



Organizata për
Demokraci, Antikorrupsion
dhe Dinjitet, Çohu!



Kingdom of the Netherlands



ACCESS TO JUSTICE

Court monitoring report
October 2018 – September 2019

2019

ACCESS TO JUSTICE



Court monitoring report
October 2018 – September 2019

2019



Disclaimer:

This publication was carried out with the support of the Dutch Embassy in Kosovo. Its content and views are the sole responsibility of Organization ÇOHU! and in no way reflect the views of the donor organization.



Kingdom of the Netherlands

Prepared by:

Genc Nimoni dhe Rina Koliqi

Monitoring team:

Drilon Dobruna, Artan Sufaj, Albana Krasniqi

Edited by:

Qerim Ondozi

This report was originally written in Albanian

Published by:

Organization for Democracy, Anti-corruption and Dignity, Çohu!
Address: UÇK 25-1; Prishtina, Kosovo
Tel / +383 (0)38 248 506
www.cohu.org

LIST OF ABBREVIATIONS

BC

Basic Court

PSRK

Special Prosecution Office of Kosovo

KJC

Kosovo Judicial Council

PAK

Kosovo Privatization Agency

KPC

Kosovo Prosecutorial Council

KVPP

Prosecutor Performance
Evaluation Committee

KPRK

Criminal Code of Kosovo

ÇOHU!

Organization for Democracy,
Anti-Corruption and Dignity

KPC

Kosovo Criminal Procedure Code

CC

Criminal charges

BP

Basic Prosecution

CONT

List of abbreviations	5
Executive Summary	8
Introduction	10
1. Monitoring findings.....	11
1.1 Court hearings – delays and violations.....	11
1.2 Late commencement of court hearings.....	12
1.3 Postponement of hearings	15
1.4 Recess of court hearings	18
1.5 Violation of legal deadlines.....	19
1.5.1 Violation of deadlines in initial hearings	20
1.5.2 Violation of deadlines in second hearings.....	20
1.5.3 Violation of deadlines in main trial.....	20
1.5.4 Violation of deadlines regarding completion of the main trial	21
1.6 Statutory limitation	22
1.7 Representation of indictments and preparation of prosecutors	23
1.8 Composition of trial panel.....	25
2. High-profile cases – Fighting high-level corruption.....	27
2.1 Lack of data on high profile.....	29

EVENTS

3. Performance of prosecutors and judges in processing and handling cases.....	30
3.1 Performance measurement bodies.....	30
3.2 Performance measurement methodology of prosecutors and judges.....	31
3.3 Practical cases of failure of prosecutors and judges and lack of accountability	32
4. Justice in Mitrovica	33
4.1 Prosecution and Court in Mitrovica.....	33
4.2 Organizational Structure of Prosecutor’s Office and Basic Court in Mitrovica under the Brussels Agreement.....	33
4.3 Interruption of Work of the Court - November 2018.....	34
4.4 Number of prosecutors and judges and case handling.....	35
4.5 Case load and efficiency	36
4.6 Lack of court interpreters.....	38
4.7 Prescription in Mitrovica.....	39
CONCLUSIONS	41
RECOMMENDATIONS.....	42
ANNEX.....	43
5. Efficiency of prosecutions and courts in dealing with corruption and organized crime cases	43
5.1 Cases of corruption in years	43
5.2 Cases of organized crime in years.....	45
5.3 Cases of delayed hearings	46
5.4 Cases of postponement of court hearings	50
5.5 Cases of interruption of court hearings	54

EXECUTIVE SUMMARY

Organization for Democracy, Anti-Corruption and Dignity ÇOHU! (hereinafter Organization Çohu!), continued its cooperation agreement with the Kosovo Judicial Council (hereinafter KJC) regarding court monitoring. Following the signing of the agreement in October 2018, the organization started monitoring of court hearings, focusing on corruption and organized crime cases.

For one year, the monitoring was carried out on daily basis and a total of **242 cases** with 575 court hearings **were monitored in the Basic Courts in Prishtina, Mitrovica, Peja, Ferizaj, Prizren, Gjilan and Gjakova**. The monitoring has identified numerous findings, ranging from more technical ones such as delays in commencing court hearings, to violations of legal procedural deadlines and violations of human rights.

Although prioritized by the courts, corruption cases continue to be transferred from year to year.

Organization Çohu! as part of its monitoring activity, also conducted three researches in the field of justice in Kosovo:

Justice in Mitrovica- the region that covers the municipalities of the north of Kosovo has been characterized by continuous transitions which have had consequences on the performance of prosecution and courts, where the judiciary was not functional for more than 8 years. In February 2015 the Kosovo-Serbia negotiations in Brussels resulted in a Justice Agreement which began to be implemented by the end of 2017, with the aim of integrating the northern part into the Kosovo justice system.

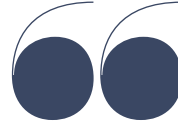
High-level corruption - based on monitoring data in the seven basic courts, only 17 high-level corruption cases involving MPs, ministers and mayors have been identified.

Performance of Judges - special units have been set up to evaluate the performance of prosecutors and judges, but so far the relevant authorities for the evaluation of the performance of prosecutors and judges have not taken any punitive measures against prosecutors and judges who showed lack of professionalism in dealing with cases, with a particular emphasis on solving corruption and organized crime cases.

Based on the monitoring data from the total of 242 monitored cases, 17 are qualified as high-level corruption. According to monitoring data, persons of different profiles are involved in cases of high-level corruption: MPs, ministers, deputy ministers, mayors, court presidents, chief prosecutors and others. Organization Çohu! has identified cases of lack of preparation of prosecutors and judges in court hearings, statutory limitation of corruption cases, violations of legal provisions related to legal time limits for the processing of cases, and lack of implementation of legal provisions related to termination of court hearings.

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

The recommendations address the findings related to key institutions such as the KJC, KPC, courts and prosecution offices and other institutions, in order to improve the effectiveness of measures to fight organized crime and corruption - all of which fall into the category of high-level criminality. These recommendations are also aimed at respecting fundamental human rights and freedoms and preventing the violation of applicable legislation.



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



INTRODUCTION

The phenomenon of corruption and organized crime in the Republic of Kosovo continues to be quite worrisome. Despite the fact that the state is obliged to exercise protection against this form of criminality, corruption and organized crime continue to pose major challenges to the justice system.

During the monitoring of **242 cases** with **575 court hearings** between October 2018 - September 2019 at the Basic Court in Prishtina, Mitrovica, Peja, Ferizaj, Prizren Gjilan and Gjakova, Organization Çohu! has identified problems such as delays in the commencement and postponement of court hearings, interruptions in court hearings, large number of cases, unpreparedness of prosecutors for court hearings, violations of legal provisions pertaining to legal deadlines for the processing of cases, and the violation of human rights.

In addition to monitoring of cases in the aforementioned courts, Organization Çohu! has conducted research on the functioning of the judiciary in the region of Mitrovica which includes the municipalities of northern Kosovo. This region has gone through continuous transitions, which inevitably had consequences on the performance of the prosecution and the courts in this part of the country.

Due to these events and many other circumstances, the judicial and prosecutorial system in Mitrovica has been facing ongoing problems.

The Justice Agreement reached in Brussels on February 9, 2015 aimed at integrating the northern part into the

Kosovo justice system, had failed to be implemented by the end of 2017.

In addition to analyzing the functioning of the judiciary in the region of Mitrovica, two other researches in the area of justice have also been conducted: high-level corruption cases and the performance of judges. During the court monitoring, Çohu! identified **17 high profile corruption** cases.

Citizens continue to face the problems of delays of court proceedings and inefficient justice. However, so far there has been no case where the body responsible for evaluating the performance of judges and prosecutors has taken any action against the lack of professionalism of judges or prosecutors.

The analysis and the comparison of the processing of data from such chapters which were in the focus of our monitoring, has also been carried out for all cases in the Basic Courts and Basic Prosecutions for 2015–2018 period. The analysis and comparison of these data was carried out based on the data provided by the KPC and KJC.

Based on the findings of monitoring and data analysis, recommendations were made highlighting the main findings and addressing them to relevant law enforcement institutions.

1. MONITORING FINDINGS

Following the continuation of the cooperation through the Cooperation Agreement signed in October 2018 between Çohu! and the Kosovo Judicial Council, Organization Çohu! started monitoring the Basic Courts in Prishtina, Mitrovica, Ferizaj, Prizren, Peja, Gjakova and Gjilan. The monitoring was carried out on daily basis, focusing on corruption and organized crime cases. Based on monitoring data, from October 2018 to September 2019, Organization Çohu! monitored a total of **575 court hearings in 242 cases**. During the year-long monitoring, findings of various nature have been identified, ranging from more technical ones such as delays in commencing court hearings to procedural legal violations and human rights violations.

Of the 575 hearings monitored in 242 cases, 97 commenced with delay, and 114 were postponed. Frequent reasons for this postponement were the absence of a trial panel, prosecutor, defendants, witnesses and others, while in almost all cases deadlines related to scheduling trials (initial, secondary, main) were not respected.

Delayed commencement, termination of court hearings and postponement of hearings are among other findings of this monitoring which continue to be evident in all Basic Courts in Kosovo. This phenomenon continues to cause delays in the judicial process and ultimately breaches fundamental human rights.

During the monitoring of the hearings Organization Çohu!, between October 2018 and September 2019 identified 9 cases of statutory limitation of corruption

cases pertaining to Chapter XXXIV of the KPRK¹. According to KJC data and the research carried out by Çohu!, between 2013 and 2018 a total of 58 cases of corruption were prescribed in the courts of the Republic of Kosovo, 8 of which were relative and 50 were absolute.

Organization Çohu! also conducted three researches: Justice in Mitrovica, High-Level Corruption and Performance of Judges and Prosecutors. Since October 2017 in the region of Mitrovica the court and the prosecution have been functioning in line with the Justice Agreement reached in Brussels in 2015 after the Kosovo-Serbia talks. High-Level Corruption has also been a topic tackled by Çohu! which identified a total of 17 cases of high-level corruption. Concerning the Performance of Judges and Prosecutors, so far the relevant bodies established to assess the performance of courts and prosecutors have not taken any punitive measures against any prosecutor or judge as a result of their lack of professionalism in resolving cases.

1.1 Court hearings – delays and violations

The realization of a court hearing throughout the stages of a criminal procedure in addition to other problems and difficulties has been accompanied by various procedural delays.

The monitoring of Çohu! has identified various cases of procedural delays, ranging from those related to the

¹ Official corruption and offenses against official duty

commencement and realization of a court hearing, to the violation of procedural deadlines throughout the stages of a court hearing.

Delays and postponements of court hearings, depending on the phase of a hearing (initial, secondary, main) or even the termination of a main hearing, have been identified in all Basic Courts in the Republic of Kosovo. Building on these findings, violations of deadlines reached as much as 1,390 days², which at the same time are violations of procedural provisions.

According to the findings of Çohu! the reasons for delayed commencement of court hearings and their postponement is due to the continued delays and absence of trial panels / judges, prosecutors, defense counsels, the accused and the injured party. Delays and adjournments of court hearings were also due to other reasons, such as failure to meet the conditions for a court hearing due to lack of paperwork and case evidence for the accused and defense counsel.

1.2 Late commencement of court hearings

Building on the findings of Çohu! out of **575 sessions** monitored between October 2018 and September 2019, a total of **97 court hearings** started with delays. Delays of trial panels and prosecutors are among the most frequent reasons for delays in commencing court hearings.

Out of the total of **97 hearings** which started late, in **43 cases** the reason for these delays was the delay of the trial panel.³ According to findings identified by Çohu! because of the delays of the panel, the hearings did not commence on time in basic courts in Prishtina, Mitrovica, Peja, Prizren and Ferizaj.⁴

The delay of the prosecutor was also among the common reasons for late commencement of court hearings. According to the findings of Çohu! **25 hearings** started with late because of the delay of prosecutors.⁵ Such cases have been identified in the Basic Courts of Prishtina, Mitrovica, Prizren, Ferizaj and Gjakova.⁶ The monitoring also identified 5 cases of delays of defense counsels,⁷

2 According to Criminal Procedure Code, Article 242 par. 4 stipulates that the presiding judge orders immediately the initial hearing, which shall be held thirty (30) days from filing the indictment.

3 The hearing of November 19, 2019 at BC in Prizren, PKR.nr.211 / 16. The hearing was an announcement of the verdict, which started 15 minutes late due to the delay of the trial panel.

Other cases:

4 **BC in Pristina:** PKR. 510/14 (October 18, 2018), PP. 450-6 / 2012 (January 23, 2019), PKR.nr.53 / 17 (October 22, 2018), PKR.nr.53 / 17 (November 5, 2018), PKR.nr.476 / 15 (November 12, 2018), PKR.nr.111 / 17 (March 6, 2019), PKR.253 / 17 (December 17, 2018), PKR.nr.51 / 14 (December 26, 2018), PKR.227 / 17 (January 30, 2019), PKR. no. 276/16 (February 27, 2019), PKR.198 / 17 (February 11, 2019), PKR.nr.164 / 17 (April 3, 2019); PKR.nr.519-13 (July 2, 2019), PKR.nr. 40-18 (June 7, 2019), PKR.nr.305-16 (June 14, 2019), PKR.nr.458-16 (April 30, 2019), PKR.nr.314-16 (February 21, 2019), PKR. no.371-17 (April 3, 2019), PKR.nr. 886/13 (May 06, 19), Pkr.nr. 712/14 (February 06, 2019), Pkr.nr. 712/14 (April 1, 19), PKR.nr.113 / 17 (December 04, 2018), PKR.nr.476-15 (November 12, 2018).

BC in Mitrovica: P.nr. 101/17 (November 13, 2018), PKR. nr. 117/19 (January 17, 2019), P.nr. 147/17 (May 7, 2019),

BC in Peja: PKR-5/18 (December 19, 2018), PKR-5/18 (March 1, 2019),

BC in Prizren: PKR-211/16 (November 19, 2018),

BC in Ferizaj: PP-I no.17-2017 (October 9 2018), (December 10, 2018), P.nr.173 / 17 (January 17, 19), P.nr.173/17 (January 18, 2019), PKR.57/15 (October 15, 2019), PKR.57/15 (October 15, 2018), PKR.37.nr.204/17 (December 11, 2018), PKR.nr.204/17 (March 5, 2019), PKR.nr.204/17 (April 1, 2019), PKR.37/17 (December 14, 2018), PKR.17/17 (January 31, 2019), (March 19, 2019),

5 Because the case prosecutor was at another hearing, the hearing of November 29 in BC in Prizren, in the case PKR.No.79 / 18 begun with a 30-minute delay.

6 **BC in Pristina:** PKR. 332/17 (December 24, 2018), PKR. nr. 356/17 (January 30, 2019); PKR. nr. 627/15 (15 April 19), PKR. nr. 627/15 (May 24, 19), PKR. nr. 253/17 (December 17, 2018), PKR. nr. 110-17 (November 9, 2018), PKR. nr. 369-16 (November 22, 2018), PKR. nr. 18/15 (April 23, 2019);

BC in Mitrovica: P. nr. 67/15 (March 21, 19), P. nr. 210/15 (6 November 2018);

BC in Prizren: PKR-79/18 (November 29, 2018), PKR-79/18 (February 15, 2019);

BC in Ferizaj: PKR. 57/15 (November 15, 2018), PKR. 57/15 (November 15, 2018), PKR. 57/15 (November 19, 2018), PKR. 57/15 (November 20, 2018), PKR. 57/15 (November 27, 2018), PKR-9/18 (October 24, 2018), PKR. 37/17 (18 mars 2019), PKR. 37-17 (25 April 2019), PKR. 244/18 (17 April 2019), PKR. 244/18 (April 18, 2019).

BC in Gjakova: PKR-36/18 (October 8, 2018); PKR-36/18 (October 19, 2018); PKR-50/18 (October 17, 2018), PKR-50/18 (October 19, 2018),

7 **BC in Mitrovica:** P. nr. 129/17 (January 14, 2019), P. nr. 129/17 (November 20, 2018), P. nr. 135-18 (June 7, 2019), P. nr. 51/19 (May 10, 19), PKR. nr. 140/17 (January 25, 2019), PKR. nr. 156/17 (January 29, 2019),

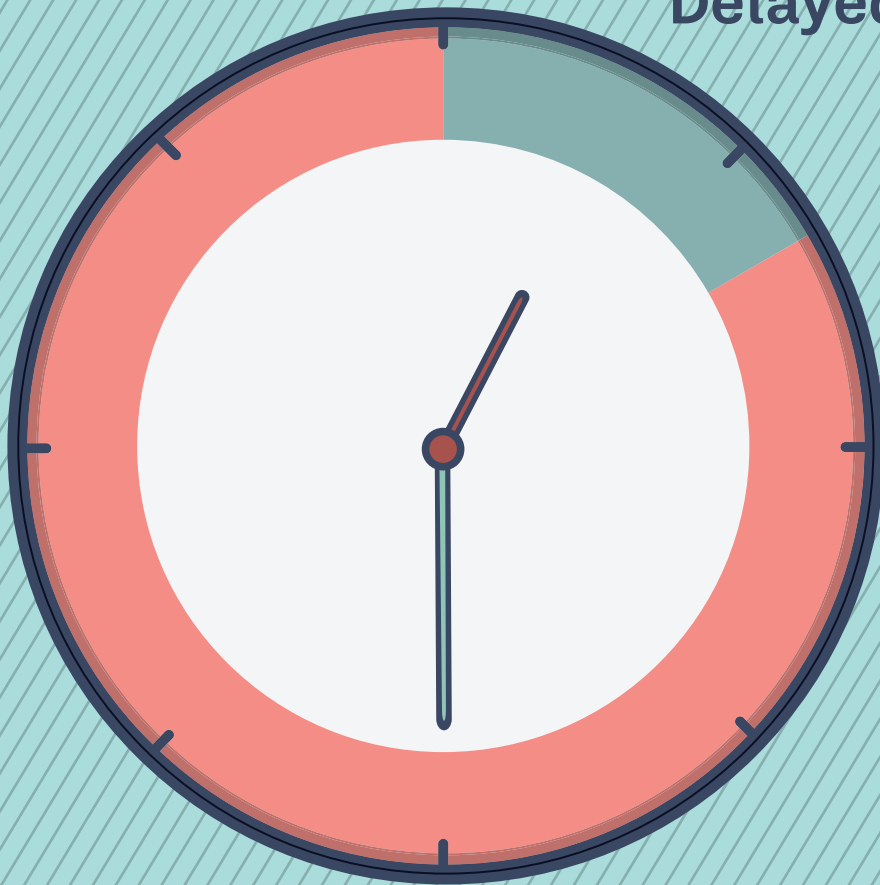
BC in Prizren: PKR-17/18 (March 12, 2019),

BC in Ferizaj: P. nr. 173/17 (February 21, 2019), PKR. nr. 204/17 (February 22, 2019)



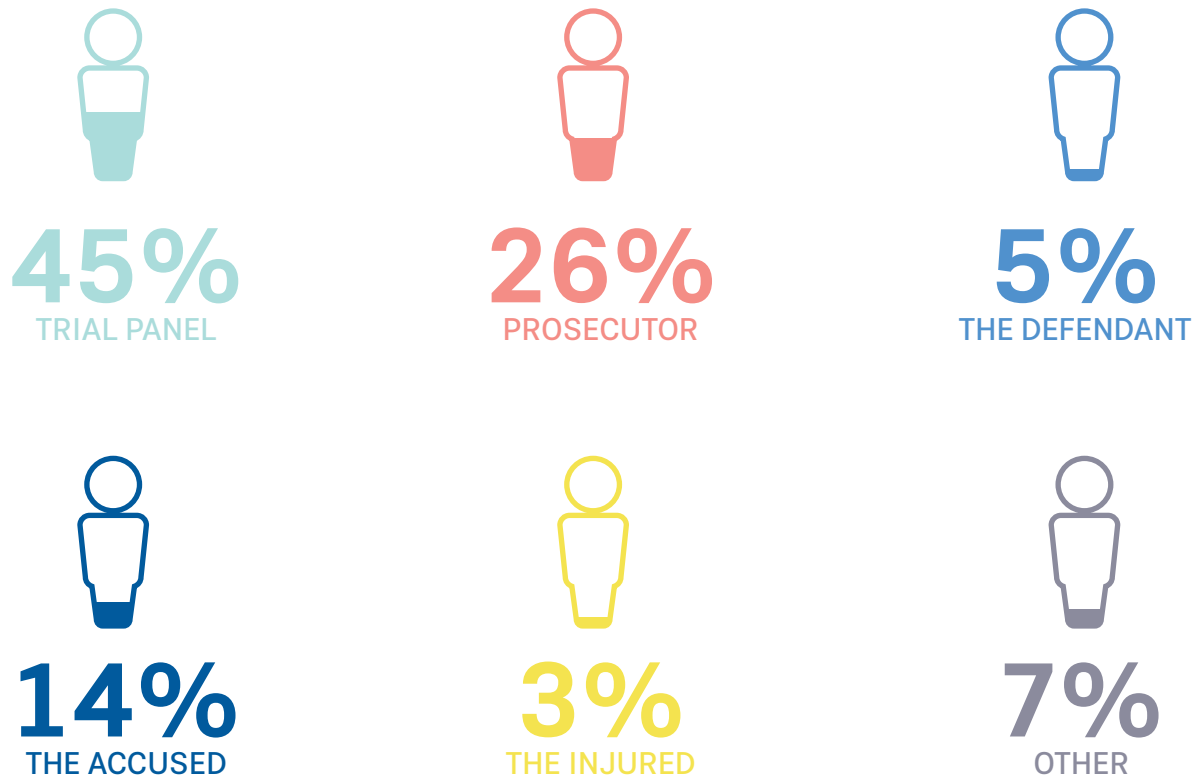
Trend of delayed or late start of hearings in the
Basic Courts of Kosovo

17%
Delayed



83%
Held on time

Reasons for delayed commencement of court hearings



13 cases of delays of defendants,⁸ 3 cases of delays of the injured parties,⁹ and 7 cases of delays due to other reasons.¹⁰

These late commencements of court hearings continue to cause delays in hearings and ultimately result in court inefficiency. Basic courts in Kosovo continue to be overloaded with a large number of cases and poor efficiency.

⁸ **BC in Pristina:** PKR. nr. 439/15 (November 14, 2018), PKR. 610-16 (November 16, 2018), PKR. nr. 18-15 (March 11, 2019);

BC in Mitrovica: P. nr. 129/17 (March 1, 2019);

BC in Peja: PKR-5/19, PKR. nr. 111-18 (January 31, 2019);

BC in Ferizaj: P. nr. 173/17 (October 12, 2018);

BC in Gjakova: PKR-36/18 (December 18, 2018), PKR-36/18 (February 11, 2019), PKR-36/18 (February 15, 2019), PKR-36/18 (February 19, 2019), PKR-5/19 (June 25, 2019).

⁹ **BC in Pristina:** PKR. nr. 519-13 (November 22, 2018 - Delay of representatives of Ministry of Health), PKR. nr. 519-13 (December 28, 2018 - Delay of representatives of Ministry of Health);

BC in Ferizaj: PKR. nr. 204/17 (December 21, 2018).

¹⁰ BC in Pristina: PP. 450-6-2012 (October 19, 2018, technical problems);

PKR. nr. 734-15 (November 27, 2018 - No free courtrooms), PKR. 610-16 (June 25, 2019 - Due to travel arrangements of the accused in detention), PKR. nr. 199/17 (November 12, 2018 - indictment had defects), PKR. nr. 242/18 (May 24, 2019 - Lawyer requested dismissal of trial panel);

BC in Mitrovica: PKR. nr. 156/17 (January 29, 2019 - The hearing started late because Judge T. P. had forgotten the scheduling of the hearing);

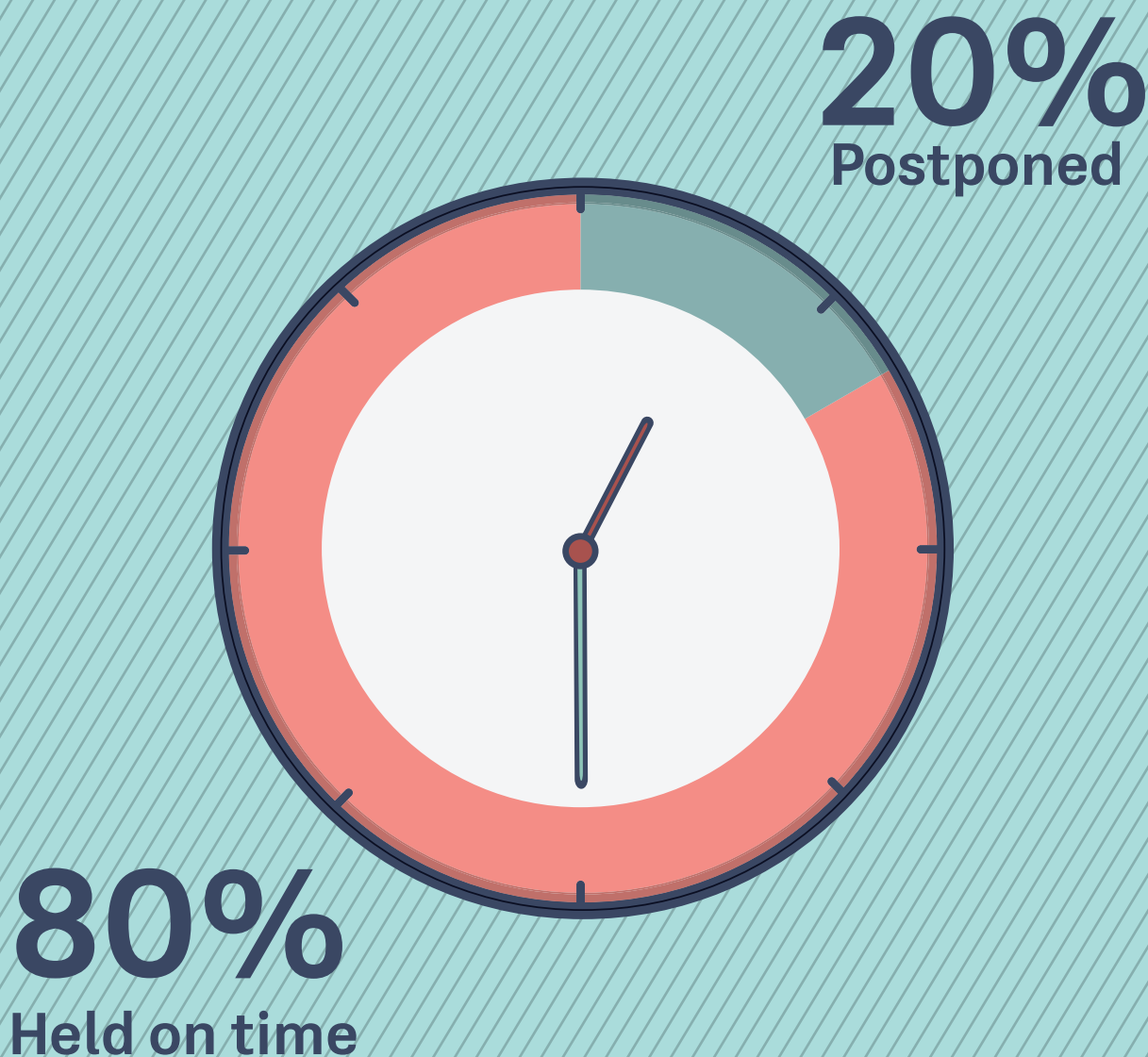
BC in Ferizaj: PKR. nr. 204/17 (November 6, 2018 - courtroom busy).

1.3 Postponement of hearings

Postponement of court hearings is another finding of this monitoring which continues to be evident in all Kosovo Basic Courts.

Based on the monitoring of Çohu!, a total of **114 hearings were postponed**. The hearings were not held and postponed for reasons almost identical to those that had caused delays in the commencement of court hearings.

Trend of postponed hearings in the Basic Courts of Kosovo



Among the most frequent reasons for this postponement were the absence of trial panels and the accused. The absence of prosecutors, defense counsels, witnesses and the failure to hand over the case files and evidence to the parties had been the cause of postponement of court hearings.

The absence of the relevant trial panel or judge remains a major concern. Building on the findings of Çohu! the reasons for postponing court hearings vary due to the absence of the trial panels / judge at the hearing.

Among the many reasons is the participation of judges in various trainings and seminars on the day scheduled for the court hearing. Based on these findings, almost all courts postponed hearings due to the lack of a trial panel / judges participating in various trainings and seminars. at the time set for the holding of court hearings.

According to the monitoring data, such cases were identified in BC in Prishtina,¹¹ Peja,¹² Mitrovica,¹³ Ferizaj¹⁴ and Gjilan.¹⁵

A large number of hearings have been postponed due to the absence of judges. Trainings and seminars for

judges are important for their professional development and capacity building, which help them improve their quality in handling court cases, but the adjustment of schedules of training and seminars, and in particular during court hearings would further contribute to the efficiency of courts. Judges should therefore consider the importance of handling cases more efficiently, which would further contribute to more efficient handling of cases and better judicial outcomes.

Organization Çohu! has also identified cases of postponement of court hearings because prosecutors had been busy with various trainings and seminars. Only in BC in Peja 3 such cases were identified where prosecutors were absent due to these reasons and the hearing was not held precisely because of their absence.¹⁶

Prosecutors were also absent for other reasons. The reasons for the absence of prosecutors vary, ranging from the inability to represent the case due to the termination of their mandate,¹⁷ the absence of prosecutors without notice and without reasons,¹⁸ due to reappointment¹⁹ or dismissal²⁰, to the termination and postponement of hearings due to the lack of preparedness of prosecutors.²¹

11 Prishtina - On December 6, the Basic Court in Pristina failed to hold a court hearing. The reason for not holding the hearing was the absence of one of the members of the panel, Judge Mustaf Tahiri, who was said to be attending an official training.

12 The hearing in the case PKR.25 / 18 scheduled at the BC in Peja on November 5, 2018 was not held because the presiding judge (Sylë Lokaj) had been in an official training.

13 Hearings in the case P.nr. 210/15 scheduled at the BC in Mitrovica for March 14 and 15, 2019 were not held because the presiding judge (Burim Ademi) had been in a training organized in Istog.

14 Hearing in the case PP. 51/13 scheduled at the BC in Ferizaj on November 13, 2018 was not held because the members of the panel (Hysnije Gashi and Sahit Krasniqi) were attending a roundtable in Gjilan organized by the Court of Appeal and the OSCE.

15 Due to the absence of one of the panel members (Berat Spahiu), the hearing in the case PKR. nr. 145/17 for the offense of "Abuse of official position or authority" which was scheduled to take place on February 13, 2019 in BC in Gjilan, was postponed for April 1, 2019. The court clarified that a member of the trial panel who was not present in the courtroom said that he was attending a training on judgements in civil cases.

16 Case PKR.nr.44 / 16 scheduled to be held on November 7, 2018, Case PKR.nr.106 / 17 scheduled to be held on November 8 and 9, 2018, Case PKR.nr.47/18 set to be held on February 28, 2019,

17 Hearing in the case PKR. nr. 96/18 scheduled for May 21, 2019 at BC in Prishtina, was not held. The presiding judge, Beqir Kalludra, explained to the parties and the public that Prosecutor Halimi had justified and informed them of his absence because his mandate was over as a prosecutor in the Department of Serious Crimes at the Basic Prosecution in Prishtina. For the same reasons the hearing on the case PKR.nr.371-17, was postponed although it was scheduled to be held on May 31, 2019 in BC in Prishtina.

18 The absence of prosecutor Rafet Halimi was the reason for the postponement of the hearing on April 26, 2019 at the BC in Prishtina. The court found that the prosecutor had been duly notified and summoned, but the court had not received any justification for the lack of representation. The offense was "Abuse of official position or authority". The trial panel decided to postpone the hearing for another day and the next one was scheduled for July 18, 2019.

19 Hearing in the case PKR. nr. 371/17 in BC in Prishtina scheduled on May 10, 2019, was not held due to the absence of prosecutor Rafet Halimi, for whom the court stated that he was in the process of reappointment, in which case the KPC had appointed another representative for this hearing.

20 The hearings dated May 20 and 21, 2019 in the case P. No. 210/15 in BC in Mitrovica were not held due to the absence of Prosecutor Njazi Rexha, who informed the court that he was on annual leave. The offense was "Embezzlement in office".

21 The hearing of April 23, 2019, which was scheduled to give the concluding statements in the case involving former Mayor of Skenderaj, Sami Lushtaku and others, has not been held. The reason for not holding this hearing in the case PKR. nr. 18/15 for the offense of "Abuse of official position or authority", "Fraud" in BC in Prishtina was the unpreparedness of the prosecutor of the case, Florije Shamolli.

Reasons for postponement of court hearings



26%
PROSECUTOR



12%
TRIAL PANEL



30%
THE ACCUSED



15%
THE DEFENDANT



3%
WITNESS



1%
EXPERT



5%
THE INJURED



8%
OTHER



114 hearings

were postponed. The hearings were not held and postponed for reasons almost identical to those that had caused delays in the commencement of court hearings.



Building on the findings of Çohu!
in the courts monitored during
one year a total of

30 hearings

were recessed for the reasons referred to in
Article 312, paragraph 1.

The absence of the accused²² and their defense counsels²³, the injured and the witnesses, as well as the failure to hand over all of the case files to the party, were also causes for the postponement of hearings.^{24,25,26}

All of these reasons have led to postponement of hearings, which have in turn produced delays in court proceedings and the inefficiency of the judiciary.

1.4 Recess of court hearings

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

The provision of this Article (312), in paragraph 3 provides for application of an 8-day deadline for the continuation of court hearings after its recess, as well as the

situation and cases where the recessed court hearing may exceed this 8-day time limit.

In principle under this provision (Article 312), the 8-day time-limit must be respected as a deadline in cases where court hearing is recessed for leave due to overtime, to allow a short period of time to obtain any proof or even for the preparation of indictment or defense.²⁷ So, the recess of the court hearing is usually done for a short time.

According to the findings of Çohu! there are very few cases where this 8-day deadline is applied and respected. Further, according to the findings, the courts had decided to apply the next paragraph, which concerns the non-compliance with the 8-day deadline and requires the application of the preceding Article of the Criminal Procedure Code, respectively Article 311.²⁸

Organization Çohu! has identified cases of non-compliance with this legal provision, i.e. Article 312.

22 The reason for postponement of the hearing dated April 10, 2019 in the case PKR. nr. 58/18 in BC in Gjakova was the absence of the accused, who informed the court that she was on holiday in Switzerland. Also, the defendant's lawyer, lawyer Esat Gutaj has notified the court of his absence, saying that he was involved in another case on this day in BC in Prizren. The offense was "Embezzlement in office".

23 The reason for the postponement of the hearing of January 24, 2019 in the case PKR.nr.79 / 18 in BC in Prizren was because the defense counsel of the accused, lawyer Hazër Susuri, by submission of January 23, 2019, requested that the hearing be scheduled for another day. He needed time to prepare and also requested to be provided with all the case files that his defendant does not possess. The offense in this case was "Abuse of official position or authority".

24 The reason for postponement of hearing of January 25, 2019 in the case PKR. nr. 99/18 in BC in Prizren was because the injured was not present at this hearing. Since there were no legal requirements to continue the hearing, the judge scheduled the next hearing a few months later, on October 2, 2019. The offense in this case was "Abuse of official position or authority".

25 At the hearing on December 14, 2018, the invited witnesses were not present at the hearing. This hearing in the case PKR. nr. 17/18 for the offense of "Abuse of official position or authority" was not held and was postponed for another date.

26 The reason for postponing the hearing dated April 15, 2019 in the case PKR.nr.19/19 / 19 in BC Prizren was due to the fact that the defendant of the case had not received the indictment and the case file. The offense was "Abuse of official position or authority".

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

28 Paragraph 3 of Article 312 of the Code of Criminal Procedure: If the main trial cannot continue in front of the same trial panel or if it is recessed for more than eight (8) days, the provisions of the Article 311 of the present Code shall apply. <https://gzk.rks-gov.net/ActDetail.aspx?ActID=2861>

Building on the findings of Çohu! in the courts monitored during one year a total of 30 hearings were recessed for the reasons referred to in Article 312, paragraph 1, in which case the subsequent sessions after the recess of the hearing were set with delays, thus failing to comply with the 8-day deadline provided by Article 312 of the KPK. Such cases have been identified in the Basic Courts in Prishtina, Ferizaj, Gjakova, Peja, Gjiilan and Prizren.²⁹

Some of the reasons for not following this rule are the large number of pending cases before the courts, other trials scheduled for eventual dates, lack of coordination of the trial panel on the suitable date or even due to the judges' own negligence or their professional defects.³⁰

Recess of court hearings and late scheduling of subsequent hearings which takes weeks and months causes the hearings to be postponed and delayed.

Failure to comply with the legal provisions continues to cause further prolongation of court hearings. As a result of non-compliance with these legal provisions we have human rights violations, including the right to a fair trial and within a reasonable time.

1.5 Violation of legal deadlines

The holding of court hearing within a reasonable time is a basic legal concept, which is also stipulated in the European Convention for the Protection of Human Rights and Fundamental Freedoms. Article 6 of this Convention states: *“Every person has the right to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law...”*³¹ Also, the provisions of the Republic of Kosovo provide for judgment within a reasonable time.

During the monitoring of corruption and organized crime cases, Organization Çohu! has identified cases of violations of legal provisions related to the legal timeframes for case processing.

The provisions of the Criminal Procedure Code of the Republic of Kosovo provide for time-limits within which court hearings should be held. From the moment the case is received in court, the proceeding and the review of that case is categorized into the first or initial hearing, the second hearing when the court deems it necessary, as well as the main trial.

Article 242 of the Criminal Procedure Code sets the timeline for dealing with such cases from the moment the cases are received in court. Paragraph 4 of this Article provides for the scheduling and holding of initial trial within 30 days of the filing of the indictment, while para-

29 **BC in Prishtina:** PKR.nr.476/15 / (November 12, 2018 after recess the next hearing was postponed for an indefinite time) PKR.nr. 439/15 (December 24, 2018, after recess the next hearing was scheduled for January 17, 2019), PKR.nr. 3/18 (March 5, 2019, next hearing scheduled for April 3, 2019), PKR.nr. 397/17 (December 5, 2018, next hearing scheduled for January 17, 2019), PKR.nr. 149/17 (April 16, 2019, next hearing scheduled for July 15, 2019), PKR.nr. 269/16 (19 February 2019, next scheduled for March 26, 2019), PKR.nr. 458/16 (February 20, 2019, next hearing scheduled for 20 March 2019), PKR.nr.16 / 18 (17 April 2019, next scheduled for May 16, 2019)

BC in Peja: PKR.nr. 168/16 (November 19, 2018, next hearing scheduled for December 3, 2018), PKR.nr. 5/18 (December 19, 2018, next hearing was scheduled for January 30, 2019), PKR.nr. 106/17 (17 January 2019, next hearing scheduled for January 18, 2019), PKR.nr. 106/17 (20 February 2019, next sitting scheduled for March 19, 2019), PKR.nr. 50/18 (February 11, 2019, next hearing scheduled for February 4, 2019), PKR.nr.5 / 18 (March 1, 2019, next hearing scheduled for April 19, 2019), PKR.nr. 168/16 (March 4, 2019, next hearing scheduled for May 27, 2019) PKR.nr. 47/18 (March 28, 2019, next hearing scheduled for April 12, 2019), PKR.nr. 26/18 (April 11, 2019, next hearing scheduled for April 12, 2019), PKR.nr. 26/18 (April 13, 2019, next hearing scheduled for May 23, 2019)

BC in Prizren: PKR.nr. 87/18 (April 23, 2019, next hearing scheduled for May 31, 2019), PKR.nr. 91/18 (May 10, 2019, next hearing scheduled for May 30, 2019), PKR.nr. 119/18 (May 17, 2019, next hearing scheduled for July 3, 2019)

BC in Ferizaj: PKR.nr. 37/17 (December 14, 2018, next hearing scheduled for January 25, 2018), PKR.nr. 37/17 (January 16, 2019, next hearing scheduled for February 4, 2019), PKR.nr. 204/17 (May 6, 2019, next scheduled for May 8, 2019)

BC in Gjakova: PKR.nr. 36/18 (January 23, 2019, next hearing scheduled for February 11, 2019), PKR.nr. 58/18 (May 6, 2019, next hearing scheduled for May 31, 2019)

BC in Gjiilan: PKR.nr.129/18 (May 8, 2019, next hearing scheduled for June 5, 2019)

30 In BC in Prishtina, case number PKR.nr. 149/17 following the recess of the hearing held on April 16, 2019, the next hearing was scheduled for July 15, 2019, because the panel could not be coordinated for a closer date. In BC in Peja, case number PKR.nr. 106/17 following the recess of the hearing held on February 20, 2019 due to the end of working hours, the next hearing was scheduled for March 19, 2019. In BC in Gjakova, the case number PKR.nr. 36/18 following the recess of the hearing held on January 23, 2019 because one of the panel members had another trial, the next hearing was scheduled for February 11, 2019. In BC in Prizren, in the case number PKR.nr. 87/18 following the recess of the hearing held on April 23, 2019 due to the end of working hours, the next hearing was scheduled for May 31, 2019. In BC in Ferizaj, case number PKR.nr. 37/17 following the recess of the hearing held on December 14, 2018, the next hearing was scheduled for January 25, 2019.

31 European Convention on Human Rights, Article 6: https://www.echr.coe.int/Documents/Convention_ENG.pdf

graph 5 provides for the 15-day timeline for scheduling and holding the initial trial from the filing of the indictment.³²

Timeline is also foreseen for the second and the main trial as well as for the completion of the main trial. While holding a second hearing is foreseen no earlier than thirty (30) days and no later than forty (40) days after the initial hearing, the main trial is to be held within one month of the second hearing.

Despite the fact that the Criminal Procedure Code of the Republic of Kosovo foresees strict deadlines in terms of scheduling court hearings, Organization Çohu! has identified postponements in scheduling and reviewing cases of corruption and organized crime.

Out of a total of 242 monitored cases with 575 court hearings from October 1, 2018 to September 30, 2019 in the Basic Courts in Prishtina, Mitrovica, Ferizaj, Peja, Gjakova, Prizren and Gjilan, Organization Çohu! has identified violations of procedural deadlines in almost all cases – depending on the stage of the proceedings (from the moment the case is received in court, the scheduling and holding of initial, second and main hearings, as well as the completion and issuance of the judgement).

1.5.1 Violation of deadlines in initial hearings

Organization Çohu! has identified **84 cases** of exceeding the deadline for scheduling an initial hearing (within thirty days) from the date of receipt of the case in court.

Rather serious cases of violation of this deadline have been identified in all seven monitored courts, in Prishtina, Mitrovica, Ferizaj, Peja, Gjilan, Prizren and Gjakova.

The most flagrant violation has been identified in BC in Mitrovica, with 1396 days of delay from the moment the case reached the court³³. Serious violations have also been identified³⁴ in BC in Prishtina – with a delay of 1209 from the moment the case reached the court.

Cases of violation of deadline for initial hearing have also been identified in Peja, Gjilan, Gjakova.³⁵

1.5.2 Violation of deadlines in second hearings

Pursuant to the provisions of the Criminal Procedure Code, after an initial hearing within a period not earlier than thirty (30) days and no later than forty (40) days a hearing shall be held if the Court deems it necessary.

Organization Çohu! has identified cases where the procedural deadline regarding the scheduling of a second hearing in the Basic Courts in Prishtina, Peja, Gjilan, Ferizaj, Prizren and Gjakova has not been met.

The most serious cases of violation of this deadline have been identified in BC in Prishtina³⁶ and BC in Ferizaj³⁷.

1.5.3 Violation of deadlines in main trial

Another deadline stipulated in the Criminal Procedure Code has to do with the scheduling of the main trial. According to Criminal Procedure Code, Article 285 paragraph 2 in conjunction with Article 254 paragraph 5, the single trial judge or presiding trial judge shall schedule the main trial to commence within one (1) month from the second hearing or the last order issued under Article 254 paragraph 5 of this Code.

Organization Çohu! has identified cases of breach of such deadlines in all seven courts which were subject of this monitoring.

32 Criminal Procedure Code, Article 242, paragraph 4 and 5

33 **BC in Mitrovica**, Case P.nr.67 / 15, received in court on April 14, 2014, while initial hearing was held on February 6, 2018

34 **BP in Prishtina**, case PKR.nr.439/15, received in court on July 31, 2015, while initial hearing was held on November 22, 2018

35 **BC in Gjilan**, Case PKR.nr.189-17, received in court on April 26, 2016, while initial hearing was held on December 14, 2017.

BC in Peja, Case PKR-25/18, received in court on March 26, 2018, while initial hearing was held on January 17, 2019. **BC in Gjakova**, Case P.nr.214/18, received in court on March 15, 2018 while the initial hearing was held on February 26, 2019.

36 BC in Prishtina, PKR.no.734 / 15. While the initial hearing was held on April 4, 2016, the secondary hearing was held on July 12, 2017, 463 days after the initial hearing.

37 BC in Ferizaj, Case PKR.nr. 41/18. While the initial hearing was held on February 26, 2018, the secondary hearing was scheduled and held on April 30, 2019, 425 days after the initial hearing.

According to monitoring data, such cases have been identified in BC in Pristina - the first case involves a time period of 353 days³⁸, the second case involves a delay of 370 days, while the third case identified in BC in Ferizaj involves a time period of 475 days.³⁹⁴⁰

efficiency of the judiciary in dealing with cases within a reasonable time. At the same time, the violation of procedural provisions continues to have consequences and causes the prolongation of court hearings and the backlogging of cases.

1.5.4 Violation of deadlines regarding completion of the main trial

The completion of the main trial is also regulated by the Criminal Procedure Code of the Republic of Kosovo. Article 314 provides that the main trial shall be completed within ninety (90) days, respectively one hundred and twenty (120) days after the initial hearing.

Out of 575 cases with 242 monitored hearing from October 1, 2018 to September 30, 2019 in the Basic Courts in Prishtina, Mitrovica, Peja, Ferizaj, Prizren, Gjakova and Gjilan, 52 of those cases ended with a verdict in the first instance, while 523 remain pending.

Out of 52 completed cases, in 17 cases the 120-day deadline for the completion of the main trial was not respected. Based on the case monitoring data, there have been violations of the deadline regarding the completion of the main trial in the monitored courts in Prishtina, Mitrovica Peja, Gjilan, Ferizaj, Prizren and Gjakova.

The most serious cases of violation of the deadline regarding the duration of a main trial occurred in BC in Prishtina⁴¹ and BC in Gjilan⁴².

Violation of deadlines and the duration of a court hearing in BC in Pristina has gone up to 514 days, while in Gjilan it reached 273 days.

Organization Çohu! considers that breaching such deadlines and failing to comply with them affect the

38 Case PKR.nr.53-17. While the secondary hearing was held May 31, 2017, the main hearing was held on May 18, 2018.

39 Case PKR.nr.166-17. While the secondary hearing was held on November 23, 2017, the main hearing was held on November 29, 2018.

40 Case PKR.37-17. While the initial hearing was held on July 18, 2017, the main hearing was held on November 1, 2018.

41 Case PKR.nr.734-15. While the main trial commenced on September 11, 2017, the judgement was announced on February 8, 2019, 514 days after the commencement of the main trial, disregarding the procedural provisions that stipulate the duration of 90 days until the main trial, respectively 120 days, as set forth in Article 314 par. 1.1 and 1.2 of the Criminal Procedure Code of Kosovo; Case PKR.nr.369-16. While the main trial commenced on June 11, 2018, the judgement was announced on April 24, 2019, 312 days after the start of the main trial.

42 Case PKR.nr.189-17. While the main trial commenced on March 20, 2018, the judgement was announced on December 19, 2018, 273 days after the start of the main trial.



According to KJC data,
from 2000 to 2017 a total of



20.548 criminal cases

reached statutory limitation in Kosovo courts.

1.6 Statutory limitation

The statutory limitation of criminal prosecution and execution of sanctions relates to the expiry of deadline set by law after which no criminal prosecution can be initiated, and no person may be convicted of a committed criminal offense.

The Criminal Code of the Republic of Kosovo expressly provides for deadlines after which no prosecution can be initiated.

Prescription or statutory limitation of cases in prosecutions and courts is one of the ongoing problems that characterize the justice system in the Republic of Kosovo. The reasons for the statutory limitation are different, and can happen due to objective reasons or obstacles, due to negligence of prosecutors and judges or the actions may be intentional.

The trend of prescription of criminal cases has increased over the years. According to KJC data, from **2000 to 2017** a total of **20.548 criminal cases** reached statutory limitation in Kosovo courts.

According to the statistics available at KJC, in 2018 alone, 148 cases reached relative prescription while a total of 1,972 cases reached absolute prescription in the General Department and 50 in the Serious Crimes Department⁴³.

Organization Çohu! had sent eighty (80) cases to the Office of Disciplinary Counsel (ODC), whereby eight (8) cases have been referred to the relevant committees for further treatment but no response has ever been received as to what action the disciplinary committees had taken.

Based on KJC and KPC data as well as on research carried out by Organization Çohu! no sanctioning of judges and prosecutors has been identified as a result of their negligence and the large number of cases reaching statutory limitation. To date there has been no case of a judge or prosecutor being dismissed for allowing prescription of a criminal case.

Among the cases that have reached statutory limitation there are also cases that fall under KPRK's: "Official Corruption and Offenses Against Official Duty" Chapter – cases which the relevant authorities were obliged to treat with priority. From 2013 to 2018 a total of 58 cases of this nature have been prescribed in the courts of the Republic of Kosovo, 8 of which in relative terms and 50 in absolute terms.

⁴³ Criminal Code of Kosovo, Article 100 par. 8, stipulates that absolute statutory limitation is applied if double the time of prescription is reached.

Organization Çohu! has identified 9 cases of statutory limitation in BC in Prishtina,⁴⁴ Prizren,⁴⁵ Gjakova,⁴⁶ Gjilan⁴⁷ and Peja⁴⁸. At the Basic Court in Prishtina, case number PKR.nr. 886/13, where some officials from the Ministry of Justice were indicted, resulted in an acquittal for the offense of corruption “Abuse of official position or authority” as per Article 422 of the KPRK, due to the absolute statutory limitation of the offense. The Basic Court in Prizren has also issued an acquittal against the former mayor of Dragash due to the absolute statutory limitation of the criminal offense of “Abuse of Official Duty or Authority”.⁴⁹⁵⁰

Although we have a large number of prescribed cases over the years, according to justice officials, cases have reached statutory limitation for several reasons, including small number of judges and large number of cases.

Following the amendment of the Criminal Code of the Republic of Kosovo which entered into force on January 14, 2019, the statutory limitation period has been extended from 2 to 4 years for offenses punishable by up to 1 year of imprisonment or a fine, from 3 to 6 years for offenses punishable by more than 1 year of imprisonment, from 5 to 10 years for offenses punishable by more than 3 years of imprisonment, from 15 to 20 years for offenses punishable by more than 5 years of imprisonment while for the offenses punishable by life sentence the statute of limitations remains the same, i.e. 30 years.⁵¹

The prescription of a large number of cases that do not get an epilogue due to the expiry of the deadline continues to cost citizens with lack of treatment of their cases and violation of their rights. All this, in addition to the consequent lack of prosecution and court results, contributes to further lack of public trust in the justice system.

1.7 Representation of indictments and preparation of prosecutors

The prosecution's representation of indictments continues to be accompanied by numerous problems in almost all basic courts.

Based on the findings of Çohu!, one of the main concerns remains the lack of preparedness of prosecutors in representing indictments. The constant change of prosecutors representing indictments and the insufficient number of cases vis-a-vis the number of cases, despite the increase in the number of prosecutors, prevent the proper and professional representation of prosecutors' indictments during court hearings.

44 **BC in Prishtina**, case number PKR.nr. 111/18. On January 29, 2019 a dismissal judgement was announced against four officials of the Kosovo Accreditation Agency on the ground of absolute prescription for corruption offenses.

Prishtina, Case Pkr.nr.18/15. / 15. On May 20, 2019 a dismissal judgement was rendered against the two accused on the ground that it had reached the absolute statutory limitation of Article 398 of the KPRK for the offense of “Falsifying Documents”.

Prishtina, Case Pkr.nr. 53/17. On November 5, 2018 a dismissal judgement for corruption offenses was announced.

45 **BC in Prizren**, Case PKR. nr. 94/18. On March 14, 2019, due to the statutory limitation, criminal proceedings were terminated against the official of the Kosovo Cadastral Agency.

46 **BC in Gjakova**, Case Pkr.nr. 36/18. On January 23, 2019, the criminal proceedings against the two accused were terminated on the grounds that they had reached the relative statutory limitation for the offense of “irresponsible economic activity” under Article 285 par. 1 in conjunction with Article 31 of the KPRK.

47 **BC in Gjilan**, Case Pkr.nr. 189/17. On December 19, 2019, a dismissal judgement was announced regarding point 4 of the indictment.

48 **BC in Peja**, Case Pkr.nr. 111/18. On 31 January 2019, criminal proceedings were terminated due to the relative statutory limitation of the offense of “Falsifying Documents” under Article 398 of the KPRK.

49 **BC in Prishtina**, Pkr.nr.886 / 13. On May 22, 2019 a dismissal judgement was announced against two officials of the Ministry of Justice reaching absolute statutory limitation for the offense “Abuse of official position or authority” under Article 422 of the KPRK.

50 **BC in Prizren**, Pkr.nr. 10/18. On October 9, 2018 a dismissal judgement was rendered against the former mayor of Dragash Selim Junuzi, due to absolute statutory limitation for the offense “Abuse of official position or authority” under Article 422 of the KPRK.

51 KPRK with subsequent amendments, Article 99 “Prescription of a criminal offense”: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=2852>

According to legal and ethical provisions, the State Prosecutor in exercising their function should be professional, implement high standards of work, be independent, efficient and should perform their duty with dignity and responsibility.⁵²

Lack of preparedness of prosecutors to represent indictments and substantiate their allegations in those indictment violates the legal and ethical provisions of the KPRK, the Law on State Prosecutor and the Code of Ethics and Professional Conduct of Prosecutors.⁵³

During the monitoring of corruption and organized crime hearings, Organization Çohu! has identified cases of prosecutors being unprepared when representing indictments.

During the hearing on the offense of “Abuse of Official Duty and Authority”, held at BC in Peja, while the main trial was taking place, after the completion of the administration of evidence, the case prosecutor requested that the hearing be postponed because he was not prepared to continue the review. The hearing took place on October 19, 2018, while at the request of the prosecutor, due to lack of preparedness the hearing was postponed to December 3.⁵⁴

Replacement of prosecutors representing indictments is another problem that continues to contribute to the lack of professionalism and poor prosecutorial representation in arguing and supporting the charges.

During the monitoring, Çohu! identified cases of replacement of prosecutors representing indictments in almost all basic courts.

Prishtina continues to have the most frequent indictment shifts. The monitoring of Çohu! has identified a total of 28 cases of replacement of prosecutors. Although the indictment was filed by one prosecutor, it was represented in court by other prosecutors.⁵⁵

Furthermore, there were cases when three different prosecutors were replaced to represent an indictment.⁵⁶

According to these findings, there were cases where prosecutors from the Department for Juveniles have represented corruption indictments. The hearing was held in the Basic Court in Gjakova on the criminal offense of “Abuse of Official Duty and Authority”.⁵⁷

Other cases of replacement of prosecutors representing indictments have also been identified in BC in Mitroviça,⁵⁸ Prizren⁵⁹ and Gjakova.⁶⁰

52 Law on State Prosecutor, with subsequent changes: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=2710>;

Code of Ethics and Professional Conduct for Prosecutors - <http://www.kpk-rks.org/system/121/codi-i-ethics-professional-/121>

53 Ibid.

54 Case PKR. nr. 168/16, held on October 19, 2018 at the Basic Court in Peja, the offense of “Abuse of Official Position and Authority” in which the accused was the former Mayor of Klina Municipality, Sokol Bashota.

55 Some of the cases identified in Prishtina are:

Case PP / I.nr.197/2014 / 2014 in **BC in Prishtina**. While the indictment was filed by prosecutor Fikrije Fejzullahu, it was represented by Kujtim Munishi in court sessions;

Case PP.nr.519/2013 / 2013 in **BC in Prishtina**. The indictment was filed by prosecutor Iliaz Beqiri and represented by prosecutor Merrushe Llugiqi in court sessions;

Case PKR-630/2016 at **BC in Prishtina**. The indictment was filed by prosecutor Drita Hajdari, and it was represented by Besa Limani in court sessions;

Case PKR.198-17 in **BC in Prishtina**. The indictment was filed by prosecutor Habibe Salihu, and it was represented by Rafet Halimi in court sessions;

Case PKR. 148-18 at **BC in Prishtina**. The indictment was filed by prosecutor Habibe Salihu, and then represented by Rafet Halimi in court sessions;

Case PKR.nr. 204/18 in **BC in Prishtina**. The indictment was filed by prosecutor Naim Abazi, and then represented by Atdhe Dema in court sessions;

56 In case number PKR. 371/17, in which E. D. was charged with embezzlement in office, the two prosecutors who were involved in the case (H. S and N. A), were appointed to the Special Prosecution Office, and the case was transferred to prosecutor R. H.

57 Case number PKR. no. 37/18 in **BC in Gjakova** was represented by prosecutor Agron Matjani while he was replaced by the prosecutor from the Juvenile Department Xhavit Osmani and who on the other hand showed poor performance.

58 Case targeted for visa liberalization conditionality, P.nr. 147/17 which deals with organized crime, was transferred to prosecutor Atdhe Dema because prosecutor Abdurrahim Islami who filed the indictment had reached retirement age.

Case number PKR.nr. 14/19 at the **BC in Gjakova**, prosecutor Ramiz Buzhala filed the indictment but he was replaced by Ali Uka because the former was on annual leave.

59 Case PKR.nr.211 / 16 at the **BC in Prizren**, was represented two times by prosecutor Mehdi Sefa and two times by prosecutor Genc Nixha. Another case is PKR.nr.79/18 / 4 at the BC in Prizren which was represented four times by prosecutor Mehdi Sefa and four times by prosecutor Metush Biraj.

60 Case PKR.nr.36 / 18 in **BC in Gjakova**, was represented four times by prosecutor Agron Matjani and two times by prosecutor Ramiz Buzhala. Case PKR. nr.50/18 in BC in Gjakova was represented three times by prosecutor Ali Uka and one time by prosecutor Agron Matjani.



The lack of preparedness of prosecutors to represent indictments, professional deficiencies and poor representation for various reasons continues to cost the justice system with inefficiencies and poor results in combating corruption and organized crime.

These replacements of prosecutors had occurred for various reasons. While some of the reasons were due to the small number of prosecutors, other reasons were related to the advancement of prosecutors to other levels, or because of their retirement.

The lack of preparedness of prosecutors to represent indictments, professional deficiencies and poor representation for various reasons continues to cost the justice system with inefficiencies and poor results in combating corruption and organized crime.

The Kosovo Prosecutorial Council, namely the KPC's disciplinary and performance mechanisms, continues to lack results in sanctioning and disciplining prosecutors who have violated ethical, professional and legal rules. Despite the poor performance of the prosecution, despite their failure to substantiate and support the allegations and the failure of the indictments, cases of disciplinary and punitive procedures against prosecutors who have performed poorly and failed with their indictments remain rare.

1.8 Composition of trial panel

The changes in the composition of the trial panel continue to cause delays in court proceedings and the backlogging of cases, despite the increase in the number of judges compared to previous years. The Criminal Procedure Code of the Republic of Kosovo, in particular Article 311 provides that in cases where the composition of the panel has changed, the postponed court hearing shall commence soon. But in such a case, after hearing the parties, the panel may decide that the witnesses and experts shall not be questioned again and that the new site shall not be examined, but that the statements of the witnesses and experts given in the previous hearing or the minutes shall be read.⁶¹

Organization Çohu! has encountered a number of cases of changes in the composition of the trial panel in the Basic Court in Prishtina⁶².

The main reasons behind changing the panel were the engagements of judges in other cases and the advancement of judges at other levels.

61 Criminal Procedure Code of the Republic of Kosovo, paragraph 1 of Article 311; <https://gzk.rks-gov.net/ActDetail.aspx?ActID=2861>

62 Case PKR.nr.369-16. 298/18, in the hearing monitored on March 28, 2019 at the BC in Prishtina – the trial panel was changed and the hearing had to start over again.

Case PKR.nr. 314/16, in the hearing monitored on February 28, 2019 at the BC in Prishtina – the trial panel was changed and the hearing had to start over again.

Case PKR.nr. 610/16, in the hearing monitored on May 16, 2019 at the BC in Prishtina – the trial panel was changed and the hearing had to start over again.

Case PKR.nr. 1113/13, in the hearing monitored on May 27, 2019 at the BC in Prishtina – the trial panel was changed and the hearing had to start over again.

Case PKR.nr. 110/17, in the hearing monitored on May 31, 2019 at the BC in Prishtina – the trial panel was changed and the hearing had to start over again.

Case PKR.nr. 204/18, in the hearing monitored on June 10, 2019 at the BC in Prishtina – the trial panel was changed and the hearing had to start over again.

Case PKR.nr. 206/18, in the hearing monitored on June 10, 2019, at the BC in Prishtina – the trial panel was changed and the hearing had to start over again.

Case PKR.nr. 610/16, in the hearing monitored on September 5, 2019, at the BC in Prishtina – the trial panel was changed and the hearing had to start over again.

The Basic Court of Prishtina continues to face most problems in completing the panel composition. In the case known as “Stenta 2” – a case which was to be treated with priority – the composition of the panel has changed twice from its establishment. The inability to complete the panel was due to the engagement of one member of the panel in other cases at the time the hearing was scheduled.⁶³

Despite the increase in the number of judges compared to previous years, the BC in Pristina continues to face the shift or the replacement of one member of the panel, which is causing delays in court hearings and at the same time violating human rights - such as the right to a fair trial and within a reasonable time.



The lack of preparedness of prosecutors to represent indictments, professional deficiencies and poor representation for various reasons continues to cost the justice system with inefficiencies and poor results in combating corruption and organized crime.

63 Case PKR.nr. 40/18 known as “Stenta”, monitored on January 31, 2019 at the Basic Court in Prishtina. The panel in this criminal case changed because one of the panel members was involved in another court session. The same case, monitored on April 1, 2019 at the Basic Court of Pristina. The trial panel in this criminal case has again undergone change, and the hearing had to start over again.

2. HIGH-PROFILE CASES – FIGHTING HIGH-LEVEL CORRUPTION

During the monitoring of court hearings, Organization Çohu! was focused on the monitoring of cases which are considered high-profile cases. Based on the Law on State Prosecutor, the State Prosecutor with the consent of the Kosovo Chief Special Prosecutor and the Chief Prosecutor of EULEX at the time, on November 13, 2013 issued the Administrative Instruction defining the high-level of corruption.⁶⁴

According to the AI, high-level corruption is considered all cases involving President of Kosovo, President of the Assembly and MPs, Prime Minister, Deputy Prime Minister and Ministers of the Government of Kosovo, Mayors, Supreme and Appeal Court Judges, Chief State Prosecutor and Chief Prosecutors.

In order to intensify the work of the courts and to achieve proper results, the new Law on Courts in the Republic of Kosovo (January 2019) foresees the establishment of a Special Department at the Basic Court and the Court of

Appeal. According to this law, the Special Department within the BC in Pristina has jurisdiction to examine cases that fall under the competence of the PSRK, dealing with criminal offenses of corruption, organized crime, money laundering and terrorism. All cases before the Special Department shall be tried by a panel of three (3) professional judges, one of whom shall be presiding over the panel.⁶⁵

The establishment of the Special Department at the BC in Pristina and at the Court of Appeal was to happen upon entry into force of the Law on Courts, i.e. in January 2019. However, this department which was established with the aim of increasing efficiency in dealing with cases that fall under the jurisdiction of the Special Prosecutor's Office, became operational with some delays, on July 8, 2019.

In the seven basic courts (Gjakova, Prizren, Peja, Ferizaj Pristina, Gjilan and Mitrovica), Çohu! has identified only

64 Administrative Instruction on High-Level Corruption, November 13, 2013, Prishtina.

65 Law No. 06 / L - 054 on Courts: <https://gzk.rks-gov.net/ActDocumentDetail.aspx?ActID=18302>



Former Minister Ferid Agani and former Secretary of the Ministry of Health Gani Shabani, according to the indictment of PSKR, committed the criminal offense of abuse of official position or authority, thus damaging the Kosovo budget in the amount of



4,555,553 euros.

17 high-level corruption cases⁶⁶ involving MPs, ministers, mayors and judges of Court of Appeal.

Organization Çohu! considers that mild sentences, dismissal of indictments and the release of high-ranking officials qualified as high-profile officials show low levels of fight and punishment of high-level corruption. The dismissal of indictments and the acquittal of the accused can be seen as a lack of professionalism of the prosecution and their inability to prove the facts for which the prosecution has alleged the culpability of senior public officials involved in their investigations.

Former Minister Ferid Agani and former Secretary of the Ministry of Health Gani Shabani, according to the indictment of PSKR, committed the criminal offense of abuse of official position or authority, thus damaging the Kosovo budget in the amount of 4,555,553 euros.

For this, former Minister Agani was sentenced to 2 years and 6 months of effective imprisonment by the first instance court while former secretary Shabani was sentenced to 6 months of effective imprisonment.⁶⁷

The case known as “FAN” where the accused were Nasir Osmani, a former LDK deputy as deputy chairman of the PAK Board of Directors, Bahri Shabani as PAK Board Director, Shkelzen Llluka as PAK manager, Naim Avdiu as PAK Deputy Managing Director, Melita Ymeraga, Ardian Kelmendi as Head of PAK Monitoring Unit in collaboration with other officials as international PAK members: Lisa Brodey, Mohammed Omran and Hubert Ersmann, according to PSRK indictment, they have exceeded their official competences for the purpose of unlawfully benefiting themselves or another person in the amount of 5,400,000 Euro, the first instance court acquitted them.⁶⁸

66 **BC in Prishtina**, case PKR.nr. 734/15 (the accused: N. O. former LDK MP in the capacity of Vice-President of the Board of Directors of the KPA, B. Sh. as the Director of the KPA Board, Shkelzen Llluka as KPA Manager, N. A. as Deputy Director of KPA and M. Y., A. K, as head of the KPA Monitoring Unit in cooperation with other officials as international members of KPA (L. B., M. O., H. E), PKR.nr. 230/18 (the accused: A. Ç, Sh. D., Sh. B., Rr. B., in the capacity of former deputies of the Assembly of the Republic of Kosovo), Case “Pronto”, no. PKR.nr. 90/18 (the accused: A. G. former hear od PDK parliamentary group, B. B. Minister of Innovation and Entrepreneurship, Z. K. former PDK MP, PKR.nr. 369/16 (the accused: F. A., former Minister of Health and former Secretary General of the Ministry of Health), PKR.nr. 242/18 (the accused N. D., in the capacity of the Mayor of Drenas), PKR.nr. 610/16 (the accused A. S., in the capacity of former PDK MP), PKR.nr.53/17 / 18/15 (the accused U. S., in the capacity of the Mayor of Lipjan), PKR.nr.18 / 15 (the accused S. L., in capacity of former Mayor of Skenderaj).

BC in Gjilan, case PKR.nr. 189/17 (the accused R. M., in the capacity of former mayor of Prizren), PKR.nr. 3/17 (the accused S. M., in the capacity of the Mayor of Klllokot).

BC in Gjakova, case no. PKR.nr. 16/18 (the accused P. L., former mayor of Gjakova and former minister of infrastructure).

BC in Peja, case PKR.nr.168/16 / 25/18 (the accused S. B., former mayor of Gjakova), PKR.nr.25 / 18 (the accused H. R., mayor of Istog), PKR.nr. 227/16 (the accused Q. M., former mayor of Gjilan).

BC in Prizren: PKR.nr. 91/18 (the accused B. N., former deputy minister), PKR.nr. 87/18 (the accused S. A., former mayor of Suhareka municipality), PKR.nr. 10/18 (the accused S. J., former mayor of Dragash).

67 In the case known as “Stenta 2019” the verdict was announced on April 24, 2019.

68 In the case known as “FAN” the verdict was announced on February 8, 2019.

Mild punishments for high-profile officials despite being found guilty of large amounts of profit or damage to the public budget, in addition to not punishing the abuse of public office, also send a negative message to potential offenders.

2.1 Lack of data on high profile

According to KJC data, in the last five years the Basic Courts in Kosovo and their respective branches have dealt with a total of 1998 corruption cases, without specifying how many of them belong to high-level corruption under the Special Prosecution Instruction.

Organization Çohu! has monitored a total of 242 cases with 575 court sessions in BC in Prishtina, Mitrovica, Peja, Ferizaj, Gjilan, Prizren, Gjakova. A total of 17 high-profile cases were identified during the monitoring.

Despite the request, the KJC has not provided data on the number of high-level corruption cases over the last 5 years. Likewise, the KJC has not responded at all regarding the number of high-level corruption cases under the aforementioned Instruction over the last 5 years nor regarding the last year in the Basic Courts of Kosovo, or regarding the total number of corruption cases in these courts.

In its reply dated November 23, 2018, the KJC Statistics Office said that it has taken concrete actions to draft a plan to resolve corruption cases and has established a commission to implement this plan which, according to its officials, is very successful in resolving corruption cases and the ways of resolution of such cases.

According to KJC, corruption cases are treated with high priority and there is no distinction between corruption cases and high-profile cases, but for latter there is a separate database with 45 cases. Further, they said that there is no categorization of high-profile cases since the commission tracks the dynamics of all cases that fall under the chapter of corruption offenses, whereas high-profile cases are the targeted cases, and there are

no profiling of judges, and all corruption cases are the subject matter of the Department of Serious Crimes of Basic Courts.

Organization Çohu! believes that the lack of data categorized by profiles of the people involved in indictments and court proceedings makes it impossible to provide a complete and a proper picture which would identify the institutions and positions of public authority mainly involved in corruption cases.

A full picture of this problem and complete data on the profiles and positions of persons involved in investigated and prosecuted corruption cases would enable a provide for a clear picture of institutions and public authorities that are more involved in cases of corruption. The lack of such insight also hinders the development and the implementation of a strategy to combat and handle such cases more effectively.

We therefore consider that categorizing such data according to profiles and positions of the accused is indispensable for the justice system towards a full identification and reflection of such cases, which would also contribute to the transparency of the justice system as a whole.



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

Organization Çohu! during monitoring was also the evaluation of performance of judges and prosecutors.

The relevant authorities in the Republic of Kosovo have taken a number of steps to reform and improve the justice system in general. All this has been done in order to provide justice in a timely manner and to give citizens equal access to justice. But despite efforts and reforms undertaken, the prosecution and the courts still lack efficiency in resolving cases, while citizens continue to face delays and inefficient justice.

Special committees have been set up to evaluate the performance of prosecutors and judges, but these bodies have not produced results that would reflect more efficient work of courts and prosecutors. Although we have a significant number of cases prescribed on the one hand and a large number of cases being transferred

over the years on the other, the relevant bodies for evaluating the performance of prosecutors and judges have not have taken any evident punitive measures against prosecutors and judges who have shown lack of professionalism in handling cases – with particular emphasis on resolving corruption and organized crime cases.

3.1 Performance measurement bodies

According to Kosovo legislation, there are two bodies that measure the performance of judges and prosecutors which provide support to the bodies that administer courts and prosecutions: The Performance Measurement Committees of Prosecutors and Judges and the Performance Review Units for Courts and Prosecutions.⁶⁹

⁶⁹ Law No. 03/ / L-224 on the Prosecutorial Council and Law No. 03/ / L-223 on Kosovo Judicial Council

During 2017, the Prosecutors' Performance Measurement Commission (KVPP) held 25 work meetings, conducted 14 work visits to the prosecution offices and finalized 7 processes (1 from 2016 and 6 according to its 2017 action plan) of performance measurement.

In order to carry out its work, the said Commission drafted an action plan for 2018 that includes 5 performance measurement processes involving a total of 67 prosecutors, of whom 33 are permanent prosecutors, 12 are prosecutors with initial mandate (second evaluation) and 22 prosecutors with initial mandate (first evaluation). However, this committee has managed to go beyond its planning by assessing 81 prosecutors (with initial and permanent mandates)⁷⁰.

The Prosecution Performance Review Unit, relying on legal competencies, during 2017 provided support to the Council in processes such as overseeing and reporting on the work of prosecutors, prosecutors' performance measurement prosecutors' administration, recruitment, transfer and promotion of prosecutors, assessing the training needs of prosecutors, and keeping records and databases of prosecution work.⁷¹

Regarding the performance measurement of judges for 2017, a total of 66 judges were monitored – 2 with initial mandate, 54 with permanent mandate, selected by random method, and 10 judges who were candidates for promotion. The Performance Measurement Committee for Judges held about 30 meetings. Reporting members of the Commission monitored the 66 judges who were part of the performance measurement process, and also conducted interviews with judges who were subject to assessment.⁷²

3.2 Performance measurement methodology of prosecutors and judges

The performance measurement of prosecutors is carried out based on the meetings of Chief Prosecutors in their monthly meetings with the Chief State Prosecutor, who report on the course of their work during that period and the number of pending and resolved cases. They also send quarterly written reports to the KPC on matters related to the administration of the prosecution.

The KPC produces periodic and annual analytical reports on the work of the State Prosecutor, providing general information on the State Prosecutor, including the number of prosecutors. Those reports reflect criminal reports – transferred criminal cases, those at work and those committed by prosecutors at all levels of the prosecutorial system, the relevant prosecution departments including the applicants of these reports as well as statistical data, which reflect the efficiency for each prosecutor. Periodic and annual reports of the tracking mechanism are also compiled, including offenses categorized in 9 groups.⁷³

The committee which measures the performance of judges consists of 13 members. The composition of the Commission represents the scale of the judicial system so that 5 judges are appointed by the Supreme Court, 4 judges are appointed by the Court of Appeal and 3 judges are appointed by the Basic Courts. The appointed judges must have at least 5 years of experience as civil and criminal judges.

70 Kosovo Prosecutorial Council Annual Report 2017 [http://www.kpk-rks.org/assets/cms/uploads/files/Statistika%20dhe%20Raporte/Raporte%20Vjetore/Raporti%20Vjetor%20i%20Pun%C3%ABs%202017%20i%20K%C3%ABshillit%20Prokurorial%20t%C3%AB%20Kosov%C3%ABs\(1\).pdf](http://www.kpk-rks.org/assets/cms/uploads/files/Statistika%20dhe%20Raporte/Raporte%20Vjetore/Raporti%20Vjetor%20i%20Pun%C3%ABs%202017%20i%20K%C3%ABshillit%20Prokurorial%20t%C3%AB%20Kosov%C3%ABs(1).pdf)

71 [http://www.kpk-rks.org/assets/cms/uploads/files/Statistika%20dhe%20Raporte/Raporte%20Vjetore/Raporti%20Vjetor%20i%20Pun%C3%ABs%202017%20i%20K%C3%ABshillit%20Prokurorial%20t%C3%AB%20Kosov%C3%ABs\(1\).pdf](http://www.kpk-rks.org/assets/cms/uploads/files/Statistika%20dhe%20Raporte/Raporte%20Vjetore/Raporti%20Vjetor%20i%20Pun%C3%ABs%202017%20i%20K%C3%ABshillit%20Prokurorial%20t%C3%AB%20Kosov%C3%ABs(1).pdf)

72 Annual report Kosovo Judicial Council 2017: [file:///C:/Users/Hp/Downloads/Raporti%20Vjetor%20i%20K.GJK-%202017%20\(1\).pdf](file:///C:/Users/Hp/Downloads/Raporti%20Vjetor%20i%20K.GJK-%202017%20(1).pdf)

73 Interview with KPC spokesperson, Valon Jupa, conducted on November 19, 2018.



The performance of permanent judges is measured every three years for each judge. The Judicial Council makes a decision every year to select one-third of the judges for assessment, while for new judges the performance is assessed twice within three years.⁷⁴

Referring always to the KJC spokesperson, so far the commission has evaluated 66 judges with permanent mandate, 43 judges with initial mandate and 32 judges who have applied for promotion.

3.3 Practical cases of failure of prosecutors and judges and lack of accountability

During the monitoring of corruption and organized crime cases Organization Çohu! has identified cases of failure or lack of professionalism of judges and prosecutors.

Some of the cases of failure of judges and prosecutors have been identified in the Basic Courts in Prishtina, Peja and Mitrovica.

At the BC in Prishtina, on April 23, 2019 the closing statement was foreseen to be delivered, but due to the lack of preparedness of the prosecutor, the closing statement was not delivered, thus violating the procedural provisions.⁷⁵

At the BC in Peja on October 19, 2018 the closing statement was foreseen to be delivered but due to the lack of preparedness of the prosecutor who required extra time, the closing statement was not delivered.⁷⁶

At the BC Court in Mitrovica, in July 2018, after the appeal of the Basic Prosecution in Mitrovica, the Court of Appeal reviewed the case in which the judge of BC in Mitrovica issued an acquittal despite the party pleading

guilty to the offense for which it had been charged. The ruling of the Court of Appeal states that after examining the case file, it found that the allegations of the Prosecution are grounded and that the said judgement contains substantial violations of the provisions of criminal procedures, questioning also the factual situation, since the conclusion of the court having regard to the fact that the accused has pleaded guilty also questions the state of the facts and absolutely cannot be considered just. Organization Çohu! has been monitoring this case after it had been returned for retrial.⁷⁷

In the BC in Prishtina, on January 29, 2019 the verdict was scheduled to be issued, but the panel decided that the verdict should be issued another day because the panel had failed to review the entire case file.⁷⁸

In spite of the cases of failure of prosecutors and judges, the relevant authorities have not taken any accountable and punitive measures against judges or prosecutors for their lack of professionalism in resolving cases. The lack of initiation of cases, the lack of penalties and accountability has brought forth the passivity of the performance measurement committees of prosecutors and judges, failing to meet their responsibilities in line with legal and procedural provisions. As a result, citizens are constantly confronted with ineffective justice system and human rights violations.

74 Interview with KJC information officer, Aishe Qorraj, conducted on November 19, 2018.

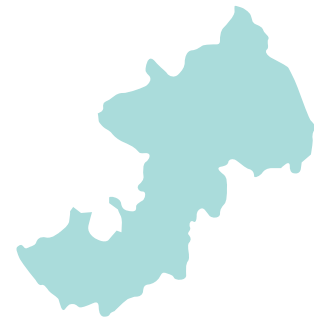
75 BC in Prishtina case PKR.nr. 18/15 monitored on April 23, 2019, offenses "Abuse of official duty or authority", "fraud" etc. The indictment in this case was represented by prosecutor Florije Shamolli.

76 BC in Peja, Case 168/16 monitored on October 19, 2018, offense "Abuse of official duty or authority". The indictment in this case was represented by prosecutor Sahide Gashi.

77 BC in Mitrovica, P.nr. 125/18, Judge Tomislav Petrovic acquitted defendant N. A. despite him pleading guilty to the offense of "Abuse of Official Duty or Authority". The retrial was monitored on January 25, 2019.

78 BP in Prishtina. Case PKR.nr. 734/15, offense "Abuse of official duty or authority".

4. JUSTICE IN MITROVICA



4.1 Prosecution and Court in Mitrovica

The Basic Court in Mitrovica is one of the seven Basic Courts in the Republic of Kosovo with four branches in its jurisdiction: Leposaviq, Vushtrri, Skenderaj, and Zubin Potok – a territory covering 328 villages.⁷⁹

The Basic Prosecution in Mitrovica has jurisdiction over all first instance cases unless otherwise provided by law. It consists of the General Department, the Serious Crimes Department and the Juvenile Department. BP in Mitrovica covers the territory of Mitrovica, Leposaviq, Zubin Potok, Zvecan, Skenderaj and Vushtrri.

As of October 2017, Justice in Mitrovica has been operating under the Brussels Agreement on Justice. This agreement envisaged that the President of the Basic Court in Mitrovica shall be from the Serbian community while the Court Administrator and the Chief Prosecutor of the Basic Mitrovica Prosecution Office shall be Albanians, which was strictly respected and implemented.⁸⁰

Under this Agreement, the BC in Mitrovica will also have a division of the Court of Appeal, which will be competent only for the cases of this court with its branches. Such an agreement, among other things, had also determined the number and ethnicity of prosecutors and judges, which had drawn criticism for violating constitutional and legal provisions.⁸¹ However, the creation of this division runs counter to the Constitution of the Republic of Kosovo and other relevant laws thus creating an unprecedented case which may even endanger the functioning of this division and this court as detached from the Kosovo judiciary.⁸²

4.2 Organizational Structure of Prosecutor's Office and Basic Court in Mitrovica under the Brussels Agreement

The Basic Prosecution in Mitrovica in October 2017 was moved to the north of Mitrovica, namely to the “Bosniak Neighborhood”, based on the Brussels Justice Agreement.⁸³ The point of the agreement which defines the

79 Kosovo Judicial Council - <http://www.judiciary-rks.org/en/courts/page/index/198>.

80 Brussels Agreement on Justice reached between Kosovo and Serbia, February 9, 2015, Brussels.

81 Ibid.

82 “Goingsouth? Integration of Serb Judges and Prosecutors from the North into the Kosovar Justice System”, November 2018, Grupi për Studime Juridike dhe Politike, <http://www.legalpoliticalstudies.org/wp-content/uploads/2018/11/FINAL-REPORT-Integration.pdf>

83 Brussels Agreement on Justice reached between Kosovo and Serbia, February 9, 2015, Brussels.



composition of the Prosecution with Albanians and Serbs was strictly implemented and the Prosecution staff should be 50% Albanians and 50% Serbs. According to this Agreement, BP in Mitrovica is headed by the Chief Prosecutor who is Albanian, while currently the Prosecution has 9 Albanian and 10 Serbian Prosecutors.⁸⁴

That same month, in October 2017 began the work of the Basic Prosecution under the Justice Agreement signed in Brussels.

At this time the BC in Mitrovica also started functioning under the Brussels Agreement on Justice. Based on this Agreement, BC in Mitrovica is divided into two facilities, north and south of Mitrovica. The facility in the north, which has 15 judges and 71 court staff – support staff, is responsible for handling criminal cases. The facility located south of Mitrovica, which counts 17 judges and 71 support staff, is responsible for handling civil and minor offenses.⁸⁵

BC in Mitrovica currently has a total of 48 judges covering Basic Court in Mitrovica - Vushtri Branch, Skenderaj Branch, Leposaviq Branch, Zubin Potok Branch.⁸⁶

4.3 Interruption of Work of the Court - November 2018

An unprecedented case which is also contrary to the Constitution of the Republic of Kosovo and the legislation in force, was the interruption of work of BC in Mitrovica during November 2018. The interruption of the work of the Court was ordered by the President of BC in Mitrovica – an action that was in solidarity with the citizens who protested in northern Mitrovica due to the imposition of a 100% customs tax on the products of Serbia and Bosnia and Herzegovina by the Government of the Republic of Kosovo. The President of BC in Mitro-

vica, Nikola Kabasic, sent a letter to the ambassadors in Kosovo and the heads of international missions, asking them to use their authority to influence the institutions of the Republic of Kosovo to change their stance on the already imposed tax.

These actions of the President of BC in Mitrovica are against the Constitution and the positive laws of the Republic of Kosovo and constitute a violation of the Justice Agreement signed in Brussels.

According to the legislation in force, judges must be independent, impartial and unbiased in the exercise of their functions. On this basis, any political affiliation or influence constitutes a violation of the integrity and independence of the judiciary in the Republic of Kosovo.

On the other hand, for such an action, the Kosovo Judicial Council issued only one comment for the President of the Court, not considering such actions of the President of BC in Mitrovica as serious violations.⁸⁷

Taking serious measures against those responsible, and in this case against Nikola Kabasic, would, inter alia, ensure and guarantee the functioning of BC in Mitrovica without any political influence and in accordance with the Constitutional and Legal Order of Kosovo.

84 Interview with Chief Prosecutor of BP in Mitrovica, Shyqri Sylja, carried out on November 22, 2018, Mitrovica.

85 Interview with the Vice President of BC in Mitrovica Ali Kutllovci, carried out in November 2018.

86 The Deputy President of the BC in Mitrovica Ali Kutllovci, during the interview stated that it turns out that the number provided by the Justice Agreement for Albanian judges has not been filled yet.

87 Organization Çohu! received a letter from the KJC, where the latter warns that such an action represents a breach of the Code of Ethics for Judges, in particular the provisions of Section 2.

Number of prosecutors in BP in Mitrovica





Year	Number of prosecutors
2004	9 
2008	10 
2013	10 
2018	20 

TABLE NR. 1 Number of prosecutors in BP Mitrovica in years

4.4 Number of prosecutors and judges and case handling

BP in Mitrovica similar to the whole prosecutorial system for years has been facing a lack of sufficient number of prosecutors. According to KPC data, in 2004 BP in Mitrovica had a total of 9 prosecutors, while in 2018 the number of prosecutors had reached 20.

Based on the data of BP in Mitrovica, for a long period of time this prosecution had a small number of prosecutors – only 9 and 10 prosecutors.

BP in Mitrovica for a long period of time worked in difficult conditions, lacking the necessary number of prosecutors and also lacking the necessary workspace. Following Kosovo's declaration of independence in 2008, Albanian judges and prosecutors and other support staff did not have access in the north of Mitrovica, where the prosecution and court were located.⁸⁸ This prevented citizens from accessing justice and the processing of court cases and also prevented the functioning of the judicial and prosecutorial system in this area.⁸⁹

Similar to BP in Mitrovica, BC in Mitrovica also faced the problem of lack of judges as well as difficult working conditions.

88 OSCE Report on the Judicial System in Mitrovica, January 2011.

89 "Access to Justice and Human Rights", Organization Çohu!, July 2017 - <http://cohu.org/en/zureau-antikorrupcion-help/Access-ne-direction-and-te-director-e-human--202>.

Number of judges in BC in Mitrovica

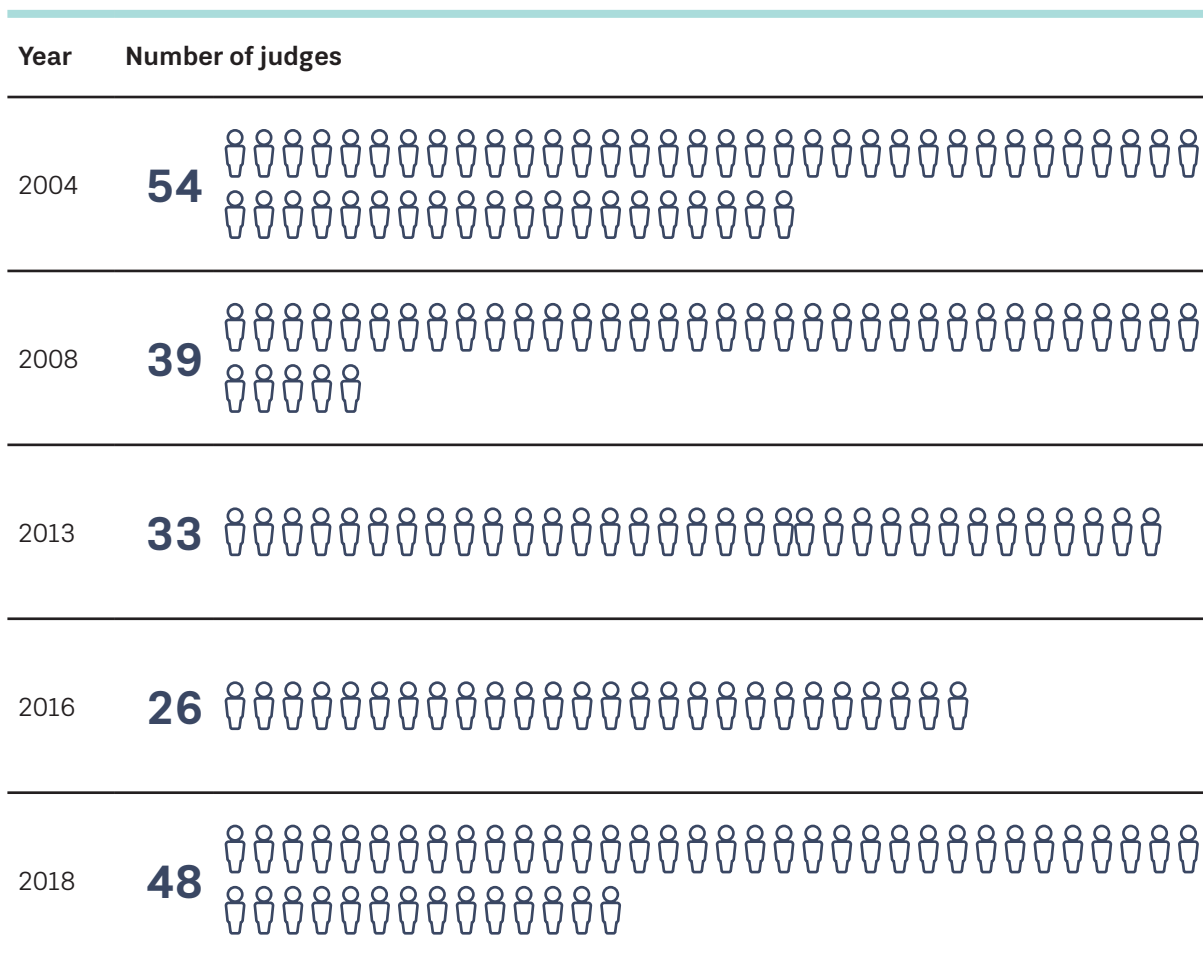


TABLE 2. Number of judges in the Basic Court in Mitrovica in years

In 2004 the Mitrovica region had a total of 54 judges, and now (2018) BC in Mitrovica has a total of 48 judges.

Based on the monitoring and research carried out by Organization Çohu! no significant efficiency has been identified in the handling of cases by BP in Mitrovica, in particular with regard to corruption cases. However, a more positive trend is observed over the years.

4.5 Case load and efficiency

BP in Mitrovica drafted a work plan aimed at reducing cases while prioritizing detention, corruption, domestic violence cases and cases approaching statutory limitation.⁹⁰

⁹⁰ Interview with Chief Prosecutor of BP in Mitrovica, Shyqri Sylja, conducted on November 22, 2018, Mitrovica

Number of persons in cases processed by BP in Mitrovica in years

Year	Transferred	Received	Total at work	Resolved				Total Resolved	Remaining
				Dismissed	Transferred to competence	Indictments			
2016	161	91	252 ⁹¹	19	9	1	31	60	192
2017	190	51	241 ⁹²	15	7	3	60	85	156
2018	150	25	175 ⁹³	36	-	3	2	46	129
Totali	501	167	668	70	16	7	93	159	476

TABLE 3. Number of persons in cases processed by BP in Mitrovica in years (2016-2018)

The KPC statistical data presented in the above table show more positive results of processing of corruption cases. According to these data, it turns out that during 2016, a total of 23 cases were resolved with 60 persons, in 2017, a total of 29 cases were solved with 85 persons, while from January to September 2018, a total of 24 cases were resolved with 46 persons involved in corruption offenses.

However, according to the representatives of this prosecution, the reason for the insufficient processing and lack of efficiency is the fact that the Serious Crimes Department has been operating with only two prosecutors, whereas since August 2018 the same department has been complemented with two criminal prosecutors. This is especially important in order to make the prosecution of corruption and other cases more efficient.⁹⁴

Unlike BP in Mitrovica, BC in Mitrovica still lacks a work plan, given the working conditions and the large number of pending cases.

According to the data obtained from the same source, i.e. data from the Tracking Mechanism for the criminal offenses of the prosecutorial system, it can be noted that there are fewer rulings of BC in Mitrovica throughout the years.

⁹¹ KPC statistics show that in 2016 there were 72 transferred criminal reports involving 161 persons, 33 received criminal reports involving 91 persons, a total of 105 criminal reports against 252 persons at work.

⁹² In 2017 there were 79 transferred criminal reports involving 190 persons, 35 received criminal reports involving 51 persons, a total of 114 criminal reports against 241 persons at work.

⁹³ Between January and September 2018, there were 82 transferred criminal reports involving 150 persons, 22 received criminal reports involving 51 persons, a total of 104 criminal reports against 175 persons at work.

⁹⁴ Interview with Chief Prosecutor of BP in Mitrovica, Shyqri Sylja, conducted on November 22, 2018, Mitrovica

Rulings of the Basic Court of Mitrovica for corruption offenses

Year	Dismissal of indictment	Dismissal verdict	Acquittal verdict	Guilty verdict
2016 ⁹⁵	6	5	2	15
2017 ⁹⁶	1	4	-	5
2018 ⁹⁷	1	1	3	3

TABLE 4. Rulings of the Basic Court of Mitrovica against corruption offenses in years (2016 - 2018)

Ndërsa në vitin 2016 gjithsej kemi aktgjykime fajësuese ndaj 15 personave për veprat penale të korrupsionit, në vitin 2017 kemi vetëm 5 të tilla, e në nëntëmujorin e parë të vitit 2018 e kemi vetëm një të tillë.

Sipas po këtyre të dhënave, në vitin 2016 ishin hedhur poshtë aktakuzat për 6 persona të natyrës së tillë. Në vitet vijuese, në vitin 2017 dhe në nëntëmujorin e vitit 2018, kemi vetëm nga një aktakuzë të hedhur për veprat penale të natyrës së korrupsionit.

Mungesa e një plani të punës si dhe numri i madh i lëndëve në procedim, vazhdojnë t'i kushtojnë GjTh në Mitrovicë me mungesë efikasiteti dhe me shkelje të afateve procedurale të parapara edhe në Kodin e Procedurës Penale të Kosovës dhe gjithashtu me parashkrim të rasteve.

4.6 Lack of court interpreters

Regarding the cooperation between prosecutors, judges and staff in courts and prosecutors between Albanians and Serbs, no significant problems have been encountered, and according to the representatives of the justice system there is good cooperation between Albanians and Serbs and the implementation of the legislation in force in the Republic of Kosovo. However, the process of proper development of prosecution and judiciary bodies will depend on their professionalism and efficient resolution of cases under applicable legislation.

BP in Mitrovica and BC Mitrovica after the implementation of the Brussels Agreement on Justice have been facing lack of Albanian-Serbian interpreters, which constitutes an obstacle to the functioning of the prosecution and courts.

95 KPC, Annual Report (2016) of the inter-institutional tracking mechanism for harmonization of statistical reports, February 2017, Pristina.

96 KPC, Annual Report (2017) of the inter-institutional tracking mechanism, February 2018, Prishtina.

97 KPC, Annual Report (2018) of the inter-institutional tracking mechanism, February 2019, Prishtina.



Prosecution, the Basic Court in Mitrovica since 2008 had been relocated in the former Municipal Court building in Vushtrri, where they had not dealt with cases in court for five years, while only urgent cases were dealt with in the prosecutor's office.

While the prosecution has almost overcome this problem by hiring 5 court interpreters,⁹⁸ BC in Mitrovica still faces such a problem.⁹⁹

According to representatives of BP and BP in Mitrovica, such a problem continues to cost the justice system in this part with inefficiency and negligence in resolving cases.¹⁰⁰

Kosovo Judicial Council should, as soon as possible, provide support and solutions with court interpreters in BC in Mitrovica, thereby preventing the holding of court hearings and other procedural actions that continue to drag on the resolution of cases and their backlogging, thus affecting the performance and efficiency of the judiciary.

4.7 Prescription in Mitrovica

Prescription or statutory limitation of cases in prosecutions and courts is one of the persisting problems that characterize the justice system in Kosovo. The reasons for the statutory limitation are different, and can happen due to objective reasons or obstacles, due to negligence

of prosecutors and judges or the actions may be intentional. According to KJC data, from **2000 to 2017** a total of **20,584 criminal cases** reached statutory limitation in Kosovo courts. This problem was also present in BP and BC in Mitrovica.

Similar to the Prosecution, the Basic Court in Mitrovica since 2008 had been relocated in the former Municipal Court building in Vushtrri, where they had not dealt with cases in court for five years,¹⁰¹ while only urgent cases were dealt with in the prosecutor's office.

Unable to handle cases, a considerable number of them from 2008 to 2013 that belong to the General Department have been prescribed at police stations.¹⁰²

Unable to transfer cases from the northern part, a considerable number of prosecution cases had been prescribed, while a considerable part of the prescribed cases had come due to the inability to handle them, and as a result of difficult working conditions.

For the same reasons, a considerable number of cases have also been prescribed in BC in Mitrovica. According to KJC data, from 2000 to 2018, a total of 1,932 criminal

98 Interview with Chief Prosecutor of BP in Mitrovica, Shyqri Sylja, conducted on November 22, 2018, Mitrovica

99 Interview with the Vice President of the BC in Mitrovica, Ali Kutlllovci, carried out on November 19, 2018, Mitrovica.

100 Ibid.

101 The closing down of the branches in Leposaviq and Zubin Potok, the relocation to the Vushtrri Court premises and the inability to proceed with cases in court for five years resulted in a violation of the right of access to justice, a violation of the provisions and principles of a due process and within a reasonable time and a violation of legal deadlines.

102 Interview with Chief Prosecutor of Basic Prosecution in Mitrovica, Shyqri Sylja, conducted on November 22, 2018, Mitrovica.

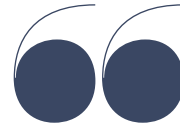
cases reached statutory limitation in BC in Mitrovica with its branches in Vushtrri and Skenderaj without data on Zubin Potok and Leposaviq.

According to the research carried out by Çohu! the United States Agency for International Development - USAID under the Rule of Law Program in 2016 began inventoring, transferring, and assisting in the categorization of cases which were left in court drawers in the north of Mitrovica, in Zubin Potok and Leposaviq.¹⁰³

According to this research and publication, during 2016 USAID representatives transferred approximately 1,200 cases from BC in Mitrovica (north) to Vushtrri (BC in Mitrovica). These cases had not been processed in years. The cases transferred from Leposaviq and Zubin Potok were categorized by court staff and ruled by the judges of BC in Mitrovica, located in Vushtrri, which were subsequently returned to Zubin Potok and Leposaviq

Of the total cases categorized as of December 2016, a total of 1,300 such cases have been prescribed (by the three courts, Mitrovica-North, Zubin Potok and Leposaviq), over 900 cases have been closed by a verdict while others remained pending. All those cases belonged to the period prior to 2008.

According to court representatives in Mitrovica, the transfer of cases and their epilogue had enabled many people involved in such processes who appeared in criminal records to be removed from such records and enjoy equal rights.¹⁰⁴



According to the research carried out by Çohu! the United States Agency for International Development - USAID under the Rule of Law Program in 2016 began inventoring, transferring, and assisting in the categorization of cases which were left in court drawers in the north of Mitrovica, in Zubin Potok and Leposaviq.

103 "Access to Justice and Human Rights", Organization Çohu!, July 2017 - <http://cohu.org/en/zureau-antikorrupcion-help/Access-ne-direction-and-te-director-e-human--202>.

104 Interview with the Vice President of the Basic Court in Mitrovica, Ali Kutllovci, then acting President, carried out on November 3, 2016, Vushtrri.

CONCLUSIONS

The justice system in the Republic of Kosovo continues to face difficulties for a smooth running of judicial processes, respect for human rights, access to justice, and compliance with legal and procedural deadlines.

Delays and postponements of court hearings and their interruption for various reasons resulted in delaying court hearings as well as backlogging of court cases.

Violation of procedural deadlines and failure to comply with stages of the proceedings (from the moment the case is received in court, the scheduling and holding of initial, secondary and main hearings, as well as the conclusion and promulgation of the judgement) continue to produce delays and backlogging of cases, which is also considered a violation of the principles of justice for a fair trial and within a reasonable time.

Organization Çohu! considers the trend of statutory limitation of criminal cases to be a very bad practice which is becoming worse over the years. According to KJC data, from 2000 to 2017 a total of 20.548 criminal cases reached statutory limitation in Kosovo courts. Among the cases that reached statutory limitation there are also cases that fall under KPRK's: "Official Corruption and Offenses Against Official Duty" Chapter – cases which the relevant authorities were obliged to treat with priority. From 2013 to 2018 a total of 58 cases of this nature have been prescribed in the courts of the Republic of Kosovo, 8 of which in relative terms and 50 in absolute terms.

Organization Çohu! from October 2018 to September 2019 identified 10 cases of statutory limitation in the Basic Courts in Prishtina, Peja, Gjiilan, Gjakova and Prizren.

Organization Çohu! also considers troubling the small number of reviewed and resolved high-profile corruption cases. Mild sentences, dismissal of indictments and acquittal of high-profile officials speak once again of the low level of fight and punishment of high-level corruption.

Courts continue to have large number of cases transferred (inherited) over the years. The transfer of cases over the years is causing prolongation of court hearings, resulting in human rights violations, flagrant violations of the Criminal Procedure Code which explicitly state the time limits within which trials should be concluded, and ultimately a violation of the Constitution of the Republic of Kosovo.



RECOMMENDATIONS

Take action against prosecutors who are unprepared for court hearings;

Review the process of assessment of prosecutors and judges, in order to take accountable measures against judges or prosecutors who cause delays in judicial processes;

Increase the number of professional associates in prosecution and courts;

Have specialized prosecutors and judges for criminal offenses such as: organized crime, corruption, economic crimes, terrorism and others;

Respect domestic and international legislation that relates to the processing and conclusion of cases within legal time limits, respect for the right of access to justice and the principle of fair trial and within a reasonable time;

Prioritize old corruption cases in order to prevent their prescription;

Take measures against judges who cause of delays and postponements of court hearings;

Take measures against prosecutors who cause of delays and postponements of court hearings;

Identify problems and technical issues that cause delays in the commencement and postponement of court hearings;

Increase the number of judges in the Basic Court of Prishtina;

Increase the number of professional interpreters in the Basic Court in Mitrovica;

Address the problems in the Tracking Mechanism of Characteristic Offenses of the Kosovo Prosecutorial Council, which continues to face problems with data mismatch as per characteristic criminal offenses.

ANNEX

5. Efficiency of prosecutions and courts in dealing with corruption and organized crime cases

5.1 Cases of corruption in years

Organization Çohu! in addition to monitoring corruption and organized crime cases in the Basic Courts of the Republic of Kosovo, analyzed and compared the prosecution of corruption and organized crime cases by Kosovo prosecutions and basic courts. These data include transferred (inherited), received and resolved cases, how cases are resolved, as well as cases pending at the end of the year in courts and prosecutions.

Based on the KPC and KJC data, both courts and prosecution offices have a large number of corruption cases. Table 5 lists all corruption offenses in the prosecution for 2015-2018 period, while Table 6 shows all corruption offenses. in courts for 2015-2018 period.

When analyzing and comparing data pertaining to 2015–2018 period, in corruption cases in the prosecutions of the Republic of Kosovo, there were discrepancies between 2017 and 2018. Specifically, the figures that appeared on December 31, 2017 and which should be the same as those inherited in the following year, respectively January 1, 2018, do not match. Table 5 shows the figures of unsolved cases in the basic prosecutions. At the end of 2017, there were a total of 627 cases with 1642 persons while in the category of cases inherit-

ed in 2018 there are only 282 cases with 707 persons. Based on the monitoring data, no significant efficiency has been identified in the handling of corruption cases by the prosecutions of the Republic of Kosovo. Also, such inconsistency of data in corruption cases points to ongoing problems in the justice system with regard to proper matching and proper handling of corruption cases. However, comparing the statistics of the KPC presented in Table 8 to cases at work and cases processed over the years, there is a positive trend in terms of the number of cases resolved.

Despite this positive trend of processing of corruption cases, BPs of the Republic of Kosovo continue to lack efficiency in resolving corruption and organized crime cases.



Year	Transferred		Received		Total at work		Processed (resolved)		Unresolved	
	KP	P	KP	P	KP	P	KP	P	KP	P
1 2015	539	1642	272	840	811	2482	456	921	539	1641
2 2016	541	1667	443	824	984	2491	661	1115	447	1208
3 2017	458	1323	619	1038	1077	2361	708	1486	627	1642
4 2018	282	707	385	890	696	1220	408	772	280	668

TABLE 5. Corruption Cases in the Prosecutions of the Republic of Kosovo in years

When analyzing and comparing court records on corruption cases, Organization Çohu! observed a similar trend of transferred (inherited) cases over the years, the trend of received and processed (resolved) cases. While in 2017 courts have inherited a significant number of corruption cases, specifically 558 cases with 272 cases received, in 2018 a total of 541 cases were transferred from the previous year while 233 cases were received. The total number of cases resolved in 2017 was 289 cases, while in 2018 the courts have resolved a total of 255 cases of corruption. Similar to prosecutions, courts continued to have a significant number of pending cases. Table 6 presents the data on corruption cases for 2015–2018 period, showing that the most frequently imposed sentences are probation, fines, while imprisonment sentences are less frequent. Also, the comparison of KJC data over the years shows that despite the priority that corruption cases should be given, the justice system continues to lack efficiency in resolving these cases.

Number of cases processed in basic courts, in years

Year	Transferred	Received	Total at work	Të zgjidhura							Total Resolved	Remaining
				Imprisonment	Fine	Probation	Other	Verdicts	Statutory limitation	Other		
2015	662	282	944	34	40	53	1	33	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	70	14	44	289	539
2018	541	233	774	23	46	57	1	85	10	33	255	518

TABLE 6 Corruption cases in Basic Courts in years

5.2 Cases of organized crime in years

Analyzing and comparing data on cases of organized crime in BPs of the Republic of Kosovo pertaining to 2015-2018 period, Organization Çohu! observed almost the same trend of processing cases over the years. In 2017, a total of 42 cases were transferred (inherited), and in 2018 the same number of cases is inherited from the previous year. In 2017, BPs received 5 cases with 33 persons, while in 2018 there were 6 cases with 34 persons. In 2017, BPs processed (resolved) 4 cases with 59 persons in 2017, while in 2018 there was a total of 13 resolved cases with 70 persons.

Table 7 shows how organized crime cases are processed in 2015, 2016, 2017 and 2018, in which only a small number of cases are resolved, with the largest number of cases remaining unresolved by the end of the year.

Year	Transferred		Received		Total at work		Processed (resolved)		Unresolved	
	KP	P	KP	P	KP	P	KP	P	KP	P
1 2015	41	311	14	156	146	467	16	113	47	354
2 2016	49	420	2	27	51	447	23	185	40	344
3 2017	42	355	5	33	47	388	4	59	42	321
4 2018	42	227	6	34	48	261	13	70	35	191

TABLE 7 Cases of organized crime in Prosecutions of the Republic of Kosovo, in years



Similar to prosecutions, courts continued to have a significant number of pending cases. Table 7 shows cases of organized crime for 2015, 2016, 2017 and 2018. These data speak of a lack of efficiency of the courts in resolving organized crime cases. In 2017 out of 62 cases at work, only 5 cases were resolved, 57 cases were unsolved while in 2018 out of 68 cases at work, only 6 cases were resolved, and 62 cases remained unsolved.

Number of cases processed in basic courts, in years

Year	Transferred	Received	Total at work	Resolved							Total Resolved	Remaining
				Imprisonment	Fine	Probation	Other	Verdicts	Statutory limitation	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

TABLE 8. Cases of organized crime in basic courts, in years

Based on findings and the data over the years, courts continue to lack efficiency in handling cases of organized crime. Only a small number of organized crime cases continue to be processed and resolved, while a significant number remain unresolved and are transferred year after year. Such a transfer of cases from year to year continues to cause considerable delays in court proceedings which reflects the inefficiency of courts and violates the right to a fair trial within a reasonable time.

5.3 Cases of delayed hearings

Based on the monitoring data presented in the last part of this report (Annex), there 97 cases of delayed commencement of court hearings, 43 cases of delays due to the absence of trial panel, 25 cases of absence of prosecutors, 3 cases of absence of the lawyer, 13 cases of absence of the accused, 3 cases of absence of the injured party and 7 other cases.

	Court	Case no.	Date	Time	Reason for delay
1	BP in Prishtina	PKR.510/14	October 18, 2018	Delay	Trial panel
2	BC in Peja	PKR-5/18	December 19, 2018	Delay	Trial panel
3	BC in Prizren	PKR-211/16	November 19, 2018	Delay	Trial panel
4	BP in Ferizaj	PKR.nr.192/17	October 9, 2018	Delay	Trial panel
5	Prishtina	PKR.nr.618/13	January 20, 2019	Delay	Trial panel
6	Prishtina	PKR.nr.53/17	October 22, 2018	Delay	Trial panel
7	Prishtina	PKR.nr.476/15	November 12, 2018	Delay	Trial panel
8	Prishtina	PKR.nr.111/17	March 6, 2019	Delay	Trial panel

9	Prishtina	PKR.253/17	December 17, 2018	Delay	Trial panel
10	Prishtina	PKR.nr.51/14	December 26, 2018	Delay	Trial panel
11	Prishtina	PKR.227/17	January 30, 2019	Delay	Trial panel
12	Prishtina	PKR.nr.276/16	February 27, 2019	Delay	Trial panel
13	Prishtina	PKR.198/17	February 11, 2019	Delay	Trial panel
14	Prishtina	PKR.nr.164/17	April 3, 2019	Delay	Trial panel
15	Prishtina	PKR.nr.519-13	July 2, 2019	Delay	Trial panel
16	Prishtina	PKR.nr. 40-18	June 7, 2019	Delay	Trial panel
17	Prishtina	PKR.nr.305-16	June 14, 2019	Delay	Trial panel
18	Prishtina	PKR.nr.458-16	April 30, 2019	Delay	Trial panel
19	Prishtina	PKR.nr.314-16	February 21, 2019	Delay	Trial panel
20	Prishtina	PKR.nr.371-17	April 3, 2019	Delay	Trial panel
21	Prishtina	PKR.nr. 886/13	May 06, 19	Delay	Trial panel
22	Prishtina	PKR.nr. 712/14	February 06, 2019	Delay	Trial panel
23	Prishtina	PKR.nr. 712/14	April 1, 19	Delay	Trial panel
24	Prishtina	PKR.nr.113/17	December 04, 2018	Delay	Trial panel
25	Prishtina	PKR.nr.476-15	November 12, 2018	Delay	Trial panel
26	Peja	PKR.nr. 5/18	March 1, 2019	Delay	Trial panel
27	Ferizaj	PKR.nr.173/17	December 10, 2018	Delay	Trial panel
28	Ferizaj	PKR.nr.173/17	January 17, 19	Delay	Trial panel
29	Ferizaj	PKR.nr.173/17	January 18, 19	Delay	Trial panel
30	Ferizaj	PKR.57/15	October 15, 2019	Delay	Trial panel
31	Ferizaj	PKR.nr.204/17	December 11, 2018	Delay	Trial panel
32	Ferizaj	PKR.nr.204/17	March 5, 2019	Delay	Trial panel
33	Ferizaj	PKR.nr.204/17	April 1, 19	Delay	Trial panel
34	Ferizaj	PKR.37/17	December 14, 2018	Delay	Trial panel
35	Ferizaj	PKR.37/17	January 31, 2019	Delay	Trial panel
36	Mitrovica	PKR.nr. 101/17	November 13, 2018	Delay	Trial panel
37	Mitrovica	PKR.nr. 117/19	January 17, 19	Delay	Trial panel
38	Mitrovica	PKR.nr. 147/17	October 30, 2018	Delay	Trial panel



39	Mitrovica	PKR.nr. 147/17	May 7, 2019	Delay	Trial panel
40	Prishtina	PKR.204/18	August 22, 2019	Delay	Trial panel
41	Prishtina	PKR.nr. 305/16	June 14, 2019	Delay	Trial panel
42	Prishtina	PKR.nr.519/13	July 2, 2019	Delay	Trial panel
43	Prishtina	PKR.nr.40/18	June 7, 2019	Delay	Trial panel
44	Prishtina	PKR.332/17	December 24, 2018	Delay	Prosecutor
45	Prishtina	PKR.nr.356/17	January 30, 2019	Delay	Prosecutor
46	Prishtina	PKR.nr.627/15	April 15, 19	Delay	Prosecutor
47	Prishtina	PKR.nr.627/15	May 24, 19	Delay	Prosecutor
48	Prishtina	PKR.nr. 253/17	December 17, 2018	Delay	Prosecutor
49	Prishtina	PKR.nr.110-17	November 9, 2018	Delay	Prosecutor
50	Prishtina	PKR.nr.369-16	November 22, 2018	Delay	Prosecutor
51	Prishtina	PKR.nr.18/15	April 23, 2019	Delay	Prosecutor
52	Mitrovica	PKR.nr. 67/15	March 21, 19	Delay	Prosecutor
53	Mitrovica	PKR.nr. 210/15	November 6, 2018	Delay	Prosecutor
54	Prizren	PKR-79/18	November 29, 2018	Delay	Prosecutor
55	Prizren	PKR-79/18	February 15, 2019	Delay	Prosecutor
56	Ferizaj	PKR.57/15	November 15, 2018	Delay	Prosecutor
57	Ferizaj	PKR.57/15	November 19, 2018	Delay	Prosecutor
58	Ferizaj	PKR.57/15	November 20, 2018	Delay	Prosecutor
59	Ferizaj	PKR.57/15	November 27, 2018	Delay	Prosecutor
60	Ferizaj	PKR-9/18	October 24, 2018	Delay	Prosecutor
61	Ferizaj	PKR.37/17	March 18, 2019	Delay	Prosecutor
62	Ferizaj	PKR.37-17	April 25, 2019	Delay	Prosecutor
63	Ferizaj	PKR.244/18	April 17, 2019	Delay	Prosecutor
64	Ferizaj	PKR.244/18	April 18, 2019	Delay	Prosecutor
65	Gjakova	PKR-36/18	October 8, 2018	Delay	Prosecutor
66	Gjakova	PKR-36/18	October 19, 2018	Delay	Prosecutor
67	Gjakova	PKR-50/18	October 17, 2018	Delay	Prosecutor
68	Gjakova	PKR-50/18	October 19, 2018	Delay	Prosecutor

69	Mitrovica	PKR.nr. 129/17	January 14, 2019	Delay	Lawyer
70	Mitrovica	PKR.nr. 129/17	November 20, 2018	Delay	Lawyer
71	Mitrovica	PKR.nr. 135/18	June 7, 2019	Delay	Lawyer
72	Prizren	PKR.nr. 17/18	March 12, 2019	Delay	Lawyer
73	Ferizaj	PKR.nr. 173/17	February 21, 2019	Delay	Lawyer
74	Prishtina	PKR.142/18	July 30, 2019	Delay	Accused
75	Mitrovica	PKR.nr. 129/17	March 1, 2019	Delay	Accused
76	Prishtina	PKR.nr. 439/15	November 14, 2018	Delay	Accused
77	Prishtina	PKR.nr.610/15	November 16, 2018	Delay	Accused
78	Prishtina	PKR.nr. 18/15	March 11, 2019	Delay	Accused
79	Peja	PKR.nr. 5/19	February 12, 2019	Delay	Accused
80	Peja	PKR.nr. 111/18	January 31, 2019	Delay	Accused
81	Ferizaj	PKR.nr. 173/17	October 12, 2018	Delay	Accused
82	Gjakova	PKR.nr. 36/18	December 18, 2018	Delay	Accused
83	Gjakova	PKR.nr. 36/18	February 11, 2019	Delay	Accused
84	Gjakova	PKR.nr. 36/18	February 15, 2019	Delay	Accused
85	Gjakova	PKR.nr. 36/18	February 19, 2019	Delay	Accused
86	Gjakova	PKR.nr. 5/19	June 25, 2019	Delay	Accused
87	Peja	PKR.nr. 26/18	April 13, 2019	Delay	Witness
88	Prishtina	PKR.nr. 519/13	November 22, 2018	Delay	Injured
89	Prishtina	PKR.nr. 519/13	December 28, 2018	Delay	Injured
90	Ferizaj	PKR.nr. 204/17	December 21, 2018	Delay	Injured
91	Prishtina	PKR.nr. 618/13	October 19, 2018	Delay	Other reasons
92	Prishtina	PKR.nr.734/15	November 17, 2018	Delay	Other reasons
93	Prishtina	PKR.nr. 610/16	June 25, 2019	Delay	Other reasons
94	Prishtina	PKR.nr. 199/17	November 12, 2018	Delay	Other reasons
95	Prishtina	PKR.nr. 242/18	May 24, 19	Delay	Other reasons
96	Mitrovica	PKR.nr. 156/17	January 29, 2019	Delay	Other reasons
97	Ferizaj	PKR.nr. 204/17	November 6, 2018	Delay	Other reasons

TABLE 9. Cases of late commencement of court hearings

5.4 Cases of postponement of court hearings

Table 10 shows cases of postponement of court hearings. During the one-year monitoring period Organization Çohu! identified 114 cases of postponement of court hearings in the seven basic courts in Kosovo. Of 114 cases of postponement of court hearings, 30 hearings were postponed because of the prosecutor, 14 because of the trial panel, 34 because of the lawyer, 17 because of the accused, 4 because of the witness, 6 because of the injured, 1 because of the expert and 9 hearings were postponed for other reasons.

	Court	Case no.	Date	Reason for postponement
1	Prishtina	PKR.nr.734-15	December 12, 2018	Prosecutor
2	Prishtina	PKR.nr.734-15	January 29, 2019	Trial panel
3	Prishtina	PKR.nr. 204-18	May 16, 2019	Accused
4	Prishtina	PKR.nr.371-17	May 10, 2019	Prosecutor
5	Prishtina	PKR.nr. 371-17	May 31, 2019	Prosecutor
6	Prishtina	PKR.nr. 230-18	January 28, 2019	Accused
7	Prishtina	PKR.nr. 230-18	March 14, 2019	Accused
8	Prishtina	PKR.nr.305/16	January 29, 2019	Accused
9	Prishtina	PKR.nr. 305/16	June 14, 2019	Accused
10	Prishtina	PKR.nr.476-15	October 30, 2018	Injured
11	Prishtina	PKR.nr. 40-18	December 21, 2018	Accused
12	Prishtina	PKR.nr.96-18	May 21, 2019	Prosecutor
13	Prishtina	PKR.nr. 110-17	November 09, 2018	Prosecutor
14	Prishtina	PKR.nr.132-19	June 18, 2019	Prosecutor
15	Prishtina	PKR.nr. 148-17	November 23, 2018	Prosecutor
16	Prishtina	PKR.nr.148-18	March 21, 2019	Prosecutor
17	Prishtina	PKR.nr.205-18	March 14, 2019	Lawyer
18	Prishtina	PKR.nr. 253-17	February 22, 2019	Prosecutor
19	Prishtina	PKR.nr.327-17	December 6, 2018	Accused
20	Prishtina	PKR.nr.355-17	June 24, 2019	Prosecutor
21	Prishtina	PKR.nr.610-16	November 16, 2018	Lawyer
22	Prishtina	PKR.nr.610-16	March 12, 2019	Accused
23	Prishtina	PKR.nr.610-16	May 16, 2019	Accused
24	Prishtina	PKR.nr.18-15	December 14, 2018	Accused

25	Prishtina	PKR.nr.18-15	January 9, 2019	Lawyer
26	Prishtina	PKR.nr.145-17	February 13, 2019	Trial panel
27	Gjakova	PKR.nr.36/18	October 8, 2018	Accused
28	Gjakova	PKR.nr.50/18	October 17, 2018	Lawyer
29	Gjakova	PKR.nr.106/17	November 9, 2018	Prosecutor
31	Gjakova	PKR.nr.25/18	November 5, 2018	Trial panel
32	Gjakova	PKR.nr.44/16	November 7, 2018	Prosecutor
33	Gjakova	PKR.nr.50/18	26 nëntor2018	Other reasons
34	Gjakova	PKR.nr.17/18	December 4, 2018	Witness
35	Gjakova	PKR.nr.36/18	December 18, 2018	Accused
36	Prizren	PKR.nr.79/18	January 24, 2019	Lawyer
37	Prizren	PKR.nr.99/18	January 29, 2019	Injured
38	Prizren	PKR.nr.132/14	January 30, 2019	Accused
39	Gjakova	PKR.nr.50/18	February 6, 2019	Lawyer
40	Prizren	PKR.nr.44/16	February 8, 2019	Lawyer
41	Peja	PKR.nr.106/17	February 14, 2019	Lawyer
42	Gjakova	PKR.nr.5/19	February 25, 2019	Accused
43	Peja	PKR.nr.47/18	February 28, 2019	Prosecutor
44	Prizren	PKR.nr.119/18	March 7, 2019	Trial panel
45	Prizren	PKR.nr.13/19	March 21, 2019	Accused
46	Gjakova	PKR.nr.58/18	April 10, 2019	Accused
47	Prizren	PKR.nr.19/19	April 15, 2019	Accused
48	Gjakova	PKR.nr.14/19	April 18, 2019	Lawyer
49	Gjakova	PKR.nr.5/19	April 25, 2019	Accused
50	Gjakova	PKR.nr.14/19	April 26, 2019	Injured
51	Peja	PKR.nr.26/18	May 23, 2019	Prosecutor
52	Peja	PKR.nr.26/18	June 11, 2019	Trial panel
53	Prizren	PKR.nr.26/19	June 5, 2019	Accused
54	Peja	PKR.nr.227/16	June 17, 2019	Prosecutor
55	Prizren	PKR.nr.42/19	June 19, 2019	Other reasons



56	Peja	PKR.nr.227/16	June 27, 2019	Accused
57	Mitrovica	PKR.nr. 37/19	April 17, 2019	Other reasons
58	Mitrovica	PKR.nr. 67/15	February 1, 2019	Accused
59	Mitrovica	PKR.nr. 46/16	November 10, 2019	Witness
60	Mitrovica	PKR.nr. 147/17	October 30, 2018	Accused
62	Mitrovica	PKR.nr. 141/18	February 5, 2019	Other reasons
63	Mitrovica	PKR.nr. 51/19	May 10, 19	Lawyer
64	Mitrovica	PKR.nr. 122/16	May 6, 19	Accused
65	Mitrovica	PKR.nr. 111/18	January 17, 2019	Prosecutor
66	Mitrovica	PKR.nr. 210/15	February 5, 2019	Accused
67	Mitrovica	PKR.nr. 210/15	November 6, 2018	Prosecutor
68	Mitrovica	PKR.nr. 135/18	April 5, 2019	Accused
69	Mitrovica	PKR.nr. 121/18	January 15, 2019	Injured
70	Mitrovica	PKR.nr. 121/18	January 25, 2019	Witness
71	Mitrovica	PKR.nr. 140/17	January 25, 2019	Lawyer
72	Mitrovica	PKR.nr. 156/17	January 29, 2019	Lawyer
73	Prishtina	PKR.nr.627/15	May 15, 2019	Prosecutor
74	Prishtina	PKR.nr.627/15	May 24, 2019	Prosecutor
75	Prishtina	PKR. 199/17	November 12, 2018	Other reasons
76	Prishtina	PKR.nr. 253/17	December 17, 2018	Prosecutor
77	Prishtina	PKR.nr.242/18	May 24, 19	Other reasons
78	Prishtina	PKR.nr. 712/14	April 1, 2019	Trial panel
79	Prishtina	PKR.nr.113/17	December 4, 2018	Trial panel
80	Prishtina	PP/I nr.7/2014	October 23, 2018	Other reasons
81	Ferizaj	P.nr.173/17	November 13, 2018	Trial panel
82	Prishtina	PKR.nr.111/17	December 17, 2018	Prosecutor
83	Prishtina	PKR-164/2017	December 17, 2018	Prosecutor
84	Ferizaj	PKR.193/17	March 12, 2019	Prosecutor
85	Ferizaj	PKR.193/17	March 28, 2019	Prosecutor
86	Prishtina	PPS.nr.73/2013	February 6, 2019	Prosecutor

87	Ferizaj	P.nr.173/17	February 21, 2019	Trial panel
88	Prizren	PKR.nr.19/19	July 2, 2019	Lawyer
89	Gjakova	PKR.nr.64/18	July 05, 2019	Lawyer
90	Gjakova	PKR.nr.58/18	July 9, 2019	Lawyer
91	Gjakova	PKR.nr.58/18	July 11, 2019	Lawyer
92	Prizren	PKR.nr.24/19	July 15, 2019	Accused
93	Peja	PKR.nr. 26/18	June 17, 2019	Prosecutor
94	Gjakova	PKR.nr. 14/19	July 2, 2019	Accused
95	Peja	PKR.nr. 106/17	August 19, 2019	Prosecutor
96	Gjakova	PKR.nr. 15/19	May 20, 2019	Injured
97	Prizren	PKR.nr. 87/18	August 29, 2019	Trial panel
98	Peja	PKR.nr. 41/19	August 27, 2019	Injured
99	Peja	PKR.nr. 26/18	September 20, 2019	Trial panel
100	Prizren	PKR.nr. 42/19	September 3, 2019	Trial panel
101	Prizren	PKR.nr.42/19	September 19, 2019	Prosecutor
102	Prizren	PKR.nr. 24/19	September 3, 2019	Trial panel
103	Prishtina	PKR.nr.142/18	July 30, 2019	Accused
104	Prishtina	PKR.nr.206/18	July 10, 2019	Trial panel
105	Prishtina	PKR.nr. 206/18	September 9, 2019	Accused
106	Prishtina	PKR.nr. 439/16	September 17, 2019	Other reasons
107	Prishtina	PKR.nr. 16/18	July 30, 2019	Witness
108	Prishtina	PKR.nr. 1/19	July 28, 2019	Accused
109	Prishtina	PKR.nr. 40/18	September 19, 2019	Trial panel
110	Prishtina	PKR.nr.96/18	August 19, 2019	Expert
111	Prishtina	PKR.nr. 185/18	September 18, 2019	Accused
112	Prishtina	PKR.nr. 192/18	September 12, 2019	Lawyer
113	Prishtina	PKR.nr. 325/18	September 5, 2019	Other reasons
114	Prishtina	PKR.nr. 610/16	September 5, 2019	Lawyer
115	Prishtina	PKR.nr. 760/16	July 15, 2019	Witness

TABLE 10. Cases of postponement of court hearings

5.5 Cases of interruption of court hearings

Organization Çohu! during its monitoring identified cases of non-compliance with the legal provisions, namely the KPRK provision 312 which in paragraph 3 foresees the observance of an 8-day deadline for the continuation of the court sessions after its interruption, as well as the situation and cases when the interrupted court hearing may exceed this 8-day deadline.

Table 11 lists the 30 cases in which the KPRK provision 312 was not observed in the courts monitored from October 2018 to September 2019.

Interruption of court hearings (Article 312 of KPRK)

Court	Case no.	Date of monitoring
Prishtina	PKR.nr.476/15	November 12, 2018
Prishtina	PKR.nr. 439/15	December 24, 2018
Prishtina	PKR.nr. 3/18	March 5, 2019
Prishtina	PKR.nr. 397/17	December 5, 2018
Prishtina	PKR.nr.149/17	April 16, 2019
Prishtina	PKR.nr.269/16	February 19, 2019
Prishtina	PKR.nr.458/16	February 20, 2019
Prishtina	PKR.nr. 16/18	April 17, 2019
Peja	PKR.nr.168/16	November 19, 2018
Peja	PKR.nr. 5/18	December 19, 2018
Peja	PKR.nr. 106/17	January 17, 2019
Peja	PKR.nr.106/17	February 20, 2019
Peja	PKR.nr. 50/18	February 11, 2019
Peja	PKR.nr. 5/18	March 1, 2019
Peja	PKR.nr.168/16	March 4, 2019
Peja	PKR.nr. 47/18	March 28, 2019
Peja	PKR.nr. 26/18	April 11, 2019
Peja	PKR.nr. 26/18	April 13, 2019
Prizren	PKR.nr. 87/18	April 23, 2019
Prizren	PKR.nr. 91/18	May 10, 2019
Prizren	PKR.nr. 119/18	May 17, 2019
Ferizaj	PKR.nr.37/17	December 14, 2018

Ferizaj	PKR.nr.37/17	January 14, 2019
Ferizaj	PKR.nr. 204/17	May 6, 2019
Gjakova	PKR.nr.36/18	January 23, 2019
Gjakova	PKR.nr.56/18	May 6, 2019
Gjilan	PKR.nr.129/18	May 8, 2019
Prishtina	PKR.nr. 204/18	June 10, 2019
Prishtina	PKR.nr. 204/18	July 9, 2019
Prizren	PKR.nr. 42/19	June 19, 2019

TABLE 11. Basic courts with cases of interruption of court hearings





Organizata për
Demokraci, Antikorrupsion
dhe Dinjitet, Çohu!



Kingdom of the Netherlands