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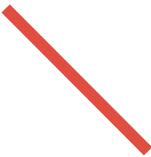


PANDEMIC JUSTICE

Court monitoring report
September 2019 –
August 2020

2020

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Disclaimer:

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Kingdom of the Netherlands

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LIST OF ABBREVIATIONS

KJD

Kosovo Judicial Council

KPC

Criminal Procedure Code of Kosovo

KPC

Kosovo Prosecution Council

ÇOHU!

Organization for Democracy,
Anticorruption and Dignity

BC

Basic Court

TI

Transparency International

BP

Basic Prosecution

WJP

World Justice Project

SPRK

Special Prosecution of the Republic of
Kosovo

USAID

The United States Agency for International
Development

CCRK

Criminal Code of the Republic of Kosovo

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EXECUTIVE SUMMARY

ÇOHU! - Organization for Democracy, Anticorruption and Dignity (hereinafter ÇOHU!), has continued to monitor the basic courts of the Republic of Kosovo, focusing on corruption cases as well as organized crime cases.

The complete two-year monitoring is divided into two time periods: October 2018 - September 2019 and September 2019 - August 2020. During the two-year period (October 2018 - August 2020), the monitoring of ÇOHU! was carried on a daily basis in which a total of 371 cases were monitored with 946 court hearings in the basic courts in Prishtina, Mitrovica, Peja, Ferizaj, Prizren, Gjilan and Gjakova.

During the second monitoring period, September 2019 - August 2020, ÇOHU! has monitored a total of 93 cases with 317 court hearings in the basic courts in Prishtina, Mitrovica, Peja, Ferizaj, Prizren, Gjilan and Gjakova. The second monitoring period was characterized by a pronounced lack of court hearings, corruption and organized crime due to the situation with the COVID-19 pandemic. The monitoring has identified various findings, ranging from more technical ones, such as delays in starting court hearings, to violations of legal procedural time limits and human rights violations.

Based on the results of the Corruption Perception Index for 2019 published by Transparency International (TI), the Republic of Kosovo has marked a regression in the fight against corruption, and from position 93 in 2018 it has dropped to 101st place in 2019¹.

The rule of law and the lack of fighting and punishing corruption have also been identified in recent US State Department as well as European Commission reports, known as the Country Report.²

1

2 <https://www.transparency.org/en/cpi/2019/results>.

Due to the COVID-19, pandemic, in the courts and prosecutor's offices of the Republic of Kosovo, the handling of cases has become more difficult, and for a long time the focus has been only on handling emergency cases: detention cases, protection orders and other cases which must be dealt with urgently. On 2 June 2020, KJC approved the Crisis Management Action Plan. However, the judiciary is facing a major decline in efficiency in handling cases due to limited capacity. High-level corruption remains one of the major challenges to justice, which continues to have effects on the country's development. During the monitoring of the basic courts from September 2019 to August 2020 ÇOHU! has identified 16 cases of high-level corruption. The handling of high-level corruption cases by the courts has been characterized by delays, adjournments and adjournments of hearings as well as violations of legal time limits set by the Criminal Procedure Code of Kosovo.

ÇOHU! has processed and analyzed data of the KJC and KPC over the years. These data show that despite the priority that cases of corruption and organized crime should have, they still continue to be transferred from year to year.

The recommendations included in this report address the findings of key institutions such as the KJC, KPC, courts and prosecutors' offices and other institutions, in order to improve the effectiveness of measures to combat criminal phenomena such as organized crime and corruption. These recommendations are also oriented towards the respect of fundamental human rights and freedoms as well as towards the prevention of violation of the legislation in force.



During the monitoring of the basic courts from September 2019 to August 2020 ÇOHU! has identified 16 cases of high-level corruption.



INTRODUCTION

Corruption and organized crime in Kosovo continue to hamper the country's development despite efforts and reforms undertaken in the field of justice.

These forms of crime are phenomena with high social risk for citizens, institutions, economy, national and international security. The pronounced level of corruption and organized crime continues to be worrisome for the functioning of democracy and the rule of law.

Although the fight against corruption and organized crime is among the conditions set by the European Union in terms of visa liberalization and integration into this mechanism, the Republic of Kosovo continues to have fragile institutions and unsustainable policies to prosecute and punish corruption and organized crime.

During the monitoring of 93 cases with 371 court hearings in the basic courts of the Republic of Kosovo between September 2019 - August 2020, ÇOHU! has continued to identify problems such as delays in starting and adjournment of the main trial, adjournments of court hearings, large number of cases, unpreparedness of prosecutors for court hearings, violation of legal provisions related to the legal time limits for handling of cases as well as human rights violations.

Since the end of March 2020, the justice system in the Republic of Kosovo due to the COVID-19 pandemic has had increased difficulty in handling cases. The focus has remained only on the handling of detention cases,

protection orders and other cases which must be dealt with urgently. Despite efforts, the judiciary is facing a major decline in efficiency in handling cases due to limited capacity.

Data provided by Preportr, which operates within ÇOHU! show that in the courts of Kosovo by the end of 2020 there is a risk of prescription of 492 cases (443 cases with absolute statute of limitations and 49 cases with relative statute of limitations).³

During the monitoring of the basic courts from September 2019 to August 2020 ÇOHU! has identified 16 cases of high-level corruption. The handling of these cases continues to face protracted litigation and inefficient justice.

Citizens continue to face the problem of protracted court proceedings and inefficient justice. However, based on the findings of ÇOHU! so far there have been no cases where the performance evaluation mechanisms of the KPC and KJC have dismissed any prosecutor or judge due to their poor performance

The analysis and comparison of data processing by the KPC and the KJC from the chapters that have been the focus of monitoring has also been done for all cases in the basic courts and basic prosecution offices covering 2015-2020 period.

Based on monitoring findings and data analysis, the

³ Hundreds of cases can be prescribed by the end of the year", Preportr, July 2020 - http://preportr.cohu.org/repository/docs/09_-_Preportr_-_No_35_-_Pre-description_-_04_466857.pdf

report provides recommendations highlighting key findings to be addressed by relevant law enforcement institutions.



During the monitoring of 93 cases with

371
court

hearings in the basic courts of the Republic of Kosovo between September 2019 - August 2020, ÇOHU! has continued to identify problems such as delays in starting and adjournment of the main trial, adjournments of court hearings, large number of cases, unpreparedness of prosecutors for court hearings, violation of legal provisions related to the legal time limits for handling of cases as well as human rights violations.

1. RULE OF LAW

Rule of law in Kosovo and comparative aspects

The rule of law in the Republic of Kosovo continues to be one of the main problems of the young country. Almost every sector of society is a stakeholder in the rule of law, including the public sector, the business / private sector and others.

The rule of law contains different elements and has different definitions. But one of the most popular and accepted definitions is that of the United Nations. According to the UN, *“The rule of law is a principle of governance in which all persons, institutions and entities, public and private, including the State itself, are accountable to laws that are publicly promulgated, equally enforced and independently adjudicated, and which are consistent with international human rights norms and standards. It requires measures to ensure adherence to the principles of supremacy of the law, equality before the law, accountability to the law, fairness in the application of the law, separation of powers, participation in decision-making, legal certainty, avoidance of arbitrariness, and procedural and legal transparency”*.⁴

Although more than 12 years have passed since Kosovo's declaration of independence and 21 years since the end of the war, with little progress in some areas, the new Republic continues to falter in key areas of rule of law such as the high degree of impunity for high-level corruption, political interference in the judiciary, nepotism in the public administration and lack of accountability in the main branches of government – the executive, the judiciary and the legislature – and so on.

This has been noted in domestic and international reports, in particular in international rule of law indexes and corruption indicators.

Based on the results of the Corruption Perception Index for 2019 published by Transparency International (TI), the Republic of Kosovo has marked a setback in the fight against corruption, where from position 93 in 2018 it has dropped to 101 in 2019⁵.

According to the same publication, the Republic of Kosovo continues to face significant problems in the field of rule of law, with fragile rule of law institutions, high level of impunity for corruption cases, lack of accountability of public officials, insufficient transparency and narrowing of the space for civic participation⁶. Further, according to the results of this index, the Republic of Kosovo shares the same position with Bosnia, Panama, Peru and Thailand.⁷

4 United Nations and the Rule of Law - <https://www.un.org/ruleoflaw/what-is-the-rule-of-law/>.

5 KOSOVA NË CPI – VAZHDON REGRESI NË LUFTËN KUNDËR KORRUPSIONIT - <http://kdi-kosova.org/aktivitetet/kosova-ne-cpi-vazhdon-regresi-ne-luften-kunder-korrupsionit/>

6 Ibid

7 <https://www.transparency.org/en/cpi/2019/results>.

The rule of law and the lack of fighting and punishing corruption have also been identified in recent US State Department as well as European Commission reports, known as the Country Report.

According to the US State Department report for 2019, although there is a legal basis for prosecuting and punishing corruption cases, lack of law enforcement remains a problem. The report states that the lack of effective judicial oversight, as well as other problems with the rule of law, continue to contribute to this issue in general, thus emphasizing the fact of ongoing appeals of corruption cases in the highest instances of the courts and prescription of cases.⁸

The European Commission Country Report on Kosovo for 2019 highlights the problems with the rule of law in Kosovo, the inefficient and slow administration of justice and the need for continuous efforts to build the capacity of rule of law institutions. Regarding the functioning of the judiciary, the report further identifies that Kosovo is at an early stage of developing a functioning judicial system, citing little progress made in 2018.^{9,10}

In 2019, the Republic of Kosovo was incorporated in the rule of law meter as part of Rule of Law Index (World Justice Project). This project aims to provide an overview of the rule of law for 128 different countries.

The results of this platform are based on 8 different factors: limitations of government power, lack of corruption, transparency of government, fundamental rights, order and security, implementation of regulations (legal and administrative), civil justice and criminal justice.¹¹

All these factors are special indicators, which as a

whole complete the portrait of the rule of law, as one of the main areas of functioning of the state of law. The factors with the fewest points of this index, which really remain the biggest concern in the Republic of Kosovo, are corruption, government restrictions, civil justice and the lack of enforcement of regulations. While the corruption of officials in the executive, judiciary, legislature and police is ranked 62nd in the index¹², problems with the implementation of legislation, namely the lack of implementation of laws and regulations and administrative decisions, lie at the bottom of the ranking among factors such as rule of law indicators, respectively at position 97 out of a total of 128 countries included in the index.¹³

The following table reflects the points and ranking of the Republic of Kosovo for all 8 factors incorporated in the assessment.

8 Section IV - Corruption and Lack of Transparency in Government - State Department Report on Human Rights for 2019 - Kosovo; March 2020; https://www.state.gov/reports/2019-country-reports-on-human-rights-practices/kosovo/?fbclid=IéAR3TÉ1O77jOtpHazEFqf1UKPPOM6ag_akeky96LG65YRÉH2qAy6Qrz-4PQv4#XmkyUÉHC_BM.facebook.

9 European Commission Report for Kosovo for 2019, Brussels, 29.5.2019 https://ec.europa.eu/commission/presscorner/detail/en/COUNTRY_19_2776.

10 Ibid.

11 World Justice Project - <https://worldjusticeproject.org/>.

12 Absence of Corruption - <https://worldjusticeproject.org/rule-of-law-index/country/2020/Kosovo/Absence%20of%20Corruption/>.

13 Regulatory Enforcement - <https://worldjusticeproject.org/rule-of-law-index/country/2020/Kosovo/Regulatory%20Enforcement/>.



WJP - Rule of Law Index - Republic of Kosovo 2020

Factors	Points by factor	Ranking per factors	Regional ranking	Grouping by World Bank (Income Rank) ¹⁴
1. Limitations of government power	0.52	71/128	2/14	21/42
2. Corruption	0.46	62	5	22
3. Government transparency	0.56	44	3	11
4. Fundamental rights	0.59	52	3	15
5. Order and security	0.84	25	2	1
6. Implementation of legislation (laws and administrative acts)	0.44	97	10	36
7. Civil justice	0.46	93	13	34
8. Criminal justice	0.47	56	4	18
Overall ranking	0.54	54/128	2/14	17/42

Table 1: Rule of Law Index - Republic of Kosovo 2020

As presented in the table, some measures such as order and security, government transparency and fundamental rights, position the Republic of Kosovo positively, above the average of 128 countries included in

the assessment. While transparency in the government ranks Kosovo at position 44 globally, order and security in the Republic of Kosovo are ranked at position 25 out of 128 countries, thus placing Kosovo second in the

¹⁴ Note: Income Rank is a classification based on the World Bank methodology according to which the Republic of Kosovo is ranked in the category of upper-middle economies (upper-middle - <https://datatopics.worldbank.org/world-development-indicators/stories/the-classification-of-countries-by-income.html>). Using this categorization which identifies four groups (high, upper-middle, lower-middle, and low), the World Justice Project ranks Kosovo in the second group, namely the upper-middle, which includes 42 countries (https://worldjusticeproject.org/sites/default/files/documents/WJP-ROLI-2020-Online_0.pdf). The Republic of Kosovo is ranked 17th in the overall ranking of this index (Rule of Law Index - World Justice Project), a categorization that is done according to the factors reflected in the relevant table.

region in the overall ranking and in position 54 globally.¹⁵¹⁶¹⁷

In terms of the overall ranking of all countries included in the rating, Scandinavian countries like Denmark (90 points), Norway (89) and Finland (87) are the top three

countries with the highest degree of rule of law. The ranking of countries (first 3 countries, Republic of Kosovo and the last 3 countries), is presented in the following table:

WJP - Rule of Law Index by countries 2020

Country	Points	Overall ranking	Regional ranking	Income Rank
1. Denmark	0.9	1/128	1/24	1/37
2. Norway	0.89	2/128	2/24	2/37
3. Finland	0.87	3/128	3/24	3/37
54. Kosovo	0.54	54/128	2/14	17/42
126. DR Congo	0.34	126/128	31/31	19/19
127. Cambodia	0.33	127/128	15/15	30/30
128. Venezuela	0.27	128/128	30/30	42/42

Table 2: Rule of Law Index by country

The last 3 countries among the 128 countries included in the ranking are the Democratic Republic of the Congo (34 points), Cambodia (33) and Venezuela (27 points), with the lowest number of points on the rule of

law index.¹⁸ According to this Rule of Law Index, the Republic of Kosovo has made progress in several areas of rule of

15 Open Government - <https://worldjusticeproject.org/rule-of-law-index/country/2020/Kosovo/Open%20Government/>.

16 Order and Security - <https://worldjusticeproject.org/rule-of-law-index/country/2020/Kosovo/Order%20and%20Security/>.

17 World Justice Project – Rule of Law Index - <https://worldjusticeproject.org/rule-of-law-index/country/2020/Kosovo/>.

18 World Justice Project Rule of Law Index© 2020, faqe 6 dhe 7 - https://worldjusticeproject.org/sites/default/files/documents/E_JP-ROLI-2020-Online_0.pdf



According to this **(Rule of Law Index)**, the Republic of Kosovo has made progress in several areas of rule of law, such as government transparency which includes access to information, citizen participation in public policy and government accountability, order and security. which includes the security of persons and property, as well as respect for the fundamental rights of citizens as factors ranked above the average of the countries included in the study

law, such as government transparency which includes access to information, citizen participation in public policy and government accountability, order and security. which includes the security of persons and property, as well as respect for the fundamental rights of citizens as factors ranked above the average of the countries included in the study.¹⁹

However, the Republic of Kosovo continues to have serious problems with several other factors, where the corruption of officials in the executive, judicial and legislative branches dominates, and there continues to be a significant lack of implementation of regulations - legal and administrative ones.²⁰

The Republic of Kosovo continues to be considered as one of the countries that have problems with the rule of law. Lack of quality results of prosecutors and courts in terms of fighting and punishing corruption, political influence in the justice system and employment in public administration, misuse of public money and lack of accountability of prosecutors and judges, continue to contribute to the fragility of the rule of law in Kosovo.

Due to such problems, the Republic of Kosovo continues to have consequences which result in inefficiency and lack of trust in the justice system, in the prolonging and backlog of cases in the courts, in the lack of foreign investment in Kosovo and in the repetition of persistent acts of corruption as a result of impunity.

19 World Justice Project – Rule of Law Index - <https://worldjusticeproject.org/rule-of-law-index/country/2020/Kosovo/>.

20 Ibid.

2. PANDEMIC EFFECTS IN THE JUDICIARY (COVID-19)

In the courts and prosecutor's offices of the Republic of Kosovo, the work in handling cases has become more difficult due to the COVID-19 pandemic. For a long time, the focus was only on the handling of pre-trial detention cases, protection orders and other cases which by law must be dealt with urgently.

The Kosovo Judicial Council decided to limit its activity in all courts of the Republic of Kosovo immediately after the publication of the first cases with COVID-19. As a result, only urgent cases have been dealt with in the basic courts for a long time.²¹

Based on this, as a result of the COVID-19 pandemic, on June 2, 2020 the KJC approved the Crisis Management Action Plan. However, during the pandemic the judiciary faced a major decline in efficiency in handling cases due to limited capacity.²²

During the monitoring, ÇOHU! has identified delays in the efficiency of the work of the judiciary, problems

in scheduling and holding court hearings, inability to send summonses to parties, statute of limitations and other phenomena which greatly complicate the proper work of the judiciary.

The data provided by the monitoring show that, despite the efforts of the Kosovo judiciary, the process of managing the pandemic situation has not been efficient. The COVID-19 pandemic continues to cause litigation delays as well as human rights violations.

As a result of the pandemic, court hearings have failed, corruption cases have been statute-barred despite the fact that such cases should be treated with priority by the relevant institutions, as well as cases which are in danger of being statute-barred. Based on the data that the ÇOHU! and Preprotr provided by the courts, only in the basic courts in Gjilan, Gjakova, Ferizaj and Peja by the end of 2020 there is a risk of prescription of 492 cases. The basic courts in Prishtina, Mitrovica and Prizren have not responded regarding cases with such

21 Extraordinary meeting of the KJC on the measures of the judiciary regarding the situation with the pandemic COVID-19, March 12 2020, Prishtina; https://www.gjyqesori-rks.org/2020/03/12/diskutohen-masat-e-gjyqesorit-lidhur-me-situaten-aktuale-covid-19/?fbclid=IwAR32dNxNlp9igdfxAYp5nGFQEqCB4NT-fLL5ZgUfC48rg_9tEVDMoXSUkxGâ.

22 Crisis Management Action Plan, KJC March 2020 - https://www.gjyqesori-rks.org/ep-content/uploads/reports/69352_KGJK_Plani_veprimit_per_menaxhimin_krizes.pdf?fbclid=IwAR1KALMcyqYJlpEB9Jan1LKjdQgSUnZ1ê8_j1ZUxu9to94y4zysEsDacOB4.



risk. The Kosovo Judicial Council has not responded either.²³

Recently, the KJC in cooperation with the USAID's Justice System Strengthening Project (JSSP) has developed a protocol for the gradual start of online court hearings as an alternative that would enable hearings to be held and proceedings to be conducted²⁴. However, despite the fact that several sessions have been held, holding them online is not yet functioning properly, when we consider the complexity of holding a session in such a form.

Working with reduced staff and not holding court hearings due to the situation created by COVID-19, has had a significant effect on the efficiency of the court. All this has resulted in delays in court proceedings, lengthy trials and statute of limitations.

2.1 Adjournment and absence of court hearings

Adjournment of court hearings continues to be present in all basic courts of Kosovo. During the two-year monitoring period, ÇOHU! has identified **227 adjournments of court hearing**, while only between October 2019 and August 2020, out of **371** monitored hearings, **113 adjournments of court hearings** were identified.

The reasons for not holding and postponing the court hearings continue to be the same except that, unlike the previous year, from March 2020 the hearings are being adjourned due to the COVID-19 pandemic. In the courts and the prosecutor's office for a long time now only urgent cases have been handled including some

cases with the prescribed rules, while efforts are being made to move the hearings to the online platform.

During the monitoring of corruption and organized crime cases, ÇOHU! has identified a significant number of absence and adjournment of court hearings due to the COVID-19 pandemic²⁵. The adjournment of these cases was due to the infection of prosecutors, judges but also due to the reduction of staff in justice institutions. The reduction of staff had come as a result of the decisions of the KJC and KPC with the justification of reducing the risk of spreading the COVID-19.

Failure to hold and adjournment of hearings due to the pandemic is contrary to the Constitution of the Republic of Kosovo, in particular as regards the rights of the parties to a fair trial. The Constitution explicitly states "*Deviation from the fundamental rights and freedoms guaranteed by Articles 23, 24, 25, 27, 28, 29, 31, 33, 34, 37 and 38, of the Constitution is not allowed under any circumstances*".²⁶

The rights of the parties to a fair trial and within a reasonable time, the rights of the accused guaranteed by the Constitution of the country as well as by international conventions continue to be violated by the institutions of justice in our country. As a result, citizens continue to face inefficient justice and violations of their rights, including the right to a fair trial within a reasonable time.

23 Note: Request to the KJC regarding cases at risk of prescription, June 3, 2020.

24 More at: <https://www.givgesori-rks.org/2020/09/09/komunikate-8/>.

25 Note: At the BC in Prishtina, case PS.no.17/20 / 16 dated July 19, 2020 has been postponed due to the COVID-19 pandemic. Other cases of postponement for the same reasons have occurred at the BC in Gjakova, case Pkr.nr.11/20 / 30 has been postponed for June 30, 2020. At the BC in Prizren, case Pkr.nr. 14/19 dated July 6, 2020 has also been postponed due to the pandemic

26 Constitution of the Republic of Kosovo, Article 56, par.2: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=3702>

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113

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2.2 Prescription of cases

Prescription or statutory limitation is one of the most important institutes of criminal law. The statute of limitations as an institute of law makes impossible the criminal prosecution as well as the execution of the criminal sanction against the perpetrators after the expiration of the term determined by the Criminal Procedure Code of the Republic of Kosovo.

The phenomenon of prescription is one of the many problems that characterize the justice system in Kosovo. The reasons for statute of limitations are various, either due to objective causes and obstacles, or for the fault of prosecutors and judges as a result of negligence or certain intentions.

The COVID-19 pandemic period that the world is facing has had its consequences in Kosovo's justice system as well. One of the most significant consequences is the

statute of limitations for cases in the basic courts as well as the risk of statute of limitations for many other cases.

Data provided by Preportr, which operates within ÇOHU! show that by the end of 2020 there is a risk of statute of limitations of 492 cases - 442 of them belong to the absolute statute of limitations and 49 to relative statute of limitations.²⁷

Data are provided only for the basic courts in Ferizaj, Gjakova, Gjilan and Peja. On the other hand, the basic courts in Prishtina, Prizren and Mitrovica, despite the insistence of ÇOHU! did not provide data on cases of prescription and those at risk of prescription. The Basic Court in Prizren had suggested that we request information about this court from the Kosovo Judicial Council, which also refused to respond to cases that risk being statute-barred by the end of the year due to the pandemic.

Court	Absolute prescription	Relative prescription	Total
 Ferizaj	232	x	232
 Gjakova	45	x	45
 Gjilan	140	26	166
 Peja	49	x	49

Table 3: Cases at risk of prescription by the end of 2020

²⁷ Hundreds of cases can be prescribed by the end of the year", Preportr, July 2020 - http://preportr.cohu.org/repository/docs/09_-_Preportr_-_No_35_-_Pre-prescription_-_04_466857.pdf



Between 2000 and 2019, a total of **25,909 criminal cases** have become obsolete in the courts of Kosovo.

During court monitoring, ÇOHU! has encountered 9 cases of prescription at BC in Prishtina, Gjilan, Gjakova, Prizren and Peja.²⁸

For the monitoring period between 1 October, 2019 and 1 August 2020, a total of 5 cases of prescription were identified at the BC in Prishtina²⁹ and Prizren³⁰.

In the BC in Prishtina during the pandemic period, specifically in May 2020, the case against Sami Lushtaku, where he together with Ismet Haxha and Sahit Jashari were accused of having escaped from UCCK, has resulted in absolute prescription. The case of Sami Lushtaku is considered as one of the high-profile cases. This case also involved other persons holding state positions, correctional officers Bashkim Dervisholli and Valon Behramaj and Argjend Behramaj, as well as the director of Prishtina Detention Center, Emrush Thaçi. The accused were also Nexhip Shatri and the late Sami Gjoka.³¹

The Basic Court in Prizren has rejected point 3 of the indictment against the former director of education in the Municipality of Prizren Nexhat Çoçaj, while for other points of the indictment Nexhat Çoçaj together with the accused Bekim Thaqi and Bedri Çeku have been acquitted.

The Kosovo judiciary has an alarming number of old cases over the years. Based on the data of the Kosovo Judicial

Council, between 2000 and 2019, a total of 25,909 criminal cases have become obsolete in the courts of Kosovo. During this period, cases related to corruption have also been prescribed. Based on the findings of ÇOHU! and the data of the KJC, only during 2013–2018 a total of 58 anti-corruption cases have been prescribed. Of these, 8 in relative terms and 50 in absolute terms.

So far, the country's institutions have not taken any measures to prevent or combat the trend of prescription of cases. However, the only change that has been made after the completion and amendment of the Criminal Code of the Republic of Kosovo is the extension of the prescription.

By prescription, the Kosovo Judiciary, on the one hand, continues to amnesty perpetrators of criminal offenses, while on the other hand, it continues to violate the rights of injured parties in proceedings.

This phenomenon of prescription or statute of limitations of cases, in addition to continuing to produce lack of results of courts and prosecutors, it continues to deepen the loss of trust of citizens for a fair and independent system.

28 Access to Justice", ÇOHU!, November 2019: http://www.cohu.org/repository/docs/19_-_QASJA_N%C3%8B_DREJT%C3%8BSI_-_ALB_-_07_242950.pdf

29 BC in Prishtina, Case Pkr.nr. 185/18. On February 14 2020 a rejection judgment was announced against the accused E.M. and N.H. since the case reached statute of limitation for the criminal offenses of corruption.

BC in Prishtina, Case Pkr.nr. 325/18. On November 22, 2019 a rejection judgment was announced against the accused H.T. since the case reached statute of limitation for the criminal offenses of corruption.

BC in Prishtina, Case Pkr.nr. . On May 22, 2020 a rejection judgment was announced against the accused S.L, I.H, dhe S.J, since the case reached statute of limitation for the criminal offense.

30 BC in Prizren, Case Pkr.nr. 26/19. On 22 January 2020 the proceedings against R.M. were separated and terminated due to the achievement of a relative statute of limitations for the criminal offense of corruption.

BC in Prizren, Case Pkr.nr. 66/19. On July 2, 2020 a rejection judgement was announced against the accused N.Ç. since the case reached statute of limitation for the criminal offenses of corruption.

31 BC in Prishtina, Case Pkr.nr. 685/18. On May 22, 2020 a rejection judgment was announced against the accused S.L, I.H, dhe S.J, since the case reached statute of limitation for the criminal offense.



3. DELAYS IN STARTING COURT HEARINGS

Based on the findings of ÇOHU! out of a total of 371 monitored sessions for September 2019 - August 2020, 38 of them started late. The delays identified in the monitoring are only those which include the starting of hearing with over 15 minutes delay. The delays incorporated in the report ranged from 15 to 50 minutes. Delays of the trial panel and prosecutors are among the most common reasons for delaying the start of hearings.

Based on the findings of ÇOHU! out of a total of **38** hearings which started late, in **14** hearings the reason for starting late was the delay of the trial panel in the basic courts in Prishtina, Prizren, Peja, Gjilan, Ferizaj, Gjakova.³²

The prosecutor's delay is also one of the reasons for the delayed start of court hearings. According to our findings, 6 hearings had started late due to the delay of the prosecutors. Such cases of delays have been identified in the basic courts in Prishtina, Prizren and Gjilan.³³

The monitoring findings also identified 4 delays of the accused,³⁴ 4 delays of the defense counsels,³⁵ 1 delay of the witness³⁶ and 7 delays of the start of main trial for other reasons³⁷.

32 BC in Prishtina: Pkr.nr.305/16 (January 14, 2019) Pkr.nr. 325/18 (November 21, 2019), Pkr.nr.185/18 (February 14, 2020), Pkr.nr. 305/16 (February 26, 2020), Pkr.nr. 355/17 (November 21, 2019), Pkr.nr. 629/14 (January 31, 2020),
BC in Prizren: Pkr.nr. 30/19 (July 2, 2020),
BC in Peja: Pkr.nr. 26/18 (July 8, 2020),
BC in Gjilan: Pkr.nr.93/19 / (January 13, 2020), Pkr.nr. 160/19 (December 23, 2019), Pkr.nr. 39/19 (December 3, 2019),
BC in Gjakova: Pkr.nr. 15/19 (October 4, 2019), Pkr.nr. 19/18 (October 18, 2019),
BC in Ferizaj: Pkr.nr. 15/19 (November 25, 2019).

33 BC in Prishtina: PKR.nr. 371/17 (October 4, 2019),
BC in Prizren: Pkr.nr.28/19 / (January 14, 2020), Pkr.nr. 42/19 (January 27, 2020), Pkr.nr. 45/19 (January 14, 2020), Pkr.nr. 39/19 (November 11, 2019)
BC in Gjilan: Pkr.nr. 37/19 (December 9, 2019).

34 BC in Gjilan: Pkr.nr. 160/19 (November 14, 2020),
BC in Gjakova: Pkr.nr.64/18 / (November 8, 2019) 64/18, Pkr.nr. 64/18 (June 29, 2020)
BC in Prizren: Pkr.nr. 1/20 (February 19, 2020).

35 BC in Prishtina: PKR.nr. 204/18 (October 10, 2019), Pkr.nr. 519/13 (February 5, 2020), Pkr.nr. 230/18 (January 16, 2020),
BC in Gjilan: Pkr.nr. 81/19 (February 6, 2020),

36 BC in Ferizaj: Pkr.nr. 15/19 (November 19, 2019)

37 BC in Prishtina: PKR.nr. 610/16 (November 20, 2019), Pkr.nr. 206/18 (October 24, 2019)
BC in Prizren: Pkr.nr. 87/18 (September 26, 2019), Pkr.nr. 54/19 (October 9, 2019), Pkr.nr. 22/19 (December 6, 2019), Pkr.nr. 54/19 (October 9, 2019), Pkr.nr. 22/19 (December 6, 2019 and January 24, 2020),
BC in Gjilan: Pkr.nr. 238/18 (February 10, 2020), Pkr.nr. 93/19 (December 12, 2019),
BC in Ferizaj: Pkr.nr. 204/17 (December 12, 2019)

	Court	Case no.	Date	Reasons for delay
1	Prishtina	PKR.nr.305/16	14.01.2019	Trial panel
2	Prizren	PKR-30/19	02.07.2020	Trial panel
3	Peja	PKR-26/18	08.07.2020	Trial panel
4	Gjilan	PKR.nr.93/19	13.01.2020	Trial panel
5	Prishtina	PKR.nr.325/18	21.11.2019	Trial panel
6	Prishtina	PKR.nr.185/18	14.02.2020	Trial panel
7	Gjilan	PKR.nr.160/19	23.12.2019	Trial panel
8	Gjilan	PKR.nr.39/19	03.12.2019	Trial panel
9	Ferizaj	PKR.nr.15/19	25.11.2019	Trial panel
10	Prishtina	PKR.nr.305/16	26.02.2020	Trial panel
11	Gjakova	PKR-15/19	04.10.2019	Trial panel
12	Gjakova	PKR-19/18	18.10.2019	Trial panel
13	Prishtina	PKR.nr.355/17	21.11.2019	Trial panel
14	Prishtina	PKR.nr.629/14	31.01.2020	Trial panel
15	Prizren	PKR-28/19	14.01.2020	Prosecutor ³⁸
16	Prizren	PKR-42/19	27.01.2020	Prosecutor ³⁹
17	Prizren	PKR-45/19	14.01.2020	Prosecutor ⁴⁰
18	Prizren	PKR-39/19	11.11.2019	Prosecutor ⁴¹
19	Gjilan	PKR.nr.37/19	09.12.2019	Prosecutor ⁴²

38 Note: According to the comments of the KPC, based on the court record, the prosecutor of the case presented at the main trial but due to lack of witnesses the hearing was postponed to another date Note: According to the comments of the KPC, based on the court record, the prosecutor of the case presented at the main trial but due to lack of witnesses the hearing was postponed to another date.

39 According to the comments of the KPC, based on the court record, the prosecutor of the case presented at the hearing and the main trial was held.

40 According to the comments of the KPC, based on the court record, the prosecutor of the case was late in the main trial, as he was engaged at the same time in the main trial of the case P.nr.113/19. / 19.

41 According to the comments of the KPC, based on the court record, it turns out that the state prosecutor presented and the hearing was held.

42 KPK, ka konfirmuar shtyrjen e seancës gjyqësore për shkak të prokurorit. Arsyeja e shtyrjes së seancës ka qenë vizita studimore e prokurores në Gjykatën Evropiane për të Drejtat e Njeriut.

	Court	Case no.	Date	Reasons for delay
19	Prishtina	PKR.nr.371/17	04.10.2019	Prosecutor
20	Gjilan	PKR.nr.160/19	14.11.2020	Accused
21	Gjakova	PKR-64/18	08.11.2019	Accused
22	Prizren	PKR-1/20	19.02.2020	Accused
23	Gjakova	PKR-64/18	29.06.2020	Accused
24	Prishtina	PKR.nr. 204/18	10.10.2019	Defense counsel
25	Prishtina	PKR.nr.519/13	05.02.2020	Defense counsel
26	Prishtina	PKR.nr.230/18	16.01.2020	Defense counsel
27	Gjilan	PKR.nr.81/19	06.02.2020	Defense counsel, prosecutor
28	Ferizaj	PKR.nr.15/19	19.11.2019	Witness
29	Prishtina	PKR.nr.610/16	20.11.2019	Other reasons
30	Prizren	PKR-87/18	26.09.2019	Other reasons
31	Prizren	PKR-54/19	09.10.2019	Other reasons
32	Prizren	PKR-22/19	06.12.2019	Other reasons
33	Prizren	PKR-22/19	24.01.2020	Other reasons
34	Gjilan	PKR.nr.238/18	10.02.2020	Other reasons
35	Gjilan	PKR.nr.93/19	12.12.2019	Other reasons
36	Prishtina	PKR.nr.206/18	24.10.2019	Other reasons
37	Ferizaj	PKR.nr.204/17	12.12.2019	Other reasons

Table 4: Cases of late start of court hearings

In addition to delays in trials, delays in the start of trials jeopardize the efficiency and credibility of the courts. Basic courts in Kosovo continue to be overwhelmed by a large number of cases and show poor efficiency.

3.1 Interruption and adjournment of court hearings

Article 312 of the Criminal Procedure Code of the Republic of Kosovo provides for a set of rules which enable the resolution of criminal cases efficiently and effectively. ÇOHU! has identified that these rules are not always respected by the relevant bodies.

According to provision 312 of the Code of Criminal Procedure, the 8-day period must be respected as a time limit in cases where the main trial is adjourned due to overtime, to allow a short time to provide any evidence or also for the preparation of the indictment or defense⁴³. So, the adjournment of the main trial is usually done for a short time.

The monitoring the ÇOHU! has identified very few cases where this 8-day time limit has been applied and respected. The basic courts in Kosovo had decided to apply the following paragraph, which deals with non-compliance with the 8-day time limit and requires the application of the previous article of the Code of Criminal Procedure, namely Article 311.⁴⁴

Based on the findings of ÇOHU! in the monitored courts during September 2019 - August 2020, a total of **15** court hearings were adjourned, for the reasons mentioned in Article 312 par. 1, in which case the next hearings from the adjournment of the court hearing were scheduled late, thus not respecting the 8-day time limit provided by Article 312 of the CCK.

Such cases of adjournment have been identified in the basic courts in Prishtina, Prizren, Peja and Gjakova.⁴⁵

Adjournment of court hearings is another problem which continues to be present in all basic courts of the Republic of Kosovo.

During the monitoring of **371** court hearings between September 2019 and August 2020, ÇOHU! has identified **113** adjournments of hearings.

Among the most common reasons for not holding and postponing hearings in all basic courts had been the absence of defendants and prosecutors. The absence of a trial panel, the absence of defense counsel, witnesses, representatives, attendance at seminars and the non-submission of case files to the parties had been the reasons for postponing the hearings.

The reasons for the lack of prosecutors⁴⁶, judges⁴⁷,

43 Criminal Procedure Code, paragraph 3 of Article 312: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=2861>

44 Paragraph 3 of Article 312 of the Criminal Procedure Code: When the main trial cannot continue before the same trial panel, or when its interruption lasts more than eight (8) days, then the provisions of Article 311 of this Code shall apply. <https://gzk.rks-gov.net/ActDetail.aspx?ActID=2861>.

45 BC in Prizren: Pkr.nr. 87/18 (September 26 2019, after the interruption, the next session was scheduled for November 21, 2019), Pkr.nr. 65/19 (October 21, 2019, after the interruption, the next session was scheduled for November 20, 2019), Pkr.nr.45/19 / (October 3, 2019 after the interruption, the next session was scheduled for November 1 and 14, 2019), Pkr. nr. 22/19 (December 6, 2019, after the interruption, the next session was scheduled for January 24, 2020), Pkr.nr. 66/19 (December 20, 2019, after the interruption the next session was scheduled for January 24, 2020), Pkr.nr.13/19 / (November 4, 2019 after the interruption the session was scheduled for February 19, 2020), Pkr.nr. 26/19 (January 20, 2020, after the interruption the next session was scheduled for February 27, 2020), Pkr.nr. 22/19 (January 21 2020, after the interruption the next session was scheduled for March 2, 2020), Pkr.nr. 44/16 (February 5, 2020, after the interruption the next session was scheduled for March 17, 2020), Pkr.nr.45/19 / (January 14, 2020, after the interruption the next session was scheduled for February 7, 2020), Pkr.nr. 30/19 (February 13, 2020, after the interruption the next hearing was scheduled for March 20, 2020),

BC in Gjakova: Pkr.nr. 64/18 (December 24, 2019, after the interruption the next session was scheduled for February 3, 2020),

BC in Peja: Pkr.nr. 58/18 (December 23, 2019, after the interruption the next session has been postponed indefinitely),

BC in Prishtina: PKR.nr. 748/19 (October 22, 2019, after the interruption, the next session has been postponed indefinitely), Pkr.nr. 40/18 (February 26 2020, after the interruption, the next hearing was postponed indefinitely).

46 Note: The absence of prosecutor Ali Uka was the reason for postponing the hearing of December 10, 2019 at the BC in Peja. The court found that the prosecution was notified in time and with a regular summons, but prosecutor Uka informed the court that he could not attend the hearing due to other commitments. For the same reasons, the hearing was postponed at the BC in Prishtina, related to case PKR.nr. 164-17, where prosecutor Dulina Halimi had informed the court that she was engaged in another case in court. Also, at the BC in Gjilan, in the case Pkr.nr.145/19 dated January 17, 2020 was postponed due to the absence of prosecutor Isufi who had been engaged in another session.

47 Note: At the BC in Prishtina, on November 26, 2019, case no. Pkr.nr.164.17 has been postponed due to the trial panel. For the same reasons was postponed case Pkr.nr.305/16 / on February 26, 2020 in Prishtina, case Pkr.nr. 45/19 on February 7, 2020 at the BC in Prizren, case Pkr.nr.174/19 / on February 5, 2020 at the BC in Gjilan, case Pkr.nr. 114/17 on December 4, 2019 at the BC in Ferizaj.



defendants⁴⁸, defense counsels⁴⁹, witnesses⁵⁰ and in court proceedings and inefficiency of the judiciary. the non-submission of documents to the parties are among the various reasons which have caused the adjournment of hearings, which have resulted in delays

	Court	Case no.	Date	Reasons for adjournment
1	Prishtina	PKR.nr.164-17	04.02.2020	Prosecutor
2	Prishtina	PKR.nr.157-17	18.10.2019	Prosecutor
3	Prishtina	PKR.nr.08-19	13.02.2020	Prosecutor
4	Gjakova	PKR.nr.19/18	07.10.2019	Prosecutor
5	Prizren	PKR.nr.37/19	09.10.2019	Prosecutor
6	Prizren	PKR.nr.26/19	10.10.2019	Prosecutor ⁵¹
7	Prizren	PKR.nr.22/19	24.10.2019	Prosecutor ⁵²
8	Gjakova	PKR.nr.16/18	24.10.2019	Prosecutor
9	Peja	PKR.nr.25/18	10.12.2019	Prosecutor
10	Peja	PKR.nr.25/18	21.01.2020	Prosecutor
11	Gjakova	PKR.nr.64/18	03.02.2020	Prosecutor, accused

48 Note: At the BC in Prishtina, case PKR.nr.206-18 on February 19, 2020 has been postponed due to the defendants. Due to the defendants was postponed case PKR.no.13/19 on December 11, 2019 at the BC in Prizren, case PKR-19/18 on February 20, 2020 at the BC in Gjakova, case PKR.no.160/19 on November 14, 2020 at the BC in Gjilan

49 Note: At the BC in Prishtina, case PKR.no. 325/18, on November 1, 2019 has been postponed due to the absence of the defense counsel. For the same reason, case Pkr.nr. 15/19 on October 4, 2019 at the BC in Gjakova, case Pkr.nr. 61/19 on July 28, 2020 at the BC in Prizren, case Pkr.nr. 58/19 on November 13, 2019 at the BC in Gjilan have been postponed

50 Note: At the BC in Prishtina, case PKR.no. 306/16, on February 26, 2020 was postponed due to the absence of the witness. For the same reason, case Pkr. nr. 15/16 on November 19, 2019 at the BC in Ferizaj, case Pkr.nr. 28/19 on January 14, 2020 at the BC in Prizren have been postponed

51 Note: Based on the comments from the KPC, based on the court record, the prosecutor presented and the court hearing was held.

52 Note: KPC has confirmed the postponement of the court hearing due to the prosecutor, the reason for the postponement was the meeting of prosecutors with the relatives of the deceased Dehari.

	Court	Case no.	Date	Reasons for adjournment
12	Prizren	PKR-1/20	19.02.2020	Prosecutor ⁵³
13	Gjakova	PKR.nr.26/19	27.02.2020	Prosecutor
14	Prizren	PKR.nr.89/19	14.07.2020	Prosecutor ⁵⁴
15	Gjilan	PKR.nr.145/19	17.01.2020	Prosecutor
16	Gjilan	PKR.nr.93/19	21.01.2020	Prosecutor
17	Prishtina	PKR.nr.167/17	15.10.2019	Prosecutor
18	Prizren	PKR.nr.37/19	12.12.2019	Prosecutor ⁵⁵
19	Gjakova	PKR.nr.64/18	16.12.2019	Prosecutor
20	Prizren	PKR.nr.44/16	17.12.2019	Prosecutor ⁵⁶
21	Peja	PKR.nr. 25/18	21.01.2020	Prosecutor
22	Prishtina	PKR.nr.164-17	26.11.2019	Trial panel
23	Prishtina	PKR.nr.305-16	26.02.2020	Trial panel, witnesses.
24	Prizren	PKR.nr.61/19	26.11.2019	Trial panel
25	Prizren	PKR.nr.44/16	01.11.2019	Trial panel
26	Prizren	PKR.nr.61/19	26.11.2019	Trial panel

53 According to the comments of the KPC, based on the minutes, it results that the State Prosecutor presented the main trial, no delay was found in the minutes and the hearing was held.

54 According to the comments of the KPC, based on the minutes of the main trial, it turns out that the State Prosecutor did not appear at the main trial as he was engaged at the same time in another main trial.

55 According to the comments of the KPC, based on the minutes of the main trial, it results that the State Prosecutor did not appear at the main trial, but the State Prosecutor submitted a written request to the court to postpone the main trial after the Prosecutor of the case for health reasons from 11.12.2019 did not show at work and was hospitalized.

56 Ibid.



	Court	Case no.	Date	Reasons for adjournment
27	Prizren	PKR.nr.26/19	03.12.2019	Trial panel
28	Prizren	P.nr.60/19	05.12.2019	Trial panel
29	Prizren	PKR.nr.45/19	07.02.2020	Trial panel
30	Gjilan	PKR.nr.174/19	05.02.2020	Trial panel
31	Gjilan	PKR.81/19	06.12.2019	Trial panel
32	Gjilan	PKR.129/18	03.12.2019	Trial panel
33	Ferizaj	PKR.nr.114/17	04.12.2019	Trial panel
34	Prishtina	PKR.nr.305-16	03.10.2019	Accused
35	Prishtina	PS.nr.27-19	03.02.2020	Accused
36	Prishtina	PKR.nr.206-18	19.02.2020	Accused
37	Prishtina	PKR.nr. 754-16	17.10.2019	Accused
38	Prishtina	PS.nr.24.19	13.12.2019	Accused
39	Prishtina	PS.nr.24.19	24.01.2020	Accused
40	Prishtina	PKR.nr.16-18	27.09.2019	Accused
41	Prishtina	PKR.nr.230-18	23.12.2019	Accused
42	Prishtina	PKR.nr. 314-16	15.10.2019	Accused
43	Prizren	PKR.nr.65/19	14.10.2019	Accused
44	Prizren	PKR.nr.89/19	12.11.2019	Accused

	Court	Case no.	Date	Reasons for adjournment
45	Prizren	PKR.nr.13/19	11.12.2019	Accused
46	Prizren	PKR.nr.113/19	14.01.2020	Accused
47	Gjakova	PKR-19/18	20.02.2020	Accused
48	Gjakova	P.nr.492/19	18.06.2020	Accused
49	Prizren	PKR.nr.57/19	07.06.2020	Accused
50	Prizren	PKR.nr.26/18	08.07.2020	Accused
51	Prizren	PKR.nr.75/19	16.07.2020	Accused
52	Prizren	PKR.nr.1/20	07.08.2020	Accused
53	Gjilan	PKR.129/18	10.12.2019	Accused
54	Gjilan	PKR.nr.160/19	14.11.2020	Accused
55	Prishtina	PKR.nr.610-16	27.09.2019	Defense counsel
56	Prishtina	PKR.nr.325-18	01.11.2019	Defense counsel
57	Prishtina	PKR.nr.230-18	16.01.2020	Defense counsel
58	Gjakova	PKR.nr.15/19	04.10.2019	Defense counsel
59	Prizren	PKR.nr.75/19	19.11.2019	Defense counsel, accused
60	Prizren	PKR.nr.45/19	04.12.2019	Defense counsel, accused
61	Prizren	PKR.nr.61/19	28.07.2020	Defense counsel
62	Gjilan	PKR.nr.58/19	13.11.2019	Defense counsel



	Court	Case no.	Date	Reasons for adjournment
63	Prishtina	PKR.nr.355-17	30.09.2019	Witness
64	Gjakova	PKR.nr.14/19	17.10.2019	Witness
65	Prizren	PKR.nr.28/19	14.01.2020	Witness
66	Gjilan	PKR.nr.32/19	31.01.2020	Witness
67	Prishtina	PKR.nr.305-16	26.02.2020	Witness
68	Ferizaj	PKR.nr.15/19	19.11.2019	Witness
69	Prizren	PKR.nr.93/19	14.02.2020	Injured
70	Prizren	PKR.nr.66/19	24.01.2020	Representative
71	Prizren	PKR.nr.75/19	27.01.2020	Representative
72	Prizren	PKR.nr.14/19	31.01.2020	Representative
73	Prizren	PKR.nr.26/19	02.07.2020	Representative
74	Prizren	PKR.nr.110/19	03.07.2020	Representative
75	Prizren	PKR.nr.29/20	15.07.2020	Representative
76	Prizren	PKR.nr.22/19	16.07.2020	Representative
77	Prishtina	PKR.nr.610-16	18.06.2020	COVID-19
78	Prishtina	PS.nr.17-20	15.07.2020	COVID-19
79	Prishtina	PKR.nr. 297-19	14.07.2020	COVID-19
80	Prishtina	PKR.nr.203-19	09.07.2020	COVID-19

	Court	Case no.	Date	Reasons for adjournment
81	Prishtina	PKR.nr. 164-17	09.07.2020	COVID-19
82	Prishtina	PKR.nr.337-18	19.07.2020	COVID-19
83	Prishtina	PKR.nr.206-19	13.07.2020	COVID-19
84	Prishtina	PKR.nr.142-18	09.07.2010	COVID-19
85	Prizren	PKR.nr.111/19	22.07.2020	COVID-19
86	Gjakova	PKR.nr.11/20	30.06.2020	COVID-19
87	Prizren	PKR.nr.14/19	06.07.2020	COVID-19
88	Prishtina	PKR.nr.219-19	29.10.2019	Other reasons
89	Prishtina	PS.nr.24.19	18.02.2020	Other reasons
90	Gjakova	PKR.nr.11/20	19.06.2020	Other reasons
91	Prizren	PKR.nr.37/19	09.10.2019	Other reasons
92	Gjakova	PKR.nr. 16/18	24.10.2019	Other reasons
93	Gjilan	PKR.nr. 174/19	05.02.2020	Other reasons
94	Gjilan	PKR.nr. 81/19	06.12.2019	Other reasons
95	Gjilan	PKR.nr. 129/18	03.12.2019	Other reasons
96	Ferizaj	PKR.nr. 114/17	04.12.2019	Other reasons

Table 5: Cases of adjournment of hearings in the Basic Courts



4. VIOLATION OF LEGAL TIME LIMITS

Violation of legal time limits is another persistent finding of ÇOHU! over the years. Delays and adjournments of scheduling and holding court hearings that have been part of almost every publication of ÇOHU! in terms of monitoring court hearings, are still problematic given the impossibility of holding court hearings due to the COVID-19 pandemic.

ÇOHU! has identified flagrant violations of the procedural time limits of hearings at various procedural stages, which includes the period up to 1,520 days delay (over four years) of holding a hearing.

All this delay and adjournment of hearings has been followed by violations of the rights of the parties in the trial and violations of the principles of justice regarding the smooth running and economy of the trial, trial within a reasonable time, which is provided by domestic and international legal instruments.

Adjournment of hearings has occurred at almost every stage of the proceedings - at the initial, secondary and main hearing as well as at the conclusion of a main trial.

4.1 Violation of time limits for initial hearing

According to Criminal Procedure Code, from the moment of receiving the case in court (indictment), within a 30-day period, respectively 15-day period (for detention cases), the court must schedule and hold the initial hearing⁵⁷. ÇOHU! has identified numerous cases of non-compliance with this time limit. Although the obligation of the court was that the hearing for such cases should be scheduled immediately and held no later than the 30-day time limit (15 days for detention cases), ÇOHU! has identified violations of this time limit for more than 1,489 days.

By violating this time limit, the court has violated Article 242 of the Criminal Procedure Code as well as other provisions related to the basic human rights provided by law, the constitution and international instruments, as the trial was not conducted in reasonable time.

Cases with delays in conducting a hearing have been identified in almost all basic courts of the Republic of Kosovo, but the most significant delays and violations have been identified in the basic courts in Prishtina, Gjilan and Gjakova.

57 Criminal Procedure Code of the Republic of Kosovo no. 04/ / L-123, Article 242, paragraphs 4 and 5: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=2861>.



ÇOHU! has identified flagrant violations of the procedural time limits of hearings at various procedural stages, which includes the period up to **1,520 days** delay (over four years) of holding a hearing.

The most egregious case was identified in the Basic Court in Prishtina. Although the indictment was admitted to court on April 26, 2017, the initial hearing was not scheduled / held until June 25, 2020, exactly 1,520 days after the case was received in court.⁵⁸

The other two cases are the one identified at the BC in Gjilan and the monitored case at the BC in Gjakova. While the hearing of the first case was held 419 days late⁵⁹, the latter hearing at the BC in Gjakova was held 751 days late.⁶⁰

4.2 Violation of time limits for second hearing

Violations of procedural provisions were also identified during the processing of cases in the secondary hearing. The need to hold a secondary hearing depends on the case and it is within the competence of the court to hold such a hearing. Such a hearing also provides for time lim-

its, which have also been violated - always according to the findings of ÇOHU!

According to the provisions of the Criminal Procedure Code, the secondary hearing session in cases when it is scheduled to be held, should be held no earlier than 30 days from the first hearing and no later than 40 days from that hearing.

However, this time limit, just as that of the initial hearing, has been violated by almost all courts. According to the monitoring data, the case with the most serious violation, i.e. the longest delay in holding such a hearing, was identified in the Basic Court in Prishtina. Although the initial hearing was held on August 2, 2019, the secondary review, which was supposed to be held no earlier than 30 days and no later than 40 days, was held after 341 days, or 301 days late.⁶¹

The other two cases with the most significant delays are the one monitored at the BC in Ferizaj and the other at the BC in Gjakova. For both cases, the duration of the secondary hearing had lasted 217 days from the holding of the

58 Note: BC in Prishtina, Case PKR.no.58-20, received in court on April 26, 2017, while the initial hearing was scheduled for June 25, 2020.

59 Note: BC in Gjilan, case PKR.37/19, / received in court on December 16, 2017 while the initial hearing was held on March 2, 2019.

60 Note: BC in Gjakova, case PKR-64/18, received in court on April 10, 2016, while the initial hearing was held on May 31, 2018.

61 Note: BC in Prishtina, case PKR.no.142-18. The initial hearing was held on August 9 2019, the secondary review was scheduled for July 9, 2020, 341 days after the initial review was held.



initial hearing, although the hearing should have been held no earlier than 30 days and no later than 40 days.⁶²

Such cases of delays have been identified in almost all basic courts of the Republic of Kosovo.

4.3 Violation of time limits for main trial and its completion

Violations of legal procedural time limits were identified in both the main trial and its conclusion. According to the Criminal Procedure Code, while the main trial is scheduled to take place within one month (30 days) of the secondary hearing⁶³, the main trial should be completed within 90 days, i.e. 120 days from the first hearing.⁶⁴

As in the earlier stages of a trial, the violation of time limits was also apparent in the holding and conclusion of a main trial. According to the findings of ÇOHU! the basic courts in Prizren, Ferizaj and Prishtina are the courts with the most significant delays in holding the main trial. While at the BC in Prizren the violation identified was up to 1,041 days⁶⁵, at the BC in Ferizaj there was a delay of up to 479 days⁶⁶, while at the BC in Prishtina the delays in holding a main trial were up to 1,007 days.⁶⁷

Regarding the completion of the main trial, which should take place within 90 days, i.e. 120 days from the first hearing of the main trial, delays of up to almost 100 days have been identified in the cases for which the verdict has been announced.

The Basic Courts in Prizren and Prishtina are the two courts with violations of this time limit. While in the first case identified at the BC in Prishtina a total of 192 days had elapsed until the announcement of the verdict⁶⁸, the BC in Prizren had made a decision after 186 days from the beginning of the main trial.⁶⁹

Based on the findings of ÇOHU!, there were violations of time limits related to the stages of a court hearing (initial, secondary, main trial and conclusion of a hearing) in almost all basic courts of the Republic of Kosovo.

Breach of such time limits is also contrary to justice principle in terms of fair trial and within reasonable time, as stipulated by European Convention on Human Rights, the Constitution of the Republic of Kosovo, as well as by Criminal Procedure Code and Law on Courts.

Non-observance of such time limits continues to cause inefficiency of the courts where due to such delays and violations the courts continue to have delays in processing cases and lack of results in handling cases of various natures.

62 Note: Cases PKR.114/17 / -64/18 in BC in Ferizaj and PKR-64/18 in BC in Gjakova. While the initial hearing of the case PKR.114/17 in Ferizaj was held on February 14, 2018, the secondary review was held on September 23, 2018. The initial hearing on the case PKR-64/18 at the BC in Gjakova was held on May 31, 2018, the secondary hearing was held on January 3, 2019, 217 days after the initial hearing.

63 According to the KCCP, Article 285 paragraph 2 in conjunction with Article 254 paragraph 5, the single trial judge or presiding trial judge shall set the commencement of the main trial within one (1) month of the second review or of the final order issued by article 254, paragraph 5; <https://gzk.rks-gov.net/ActDetail.aspx?ActID=2861>.

64 Criminal Procedure Code of the Republic of Kosovo no. 04/ / L-123, Article 314 paragraph 1.1 and 1.2: A main trial must be completed within 90 days, respectively 120 days from the first hearing session <https://gzk.rks-gov.net/ActDetail.aspx?ActID=2861>.

65 Note: Case PKR-66/19. The secondary hearing was held on June 10, 2015, the main hearing was held on May 17, 2018, 1071 days from the holding of the secondary review.

66 Note: Case PKR.114/17. / 17. The secondary hearing was held on September 23, 2018, the main hearing was held on February 14, 2020, 509 days from the holding of the secondary hearing.

67 Note: Case PKR.no.08-19. The secondary hearing was held on August 30, 2016, the main hearing was held on July 3, 2019, 1,037 days from the holding of the secondary hearing.

68 Note: Case PKR.no.242-18. While the main trial started on May 24, 2019, the judgment was announced on January 28, 2020, 192 days after the start of the main trial, not respecting the procedural provisions which provide for the duration of the main trial of 90 or 120 days, as defined in Article 314 paragraph 1.1 and 1.2 of the Criminal Procedure Code of Kosovo.

69 Note: Case PKR-66/19. The main trial had started on May 17, 2018, the verdict was announced on November 19, 2018, 186 days after the start of the main trial.

In the past publications as well, ÇOHU! had emphasized the importance of meeting these time limits as well as the importance of understanding the real reasons and causes of such delays and violations. However, based on the findings of ÇOHU!, the KJC has not yet taken any measures to address such problems.

It is important that the KJC take appropriate measures to address such problems, which would help increase the efficiency of the courts and compliance with local and international legal provisions.



While at the BC in Prizren the violation identified was up to 1,041 days, at the BC in Ferizaj there was a delay of up to 479 days, while at the BC in Prishtina the delays in holding a main trial were up to 1,007 days

5. SUBSTITUTION OF PROSECUTORS WHEN REPRESENTING INDICTMENTS

During the systematic monitoring of cases of corruption and organized crime in the Basic Courts of the Republic of Kosovo, ÇOHU! has identified numerous cases of substitution of prosecutors while representing indictments in the courts.

Cases of substitution of prosecutors in basic courts have been followed by lack of professionalism and poor representation and argumentation of indictments.

The monitoring of ÇOHU! between October 2018 and August 2020 has identified 33 cases of substitution of prosecutors. Although the substitution of prosecutors according to the Criminal Procedure Code does not constitute a violation, during the monitoring of court hearings it was evident that the substitution

of prosecutors is causing inadequate representation of indictments. As a result, this phenomenon has resulted in violations of the rights of defendants as well as many other consequences which are reflected in the (in)efficiency of the judiciary.

During the monitoring between September 2019 and August 2020, a total of 5 cases of substitution of prosecutors were identified in the basic courts in Prishtina, Gjilan, Gjakova and Peja.⁷⁰

In this regard, progress has been noticed by the judiciary compared to last year during which ÇOHU! had identified 28 cases of substitution of prosecutors which were accompanied by unpreparedness of prosecutors during the representation of indictments.⁷¹

70 At the BC in Gjakova, case Pkr.nr. 64/18, on June 29, 2020 was represented by prosecutor Florie Shamolli after the same case was represented by prosecutor Atdhe Dema.

At the BC in Peja, the case Pkr.nr.25/18 was represented by prosecutor Ali Uka because a disciplinary measure was imposed on the prosecutor of the case, Ramiz Buzhala. The case in question was initially represented by the late prosecutor Agron Matjani.

At the BC in Gjilan, case Pkr.nr.174/19. 172/18, on January 14, 2020 was represented by prosecutor Isuf Sadiku, in the absence of prosecutor Agron Uka.

At the BC in Prishtina, case Pkr.nr. 40/18, on October 25, 2019 was represented by prosecutor Enver Krasniqi in the absence of prosecutor Florie Shamolli.

Case 24/19 on December 13, 2019 was represented by prosecutor Fikrije Fejzullahu in the absence of prosecutor Merita Binja - Rugova

71 "Access to Justice", ÇOHU!, November 2019 - http://www.cohu.org/repository/docs/19_-_ACCESS_N%C3%8B_DREJT%C3%8BSI_-_ALB_-_07_242950.pdf

However, although slight progress has been identified over the past year, the justice system faces prosecutors' unpreparedness to represent indictments and poor prosecution representation for various reasons, and this continues to cause inefficiency of justice system. and poor results in combating corruption and organized crime.

As in the previous reporting year, the Kosovo Prosecutorial Council, namely the disciplinary and performance mechanisms of the KPC, still lacks concrete results in punishing and disciplining prosecutors who have violated ethical, professional and legal rules. Cases of initiating and completing disciplinary and punitive proceedings against prosecutors due to poor performance and failure of their indictments are still rare.



The monitoring of ÇOHU! between October 2018 and August 2020 has identified

33
cases

of substitution of prosecutors which were accompanied by unpreparedness of prosecutors

during the representation of indictments.

6. HIGH PROFILE CASES - HIGH LEVEL CORRUPTION

During the monitoring of cases of corruption and organized crime in the basic courts of the Republic of Kosovo, ÇOHU! has given priority to cases which are considered high profile cases.

After the establishment of the Special Prosecution, a Special Department was established in the BC in Prishtina and in the Court of Appeals. These departments deal with cases of corruption and organized crime which are set up by the Special Prosecution.

During the second monitoring period, September 2019 - August 2020, ÇOHU! has identified 16 cases of high level corruption handled by the basic courts in Prishtina (Special Department and Serious Crimes Department)⁷², Peja⁷³, Prizren⁷⁴, Gjakova⁷⁵ According to monitoring data, cases of high corruption involved persons from different profiles such as MPs, ministers, deputy ministers, mayors, court presidents and others.

The handling of high-level corruption cases by the

courts has been characterized by delays, adjournments and adjournments of hearings as well as violations of legal time limits set by the Criminal Procedure Code of Kosovo.

Case Pkr.nr. 64/18, which is being handled by the Basic Court in Gjakova, where the accused are Pal Lekaj, Ismet Isufi, Gani Rama and Veli Hajdaraga, had delays in the trial. The court hearings of this process were adjourned 5 times – 3 times due to the prosecutor, 2 times due to the judge, as well as 1 time due to the defendant and the defense counsel. Also, in this case, the legal time limits regarding the appointment of the initial and second review were not respected.

In the case Pkr.nr. 25/18, which is being handled by the Basic Court in Peja, where the defendant is Haki Rugova, ÇOHU! has identified violations of the legal time limits for scheduling the initial review of up to 10 months and the secondary one of up to 2 months. The case was also characterized by numerous delays which caused

72 BC in Prishtina: Cases no. Pkr.nr.204 / 18, Pkr.nr. 305/16, Pkr.nr. 610/16, PS.nr.17/20, Pkr.nr. 40/18, PS.nr.10/20, Pkr.nr. 206/16, Pkr.nr. 90/18, Pkr.nr. 230/18

73 BC in Peja: Cases no. Pkr.nr. 227/16, Pkr.nr. 168/16, Pkr.nr. 25/18.

74 BC in Prizren: Cases no. Pkr.nr. 10/18, Pkr.nr. 87/18.

75 BC in Gjakova: Cases no. Pkr.nr. 64/18, Pkr.nr. 110/19.



During the second monitoring period, September 2019 - August 2020, ÇOHU! has identified **16 cases** of high level.

delays in the trial, in which case the last 3 hearings had failed in a row while the other 4 hearings had failed to be held before the initial hearing.

High-level corruption remains one of the major challenges to justice which continues to have stagnant effects on the country's development. This issue has been identified by local and international institutions, although such a phenomenon should be treated with priority by the justice system of the Republic of Kosovo.

Another issue is the return of such cases for retrial upon appeal. Hence, in the justice system today, the top officials of the country continue to be unpunished for their accusations or to be given low sentences, mainly probation sentences. Imprisonment sentences are imposed in very few cases. The monitoring findings show that the cases against which the imprisonment sentence was imposed have been returned for retrial by the Court of Appeals.⁷⁶

Such a thing was also stated in the report of the US State Department for 2019. The report highlights the lack of effective judicial oversight, thus adding to the fact that corruption cases are constantly appealed to higher courts.⁷⁷

The Special Department at the Basic Court and the Court of Appeals in Prishtina became operational in July 2019 in order to increase efficiency in the fight against criminal phenomena such as corruption, organized crime, money laundering and terrorist financing.

Based on the data provided by the Basic Court of Prishtina, the Special Department at the BC in Prishtina in the first half of 2020 has inherited 62 cases at work, it had received 28 cases, it had resolved 27 cases for this reporting period and it had 93 outstanding cases at the end of the reporting period.

According to justice actors, this department is assisting in handling cases within a reasonable time. The Chairman of the Kosovo Judicial Council in an interview for ÇOHU! stated that the concrete results of the Special Department are the handling of cases within a reasonable time.⁷⁸

However, despite the efforts and reforms undertaken in the judiciary, concrete results in combating and punishing criminals in general and those in public office in particular continue to be very few.

76 BC in Prishtina, case Pkr.nr. 206/19, against the accused Sh.B, N.Z., H.G. and M.S., accused of the criminal offense "Abuse of official duty", was returned for retrial in November 2018. The first hearing after the return for retrial by the Court of Appeals, was scheduled for June 26, 2020 and it failed to be held. BC in Prishtina, the well-known case "Stenta 1", against the accused F.A. and G.B., has been returned for retrial in December 2019. BC in Peja, case Pkr.nr.174/19. 168/16, against the accused S.B., E.Rr., E.B., F.G., accused of the criminal offenses "Abuse of official duty or authority" and "Failure to report or false reporting of property, income, other material or financial benefits", has been returned for retrial by the Court of Appeals. Following the return for retrial, the court has not yet scheduled a hearing in this case. BC in Gjakova, case 110/19, against the accused B.N., accused of the criminal offense "Abuse of official duty or authority", has been returned for retrial by the Court of Appeals. In this case, 2 court hearings failed to be held.

77 Section IV - Corruption and Lack of Transparency in Government - State Department Report on Human Rights for 2019 - Kosovo; March 2020; https://www.state.gov/reports/2019-country-reports-on-human-rights-practices/kosovo/?fbclid=IéAR3Tf1077j0tpHazEFqf1UKPP0M6ag_akeky96LG65YREH2qAy6Qrz-4PQv4#.XmkyUÉHC_BM.facebook.

78 Interview with the Chairman of the Kosovo Judicial Council: Skënder Çoçaj, July 30, 2020, Prishtina.



7. PERFORMANCE OF PROSECUTORS AND JUDGES IN PROCESSING AND HANDLING CASES

The Judicial and Prosecutorial Council of the Republic of Kosovo are in the process of amending and supplementing the regulations for evaluating the performance of prosecutors and judges in order to increase the efficiency of courts and prosecutors.

Some of the additions to the Regulation on Judicial Performance Evaluation which are expected to be adopted are:

2 Composition of the Performance Evaluation Commission, made of 13 members - judges. Of these 13 judges, 5 members are from the ranks of the Supreme Court of Kosovo, four are from the Court of Appeals and 3 others come from the Basic Courts of Kosovo.

2 The evaluation of the performance of judges with

initial mandate will be done twice, once at the end of the initial review and the second time before the end of the initial three-year mandate.

3 The main stage of evaluating judges will be in complete anonymity because the reporting judge will not be aware of the judge who is evaluating him.⁷⁹

The Kosovo Prosecutorial Council is also in the final stage of drafting a regulation to evaluate the performance of prosecutors, the purpose of which is to increase the quality of the work of prosecutors and increase the integrity of prosecutors. The new regulation aims to clarify the role of the Chief Prosecutor and other mechanisms such as the Prosecutor Performance Evaluation Commission⁸⁰. The regulation on the evaluation of prosecutors'

79 Interview with the Chairman of the Judicial Performance Evaluation Commission: Muhamet Rexha, July 30, 2020, Prishtina.

80 Interview with the General Director of the Secretariat of the Kosovo Prosecutorial Council: Lavdim Krasniqi, July 28, 2020, Prishtina.

performance entered into force in October 2020.

ÇOHU! data show that, despite the violations found, none of the judges who have undergone the performance evaluation process so far have been assessed as "sufficient" or "poor", unlike the prosecutors, where out of 57 prosecutors assessed in 2019, only 2 of them were assessed as "sufficient" while no prosecutor was assessed as "poor".

So far, we have not had any cases where a prosecutor / judge has been dismissed due to his / her performance or due to disciplinary measures. The data show that the evaluation process of judges and prosecutors so far has been formal and without concrete work results.

The justice system in Kosovo continues to face lack of accountability and transparency from prosecutors, judges and other justice actors.

This continues to cost the country with lack of trust of citizens in a fair, independent system and with integrity.

The challenges faced by the judiciary in Kosovo, which result in inefficiency in handling cases in general and corruption and organized crime cases in particular, have also highlighted the failures of performance evaluation commissions in fulfilling their duties in cases of lack of professionalism of prosecutors and judges.



ÇOHU! data show that, despite the violations found, none of the judges who have undergone the performance evaluation process so far have been assessed as "sufficient" or "poor", unlike the prosecutors, where out of 57 prosecutors assessed in 2019, only 2 of them were assessed as "sufficient" while no prosecutor was assessed as "poor".



RECOMMENDATIONS

- Respect the KJC Crisis Management Action Plan⁸¹ based on the recommendations of health institutions, and approve and implement the USAID guideline for holding online hearings in case of aggravation of the situation with COVID - 19;
- Take other necessary measures by the KJC and KPC, in order to prevent delays and violation of the rights of the parties in the proceedings, due to the COVID-19 pandemic;
- Create and implement a strategy / plan by the KJC, which aims to prevent the statute of limitations / prescription of more than 492 criminal cases in risk of reaching statute of limitations by the end of 2020;
- Give priority to old cases of corruption in order to prevent their statute of limitations;
- KJC and KPC to identify omissions of prosecutors and judges in cases of adjournment of hearings and their late start for their fault, and take adequate measures against them due to such adjournments and delays which have dragged on and continue to delay lawsuits;
- Courts and prosecutors to identify and avoid problems and technical aspects which cause delays in starting the main trial, their non-holding and adjournment;
- Through relevant mechanisms, the KJC to take measures to identify the reasons for the statute of limitations in the courts and to impose measures on judges whose fault has led to the statute of limitations for criminal cases;
- Judges to respect the legal-procedural time limits when scheduling and holding the hearings of the initial, secondary, main hearing as well as to respect the time limits related to the completion of the main hearing;

81 Crisis Management Action Plan, KJC March 2020 - https://www.givqesori-rks.org/ep-content/uploads/reports/69352_KGJK_Plani_veprimit_per_menaxhimin_krizes.pdf?fbclid=IéAR1KALMcyqYJlpEB9lan1LKjdQgSUnZ1è8_jiZUxu9to94y4zysEsDacQB4

- The KJC to establish mechanisms for assessing and ascertaining the reasons which have led to violations of legal-procedural time limits by judges when scheduling and holding initial, secondary and main hearings;
- The KJC to take measures against relevant judges in cases when their negligence and irresponsibility is found in cases of violation of legal-procedural time limits;
- KJC and KPC to recruit new judges and prosecutors in accordance with the categorization standard for the number of judges and prosecutors;
- Through mechanisms for evaluating the performance of judges and prosecutors, the KJC and KPC to evaluate the performance of all judges and prosecutors according to the standard methodology;
- Through mechanisms for evaluating the performance of judges and prosecutors, the KJC and the KPC should take measures and implement adequate measures against judges and prosecutors who have shown poor performance in the exercise of their responsibilities;
- KJC and KPC to complete legal changes related to the evaluation of the performance of judges and prosecutors;
- In cooperation with the Academy of Justice, the KJC and the KPC to continue the training and education of judges and prosecutors, in particular in matters of a more complex nature faced by judges and prosecutors;



ANNEX

Cases of corruption and organized crime over the years

Cases of corruption over the years

In addition to monitoring corruption and organized crime cases during court hearings, ÇOHU! has contin-

ued to compare the handling of such cases over the years, both in the judicial and prosecutorial systems. For many years, the prosecutorial and judicial systems have continued to treat with priority cases of corruption, the efficiency of which has been a condition for visa liberalization for the citizens of Kosovo.

The following table shows the processing of corruption cases for 2015-2020 period (first half), while the trend of light efficiency of resolved cases in 2016 and 2017 is observed. In 2018 and 2019 there is a significant decrease in cases resolved by the prosecutorial system.

The handling of corruption cases in the prosecution by years (2015-2020)										
Year	Inherited		Received		Total in process		Resolved		Unresolved	
	I	P	I	P	I	P	I	P	I	P
2015	539	1,642	412	860	951	2,502	456	921	538	1,640
2016	541	1,667	443	824	984	2,491	461	1,115	447	1,248
2017	410	1,154	443	738	853	1,892	456	1,004	318	741
2018	282	707	385	890	696	1,220	408	772	280	668
2019	248	675	419	896	667	1571	400	771	267	800
2020	267	800	172	343	439	1143	148	319	309	851

Table 6: Corruption cases in the Prosecution Offices of the Republic of Kosovo over the years

While in 2016 there were 661 resolved cases with 1,115 persons involved – more than in the previous year – in 2017 we had approximately the same statistics of resolved cases – 456 cases with 1,004 persons.

Further, based on the data of the Kosovo Prosecutorial Council, these figures drop in 2019 – 400 cases with 771 persons were resolved in all prosecutions of the Republic of Kosovo in 2019.

Significant decline in case resolution was recorded in the first half of 2020, where only 148 corruption cases were resolved in the first half of this year.

There has also been a decline in the courts of the Republic of Kosovo. The following table presents the corruption cases processed by years in the basic courts for 2015-2019 period

Number of cases processed in basic courts by years (2015-2019)												
Year	Transferred	Received	Total at work	Resolved							Total resolved	Remaining
				Imprisonment	Fine	Probation	Other	Verdicts	Prescription	Other		
2015	662	282	944	34	40	53	1	55	13	55	229	671
2016	671	258	929	54	40	67	2	133	20	42	358	571
2017	558	272	572	33	58	70	0	14	14	44	289	539
2018	541	233	774	23	46	57	1	10	10	33	255	518
2019	511	218	729	32	63	45	4	46	9	13	212	517

Table 7: Corruption cases in Basic Courts over the years

While in 2016 the basic courts had resolved 358 cases, this number had dropped every year – to 289 in 2017, 255 in 2018, and to just 212 resolved cases of this nature in 2019. The way these cases are resolved remains a matter of concern. If during 2015-2019 period a total of 1,343 cases of corruption in the courts of Kosovo have been resolved, only 176 of them or 13% resulted in prison sentences. The rest of the court decisions includes fines and probation, acquittals and rejections as well as prescriptions and other types of resolution of cases.

The following table presents the processing of cases for criminal offenses against official corruption and official duty according to criminal offenses in the basic courts in Kosovo during 2019

**Proceeding of cases of corruption and criminal offences against official duty during
January-December 2019**

Criminal offenses	Inherited	Received	Total in process	Outcome										Unresolved at the end
				Types of sentences				Acquittal	Refusal	Prescription	Another outcome	Resolved total	Transferred with competence	
				Imprisonment	Fine	Probation	Other							
Abuse of power or official duty	177	113	290	15	12	15	2	24	14	6	6	94	0	196
Abuse of official information	1	0	1	0	0	0	0	0	0	0	0	0	0	1
Conflict of interest	5	1	6	0	2	0	0	0	0	0	0	2	0	4
Unauthorised acquisition	68	16	84	6	5	3	0	2	0	0	2	18	0	66
Fraud	7	0	7	0	0	0	0	0	0	0	0	0	0	7
Unauthorised use of assets	12	0	12	0	0	0	0	0	0	1	0	1	0	11
Receiving bribe	46	13	59	6	4	2	0	1	2	0	0	15	0	44
Giving bribe	18	8	26	1	5	5	0	0	0	1	0	12	0	14
Giving bribe to a foreign public official	2	2	4	0	0	0	0	0	0	0	0	0	0	4
Trading in influence	6	2	8	1	0	1	0	0	0	0	0	2	0	6
Issuing unlawful judicial decisions	3	1	4	0	0	0	0	0	1	0	0	1	0	3
Disclosing official secrets	3	0	3	0	0	0	0	0	0	0	0	0	0	3
Falsifying official document	88	9	97	1	5	1	0	1	1	0	0	9	0	88
Unlawful collection and disbursement	3	1	4	0	1	0	0	0	0	0	1	2	0	2
Unlawful appropriation of property..	2	1	3	0	0	0	0	0	0	0	0	0	0	3
Failure to report or false reporting of assets ..	70	51	121	2	29	18	2	0	0	1	4	56	0	65
Total	511	218	729	32	63	45	4	28	18	9	13	212	0	517

Table 8: Proceeding of cases for criminal offenses against official corruption and official duty according to criminal offenses in the basic courts in Kosovo during 2019

According to the data of this table, the criminal offenses "Abuse of official position or authority" and "Failure to report or false reporting of property, income, gifts ...", are the two criminal offenses with the most cases prosecuted during 2019. Out of a total of 290 cases processed during 2019 for the criminal offense "Abuse of official position or authority", 94 cases have been resolved by the courts of the Republic of Kosovo. Out of a total of 94 resolved cases, 15 of them or 15% resulted in prison sentences, while for 79 other cases there were acquittals and refusals, fines and conditional sentences as well as prescriptions or other types of resolution of cases. Even more disturbing figures pertain to cases related to the criminal offense "Failure to report or false reporting of property, income, gifts ..." as well as cases resolved within the criminal offense "Forgery of

official document". Out of a total of 121 cases of this nature during 2019, a total of 56 cases have been resolved, of which only 2 cases or 3% of them resulted in prison sentences. The rest was resolved in other forms.

"Forgery of official document" is another criminal offense within the chapter of criminal offenses against official corruption and official duty, where the courts had resolved only 9 cases out of a total of 97 cases during 2019. Only one of the 9 cases resolved resulted in prison sentence. The following table shows the processing of corruption cases in the basic courts of Kosovo during 2019

Proceeding of cases of corruption and criminal offences against official duty during January-December 2019	Situation with cases in regular courts during 2019 (January - December 2019)															
	Inherited	Received	Total in process	Types of sentences				Outcome							Unresolved at the end	Re-solved
				Imprisonment	Fine	Probation	Other	Judgement Judgement	Judgement	Prescription	Another outcome	Resolved total	Transferred with competence			
Basic Court of Prishtina	225	81	306	10	34	18	2	13	6	5	8	96	0	210		
Basic Court of Gjilan	41	30	71	8	7	3	0	9	3	0	0	30	0	41		
Basic Court of Prizren	41	44	85	5	9	5	0	2	2	3	0	26	0	59		
Basic Court of Mitrovica	143	25	168	5	1	5	0	1	6	1	1	20	0	148		
Basic Court of Gjakova	14	13	27	2	5	4	0	1	0	0	1	13	0	14		
Basic Court of Peja	28	15	43	1	3	7	0	2	1	0	1	15	0	28		
Basic Court of Ferizaj	19	10	29	1	4	3	2	0	0	0	2	12	0	17		
Total	511	218	729	32	63	45	4	28	18	9	13	212	0	517		

Table 9: Proceeding of criminal offenses against official corruption and official duty in the basic courts in Kosovo during 2019

The Basic Courts in Prishtina and Mitrovica are the two courts with the most cases during 2019. Out of a total of 729 cases in all courts, the BC in Prishtina had 306 cases while the one in Mitrovica had 168 cases. If we look at the number of cases resolved by these two courts, the BC in Prishtina seems to be more efficient with 96 resolved cases or 45% of all resolved cases, while the BC in Mitrovica is among the most inefficient courts with only 20 cases resolved during 2019. The court with the lowest number of resolved cases is the BC in Ferizaj with only 12 resolved cases, while all courts had resolved a total of 212 corruption cases during 2019.

The inefficiency of the prosecutorial and judicial systems in prosecuting and punishing corruption cases, in particular high-level ones, continues to be one of the ongoing flaws of Kosovo's justice system. The lack of such results of the prosecution and the courts remains a matter of critique in international assessments and

publications, which continues to contribute to the fragility of the rule of law in Kosovo

Cases of organized crime over the years

Organized crime cases have also been the subject of case analysis over the years by ÇOHU! Like the prosecution, the courts have had a different trend of processing cases of this nature over the years. Here, it is worth to note the decline in efficiency in the first half of 2020 in the prosecutorial system.

According to the data provided by the prosecutorial system, at the end of the first half of 2020, the prosecutorial system had a total of 34 unresolved cases with 188 persons, reflected in the following table:

Proceeding of organized crime cases in the prosecution by years (2015-2020)										
Year	Inherited		Received		Total in process		Resolved		Unresolved	
	I	P	I	P	I	P	I	P	I	P
2015	41	311	14	156	146	467	16	113	47	354
2016	49	420	2	27	51	447	23	185	40	344
2017	42	353	13	94	55	447	7	126	50	250
2018	42	227	6	34	48	261	13	70	35	191
2019	39	207	8	76	47	283	13	106	34	177
2020	34	177	4	34	38	211	5	28	34	188

Table 10: Organized crime cases in the Prosecution Offices of the Republic of Kosovo over the years

According to the data provided to the Kosovo Prosecutorial Council, in the previous two years the prose-

cutions had resolved 13 cases of organized crime, 6 cases more than in the previous year, respectively in

2017. However, a decrease in efficiency is observed in the first half of 2020, compared to the previous two years. Based on these data, only 5 cases of organized crime with 28 persons were resolved in the first half of 2020 by the prosecutions of the Republic of Kosovo. A total of 34 cases with 188 persons remain unresolved (June 30, 2020).

Like the prosecution, the courts have continued to have a significant number of unresolved cases compared to the resolved cases. The following table shows the proceeding of organized crime cases for 2015-2019 period in the basic courts of Kosovo:

Number of organized crime cases processed in basic courts, by years (2015-2019)

Year	Transferred	Received	Total at work	Resolved							Total resolved	Unresolved
				Imprisonment	Fine	Probation	Other	Verdicts	Prescription	Other		
2015	35	13	48	1	0	0	0	0	0	1	2	46
2016	46	15	61	3	0	0	0	0	0	0	3	59
2017	57	5	62	3	1	0	0	0	0	1	5	57
2018	57	11	68	4	0	0	0	0	0	2	6	62
2019	57	6	63	2	1	1	1	1	0	1	7	55

Table 11: Organized crime in the basic courts, over the years

Based on these data, the resolved organized crime cases have increased from year to year, but a significant number of unresolved cases still remains. According to these data, out of a total of 7 resolved cases of organized crime during 2019, only 2 of them or 28% resulted in prison sentences. 55 cases of organized crime remain unresolved in the basic courts.



Prescription of cases in basic courts

Statutory limitation of cases in courts 2000-2019

Court/Year	2000/2010	2011/12	2013	2014	2015	2016	2017	2018	2019	Total
GJTH Prishtina	276	242	105	163	221	968	1,176	1,471	1,259	5,881
Lipjan	17	67	0	2	3	3	18	23	45	178
Podujeva	0	0	485	332	344	280	230	208	133	2,012
Drenas	4	0	2	8	1	6	2	1	-	24
Graçanica	-	-	-	-	-	-	-	0	0	0
GJTH Prizren	1,536	15	709	295	122	149	214	284	130	3,454
Suhareka	78	101	57	107	56	36	65	35	39	574
Dragash	2	17	11	6	23	12	21	23	13	115
GJTH Peja	435	13	27	15	10	7	3	12	0	522
Klina	299	224	63	12	149	64	20	22	11	864
Istog	242	307	172	45	77	37	18	9	0	907
Deçan	514	27	5	17	56	33	1	8	19	680
GJTH Gjilan	0	0	136	116	157	113	177	85	117	901
Kamenica	140	77	41	33	16	13	43	25	25	413
Viti	0	0	90	48	34	65	80	46	15	378
Novobërda	0	0	20	7	6	2	8	2	0	45
GJTH Ferizaj	870	369	53	249	374	354	260	237	266	3,032
Kaçanik	93	166	88	52	53	55	64	87	17	675
Shtërpca	3	15	6	9	7	3	22	18	10	93
GJTH Gjakova	461	120	15	34	44	26	34	27	29	790
Rahovec	1,049	0	65	160	38	107	70	44	35	1,568
Malisheva	214	79	44	53	49	37	60	39	48	623
GJTH Mitrovica	0	0	19	270	185	752	246	123	105	1,700
Vushtrri	151	24	10	9	16	8	1	25	20	264
Skenderaj	13	14	7	10	4	8	12	42	13	123
Leposaviq	-	-	-	-	-	-	-	28	62	90
Zubin Potok	-	-	-	-	-	-	-	0	3	3
Total	6,397	1,877	2,230	2,052	2,045	3,138	2,845	2,923	2,414	25,909

Table 12: Prescription of cases in basic courts, over the years



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