

Coping with Threema: How do Lawyers Perceive Their Biggest Corruption Scandal?

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Coping with Threema: How do Lawyers Perceive Their Biggest Corruption Scandal?

The present paper introduces results from a survey carried out among judges, attorneys, prosecutors, notaries, enforcement officers, law professors and law students. Its main aim was to identify whether the legal professions dealt appropriately with information about the behaviour of lawyers apparent from the leaked Threema communication between Marian Kočner and several representatives of the justice system. Secondly, the survey strived to determine what could have made lawyers' response to the Threema scandal more appropriate and how the behaviour described in Threema could have been prevented. The third important aim of the survey was to ascertain how to strengthen the integrity of the legal professions. The paper provides mostly descriptive information about the results of the survey.

Keywords: professional ethics, judicial integrity, trust in the justice system, crisis of legal profession

*Though with their high wrongs I am struck to th' quick,
Yet, with my nobler reason, 'gainst my fury
Do I take part: the rarer action is
In virtue than in vengeance: they being penitent,
The sole drift of my purpose doth extend
Not a frown further. Go, release them, Ariel.
My charms I'll break, their senses I'll restore,
And they shall be themselves.*

William Shakespeare, The Tempest, 1611¹

Introduction

When Prospero, the protagonist of Shakespeare's play, wants to avenge evil deeds committed against him, he orchestrates a tempest that wrecks the ship of his malefactors. However, at the end of the play, he changes his plan and merely strives to understand his suffering. At this point, the villains begin to understand what they had caused. It is then

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¹ This quotation comes from the series *The Cambridge Dover Wilson Shakespeare*, vol. 33.

revealed that the ship was only wrecked by magic, and it is magically restored. The story closes with a catharsis as all of the main characters return home, and the love thrives between Miranda, daughter of Prospero, and Ferdinand, son of his former enemy.

Shakespeare's plays rarely have such a happy ending. Violence and deadly bloodshed are more common. The Shakespearean quip 'let's kill all the lawyers' from Henry VI became quite well known. It is also known that many of Shakespeare's plays pose interesting legal questions that lawyers like to analyse, especially *The Merchant of Venice* and *Measure for Measure*. In the present article, we use the Tempest motive as a background for analysing events in Slovakia between 2019 and 2020 in connection with what became known as the Threema affair or simply Threema. Indeed, the affair's major consequence was the arrest of thirteen judges, including a former Deputy Justice Minister, one insolvency administrator and one attorney. The police named this operation the 'Tempest'. Of course, unlike Shakespeare's Tempest, no one knows yet whether there will be any catharsis. Nonetheless, we hope that the legal professions will see the crisis as a chance to rethink their role and purpose, and that '*they shall become themselves*'. The outlined survey results may clarify whether our hope is realistic.

The paper has merely descriptive aspirations. Its main goal is to introduce the preliminary results of a survey that sought to gauge lawyers' reactions to the Threema. The survey was carried out in October and November 2020 in the form of a questionnaire distributed among judges, attorneys, prosecutors, notaries, enforcement officers, law professors and law students.

In the first part of the paper, we sum up the most relevant events related to the Threema communication and subsequent reactions. The second part of the article is dedicated to the methodology of the survey. In the third part, the results of the survey are presented.

1. What is Threema?

In many countries, Threema became popular as one of the most secure mobile phone applications, allowing for encrypted communication and collecting only a limited number of metadata. However, in Slovakia, the name of the application bears an extremely negative connotation and is even closely connected with the investigation of the murder of investigative journalist Ján Kuciak and his fiancée Martina Kušnírová. Between 2017 and 2018, Marian Kočner, a controversial businessman who stands accused of ordering the murder,² exchanged messages with several lawyers, including judges and prosecutors, via Threema to manipulate their decisions and obstruct justice.

The Slovak police seized Marian Kočner's mobile phone while investigating the murder. With Europol's assistance, the police was able to decode saved messages that Kočner had sent through Threema between September 2017 and May 2018. The messages

² On September 3, 2020 Marian Kočner and Alena Zsuzsová, who has also been charged with facilitating the murder, were acquitted by the first instance court: The Specialised Criminal Court. Appeal proceedings are pending before the Supreme Court of the Slovak Republic.

obtained from Kočner's phone suggest that Kočner *inter alia* extensively discussed cases with judges, prosecutors and lawyers to gain sensitive information, to openly manipulate police and prosecutorial or court decisions in exchange for bribes, to lobby for some judges' interests through his web of contacts or even to give orders to specific judges how to proceed in their decision-making.

Kočner's Threema messages suggest that he regularly co-ordinated with businessman Norbert Bődör to arrange police database searches to obtain extensive personal data of selected journalists, investigators, prosecutors or judges. At the same time, Bődör appeared to serve as a liaison between Special Prosecutor Dušan Kováčik and top police officers, including former Police President Tibor Gašpar, to interfere with criminal investigations by halting them or replacing investigators or prosecutors.³

The communication also shows that Kočner employed Alena Zsuzsová, who is also charged with ordering the murder of Ján Kuciak and Martina Kušnírová, to act as a honeypot, targeting political and legal figures to gain sensitive information and potentially discredit them.

While Kočner's attorney Marek Para, insisted that the QR codes used by Threema cannot be paired with concrete individuals, the Specialised Criminal Court and the Supreme Court confirmed that Threema evidence had been legally obtained.⁴ The Specialised Criminal Court also stated that it '*cannot come to believe that the Threema communication could have been tampered with or manipulated*' and called the defence's objections to Threema '*very abstract and absolutely unfounded*'. Eventually, Kočner's messages sent through Threema became one of the crucial pieces of evidence in court decisions about the forgery of TV Markíza promissory notes by Marian Kočner.⁵

The Specialised Criminal Court found that the judge presiding over the promissory notes civil claim, initiated by Kočner, acted under pressure from former Deputy Justice Minister Jankovská and Kočner himself.⁶

The Threema messages leaked from the investigation file in August 2019, when fragments of the communication were published for the first time by the newspaper DenníkN.⁷

The messages reveal in explicit detail a robust corruption network in Slovakia's justice sector created over years. They even included how much Kočner paid for specific rulings in his favour. For example, by communicating with a prosecutor of the Bratislava I District Prosecution Service, Bystrík Palovič, Kočner attempted to stop criminal

³ <https://spectator.sme.sk/c/22214083/threema-saga-bodor-served-as-a-liaison-between-kocner-and-the-special-prosecutor.html> [accessed 13 December 2020].

⁴ Judgment of the The Specialised Criminal Court from February 27, 2020, PK-1T/9/2019.

⁵ Kočner attempted to claim EUR 69 million from TV Markíza, on the basis of counterfeited promissory notes. On January 12, 2021 the Supreme Court upheld the Specialised Criminal Court ruling and sentenced Kočner and his accomplice Pavol Rusko to 19-years' imprisonment. See <https://spectator.sme.sk/c/22571785/kocner-sentenced-to-19-years-in-prison.html> [accessed 14 January 2021].

⁶ Judgment of the The Specialised Criminal Court of February 27, 2020, PK-1T/9/2019.

⁷ <https://dennikn.sk/1553675/kocner-v-threeme-kuciak-moze-byt-patronom-novinarov-ved-ma-v-sebe-patron/?ref=tema> [accessed 13 December 2020].

investigations against certain individuals and offered bribes to other prosecutors with whom Palovič promised to talk. One of Threema communications most cited in the media were exchanges between Marian Kočner and former Deputy Justice Minister and judge Monika Jankovská. The messages suggested that Jankovská co-ordinated with Kočner to arrange desirable court rulings with several judges while serving at the Justice Ministry. The Threema messages further showed that judge and former Bratislava I District Court President Vladimír Sklenka was in intense contact with Marian Kočner, informing him of the course of proceedings in his and other courts, and that Sklenka arranged desired court rulings in exchange for bribes. Vladimír Sklenka, who in the meantime resigned from his judicial post, reportedly confessed to his criminal activity and is currently co-operating with the police. Allegations of judicial corruption stemming from the Threema communication are under investigation, with some sixteen judges (including those who resigned from the judicial service) and four attorneys charged, of whom five judges are remanded in custody. In March 2020, in an investigative operation codenamed 'Tempest', the police arrested and brought charges against thirteen judges, including the former Deputy Justice Minister, one insolvency administrator, one attorney and one entrepreneur. In October 2020, the 'Tempest' transformed into a 'Gale' that hit six judges, the former Deputy Justice Minister, two attorneys and one entrepreneur with new criminal charges. It is uncertain whether the investigators gained inspiration from William Shakespeare and symbolically wished to play the role of Prospero, using their 'magic power' to reverse the injustice wrought upon the justice system. In any event, it is certain that the investigative operations have divided the judicial community in its views on the crisis and the need for reforms, and they have filled the public with outrage.

Legal professions, their leaders and their members, all reacted in different ways. In the present paper, we outline only some of these reactions to illustrate the diversity of ways of thinking behind the reaction.

In reaction to the publicised Threema messages and subsequent police seizure of the mobile phones of several judges in August 2019, the Judicial Council of the Slovak Republic issued a press statement on October 4, 2019 condemning corrupt behaviour in the Slovak judiciary. According to the statement, the President of the Judicial Council had no power to take any measures with regard to the exercise of judicial functions until the investigation was closed and the veracity of the Threema communication confirmed. The statement added that the Judicial Council Head would regard it as appropriate if judge Monika Jankovská considered a request to suspend her judicial function.⁸

Subsequently, judges of the Prešov District Court called upon suspected judges to suspend their functions pending the outcome of criminal investigation. The Judges' Council of the Košice Regional Court later joined the statement. At the same time, the Judges' Council of the Bratislava District Court asked their colleagues *'to consider making a personal decision and choosing their further steps and stances in order not to*

⁸ <https://www.sudnarada.gov.sk/predsednicka-sudnej-rady-odsudzuje-korupciu-v-slovenskej-justicii/> [accessed 14 December 2020].

create room for doubt about the ethical values of the Bratislava I District Court judges'. It further stressed that it was for law enforcement bodies to deal with the criminal responsibility of judges.⁹

After the police arrested 13 judges in the 'Tempest' investigative operation in March 2020, twelve judges of the Prešov District Court published a call titled 'Screen Us!', criticising the vague statements of top judicial leaders regarding the alleged criminal activities of judicial representatives and requesting a screening of judges to *'reverse a total collapse in trustworthiness of judiciary'*.¹⁰

Political reaction to the Threema communication and the subsequent investigation involving several judges materialised in an amendment to the law on judges and lay judges No. 385/2000 Coll. According to the amendment, approved by the Parliament in December 2019, the Judicial Council may, upon a proposal of the President of the Judicial Council, the Justice Minister or the Supreme Court President, suspend a judicial function when there are *'reasonable doubts about judges' prerequisites of judicial competence and judicial trustworthiness and good reputation can be seriously endangered*'.¹¹

As a result of criminal investigation into alleged judicial corruption and the published Threema communication, several judges stepped down, including one judge of the Constitutional Court.¹² Other judges whose activities are under investigation have had their functions suspended. Judge David Lindtner, who exchanged numerous messages and regularly met with Kočner, resigned as the Bratislava III District Court President and in October 2019 submitted a request to suspend his judicial function. In December, the Slovak Bar Association admitted him as a new member. In July 2020, the bar suspended his licence due to criminal charges brought against him in March 2020.

In October 2019, the Prosecutors' Council published its resolution No. 93, in which it criticised prosecutors who damage the prosecutorial service by prioritising their personal interests and developing troublesome contacts. The Council declared that the prosecution service requires systemic reform to support a self-cleansing process. Specifically, they cited strengthening independence and accountability of individual prosecutors, improved selection process of new prosecutorial candidates, stronger public oversight, and the reform of the election of the Prosecutor General.¹³

⁹ <https://www.postoj.sk/48284/sudcovia-z-presova-vyzyvaju-sudcov-z-threemy-aby-si-prerusili-vykon-funkcie> [accessed 14 December 2020].

¹⁰ <http://www.sudcovia.sk/en/component/content/article/9-slovenske-kategorie/dokumenty/2890-sudca-v-standardnej-spolocnosti> [accessed 14 December 2020].

¹¹ § 22a of the Law on Judges and Lay Judges No. 385/2000 Coll., as amended.

¹² Later, the Constitutional Court judge who was apparently in indirect touch with Kočner and was reporting the case of his custody before the chamber of the court explained that he stepped down because of his health and age, rather than because of doubts about his integrity.

¹³ <https://www.genpro.gov.sk/rada-prokuratorov/aktuality/vyhlasenie-rady-prokuratorov-slovenskej-republiky-zo-dna-21-oktobra-2019-3a3f.html> [accessed 14 December 2020].

2. The methodology of the survey and information about respondents

The survey aimed to identify whether legal professions dealt with the Threema affair sufficiently and appropriately, as summarised above.¹⁴ We conducted an anonymous questionnaire among members of the most common legal professions and law students. We wished to learn how individual legal professions perceived the reactions of their own and other professions to the Threema revelations. The law students were included in the research to gain insight into how future lawyers, who are not yet part of the ‘establishment’, perceive the current crises.

The survey was intended to collect data on both the response to Threema and opinions on how the legal professions could have dealt with the situation. Hence, out of eighteen questions in the questionnaire, six were open-ended, with no predefined options. They were subsequently coded for specific themes, as described below.¹⁵ The questions aimed at this type of data distinguished between prospective changes in the legislation (including Codes of Conduct) and other means of change. However, respondents mostly merged their answers into general reflections on necessary reforms. One type of question on the survey was explicitly aimed to ascertain whether respondents considered it appropriate to impose stricter sanctions for the behaviour revealed in Threema. One question asked about the biggest failure in the reactions to Threema. Here, some respondents identified flaws in the subsequent reactions of the legal professions, while others spoke about the most critical failure of lawyers captured in Threema.

We were also interested to learn how lawyers are perceived after Threema, and which professions’ reputation suffered the most in the lawyers’ opinion. Moreover, we were interested to learn ways in which the integrity of the legal professions could be strengthened.

In addition, we collected data on the profession of the respondents, the length of their practice in their respective profession, their age and gender, the sources of their information on Threema and their self-evaluation of how much information they have about Threema.

The questionnaire was distributed among members of the legal professions, starting on October 6th.¹⁶ The last respondent filled it out on the November 28th. To cover judges’ opinions across all regions and districts, we addressed active judges through the President of the Supreme Court, regional courts’ presidents and the Association of Slovak Judges. We further approached active prosecutors, attorneys and enforcement officers via leadership of the prosecution service, the Slovak Bar Association and the Chamber of Enforcement Officers. All representatives kindly promised assistance. We distributed the

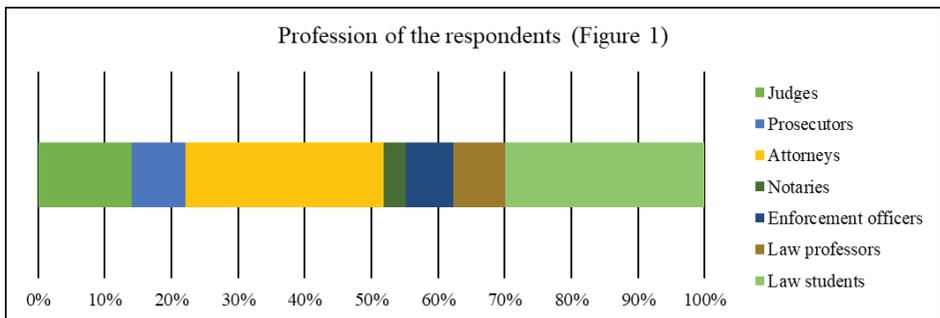
¹⁴ Of course, the above mentioned reactions of lawyers were not the only ones. However, in the present paper, we will not analyse the reactions to Threema, but only whether they were considered sufficient by lawyers and law students.

¹⁵ The full list of questions is attached in Annex.

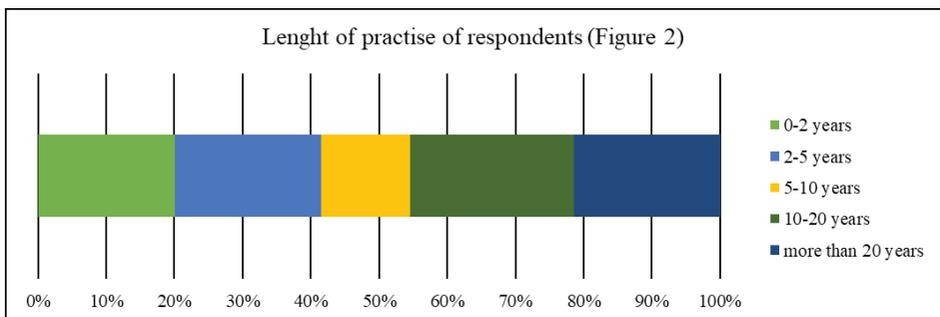
¹⁶ We would like to thank all representatives, officials and individuals who helped to distribute the questionnaire.

questionnaire among all notaries by addressing individually all members of the Chamber of Notaries. To involve law students in the existing Slovak law schools, we have asked for assistance respective law schools' vice-deans.

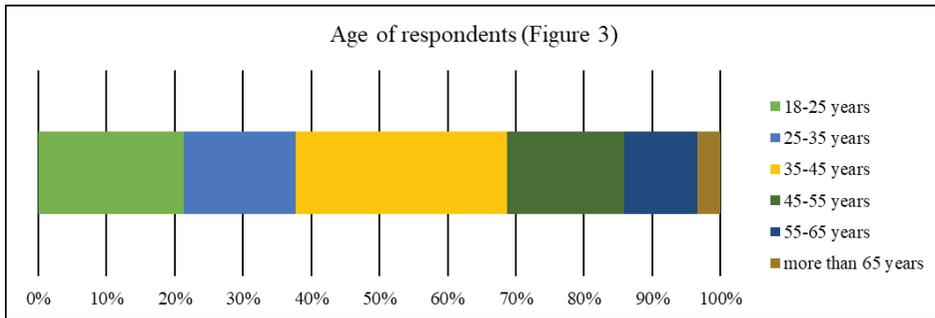
The questionnaire was filled out by 562 respondents. The highest number of them were attorneys (167) and law students (168). As to the response rate in each of the approached legal professions, the enforcement officers scored the highest with 14,5% of them taking part in the survey, followed by law professors with 13% and judges and notaries, each group with 5,8% of participating members. Despite the differing ratio and a rather low number of respondents in some legal professions, the nature of responses to open-ended questions within each profession (Figures 10, 11, 13, 16 and 17) indicated varied views on the posed questions. The proportions of respondents in each legal profession are illustrated in Figure 1.¹⁷



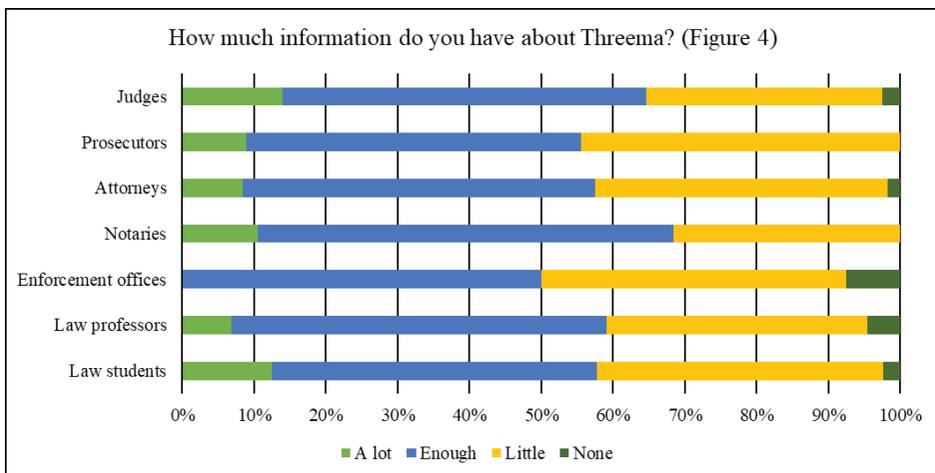
The length of practice of the respondents was almost equally distributed (Figure 2). However, these results were influenced because students also participated. In terms of age, lawyers between 35 and 45 were the most active participants in the survey (Figure 3, page 70). The ratio of female to male participation was 2 to 3, respectively.



¹⁷ The proportions of legal professions (excluding students) who participated in the survey, based on publicly accessible data, was as follows: 5.8% of judges, 4.7% of prosecutors, 3% of attorneys, 5.8% of notaries, 14.5% of enforcement officers and 13% of law professors.



Most respondents (almost 60%) believed that they had a solid amount of information (a lot or enough) regarding the contents of Threema. There was no significant difference among the various legal professions in terms of the participants' self-evaluation of their knowledge (Figure 4).



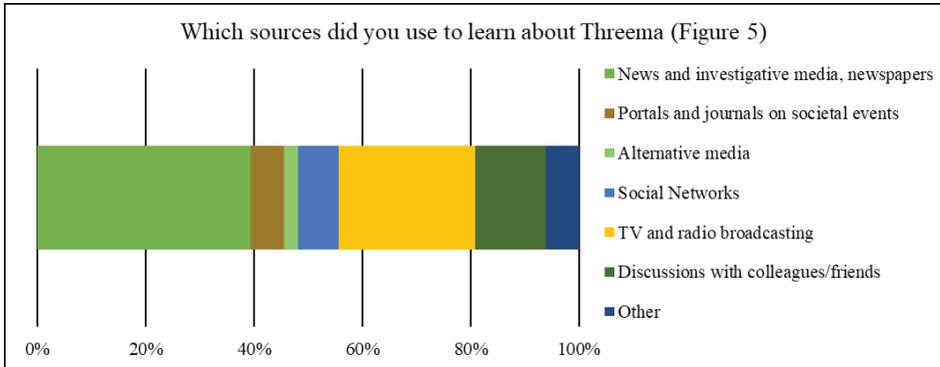
With regards to the sources that lawyers used to find information about Threema, the most common were the news and investigative media, TV and radio broadcasting, and discussions with colleagues and friends (Figure 5, page 71).

3. Findings¹⁸

The main aim of the survey was to gain an understanding of how lawyers perceived the reaction of the legal professions and their members to Threema. There were only

¹⁸ Since the journal is printed in black and white, we attach an online link where the survey results and figures can be viewed in full colours <https://bit.ly/3iG02er> or <https://drive.google.com/file/d/18W05gdUTtMB-b7heCYMY2dTGy35ANweGy/view?usp=sharing>.

minor differences between these groups in terms of sufficiency assessment.¹⁹ For this reason, members of legal professions and their leaders have been treated as one group in this part of the survey (Figure 6, page 72).



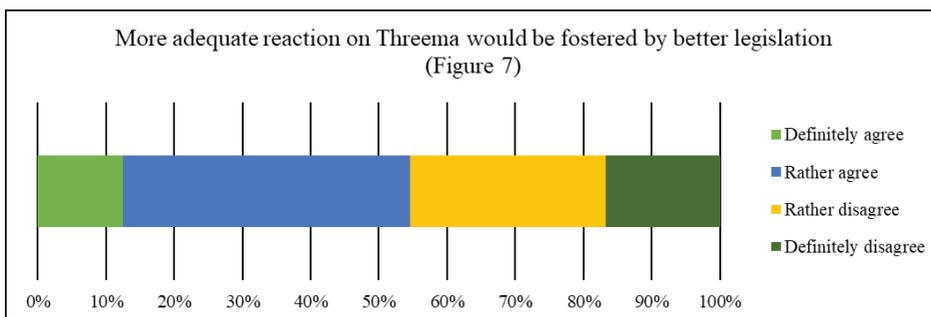
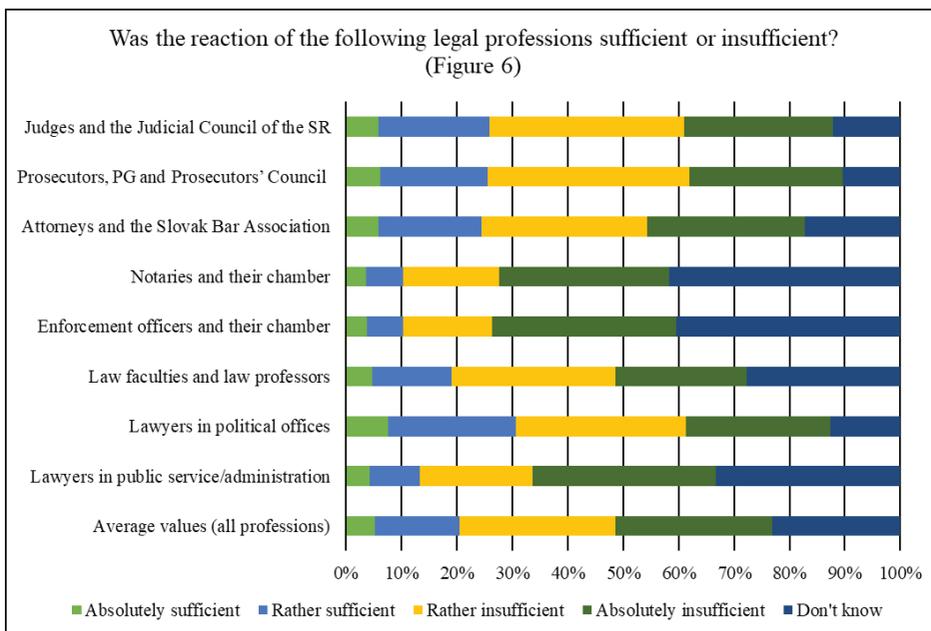
In general, the reaction of lawyers in political office (MPs, ministers, etc.) was valued as the most sufficient: over 30% of respondents (172) considered it absolutely or rather sufficient, and almost 57% (319) considered it absolutely or rather insufficient. The second position was held by attorneys, with over 26% of respondents (148) stating that their reaction was sufficient and over 56% (317) that it was insufficient. A very close third were law professors and researchers. Quite significantly worst were the leaders of the Prosecutorial Office (General Prosecutor, his deputy, and Prosecutors' Council), with almost 28% of respondents (128) considering their reaction sufficient and over 67% (379) believing it to be insufficient.

With regards to the average values across all professions, the reaction of most legal professionals was rated as insufficient (Figure 6, page 72).

When asked whether changes in legislation might have helped with a more appropriate reaction to Threema, a close majority of participants answered in the positive (Figure 7, page 72).

Even if the respondents answered the question negatively, believing that better legislation would not be helpful, they had the opportunity in the next question to propose legislative changes that would have helped legal professionals to react more adequately. In the depiction of these answers below, lawyers are divided into groups based on their professions (Figure 8, page 73).

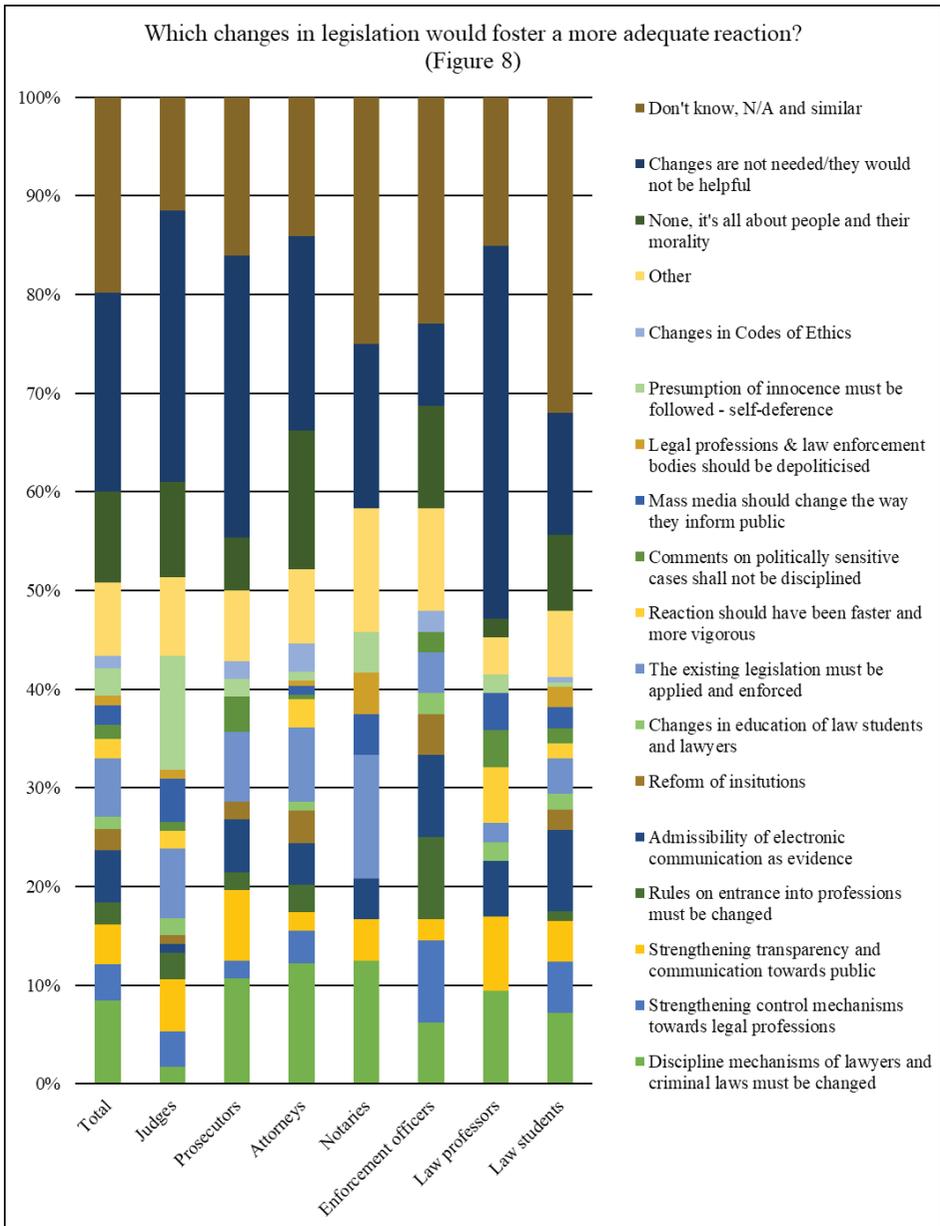
¹⁹ Out of these minor differences, the gap was most visible, although still negligible, between prosecutors and the leaders of the Prosecutorial Office (General Prosecutor, his first deputy and Prosecutors' Council). Among lawyers and law students who responded to the questionnaire (n = 159), 28% considered the reaction of prosecutors as either absolutely sufficient or rather sufficient, while almost 61% of the respondents (n = 342) believed it was either absolutely insufficient or rather insufficient. In the case of the leaders of Prosecutorial office, a lower number of respondents was satisfied with the reaction of the leaders—only 23% (128). At the same time, over 67% of respondents (379) considered the reaction insufficient.



Generally, out of those lawyers who believed that legislative reform might have an impact, the highest support was directed towards changes in the disciplinary systems and criminal laws, especially sanctions. The most optimistic in that regard were notaries and attorneys, followed by prosecutors. On the contrary, judges were very sceptical. The second most frequent idea was improved enforcement of the existing law.²⁰ The third most mentioned tool was legislative change in the criminal rules of evidence regarding the admissibility of electronic communication.²¹

²⁰ This includes changes in the application of law, its intelligibility and consistency.

²¹ Some respondents pleaded for the clarification of those rules, not an amendment *per se*.

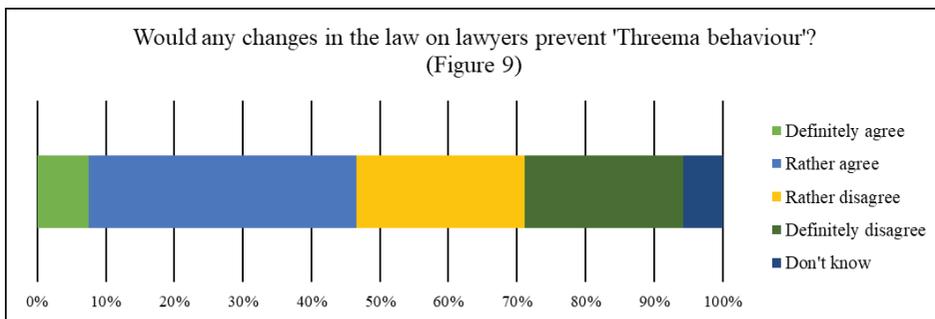


Numerous judges (13) believed that it is crucial to respect the presumption of innocence and considered that lawyers, especially judges, should restrict themselves from commenting on some public issues or pending cases. Judges also quite often

criticised journalists for how they inform the public and the methods they use in their work (collecting leaked information from pending criminal cases). Prosecutors equally favoured transparency in the workings of public offices, changes to the communication with the public and better law enforcement. Besides changes in how the law is enforced, attorneys mostly suggested changes in disciplinary systems (26). Enforcement officers equally valued the need to strengthen control mechanisms in the legal profession, to change the selection procedures of legal professionals and to better enforce. Law professors believed in changes to disciplinary rules, transparency and communication. Students preferred changes in the law regulating the admissibility of evidence in criminal trials. We believe that the survey may have been influenced by the September 2020 decision of the Specialised Criminal Court regarding the charges against Kočner and Zsuzsová in the case of the murder of Ján Kuciak and Martina Kušnírová. The court decision also touched upon the admissibility of Threema and its interpretation, which might have swayed the attention of our respondents. Some of our respondents mixed their answers about proper reactions to Threema with questions about the prevention and sanctioning of ‘Threema behaviour’.

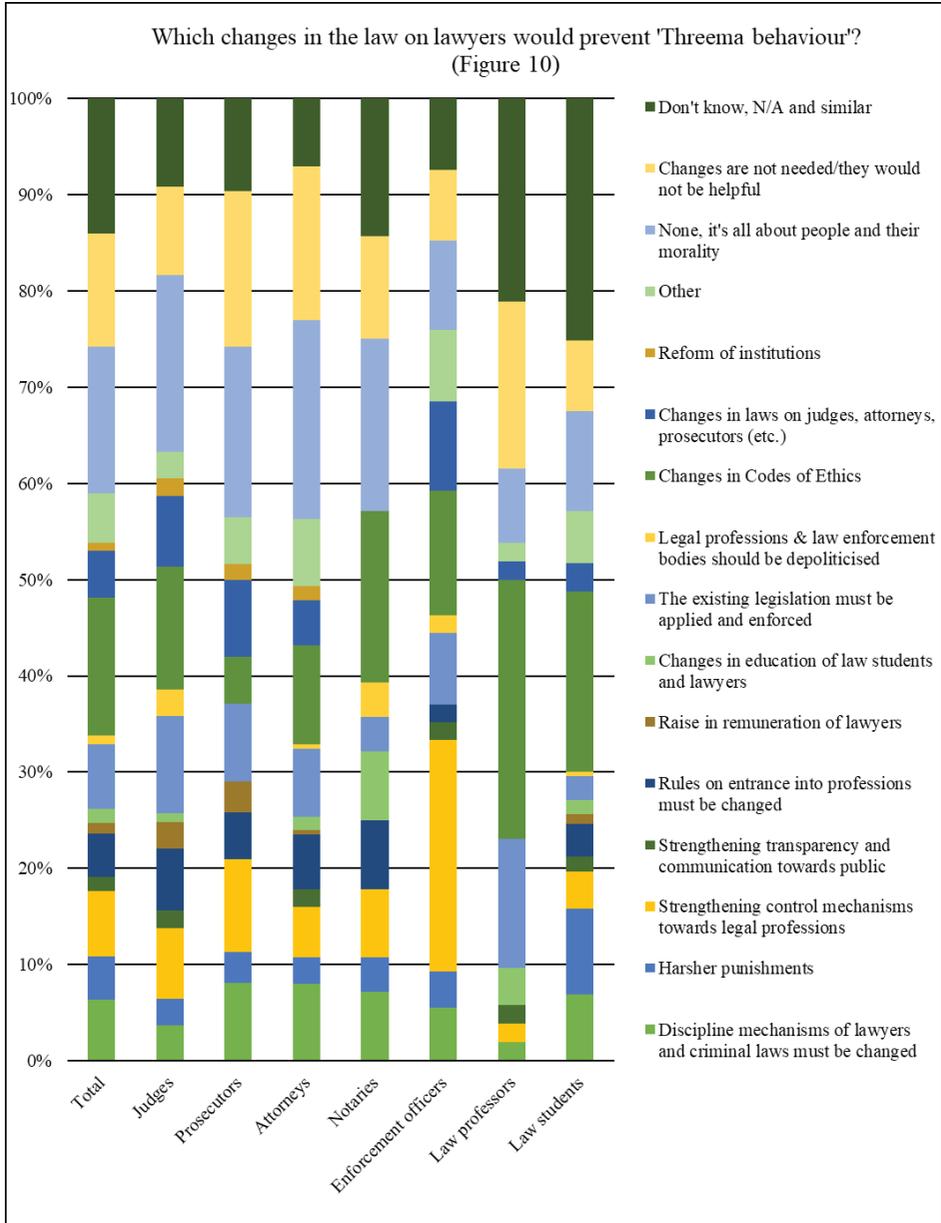
Moreover, respondents often reacted that changes in legislation are not needed, indicating that lawyers generally believe that the sufficiency and appropriateness of the reaction to Threema does not depend on the written law.

The following question of the survey was focused on the relationship between legislation—laws regulating lawyers—and the prevention of lawyers’ behaviour as revealed in Threema. Are they connected? The results show almost equal support for the opposing views (Figure 9).



As before, the respondents then answered an open question about concrete changes in the regulation of lawyers that may prevent problematic behaviour. Again, respondents were somewhat sceptical as to the power of rule changes to prevent ‘Threema behaviour’ (Figure 10, page 75). However, changes in the Codes of Ethics were seen as a somewhat powerful tool—over 18% of respondents (103) believed in their potential. Among all of the legal professions, law professors and law students were the most optimistic about their potential impact. Respondents also often proposed changes in the control mechanisms of legal professions (49, 8.7%), in enforcement of the law (48, 8.5%) and in

disciplinary measures (46, 8.2%). Enforcement officers strongly pleaded for a reform of control mechanisms, and law students especially trusted harsher punishments. Other types of answers were almost proportionate.



If, in the opinion of the respondents, changes to the law would not be effective, we asked what changes might have prevented ‘Threema behaviour’? The most prevalent idea of the respondents was that changes in society and its values are needed (164, over 29%; Figure 11, page 77). This idea was especially strongly supported by attorneys and law students. Out of those who relied on societal change, 15 respondents emphasised the importance of not covering up the unprofessional or even criminal behaviour of their professional peers, and they pointed to false loyalty and buck-passing in the legal professions. The second most common answer was the request for changes in the selection of lawyers, and even law students (77, almost 14%). It was proposed that the character of the applicant should play a crucial role, and some respondents believed that this could be assessed by psychological screening. Prosecutors leaned towards this answer in the greatest number. Overall, the respondents also preferred better enforcement of laws (55, almost 10%), as well as changes in the disciplinary system (48, 8.5%) and in control mechanisms (44, almost 8%).

The next question focused on the need to reform the system of sanctions for lawyers’ behaviour revealed in Threema. Most respondents agreed that change was necessary (Figure 12, page 78).

With regards to what kinds of changes are needed, the highest number of respondents opted for changes in both the disciplinary laws of the legal professions and criminal law (125, 22%) (Figure 13, page 78). Thirty-eight of them (6.8%) stressed the need for prohibition to serve in the given legal profession or any legal profession, as a sanction, as well as the need for mechanisms on how to suspend a licence or a function. Twenty-four respondents (4.2%) emphasised the need for pecuniary sanctions, asset seizure/proprietary penalties. Students and law professors were especially fond of this approach. Next, 51 respondents (9%)—mainly notaries and enforcement officers—advocated harsher punishments. However, this approach was rare among judges. Equally, out of all legal professions, judges favoured the least reforms in disciplinary law. As previously, the need for enforcement of the existing laws was preferred by a significant number of respondents (75, 13%).

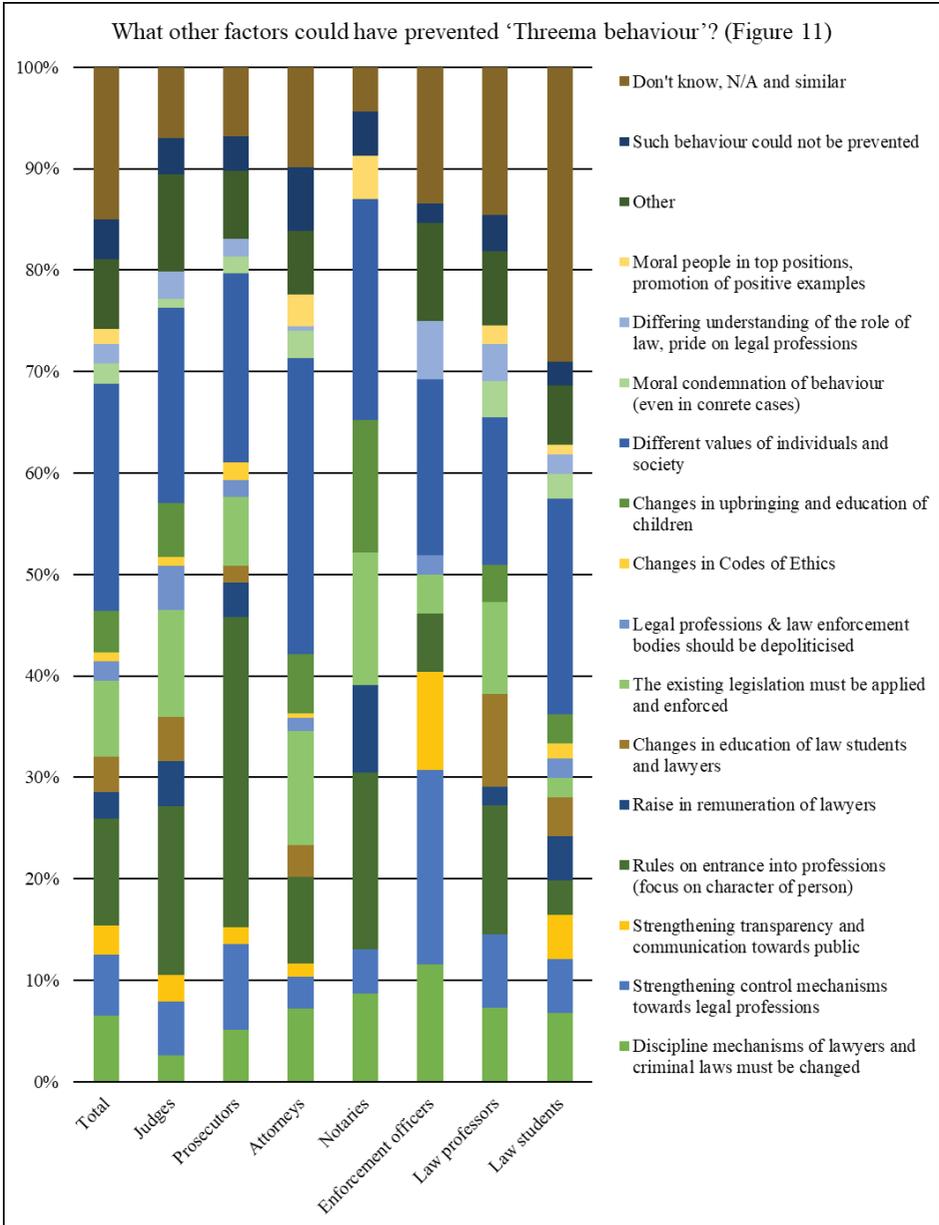
In the next step of the survey, we wondered whether public opinion on lawyers has changed as a result of the Threema affair. A crushing majority, almost 90% of respondents, believed that this was the case (Figure 14, page 79).

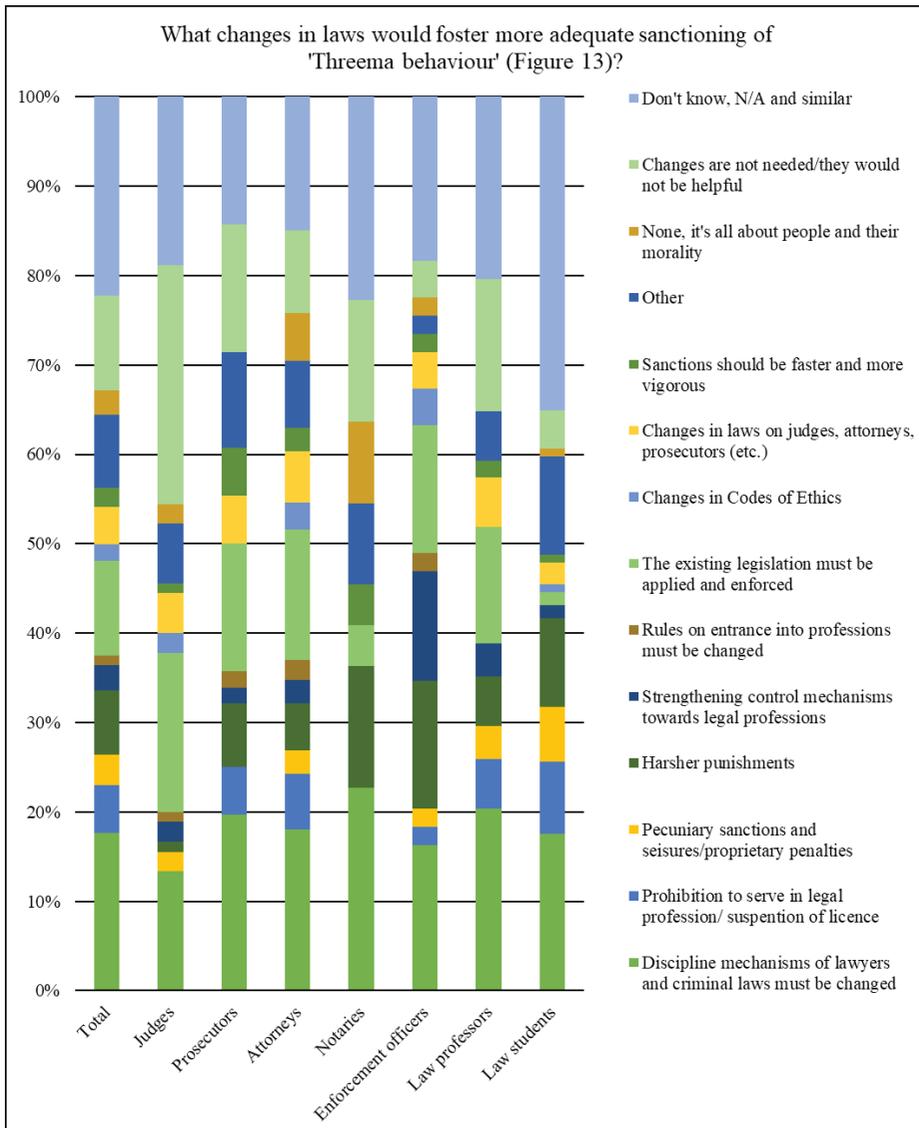
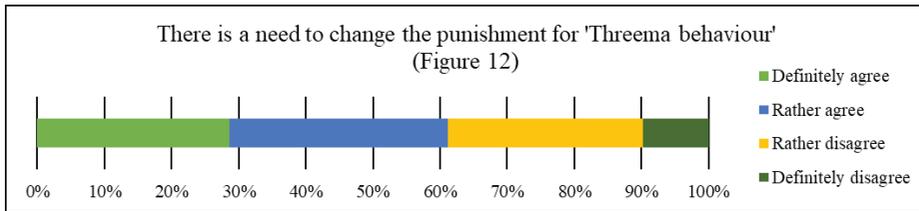
As to which legal professions’ reputation had suffered the most in the eyes of the public and lawyers themselves, the survey shows that judges by far were stricken the most, in terms of ‘definitely yes’ answers. They were followed by prosecutors, attorneys, lawyers in political office and judges of the Constitutional Court of the Slovak Republic (Figure 15, page 79).

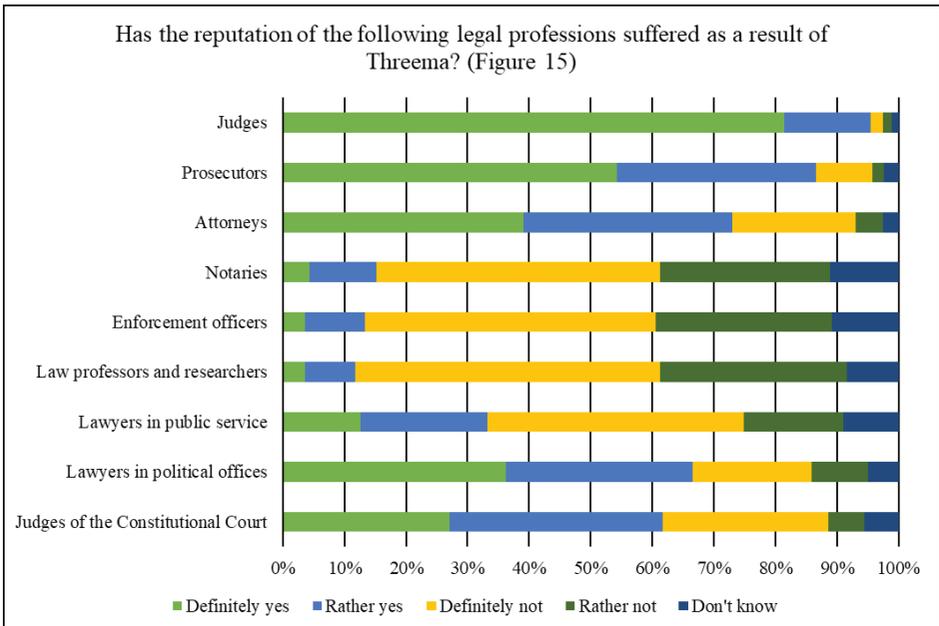
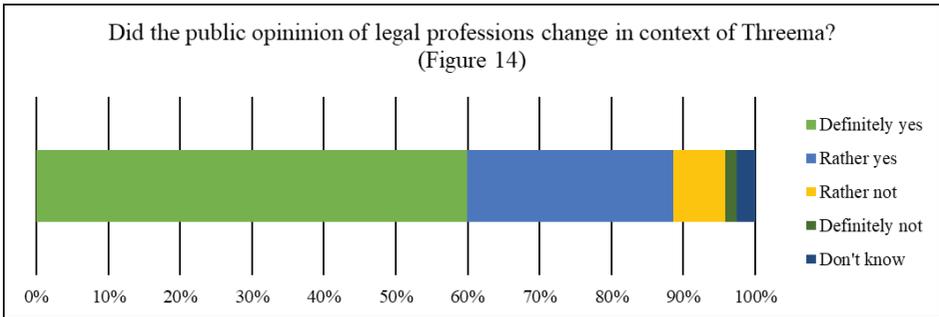
To find out whether lawyers reflect upon strategies to regain public trust, the last two questions were posed. The first strived to identify which failure in reaction to Threema was the most significant. The second asked lawyers to think about ways to strengthen and promote lawyers’ integrity.

Many answers to the first question did not focus on failures in responding to Threema but on failures actually depicted in the Threema communication—mainly corruption and criminal offences were highlighted (Figure 16, page 82). However, we also evaluated

these types of answers as they had informative value together with answers directly targeting the question. This approach influenced the percentage points assigned to answers in the subsequent evaluation because we used the whole pool of answers.







Regarding the reaction to Threema, many participants stated that the reaction of the legal professions was insufficient, although no specific profession was mentioned, and that this was the most serious failure in response to Threema (51, 9%). Attorneys comprised the highest number of critics in this regard (22). However, law professors were most critical proportionally (8). Twenty-eight respondents (5%) were specifically critical of judges' lack of reaction. Attorneys criticised the reaction of the judiciary most frequently (29). Twelve respondents (2.1%) saw the biggest issue in the inappropriate reaction of attorneys. Eight of these were attorneys themselves. Here, the admission of the suspended judge David Lindtner as a member of the Bar was often mentioned. Only six respondents (1%) saw the most significant failure in reaction of prosecutors. However, the second most often cited critical failure in reaction to

Threema was the insufficient disavowal of ‘Threema behaviour’ (30, 5.3%). Seventeen respondents (3%) stated that the reaction was slow, or that it came late. On the other hand, five judges stated that the most troublesome mistake in reaction to Threema was the hasty reaction, with biased statements which did not respect the presumption of innocence. Moreover, they stressed, as before, that judges should be more reserved in their statements than other professions.

The last question focused on ways to promote public trust in the integrity of legal professions. Many respondents (97, over 17%) built on their previous answers and saw the solutions in greater disciplinary measures, stronger transparency of public offices (76, 13.5%) or better enforcement of the law (41, 7.3%; Figure 17, page 83). However, some respondents focused on an explanation of the role of law and lawyers to the public, as well as building civic society (72, almost 13%), long-term quality work (38, 6.7%) and the promotion of moral examples and authorities (32, 5.7%). Performing long-term quality work was mainly stressed by prosecutors and judges.

Conclusion

The aim of the present survey was to identify whether the legal professions appropriately dealt with information about lawyers’ behaviour transpiring from the leaked Threema communication between Marian Kočner and several representatives of the justice system. The results show that the lawyers are predominantly critical of the reactions of legal professions. In their opinion, the most insufficient reaction came from the leaders of the Prosecutorial Office (General Prosecutor, his deputy and Prosecutors’ Council). On the other hand, the lawyers in political offices (MPs, ministers, etc.) were considered to have reacted most appropriately, although critical views on their reaction still prevailed.

Secondly, the survey sought to find out what could have made the lawyers’ response to Threema more appropriate and how the behaviour revealed in Threema could have been prevented. The respondents provided a lot of information. Almost half were exceptionally sceptical about legislative changes. They believed that the core of the problem lay in the values and morality of society and of individuals, and that ethical behaviour cannot be enforced by a legal rule. Thirdly, some respondents did not consider Threema a manifestation of a crisis in the legal professions; rather, they perceived the problematic Threema behaviour as individual failures. Many respondents also stressed the importance of applying already existing laws and the need for better enforcement of those laws. If participants saw any hope in regulation change, they focused on disciplinary and criminal procedures and measures, strengthening of the existing oversight mechanisms, and changes to the Code of Ethics (more detailed and clearer codes, including rules, improved enforcement, an ethical commission, etc.).

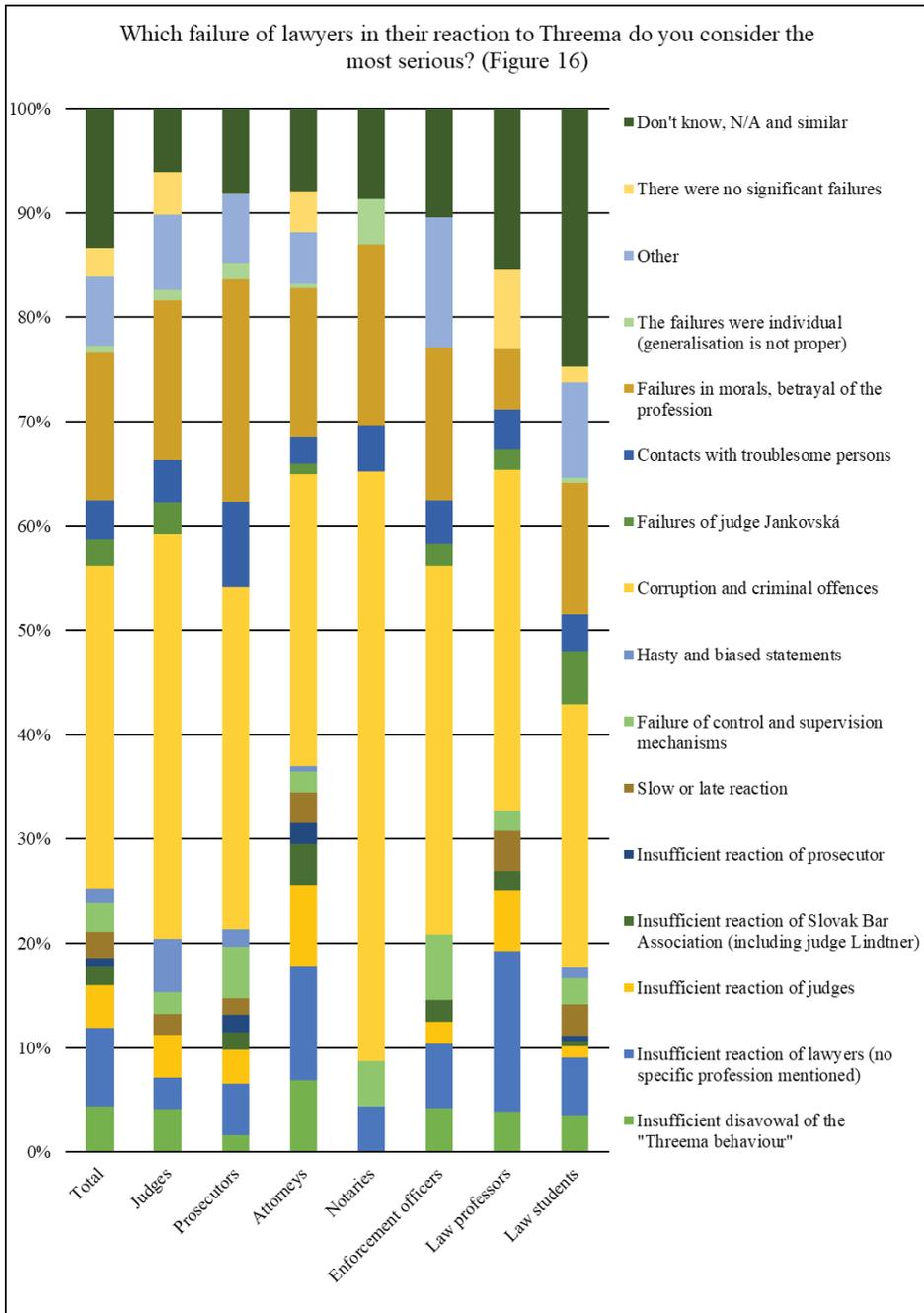
The third important aim of the survey was to identify how to strengthen the integrity of the legal professions. The respondents repeatedly mentioned strengthening transparency and disciplinary mechanisms. Some respondents promoted activities that

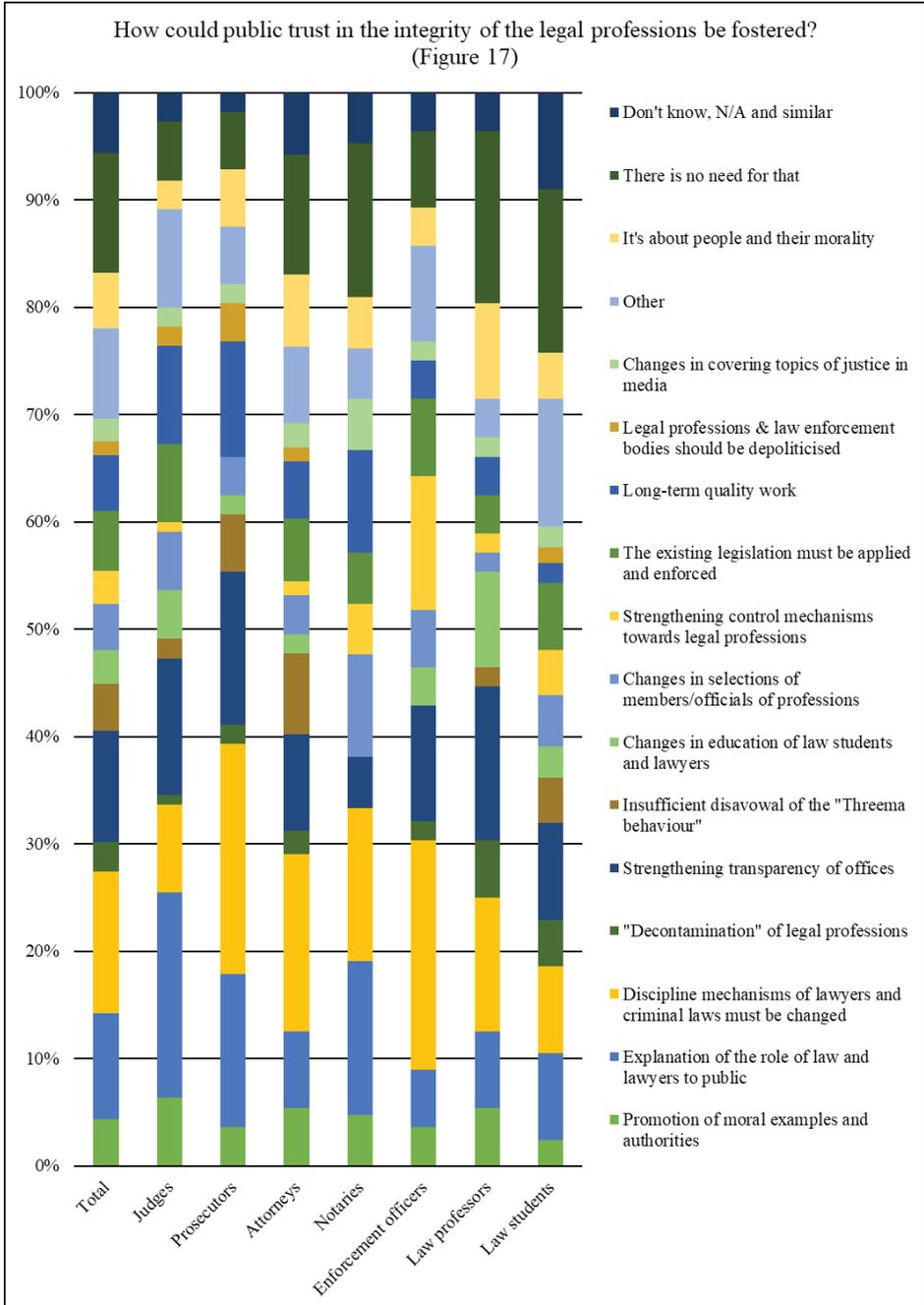
explain the role of law and lawyers to the public, and they advocated building civic society. They also emphasised the effect of performing good work over a long-term, as well as the importance of moral leaders and the promotion of examples of moral behaviour.

At this stage of analysis, the survey did not allow us to make any strong conclusions about the influence of the judicial tempest on the justice system and the character of legal professionals. Nevertheless, lawyers, especially judges, often refuted that there was any problem. The need for reflection and leadership is clearly present. Catharsis can have many forms indeed.

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Annex**Survey on how legal institutions dealt with so called ‘Threema’**

We take the liberty of kindly asking you to fill out this questionnaire. It should take approximately 10 minutes. We respect the principle of presumption of innocence and we do not comment on the veracity of the information about the behaviour of lawyers described in ‘Threema’.

When ‘Threema’ is mentioned in the survey we have in mind not only the transcript of the communication but also the information related to it and obtained, for example, through the testimony of judges.

The questionnaire is anonymous. We only ask that you identify your current profession, length of practise in this profession, age and gender.

The information collected in the questionnaire will be published in the form of an academic paper.

We appreciate the time you dedicate to this questionnaire. Thank you for your participation.

Lucia Berdisová, scientific researcher at the Slovak Academy of Sciences and assistant professor at the Trnava University in Trnava

Zuzana Dluhošová, lecturer at Comenius University in Bratislava

Ján Mazúr, assistant professor at Comenius University in Bratislava

1. What is your current profession?

Judge – Prosecutor – Attorney – Notary – Enforcement officer – Law professor – Law student

2. How long have you worked in this profession?

0-2 – 2-5 years – 5-10 years – 10-20 years – more than 20 years

3. What is your age?

18-25 years – 25-35 years – 35-45 years – 45-55 years – 55-65 years – over 65 years

4. What is your gender?

Female – Male

5. How would you evaluate the amount of information you have about ‘Threema’, mainly as to its contents?

A lot – Enough – Little – None

6. Which sources did you mainly use to learn about ‘Threema’? Select two at most.

- News and investigative media and newspapers (Hospodárske noviny, Denník N, Sme, Pravda, aktualy.sk, teraz.sk, postoj.sk, tyzden.sk,...)
- Portals and journals on societal events (topky.sk, cas.sk, Plus Jeden deň, Plus 7 dní, Nový čas,...)
- So called Alternative media (hlavnespravy.sk, slobodný vysielateľ, infovojna.sk, Zem a vek,...)
- Social Networks (Facebook, LinkedIn, Twitter,...)
- TV and radio broadcasting (RTVS, TA3, Markíza, JOJ,...)
- Discussions with colleagues/friends
- Other

Questions concerning reaction to the ‘Threema behaviour’**7. Was the reaction of the respective legal professions sufficient or insufficient?**

1. Heads of law faculties and research institutions

Absolutely sufficient – Rather sufficient – Rather insufficient – Definitely insufficient – Don’t know

2. Law professors and researchers

Absolutely sufficient – Rather sufficient – Rather insufficient – Definitely insufficient – Don’t know

3. Court officials (Presidents, Vice-presidents, Councils of judiciary)
Absolutely sufficient – Rather sufficient – Rather insufficient – Definitely insufficient – Don't know
4. Judicial Council of the Slovak Republic
Absolutely sufficient – Rather sufficient – Rather insufficient – Definitely insufficient – Don't know
5. Judges
Absolutely sufficient – Rather sufficient – Rather insufficient – Definitely insufficient – Don't know
6. Leaders of the Prosecutorial Office (General Prosecutor and his first deputy, Prosecutors' Council)
Absolutely sufficient – Rather sufficient – Rather insufficient – Definitely insufficient – Don't know
7. Prosecutors
Absolutely sufficient – Rather sufficient – Rather insufficient – Definitely insufficient – Don't know
8. Slovak Bar Association
Absolutely sufficient – Rather sufficient – Rather insufficient – Definitely insufficient – Don't know
9. Attorneys
Absolutely sufficient – Rather sufficient – Rather insufficient – Definitely insufficient – Don't know
10. Chamber of Notaries of Slovak Republic
Absolutely sufficient – Rather sufficient – Rather insufficient – Definitely insufficient – Don't know
11. Notaries
Absolutely sufficient – Rather sufficient – Rather insufficient – Definitely insufficient – Don't know
12. Slovak chamber of enforcement officers
Absolutely sufficient – Rather sufficient – Rather insufficient – Definitely insufficient – Don't know
13. Enforcement officers
Absolutely sufficient – Rather sufficient – Rather insufficient – Definitely insufficient – Don't know
14. Lawyers in state administration
Absolutely sufficient – Rather sufficient – Rather insufficient – Definitely insufficient – Don't know
15. Lawyers in political offices (Members of Parliament, Ministers and Deputy Justice Ministers, etc.)
Absolutely sufficient – Rather sufficient – Rather insufficient – Definitely insufficient – Don't know
16. Judges of the Constitutional Court
Absolutely sufficient – Rather sufficient – Rather insufficient – Definitely insufficient – Don't know

8. To what extent do you agree or disagree with the following statement: Better legislation would foster a more adequate reaction by legal professions and legal institutions toward behaviour described in 'Threema'.

Definitely agree – Rather agree – Rather disagree – Definitely disagree

9. Which changes in the legislation would foster more adequate reaction in your opinion? (open)

Questions concerning the prevention of 'Threema behaviour'

10. To what extent do you agree or disagree with the following statement: If the laws on lawyers were different, 'Threema behaviour' of lawyers could have been prevented.

Definitely agree – Rather agree – Rather disagree – Definitely disagree – Don't know

11. What changes in which laws regulating lawyers (e.g. law on judges, Codes of ethics, etc.) would prevent 'Threema behaviour'?? (open)

12. If 'Threema behaviour' could not be prevented by the laws only, what other factors could have prevented it? (open)

Questions concerning existing sanctions mechanisms

13. To what extent do you agree or disagree with the following statement: There is a need for changing punishment for 'Threema behaviour'.

Definitely agree – Rather agree – Rather disagree – Definitely disagree

14. What changes in which laws would foster more adequate sanctioning? (open)**Questions concerning decay of the reputation of legal professions****15. Did the public opinion of legal professions change in context of ‘Threema’ or not?**

Definitely yes – Rather yes – Rather not – Definitely not – Don’t know

16. Did the reputation of the following legal professions suffer based on ‘Threema’?

1. Law professors and researchers

Definitely yes – Rather yes – Rather not – Definitely not – Don’t know

2. Judges

Definitely yes – Rather yes – Rather not – Definitely not – Don’t know

3. Prosecutors

Definitely yes – Rather yes – Rather not – Definitely not – Don’t know

4. Attorneys

Definitely yes – Rather yes – Rather not – Definitely not – Don’t know

5. Notaries

Definitely yes – Rather yes – Rather not – Definitely not – Don’t know

6. Enforcement officers

Definitely yes – Rather yes – Rather not – Definitely not – Don’t know

7. Lawyers in state administration

Definitely yes – Rather yes – Rather not – Definitely not – Don’t know

8. Lawyers in political offices (Members of Parliament, Ministers and Deputy Justice Ministers, etc.)

Definitely yes – Rather yes – Rather not – Definitely not – Don’t know

9. Judges of the Constitutional Court

Definitely yes – Rather yes – Rather not – Definitely not – Don’t know