above, was adopted in order to sustain the "The Romanian Institute for Legal Information" – ROLLI's activity, by publishing courts' decisions.

#### **5.4. Developing independent platform in order to help the citizens and courts**

The platform [onoratainstanta.ro](http://onoratainstanta.ro), accessible from 2013 is another progress in the computerization of the judiciary domain, being a free and independent project that aims to bring an important contribution in building the transparency of justice, increasing public confidence in the justice system.

The platform is the result of the project Open Justice 2.0 for Romania, which aimed to develop a methodology for assessing the predictability of the judiciary act on the basis of quantitative and qualitative indicators and the analysis on the relevance of the data obtained with the purpose of developing some public policies in the field.

The specific objectives which the platform suggests:

1. Develop a methodology to assess the predictability of justice, using three main indicators: duration, jurisprudence, judiciary performance;
2. Increasing transparency by making data available through an interactive, friendly and comprehensive platform;
3. Promoting some standards to ensure a predictable judicial act in partnership with the authorities responsible for managing the judicial system.

The target group to which the platform is addressed to is the common citizens as user / client of legal services, its purpose being to increase confidence in the justice system for the website's visitors by providing data and information of a neutral and impartial character.

The platform aims also to get the judicial managers and magistrates' attention. Those two categories are directly targeted by the information on the website and can benefit from a comprehensive platform which would provide an overview of the courts and concrete benchmarks on an organization's performance or the entire judicial system.

The platform's purpose is even greater than that, trying to take into consideration the decision makers from the justice system – active participants at the research and advocacy activities, building partnerships in order to identify the best solutions for evaluating the system's performance.

## **6. Study about the impact of informatisation on the client of justice. Other important aspects regarding the transparency and accessibility of justice from the justiciable's perspective**

**Methodology.** The objective of this study is to develop understanding of the peculiarities of the computerisation process in the judicial management and provide solutions regarding how the transparency and accessibility of services can develop in order to increase the judicial client's satisfaction and confidence in the institution of justice.

The applicative part of the study consists of designing and administering a questionnaire to litigants who have cases pending in the Sibiu courts, in order to investigate their perceptions of accessibility and transparency of justice, mostly concerned over how computerization has increased their access to information on files and their confidence in the transparency of the legal system.

The study was guided by the following assumptions:

-transparency and accessibility are important milestones in assessing the quality of justice;

-computerization is a guarantee that the process of solving the cases is transparent and accessible;

-the clients of justice are reluctant to these changes, they do not know how to access electronic information and are still associating the accessibility and transparency of the judicial services to the archives and registry services;

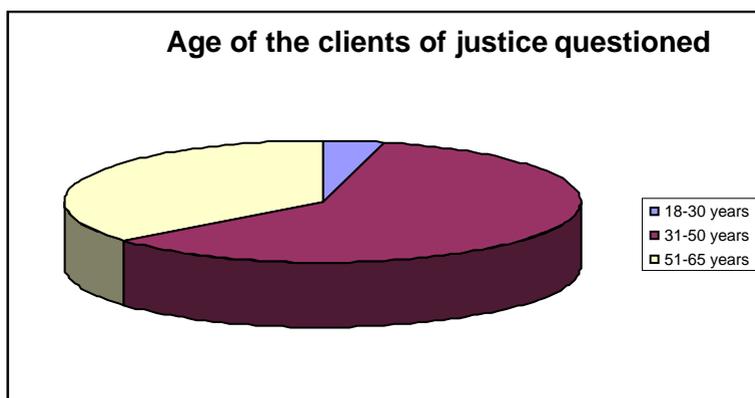
-the strategy on computerization and other acts of judicial management create the conditions for modernizing judicial management and increasing transparency and accessibility but judicial managers must take other measures to ensure that the citizens effectively feel the transformations of justice.

The research aims to improve and increase knowledge of the areas studied through application of management theories on the one hand, and to find solutions to concrete problems, on the other hand.

During a week, in this stage, 50 questionnaires were addressed to the justiciable being tackled those who were present at the court to take part in the hearing, to lift a judicial act or to request an information. We questioned the parties or witnesses regardless of the procedure in which they were involved, civil, criminal, administrative or commercial.

The distribution by age we can express as follows (Figure 1.):

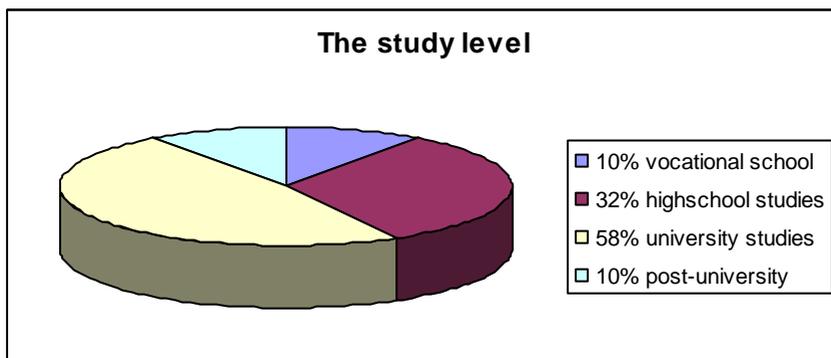
**Figure 1: Age of the clients of justice questioned**



60% of the justiciable questioned were between 31-50 years old, 36% were between 51-65 years old and only 4% were between 18-30 years old.

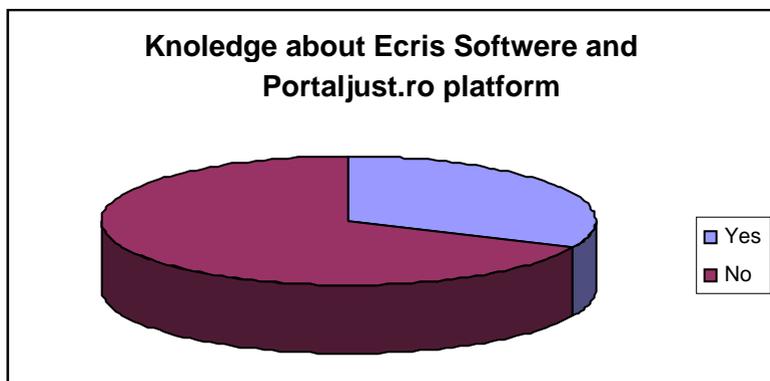
The education average was at follows:

Figure 2: Education



The study tried to find out how many people were actually feeling the benefits of computerization of courts and using on-line information concerning their file. Among those investigated only 32% knew about the existence of Ecris program or the possibility to consult the site *www.portaljust.ro* in order to find information on file, the law term set in the case, the reason of postponing terms, what was ordered in each session and finally, the solution pronounced.

Figure 3: Knowledge about Ecris Software and Portaljust.ro platform



None of those surveyed knew about the existence and the use of a special device precisely in the court's lobby that allows the rapid information of citizens regarding the pending cases in court.

These special computers network linked to the court was being recently introduced (about three years ago) and proved to be very helpful for professionals in the field, lawyers, jurists, experts who could rapidly consult the flow of documents in the file without resorting to the services of archive or registry.

A first set of conclusions on the survey points out that, unlike justice professionals, ordinary litigant have not experienced yet the effects of computerization either because of the lack of knowledge or because of a reluctant attitude, part of peoples' resistance to change.

As a result of this first part of the study we make the following **recommendations** to improve judicial management:

- The leading staff of the court must take action, in cooperation with lawyers, to promote the use of information technology among litigants.
- Justice sector personnel should be encouraged to use information technology applications in their daily work.
- Publishing relevant judicial information, the means of access to justice institutions on websites in due time and in an accessible format for the citizens.
- Training of staff who has responsibilities in the Office of Public Relations for a better communication on the matter.
- Partnerships with NGOs and civil society involved in special programs to inform and educate citizens.

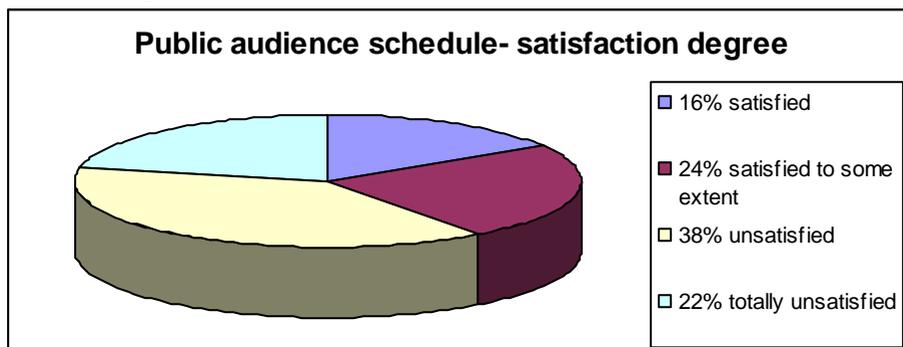
Since educating individuals takes time because resistance to change is strong and time consuming we should evaluate the requirements regarding the transparency and accessibility of services for those categories of litigants who have no access to on-line information or simply prefer to be informed at the court only. At the same time there are certain activities such as study case files or the legalization of decisions that compulsorily require the presence of litigants in court and the usage of archives and registry offices.

For this category, accessibility and transparency of the judicial system is associated with easy access to the offices of archives and registry, a longer public audience schedule, giving more possibilities to study the file or get photocopies of the documents. A very short program, a cumbersome process

for a simple operation affects the whole perception of the litigant concerning the transparency and accessibility of justice. Even the support staff's attitude can influence this perception, a clerk who lacks patience and kindness, giving brief and limited indications may seem to litigant biased, limiting his rights. Clear informations, simple procedures, courteous tone creates the image of a transparent and accessible justice.

As a result of our research at the courts of Sibiu we found that only 16% of the litigants were satisfied with the public audience schedule, 24% have expressed a neutral attitude being satisfied to some extent, so neither satisfied nor dissatisfied while 38% said they were dissatisfied and 16% were totally dissatisfied. The last ones argued that the public audience schedule conducted only in the range 8.30-12 is not enough, the majority of them being busy with their job in this interval. None of the respondents was fully satisfied.

**Figure 4: Public audience schedule-satisfaction degree**



Respondents were asked to evaluate the accessibility of archives and registry. Services are accesible if offices are well signposted, located in appropriate spaces and mostly when they make the handling of documents easier. In case of a cumbersome procedure to gain a basic right, like the right to have free access to the case file, or when one faces unnecessary formalities, justice becomes no longer accessible in the minds of individuals.

Statistically, 16% said they were satisfied with the accessibility of services, 30% of people took a neutral position, 38% were dissatisfied and 16% totally dissatisfied.

Figure 5: Accessibility of services-the satisfaction degree

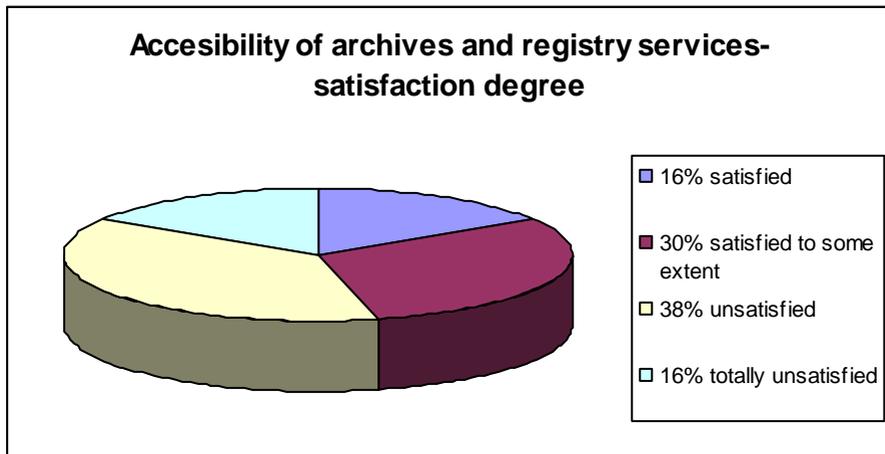
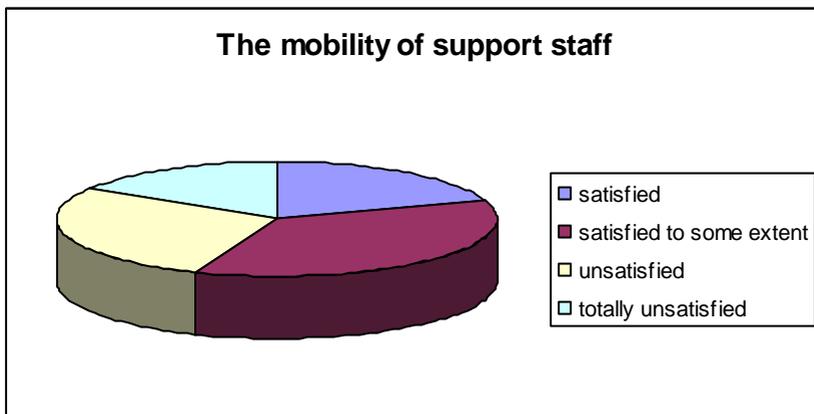


Figure 6: The mobility of support staff-satisfaction degree



As for the mobility of the support staff, it is only 20% of the respondents who stated to be satisfied, while 28% of the participants were dissatisfied and 16% people have responded to be totally dissatisfied. 36% of the respondents took a neutral position being neither satisfied nor dissatisfied.

## 7. Conclusions

The new information technologies and their constant updating at the moment's needs will bring benefits in terms of reducing costs and shortening the terms, thus influencing the efficiency of judicial organizations and increasing confidence and citizen involvement by demonstrating a high transparency and accessibility to the justice's services and access to information of general interest. Computerization can be an adequate response, primarily, of the capacity of the system to provide information to individuals. Thus, computerization is the foundation on which to build transparency.

Undoubtedly, the implementation of such changes in the judicial management requires a comprehensive training and specialization process at the level of the judiciary personnel and especially at the judicial managers' level, who need to understand the practical use of computerization and acquire, where necessary the professional and managerial capacity to integrate new information technology in the developed activities. At the same time educating litigants must be an important part of the change process.

Judicial managers should be aware that the benefits of computerization will be gradually felt in time, for both the judicial client and for the justice personal as well. Long time from now, the Romanian litigant will associate the accesibility and transparency of justice with the way the registry, archive services and the office of public information work.

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