



Organization for
Democracy, Anticorruption
and Dignity, Çohu!



ACCESS TO JUSTICE AND HUMAN RIGHTS



May 2016 - May 2017

COURT MONITORING
REPORT IN
PRISHTINË/PRIŠTINA,
MITROVICË/MITROVICA
AND GJILAN/GNJILANE



An EU funded project managed by the European Union Office in Kosovo

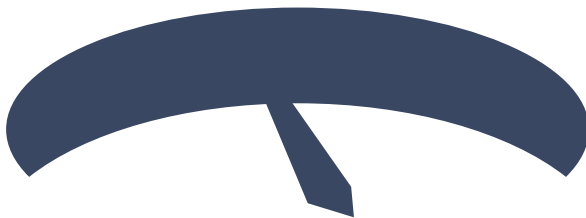


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Published by:

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EXECUTIVE SUMMARY

In 2016 Organization for Democracy, Anticorruption and Dignity Çohu! in partnership with NGO Communication for Social Development - CSD signed a Memorandum of Cooperation with Kosovo Judicial Council for the monitoring of courts. After signing this agreement in April 2016, the organizations started monitoring cases of corruption, organized crime, criminal offences against marriage and family and cases from Article 147 of the Criminal Code of Kosovo (CCK).

The reason behind the said focus is to monitor certain cases of priority, cases of corruption and organized crime, as well as their comparison with cases of sensitive character, such as domestic violence or breach of human rights, and cases of inciting national, racial, religious or ethnic hatred¹, discord or intolerance.

During one-year period, Çohu! and CSD monitored a total of 102 cases and 214 court hearings in Basic Courts in Prishtinë/Priština, Gjilan/Gnjilane and Mitrovicë/Mitrovica, and identified various violations within those courts, of both technical and procedural nature, as well as of substantive nature.

The focus of analysis are the findings of the monitoring, data comparison and analysis on criminal offences of corruption, organized crime and other criminal offences.

The findings of the analysis pertaining to 2015 and 2016 initially identify data inconsistency and lack of harmonization of Kosovo Prosecutorial Council (further in the report KPC) related to cases of corruption, as well as limited and insignificant penalties by courts.

According to data assessment pertaining to 2015 we found that there is data inconsistency in 59 cases involving 59 persons, while in KPC's Tracking Mechanism for

¹ The focus of this year's monitoring were three (3) basic courts of Kosovo - Basic court in Prishtinë/Priština with its branch in Graçanicë/Gračanica, Basic court in Mitrovicë/Mitrovica, and Basic court in Gjilan/Gnjilane. At the beginning, the monitoring was focused on criminal offences from the chapters against official corruption and abuse of official position, organized crime, criminal offences against marriage and family, and criminal offences of inciting national, racial, religious or ethnic hatred, discord or intolerance, with a special focus on corruption and organized crime.

Corruption there are 59 more cases and 59 less persons based on data in process, without those cases that were resolved during January-December 2015². In 2016, on the other hand, there is less inconsistency, with 2 more cases and 78 more persons.³

Çohu! and CSD consider that such inconsistency, especially in corruption cases, points to continuous KPC problems in relation to the unification and accurate processing of such cases. Though they seem to be of technical nature, such inconsistency in the tracking mechanism hinders access to accurate data and as a result, it creates difficulty in analysis and completion of processing of these data into various categories.

Based on KJC data, courts impose light penalties for corruption cases, while there is also lack of penalties for organized crime.

The report shows that the biggest number of cases treated both by prosecutions and by courts had to do with corruption.

Based on KPC data that we addressed on this report, prosecutions resolved 44.76% of persons involved in corruption cases during 2016 (1,115 out of 2,491 persons in process during this period), 45.86% of persons involved in criminal offence against marriage and family, 41.38% for organized crime and only 18.22% of persons (16 out of 85 persons in process during 2016).

Cases of corruption make up the highest percentage of cases resolved by courts as well, and out of 929 corrup-

tion cases in process during 2016, basic courts resolved 357 cases or 38.4%. Further, 30.6% and 35.71% of cases pertaining to criminal offences against marriage and family, respectively criminal offences inciting national, racial, religious or ethnic hatred, discord or intolerance were resolved by basic courts, while only 3 cases out of a total of 63 cases of organized crime were resolved during 2016.

In terms of resolution of cases, those related to corruption are dominant compared to the number of resolved cases related to other chapters.

Çohu and CSD carried out monitoring on daily basis, and it was focused on cases of corruption and organized crime.

The findings from the monitoring of three basic courts, in Prishtinë/Priština, Gjilan/Gnjilane and Mitrovicë/Mitrovica have identified different violations, ranging from technical matters such as lack of transparency and delays in the initiation of court hearing, up to breaches of legal procedures and human rights violations.

In Mitrovicë/Mitrovica region, which also includes the municipalities in the north of Kosovo, in addition to the dysfunctionality of judiciary in that part for more than 8 years, the monitoring also identified continuous problems. Lack of normal conditions for hearing as well as lack of space in the court, huge number of cases and lack of judges and prosecutors to cover all cases, resulted in difficulties to treat such cases within legal time frames and hindered normal organization of courts processes.

Çohu! and CSD believe that despite several steps taken regarding the performance and handling of such cases for the region of Mitrovicë/Mitrovica (northern Mitrovicë/Mitrovica, Leposaviq/Leposavić, Zubinpotok/Zubin-Potok and Zvečan/Zvečan), these municipalities continue to have serious problems in terms of functioning of courts.

Çohu! and CSD consider that the inability to organize fair trial and within reasonable time frame, breach of investi-

2 Note: These statistics are different from the one provided by KJC if we consider all cases during 2015 (1,119 cases with 3,216 persons) minus the resolved cases during that period (522 cases with 1,113 persons). Taking into consideration the total number of cases in process (1,119 cases with 3,216) minus the resolved cases during the same period (522 cases with 1,113 persons), the total should be 597 cases with 2,103 persons and not 656 cases with 2,162 persons as presented by KJC.

3 Note: Data inconsistency per chapters proceeded by prosecutions can also be found pertaining to 2015 and 2016. More precisely, the data of December 31 2015 which should comprise cases to be transferred in the following year, respectively January 1, 2016, are not consistent. Considering all data from all chapters, by the end of 2015 there were 656 unresolved cases involving 2,162 persons, while as of January 1, 2016 there were 658 unresolved cases involving 2,240 persons.



gative and procedural deadlines for completion of court hearings, is a violation of human rights, stipulated by the European Convention on Human Rights, the constitutional provisions on fair and reasonable trial, the Law on Courts and criminal procedure provisions.

The findings of the monitoring further identify lack of transparency of judiciary, and a hearing of public importance in a case involving high public officials was closed for the public and was inaccessible. The monitoring identified delays and postponement of hearings in three courts.

An even graver breach is the issue of compliance with legal and procedural time frames. Out of 102 monitored cases in 2014 hearings in three basic courts (Prishtinë/Priština, Mitrovicë/Mitrovica and Gjilan/Gnjilane), Çohu! identified breaches of procedural time frames in almost all cases, depending on the stage of proceeding, ranging from the moment of the receipt of a case in court, scheduling initial and second hearing, main trial, up to the conclusion, trial and judgement. Although the scheduling of initial hearing stipulates a 30-day period from the moment the court receives the case, according to monitoring data this was not done even after 3 years.

Çohu! and CSD believe that such breach of time frames is a breach of procedural provisions and continues to have impact on the prolongation of trials and continuous backlogging of cases. Such a breach is at the same time breach of justice principles regarding a fair trial and within reasonable time.

Based on monitoring data in those courts, 15 out of a total of 102 monitored cases were qualified as high-level corruption. According to our monitoring, various profiles of individuals are involved in high-level corruption, including businessmen and ordinary citizens, deputies, ministers, deputy ministers and permanent secretaries, mayors, presidents of courts, chief prosecutors and so on. Çohu! and CSD consider that the low number of high profile cases and the manner in which those cases are resolved is of great concern. 8 out of 13 high profile cases were resolved either on first or second instance, while the proceedings are ongoing for the remaining 5 suspects.

4 out of 8 suspects (involving 2 ministers, 4 mayors, one president of the court and one chief prosecutor) were found guilty and were given light sentences, and 4 other cases were rejected due to lack of evidence, according to court justification.

Çohu! and CSD believe that such mild sentences, rejection of indictments and release of officials considered as high-profile officials, shows the low level of fight against corruption and punishment of high-level corruption.

An annex of this report deals with the efficiency of courts and prosecutions for each Chapter individually. KPC and KJC had decided to treat corruption cases with absolute priority, by approving Strategies and Action Plans to reduce those cases. While during 2016 prosecutions solved 461 cases of corruption, courts solved a total of 357 cases of this nature.

Courts and prosecutions in Kosovo also set organized crime as priority and those cases were even categorized as a standard of progress in different integration processes. Although those cases are more complex in nature, the low number of such cases resolved by prosecutions and courts presents a concern, especially cases resolved by courts. During two years (2015, 2016) courts resolved only 5 cases of organized crime, and taking into consideration that this is a priority standard, such a figure is far from meeting the requirement to fight such phenomenon, which is among the most problematic ones in Kosovo.

Çohu! and CSD consider that the high backlog continues to represent a significant burden, especially for judiciary. Better preparation of prosecutors and judges for cases of certain nature, employment of more prosecutors, judges and professional associates, would reduce the high number of cases in courts and prosecutions, and contribute to their effective proceeding.

Recommendations address the findings for key institutions, KPC and KJC, courts and prosecutions, Kosovo Judicial Institute and others, which have to do with the increase of number of judges and prosecutors, prevention of data inconsistency in tracking mechanism, continuation of legal education, accountability of judiciary and prosecution in terms of prescription of cases, strengthening and creation of accountability mechanisms in KJC and KPC which have to do with the responsibilities and measures towards judges and prosecutors.

ABBREVIATIONS

EULEX	European Union	CCRK	Criminal Code of Kosovo
SCD	Serious Crimes Department	CPCK	Criminal Procedure Code of Kosovo
GD	General Department	KP	Kosovo Police
EULEX	European Union Rule of Law Mission in Kosovo	BP	Basic Prosecution
CA	Court of Appeals	SPRK	Special Prosecution of Kosovo
CS	Supreme Court	EP	European Parliament
BC	Basic Court	USAID	United States Agency for International Development
EC	European Commission	ÇOHU!	Organization for Democracy, Anticorruption and Dignity
KJD	Kosovo Judicial Council	CSD	Communication for Social Development
KPC	Kosovo Prosecution Council		



METHODOLOGY

In April 2016 Kosovo Judicial Council reached a Memorandum with Çohu! and CSD aimed at cooperation and monitoring of criminal cases pertaining to the Criminal Code Chapters related to official corruption and abuse of official position, organized crime, criminal offences against marriage and family, and criminal offences of inciting national, racial, religious or ethnic hatred, discord or intolerance, with a special focus on corruption and organized crime. This memorandum enabled Çohu! and CSD to monitor cases in courts and to access data from Kosovo Judicial Council for relevant periods.

At the beginning, during the processing of data for courts and prosecution, which were obtained from Kosovo Judicial Council, Çohu! in partnership with CSD used the quantitative comparison method by comparing and analysing the proceeding of data of prosecution and courts for certain period according to chapters that were the focus of the analysis.

Access to court hearings and the monitoring of 214 court hearings in 102 cases enabled the identification of various problems which characterize a court hearing as well as the court itself. In drafting the report, Çohu! and CSD also used legal research regarding domestic and international legislation, which also represent the source of work, comparisons, findings and recommendations of this report.

Çohu and CSD also referred to various legal acts, such as Constitution, Criminal Code, Criminal Procedure Code, Law on Courts, Law on Prosecution, Law on Kosovo Prosecution Council, European Chapter of Human Rights, Strategies and Action Plans of KJC and KPK, statistical reports of those councils and other relevant secondary legislation.

The report also includes interviews with key actors from prosecution and courts, presidents of the courts, chief prosecutors and other actors in order to confront the findings from the monitoring and enable access to positions and concerns of key judicial and prosecution actors in relation to the effectiveness of judiciary and prosecution in relevant matters.

INTRODUCTION

Corruption and organized continue to pose challenge for Kosovo's Justice System. High level of corruption which hinders the normal functioning of local and central institutions, also characterized by lack of readiness and political will to fight corruption, also poses concern for country's development and is one of the incessant requirements of international community, also included in EC criteria for various integration processes.

Although efficiency was improved among prosecutions and courts in terms of resolved cases, especially during the last year, based on international and local reports more needs to be done to fight and punish corruption

The reason behind the said focus is to monitor certain cases of priority, cases of corruption and organized crime, as well as their comparison with cases of sensitive character, such as domestic violence or breach of human rights, and cases of inciting national, racial, religious or ethnic hatred⁴, discord or intolerance. In this respect, Kosovo Judicial Council and Kosovo Prosecution Council took decisions and drafted strategies to treat corruption and organized crime cases with priority, by approving Action Plans in such cases. One of the main objectives of these action plans was the reduction and the conclusion of old cases.

Therefore, the focus on monitoring and analysis of these two Chapters of criminal offences, their comparison with two other criminal offences – against marriage and family and inciting national, racial, religious or ethnic hatred aimed to compare the handling of such cases in prosecution and courts as well as the issue whether KJC and KPC respected their decision to treat such cases with priority (corruption and organized crime cases).

4 The focus of this year's monitoring were three (3) basic courts of Kosovo - Basic court in Prishtinë/Priština with its branch in Graçanicë/Gračanica, Basic court in Mitrovicë/Mitrovica, and Basic court in Gjiilan/Gnjilane. At the beginning, the monitoring was focused on criminal offences from the chapters against official corruption and abuse of official position, organized crime, criminal offences against marriage and family, and criminal offences of inciting national, racial, religious or ethnic hatred, discord or intolerance, with a special focus on corruption and organized crime.

However, unfortunately, prosecutions and courts continue to have a considerable number of such old cases, and a high number of such cases in process.

During the monitoring period (May 2016 – May 2017) in Basic Court in Prishtinë/Priština, Mitrovicë/Mitrovica and Gjiilan/Gnjilane, Çohu! and CSD monitored a total of 102 cases and 214 court hearings, carried out in line with a Memorandum of Cooperation.⁵ The goal of this agreement was to support the processes for the improvement of Justice System and rule of law in Kosovo through bilateral cooperation of the signing parties in line with legislation into force in Kosovo.

The monitoring of 186 court hearings identified various problems, such as lack of transparency, high number of cases and low number of judges and prosecutors, delays in the initiation of hearings and their postponement, dysfunctionality of the court in the north, and breach of justice principles, and up to human rights violation, according to Kosovo Constitution, European Charter of Human Rights, and domestic legislation. Among other things, the monitoring also identified breaches of procedural time frames in terms of scheduling and organizing the hearing (initial, second and main trial), as well as breaches of time frames to conclude a main trial.

In addition to monitoring of the said cases, the project also analysed and compared the proceedings related to monitored chapters in all basic courts and prosecutions during 2015 and during the nine-month period of 2016 (January - September). The project carried out this analysis and comparison based on data obtained from Kosovo Prosecution Council and Kosovo Judicial Council. This analysis shows the proceeding of cases for the said period, percentage of resolved cases according to chapters, data inconsistency and the efficiency of prosecution and courts.

5 This agreement aims to establish mutual cooperation between Kosovo Judicial Council, Çohu! and CSD to monitor judicial procedure and to contribute to an improved interest of public and judiciary.





On the end of 2016 basic courts in Kosovo had a total of **261** judges with a total of **365,976** unresolved cases.

As a conclusion, the report also gives recommendations based on findings from the monitoring and data analysis and presents main findings to be addressed by relevant law enforcement institutions.

1. Basic info - Basic Court in Prishtinë/Priština, Gjilan/Gnjilane and Mitrovicë/Mitrovica

Based on KJC data, as of the end of 2016 basic courts in Kosovo had a total of 261 judges with a total of 365,976 unresolved cases. Çohu! and CSD were focused on the monitoring of Basic Court in Prishtinë/Priština, Mitrovicë/Mitrovica and Gjilan/Gnjilane.⁶

1.1 Basic Court in Prishtinë/Priština - Court structure and organization

Basic Court in Prishtinë/Priština is the court with the highest number of cases compared to other basic courts. Basic Court in Prishtinë/Priština has four branches, in Glllogoc/Glogovac, Graçanicë/Gračanica, Podujevë/

Podujevo and Lipjan/Lipljan. These branches deal with cases from General Department, while Basic Court in Prishtinë/Priština also deals with cases of Serious Crimes Department, Administrative Department as well as Economic Department, among others.

Out of a total of 261 judges of basic courts, Prishtinë/Priština has 83 judges⁷ or 31% of all judges. Out of a total of 365,976 unresolved cases as of the end of 2016, Prishtinë/Priština together with its branches has 144,562 such cases or 40% of all unresolved cases by basic courts as of the end of 2016.⁸

Based on these data, and if we compare courts in terms of the number of cases, Prishtinë/Priština turns out to have the lowest number of judges compared to cases in process. Hence, although it covers almost the half of all cases in all basic courts (around 40%), this court has only 31% of all judges, which is obviously far from fulfilling the need to resolve these cases.

The case load of each judge with a high number of cases in process as well as new cases has hindered the reduction of cases, which continue to be transferred from year to year.

If we consider the average of cases per judge, it turns out that a judge in Prishtinë/Priština together and its branches has a total of 1,741 cases.

⁶ Statistics report of courts for 2016, pp.5: <http://www.gjyqesori-rks.org/sq/kjc/report/list/1>.

⁷ Note: According to BC Prishtinë/Priština data for April, this court together with its branches has a total of 81 judges.

⁸ Statistics report of courts for 2016: <http://www.gjyqesori-rks.org/sq/kjc/report/list/1>



Basic Court in Prishtina:

40% of all cases (144,562 out of a total of 365,976 unresolved cases);

30% of judges (83 out of 261 judges of basic courts)

This figure, including the number of new cases that this court receives, is unbearable for a judge. According to KJC data, only during one year, a judge in Prishtinë/Priština receives a total of 1.608 new cases.⁹

The number of cases in process received by courts during one year is unacceptable, and this continues to aggravate the situation with further load and inefficiency of this court.

On the other hand, out of a total of 102 cases and 214 court hearings monitored by Çohu! and CSD during one year in Basic Court in Prishtinë/Priština, Mitrovicë/Mitrovica and Gjilan/Gnjilane, 64 cases and 165 court hearings pertained to Basic court in Prishtinë/Priština. During the monitoring in this court, Çohu! and CSD identified many violations, ranging from procedural to substantive ones. Difficulty in establishing a trial panel due to low number of judges, especially in Serious Crimes Department, continues to be among the main problems of this court.

● If we consider the average of cases per judge, it turns out that a judge in Prishtinë/Priština together and its branches has a total of 1,741 cases.

MAIN FINDINGS OF THE MONITORING OF BASIC COURT IN PRISHTINË/PRIŠTINA ARE:

- Difficulty in the establishment of a trial panel;
- Low number of judges;
- Closing of court hearings of public importance;
- Breaches of procedural provisions;
- Breaches of time frames for initial, secondary, and main trials, as well as for their completion;

All the above findings are tackled in the respective chapters of this report.

It should be noted that as part of this court's branches, Graçanicë/Gračanica has only 1 judge who handles only civil cases. According to data from KJC's Statistical Report, only during 2016 Graçanicë/Gračanica branch received a total of 239 cases, resolved 223 cases with only one judge, and 666 cases remained unresolved.

1.2 Basic court in Mitrovicë/Mitrovica Court structure and organization

Basic Court in Mitrovicë/Mitrovica is one of the 7 basic courts which has the following municipalities under its jurisdiction: Mitrovicë/Mitrovica North, Mitrovicë/Mitrovica South, Leposaviq/Leposavić, Zveçan/Zvečan, Zubinpo-

⁹ According to data from KJC's Statistical Report, BC Prishtinë/Priština with its branches during 2016 received a total of 133,098 new cases out of a total of 423,044 cases received by all basic courts in Kosovo.

tok/Zubin-Potok, Skenderaj/Srbica and Vushtrri/Vučitrn. This courts covers a total of 328 villages.¹⁰ Its branches are in Leposaviq/Leposavić, Zvečan/Zvečan, Skenderaj/Srbica, Zubinpotok/Zubin-Potok and Vushtrri/Vučitrn.¹¹

Mitrovicë/Mitrovica region now has a total of 26 judges (24 Albanians and 2 Serbs), out of whom Basic court in Mitrovicë/Mitrovica has 13 judges, Skenderaj/Srbica has 5 judges, and Vushtrri/Vučitrn has 8 judges.¹²

Based on the categorisation and the standard of the number of judges, BC Mitrovicë/Mitrovica should have a total of 46 judges, and in 2004 this court had a total of 54 judges. Considering the number of cases in BC Mitrovicë/Mitrovica, even if the court filled those 46 positions, the figure would not be enough to cover and proceed with all cases efficiently.¹³

According to KJC data, BC Mitrovicë/Mitrovica with its branches in Vushtrri/Vučitrn and Skenderaj/Srbica during 2016 functioned with a total of 24 judges, and by the end of 2016 it had a total of 44,237 unresolved cases. Based on these very statistics, a judge in BC Mitrovicë/Mitrovica is loaded with a total of 1,843 cases.

BASED ON OUR MONITORING, AMONG THE MAIN PROBLEMS IDENTIFIED IN BC MITROVICË/MITROVICA WERE:

- Lack of premises and lack or normal conditions for court hearings;
- Low number of judges;
- Problems of access to justice due to lack of functioning of judiciary in the municipalities in north.
- Prolongation of hearings and violation of rights during trials.
- Violation of time frames, and similar.¹⁴

10 <http://www.gjyqesori-rks.org/sq/courts/page/index/198>

11 Ibid.

12 Interview with acting President of BC Mitrovicë/Mitrovica, Ali Kutllovci, on November 3, 2016, Vushtrri/Vučitrn.

13 While mentioning a total of 54 judges of this court, Ali Kutllovci says that even 46 judges would not be enough for this region to deal with cases in process. Interview conducted on November 3, 2016, Vushtrri/Vučitrn.

During one year, Çohu! and CSD monitored a total of 23 court hearings in 20 cases. During this monitoring (May 2016 - May 2017) Çohu! and CSD in BC Mitrovicë/Mitrovica identified continuous problems which hindered the normal functioning of court hearings.¹⁴

Basic Court in Mitrovicë/Mitrovica as of 2008 has no jurisdiction over municipalities in the north of Kosovo. The agreements that were recently signed in Brussels with the aim to integrate the north of Kosovo within Kosovo justice system failed, and as a consequence northern municipalities such as Leposaviq/Leposavić, Zubinpotok/Zubin-Potok, Zvečan/Zvečan and Northern Mitrovicë/Mitrovica continue to be out of Kosovo justice system.

1.3 Basic Court in Gjilan/Gnjilane Court structure and organization

Basic Court in Gjilan/Gnjilane covers the territory of Gjilan/Gnjilane, Kamenicë/Kamenica, Novobërdë/Novo Brdo, Ranilug/Ranilug, Partesh/Parteš, Viti/Vitina and Kllokot/Klokot, with 167 villages and its branches in Viti/Vitina, Novobërdë/Novo Brdo and Kamenicë/Kamenica.

According to KJC data, BC Gjilan/Gnjilane with its branches had a total of 20,393 unresolved cases and 29 judges as of the end of 2016.¹⁵

Compared to Prishtinë/Priština and Mitrovicë/Mitrovica, BC Gjilan/Gnjilane is somewhat less loaded in terms of cases per judge. According to these data, a judge in Gjilan/Gnjilane has a total of 703 cases. However, it should be mentioned that Gjilan/Gnjilane received double the number of unresolved cases as of the end of 2016, reaching a total of 46,797 and managed to resolve more cases than those in the process and those received during 2016, a total of 52,288 cases.

Out of a total of 102 cases and 214 court hearings monitored by Çohu! and CSD during May 2016 - May 2017, 18 cases and 26 court hearings pertained to Basic Court in Gjilan/Gnjilane.

14 Note: All the above findings are presented in a separate part of this report on judicial and prosecutorial system in Mitrovicë/Mitrovica.

15 Statistics report of courts for 2016: <http://www.gjyqesori-rks.org/sq/kjc/report/list/1>

The monitoring identified similar violations in BC Gjilan/Gnjilane as well. These violations were tackled in separate chapters of this report.

2. Findings

Based on the Memorandum of Cooperation signed in April 2016 between KJC, Çohu! and CSD in April 2016, the monitoring of basic courts of Prishtinë/Priština, Mitrovicë/Mitrovica and Gjilan/Gnjilane kicked-off in May 2016.

The monitoring was carried out on daily basis, and it was focused on cases of corruption and organized crime. Based on monitoring data pertaining to May 2016–May 2017 period, Çohu! and CSD monitored a total of 214 court hearings in 102 cases.

During one-year monitoring, Çohu! and CSD identified findings of various nature, ranging from technical matters such as lack of transparency and delays in the initiation of court hearing, up to breaches of legal procedures and human rights violations.

In Mitrovicë/Mitrovica region, which also includes the municipalities in the north of Kosovo¹⁶, in addition to the dysfunctionality of judiciary in that part for more than 9 years, the monitoring also identified continuous problems which hinder normal carrying out of court processes.

Lack of transparency was particularly apparent in BC Prishtinë/Priština, and a hearing of public importance in a case involving high public officials was closed for the public and was inaccessible. General public and interested individuals were denied access to hearings of public importance, such as the one against former President of Court of Appeal, Salih Mekaj, in a case known as “Stents” and other cases.

The project identified delays in hearings and their postponement in three courts covered by this monitoring.

From a total of 102 monitored cases with 214 court hearings in three basic courts, in almost no case was the legal time frame respected. These time frames have to do with

¹⁶ Basic court in Mitrovicë/Mitrovica covers north and south of Mitrovicë/Mitrovica, Leposaviq/Leposavić, Zvečan/Zvečan, Zubinpotok/Zubin-Potok, Skenderaj/Srbica and Vushtrri/Vučitër, with a total of 328 villages.

BASED ON OUR MONITORING, AMONG THE MAIN PROBLEMS IDENTIFIED IN BC

- lack of transparency
- delays in the initiation of court hearing
- breaches of legal procedures
- the court and prosecution dysfunctionality in the north of Kosovo
- human rights violations
- lack of high-profile cases
- mild sentences for existing cases

scheduling and carrying out court hearings (initial, second, main trial), and the conclusion of main trials.

Although the scheduling of initial hearing included a 30-day period from the moment the court receives the case, according to monitoring data this was not done even after 3 years. Delays in scheduling and failure to hold court hearings in set time frames, delays in terms of time the duration of a court hearing represent breach of legal procedural provisions, set by the Code of Criminal Procedure.

Monitoring and analysis of corruption and organized crime cases also identified a high number of cases in three basic courts, as well as the overload of judges with numerous cases. Only in BC Prishtinë/Priština, which is the court with the highest number of cases, a judge has an average of 1,741 cases. The case is not much better in Mitrovicë/Mitrovica and Gjilan/Gnjilane.

The monitoring also found lack of high-profile cases and mild sentences for existing cases, showing lack of efficiency of prosecution and courts to prosecute and sentence senior public officials, categorized also according to Administrative Instruction for high-profile officials.

As a conclusion, the court dysfunctionality in the north of Kosovo for more than 8 years implies that citizens do not have access to justice and in this way the fundamental principles of justice regarding fair and timely treatment are not respected. These principles are set in the Constitution of Kosovo, European Convention of Human Rights, Law on Courts, and the Code of Criminal Procedure of Kosovo.

- During the monitoring of court hearings, Çohu! and CSD found cases of public importance which were closed for public.

- The process against former judge Mekaj, which started on October 20, 2016 was closed for public with a court decision

2.1 Transparency of the judiciary

Based on constitutional and legal provisions, court hearings are open to public and are of public character. Article 293 determines that the hearings shall be open¹⁷ while Article 294 determines cases when public may be excluded.

According to this provision (Article 294) the public may be excluded from the whole or part of the main trial if this is necessary for protecting official secrets, maintaining the confidentiality of information which would be jeopardized by a public hearing, maintaining law and order, protecting the personal or family life of the accused, the injured party or of other participants in the proceedings, protecting the interests of children, or protecting injured parties, cooperative witnesses and witnesses and others.¹⁸

Also, the Constitution of Kosovo and the European Convention on Human Rights also regulate the publicity of a trial.

According to Article 31, paragraph 3 of the Constitution of Kosovo which regulates the right to fair and impartial trial, trials shall be open to the public except in limited circumstances in which the court determines that in the interest of justice the public or the media should be excluded, as foreseen by law.¹⁹

17 Criminal Procedure Code, Article 294:<https://gzk.rks-gov.net/ActDetail.aspx?ActID=2861>: The court hearing is open. 2 Adults can take part in a court hearing. 3 People present in a court hearing cannot hold carry weapons or dangerous materials, except for police officers that guard the defendant.

18 Criminal Procedure Code, Article 294:<https://gzk.rks-gov.net/ActDetail.aspx?ActID=2861>: At any time from the beginning until the end of the main trial, the single trial judge or trial panel may exclude on the motion of the parties or ex officio, but always after it has heard the parties, the public from the whole or part of the main trial if this is necessary for: 11 1.1. protecting official secrets; 1.2. maintaining the confidentiality of information which would be jeopardized by a public hearing; 1.3. maintaining law and order; 1.4. protecting the personal or family life of the accused, the injured party or of other participants in the proceedings; 1.5. protecting the interests of children; or 189 1.6. protecting injured parties, cooperative witnesses and witnesses as provided for in Chapter XIII of the present Code.

19 Constitution of Kosovo, Article 3, paragraph 3:<https://gzk.rks.gov.net/ActDocumentDetail.aspx?ActID=3702>: Trials shall be open to the public except in limited circumstances in which the court determines that in the interest of justice the public or the media should be excluded because their presence would endanger public order, national security, the interests of minors or the privacy of parties in the process in accordance with law.

On the other hand, Article 40 of the European Convention on Human Rights says that hearings shall be public unless the court in exceptional circumstances decides otherwise.²⁰

During the monitoring of court hearings, Çohu! and CSD found cases of public importance which were closed for public.

The two closed cases have to do with the case of Sali Mekaj, judge of Court of Appeals, and another one known as “Stents” involving ministers, secretaries, doctors, businessmen and many other public officials, while the reopened case is known as “Land” which involves more than 40 accused, including an MP from Democratic Party of Kosovo (PDK), Azem Sylja.

The process against former judge Mekaj, which started on October 20, 2016 was closed for public with a court decision after the request of the defendant and in accord with the prosecutor of the case.

The justification for this decision says that the process will be entirely closed down to protect personal and family life of the accused, in line with criminal provisions, respectively Article 294, paragraph 1, sub-paragraph 1.4. Based on the justification of the ruling, the court finds that the exclusion of public and media and the prohibition to publish stories in press and electronic media, transcripts of surveillance and phone conversations between Sali Mekaj and the other accused, with the same justification that the publication of personal data would damage the defendant.²¹

CPCK determines such closing for such reasons, as well as closing of a part of hearing for same reasons. However, in this case which is of public importance where a former judge is accused of abuse of official position, adding in this way the public importance, the court decided to close the trial entirely by a decision which seems arbitrary.

20 European Convention on Human Rights, Article 40, paragraph 1: Hearings shall be in public unless the Court in exceptional circumstances decides otherwise.

21 Ruling PKR. nr.338/16 of October 20, 2016 of Serious Crimes Department, BC Prishtinë/Prishtina.

The public importance of the case of Mekaj lies in the fact that he is accused of two cases of abuse of public position at the time he served as the President of the Court of Appeals.²²

The decision to close this case for public seems absurd and arbitrary considering the public importance throughout the process, the delayed justification to close down the process and the fact that such a decision was supported by the prosecution (the prosecution and the court agreed to close the case for public, after the request of the defendant), while that decision also stipulated the right to appeal.

Another case which was closed for public is known as “Stents.” This case involves 64 persons, while among the accused are: one minister, a secretary of the ministry, 44 doctors and one nurse working in public health institutions and 13 people who used to work or continue to work in private health institutions.²³

Çohu! and CSD believe that this case was closed down for public without respecting criminal procedure provisions. According to the judge of this case, this was done for technical reasons, respectively due to lack of space in the court, and media were allowed to stay only 2 minutes at the beginning of the hearing, only to get images of the case.

During the hearing held on November 30, 2016, the public was excluded without a prior decision as stipulated in Article 296 of CPCK, and without any reason as stipulated in Article 294 of CPCK.

In other words, the public was excluded without respecting the criminal procedure provisions. The closing of this case violated criminal proceedings dispositions and also proved the incapacity of judiciary to provide sufficient space for a normal and open court hearing, in line with legal and constitutional provisions.

Another case known as “Land” involving former MP Azem Sylja and other 38 persons was initially closed for media, and then reopened on December 13, 2016. The president of the trial panel from EULEX at the beginning of this hearing said to have reopened this hearing for media and public because

²² Sali Mekaj was suspended from his duty, and only after the process started did he offer his resignation from all functions, which was approved by KJC.

²³ June 15, 2016 Special Prosecution of Kosovo filed an indictment against former minister of healthcare, Ferid Agani, the secretary general of this ministry, Gani Shabani, and 62 other persons, for the following criminal offences: abuse of power or official duty, receiving bribe, giving bribe, irresponsible medical treatment, illegal exercise of medical and pharmaceutical activity, and tax evasion.

● Court transparency should be ensured also by opening public hearings, especially those of public importance, in line with legal provisions.

it is of importance for media and because they are interested to know the outcome. In this case, Azem Sylja together with 38 people, including some citizens of Serbia, are accused of 48 different points for abuse of assets in Kosovo. This case is still going on in the Basic court in Prishtinë/Priština.

Despite the reaction of the Association of Kosovo Journalists, civil society and different experts opposing the closing of the hearing, Mekaj and “Stents” cases continue to be closed for public and media.

On the other hand, the President of BC Prishtinë/Priština in her comments and her response regarding the finds of the report, said that BC Prishtinë/Priština is as transparent as law requires it. According to her, “Stents” is open to public.²⁴

Çohu! and CSD consider that the closing of important court processes which involve former high public officials, speaks of arbitrariness of the judiciary and is against legal and constitutional provisions. Such cases of abuse of public position, involving abuse of social property and public interest, are of special importance and of public interest. The inability to participate in such hearings,

The impossibility to take part at such hearings, and the closing of such hearings even for technical reasons, shows a persistent lack of transparency and accountability of judges in taking such decisions, which continue to contribute to lack of transparency and public access.

Court transparency should be ensured also by opening public hearings, especially those of public importance, in line with legal provisions.

Çohu! and CSD believe that the opening of such court hearings and the transparency of courts and prosecutions are of public importance and they also contribute to access and information of public regarding transparency of judiciary, as well as respect for criminal proceedings provisions.

²⁴ Afërdita Bytyqi, President of BC Prishtinë/Priština, January 31, 2017, Prishtinë/Priština



44 court hearing started with delays

170 court hearing started on time

2.2 Delays in hearings and postponements

Based on statistical report of the courts for 2016 drafted by KJC, the number of unresolved cases in all courts (Supreme, Appeals, Special Chamber, and basic courts) is 399,091 cases. According to this report, only basic courts had a total of 365,976 unresolved cases by the end of 2016.²⁵

The protraction of court hearings, delays and postponements, are among the main reasons producing such number of unresolved cases. During the monitoring, Çohu! and CSD identified cases of late initiation of hearings, as well as cases of postponement of hearings.

According to monitoring data for May 2016 – May 2017, 44 out of a total of 214 monitored hearings in Basic Court in Prishtinë/Priština, Mitrovicë/Mitrovica and Gjilan/Gnjilane started late, and 170 hearings started on scheduled time.²⁶

The following table shows all hearings per courts, which started on time or with delays during May 2016 – May 2017.

According to these data, 32 out of 165 monitored hearings started with delays in BC Prishtinë/Priština. 8 out of 23 monitored hearings in BC Mitrovicë/Mitrovica started with delays, and 4 out of 26 monitored hearings in BC Gjilan/Gnjilane started with delays.

- The justification for 25 out of 44 hearings that started late was the absence of trial panel; in 7 cases the prosecutor was absent, and in 12 cases the hearings started late due to the absence of attorney or for other technical reasons, such as lack of spaces or absence of a court reporter.

The main reasons for these delays, according to our findings, was the delay of trial panel, the delay of the prosecutor and other reasons, including the technical ones. The most frequent reason for these delays was the absence of a trial panel.

The following table shows all cases and reasons for delays during May 2016 – May 2017

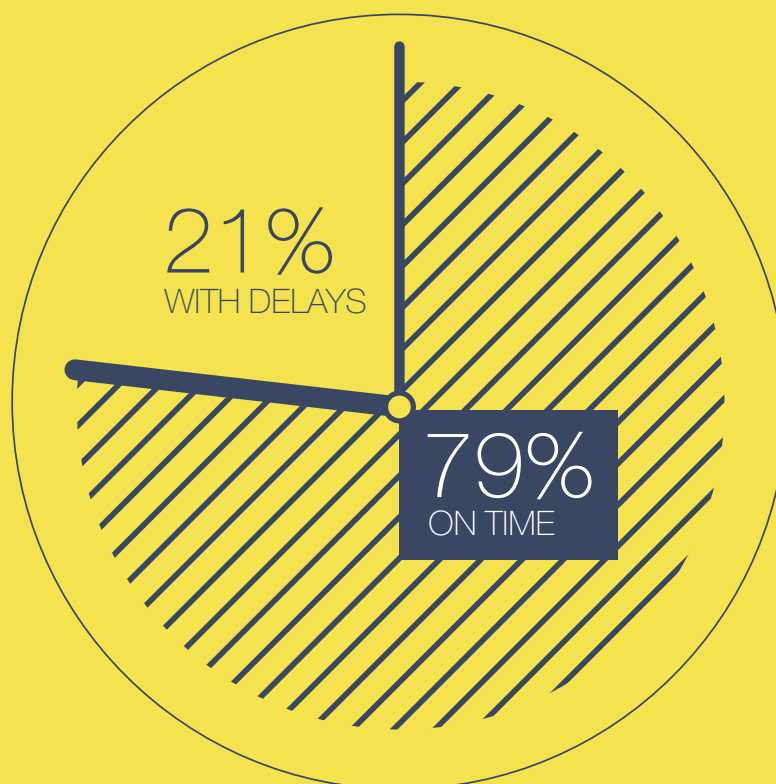
The justification for 24 out of 44 hearings that started late was the absence of trial panel; in 6 cases the prosecutor was absent, and in 14 cases the hearings started late due to the absence of attorney or for other technical reasons, such as lack of spaces or absence of a court reporter.

Basic Court in Prishtinë/Priština has the highest number of sessions that also started late, with a total of 32 hearings, followed by BC Mitrovicë/Mitrovica with 8 hearings and BC Gjilan/Gnjilane with 4 delayed hearings.

²⁵ Statistic report of the courts for 2016, page 5://www.gjyqesori-rks.org/sq/kjc/report/list/1.

²⁶ Based on monitoring of cases, most hearings started up to 15 minutes late, but considering technical reasons for such delays, this report only dealt with cases starting with more than 15 minutes of delay, specifying the reasons for such delays.

Trend of starting on time or with delays of court hearings in Prishtinë/Priština, Mitrovicë/Mitrovica and Gjilan/Gnjilane/Gnjilane



Initiation of hearings

Court	On time	With delays	Total
BC Prishtinë/Priština	133	32	165
BC Gjilan/Gnjilane	22	4	26
BC Mitrovicë/Mitrovica	15	8	23
Total	170	44	214

TABLE NO. 1: Trend of starting on time or with delays of court hearings in BC Prishtinë/Priština, BC Gjilan/Gnjilane, and BC Mitrovicë/Mitrovica during May 2016 – May 2017.



The reasons of delays in the initiation of hearings

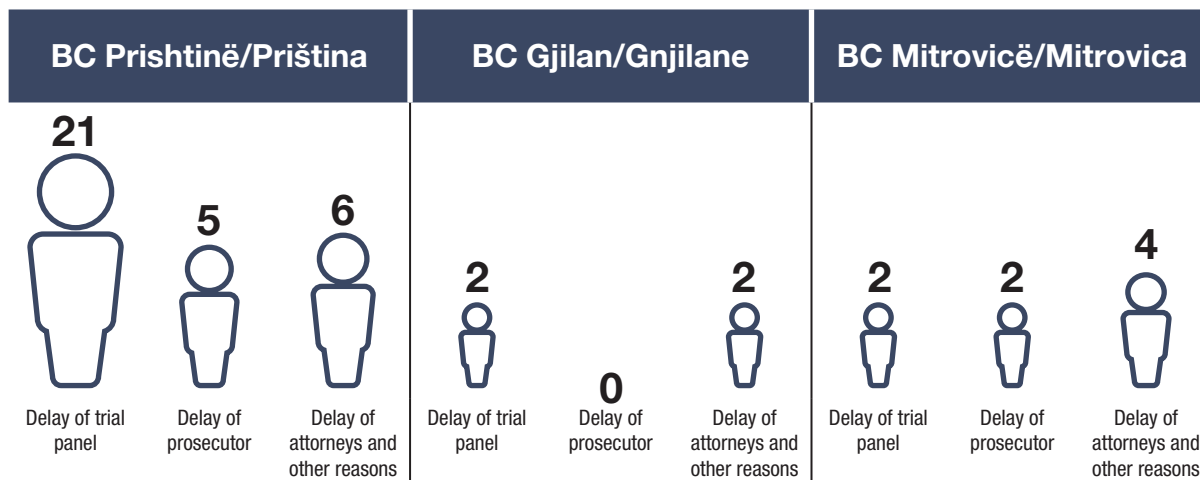


TABLE NO. 2: The reasons of delays in court hearings in BC Prishtinë/Priština, BC Gjilan/Gnjilane, and BC Mitrovicë/Mitrovica during May 2016 – May 2017.

Absence or delay of trial panel²⁷ was the most frequent reason, and this was the case in 21 out of 32 hearings in Prishtinë/Priština. According to monitoring data, in 5 hearings the prosecutor²⁸ was either absent or late, and in 8 cases the delay was due to absence of attorney²⁹ or for other technical reasons.³⁰

27 Case P. nr. 58/14 monitored on May 16, 2016 in BC Prishtinë/Priština;
Case P. nr. 58/14 monitored on May 19, 2016 in BC Prishtinë/Priština;
Case PKR. 666/14 monitored on June 3, 2016 in BC Prishtinë/Priština;
Case PKR. 666/14 monitored on October 11, 2016 in BC Prishtinë/Priština;
Case PKR. 625/15 monitored on June 22, 2016 in BC Prishtinë/Priština;
Case 362/16 monitored on September 6, 2016 in BC Prishtinë/Priština;
Case 362/16 monitored on December 15, 2016 in BC Prishtinë/Priština;
Case PKR. 341/15 monitored on October 17, 2016 in BC Prishtinë/Priština;
Case PKR. Nr. 341/15 monitored on November 24, 2016 in BC Prishtinë/Priština;
Case PKR. Nr. 196/13 monitored on September 29, 2016 in BC Prishtinë/Priština;
Case Nr. PKR. Nr. 438/15 monitored on October 19, 2016 in BC Prishtinë/Priština;
Case PKR. Nr. 649/14 monitored on October 19, 2016 in BC Prishtinë/Priština;
Case PKR. nr. 327-14 monitored on October 24, 2016 in BC Prishtinë/Priština;

28 Case P. nr. 58/14 monitored on May 16, 2016 in BC Prishtinë/Priština; The hearing scheduled for 13:30 started with 25 minute delay due to absence of prosecutor;
Case PKR 104-16 monitored on May 30, 2016 in BC Prishtinë/Priština: This was a second hearing, and was held in the courtroom. It started with 25 minute delay due to absence of prosecutor.

29 Case PKR. Nr 438-15 monitored on October 13, 2016 at BC Prishtinë/Priština: The hearing scheduled for 13:15 started with 30 minute delay due to absence of defendant.

30 Case P. Nr 298/13 monitored on July 27, 2016 at BC Prishtinë/Priština: The hearing scheduled for 14:30 started with 35 minute delay.
Case P. Nr 187/11 monitored on May 17, 2016 in BC Gjilan/Gnjilane;
Case PKR. nr. 201-14, monitored on October 26, 2016 in BC Prishtinë/Priština;
Case PKR. nr. 201/14 monitored on December 11, 2016 in BC Prishtinë/Priština; The hearing started with 50 minute delay, due to lack of free rooms to hold the hearing;
Case PKR. nr. 194/15 monitored on October 31, 2016 in BC Gjilan/Gnjilane;
Case PKR. nr. 369/16, monitored on October 21, 2016 in BC Prishtinë/Priština; The hearing started with 45 minute delay and the hearing was held in a conference room which was not properly equipped.
Case P. nr. 135/16 monitored on December 2, 2016 in BC Mitrovicë/Mitrovica; The hearing started with 20 minute delay due to absence of a court reporter.

The President of BC Prishtinë/Priština points out the low number of judges as the reason behind delays in court hearings. According to her, this low number hinders the formation of trial panel in line with the law³¹

BC Gjilan/Gnjilane which had only 4 hearings with delay out of 26 monitored hearings, 2 were due to absence of trial panel³² while in two other cases, it was due to other reasons.³³

"The justification for 25 out of 44 hearings that started late was the absence of trial panel; in 7 cases the prosecutor was absent, and in 12 cases the hearings started late due to the absence of attorney or for other technical reasons, such as lack of spaces or absence of a court reporter.³⁴

31 Afërdita Bytyqi, President of BC Prishtinë/Priština, January 31, Prishtinë/Priština.

32 Case PKR. 156/15 monitored on June 16, 2016 at BC Gjilan/Gnjilane: The hearing scheduled for 13:00 started with 1 hour and 30 minute delay due health problem of the presiding judge.

33 Zyhdë Haziri, former President of BC Gjilan/Gnjilane, October 18, 2016 Gjilan/Gnjilane;
Case PKR. nr. 194/15 monitored on October 31, 2016 in BC Gjilan/Gnjilane;

34 Case P. Nr. 135/16, monitored on December 2, 2016 at BC Mitrovicë/Mitrovica: The hearing started with 20 minutes delay since the court reporter was late;

Based on monitoring data, the absence and delay of trial panel happened due to problems related to completion of trial panel. The inability to have a full trial panel was due to involvement of some of panel members in other cases at the same time when the hearing was scheduled³⁵, and also due to changes and substitutions within trial panel.

The inability to have a full trial panel and delays and postponements of hearings due to these reasons indicates that there is a low number of judges, especially the Serious Crimes Department, which should involve a trial panel made of 3 professional judges.

The changes of trial panel, with substitutions of one of the members³⁶, made the entire hearings start all over again, which is also in line with legal provisions. The restarting of court hearings due to substitutions of trial panel members contributed to delays of court processes, and prolongation of court hearings.

Absence and delay of prosecutor was also the cause of delays, which Çohu! and CSD identified through monitoring. In both cases at BC Prishtinë/Priština, the prosecutors did not justify their absence³⁷, while in two cases at BC Mitrovicë/Mitrovica the prosecutor was busy with other hearing when the said hearings started.³⁸

35 Case Nr. PKR. Nr. 438/15 monitored on October 19, 2016 in BC Prishtinë/Priština; The hearing started with 55 minute delay since one of the judges was at another hearing. Case PKR. 666/14 monitored on October 11, 2016 in BC Prishtinë/Priština; The hearing started with 50 minutes delay since one of the judges was handling another criminal case. The trial panel was changed, and one judge had to be substituted.

Case PKR. Nr. 196/13 monitored on September 29, 2016 in BC Prishtinë/Priština; The hearing started with 30 minute delay; The trial panel changed, since one of the judges was involved in one EULEX case.

Case Nr. PKR. Nr. 438/15 monitored on October 19, 2016 in BC Prishtinë/Priština; The hearing started with 55 minute delay since one of the judges was at another hearing.

Case PKR. Nr. 649/14 monitored on October 19, 2016 in BC Prishtinë/Priština; The hearing started with 1 hour delay since one of the judges was at another hearing.

Case PKR. nr. 327-14 monitored on October 24, 2016 in BC Prishtinë/Priština; The hearing started with 1 hour and 25 minute delay since one of the judges was at another hearing.

36 Case PKR. 341/15 monitored on October 17, 2016 in BC Prishtinë/Priština; The hearing started with 50 minute delay since one of the judges was at another hearing. The trial panel changed, therefore the hearing started late;

Case PKR. 341/15 monitored on November 24, 2016 in BC Prishtinë/Priština; The hearing started with 1 hour delay since one of the judges was at another hearing.

Case 362/16 monitored on September 6, 2016 in BC Prishtinë/Priština; The hearing started with 40 minute delay since one of the judges had to be substituted.

Case PKR. Nr. 196/13 monitored on September 29, 2016 in BC Prishtinë/Priština; The hearing started with 30 minute delay; The trial panel changes since one of the judges was involved in an EULEX case.

37 Case P. Nr. 298/13 monitored on May 11, 2016 at BC Prishtinë/Priština. The hearing started late due to absence of prosecutor, despite the effort of the presiding judge to reach him on phone.

38 Case P. Nr. 108/16 monitored on September 26, 2016 at BC Mitrovicë/Mitrovica, and Case P. nr. 210/16 monitored on December 23, 2016 in BC Mitrovicë/Mitrovica. Both hearings started late due to absence of prosecutor.

Absence of prosecutors in court hearings and lack of justification continues to harm the court process and indicates irresponsibility of prosecutors towards the process.

Also, the problem is that in such cases of delays and absence the president of trial panel took no measure to inform and ask the chief prosecutor of the relevant prosecution to take measures against prosecutors who do not give reasons for their delay or absence. Çohu! and CSD have not identified any measures taken by the prosecution against prosecutors who were not present.

Court hearings started late also due to absence of attorneys and for other reasons, which even hindered the initiation of the hearing on time. Among other reasons is also lack of spaces, delay and absence of court reporters and so on.

Unlike presidents of BC Prishtinë/Priština and Gjilan/Gnjilane, acting President of BC Mitrovicë/Mitrovica says: "Considering the circumstances and conditions, we are very satisfied with our work and efficiency. The reasons behind problems are the working conditions of judges, which are of objective nature" he said.³⁹

The initiation of court hearings on time, as stipulated by legal provisions, is very important for a proper hearing and efficiency of courts, which would also contribute to the respect of legal provisions related to principles of fair trial within a reasonable time.

Delays in court hearings and their postponement due to delays and absence of judges and prosecutors, attorneys and due to other reasons, continue to contribute to the prolongation of court processes. Delays and postponements continue to cause backlogging of cases by contributing this way to the lack of efficiency of courts and violation of legal provisions related to fair trial within a reasonable time.

39 Ali Kutllovci, UD Kryetar i GjTh në Mitrovicë, tetor 2016, Mitrovicë.



2.3 Breach of legal time frames

During the monitoring of cases of corruption, organized crime and inciting hatred, discord or racial, religious or ethnic intolerance, Çohu! and CSD have identified breaches of legal provisions regarding the time frames set to proceed with such cases.

According to new provisions of Criminal Procedure Code of Kosovo, which entered into force on January 1, 2013, from the moment courts receive a case, the proceeding is categorized in initial or first hearing, second hearing when the court deems it necessary, and main trial. So, the stages of a judicial review in the first instance consist of actions of the receipt of a case in court, initial hearing, second hearing, main trial, and the conclusion of a trial with a judgment. During monitoring, Çohu! and CSD have identified delays in scheduling and review of cases of corruption, organized crime and inciting national racial religious or ethnic hatred discord or intolerance.

Out of 102 monitored cases in 214 hearings during May 2016 – May 2017, in the Basic Court in Prishtinë/Priština, Mitrovicë/Mitrovica and Gjilan/Gnjilane, Çohu! and CSD identified breaches of procedural time frames in almost all cases, depending on the stage of proceeding, ranging from the moment of the receipt of a case in court, scheduling initial and second hearing, main trial, up to the conclusion and of trial and judgment.

The new provisions of the Criminal Procedure Code, which entered into force in 2013, stipulate time frames for initial hearing upon receipt of the case in court⁴⁰, the deadline for the scheduling of secondary⁴¹ and main trial, as well as time frame for concluding a main trial.⁴²

Due to impossibility to incorporate all cases of breaches, the report will include 3 most flagrant breaches of time

40 After filing the indictment by the prosecution and its submission to the court, the court undertakes actions, whereby it schedules initial hearing which should be within 30 days. The exception to this provision is when the defendant is in custody, and in this case courts should act faster, respectively within 15 days from the day the case is received. Otherwise, every delay in scheduling and holding initial hearing is considered a breach of procedural provisions, respectively Article 242 of CPCK.

41 After initial hearing, the court may schedule second hearing, but such procedural action is under the competence of the court as to whether it would take such an action. But if a second hearing is scheduled, the law stipulates a set time frame for that, which should be no later than 30 days from initial hearing and no later than 40 days from that hearing.

42 The time frames are also foreseen for main trial and for the conclusion of such a trial. Main trial should be scheduled within 30 days from the second hearing, and it should be concluded within 90 days, respectively 120 days from the initial hearing.

● Out of 102 monitored cases in 214 hearings during May 2016 – May 2017, in the Basic Court in Prishtinë/Priština, Mitrovicë/Mitrovica and Gjilan/Gnjilane, Çohu! and CSD identified breaches of procedural time frames in almost all cases, depending on the stage of proceeding, ranging from the moment of the receipt of a case in court, scheduling initial and second hearing, main trial, up to the conclusion and of trial and judgment.

frames, from the time of receipt of a case and scheduling initial, second and main trial, to the conclusion of main trial and the announcement of judgment in such cases.

2.3.1 Breach of time frames for initial hearing

Although only 30 days, respectively 15 days is the time frame to schedule initial hearing upon receipt of the indictment in court, Çohu! and CSD have identified numerous cases of breach of such time frames. According to monitoring data, in one case the time frame for scheduling hearing was due 672 days, even though the legal obligation to schedule it is no later than 30 days. By scheduling hearing with a 2-year or 672/day delay, the court had seriously violated the Criminal Procedure Code of Kosovo, respectively Article 242. In addition to CPCK, the court also violated basic human rights stipulated by law, the Constitution, and international conventions, since the judgment was not carried out within a reasonable time.

Çohu! and CSD identified three cases of serious breaches of time frames in BC Prishtinë/Priština, and the most flagrant case is the 672-day delay⁴³. The second case includes 466-

43 Case PKR. no. 198/15 monitored on November 11, 2016 at BC Prishtinë/Priština. Court received the case on October 22, 2013 and the initial hearing was scheduled on August 25, 2015, 672 days from the moment the case reached the court.

- According to monitoring data, in one case the time frame for scheduling hearing was due 672 days, even though the legal obligation to schedule it is no later than 30 days.

- The three courts covered by this monitoring have breached the time frames regarding scheduling second hearing. Two out of three most flagrant breaches happened in BC Gjilan, and one in BC Prishtinë/Priština.

day delay⁴⁴, and the third one includes 530-day delay⁴⁵.

2.3.2 Breach of time frames for second hearing

Çohu! dhe CSD also identified cases of breach of Code when scheduling second hearing, breaching the time frame of no less than 30 days and no more than 40 days from the initial hearing.

Based on our data, the three courts covered by this monitoring have breached the time frames regarding scheduling second hearing. Two out of three most flagrant breaches happened in BC Gjilan⁴⁶, and one in BC Prishtinë/Priština.⁴⁷

Also when it comes to scheduling second hearing, the courts breached time frames stipulated by CPCK, and violated human rights by not meeting the principle of fair trial and within reasonable time.

2.3.3 Breach of time frames for main trial

After the termination of initial and second hearing, the

court has 1 month to prepare and hold the main trial on a criminal matter.⁴⁸

Çohu! and CSD have identified cases of breach of this time frame in the three monitored courts (Prishtinë/Priština, Gjilan/Gnjilane and Mitrovicë/Mitrovica).

According to these data, the longest period of delay is 655 days, although this time should not exceed one month. Two out of three such cases happened in BC Prishtinë/Priština⁴⁹, and one in BC Gjilan/Gnjilane.⁵⁰

2.3.4 Breach of time frames regarding the conclusion of main trial

In line with CPCK, our courts are given a time frame between a second hearing and main trial. This was done in order to avoid endless hearing without getting a deserved conclusion and judgment, and in order to result in effective treatment of cases. CPCK set a time frame of 90 to 120 days⁵¹.

30 out of a total of 102 cases and 214 hearings monitored by the project during May 2016 – May 2017 in Basic Court in Prishtinë/Priština, Gjilan/Gnjilane and Mitrovicë/Mitro-

44 Case PKR. 666/14 monitored on June 3, 2016 in BC Prishtinë/Priština, and on November 1, 2, and 4 in BC Prishtinë/Priština. Court received the case on November 27, 2014 and the initial hearing was scheduled on March 7, 2016, 466 days from the moment the case reached the court.

45 Case PKR. nr. 327-14 monitored on October 24 and December 6, 2016 in BC Prishtinë/Priština; Court received the case on June 12, 2014 and the initial hearing was scheduled on November 24, 2015, 530 days from the moment the case reached the court.

46 Case PKR. nr. 156/15 monitored on June 16, 2016 in BC Gjilan/Gnjilane; The initial hearing was held on December 17, 2015 while second hearing was held on May 31, 2016, 166 days after initial hearing;

Case PKR. nr. 70/15 monitored on July 18, 2016 in BC Gjilan/Gnjilane; The initial hearing was held on October 24, 2015 while second hearing was held on February 22, 2016, 121 days after initial hearing;

47 Case PKR. nr. 201/14 monitored on October 26 and December 8, 2016 in BC Prishtinë/Priština; The initial hearing was held on April 8, 2016 while second hearing was held on September 5, 2016, 150 days after initial hearing;.

48 Criminal Procedure Code, Article 285, paragraph 2 stipulates: he 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 the present Code <https://gzk.rks-gov.net/ActDetail.aspx?ActID=2861>.

49 Case P. nr. 58/14 monitored on May 16 and 19, 2016 in BC Prishtinë/Priština. While second hearing was held on April 30, 2014, the main trial was held on January 26, 2016, 655 days after second hearing;

Case PKR. nr. 625/15 monitored on July 22, October 11 and December 23, 2016 in BC Prishtinë/Priština; While second hearing was held on January 28, 2016, the main trial was held on June 22, 2016, 146 days after second hearing;.

50 Case PKR. nr. 194/15 monitored on October 31, 2016 in BC Gjilan/Gnjilane; While second hearing had no date, and the first initial hearing was held on February 24, 2014, the main trial was held on October 31, 2016, 250 days after initial hearing.

51 Criminal Procedure Code, Article 314, paragraph 1.1 and 1.2: he main trial shall be completed within ninety (90) days; if the main trial is before a trial panel, the main trial shall be completed within one hundred and twenty (120) days



30 out of a total of **102** cases and 214 hearings monitored by the project during May 2016 – May 2017 in Basic Court in Prishtinë/Priština, Gjilan/Gnjilane and Mitrovicë/Mitrovica ended up with first instance judgment while 72 are still in process.



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

vica ended up with first instance judgment while 72 are still in process.

In 30 concluded trials, the 120-day time frame was not respected in 11 cases. Based on monitoring data, one of such delays lasted 342 days. Similar cases happened in BC Prishtinë/Priština⁵² and BC Mitrovicë/Mitrovica.⁵³

The main reason for the breach of procedural time frames in court hearings according to presidents of Basic Court in Prishtinë/Priština, Gjilan/Gnjilane and Mitrovicë/Mitrovica, is the high number of cases in courts and the low number of judges to handle cases in line with procedural provisions.

While the President of BC Prishtinë/Priština mentions low number of judges as the main reason for these breaches,⁵⁴ the acting President of BC Gjilan/Gnjilane mentions high number of cases in this court.⁵⁵ On the other hand, the acting President of BC Mitrovicë/Mitrovica points out that the difficult working conditions and lack of premises are among the main reasons behind postponements and breach of legal time frames.⁵⁶

As a conclusion, Çohu! and CSD believe that setting procedural time frames in different stages of a trial and respecting

these time frames would contribute to greater effectiveness of courts in their proceedings. Greater effectiveness of automatic proceeding prevents delays and backlogging of cases.

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

Based on monitoring data, in almost all monitored cases there was breach of time frames, depending on the stage of trial. According to monitoring data, such delays lasted as much as 655 days, 530 days and so on, although the time frame for procedural action was 30, respectively 40 days.

Çohu! and CSD believe that such breach of time frames is a breach of procedural provisions and continues to have impact on the prolongation of trials and continuous backlogging of cases. Such a breach is at the same time breach of justice principles regarding a fair trial and within reasonable time.

KJC did not yet carry out an analysis or produce a summary in order to find the real reasons behind the failure to apply procedural time frames, and did not take any measure against those responsible in cases of negligence or irresponsibility.

Çohu! recommends KJC to undertake measures in order to find reasons behind breaches of procedural time frames by creating different mechanisms, and to undertake measures against those responsible in cases of such breaches due to negligence or irresponsibility of judges or other personnel.

52 Case PKR. nr. 649/14, monitored on October 19, 2016 in BC Prishtinë/Priština; While main trial was held on November 12, 2015, the judgment was announced on November 19, 2016, 342 days after main trial;

Case PKR. nr. 625/15 monitored on July 22, October 11 and December 23, 2016 in BC Prishtinë/Priština; While main trial was held on June 22, 2016, the judgment was announced on December 23, 2016, 184 days after main trial;

53 Case PKR. nr. 186/15 monitored on September 19, 2016 in BC Prishtinë/Priština. While main trial was held on May 5, 2016, the judgment was announced on October 26, 2016, 174 days after main trial;

54 Afërdita Bytyqi, President of BC Prishtinë/Priština, January 31, 2017, Prishtinë/Priština.

55 Zyhdë Haziri, former President of BC Gjilan/Gnjilane, October 18, 2016, Gjilan/Gnjilane

56 Ali Kutllovci, Acting President of BC Mitrovicë/Mitrovica, October 2016, Mitrovicë/Mitrovica.

3. Lack of regular judicial process and violation of human rights - Mitrovicë/Mitrovica

A regular judicial process within a reasonable time is stipulated in international and local legal provisions.⁵⁷ During one-year monitoring in BC Mitrovicë/Mitrovica, Çohu! and CSD among other irregularities also identified breach of provisions which regulate the time and the course of a judicial process, as well as the rights of the parties involved in such processes.

Based on the legislation into force, Basic Court in Mitrovicë/Mitrovica has its branches in: Leposaviq/Leposavić, Zubinpotok/Zubin-Potok, Skenderaj/Srbica and Vushtrri/Vučitrn. This court covers a total of 328 villages⁵⁸. Basic court in Mitrovicë/Mitrovica has its branches in Leposaviq/Leposavić, Skenderaj/Srbica, Zubinpotok/Zubin-Potok and Vushtrri/Vučitrn.⁵⁹

Although it has been more than 17 years after the war in Kosovo and more than 9 years since the declaration of independence of Kosovo, the municipalities in northern Kosovo still remain unintegrated in the justice system of Kosovo, by disabling the jurisdiction of prosecution and courts in the entire region of Mitrovicë/Mitrovica.

As a consequence, citizens of Kosovo, in particular those in the region of Mitrovicë/Mitrovica, continue to be denied basic rights to access to justice and fair trial within a reasonable time, in line with international provisions of the Constitution of Kosovo and other relevant legal provisions of Kosovo.

3.1 Brief history

The Court in Mitrovicë/Mitrovica started working on September 1, 1999. With the declaration of independence in February 2008, tensions have erupted in the region of

- Although it has been more than 17 years after the war in Kosovo and more than 9 years since the declaration of independence of Kosovo, the municipalities in northern Kosovo still remain unintegrated in the justice system of Kosovo, by disabling the jurisdiction of prosecution and courts in the entire region of Mitrovicë/Mitrovica.

Mitrovicë/Mitrovica, respectively in northern Mitrovicë/Mitrovica and other municipalities such as Zubinpotok/Zubin-Potok, Leposaviq/Leposavić and Zveçan/Zvečan - a region that is predominately inhabited by Serbs - and on 20 February of the same year the courts were closed down in the northern municipalities of Kosovo.⁶⁰

In 2008, former Municipal Court and Mitrovicë/Mitrovica District Court (now Basic court in Mitrovicë/Mitrovica), were dislocated in the former facilities of the Municipal Court of Vushtrri/Vučitrn. Also, District and Municipal (now Prosecutor's Office) Prosecution were transferred on the same location.

As a result of the events of February 2008, the local Albanian judges and prosecutors and other auxiliary staff did not have access to the north of Mitrovicë/Mitrovica, where the prosecution and the court were located⁶¹. This had prevented citizens' access to justice and to court proceedings and also prevented the functioning of the judiciary and prosecution in that part of the country.

In December 2008, the personnel of the European Union Rule of Law Mission in Kosovo (EULEX) staff moved in the court in north Mitrovicë/Mitrovica, and the court building which is located in the northern part of Mitrovicë/Mitrovica has been managed by EULEX, which now consists of local staff (Kosovo Albanians and Serbs) and international auxiliary staff⁶². EULEX continues to use this building.

Besides the impossibility of handling cases in northern Kosovo for more than 5 years (Northern Mitrovicë/Mitrovica, Leposaviq/Leposavić, Zveçan/Zvečan, Zubinpotok/Zubin-Potok), the Prosecutor's Office and the Basic court in Mitrovicë/Mitrovica are constantly confronting various challenges that

57 European Convention on Human Rights, Constitution of Kosovo, Criminal Procedure Code of Kosovo and other legal documents.

58 <http://www.gjyqesori-rks.org/sq/courts/page/index/198>.

59 Ibid.

60 Courts in north Mitrovicë/Mitrovica, Zveçan/Zvečan and Zubinpotok/Zubin-Potok.

61 OSCE report on Judicial System in Mitrovicë/Mitrovica, January 2011.

62 Report and recommendations of Kosovo Ombudsman, August 2016.

have prevented normal functioning of the prosecution and the court, after the reorganization of the judiciary in 2013.

According to the Report of the Ombudsman of August 2016, only the courthouse in northern Mitrovicë/Mitrovica has 1,700 unprocessed criminal cases and 1,500 unprocessed civil cases.⁶³

Since 2015 the BC branch in Vushtrri/Vučitër is located in a new building. BC Mitrovicë/Mitrovica continues its work in difficult conditions in the premises of the former Municipal Court in Vushtrri/Vučitër, which also accommodates the Basic Prosecution of Mitrovicë/Mitrovica.

3.2 Challenges

During one-year monitoring (May 2016 – May 2017), Çohu! and CSD identified continuing problems that have held back the progress of court hearings in BC Mitrovicë/Mitrovica.

Lack of normal conditions and lack of spaces in the court were the main problems which BC Mitrovicë/Mitrovica is facing.

Also, the large number of cases and the lack of a sufficient number of judges and prosecutors to cover all cases resulted in difficulties of their treatment within the legal time frames. For 5 years (2008-2013), former District and Municipal Court of Mitrovicë/Mitrovica (now Basic Court), did not proceed with court hearings except for cases of detention.

The said reasons and lack of handling of cases for more than five years (2008-2013) made a large number of cases in the whole of Mitrovicë/Mitrovica reach the statutory limitation.

Brussels Agreement on Justice, signed between Kosovo and Serbia, aimed at integrating the north within prosecutorial and judicial system of Kosovo⁶⁴. That agreement, inter alia, envisaged the organization of the prosecution and the courts for the Mitrovicë/Mitrovica region, the recruitment of necessary Albanian and Serbian judges and prosecutors, and the establishment of the Court of

63 Ibid.

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

● Lack of normal conditions and lack of spaces in the court were the main problems which BC Mitrovicë/Mitrovica is facing.

● For 5 years (2008-2013), former District and Municipal Court of Mitrovicë/Mitrovica (now Basic Court), did not proceed with court hearings except for cases of detention.

Appeals unit in Mitrovicë/Mitrovica, consisting of Serbian and Albanian judges.

Although in political terms, the agreement initially was seen as an achievement in terms of the possibility of the extension of justice in northern Kosovo and integrating the north within the judicial and prosecution system, in practical terms, there are continuous difficulties in its implementation. Also, the very justice system actors, the judiciary, were pessimistic about this.⁶⁵

Among the main defects of the agreement, according to the holders of the judicial system itself, is the way of the recruitment of the presiding judge, distribution throughout different facilities, separation of civil and criminal departments in two separate facilities, and problems with normal functioning of the judiciary.⁶⁶

3.3 Lack of access to justice and human rights violations in trials

Branches of BC Mitrovicë/Mitrovica in Leposaviq/Leposavić and Zubinpotok/Zubin-Potok continue to be dysfunctional although within Kosovo jurisdiction.

65 Acting President of BC Mitrovicë/Mitrovica describes the shortages of this agreement and impossibility of its implementation. According to him, such agreement which envisages the transfer of prosecution and courts in premises in the north of Mitrovicë/Mitrovica, due to happen on October 1, 2016, in addition to being unimplementable, it also may pose problems in the future. Interview conducted on November 3, 2016, Vushtrri/Vučitër.

66 Interview with acting President of BC Mitrovicë/Mitrovica, Ali Kutllovci, on November 3, 2016, Vushtrri/Vučitër.



A total of

5,012 cases were inventoried in northern Mitrovicë/Mitrovica, Leposaviq/Leposavić and Zubinpotok/Zubin-Potok, out of which 1,666 were criminal cases, 1,538 were civil cases and 1,808 were misdemeanour cases.

- Branches of BC Mitrovicë/Mitrovica in Leposaviq/Leposavić and Zubinpotok/Zubin-Potok continue to be dysfunctional although within Kosovo jurisdiction.

Access to justice, the right to a fair trial and within a reasonable time and procedural deadlines of investigation and prosecution of the case to the prosecutor and the court, are envisaged in the Constitution of Kosovo⁶⁷, the European Convention on Human Rights⁶⁸, Law on Courts and the Code of Criminal Procedure.

Besides investigation deadlines, the Criminal Procedure Code of Kosovo, which entered into force on January 1, 2013, also set time limits upon receipt of the case in court, its proceedings as well as the deadline for conclusion of a trial.

Specifically, Article 242 of this Code, paragraph 4, envisages the establishment and maintenance of an initial hearing within 30 days of indictment, while paragraph 5 envisages 15 days of scheduling and the initial hearing of since the indictment, in custody cases.⁶⁹

The closing of branches in Leposaviq/Leposavić and Zubinpotok/Zubin-Potok, relocation of the courthouse in Vushtrri/Vučitrn and the inability to proceed cases in court for 5 years, resulted in the violation of the right to access to justice, the violation of the provisions and principles of fair trial and within a reasonable time, and the violation of legal time frames. All this resulted in freezing of existing cases and lack of proceeding, accumulation of cases, lack of efficiency and statutory limitations cases.⁷⁰

Considering such difficulties and problems, BC Mitrovicë/Mitrovica had set some targets to proceed more efficiently in handling cases, also to cover the northern municipalities which lacked a judicial system. Among the main objectives were the separation and categorization of backlogged cases, execution of orders for the northern municipalities by the Police as well as categorization and completion of misdemeanour cases.⁷¹

67 Article 102.2 of the Constitution of Kosovo ensures equal access of citizens to the courts; Article 7 of the Law on Courts, inter alia, establishes the right of every person to seek protection and enforcement of their rights in courts.

68 European Convention on Human Rights, Article 6 expressly stipulates the right of every individual to have a fair trial and within a reasonable time frame. The right to a fair and impartial trial is foreseen by Article 32 of the Constitution of Kosovo.

69 Criminal Procedure Code, Article 242, paragraph 4: <https://gzk.rks-gov.net/ActDetail.aspx?ActID=2861>.

70 According to USAID data, out of a total of cases categorized until December 2016, 1,300 such cases were prescribed (from three courts: Mitrovicë/Mitrovica north, Zubinpotok/Zubin-Potok and Leposaviq/Leposavić).

71 Interview with acting President of BC Mitrovicë/Mitrovica, Ali Kutillovci, on November 3, 2016, Vushtrri/Vučitrn.



The setting of the objectives and their addressing according to responsibilities of relevant institutions, started moving the court towards efficiency.⁷²

BC Mitrovicë/Mitrovica also faced a high number of misdemeanour cases. The hiring of interns and support staff for the categorization of cases under the supervision of misdemeanour judges, reduced the number of misdemeanour cases to 18,000 (from initial 48,000 cases).⁷³

Within the rule of law program, USAID in 2016 began inventory, transfer and provision of help in categorizing cases that were left on the shelves of the courts in northern Mitrovicë/Mitrovica, Zubinpotok/Zubin-Potok and Leposaviq/Leposavić.⁷⁴

Under this program, USAID together with BC Prishtinë/Priština officials made an inventory and transfer of cases in the court in northern Mitrovicë/Mitrovica, in Zubinpotok/Zubin-Potok and Leposaviq/Leposavić.

A total of 5,012 cases were inventoried in northern Mitrovicë/Mitrovica, Leposaviq/Leposavić and Zubinpotok/Zubin-Potok, out of which 1,666 were criminal cases, 1,538 were civil cases and 1,808 were misdemeanour cases.⁷⁵

During 2016, USAID representatives transferred about 1,200 cases from BC Mitrovicë/Mitrovica (north) to the facility in Vushtrri/Vučitrn (Basic court in Mitrovicë/Mitrovica), which were backlogged in years. The cases transferred from Leposaviq/Leposavić and Zubinpotok/Zubin-Potok were categorized by court staff and ruled by decision of the judges of BC Mitrovicë/Mitrovica, located in Vushtrri/Vučitrn, and then sent back to Zubinpotok/Zubin-Potok and Leposaviq/Leposavić.

Of the total cases categorized up to December 2016, 1,300 of them were prescribed (by the three courts - North

● Of the total cases categorized up to December 2016, 1,300 of them were prescribed (by the three courts - North Mitrovicë/Mitrovica, Zubinpotok/Zubin-Potok and Leposaviq/Leposavić), over 900 cases have been concluded by the ruling, while the rest are in process. All cases belong to the period before 2008.

● For many years, numerous citizens were involved in investigations and judicial processes, and were unable to enjoy the right to a fair trial, fair and within the reasonable time limits.

Mitrovicë/Mitrovica, Zubinpotok/Zubin-Potok and Leposaviq/Leposavić), over 900 cases have been concluded by the ruling, while the rest are in process.⁷⁶ All cases belong to the period before 2008.

Çohu! and CSD consider that the initiation of handling of cases by BC Mitrovicë/Mitrovica after 5 years and USAID assistance in transferring and categorization of cases of northern Mitrovicë/Mitrovica, Leposaviq/Leposavić, Zveçan/Zvečan and Zubinpotok/Zubin-Potok, produced outcomes for many citizens, avoiding at least the continuous violation of human rights.

The transfer of cases and their outcome enabled many people involved in such processes who appeared on criminal records to be removed from the records and enjoy equal rights.⁷⁷

For many years, numerous citizens were involved in investigations and judicial processes, and were unable to enjoy the right to a fair trial, fair and within the reasonable time limits.

72 According to Ali Kutllovci, around 900 cases that remained in Serious Crimes Department were proceeded effectively. When it comes to lack of implementation of police orders in the entire Kosovo territory (especially north), after the meetings held with representatives of the police and after evidencing the responsibilities of police officers, such problem was prevented by respecting in this way the implementation of orders.

73 Interview with acting President of BC Mitrovicë/Mitrovica, Ali Kutllovci, on November 3, 2016, Vushtrri/Vučitrn.

74 Interview with Pranvera Recica - Kirkbride, deputy director of USAID office in Prishtinë/Priština. Interview carried out in December 2016.

75 According to USAID, a total of 2,331 cases were transferred from BC Mitrovicë/Mitrovica (north), 665 cases from Leposaviq/Leposavić and 2,026 cases from Zubinpotok/Zubin-Potok.

76 Interview with Pranvera Recica - Kirkbride, deputy director of USAID office in Prishtinë/Priština. Interview carried out in December 2016.

77 Interview with acting President of BC Mitrovicë/Mitrovica, Ali Kutllovci, on November 3, 2016, Vushtrri/Vučitrn.



BC Mitrovicë/Mitrovica resolved

601 out of a total of 2,841 cases for 2016,



BC Gjilan/Gnjilane with

470 cases



BC Pejë/Peć

391 cases

Çohu! and CSD believe that the inability to organize fair trial and within reasonable time frame, breach of investigative and procedural deadlines for completion of court hearings, is a violation of human rights, stipulated by the European Convention on Human Rights, the constitutional provisions on fair and reasonable trial, the Law on Courts and criminal procedure provisions.

Çohu! and CSD consider that the initiation of case handling by BC Mitrovicë/Mitrovica after 5 years and USAID assistance in transfer and categorization of cases in the northern part of Mitrovicë/Mitrovica, and in the regions of Leposaviq/Leposavić, Zveçan/Zvečan and Zubinpotok/Zubin-Potok, has produced many outcomes for citizens, preventing in this way continuous violation of human rights.

Çohu! and CSD believe that despite several steps taken regarding the performance and handling of such cases for the region of Mitrovicë/Mitrovica (northern Mitrovicë/Mitrovica, Leposaviq/Leposavić, Zubinpotok/Zubin-Potok and Zveçan/Zvečan), these municipalities continue to have serious problems in terms of functioning of courts. Although at first the goal was to make steps towards normalization and functioning of prosecutions and courts in all Mitrovicë/Mitrovica region (including northern region), Brussels Agreement on Justice continues to be non-functional, non-implementable and, according to the very justice actors in Mitrovicë/Mitrovica, with little prospects of normal operation and functioning.

- Çohu! and CSD believe that the inability to organize fair trial and within reasonable time frame, breach of investigative and procedural deadlines for completion of court hearings, is a violation of human rights, stipulated by the European Convention on Human Rights, the constitutional provisions on fair and reasonable trial, the Law on Courts and criminal procedure provisions.
























3.4 Case treatment and comparison with other courts








































Despite difficult conditions, insufficient number of judges and other objective difficulties, BC Mitrovicë/Mitrovica is not much different from other courts when it comes to the number of resolved cases. Also, BP Mitrovicë/Mitrovica is as efficient as other basic prosecutions.

During 2016, Basic Court in Mitrovicë/Mitrovica, after BC Prishtinë/Priština which resolved a total of 691 cases during one-year period, leads in terms of the number of resolved cases., BC Mitrovicë/Mitrovica resolved 601 out of a total of 2,841 cases for 2016, followed by BC Gjilan/



Status of cases in basic courts during 2016/ Serious Crimes Department

Proceeding of cases in basic courts during 2016 in Serious Crimes Department	TRANSFERRED	RECEIVED DURING 2016
Basic court in Prishtinë/Priština	2,170     	782  
Basic court in Gjilan/Gnjilane	524 	326  
Basic court in Prizren/Prizren	253 	239 
Basic court in Mitrovicë/Mitrovica	1,843    	151 
Basic court in Gjakovë/Đakovica	257 	169 
Basic court in Pejë/Peć	334 	275 
Basic court in Ferizaj/Uroševac	212 	202 
TOTAL	5,593	2,144

TOTAL IN PROCESS	RESOLVED	TRANSFERRED WITH COMPETENCE	UNRESOLVED AT THE END
2,952      	691 	31 	2,230    
850  	470  	0	380 
492 	234 	1 	257 
1,994 	601  	0 	1,393   
426 	263 	22 	141 
609 	391 	0 	218 
414 	191 	2 	221 
7,737	2,841	56	4,840



● Çohu! dhe CSD consider that a lack of handling of cases for a long period of time and the backlogging of cases, difficult working conditions and legal changes, produced difficulties in efficient handling of cases and contributed to resolution of many cases in other ways.

● Based on the monitoring of three respective courts (Prishtinë/Priština, Gjiilan/Gnjillane and Mitrovicë/Mitrovica), only 15 cases were qualified as high-level corruption involving people from different profiles, businessmen and ordinary citizens

Gnjilane with 470 cases, BC Pejë/Peć with 391 cases and so on. All these data are shown below.

If we analyse the proceeding of corruption cases in these prosecutions and courts, we see that despite many problems Mitrovicë/Mitrovica region continues to process these cases with better efficiency compared to other regions.⁷⁸

However, taking into account the way cases were resolved, it is of great concern that many cases pertain to the category of being resolved in other ways. 419 out of a total of 601 cases at SCD in Mitrovicë/Mitrovica during 2016 were resolved in other ways.

According to acting President of this court, “other ways” category comprises cases transferred with competence from SCD to GD such as illegal possession of firearms, cases returned from Supreme Court which fell under the competence of GD, lacking a special category in KJC Statistics Database. This category also included cases of rejection of indictments, after initial hearing.

Based on these statistical data, during 2016 SCD in BC Mitrovicë/Mitrovica had sentenced imprisonment for 74 cases, 14 acquittal judgements and 79 rejection judgements while 6 cases ended with probation, 4 with fines and 4 cases were prescribed.

Çohu! dhe CSD consider that a lack of handling of cases for a long period of time and the backlogging of cases,

⁷⁸ Serious Crimes Department of basic courts had transferred a total of 5,593 cases from 2015, and additional 2,144 cases were added during 2016, reaching a total of 7,737 cases. Out of a total of 7,737 cases in process, courts resolved 2,841 cases and 56 cases were transferred with competence, being left with a total of 4,840 as of 31 December 2016.

difficult working conditions and legal changes, produced difficulties in efficient handling of cases and contributed to resolution of many cases in other ways.

Çohu! dhe CSD believe that KJC should be consistent when it comes to such type of resolution of cases in all courts, and it should categorize all sections of resolution of cases in its database. Such action would enable a comprehensive presentation of resolved cases and an easier as well as more professional management of data of case resolution in all courts.

4. High Profile Cases – Fighting High Level Corruption

During one-year monitoring of corruption and organized crime cases, Çohu! and CSD focused on the monitoring of cases which were considered as high profile. Based on the Law on State Prosecutor’s Office, in accordance with the President of Special Prosecution of Kosovo and EULEX’s Head Prosecutor, State Prosecutor’s Office, on November 13, 2013 issued an Administrative Instruction which qualified high level corruption in the country.⁷⁹

9 articles of this AI included offences pertaining to the field of high level corruption, suspects from respective public positions and respective amounts qualified as high level corruption. Based on this Administrative Instruction,

⁷⁹ Administrative Instruction on High Level Corruption, November 13, 2013, Prishtinë/Priština.

PROFILE	NO. OF THE ACCUSED	INSTITUTION	PLACE
Member of Parliament	2	Kosovo Assembly	Prishtinë/Priština
Minister	4	Kosovo Government	Prishtinë/Priština
Deputy Minister	1	Kosovo Government (MKRS)	Prishtinë/Priština
Permanent Secretary at the Ministry	4	Kosovo Government (MEST, MH, etc.)	Prishtinë/Priština
Government Officials	1	Kosovo Government	Prishtinë/Priština
Ministry Officials	20	Kosovo Government (ministries)	Prishtinë/Priština
Mayor	4	Municipality	Prishtinë/Priština, Gjilan/Gnjilane, Mitrovicë/Mitrovica
Municipal Officers	17	Municipality	Prishtinë/Priština, Gjilan/Gnjilane, Mitrovicë/Mitrovica
Presidents of Courts	1	Constitutional Court	Prishtinë/Priština
Court Officers	1	Courts	Prishtinë/Priština
Head Prosecutor	1	BC Gjakovë/Đakovica	Gjilan/Gnjilane
Procurement Review Body Official	5	Procurement Review Body	Prishtinë/Priština
Customs Officer	4	Kosovo Customs	Prishtinë/Priština, Gjilan/Gnjilane
Police Officer	7	Kosovo Police	Prishtinë/Priština, Gjilan/Gnjilane, Mitrovicë/Mitrovica
Independent Agencies	14	Kosovo Privatization Agency, etc.	Prishtinë/Priština
Doctor	47	Regional Hospital, etc.	Prishtinë/Priština, Mitrovicë/Mitrovica
Health Officials	4	KCUC etc.	Prishtinë/Priština, Gjilan/Gnjilane, Mitrovicë/Mitrovica
Producer, director	2	National Theatre	Prishtinë/Priština
National Theatre Employees	2	National Theatre	Prishtinë/Priština
School Principal	2	Secondary School	Gjilan/Gnjilane, Prishtinë/Priština
Education/UP	2	“Hasan Prishtina” University	Prishtinë/Priština
Public TV Employees	3	Radio Television of Kosovo	Prishtinë/Priština
Public Enterprise	12	Water supply, KEK, KEDS, etc.	Prishtinë/Priština, Gjilan/Gnjilane, Mitrovicë/Mitrovica
Mobile Phone Operator	1	IPKO	Prishtinë/Priština
Bank Officials	5	BKT, BPB, TEB, etc.	Prishtinë/Priština, Gjilan/Gnjilane, Mitrovicë/Mitrovica
Private companies/businesses	39		Prishtinë/Priština, Gjilan/Gnjilane, Mitrovicë/Mitrovica
Student	11	“Hasan Prishtina” University	Prishtinë/Priština
Lawyer	3	Kosovo Bar Association	Prishtinë/Priština
Accountant	1		Prishtinë/Priština
Citizens and others	64		Prishtinë/Priština, Gjilan/Gnjilane, Mitrovicë/Mitrovica
Total	285		

TABLE 4: Profiles of the accused for high-level corruption, based on monitoring data pertaining to May 2016 - May 2017 in BC Prishtinë/Priština, Mitrovicë/Mitrovica and Gjilan/Gnjilane.



In 15 high-level corruption cases involving **140 persons**, Çohu! and CSD identified only **13 high profile officials**, categorized thus also according to the said Administrative Instruction. High profile include **2 Members of Parliament, 5 Ministers, 4 Mayors, 1 President of Court and 1 Head Prosecutor** (in BP Prishtinë/Priština, Mitrovicë/Mitrovica and Gjiilan/Gnjilane).

high-level corruption were considered all cases which involved: The President of Kosovo, Head or Members of Parliament, Prime Minister, Deputy Prime Ministers and Ministers of the Government of Kosovo, Mayors, judges of Supreme Court, Court of Appeals, State Prosecutor and prosecutors.⁸⁰

Based on the monitoring of three respective courts (Prishtinë/Priština, Gjiilan/Gnjilane and Mitrovicë/Mitrovica), only 15 cases were qualified as high-level corruption involving people from different profiles, businessmen and ordinary citizens.

According to these data, it turns out that in these high-profile cases there are MP's, Ministers, Deputy Ministers, Permanent Secretaries, Mayors, Presidents of courts, Prosecutors and others.

Table 4 shows the profile and the position of the accused for corruption offences, which also includes cases of high-level corruption. These cases were monitored in BC Prishtinë/Priština, Gjiilan/Gnjilane and Mitrovicë/Mitrovica.

⁸⁰ Other cases exceeding the amount of 500 EUR of appropriation or damage caused as a result of criminal offence involving deputy ministers, high management civil servants (permanent secretary or similar positions), ministry officials or decision making positions in public institutions or advising positions, as well as all cases regardless of the position of the person or damage caused as a result of criminal offence exceeding the amount of 1 million EUR. This decision qualified 15 high level corruption cases.



Despite persistent request of Çohu! and CSD to access and obtain data on the profile/position of the accused for corruption, KJC and KPC did not provide such data.

Based on the data shown in the table above, 285 persons are involved mainly related to corruption cases.⁸¹ 64 out of 285 accused are ordinary citizens with no public profile, 47 doctors, 39 company employees and businessmen, 20 ministry officials, 17 municipal officials, 2 members of parliament, 4 ministers etc.

In 15 high-level corruption cases involving 140 persons, Çohu! and CSD identified only 13 high profile officials, categorized thus also according to the said Administrative Instruction. High profile include 2 Members of Parliament, 5 Ministers, 4 Mayors, 1 President of Court and 1 Head Prosecutor (in BP Prishtinë/Priština, Mitrovicë/Mitrovica and Gjiilan/Gnjilane). Other public

⁸¹ Remark: In data categorization for persons involved in high-profile categorized cases, there were included the first 85 monitoring cases.





Mild sentences for high-level officials, despite being found guilty for big amounts of money and other misappropriation of public budget, in addition to not punishing abusers of public positions, also send a negative message to potential abusers. Rejection of indictments and release of the accused proves once again the lack of professionalism of prosecution in filing indictments and their inability to provide well-grounded evidence supporting their allegations on the involvement of high level officials in corruption cases.

officials involved in high-level corruption are people who exercised public authority from their positions as: deputy ministers, permanent secretaries in respective ministries, director of Procurement Review Body, and others as shown in the table.

Çohu! and CSD consider that few high profile cases and the ways they are resolved is of great concern. Based on monitoring data, 8 cases out of 13 high profile individuals were resolved either in first or second instance, while the proceedings are going on for the remaining 5 suspects.

The way these cases were resolved is also of great concern. 4 out of 8 suspects (involving 2 ministers, 4 mayors, one president of the court and one chief prosecutor) were found guilty and were given light sentences, and 4 other cases were rejected due to lack of evidence, according to the justification of the court. The four sentences include two ministers and two mayors, while four other resolved cases also include two mayors, one president of court and one prosecutor.

Two ministers that served at the Ministry Culture, Sports and Youth, Astrit Haraqija and Valon Beqiri, who, according to the indictment, were initially accused for abuse of official duty, misusing as much as 570.000 EUR, and were found guilty, sentenced to one year in prison, but

that sentence will not be carried out unless the accused commit another criminal offence during one year.⁸²

Two sentenced mayors, Srečko Spasić from Klokot/ Klokot and Svetislav Ivanović from Novobërdë/Novo Brdo, were accused of abuse of official duty and conflict of interest. While the first one was sentenced to 10 months in prison, a sentence which will not be executed unless he commits a criminal offence within 2 years, the latter, the Mayor of Novobërdë/Novo Brdo, was sentenced with 4,500 EUR fine.⁸³

Çohu! and CSD believe that such mild sentences, rejection of indictments and release of officials considered as high-profile officials, shows the low level of fight against corruption and punishment of high-level corruption. Mild sentences for high-level officials, despite being found guilty for big amounts of money and other misappropriation of public budget, in addition to not punishing abusers of public positions, also send a negative message to potential abusers. Rejection of indictments and release

⁸² The judgement was announcing on December 15, 2016, involving two ministers, one producer and one actor, who were also found guilty and sentenced.

⁸³ BC in Gjiilan/Gnjilane on March 17, 2017 sentenced the Mayor of Novobërdë/Novo Brdo, Svetislav Ivanović with 4,500 EUR fine, for two cases of abuse of official duty and conflict of interest. This was because the mayor negotiated with the prosecutor and pleaded guilty, since he had employed his wife as manager in culture sector disregarding legal procedures and damaging Kosovo budget with as much as 13 thousand EUR.



of the accused proves once again the lack of professionalism of prosecution in filing indictments and their inability to provide well-grounded evidence supporting their allegations on the involvement of high level officials in corruption cases.

4.1 Lack of data on profiles (positions)

Based on KJC data during 2016 basic courts and their respective branches had a total of 929 cases of corruption in process, out of which 640 pertained to BC Prishtinë/Priština, Gjilan/Gnjilane and Mitrovicë/Mitrovica.

During a one-year monitoring, Çohu! and CSD continuously monitored 102 cases in BC Prishtinë/Priština, Gjilan/Gnjilane and Mitrovica, and in those cases they managed to identify the profile and the position of the accused for corruption.

Despite persistent request of Çohu! and CSD to access and obtain data on the profile/position of the accused for corruption, KJC and KPC did not provide such data.

In their responses, KJC and KPC said they did not possess data on the profile and positions in categories, and they did not justify such practice of lack of categorization.⁸⁴ In their response of April 3, 2017, KPC Statistics Office declared that they did not have data on the profile of the accused in respective indictments.

Çohu! and CSD consider that the lack of data regarding the profile of the accused involved in corruption cases, proves once again the continuous fragility and problems of these two institutions regarding the possession and unification of such statistics.


The lack of categorized data according to the profile of the people involved in indictments and trials, prevents access to complete data and proper presentation in order to identify the institutions and positions of public authority that are more involved in corruption cases.


Çohu! and CSD believe that a comprehensive representation of this problem and complete data on the profile and position of people involved in investigated and proceeded cases of corruption, in addition to providing a full picture on the institutions and positions of public authority involved in corruption cases, helps in the drafting and the implementation of the strategy for the fight against corruption in the said public institutions and authorities.

Therefore, Çohu! and CSD believe that the categorization of data according to profiles and positions of the accused is important for justice system, in order to evident and fully represent such cases contributing to the transparency of justice system.

⁸⁴ The Kosovo Judicial Council does not have statistics categorized according to the profile and position of the accused in corruption cases.

In their response to the Cohu organization, the KJC provided some information on the high profiles of those involved in cases solved by the courts, but did not possess the categorized data on the profile and position of all the accused involved in the corruption cases and organized crime.

 Prolongation of hearings, delays and postponements are among the reasons contributing to the backlogging of cases in courts.

 The lack of categorized data according to the profile of the people involved in indictments and trials, prevents access to complete data and proper presentation in order to identify the institutions and positions of public authority that are more involved in corruption cases.

5. Conclusions and Recommendations

Kosovo Justice System, among other things, continues to face challenges in carrying out judicial processes, in transparency and access to justice, respect of legal and procedural time frames, and fair and timely trials.

Lack of transparency manifested in carrying out important judicial processes behind closed doors, involving high public officials holding important public positions, speaks of judicial arbitrariness and is contrary to provisional and constitutional provisions, depriving citizens of access in such hearings of public importance. The closing of hearings even for technical reasons always indicates lack of transparency and accountability of courts in bringing such decisions, and contributes to their lack of transparency and public access.

Prolongation of hearings, delays and postponements are among the reasons contributing to the backlogging of cases in courts.

Delays and postponements of court hearings for various reasons, ranging from technical reasons to the inability to have a trial panel due to the substitution of judges, contributed to prolongation of judicial processes and backlogging of cases. This adds up to the lack of effectiveness of judiciary in resolution of cases.

Çohu! and CSD consider that few high profile cases and the ways they are resolved is of great concern. Based on monitoring data, out of 13 high profile individuals, 8 cases were resolved either in first or second instance, while the proceedings are going on for the remaining 5 suspects.

Çohu! and CSD believe that such mild sentences, rejection of indictments and release of officials considered as high-profile officials, shows the low level of fight against corruption and punishment of high-level corruption.

This report has put a special emphasis on dysfunctionality of courts in the north of Kosovo for more than 8 years, and the municipalities in the north are not yet integrated in Kosovo Justice System.

As a result, citizens of Kosovo, especially those in the north of Kosovo, are deprived of their basic right of access to justice, fair trial within a reasonable time, in line with international provisions, Constitution of Kosovo, and other relevant legal provisions of Kosovo.

Out of a total of 102 monitored cases and 214 court hearings during May 2016 – May 2017 in Basic Court in Prishtinë/Priština, Mitrovicë/Mitrovica and Gjilan/Gnjilane, Çohu! and CSD have identified breaches of procedural time frames in almost all cases, depending on the proceeding stage (the receipt of a case in court, scheduling and holding initial, second and main trial, conclusion and issuance of judgment).





This report has put a special emphasis on dysfunctionality of courts in the north of Kosovo for more than 8 years, and the municipalities in the north are not yet integrated in Kosovo Justice System.

This breach of time frame represents a breach of procedural provisions and has impact on the prolongation of court hearings and backlogging of cases, which is also considered breach of justice principles regarding a fair trial and within a reasonable time.

Corruption cases are dominant when it comes to their resolution by courts, compared to cases pertaining to other chapters. Also, if compared to other unresolved cases, those related to corruption dominate again.

Although treated with priority, corruption cases continue to be transferred from year to year and in this way hinder the effectiveness of prosecutions and courts to treat such cases.

Transparency

- KPC transparency in terms of access to public indictments;
- Transparency of courts regarding hearings, in line with constitutional and legal provisions;
- The opening of hearings for public, especially those of public importance;

Profiling and building professional and human capacities

- Profiling of prosecutors and judges for characteristic criminal offences such as organized crime, economic crimes, terrorism, etc.;

- Organization and continuous legal education and trainings for prosecutors and judges for professional capacity building, especially in relation to complex criminal offences, set as priority cases;
- Appointment of new prosecutors and judges in line with categorization standard with the number of prosecutors and judges for respective prosecutions and courts;
- Engagement of professional associates in prosecutions and courts;

Working conditions and extent of jurisdiction

- Implementation of constitutional, legal and international dispositions related to access to justice, proceeding and conclusion of cases within legal and procedural time frames, and the principle of fair trial and within a reasonable time;
- Creation of necessary work space by KPC for Mitrovicë/Mitrovica region (northern municipalities within Kosovo Prosecutorial System);
- Activation of judiciary in the north of Kosovo within Kosovo Judicial System/Expansion of KJC in northern Kosovo (Mitrovicë/Mitrovica north, Zubinpotok/Zubin-Potok, Zvečan/Zvečan, Leposaviq/Leposavić);



Although treated with priority, corruption cases continue to be transferred from year to year and in this way hinder the effectiveness of prosecutions and courts to treat such cases.

Accountability

- Better coordination of prosecutors and judges for scheduling and holding court hearings;
- Imposition of measures against prosecutors for unjustified delays in court hearings causing delays or postponement of the latter;
- Provision of information to relevant prosecutor regarding unjustified delays of prosecutors at a court hearing;
- Imposition of measures against judges for unjustified delays or absence in court hearings causing delays or postponement of the latter;
- Imposition of measures against judges causing postponements of court hearings;
- Prevention of problems and technical issues causing delays or postponements of court hearings;
- Achievement of objectives deriving from Action Plan for priority treatment of corruption cases;
- Resolution of old corruption cases, categorized as older cases;
- Priority treatment of corruption and organized crime cases by judges, also focusing on the proceeding of old cases of corruption and more effective proceeding of organized crime cases;
-

- Continuation of implementation of KJC decision to treat corruption and organized crime cases with priority;
- Prevention of problems in the Tracking Mechanism for Characteristic Criminal Offences of KPC, which continues to face problems of data inconsistency for characteristic criminal offences;

Procedural Violations

- Implementation of procedural and legal time frames by judges when scheduling and holding initial, second and main trial;
- Implementation of procedural and legal time frames by judges related to conclusion of main trial;
- Creation of mechanism by KJC to assess and establish reasons of failure to meet procedural and legal time frames for court hearings;
- Imposition of measures due to failure to meet procedural time frames due to negligence and irresponsibility;



ANNEX

These data comprise criminal offences of corruption, organized crime, criminal offences of domestic violence, and inciting national racial religious or ethnic hatred discord or intolerance during 2015 and 2016.

1. Comparison and Analysis of Proceeding of cases in prosecution and judiciary during 2015 and 2016

1.1 Proceeding of cases in prosecution and judiciary during 2015 and findings

In addition to monitoring of cases pertaining to respective Chapters in BC Prishtinë/Priština, Mitrovicë/Mitrovica and Gjilan/Gnjilane, Çohu! and CSD compared and analysed proceedings and resolution of cases in prosecutions and judges regarding transferred (transferred), received and resolved cases as well as outcomes and the unresolved cases for all courts and prosecutions.

These data comprise criminal offences of corruption, organized crime, criminal offences of domestic violence, and inciting national racial religious or ethnic hatred discord or intolerance during 2015 and 2016.

As stated in the findings of this report, the reason behind the said focus is to monitor certain cases of priority, cases of corruption and organized crime, as well as their comparison with cases of sensitive character, such as domestic violence or breach of human rights, as well as cases of

inciting national, racial, religious or ethnic hatred⁸⁵, discord or intolerance. In this respect, Kosovo Judicial Council and Kosovo Prosecution Council took decisions and drafted strategies to treat corruption and organized crime cases with priority

The cases in table 5 cover all prosecutions during January-December 2015.

Based on KPC and KJC both courts and prosecutions have the highest number of corruption cases. While prosecutions during 2015 received a total of 412 cases involving 860 persons, and resolved 456 cases involving 921 persons, the respective courts, on the other hand, during 2015 received a total of 282 cases and resolved 260 such cases. Both the prosecutions and the courts continued to have a considerable number of such unresolved cases. The unresolved cases in basic prosecutions and SPRK reached a total of 538 cases involving 1,640 persons, while basic courts by the end of 2015 had a total of 671 cases.

In order to compare and analyse the proceeding of such cases in courts, Çohu! and CSD presented the data in Table 6 below, for the said period and criminal offences:

Table 6: Trend of transferred, received, resolved and unresolved cases of corruption, organized crime, criminal offence against marriage and family and inciting national racial religious or ethnic hatred discord or intolerance, in all prosecutions during 2015.

⁸⁵ The focus of this year's monitoring were three (3) basic courts of Kosovo - Basic court in Prishtinë/Priština with its branch in Graçanicë/Gračanica, Basic court in Mitrovicë/Mitrovica, and Basic court in Gjilan/Gnjilane. At the beginning, the monitoring was focused on criminal offences from the chapters against official corruption and abuse of official position, organized crime, criminal offences against marriage and family, and criminal offences of inciting national, racial, religious or ethnic hatred, discord or intolerance, with a special focus on corruption and organized crime.

Trend of transferred, received, resolved and unresolved cases



TABLE 5: Trend of transferred, received, resolved and unresolved cases of corruption, organized crime, criminal offence against marriage and family and inciting national racial religious or ethnic hatred discord or intolerance, in all prosecutions during 2015.

Status of cases in basic courts during 2015

Cases in courts according to Chapters of Criminal Code of Kosovo (January-December 2015)	Transferred	Received	Total in process	OUTCOME										
				TYPES OF SENTENCES				Acquittal Judgement	Rejection Judgement	Prescription	Other outcome	Resolved total	Transferred with competence	Unresolved at the end
				Imprisonment	Fine	Probation	Other							
Chapter XXXIV - Official Corruption and Criminal Offences against Official Duty	662	282	944	34	40	53	1	44	33	13	42	260	13	671
Chapter XXIV - Organized Crime	35	13	48	1	0	0	0	0	0	0	1	2	0	46
Chapter XXI - Criminal Offences against Marriage and Family	140	59	199	5	5	19	0	0	0	5	9	43	0	156
Chapter XIV - Criminal Offences Against the Constitutional Order and Security of Kosovo (Article 147 of CCK)	5	6	11	1	0	0	0	0	0	0	2	3	0	8
Total	842	360	1,202	41	45	72	1	44	33	18	54	308	13	881

TABLE 6: Trend of transferred, received, resolved and unresolved cases of corruption, organized crime, criminal offence against marriage and family and inciting national racial religious or ethnic hatred discord or intolerance, in all prosecutions during 2015.

During this comparison and analysis, the project initially identified the inconsistency of proceeding of cases in⁸⁶categories of the KPC's data tracking mechanism in relation to the nature of criminal offences.⁸⁷

According to these data, basic courts transferred a total of 637 cases involving 2,094 persons from 2014. They received additional 482 cases involving 1,122 persons

during 2015 for all Chapters, reaching a total of 1,119 cases with 3,216 persons during 2015. In prosecution a total of 656 cases involving 2,162 persons remained unresolved.

These statistics are different from those provided by KJC if we consider all cases during 2015 (1,119 cases with 3,216 persons) minus the resolved cases during that period (522 cases with 1,113). According to KJC data, if we consider all cases in process (1,119 cases with 3,216 persons) minus the resolved cases during that period (522 cases with 1,113 persons), the result is 597 cases with

⁸⁶ Cases by categories: transferred, received, resolved and unresolved.

⁸⁷ Criminal offences of corruption, organized crime, criminal offences against marriage and family, and inciting national, racial, religious or ethnic hatred, discord or intolerance;

2,103 persons, and not as KJC presents it - 656 cases with 2,162.⁸⁸

On the other hand, KJC is facing many problems regarding case inconsistency. This is found based on data obtained by Çohu! and CSD for 2015. Based on data obtained from KJC, there is dominant trend of mild punishments for corruption cases, and lack of punishments for cases of organized crime.⁸⁹

1.2 Proceeding of cases in prosecution and judiciary during 2016 and findings

A very similar trend of proceeding of cases in prosecutions and courts continued also during 2016.

While comparing and analysing data pertaining to 2016, Çohu! and CSD noticed a similar trend of proceeding of cases in prosecutions and courts, with a high number of transferred cases from previous years. Also, in addition to inconsistency of cases in 2015 as shown above, Çohu! and CSD also identified inconsistency of these data from one year to another (2015-2016).

The following Table 7 and 8 show the cases proceeded in prosecutions and courts during 2016.

Table 7: Trend of transferred, received, resolved and unresolved cases of corruption, organized crime, criminal offence against marriage and family and inciting national racial religious or ethnic hatred discord or intolerance, in all prosecutions during January-December 2016.

⁸⁸ According to such calculation, there are 59 cases less, based on data in process, without those resolved during January-December 2015.

Note: While the number of cases may oscillate and be inconsistent with final data, the number of persons must be consistent in the end. The number of cases may vary because there might be persons involved in cases getting different judgments for the same case (some persons may be proceeded further, others may be released of charges), while the number of persons must be consistent and accurate, by calculating the total number (transferred and received), without persons who had their case concluded.

⁸⁹ Out of 260 resolved cases in respective first instance courts related to corruption, only 34 cases ended up with imprisonment, 40 with fines, and 50 cases with probation. Other categories of resolved cases include acquittal judgment (44), rejection judgment (33), prescription (13), other outcome (42), transferred with competence (13). Out of 48 cases of organized crime in basic courts, only 2 were resolved - one with imprisonment and another with other outcome. All these data are shown in the table above.

According to KJC data, if we consider all cases in process (1,119 cases with 3,216 persons) minus the resolved cases during that period (522 cases with 1,113 persons), the result is 597 cases with 2,103 persons, and not as KJC presents it - 656 cases with 2,162.

The same trend of received and resolved cases during this period (2016) continued in basic courts as well. The cases shown in Table 10 cover the period between January and December 2016 for the same chapters:

Prosecutions and courts had almost the same number of cases during January-December 2016. During this period the prosecutions received 500 cases of criminal offences related to chapters of this report. The courts, on the other hand, during this period received a total of 345 cases.

Similar to the same period in 2015, corruption cases continue to dominate compared to other three treated chapters. During 2016 prosecutions received 443 cases involving 824 persons adding up to 984 cases with 2,491 persons, considering the 541 cases with 1,667 persons transferred from last year. The prosecutions resolved 461 cases involving 1,115 persons whereas 447 cases involving 1,248 persons remained unresolved.

On the other hand, courts received a total of 258 corruption cases during 2016, which together with 671 transferred cases added up to 929 cases. During this period, courts resolved 357 cases, 1 was transferred with competence and 785 cases remained unresolved during 2016.

These cases by chapters, prosecutions and courts are shown in Table 7 and Table 8.











Cases in prosecution according to Chapters of Criminal Code of Kosovo (January-December 2016)	Transferred January 1, 2016		Received January-December 2016		Total in process January-December 2016		Resolved January-December 2016		Unresolved (31 December, 2016)	
	Cases	Persons	Cases	Persons	Cases	Persons	Cases	Persons	Cases	Persons
										
Chapter XXXIV - Official Corruption and Criminal Offences against Official Duty	541	1667	443	824	984	2491	461	1115	447	1248
Chapter XXIV - Organized Crime	49	420	2	27	51	447	23	185	40	343
Chapter XXI - Criminal Offences against Marriage and Family	55	73	51	60	106	133	53	61	53	72
Chapter XIV - Criminal Offences Against the Constitutional Order and Security of Kosovo (Article 147)	13	80	4	5	17	85	11	16	16	76
Total	658	2240	500	916	1158	3156	548	1377	556	1739

TABLE 7: Trend of transferred, received, resolved and unresolved cases of corruption, organized crime, criminal offence against marriage and family and inciting national racial religious or ethnic hatred discord or intolerance, in all prosecutions during January-December 2016.

Çohu! and CSD consider that such inconsistency, especially in corruption cases, points to continuous KPC problems in relation to the unification and accurate processing of such cases.

The way of resolving cases in basic courts during 2016

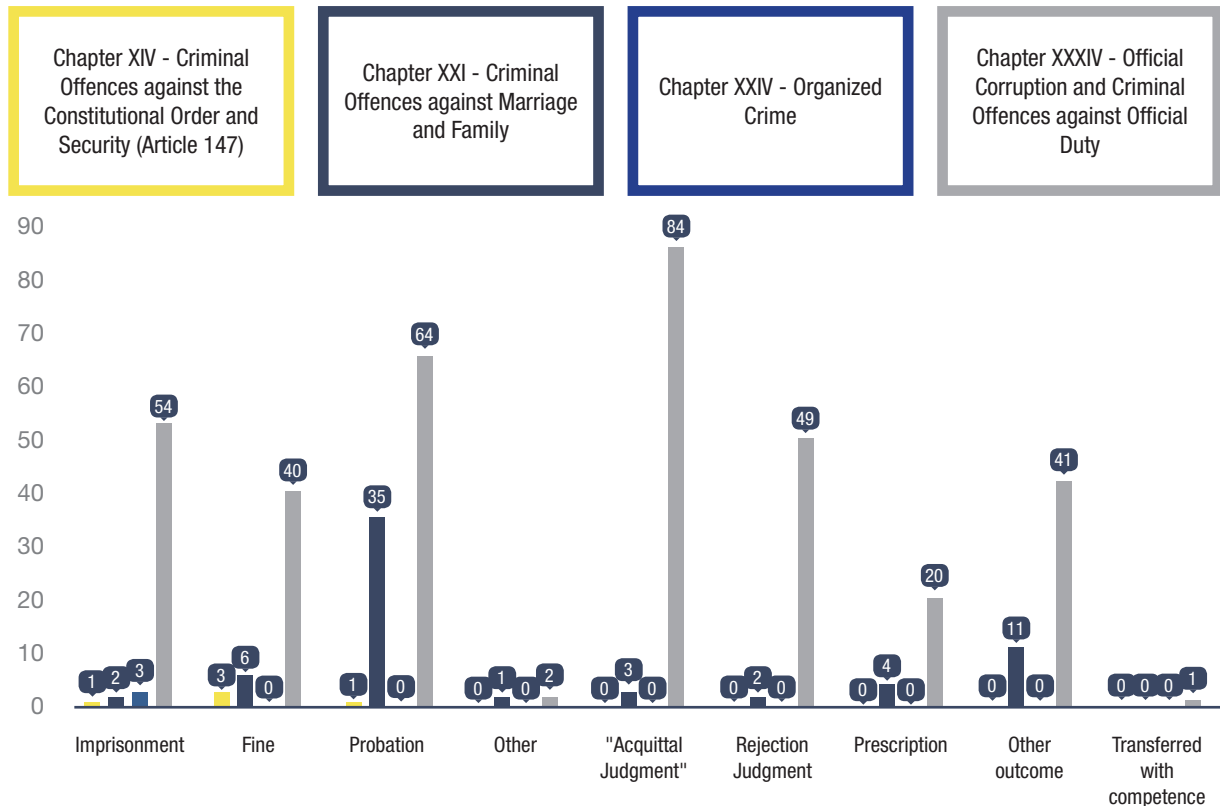




TABLE 8: The way of resolving cases of corruption, organized crime, criminal offence against marriage and family and inciting national racial religious or ethnic hatred discord or intolerance, in all courts during January-December 2016.

1.3 Data inconsistency

Data inconsistency according to chapters proceeded by prosecutions can also be found pertaining to 2015-2016 period. More precisely, the data of December 31, 2015 which should comprise the cases to be transferred to the following year, respectively January 1, 2016 are not consistent. This inconsistency also applies to prosecutions, which were shown in Table 9:

If we look at the data by the end of 2015 in prosecutions per chapters, we see that though by the end of 2015 (December, 31) prosecutions had 538 cases of corruption with 1,640 persons involved, by January 1, 2016 this figure was 541 cases with 1,667 persons involved. Although these data should match, there is an inconsistency of 3 cases with 27 persons, the figure which did not appear in database. Consequently, these 3 cases and 27 persons were not registered in (received) categories, or were registered late.

Difference of inconsistent data

		Chapter XXXIV - Official Corruption and Criminal Offences against Official Duty	Chapter XXIV - Organized Crime	Chapter XXI - Criminal Offences against Marriage and Family	Chapter XIV - Criminal Offences Against the Constitutional Order and Security of Kosovo (Article 147)	Total
CASES		3	2	/	-3	2
PERSONS		27	66	/	-15	78









Cases in prosecution according to Chapters of Criminal Code of Kosovo (January-December 2016)	Reported as unresolved (December 31, 2015)		Reported as transferred (January 1, 2016 -)		Difference of inconsistent data	
	Cases	Persons	Cases	Persons	Cases	Persons
						
Chapter XXXIV - Official Corruption and Criminal Offences against Official Duty	538	1,640	541	1,667	3	27
Chapter XXIV - Organized Crime	47	354	49	420	2	66
Chapter XXI - Criminal Offences against Marriage and Family	55	73	55	73	/	/
Chapter XIV - Criminal Offences Against the Constitutional Order and Security of Kosovo (Article 147)	16	95	13	80	-3	-15
Total	656	2,162	658	2,240	2	78

TABLE 9: Trend of inconsistency of cases and persons according to chapters (December 31, 2015 - January 1, 2016).

- Taking into consideration the total data from all chapters, though by December 31, 2015 there were 656 unresolved cases involving 2,162 persons, on January 1, 2016 there were 658 cases involving 2,240 persons. Although the data should match, we have an inconsistency of 2 cases with 78 persons.

The same situation is with other chapters for criminal offences against organized crime,⁹⁰ marriage and family,⁹¹ and other offences from Chapter 147.⁹²

Taking into consideration the total data from all chapters, though by December 31, 2015 there were 656 unresolved cases involving 2,162 persons, on January 1, 2016 there were 658 cases involving 2,240 persons. Although the data should match, we have an inconsistency of 2 cases with 78 persons.

KPC representatives, when commenting on the findings of the report related to inconsistencies, confirmed that there is data inconsistency in the tracking mechanism. They add that this happens mainly due to technical reasons, and they are working to eliminate such problems.

Çohu! and CSD consider that such inconsistency, especially in corruption cases, points to continuous KPC problems in relation to the unification and accurate processing of such cases. Though they seem to be of technical nature, such inconsistency in the tracking mechanism hinders access to accurate data and consequently creates difficulty in analysis and completion of processing of these data into various categories. Çohu! and CSD consider that KPC should undertake all necessary measures to eliminate such problems.

90 By the end of 2015, there were 47 unresolved cases of organized crime with 354 persons. As of January 1, 2016 there are 59 cases with 420 persons. These data should match. There is a difference of 2 cases involving 66 persons, which were not included in the database.

91 Unlike other cases pertaining to other chapters, data on criminal offences against marriage and family are consistent.

92 By the end of 2015, there were 16 unresolved cases of inciting national, racial, religious or ethnic hatred, discord or intolerance involving 95 persons. As of January 1, 2016, there are 13 cases with 80 persons. Although these data should match, there is an inconsistency of 3 cases with 15 persons less, who did appear in database;

- Based on KPC data shown in the table above, out of 1,158 cases and 3,156 persons in process during 2016, 984 cases (84.97%) with 2,491 persons (78.92%) comprise criminal offences against official corruption and official duty.

1.4 Percentage of resolved cases according to chapters

Prosecutions have resolved most cases of corruption, compared to other chapters covered in this report. Table 10 shows the percentage of resolved cases and persons during the nine-month period:

Based on KPC data shown in the table above, out of 1,158 cases and 3,156 persons in process during 2016, 984 cases (84.97%) with 2,491 persons (78.92%) comprise criminal offences against official corruption and official duty. All cases from the respective chapters are shown in the table above.⁹³

The following Table 11 shows the percentage of cases of corruption, organized crime, those against marriage and family and inciting national racial religious or ethnic hatred discord or intolerance, by courts during 2016:

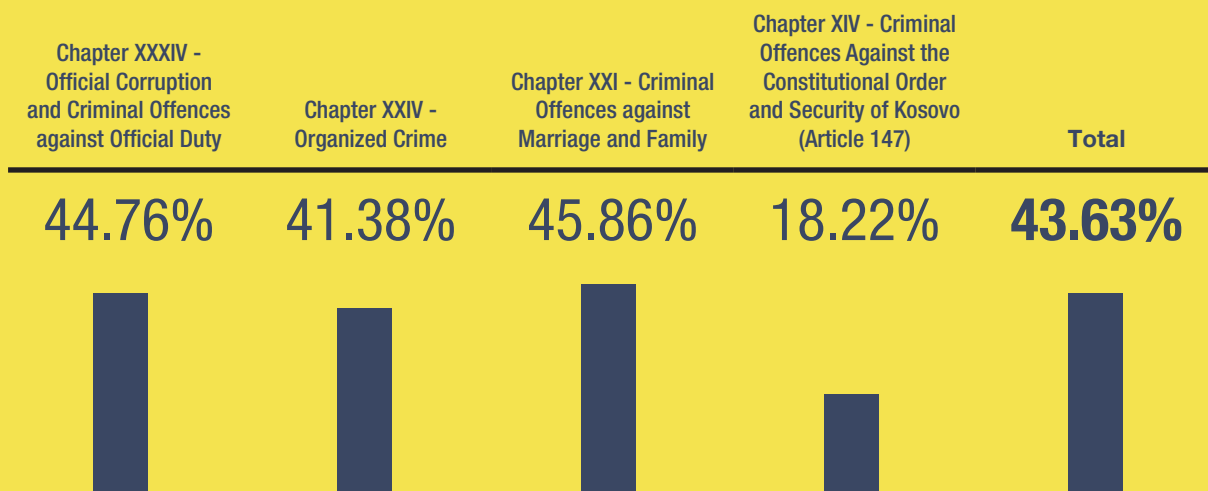
Corruption cases dominate in terms of resolved cases, and out of a total of 856 corruption cases during January-September 2016, first instance courts have resolved 265 cases of 30%. Basic courts resolved 22.6% and 23% of cases against marriage and family, respectively criminal offences inciting national, racial, religious or ethnic hatred, discord or intolerance, while only 2 out of 57 cases of organized crime were resolved during January-September 2016. In terms of case resolution, cases related to corruption dominate compared to the number of resolved cases pertaining to other chapters.

Although they were treated with priority, corruption cases continue to be transferred over the years.

93 Prosecutions had resolved 44.76% of persons involved in corruption cases during 2016 (1,115 out of a total of 1,248 persons for this period), 45.86% of persons for criminal offences against marriage and family, 41.38% for organized crime and only 18.22% of cases from Article 147 (15 out of a total of 84 persons during January-September 2016).



The persons included on resolved cases (in %)

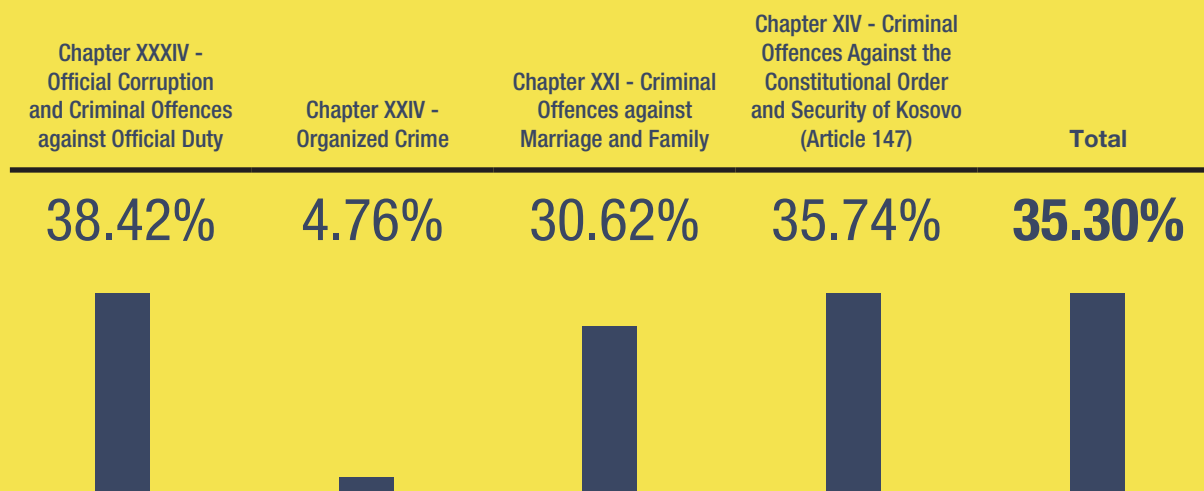


Cases in prosecution according to Chapters of Criminal Code of Kosovo (January-December 2016)	Total in process January-December 2016		Reported as transferred (January 1, 2016 -)				Unresolved (December 31, 2016)	
	Cases	Persons	Cases	Persons	Cases	Persons	Cases	Persons
Chapter XXXIV - Official Corruption and Criminal Offences against Official Duty	984	2491	461	46.84%	1115	44.76%	447	1248
Chapter XXIV - Organized Crime	51	447	23	45.09%	185	41.38%	40	343
Chapter XXI - Criminal Offences against Marriage and Family	106	133	53	50%	61	45.86%	53	72
Chapter XIV - Criminal Offences Against the Constitutional Order and Security of Kosovo (Article 147)	17	85	11	64.70%	16	18.22%	16	76
Total	1158	3156	548	47.32%	1377	43.63%	556	1739

TABLE 10: Trend of inconsistency of cases and persons according to chapters (December 31, 2015 - January 1, 2016).



Resolved cases in basic courts (in %)



Percentage of cases resolved by courts by chapters of the Criminal Code (January-December 2016)

	Transferred	Received	Total in process	Resolved total	Resolved - Percentage	Transferred with competence	Unresolved at the end
Chapter XXXIV - Official Corruption and Criminal Offences against Official Duty	671	258	929	357	38.42%	1	571
Chapter XXIV - Organized Crime	46	17	63	3	4.76%	0	60
Chapter XXI - Criminal Offences against Marriage and Family	145	64	209	64	30.62%	0	145
Chapter XIV - Criminal Offences against the Constitutional Order and Security (Article 147)	8	6	14	5	35.74%	0	9
Total	870	345	1215	429	35.30%	1	785

TABLE 11: Percentage of cases and persons resolved by courts according to Chapters (January 1 - September 30, 2016).

2. Treatment of cases and the efficiency of prosecution and courts

Fight against corruption and organized crime continues to pose one of the biggest challenges of Kosovo Justice System.

High level of corruption is also characterized by lack of readiness and political will to fight corruption and organized crime, which also remains constant demand of international institutions

According to EC Country Report on Kosovo for 2016, Kosovo is in its early stages of fight against corruption and organized crime, according to which corruption continues to be a serious problem across different sectors.⁹⁴This Report recommends a stronger and more comprehensive political will to deal with corruption in particular.⁹⁵

Further, the draft resolution on Kosovo progress presented to the European Parliament Committee on Foreign Affairs emphasizes a serious and slow progress of Kosovo in its fight against corruption and organized crime.⁹⁶

This chapter first takes a look at cases of corruption in prosecutions and courts during 2015 and 2016. Then, it analyses cases of organized crime, and criminal offences against marriage and family, as well as cases of inciting national racial religious or ethnic hatred discord or intolerance for the same period.

2.1 Corruption cases

Action Plan to Increase Effectiveness of Prosecution System in the Fight against Corruption was initially adopted by KPC on November 1, 2013, comprising objectives and steps to be undertaken to treat corruption cases (old cases) until June 30 of the following year.⁹⁷The inability to

reduce the number of old cases of corruption made the Special Prosecution of Kosovo and other basic prosecutions treat corruption cases with priority also during 2017.

Kosovo Judicial Council on December 30, 2015 also took a decision to treat corruption cases with absolute priority, by also approving its Action Plan to Resolve Cases of Corruption.⁹⁸

Based on KPC and KJC data, during 2015 prosecutions had a total of 951 cases of corruption with 2,502 persons involved, while courts had 994 cases of corruption. During 2016 prosecutions had 984 cases of corruption, while courts had 929 such cases.

According to KPC data, basic prosecutions and Special Prosecution of Kosovo during 2015 received a total of 412 cases involving 860 persons, and resolved 456 cases involving 921 persons, while 538 cases with 1,640 persons remained unresolved.⁹⁹

Data inconsistency in the tracking mechanism for criminal offences, shown in table by chapters, is more evident in cases of corruption. Special Prosecution of Kosovo has the highest inconsistency of cases¹⁰⁰, followed by BP Prizren/Prizren¹⁰¹, BP Prishtinë/Priština¹⁰² and BP Pejë/Peć.¹⁰³

Based on statistical data, prosecutions did not manage to reduce the number of cases in process, despite the fact that a high number of cases received throughout the year was resolved.

98 Action Plan to Resolve Corruption Cases, approved in December 2015 by KJC, Prishtinë/Priština.

99 BP Prishtinë/Priština, SPRK and BP Mitrovicë/Mitrovica are the prosecutions with the highest number of cases in process, shown in table.

100 SPRK from 2014 transferred a total of 47 cases with 261 persons. During 2015 it received 14 cases with 52 persons, making a total of 61 cases with 313 persons during 2015. If we consider all cases during 2015 (61 cases with 313 persons) without the resolved cases during the same period (22 cases with 108 persons), the result is 39 cases with 205 persons, and not as KPC data show (43 cases with 263 persons)

101 BP Prizren/Prizren from 2014 transferred a total of 18 cases with 52 persons. During 2015 it received 45 cases with 101 persons, making a total of 63 cases with 153 persons during 2015. If we consider all cases during 2015 (63 cases with 153 persons) without the resolved cases during the same period (44 cases with 92 persons), the result is 19 cases with 61 persons, and not as KPC data show (23 cases with 64 persons)

102 BP Prishtinë/Priština from 2014 transferred a total of 341 cases with 993 persons. During 2015 it received 155 cases with 351 persons, making a total of 496 cases with 1344 persons during 2015. If we consider all cases during 2015 (496 cases with 1344 persons) without the resolved cases during the same period (192 cases with 324 persons), the result is 304 cases with 1,020 persons, and not as KPC data show (336 cases with 1,018 persons)

103 BP Pejë/Peć from 2014 transferred a total of 25 cases with 70 persons. During 2015 it received 45 cases with 71 persons, making a total of 70 cases with 141 persons during 2015. If we consider all cases during 2015 (70 cases with 141 persons) without the resolved cases during the same period (49 cases with 96 persons), the result is 21 cases with 45 persons and not as KPC data show (22 cases with 45 persons)

94 EC Country Report 2016, pg. 5, November 2016, Brussels.

95 Ibid.

96 EP Draft Resolution on Kosovo, presented on January 9, 2017; <https://europeanwesternbalkans.com/2017/01/11/ep-draft-report-on-kosovo-serious-concern-about-slow-progress-in-fight-against-corruption-and-organised-crime/>.

97 Action Plan to Increase the Effectiveness of Kosovo Prosecutorial System in Fighting Corruption, approved by KPC on November 1, 2013 in Prishtinë/Priština.

- According to KPC data, basic prosecutions and Special Prosecution of Kosovo during 2015 received a total of 412 cases involving 860 persons, and resolved 456 cases involving 921 persons, while 538 cases with 1,640 persons remained unresolved.











Official Corruption and Criminal Offences against Official Duty - Cases and persons in every prosecution during January-December 2015	Transferred (January 1, 2015)		Received 2015		Total in process		Resolved 2015		Unresolved (December 31, 2015)	
	Cases	Persons	Cases	Persons	Cases	Persons	Cases	Persons	Cases	Persons
										
SPRK	47	261	14	52	61	313	22	108	43	263
BP Prishtinë/Priština	341	993	155	351	496	1,344	192	324	336	1,018
BP Prizren/Prizren	18	52	45	101	63	153	44	92	23	64
BP Pejë/Peć	25	70	45	71	70	141	49	96	22	45
BP Gjiilan/Gnjilane	7	18	44	66	51	84	42	67	10	17
BP Mitrovicë/Mitrovica	55	143	43	93	98	236	28	73	71	163
BP Ferizaj/Uroševac	30	69	32	64	62	133	43	93	19	40
BP Gjakovë/Đakovica	16	36	34	62	50	98	36	68	14	30
Total	539	1,642	412	860	951	2,502	456	921	538	1,640

TABLE 12: Trend of transferred, received, resolved and unresolved (remaining) for offences against official corruption and official duty in each prosecution for the reporting period (January-December 2015)











Official corruption and criminal offences against official positions - Cases and persons proceeded in each prosecution during January-December 2016.	Transferred January 1, 2016		Received January-December 2016		Total in process (January-December 2016)		Resolved January-December 2016		Unresolved December 2016	
	Cases	Persons	Cases	Persons	Cases	Persons	Cases	Persons	Cases	Persons
										
SPRK	46	270	10	30	56	300	25	156	39	162
BP Prishtinë/Priština	338	1034	165	304	503	1338	202	532	223	655
BP Prizren/Prizren	21	60	39	80	60	140	34	71	27	69
BP Pejë/Peć	23	47	61	92	84	139	63	97	21	40
BP Gjilan/Gnjilane	9	18	88	173	97	191	76	144	19	48
BP Mitrovicë/Mitrovica	71	164	32	84	103	248	25	61	82	192
BP Ferizaj/Uroševac	19	43	18	32	37	75	20	28	17	47
BP Gjakovë/Đakovica	14	31	30	29	44	60	16	26	19	35
Total	541	1667	443	824	984	2491	461	1115	447	1248

TABLE 13: Trend of transferred, received, resolved and remaining cases in prosecutions for criminal offences against official corruption and official duty during January-September 2016.

Table 13 also shows cases of corruption in all basic prosecutions and in SPRK during 2016.

In 2016 the trend of unresolved cases is lower compared to last year and with less involved persons. In 2015 there was a total of 538 cases with 1,640 persons while in 2016 the prosecutions had a total of 447 unresolved cases with 1,248 persons. During this period, prosecutions received a

total of 443 cases with 824 persons, resolved a total of 461 cases with 1,115 persons, and all prosecutions were left with a total of 447 unresolved cases with 1,248 persons.

Çohu! and CSD consider that despite the fact that prosecutions have resolved a high number of cases during 2016, the high number of transferred cases from year to year remains concerning.



If we compare the percentage of resolved cases of corruption in the whole of Kosovo with the total number of prosecutors, we see that BB Prishtinë/Priština has the highest number of cases compared to other prosecutions but fewer prosecutors.

Kosovo prosecution system until December 1, 2016 had a total of 146 prosecutors out of whom 48 belonged to BP Prishtinë/Priština. Based on that statistics, BP Prishtinë/Priština had 32% of all prosecutors and around 50% of all unresolved cases.

Out of a total of 447 cases with 1,248 persons in process as unresolved cases, 52.48% or more than half of all persons involved in those cases continue to be at BP Prishtinë/Priština, while the rest of 47.52% are in other basic prosecutions and at SPRK.

If we compare the percentage of resolved cases of corruption in the whole of Kosovo with the total number of prosecutors, we see that BB Prishtinë/Priština has the highest number of cases compared to other prosecutions but fewer prosecutors. Kosovo prosecution system until December 1, 2016 had a total of 146 prosecutors out of whom 48 belonged to BP Prishtinë/Priština. Based on that statistics, BP Prishtinë/Priština had 32% of all prosecutors and around 50% of all unresolved cases.

Çohu! and CSD believe that such a high number of unresolved and transferred cases in years continue to pose great challenge for prosecution as well as for citizens who are continuously under investigation.

Çohu! and CSD consider that KPC should increase the number of prosecutors, proportionally with the load of cases per prosecutions, by contributing, to some extent, to more efficient handling of cases of different nature.

Unlike prosecutions, courts do not have inconsistency in terms of cases throughout months and years. However, courts have less cases resolved compared to prosecutions for both periods (2015 and 2016) covered by this report.

While during 2015 prosecutions resolved 456 cases of corruption, courts resolved a total of 260 cases of this nature. During 2016, prosecutions resolved a total of 461 cases, while courts resolved a total of 357 cases of corruption.

Çohu! and CSD have also categorized cases of corruption in courts, including those transferred, received, their outcome, cases transferred with competence and unresolved cases for 2015 and for January-September 2016.

Table 14 shows cases of criminal offences against official corruption and official duty during 2015, inherited or transferred cases, those received during 2015, resolved, transferred with competence and unresolved cases in all courts.

The Chapter related to official corruption and criminal offences against official duty contains a total of 16 types of criminal offences shown in Table 14 and Table 15. Taking into account the focus and approach of monitoring of court hearings in BP Prishtinë/Priština, Gjilan/Gnjilane and Mitrovicë/Mitrovica, Çohu! and CSD categorized data by chapters and by criminal offences. According to data obtained by KJC, during 2015 courts had around 1000 such cases, respectively a total of 944 cases. Çohu! and CSD compared the data of transferred and received cases, as well as resolved cases during the said period, and found that courts were further loaded with such cases.

Çohu! and CSD consider that during 2015 courts did not prove to be efficient. Out of a total of 944 cases (662 transferred and 282 new cases received during 2015) courts have resolved only 260 cases. This figure shows that courts did not manage to resolve the 282 cases received during the year, which means that courts are further loaded with this type of cases. As a result, a total of 671 cases remained unresolved by the end of 2015.

The following table shows cases of official corruption and criminal offences against official duty during 2016.



Status of cases in basic courts during 2015

Proceeding of cases of criminal offence against corruption and official duty, January 2015	Transferred	Received during 2015	Total in process	OUTCOME										
				TYPES OF SENTENCES				Acquittal Judgement	Rejection Judgement	Prescription	Other outcome	Resolved total	Transferred with competence	Unresolved at the end
				Imprisonment	Fine	Probation	Other							
Abuse of power or official duty	237	137	374	20	5	14	0	23	20	10	22	114	8	252
Abuse of official information	0	2	2	0	0	0	0	0	0	0	0	0	0	2
Conflict of interest	0	2	2	0	0	0	0	0	0	0	0	0	0	2
Unauthorized acquisition	93	19	112	2	0	7	0	2	1	1	1	14	1	97
Fraud	9	4	13	1	1	0	0	0	0	0	0	2	0	11
Unauthorized use of assets	18	2	20	0	1	0	0	1	0	0	0	2	0	18
Receiving bribe	73	18	91	5	2	2	0	6	3	0	2	20	1	70
Giving bribe	36	37	73	1	25	9	0	1	0	2	1	39	2	32
Giving bribe to a foreign public official	2	0	2	0	0	0	0	0	0	0	0	0	0	2
Trading in influence	16	3	19	0	0	3	0	0	0	0	2	5	0	14
Issuing unlawful judicial decisions	7	4	11	0	0	0	0	0	0	0	3	3	0	8
Disclosing official secrets	8	4	112	0	0	0	0	0	0	0	2	2	0	10
Falsifying official document	93	8	101	1	0	2	0	3	2	0	1	9	1	91
Unlawful collection and disbursement	6	1	7	0	0	0	0	1	0	0	1	2	0	5
Unlawful appropriation of property	1	0	1	0	0	0	0	0	0	0	0	0	0	1
Failure to report or falsely reporting...	63	41	104	4	6	16	1	7	7	0	7	48	0	56
TOTAL	662	282	944	34	40	53	1	44	33	13	42	260	13	671

TABLE 14: Trend of transferred, received, resolved and remaining cases in courts, related to corruption and criminal offences against official duty during January–December 2015.

Status of cases in basic courts during 2016

Proceeding of cases of official corruption and criminal offences against official duty during January-December 2016	Transferred	Received during 2015	Total in process	OUTCOME											Unresolved at the end
				TYPES OF SENTENCES				Acquittal Judgement	Rejection Judgement	Prescription	Other outcome	Resolved total	Transferred with competence		
				Imprisonment	Fine	Probation	Other								
Abuse of power or official duty	250	111	361	19	8	18	0	48	23	112	15	143	1	217	
Abuse of official information	250	159	409	27	10	26	0	64	29	13	25	194	1	214	
Conflict of interest	2	1	3	1	0	1	0	0	0	0	0	2	0	1	
Unauthorized acquisition	2	3	5	0	0	0	0	0	0	0	2	2	0	3	
Fraud	97	20	117	7	4	12	0	5	1	1	3	33	0	84	
Unauthorized use of assets	9	1	10	1	0	0	0	1	0	0	1	3	0	7	
Receiving bribe	18	2	20	0	1	1	0	0	0	0	0	2	0	18	
Giving bribe	70	21	91	12	0	5	0	2	3	3	2	27	0	64	
Giving bribe to a foreign public official	30	30	60	2	12	7	1	0	1	2	2	27	0	33	
Trading in influence	2	0	2	0	0	0	0	0	0	0	0	0	0	2	
Issuing unlawful judicial decisions	14	1	15	1	3	1	0	2	0	0	1	8	0	7	
Disclosing official secrets	7	0	7	0	0	0	0	1	0	0	0	1	0	6	
Falsifying official document	10	0	10	0	0	0	0	2	0	0	0	2	0	8	
Unlawful collection and disbursement	90	3	93	2	0	1	0	1	1	1	1	7	0	86	
Unlawful appropriation of property	5	2	7	0	0	0	0	1	3	0	1	5	0	2	
Failure to report or falsely reporting property	1	0	1	0	0	0	0	0	0	0	0	0	0	1	
TOTAL	64	15	79	1	10	13	1	5	11	0	3	44	0	35	

TABLE 15: Trend of transferred, received, resolved and remaining cases in courts, related to corruption and criminal offences against official duty during December 2016

During 2015 SPRK alone resolved 16 such cases involving 113 persons, and was left with 47 unresolved cases involving 354 persons, as of 31 December 2015.

Similar to the cases of corruption, in criminal offences pertaining to organized crime there is data inconsistency between unresolved cases by the end of 2015, and those transferred as of January 2016.

Çohu! and CSD believe that the decision to treat such cases with priority seems to have given good results, since the number of unresolved cases during the reporting period, respectively until September 30, 2016 is lower compared to the number of unresolved cases by the end of 2015.¹⁰⁴

Unlike 2015, courts were more efficient during 2016,. In 2015 courts resolved 260 cases, whereas in 2016 courts resolved 357 cases.¹⁰⁵

In terms of the resolved cases during January-September 2016, courts managed to resolve most cases of abuse of official duty (143), followed by failure to report or falsely reporting property (38), misappropriation (26), receiving bribes (18), giving bribes (17) and other shown in Table 17.¹⁰⁶

Çohu! and CSD believe that such a high number of transferred cases in years continue to pose great challenge, especially in judiciary. Preparation of prosecutors and judges for cases of same nature, increase of sufficient

number of prosecutors, judges and professional associates, would reduce the high number of cases in courts and prosecutions, and contribute to their effective proceeding.

2.2 Organized crime cases

Criminal Code of Kosovo which entered into force in 2013 categorized organized crime in a special chapter and within Article 283 qualified it as Participation in or organization of an organized criminal group.¹⁰⁷

Having this category in their focus as well, Çohu! and CSD analysed such cases in prosecution and courts during 2015 and during January-September 2016, also pertaining to cases of priority treatment by KPC and KJC.

Based on legal provisions, in almost all cases organized crime falls under the competence of Special Prosecution of Kosovo. According to data obtained from KPC, Special Prosecution of Kosovo is responsible for almost all cases of organized crime. In addition to SPRK, cases of organized crime for criminal offences of Participation in or organization of an organized criminal group are also proceeded by BP Prishtinë/Priština and BP Ferizaj/Uroševac.

Table 16 shows cases of organized crime proceeded in prosecution during 2015

104 By the end of 2015 courts had a total of 929 unresolved cases. On the other hand, by the end of reporting period, respective September 30, 2016, courts had a total of 590 unresolved cases.

105 During 2016, courts had 856 cases in process. Out of which 929 cases in process (671 transferred cases and 258 new cases received during 2016) courts resolved 357 cases. This data shows that the courts were left with 571 unresolved cases.

106 Out of 16 types of criminal offences of official corruption and against official duty, abuse of official position or duty is the predominant criminal offence in these cases, with 409 such cases out of a total of 929 cases in process during 2016. The following criminal offence is misappropriation in office with 117 cases, followed by falsification of official document with 93 cases for the same period.

When it comes to the outcome of these cases, similar to last year, most of them were resolved with acquittal judgment (84), rejection judgment (49) and prescription (20), making up a total of 153 out of 357 resolved cases during 2016. During these period, 54 cases ended with prison sentence, 40 with fines and 67 with probation.

107 Criminal Code of Kosovo, Article 183 - <https://gzk.rks-gov.net/ActDetail.aspx?ActID=2834>.











Organized Crime - Cases and persons in every prosecution during January- December 2015.	Transferred		Received (January- December 2015)		Total in process (January- December 2015)		Resolved (January- December 2015)		Unresolved (December 31, 2015)	
	Cases 	Persons 	Cases 	Persons 	Cases 	Persons 	Cases 	Persons 	Cases 	Persons 
SPRK	39	301	14	156	53	457	16	113	45	344
BP Prishtinë/Priština	1	4	0	0	1	4	0	0	1	4
BP Prizren/Prizren	0	0	0	0	0	0	0	0	0	0
BP Pejë/Peć	0	0	0	0	0	0	0	0	0	0
BP Gjilan/Gnjilane	0	0	0	0	0	0	0	0	0	0
BP Mitrovicë/Mitrovica	0	0	0	0	0	0	0	0	0	0
BP Ferizaj/Uroševac	1	6	0	0	1	6	0	0	1	6
BP Gjakovë/Đakovica	0	0	0	0	0	0	0	0	0	0
Total	41	311	14	156	55	467	16	113	47	354

TABLE 16: Trend of transferred, received, resolved and remaining cases in courts, related to participation in or organization of an organized criminal group, during 2015.

Out of 55 cases involving 467 persons, SPRK had 53 cases with 457 persons, BP Prishtinë/Priština had 1 case with 4 persons, and BP Ferizaj/Uroševac had 1 case with 6 persons. During 2015 SPRK alone resolved 16 such cases involving 113 persons, and was left with 47 unresolved cases involving 354 persons, as of 31 December 2015.

Similar to the cases of corruption, in criminal offences pertaining to organized crime there is data inconsistency between unresolved cases by the end of 2015, and those transferred as of January 2016.¹⁰⁸

108 By the end of 2015, SPRK had 45 cases with 344 persons. On January 1, 2016 SPRK had 46 cases with 412 persons, although these figures should match. There is also inconsistency at BP Prishtinë/Priština. By the end of 2015 it had 1 unresolved case involving 4 persons, while on January 1, 2016 there were 2 cases involving 2 persons.

Table 17 shows cases of organized crime for 2016 (January-September):

Based on data obtained from KJC, Special Prosecution of Kosovo, BP Prishtinë/Priština and BP Ferizaj/Uroševac during 2016 had a total of 51 cases involving 455 persons. The data shows that out of a total of 51 cases involving 447 persons, SPRK had 48 cases with 439 persons, while BP Prishtinë/Priština had 2 cases with 2 persons, and BP Ferizaj/Uroševac had 1 case with 6 persons.

Also during 2016, only SPRK has resolved such cases (23 cases involving 185 persons), while 40 cases involving 329 persons remained unresolved as of the end of the reporting period.











Organized Crime - Cases and persons in every prosecution during January- December 2016.	Transferred January 1, 2016		Received January- December 2016		Total in process (January- December 2016)		Resolved January- December 2016		Unresolved January- December 2016	
	Cases 	Persons 	Cases 	Persons 	Cases 	Persons 	Cases 	Persons 	Cases 	Persons 
SPRK	46	412	2	27	48	439	23	185	37	335
BP Prishtinë/Priština	2	2	0	0	2	2	0	0	2	2
BP Prizren/Prizren	0	0	0	0	0	0	0	0	0	0
BP Pejë/Peć	0	0	0	0	0	0	0	0	0	0
BP Gjilan/Gnjilane	0	0	0	0	0	0	0	0	0	0
BP Mitrovicë/Mitrovica	0	0	0	0	0	0	0	0	0	0
BP Ferizaj/Uroševac	1	6	0	0	1	6	0	0	1	6
BP Gjakovë/Đakovica	0	0	0	0	0	0	0	0	0	0
Total	49	420	2	27	51	447	23	185	40	343

TABLE 17: Trend of transferred, received, resolved and remaining cases in prosecutions, related to participation in or organization of an organized criminal group, during January-December 2016.

Çohu! and CSD have also obtained data on organized crime from KJC, pertaining to 2015 and 2016. According to these data, the trend is similar in terms of proceeding of such cases in basic courts of Kosovo.

Table 18 shows cases of organized crime in 2015.

Only 2 out of 48 cases of organized crime were resolved in basic courts - one with imprisonment and another with other outcome, while 46 such cases remained unresolved.

These cases are shown in the following table pertaining to 2016

During 2016 courts have resolved only three cases of organized crime. Out of a total of 63 cases during this period (46 transferred and 17 new cases), courts ordered imprisonment in three resolved cases. 60 cases were left unresolved.

Cases of organized crime were also set as priority, and were even categorized as a standard of progress in different integration processes.

Although those cases are more complex in nature, the low number of such cases resolved by prosecutions and courts is of concern, especially those resolved by courts. During two years, courts resolved only 5 cases of orga-

Status of cases in basic courts during 2015

Proceeding of cases of organized crime in 2015.	Transferred	Received during 2015	Total in process	OUTCOME										
				TYPES OF SENTENCES				Acquittal Judgement	Rejection Judgement	Prescription	Other outcome	Resolved total	Transferred with competence	Unresolved at the end
				Imprisonment	Fine	Probation	Other							
Participation in r organization of an organized criminal group crime	35	13	48	1	0	0	0	0	0	0	1	2	0	46

TABLE 18: Trend of transferred, received, resolved and remaining cases in courts, related to participation in or organization of an organized criminal group, during 2015.

Status of cases in basic courts during 2016 (January-December 2016)

Proceeding of cases of organized crime (January-December 2016)	Transferred	Received during 2015	Total in process	OUTCOME										
				TYPES OF SENTENCES				Acquittal Judgement	Rejection Judgement	Prescription	Other outcome	Resolved total	Transferred with competence	Unresolved at the end
				Imprisonment	Fine	Probation	Other							
Participation in r organization of an organized criminal group crime	46	17	63	3	0	0	0	0	0	0	0	3	0	60

TABLE 19: Trend of transferred, received, resolved and remaining cases in courts, related to participation in or organization of an organized criminal group, during January-December 2016.

nized crime, and taking into consideration that this is a priority standard, such a figure is far from meeting the requirement to fight such phenomenon, being among the most problematic ones in Kosovo.

Çohu! and CSD recommends prosecutions and courts to prosecute, investigate and treat such cases with priority in order to reach the objective of fighting and prevention of such a concerning phenomenon in Kosovo.

2.3 Criminal offences against marriage and family

Similar to other cases treated so far, criminal offences against marriage and family were first presented within prosecution for 2015 and 2016, and proceeded by basic courts during this period. Cases in Table 20 pertain to all prosecutions proceeded during 2015











Proceeding cases of criminal offences of against marriage and family 2015	Transferred		Received (January-December 2015)		Total in process (January-December 2015)		Resolved (January-December 2015)		Unresolved (December 31, 2015)	
	Cases	Persons	Cases	Persons	Cases	Persons	Cases	Persons	Cases	Persons
										
SPRK	0	0	0	0	0	0	0	0	0	0
BP Prishtinë/Priština	2	2	3	3	5	5	4	4	1	1
BP Prizren/Prizren	8	112	5	14	13	26	3	10	10	16
BP Pejë/Peć	22	24	10	15	32	39	4	7	28	32
BP Gjilan/Gnjilane	0	0	11	112	11	112	11	112	0	0
BP Mitrovicë/Mitrovica	8	10	9	14	17	24	7	7	10	17
BP Ferizaj/Uroševac	6	7	6	8	112	15	7	9	5	6
BP Gjakovë/Đakovica	0	0	2	2	2	2	1	1	1	1
Total	46	55	46	68	92	123	37	50	55	73

TABLE 20: Trend of transferred, received, resolved and remaining cases in prosecutions, related to criminal offence against marriage and family during 2015.

Out of 92 cases involving 123 persons in prosecutions during 2015, 46 cases involving 55 persons were transferred from 2014, and there were 46 new cases involving 68 persons. 37 cases involving 50 persons were resolved. According to such statistics, it turns out that more cases came during 2015 then resolved ones by prosecutions during the same period, making it more difficult for prosecutions in terms of backloging of cases. Based on KPC statistics, by the end of 2015, prosecutions had 55 cases involving 73 persons.

Unlike 2015, prosecutions resolved more cases during 2016, respectively 53 such cases with 61 persons.

The following table shows cases and persons in all prosecutions proceeded during 2016:











Criminal Offence against Marriage and Family - cases resolved in prosecutions during January-December 2016.	Transferred January 1, 2016		Received January-December 2016		Total in process January-December 2016		Resolved January-December 2016		Unresolved (December 31, 2016)	
	Cases	Persons	Cases	Persons	Cases	Persons	Cases	Persons	Cases	Persons
										
SPRK	0	0	0	0	0	0	0	0	0	0
BP Prishtinë/Priština	1	1	0	0	1	1	0	0	1	1
BP Prizren/Prizren	10	16	6	6	16	22	6	9	10	13
BP Pejë/Peć	28	32	24	28	52	60	35	37	17	23
BP Gjiilan/Gnjilane	0	0	0	0	0	0	0	0	0	0
BP Mitrovicë/Mitrovica	10	17	3	6	13	23	2	3	11	20
BP Ferizaj/Uroševac	5	6	7	7	12	13	6	6	6	7
BP Gjakovë/Đakovica	1	1	11	13	12	14	4	6	8	8
Total	55	73	51	60	106	133	53	61	53	72

TABLE 21: Trend of transferred, received, resolved and remaining cases in prosecutions, related to criminal offences against marriage and family, during January-December 2016.

According to data obtained from KJC pertaining to 2016, Special Prosecution of Kosovo and BP Gjilan/Gnjilane did not have any such case of criminal offence. BP Pejë/Peć has the highest number of such cases, with a total of 52

cases involving 60 persons out of 106 cases involving 133 persons during 2016. It is followed by BP Prizren/Prizren with 16 cases involving 22 persons, and other prosecutions as shown in Table 23.

Status of cases in basic courts during 2015

Proceeding of cases of criminal offences against marriage and family during 2015	Transferred	Received during 2015	Total in process	OUTCOME										
				TYPES OF SENTENCES				Acquittal Judgement	Rejection Judgement	Prescription	Other outcome	Resolved total	Transferred with competence	Unresolved at the end
				Imprisonment	Fine	Probation	Other							
Bigamy	2	0	2	0	0	1	0	0	0	0	0	1	0	1
Enabling unlawful marriages to take effect	1	1	2	0	0	0	0	0	0	0	0	0	0	2
Forced marriage	6	1	7	1	0	0	0	0	0	0	0	1	0	6
Extramarital community with a person under the age of sixteen	32	3	35	0	0	1	0	0	0	4	0	5	0	30
Changing the family status of a child	4	0	4	0	0	0	0	0	0	0	0	0	0	4
Unlawful taking or keeping of a child	15	16	31	1	1	3	0	0	0	0	1	6	0	25
Mistreating or abandoning a child	18	19	37	1	0	10	0	0	0	0	2	13	0	24
Violating family obligations	26	4	30	0	1	3	0	0	0	0	3	7	0	23
Avoiding maintenance support	27	7	34	0	3	1	0	0	0	1	3	8	0	26
Prevention and non-execution of measures for protecting children	7	7	14	1	0	0	0	0	0	0	0	1	0	13
Failure to report child abuse	2	1	3	1	0	0	0	0	0	0	0	1	0	2
TOTAL	140	59	199	5	5	19	0	0	0	5	9	43	0	156

TABLE 22: Trend of transferred, received, resolved and remaining cases in courts, related to criminal offences against marriage and family during 2015.


Out of 53 resolved cases involving 61 persons, BP Pejë/Peć has once again the highest number of resolved cases, with a total of 35 cases involving 37 persons. According to these data 53 cases involving 72 persons remain unresolved as of 31 December 2016.


Unlike cases of corruption and organized crime and abuse of official duty, data on criminal offences against marriage and family is not inconsistent among prosecutions. Based on data obtained from KJC, courts have more cases of criminal offences against marriage and family compared to prosecutions.

Status of cases in basic courts during 2016 (January-December)

Proceeding of cases of criminal offences against marriage and family, January-December 2016	Transferred	Received during 2015	Total in process	OUTCOME										
				TYPES OF SENTENCES				Acquittal Judgement	Rejection Judgement	Prescription	Other outcome	Resolved total	Transferred with competence	Unresolved at the end
				Imprisonment	Fine	Probation	Other							
Bigamy	1	0	1	0	0	0	0	0	0	0	0	0	0	1
Enabling unlawful marriages to take effect	1	0	1	0	0	1	0	0	0	0	0	1	0	0
Forced marriage	6	2	8	0	0	0	0	0	0	0	1	1	0	7
Extramarital community with a person under the age of sixteen	30	16	46	2	0	9	0	0	2	2	1	16	0	30
Changing the family status of a child	4	0	4	0	0	0	0	0	0	0	0	0	0	4
Unlawful taking or keeping of a child	22	7	29	0	1	3	0	1	0	0	2	7	0	22
Mistreating or abandoning a child	23	12	35	0	1	5	0	1	0	0	4	11	0	24
Violating family obligations	22	7	29	0	2	5	1	0	0	2	2	12	0	17
Avoiding maintenance support	27	13	40	0	2	10	0	1	0	0	1	14	0	26
Prevention and non-execution of measures for protecting children	7	7	14	0	0	2	0	0	0	0	0	2	0	12
Failure to report child abuse	2	0	2	0	0	0	0	0	0	0	0	0	0	2
TOTAL	145	64	209	2	6	35	1	3	2	4	11	64	0	145

TABLE 23: Trend of transferred, received, resolved and remaining cases in courts, related to criminal offences against marriage and family during January-September 2016.

 During 2016 courts resolved 64 cases. Extramarital community with a person under the age of sixteen and avoiding means of subsistence were among the most resolved cases (16), respectively 14 cases.

 SPRK also resolved most such cases (3 cases involving 23 persons out of 10 cases with 38 persons resolved by all prosecutions during 2015). A total of 16 cases involving 95 persons remained unresolved.

According to data pertaining to January-December 2015, prosecutions had a total of 92 cases while courts had a total of 199 cases. Based on these data from KJC, mistreating or abandoning a child is the dominant criminal offence, with a total of 37 cases with 199 persons during 2015. This is also the most resolved criminal offence compared to other offences during 2015. 13 out of a total of 43 resolved cases pertain to the said offence.

Similar statistics apply to 2016 as well. The following table shows the proceeding of cases pertaining to the criminal offences against marriage and family during 2016.

During 2016 courts resolved 64 cases. Extramarital community with a person under the age of sixteen and avoiding means of subsistence were among the most resolved cases (16), respectively 14 cases. Courts have resolved 64 cases out of a total of 209 cases in process during 2016, while 145 cases remained unresolved as of December 31. Out of 64 resolved cases, only 2 were concluded with imprisonment, 6 ended up with fine, while 35 cases ended with probation.

Table 25 shows the proceeding of those cases, the transferred and received cases, their outcome and unresolved cases by the end of the reporting period (2016).

2.4 Cases of incitement of national, racial, religious or ethnic hatred, discord or intolerance

Within the chapter on Criminal Offences Against the Constitutional Order and Security of Kosovo, Çohu! and CSD focused only on inciting national racial religious or ethnic hatred discord or intolerance. The reason behind this lies in the specifics of such an offence and its treatment compared to other criminal offences of official corruption, organized crime, and criminal offences against marriage and family.

Following the same practice, Çohu! and CSD analysed cases of inciting national racial religious or ethnic hatred discord or intolerance in courts and prosecutions during 2015 and 2016.

Table 24 shows cases and persons proceeded, transferred, received, resolved and unresolved in all prosecutions during 2015.











Inciting national, racial, religious or ethnic hatred, discord or intolerance - Cases resolved in every prosecution during January-December 2015.	Transferred		Received (January-December 2015)		Total in process (January-December 2015)		Resolved (January-December 2015)		Unresolved (December 31, 2015)	
	Cases	Persons	Cases	Persons	Cases	Persons	Cases	Persons	Cases	Persons
										
SPRK	5	78	3	23	8	101	2	19	8	82
BP Prishtinë/Priština	4	6	0	0	4	6	0	0	4	6
BP Prizren/Prizren	0	0	2	2	2	2	1	1	1	1
BP Pejë/Peć	1	1	2	4	3	5	2	4	1	1
BP Gjiilan/Gnjilane	0	0	0	0	0	0	0	0	0	0
BP Mitrovicë/Mitrovica	0	0	1	3	1	3	0	0	1	3
BP Ferizaj/Uroševac	0	0	2	6	2	6	1	4	1	2
BP Gjakovë/Đakovica	1	1	0	0	1	1	1	1	0	0
Total	11	86	10	38	21	124	7	29	16	95

TABLE 24: Trend of transferred, received, resolved and remaining cases in courts, related to inciting national, racial, religious or ethnic hatred, discord or intolerance during 2015.

Out of a total of 21 cases involving 124 persons in prosecutions, SPRK had the highest number (8 cases involving 101 persons), followed by BP Prishtinë/Priština with 4 cases and 6 persons, BP Pejë/Peć with 3 cases involving 5 persons and other prosecutions as shown in table. SPRK also resolved most such cases (3 cases involving 23 persons out of 10 cases with 38 persons resolved by all prosecutions during 2015). A total of 16 cases involving 95 persons remained unresolved.

These statistics also apply for 2016. Table 25 shows all proceeded, transferred, resolved and unresolved cases during 2016.

2016 data is not consistent with 2015 data. During 2015 BP Prishtinë/Priština had 4 cases involving 6 persons,

which were unresolved by the end of 2015. On January 1, 2016 there was no case in BP Prishtinë/Priština. Also, during 2016 BP Prishtinë/Priština, which at the time received 1 case involving 1 person, also resolving 1 case, at the end had 3 cases with 4 persons. Such inconsistency was also found in BP Ferizaj/Uroševac, having 14 unresolved cases involving 74 persons for the criminal offence of inciting national, racial, religious or ethnic hatred, discord or intolerance.

Çohu! and CSD also analysed the proceeding of these cases in courts. According to data obtained by KJC, during 2015 basic courts had 11 cases of inciting national, racial, religious or ethnic hatred, discord or intolerance, and resolved 3 cases.











Inciting national, racial, religious or ethnic hatred, discord or intolerance - Cases resolved in every prosecution during December 2016.	Transferred January 1, 2016		Received January-December 2016		Total in process January-December 2016		Resolved January-December 2016		Unresolved (December 31, 2016)	
	Cases	Persons	Cases	Persons	Cases	Persons	Cases	Persons	Cases	Persons
										
SPRK	9	74	0	0	9	74	4	8	10	67
BP Prishtinë/Priština	0	0	1	1	1	1	1	1	3	4
BP Prizren/Prizren	1	1	1	1	2	2	1	1	1	1
BP Pejë/Peć	1	1	1	1	2	2	2	2	1	1
BP Gjiilan/Gnjilane	0	0	0	0	0	0	0	0	0	0
BP Mitrovicë/Mitrovica	1	3	0	0	1	3	0	0	1	3
BP Ferizaj/Uroševac	1	1	1	2	2	3	3	4	0	0
BP Gjakovë/Đakovica	0	0	0	0	0	0	0	0	0	0
Total	13	80	4	5	17	85	11	16	16	76

TABLE 25: Trend of transferred, received, resolved and remaining cases in prosecutions, related to inciting national, racial, religious or ethnic hatred, discord or intolerance during January-December 2016.

Table 26 shows transferred, received, resolved and remaining cases of inciting national, racial, religious or ethnic hatred, discord or intolerance during 2015.

Table 26: Trend of transferred, received, resolved and remaining cases in courts, related to inciting national, racial, religious or ethnic hatred, discord or intolerance during 2015.

Out of 3 resolved cases for 2015, one ended up with imprisonment, while two other cases had different outcome. By the end of 2015, respectively on December 31, 2015, courts had 8 unresolved cases, which were transferred in 2016.

Table 27 shows cases proceeded during 2016

According to KJC data, during 2016 courts received 6 new cases of this nature, adding up to a total of 1143 cases of inciting national, racial, religious or ethnic hatred, discord or intolerance. During this period, courts resolved only 5 such cases, while 190 cases remained unresolved.

The five resolved cases ended up with acquittal judgment, with three fines, one imprisonment and one probation.

Status of cases in basic courts during 2015

Proceeding of cases of inciting national, racial, religious or ethnic hatred, discord or intolerance during 2015	Transferred	Received during 2015	Total in process	OUTCOME										
				TYPES OF SENTENCES				Acquittal Judgement	Rejection Judgement	Prescription	Other outcome	Resolved total	Transferred with competence	Unresolved at the end
				Imprisonment	Fine	Probation	Other							
Proceeding of cases of inciting national, racial, religious or ethnic hatred, discord or intolerance in 2015.	5	6	11	1	0	0	0	0	0	0	2	3	0	8

TABLE 26: Trend of transferred, received, resolved and remaining cases in courts, related to participation in or organization of an organized criminal group, during 2015.

Status of cases in basic courts during 2016 (January-December 2016)

Proceeding of cases of inciting national, racial, religious or ethnic hatred, discord or intolerance during January-December 2016	Transferred	Received during 2015	Total in process	OUTCOME										
				TYPES OF SENTENCES				Acquittal Judgement	Rejection Judgement	Prescription	Other outcome	Resolved total	Transferred with competence	Unresolved at the end
				Imprisonment	Fine	Probation	Other							
Inciting national, racial, religious or ethnic hatred, discord or intolerance	8	6	14	1	3	1	0	0	0	0	0	5	0	9

TABLE 27: Trend of transferred, received, resolved and remaining cases in courts, related to inciting national, racial, religious or ethnic hatred, discord or intolerance during 2016.



Fight against corruption and organized crime continues to pose one of the biggest challenges of Kosovo Justice System. High level of corruption is also characterized by lack of readiness and political will to fight corruption and organized crime".



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