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Demokraci, Antikorrupsion  
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# Disciplinary Liability of Judges and Prosecutors



**MILLENNIUM  
FOUNDATION  
KOSOVO**



**MILLENNIUM**  
CHALLENGE CORPORATION  
UNITED STATES OF AMERICA



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# Content

Abbreviations .....	2
Introduction.....	3
Summary of the challenges of the justice system.....	4
The importance of the disciplinary mechanism in the justice system.....	6
Disciplinary proceedings against judges and prosecutors.....	7
Violations and disciplinary sanctions against judges and prosecutors .....	9
Disciplinary data statistics of the Kosovo Judicial Council.....	10
Disciplinary data statistics of the Kosovo Prosecutorial Council .....	13
Disciplinary Decisions.....	15
Conclusions.....	16
Recommendations.....	17

# Abbreviations

**KJC** - Kosovo Judicial Council

**KPC** – Kosovo Prosecutorial Council

**ODP** – Office of the Disciplinary Prosecutor

**LDL** – Law for Disciplinary Liability of Judges and Prosecutors

**ÇOHU!** – Organization for Democracy, Anti-corruption and Dignity

# Introduction

The justice system in the Republic of Kosovo for years has faced various challenges which have hampered its proper functioning

The competent authorities' bodies of the country have taken a series of steps to reform the judiciary, in order to consolidate and strengthen the rule of law, as well as strengthen the independence of the justice system. But despite all the efforts and reforms in the judiciary, the justice system in Kosovo has encountered challenges which have often been difficult to balance.

The country's courts and prosecutors' offices have encountered numerous difficulties, which have resulted in inefficiency in resolving cases, violations of fundamental human rights, which stem from the Constitution of the Republic of Kosovo and the International Covenant on Basic Human Rights and Freedoms.

The phenomenon of protracted court proceedings remains one of the biggest problems, this problem consequently, violates the citizen's right to have his case heard fairly, publicly and within a reasonable time by an independent and impartial court.<sup>1</sup>

Given the fact that the length of court proceedings is one of the most difficult problems of the judiciary, one of the most important legal issues is the protection of the right to trial within a reasonable time.

Organization for Democracy, Anti-Corruption and Dignity ÇOHU! through this report tries to provide an overview of the challenges of the judicial and prosecutorial system in the Republic of Kosovo as well as the analysis of the law on disciplinary liability of judges and prosecutors, its implementation and decision-making practices in disciplinary cases, as well as regulations provided by this law. Special attention has been paid to the statistical data of the Kosovo Judicial and Prosecutorial Council, regarding the development of disciplinary proceedings and disciplinary sanctions imposed on prosecutors and judges by the relevant mechanisms.

Some of the basic aspects of the law that were analyzed are: 1. Competent authorities for receiving complaints against judges and prosecutors; 2. Disciplinary violations for judges and prosecutors; 3. Disciplinary sanctions and dismissal of judges and prosecutors; 4. Complaints, investigations and disciplinary proceedings. Also, this report will reflect upon some decisions of the Judicial and Prosecutorial Councils on disciplinary cases against judges and prosecutors. Decisions on selected cases are taken from the official website of the Kosovo Judicial and Prosecutorial Councils.

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<sup>1</sup> European Convention on Human Rights, Article 6 - [https://www.echr.coe.int/documents/convention\\_sqi.pdf](https://www.echr.coe.int/documents/convention_sqi.pdf)

# Summary of the challenges of the justice system

The justice system in the Republic of Kosovo since the post-war period is facing various difficulties, some of the challenges may have been overcome both in institutional and legislative terms, while some new challenges have emerged depending on the circumstances which have happened.

Some of the problems that continue to haunt the judicial and prosecutorial system for years are the violation of legal procedural deadlines, failure to hold and delayed court hearings, lack of training of prosecutors and their frequent change, the large number of statute-barred cases<sup>2</sup>, as well as other challenges which have resulted in inefficiency of courts and prosecutors in handling cases.

From the data provided by the Kosovo Judicial Council, it is noted that from 2000 to 2019 the trend of statute of limitations for criminal cases has increased from year to year. Only for the period **2000-2019**, in the courts of Kosovo are obsolete **25,909 criminal cases**.<sup>3</sup>

Despite the large number of prescribed courses, based on the available data as well as the research of the Organization Çohu! no measures have been identified that were taken against any judge or prosecutor as a result of the statute of limitations.

Another challenge in the justice system is the representation of indictments by the prosecution. The unpreparedness of prosecutors to represent indictments, professional shortcomings as well as poor representation of the prosecution for various rea-

sons, continue to cost the justice system with inefficiency and poor results.<sup>4</sup>

Corruption in Kosovo has continued to be a serious and urgent issue, while Kosovo's justice institutions still have a lot of work to do in fighting and preventing corruption, in order to change the current situation. The fight against corruption by the competent institutions worsens the moment the indictments reach the courts. This is because the courts often postpone court hearings, for reasons that the parties do not appear, or because prosecutors fail to provide complete evidence or documentation related to the case.

Based on the results of the Corruption Perception Index for 2021, published by Transparency International (TI), the Republic of Kosovo has made slight progress in fighting corruption, ranking 87th, from 104th in the year 2020.<sup>5</sup>

Based on the Corruption Perception Index 2020, Kosovo continues to be a highly corrupt country.<sup>6</sup>

The only way to improve the image of the judiciary in the eyes of the population is through continuous efforts to fight corruption. The long and slow trials, the lack of interest in the full completion of the investigation and the constant repetition of the lowest possible sentences only strengthen the conviction of impunity<sup>7</sup>

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2 "Pandemic in the Judiciary" Organization Çohu!, September 2020 - [http://www.cohu.org/repository/docs/14\\_-\\_Pandemi\\_ne\\_drejtessi\\_-\\_ALB\\_-\\_04\\_68251.pdf](http://www.cohu.org/repository/docs/14_-_Pandemi_ne_drejtessi_-_ALB_-_04_68251.pdf)

3 Ibid

4 Ibid

5 <https://www.transparency.org/en/cpi/2021>

6 <http://mei-ks.net/repository/docs/Kosovo%202020%20Report%20SQ.docx>

7 "Kosovo's mis-administered judiciary" Balkan Policy Research Group, september 2019 - <https://balkansgroup.org/wp-content/uploads/2020/01/Gjyqesori-i-keq-administruar-i-kosoves.pdf>



# The importance of the disciplinary mechanism in the justice system

Respect for the independence of the justice system, fair trial, the principle of legality, transparency and accountability are important elements of the rule of law.

The judiciary in the Republic of Kosovo is unique, independent, apolitical, impartial and ensures equal access for all citizens.<sup>8</sup> The state prosecutor is also an independent institution which carries out its activities impartially.<sup>9</sup>

According to the legislation in force, courts and prosecutor's offices must ensure that all citizens are treated equally, they must be committed to respecting the right to a fair trial and within a reasonable time, which is guaranteed by the Constitution of the country as well as with international acts.

The country's institutions with the aim of ensuring a justice system which is responsible and accountable as well as a system which acts in accordance with the legitimate interests of a democratic society has created the new legal framework. In December 2018, the Law on Disciplinary Responsibility of Prosecutors and Judges entered into force.<sup>10</sup> After the entry into force of the law, the relevant councils have adopted the regulations which have been provided by this law.

The Kosovo Judicial Council in its meeting of May 27, 2019 had approved the regulation 05/2019 on disciplinary procedure for judges, which's purpose is to determinate and define the procedures for receiving, reviewing, investigating and filing complaints for disciplinary violations against judges

as well as organizing the work of the Competent Authorities and the Kosovo Judicial Council.<sup>11</sup>

The regulation with the same purpose, for disciplinary violations of prosecutors was approved by the Kosovo Prosecutorial Council, in the meeting held on June 7, 2019<sup>12</sup>

This legal framework is of particular importance because it sanctioned judges and prosecutors who are not guided by the principles of due legal process, the principle of legality, equality before the law, independence and impartiality, as well as other principles that guarantee integrity and the reputation of the judiciary as well as the state prosecution.

Competent authorities must ensure that each judge or prosecutor adheres to the standards of impartiality, competence and honesty. A system that operates in a transparent and accountable manner would increase the opportunities for social acceptability of the judiciary and the prosecution. Society's belief in the impartiality of the justice system will translate into a sense of security, thereby visibly reinforcing the principles of the rule of law.

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<sup>8</sup> Law Nr. 06/L – 054 on Courts - <https://gzk.rks-gov.net/ActDocumentDetail.aspx?ActID=18302>

<sup>9</sup> Law Nr. 03/L-225 for State Prosecutor <https://gzk.rks-gov.net/ActDetail.aspx?ActID=2710>

<sup>10</sup> Law Nr.06/L-57 for Disciplinary Liability for Judges and Prosecutors- <https://gzk.rks-gov.net/ActDocumentDetail.aspx?ActID=18336>

<sup>11</sup> KPC, Regulation 05/2019 on disciplinary procedure of prosecutors - [https://www.gjyqesori-rks.org/wp-content/uploads/lgs/6651\\_Regullorja%2005-2019.pdf](https://www.gjyqesori-rks.org/wp-content/uploads/lgs/6651_Regullorja%2005-2019.pdf)

<sup>12</sup> KPC, Regulation 05/2019 on disciplinary procedure of prosecutors - <https://prokuroria-rks.org/assets/cms/uploads/files/Dokumente%20Publikime/KPK/AkteNenLigjore/Nr.1009.2019-Rregullore%2005.2019-P%C3%ABr%20Procedur%C3%ABn%20Disiplinore%20t%C3%AB%20Prokuror%C3%ABve.pdf>

# Disciplinary procedure against judges and prosecutors

The development of disciplinary procedures against judges and prosecutors until 2018, has been done within the Office of the Disciplinary Prosecutor. The ODP functioned as a separate and independent body, which had the competence to investigate allegations of non-fulfillment or improper performance of duties by prosecutors and judges.

In 2018, with the entry into force of the LDL, the initiation and development of disciplinary procedure is not done within the ODP, but in accordance with the law, the development of procedures and the imposition of disciplinary sanctions on prosecutors and judges has been delegated to the KJC and KPC.

The provisions of the law on disciplinary liability judges and prosecutors, has defined the procedure for initiating investigations of disciplinary violations. According to the law, the Kosovo Judicial Council and the Prosecutorial Council initiate and conduct disciplinary proceedings against the judge, respectively the prosecutors on the basis of the complaint of the Competent Authority.<sup>13</sup>

Depending on the level of the judge or prosecutor, the complaint should be submitted to the President of the Court, respectively to the Chief Prosecutor of the competent Prosecution. Meanwhile, when it comes to disciplinary violations by the President of the Basic and Appellate Court, the appeal is addressed to the President of the Supreme Court. As for the Chief Prosecutors, the complaint is addressed to the Chief State Prosecutor.

In cases when we are dealing with complaints against the President of the Supreme Court or the Chief State Prosecutor, then the appeal is addressed to one of the relevant councils.

The law does not specify where a complaint can be addressed in cases involving judges of the Supreme Court of Kosovo. The logical interpretation may lead us to the conclusion that as with the judges of the Basic Courts and the Court of Appeals, the appeal is addressed to the President of the Supreme Court, however in such a case it is not expressly provided by law.

Relevant councils, through the means and mechanisms guaranteed by law, are committed to ensuring that the judiciary and the prosecution system are operating in accordance with the principles and legitimate interests of a democratic society.

According to the Progress Report, the administration of justice remains slow and inefficient. However, it is said that some progress has been made in 2019. Also according to the report, the Law on Disciplinary Liability of Judges and Prosecutors began to be implemented effectively. Both Councils took steps to implement the 2018-2019 laws for the Judicial Council, the Prosecutorial Council, the courts and the disciplinary responsibility of judges and prosecutors.<sup>14</sup>

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<sup>13</sup> According to the Law on Disciplinary Liability of Judges and Prosecutors, Article 2 point 2.2. The competent authorities are: The Presidents of the Courts, the President of the Supreme Court, the Chief State Prosecutor, the Chief Prosecutors and the Councils as the competent authorities for receiving complaints against judges and prosecutors.

<sup>14</sup> Country Report-Kosovo, 2020 - <http://mei-ks.net/repository/docs/Kosovo%202020%20Report%20SQ.docx>

# Violations and disciplinary sanctions against judges and prosecutors

The legal provisions expressly state that judges and prosecutors are subject to disciplinary liability for disciplinary violations. Under the law, they are considered to have committed a disciplinary offense if he / she is convicted of a criminal offense, violates the law or violates his or her official duties as a judge or prosecutor.<sup>15</sup>

The councils within their competences decide whether the alleged disciplinary violation has been committed and, in case it finds that the judge or prosecutor has committed the alleged disciplinary violation, imposes the disciplinary sanction. For disciplinary violations, the relevant councils may impose the following disciplinary measures:

- ✚ non-public written remarks;
- ✚ written public remarks;
- ✚ temporary reduction of salary up to 50% for a period of up to 1 year;
- ✚ temporary or permanent transfer to a court or other lower level prosecutor office
- ✚ proposal for dismissal.<sup>16</sup>

The disciplinary sanctions listed above are imposed depending on the number and seriousness of the disciplinary violations, the consequences of the disciplinary violation, the circumstances in which the violation was committed, the performance and general conduct of the judge or prosecutor and the conduct and level of their cooperation.<sup>17</sup>

The law also provides for the dismissal of judges and prosecutors, according to the provisions in force the same can be dismissed only by decision of the Presi-

dent of the country, upon the proposal of the relevant council only in cases where the judge or prosecutor has been convicted of a serious criminal offense, intentional violation of law as well as gross non-compliance with duties.

The parties against whom disciplinary measures have been imposed by the Kosovo Judicial or Prosecutorial Council have the right to appeal to the Supreme Court of Kosovo. By law, the Supreme Court may confirm the decision of the Council, amend it or return it to the Council for reconsideration.

The law does not provide for the possibility of appealing against decisions of the Councils in the Supreme Court for persons who have filed a complaint against a judge or prosecutor, in cases where they are dissatisfied with the decisions taken on their complaint. Only judges and prosecutors against whom any of the disciplinary measures are imposed by law have the opportunity to appeal.

The Supreme Court, on its website in 2021 has published two decisions. A decision rejecting the appeal filed against the President of the Basic Court in Peja and the judge of this court,<sup>18</sup> as well as another decision by which the appeal was also rejected as unfounded against two judges of the Supreme Court.<sup>19</sup> Both appeals by the court were rejected on the grounds that there was no alleged disciplinary violation under Article 5 of the LDP. By law, the decision of the Supreme Court is the final decision.

<sup>15</sup> Law Nr. 06/L – 057 for Disciplinary Liability for Judges and Prosecutors, article 5 and 6 - <https://gzk.rksgov.net/ActDetail.aspx?ActID=18336>

<sup>16</sup> Article 7, point

<sup>17</sup> Article 7, point 2

<sup>18</sup> Supreme Court, decision GJS-2021-013, GJS-2021-014, dated 6 December 2021 - [https://supreme.gjyqesori-rks.org/wp-content/uploads/decisions/57550\\_VENDIM%20PER%20REFUZIMIN%20E%20ANKESSES%20-%20N.H.pdf](https://supreme.gjyqesori-rks.org/wp-content/uploads/decisions/57550_VENDIM%20PER%20REFUZIMIN%20E%20ANKESSES%20-%20N.H.pdf)

<sup>19</sup> Supreme Court, decision GJS-2021-012, dated 5 November 2021 - [https://supreme.gjyqesori-rks.org/wp-content/uploads/decisions/30833\\_84318\\_VENDIM%20PER%20REFUZIMIN%20E%20ANKESSES%20+%20\(2\).pdf](https://supreme.gjyqesori-rks.org/wp-content/uploads/decisions/30833_84318_VENDIM%20PER%20REFUZIMIN%20E%20ANKESSES%20+%20(2).pdf)

# Disciplinary data statistics of the Kosovo Judicial Council

Following the entry into force of the Law on Disciplinary Responsibility of Judges and Prosecutors, the Kosovo Judicial Council has approved the Regulation on Disciplinary Procedure for Judges, which has been applicable since July 1, 2019. In accordance with this regulation, the list of 70 judges as members of the investigative panels was approved.

From the beginning of the procedure according to the Law on Disciplinary Responsibility of Judges and Prosecutors, respectively for the second half of 2019, KJC had received 135 disciplinary complaints, of which 92 complaints were rejected as unfounded. In 2020 the KJC had received 135 complaints, of which 126 complaints were rejected as unfounded by the competent authorities. Whereas for 2021, the KJC had received 121 complaints, where for 92 of them the competent authorities have taken decisions through which they were rejected on the grounds that they are unfounded.<sup>20</sup>

From the total number of complaints presented above, the Kosovo Judicial Council, from the competent authorities in the second half of 2019 had received 16 requests for initiation of disciplinary investigations, where for 2 requests by decision in accordance with Article 12 paragraph 9 of the Law for the Disciplinary Responsibility of Judges and Prosecutors, has suspended 2 judges from duty. After reviewing the requests, the KJC had established 14 investigative panels, of which it had received 5 reports on the facts and evidence collected, after which **4 decisions** were taken, and out of which 2 with the outcome: "non-public written remarks", 1 decision "re-

lease from disciplinary responsibility" and 1 decision "temporary reduction of salary of thirty 30% for a period of 3 months".<sup>21</sup>

In 2020, the Kosovo Judicial Council received 20 requests for initiating a disciplinary investigation, where for 2 requests the investigation was terminated due to the death of the investigative subject, 1 judge in accordance with the law was suspended from duty due to suspicion that the same has committed a criminal offense. Meanwhile, out of a total of 20 reports on facts and evidence collected by investigative panels, it has taken 19 decisions, in which case disciplinary sanctions were imposed, 2 decisions «non-public written reprimand», 1 decision «public written reprimand», 13 decisions "is not responsible", 1 decision, "temporary salary reduction of 10% for a period of 4 months", 1 decision, "temporary salary reduction of 30% for a period of 4 months"<sup>22</sup>, 1 decision, "temporary salary reduction of 30% for a period of 4 months"<sup>23</sup>, 11 decision "temporary reduction of salary of 30% for a period of 6 months".<sup>24</sup>

For 2021, the Kosovo Judicial Council has received 11 requests for initiating a disciplinary investigation, after the review of which 11 investigative panels have been established. The KJC has received from the investigative panels 16 reports on the facts and evidence collected, including the reports of the investigative panels of 2020.

After reviewing the reports, a total of 16 decisions were taken and the following measures were im-

20 From the data provided by the Kosovo Judicial Council through the request of the Organization Çohu, on February 4, 2022.

21 From the data provided by the Kosovo Judicial Council through the request of the Organization Çohu, on February 4, 2022.

22 Kosovo Judicial Council, decision KJC.no.51 / 2020, 21 February 2020 - [https://www.gjyqesori-rks.org/wp-content/uploads/decisions/5215\\_Vendimi\\_KGJK\\_Nr\\_62\\_2020\\_Aprovohet\\_marreveshja\\_per\\_pranimin\\_e\\_fajesise\\_Nr.AD\\_KGJK\\_12\\_2019\\_GJTHPADGJTHP\\_Nr\\_16\\_19.pdf](https://www.gjyqesori-rks.org/wp-content/uploads/decisions/5215_Vendimi_KGJK_Nr_62_2020_Aprovohet_marreveshja_per_pranimin_e_fajesise_Nr.AD_KGJK_12_2019_GJTHPADGJTHP_Nr_16_19.pdf)

23 Kosovo Judicial Council, decision KJC.no.50 / 2020, 21 February 2020 - [https://www.gjyqesori-rks.org/wp-content/uploads/decisions/4099\\_Vendimi\\_KGJK\\_Nr\\_51\\_2020\\_Shaban\\_Shala\\_eshte\\_pergjegjes\\_per\\_shkelje\\_disiplinore.pdf](https://www.gjyqesori-rks.org/wp-content/uploads/decisions/4099_Vendimi_KGJK_Nr_51_2020_Shaban_Shala_eshte_pergjegjes_per_shkelje_disiplinore.pdf)

posed: 3 decisions “non-public written reprimand”, 4 decisions “public written reprimand”<sup>25</sup>, 6 decisions “is not responsible”<sup>26</sup>, 1 decision “temporary reduction of salary of thirty (30%) for a period of six (6) months”<sup>27</sup>, 1 decision through which the disciplinary procedure is terminated due to the absolute prescription of the disciplinary violation for one subject of the investigation, while for the other subject the alleged claim against him does not constitute a disciplinary violation<sup>28</sup> as well as 1 decision “permanent transfer to the Basic Court in Prishtina-General Department”<sup>29</sup>.

According to available data, it is noted that since the entry into force of the new law, the number of disciplinary sanctions by the KJC has increased from year to year. While in 2019 there were 3 convictions - 1 acquittal, in 2020 there were 7 convictions - 13 acquittals while in 2021 there were 9 convictions - 1 acquittal.

The measures that are most often imposed by the Kosovo Judicial Council are non-public written reprimands as well as public written reprimands.

2019

135

135 disciplinary complaints, of which **92 complaints** were rejected as unfounded

2020

135

135 complaints, of which **126 complaints** were rejected as unfounded by the competent authorities

2021

121

complaints, where for **92 of them the competent** authorities have taken decisions through which they were rejected on the grounds that they are unfounded

25 Kosovo Judicial Council, decisions KJC.no.151 / 2021, KJC.no. 219/2021, KGJK.nr.150 / 2021, KGJK.nr.175 / 2021 - - 1. [https://www.gjyqesori-rks.org/wp-content/uploads/decisions/70808\\_Vendimi\\_KGJK\\_se\\_Nr\\_151\\_2021\\_Qemail\\_Suka\\_Gjyqtar\\_ne\\_Gjykatene\\_Themelore\\_ne\\_Prizren\\_eshte\\_pergjegjes\\_per\\_shkelje\\_disiplinore\\_te\\_percaktuara\\_ne\\_nenin\\_5\\_paragrafi\\_2\\_nen\\_paragraf\\_2\\_2.pdf](https://www.gjyqesori-rks.org/wp-content/uploads/decisions/70808_Vendimi_KGJK_se_Nr_151_2021_Qemail_Suka_Gjyqtar_ne_Gjykatene_Themelore_ne_Prizren_eshte_pergjegjes_per_shkelje_disiplinore_te_percaktuara_ne_nenin_5_paragrafi_2_nen_paragraf_2_2.pdf)

2. [https://www.gjyqesori-rks.org/wp-content/uploads/decisions/26055\\_Vendimi%20rasti%20B.Avdimetaj%20dhe%20Nexhat%20Musaj.pdf](https://www.gjyqesori-rks.org/wp-content/uploads/decisions/26055_Vendimi%20rasti%20B.Avdimetaj%20dhe%20Nexhat%20Musaj.pdf)

3. [https://www.gjyqesori-rks.org/wp-content/uploads/decisions/73352\\_Vendimi%20175%202021%20Bekim%20Avdimetaj.pdf](https://www.gjyqesori-rks.org/wp-content/uploads/decisions/73352_Vendimi%20175%202021%20Bekim%20Avdimetaj.pdf)

4. [https://www.gjyqesori-rks.org/wp-content/uploads/decisions/3573\\_Vendimi\\_KGJK\\_se\\_Nr\\_219\\_2021\\_Lindita\\_Jakupi\\_Gjyqtare\\_ne\\_DHPGJS\\_esh-te\\_pergjegjese\\_per\\_shkelje\\_disiplinore\\_te\\_percaktuara\\_ne\\_nenin\\_5.pdf](https://www.gjyqesori-rks.org/wp-content/uploads/decisions/3573_Vendimi_KGJK_se_Nr_219_2021_Lindita_Jakupi_Gjyqtare_ne_DHPGJS_esh-te_pergjegjese_per_shkelje_disiplinore_te_percaktuara_ne_nenin_5.pdf)

26 Kosovo Judicial Council, decisions KJC.no.73 / 2021, KJC.no. 72/2021, KGJK.nr. 10/2021, KGJK.nr. 176/2021, KGJK.nr. 123/2021, KGJK.nr. 111/2021 1. [https://www.gjyqesori-rks.org/wp-content/uploads/decisions/26508\\_Vendimi\\_KGJK\\_se\\_Nr\\_111\\_2021\\_Mileva\\_Tomoviq\\_ish\\_gjyqtare\\_Gjykates\\_Themelore\\_ne\\_Peje\\_dega\\_Kline.pdf](https://www.gjyqesori-rks.org/wp-content/uploads/decisions/26508_Vendimi_KGJK_se_Nr_111_2021_Mileva_Tomoviq_ish_gjyqtare_Gjykates_Themelore_ne_Peje_dega_Kline.pdf)

2. [https://www.gjyqesori-rks.org/wp-content/uploads/decisions/52815\\_Vendimi\\_KGJK\\_se\\_Nr\\_72\\_2021\\_Adnan\\_Isufi\\_gjyqtar\\_ne\\_Gjykate\\_Themelore\\_Pristine\\_nuk\\_eshte\\_pergjegjes\\_per\\_shkeljen\\_disiplinore.pdf](https://www.gjyqesori-rks.org/wp-content/uploads/decisions/52815_Vendimi_KGJK_se_Nr_72_2021_Adnan_Isufi_gjyqtar_ne_Gjykate_Themelore_Pristine_nuk_eshte_pergjegjes_per_shkeljen_disiplinore.pdf)

3. [https://www.gjyqesori-rks.org/wp-content/uploads/decisions/96326\\_Vendimi\\_KGJK\\_se\\_Nr\\_10\\_2021.pdf](https://www.gjyqesori-rks.org/wp-content/uploads/decisions/96326_Vendimi_KGJK_se_Nr_10_2021.pdf)

4. [https://www.gjyqesori-rks.org/wp-content/uploads/decisions/92941\\_Vendimi\\_KGJK\\_se\\_Nr\\_73\\_2021\\_Vendim\\_Riza\\_Livoreka\\_gjyqtar\\_ne\\_Qaqan-ik\\_nuk\\_eshte\\_pergjegjes\\_per\\_shkeljen\\_disiplinore.pdf](https://www.gjyqesori-rks.org/wp-content/uploads/decisions/92941_Vendimi_KGJK_se_Nr_73_2021_Vendim_Riza_Livoreka_gjyqtar_ne_Qaqan-ik_nuk_eshte_pergjegjes_per_shkeljen_disiplinore.pdf)

5. [https://www.gjyqesori-rks.org/wp-content/uploads/decisions/93281\\_Vendimi\\_KGJK-se\\_Nr\\_176\\_2021\\_Agron\\_Hoxhaj\\_Gjyqtar\\_ne\\_Gjykatene\\_Themelore\\_ne\\_Prizren\\_nuk\\_eshte\\_pergjegjes\\_per\\_shkelje\\_disiplinore.pdf](https://www.gjyqesori-rks.org/wp-content/uploads/decisions/93281_Vendimi_KGJK-se_Nr_176_2021_Agron_Hoxhaj_Gjyqtar_ne_Gjykatene_Themelore_ne_Prizren_nuk_eshte_pergjegjes_per_shkelje_disiplinore.pdf)

6. [https://www.gjyqesori-rks.org/wp-content/uploads/decisions/78534\\_Vendimi\\_KGJK\\_se\\_Nr\\_123\\_2021\\_Nexhat\\_Musaj\\_gjyqtar\\_ne\\_Gjykatene\\_Themelore\\_ne\\_Peje\\_nuk\\_eshte\\_pergjegjes\\_per\\_shkeljen\\_disiplinore.pdf](https://www.gjyqesori-rks.org/wp-content/uploads/decisions/78534_Vendimi_KGJK_se_Nr_123_2021_Nexhat_Musaj_gjyqtar_ne_Gjykatene_Themelore_ne_Peje_nuk_eshte_pergjegjes_per_shkeljen_disiplinore.pdf)

27 Kosovo Judicial Council, decision KJC.no.150 / 2021, 16 May 2021- - [https://www.gjyqesori-rks.org/wp-content/uploads/decisions/26055\\_Vendimi%20rasti%20B.Avdimetaj%20dhe%20Nexhat%20Musaj.pdf](https://www.gjyqesori-rks.org/wp-content/uploads/decisions/26055_Vendimi%20rasti%20B.Avdimetaj%20dhe%20Nexhat%20Musaj.pdf)

28 Kosovo Judicial Council, decision KJC.no.74 / 2021, March 24, 2021 - 3320\_Vendimi\_KGJK\_se\_Nr\_74\_2021\_Hudhet\_poshte\_raporti\_hetimor\_me\_numer\_Nr\_AD\_KGJK\_30\_2020\_GJTHPE\_AD\_GJTHPE\_09\_20\_to\_dates\_27\_korrik\_2020\_dhe\_pushon\_procedura\_disiplinore\_ndaj\_gjyqtarit.pdf (gjyqesori-rks.org)

29 Kosovo Judicial Council, decision KJC.no.346 / 2021, 15 November 2021- [https://www.gjyqesori-rks.org/wp-content/uploads/decisions/55050\\_KGJK\\_Vendimi\\_Nr\\_346\\_2021.pdf](https://www.gjyqesori-rks.org/wp-content/uploads/decisions/55050_KGJK_Vendimi_Nr_346_2021.pdf)

# Disciplinary data statistics of the Kosovo Prosecutorial Council

After the entry into force of the Law on Disciplinary Liability of Judges and Prosecutors, the same as the Judicial Council, the Kosovo Prosecutorial Council has approved the Regulation on Disciplinary Procedure of Prosecutors, which has been applied since June 2019.

After the entry into force of the new legal framework, in 2019 KPC received 44 notifications from the authorities, in 2020 it received 45 notifications, while in 2021 it received the largest number of notifications, a total of 95 notifications, respectively complaints filed with allegation of disciplinary violation by prosecutors.<sup>30</sup>

KPC in 2019 received 13 requests for initiation of disciplinary investigation, 6 requests in 2020, while in 2021 received 14 requests for initiation of disciplinary investigation against prosecutors.<sup>31</sup>

Data provided by KPC are poorer in terms of information and statistics, compared to data provided by KJC.

The Prosecutorial Council of Kosovo, in 2019 had formed 11 investigative panels where the following decisions were taken: 4 decisions «did not commit violations», 1 decision permanent transfer from the position of prosecutor of the Department of Serious Crimes, to the General Department<sup>32</sup>, 4 decisions “non-public written remarks”, 1 decision “temporary reduction of salary by 30% for a period of 6 months”, and 1 decision “temporary reduction of salary by 50% for a period of 1 year” (by decision of the Supreme Court changed to: Temporary reduction of salary 50% for 6 months).

In 2020, 4 investigative panels were formed, where the following measures were imposed: 2 decisions “No violations”, 1 decision temporary reduction of salary by 30% for a period of 6 months and 1 decision agreement on the admission of guilt”.

Meanwhile, during 2021, the Council has established 13 investigative panels, which have conducted disciplinary proceedings and have imposed the following disciplinary measures against prosecutors: 2 decisions “non-public written remarks”, where one subject of investigation by decision of the Supreme Court was released from responsibility, 3 cases were not found responsible and were released from responsibility, 1 case was suspended until the end of the criminal proceedings.<sup>33</sup>

According to data provided by the Kosovo Prosecutorial Council, this institution in total in 2019 has taken 7 convictions, 1 conviction in 2020 and 2 convictions in 2021. Comparing the KPC disciplinary data over the years, it is noticed that disciplinary measures have been imposed on a small number of prosecutors, the decisions of the KPC disciplinary mechanism are mainly acquittal.

While based on the data of disciplinary sanctions which are most often imposed by the KPC are non-public written reprimands as well as public written reprimands.

30 From the data provided by the Kosovo Prosecutorial Council through the request of the OrganizationÇ ohu, on February 9, 2022.

31 From the data provided by the Kosovo Prosecutorial Council through the request of the OrganizationÇ ohu, on February 9, 2022.

32 Kosovo Prosecutorial Council, Decision KPC.No.620 / 2019, 27 September 2019- <https://prokuroria-rks.org/assets/cms/uploads/files/Dokumente%20Publikime/KPK/Vendime/Vendime%20Nr.1582.2019%20-%20Ferdane%20Sylejmani%2C%20i%20anonimizuar.pdf>

33 From the data provided by the Kosovo Prosecutorial Council through the request of the OrganizationÇ ohu, on February 9, 2022.



# Disciplinary decisions

The Kosovo Judicial and Prosecutorial Council, according to the law on disciplinary responsibility, are obliged to publish all final decisions on disciplinary sanctions, with the exception of non-public reprimands. All these decisions according to the law, must be published no later than 15 days on the official website of the relevant Councils.

According to the decisions published by the KJC and KPC, disciplinary measures were imposed on prosecutors and judges because they acted contrary to the principle of professionalism of the Code of Ethics and contrary to the provisions of the law on disciplinary responsibility of judges and prosecutors.

Çohu!, has analyzed the decisions published by the Kosovo Judicial Council and has noticed that the judges against whom disciplinary measures have been imposed, are mostly responsible for the violation of Article 5, paragraph 2, sub-paragraph 2.7 and sub-paragraph 2.15, where it is stated that violation of the duties of a judge constitute actions which are committed out of intent or gross negligence, specifically the reason why disciplinary measures have been imposed on these judges, is that they have consistently not performed their official duties on time as provided by law. Another reason is involvement in conduct that damages the court's reputation or may undermine public confidence in the impartiality or credibility of the judiciary. Based on the published decisions, for a judge there are 2 disciplinary decisions within a period shorter than one month. Initially, the disciplinary measure «Temporary reduction of salary of 30% for a period of 6 months» was imposed on him, then the disciplinary sanction «Written reprimand». For the same judge on March 24, 2021, a disciplinary procedure was terminated due to the absolute statute of limitations for the disciplinary violation.

The law does not stipulate what action should be taken against judges or prosecutors who continuously act contrary to the law and their official duties. Also, the law does not provide for the prohibition of their professional advancement due to disciplinary violations.

On the website of the Kosovo Prosecutorial Council, there is no special space dedicated to statistics and disciplinary decisions, through which it would be provided an easier access to the public.



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# Conclusion

The judicial and prosecutorial system, despite the reforms that have aimed at creating a fair, independent, professional, transparent and efficient system, continues to face many problems, starting from the non-respect of human rights and freedoms, equality of citizens before the law, to the problems that are affecting the process of integration into the European Union.

One of the main factors that have influenced the justice system in Kosovo to be in its current state is the high level of corruption. In the face of all these challenges and problems, within the justice system there is a need for lasting changes which would guarantee a strong and efficient system in the implementation of the legislation in force.

Organization Çohu! during the analysis of the law on disciplinary liability for judges and prosecutors and the regulations which derive from this law, has noticed some shortcomings which may affect the proper development of disciplinary proceedings.

This law has not provided for the competent authority for filing appeals when dealing with appeals against judges of the Supreme Court. Also, appellants to judges or prosecutors have not been given the right to appeal the decision of the Councils to the Supreme Court.

This law does not specify what should happen if a judge or prosecutor is subject to certain disciplinary sanctions by the relevant Councils within a short period of time. A legal shortcoming is considered to be the failure to specify the impact of the disciplinary sanction on the promotion of judges and prosecutors. The mechanism for disciplining judges and prosecutors should have clearer measures and punishments in order to guarantee the independence, accountability, and efficient functioning of the justice system.



# Recommendations

✚ To recognize as parties in the procedure the subjects which start the procedure with a complaint to the Competent Authority, in cases of appeal of the decisions of the KJC and KPC in the Supreme Court.

✚ To determine the competent authority to which appeals against judges of the Supreme Court of the Republic of Kosovo should be submitted.

✚ To enforce the suspension of judges and prosecutors against whom disciplinary measures are imposed several times in a row by the relevant Councils.

✚ To specify the impact of the disciplinary sanction on the promotion of judges and prosecutors.

✚ Take measures in order to prevent the statute of limitations for disciplinary cases-

✚ To provide an accessible space for the public to statistics and disciplinary decisions by the KPC



One of the main factors that have influenced the justice system in Kosovo to be in its current state is the high level of corruption. In the face of all these challenges and problems, within the justice system there is a need for lasting changes which would guarantee a strong and efficient system in the implementation of the legislation in force.



