

*Attitudes of the magistrates on
the judicial system reforms in
Bulgaria*

May-June 2016

About the survey



The research „Attitudes of the magistrates on the judicial system reforms in Bulgaria” was carried out with the financial support of the “America for Bulgaria” Foundation within the framework of the “Transparent Judicial Appointments Initiative”.

The research was carried out by Global Metrics social and market research agency between May and June 2016 upon request of the Bulgarian Institute for Legal Initiatives among 606 magistrates from the whole country. They have replied to questions related to the reforms in the Bulgarian courts and prosecutions. The interviewees have shared their opinions on the pending changes and amendments in the Judicial System Act.

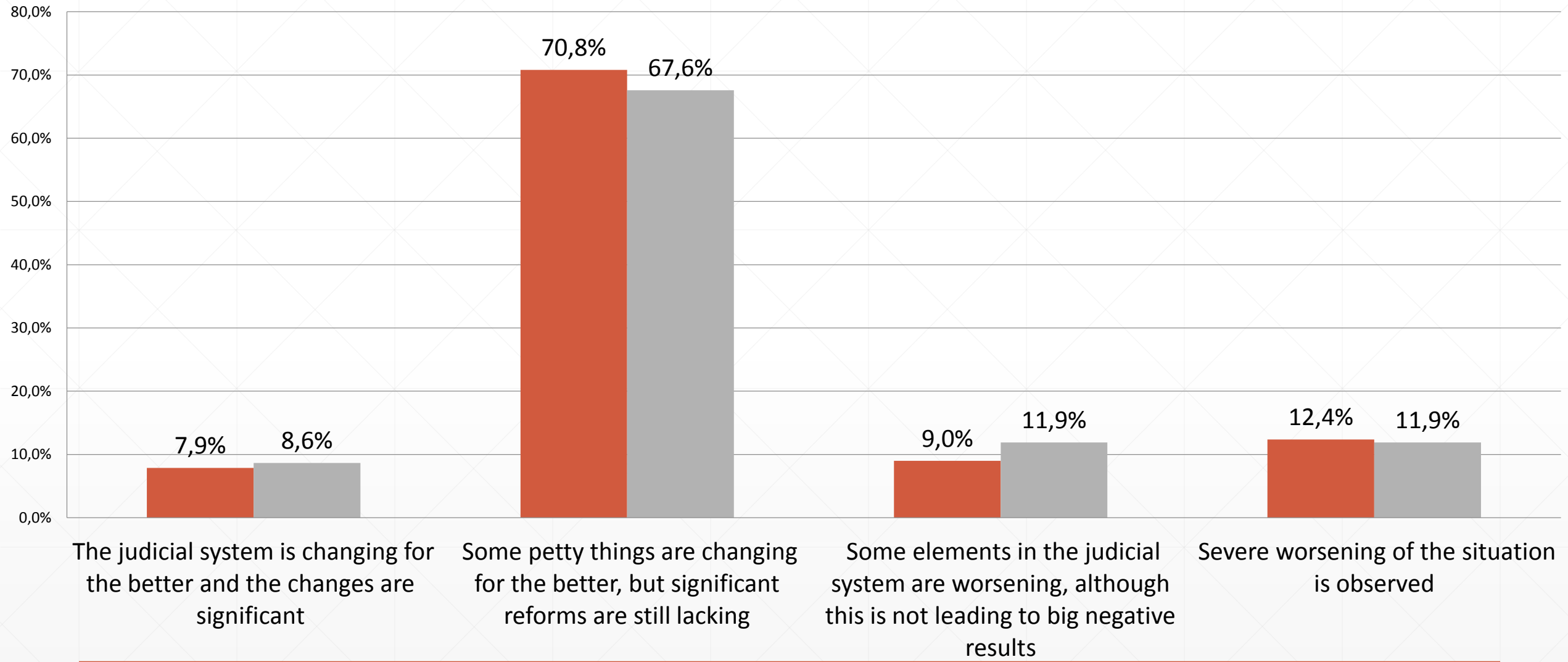


The study “Attitudes of the magistrates on the judicial system reforms in Bulgaria” was carried out with the financial support of the “America for Bulgaria” Foundation within the framework of the “Transparent Judicial Appointments Initiative”. The study represents solely the opinions and conclusions of its authors and in no way engages the funding organization.

Evaluation about the reforms and key problems in the judicial system

Evaluation of the judicial system reforms in the last two years

■ Prosecutors ■ Judges



Main difficulties and problems in the judicial system of Bulgaria (1)

■ Judges ■ Prosecutors

Formal evaluation, which does not create a motivation for a qualitative performance and does not identify weaknesses and gaps in the performance of any given magistrate

64,9

40,4

Low level of trust in the work of the judicial system

64,9

43,8

Lack of clear and transparent mechanisms for career advancement

61,1

47,2

Too much caseload in some regions and bad HR organization

52,4

46,1

Too much media pressure on certain cases

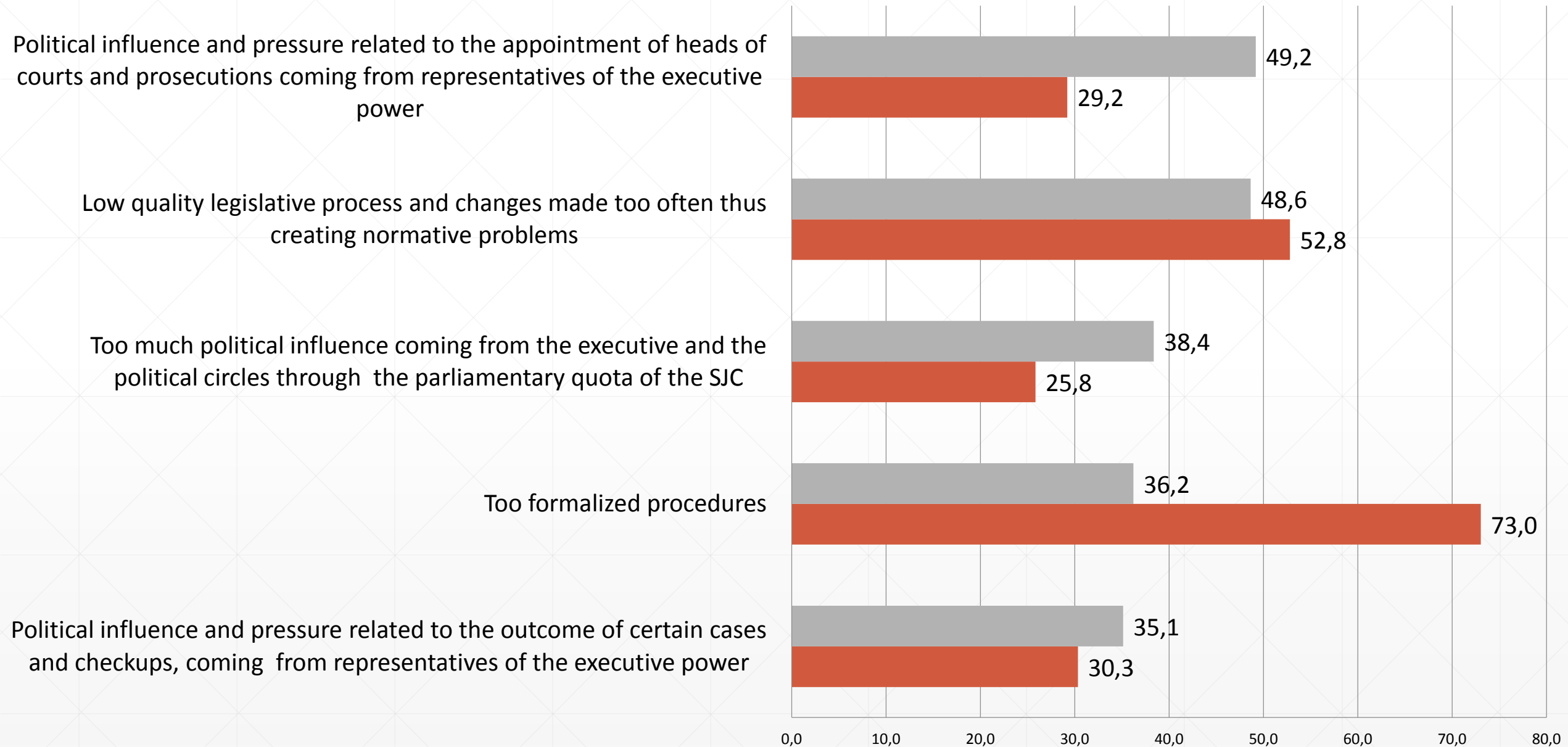
50,3

44,9

0,0 10,0 20,0 30,0 40,0 50,0 60,0 70,0

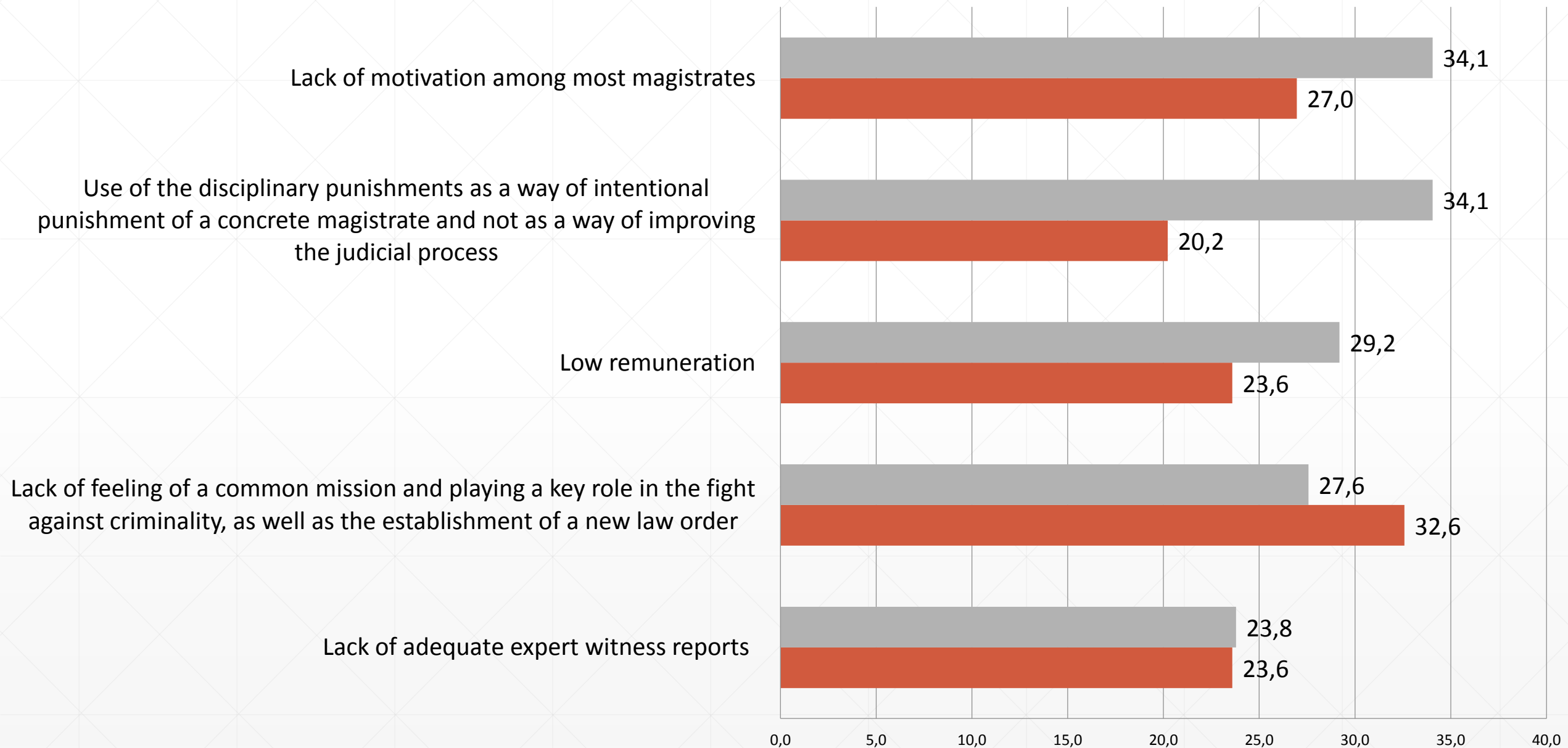
Main difficulties and problems in the judicial system of Bulgaria (2)

■ Judges ■ Prosecutors



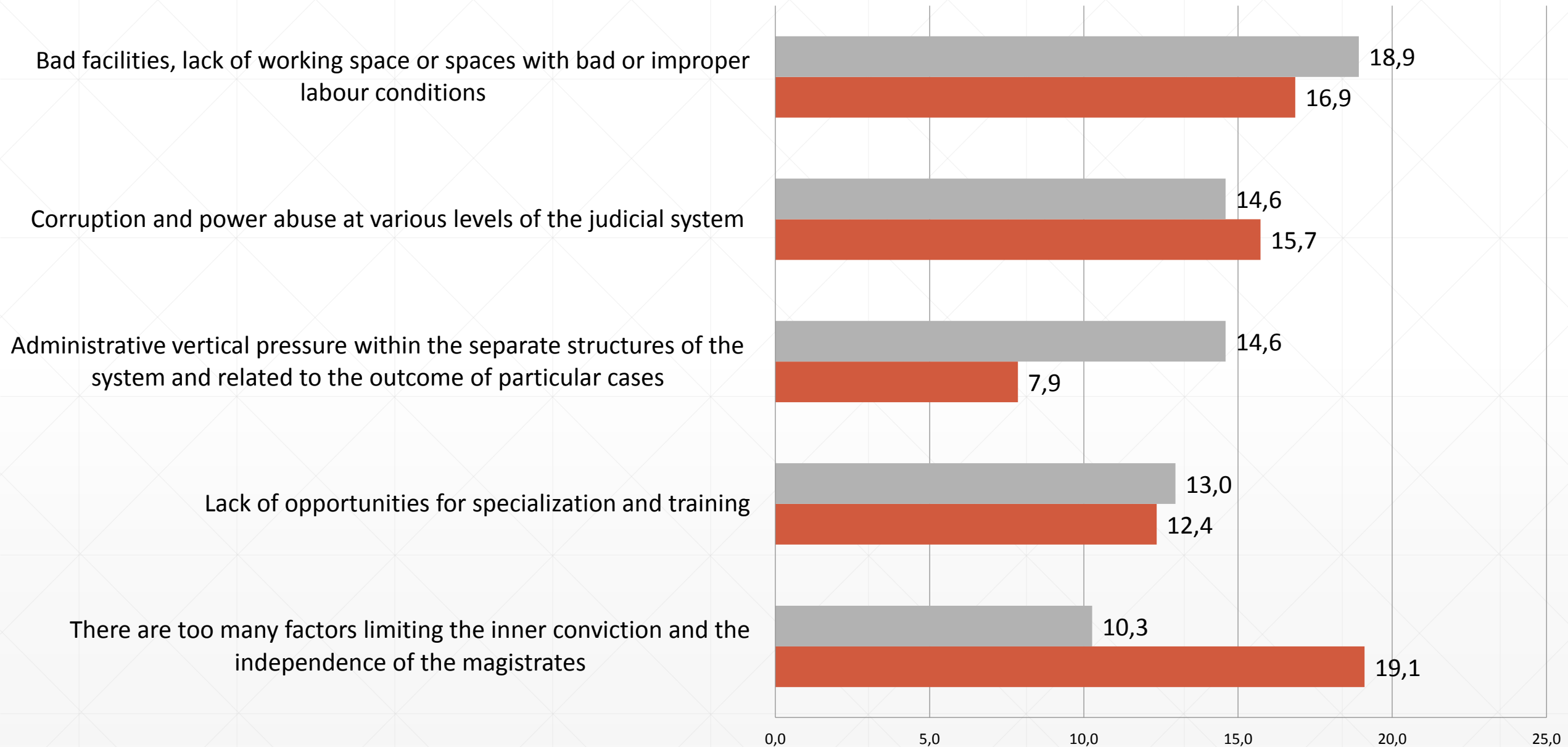
Main difficulties and problems in the judicial system of Bulgaria (3)

■ Judges ■ Prosecutors

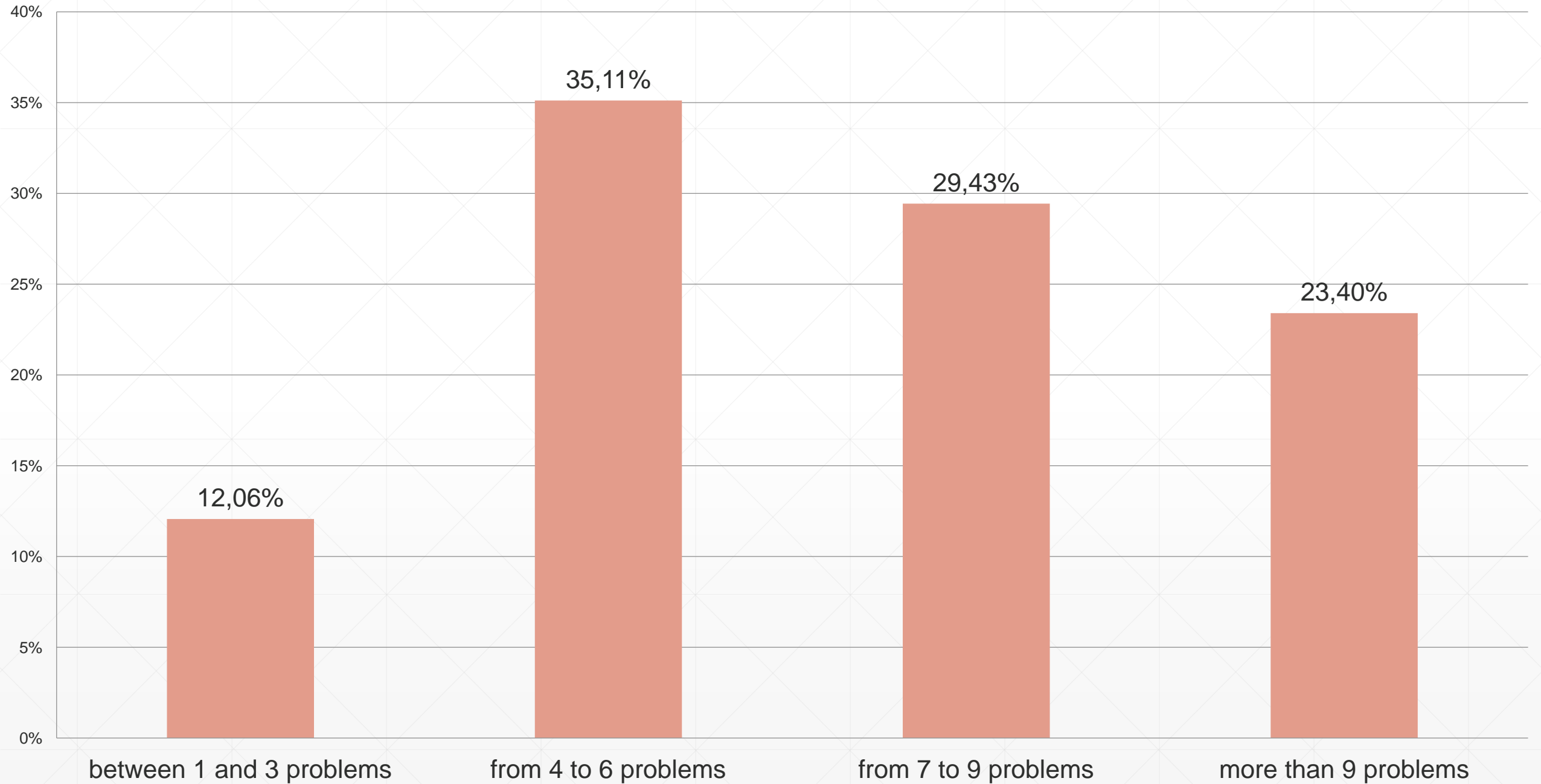


Main difficulties and problems in the judicial system of Bulgaria (4)

■ Judges ■ Prosecutors

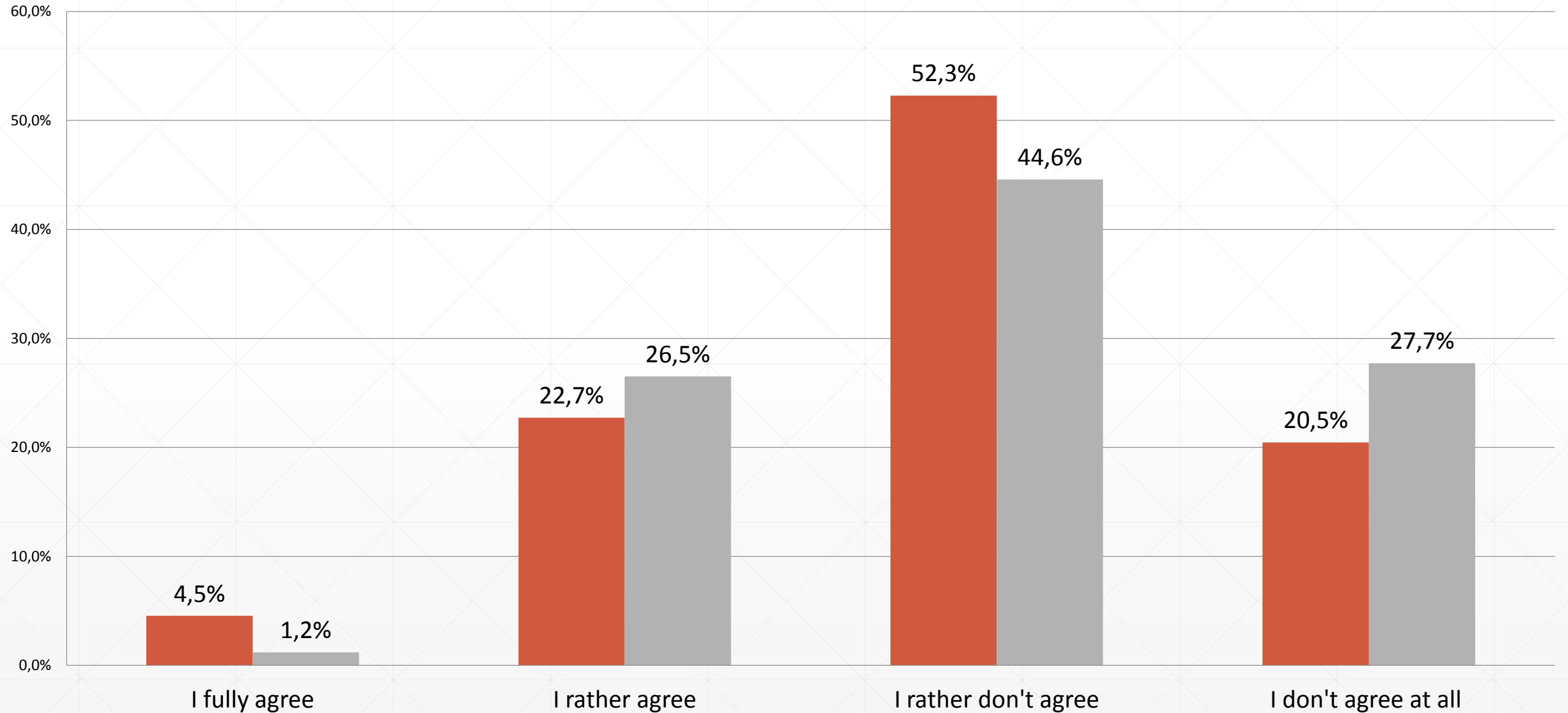


Numbers of problems pointed by magistrates

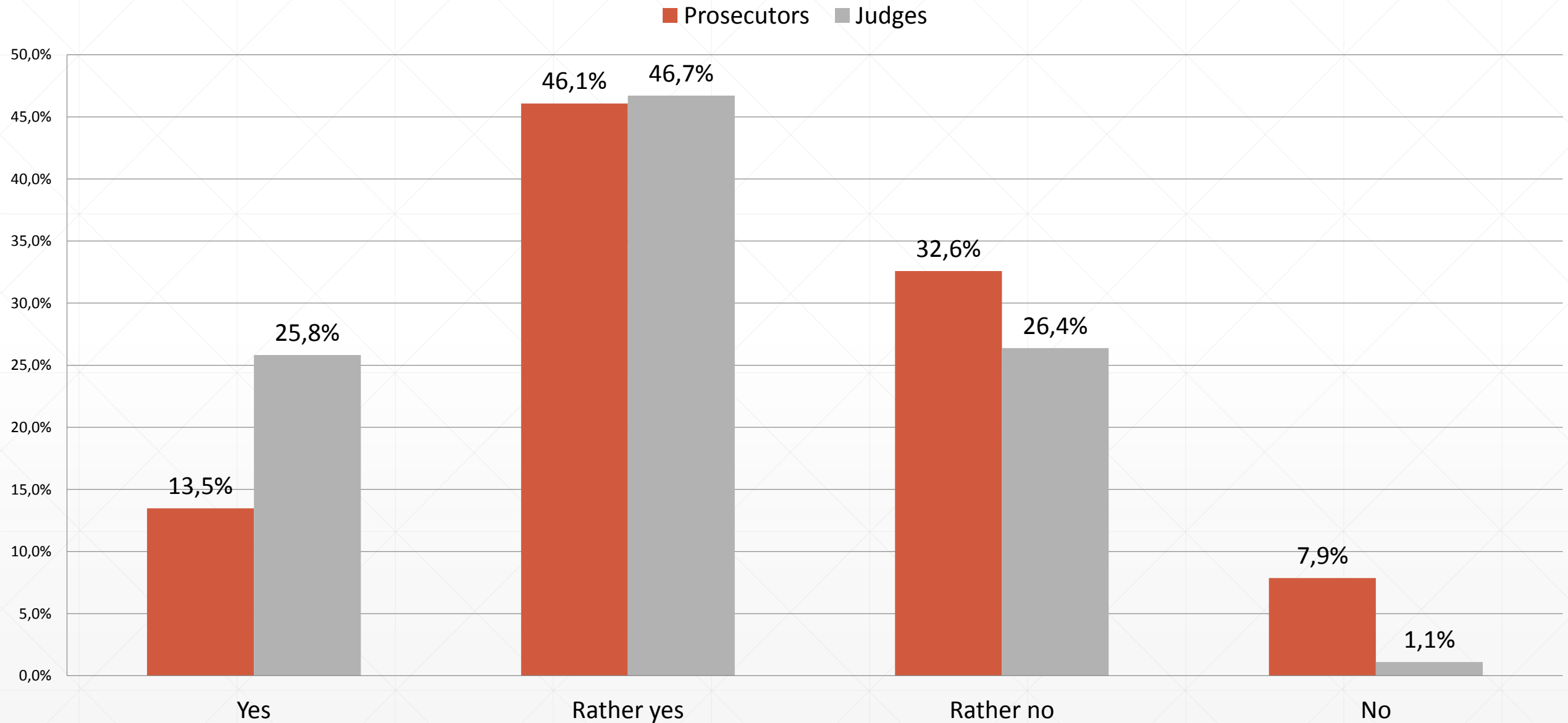


In your opinion, how true is the statement that only the people with the best professional and moral qualities are advancing in the hierarchy?

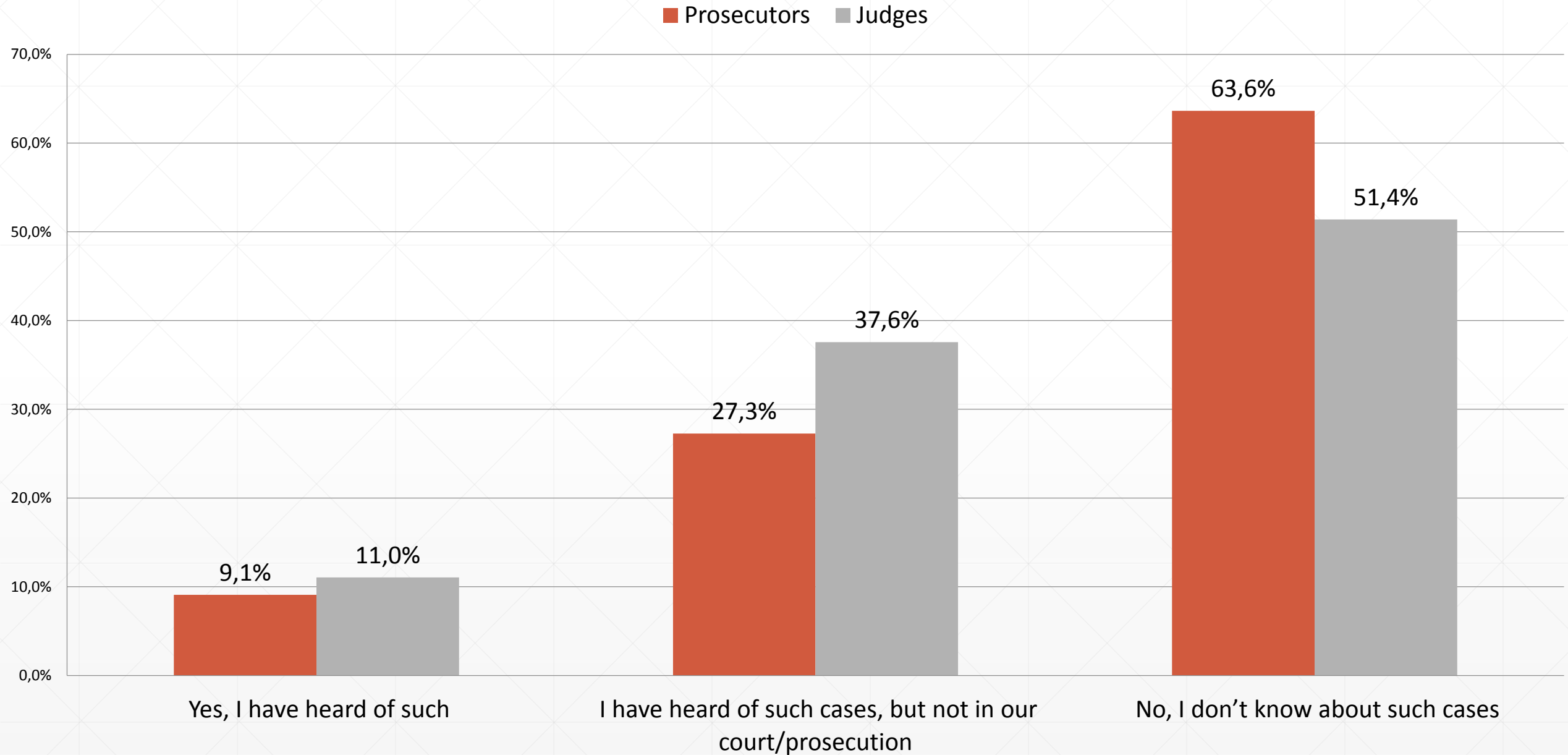
Prosecutors Judges



In your opinion, does a different treatment exist when disciplinary punishments are applied, i.e. in some cases people get punished for the same violations and in other cases - no?

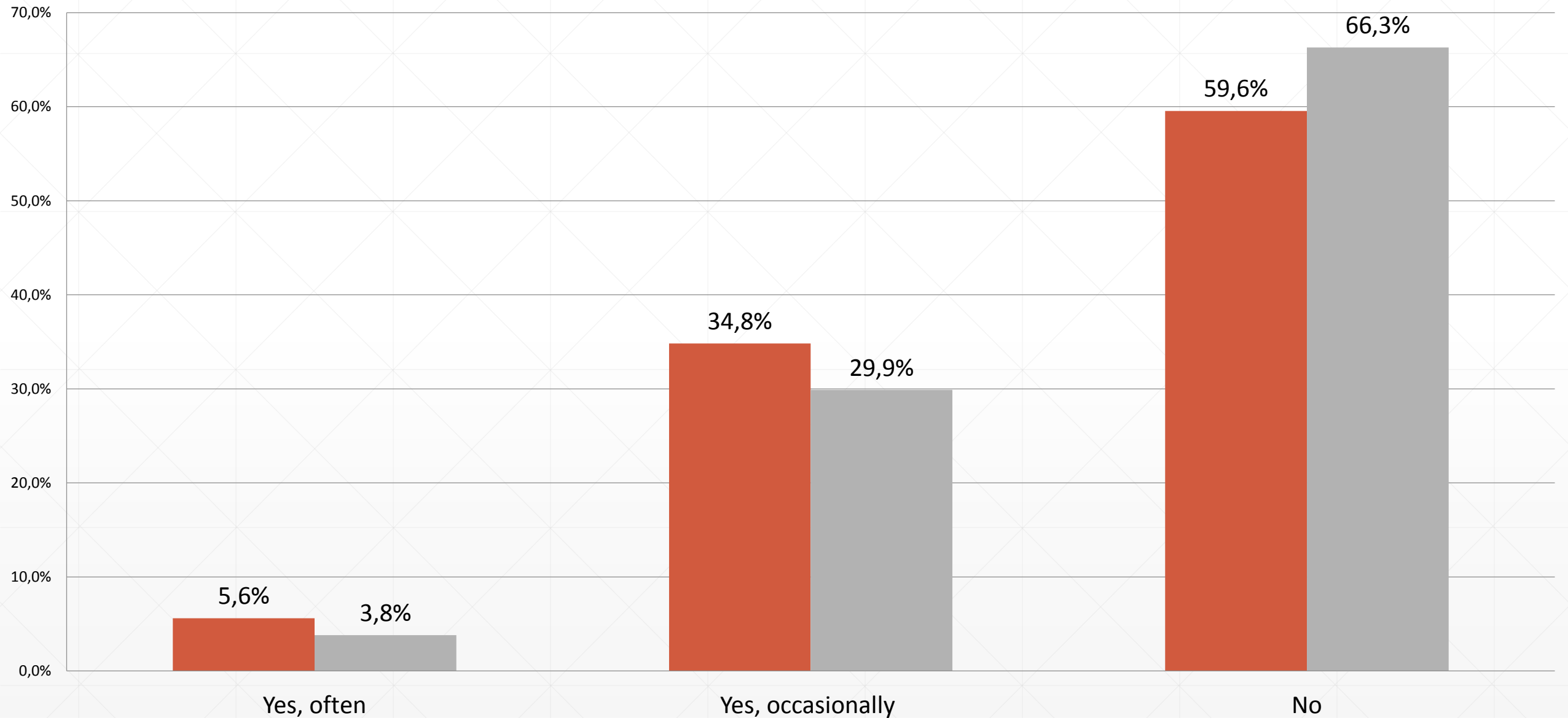


In the process of cases/court files distribution, have you heard of cases where the RCA principle is not applied or the system is intentionally manipulated?



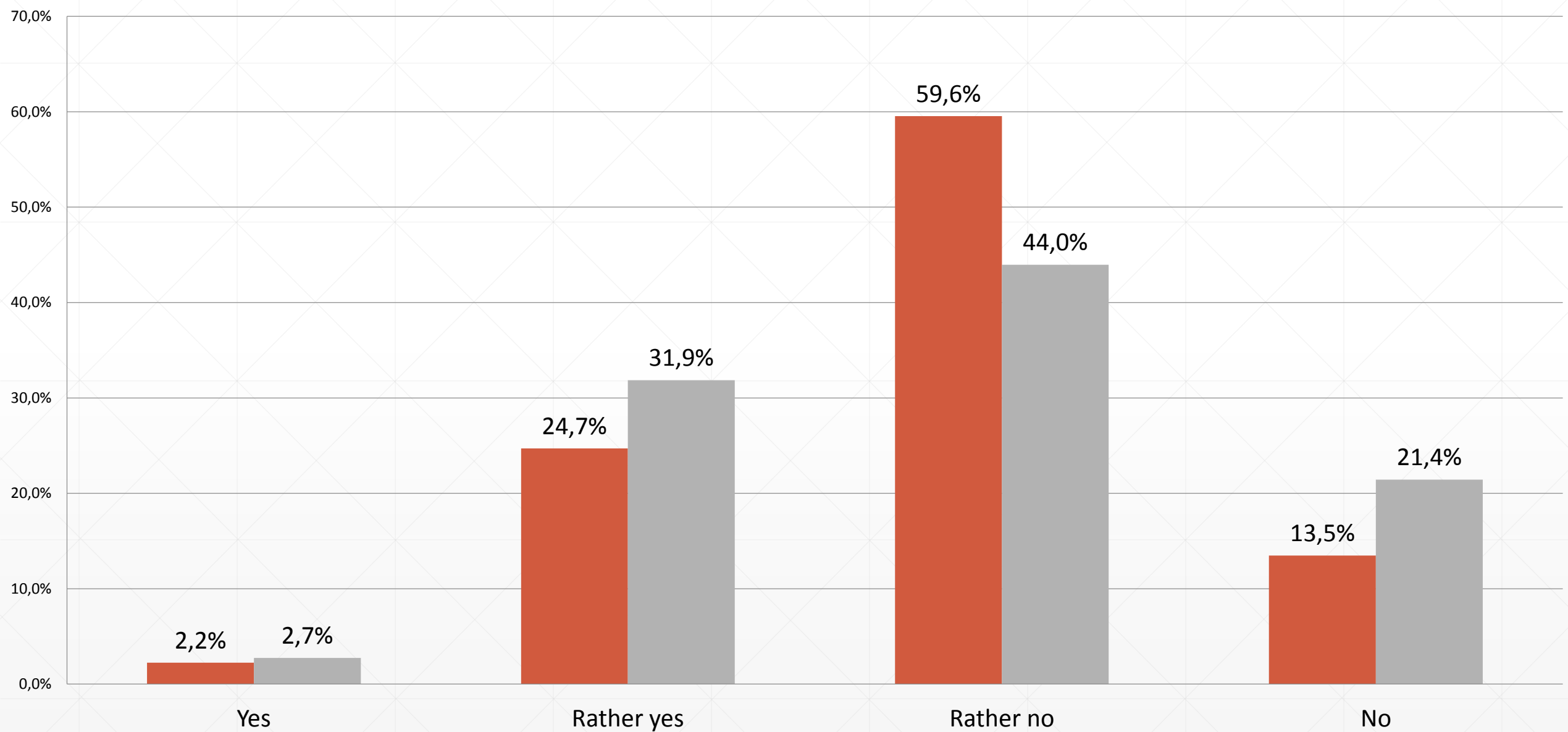
Have you heard of cases where magistrates have received oral instructions from magistrates from a higher instance on what the outcome on certain cases should be?

■ Prosecutors ■ Judges



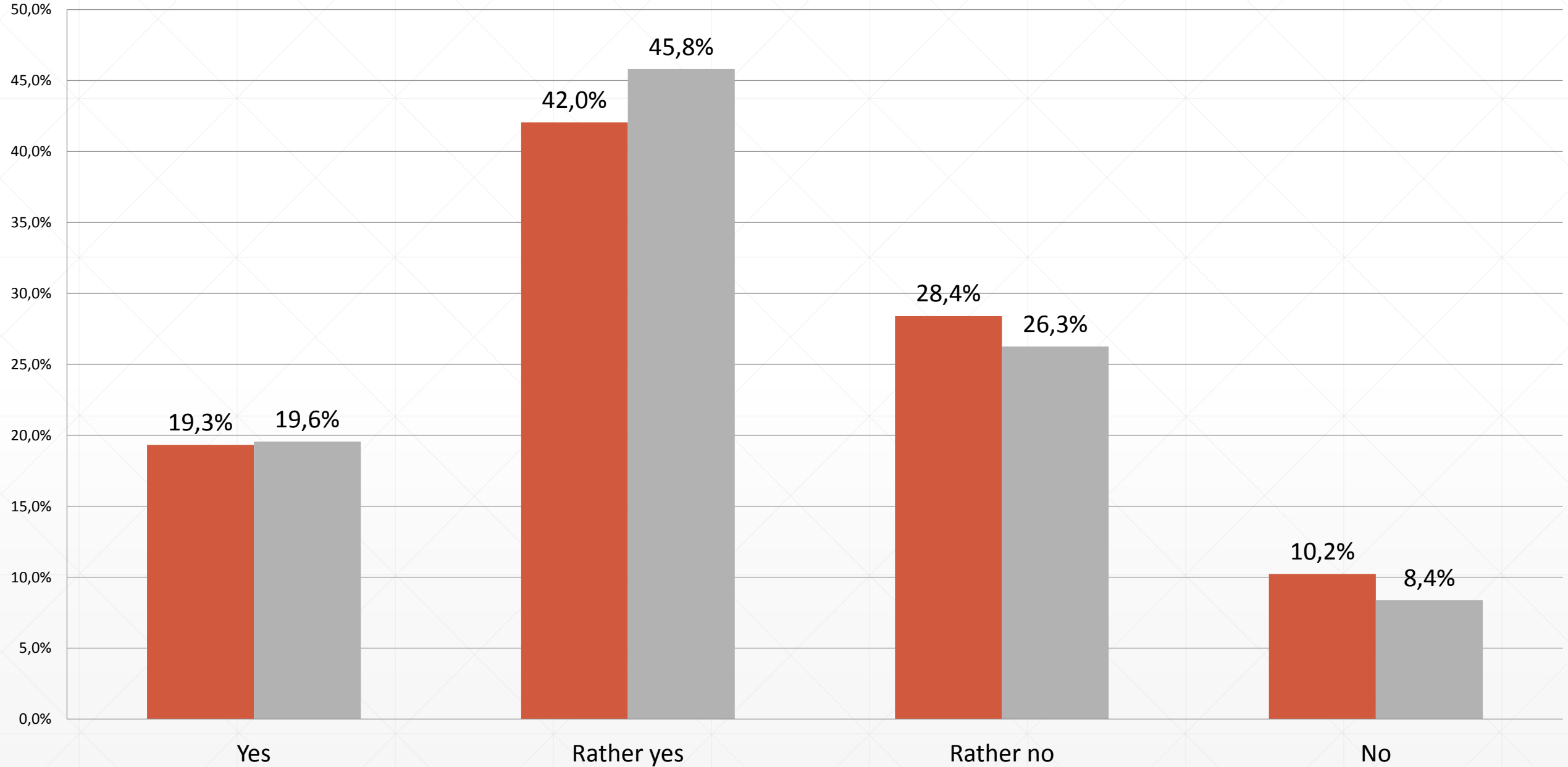
In your opinion, does the performance evaluation provide an objective and fair evaluation of the work of the magistrates?

Prosecutors Judges



Do you personally feel correctly and adequately evaluated?

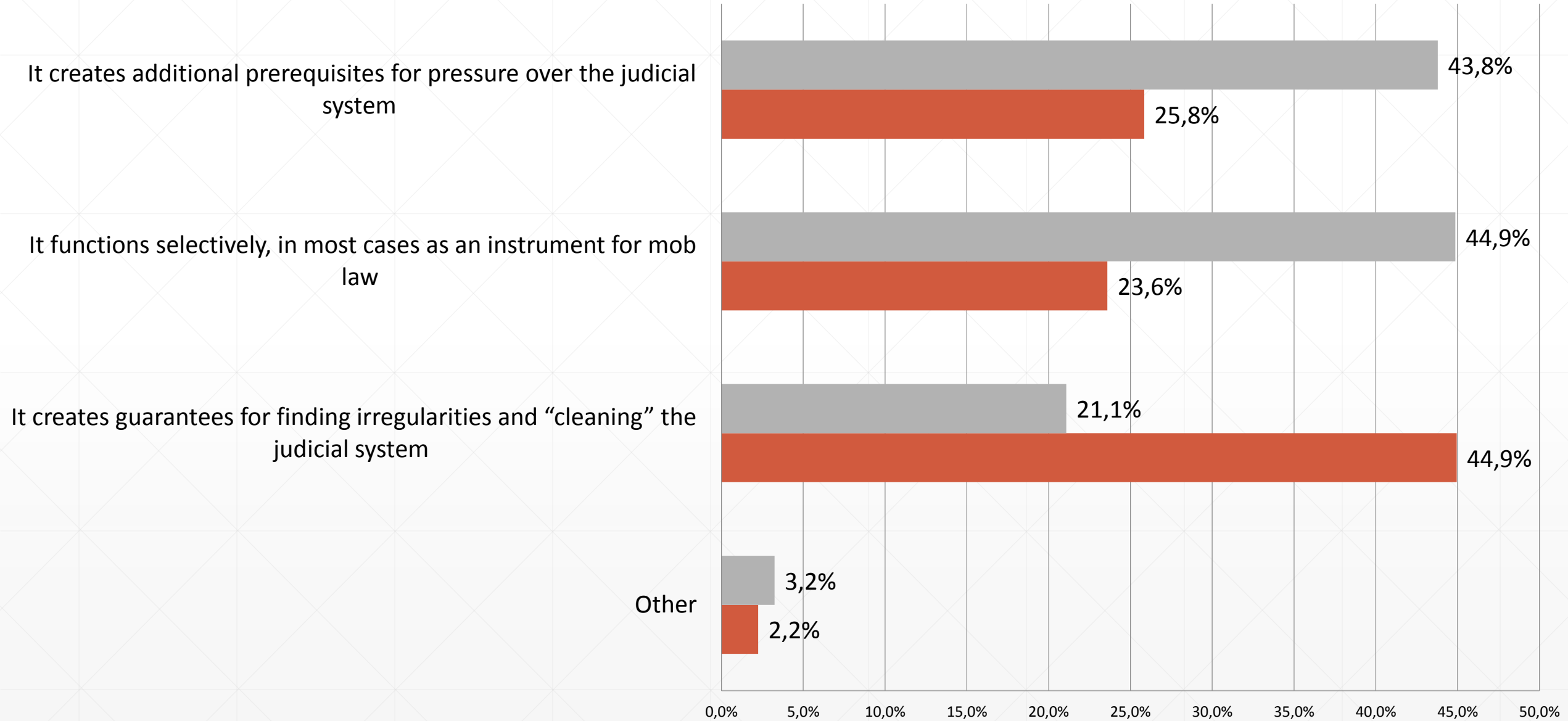
■ Prosecutors ■ Judges



How do you evaluate the work of the Inspectorate to the SJC (ISJC) so far?

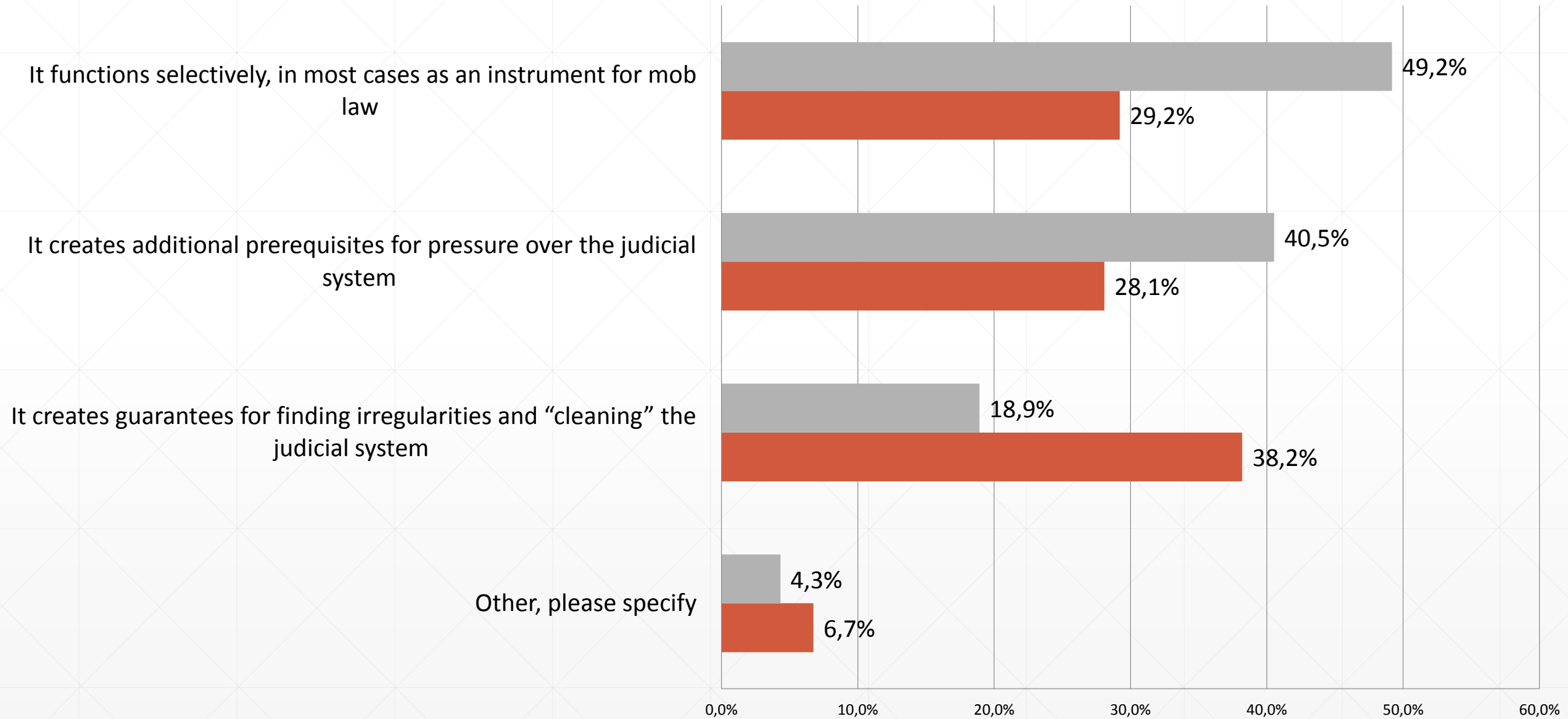
■ Judges ■ Prosecutors

more than one answer was possible

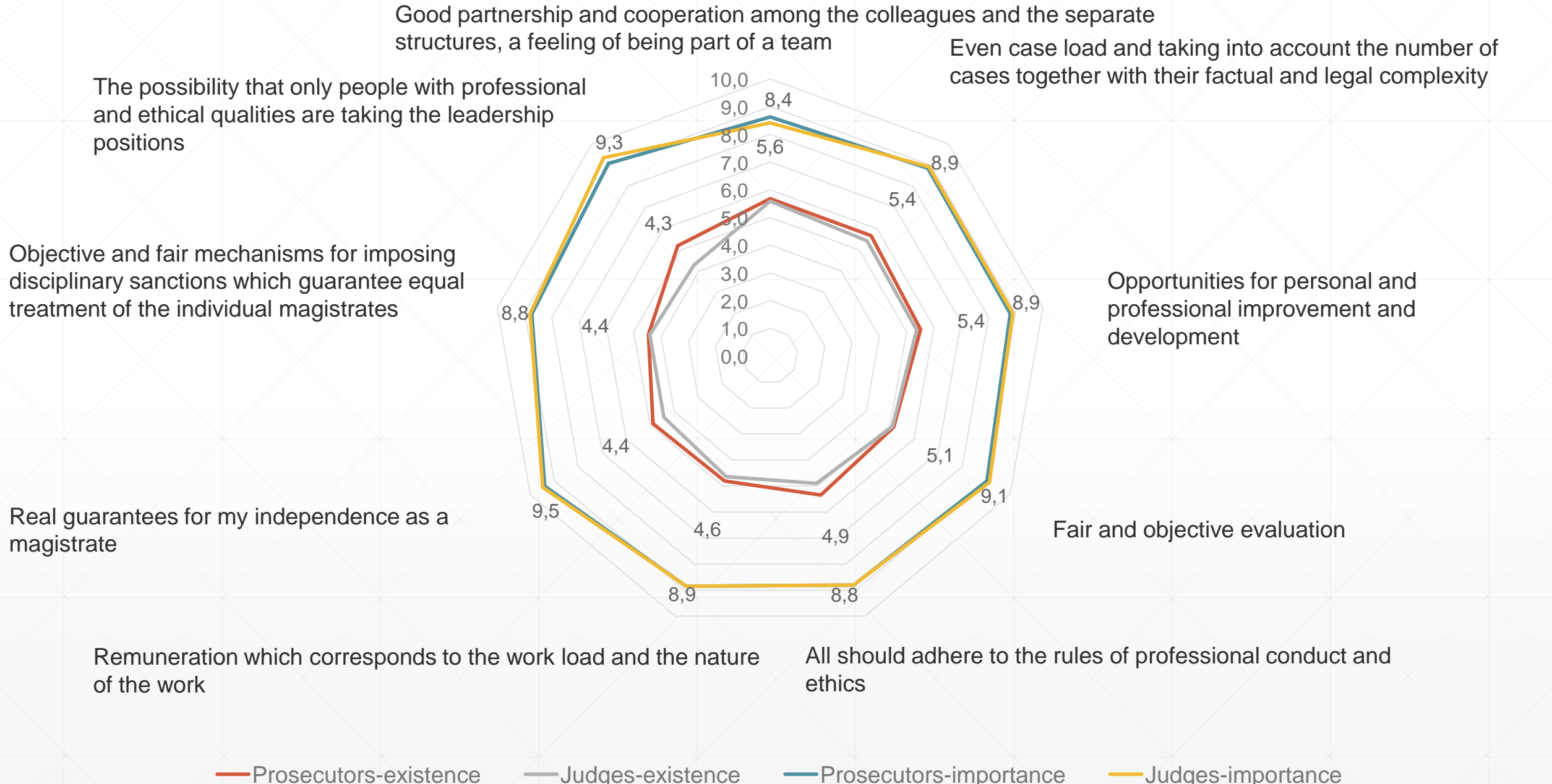


How do you evaluate so far the work of the SJC Ethics Committee?

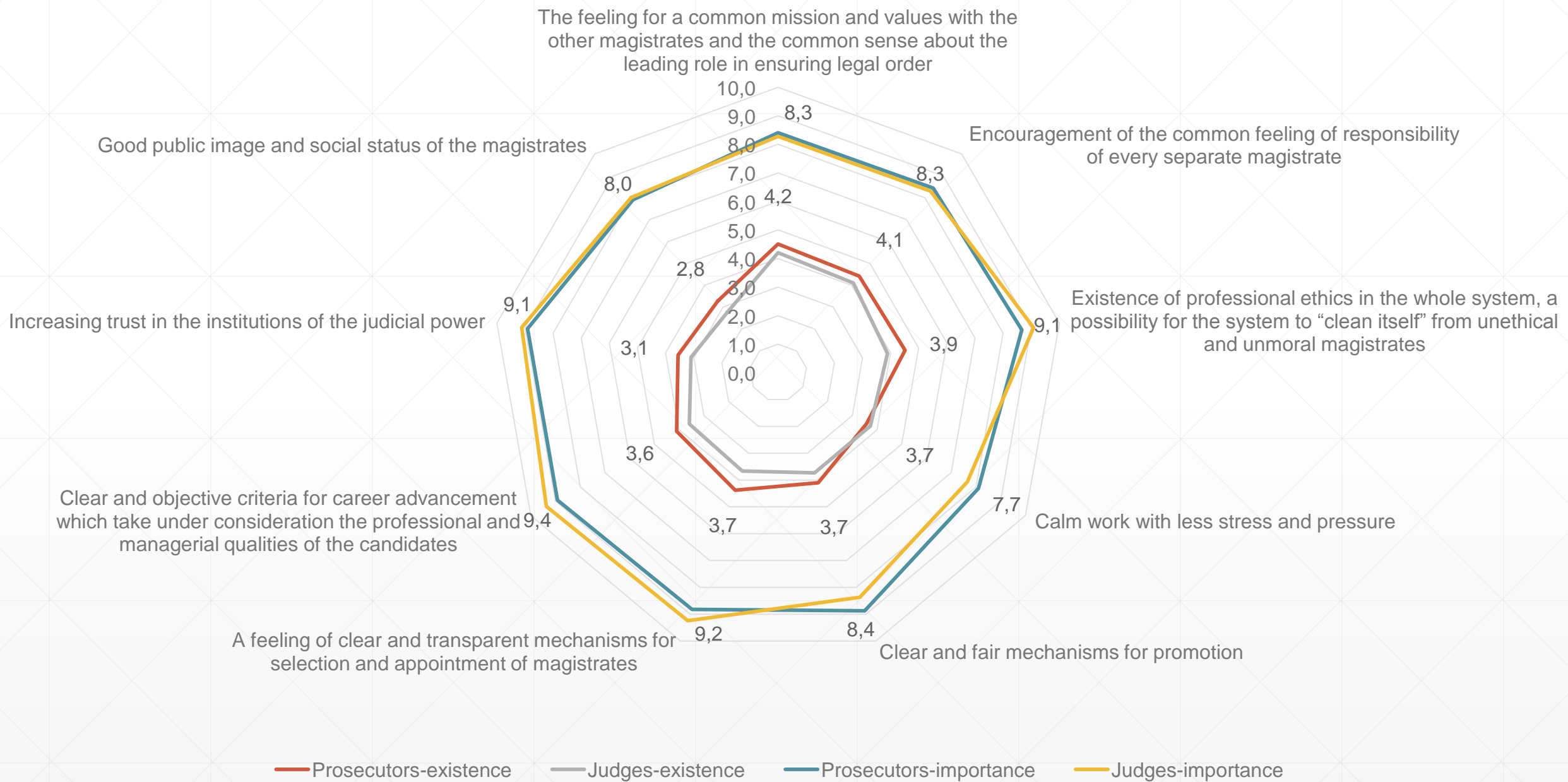
■ Judges ■ Prosecutors



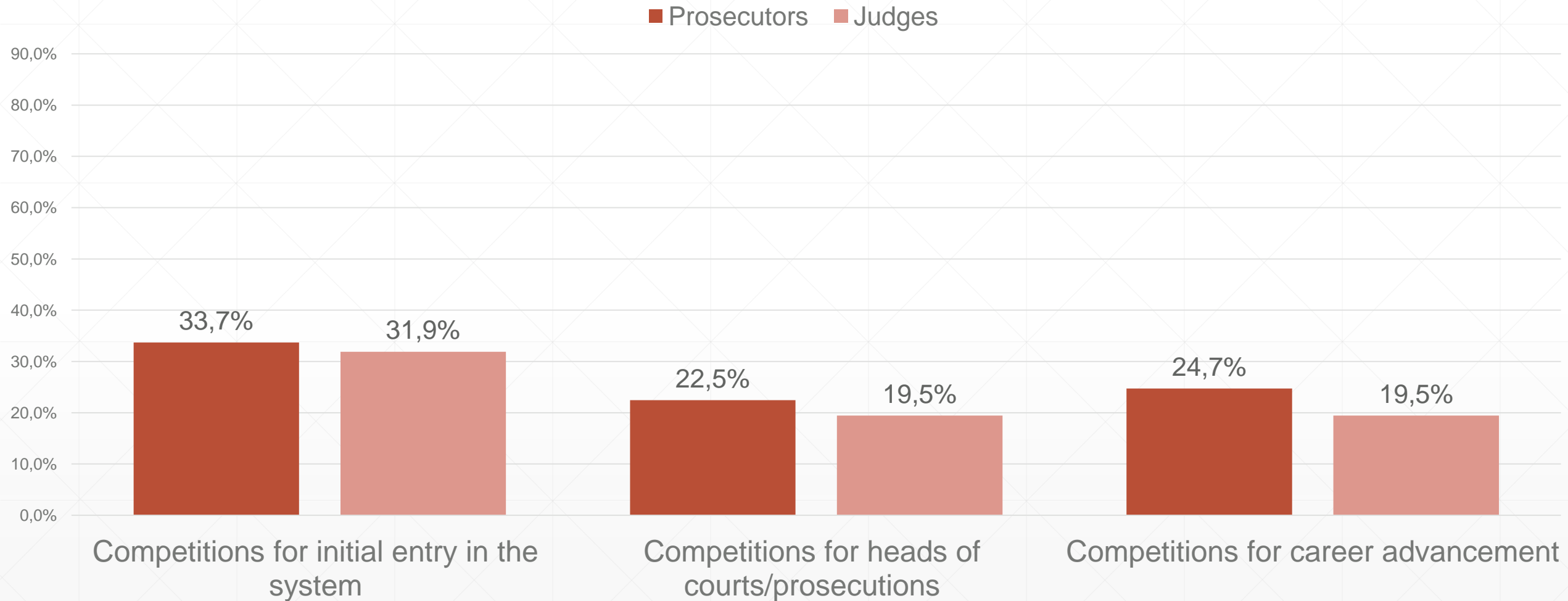
Gap between key factors of environment to the extend to which they are important and the level to which they are existent or developed enough within the Bulgarian judicial system (1)



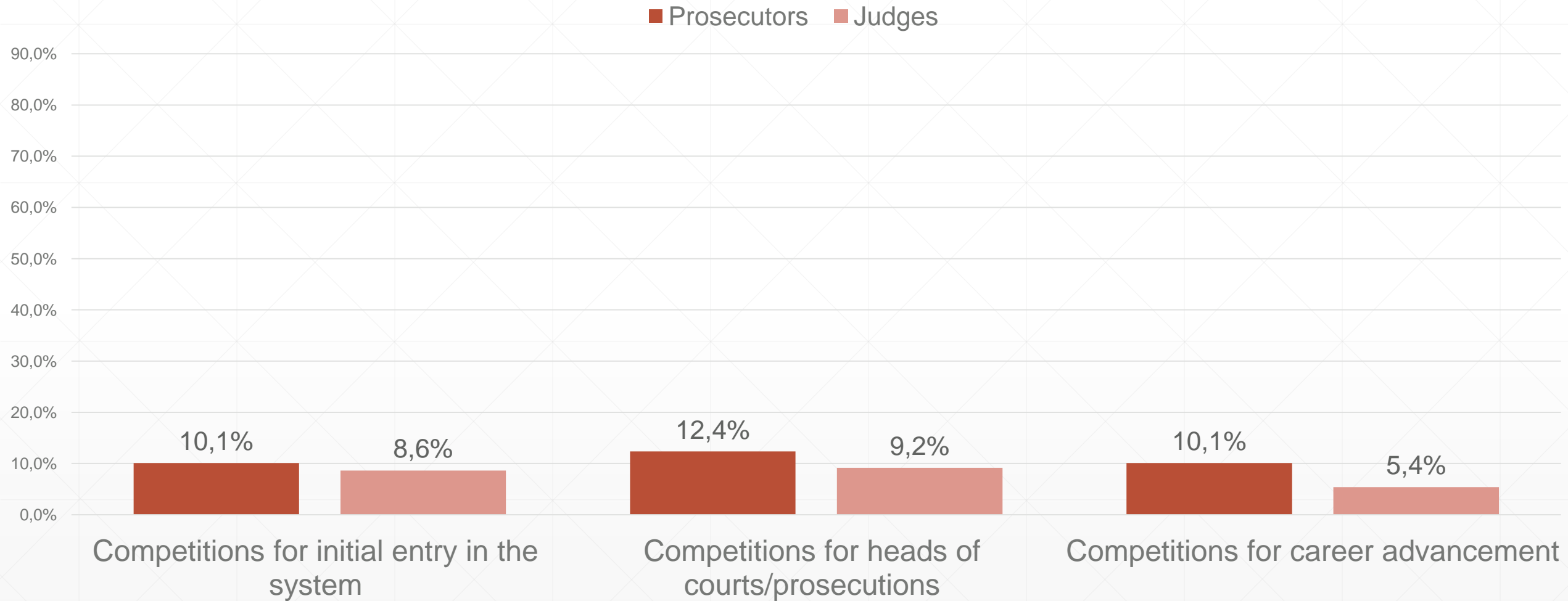
Gap between key factors of environment to the extend to which they are important and the level to which they are existent or developed enough within the Bulgarian judicial system (2)



Are the competitions carried out based on clear and objective criteria– only answers «YES» are presented

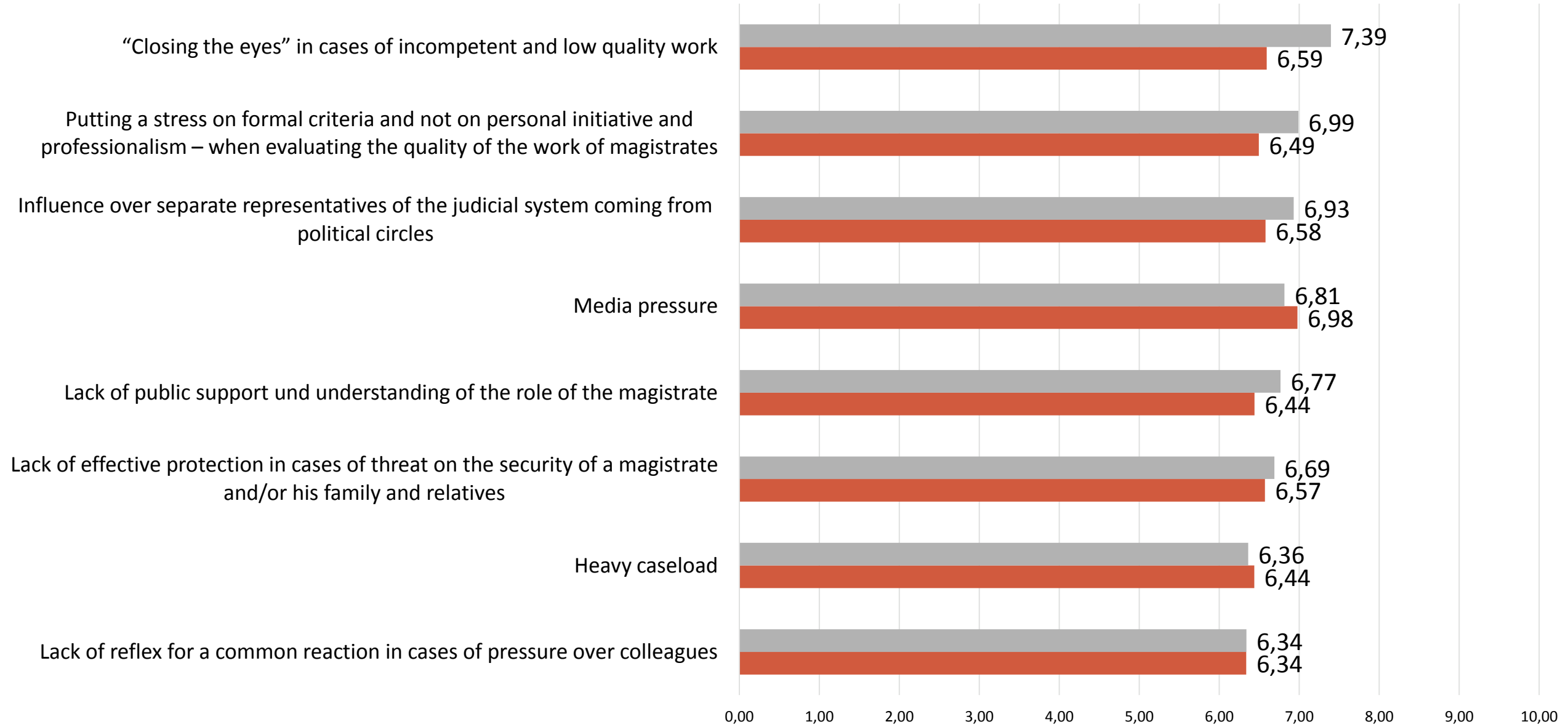


The candidates chosen are in fact the best prepared and the most appropriate for the respective position - only answers «YES» are presented

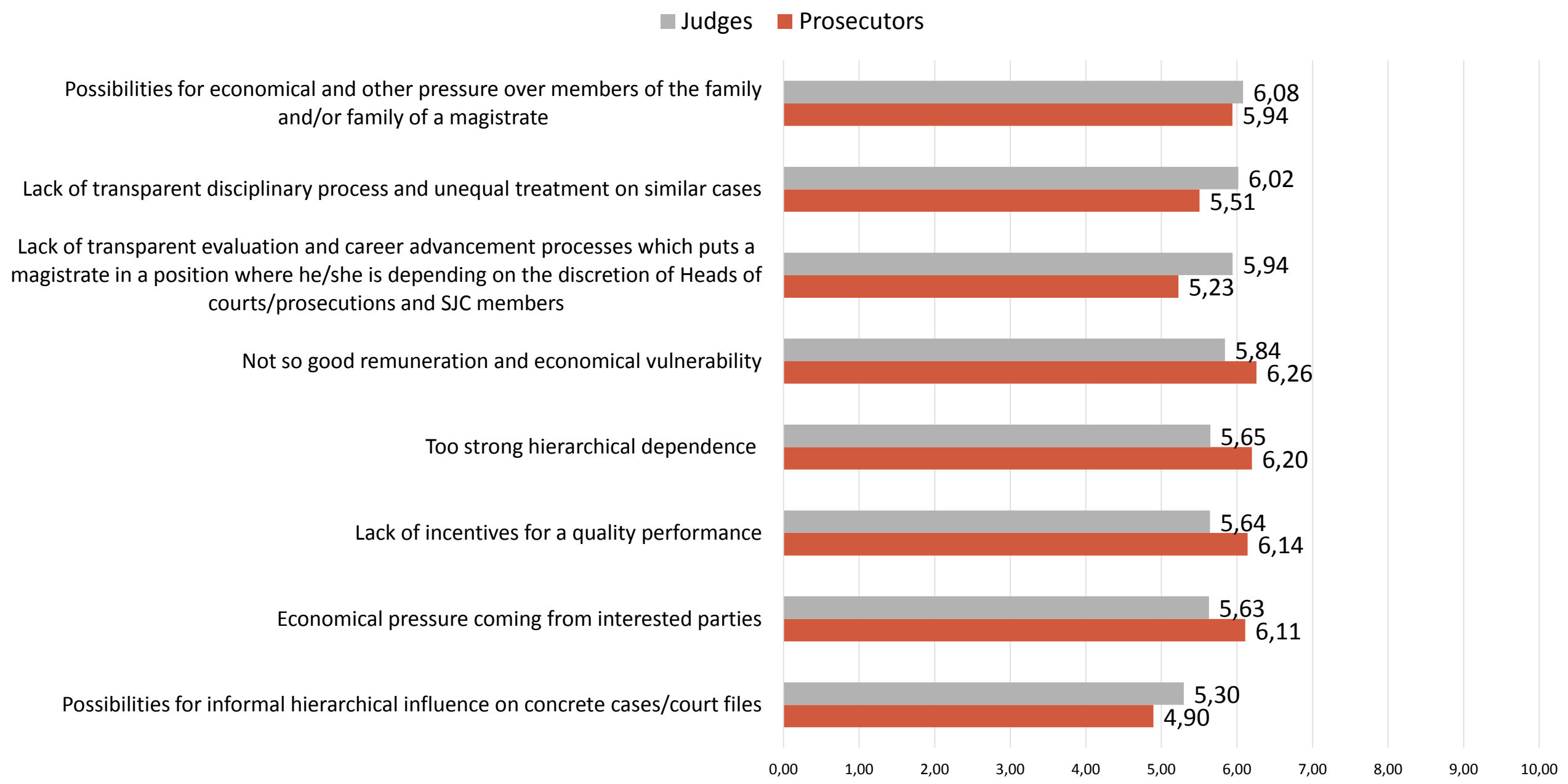


FACTORS FOR RESTRICTING THE PROFESSIONAL INDEPENDENCE OF BULGARIAN MAGISTRATE level of influence where 1 is “very weak influence” and 10 – “very strong influence” (1)

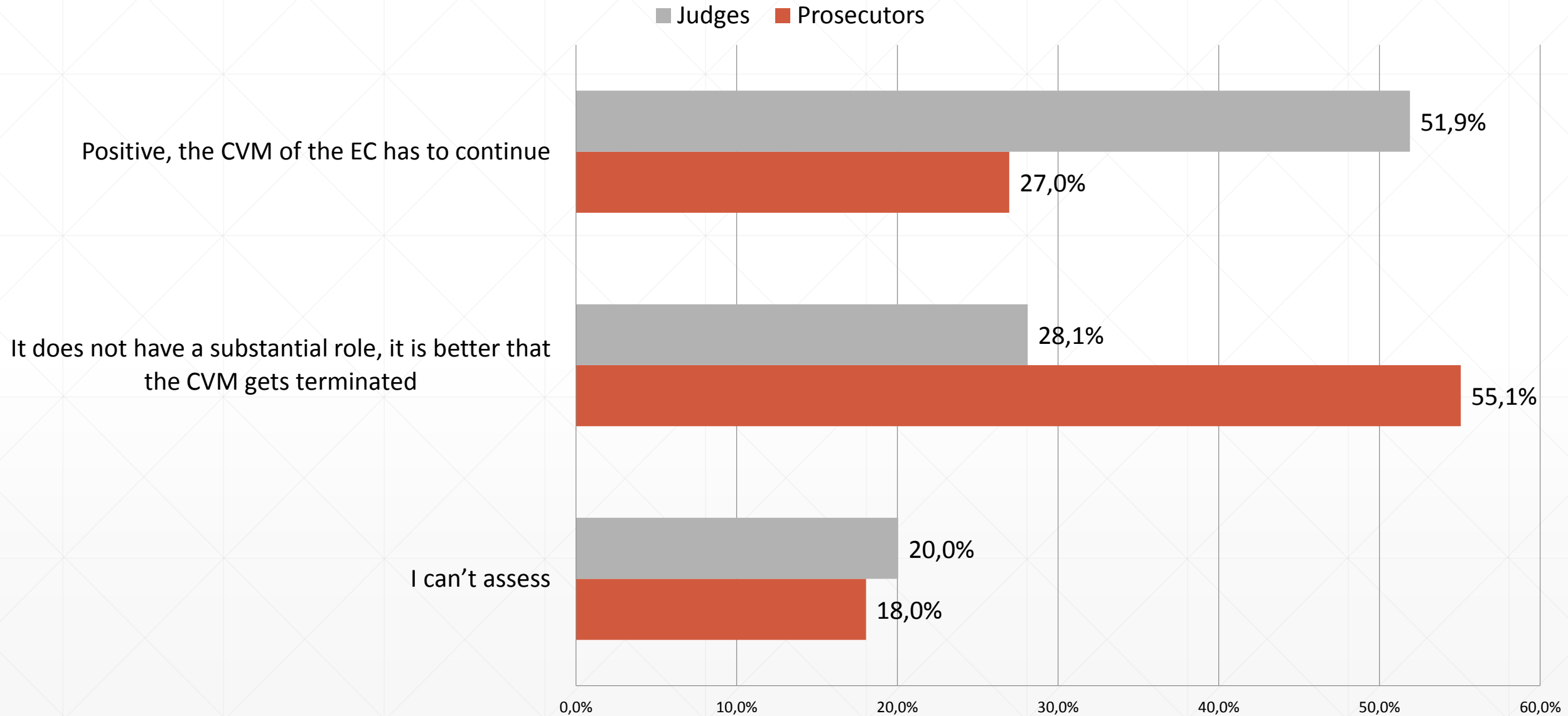
■ Judges ■ Prosecutors



FACTORS FOR RESTRICTING THE PROFESSIONAL INDEPENDENCE OF BULGARIAN MAGISTRATE level of influence where 1 is “very weak influence” and 10 – “very strong influence” (2)



Difference in the opinion of judges and prosecutors about the role of the Mechanism for Cooperation and Verification of the European Commission in achieving reforms in the prosecution and the judicial power?



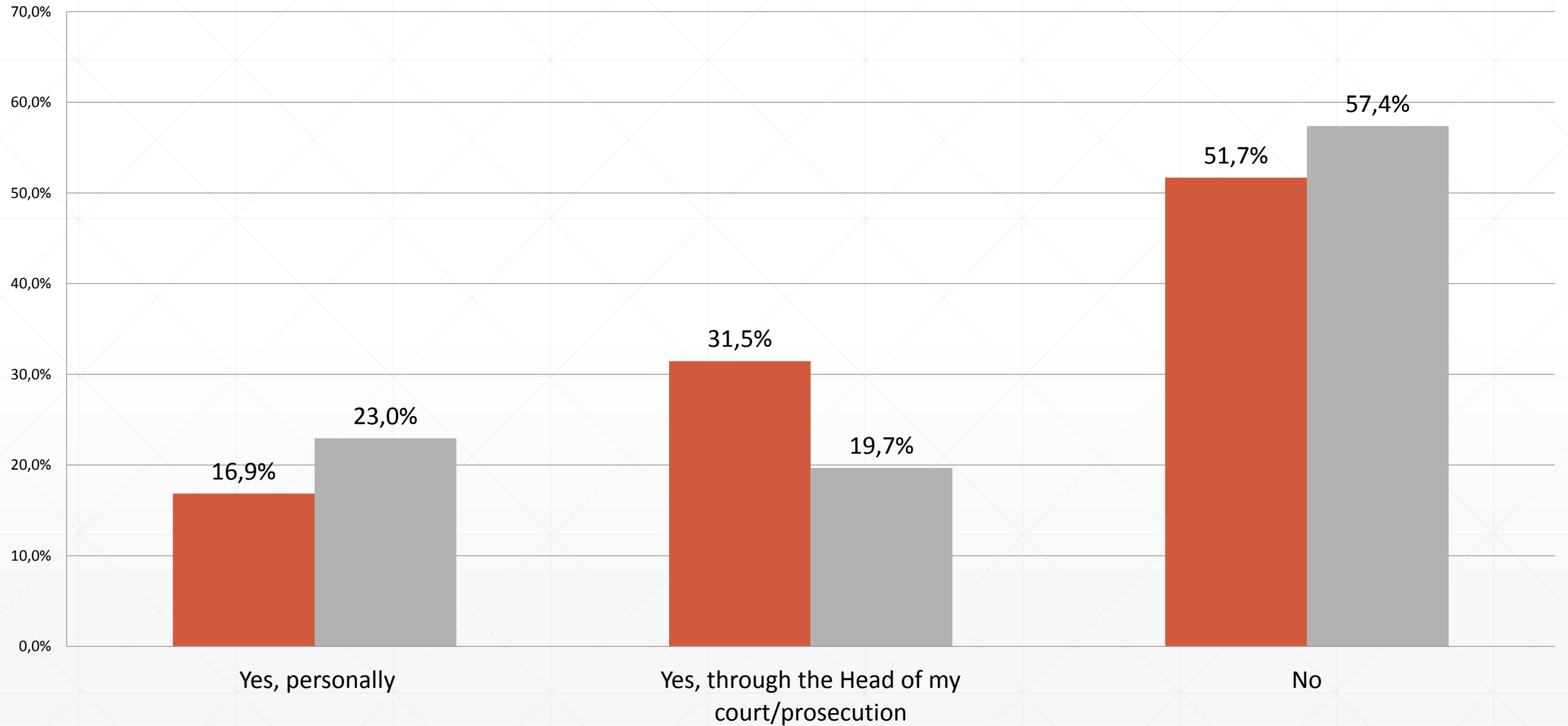
Divided positions of the magistrates about whether the judicial reform strategy has clear measures and priorities and if that will lead to an improvement of the performance of the judicial system

	Prosecutors Col %	Judges Col %
I like my work as magistrate, but not the way the Bulgarian judicial system operates	77,5%	73,5%
If the current Strategy for judicial reform gets implemented, that will lead to an improvement of the performance of the judicial system	44,9%	56,2%
People elected on the leadership positions in the judiciary are such with vision and professional and moral qualities	46,1%	29,7%
The judicial system has an overall strategy for reform with clear measures and priorities	21,3%	22,2%
The judicial system in Bulgaria works well and does not need reforms	15,7%	9,2%

Participation of the magistrates with proposals on key legislative issues

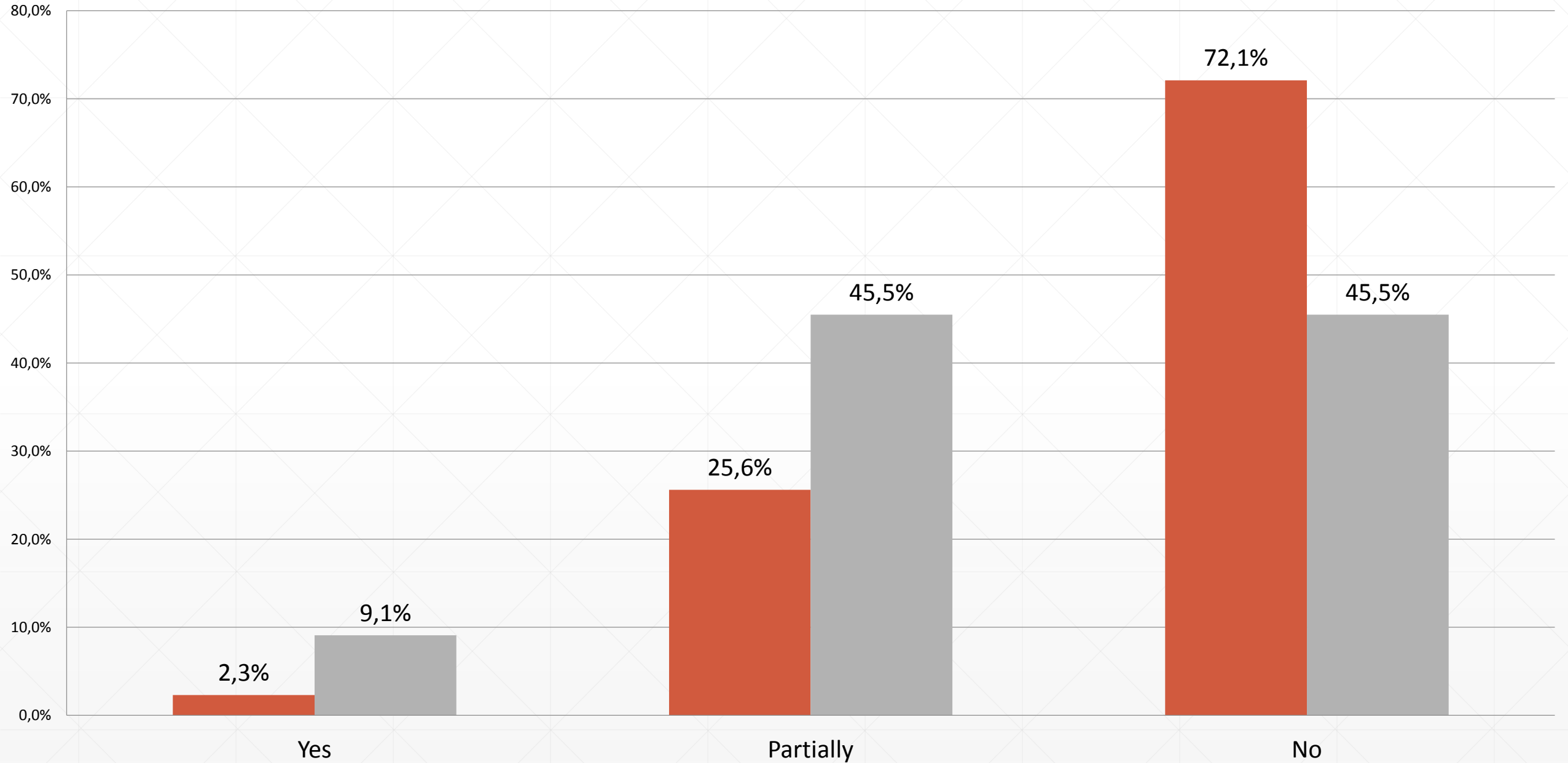
Up to now, have you personally had opportunities to make proposals for legislative changes in the substantive and procedural laws?

Prosecutors Judges



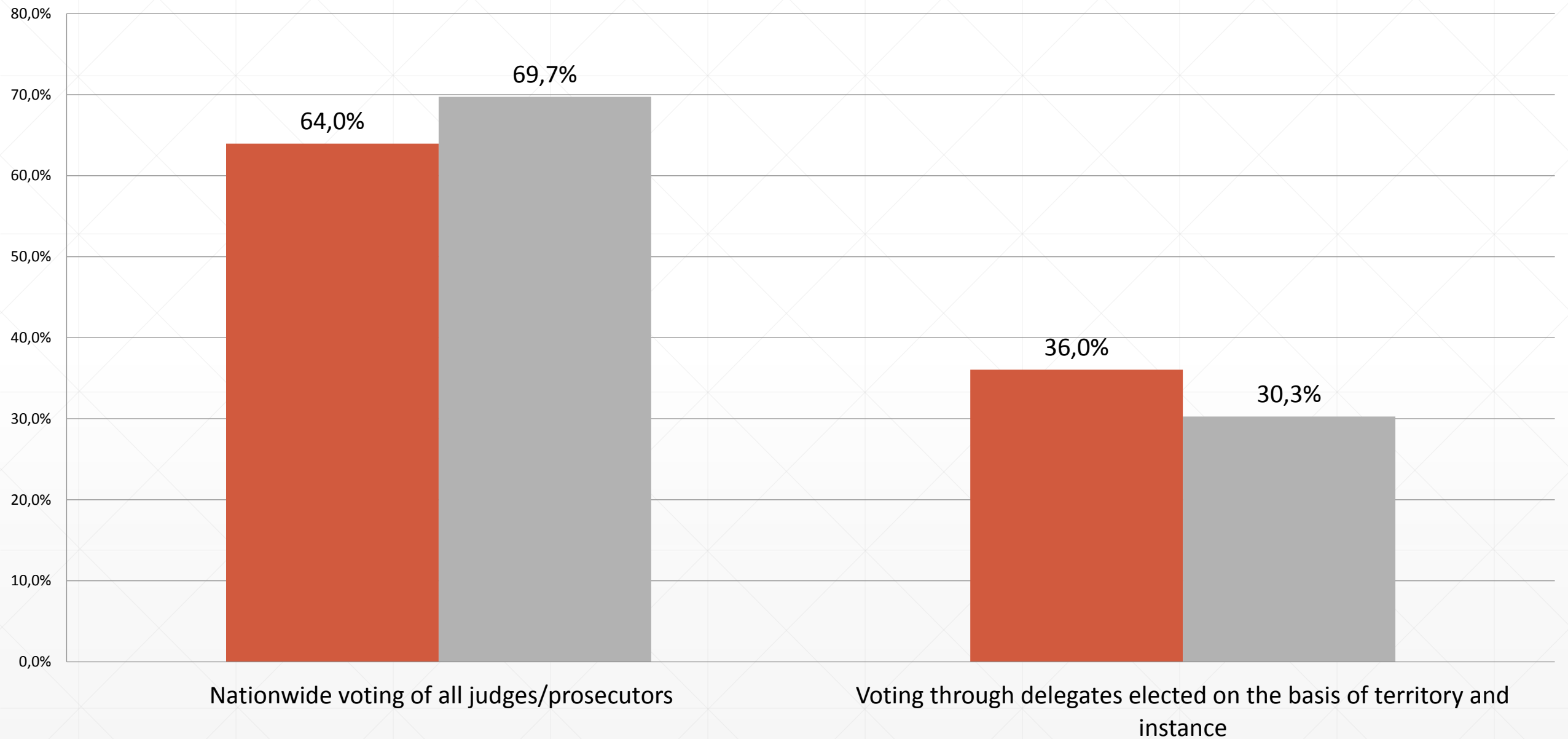
Were these proposals taken under consideration during the drafting of the law?

Prosecutors Judges



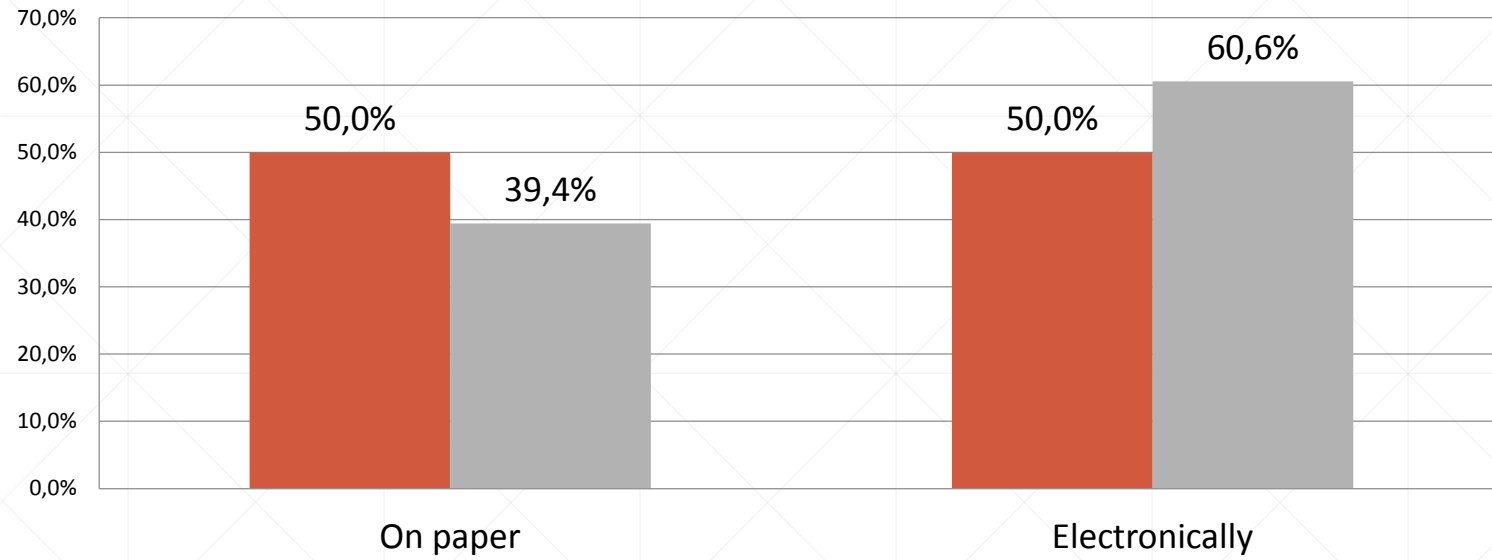
How should the voting on important issues for the judicial system, which includes voting of the GAs of judges/prosecutors, be performed?

■ Prosecutors ■ Judges



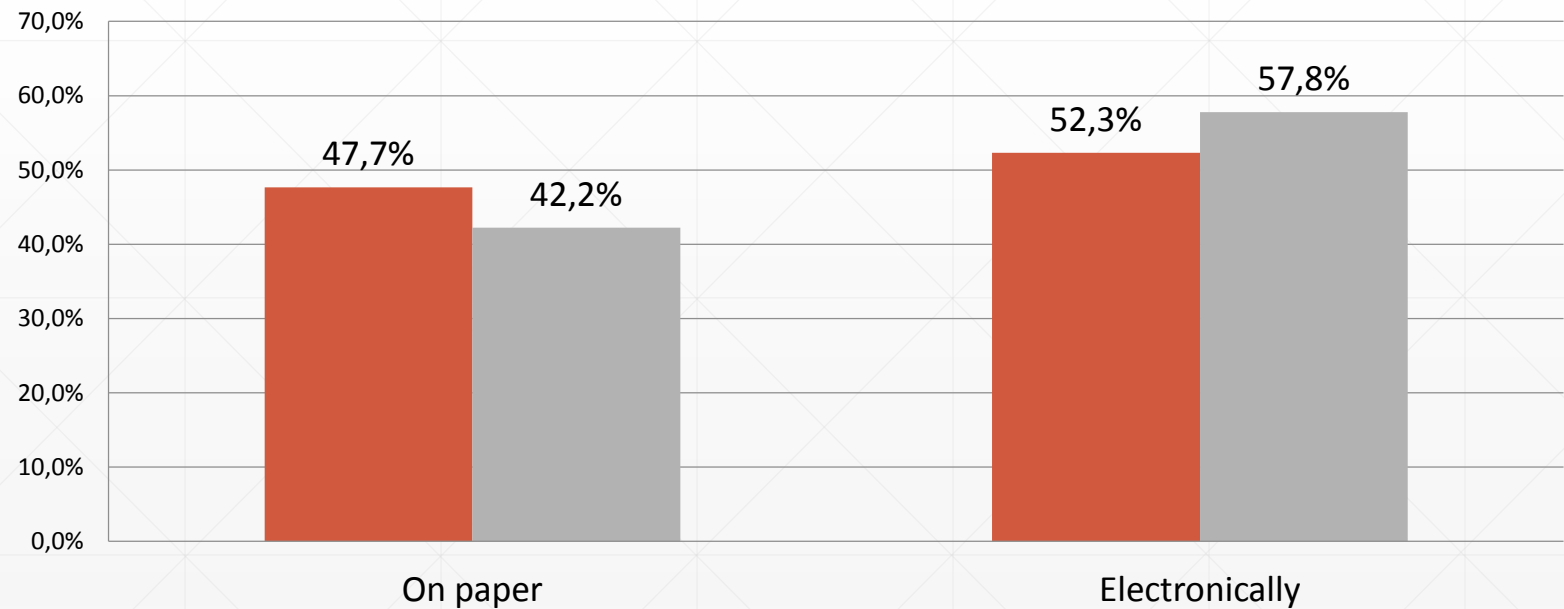
How should the voting for members of the SJC from the professional quota be performed?

Prosecutors Judge



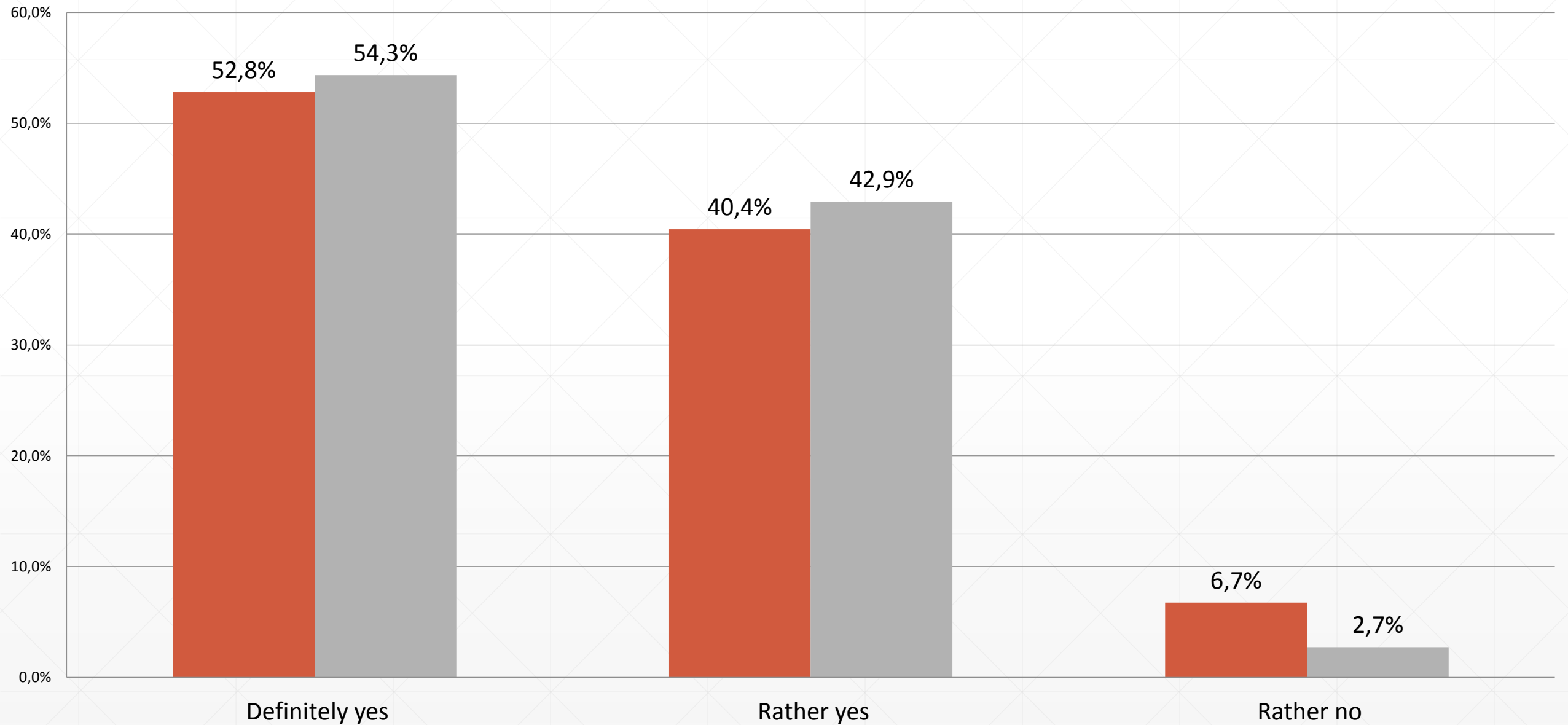
How should the voting on other issues important for the judicial system, which includes voting of the GAs of judges/prosecutors at the respective courts/prosecutions, be performed?

Prosecutors Judge



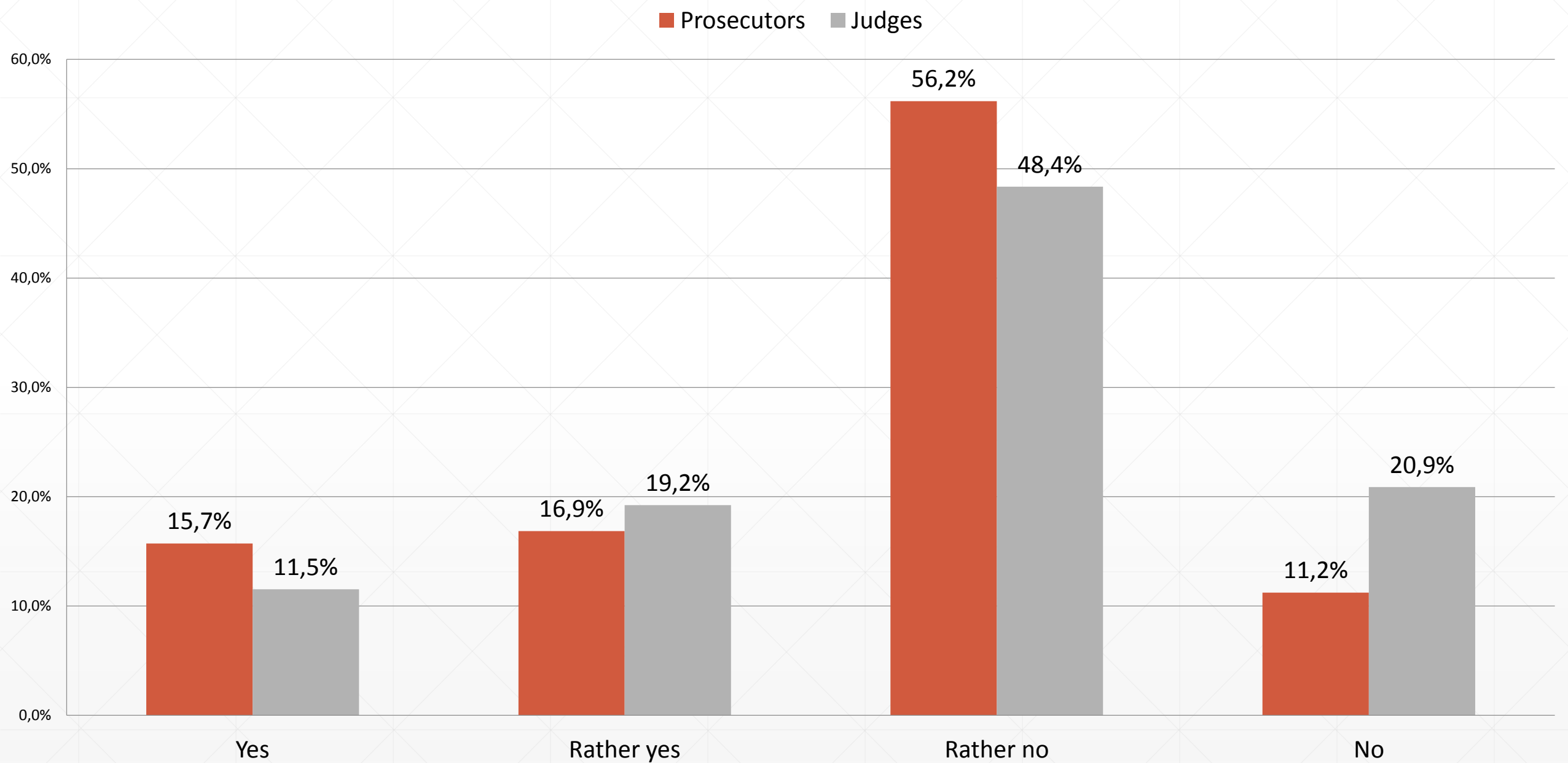
In your opinion, should magistrates come up with an unified position on current issues related to the judicial system?

Prosecutors Judges



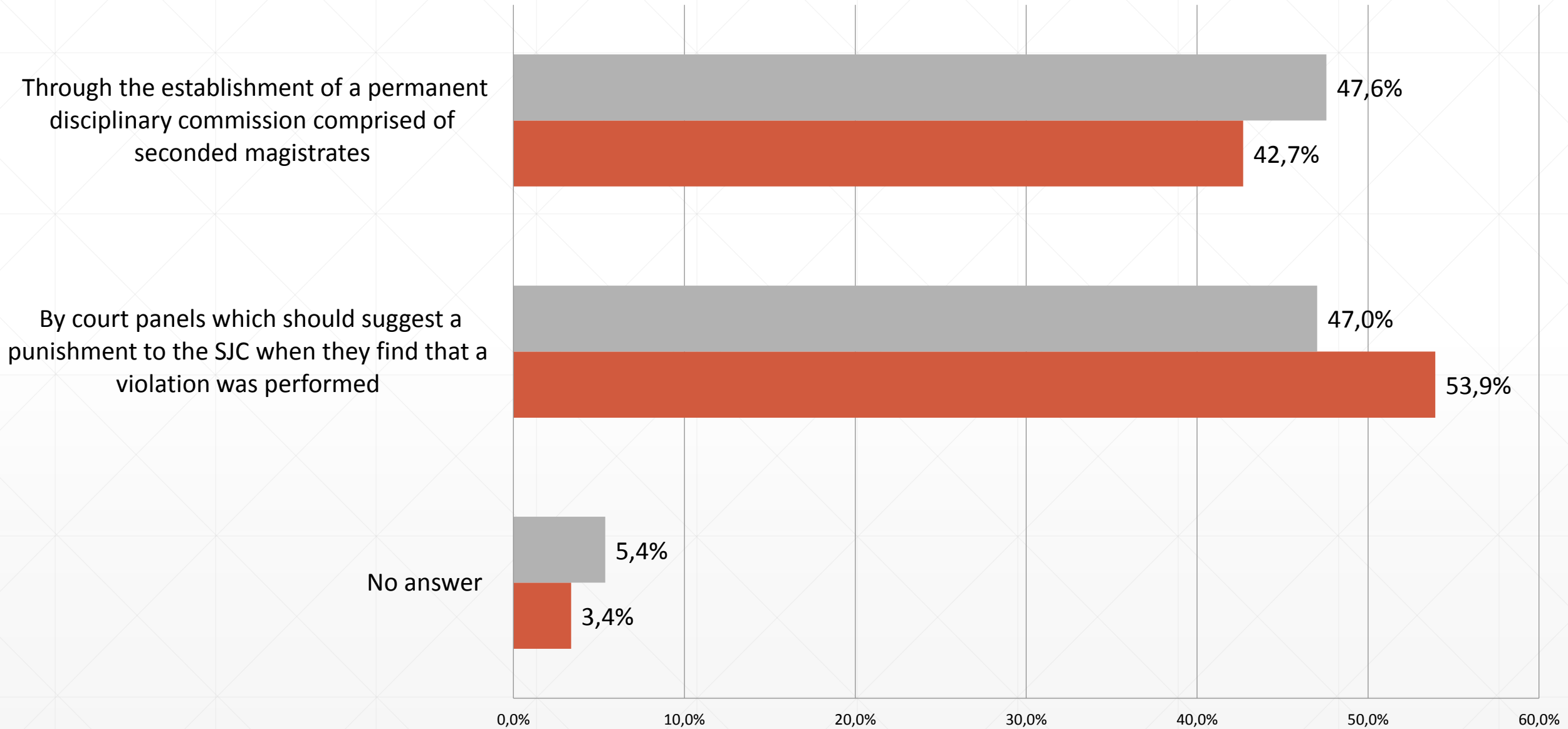
Opinion on the proposals for legislative changes

Do you think that violation of the Code of Ethics of the magistrates shall not be treated as a ground for disciplining a magistrate?

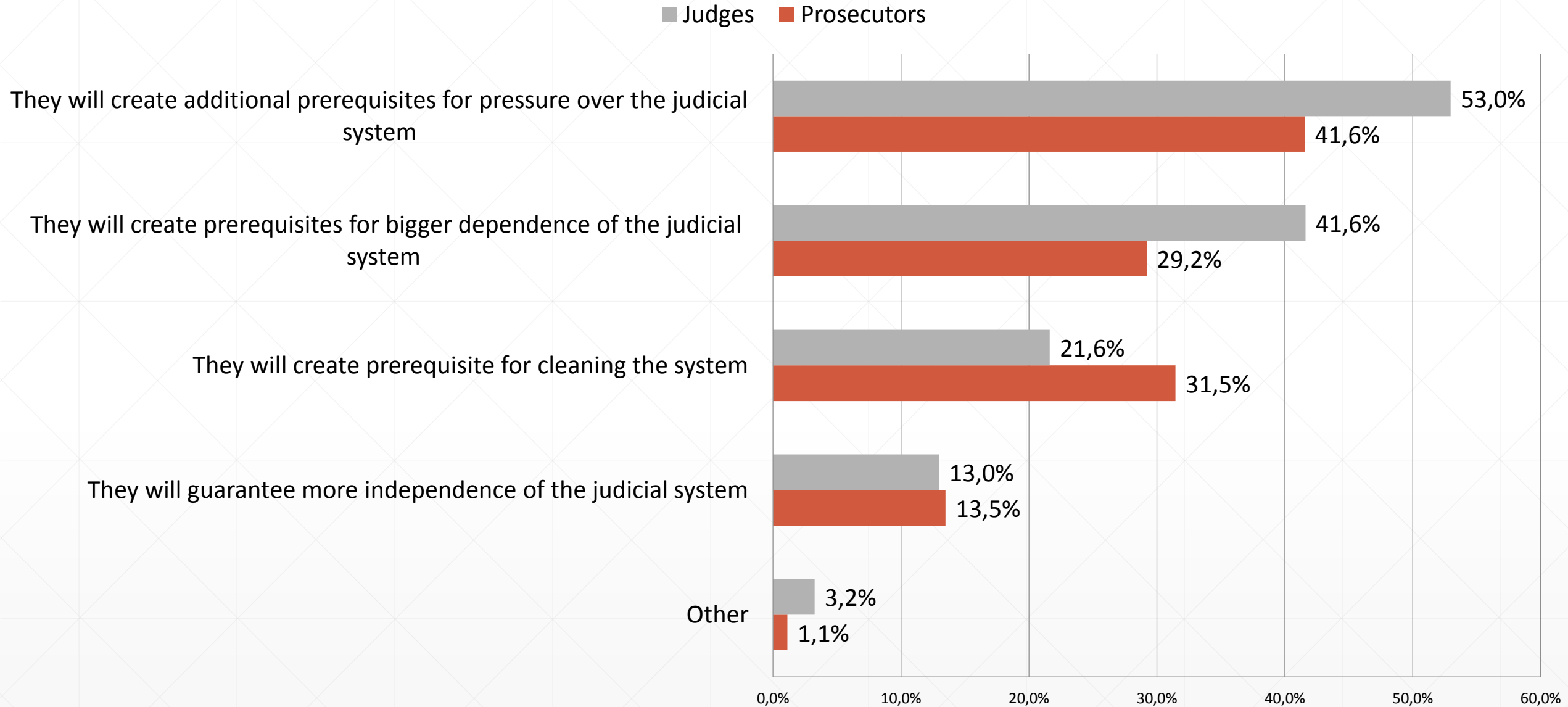


How should disciplinary procedures be processed?

Judges Prosecutors

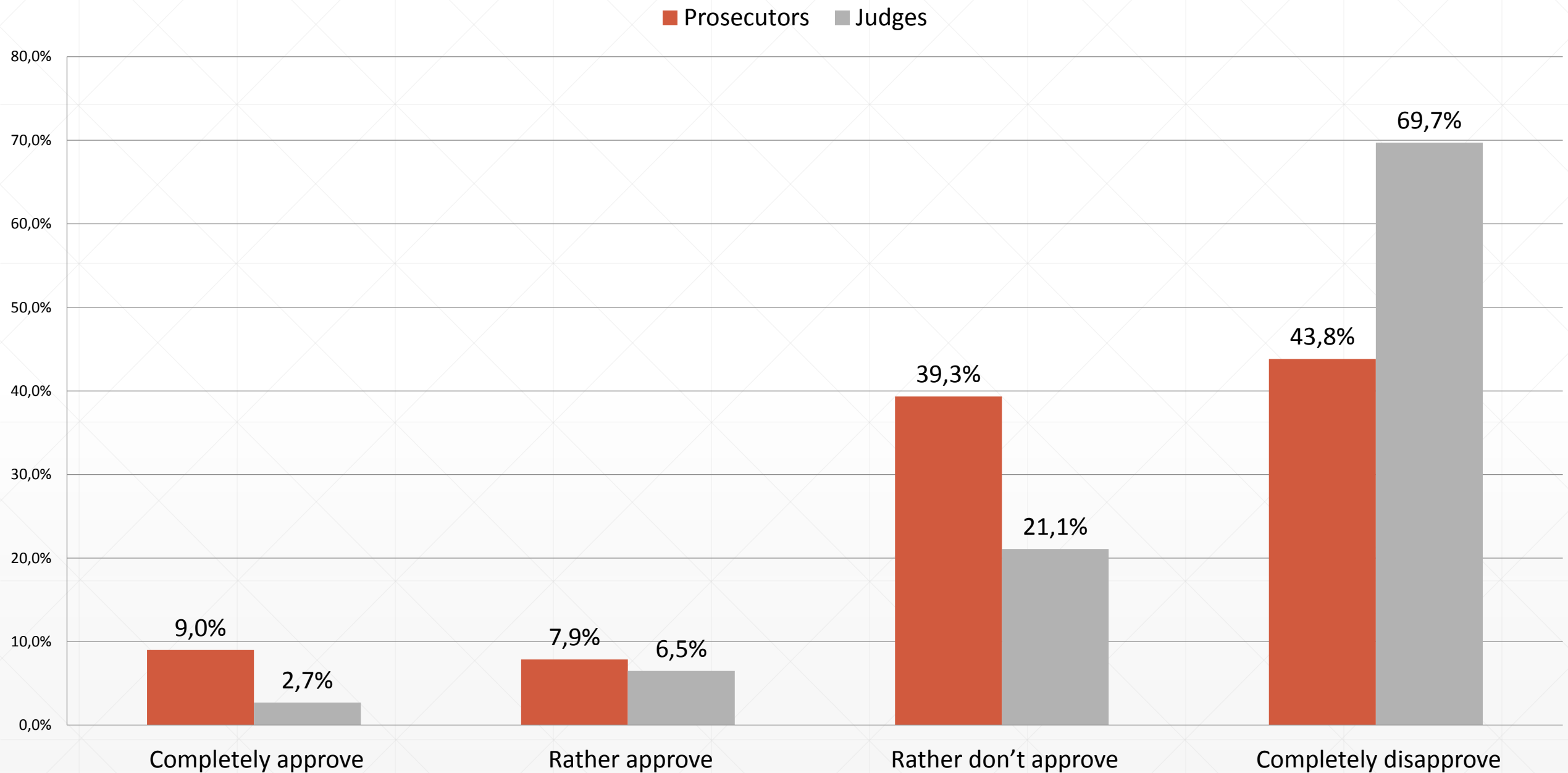


What do you think about the new functions of the ISJC?*



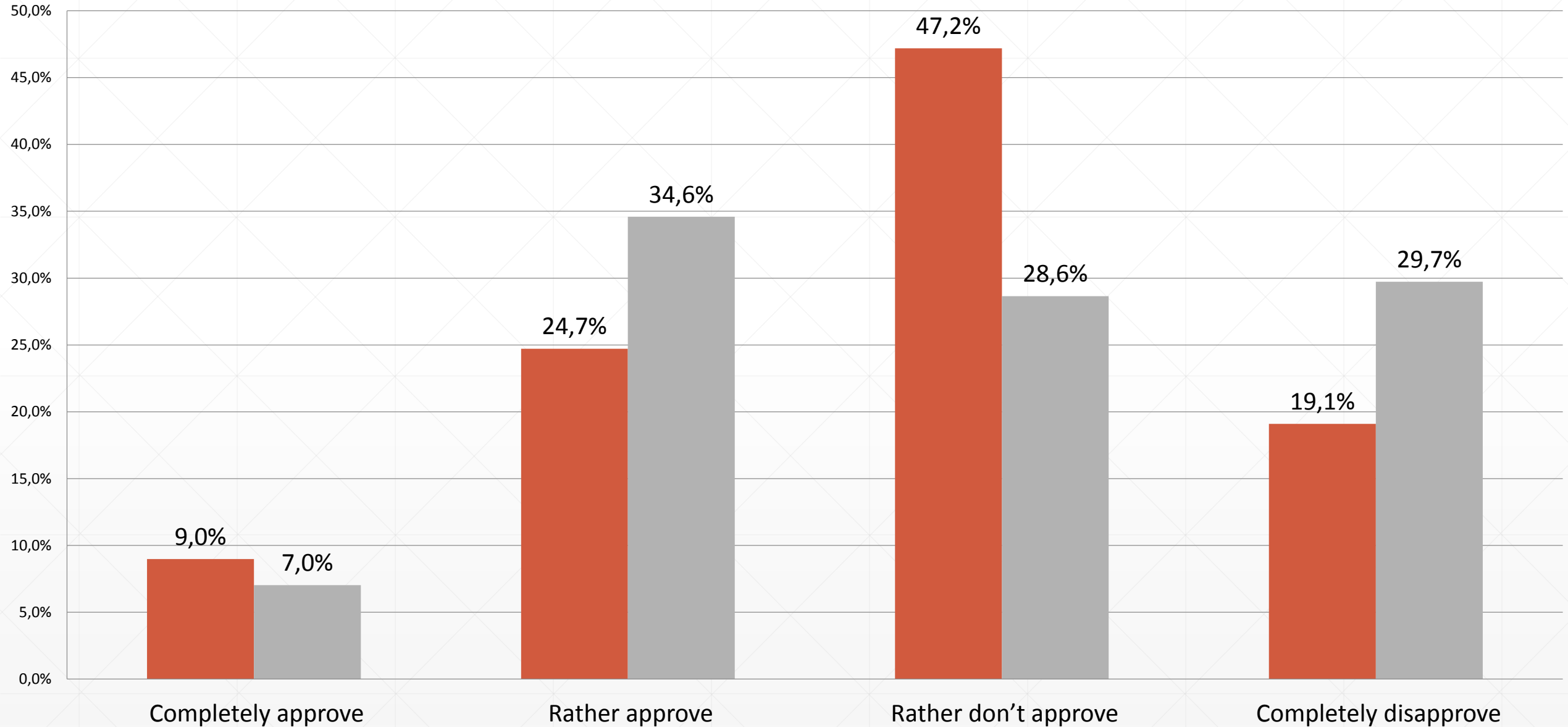
to perform checkups on integrity and conflict of interests of judges, prosecutors and investigators, to check their property declarations, as well as to find actions which damage the prestige of the judicial system and actions related to infringing the independence of judges, prosecutors and investigators

How do you feel about the ISJC doing checkups on enforced court acts (checking the quality of the arguments)?

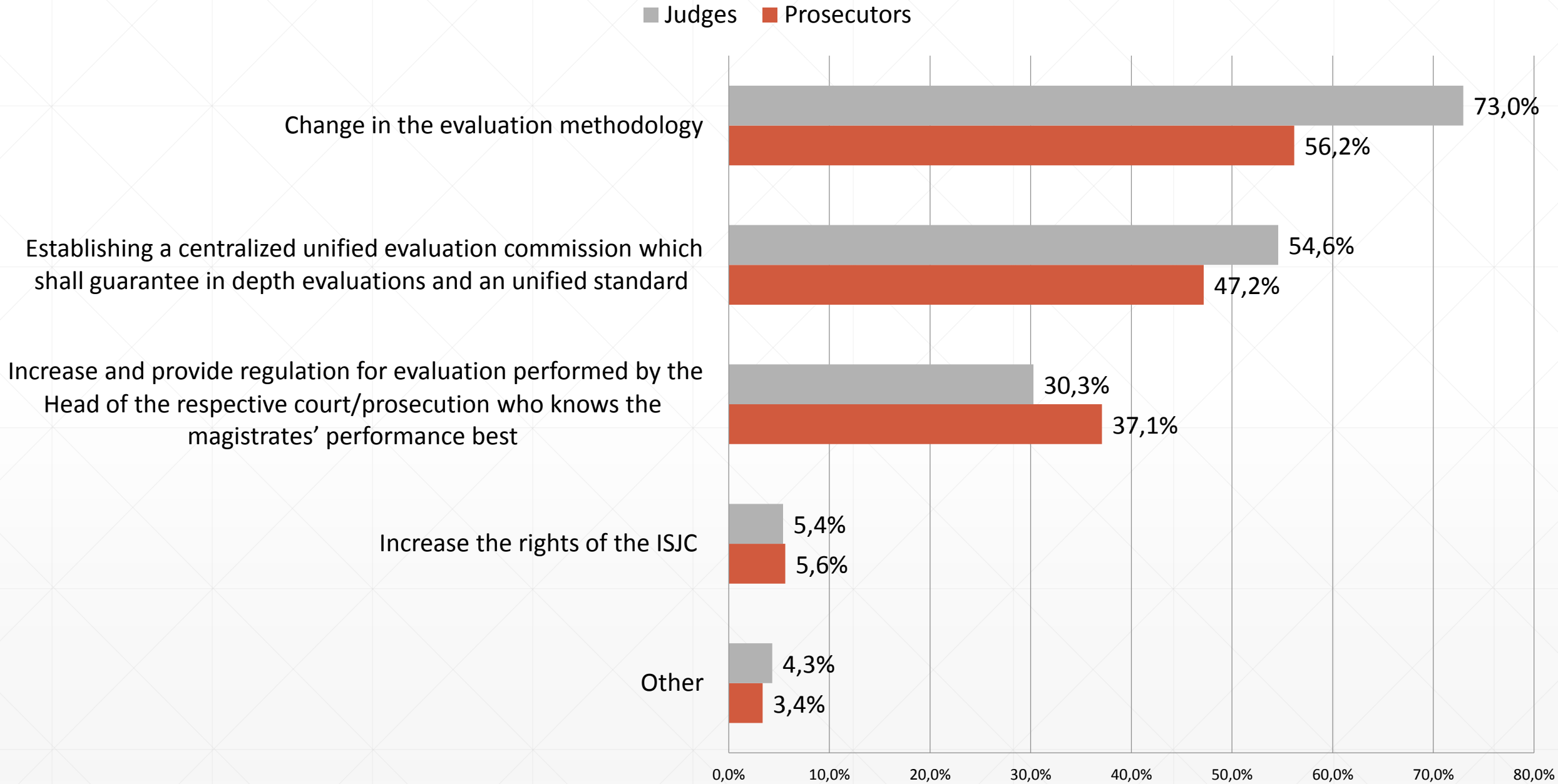


How do you feel about ISJC doing checkups on audio recordings of court hearings (proper and ethical behavior, professional qualities, etc. of magistrates)?

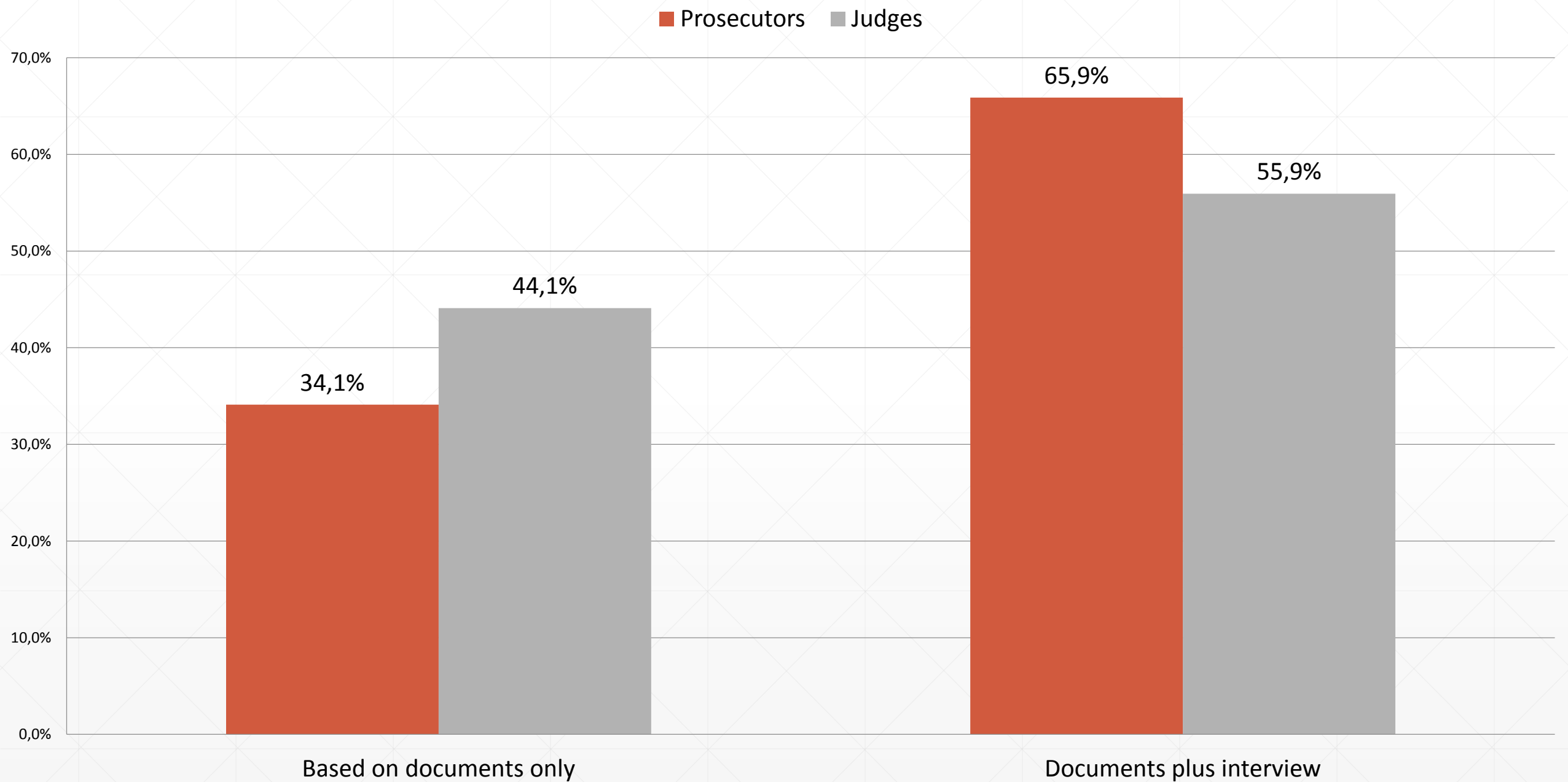
■ Prosecutors ■ Judges



What changes are needed, in your opinion, in order to guarantee that when evaluating magistrates the stress will be put more on the quality of the work than on formal and quantitative indicators?

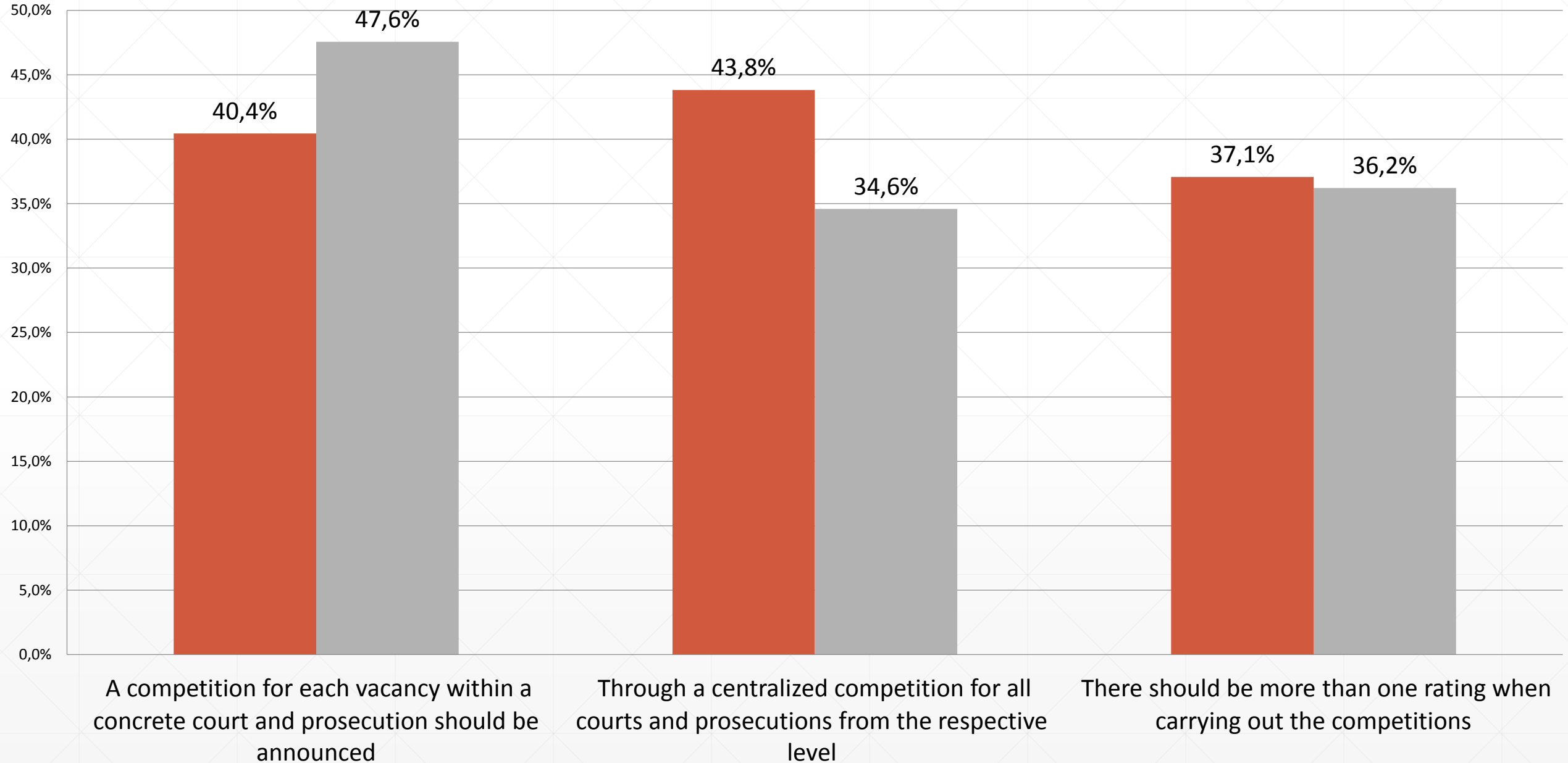


How should the competitions for transfer and promotion of magistrates be carried out?



How should the competitions for transfer and promotion of magistrates be carried out?

Prosecutors Judges



Evaluation of different proposals for changes (only answers “will have a positive effect” are presented) (1)

	Prosecutors	Judges
Direct election by GA of all judges/prosecutors of members of the SJC from the professional quota by guaranteed anonymity of the vote	78,2%	79,3%
More professional discussions among magistrates on key issues related to the substantive and procedural law, and the legislative changes under consideration	75,0%	78,0%
Restructuring of the prosecution in order to decrease the overwhelming centralization	60,9%	77,1%
Eliminating the parliamentary quota at the SJC and establishing a SJC from a professional quota only	68,2%	75,4%
Decreasing the numbers of members from the parliamentary quota in the SJC	75,6%	73,7%
Establishing a mechanism to hold the Prosecutor General accountable	33,3%	67,8%
Increasing the authorities of the GA of magistrates when nominating and/or electing heads/deputy heads and heads of departments	56,3%	67,0%

Evaluation of different proposals for changes (only answers “will have a positive effect” are presented) (2)

	Prosecutors	Judges
Improving the criteria and mechanisms for determining disciplinary violations, as well as the procedures for imposing disciplinary punishments	48,8%	63,7%
Direct election of the Presidents of the Supreme Court of Cassation and the Supreme Administrative Court by all judges	57,5%	62,6%
Direct election by the plenums of the Supreme Court of Cassation and the Supreme Administrative Court of the members of the commissions responsible for the competitions for transfer and promotion of judges	52,3%	62,2%
More professional discussions among magistrates on key issues related to the reform in the judicial system	67,8%	61,7%
More active participation of the General assemblies (GA) of the judges and prosecutors in the management process of the courts and prosecutions	49,4%	61,4%
Participation of more magistrates in the work of the SJC through the establishment of commissions comprised of seconded magistrates	52,9%	60,7%
Direct election by the GA of judges and prosecutors of the members of commissions responsible for the competitions for transfer and promotion	62,5%	58,8%

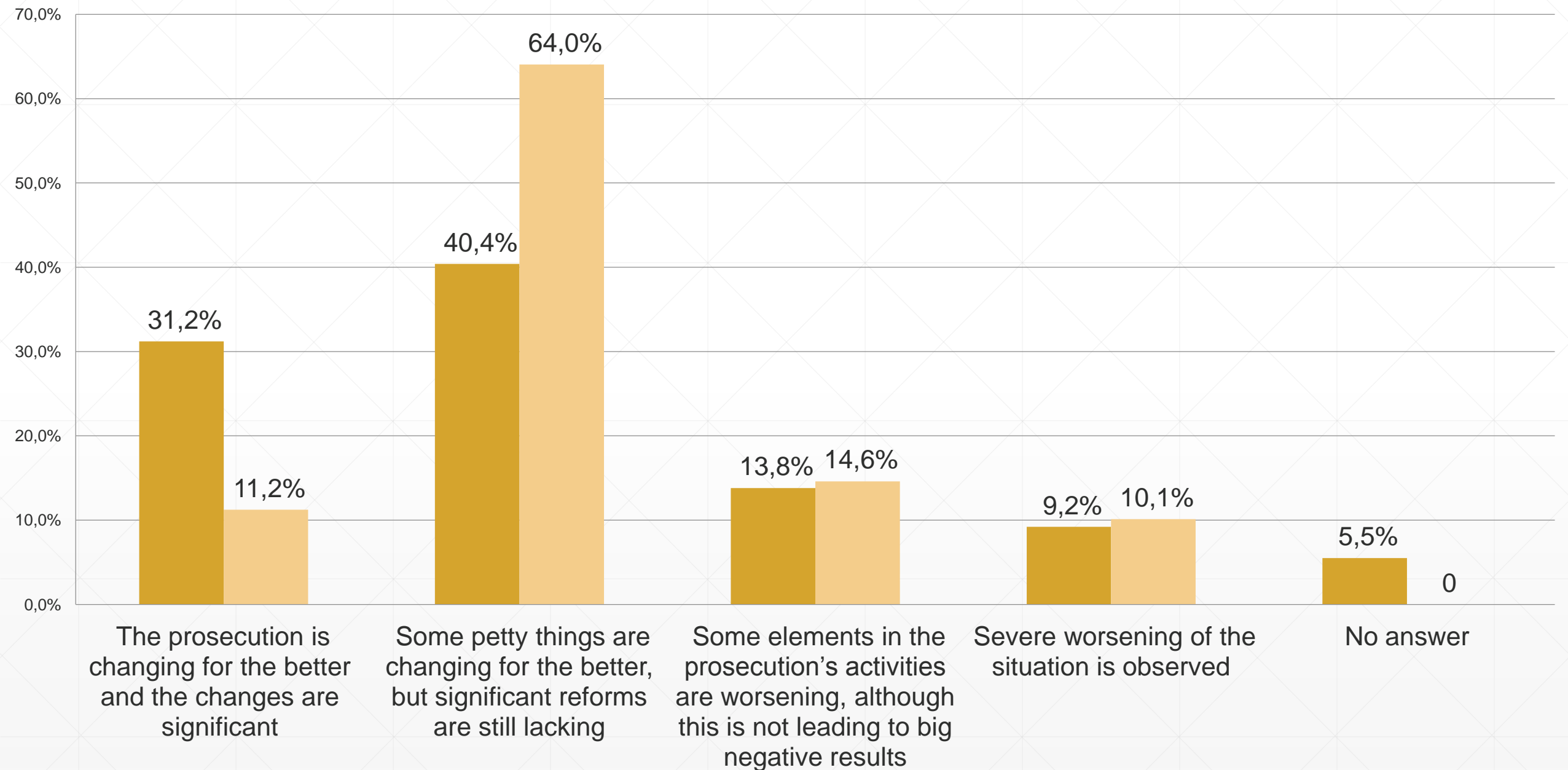
Evaluation of different proposals for changes (only answers “will have a positive effect” are presented) (3)

	Prosecutors	Judges
Restructuring of first instance courts and prosecutions in order to optimize case load	50,0%	57,9%
Improving the mechanisms for quality control of the work	54,0%	56,9%
Direct election of the Prosecutor General by all prosecutors	58,0%	56,1%
Direct election by the plenums of the Supreme Court of Cassation and the Supreme Administrative Court of the members of the Judges evaluation commission at the SJC	60,9%	54,2%
Restricting the practice of seconding magistrates in a upper instance	47,1%	52,7%
Direct election by the GA of the SCP, SAP and the NIS of the members of the commissions responsible for the competitions for transfer and promotion of prosecutors	51,7%	51,7%
Direct election by the GA of the Supreme Cassation Prosecution, Supreme Administrative Prosecution and the National Investigative Service of the members of the Evaluation commission for prosecutors and investigators at the SJC	60,2%	49,2%
Shortening the duration of the mandates of the “three big” (Presidents of the Supreme Court of Cassation and the Supreme Administrative Court and the Prosecutor General)	31,8%	44,8%
The Prosecutor General shall account to the National Assembly	17,2%	44,2%

Comparisons of the opinion of the prosecutors between 2014-2016

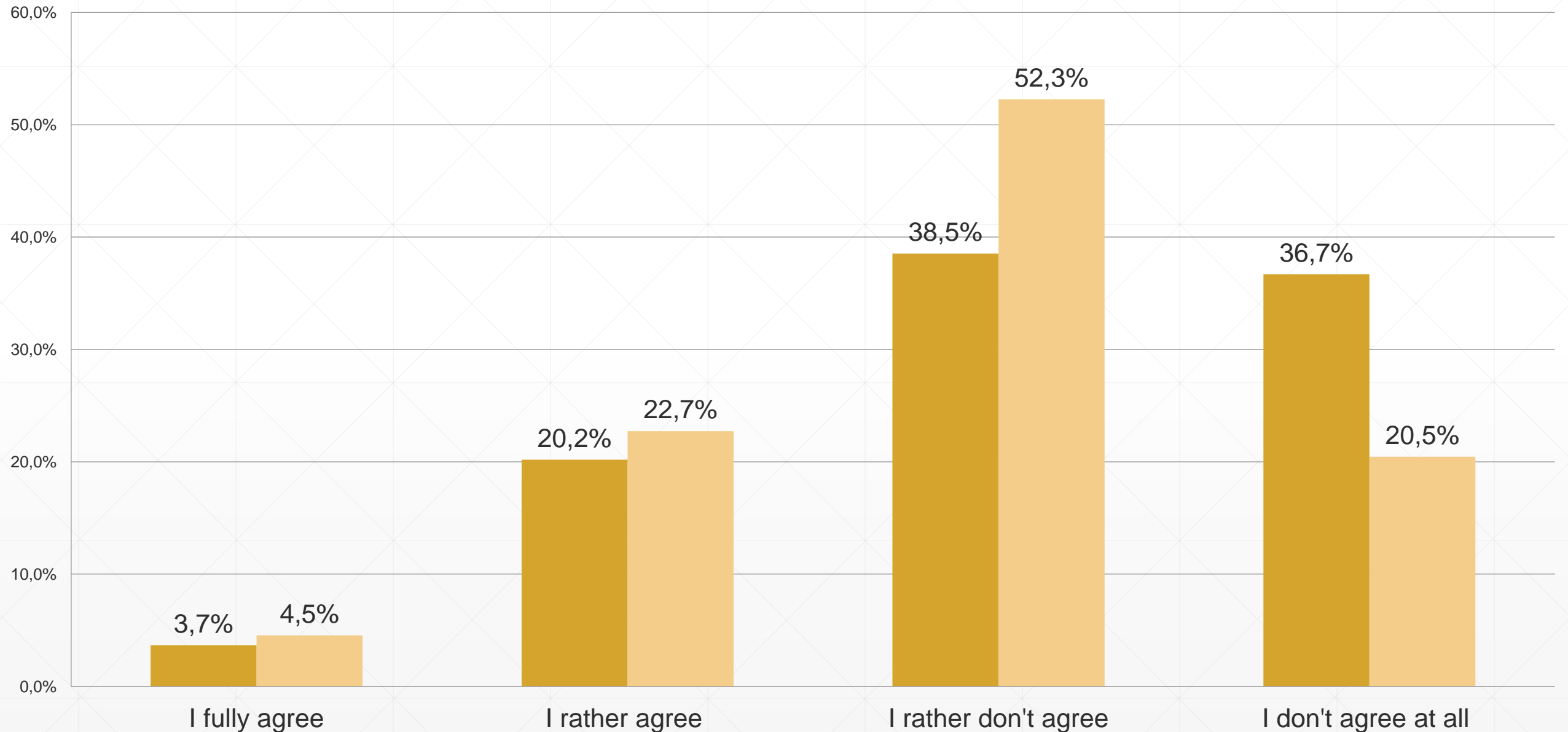
How would you evaluate the reforms in the PROSECUTION in the last two years?

■ Prosecutors 2014 ■ Prosecutors 2016



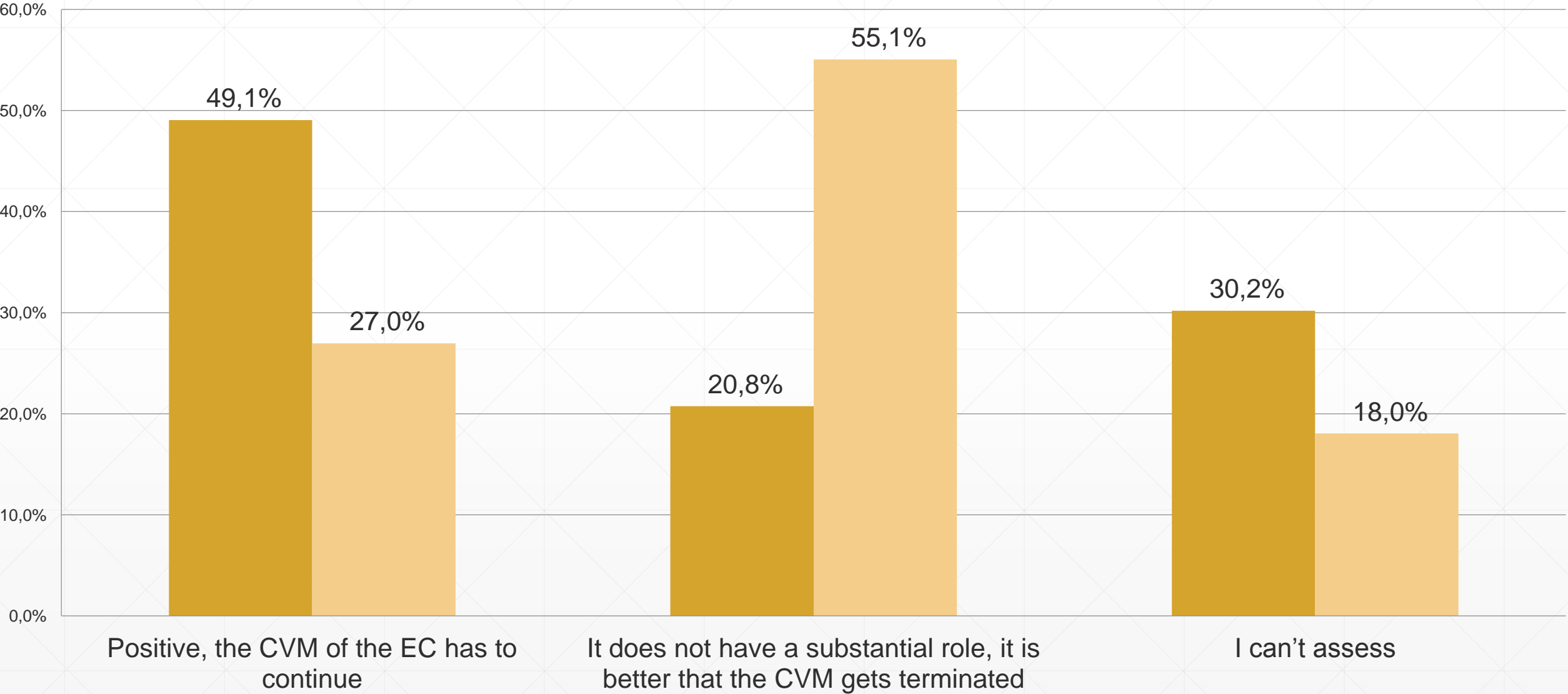
In your opinion, how true is the statement that only the people with the best professional and moral qualities are advancing in the hierarchy?

■ Prosecutors 2014 ■ Prosecutors 2016



What, in your opinion, is the role of the Mechanism for Cooperation and Verification of the European Commission in achieving reforms in the prosecution and the judicial power?

■ Prosecutors 2014 ■ Prosecutors 2016





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