

TRIAL MONITORING FIRST REPORT

GRAND CORRUPTION CASES ACROSS THE KURDISTAN REGION OF IRAQ

November 2022 - December 2023

This report is the product of collaboration between the United Nations Development Programme (UNDP) (Anti-Corruption and Arbitration Initiatives Project), the Human Rights Office of the United Nations Assistance Mission for Iraq (UNAMI), and the Judicial Council of the Kurdistan Region of Iraq, with funding provided by the European Union Mission.

The programme focuses on monitoring major corruption cases in the Criminal Courts of Erbil, Duhok, and Sulaymaniyah. The programme assesses judicial procedure and practice, the application of legislative provisions, and trial outcomes.

In the initial phase of the program, the team monitored 100 cases and reviewed 50 judicial decisions issued during the period of 2016-2022. These were encompassed in the report, which included the results of quantitative and qualitative analysis of the monitored and reviewed cases, as well as recommendations directed to each entity concerned with combating corruption.



Funded by the European Union
بتمويل من الاتحاد الأوروبي



Judicial Council



FOCUS OF PROGRAMME AND REPORT

Jurisdiction: Criminal Courts across Erbil, Duhok, and Sulaymaniyah

SUBJECT: MAJOR CORRUPTION CASES



Cases involving high monetary threshold



Cases involving high-level ranks

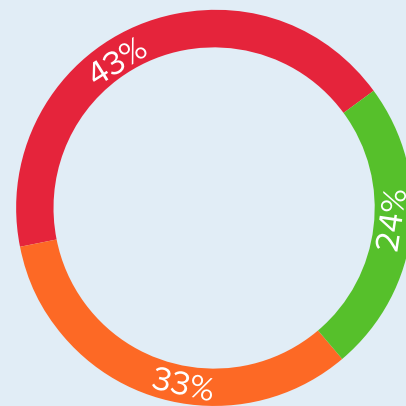
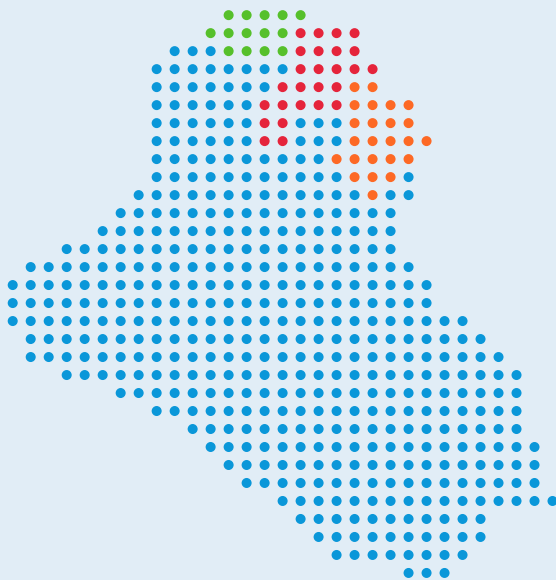


Cases in the public interest and/or against informants

KEY FINDINGS

1. CORRUPTION CASES ACROSS THE KURDISTAN REGION OF IRAQ

CASES BY GOVERNORATE



● Erbil ● Duhok
● Sulaymaniyah

Includes:

- November 2022 to December 2023: 100 Monitored Cases
- 2016 to 2022: 50 Reviewed Verdicts

2. CORRUPTION-PRONE GOVERNMENT SECTORS

TOP SECTORS:



25%

of all cases

Ministry of Finance



18%

of all cases

Ministry of Electricity



17%

of all cases

Municipal Council

SECTORS	MONITORED	REVIEWED	TOTAL CASES
Ministry of Finance	26	11	37
Ministry of Electricity Power	11	16	27
Municipal Council	18	8	26
Ministry of Education	7	6	13
Ministry of Interior	7	5	12
Ministry of Health	8	0	8
Ministry of Higher Education	4	0	4
Governorate Council/ Office	3	0	3
Ministry of Trade	1	2	3
KRI Council of Ministries/ Non-Governmental Directorate	2	0	2
Ministry of Arts and Culture	2	0	2
Ministry of Labour and Social Affairs	2	0	2
Ministry of Immigration and Displacement	2	0	2
Ministry of Peshmerga	2	0	2
Ministry of Defence	1	1	2
Investment Directorate	0	1	1
Ministry of Agriculture	1	0	1
Ministry of Construction and Housing	1	0	1
Ministry of Industry and Minerals	1	0	1
Ministry of Oil	1	0	1
TOTAL	100	50	150

3. TRIAL OUTCOMES: CONVICTIONS, ACQUITTALS, AND RETURNS TO PRE-TRIAL INVESTIGATION

MONITORED CASES

Equal distribution between adjudicated cases and those still pending trial (46% to 45%).



Ongoing

45 cases

REMAINING MONITORED CASES

An increase in the number of convictions compared to acquittals (20 to 26), and a decrease when compared to the reviewed judgments.

An increase in the number of cases returned to pre-trial investigation (8 out of 100 in the monitored cases, compared to zero in the reviewed cases).



Guilty Convictions

26 cases (47%)



Acquittals

20 cases (36%)



Returned for Re-investigation

8 cases



Re-assigned to Misdemeanour Court

1 case

REVIEWED CASES



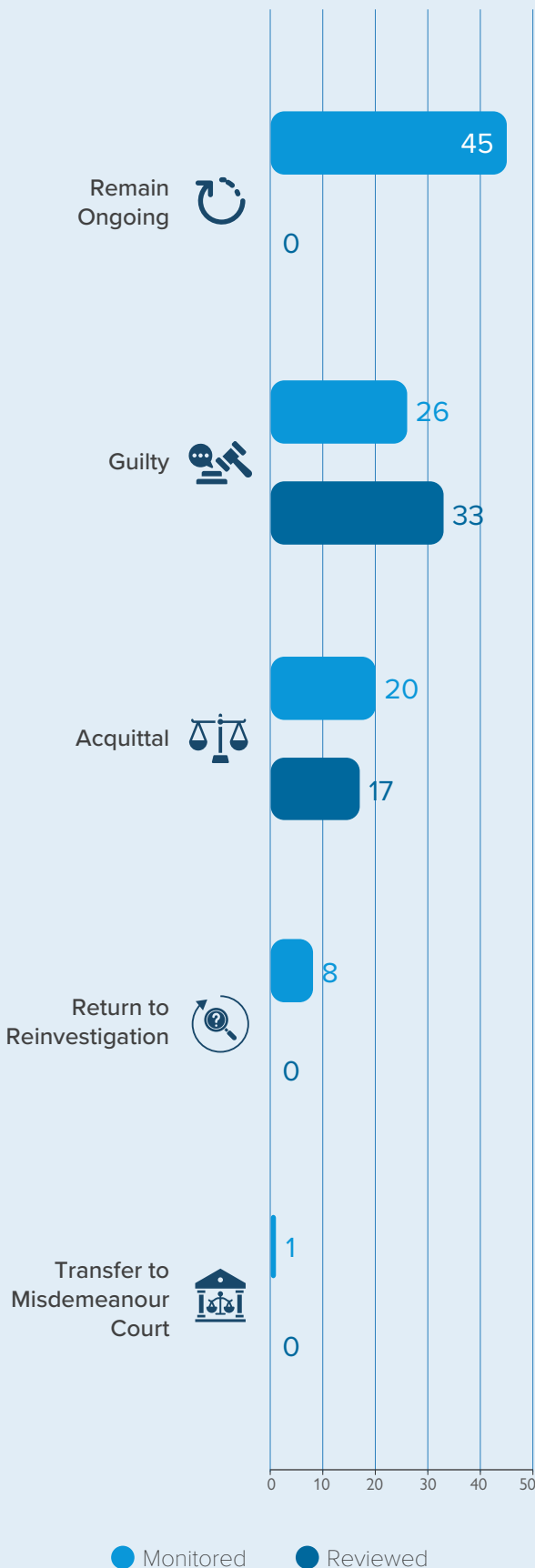
Acquittals

17 cases (34%)



Guilty Convictions

33 cases (66%)



4. LACK OF HIGH-LEVEL DEFENDANTS

DEFENDANTS PROFILE IN CORRUPTION CASES

Across the 150 cases, there were a total of 257 defendants.



150

Total Cases Analyzed



257

Total Defendants

DEFENDANT BREAKDOWN

There were comparatively few high-level government officials charged (Managers, Heads of Departments), and no very high-level government officials charged (ministers/deputy ministers etc.).



High-Level Officials

LOW-LEVEL GOVERNMENT EMPLOYEES

The number of low-level 'government employees' represented 52% of defendants in monitored cases and 49% of defendants in reviewed cases.



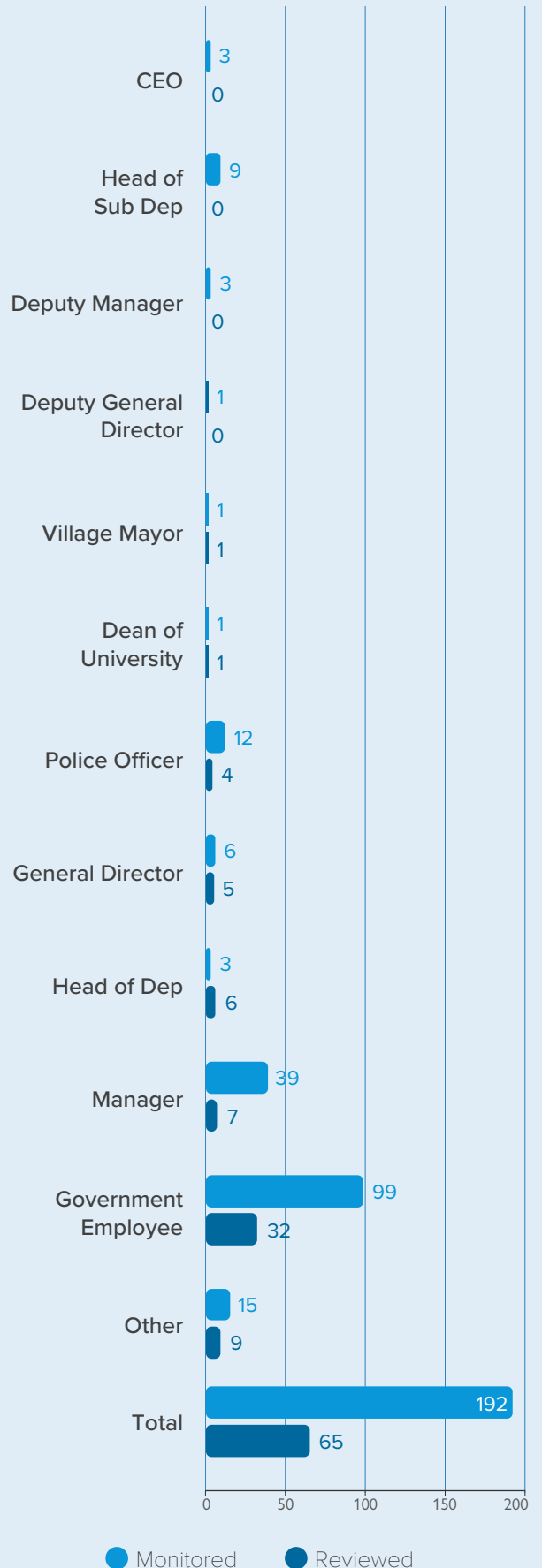
Monitored Cases

52%



Reviewed Cases

49%



5. RELIANCE ON CERTAIN LEGAL PROVISIONS

MONITORED CASES

An increase in the number of felonies related to intentional damage through abuse of public office (44 from 7).

Resort to prosecuting offenses of misuse of public duty under Article (340) as a felony, in contrast to the federal level practice.

Article 340
(Felonies)

44 cases

Intentional damage to public property or interests, breach of duty

OTHER MAJOR CHARGES (MONITORED CASES)

Consistency in the number of bribery offenses observed and a decrease in the number of embezzlement crimes.

Embezzlement (Article 315) **16** cases

Bribery (Article 307) **15** cases

Exploiting Position for Personal Gain (Article 316) **10** cases

REVIEWED CASES

Embezzlement (Article 315)

18 cases

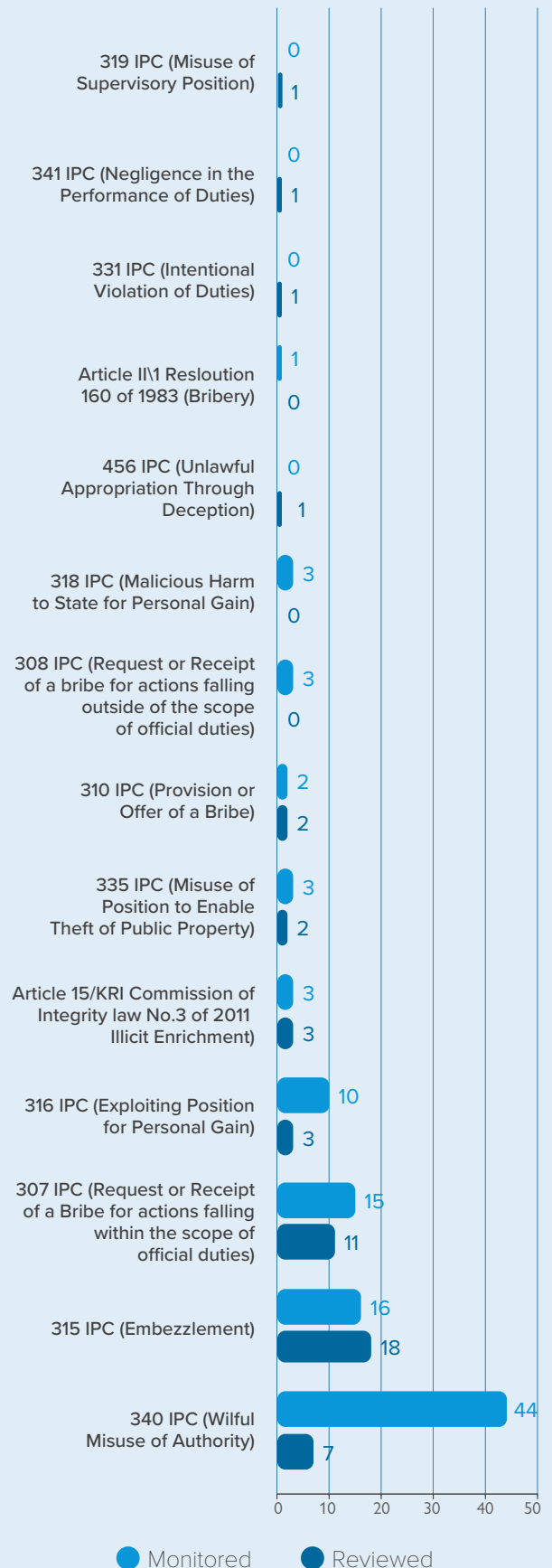
Bribery (Article 307)

11 cases

Misuse of Official Authority (Article 340)

7 cases

CASES BY CHARGES

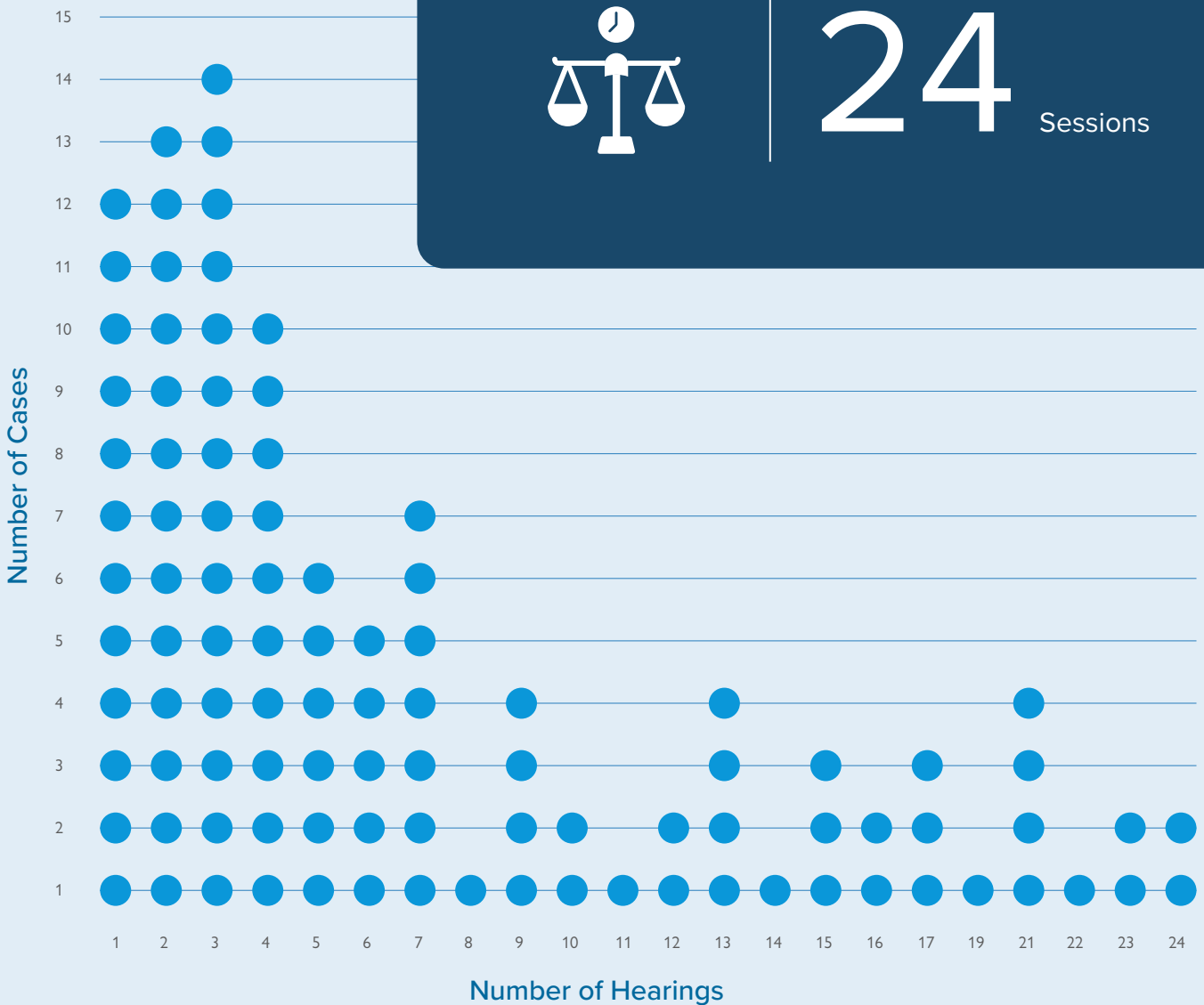


6. LENGTHY TRIAL PROCEEDINGS

COMPARATIVE LENGTH

Significant disparity in length of trials in comparison to the federal level.

NUMBER OF HEARINGS IN MONITORED CASES



TRIAL LENGTH STATISTICS

MAJORITY OF CASES



55%

Completed in 5 sessions or less

LONGEST TRIAL



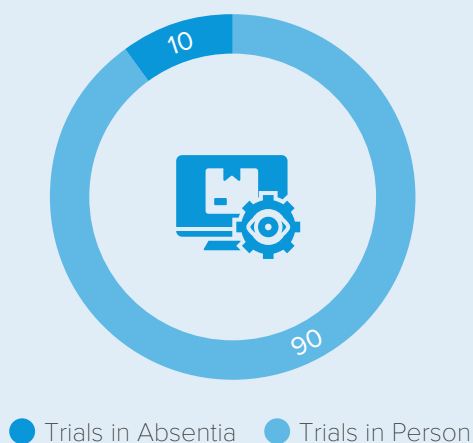
24 Sessions

7. DECREASE OF TRIALS IN ABSENTIA

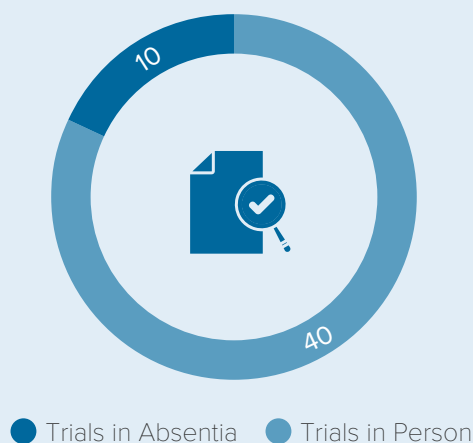


Monitored cases show a disparity when compared to the federal level.

MONITORED CASES



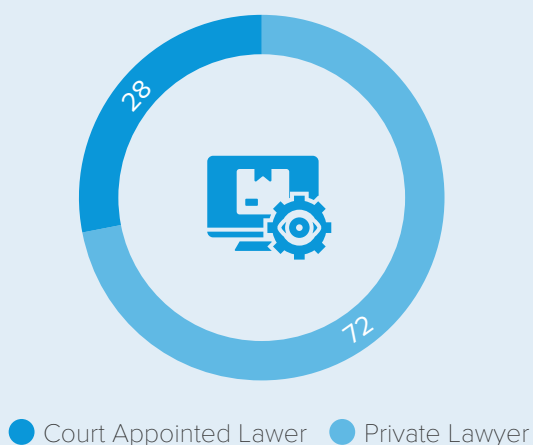
REVIEWED CASES



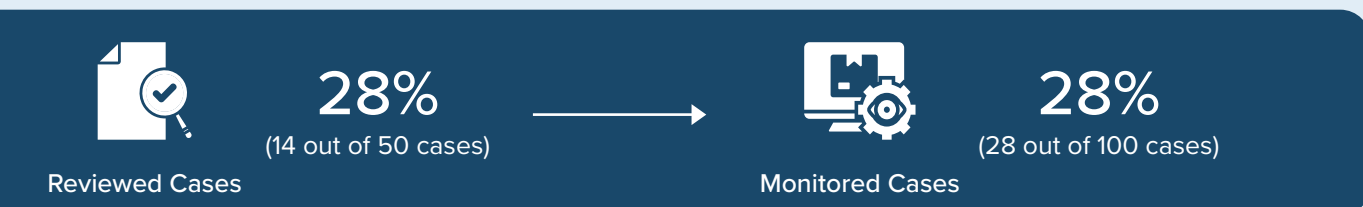
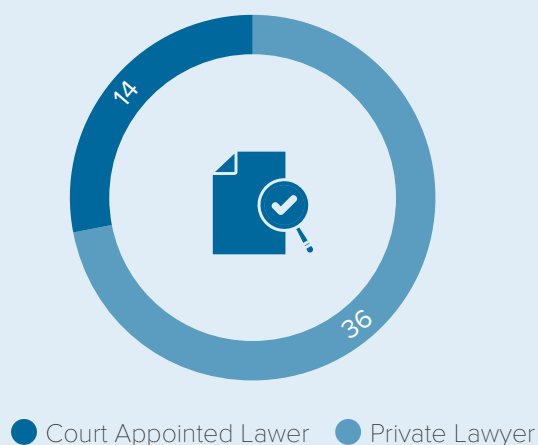
8. CONSISTENT USE OF THE LEGAL AID REGIME

The data recorded an equal proportion (28%) of the total monitored and reviewed cases in which attorneys were appointed by the court.

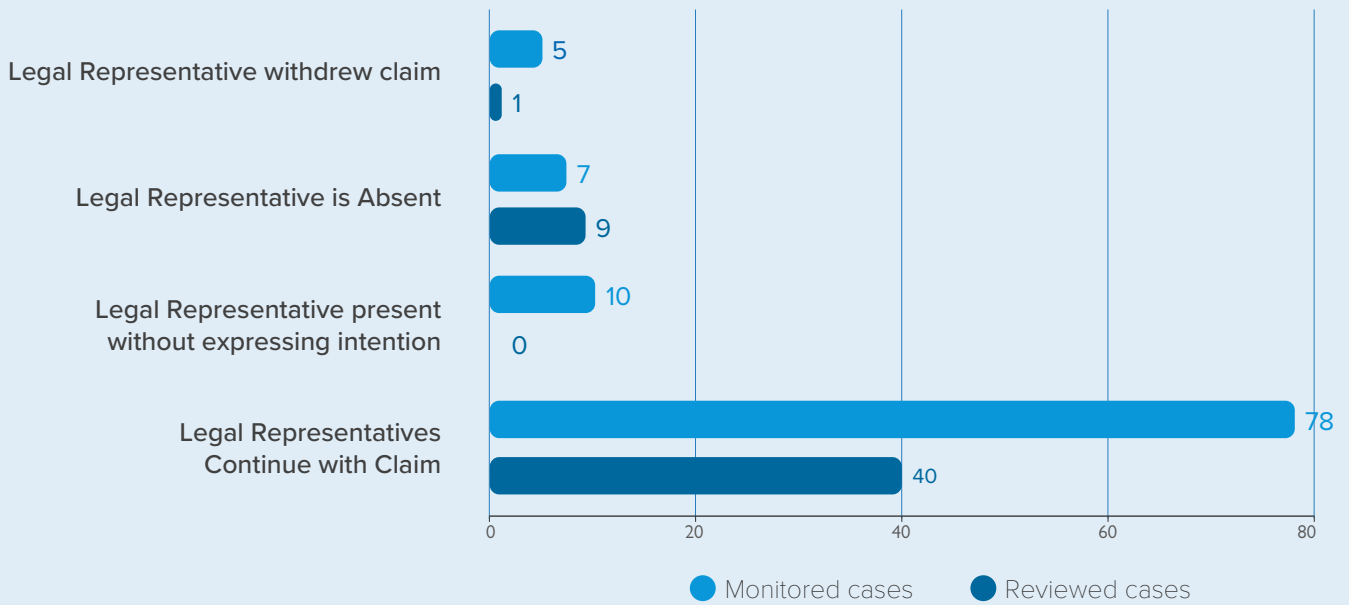
MONITORED CASES



REVIEWED CASES



9. LEGAL REPRESENTATIVES AND CLAIMS FOR DAMAGES



An increase in the attendance rate of legal representatives and requests for claims for compensation for damages. However, there are still absences and withdrawals of claims for damages.

LEGAL REPRESENTATIVES INVOLVEMENT

CLAIMS FOR DAMAGES



78%

Monitored Cases



80

Reviewed Cases

WITHDRAWAL OF CLAIMS



5%

Monitored Cases



2%

Reviewed Cases

ABSENCE FROM TRIALS



7%

Monitored Cases



18%

Reviewed Cases

10. PUBLIC PARTICIPATION

Public Access to Trials:

KRI law (including the Iraqi Constitution and KRI-specific legislation) guarantees public access to trials, with some limitations based on guaranteeing security and public order.

Challenges for CSOs:

Despite legal guarantees, CSOs haven't been observed attending trials as third parties - with restrictions noted as a significant challenge.

Civil Society's Role:

Civil society organizations (CSOs) can play a vital role in anti-corruption efforts through investigative reporting and supporting investigations.

RECOMMENDATIONS

To the Government of the Kurdistan Region of Iraq, the Judicial Council, the Bar Association, and Civil and International Society:

- Establish specialized courts for major corruption cases.
- Modernize the penal code to align with current needs and international standards (e.g., bribery in the private sector).
- Enact legislation and establish a system for the protection of whistleblowers, informants, witnesses, experts, and victims.
- Limit the discretionary power of affected institutions in refraining from or withdrawing claims for damages.
- Enhance oversight in sectors affected by corruption and adopt remedial measures.
- Reform criminal procedures to improve investigative capacities.
- Implement an electronic case management system to expedite proceedings and facilitate evidence collection.
- Standardize sentencing policy.
- Strengthen the financial and administrative independence of the Public Prosecutor's Office.
- Support initiatives that enable civil actors to participate in broader anti-corruption activities.
- International organizations to support state efforts in establishing robust legal frameworks and mechanisms for asset recovery through international and regional cooperation.