

COMPARATIVE ASSESSMENT OF THE JUDICIAL SYSTEM

From 2014 to 2017

*Based on the methodology of the European Commission for the Efficiency
of Justice (CEPEJ) for the evaluation of judicial systems*



February 2019

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Strengthening the Quality and Efficiency of Justice in Kosovo (KoSEJ Action)*

COMPARATIVE ASSESSMENT OF THE JUDICIAL SYSTEM IN KOSOVO

From 2014 to 2017

*Based on the methodology of the European Commission for the Efficiency of
Justice (CEPEJ) for the evaluation of judicial systems*

February 2019

* 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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The report was made possible through a participatory approach in the collection of data and documents that engaged counterparts at the Kosovo Judicial Council (KJC), Kosovo Prosecutorial Council (KPC), Office of Free Legal Aid (FLA), Kosovo Bar Association (KBA) and the courts. The author and the KoSEJ Team are particularly thankful to Ms. Valdete Mustafa and Ms. Fatmire Krasniqi from the KJC Secretariat, Ms. Margarita Gjocaj and Ms. Nora Qerkezi from the KPC, Ms. Flutura Zena from FLA, Mr. Yll Zekaj from KBA, Ms. Tea Blakaj and Ms. Trëndelina Qorraj from the Ministry of Justice for their cooperation and for sharing official reports and documents during the research stage of the study. This study would not be possible without the active participation and support of these institutional counterparts.

PREFACE

This report mainly addresses issues relating to the efficiency of the Kosovo judicial system and what progress had been made in 2017 compared to 2014. The report is focused on elements such as the resources allocated to justice, the number of staff and the caseload of courts - number of cases received and resolved by the courts.

The report follows up on an “In-depth assessment of the functioning of the judicial system in Kosovo”, based on the 2014 data (2014 Assessment) and published by CEPEJ in January 2018.¹ The 2014 Assessment provides a unique baseline to use as a reference point to measure the trends and evolution since that year, and includes 19 recommendations conceptualized as a specific tool to increase the efficiency and quality of the judicial system (see below full list of recommendations included in the 2014 Assessment). The 2014 Assessment was accepted positively by the relevant interlocutors that actively took part in the data collection stage and in the validation of the accuracy of information.

In June 2018 a preparatory mission was conducted in Pristina to follow-up on the recommendations of the 2014 Assessment. The main objectives of the preparatory mission were to:

- Discuss the recommendations of the in-depth Assessment with the respective beneficiaries of the KoSEJ Action, especially those involved in the Functional Reform in the Rule of Law Sector of the Ministry of Justice, to identify the priority recommendations that shall be applied;
- Initiate the data collection process based on the same methodology used in the in-depth Assessment of the functioning of the Kosovo Judicial System (CEPEJ methodology) with the aim of assisting the beneficiaries of the KoSEJ Action in analyzing the evolution of the Kosovo judicial system since 2014;
- Assist the KoSEJ beneficiaries in preparing a sustainable data collection process, as advised by Recommendation No.19 of the in-depth Assessment.

In the exchanges on the quality and validity of the data, a range of issues emphasized in the 2014 Assessment recommendations were addressed. The discussions with the KoSEJ beneficiary groups confirmed that the initial strategy for implementing the 2014 Assessment recommendations needed to be based on an updated assessment of the evolution of the Kosovo judicial system since 2014, especially in light of the 2015 judicial and institutional reform. The new assessment aims to identify which recommendations of the 2014 Assessment to implement as a matter of priority. A more up to date assessment will also provide an accurate statistical basis for the Ministry of Justice’s Functional Review of the Rule of Law Sector.

The most important recommendations in this report are included in one of the following three groups:

Group A	Recommendations of primary importance that may be accomplished in short term.
Group B	Recommendations of primary importance that may be accomplished in mid-term.
Group C	Recommendations of secondary importance that may be accomplished in short and mid-term.

The report was drafted by CEPEJ experts with the support of the CEPEJ Secretariat, KoSEJ team in Pristina and local consultants and with the engagement of the local institutions in collecting data and documents - the Kosovo Judicial Council (KJC), Kosovo Prosecutorial Council (KPC), Office of Free Legal Aid (FLA), Kosovo Bar Association (KBA) and courts.

¹ The 2014 Assessment is available at: <https://www.coe.int/en/web/cepej/-/presentation-of-the-in-depth-study-of-the-judicial-system-of-kosovo-carried-out-by-the-cepej>.

On the methodological aspect, the main interlocutors received the CEPEJ evaluation scheme specifically tailored to Kosovo - the same used in the 2014 Assessment² - along with explanations on the questions and on the data to be included, in the document margins. The interlocutors were able to fill out the questionnaire in a relatively satisfactory manner with the assistance of the KoSEJ Team in Pristina. The data was verified and partially clarified during the preparatory mission and later on during exchanges with the Kosovo key interlocutors, thus ensuring that the information provided for various fields covered by the questionnaire, would be accurate and correct in compliance with the CEPEJ definitions. Data that seemed insufficiently correct as to deserve to be published, was excluded.

The preliminary findings and conclusions of the second assessment were presented and discussed with the main interlocutors in Kosovo during a second mission in November 2018. Their suggestions and clarifications on specific aspects have been included in this report.

Finally, as highlighted in the 2014 Assessment, data cannot be read as it is, but must be interpreted in the light of the CEPEJ definitions and concepts used. These definitions have not been repeated in this report but are available in the 2014 Assessment, at the beginning of each chapter.

Recommendations of the 2014 Assessment

Recommendation 1: To establish short-term to long-term strategies to strengthen the management of available resources which should explicitly take into account external resources allocated for the improvement of the functioning of the justice system. These strategies should seek to avoid the need to deploy additional means by firstly using existing ones. They should be well-defined and should come together with a monitoring process of results.

Recommendation 2: To collect and report accurate data on approved and implemented budgets (for courts and public prosecution offices), not only official data but also external funding.

Recommendation 3: To analyse existing challenges to the effective implementation of the 2015 laws on the KJC and KPC which reinforce their budgetary independence. This analysis should include possible means to overcome these challenges and should lead to the implementation of concrete measures in this respect, which include an evaluation of the results.

Recommendation 4: To review the budgetary item on computerisation strategically to ensure that the deployment of information technologies is linked to a policy or strategy for change involving all stakeholders and, in particular, to guarantee the sustainability the ICT/CMIS project even after its completion.

Recommendation 5: To collect and report accurate data on the approved and implemented budget for legal aid, including by implementing a more specific itemization of the budgetary lines concerned.

Recommendation 6: To assess the needs of citizens as regularly as possible for legal aid services and to explore possible solutions to improve access to legal aid without increasing financial resources by looking at legal aid systems in countries/entities in Europe and reviewing the eligibility criteria for legal aid.

Recommendation 7: To conduct further research to assess the resources needed (number of professional judges) in the various courts in light of the caseload, and to optimise the repartition of the resources between the Basic Courts and the Court of Appeals.

² 2014 Assessment, 1.3 data collection and analysis for Kosovo and scope of the study.

Recommendation 8: To conduct further research on whether the costs of non-judge staff should be reduced, to include recommendations on how to proceed (e.g. by outsourcing services) and to envisage ways to increase the number of staff directly assisting the judges (e.g. by filling in vacant positions, temporarily recruiting trainees, etc.)

Recommendation 9: To introduce policies and adopt measures aimed at increasing representation of women among judges and among court presidents.

Recommendation 10: To conduct further research to assess whether Kosovo employs a sufficient number of prosecutors to deal with the volume of proceedings and whether the allocation of prosecutors in the various instances is appropriate.

Recommendation 11: To conduct further research on whether the costs of non-prosecutor staff should be reduced, to include recommendations on how to proceed (e.g. outsourcing services) and to envisage ways to increase the number of staff directly assisting the prosecutors (e.g. filling in vacant positions, temporarily recruiting trainees, etc.)

Recommendation 12: To introduce policies and adopt measures aimed at increasing representation of women among prosecutors and heads of prosecution.

Recommendation 13: To conduct further comparative research with countries in Europe on the number of lawyers per specific function, for the purpose of assessing whether the number of lawyers in Kosovo is sufficient to deal with the volume of proceedings and to meet the needs of citizens for legal services.

Recommendation 14: To further improve the methodology for compiling reliable statistics, in accordance with the CEPEJ Guidelines on Judicial Statistics (GOJUST) and SATURN Guidelines for judicial time management, and to continue gathering accurate data. These measures will enable both a realistic diagnosis of the judicial system and the formulation of effective and efficient solutions for improving court efficiency and the quality of the justice services provided.

Recommendation 15: To conduct further research and explore the reasons why the number of incoming civil and commercial litigious cases and the number of incoming administrative cases are low in first instance courts and on appeal.

Recommendation 16: To conduct further research and explore the reasons why courts of first instance in Kosovo face serious efficiency problems in the administrative and civil/commercial sectors. The purpose of this research should seek in particular to find improvement measures that do not involve an increase of resources (which should be done as a last resort).

Recommendation 17: To conduct further research and explore the reasons behind the efficiency difficulties faced by the Kosovo Court of Appeals in handling administrative and civil/commercial litigious cases.

Recommendation 18: To assess whether the goals and objectives listed in the 2013 Backlog Reduction Strategy and in KJC 2014 Judiciary Strategic Plan to address the number of pending cases have been reached; to assess whether further reforms to decrease the number of pending cases are necessary; and more generally, to focus on decreasing as a priority the number of old cases applying the FIFO ("first in, first out") principle.

Recommendation 19: To evaluate on a regular basis, based on the CEPEJ methodology, the judicial system in Kosovo with the purpose of improving its quality and efficiency.

1. ECONOMIC AND DEMOGRAPHIC DATA

TABLE 1: General economic and demographic data (Q1, Q3, Q4)

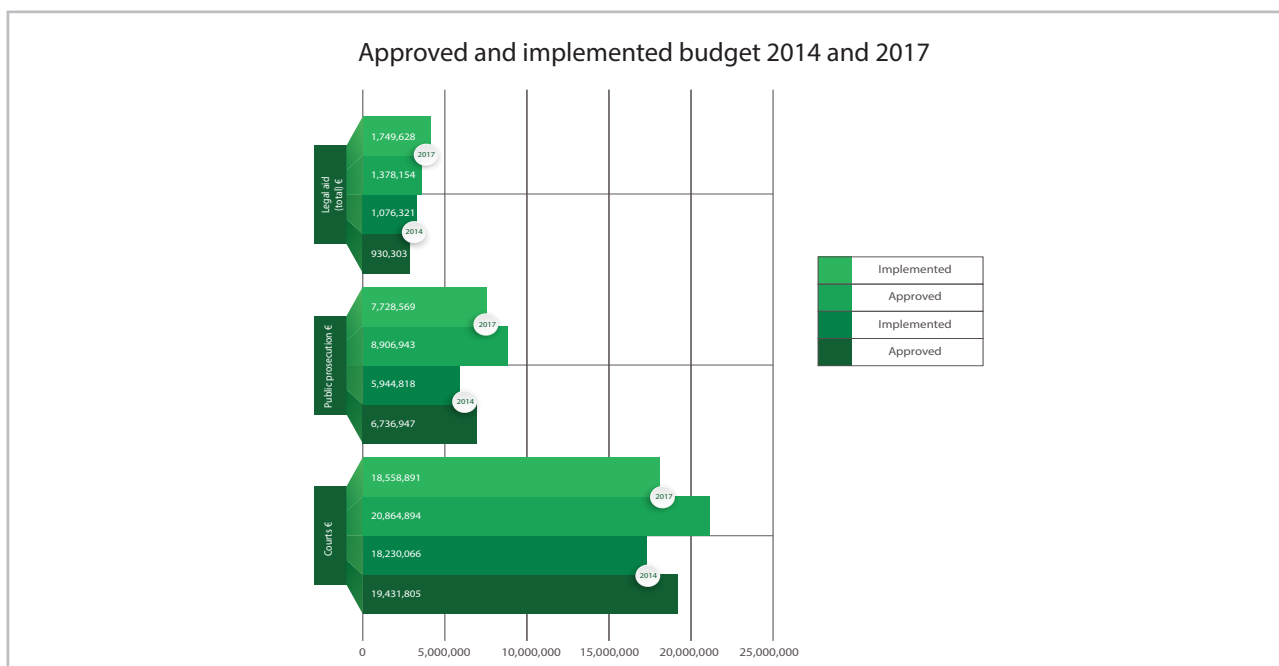
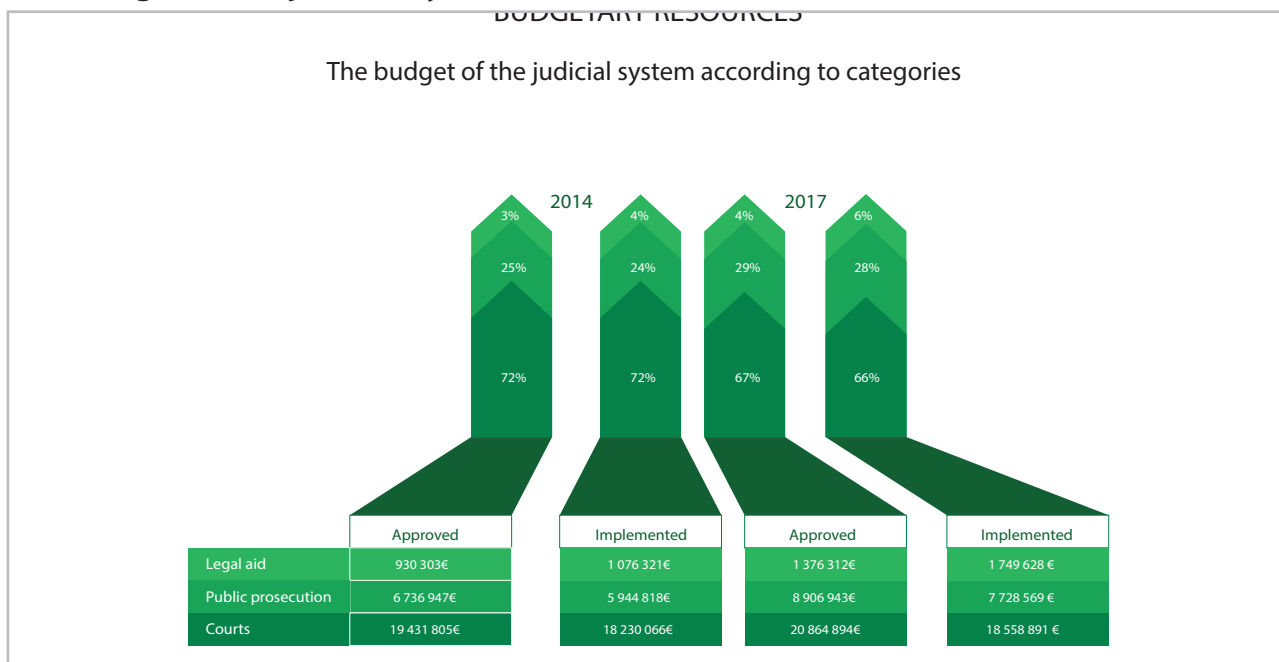
	Number of inhabitants	GDP per capita (€)	Average annual gross salary (€)
Kosovo* (2014)	1 852 341	3 054 €	3 657 €
Kosovo* (2017)	1 798 506	3 390 €	4 356 €
Difference (%)	-2,9%	11,0%	19,1%

In 2017 the number of inhabitants decreased compared with 2014, whereas the other two indicators increased: the Gross Domestic Product (GDP) per capita, with the current prices of the referring year (in €); and the gross average annual salary.³ These changes should be taken into consideration in the following analysis, especially the budget data analysis.

³ <http://ask.rks-gov.net/media/4174/estimation-kosovo-population-2017.pdf>.

2. BUDGETARY RESOURCES

2.1. Budget of the judicial system



- The official budget for the justice system is distributed mainly to courts, then to public prosecution services and then a smaller amount is allocated to legal aid.
- In 2017 the budget for courts has increased as an absolute amount but its share within the budgetary resources for the whole justice system has decreased.
- The public prosecution budget and the legal aid budget have increased in 2017, both as a nominal value and as a share of the judicial system.
- The implemented budgets for courts and for the public prosecution are lower than the respective approved budgets, in both assessment years; in contrast, the implemented amounts of legal aid budget are higher than the amounts approved in both 2014 and 2017.

- As described in the 2014 Assessment (Recommendation 2), Kosovo, like neighboring countries/entities, benefits from additional external resources that are not part of the official budget, and do not appear in the statistics. Similarly, the figures provided for the year 2017 do not encompass all budgetary resources used in the field of justice. According to the Aid Management Platform, external resources in 2017 for legal and judicial development amounted to 11.57 million euros⁴. Also, this amount is very likely lower than in reality because some external resources are not always reported accurately or not reported at all. The progressive depletion of external budgetary resources in the medium and long term should be taken into account by Kosovo authorities to guarantee the sustainability of reforms, particularly those aimed at the deployment of IT tools in the judiciary.

2.3 Budget for courts

Table: The annual budget allocated to courts

Approved budget (absolute value)

	Total	Gross salaries	Computerization	Justice expenses	Buildings (maintenance)	New buildings	Trainings	Other
Kosovo* (2014)	19 431 805 €	13 792 246 €	178 612 €	NA	NA	NA	NA	NA
Kosovo* (2017)	20 864 894 €	16 464 561 €	300 000 €	210 000 €	310 000 €	250 000 €	14 900 €	NA
Difference (%)	7,4%	19,4%	68,0%	NA	NA	NA	NA	NA

Implemented budget (absolute value)

	Total	Gross salaries	Computerization	Justice expenses	Buildings (maintenance)	New buildings	Trainings	Other
Kosovo* (2014)	18 230 066 €	12 469 068 €	172 382 €	NA	NA	NA	NA	NA
Kosovo* (2017)	18 558 891 €	14 622 640 €	269 536 €	193 862 €	309 327 €	35 080 €	8 466 €	NA
Difference (%)	1,8%	17,3%	56,4%	NA	NA	NA	NA	NA

Approved budget (per capita)

	Total	Gross salaries	Computerization	Justice expenses	Buildings (maintenance)	New buildings	Trainings	Other
Kosovo* (2014)	10,5 €	7,4 €	0,10 €	NA	NA	NA	NA	NA
Kosovo* (2017)	11,6 €	9,2 €	0,17 €	0,12 €	0,17 €	0,14 €	0,01 €	NA
Difference (%)	10,6%	22,9%	73,0%	NA	NA	NA	NA	NA

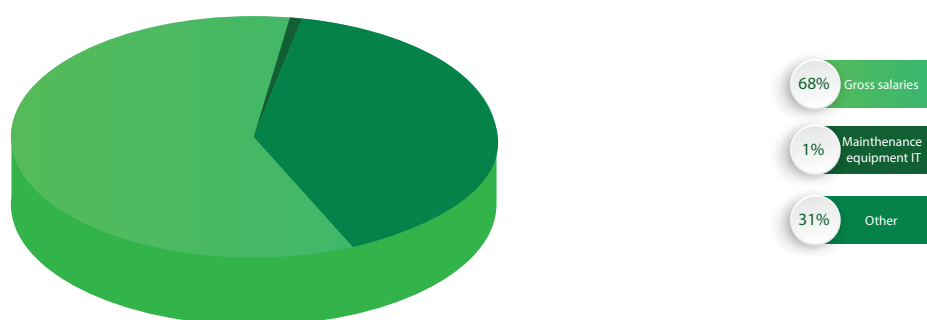
Implemented budget (per capita)

	Total	Gross salaries	Computerization	Justice expenses	Buildings (maintenance)	New buildings	Trainings	Other
Kosovo* (2014)	10 €	7 €	0,09 €	NA	NA	NA	NA	NA
Kosovo* (2017)	10,3 €	8 €	0,15 €	0,11 €	0,17 €	0,02 €	0,00 €	NA
Difference (%)	4,9%	20,8%	61,0%	NA	NA	NA	NA	NA

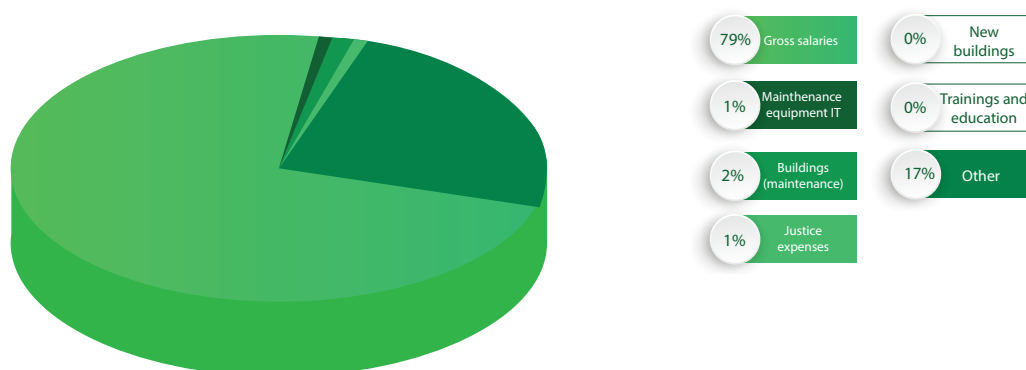
⁴ <http://www.mei-ks.net/en/amp>.

- The approved and implemented courts' budget in 2017 is higher than in 2014. This development follows the decrease in population and the increase in GDP. In 2014, courts in Kosovo spent effectively € 9.8 per capita, whereas in 2017 the implemented budget was € 10.3 per capita.
- In general, the approved budget for courts in 2014 and 2017 is higher than the implemented budget. So, the respective budgets in 2014 and 2017 were not spent completely. Although the approved courts' budget in 2017 was € 1.4 million higher than in 2014, the effectively spent amount was similar to the amount in 2014 (approximately € 18 million).

Courts' implemented budget in 2014 (€18,230,066)



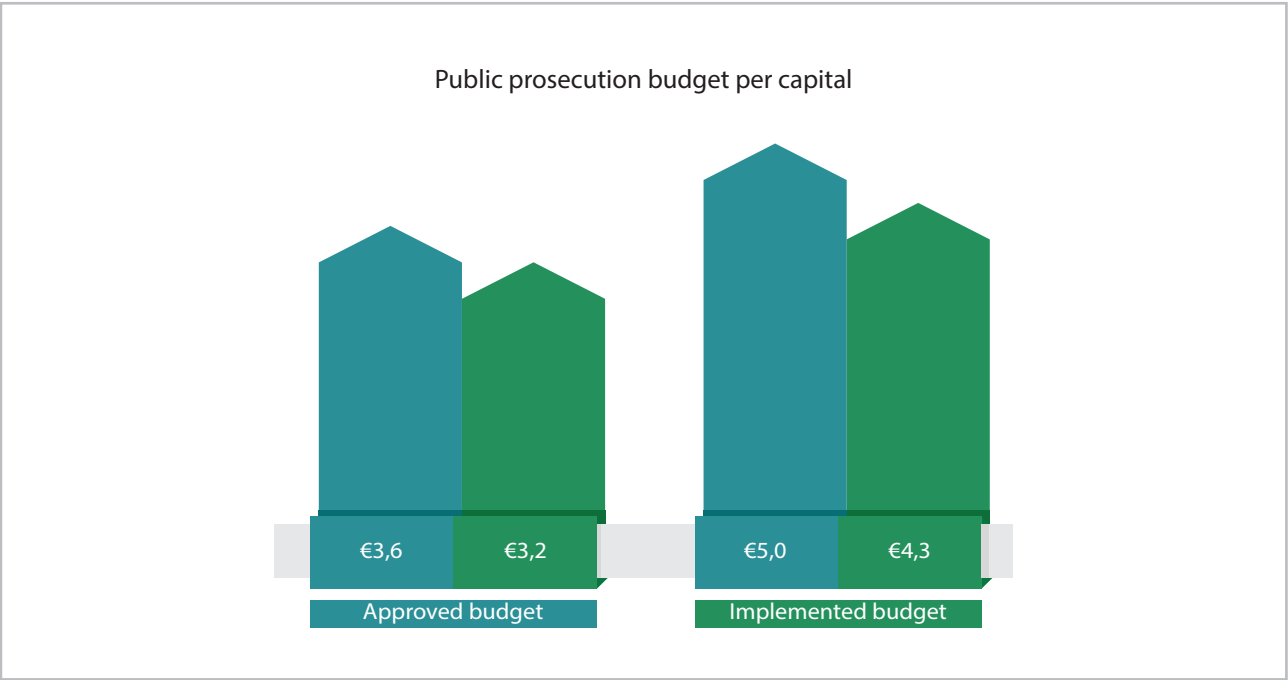
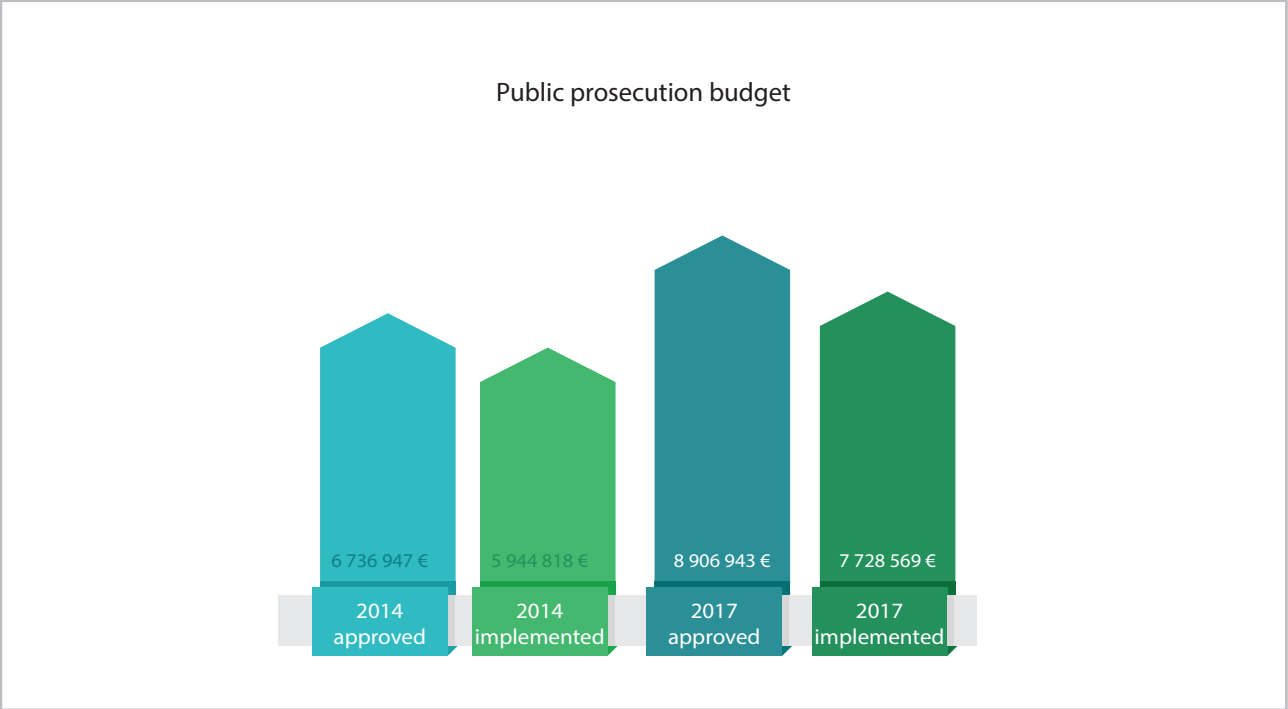
Courts' implemented budget in 2017 (€18,558,891)



- In 2014, only the approved and implemented amounts of the gross salaries and IT equipment were reported. The "other" category in the 2014 implemented budget summarizes expenses for justice, buildings maintenance and new buildings, trainings and education, etc.
- Most of the budget in both assessments is dedicated to gross salaries. The dedicated budget for gross salaries has increased between 2014 and 2017, not only as a numerical value but also as a constituent percentage of the courts' budget (from 68% to 79%). However, the 2017 approved

budget for gross salaries was not spent completely (approximately 14 of the 16 million available). This explains the aforementioned difference between the approved and implemented budget. The approved budget for new building has also not been spent completely in 2017.

2.4 Budget for public prosecution services



- The approved and implemented public prosecution budget in 2017 is higher than in 2014. This development follows the decrease of the population and the GDP increase.
- In general, the approved public prosecution budget in 2014 and 2017 is higher than the implemented budget. In 2014, Kosovo spent effectively € 3.2 per capita on public prosecution services, whereas in 2017 the implemented budget was € 4.3 per capita.

2.5 Budget for legal aid

Approved budget (absolute values)

	Total			Criminal cases			Other than criminal cases		
	Total	Brought to court	Out of court	Total	In court	Out of court	Total	In court	Out of court
Kosovo* (2014)	930 303 €	650 570 €	279 733 €	734 453 €	600 000 €	134 453 €	195 850 €	50 570 €	145 280 €
Kosovo* (2017)	1 378 154 €	1 001 938 €	376 215 €	1 128 396 €	929 054 €	199 341 €	249 758 €	72 884 €	176 874 €
Difference (%)	48,1%	54,0%	34,5%	53,6%	54,8%	48,3%	27,5%	44,1%	21,7%

Implemented budget (absolute values)

	Total			Criminal cases			Other than criminal cases		
	Total	In court	Out of court	Total	In court	Out of court	Total	In court	Out of court
Kosovo* (2014)	1 076 321 €	664 705 €	411 616 €	866 956 €	600 620 €	266 336 €	209 365 €	64 085 €	145 280 €
Kosovo* (2017)	1 749 628 €	1 116 536 €	633 091 €	902 238 €	1 043 652 €	456 217 €	249 758 €	72 884 €	176 874 €
Difference (%)	62,6%	68,0%	53,8%	4,1%	73,8%	71,3%	19,3%	13,7%	21,7%

Approved budget (as % of the GDP)

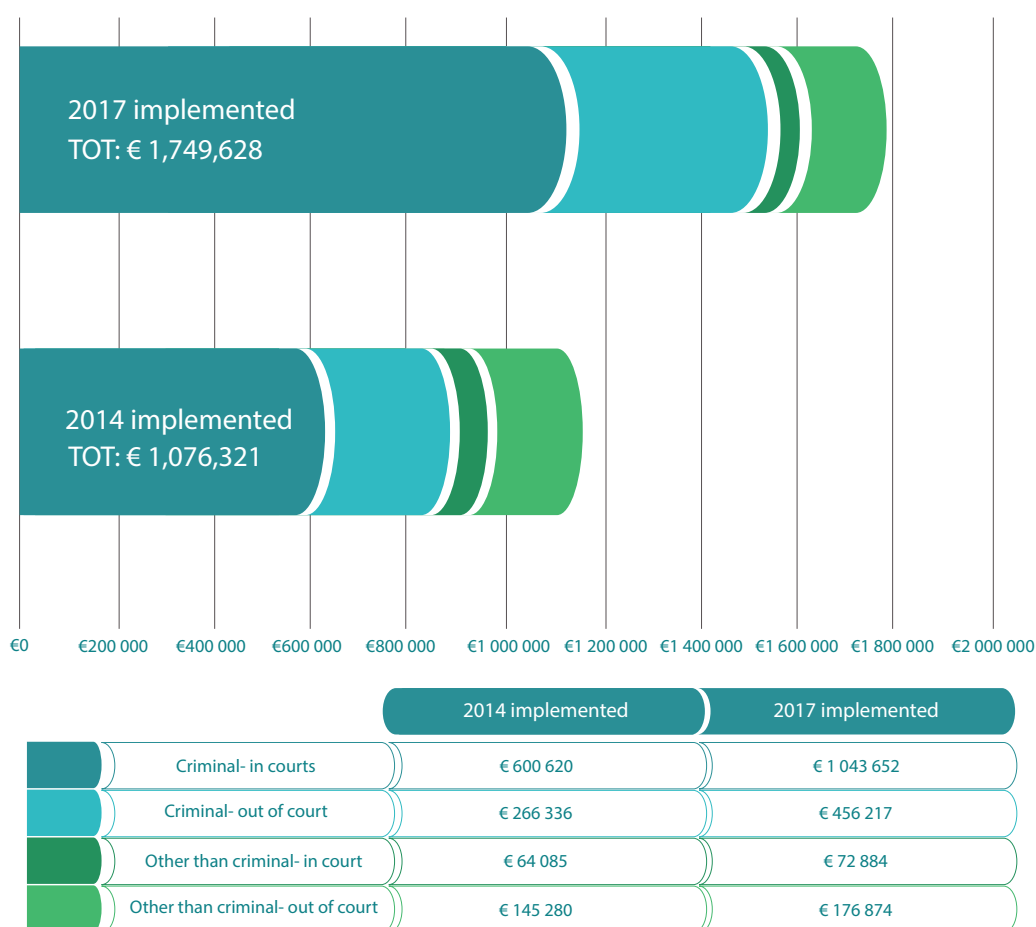
	Total			Criminal cases			Other than criminal cases		
	Total	In court	Out of court	Total	In court	Out of court	Total	In court	Out of court
Kosovo* (2014)	0,01645%	0,01150%	0,00494%	0,01298%	0,01061%	0,00238%	0,00346%	0,00089%	0,00257%
Kosovo* (2017)	0,02260%	0,01643%	0,00617%	0,01851%	0,01524%	0,00327%	0,00410%	0,00120%	0,00290%
Difference (%)	37,5%	42,9%	24,8%	42,6%	43,7%	37,6%	18,3%	33,7%	13,0%

Implemented budget (as % of the GDP)

	Total			Criminal cases			Other than criminal cases		
	Total	In court	Out of court	Total	In court	Out of court	Total	In court	Out of court
Kosovo* (2014)	0,01903%	0,01175%	0,00728%	0,01533%	0,01062%	0,00471%	0,00370%	0,00113%	0,00257%
Kosovo* (2017)	0,02870%	0,01831%	0,01038%	0,01480%	0,01712%	0,00748%	0,00410%	0,00120%	0,00290%

- There has been a legal aid budget increase between 2014 and 2017: approved (48.1%) and implemented (62.6%).
- The implemented amounts for legal aid in 2017 are higher than the approved amounts. In 2014, over expenditure took place mainly due to the adoption of an administrative instruction in 2014 on the increase of fees for *ex officio* appointed lawyers, and due to a specific donation to AFLA by the UNDP. In 2017, on the request of the KJC, the Ministry approved a specific amount (€ 119,523) to cover the expenses for lawyers in Gjilan/Gnjilane and Ferizaj/Uroševac.
- The implemented amount for legal aid has increased from € 1,076,321 in 2014 to € 1,749,628 in 2017.

Implemented budget for legal aid by category



- Between 2014 and 2017 there has been an increase of the legal aid implemented budget in all sub-categories: criminal and other than criminal cases addressed by the court and cases not brought before the court. The most significant increase is noticed in criminal cases brought before the court (+ 73.8%) and addressed outside courts (+ 71.3%).
- Nevertheless, during the communication of data and in exchanges with the KPC, KJC and FLA it was highlighted that the respective amounts also cover unpaid expenses for lawyers during previous years. Consequently, the budget increase doesn't necessarily reflect an increase of the number of *ex officio* lawyers or cases that have benefited from legal aid during the assessment year (2017). This is a key aspect in the accurate planning of the annual legal aid budget.

2.6 Relevant recommendations and priority level

Recommendation 3 - Group A (Primary importance, short term)

To analyse existing challenges to the effective implementation of the 2015 laws on the KJC and KPC which reinforce their budgetary independence. This analysis should include possible means to overcome these challenges and should lead to the implementation of concrete measures in this respect which include an evaluation of the results.

This recommendation remains valid in relation to the situation in 2017. Of particular importance, during the exchanges with the representatives of key organizations, it was emphasized that, according to the law on public financial management, the KJC should only be sending their annual budget request to the Budget and Finances Committee of the Kosovo Assembly. However, in reality, both in 2017 and 2018, the KJC budget request was sent to the Ministry of Finance as well as the Budget and Finances Committee of the Kosovo Assembly. This recommendation can be accomplished in the short term.

Recommendation 5 - Group A (Primary importance, short term)

To collect and report accurate data on approved and implemented budget for legal aid, including by implementing a more specific itemization of the budgetary lines concerned.

This recommendation remains valid in 2017, because it is still not possible to determine the exact amounts spent on legal aid, using the legal aid data reported by the KJC and the KPC. This is because the relevant budgetary line - 'services' - covers not only the payment of lawyers (i.e. the legal aid budget), but also the fees for experts and lay judges. It would be useful to have a separate budgetary line that is exclusively for legal aid, and separate from other budgetary lines for experts and lay judges, so that the resources allocated and implemented each year can be clearly identified.

It was also emphasized that the amounts reported may be an overestimate of real amounts, because some of the money spent on the payment of lawyers in 2017 may be for services provided in previous years and unpaid due to past budget insufficiencies. This factor is closely connected to Recommendation 3, the implementation of which would enable more effective planning of the necessary resources each year.

3. PROFESSIONALS

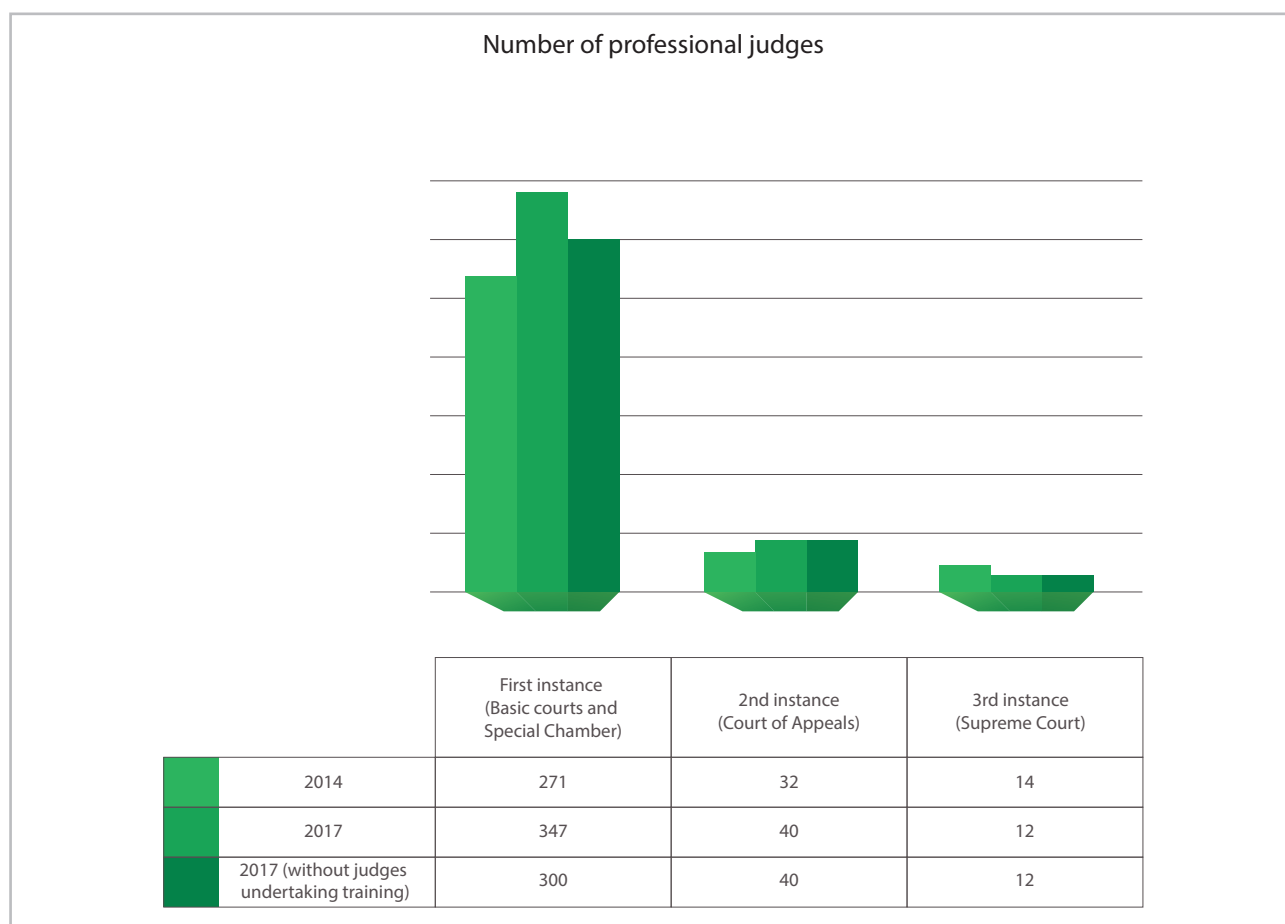
3.1. Professional judges

Absolute number

	Total			1st instance			2nd instance			3rd instance		
	Total	Male	Female	Total	Male	Female	Total	Male	Female	Total	Male	Female
Kosovo* (2014)	317	227	90	271	196	75	32	22	10	14	9	5
Kosovo* (2017)	399	286	127	347	234	113	40	30	10	12	8	4
Difference (%)	25,9%	26,0%	41,1%	28,0%	19,4%	50,7%	25,0%	36,4%	0,0%	-14,3%	-11,1%	-20,0%

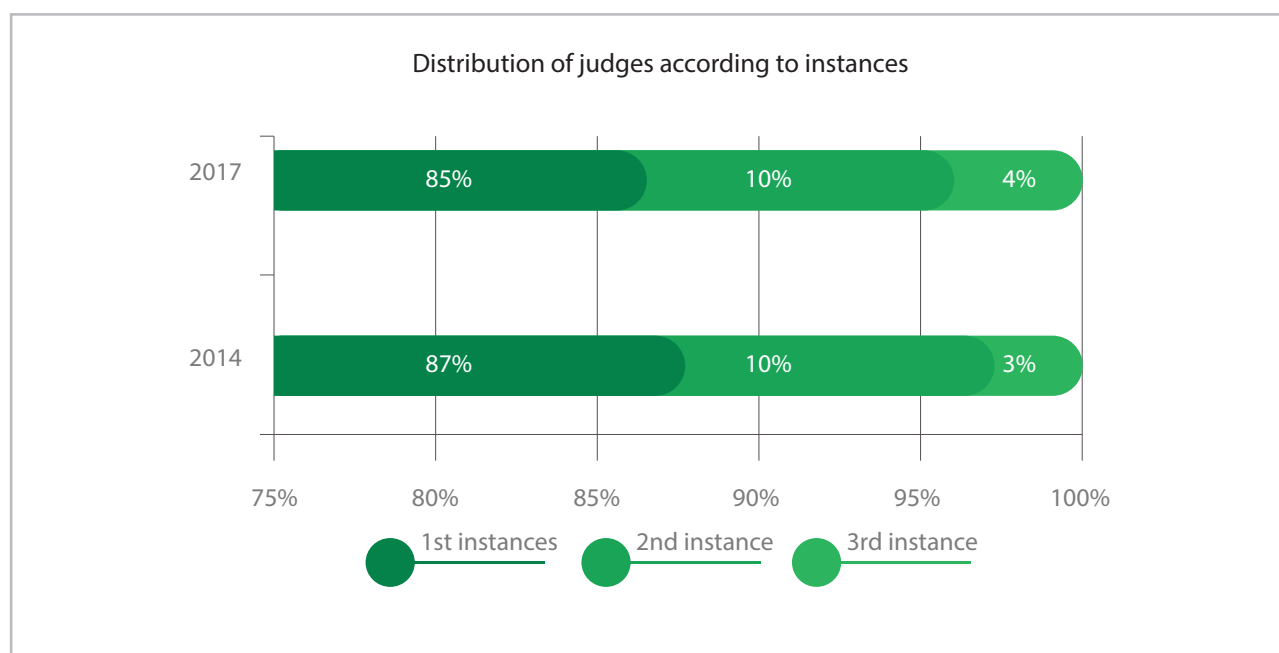
per 100,000 inhabitants

	Total			1st instance			2nd instance			3rd instance		
	Total	Male	Female	Total	Male	Female	Total	Male	Female	Total	Male	Female
Kosovo* (2014)	17,1	12,3	4,9	14,6	10,6	4,0	1,7	1,2	0,5	0,8	0,5	0,3
Kosovo* (2017)	22,2	15,9	7,1	19,3	13,0	6,3	2,2	1,7	0,6	0,7	0,4	0,2
Difference (%)	29,6%	29,8%	45,3%	31,9%	23,0%	55,2%	28,7%	40,4%	3,0%	-11,7%	-8,5%	-17,6%

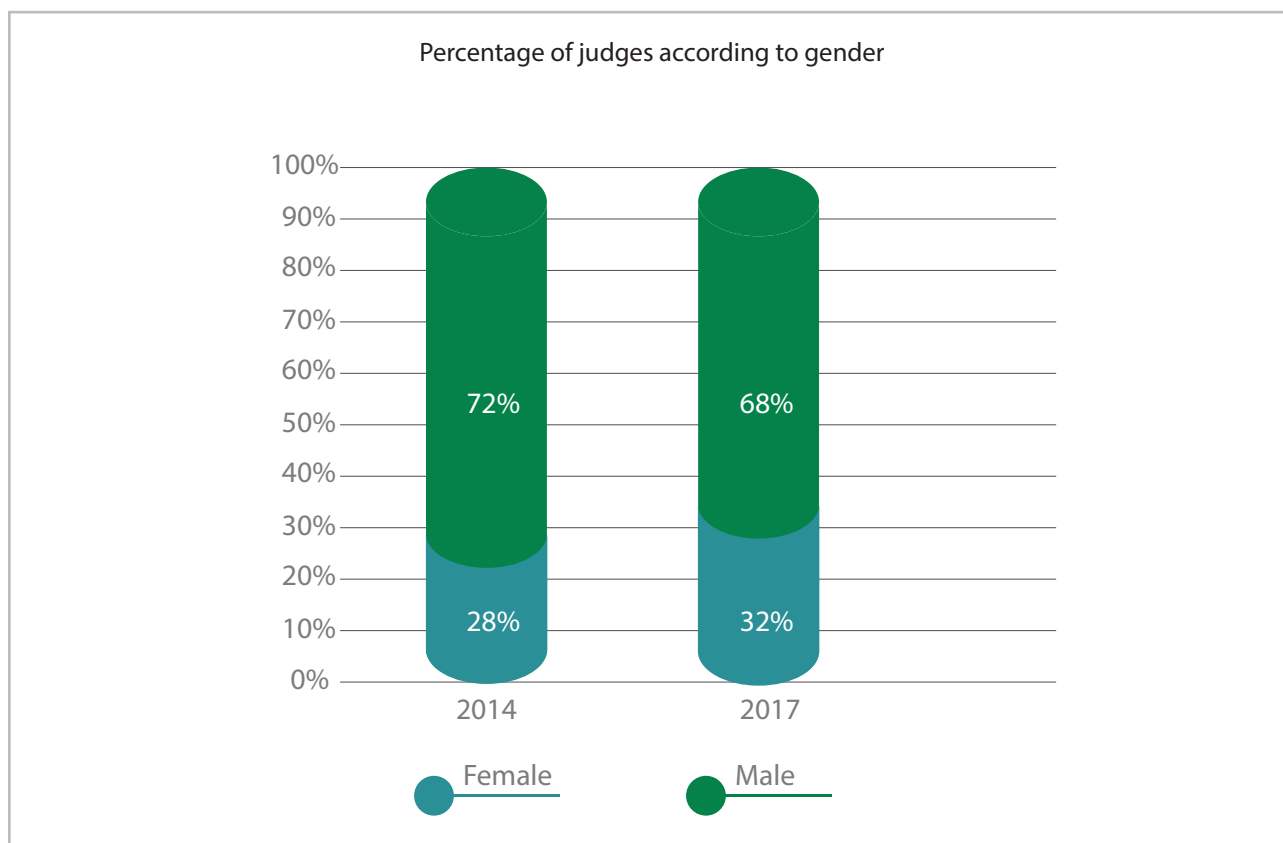


- The total number of professional judges increased by 25.9% from 2014 to 2017. In 2014, the courts in Kosovo employed 17.1 judges per 100 000 inhabitants, whereas in 2017 the courts employed 22 judges per 100 000 inhabitants.

- The numbers reported in 2014 and 2017 do not refer to the full time equivalent (FTE) number (according to the CEPEJ methodology) but to the absolute number of judges with permanent positions, whether employed full time or part time. Furthermore, the reported absolute numbers do not reflect only those judges that are actively handling cases and thus represent higher values than the real ones, which affects the analysis of the courts' performance (but not the budget means analysis).
- In 2014 and 2017 the KJC could not report the FTE numbers, because information on which judges are on maternity leave or have been hired on part time contracts, is collected at the court level and not by the KJC. It was also reported that during 2017, 47 of 399 employed judges attended a mandatory training course (for first instance judges) of the Kosovo Justice Academy, so they did not receive or follow any cases. 15 out of the 47 judges in training were female.



- In 2017, the absolute number of professional judges increased in the courts of first instance and the Court of Appeals, but in the Supreme Court the number decreased. However, as a percentage of the total number of judges in each instance, only the Supreme Court shows an increase. The percentage of judges at the Court of Appeals as part of the total number of judges has not changed (10%), whereas at the first instance the percentage has dropped (from 87% in 2014 to 85% in 2017). These values (including the information of the first instance judges in training) should be analyzed together with the data on the evolution of efficiency indicators in their respective instances.



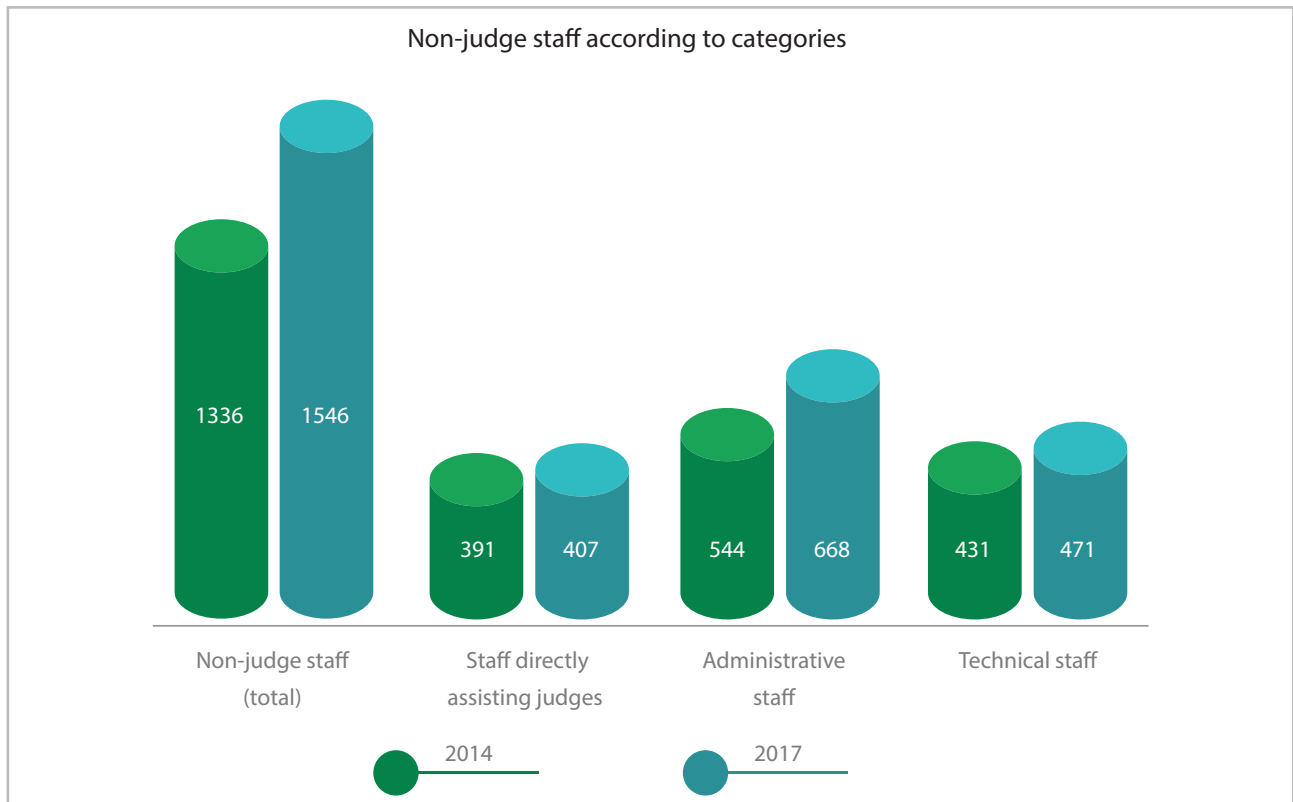
- In 2017 the percentage of female judges (32%) is higher than in 2014 (28%). However, in 2017, out of the 82 judges employed in 2014, only 37 were women.

	Total		
	Total	Male	Female
Kosovo* (2014)	10	8	2
Kosovo* (2017)	10	9	1
Difference (%)	0,0%	12,5%	-50,0%

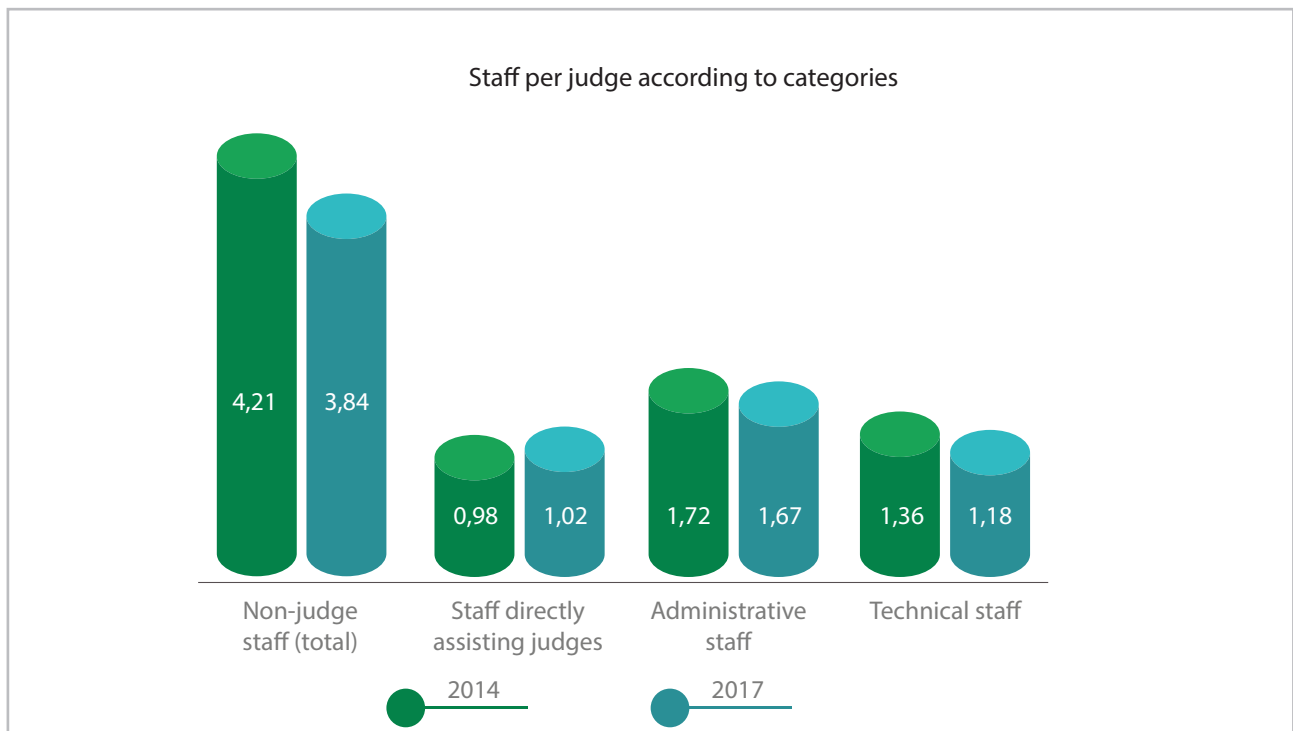
Number of court presidents

- In 2014 the percentage of female judges and court presidents in Kosovo was the lowest among the member countries of the Council of Europe included in the 2014 Assessment (28% female judges). In 2017 the percentage of female judges as part of the total number of employed judges has increased in comparison to 2014, whereas the number of female court presidents has decreased. Both in 2014 and in 2017 the presidents of the Court of Appeals and the Supreme Court were male.

3.2. Non-judge staff

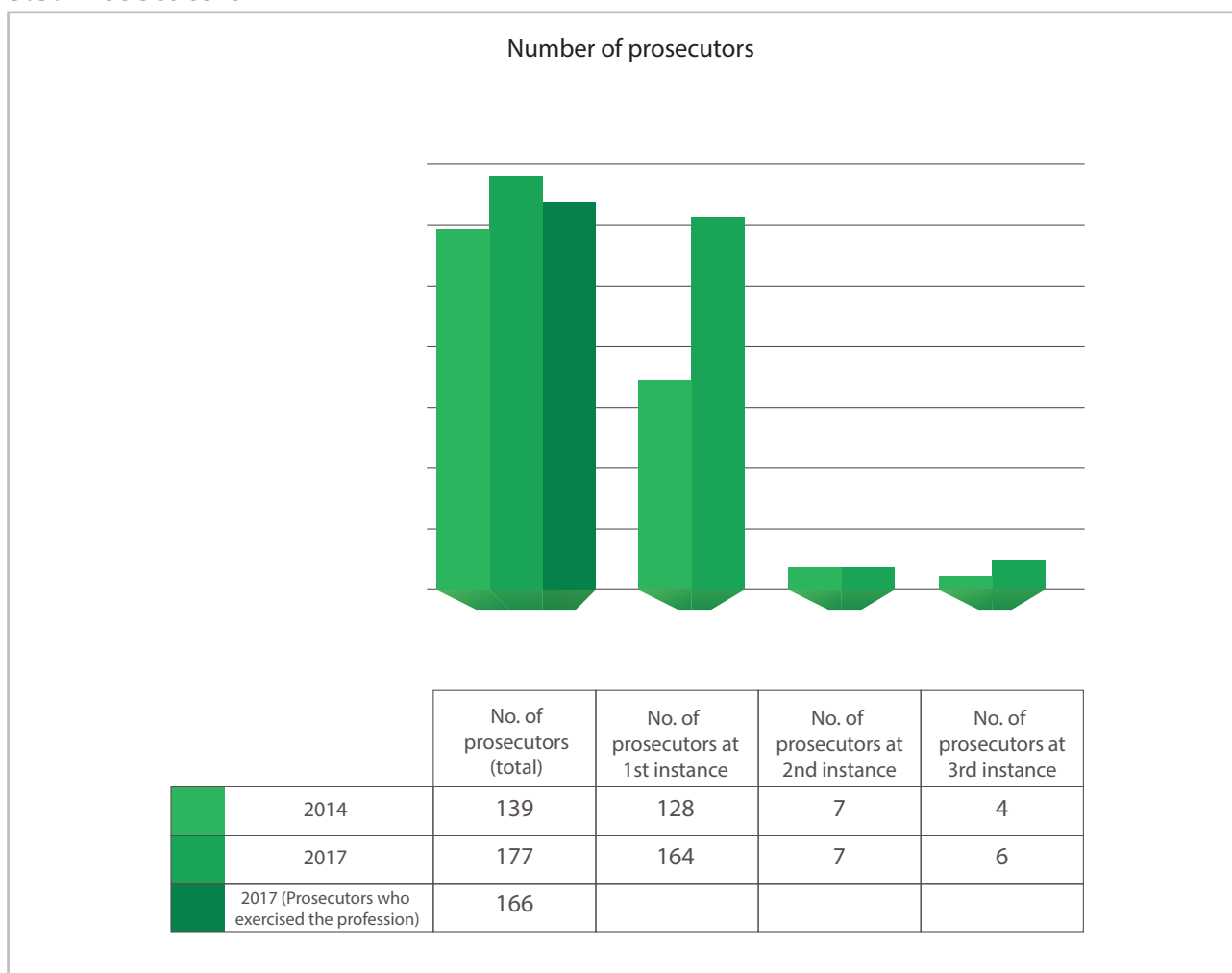


- The number of non-judge staff has increased between the two assessments. In 2017, the Kosovo courts employed 210 persons more than in 2014.
- Between 2014 and 2017, the number of judges has increased from 391 to 407 (16 persons); the number of administrative personnel from 544 to 668 (124 persons); and the technical staff number from 431 to 471 (40 persons).



- The increase of the absolute number of the non-judge staff is not directly reflected in an increase of the assistance available to judges in courts. In fact, the number of staff per judge in 2017 (3.87) was lower than in 2014 (4.21).
- From the non-judge staff category, assistants who provide direct judicial support to judges have a direct impact on the performance of courts. As mentioned above, out of the total additional employed staff (210) in 2017, in comparison to 2014, only 16 persons were judicial assistants; the number of assistants per judge has not had any significant change between the two assessments (0.98 in 2014 and 1.02 in 2017).

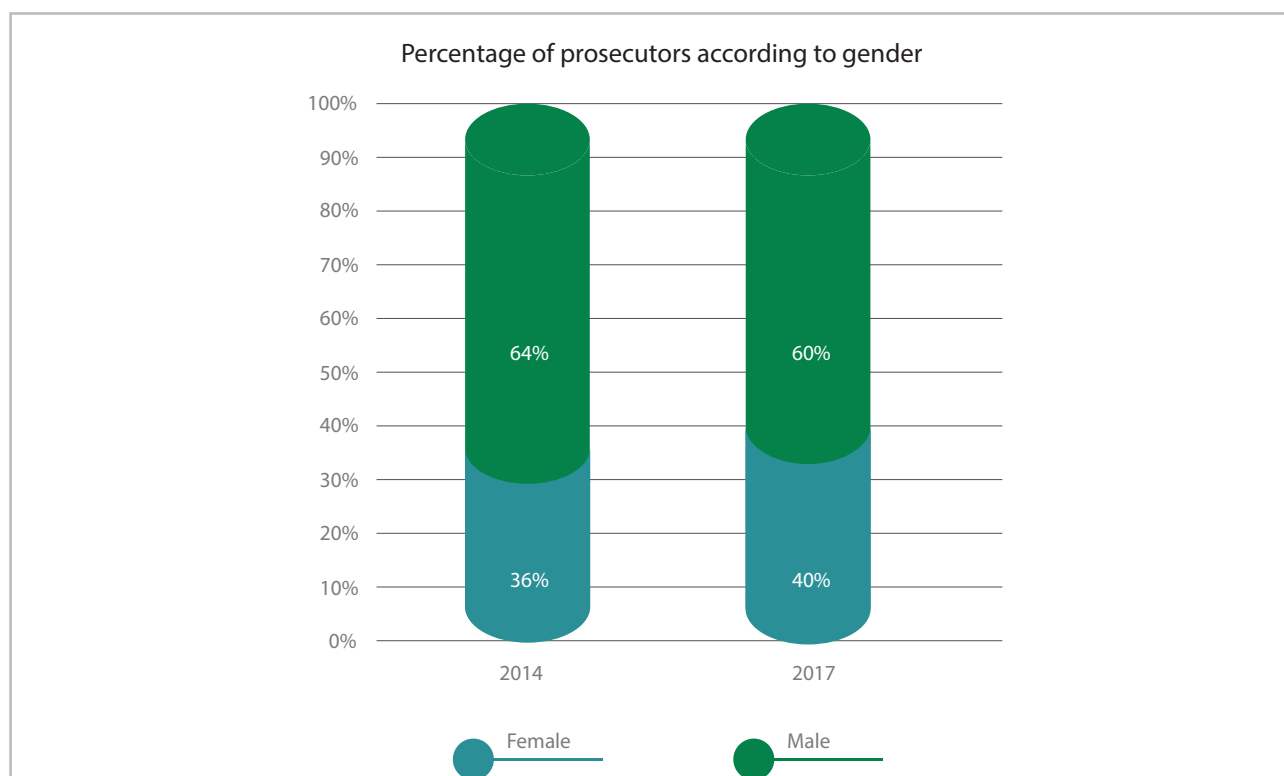
3.3. Prosecutors



- The total number of prosecutors increased from 139 in 2014 to 177 in 2017 (25.9%). In 2014, 7.5 prosecutors were employed per 100 000 inhabitants, whereas in 2017 there were 9.8 prosecutors per 100 000 inhabitants.
- The number of prosecutors at the first and third instance levels has increased, whereas the number of prosecutors at the second instance level (Court of Appeals) has not changed.
- In 2017, at the third instance court (Supreme Court) 2 more prosecutors were hired than in 2014. This lies in contrast to the trend in the number of judges. In the Supreme Court, 2 judges less were hired than in 2014.
- The numbers reported in 2014 and 2017 do not refer to the FTE number (according to the CEPEJ methodology), but to the absolute number of prosecutors with permanent positions. In relation to the situation in 2017, the KPC reported that the number of prosecutors at the end of the year (177) is a result of the recruitment and appointment of 25 new prosecutors during 2016 and 13 new

prosecutors from the Serbian community, in accordance with the Brussels Agreement for Justice. Moreover, during 2017 the KPC has opened a competition for the recruitment of new prosecutors and 21 new prosecutors have been recruited, and they were admitted to practice in 2018.

- The KPC reported that of the total number of prosecutors (177), 11 prosecutors have not exercised their profession during 2017 for various reasons, as follows: 3 of them were studying abroad; 3 were on maternity leave; 2 were suspended; the National Coordinator for Combating Economic Crimes was a prosecutor, but during the time as coordinator he didn't handle any cases; the Chairman of the KPC suspends his position as a state prosecutor and does not handle any cases while being the Chairman; the President of the Committee for Assessing the Performance of Prosecutors was engaged with permanent duties within this committee with a decision of the KPC and didn't handle any cases.



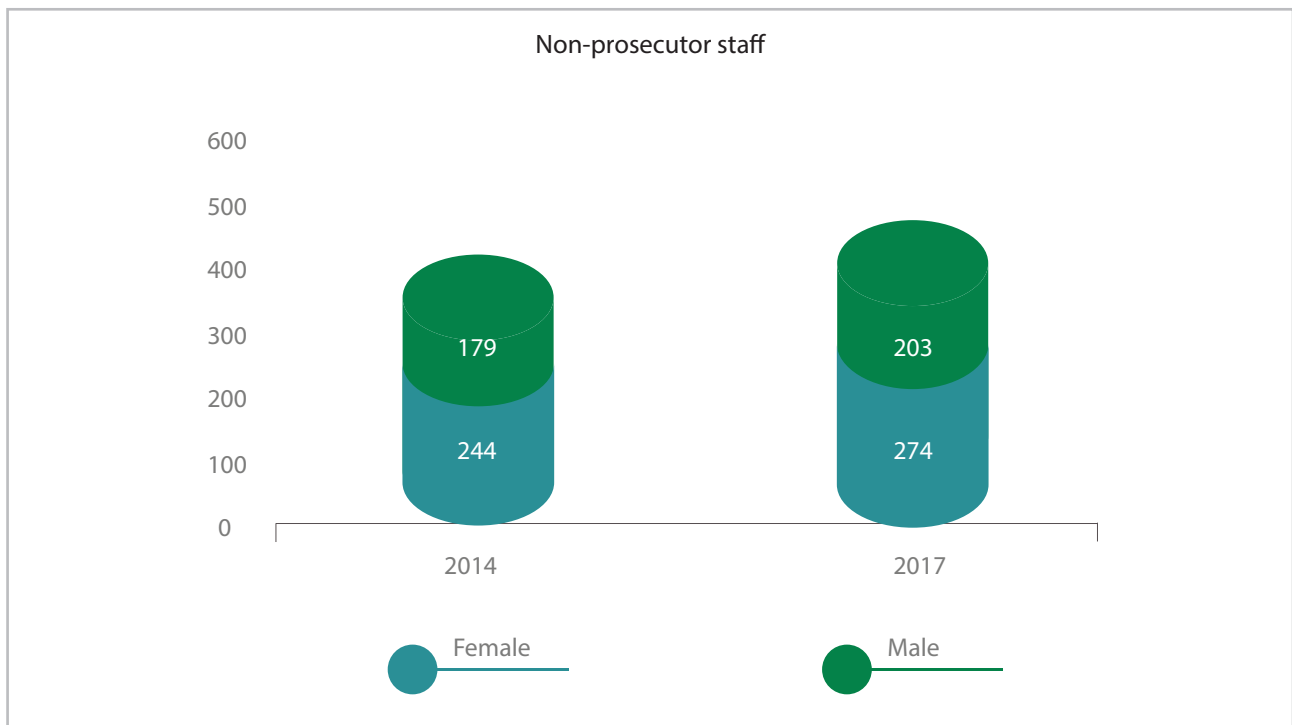
- Consequently, the absolute reported number (177) does not reflect the number of prosecutors that have effectively exercised their profession. The reported figures are higher than the real ones and they impact the analysis of the prosecutors' performance.
- In 2017 the percentage of female prosecutors (40%) was higher than in 2014 (36%). In addition, out of the 38 additional prosecutors employed in 2017, most (21) were women.

Number of heads of prosecution offices

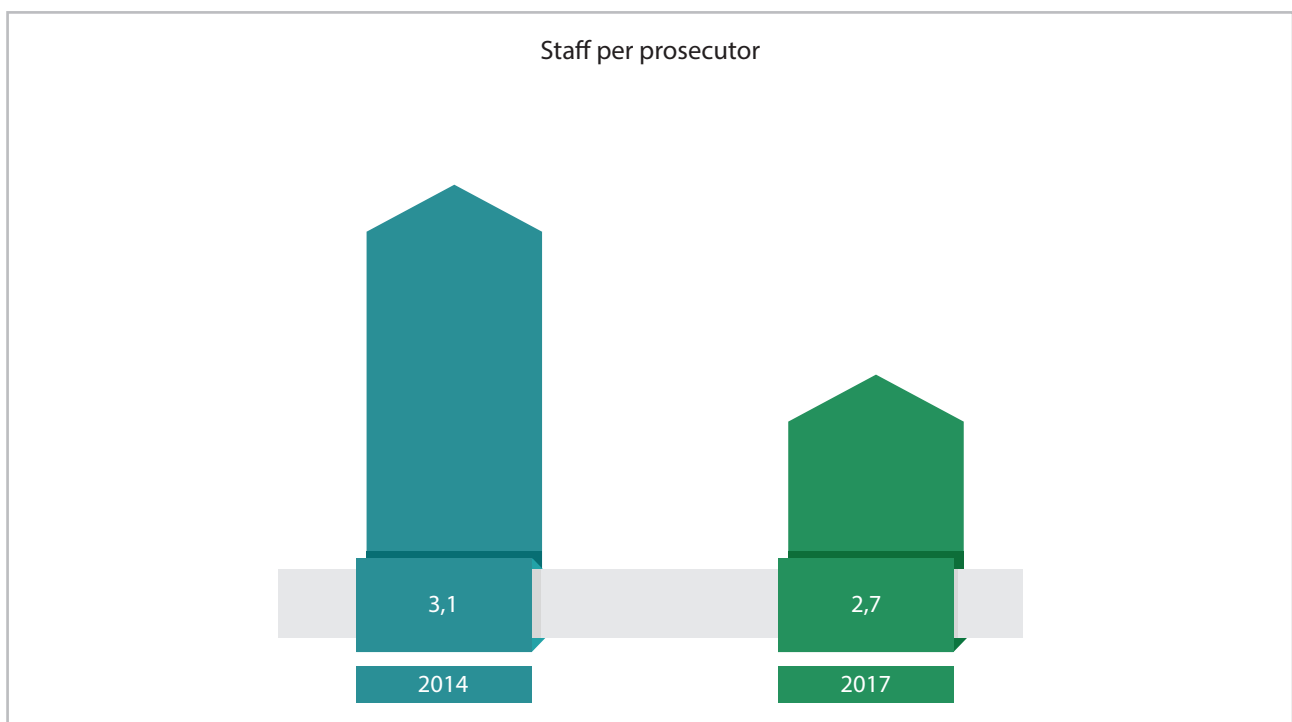
	Total		
	Total	Male	Female
Kosovo* (2014)	10	8	2
Kosovo* (2017)	10	10	0
Difference (%)	0,0%	25,0%	-100,0%

- While the percentage of female representation in the category of prosecutors has improved in comparison to 2014, as stated above, 100% of the positions as head prosecutors were covered by men in 2017.

3.4. Non-prosecutor staff



- The staff number of the public prosecution has increased from 423 in 2014 to 477 in 2017. In 2017, the public prosecution service in Kosovo hired 54 persons more than in 2014, out of which 24 were male and 30 female.



- As with the foregoing analysis on the non-judge staff, the increase in the absolute number of staff in the prosecution service is not reflected directly in an increase in the assistance provided to public prosecutors. In fact, the number of staff per prosecutor (2.7) was lower than in 2014 (3.1).
- These data are important for the analysis of the efficiency of the public prosecution service in general.

3.5. Lawyers



- In 2017, the absolute number of lawyers as well as the number per 100 000 inhabitants has increased compared to 2014.

3.6. Relevant recommendations and priority level

Recommendation 7 - Group A (Primary importance, short term)

To conduct further research to assess the resources needed (number of professional judges) in the various courts in light of the caseload, and to optimize the division of the resources between the Basic Courts and the Court of Appeals.

This recommendation continues to be relevant. In 2017, an increase in the number of judges in the basic courts and the Court of Appeals was noticed, whereas the number of Judges in the Supreme Court was reduced. However, as a percentage of the total number of judges, there was an increase only in the courts of first instance; in the courts of second instance the percentage has not changed; and in the third instance the percentage has fallen. Moreover, the reported figures continue to be nominal values (namely number of positions), and not the corresponding FTE figures (according to the CEPEJ methodology), since the information on maternity leave and part time employment is collected at the courts' level and not by the KJC.

Planning of necessary resources (number of professional judges) in various courts requires as a precondition, the collection of specific data that will enable the calculation of the FTE figure of the judges employed at each instance. An accurate assessment of the human resources needed also requires collecting information on, among other matters, the scope of the judge's missions, the caseload of judges in each department and in each court, the number of cases older than two years etc.

Recommendation 9, 12 - Group B (Primary importance, short term)

Recommendation 9: To introduce policies and adopt measures aimed at increasing representation of women among judges and among court presidents.

Recommendation 12: To introduce policies and adopt measures aimed at increasing representation of women among prosecutors and heads of prosecution.

We found that in 2014 the percentage of female judges and court presidents in Kosovo was the lowest among the member states of the Council of Europe included in the 2014 Assessment (28% female judges; 36% female prosecutors). In 2017, the number of female judges has increased (from 28% to 32%) but the number of female court presidents has decreased. In addition, the percentage of female representation in the category of prosecutors has improved in comparison to 2014, but 100% of the positions as head prosecutors were held by men in 2017.

The increase in the percentage of female judges and prosecutors in 2017 is a positive trend, but it is not clear if this is a result of any specific measures taken to address the situation. It is important that the KJC, KPC and other relevant institutions investigate the reasons for the low representation of females among the professional judicial and prosecution staff, at various levels, and adopt appropriate measures to address the situation.

Recommendation 8 - Group C (Secondary importance, short term)

To conduct further research on whether the costs of non-judge staff should be reduced, develop recommendations on how to proceed (e.g. by outsourcing services) and envisage ways to increase the number of staff directly assisting the judges (e.g. by filling in vacant positions, temporarily recruiting trainees, etc.).

We found that there was a high number of administrative and technical staff per judge in Kosovo in 2014, but a low number of staff directly assisting judges. In 2017 the courts in Kosovo hired 210 more persons than in 2014, out of which only 16 persons were judicial assistants. Still, the number of non-judge staff per judge was lower in 2017.

It should be emphasized that this data has been impacted by the fact that calculations have been done based on nominal values instead of FTE values, for judges and non-judge staff. **As a priority, specific information has to be collected to calculate the FTE figures for both categories.**

Recommendation 11 - Group C (Secondary importance, short term)

To conduct further research on whether the costs of non-prosecutor staff should be reduced, to develop recommendations on how to proceed (e.g. by outsourcing services) and to envisage ways to increase the number of staff directly assisting the prosecutors (e.g. by filling in vacant positions, temporarily recruiting trainees, etc.).

We found that, in 2014, Kosovo had a high number of non-prosecutor staff attached to the public prosecution service, compared to some of the other Council of Europe member States. In 2017, the public prosecution service in Kosovo hired 54 persons more than in 2014, but still the number of staff per prosecutor was lower than in 2014.

As above, it should be emphasized that these figures have been impacted by the fact that calculations have been done based on nominal values instead of FTE values, for prosecutors and non-prosecutor staff. **As a priority, specific information has to be collected to calculate the FTE figures for both categories.**

4. EFFICIENCY OF THE ACTIVITY OF COURTS

The CEPEJ employs two key performance indicators to assess court efficiency⁵.

The first indicator, the Clearance Rate, measures how effectively courts within a State or entity are keeping up with the incoming caseload. The second indicator, the calculated Disposition Time, measures the estimated number of days that are needed to bring a case to an end.

4.1. Civil and commercial litigious cases: caseload and performance indicators

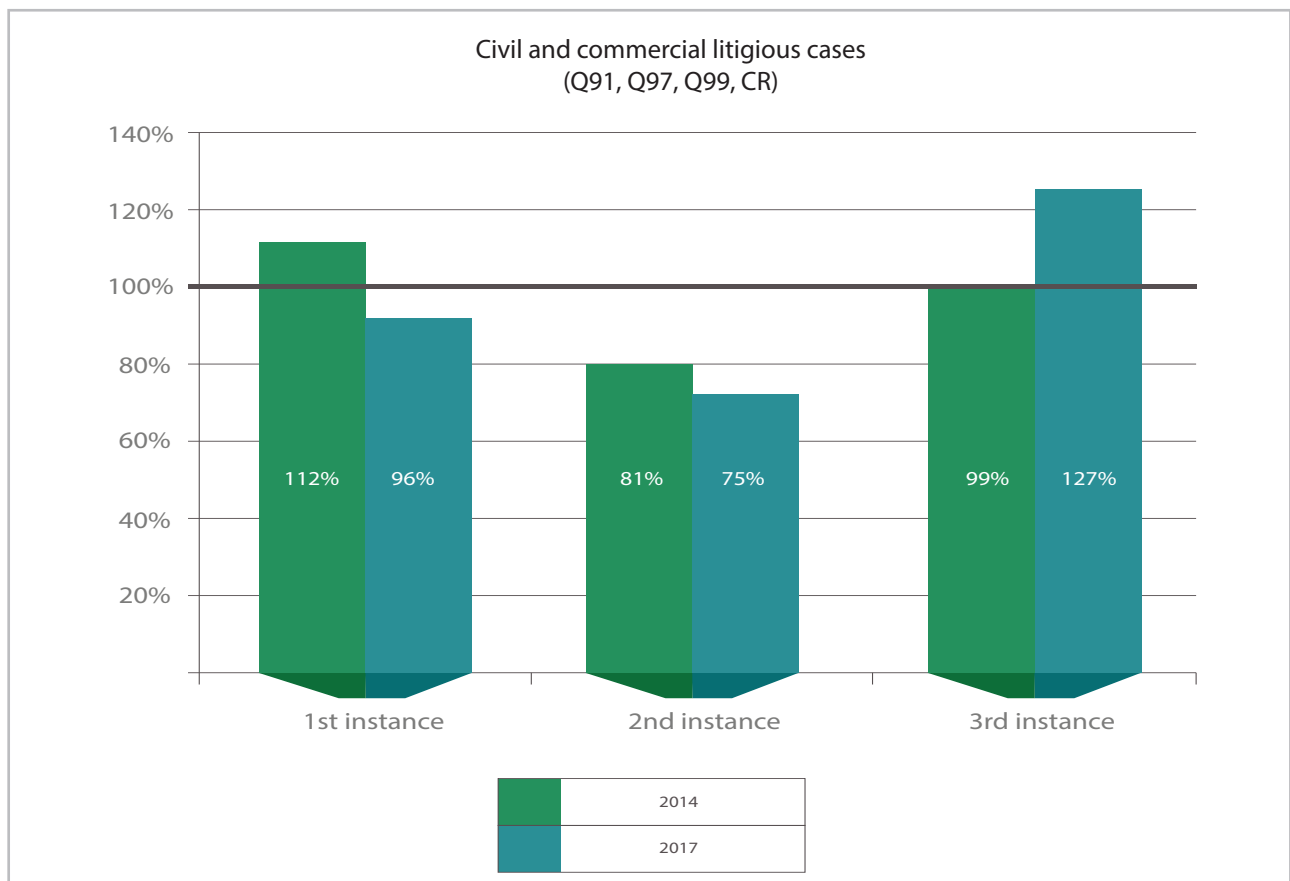
Q91, Q97, Q99: Civil and commercial litigious cases (absolute no.)

	1st instance					
	<i>Pending at the beginning (1.1.XXXX)</i>	<i>Incoming</i>	<i>Resolved</i>	<i>Pending at the end (31.12.XXXX)</i>	<i>CR (%)</i>	<i>DT (days)</i>
Kosovo* (2014)	45 997	16 731	18 656	44 072	111,5%	862
Kosovo* (2017)	41 710	18 381	17 600	42 491	95,8%	881
Difference (%)	-9,3%	9,9%	-5,7%	-3,6%	-14,1%	2,2%

	2nd instance					
	<i>Pending at the beginning (1.1.XXXX)</i>	<i>Incoming</i>	<i>Resolved</i>	<i>Pending at the end (31.12.XXXX)</i>	<i>CR (%)</i>	<i>DT (days)</i>
Kosovo* (2014)	5 986	5 215	4 219	6 982	80,9%	604
Kosovo* (2017)	10 109	6 205	4 649	11 665	74,9%	916
Difference (%)	68,9%	19,0%	10,2%	67,1%	-7,4%	51,6%

	3rd instance					
	<i>Pending at the beginning (1.1.XXXX)</i>	<i>Incoming</i>	<i>Resolved</i>	<i>Pending at the end (31.12.XXXX)</i>	<i>CR (%)</i>	<i>DT (days)</i>
Kosovo* (2014)	91	498	495	94	99,4%	69
Kosovo* (2017)	135	336	427	44	127,1%	117
Difference (%)	48,4%	-32,5%	-13,7%	-53,2%	27,9%	68,5%

⁵ The GOJUST Guidelines invite the Council of Europe member states to organise their data collection system so as to be able to provide the relevant information for calculating such indicators. CEPEJ(2008)11.

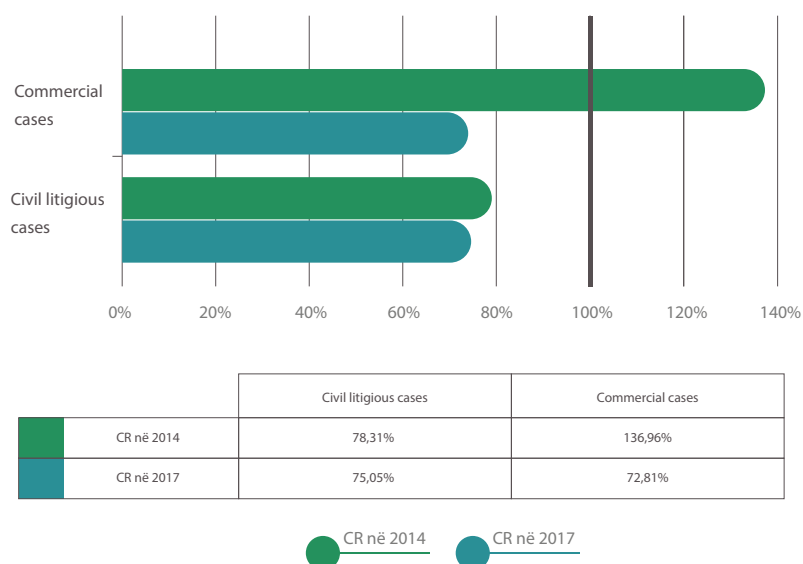


- In 2017, there was a reduction in the clearance rate for civil and commercial litigious cases at the first instance (basic courts and Special Chamber) and at the Court of Appeals. At the third instance, the clearance rate has improved and the number of pending cases at the end of the year was reduced (3.6%).
- At the first instance, the civil and commercial clearance rate for litigious cases was positive in 2014, whereas in 2017 the courts didn't manage to resolve a number of cases equal to or larger than the number of incoming cases (clearance rate lower than 100%). On one side, the incoming cases were increased by 9.9% compared to 2014 and on the other side in 2017 the courts solved a lower number of cases (17,600) in comparison to 2014 (18,656). By the end of 2017, the number of pending cases had increased by 2% (or 781 pending cases more).
- At the second instance, the civil and commercial clearance rate for litigious cases was already especially low (81%) in 2014, thus showing the inability of the Court of Appeals to handle the incoming civil and commercial cases, even though this number was small (0.28 cases per 100 inhabitants). In 2017, the clearance rate dropped even more (75%) evidencing a critical situation at the Court of Appeals. The Court of Appeals resolved 10.2% more cases than in 2014, but this was not enough to face an increase of 19% in incoming cases. By the end of 2017, the number of pending cases had increased by 15%.

Clearance rate at the 1st instance (disaggregated)

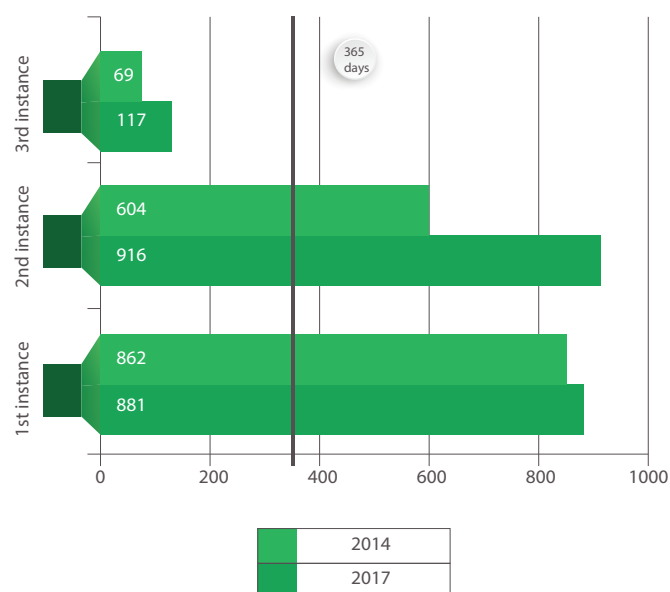


Clearance rate at the 2nd instance (disaggregated)



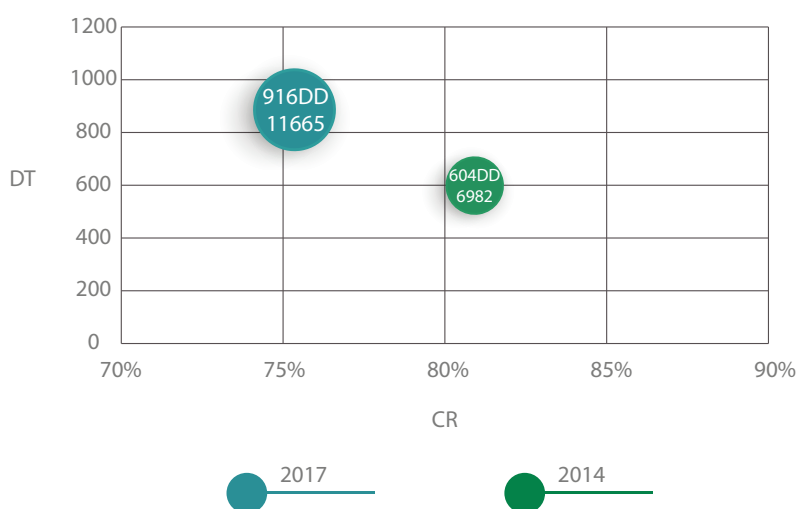
- The disaggregated analyses of the clearance rate in this category (litigious civil and commercial cases) shows that in 2017, at the first instance, the court had difficulties handling the number of incoming cases, only in relation to the litigious civil cases. At the second instance, the clearance rate at the Court of Appeals was negative for both civil and commercial cases, and lower than in 2014.

Civil and commercial litigious cases (Q91, Q97, Q99, DT)



- As stated above, in the analysis of the clearance rate, in relation to the time needed to clear the litigious civil and commercial cases, the situation is problematic at the first instance (basic courts and Special Chamber) and at the Court of Appeals. At the Court of Appeals, in 2017, the DT (916 days) increased by 51.6% in comparison to 2014 (604 days).

Civil and commercial litigious cases - 2nd instance



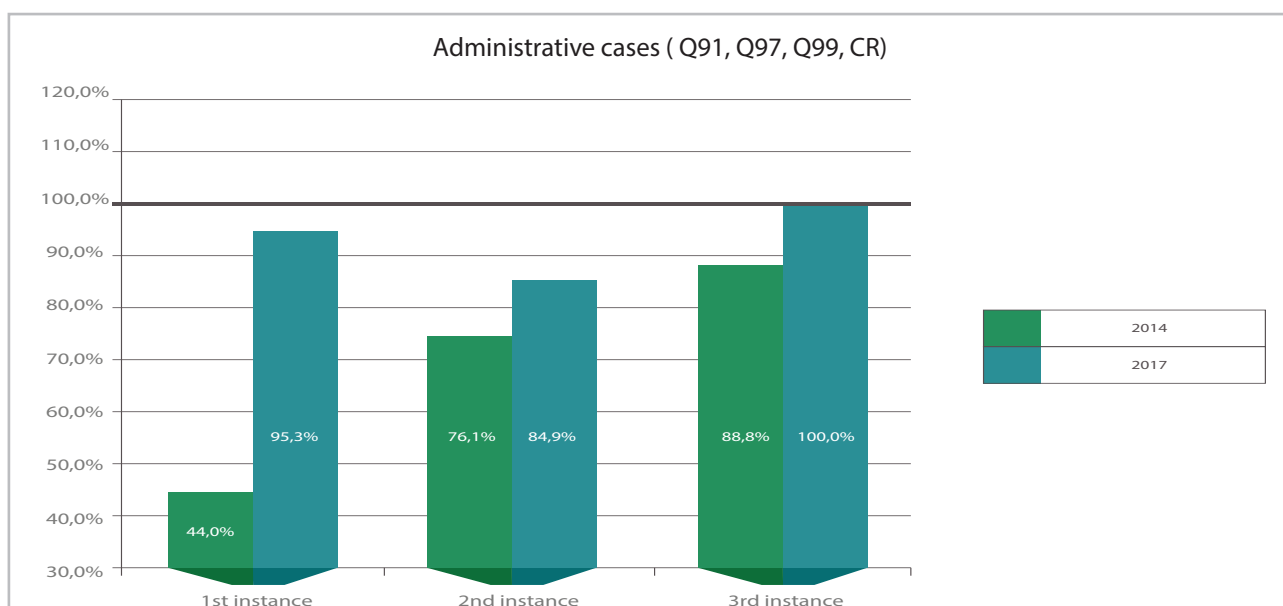
4.2. Administrative cases: caseload and performance indicators

Q91, Q97, Q99: Administrative cases (absolute no.)

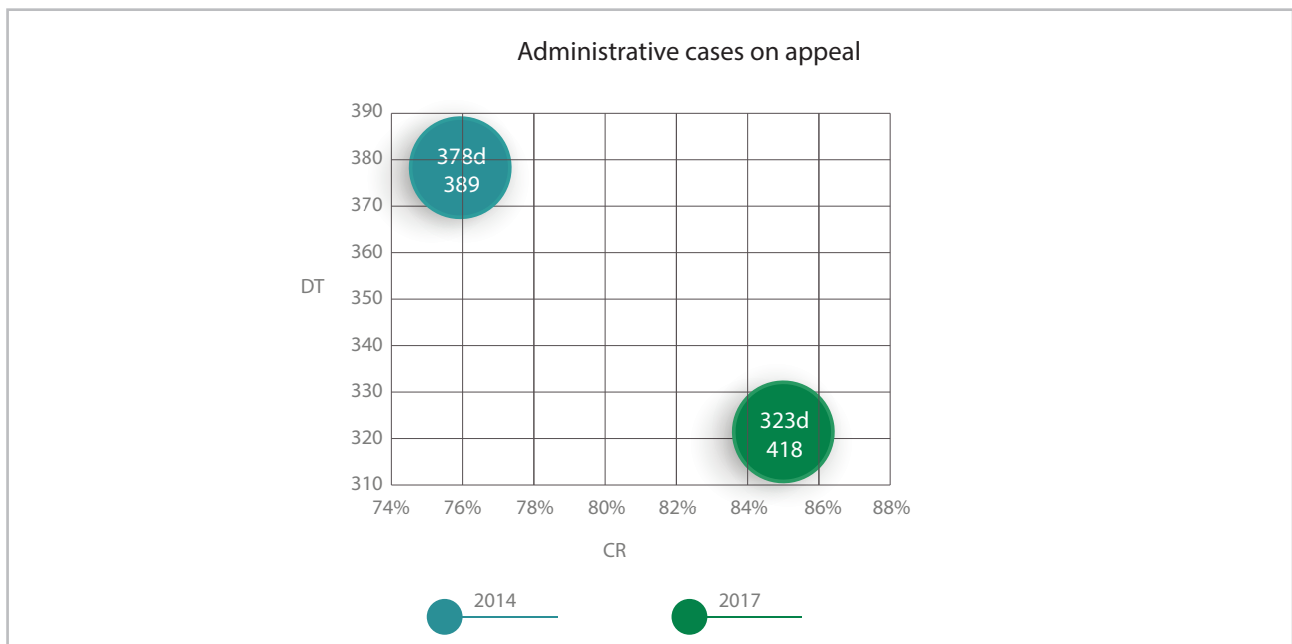
	1st instance					
	<i>Pending at the beginning (1.1.XXXX)</i>	<i>Incoming</i>	<i>Resolved</i>	<i>Pending at the end (31.12.XXXX)</i>	<i>CR (%)</i>	<i>DT (days)</i>
Kosovo* (2014)	2 601	2 568	1 130	4 039	44,0%	1 305
Kosovo* (2017)	5 192	2 380	2 268	5 304	95,3%	854
Difference (%)	99,6%	-7,3%	100,7%	31,3%	116,6%	-34,6%

	2nd instance					
	<i>Pending at the beginning (1.1.XXXX)</i>	<i>Incoming</i>	<i>Resolved</i>	<i>Pending at the end (31.12.XXXX)</i>	<i>CR (%)</i>	<i>DT (days)</i>
Kosovo* (2014)	271	494	376	389	76,1%	378
Kosovo* (2017)	334	556	472	418	84,9%	323
Difference (%)	23,2%	12,6%	25,5%	7,5%	11,5%	-14,4%

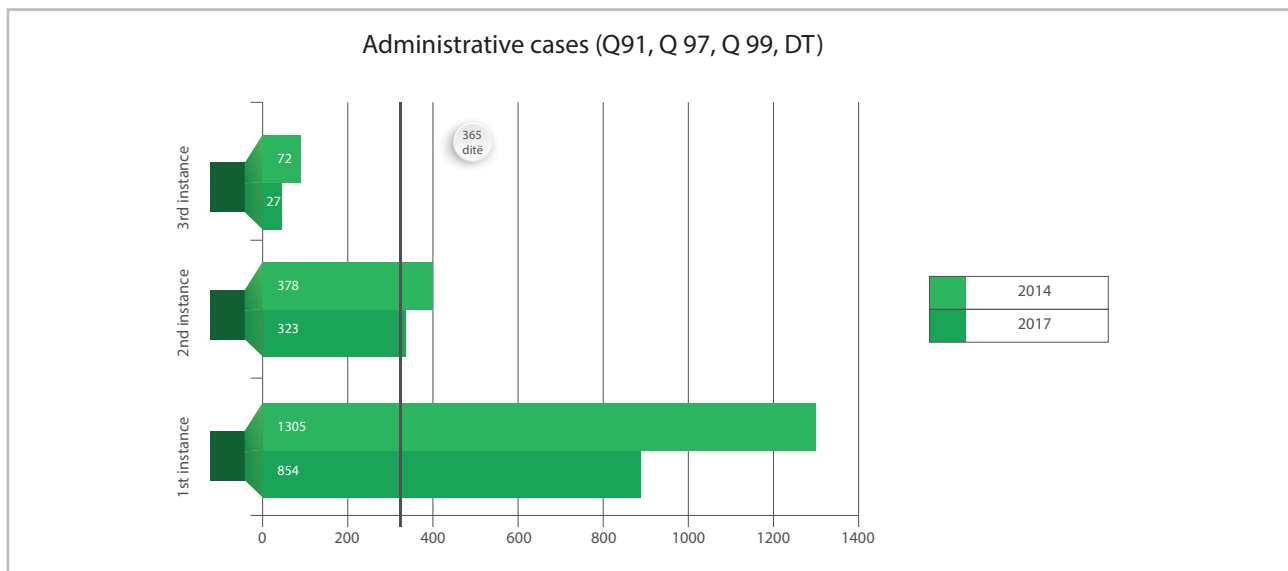
	3rd instance					
	<i>Pending at the beginning (1.1.XXXX)</i>	<i>Incoming</i>	<i>Resolved</i>	<i>Pending at the end (31.12.XXXX)</i>	<i>CR (%)</i>	<i>DT (days)</i>
Kosovo* (2014)	5	80	71	14	88,8%	72
Kosovo* (2017)	10	137	137	10	100,0%	27
Difference (%)	100,0%	71,3%	93,0%	-28,6%	12,7%	-63,0%



- In 2017, there were improvements in the administrative clearance rate at every instance. Even so, the clearance rate continues to be negative at the first instance (basic courts and Special Chamber) and at the Court of Appeals. At the third instance, in 2017, the courts managed to handle the number of incoming cases (CR 100). Consequently, the number of pending cases at the end of the year had not changed (10 cases).
- At first instance, the clearance rate in this case category had a considerable increase - 116.6% compared to 2014. Still, the courts didn't manage to resolve a number of cases equal to or larger than the incoming cases, although the number of incoming cases had fallen by 7.3% compared with 2014, and the number of resolved administrative cases in 2017 (2,268) was two times higher than in 2014 (1,130). At the end of 2017, the number of pending cases increased by 31.3% (or 1.265 pending cases more).



- At second instance, the clearance rate for administrative cases is the lowest of all case categories - 76.1% in 2014 and 84.9% in 2017. The low clearance rate shows once more the inability of the Court of Appeals to handle the number of cases, although this number was low (0.03 cases per 100 inhabitants incoming in 2014 and 2017). The Court of Appeals resolved 25.5% more cases than in 2014, but this was not enough to face an increase of 12.6% in incoming cases. By the end of 2017, the number of pending cases had increased by 7.5%.



- Due to the overall increase in the clearance rate, the time required to clear administrative cases has improved for each instance. However, the situation continues to remain critical at the first instance where the required time in 2017 was over two years and four months (854 days), and the number of old administrative cases increased by 31.3% in comparison to 2014.

4.3. Criminal cases: caseload and performance indicators

Q94, Q98, Q100: Criminal cases in total (absolute number)

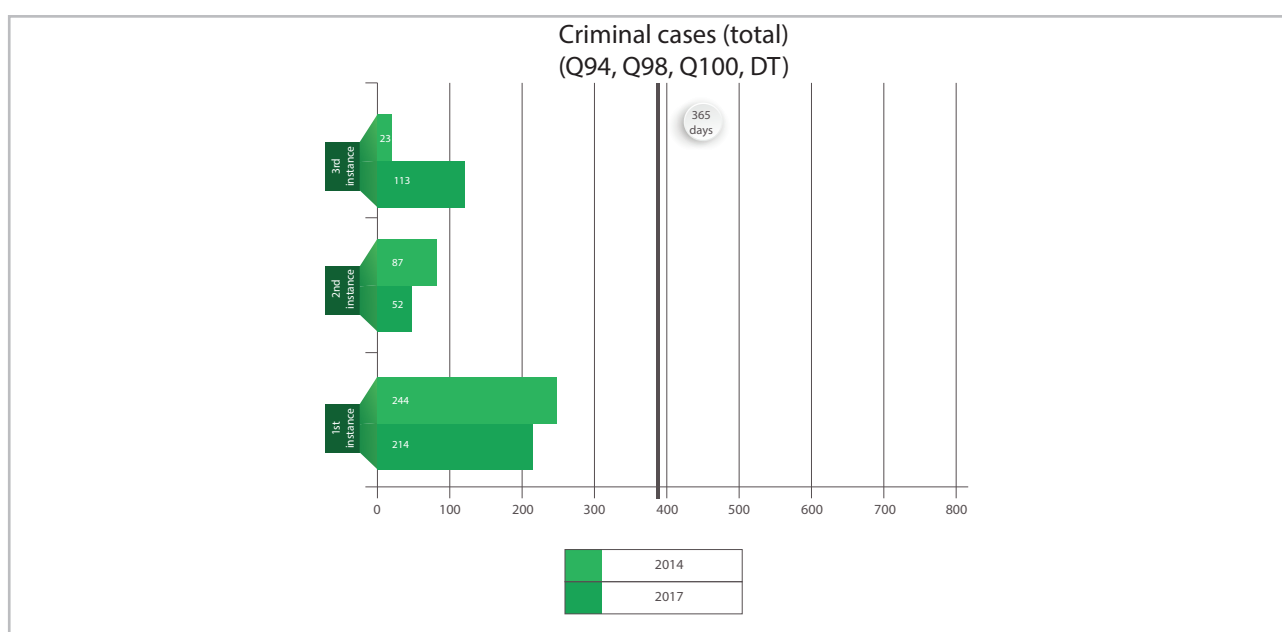
	1st instance					
	<i>Pending at the beginning (1.1.XXXX)</i>	<i>Incoming</i>	<i>Resolved</i>	<i>Pending at the end (31.12.XXXX)</i>	<i>CR (%)</i>	<i>DT (days)</i>
Kosovo* (2014)	257 424	324 194	348 833	232 758	107,6%	244
Kosovo* (2017)	235 644	162 914	246 289	152 269	151,2%	214
Difference (%)	-8,5%	-49,7%	-29,4%	-34,6%	40,5%	-12,1%

	2nd instance					
	<i>Pending at the beginning (1.1.XXXX)</i>	<i>Incoming</i>	<i>Resolved</i>	<i>Pending at the end (31.12.XXXX)</i>	<i>CR (%)</i>	<i>DT (days)</i>
Kosovo* (2014)	991	3 618	3 720	889	103%	87
Kosovo* (2017)	804	2 972	3 307	469	111%	52
Difference (%)	-18,9%	-17,9%	-11,1%	-47,2%	8,2%	-40,7%

	3rd instance					
	<i>Pending at the beginning (1.1.XXXX)</i>	<i>Incoming</i>	<i>Resolved</i>	<i>Pending at the end (31.12.XXXX)</i>	<i>CR (%)</i>	<i>DT (days)</i>
Kosovo* (2014)	18	426	418	26	98%	23
Kosovo* (2017)	61	552	449	164	81%	133
Difference (%)	238,9%	29,6%	7,4%	530,8%	-17,1%	487,2%



- In relation to criminal cases in general, in 2017, the clearance rate at the first instance and at the Court of Appeals remained positive and increased even more, thus producing positive effects in the reduction of pending cases. At the third instance, the clearance rate had a significant reduction (from 98% to 81%). Although the number of pending cases before the Supreme Court is relatively low, the situation is problematic because between 2014 (26 cases) and 2017 (164 cases) the number of pending cases increased by 531%.



- The DT for criminal cases is relatively low (less than a year). Due to the increase in the clearance rate at first and second instance, the DT has been reduced in comparison to 2014. At the third instance as well, where the clearance rate is low (81% in 2017), the time required to clear cases is theoretically short (less than four months) since the number of pending cases is relatively low.
- In compliance with the CEPEJ methodology, the data on criminal cases contains two sub-categories: 'severe' offences and 'minor' (or misdemeanour) offences. 'Severe' offences include the criminal cases handled by the Department for Serious Crimes and by the criminal divisions of the Gener-

al Departments. 'Minor' offences include the cases handled by the minor offences division at the General Department and by the Department for Minors (because in these cases there is no risk of imprisonment, excluding extremely rare cases). The analysis of the data for each sub-category provides a much clearer perspective on the performance of the courts in this field.

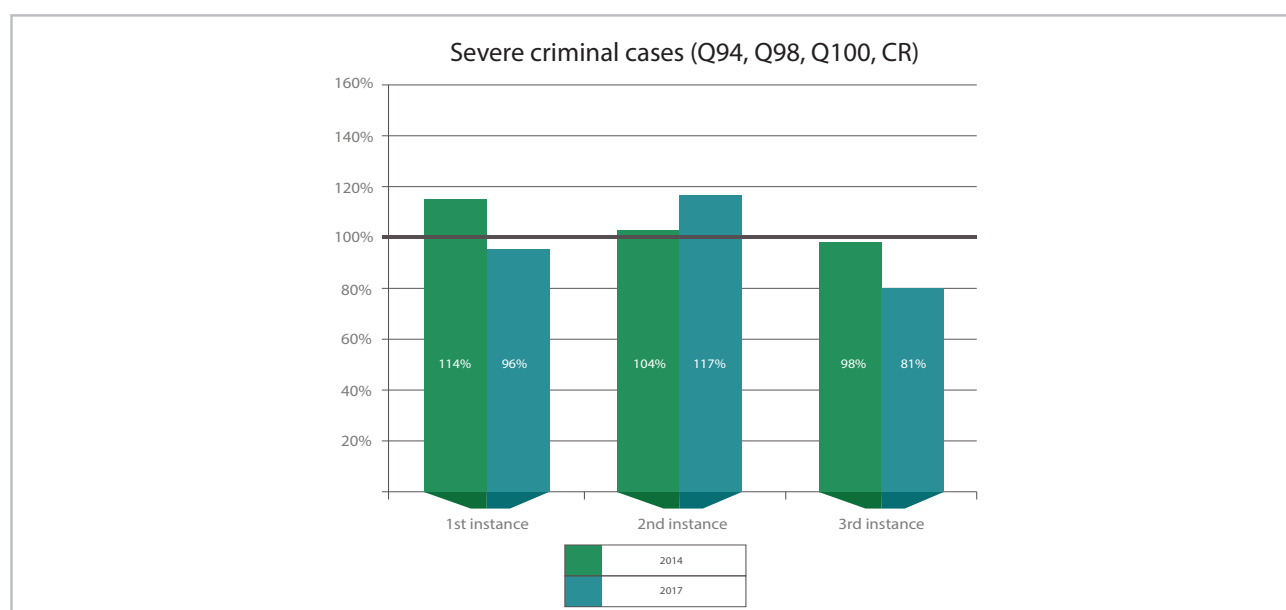
- In 2014, severe offences comprised only 7% of all criminal cases incoming at the court (328,238 cases). In 2017, severe offences comprised 18% of all criminal cases incoming at the court (166,438 cases).

P94, P98, P100: Severe criminal cases (absolute number)

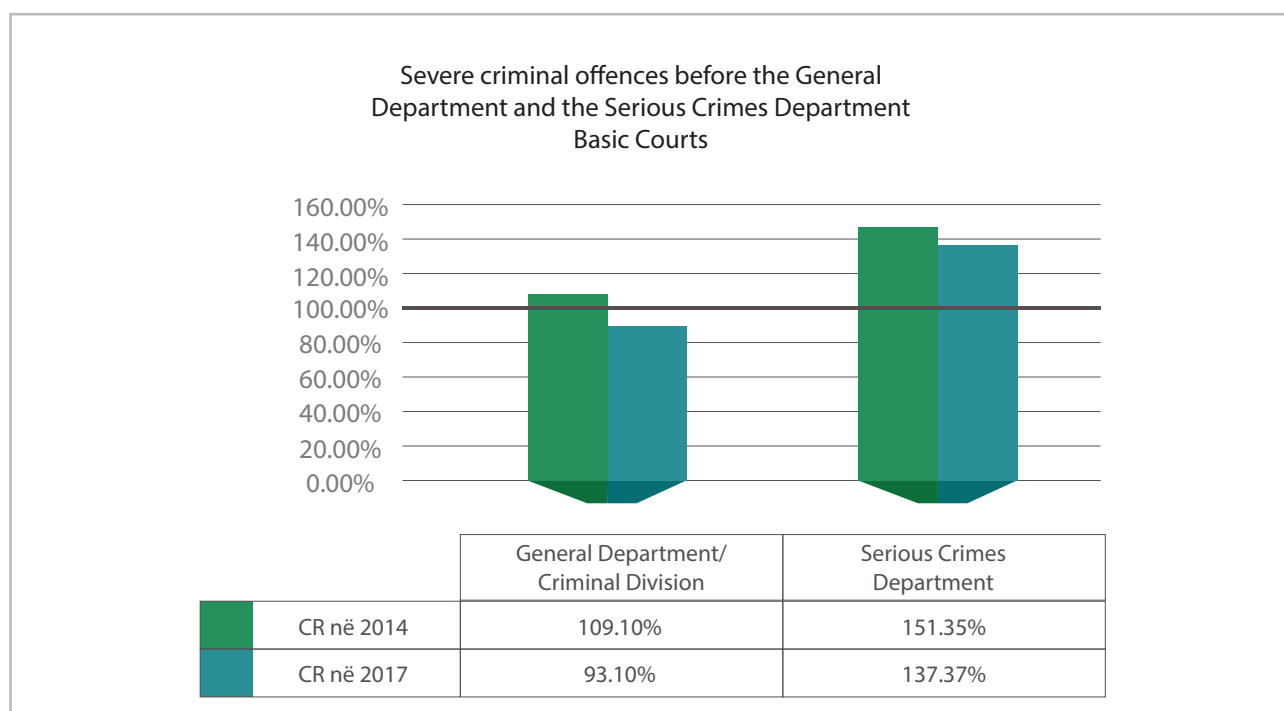
	1st instance					
	<i>Pending at the beginning (1.1.XXXX)</i>	<i>Incoming</i>	<i>Resolved</i>	<i>Pending at the end (31.12.XXXX)</i>	<i>CR (%)</i>	<i>DT (days)</i>
Kosovo* (2014)	44 775	19 790	22 596	41 969	114%	678
Kosovo* (2017)	45 055	26 797	25 698	46 154	96%	656
Difference (%)	0,6%	35,4%	13,7%	10,0%	-16,0%	-3,3%

	2nd instance					
	<i>Pending at the beginning (1.1.XXXX)</i>	<i>Incoming</i>	<i>Resolved</i>	<i>Pending at the end (31.12.XXXX)</i>	<i>CR (%)</i>	<i>DT (days)</i>
Kosovo* (2014)	987	2 328	2 431	884	104%	133
Kosovo* (2017)	798	1 964	2 304	458	117%	73
Difference (%)	-19,1%	-15,6%	-5,2%	-48,2%	12,3%	-45,3%

	3rd instance					
	<i>Pending at the beginning (1.1.XXXX)</i>	<i>Incoming</i>	<i>Resolved</i>	<i>Pending at the end (31.12.XXXX)</i>	<i>CR (%)</i>	<i>DT (days)</i>
Kosovo* (2014)	18	425	417	26	98%	23
Kosovo* (2017)	59	544	443	160	81%	132
Difference (%)	227,8%	28,0%	6,2%	515,4%	-17,0%	479,3%

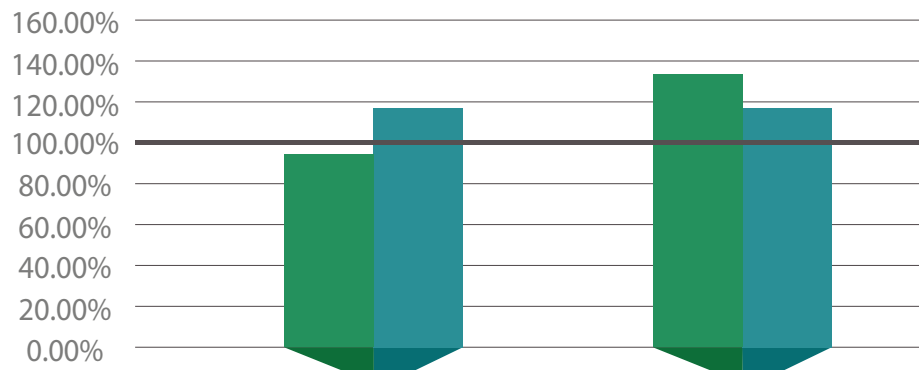


- In 2017, the criminal cases clearance rate was reduced at the first and third instance. At the third instance, the trend follows the evolution of the performance indicator for all criminal cases (analyzed above) due to the very similar number of cases. On the contrary, the clearance rate at the first instance was positive in 2014 (114%) whereas the data in 2017 show that the courts didn't manage to handle the volume of incoming cases, which had an increase of 35.4%. The Court of Appeals continues the trend of a positive performance (104% in 2014 and 117% in 2017) that has had positive effects in reducing pending cases (-48.2%).
- In the basic courts, in 2017, around 95% of the severe criminal offenses were criminal cases before the General Department (out of 26,797 severe offenses, 25,392 were received by the General Department). In 2014 this percentage was lower: 88% (out of 19,790 severe offenses, 17,412 criminal cases were received by the General Department). It is interesting to analyse separately the clearance rate for severe offences handled by the General Department and the clearance rate for those handled by the Serious Crimes Department.



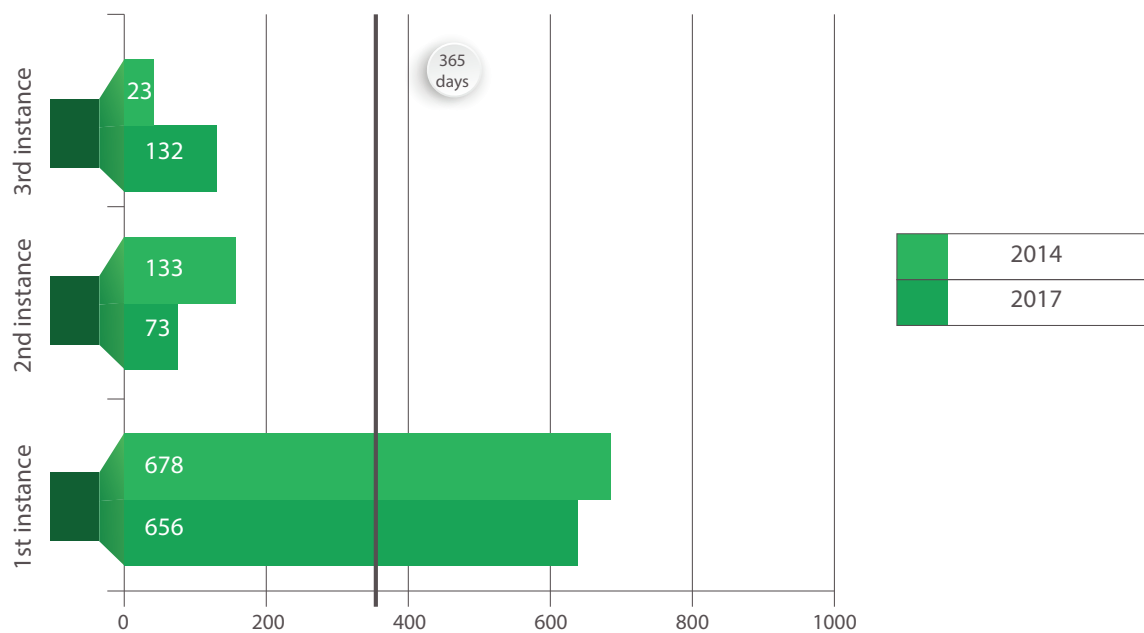
- Although in 2017 the clearance rate decreased in both departments compared to 2014, the situation in the General Department is more problematic. Statistics for the year 2017 show that this department had difficulties coping with the number of incoming cases. As a result, the number of pending cases at the end of the year has increased.

Severe criminal offences before the General
Department and the Serious Crimes Department
Court of Appeals

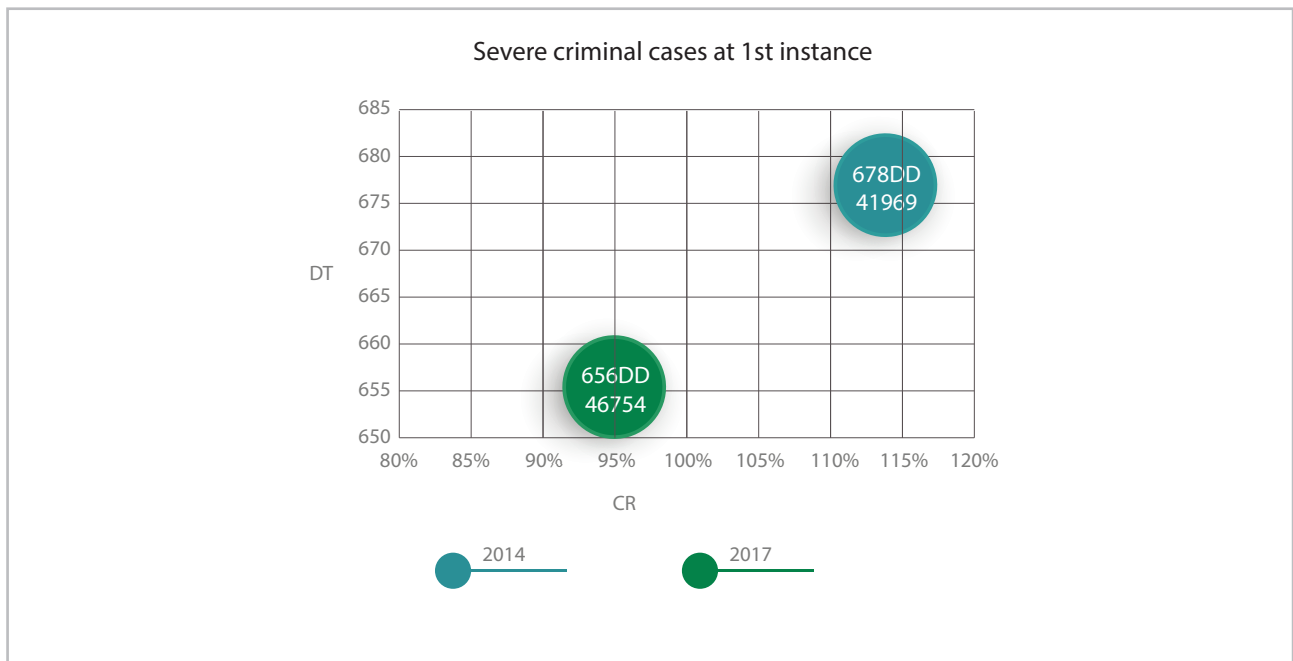


- In the Court of Appeals, the analysis of the performance of the two departments in 2017 was positive in 2017 (over 100%). The clearance rate at the Serious Crimes Department, although positive, decreased compared to 2014.

Severe criminal cases (Q94, Q98, Q100, DT)



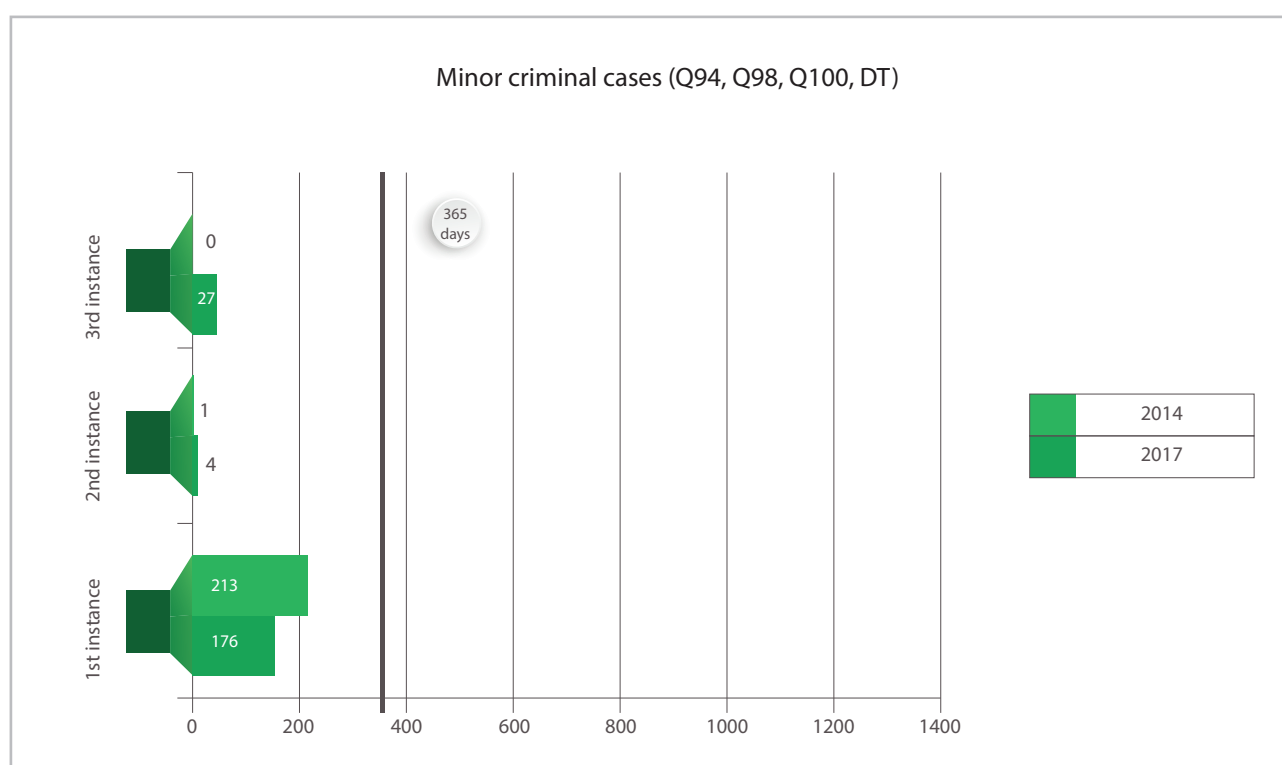
- The DT is relatively low at the level of the Court of Appeals and before the Supreme Court (less than 2.5 months at the second instance and 4.5 months at the third instance). At the first instance, the time required to clear the cases had a slight improvement (from 678 in 2014 to 656 days in 2017) due to the higher number of resolved cases in 2017 (25,698) in comparison to 2014 (22,596 cases). Although, not critical for the moment, it is important to continuously monitor the time required to clear the cases.



- As stated above, in 2017 the clearance rate for severe offences at the first instance experienced a slight reduction from the positive to the negative value. Due to the higher number of resolved cases in 2017 in comparison to 2014 the time required to clear the cases was reduced from 678 to 656 days, but still the number of pending cases at the end of the year had an increase of 10%.



- In 2014, minor offence cases comprised the majority (93%) of all incoming criminal cases at the courts. In 2017, minor offences continue to comprise the majority (82%) of all incoming criminal cases at the courts.
- In 2017, the minor offence clearance rate continues to be positive at the first and second instance. The minor criminal cases clearance rate at the first instance had an increase from 107% in 2014 to 162% in 2017. The situation is explained by observing that the number of incoming cases in 2017 had a reduction of 53% in comparison to 2014. At the second instance, the Court of Appeals managed to handle all the incoming cases during 2014 and 2017, but without being able to reduce the number of pending cases. At the third instance, the clearance rate was reduced in comparison to 2014 (from 100% to 65%), but the very low number of cases (8 incoming cases and 6 resolved in 2017) should be taken into consideration.



- The time required to clear severe offence criminal cases is relatively low at all instances (less than a year). The duration at the third instance is not indicative due to the very low number of cases in this category handled by the Supreme Court: during 2017 the Supreme Court resolved 6 minor offence criminal cases and at the end of the year there were only 4 pending cases.

4.4. Relevant recommendations and priority level

Recommendation 19 - Group A (Primary importance, short term)

To evaluate on a regular basis, based on the CEPEJ methodology, the judicial system in Kosovo to improve its quality and efficiency.

The 2017 assessment shows some interesting trends in the efficiency of the judicial system in Kosovo. The assessment was carried out in a relatively short time; namely by regular periodic assessments of the functioning of the judicial system in Kosovo, using the CEPEJ Evaluation Scheme and its explanatory note, with

the aim of identifying evolutions and trends and measuring the impact of justice policy reforms. **Recommendation 19 is a key recommendation, which is a precondition and enables the fulfillment of other recommendations.**

The KoSEJ Action can help the interlocutors in Kosovo with preparing and developing a sustainable process of data collection (according to Recommendation 19). This requires:

- Appointing a coordinator - if possible at the Ministry of Justice (MJ) - that could be involved in these kinds of assessments on a long term basis, with the task of collecting the data from various interlocutors (using the CEPEJ methodology), assessing the data, and preparing tables and charts on the general performance of the system.

The advantages of a person or office based at the Ministry of Justice are threefold: first, the MJ is a different actor from those that produce the statistics and this is very useful for the coordinator's role; second, there is currently no position within the MJ that collects these statistics and so the coordinator's role would fill this acknowledged void; third, having an overall assessment of the justice system and the interaction between its various components, such as budgets, courts, staff, efficiency, is essential for the MJ to discharge its functions effectively and to carry out the justice sector policy reforms approved/proposed by the MJ.

The lack of a statistics department/office in the Ministry of Justice appeared as an important weakness during the exchanges with the interlocutors in Kosovo. Concerns about the interference with the independence of the KJC and the KPC were raised, however, protection measures may be implemented to avoid such interferences, by guaranteeing a general assessment of the system that is based on and unites the sectoral statistics produced by the various interlocutors (KPC, KJC, FLA, Bar Association).

- The development of detailed guidelines, in the Albanian language, for drafting a questionnaire adapted for Kosovo users. This will permit the transfer of the CEPEJ methodology "know-how", regardless of staff changes in the various data collecting authorities (KJC, KPC, FLA and Bar Association) and will enable meaningful comparisons and the assessment of evolutions over time.
- The drafting of a process with clear time-lines for the preparation of the general assessment on a regular basis (after the publication of annual reports by the KJC, KPC, FLA and Bar Association).

Recommendation 18 - Group A (Primary importance, short term)

To assess whether the goals and objectives listed in the 2013 Backlog Reduction Strategy and in KJC 2014 Judiciary Strategic Plan to address the number of pending cases have been reached, to assess whether further reforms to decrease the number of pending cases are necessary, and more generally, to focus on decreasing as a priority the number of old cases in application of the FIFO ("first in, first out") principle.

The 2014 assessment noticed that the number of unresolved civil and commercial litigious cases, and the number of unresolved administrative and criminal cases was high. In 2017, the number of unresolved cases has increased even further in relation to the civil and commercial litigious cases before the Court of Appeals, administrative cases at the first instance and the appeals instance, and the severe offences criminal cases at the first instance and before the Supreme Court.

The recommendation on the accomplishment of the goals and objectives listed in the 2013 Backlog Strategy and the KJC 2014 Strategic Judicial Plan continues to be relevant. **The courts should focus their efforts, as a**

priority, on reducing the number of pending cases older than 2 years by applying the FIFO principle (“first in, first out”), while also considering the priority cases specified in the case law of the European Court for Human Rights. The courts are invited to use the CEPEJ methodology of the implementation guidelines “Towards European time frames for judicial procedures”. It is important to reduce the number of unresolved cases, so that they do not need to be entered into the new case management information system under construction.

Recommendation 16 and 17 - Group B (Primary importance, mid-term)

Recommendation 16: To conduct further research and explore the reasons why courts of first instance in Kosovo face serious efficiency problems in the administrative and civil/commercial sectors. The purpose of this research should seek in particular to find alternative improvement measures than increasing resources which should be done as a last resort.

Recommendation 17: To conduct further research and explore the reasons behind the efficiency difficulties faced by the Kosovo Court of Appeals in handling administrative and civil/commercial litigious cases.

The 2014 assessment concluded that the clearance rate at the first instance (civil litigious cases and, to some extent, administrative cases) and at the appeals instance (civil and commercial litigious cases, as well as administrative cases) was low. At the first instance, these cases are under the exclusive competency of two special departments at the Basic Court in Pristina - the Department of administrative affairs and the Department of commercial affairs (but the performance in relation to commercial cases at the first instance was positive in 2017). Even in 2017, the clearance rate for the civil and commercial litigious cases and for the administrative cases remains negative, especially at the Court of Appeals.

These recommendations continue to be relevant for the current situation. Further research into the reasons why the first instance courts in Kosovo (in particular the Basic Court in Pristina) have such serious efficiency problems in the administrative and civil sector is required. It would be interesting to calculate and compare the number of incoming and resolved cases per judge (FTE figures) to acquire additional knowledge on the functioning of the judicial system in Kosovo.

Recommendation 14 - Group B (Primary importance, mid-term)

To further improve the methodology for compiling reliable statistics, in accordance with the CEPEJ Guidelines on Judicial Statistics (GOJUST) and SATURN Guidelines for judicial time management, and to continue gathering accurate data, which will enable both a realistic diagnosis of the judicial system and the formulation of effective and efficient solutions for improving court efficiency and the quality of the justice services provided.

The 2014 Assessment emphasized some aspects of the data collection methodology, related to the fragmentation or unification of the number of cases during the trial process, which have an impact on the reported statistics on the incoming, resolved and pending cases, and as a consequence on the calculated indicators of the clearance rates and the time required to clear the cases.

The recommendation continues to be relevant. It is necessary to further improve the methodology for drafting reliable statistics in compliance with the CEPEJ Guidelines on Judicial Statistics (GOJUST) and SATURN Guidelines on the management of the judicial time and to continue collecting accurate data. In particular it is recommended to adopt the rules and mechanisms that enable the correction of some of the deficiencies, especially, the use of an identification code for each procedure from the start of the procedure until the final decision, to enable the calculation of the total duration of procedures. The current case duration data (downloaded from a functional IT system) should be monitored to do a full analysis.

5. SUMMARIZING TABLE ON RECOMMENDATIONS

Importance A	Recommendations of primary importance that may be accomplished in short term.
Recommendation 19	To evaluate on a regular basis, based on the CEPEJ methodology, the judicial system in Kosovo with the purpose of improving its quality and efficiency.
Recommendation 3	To analyse existing challenges to the effective implementation of the 2015 laws on the KJC and KPC which reinforce their budgetary independence. This analysis should include possible means to overcome these challenges and should lead to the implementation of concrete measures in this respect, which include an evaluation of the results.
Recommendation 5	To collect and report accurate data on the approved and implemented budget for legal aid, including by implementing a more specific itemization of the budgetary lines concerned.
Recommendation 7	To conduct further research to assess the resources needed (number of professional judges) in the various courts in light of the caseload, and to optimise the repartition of the resources between the Basic Courts and the Court of Appeals.
Recommendation 10	To conduct further research to assess whether Kosovo employs a sufficient number of prosecutors to deal with the volume of proceedings and whether the allocation of prosecutors in the various instances is appropriate.
Recommendation 18	To assess whether the goals and objectives listed in the 2013 Backlog Reduction Strategy and in KJC 2014 Judiciary Strategic Plan to address the number of pending cases have been reached; to assess whether further reforms to decrease the number of pending cases are necessary; and more generally, to focus on decreasing as a priority the number of old cases applying the FIFO ("first in, first out") principle.
Importance B	Recommendations of primary importance that may be accomplished in mid-term.
Recommendation 9	To introduce policies and adopt measures aimed at increasing representation of women among judges and among court presidents.
Recommendation 12	To introduce policies and adopt measures aimed at increasing representation of women among prosecutors and heads of prosecution.
Recommendation 14	To further improve the methodology for compiling reliable statistics, in accordance with the CEPEJ Guidelines on Judicial Statistics (GOJUST) and SATURN Guidelines for judicial time management, and to continue gathering accurate data. These measures will enable both a realistic diagnosis of the judicial system and the formulation of effective and efficient solutions for improving court efficiency and the quality of the justice services provided.

Recommendation 16	To conduct further research and explore the reasons why courts of first instance in Kosovo face serious efficiency problems in the administrative and civil/commercial sectors. The purpose of this research should seek in particular to find improvement measures that do not involve an increase of resources (which should be done as a last resort).
Recommendation 17	To conduct further research and explore the reasons behind the efficiency difficulties faced by the Kosovo Court of Appeals in handling administrative and civil/commercial litigious cases.
Importance C	Recommendations of secondary importance that may be accomplished in short and mid-term.
Recommendation 8	To conduct further research on whether the costs of non-judge staff should be reduced, to include recommendations on how to proceed (e.g. by outsourcing services) and to envisage ways to increase the number of staff directly assisting the judges (e.g. by filling in vacant positions, temporarily recruiting trainees, etc.).
Recommendation 11	To conduct further research on whether the costs of non-prosecutor staff should be reduced, to include recommendations on how to proceed (e.g. outsourcing services) and to envisage ways to increase the number of staff directly assisting the prosecutors (e.g. filling in vacant positions, temporarily recruiting trainees, etc.).

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