

ASSESSMENT REPORT ON THE IMPLEMENTATION OF

CIRCULAR 70/2011/TT-BCA OF THE
MINISTER OF PUBLIC SECURITY

&

THE REGULATIONS ON
COORDINATION BETWEEN THE
VIETNAM BAR FEDERATION AND THE
SUPREME PEOPLE'S PROCURACY

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INTRODUCTION ABOUT THE RESEARCH

Context and Rationale of the Research

Assess the impact of Circular 70/2011/TT-BCA of the Minister of Public Security and the Coordination Regulations between the Supreme People's Procuracy and the Vietnam Bar Federation after 01 year of implementation.

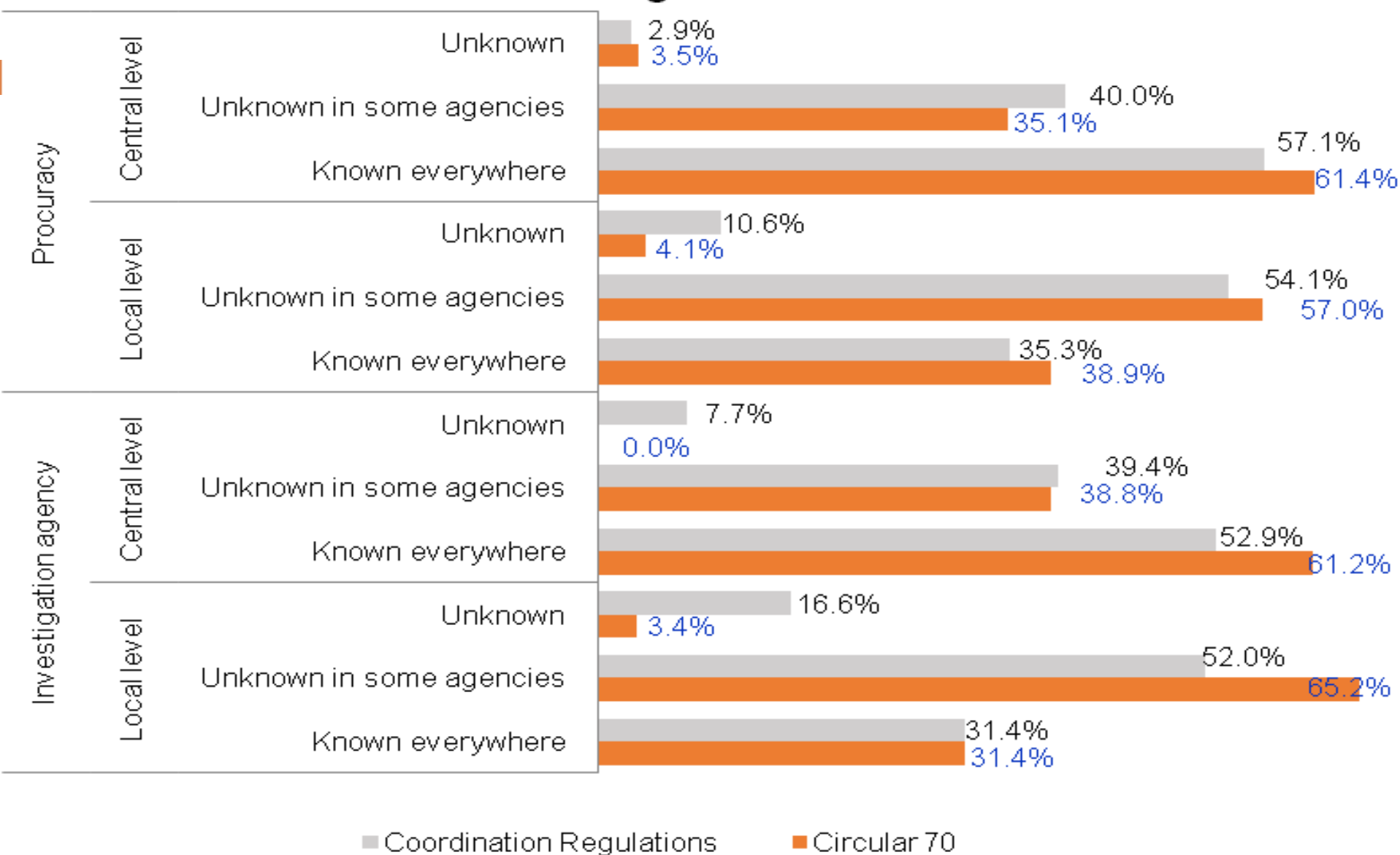
Research Methodology

- On-desk study
- Seminars in 04 cities/provinces: Ha Noi, Ho Chi Minh City, Da Nang and Ca Mau with the participation of 125 lawyers
- 209 questionnaires were filled in and returned, accounting for 55% of the distributed questionnaires



STATUS OF IMPLEMENTATION OF CIRCULAR 70/2011/TT-BCA AND THE COORDINATION REGULATIONS

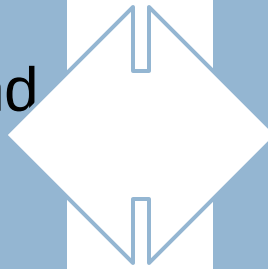
Figure 7: Understanding of Investigation agencies and Procuracy about Circular 70 and the Coordination Regulations



Awareness of Circular 70 and the Coordination Regulations

Lawyer

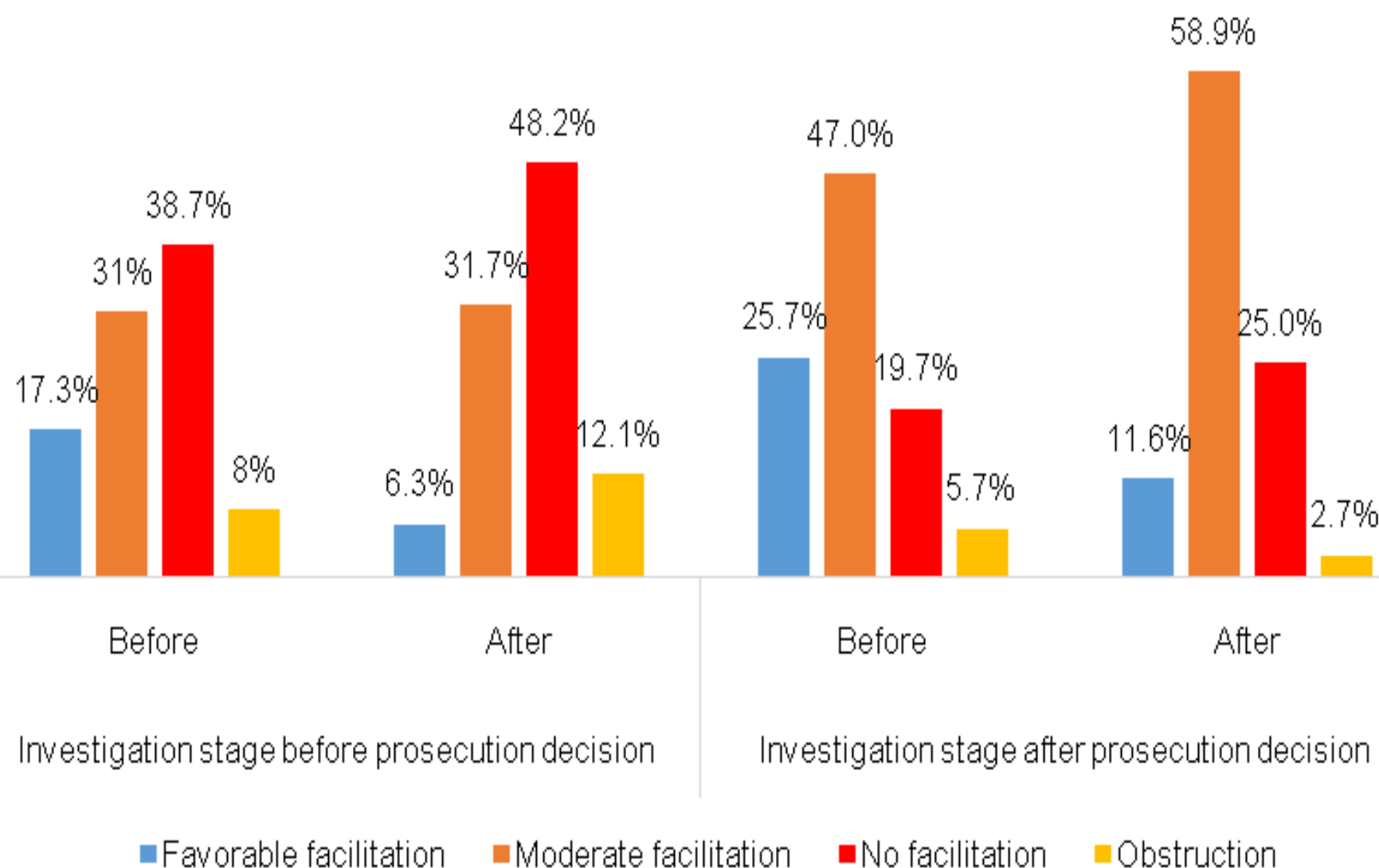
The percentages of lawyers who have read Circular 70 and Coordination Regulations are very high, 94.5% and 86.8%, respectively.



Investigation agency and Procuracy

Some Investigation Agencies and Procuracies at both local and national level still do not know about Circular 70 and the Coordination Regulations.

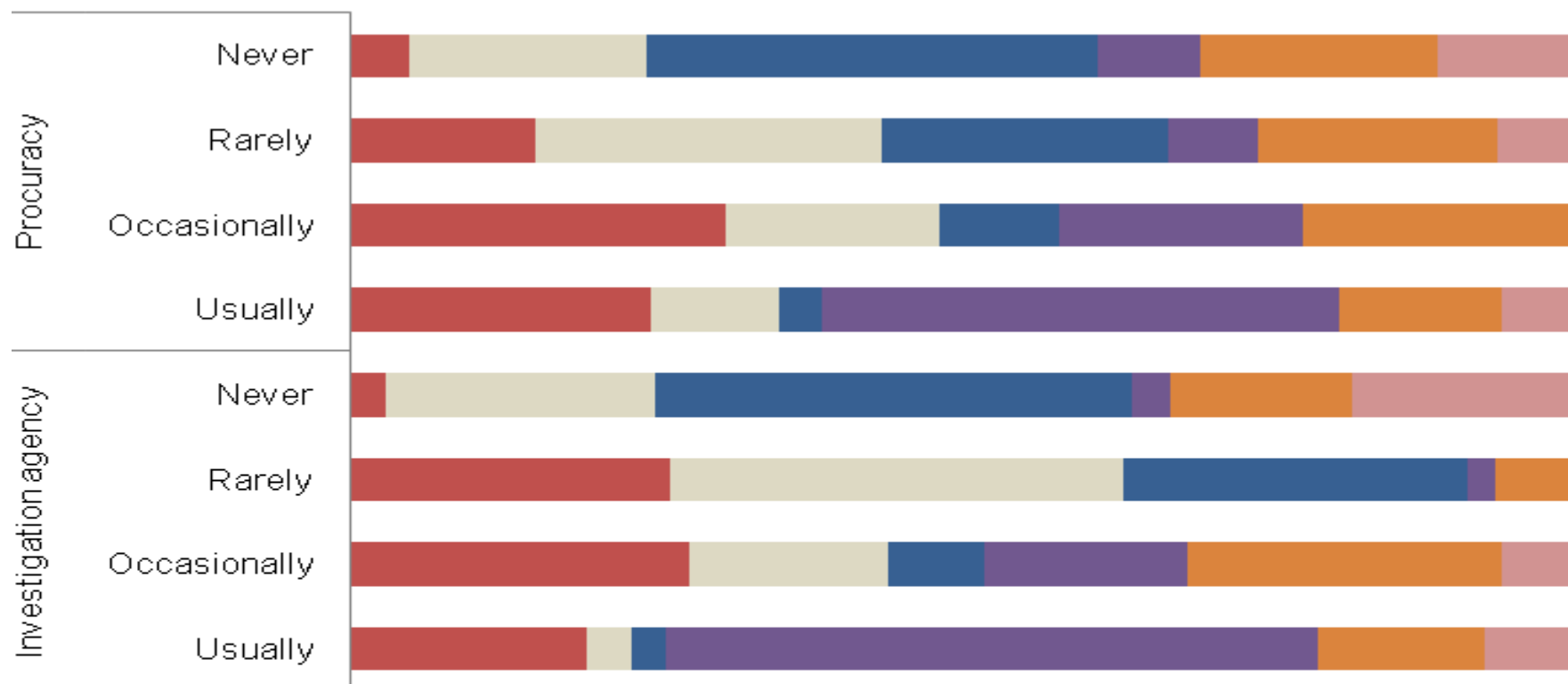
Figure 8: Levels of facilitation by the juridical agency before and after Circular 70



Impact of the implementation of Circular 70 and Coordination Regulations

- Only 6.3% of the questionnaire respondents reported that, for the past year, detainees received *favorable facilitation* from juridical agencies in getting access to the counsel.
- Most lawyers (48.2%) thought that juridical agencies *did not provide any facilitation* to detainees and the defendant in referring to the counsel.

Figure 10: Frequency of facilitation by juridical agencies to detainees/defendants to exercise their right to counsel



- Clearly explain their right to self-defense or ask a counsel to defend the case in accordance with the law
- Guide them to write a request for counsel
- Provide them with a list of lawyers with clear information (about their names and addressed) to contact
- Request BA to assign a counsel for them
- Assign a legal aid official to defend their case
- None of the above

Approach to the right to counsel

- In fact, lawyers are not facilitated in meeting with the detainee/defendant to explore their need for a counsel.
- Requests from lawyers to be able to participate in the first interrogation or to directly ask the detainee/defendant whether he/she needs a counsel are not met frequently for all lawyers.

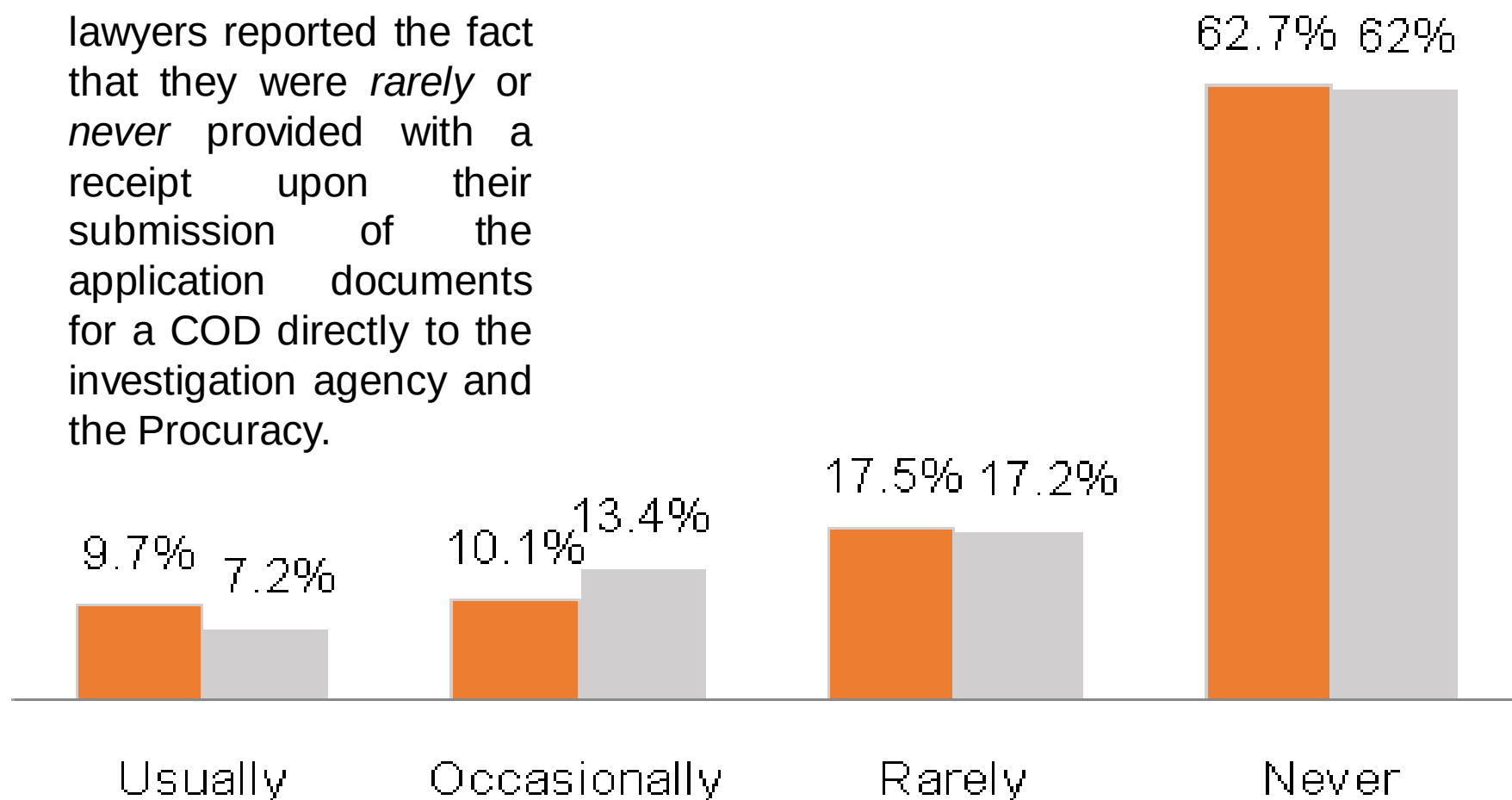
Administrative procedures to be completed to obtain a Certificate of Defender (COD)

- To produce a certified copy of lawyer card;
- The differences between the provisions of Circular 70 and the amended Law on Lawyers concerning the papers that need to be produced to obtain a COD;
- Validity of a COD.

Figure 17: Are lawyers provided with a receipt

Investigation agency Procuracy

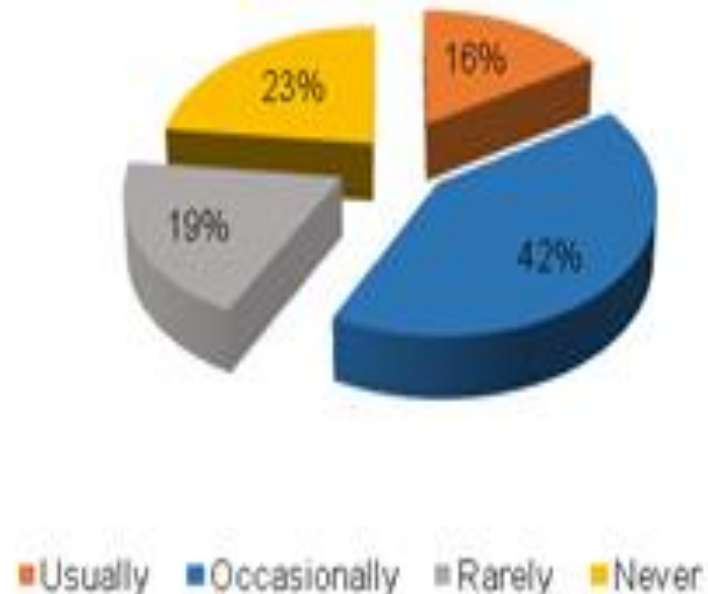
About 80% of the lawyers reported the fact that they were *rarely* or *never* provided with a receipt upon their submission of the application documents for a COD directly to the investigation agency and the Procuracy.



Persons who can hire counsel

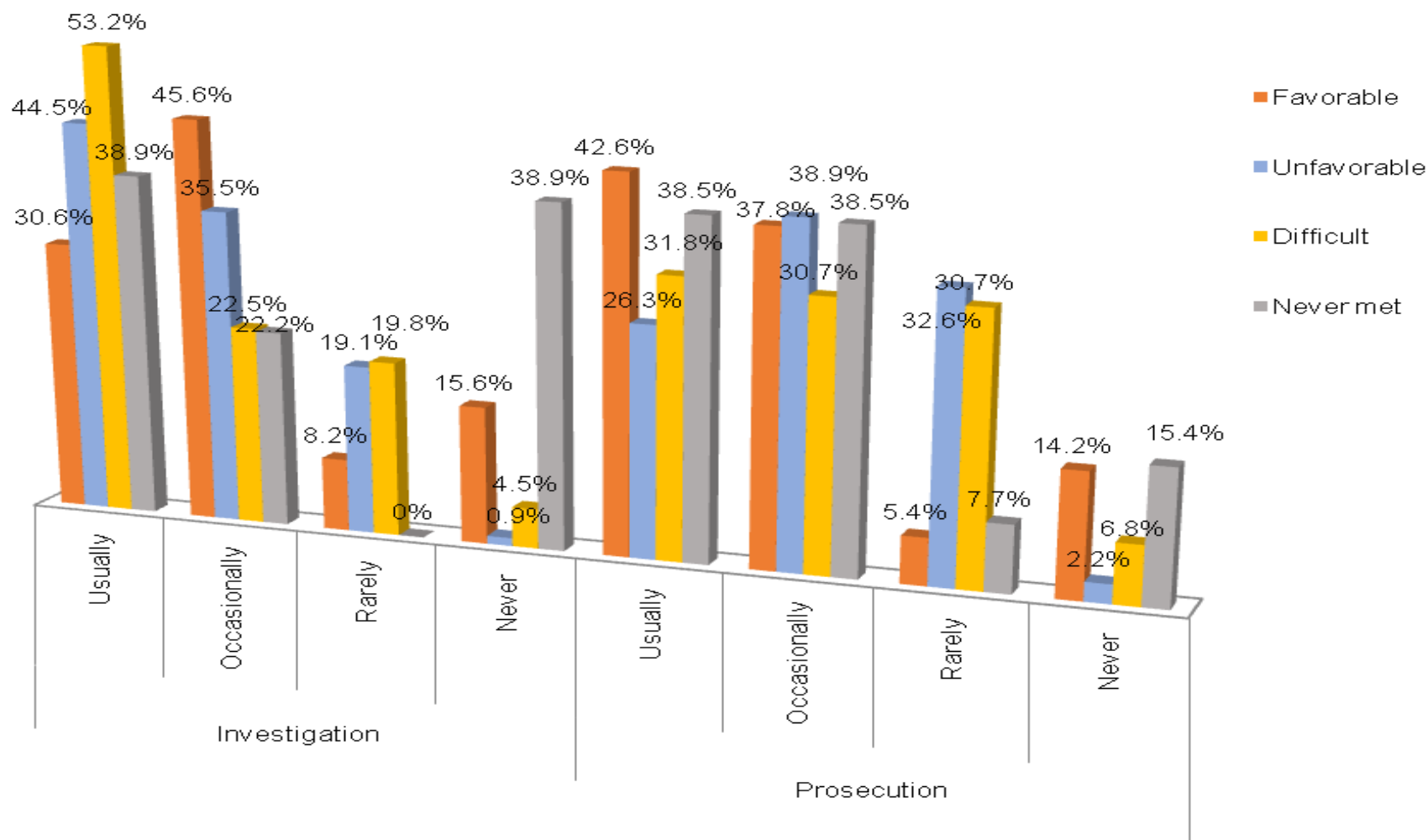
Most lawyers are still *occasionally* rejected by the detainee/defendant even though their families ask for the counsel.

Figure 22: Do the detainees/defendants continue refusing the counsel hired by their families since the promulgation of Circular 70 and the Coordination Regulations?



Conditions to get access to the detainee/defendant

Figure 24: Have lawyers been more facilitated in meeting the detainee/defendant in custody since the promulgation of Circular 70 and the Coordination Regulations



Conditions to get access to the detainee/defendant

- 44.5% of lawyers *usually felt uneasy* to get access to the detainee/defendant.
- 53.2% of lawyers felt that they *usually encounter difficulties* meeting their clients.
- Over one third of the lawyers stated that they *could not meet* their clients in the investigation stage at all.

Figure 25: How do lawyers find it different in their meetings with the detainee/defendant in custody since the issue of Circular 70 and the Coordination Regulations

- To be able to actively discuss with clients without any limitations
- To be able to discuss with clients only when it is permitted by investigators.
- To have no chance for discussion, SIMILARLY TO the situation before the issue of the two documents
- Not permitted to discuss SINCE THE PROMULGATION of the two documents

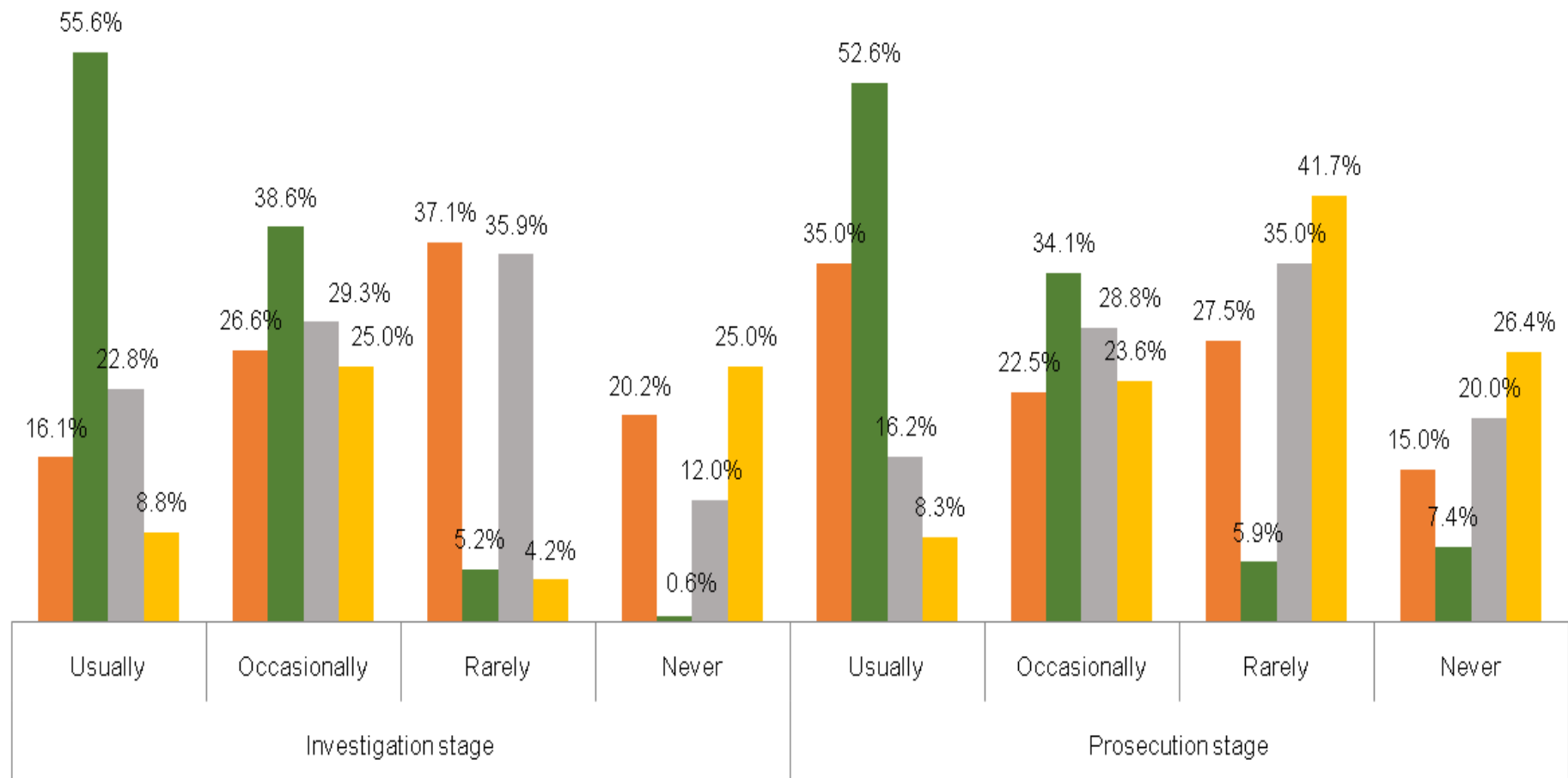
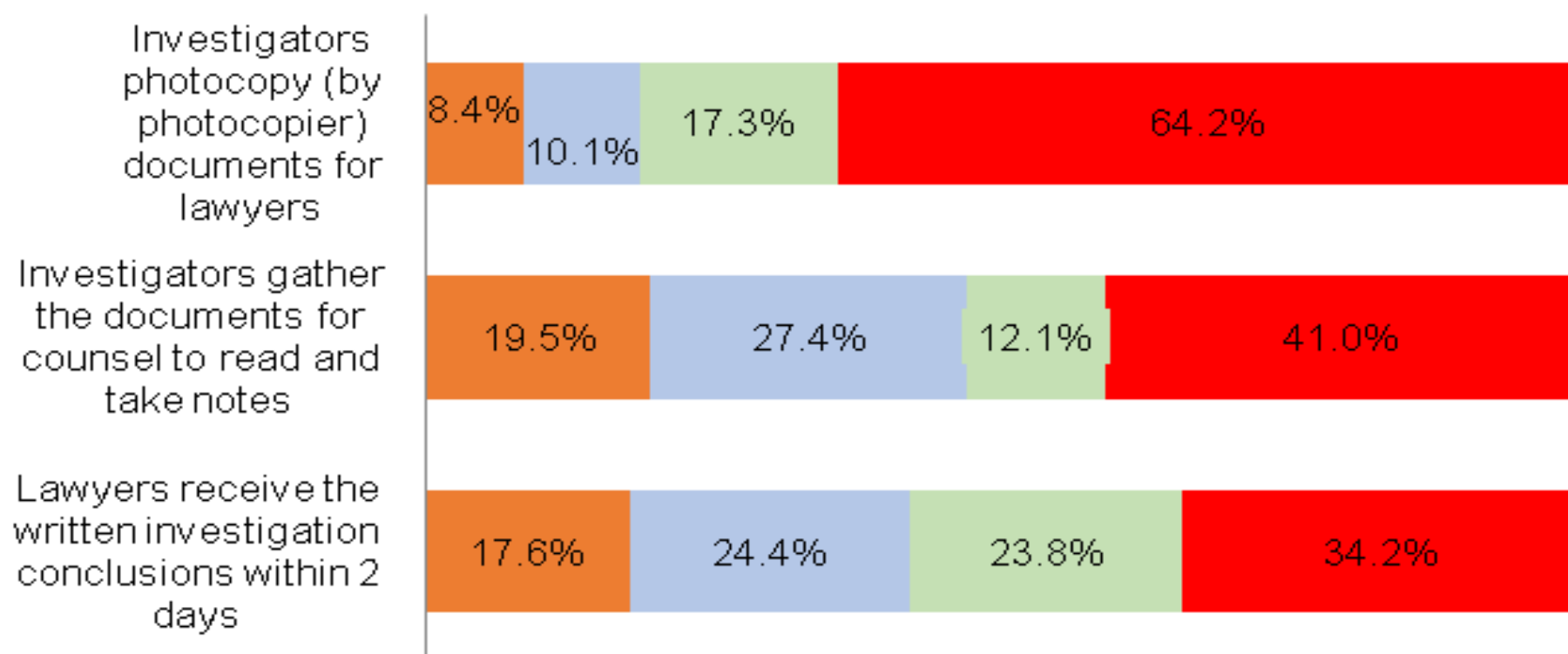


Figure 29: How have lawyers been facilitated in accessing the case file since the issuance of Circular 70

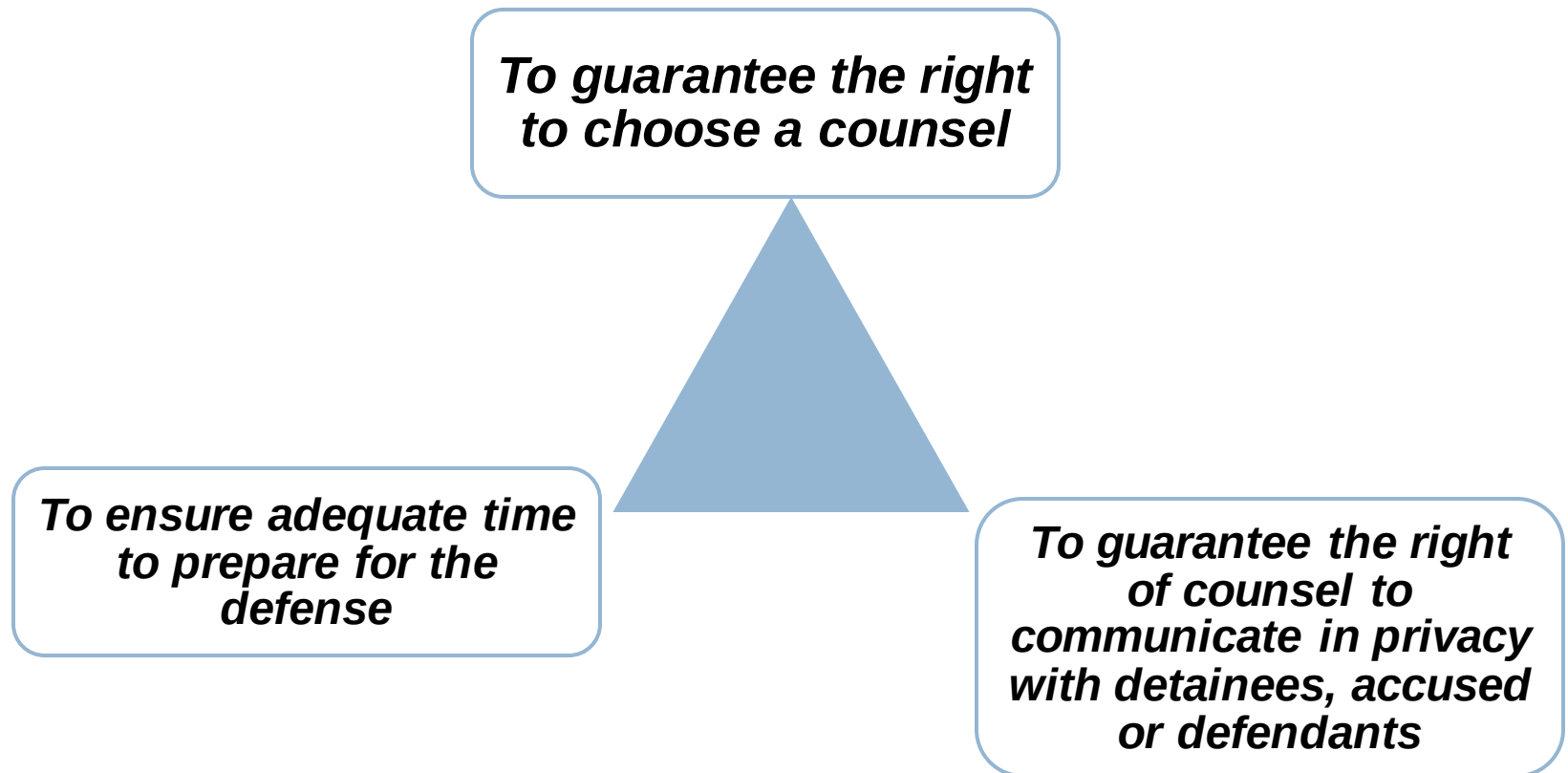
■ Usually
 ■ Occasionally
 ■ Rarely
 ■ Never





RECOMMENDATIONS FOR IMPROVING STATUTORY REGULATIONS ON THE RIGHT TO COUNSEL

ASSURANCE OF CITIZENS' RIGHT TO COUNSEL



RECOMMENDATIONS FOR IMPROVING STATUSTORY REGULATIONS ON THE RIGHT TO COUNSEL

Assurance of lawyers' right to practice

Improving the awareness on Circular 70 and the Coordination Regulations among juridical agencies

Recommendations on the mechanism for exchange of information and accountability

Reform of administrative procedures in relation to the issue of CODs



THANKS FOR YOUR
ATTENTION