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PART 2

EUROPEAN COMMISSION FOR THE EFFICIENCY OF JUSTICE (CEPEJ)

HFII: Towards a better evaluation of the results of judicial reform efforts in the Western Balkans “DASHBOARD Western Balkans”

Data collection: 2020

Report prepared by the CEPEJ for the attention of the European Commission

Part 2 (A) - Beneficiary profile - Kosovo*

* This designation is without prejudice to positions on status, and is in line with UNSCR 1244 and the ICJ Opinion on the Kosovo* Declaration of Independence.

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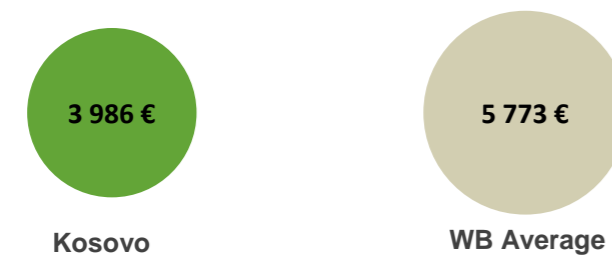
This Action is implemented in the framework of the Horizontal Facility II (2019-2022), a co-operation initiative of the European Union and Council of Europe for the Western Balkans and Turkey. The project is funded by the European Union and the Council of Europe and implemented by the Council of Europe.

Executive Summary - Kosovo

Population in 2020



GDP per capita in 2020



Average annual salary in 2020



Efficiency**

The Covid-19 pandemic had visible consequences on the work of courts and judges since courts were closed for several months.

In Kosovo, courts were indeed closed from March to June dealing with urgent cases only, and they continued working with limited capacity for the rest of the year. For this reason, judges were not able to cope with the influx of cases (even if lower than the previous year) and with the number of pending cases. Consequently, the Disposition Time (DT) increased for 2020 (compared to 2019).

Except for the first instance administrative cases, the Clearance Rate (CR) decreased in all categories and instances from 2019 to 2020. The CR remained above 100% for severe criminal law cases (first instance), administrative cases (first instance) and civil/commercial litigious cases (second instance). Yet, the CR was particularly low for civil/commercial first instance cases (70% in 2020) and administrative second instance cases (78%). The DT was significantly above the WB median in both instances for every category of cases. It was particularly high for civil/commercial litigious cases (1 150 days) and administrative cases (1 188) in first instance. Furthermore, it increased for all categories and both instances from 2019 to 2020. Since it was also high in 2019 (852 days for civil/commercial and 787 for administrative cases), it seems that the high DT in 2020 cannot be entirely attributed to the Covid-19 pandemic. In particular, Kosovo* seems to have a high number of pending cases per inhabitant, and this backlog is affecting courts' performance.

As regards misdemeanour cases, the switch from manual data collection to CMS caused some discrepancies in the registration of pending cases, therefore 2020 data cannot be compared with 2019 data.

**The CEPEJ has developed two indicators to measure court's performance: clearance rate and disposition time.

Clearance Rate, obtained by dividing the number of resolved cases by the number of incoming cases, is used to assess the ability of a judicial system to handle the inflow of judicial cases. Its key value is 100%. A value below 100% means that the courts weren't able to solve all the cases they received and, as a consequence, the number of pending cases will increase, while CR above 100% means that the courts have resolved more cases than they received (they have resolved all the incoming cases and part of pending cases) and, as a consequence, the number of pending cases will decrease.

Disposition Time is a proxy to estimate the lengths of proceedings in days. It is calculated as the ratio between the pending cases at the end of the period and the resolved cases (multiplied by 365). It estimates the time to resolve all pending cases based on the actual pace of work. This indicator is highly influenced by the number of pending cases: categories of cases with high backlog will have higher DT than categories of cases that do not have backlog. At the same time, it is affected by the number of resolved cases, and this is especially evident in 2020, when this number dropped.

Budget

In 2020, Kosovo spent 41 984 829€ as implemented Judicial System budget. Thus, it spent **23,6€ per inhabitant, which is less than the Western Balkans (WB) median** of 37,8€. The Judicial System budget decreased by 4,3% from the previous year. In particular, budget for courts decreased by 2,7%, budget for prosecution offices decreased by 3% and budget for legal aid decreased by 34%. Generally, the reduction of the judicial system budget was due to Covid-19 pandemic that led to budgetary cuts and reallocation of funds.

In 2020, courts in particular were dealing only with emergency cases for two and a half months (from mid-March to June). After June, courts did not start working in their full capacity, because the Covid-19 situation deteriorated again in July. The budget was reviewed in June, and significant reallocation of the budget was made, especially for justice expenses (directly related to judges' activities) and court buildings maintenance.

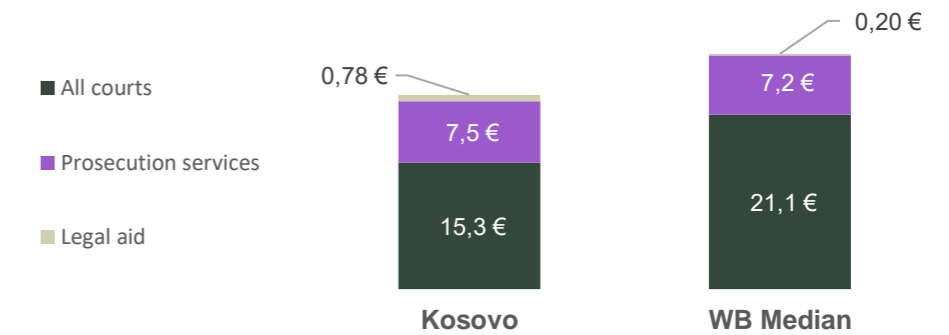
The amount of budget coming from **external donors** is difficult to calculate. This is because funds are often allocated on projects that last longer than one year and involve not only justice system but also other areas. Furthermore, it is difficult to identify how much is directly or indirectly allocated to courts, prosecutor offices and legal aid. However, Kosovo was able to provide a conservative estimate extracting data from the "Aid Management Platform" from the sub-category "Legal and Judicial Development". The funds provided by external donors are estimated in the proportion of 12% of the whole justice system budget.

Legal aid

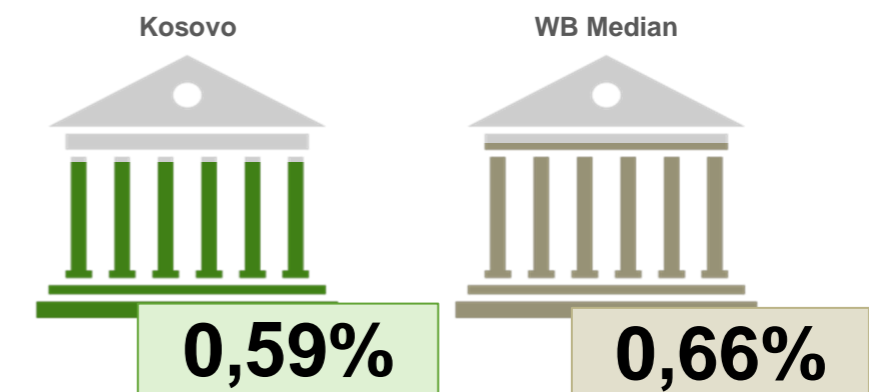
In 2020, legal aid budget had budgetary cuts. Compared to 2019, it diminished by 34%. However, the total implemented budget in 2020 was 0,78€ per inhabitant, which was remarkably above the WB median of 0,20€. Moreover, Kosovo was able to provide a complete dataset for number of criminal and non-criminal cases, brought and non-brought to court, for which legal aid was granted. In 2020, the total number of legal aid cases per inhabitant (262) was above the WB median (117).

Budget of the Judiciary

Implemented Judicial System Budget per inhabitant in 2020



Implemented Judicial System Budget as % of GDP in 2020

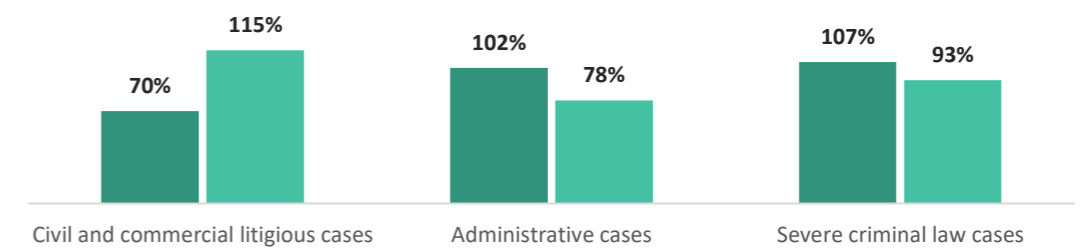


Efficiency

■ 1st instance ■ 2nd instance

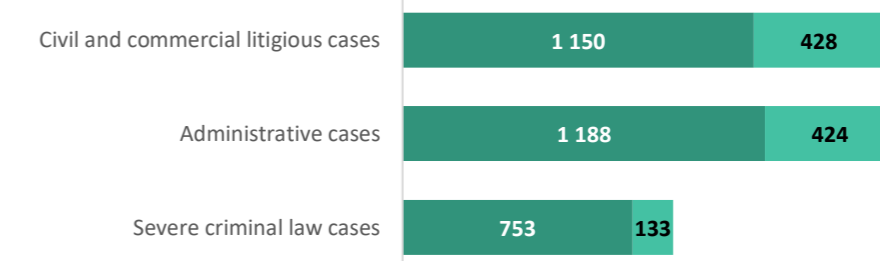
Clearance rate in 2020 (%)

The Clearance Rate (CR) shows the capacity of a judicial system to deal with the incoming cases. A CR of 100% or higher does not generate backlog.



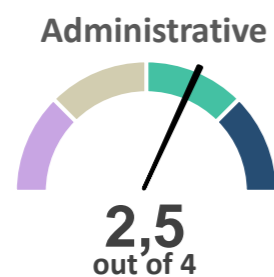
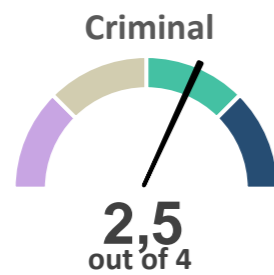
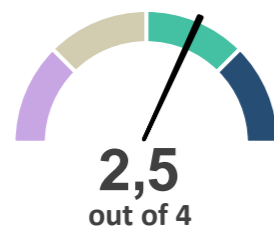
Disposition time in 2020 (in days)

The Disposition Time determines the maximum estimated number of days necessary for a pending case to be solved in a court.



CMS index (scale 0-4) Civil and/or commercial

Case management system (CMS) Index is an index 0 to 4 points calculated based on several questions on the features and deployment rate of the case management system of the courts of the respective beneficiary. The methodology for calculation provides one index point for each of the 5 questions for each case matter. The points for the 4 of the 5 questions apart of the deployment rate question are summarized and the deployment rate is multiplied as a weight. In this way if the system is not fully deployed the value is decreased even if all features are included to provide adequate evaluation.



Electronic case management system and court activity statistics

The Case Management System (CMS) has been recently developed, but it is still not fully deployed. The new CMS will be also used to generate dashboards and reports on court performance. Before 2020, the evaluation of court performance was done by using the performance of judges as a reference. Therefore, the performance of a court was mainly attributed to the performance of the judges in that particular court. In 2021, the Judicial Council has developed a dashboard in the CMS with specific indicators, in order to assess the overall court performance.

In Kosovo, there is a centralised national database of court decisions, in which all civil/commercial and administrative judgements and some criminal judgements for all instances are collected. Data are available at this link <https://www.gjyqesori-rks.org/aktgjykimet/?lang=en> and anyone can access and filter the judgements by different criteria.

Training

The total budget for training of judges and prosecutors in Kosovo was cut as well: the approved budget of the Academy of Justice was 964 342 €. However, the implemented budget for 2020 was reduced to 519 903 €. The total budget allocated to training was 30,5€ per inhabitant, lower than the WB median (44,7€). In 2020, the training budget decreased by 50% compared to 2019.

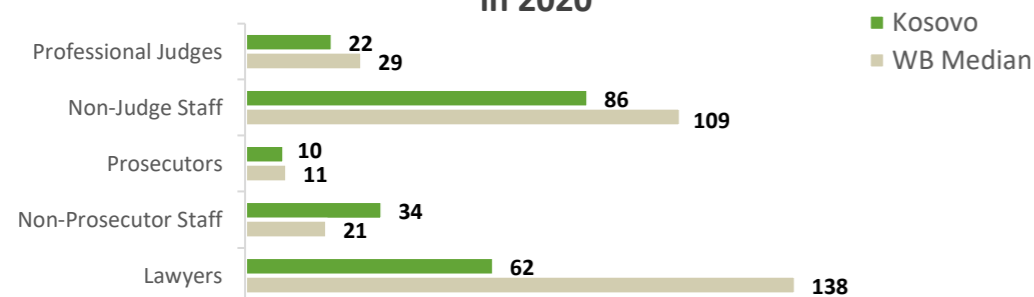
As regards the number of training courses delivered, this indicator was influenced by the Covid-19 pandemic restrictions, which excluded the possibility to deliver in-person training courses. Nevertheless, it seems that Kosovo was quite able to transfer courses from in-person to online platform. The number of in-person training courses plummeted from 227 days in 2019 to 23 days in 2020, while the number of available online courses was 19 in 2020. Kosovo commented that they delivered 111 days of online training courses for judges and 86 days of online training for prosecutors in 2020.

Professionals and gender

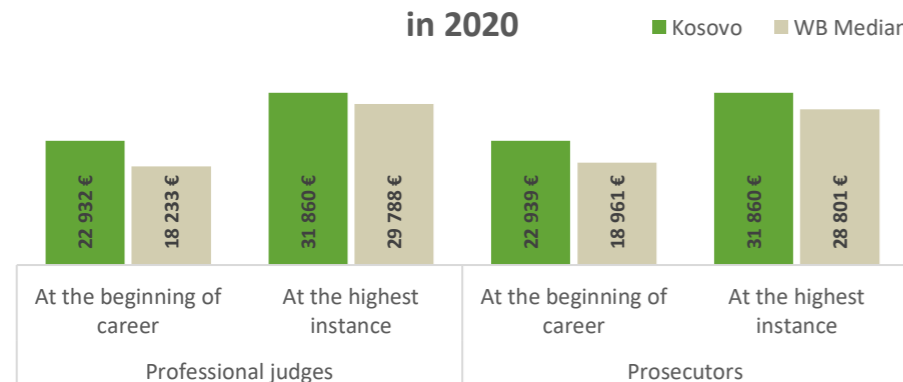
Eastern European countries traditionally have a very high number of professionals per inhabitants. In Kosovo, however, the number of judges and prosecutors per inhabitant in 2020 (respectively 21,9 and 9,8) was lower than the WB median (30,4 and 10,5) and it decreased from the previous cycle. Compared with the WB median, Kosovo had a WB median, except in the second instance (2 staff members per judge vs the WB median of 3,4).

Professionals of Justice

Total number of professionals per 100 000 inhabitants in 2020



Salaries of professional judges and prosecutors in 2020



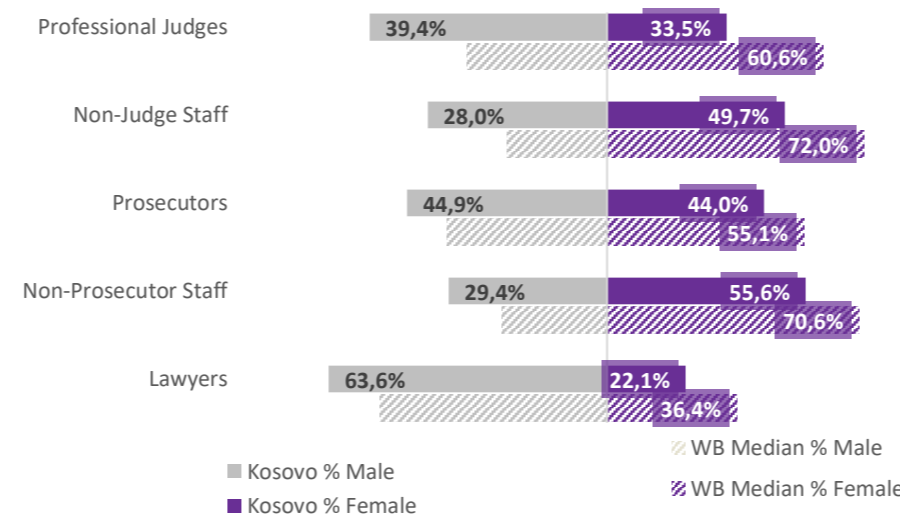
Kosovo is not included in the calculation of summary statistics

Gender Balance

34% female judges (total) 44% female prosecutors (total)



Gender Balance in 2020



The number of lawyers per inhabitants (62,3) was significantly lower than the WB median (137,9).

As regards salaries, the ratio between the salaries of professional judges and prosecutors at the beginning of career and the annual gross average salary was 3,2 (higher than the WB median of 2). By the end of career, judges and prosecutors were paid more (38,9%), but less than the WB median (127%).

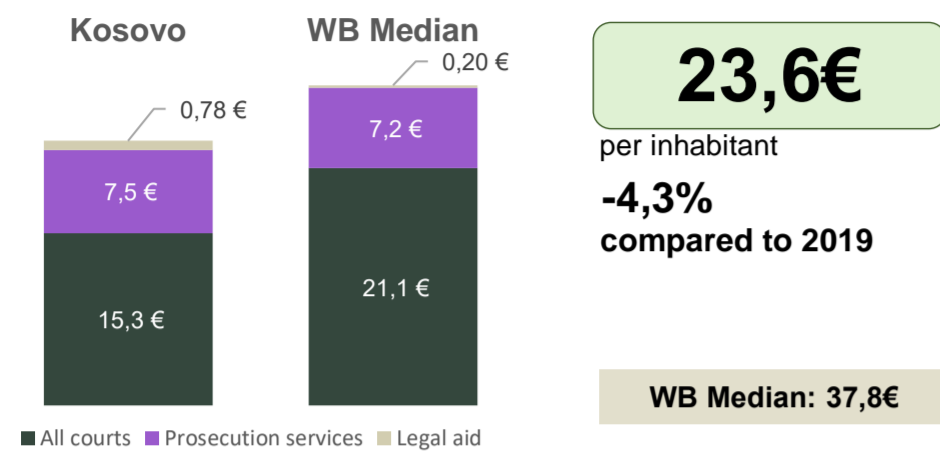
As regards gender balance, the percentage of female judges, prosecutors and staff was significantly lower than the WB median in all instances in 2020. It was particularly low for professional judges (33% of female prosecutors (total) vs the WB median of 60%). For prosecutors, a diminution of the percentage of female can be observed from the first to the third instance, whereas there is no pattern for professional judges and non-judge staff.

ADR

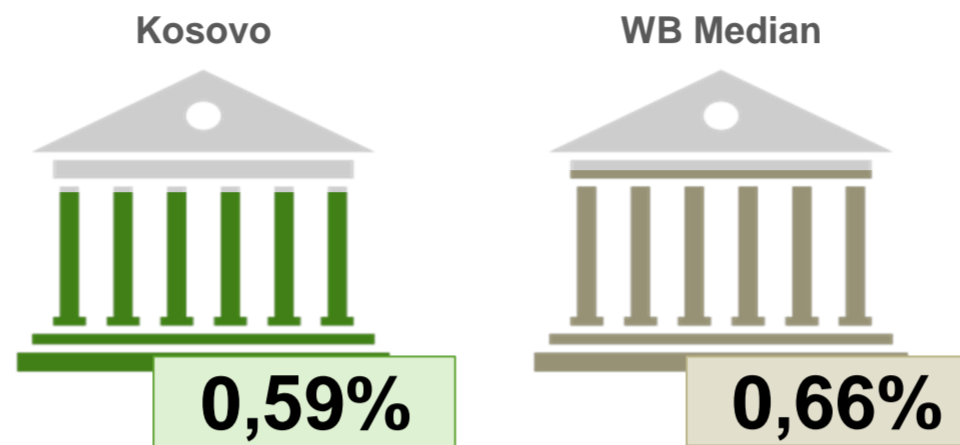
In Kosovo, court-related mediation procedures are available and legal aid could be granted. The judicial system does not provide for mandatory mediation. Also, there are no mandatory informative sessions with a mediator. In 2020, the number of mediators per 100 000 inhabitants was 10,7, which was above the WB median (5,4 per 100 000 inhabitants). Only 35,3% were female mediators. In general, ADR and mediation are not well developed in the Western Balkans region. However, Kosovo had the highest number of cases for which the parties agreed to start mediation in the region in 2020: 3 235 cases initiated, 3 232 cases closed, 2 674 of which ended with a settlement agreement.

Budget of the judiciary in Kosovo in 2020 (Indicator 1)

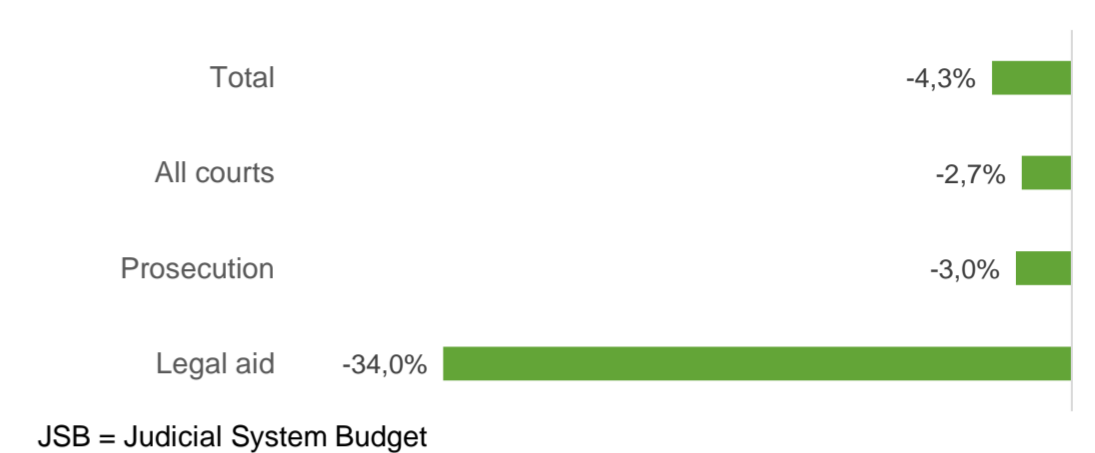
Implemented Judicial System Budget per inhabitant



Implemented Judicial System Budget as % of GDP



% Variation of Implemented JSB between 2019 and 2020



The Judicial System Budget (JSB) is composed by the budget for all courts, public prosecution services and legal aid. In 2020, the implemented JSB for Kosovo was 23,6€ per inhabitant. This was lower than the Western Balkans (WB) median (37,8€). It represented 0,6% of the GDP of Kosovo whereas the WB median was 0,7% and it decreased by -4,3% since 2019.

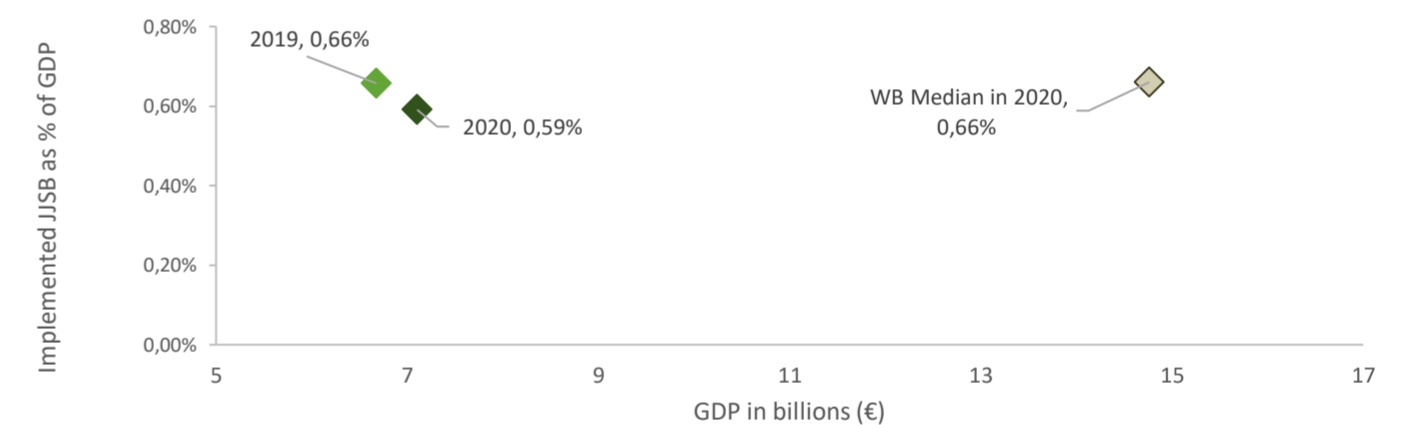
Budget allocated to the judicial system (courts, prosecution services and legal aid)

In 2020, Kosovo spent 41 984 829€ as implemented judicial system budget. This means that Kosovo spent 23,6€ per inhabitant, which is less than the WB median of 37,8€. 65% was spent for all courts, 31,7% for prosecution services, 3,3% for legal aid. Compared to 2019, Kosovo has spent -2,7% less for courts, -3% less for prosecution services, and -34% less for legal aid.

Judicial System Budget	Judicial System Budget in 2020		Implemented Judicial System Budget per inhabitant			Implemented Judicial System Budget as % of GDP		
	Approved	Implemented	Per inhabitant	WB Median	% Variation 2019 - 2020	As % of GDP	WB Median	Variation (in ppt) 2019 - 2020
Total	44 378 306 €	41 984 829 €	23,6 €	37,8 €	-4,3%	0,59%	0,66%	-0,07
All courts	28 956 390 €	27 287 740 €	15,3 €	21,1 €	-2,7%	0,38%	0,41%	-0,04
Prosecution	13 672 561 €	13 298 647 €	7,5 €	7,2 €	-3,0%	0,19%	0,15%	-0,02
Legal aid	1 749 355 €	1 398 442 €	0,78 €	0,20 €	-34,0%	0,02%	0,003%	-0,012

PPT = Percentage points

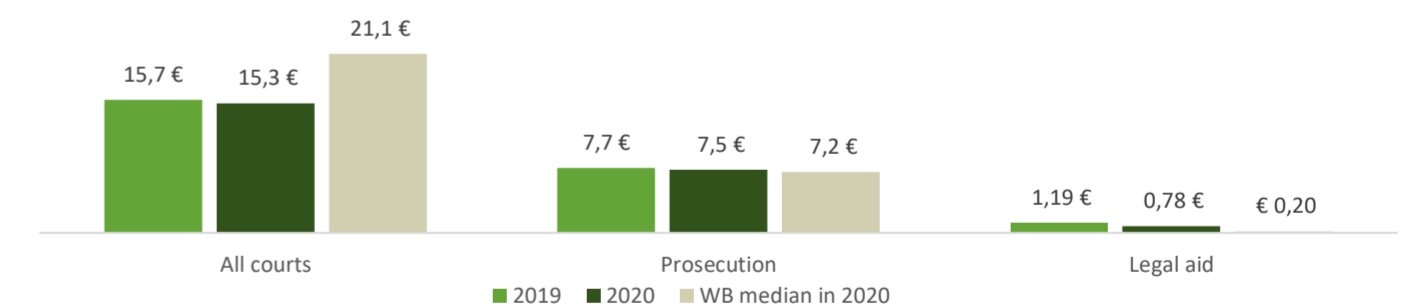
Implemented Judicial System Budget as % of GDP in 2019 and 2020



Generally speaking, decrease in judicial system budget are due to Covid-19 pandemic, that led to budgetary cuts and reallocation of funds. The approved budget refers to the final version of the budget allocation and, after the pandemic outbreak, the budget was reviewed and reallocated.

In 2020, courts have been dealing only with emergency cases for two and a half months (mid-March to June). After June, courts have not been working in their full capacities, because the Covid-19 situation deteriorated again in July. The budget was reviewed in June, and significant reallocation in the budget were made. And of course, due to the lockdown, the number of criminal cases was lower compared to previous years and consequently, a part of the budget initially allocated to legal aid for criminal cases was reallocated.

Implemented judicial system budget per inhabitant in 2019 and 2020 (€)

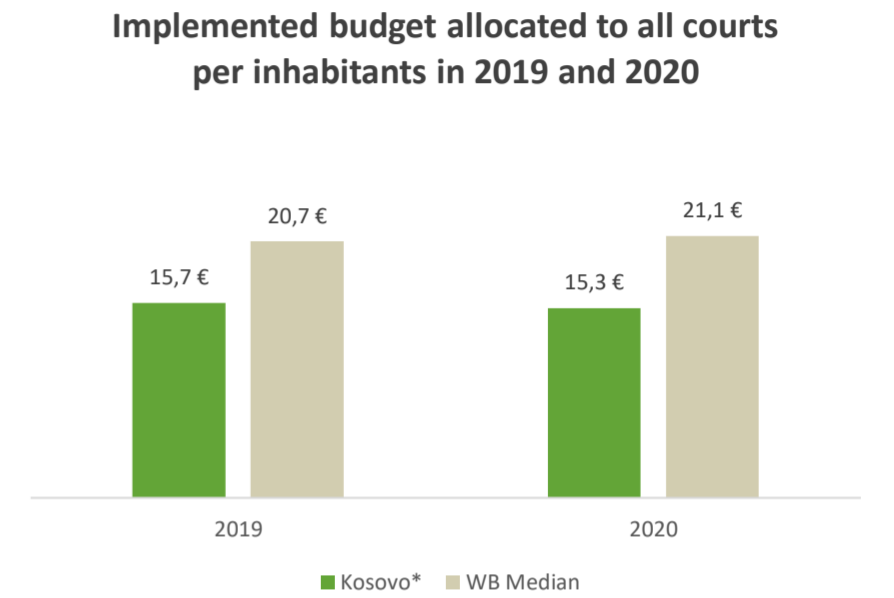
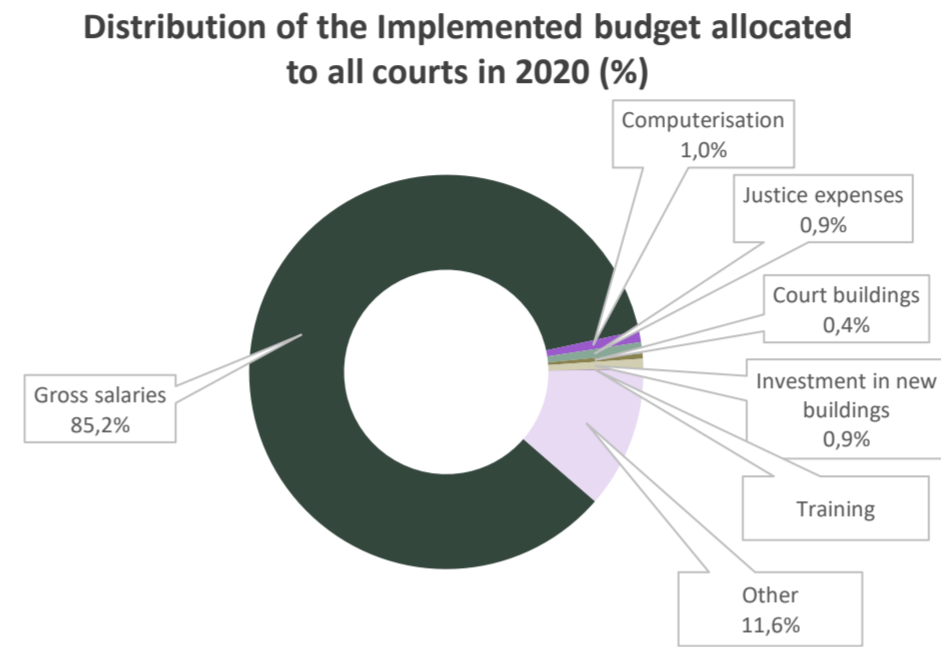


Budget allocated to the functioning of all courts

In 2020, Kosovo spent 27 287 740€ as implemented budget for courts. 85,2% was spent for gross salaries, 1% for computerisation, 0,9% for justice expenses, 0,4% for court buildings, 0,9% for investments in new buildings, 0,04% for training, 11,6% for other.

Compared to 2019, the implemented budget for courts decreased by -2,7%.

	2020		% Variation between 2019 and 2020	
	Approved budget	Implemented budget	Approved budget	Implemented budget
Total	28 956 390 €	27 287 740 €	-0,1%	-2,7%
Gross salaries	23 549 021 €	23 257 862 €	-0,2%	-1,2%
Computerisation	310 000 €	260 677 €	55,0%	72,0%
Justice expenses	253 300 €	252 458 €	-71,0%	-72,8%
Court buildings	190 000 €	115 475 €	11,8%	-31,9%
Investment in new buildings	1 120 000 €	232 368 €	25,8%	161,8%
Training	32 000 €	11 835 €	33,3%	NA
Other	3 502 069 €	3 157 065 €	7,6%	-0,3%



The budget allocated to computerization increased by 72%, while the budget for investments in new buildings increased by 162%.

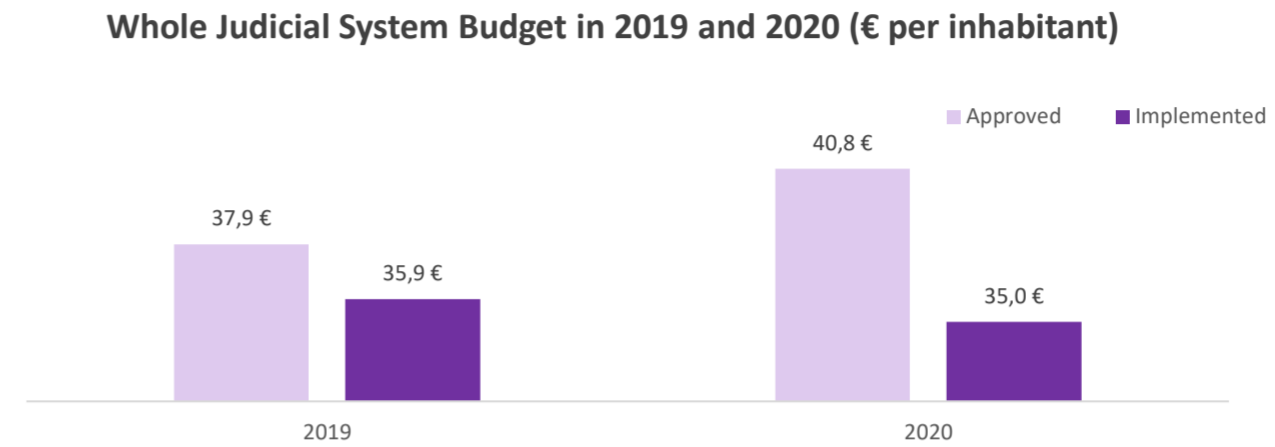
Budget allocated to computerization includes 160 000 for buying computers and IT equipment for Kosovo Judicial Council and Courts, and 150 000 for the maintenance of the IT system. The differences in the approved and implemented budget allocated to computerisation is due to the purchase of new IT equipment (mainly new computers). Budget allocated to justice expenses decreased, as it is related to the judges' activities that have been reduced because of the pandemic.

As regards annual budget allocated to investments in new court buildings, the discrepancy between approved and implemented budget is a result of budgetary cut because of the Covid-19 pandemic.

Budget allocated to the whole justice system

Since every beneficiary includes different elements in the whole justice system budget, it is not possible to compare it with the WB median. In Albania, from 2019 to 2020 the whole justice system implemented budget decreased by 2%.

Whole Justice System	2020		% Variation of the Whole Justice System per inhabitant 2019 - 2020
	Absolute number	Per inhabitant	
Approved	72 643 303 €	40,8 €	7%
Implemented	62 367 619 €	35,0 €	-2%



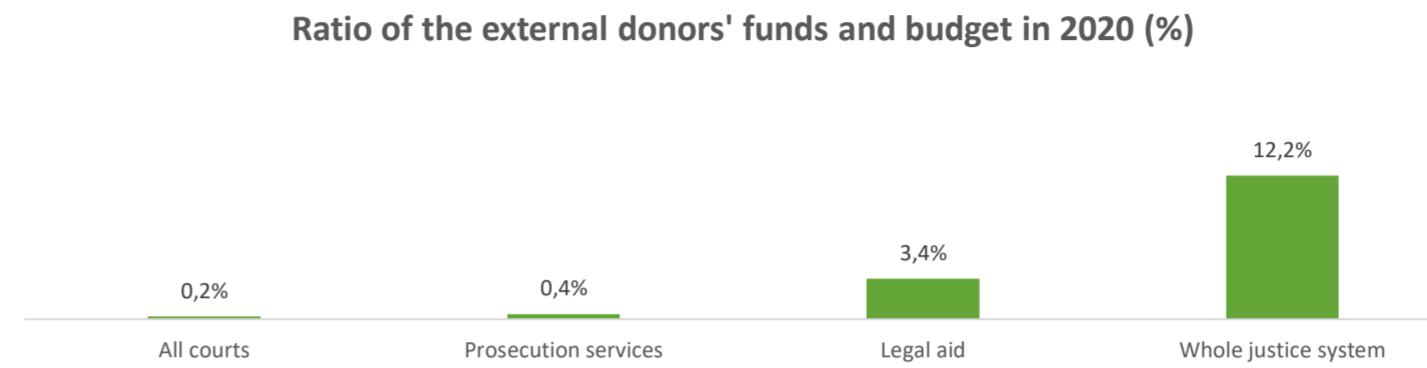
The whole justice system budget includes the following elements in 2020:

Court budget	✓	Constitutional court	✗	Judicial protection of juveniles	✗
Legal aid budget	✓	Judicial management body	✗	Functioning of the Ministry of Justice	✓
Public prosecution services budget	✓	State advocacy	✓	Refugees and asylum seekers service	✗
Prison system	✓	Enforcement services	✗	Immigration services	✗
Probation services	✓	Notariat	✗	Some police services	✗
Council of the judiciary	✓	Forensic services	✓	Other services	✗

• Budget received from external donors

The percentages represent an estimate of the ratio between external donations and respective budget. The percentage is calculated in relation to the total implemented budget of each category. However, this does not mean that the external funds cover a percentage of the budget, since donations are not included in the judicial system budget.

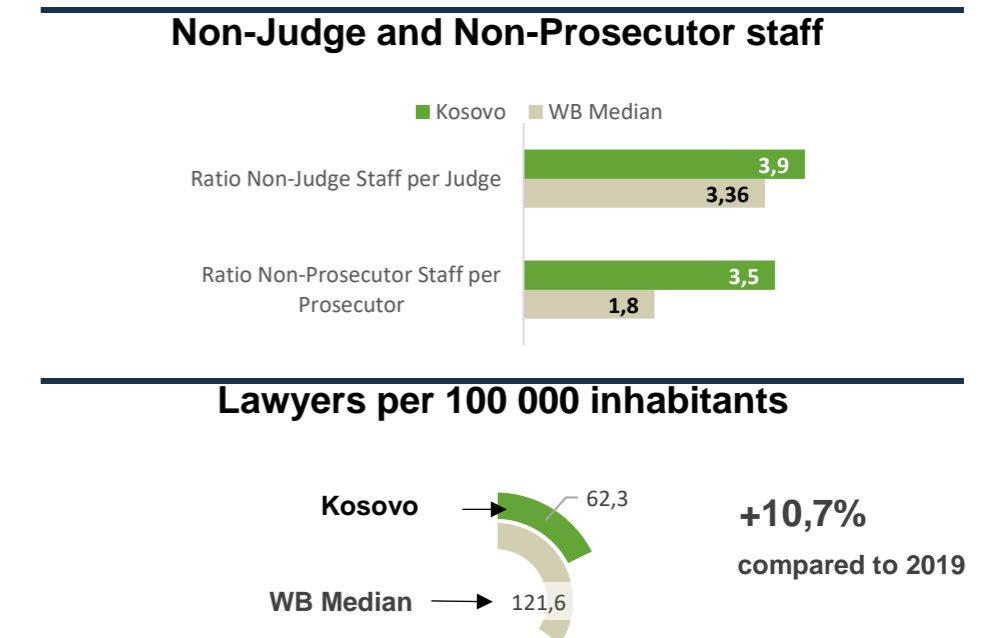
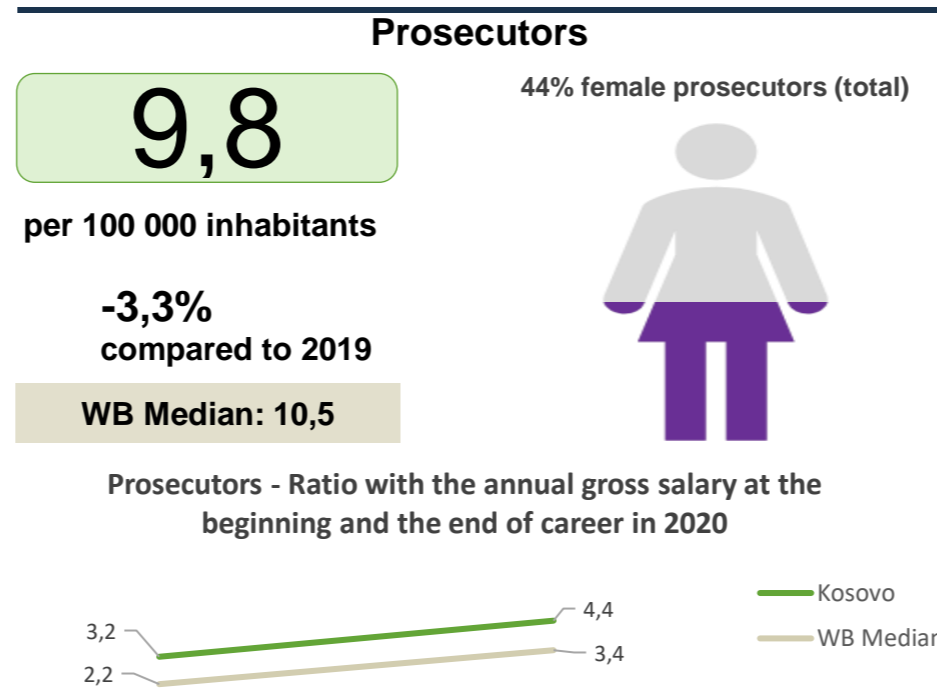
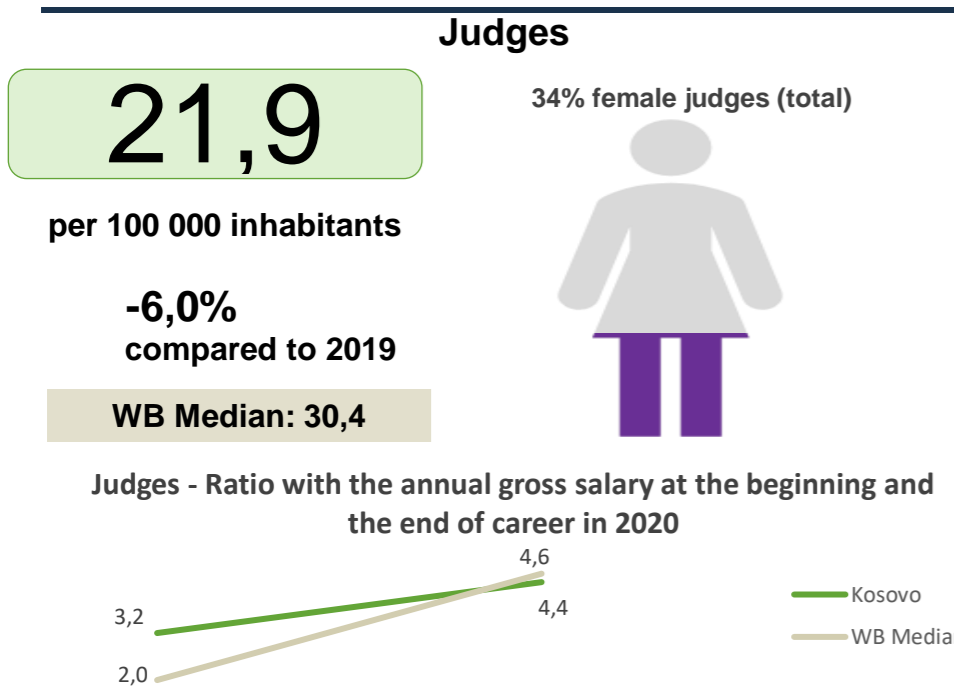
	Absolute value	Calculated as %	In percentage (%)
All courts	61 087 €	0,2%	0,2%
Prosecution services	57 948 €	0,4%	0,4%
Legal aid	48 112 €	3,4%	3,4%
Whole justice system	7 604 158 €	12,2%	12,2%



Looking at these figures, the highest ratio between external donations and budget of Kosovo is for whole justice system (12,2%).

In the category "Budget allocated to the Whole Justice System", data from the Aid Management Platform were included by extracting the amount from the sub-category "Legal and Judicial Development". Please consider that this is only a conservative estimate, as there might be other projects that were not in the platform.

Professionals and Gender Balance in judiciary in Kosovo in 2020 (Indicators 2 and 12)



In 2020, Kosovo had 21,9 professional judges per 100 000 and 9,8 prosecutors per 100 000 inhabitants. Both figures were below the Western Balkans (WB) median of 30,4 and 10,5, respectively. Less than half of professional judges (33,5%) and prosecutors (44%) were women (the WB median was 60,6% and 55,1%, respectively).

Professional Judges

	Professional judges			
	Absolute number	% of the total	Per 100 000 inhabitants	WB Median per 100 000 inhabitants
Total	391	100,0%	21,9	30,4
1st instance courts	332	84,9%	18,6	22,7
2nd instance courts	45	11,5%	2,5	6,0
Supreme Court	14	3,6%	0,8	1,6

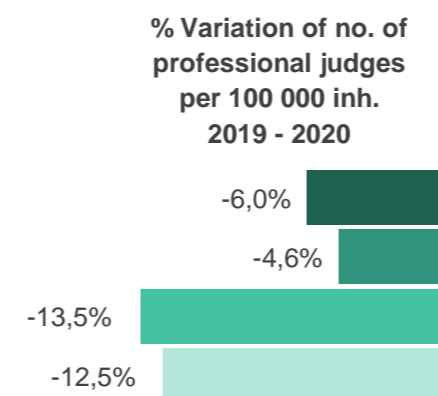
For reference only: the 2019 EU median is 24,5 judges per 100 000 inhabitants.

The absolute number of professional judges in Kosovo in 2020 was 391, which was 21,9 per 100 000 inhabitants (significantly lower than WB median of 30,4).

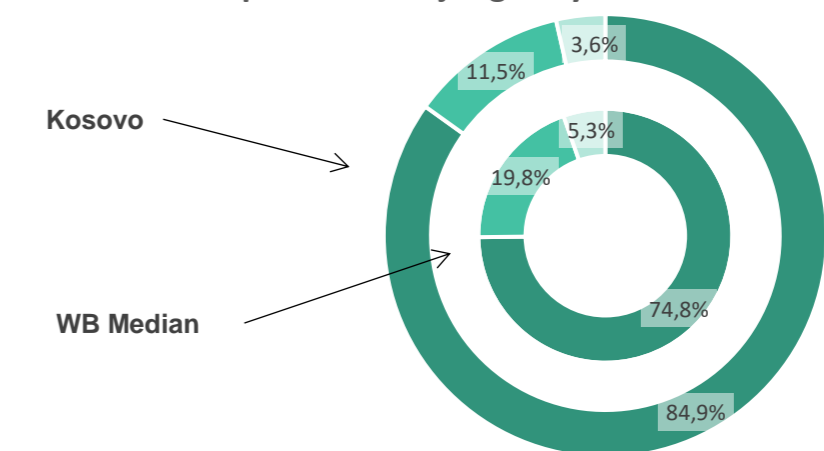
Compared to 2019, the number of professional judges decreased by -6% in 2020.

The figures show a difference of -10,1 percentage points between the percentage of judges in the first instance (84,9%) and the WB median (74,8%)

The discrepancy concerning the number of Judges in all instances is explained by retirement and/or promotion. The recruiting process of new judges is finalized and in early January the list of the new judges have been decreed by the president.

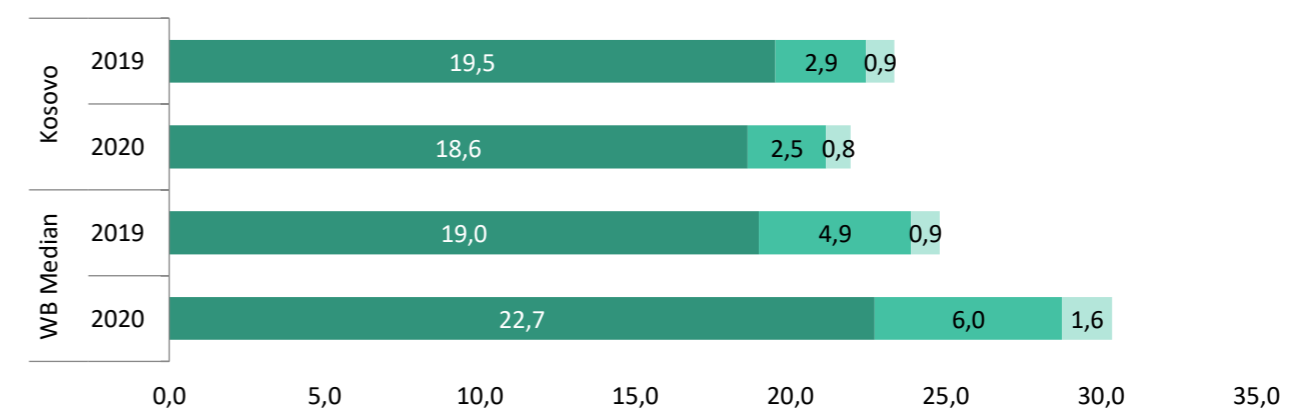


Distribution of professional judges by instance in 2020 (%)



■ 1st instance ■ 2nd instance ■ 3rd instance

Distribution of professional judges per 100 000 inhabitants by instance in 2019 and 2020



• Non-judge staff

In 2020, the total number of non-judge staff in Kosovo was 1 532, which increased by 0,2% compared to 2019. Kosovo had 86 non-judge staff per 100 000 inhabitants, below WB median of 109,1.

In 2020, there was no significant variation in the distribution of non-judge staff among instances compared to 2019.

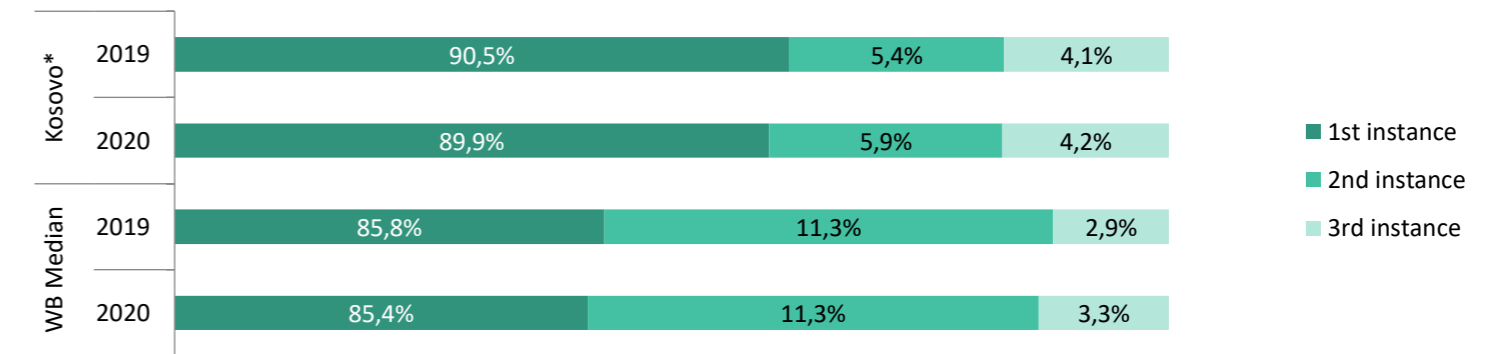
The highest number of non-judge staff were assisting judges, and they represented 43,6% of the total.

	Number of non-judge staff by instance			
	Absolute number	% of the total	Per 100 000 inhabitants	WB Median per 100 000 inhabitants
Total	1 532	100,0%	86,0	109,1
1st instance courts	1 378	90%	77,3	93,2
2nd instance courts	90	6%	5,1	12,4
Supreme Court	64	4%	3,59	3,56

For reference only: the 2019 EU median is 57,5 non-judge staff per 100 000 inhabitants.

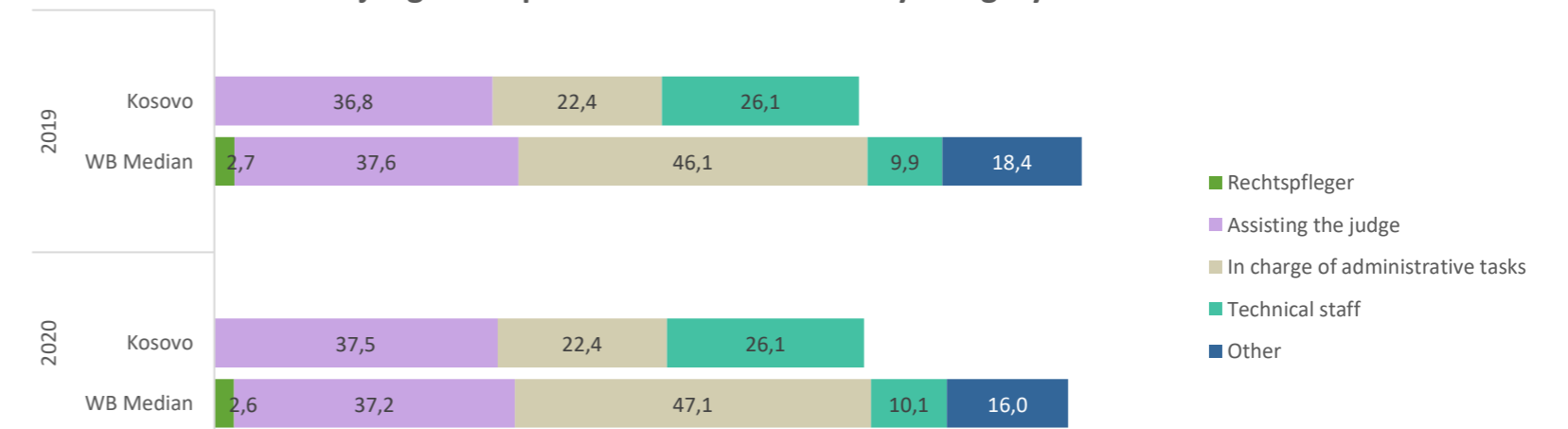
Compared with the WB median, Kosovo has more judges in first and third instance and less judges in second instance.

Distribution of non-judge staff by instance in 2019 and 2020



	Number of non-judge staff by category			
	Absolute number	% of the total	Per 100 000 inhabitants	WB Median per 100 000 inhabitants
Total	1 532	100,0%	86,0	109,1
Rechtspfleger	NAP	-	NAP	2,6
Assisting the judge	668	43,6%	37,5	37,2
In charge of administrative tasks	399	26,0%	22,4	47,1
Technical staff	465	30,4%	26,1	10,1
Other	NAP	NAP	NAP	16,0

Number of non-judge staff per 100 000 inhabitants by category in 2019 and 2020



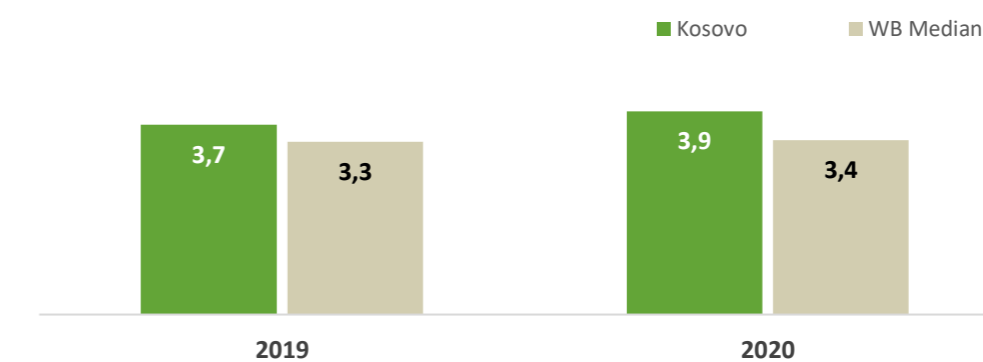
• Ratio between non-judge staff and professional judges

In Kosovo the ratio between non-judge staff and professional judges was 3,9 in 2020, whereas the WB median was 3,4. The ratio slightly increased from 3,7 in 2019.

	Ratio in 2020		% Variation between 2019 and 2020	
	Kosovo	WB Median	Kosovo	WB Median
Total	3,9	3,4	7,2%	1,0%
1st instance courts	4,2	3,8	5,0%	-0,9%
2nd instance courts	2,0	2,7	26,8%	14,9%
Supreme Court	4,6	3,4	16,1%	-1,7%

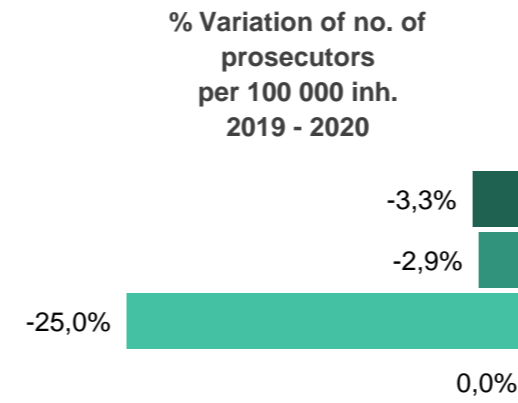
For reference only: the 2019 EU median ratio of non-judge staff per judge is 3,3.

Ratio between non-judge staff and judges in 2019 and 2020

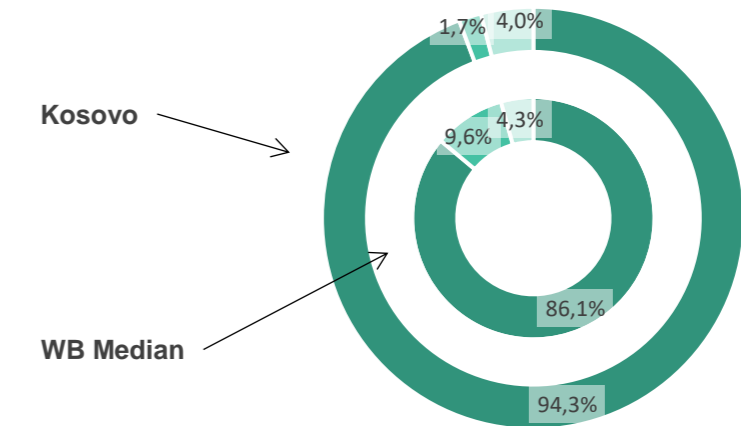


Prosecutors

	Number of prosecutors by instance			
	Absolute number	% of the total	Per 100 000 inhabitants	WB Median per 100 000 inhabitants
Total	175	100,0%	9,8	10,5
1st instance courts	165	94,3%	9,3	9,6
2nd instance courts	3	1,7%	0,2	1,1
Supreme Court	7	4,0%	0,4	0,5



Distribution of prosecutors by instance in 2020 (%)



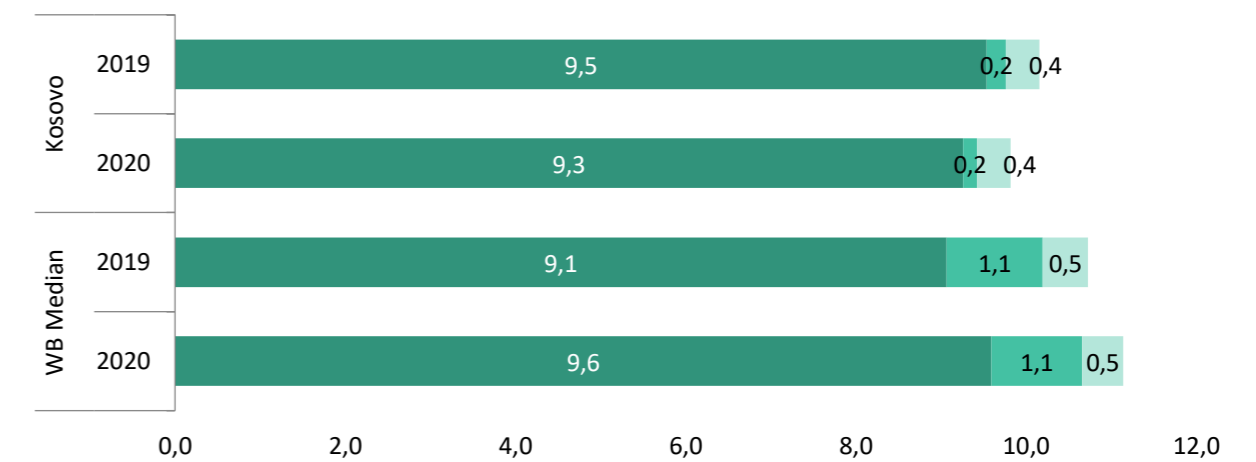
In 2020, the absolute total number of prosecutors in Kosovo was 175, which was 9,8 per 100 000 inhabitants (lower than WB median of 10,5).

The total number of prosecutors slightly decreased by -3,3% between 2019 and 2020.

The figures show a difference of 8,2 percentage points between the percentage of prosecutors in the first instance (94,3%) and the WB average (86,1%). Like for judges, compared to the WB median Kosovo has less prosecutors in second instance.

■ 1st instance ■ 2nd instance ■ 3rd instance

Distribution of prosecutors per 100 000 inhabitants by instance in 2019 and 2020



Non-prosecutor staff and Ratio between non-prosecutor staff and prosecutors

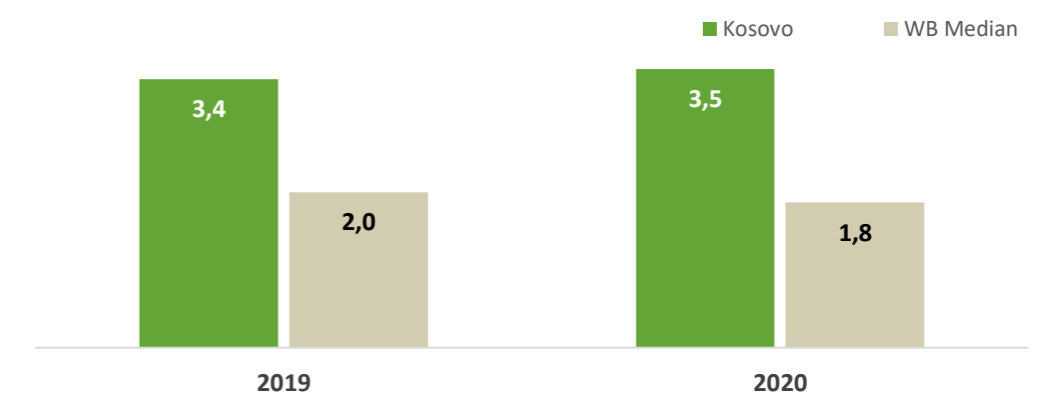
	Non-prosecutor staff in 2020			Ratio between non-prosecutor staff and prosecutors in 2020		% Variation of the ratio between 2019 and 2020	
	Absolute number	Per 100 000 inhabitants	WB Median per 100 000 inhab.	Kosovo	WB Median	Kosovo	WB Median
Total	613	34,4	20,5	3,5	1,8	3,8%	-6,5%

In 2020, the total number of non-prosecutor staff in Kosovo was 613, which increased by 0,3% compared to 2019.

The number of non-prosecutor staff per 100 000 inhabitants was 34,4, above WB median of 20,5.

The number of non-prosecutor staff per prosecutor was 3,5, which was significantly higher than WB median of 1,8.

Ratio between non-prosecutor staff and prosecutors in 2019 and 2020



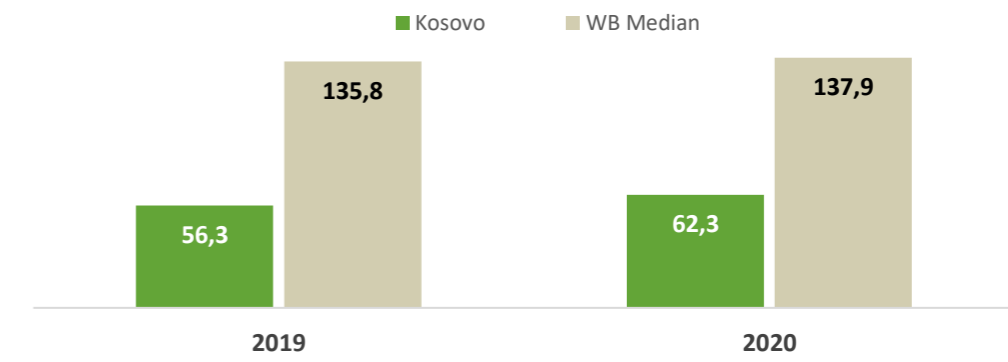
• Lawyers

	Number of lawyers			% Variation between 2019 and 2020	
	Absolute number	Per 100 000 inhabitants	WB Median per 100 000 inhabitants	Kosovo	WB Median
Total	1 111	62,3	137,9	10,7%	1,6%

For reference only: the 2019 EU median is 121,3 lawyers per 100 000 inhabitants.

In 2020, the number of lawyers was 62,3 per 100 000 inhabitants, which was remarkably lower than the WB median (137,9). The number of lawyers increased by 10,7% between 2019 and 2020.

Number of lawyers per 100 000 inhabitants in 2019 and 2020



Salaries of professional judges and prosecutors

In 2020, the ratio between the salary of professional judges at the beginning of career with the annual gross average salary in Kosovo was 3,2, which was higher than the WB median (2,0).

At the end of career, judges were paid more than at the beginning of career by 38,9%, which is less than the variation in the WB median (127%).

In 2020, the ratio between the salary of prosecutors at the beginning of career with the annual gross average salary in Kosovo was 3,2, which was higher than the WB median (2,2).

At the end of career, prosecutors were paid more than at the beginning of career by 38,9% but less than the variation of the WB median (51,9%).

		Salaries in 2020 (Q15)				% Variation of Gross Salary between 2019 and 2020	
		Gross annual salary in €	Net annual salary in €	Ratio with the annual gross salary	WB Median Ratio with the annual gross salary	Kosovo	WB Median
Professional judge	At the beginning of his/her career	22 932	19 876	3,2	2,0	-1,0%	-5,0%
	Of the Supreme Court or the Highest Appellate Court	31 860	27 504	4,4	4,6	-8,9%	-27,1%
Public prosecutor	At the beginning of his/her career	22 939	19 879	3,2	2,2	0,0%	-0,1%
	Of the Supreme Court or the Highest Appellate Court	31 860	27 506	4,4	3,4	0,0%	-11,5%

Gross annual salaries of professional judges and prosecutors in 2020



For reference only: the 2019 EU median for the ratio of judges and prosecutors' salaries with average gross annual national salary is:

- professional judges' salary at the beginning of career: 2,02

- prosecutors' salary at the beginning of career: 1,77

- professional judges' salary at the end of career: 4,1

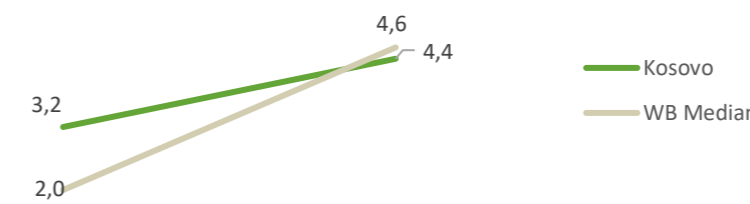
- prosecutors' salary at the end of career: 3,57

For the category "Public prosecutor at the beginning of his/her career" is provided the annual salary of prosecutors in the General department of Basic Prosecution offices, where prosecutors start their work during their initial mandate.

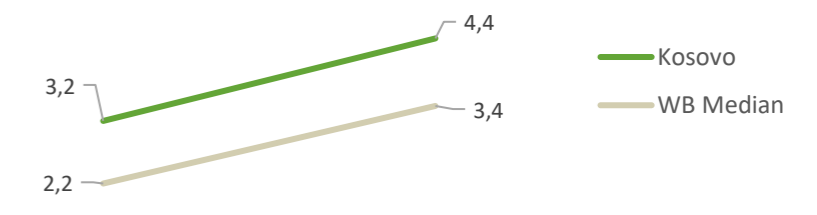
For the category "Public prosecutor of the Supreme Court or the Highest Appellate Instance" is provided the annual salary of the prosecutors who work in the Office of the Chief State Prosecutor.

There are some minor differences with the data from the previous year, mainly because the Law on Kosovo Judicial Council and the Law on Court have started to be implemented, and they have levelled salaries between all departments of the same instance (horizontal).

Judges - Ratio with the annual gross salary at the beginning and the end of career in 2020



Prosecutors - Ratio with the annual gross salary at the beginning and the end of career in 2020



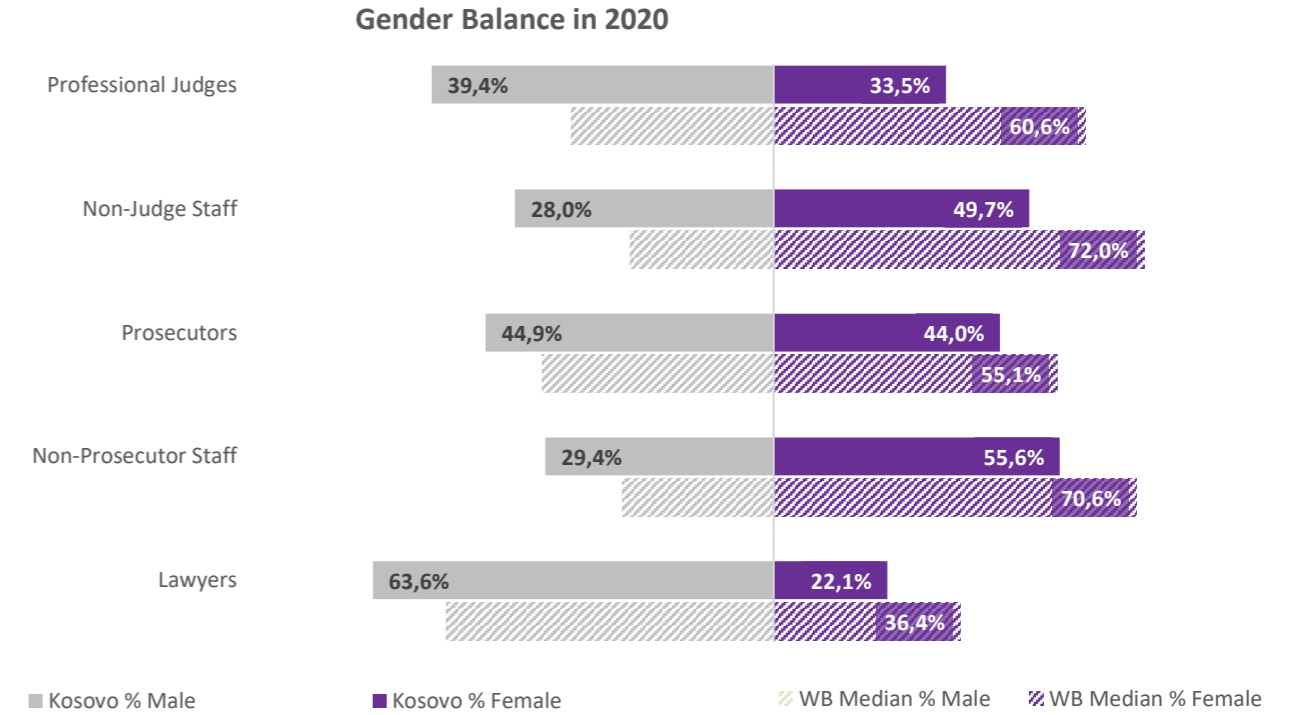
Additional benefits and bonuses for professional judges and prosecutors

	Reduced taxation	Special pension	Housing	Other financial benefit	Productivity bonuses for judges
Judges	✗	✗	✗	✗	✗
Prosecutors	✗	✗	✗	✗	

There are no financial or any other benefits for judges or prosecutors.

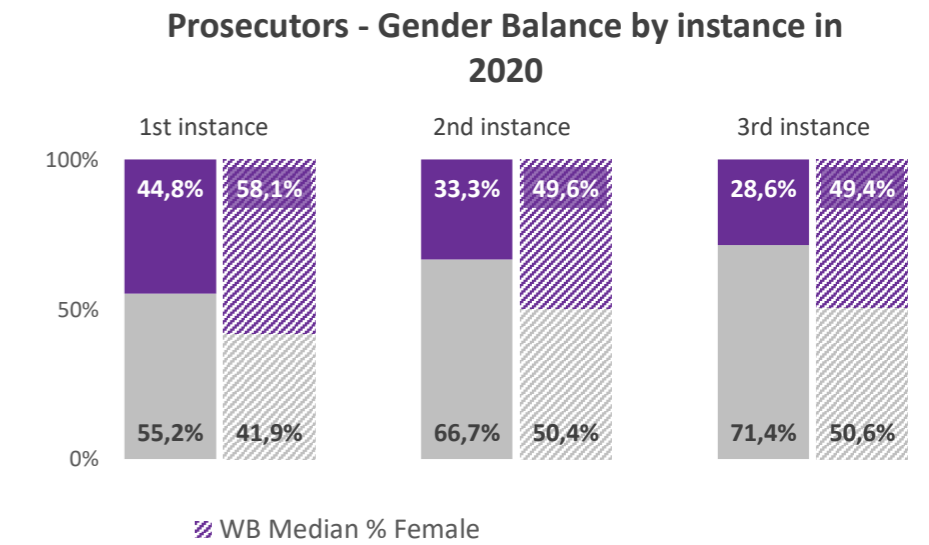
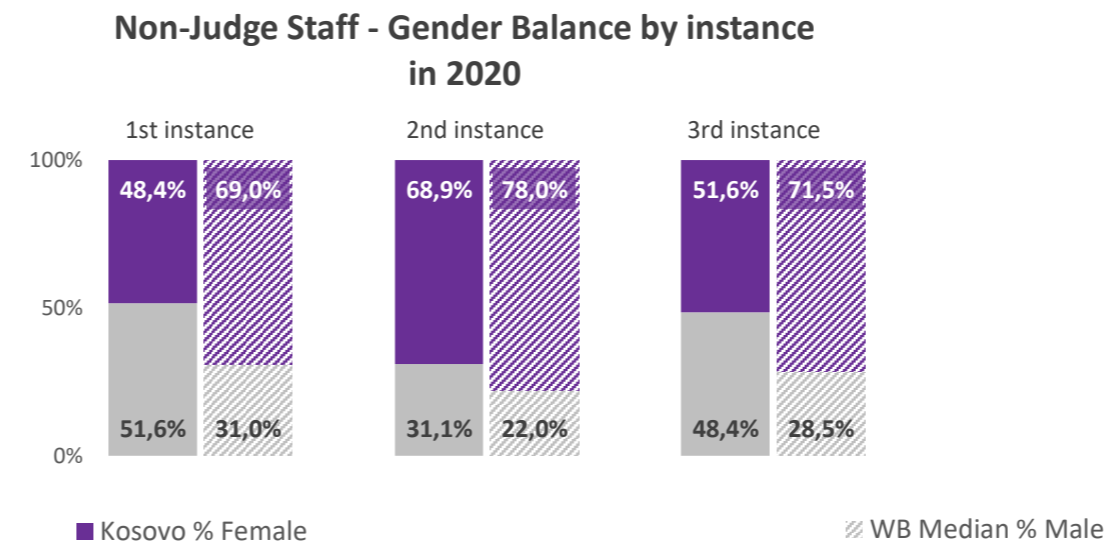
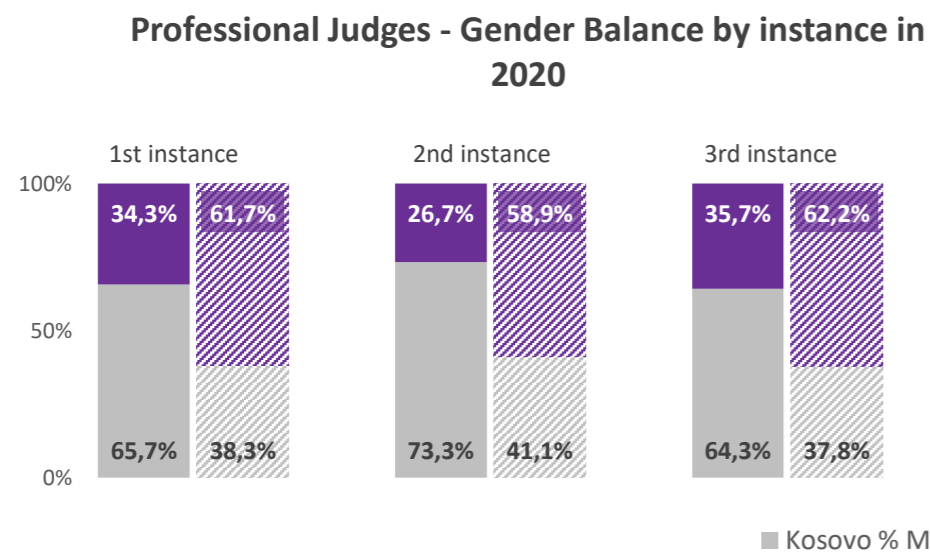
• Gender Balance

	Total number per 100 000 inh.	% Female	WB Median	Variation of % females between 2019 and 2020 (percentage points)	
				Kosovo	WB Median
Professional Judges	21,9	33,5%	60,6%	0,6	0,3
Non-Judge Staff	86,0	49,7%	72,0%	-0,5	0,2
Prosecutors	9,8	44,0%	55,1%	0,9	1,9
Non-Prosecutor Staff	34,4	55,6%	70,6%	-0,5	-1,4
Lawyers	62,3	22,1%	36,4%	1,8	1,3



In 2020, the percentage of female judges was 33,5%, which was lower than WB median (60,6%). Also, the percentage of female non-judge staff was 49,7%. The percentage of female prosecutors was 44% (lower than WB median of 55,1%). Moreover, the percentage of female non-prosecutor staff was 55,6%. Finally, the percentage of female lawyers was 22,1%, which was lower than WB median (36,4%). The non-prosecutor staff was the only category where more than 50% of professionals were female.

	% Female Professional Judges		% Female Non-Judge Staff		% Female Prosecutors	
	Kosovo*	WB Median	Kosovo	WB Median	Kosovo	WB Median
1st instance courts	34,3%	61,7%	48,4%	69,0%	44,8%	58,1%
2nd instance courts	26,7%	58,9%	68,9%	78,0%	33,3%	49,6%
Supreme Court	35,7%	62,2%	51,6%	71,5%	28,6%	49,4%



For prosecutors, a diminution of the percentage of female can be observed from first to third instance, whereas there is no pattern for professional judges and non-judge staff.

• Gender Equality Policies

	Recruitment		Promotion		Surveys or reports on national level, related to the male / female distribution	Person / institution specifically dedicated to ensure the respect of gender equality on institution level
	Specific provisions for facilitating gender equality	Person / institution dealing with gender issues on national level	Specific provisions for facilitating gender equality	Person / institution dealing with gender issues on national level		
Judges	✗	✗	✗	✗	✓	✗
Prosecutors	✓	✗	✗	✗	✓	✗
Non-judge staff	✗	✗	✗	✗	✗	✗
Lawyers	✗		✗		✓	
Notaries	✗		✗		✗	
Enforcement agents	✗		✗		✗	

In Kosovo there is no national programme or orientation document to promote gender equality.

There are no specific provisions for facilitating gender equality. The Article 7 of the Law on the Prosecutorial Council is a general and broad statement which requires that the gender equality is respected and considered in the case of recruitment.

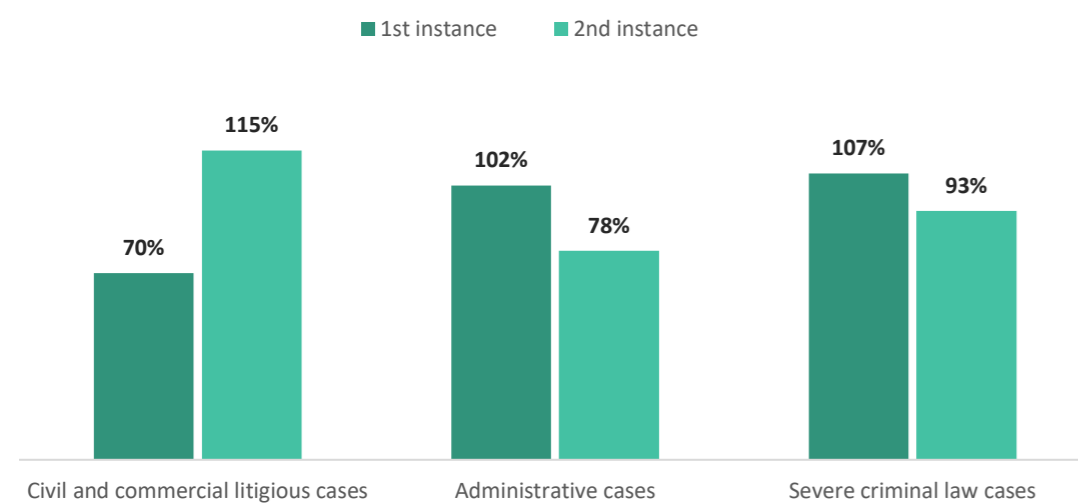
Information on the number of female and male judges can be retrieved from the annual working reports on judges' and prosecutors' performance. They are not specifically aimed at reporting on gender balance, but they contain this information.

Kosovo is not included in the calculation of summary statistics

Efficiency in Kosovo in 2020 (Indicators 3.1 and 3.2)

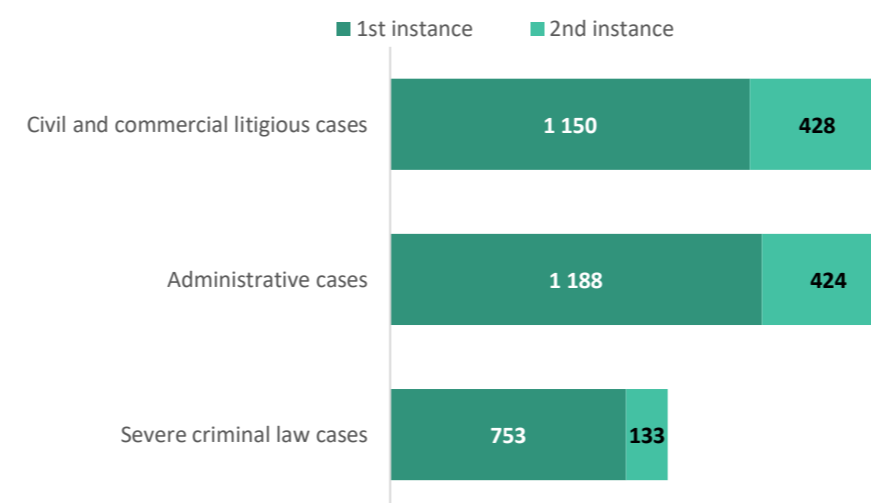
Clearance rate in 2020 (%)

The Clearance Rate (CR) shows the capacity of a judicial system to deal with the incoming cases. A CR of 100% or higher does not generate backlog.

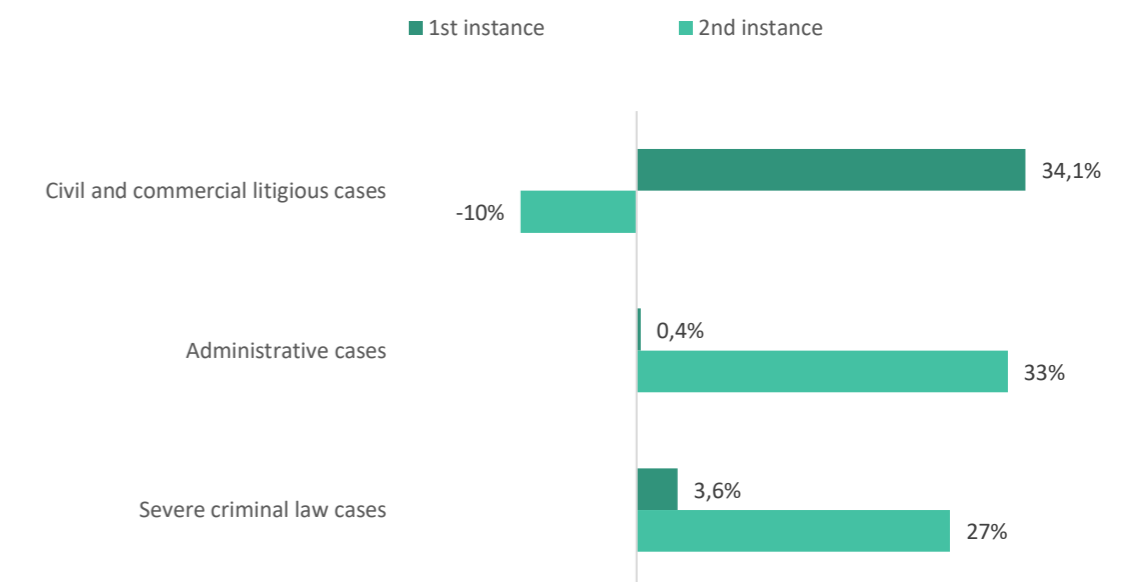


Disposition time in 2020 (in days)

The Disposition Time determines the maximum estimated number of days necessary for a pending case to be solved in a court.



Pending cases at the end of year - Variation between 2019 and 2020 (%)



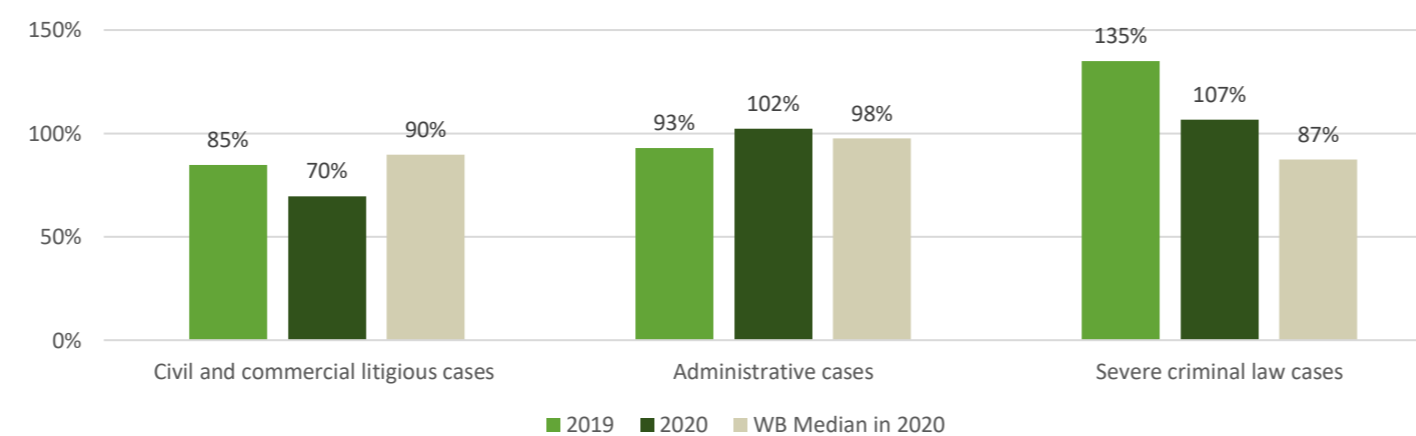
In 2020, the highest Clearance rate (CR) for Kosovo was observed for the second instance Civil and commercial litigious cases, with a CR of 115,3%. However, it seems that Kosovo was not to be able to deal as efficiently with the first instance civil and commercial litigious cases (CR of 69,6%). With a Disposition Time of approximately 424 days, the second instance Administrative cases were resolved faster than the other type of cases.

Compared to 2019, the pending cases at the end of year increased for the first instance civil and commercial litigious cases (34,1%), whereas they decreased for the second instance civil and commercial litigious cases by -10,2%.

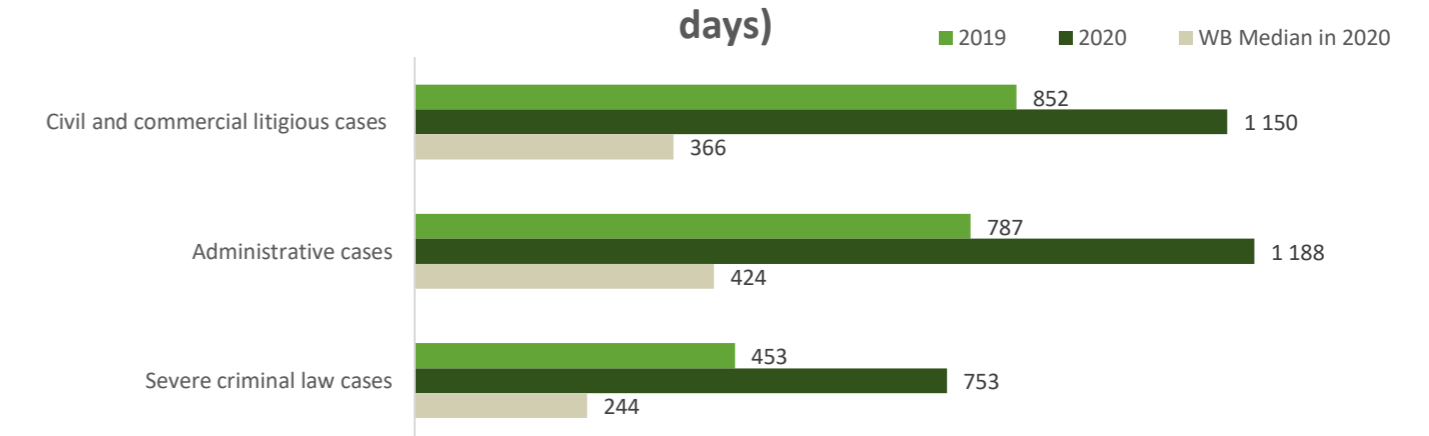
Except for first instance administrative cases, the CR decreased from 2019 and 2020 in all other categories and instances. The CR remained above 100% in severe criminal law cases (first instance), administrative cases (first instance) and civil/commercial litigious cases (second instance). The CR is particularly low in civil/commercial first instance cases (70% in 2020) and administrative second instance cases (78%). The DT is well above the median in both instances for every category of cases, and it is particularly high for civil/commercial litigious cases (1 150 days) and administrative cases (1 188) in first instance. Furthermore, it has been increasing for all categories and both instances from 2019 to 2020.

First instance cases

Clearance rate for first instance cases in 2019 and 2020 (%)

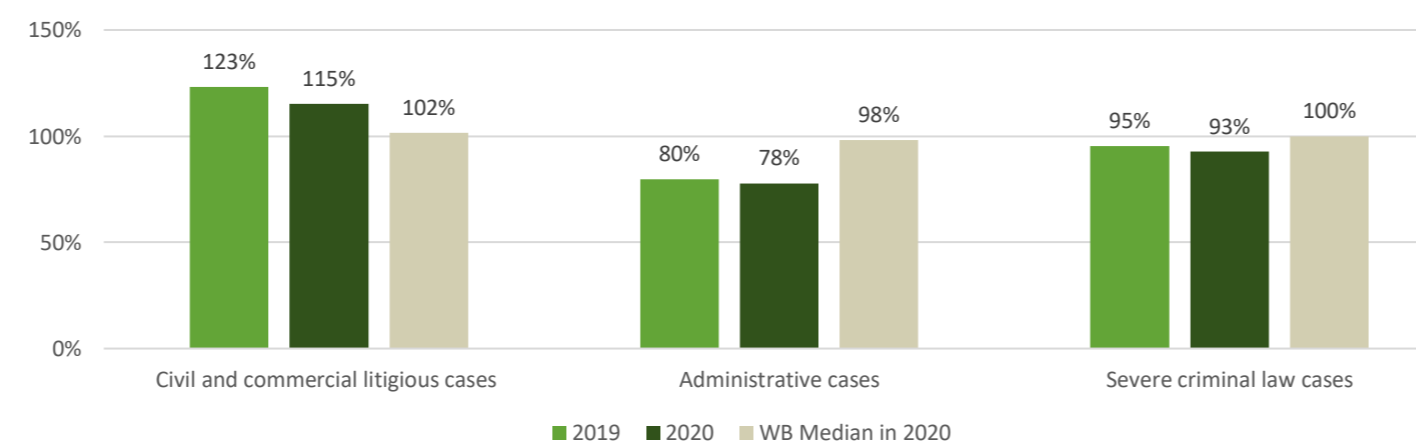


Disposition time for first instance cases in 2019 and 2020 (in days)

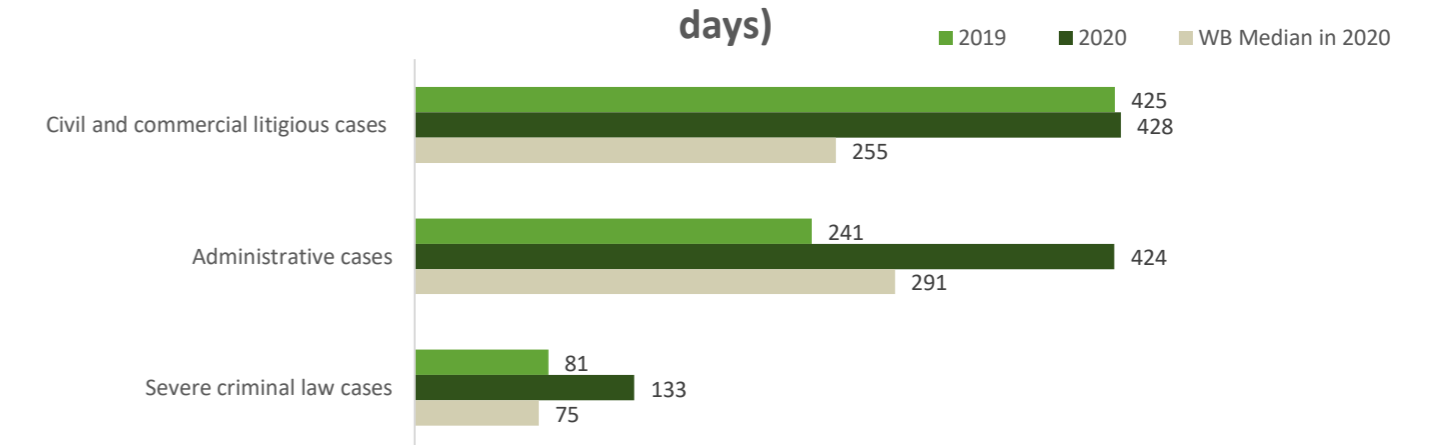


Second instance cases

Clearance rate for second instance cases in 2019 and 2020 (%)



Disposition time for second instance cases in 2019 and 2020 (in days)



• First instance cases - Other than criminal law cases

1st instance	2020								Per 100 inhabitants in 2020				% Variation between 2019 and 2020					
	Incoming cases	Resolved cases	Pending cases 31 Dec	Pending cases over 2 years	CR (%)	WB Median CR (%)	DT (days)	WB Median DT (days)	Incoming cases	Resolved cases	Pending cases 31 Dec	Pending cases over 2 years	Incoming cases	Resolved cases	Pending cases 31 Dec	Pending cases over 2 years	CR (PPT)	DT (%)
Total of other than criminal law cases (1+2+3+4)	NA	NA	NA	NA	NA	104,4%	NA	269	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
1 Civil and commercial litigious cases	30 044	20 905	65 887	24 273	69,6%	89,6%	1 150	366	1,7	1,2	3,7	1,4	20,8%	-0,7%	34,1%	17,8%	-15,0	35,0%
2 Non-litigious cases**	NA	NA	NA	NA	NA	100,3%	NA	161	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
3 Administrative cases	1 905	1 947	6 338	1 730	102,2%	97,6%	1 188	424	0,1	0,1	0,4	0,1	-39,5%	-33,5%	0,4%	82,1%	9,3	51,0%
4 Other cases	NA	NA	NA	NA	NA	97,3%	NA	195	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA

** Non-litigious cases include: General civil (and commercial) non-litigious cases, Registry cases and Other non-litigious cases.

For reference only: for the first instance Civil and Commercial litigious cases, the 2019 EU Median was as follows:

- Incoming cases per 100 inhabitants: 1,9;
- Clearance rate: 100,2% ;
- Disposition time: 213 days.

For reference only: for the first instance Administrative cases, the 2019 EU Median as follows:

- incoming cases per 100 inhabitants was 0,2;
- Clearance rate: 102,1%;
- Disposition time: 284 days.

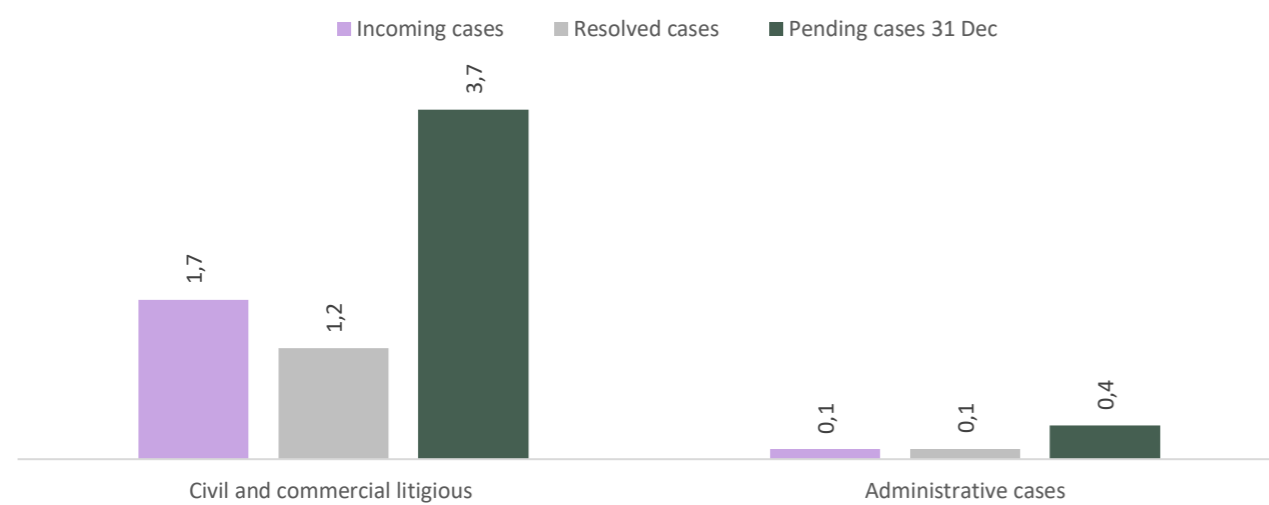
In 2020, the incoming civil and commercial litigious cases were 30 044 (1,7 cases per 100 inhabitants) and 20,8% more than in 2019. The resolved cases were 20 905 (1,2 cases per 100 inhabitants) and -0,7% less than in 2019. Hence, the number of resolved cases was lower than the incoming cases. As a consequence, the civil and commercial litigious pending cases at the end of 2020 were more than 2019 and the Clearance rate for this type of cases was 69,6%. This decreased by -15 percentage points compared to 2019 and was below the WB median (89,6%).

Finally, the Disposition Time for civil and commercial litigious cases was approximately 1 150 days in 2020. This increased by 35% compared to 2019 and it was well above the WB median (366 days).

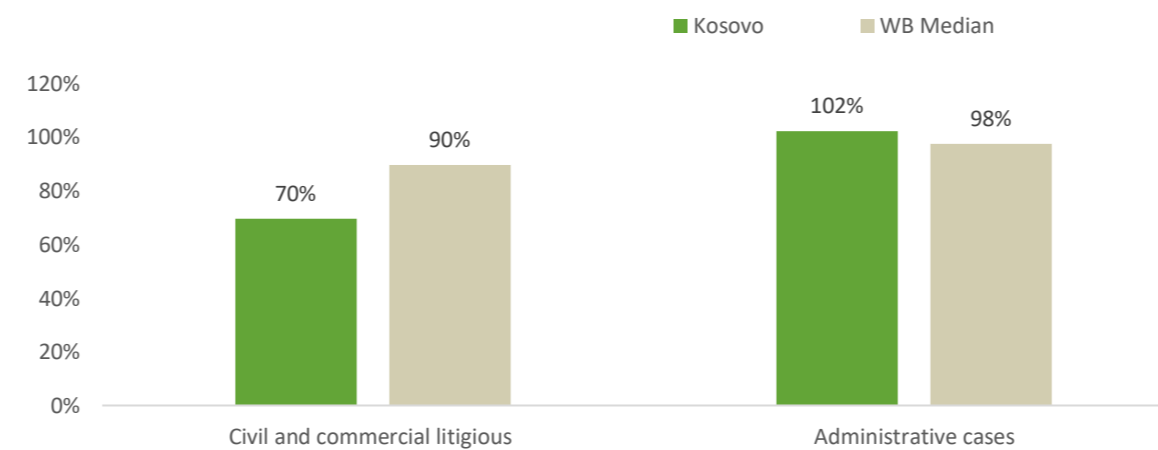
In 2020, the incoming administrative cases were 1 905 (0,1 cases per 100 inhabitants) and -39,5% less than in 2019. The resolved cases were 1 947 (0,1 per 100 inhabitants) and -33,5% less than in 2019. Hence, the number of resolved cases was higher than the incoming cases. As a consequence, the administrative pending cases at the end of 2020 were more than 2019 and the Clearance rate for this type of cases was 102,2%. This increased by 9,3 percentage points compared to 2019 and was above the WB median (100,3%).

Finally, the Disposition Time for administrative cases was approximately 1 188 days in 2020. This increased by 51% compared to 2019 and it was above the WB median (424 days).

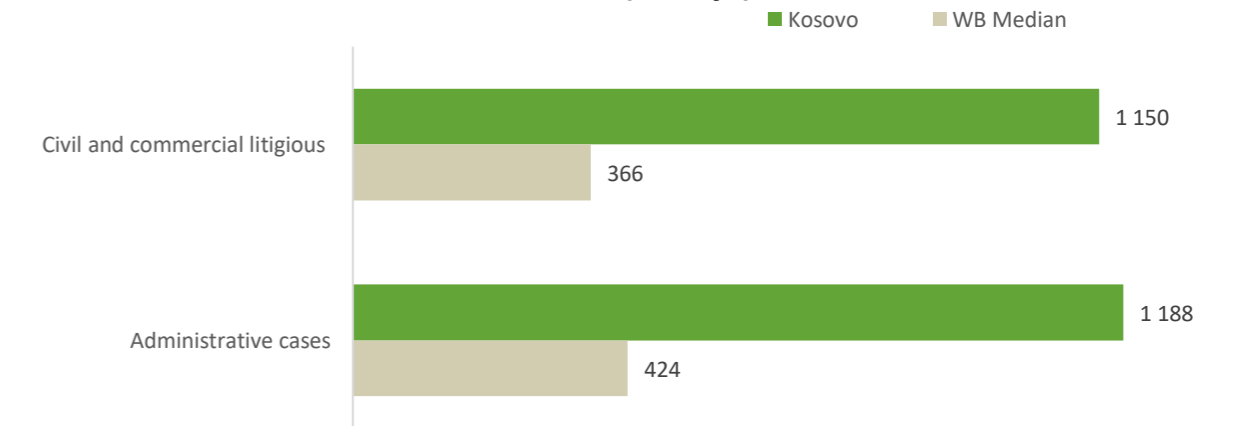
First instance Other than criminal cases per 100 inhabitants in 2020



Clearance Rate for first instance Other than criminal cases in 2020 (%)



Disposition Time for first instance Other than criminal cases in 2020 (in days)



Regarding the discrepancies between the number of civil solved cases and the number of incoming cases, is mainly due to the pandemic situation. For around three months (March to June), courts have been dealing only with very urgent cases. After June, courts have continued to work with limited capacities for the rest of the year. Concerning administrative cases, the increase of pending cases is attributed to their nature of "non-emergent" cases. Since courts have been dealing only with emergent cases and have worked with minimal capacities, most of the administrative cases have remained unsolved.

• First instance cases - Criminal law cases

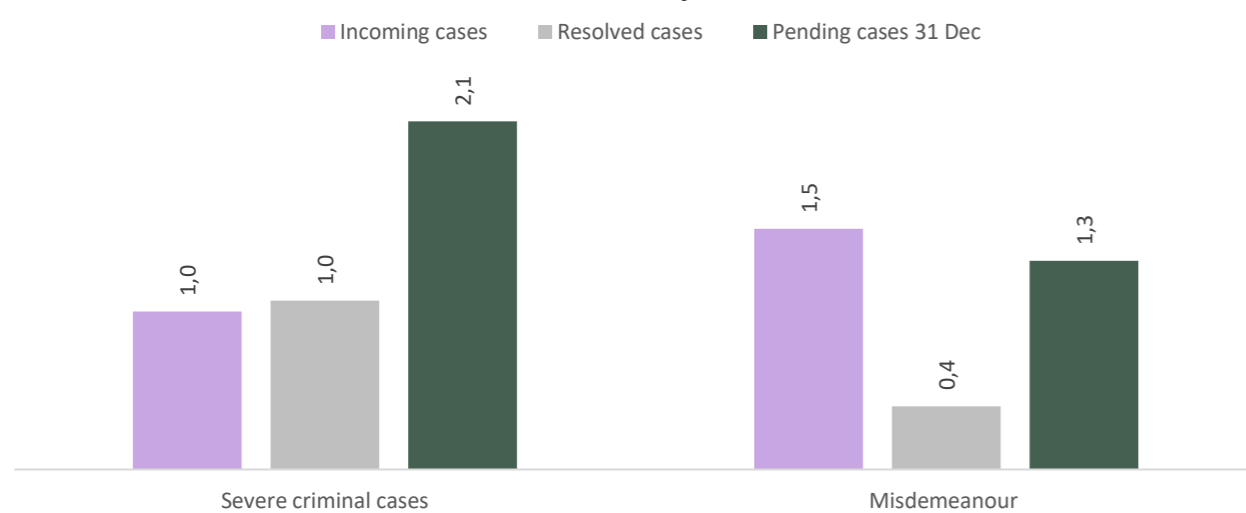
1st instance	2020								Per 100 inhabitants in 2020				% Variation between 2019 and 2020					
	Incoming cases	Resolved cases	Pending cases 31 Dec	Pending cases over 2 years	CR (%)	WB Median CR (%)	DT (days)	WB Median DT (days)	Incoming cases	Resolved cases	Pending cases 31 Dec	Pending cases over 2 years	Incoming cases	Resolved cases	Pending cases 31 Dec	Pending cases over 2 years	CR (PPT)	DT (%)
Total of criminal law cases (1+2+3)	NA	NA	NA	NA	NA	95,8%	NA	253	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
1 Severe criminal cases	16 996	18 132	37 426	16 016	106,7%	87,3%	753	244	1,0	1,0	2,1	0,9	-21,1%	-37,6%	3,6%	17,5%	-28,2	66,1%
2 Misdemeanour and / or minor criminal cases	25 891	6 816	22 416	445	26,3%	98,9%	1 200	275	1,5	0,4	1,3	0,0	0,5%	-85,5%	-14,0%	90,2%	-156,0	-492,4%
3 Other cases	NA	NA	NA	NA	NA	95,6%	NA	313	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA

PPT = Percentage points

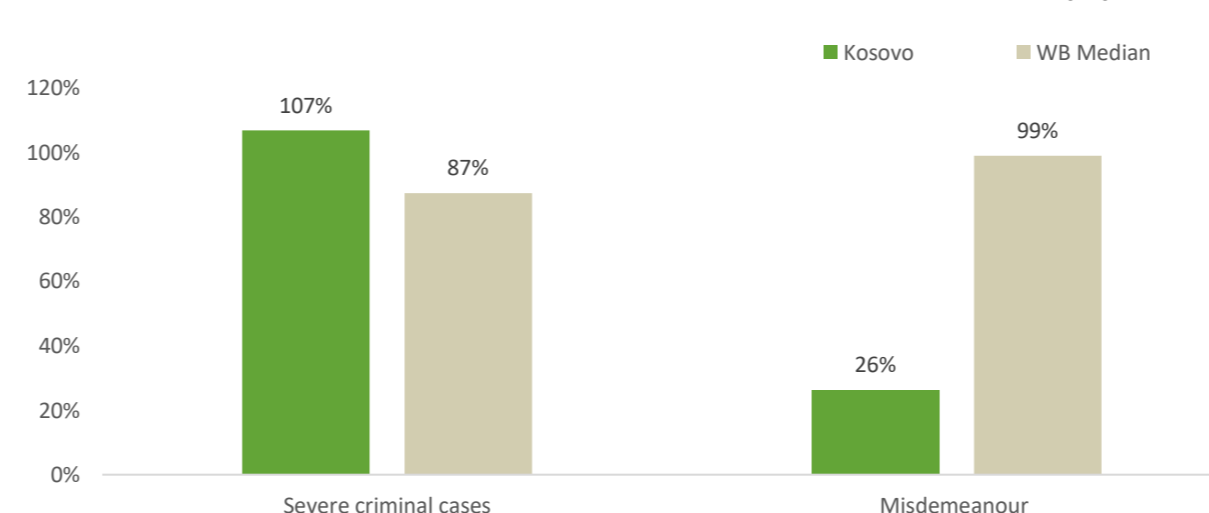
In 2020, the incoming severe criminal cases were 16 996 (1,0 cases per 100 inhabitants) and -21,1% less than in 2019. The resolved cases were 18 132 (1,0 cases per 100 inhabitants) and -37,6% less than in 2019. Hence, the number of resolved cases was higher than the incoming cases. The Clearance rate for this type of cases was 106,7%. This decreased by -28,2 percentage points compared to 2019 and was above the WB median (87,3%).

Finally, the Disposition Time for severe criminal cases was approximately 753 days in 2020. This increased by 66,1% compared to 2019 and it was above the WB median (244 days).

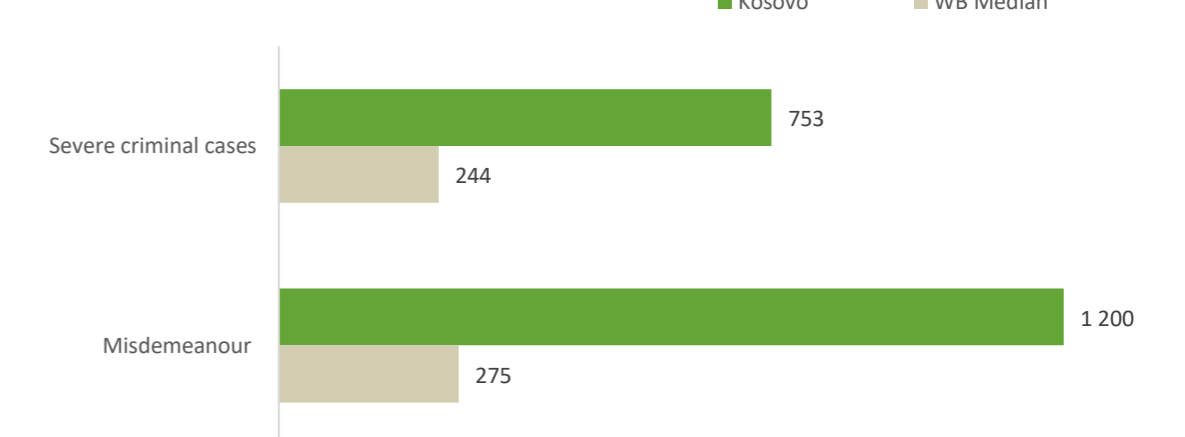
First instance Criminal law cases per 100 inhabitants in 2020



Clearance Rate for first instance Criminal Law cases in 2020 (%)



Disposition Time for first instance Criminal Law cases in 2020 (in days)



The discrepancy in misdemeanour cases is due to the switch to the new CMS. Notably, the pending cases at the end of 2019 have not been included in the CMS. All the pending cases from 2019 have been solved, but they were not included in the CMIS. To be more specific, among 26.070 pending cases (31st Dec 2019), 22.729 have been solved and not included in the CMS. Therefore, the number of resolved cases is significantly lower than the number of incoming cases. As regards the decrease in the number of incoming cases, it is mainly a result of the full lockdown which was imposed from mid- March to June. Restrictive measures, including restriction in the free movement, have remained in place during all the year.

• **Second instance cases - Other than criminal law cases**

2nd instance	2020								Per 100 inhabitants in 2020				% Variation between 2019 and 2020					
	Incoming cases	Resolved cases	Pending cases 31 Dec	Pending cases over 2 years	CR (%)	WB Median CR (%)	DT (days)	WB Median DT (days)	Incoming cases	Resolved cases	Pending cases 31 Dec	Pending cases over 2 years	Incoming cases	Resolved cases	Pending cases 31 Dec	Pending cases over 2 years	CR (PPT)	DT (%)
Total of other than criminal law cases (1+2+3+4)	NA	NA	NA	NA	NA	108,7%	NA	184	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
1 Civil and commercial litigious cases	6 857	7 907	9 278	NA	115,3%	101,7%	428	255	0,38	0,44	0,52	NA	-4,9%	-10,9%	-10,2%	NA	-7,8	0,8%
2 Non-litigious cases**	NA	NA	NA	NA	NA	103,9%	NA	55	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
3 Administrative cases	797	620	721	NA	77,8%	98,2%	424	291	0,04	0,03	0,04	NA	-22,9%	-24,8%	32,5%	NA	-2,0	76,4%
4 Other cases	NA	NA	NA	NA	NA	100,0%	NA	5	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA

** Non-litigious cases include: General civil (and commercial) non-litigious cases, Registry cases and Other non-litigious cases.

For reference only: for the first instance Civil and Commercial litigious cases, the 2019 EU Median was as follows:

- Clearance rate: 101,8% ;
- Disposition time: 175 days.

For reference only: for the first instance Administrative cases, the 2019 EU Median as follows:

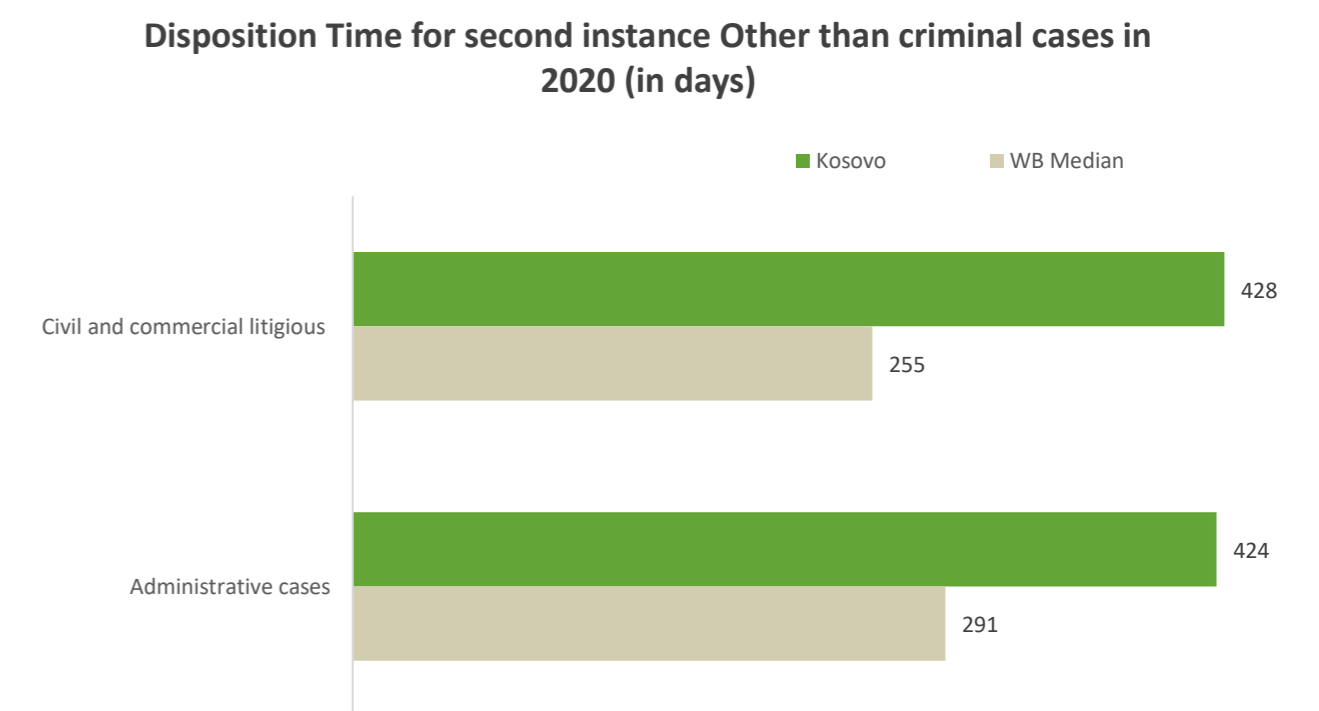
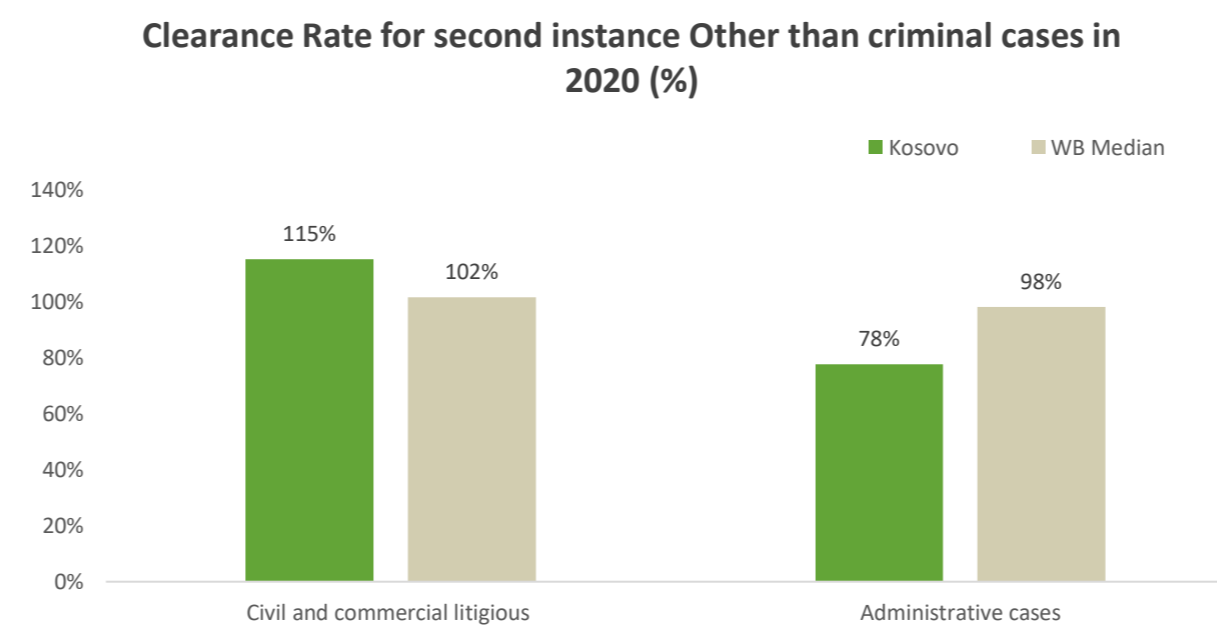
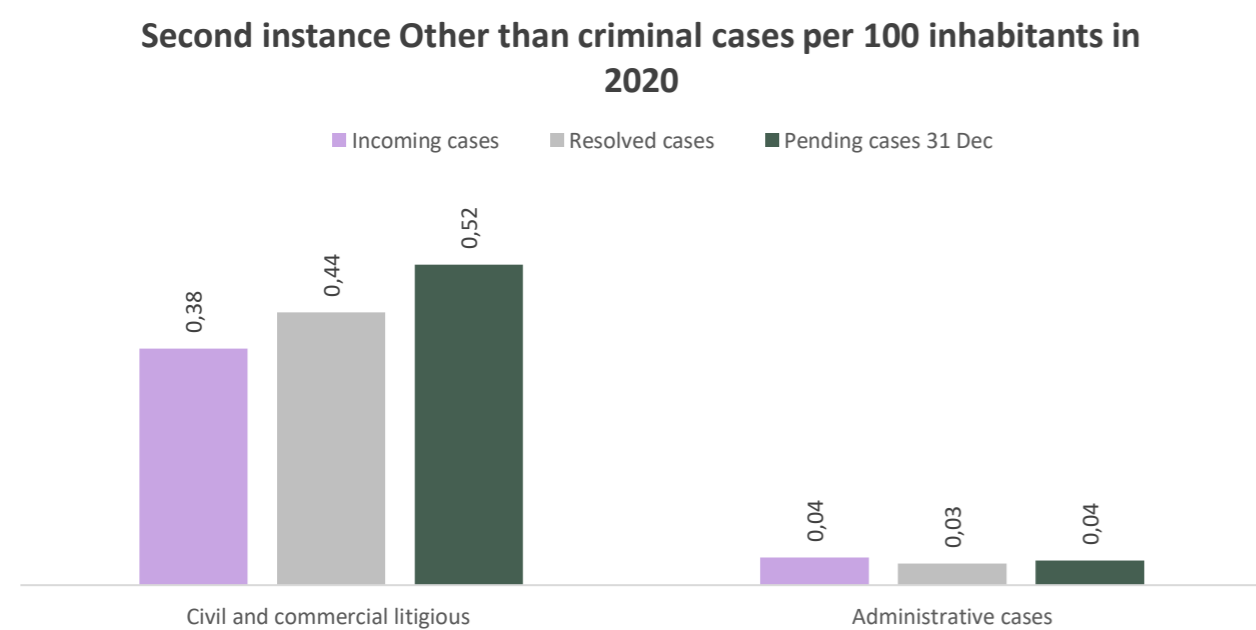
- Clearance rate: 96,9%;
- Disposition time: 329 days.

In 2020, the incoming civil and commercial litigious cases were 6 857 (0,4 cases per 100 inhabitants) and -4,9% less than in 2019. The resolved cases were 7 907 (0,4 cases per 100 inhabitants) and -10,9% less than in 2019. Hence, the number of resolved cases was higher than the incoming cases. As a consequence, the civil and commercial litigious pending cases at the end of 2020 were less than 2019 and the Clearance rate for this type of cases was 115,3%. This decreased by -7,8 percentage points compared to 2019 and was above the WB median (101,7%).

Finally, the Disposition Time for civil and commercial litigious cases was approximately 428 days in 2020. This increased by 0,8% compared to 2019 and it was above the WB median (255 days).

In 2020, the incoming administrative cases were 797 (0,04 cases per 100 inhabitants) and -22,9% less than in 2019. The resolved cases were 620 (0,03 per 100 inhabitants) and -24,8% less than in 2019. Hence, the number of resolved cases was lower than the incoming cases. As a consequence, the administrative pending cases at the end of 2020 were more than 2019 and the Clearance rate for this type of cases was 77,8%. This decreased by -2 percentage points compared to 2019 and was below the WB median (103,9%).

Finally, the Disposition Time for administrative cases was approximately 424 days in 2020. This increased by 76,4% compared to 2019 and it was above the WB median (291 days).



• Second instance cases - Criminal law cases

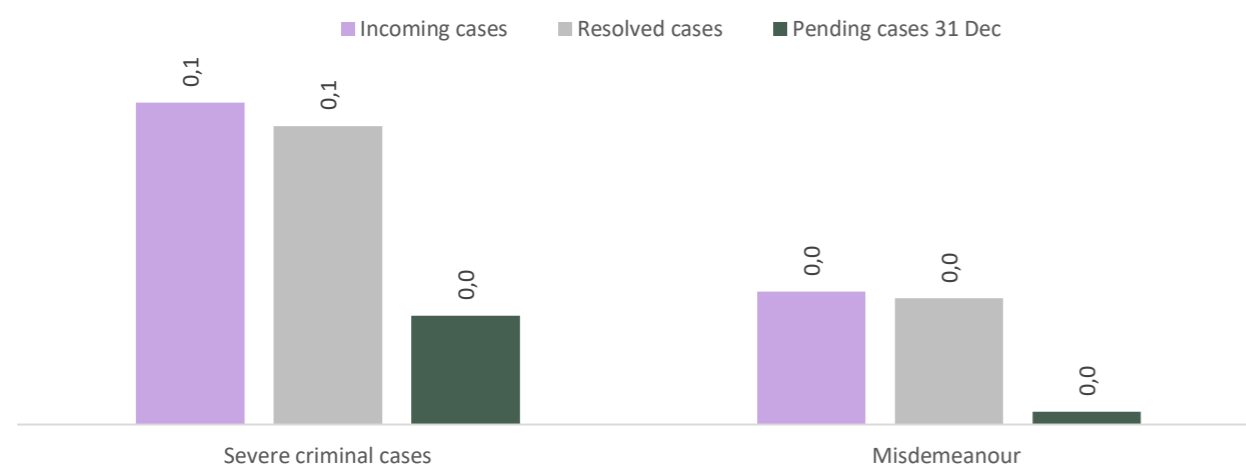
2nd instance	2020								Per 100 inhabitants in 2020				% Variation between 2019 and 2020					
	Incoming cases	Resolved cases	Pending cases 31 Dec	Pending cases over 2 years	CR (%)	WB Median CR (%)	DT (days)	WB Median DT (days)	Incoming cases	Resolved cases	Pending cases 31 Dec	Pending cases over 2 years	Incoming cases	Resolved cases	Pending cases 31 Dec	Pending cases over 2 years	CR (PPT)	DT (%)
Total of criminal law cases (1+2+3)	NA	NA	NA	0	NA	100,3%	NA	59	NA	NA	NA	0,0	NA	NA	NA	NA	NA	NA
1 Severe criminal cases	1 849	1 714	626	0	92,7%	99,9%	133	75	0,1	0,1	0,0	0,0	-20,2%	-22,4%	27,5%	NA	-2,7	64,4%
2 Misdemeanour and / or minor criminal cases	763	724	72	0	94,9%	99,2%	36	45	0,0	0,0	0,0	0,0	-32,5%	-42,0%	18,2%	NA	-15,5	276,4%
3 Other cases	NA	NA	NA	NA	NA	100,2%	NA	16	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA

PPT = Percentage points

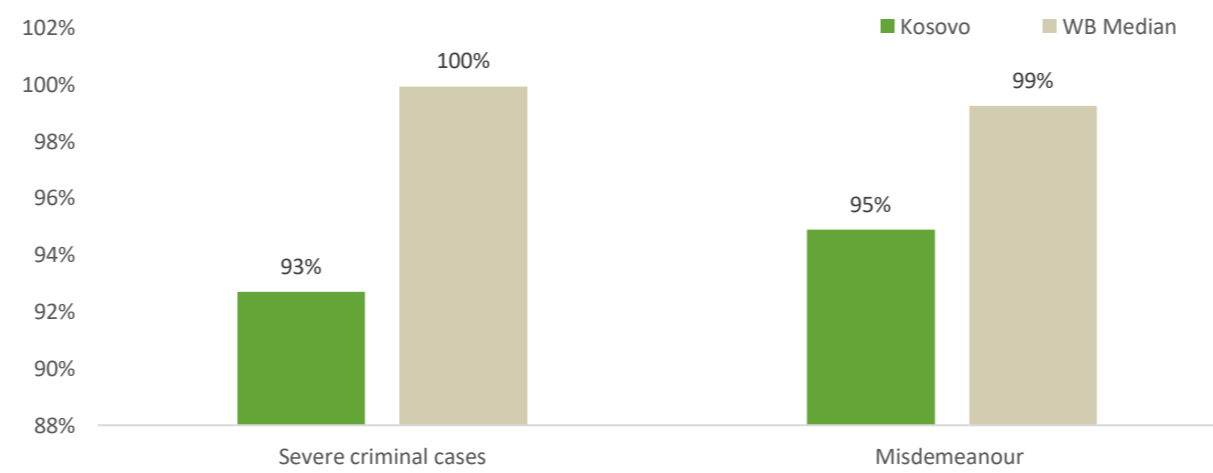
In 2020, the incoming severe criminal cases were 1 849 (0,1 cases per 100 inhabitants) and -20,2% less than in 2019. The resolved cases were 1 714 (0,1 cases per 100 inhabitants) and -22,4% less than in 2019. Hence, the number of resolved cases was lower than the incoming cases. The Clearance rate for this type of cases was 92,7%. This decreased by -2,7 percentage points compared to 2019 and was below the WB median (99,9%).

Finally, the Disposition Time for severe criminal cases was approximately 133 days in 2020. This increased by 64,4% compared to 2019 and it was above the WB median (75 days).

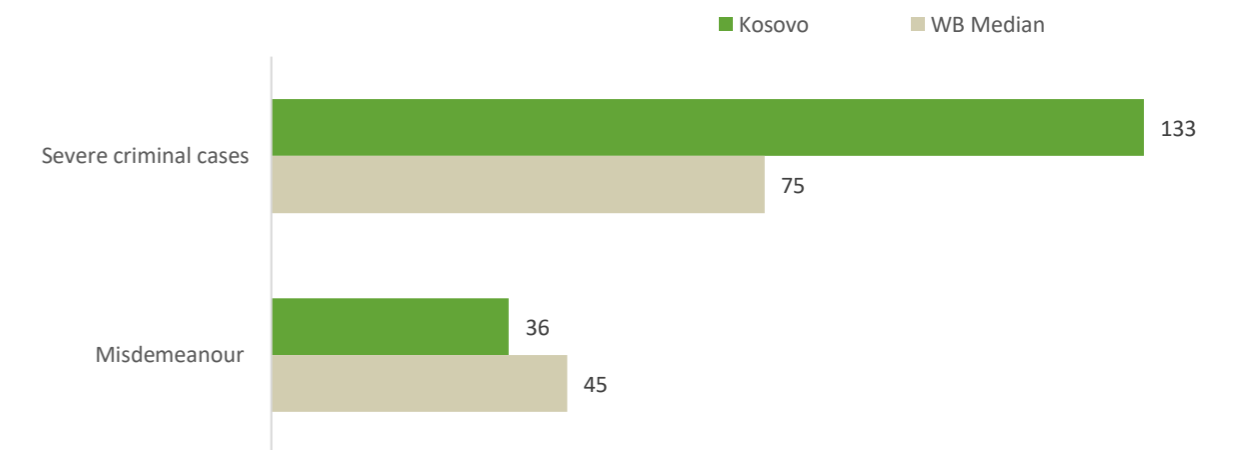
Second instance Criminal law cases per 100 inhabitants in 2020



Clearance Rate for second instance Criminal Law cases in 2020 (%)



Disposition Time for second instance Criminal Law cases in 2020 (in days)



• Quality standards and performance indicators in the judicial system

In Kosovo there are not quality standards determined for the judicial system at national level.

• Performance and quality indicators and regular assessment in courts and prosecution offices

In Kosovo performance and quality indicators are defined for both courts and prosecution offices as follows:

	Courts		Prosecution offices	
	Performance and quality indicators	Regular assessment	Performance and quality indicators	Regular assessment
Number of incoming cases	✓	✓	✓	✓
Length of proceedings (timeframes)	✓	✓	✗	✗
Number of resolved cases	✓	✓	✓	✓
Number of pending cases	✓	✓	✓	✓
Backlogs	✓	✓	✓	✓
Productivity of judges and court staff / prosecutors and prosecution staff	✗	✓	✓	✓
Satisfaction of court / prosecution staff	✓	✗	✗	✗
Satisfaction of users (regarding the services delivered by the courts / the public prosecutors)	✗	✗	✗	✗
Costs of the judicial procedures	✗	✓	✗	✗
Number of appeals	✓	✓		
Appeal ratio	✓	✓		
Clearance rate	✓	✓	✗	✗
Disposition time	✓	✓	✗	✗
Percentage of convictions and acquittals			✓	✓
Other	✗	✗	✗	✗

Monitoring of the number of pending cases and backlogs	
Civil law cases	Yes
Criminal law cases	Yes
Administrative law cases	Yes

Monitoring of the waiting time during judicial proceedings	
Within the courts	No
Within the public prosecution services	No

The difference between the monitoring of the courts' and prosecutor offices' performance is mainly due to the differences in functioning of these two institutions. For instance, length of proceedings is a performance indicator for judges but not for a prosecutor since the length of proceedings is out of the prosecutors' impact. The performance evaluation criteria are set out by two respective regulations: the regulation on the evaluation of performance of the judges and the regulation for the evaluation of performance of prosecutors.

These indicators are set out in the internal regulation of Kosovo Judicial Council. They are used, altogether, to measure performance of courts, for instance, the ratio between the number of incoming cases and number of resolved cases in the same period is used to measure the effectiveness and performance of courts. Similarly, the number of appeals is used as a proxy to measure the quality of decisions, since the number of appeals approved somehow defines the quality of decisions in first instance. Also, considering that Kosovo courts face a huge backlog, performance indicators are important to compare performance from one year to another.

Before 2020, the evaluation of court performance has been done by using the performance of Judges as a reference. So, the performance of a court has been mainly attributed to the performance of the Judges in that particular court. Starting from 2021, Kosovo Judicial Council has developed a dashboard in the Case Management Information System (CMIS), with specific indicators, in order to measure court performance. This feature will be tested soon, and from the next year, it will be used to generate dashboards and reports on court performance.

• Quantitative targets for each judge and prosecutor

In Kosovo there are quantitative targets for both judges and prosecutors.

Responsible for setting up quantitative targets for judges		Responsible for setting up quantitative targets for public prosecutors		Consequences for not meeting the targets		
					Judges	Public prosecutors
Executive power (for example the Ministry of Justice)	✗	Executive power (for example the Ministry of Justice)	✗	Warning by court's president/ head of prosecution	✓	✗
Legislative power	✗	Prosecutor General /State public prosecutor	✗	Disciplinary procedure	✓	✗
Judicial power (for example the High Judicial Council, Supreme Court)	✓	Public prosecutorial Council	✓	Temporary salary reduction	✓	✗
President of the court	✗	Head of the organisational unit or hierarchical superior public prosecutor	✗	Other	✗	✓
Other:	✗	Other	✗	No consequences	✗	✗

Kosovo Judicial Council and Kosovo Prosecutorial Council are two separate and independent institutions. Thus, they independently decide on performance indicators, policies, and internal regulations. For this reasons, they may have different performance indicators or criteria. Kosovo is still working on enhancing and advancing its legislation in the Rule of Law Sector, so both KPC and KJC are working on advancing and aligning their legislation with the EU best practices. Moreover, a Functional Review process for the Rule of Law Sector is undergoing, meaning that there will be other changes in the structure, functioning and legislation, where needed.

The chapter 4 of the regulation no. 11/2016 of the Kosovo Judicial Council, specifies the procedure of evaluation of judges' efficiency. The efficiency of the judges' work is evaluated based on a set of criteria:

1. meeting or exceeding their working norm
2. comparing the number of resolved cases by the judge to the average of resolved cases in that court, in the same category of cases;
3. Comparing the number of pending cases of the judge to the average of pending cases in that court(where judge works)
4. Case complexity. These are the main criteria, however, there are also other factors taken into the consideration, such as the absence of the judges because of the training or holidays, annual leave, medical leave, and other engagements in working groups from the Kosovo Judicial Council or other institutions as foreseen by the existing laws.

As regards performance targets, there is no regulation or internal act that regulates performance targets for judges. There is a so-called "oriented norm" which is not officially approved, that foresees a target of 330 cases a year for a first instance judge and 360 cases for a second instance judge. The KJC is actually undergoing some analysis with regard to performance targets in order to draft a specific regulations on performance targets for judges.

As for prosecutors, if targets are not met, a negative evaluation will follow by the Commission on performance evaluation, which serves as the basis for promotion, demotion, and can even lead to a permanent dismissal of a prosecutor.

All magistrates, including the chiefs of courts and prosecution offices are subjects to an ethical and professional performance evaluation.

The evaluation is performed according to the following criteria:

- a) Judicial or prosecutorial professional capacity;
- b) Organizational skills;
- c) Ethics and commitment to judicial and prosecutorial professional values;
- d) Personal qualities and professional commitment.

The evaluation of magistrates is based on the following sources:

- a) Personal file of the magistrate;
- b) Statistical data, according to the provisions contained in Article 90 of this Law;
- c) Files selected by lot for evaluation in accordance with Article 91 of this Law, including the audio or video recording of the hearing with regard to judicial files, which shall always guarantee a full representation of all the types of tried and investigated cases;
- d) Self-evaluation of the magistrate and the judicial decisions or prosecutorial acts drafted by the prosecutor and selected by him/her. In any case the number of the decisions/acts prepared and selected by the prosecutor should not exceed two per year;
- e) The opinion of the chairperson;
- f) Data regarding the verification of complaints filed against the magistrate during the evaluation period;
- g) Written information transmitted from the School of Magistrate or other institutions which certify the attendance and involvement of the magistrate in training activities;
- j) Final decisions for disciplinary measures against the magistrate delivered within the evaluation period, independent from whether the disciplinary measure is already expunged or not;
- k) Reports requested from High Inspectorate for the Declaration and Audit of Assets and Conflict of Interest or other auditing or controlling institutions;
- l) Objections of the magistrate or any minutes or documentation of hearings during the evaluation process;
- m) Any other information that shows the professional development of the magistrate

In the first 15 years of professional experience, including the professional experience as assistant magistrate or seconded magistrate, each magistrate is evaluated once every three years. After the first 15 years of professional experience as magistrate, each magistrate is evaluated once every five years. Initially, the magistrate conducts a self-evaluation of the ethical and professional based on the standard form issued by the Council, through which the magistrate:

- a) Evaluates the activity against the evaluation criteria;
- b) Provides an analysis of the statistical data referring the magistrate's activities;
- c) Describes the steps taken for meeting the objectives set out in the previous evaluation;
- d) Describes the extent to which these objectives have been met providing the respective explanation;
- e) Defines the objectives for his/her professional development in the upcoming evaluation period;
- f) Describes the needs for training and the circumstances which constitute a hindrance for the professional improvement and proposes concrete solutions for the upcoming evaluation period.

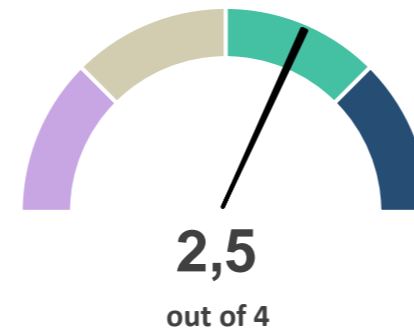
Then, the chairperson of the court or prosecution office, where the magistrate under evaluation exercises the activity, provides an opinion on the activity of the magistrate, in accordance with the standards established by the Council. At the end, the evaluation is done by the Council.

Kosovo is not included in the calculation of summary statistics

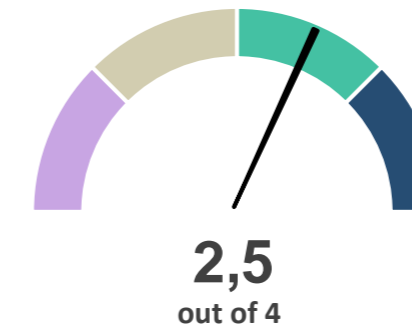
Electronic case management system and court activity statistics in Kosovo in 2020 (Indicator 3.3)

Case management system (CMS) Index is an index 0 to 4 points calculated based on several questions on the features and deployment rate of the of the case management system of the courts of the respective beneficiary. The methodology for calculation provides one index point for each of the 5 questions for each case matter. The points for the 4 of the 5 questions apart of the deployment rate question are summarized and the deployment rate is multiplied as a weight. In this way if the system is not fully deployed the value is decreased even if all features are included to provide adequate evaluation.

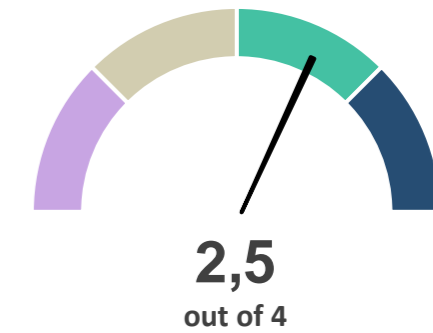
CMS index in Civil and/or commercial



CMS index for Criminal



CMS index for Administrative



Electronic case management system

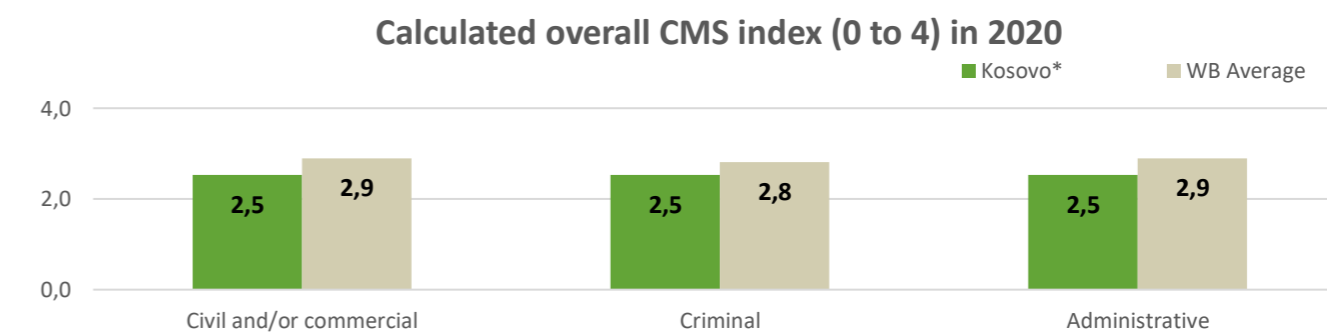
In Kosovo currently there is no IT Strategy for the judiciary. There has been an IT strategy 2012-2017. For now, there is not specific strategy for the IT but there are measures and activities related to IT included in other strategies and working documents.

There is a case management system (CMS), eg software used for registering judicial proceedings and their management. This has been developed in the last 2 years.

	Case management system and its modalities				
	CMS deployment rate	Status of case online	Centralised or interoperable database	Early warning signals (for active case management)	Status of integration/ connection of a CMS with a statistical tool
Civil and/or commercial	50-99%	Publication of decision online	✓	✓	Integrated
Criminal	50-99%	Publication of decision online	✓	✓	Integrated
Administrative	50-99%	Publication of decision online	✓	✓	Integrated

Both: Accessible to parties
Publication of decision online

	Overall CMS Index in 2020	
	Kosovo*	WB Average
Civil and/or commercial	2,5	2,9
Criminal	2,5	2,8
Administrative	2,5	2,9



• **Centralised national database of court decision**

In Kosovo there is a centralised national database of court decisions in which all civil/commercial and administrative judgements and some criminal judgements for all instances are collected. This case-law database is available online but data are not anonymised and they are not in open data

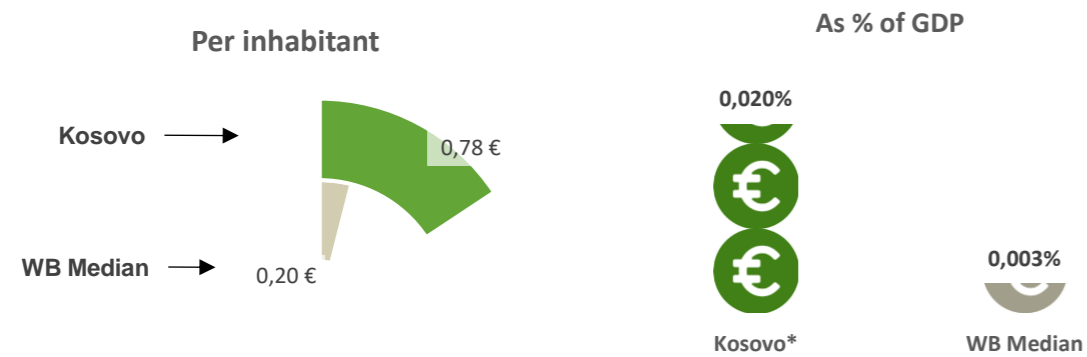
	For 1st instance decisions	For 2nd instance decisions	For 3rd instance decisions	Link with ECHR case law	Data anonymised	Case-law database available free online	Case-law database available in open data
Civil and/or commercial	Yes all judgements	Yes all judgements	Yes all judgements	NAP	✗	✓	✗
Criminal	Yes some judgements	Yes some judgements	Yes some judgements	NAP	✗	✓	✗
Administrative	Yes all judgements	Yes all judgements	Yes all judgements	NAP	✗	✓	✗

Data are available and anyone can access and filter the judgements by different criteria. Each judgement can then be downloaded. Furthermore, a new stream is being created in the database which will provide Kosovo citizens with the opportunity to follow a case from the beginning of the procedure. The link of the database: <https://www.gjyqesori-rks.org/aktgjykimet/?lang=en>

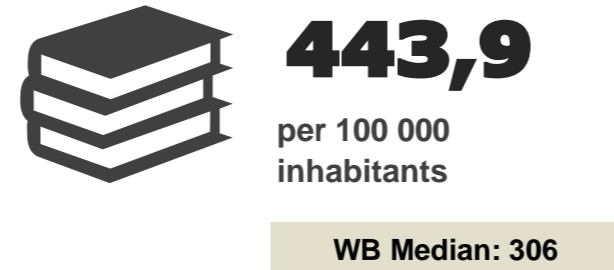
Kosovo is not included in the calculation of summary statistics

Legal Aid in Kosovo in 2020 (Indicator 4)

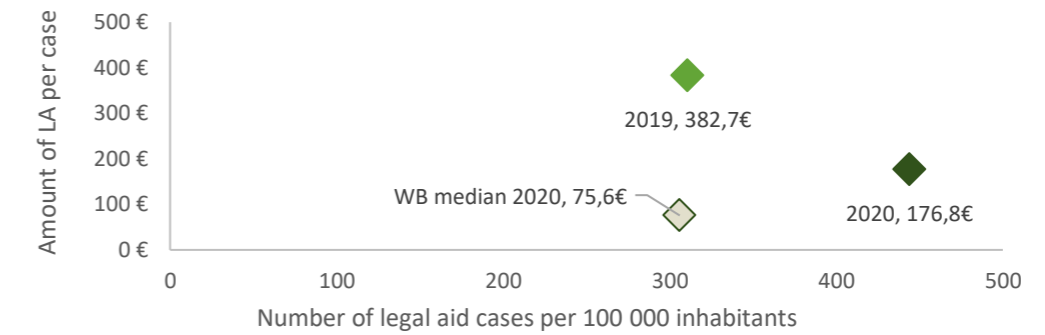
Total implemented budget for Legal Aid in 2020



Number of LA cases



Amount of implemented legal aid per case (in €) and total no. of legal aid cases per 100 000 inh. between 2018 and 2020



In 2020, the implemented budget for legal aid spent by Kosovo was 0,78€ per inhabitant, above the WB median of 0,2€. This was equal to 0,02% of the GDP, the same as the WB median.

This scatterplot shows the relation between the number of legal aid (LA) cases per 100 000 inh. and the amount of LA per case. A figure on the right (left) of the WB median means that the Beneficiary has more (less) number of LA cases per 100 000 inh. than the WB median. A figure above (below) the WB median shows that the Beneficiary has spent per LA case more (less) than the WB median.

Implemented budget for legal aid and number of cases for which legal aid has been granted

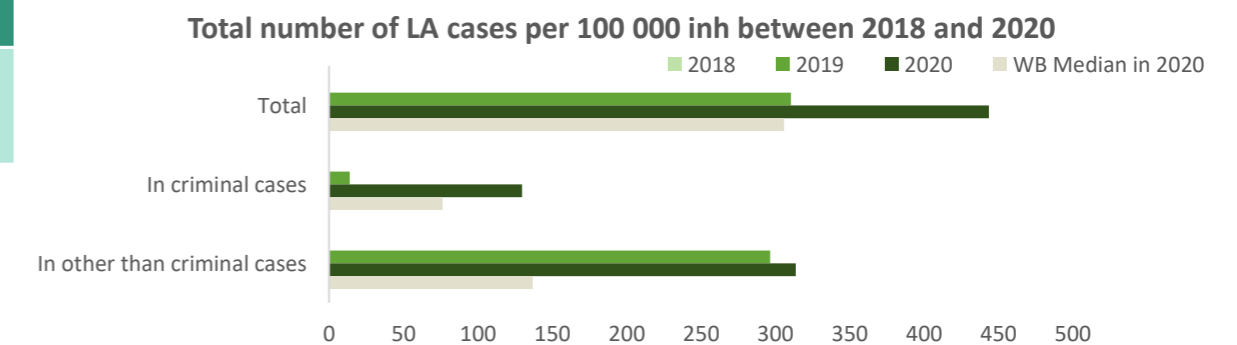
	Implemented budget for legal aid in €				Total implemented budget for legal aid Per inhabitant		Total implemented budget for legal aid as % of GDP	
	Total	% Variation (2019 - 2020)	Cases brought to court	Cases not brought to court	Kosovo	WB Median	Kosovo	WB Median
Total	1 398 442 €	-34,0%	851 039 €	547 403 €	0,78 €	0,20 €	0,020%	0,003%
In criminal cases	1 170 864 €	-34,2%	796 512 €	374 352 €				
In other than criminal cases	227 578 €	-33,0%	54 527 €	173 051 €				

In 2020, the total implemented budget for legal aid was 1 398 442€, which was -34% less compared to 2019. For criminal cases, Kosovo spent 1 170 864€ while for other than criminal cases, it spent 227 578€. In total, Kosovo spent 0,78€ per inhabitant in legal aid (above the WB median of 0,2€.)

In Kosovo the budget for legal aid is divided between three institutions: Free Legal Aid Agency for civil cases, Kosovo Prosecutorial Council (KJC) and Kosovo Prosecutorial Council (KPC) for criminal cases. The budget concerning cases not brought to court is managed by Kosovo Prosecutorial Council (KPC), while the Budget concerning cases brought to court is managed by the Kosovo Judicial Council (KJC).

In 2020, courts have been dealing only with emergency cases for two and a half months (mid-March to June). After June, courts have not been working in their full capacities, because the Covid-19 situation deteriorated again in July. The budget was reviewed in June, and significant reallocation in the budget were made. And of course, due to the lockdown, the number of criminal cases was lower compared to previous years and consequently, a part of the budget initially allocated to legal aid for criminal cases was reallocated.

	Number of cases for which legal aid has been granted					Amount of LA granted per case (€)		
	Total			Cases brought to court	Cases not brought to court	Total	Cases brought to court	Cases not brought to court
	Absolute number	Per 100 000 inh.	% Variation (2019 - 2020)					
Total	7 911	444	42,8%	3 247	4 664	176,8 €	262	117
In criminal cases	2 316	130	822,7%	1 438	878	505,6 €	554	426
In other than criminal cases	5 595	314	5,8%	1 809	3 786	40,7 €	30	46



In 2020, the number of cases for which legal aid was granted was 7 911. The number of criminal cases were 2 316, and the other than criminal cases were 5 595. The total cases brought to court were 3 247, while the total cases not brought to court were 4 664. On average, Kosovo spent 176,77€ per case, which is above the WB median of 75,58€.

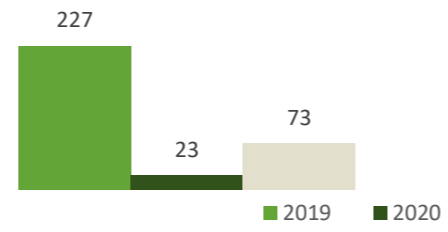
In 2019, only data for cases dealt by the Agency for free legal aid were obtained, while in 2020 the complete dataset was available. For this reason 2019 and 2020 data are not comparable.

Training of judges and prosecutors in Kosovo in 2020 (Indicator 7)

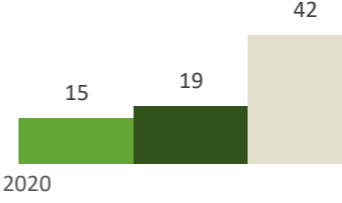
Total budget for Training per 100 inhabitants



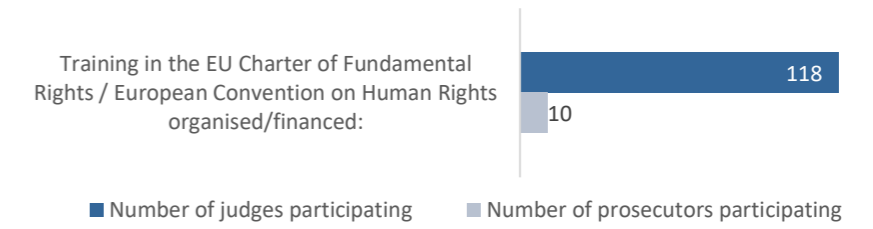
Delivered in-person training courses in 2019 and 2020 (in days)



Number of online training courses (e-learning) available in 2019 and 2020



Training in EU law (participants in 2020)



The total budget for training of judges and prosecutors in Kosovo was 30,5€ per inhabitant, lower than the Western Balkans (WB) median of 44,7€ per inhabitant. The number of delivered in-person training courses decreased between 2019 and 2020 (from 227 to 23). Nevertheless, the online available courses increased to 19 in 2020 (from 15 in 2019).

Budget for Trainings

	Budget of the training institution(s) (1)	Budget of the courts/prosecution allocated to training (2)	Total (1)+(2)			
			Absolute Number	Per 100 inhabitants	% Variation 2019 - 2020	WB Median per 100 inhabitants
Total	519 903 €	22 898 €	542 801 €	30,5 €	-53,9%	44,7 €
Judges	NAP	11 835 €				
Prosecutors	NAP	11 063 €				
One single institution for both judges and prosecutors	519 903 €					

Budget - One single training institution budget for both judges and prosecutors					
Per 100 inhabitants		As % of Judicial System Budget		% Variation between 2019 and 2020	
Kosovo	WB Median	Kosovo	WB Median	Kosovo	WB Median
18,3 €	23,7 €	1,24%	1,69%	-51,5%	-40,4%

Kosovo spent in total 542 801€ for training judges and prosecutors in 2020, which is 30,5€ per 100 inhabitants (below the WB median of 44,7€ per 100 inhabitants).

In 2020, Kosovo spent for training judges and prosecutors -53,9% less than in 2019.

The initial budget of the Academy of Justice was in fact 964 342 €, however, because of the budgetary cuts by government due to Covid-19 pandemic, the final budget for 2020 has been reduced to 519 903 €

Type and frequency of trainings

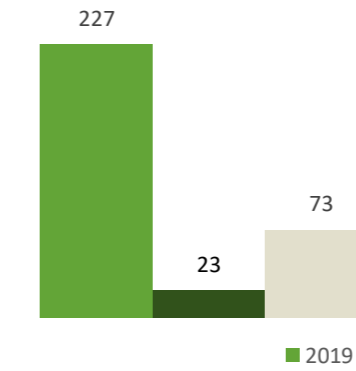
	Judges		Prosecutors	
	Compulsory/ Optional or No training	Frequency	Compulsory/ Optional or No training	Frequency
Initial training	Compulsory		Compulsory	
In-service training				
General	Optional	Regularly	Optional	Regularly
Specialised judicial functions	Optional	Regularly	Optional	Regularly
Management functions of the court	Optional	Regularly	Optional	Regularly
Use of computer facilities in courts	Optional	Occasional	Optional	Occasional
On ethics	Compulsory	Regularly	Optional	Occasional

Trainings are organised throughout the year, with the exception of July and August.

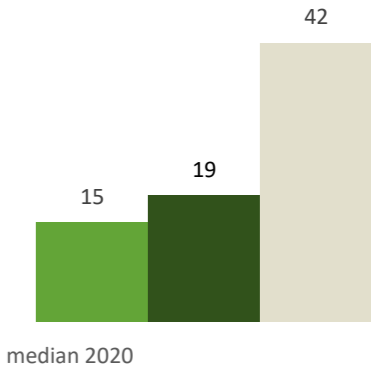
• Number of in-service trainings and participants

	In-person training courses			Online training courses (e-learning)			
	Available (number)	Delivered (in days)		Number of participants	Available (number)		Number of participants
		In 2020	% Variation 2019 - 2020		In 2020	% Variation 2019 - 2020	
Total	103	23	-89,9%	998	19	26,7%	759
Judges	85	17	-59,5%	330	18	260,0%	295
Prosecutors	61	12	100,0%	168	18	800,0%	162
Non-judge staff	10	2	100,0%	195	18	1700,0%	136
Non-prosecutor staff	10	2	100,0%	195	18	500,0%	136
Other professionals	NAP	NAP	NAP	110	NAP	NAP	30

Delivered in-person training courses in 2019 and 2020 (in days)



Number of online training courses (e-learning) available in 2019 and 2020



With regard to online courses, because of the Covid-19, during 2020 have been organized a higher number of online training courses for judges and prosecutors compared to the number of online training courses available: 68 training courses for Judges (111 days), 48 training courses for prosecutors (86 days). This number of training courses includes also in-person training courses, which, for the well-known reasons, could not be held in person.

The Kosovo Judicial Council has a mechanism for evaluating the performance of judges, including the attendance of judges in training. It has also approved Regulation No. 06 / 2017 on Judge Training, according to which ethics training is mandatory for all judges, and has determined the number of trainings depending on the experience of judges (3-4 trainings per year on average). The failure to comply with this obligation without reasonable justification results in the application of the Law on Disciplinary Liability. In Kosovo sanctions are foreseen if judges do not attend the compulsory training sessions.

Kosovo Prosecutorial Council is drafting a regulation on Prosecutor Training, similar to that of Kosovo Judicial Council, which will specify mandatory and non-mandatory training.

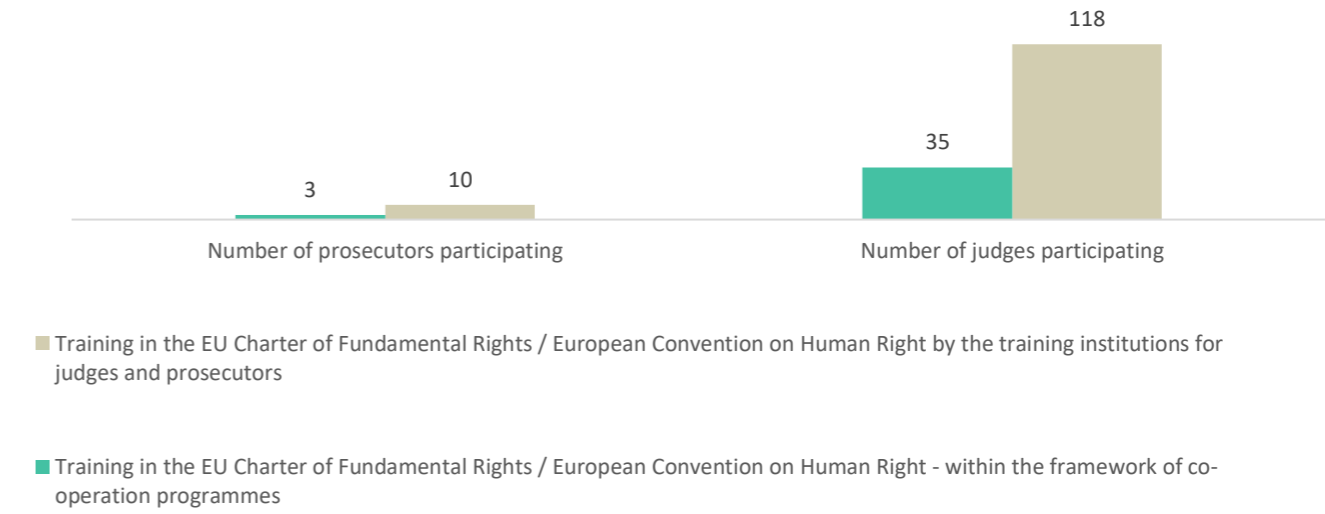
In Kosovo judges have to undergo compulsory in-service training solely dedicated to ethics. This training lasts 2-3 days and they need to participate to it more than once on a regular basis. With regard to prevention of corruption or conflict of interest, these trainings are not mandatory and the attendance of judges and prosecutors in these trainings is mainly based on their competencies and jurisdiction.

In addition, prosecution offices have specially trained prosecutors in domestic violence and sexual violence. In each Basic Prosecution Office there is a prosecutor assigned to domestic violence cases (regional coordinator for domestic violence). Each prosecutor is specially trained on this issue. At the same time, other prosecutors are regularly trained in these specific topics. Kosovo Prosecutorial Council prepares and approves on a yearly basis the Training Policies document which is sent to the Academy of Justice, where it proposes training topics for prosecutors and domestic violence and sexual violence are part of the many topics included in this document.

• Number of EU law training courses and participants

	Training in EU law organised/financed:		Training in the EU Charter of Fundamental Rights / European Convention on Human Rights organised/financed:	
	By the training institutions for judges and prosecutors	Within the framework of co-operation programmes	By the training institutions for judges and prosecutors	Within the framework of co-operation programmes
Number of in-person training courses available	0	0	4	3
Number of delivered in-person training courses in days	0	0	4	3
Number of online training courses (e-learning) available	0	0	6	4
Number of judges participating	0	0	118	35
Number of prosecutors participating	0	0	10	3

Number of judges and prosecutors participating in the EU law trainings in 2020



All trainings are organized by Academy of Justice

Kosovo is not included in the calculation of summary statistics

Alternative Dispute Resolution in Kosovo in 2020 (Indicator 9)

Legal aid for court-related mediation or related mediation provided free of charge

Yes

Court-related mediation procedures

Yes

Mandatory informative sessions with a mediator

No

Mandatory mediation with a mediator

No

Mediators

10,7

per 100 000 inhabitants

WB Median: 5,4

35,3% female mediators



Total number of court-related mediations

Number of cases for which the parties agreed to start mediation

3235

Number of finished court-related mediations

3232

Number of cases in which there is a settlement agreement

2674

In Kosovo court related mediation procedures are available, but the judicial system does not provide for mandatory mediation. Also, there are no mandatory informative sessions with a mediator. Legal aid for court-related mediation or related mediation provided free of charge could be granted. In 2020, the number of mediators per 100 000 inhabitants was 10,7, which was above the Western Balkans median (5,4 per 100 000 inhabitants). Only 35,3% were female mediators. There were in total 3 235 cases for which the parties agreed to start mediation and 2 674 mediation procedures which ended with a settlement agreement.

• ADR procedures and mandatory mediation

The mediation procedure can be initiated by parties, court, prosecution office or a competent administrative body. If the case is before the court, prosecution office or in the competent administrative body, and the parties agree to undergo mediation, the respective body informs and instructs parties to the mediation procedure.

The procedure for referral of cases by the court is regulated by a sub legal act of the Kosovo Judicial Council, procedure for referral of cases by the prosecution is regulated by a sub legal act of the Kosovo Prosecutorial Council, and the self-initiated procedure of cases, as well as cases of referral by the administrative body are regulated by a sub legal act of the Ministry of Justice. Based on the Law on Mediation, the agreement between parties to commence the mediation procedure, at any phase of the procedure before the competent court or any other competent body, is accepted.

• ADR methods

Mediation other than court-related mediation



Mediation other than court-related mediation



Conciliation (if different from mediation)



Other ADR



• Mediators and court-related mediations

Accredited/registered mediators for court-related mediation			% Variation between 2019 and 2020	
Absolute number	Per 100 000 inhabitants	WB Median per 100 000 inhabitants	Kosovo	WB Median
190	10,7	5,4	0,5%	-40,0%

For reference only: the 2019 EU median is 14,3 mediators per 100 000 inhabitants.

Accredited/registered mediators for court-related mediation per 100 000 inhabitants in 2019 and 2020



In 2020, the total number of mediators in Kosovo was 190, which was 0,5% more than the previous year. The number of mediators per 100 000 inhabitants was 10,7, which was more than the WB median of 5,4.

	Number of court-related mediations			Providers of court-related mediation services			
	Number of cases for which the parties agreed to start mediation	Number of finished court-related mediations	Number of cases in which there is a settlement agreement	Private mediator	Public authority (other than the court)	Judge	Public prosecutor
Total (1 + 2 + 3 + 4 + 5+ 6)	3235	3232	2674				
1. Civil and commercial cases	NA	NA	NA	✓	✗	✗	✗
2. Family cases	NA	NA	NA	✓	✗	✗	✗
3. Administrative cases	NA	NA	NA	✓	✗	✗	✗
4. Labour cases incl. employment dismissals	NA	NA	NA	✓	✗	✗	✗
5. Criminal cases	NA	NA	NA	✓	✗	✗	✗
6. Consumer cases	NA	NA	NA	✓	✗	✗	✗

Court related mediations are provided by private mediators.

In the comments it is specified that cases cannot be divided based on these categories, but only based on regions.



CEPEJ(2021)2

Part 2

EUROPEAN COMMISSION FOR THE EFFICIENCY OF JUSTICE (CEPEJ)

HFII: Towards a better evaluation of the results of judicial reform efforts in the Western Balkans - “Dashboard Western Balkans”

Data collection 2020

Part 2 (B) - Beneficiary Profile – Kosovo*

This analysis has been prepared on the basis of the replies from the beneficiary (Dashboard correspondents) to the CEPEJ Questionnaire for the Dashboard Western Balkans, as well as reports Compliance with International Anti-Corruption Standards - Assessment Report, Project against Economic Crime in Kosovo (PECK), Council of Europe, April 2015 and Corruption risk assessment of the prosecution system – Report, Project against Economic Crime in Kosovo (PECK II), Council of Europe, May 2017. As Kosovo is not a member of GRECO, no qualitative analysis of the flaws of the system of Kosovo and recommendations for improvements has been performed by GRECO.

* This designation is without prejudice to positions on status, and is in line with UNSCR 1244 and the ICJ Opinion on the Kosovo Declaration of Independence.

Selection and recruitment of judges and prosecutors

Judges are appointed, reappointed and dismissed by the President of Kosovo upon the proposal of the Kosovo Judicial Council (KJC) as per provisions of the Constitution and the Law on Courts (LC).

Proposals for appointments of judges must be made on the basis of an open appointment process, on the basis of the merit of the candidates, reflecting principles of gender equality and the ethnic composition of the territorial jurisdiction of the respective court. All candidates must fulfil the selection criteria provided by law (Articles 104 and 108, Constitution).

All appointment procedures start with public advertisement of a vacant position. The KJC's Recruitment Commission (comprised of five members, three of them are KJC's members) reviews all applications and invites the candidates who meet the minimum qualifications to take an exam, composed of three parts, where passing each part is necessary for taking the next one: 1) a general qualifying exam from civic, criminal and administrative fields of law, also including questions from professional ethics and human rights (a minimum of 45 out of 60 points is required); 2) a written exam which consists of both a penal and civil case (a minimum of 70 out of 100 points is required); 3) an interview (a minimum of 30 out of 50 points). Before being invited to the interview, an integrity check is conducted (focused on information regarding candidates' work experience, performance in previous job and candidates' criminal past), in cases when the recruitment commission notices an inconsistency/discrepancy or incompatibility in the information provided by candidates in their application. Candidates that have scored a minimum of 100 points have successfully completed the recruitment process. Successful candidates are then ranked within the number of vacancy positions as defined by KJC in the call for application. After the first two parts candidates are informed of the results and the results are published on the KJC's website. Candidates can appeal each result, starting from the general qualifying exam, within three days after the results are published. The KJC's Review Commission (comprised of three members, at least one of them is the Supreme Court judge, one from the Court of Appeal and one judge who is a member of the KJC) is competent to decide on the appeal.

Candidates for appointment as a professional judge at a basic court are required to meet the minimum qualifications that are established by the LC (Article 26) and the KJC regulations and procedures (a citizen of Kosovo; at least twenty five (25) years of age; a valid university degree in law recognised by the laws of Kosovo; passed the bar examination; has passed the examination for judges; of high professional reputation and moral integrity; not been convicted of a criminal offence; at least three (3) years of legal experience; successfully passed a process of evaluation as established by the KJC).

In addition to the minimum qualifications when making recommendations for appointment or reappointment, the KJC must also take into account the following criteria: (a) professional knowledge, work experience and performance; (b) capacity for legal reasoning; (c) professional ability based on previous career results; (d) capability and capacity for analysing legal problems; (e) ability to perform impartially, conscientiously, diligently, decisively and responsibly the duties of the office; (f) communication abilities; (g) relations with colleagues, conduct out of office, and integrity; and (h) in relation to the positions of court presidents, managerial experience and qualifications.

Before making the proposal for appointment or reappointment to the President, the KJC consults with the respective court to which the candidates is being proposed. The proposal to the President must be justified in writing. Against the decision on appointment the non-selected candidates may appeal to the KJC's Review Commission.

The integrity of candidate judges is being checked based on Article 27 of the LKJC which requires to gather information regarding candidate profile and his/her past from relevant institutions, including Kosovo Intelligence Agency.

According to Article 105 of the Constitution the initial term of office for judges is three years. In case of reappointment, the term is permanent until the retirement age as determined by law (65 years) or unless removed by the President of Kosovo upon recommendation of the KJC (for conviction of a serious criminal offence or for serious neglect of duties – Article 104, Constitution; a dismissal as a sanction may also be applied upon the request of the Anti-Corruption Agency due to established incompatibility of a judge concerned as per the Law on Prevention of Conflict of Interest - LPCI). The President of Kosovo is competent to decide on reappointment upon the proposal of the KJC. Those who are

unsuccessful in the reappointment procedure may appeal to a commission which is composed of the Chairperson of the KJC and three other judges from the Supreme Court and Court of Appeal. The commission has a 2 years mandate.

The KPC is responsible for recruiting, proposing for appointment or reappointment to the President of Kosovo candidates for prosecutors as well as recommending dismissal of prosecutors as per the Constitution and the LKPC.

Appointment procedures for prosecutors start with public advertisement of a vacant position. The selection procedure is similar to the one for judges; the candidates must meet the minimum requirements and qualifications to be able to take the written exam, composed of three parts which are the same as for judges. All candidates are notified of their results while the final list of candidates who have passed the exam is published on the KPC's website. A candidate is considered to have successfully passed the recruitment process if s/he has scored a minimum of 60 points in total and is ranked within the number of vacancy positions as defined by the KPC in the call for application. Candidates can appeal each result, starting from the qualifying exam, with three days after the results are published. Candidates' appeals are to be reviewed by the KPC's Review Committee in a deadline from five days from the closure date of the appealing deadline. The appeals are then dealt with by the KPC.

According to Law on State Prosecutor (LSP), candidates for appointment as a prosecutor must meet the following minimum requirements and qualifications: a citizen and resident of Kosovo; a valid university degree in law recognised by the laws of Kosovo; passed the bar examination; passed the preparatory examination for prosecutors and judges; positive high professional reputation and moral integrity; no final convictions for criminal offences, with the exception of minor offences as defined by the law; passed the legal education exam, except the persons, that have at least seven years of legal experience and lawyers that have practiced law at least five years. Candidates who have served as judges or prosecutors for at least three years, as well as candidates who have at least seven years of legal experience and have passed the preparation exam during the process of appointment and re-appointment for judges and prosecutors, shall not enter the preparation exam.

When making recommendations for appointment or reappointment, the KPC must refer to the following criteria: (a) professional knowledge, work experience and performance, including an understanding of, and respect for, human rights; (b) capacity for legal reasoning; (c) professional ability based on previous career results; (d) capability and capacity for analysing legal problems; (e) ability to perform impartially, conscientiously, diligently, decisively and responsibility the duties of the office; (f) communication abilities; (g) conduct out of office; and (h) personal integrity (Article 18, LKPC).

The KPC nominates candidates for appointment to the President of Kosovo. If the President of Kosovo refuses to appoint any candidate, written reasons of refusal should be provided within sixty days to the KPC. The KPC may present the refused candidate to the President one additional time together with its written justification, or another candidate (LKPC). There is no appeal of non-selected candidates against the decision on appointment.

Integrity of a candidate prosecutor is verified by the KPC through the information provided by the candidate and any other relevant information, including work experience and performance, professional and academic documents, information on disciplinary measures and off-duty conduct as well as criminal background history are subject to the process of assessing personal integrity and professional skills.

According to the Constitution (Article 109), the initial term of office of the prosecutor is three years. Based on merits and demonstrated work, the reappointment mandate is permanent until the retirement age as determined by law (65 years) or unless dismissed in accordance with the law. The KPC's Performance Assessment Committee submits to the KPC a justified recommendation for (non)reappointment of a prosecutor. The KPC then decides in 45 days whether to recommend the candidate for reappointment to the President of Kosovo – the candidate is informed of this in a written decision which is reasoned. Before recommending the reappointment the KPC shall request an opinion from the respective prosecution office to which the candidate is to be assigned. The non-successful candidate for reappointment can challenge the decision. No precision has been provided on the appeal procedure.

Prosecutors may be dismissed in case of conviction of a serious criminal offence or for serious neglect of duties (Article 109, Constitution). A dismissal as a sanction may also be applied upon the request of the Anti-Corruption Agency due to established incompatibility of a prosecutor concerned (LPCI).

Promotion for judges and prosecutors

The Kosovo Judicial Council (KJC) is competent for evaluating and promoting judges to a higher court or the Supreme Court according to the Law on Judges (LoJ). Criteria for promotion are specified in the Law on Courts and are further detailed (as well as criteria for assessing) by the KJC.

The promotion procedure for judges starts with an announcement of vacant position published on the KJC's website and on courts' noticeboards. The KJC sets up the Application Review Panel (Panel) from members of the Appointment Committee which includes five judges, two of whom are KJC members. The Panel reviews the applications and publishes the shortlisted candidates who meet the criteria on the official website as well as informs other candidates with a reasoned notice in writing – they may submit a request for reconsideration of their application within five days. The shortlisting is then followed by collecting information and holding interviews. The final ranking of candidates is then decided upon by the Panel and all the candidates are informed of the results. Unsatisfied candidates have the right to submit a request for reconsideration to the KJC's Commission (with a 2-year mandate, four members) within five working days after receiving the notice.

The criteria for assessing and promoting judges and lay judges include *inter alia* the following: professional capacities, work experience and performance, including an understanding of, and respect for human rights; capacity for legal reasoning; professional ability, based on previous carrier results, including participation in organised forms of training in which performance has been assessed; skills and capacity for analysing legal problems; ability to perform impartially, conscientiously, diligently, decisively and responsibly the duties of the office; communication abilities; out-of-office conduct and personal integrity (Article 19, LKJC).

No information has been provided on the periodicity of the appraisal.

Every judge or lay judge who is assessed shall receive the assessment results and may present written objections to any conclusions or findings. Against the KJC's final decision on promotion an unsuccessful candidate may file an appeal which is to be decided by the KJC.

The KPC is competent for deciding on the promotion of prosecutors to a higher prosecutors' office and the Chief State Prosecutors' Office according to the Constitution, the Law on Kosovo Prosecutorial Council (LKPC) and by subordinate regulations made by the KPC itself pursuant to the law. As per the LKPC, the KPC establishes criteria for assessing and promoting prosecutors.

The promotion procedure for prosecutors is the same as for judges: it starts with an internal announcement of vacant position published on the websites of the KPC and the State Prosecutor. The KPC sets up the Commission for Promotion and Transfer of Prosecutors (Commission) which reviews all applications and documents submitted as well as the data provided by the Prosecutors Performance Review Commission. The Commission then drafts a list of all candidates who meet the criteria for promotion and transfer. Then the Commission carries out the assessment and conducts interviews with all the candidates from the list and drafts a final report in which it ranks the candidates – the final report is sent to the KPC for approval within 7 days. Unsuccessful candidates may object the final report of the Commission in writing, within 7 days of the receipt of the decision. The KPC decides on the objection within 10 days from the receipt. In case the objection is valid, the KPC will publish the final decision together with the amended report of the Commission. The KPC decides on promotion and transfer with a simple majority of votes. Its decisions are published on the websites of the KPC and the State Prosecutor. Unsuccessful candidates may file an appeal which is to be decided on by the KPC.

The criteria for promotion are: minimum qualifications, years of experience depending on the prosecution office to which they are applying to be promoted (i.e. for Appellate Prosecutors' Office 5 years of experience as a prosecutor are needed, of which at least three at the Specialised Department of the Basic Prosecutors' Office or at the Special Prosecutors' Office; for the Chief State Prosecutors' Office at least seven years of experience as a prosecutor is needed) and a positive performance appraisal. No additional information has been provided on performance appraisal criteria.

Confidence and satisfaction of the public with their justice system

Kosovo has not provided any information on existence of the legislation for protecting the right of citizens to seek compensation in case they have suffered pecuniary or non-pecuniary damage due to cases tried outside reasonable time nor have they provided any statistical information on number of requests for compensation as well as on number of compensations awarded for 2019 and 2020.

With regard to the national or local procedure for filing complaints about the functioning of the judicial system the Kosovo informed of the existence of an ad hoc commission which is formed after a complaint is received. The complaint is revised within three days. However, no statistical data on number of complaints nor compensation amount granted have been provided.

There is a procedure in place to effectively challenge a judge in case a party considers the judge is not impartial. No statistical data have been provided by the authorities on the ratio between the total number of initiated procedures of challenges and total number of finalised challenges.

In Kosovo the Law on State Prosecutor (Article 3, para. 3) prevents interference with, obstruction, influence or attempt to interfere, obstruct or influence a prosecutor in performance of his/her functions.

Promotion of integrity and prevention of corruption

According to the Constitution (Articles 102 to 111), the judicial power is exercised by the courts that adjudicate based [solely] on the Constitution and the law. The courts constitute a separate power and are independent of other branches of power. Within the exercise of their functions, judges shall be independent and impartial and shall adjudicate based [solely] on the Constitution and the law. The Law on Courts (LC) enshrines the principle of judicial independence so that, in performing their duties and taking decisions [judges] shall be independent, impartial, uninfluenced in any way by natural or legal person, including public bodies. Other detailed provisions on the status of judges and further safeguards are contained in the LC and in some other laws, i.e. Criminal Procedure Code which expressly refers to the judicial independence.

Judges enjoy functional immunity (Article 107, Constitution), which implies that they cannot be held liable for actions taken or the opinion and voting expressed upon passing judicial decisions, except if the judge commits an intentional violation of the law. This means that judges are not protected by immunity if they commit a criminal offence and may be removed from office.

The independence of the State Prosecutor is enshrined in the Constitution (Article 109). The State Prosecutor is an impartial institution and acts in accordance with the Constitution and the law. The prosecution service is considered to be part of the judiciary. According to Article 3 of Law on State Prosecutor (LSP), the State Prosecutor is an independent institution that exercises its functions in an impartial manner. The State Prosecutor and each prosecutor ensure equal, objective and unbiased treatment for all persons before the law, regardless of gender, race, national or social origin, political associations or connections, religious beliefs, state of health or handicap, or societal position. It shall be unlawful and in contradiction with the Constitution for any natural or legal person to interfere with, obstruct, influence or attempt to interfere with, obstruct or influence the State Prosecutor in the performance of its prosecutorial functions related to any individual investigation, proceeding, or case.

Prosecutors enjoy identical functional immunity as that of judges (see above) (Article 23, LSP).

Specific measures to prevent corruption exist that are applicable to both judges and prosecutors, namely gifts rules, specific training, internal controls and safe complaints mechanisms.

Different breaches of integrity of judges and prosecutors are defined in the Law on Disciplinary Liability of Judges and Prosecutors (LDLJP), the Law No. 06/L-011 on Prevention of Conflict of Interest in Discharge of a Public Function (LPCI) and Law No. 04/L-050 on Declaration, Origin and Control of Property of Senior Public Officials and on Declaration, Origin and Control of Gifts of All Public Officials.


For judges only, breaches of integrity are also defined in the Law on Kosovo Judicial Council (what constitutes a misconduct of judges).

For prosecutors only, breaches of integrity are also defined in the Law on Kosovo Prosecutorial Council as well as the Code of Ethics and Professional Conduct of Prosecutors (Article 3).

Different breaches of integrity of court staff are defined in the Law on Public Officials which prescribes what constitutes a disciplinary liability (Article 45) and types of disciplinary violations (Article 46) as well as in the Regulation on Disciplinary Procedures in Civil Service (Article 6).

The Criminal Code (2019) incriminates conflict of interest as a criminal offence (article 417).

In April 2006, the Kosovo Judicial Council adopted the Code of Ethics and Professional Conduct for Judges (CEPCJ) which applies to all judges in Kosovo. The CEPCJ is not regularly updated. It generally



adheres to internationally recognised basic principles that require judges to perform their judicial and extrajudicial activities in a manner that promotes public confidence in the dignity, integrity and independence of the judiciary as well as other principles, *inter alia*, independence, impartiality in general, impartiality and conduct of judges in the exercise of judicial functions, impartiality and extrajudicial conduct, other professional activities of a judge, application of the law without discrimination etc. Judges are required to act impartially and independently in all cases, to be free from any outside influence, and to perform judicial duties based on the facts and the law applicable in each case, without any restriction, improper influence, inducements, pressures, threats of interference, direct or indirect, from any quarter. The CEPCJ is publicly available.

An ad hoc body is formed for each case of a suspicion that a judge has breached ethical rules and an opinion needs to be provided on that respective question to the office of the investigative panel. The ad hoc body is composed of three members, all judges, namely one from the basic court, one from the court of appeal and a Supreme Court judge. The opinions provided are public available.

A new Code of Ethics and Professional Conduct for Prosecutors (CEPCP) was adopted in July 2012 by the KPC and is applicable to all prosecutors. The CEPCP envisages a number of detailed provisions on professional ethics, including requirements that a prosecutor shall maintain and improve the highest standards of professionalism and legal expertise, and for that purpose, engage in continuing legal education and training whenever available. Particularly, a prosecutor shall respect and apply: the principles and ethical duties of their office as set forth in this Code of conduct; the legal rights of suspects, victims and witnesses; human rights and freedoms as laid down by international instruments; principles and practices regarding organisation of work, management and human resources in a prosecutorial and judicial context. Certain limitations with regard to incompatibilities, accessory activities and conflict of interest prevention are also prescribed. In terms of Article 24 of the KPC Law, the violation of the CEPCP requirements constitutes a misconduct and it is therefore subject to disciplinary proceedings. The CEPCP is not regularly updated and nobody is competent to provide opinions on ethical questions. The CEPCP is publicly available.

No mechanism to report attempts on influence/corruption on judges and prosecutors is established in Kosovo. In case of an alleged breach of ethical rules the KJC/KPC appoints a panel to handle the case.

According to the answers provided to the Dashboard Western Balkans Questionnaire, Kosovo transparency in distribution of court cases is ensured through a random allocation of court cases. The reasons for reassigning a case are conflict of interest declared by the judge or by the parties; recusal of the judge or requested by the parties; physical unavailability (illness, longer absence). All reassignments of cases have to be reasoned and are processed through the computerised distribution of cases based on random allocation of a court case. However, no information was provided on the compatibility of those answers with the report Compliance with International Anti-Corruption Standards prepared by the Council of Europe (see para. 139 – 141).

The table below shows number (absolute and per 100 judges/prosecutors) of criminal cases initiated and completed against judges and prosecutors as well as number of sanctions pronounced:

	2019				2020			
	Judges		Prosecutors		Judges		Prosecutors	
	Abs	per 100	Abs	per 100	Abs	per 100	Abs	per 100
Number of initiated cases	NA	NA	9	4,97	2	0,51	NA	NA
Number of completed cases	NA	NA	7	3,87	1	0,26	NA	NA
Number of sanctions pronounced	NA	NA	0	0,00	1	0,26	NA	NA

The authorities have reported that due to Covid 19 situation no information has been obtained with regard to judges for 2019. No statistical data has been obtained on prosecutors for 2020 due to lack of computerised national evidence on cases against prosecutors which would require that such is obtained manually - due to Covid 19 measures taken by prosecution service only urgent matters are dealt with as employees still work remotely.

Declaration of assets for judges and for prosecutors

The disclosure regime is laid out in the Law No. 04/L-050 on Declaration, Origin and Control of Property of Senior Public Officials and on Declaration, Origin and Control of Gifts of all Public Officials as well as in the Law No. 04/L-228 on Amending and Supplementing the Law No. 04/L-050 on Declaration, Origin and Control of Property of Senior Public Officials and on Declaration, Origin and Control of Gifts of all Public Officials. It applies to senior public officials, judges and prosecutors included.

Judges and prosecutors are required to declare the following: 1) real estate; 2) movable property in value over 5 000 EUR; 3) possessions of shares in commercial enterprises; 4) valuable letters; 5) bank savings and savings in other financial institutions; 6) financial obligations towards natural and legal persons; 7) annual revenues. They are also required to declare the assets and income of their spouses/partner, children (minor and adult) who live in the same household and parents who live in the same household. The declaration form for family members is the same; however, when property of family members is separated and registered as such in relevant bodies of state or court administration, the declaration is submitted separately for each member of the family with property registered on his/her name and is attached to the declaration of the person who is the primary declarer (Article 5, Law No. 04/L-050).

The first submission of the declaration must be made within 30 days of assuming the function. Further declarations are to be submitted on an annual basis every March for the previous year, and should only describe any change in the status of property. A submission is also to follow within 30 days of leaving office. The Anti-Corruption Agency (Agency) may request a judge/prosecutor when in office to submit the declaration any time as well as within one year after the judge/prosecutor has left the office (Article 6 to 10, Law No. 04/L-050).

Declarations are submitted to the Agency. The Agency is competent to receive declarations, maintain a register of declarations as well as to supervise assets of senior public officials and other persons as required by the law. The declarations are published on the Agency's website within 60 days after submission, except for data protected by law. (Article 13, Law No. 04/L-050)

Regarding financial disclosure verification competencies, the Agency checks the timeliness of submitting the report, completeness and accuracy of the information submitted as well as unexplained financial discrepancies (Article 16, Law No. 04/L-050)

Infringement of the obligations emanating from the Law No. 04/L-050 (including the requirement to submit financial declarations) constitutes a misdemeanour which is punishable with a fine (between € 1 000 and € 2 500; between € 1 500 and € 2 500 for not submitting the declaration upon request of the Agency) and professional bans of up to one year. Where a breach of the provisions of the Law No. 04/L-050 constitutes a criminal offence, the Agency shall file a criminal report (Article 17, Law No. 04/L-050).

Number (absolute and per 100 judges/prosecutors) of proceedings against judges and prosecutors for violations or non-declaration of assets in 2019 and 2020:

Kosovo	Judges						Prosecutors					
	Number of initiated cases		Number of completed cases		Number of sanctions pronounced		Number of initiated cases		Number of completed cases		Number of sanctions pronounced	
	Abs	per 100	Abs	per 100	Abs	per 100	Abs	per 100	Abs	per 100	Abs	per 100
2019	6	1,44	1	0,24	1	0,24	3	1,66	3	1,66	0	0,00
2020	2	0,51	2	0,51	0	0,00	0	0,00	0	0,00	0	0,00

Regarding judges: One case was completed during 2019, which was initiated in 2018, meanwhile, in December 2019, after the completion of the full control procedure, 6 cases were initiated against judges regarding the declaration of assets.

Regarding prosecutors: During 2019, 3 cases were initiated against prosecutors which were concluded due to the lack of evidence.

Conflict of interest for judges and for prosecutors

The legal framework for the prevention and the resolution of conflicts of interest applicable to judges is provided by the relevant provisions of: 1) the Constitution, as regards incompatibilities and accessory activities; 2) the Law No. 06/L-011 on Prevention of Conflict of Interest in Discharge of a Public Function (LPCI), as regards *ad hoc* conflicts of interest, incompatibilities and accessory activities; 3) Law No. 04/L-050 on Declaration, Origin and Control of Property of Senior Public Officials and on Declaration, Origin and Control of Gifts of All Public Officials, as regards gifts and declaration of property; 4) the Criminal Procedure Code; 5) the Criminal Code of Kosovo; 6) the Code of Ethics and Professional Conduct for Judges (CEPCJ), as regards gifts; and 7) the Law on General Administrative Procedure.

The principle of incompatibility of judicial office with other functions in state bodies, political parties and other activities is set in Article 106 of the Constitution. Thus a judge is constitutionally prohibited from working in any state institution other than the judiciary and from involvement in political activities, illegal activities, or activities incompatible with the principles of judicial independence and impartiality.

In addition, a judge is prohibited to perform any duty or service that may or may be perceived to interfere with their independence and impartiality or may otherwise be incompatible with the performance of the duties of a judge or the provisions of the Code of Ethics and Professional Conduct for Judges. Examples of such prohibitions, as laid down by law and ethical rules, include, *inter alia*, prohibition from engaging in any other activity incompatible with judicial functions, including membership in a political party, movement or other political organisation as well as participating in any political activity and seeking or holding any political office; conducting other legal practice or privately carrying out any judicial or adjudicative functions (such as acting as defenders, arbiters, or mediators); participating in financial and business transactions that can adversely affect their impartiality or performance of judicial duties; engaging in any non-judicial activity during working hours without prior approval of the Kosovo Judicial Council (KJC) and accepting any compensation for any outside activity in which s/he was engaged during business hours, without the KJC approval. For other activities authorisation is not needed and a judge is not obliged to inform his/her hierarchy about them either.

According to provisions of LPCI a senior public official includes also judges and prosecutors. Thus, with regard to accessory activities, a judge in his/her quality of senior official cannot be a manager or a member of a managing or of a steering body of a private enterprise. S/he can neither be a manager or a member of managing bodies of non-profit-making organisations. It is not possible for a senior official to exert private functions such as: advocacy, notary, licensed expert, or consultant, agent or representative of the aforementioned organisations. On the other hand, a senior official cannot actively exert his/her ownership rights over shares or parts of capital of a commercial company, regardless of its field of activity (obligation to transfer rights to another trusted person exists – blind trust).

The LPCI allows the possibility for judges to be a member of a steering body of a publicly owned company or of a shareholding company with public property or member of steering and monitoring bodies of other non-profit legal persons and of legal persons dealing with scientific, sport, educational, cultural and humanitarian activities, but without having right to be remunerated with a regular salary, except, when applicable, appropriate compensation of expenditures. In addition, a judge may exercise his/her activities in the area of science, sport, education, culture and humanitarian activities (with or without remuneration), unless otherwise provided for by other laws. S/he also may gain profit on basis of copyright, patent and other similar rights (Article 10, 11 and 15, LPCI).

The reasons for disqualification of judges are listed in the relevant procedural laws (the Criminal Procedure Code; the Law on Contentious Procedure) and include situations, *inter alia*, conflicts of interest due to marital, extended family and other type of relationships with the parties, their legal representatives or witnesses, prior involvement in the case in any other quality (such as investigative judge, prosecutor, expert etc.) and existence of circumstances that raise suspicion of impartiality. Judges can be disqualified from such cases at their own request or that of the parties. The President of the court is the one who decides on the disqualification.

Conflict of interest is defined as “a situation of incompatibility between official duty and private interest of a senior official, when he/she has direct or indirect private personal or property interests that may influence or seems to influence his/her legitimacy, transparency, objectivity and impartiality during the discharge of public functions.” The private

interest includes both personal pecuniary and non-pecuniary interests of any senior official as determined by law influencing his/her decision making. Whenever an actual or potential conflict of interest occurs, the senior official has to: (i) personally prevent and solve it; (ii) consult as soon as possible his/her immediate manager or managing body who may address the case to the Anti-Corruption Agency (Agency) in case of doubt (Articles 3, 6 and 8, LPCI).

According to the Code of Ethics and Professional Conduct for Judges (CEPCJ), a judge and his/her family shall not, under any circumstance, accept gifts, favours, privileges, or promises for material help from any person having a direct or indirect interest in a case being tried by the judge. Moreover, gifts are regulated in more details in the Law on Declaration, Origin and Control of Property of Senior Public Officials and on Declaration, Origin and Control of Gifts of all Public Officials. In principle, official person should not solicit or accept gifts or other favours, neither for him/her nor for his/her close family members, that are related to the exercise of official duties and which influence or may have an influence on the exercise of official duties. Protocol gifts or casual gifts are excluded, and they become the property of the institution (if casual gifts are not of a personal character). In any case, official person should not accept monetary gifts or more than one gift per year from the same person or institution. The official person has an obligation to inform his/her supervisor in written form, if s/he has been offered or given any gift without a previous notification or in specific circumstances. In cases when an official person is a head of an institution, s/he should inform the Agency.

Proceedings for breaches of rules on conflict of interest as well as the procedure to sanction breaches of the rules on conflicts of interest in respect of judges are regulated in the LPCI.

The legal framework for the prevention and the resolution of conflicts of interest applicable to prosecutors is provided by the relevant provisions of: 1) the Law on State Prosecutor (LSP), as regards incompatibilities and accessory activities; 2) the Law No. 06/L-011 on Prevention of Conflict of Interest in Discharge of a Public Function (LPCI), as regards *ad hoc* conflicts of interest, incompatibilities and accessory activities; 3) the Law No. 04/L-050 on Declaration, Origin and Control of Property of Senior Public Officials and on Declaration, Origin and Control of Gifts of All Public Officials, as regards gifts and declaration of property; 4) the Criminal Procedure Code; and 5) the Code of Ethics and Professional Conduct for Prosecutors (CEPCP).

Article 26, LSP requires that prosecutors shall not use the status as a prosecutor or the reputation of the State Prosecutor to advance their personal rights or interests and shall not perform any other duty or service that may interfere with their independence and impartiality or may otherwise be incompatible with the performance of the duties of a prosecutor. In addition, prosecutors shall not engage in any political functions or activities, including membership in political parties, or running for or holding political office. Prosecutors are encouraged to vote but otherwise may not participate in elections or political activities. Seeking or maintaining political office is incompatible with the performance of the duties of a prosecutor.

The CEPCP (Article 4) requires that a prosecutor is forbidden from using his/her position or information that s/he obtains through his/her position for either his/her own personal gain or for the personal gain of anyone else. In addition, a prosecutor shall refrain from financial and business dealings that may reflect adversely on his/her ability to carry out his/her function in an impartial, professional and independent way. A prosecutor shall not be engaged in any activity, including political activity, which is incompatible with a prosecutor's function.

Regarding additional activities, prosecutors shall not use the status as a prosecutor or the reputation of the State Prosecutor to advance their personal rights or interests. The conduct of prosecutors shall be consistent with the provision set forth in the CEPCP. Prosecutors have the right to take part in professional organisations which promote independence and the protection of professional interests of prosecutors. Prosecutors may engage in activities which are in accordance with the CEPCP, such as attending professional or scientific meetings, lectures or trainings and taking part in the preparation of different legal projects. Subject to the approval of the Chief State Prosecutor, prosecutors may be remunerated for such activities in accordance with the CEPCP provided there is no conflict of interest and there is no violation of law, code of ethics, or other sub-legal acts. Consistent with the provisions of the CEPCP, prosecutors may engage in professional and scientific writings but may not publish the relevant content of prosecutorial files during the exercise of or after completion of prosecutorial duty, unless it is expressly permitted by law or sub-legal act issued by the KPC. The CEPCP further requires, in particular, that a prosecutor shall not hold an office in or be a member of any political party or engage in any non-prosecutorial activity during working hours without a prior approval by KPC. Time and engagement conditions are determined by KPC with a respective decision (Articles 25 and 26, LSP).

According to the CEPCP (Article 4), in principle, a prosecutor may carry out activities outside his/her scope as a prosecutor, including those activities which are the embodiments of his/her rights as a citizen or which represent his/her professional interests and independence. However, a prosecutor may not carry out activities incompatible with the reputation of the institution, or that negatively affect professional and public confidence in the prosecutorial system.

The reasons for disqualification of prosecutors are listed in the relevant procedural laws (Article 44, the Criminal Procedure Code) and are the same as those for judges (see above). It is a continuous obligation of the prosecutor to disqualify himself or herself upon his or her discovery of grounds for disqualification. The disqualification is decided by the superior state prosecutor, by the Chief State Prosecutor in case of a chief prosecutor of an office or by the KPC in case of the Chief State Prosecutor.

Prosecutors, as senior public officials, are bound by the same conflicts of interest rules contained in the LPCI, as applicable to judges (see above).

A prosecutor needs a prior authorisation regarding performance of accessory activities (teaching, research and publication, other activities – with (should not exceed 25% of the basic salary – Article 3, LSP) or without remuneration) and has to obtain a prior authorisation from the Kosovo Prosecutorial Council about these activities. About accessory activities for which a prior authorisation is not needed a prosecutor does not have to inform his/her hierarchy.

According to the CEPCP, a prosecutor and members of his/her family shall not, under any circumstance, accept gifts, favours, privileges, or promises for material help from any person having a direct or indirect interest in a case he/she is in charge of. Moreover, gifts are regulated in more details in the Law on Declaration, Origin and Control of Property of Senior Public Officials and on Declaration, Origin and Control of Gifts of all Public Officials which apply both to prosecutors and judges (see above).

Proceedings for breaches of rules on conflict of interest in respect of prosecutors are regulated in the LPCI and the CEPCP. LPCI, CEPCP and the Criminal Code regulate the procedure to sanction breaches of the rules on conflicts of interest in respect of prosecutors.

Judges and prosecutors may combine their work with the following other functions/activities:

		With remuneration		Without remuneration	
		Judges	Prosecutors	Judges	Prosecutors
Combine work with other functions/activities	Teaching	√	√	√	√
	Research and publication	√	√	√	√
	Arbitrator				
	Consultant				
	Cultural function				
	Political function				
	Mediator				
	Other function		√		√

Number (absolute and per 100 judges/prosecutors) of procedures for breaches of rules on conflict of interest for judges and prosecutors in 2019 and 2020:

Kosovo	Judges						Prosecutors					
	Number of initiated cases		Number of completed cases		Number of sanctions pronounced		Number of initiated cases		Number of completed cases		Number of sanctions pronounced	
	Abs	per 100	Abs	per 100	Abs	per 100	Abs	per 100	Abs	per 100	Abs	per 100
2019	11	11,00	11	11,00	0	0,00	2	2,00	2	2,00	0	0,00
2020	10	10,00	8	8,00	0	0,00	0	0,00	0	0,00	0	0,00

During 2019, the Anti-Corruption Agency initiated and reviewed 11 conflict of interest cases for judges in all cases the conflict of interest was avoided and no further proceedings were necessary.

During 2019, the Anti-Corruption Agency initiated and reviewed 2 conflict of interest cases for prosecutors. In those cases the conflict of interest was avoided and no further proceedings were necessary.

Discipline against judges and prosecutors

Disciplinary system for judges and prosecutors is regulated by the Law on Disciplinary Liability of Judges and Prosecutors (LDLJP) from 2018 as well as the Law on Kosovo Judicial Council (LKJC) and the Law on Kosovo Prosecutorial Council (LKPC).

A judge is held disciplinarily liable in case of: 1) a final conviction for a criminal offence, with the exception of a minor offence; 2) negligence in performing, or a failure to perform, or abuse of judicial functions; 3) failure to act independently and impartially; 4) violation of the applicable code of ethics (LKJC).

A prosecutor is held disciplinary liable in case of: 1) a final conviction for a criminal offence, with the exception of a minor offence; 2) negligence in performing, or a failure to perform, or abuse of a prosecutorial function; 3) failure to perform prosecutorial functions independently and impartially; 4) or a violation of the applicable code of ethics (LKPC).

Disciplinary proceedings against a judge/prosecutor are initiated by the Kosovo Judicial Council (KJC) (in case of a judge) or Kosovo Prosecutorial Council (KPC) (in case of a prosecutor) based on a request of a competent authority (i.e. a president of a court, the KJC, a chief prosecutor, a chief state prosecutor or the KPC, depending on a person that allegedly committed a disciplinary offence). The competent authority is competent to receive and review a complaint submitted by a natural/legal person. If the complaint is not dismissed as evidently frivolous, unsubstantiated, unrelated to a disciplinary offence or subject to statutory limitations the competent authority shall request the KJC/KPC to initiate disciplinary investigation; such request is also made *ex officio* in case the competent authority has reasonable grounds to believe that a judge/a prosecutor has committed a disciplinary offence. The KJC/KPC then establishes an investigation panel to conduct the investigation which is composed of three judges from different courts (in case investigation concerns a judge)/three prosecutors of different prosecutorial bodies (in case investigation concerns a prosecutor). The result of the investigation is a written report containing relevant facts and evidence which is to be submitted to the KJC/KPC, the judge/prosecutor concerned and the competent authority which requested the initiation of disciplinary investigations. During the investigation the KJC/KPC may *ex officio* or upon request of the competent authority which requested the initiation of investigation suspend the judge/prosecutor under investigation if necessary due to seriousness of the alleged disciplinary offence and to ensure the integrity and effectiveness of the investigation. During the investigation the investigation panel and the judge/prosecutor concerned may agree on a voluntary settlement of the alleged disciplinary offence. Based on the written report or the voluntary agreement concluded between the investigation panel and the judge/prosecutor concerned the KJC/KPC holds a session to which the judge/prosecutor concerned is invited. At the session, a decision on whether the alleged disciplinary offence has been committed is taken and on what sanction is imposed. The written decision is reasoned.

Judges and prosecutors may present their argumentation in a disciplinary proceeding at a hearing or in writing.

According to Article 15, LDLJP parties shall have a right to appeal against a disciplinary decision of the KJC/KPC (including a decision on dismissal) directly to the Supreme Court of Kosovo, within 15 days from the days of receipt of the decision.


The Disciplinary Committee may impose the following disciplinary measures for judges: 1) reprimand; 2) reprimand with a directive to take corrective actions; 3) temporary reduction of salary by up to fifty percent (50%) taking into account the nature of misconduct; or 4) recommendation on removing the judge or lay judge from office (LKJC).

The LKPC (Article 27) foresees the following disciplinary measures for prosecutors which are imposed by the Disciplinary Committee: 1) reprimand; 2) reprimand with a directive to take corrective actions; 3) temporary reduction of salary by up to fifty percent (50%) taking into account the nature of misconduct; 4) demotion to a lower position within the prosecutorial system; or 5) proposal for removal of a prosecutor from office.

A judge may be transferred to another court without his/her consent due to disciplinary as well as other reasons, i.e. efficient functioning of the judiciary (LKJC).

The authorities have provided statistical data (absolute number as well as number per 100 judges/prosecutors) on disciplinary proceedings initiated and completed as well as sanctions pronounced against judges and public prosecutors.

		2019				2020			
		Judges		Prosecutors		Judges		Prosecutors	
		Abs	per 100	Abs	per 100	Abs	per 100	Abs	per 100
Number of disciplinary proceedings initiated during the reference year	Total number (1 to 5)	NA	NA	18	9,94	9	2,30	5	2,86
	1. Breach of professional ethics (including breach of integrity)	NA	NA	7	3,87	0	0,00	1	0,57
	2. Professional inadequacy**	NA	NA	10	5,52	9	2,30	4	2,29
	3. Corruption	NA	NA	0	0,00	0	0,00	0	0,00
	4. Other criminal offence	NA	NA	1	0,55	0	0,00	0	0,00
	5. Other	NA	NA	0	0,00	0	0,00	0	0,00
Number of cases completed in the reference year against	Total number (1 to 5)	NA	NA	12	6,63	8	2,05	7	4,00
	1. Breach of professional ethics (including breach of integrity)	NA	NA	4	2,21	0	0,00	3	1,71
	2. Professional inadequacy	NA	NA	7	3,87	8	2,05	4	2,29
	3. Corruption	NA	NA	0	0,00	0	0,00	0	0,00
	4. Other criminal offence	NA	NA	1	0,55	0	0,00	0	0,00
	5. Other	NA	NA	0	0,00	0	0,00	0	0,00
Number of sanctions pronounced during the reference year	Total number (total 1 to 10)	NA	NA	12	6,63	8	2,05	7	4,00
	1. Reprimand	NA	NA	4	2,21	0	0,00	2	1,14
	2. Suspension	NA	NA	0	0,00	0	0,00	0	0,00
	3. Withdrawal from cases	NA	NA	3	1,66	5	1,28	4	2,29
	4. Fine	NA	NA	0	0,00	0	0,00	0	0,00
	5. Temporary reduction of salary	NA	NA	0	0,00	3	0,77	1	0,57
	6. Position downgrade	NA	NA	2	1,10	0	0,00	0	0,00
	7. Transfer to another geographical (court) location	NA	NA	0	0,00	0	0,00	0	0,00
	8. Resignation	NA	NA	0	0,00	0	0,00	0	0,00
	9. Other	NA	NA	2	1,10	0	0,00	0	0,00
10. Dismissal	NA	NA	1	0,55	0	0,00	0	0,00	



The authorities have explained that they could not provide statistical data on judges for 2019 due to Covid-19 situation.

*With regard to judges, professional inadequacy includes, but is not limited to a continuous failure to perform official duties as per the law in timely manner or a continuous failure to participate in disciplinary proceedings or to respond to disciplinary investigations.

**With regard to prosecutors, professional inadequacy refers to violations of professional work such as disregard for prescribed deadlines which is the most common violation.

Council for the Judiciary/ Prosecutorial Council

The Kosovo Judicial Council (KJC) is the governing body of the judiciary. It has a constitutional mandate to ensure the independence and impartiality of the judicial system (Article 108, Constitution). Its competences are further regulated in the Law on Kosovo Judicial Council (LKJC).

According to the Constitution (Article 108), it consists of 13 members who are elected for a term of 5 years that is not renewable: five members are judges elected by their peers, the remaining eight members are appointed by the Kosovo Assembly deputies (four members are elected by deputies holding seats attributed during the general distribution of seat – at least two of the four members must be judges and one a member of the Kosovo Chamber of Advocates; two members are elected by the deputies holding reserved seats for the Kosovo Serb community – at least one members must be a judge; two members are elected by the deputies holding reserved seats for other communities – at least one member must be a judge). Members who are not judges may be respectable professionals from the legal and outside the legal field (i.e. having expertise in management, finance, IT, social sciences). All members hold a full-time position.


The election procedure conducted by the Assembly starts six months before the expiry of the mandate of a member, with the vacancy announcement made by the relevant Assembly Committee which also conduct interviews with each candidate who meets the requirements to be elected and prepares a shortlist of the candidates. Two candidates are proposed for one vacant position of a KJC member. The Assembly then elects the KJC members with a secret vote; to be elected, the candidate must receive the majority of votes of all present and voting deputies.

The KJC is an independent institution in the performance of its functions with the purpose of ensuring an independent, fair, apolitical, accessible, professional and impartial judicial system (Article 108 of the Constitution; Article 3 of the LKJC). It is responsible to oversee the functioning of the courts in Kosovo and to determine the policies and strategies for the efficient and effective functioning of the courts. The KJC recruits and proposes to the President candidates for appointment and reappointment and dismissal of judges; issues regulations on transfer, disciplinary procedure for judges and internal regulations for courts; proposes to the President the appointment of the President of Supreme Court, President Judges of the Court of Appeal and Basic Courts; appoints Supervising Judges in compliance with Law on Courts; provides for the regular periodic assessment of the caseloads of the courts and implements a case allocation system to ensure the efficient functioning of the courts; transfers and conducts disciplinary proceedings of judges; overseeing and conducting judicial inspection, and administration; develops court rules in accordance with the law; hires and supervises court administrators; prepares, submits and oversees the budget of the judiciary; announces the public competition for judges and lay judges; determines the number of judges in each court and branch; issuing the code of professional ethics for its members, for judges and lay judges as well as for the supporting administrative staff etc.

The Chairperson of the KJC is the chief administrative official of the courts and, together with the KJC, is responsible for the efficient and effective operation of the courts. S/he (and Vice-Chairperson) is elected from the KJC members for a term of three years.

According to Article 110 of the Constitution, the Kosovo Prosecutorial Council (KPC) is an independent institution in the exercise of its functions in accordance with law. The KPC ensures equal access to prosecutor's service for all persons in Kosovo. It also ensures that prosecutors carry out their function in an independent, professional, and impartial way and reflects the multi-ethnic nature of Kosovo and the principle of gender equality. The composition of the KPC, as well as provisions regarding the reappointment, removal, term of office, organisational structure and rules of procedure, are determined by Law on Kosovo Prosecutorial Council (LKPC).

According to Article 5 of the LKPC, the KPC is composed of 13 members who are elected for a 5 year term without the possibility to be re-elected: ten members must be prosecutors (representing the Chief State Prosecutor, Appellate and Basic Prosecution offices); three members are elected by the Assembly on the proposal of the Chamber of Advocates (Bar), law faculties and civil society where each proposes a list of two candidates for each vacant position. Three non-prosecutor KPC members are elected by a secret vote, by majority of votes of present and voting Assembly deputies (Article 9, LKPC). Only the Chairperson, the Vice-chairperson and chairmen of specific KPC bodies hold a full-time position.



The KPC is responsible for recruiting, proposing for appointment or reappointment to the President candidates for prosecutors as well as recommending dismissal of prosecutors; assessing, promoting, transferring, disciplining, and determine policies, standards and instructions for the training of prosecutors. proposing candidates to the President for appointment as Chief State Prosecutor and recommending to the President the removal of the Chief State Prosecutor; in cooperation with the Kosovo Judicial Institute, establishing the standards for recruiting, organising and advertising the preparatory examination for the qualification of prosecutors; announcing the public competition for prosecutors; determining the number of prosecutors in each prosecution office; appointing the Chief Prosecutors for the Basic Prosecution Offices and Appellate Prosecution Office in compliance with Law on State Prosecutor; preparing an annual report on the activities of the State Prosecutor and the expenditures of the KPC; providing and publishing information and statistical data on the prosecution system; overseeing the administration of the prosecution offices and its personnel; overseeing the Prosecution Performance Review Unit and issuing rules and regulations in accordance with its competencies; providing the support for the regular periodic assessment of the caseloads of the prosecution offices and implementing a case allocation system to ensure the efficient functioning of the prosecution offices; preparing, submitting and overseeing the budget of the prosecutorial system to ensure efficient and effective functioning of prosecution offices and accounting for the use of fiscal resources; issuing the Code of Professional Ethics for its members, prosecutors, and supporting administrative staff; establishing the procedures for and conducting disciplinary proceedings etc.

Regarding operational arrangements in place to avoid an over-concentration of powers in the same hands concerning different functions to be performed by members of the KJC and the KPC no specific explanation has been provided.

Accountability measures in place regarding the activities of both Councils are primarily ensured through ensuring transparency of their work (activity reports and decisions are published on their respective websites; KPC's decisions are also reasoned).

In case of an evident breach of the independence or the impartiality of a judge or pressure on a prosecutor the Councils are competent to initiate disciplinary proceedings, based on Article 5 and 6 of the Law on Disciplinary Liability of Judges and Prosecutors.