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PART 2

## EUROPEAN COMMISSION FOR THE EFFICIENCY OF JUSTICE (CEPEJ)

### Support for a better evaluation of the results of judicial reform efforts in the Eastern Partnership "Justice Dashboard EaP" Action

Data collection: 2020

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

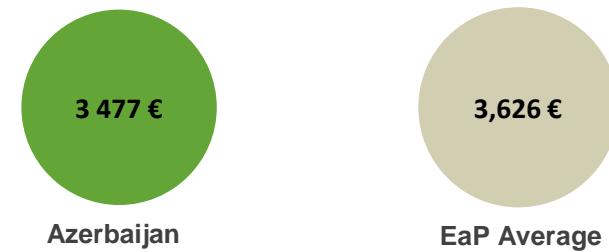
## Part 2 (A) - Beneficiary profile - Azerbaijan

## Executive Summary - Azerbaijan in 2020

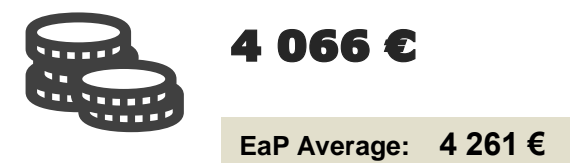
### Population in 2020



### GDP per capita in 2020



### Average annual salary in 2020



### Budget

In 2020, Azerbaijan spent 96 538 011€ as implemented judicial system budget (budget for all courts, public prosecution services and legal aid). This means that Azerbaijan spent **9,6€ per inhabitant**, which is slightly less than the EaP median of 10€.

**63,4% was spent for all courts, 34,7% for prosecution services, 2% for legal aid.** Compared to 2018, per inhabitant, Azerbaijan has spent 19,1% more for courts, -1,4% less for prosecution services, and 164,8% more for legal aid (see paragraph below regarding the increase for legal aid).

The budgets spent for courts and legal aid per inhabitant were lower than the EaP Median (respectively 6,1€ and 0,2€ with EaP medians at 7,7€ and 0,5€) while the budget spent for prosecutions services was higher (3,3€ with an EaP median at 3,2€)

### Legal aid

In 2020, the implemented **budget for legal aid** spent by Azerbaijan was **0,19€ per inhabitant** (below the EaP Median of 0,5€). This budget increased considerably compared to 2018 (+164,8%) due the increase of the service fee paid to lawyers.

In 2020, **legal aid was granted to 37 209 cases**, which was -9% less compared to 2018 due notably to the Covid-19 pandemic and the fact that courts did not operate for a couple of months during the year. Those cases were **mainly criminal cases** (36 259 criminal cases received legal aid while only 950 other than criminal cases did). Out of those 37 209 cases, 21 913 were brought to court and 15 296 were not.

On average, Azerbaijan spent 51,3€ for a case which was granted legal, which is the Eastern Partnership median.

### Efficiency\*

For the purpose of this Profile, the data of only 1st and 2nd instance courts is analysed. In 2020, some backlog was created for all types of cases in both first and second instance (Clearance Rates below 100%). **First instance civil and commercial cases were resolved faster than other types of cases** with a Disposition Time of 88 days and also had the highest Clearance Rates (96%). However, for both administrative and criminal cases, the second instance was the fastest with shorter Disposition Times.

Since 2018, Clearance Rates for all types of cases have decreased while the Disposition times have increased. However, it is to be noted that there were severe restrictions on the work of the courts for about 4 months during the year of 2020.

In 2020, **all Clearance Rates were lower or equal to the EaP medians, except for administrative cases in first instance** (CR at 91% with EaP median at 87%). **All Disposition Times were lower than the EaP medians except for criminal cases in second instance** (DT at 127 days with EaP median at 113 days).

In Azerbaijan, there are quality standards determined for the judicial system at national level. Monitoring of the pending cases and backlog is done for civil and commercial, administrative, and criminal cases. Monitoring of the waiting time in judicial proceedings is done both within the Courts and within the Public prosecution services.

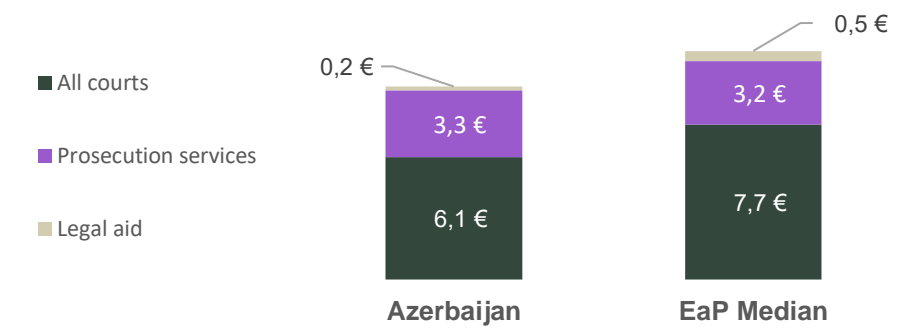
\* The CEPEJ has developed two indicators to measure court's performance: clearance rate and disposition time.

**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.

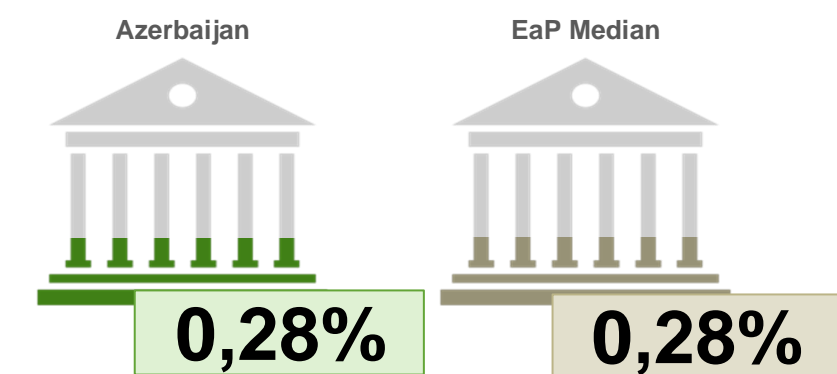
**Disposition Time** is a proxy to estimate the lengths of proceedings in days. It is calculated as the ratio between the pending cases at the end of the period and the resolved cases (multiplied by 365). It estimates the time to resolve all pending cases based on the actual pace of work. This indicator 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 of the Judiciary

#### Implemented Judicial System Budget per inhabitant in 2020

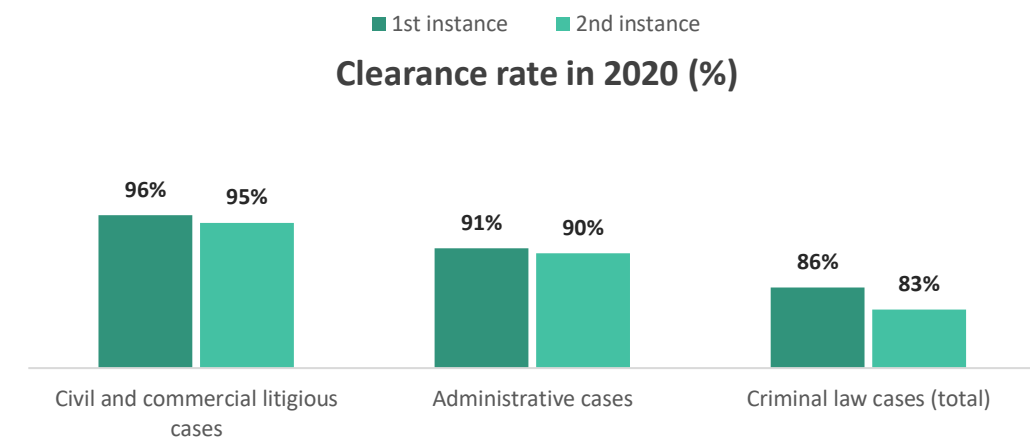


#### Implemented Judicial System Budget as % of GDP in 2020

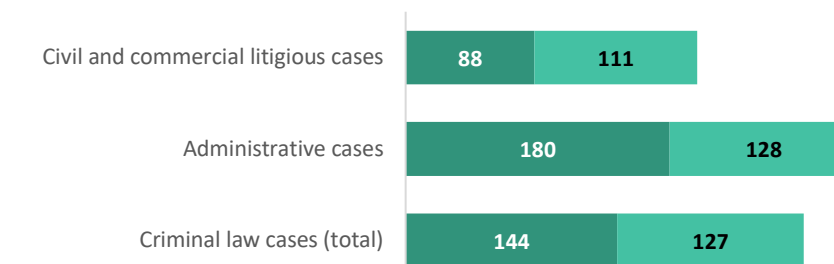


### Efficiency

#### Clearance rate in 2020 (%)

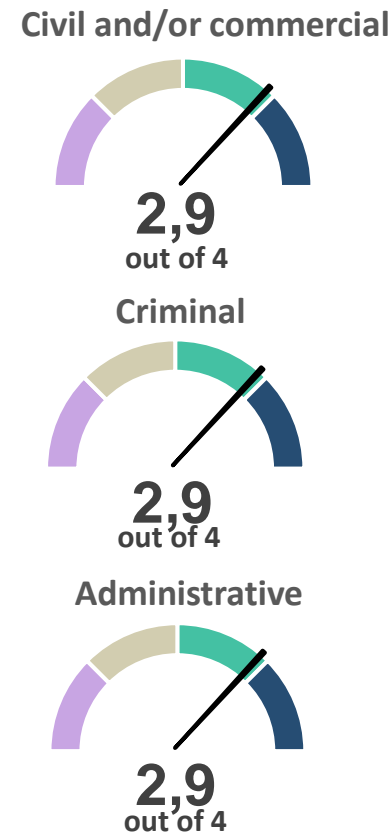


#### Disposition time in 2020 (in days)



### CMS index (scale 0-4)

The Case management system (CMS) Index is an index from 0 to 4 points calculated based on five questions on the features and deployment rate of the CMS 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 regarding the four questions on the features of the CMS (status of cases online; centralised or interoperable database; early warning signals; status of integration with a statistical tool) are summarised while 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 an adequate evaluation.



### Electronic case management system and court activity statistics

In Azerbaijan, there is a **case management system (CMS)**, eg software used for registering judicial proceedings and their management, called the "Electronic court" information system, which has been developed more than 10 years ago (operating since 2011). The CMS has a deployment rate between 50 and 99% for all courts and the data is stored on a database consolidated at national level. There is a plan to develop a new CMS in the framework of a cooperation with the World Bank.

In Azerbaijan, there is a **centralised national database of court decisions** in which judgments for all instances are collected, with anonymised data. The case-law database is available for free online but not in open data. There are no links with ECHR case law (hyperlinks which reference to the ECHR judgments in HUDOC database) in this database.

### Trainings

In 2020, the total **budget for training of judges and prosecutors in Azerbaijan was 41,1€ per 100 inhabitants** (budgets spent by the training institutions, the courts and the public prosecution services on training), which is above the Eastern Partnership median (26,6€ per 100 inhabitants). The number of delivered in-person training days increased slightly between 2018 and 2020 (from 797 days to 809 days) while the number of online available courses increased considerably due to the pandemic.

### ADR (Alternative Dispute Resolution)

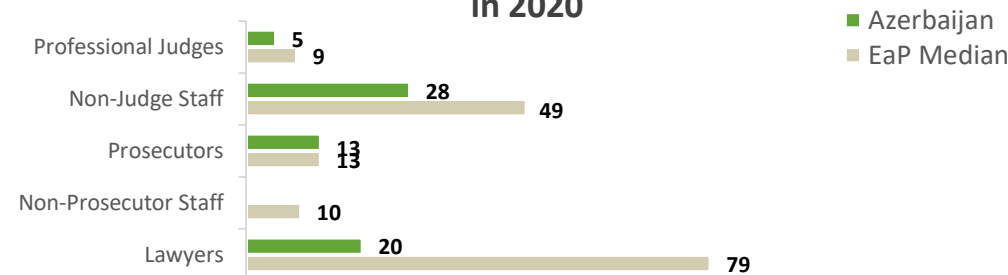
In Azerbaijan, the Law "On Mediation" was adopted on 29.03.2019 and the provisions regarding voluntary mediation were in force in 2020. There **was no data available on the number of court-related mediations in 2020**. However, it was reported that a **small number of cases were considered on a pilot basis**.

Court related mediations are provided by private mediators for all types of cases where court-related mediation is available (civil and commercial cases, family cases, administrative cases, labour cases, consumer cases). In 2020, there were **195 mediators in Azerbaijan which is 1,9 per 100 000 inhabitants** (the same as the EaP median). Only 28,7% were female mediators.

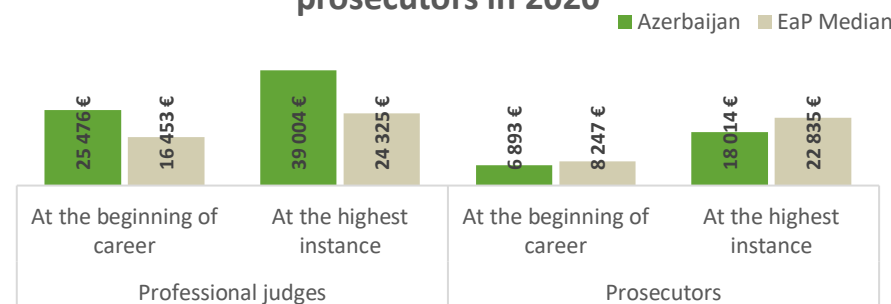
In Azerbaijan, the judicial system does not provide for mandatory mediation. However, the law now provides for a mandatory preliminary session on family, labor, and commercial disputes but this provision came into force in July 2021.

### Professionals of Justice

Total number of professionals per 100 000 inhabitants in 2020

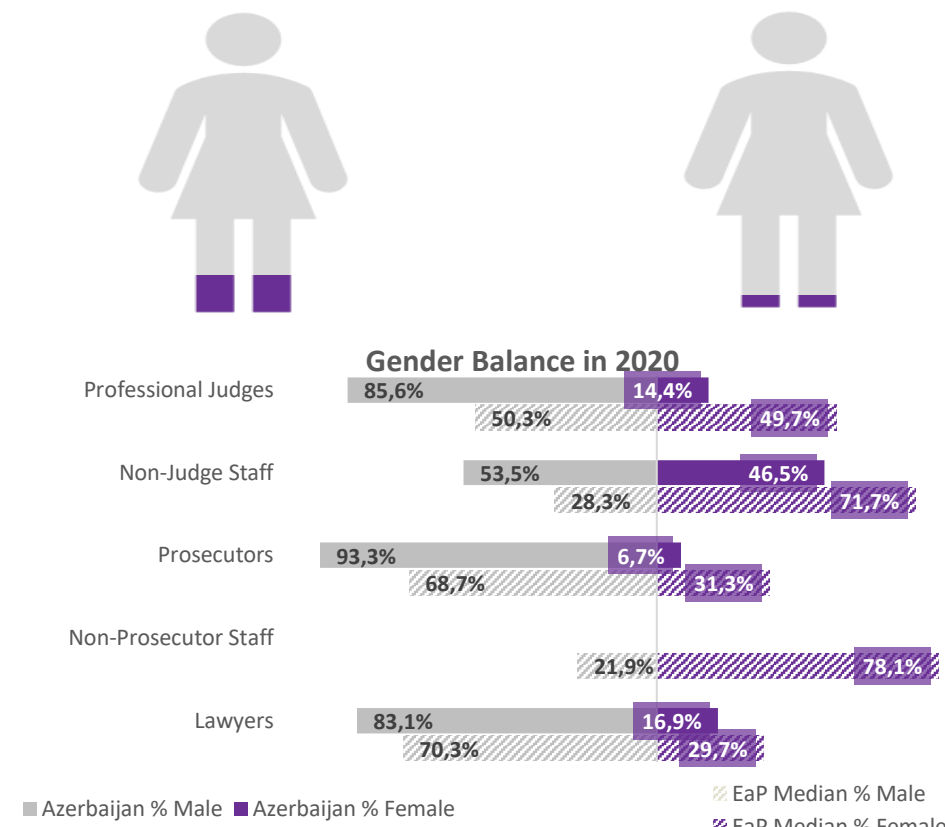


Salaries of professional judges and prosecutors in 2020



### Gender Balance

14% female judges (total)      7% female prosecutors (total)



### Professionals and Gender Balance

In 2020, Azerbaijan had **5,2 professional judges per 100 000 inhabitants** which is lower than the EaP median of 8,8 and **12,9 prosecutors per 100 000 inhabitants** which corresponds to the EaP median.

In 2020, the number of **lawyers was 20,2 per 100 000 inhabitants**, which was remarkably lower than the EaP Median (79,4). However, the number of lawyers increased by 28,5% between 2018 and 2020 due to an on-going process with the organisation of admission exams on a regular basis by the Azerbaijani Bar Association. This follows the monopoly given to lawyers over court representation in the legislation in 2017.

Regarding the **gender balance**, in Azerbaijan women were still hardly represented in the legal professions. Indeed, in 2020, all percentages of females in judicial professions were below 50% and below the EaP medians. The profession with the highest percentage of females was non-judge staff (46,5%) while the one with the lowest number was prosecutors (6,7%).

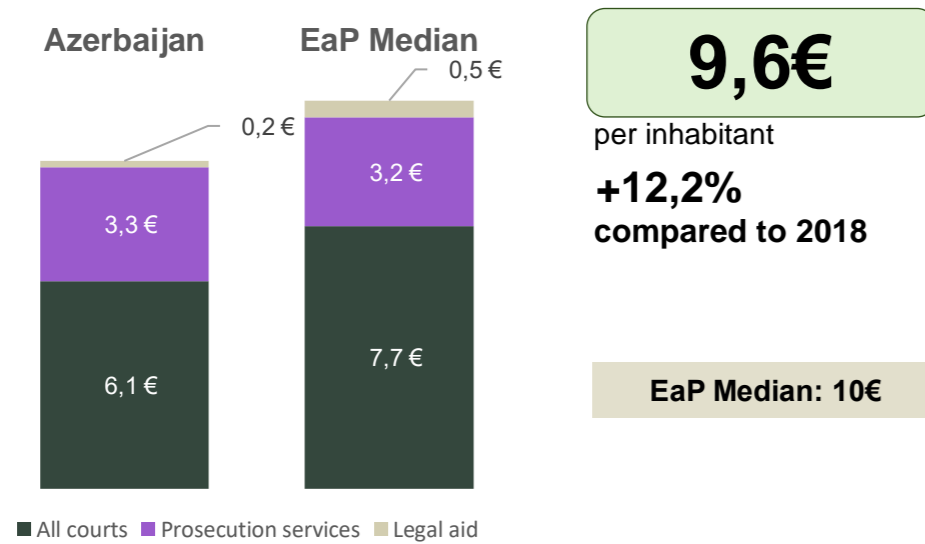
### ECHR

In 2020, for Azerbaijan, there were 525 applications allocated to a judicial formation of the European Court of Human Rights. 37 judgements found at least one violation and 6 cases were considered as closed after a judgement and the execution of judgements process.

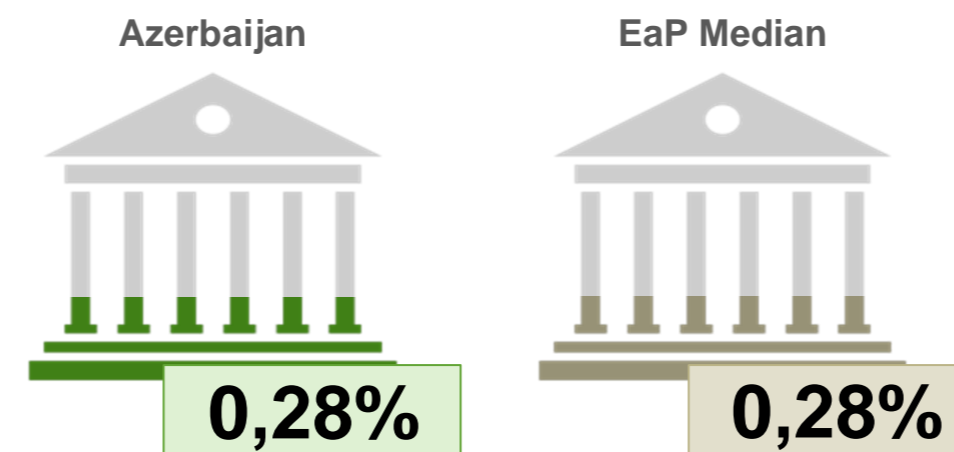
In Azerbaijan there is a possibility to review a case after a decision on violation of human rights by the ECtHR but there are no monitoring systems for violations related to Article 6 of the European Convention on Human Rights for civil procedures (non-enforcement and timeframe) and for criminal procedures (timeframe).

## Budget of the judiciary in Azerbaijan in 2020 (Indicator 1)

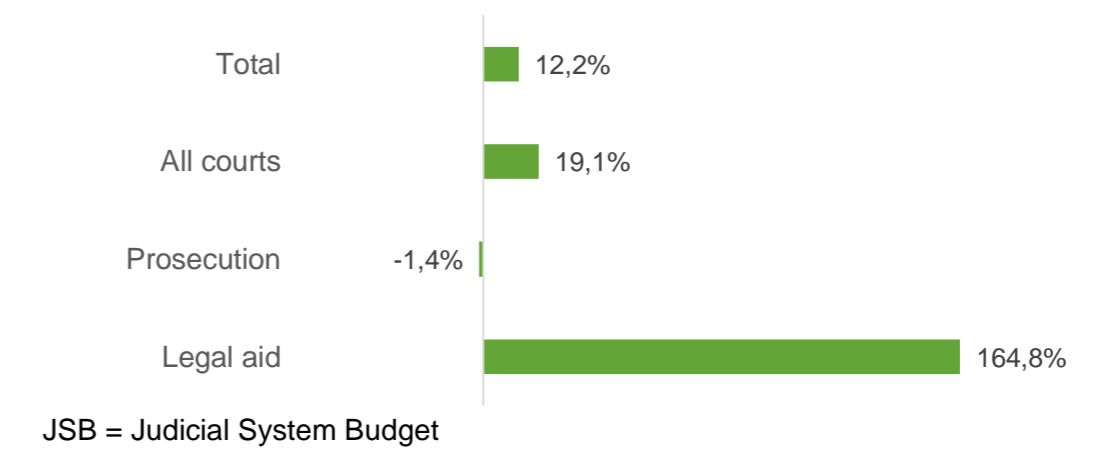
### Implemented Judicial System Budget per inhabitant



### Implemented Judicial System Budget as % of GDP



### % Variation of Implemented JSB per inhabitant between 2018 and 2020



The Judicial System Budget (JSB) is composed of the budget for all courts, public prosecution services and legal aid. In 2020, the implemented JSB for Azerbaijan was 9,6€ per inhabitant. This increased of 12,2% since 2018. It is slightly lower than the EaP Median (10€) and it represents 0,28% of the GDP which corresponds to the EaP Median.

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

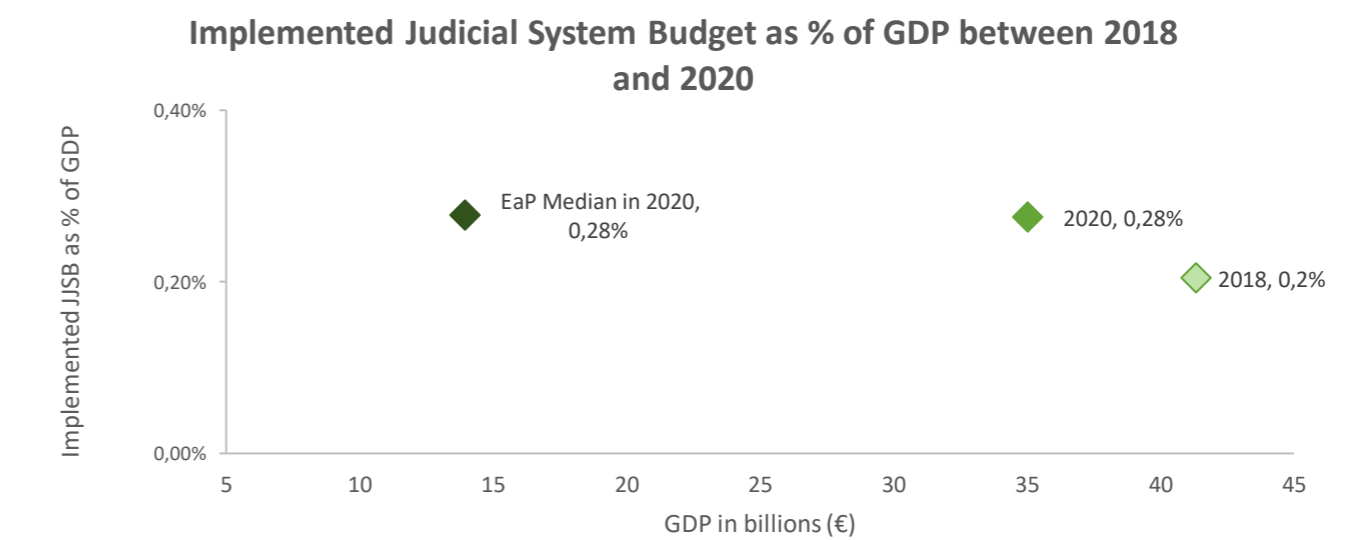
In 2020, Azerbaijan spent 96 538 011€ as implemented judicial system budget. This means that Azerbaijan spent 9,6€ per inhabitant, which is slightly less than the EaP median of 10€. 63,4% was spent for all courts, 34,7% for prosecution services, 2% for legal aid.

Compared to 2018, per inhabitant, Azerbaijan has spent 19,1% more for courts, -1,4% less for prosecution services, and 164,8% more for legal aid.

The increase in the amount of the public budget implemented for legal aid was explained by the increase of the service fee paid to lawyers. Following a decision of the Cabinet of the Ministries, their hourly fee was multiplied by three.

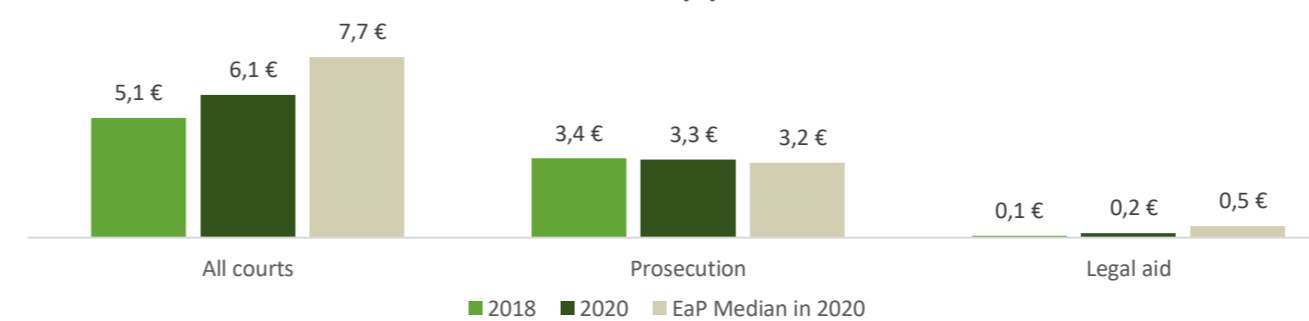
Judicial System Budget	Judicial System Budget in 2020		Implemented Judicial System Budget per inhabitant			Implemented Judicial System Budget as % of GDP		
	Approved	Implemented	Per inhabitant	EaP Median	% Variation 2018 - 2020	As % of GDP	EaP Median	Variation (in ppt) 2018 - 2020
<b>Total</b>	103 738 357 €	96 538 011 €	9,6 €	10,0 €	12,2%	0,28%	0,28%	0,07
<b>All courts</b>	65 972 235 €	61 175 891 €	6,1 €	7,7 €	19,1%	0,17%	0,21%	0,05
<b>Prosecution</b>	35 113 920 €	33 452 535 €	3,3 €	3,2 €	-1,4%	0,10%	0,09%	0,05
<b>Legal aid</b>	2 652 202 €	1 909 585 €	0,2 €	0,5 €	164,8%	0,01%	0,014%	0,004

PPT = Percentage points



This scatterplot shows the relation between the GDP in billions and the Implemented Judicial System Budget as %. A figure on the right (left) of the EaP Median means that the Beneficiary has a higher (lower) GDP than the EaP Median. A figure above (below) the EaP Median shows that the Beneficiary has a higher (lower) ratio of Implemented Judicial System Budget as % of GDP than the EaP Median in 2020.

### Implemented judicial system budget per inhabitant between 2018 and 2020 (€)



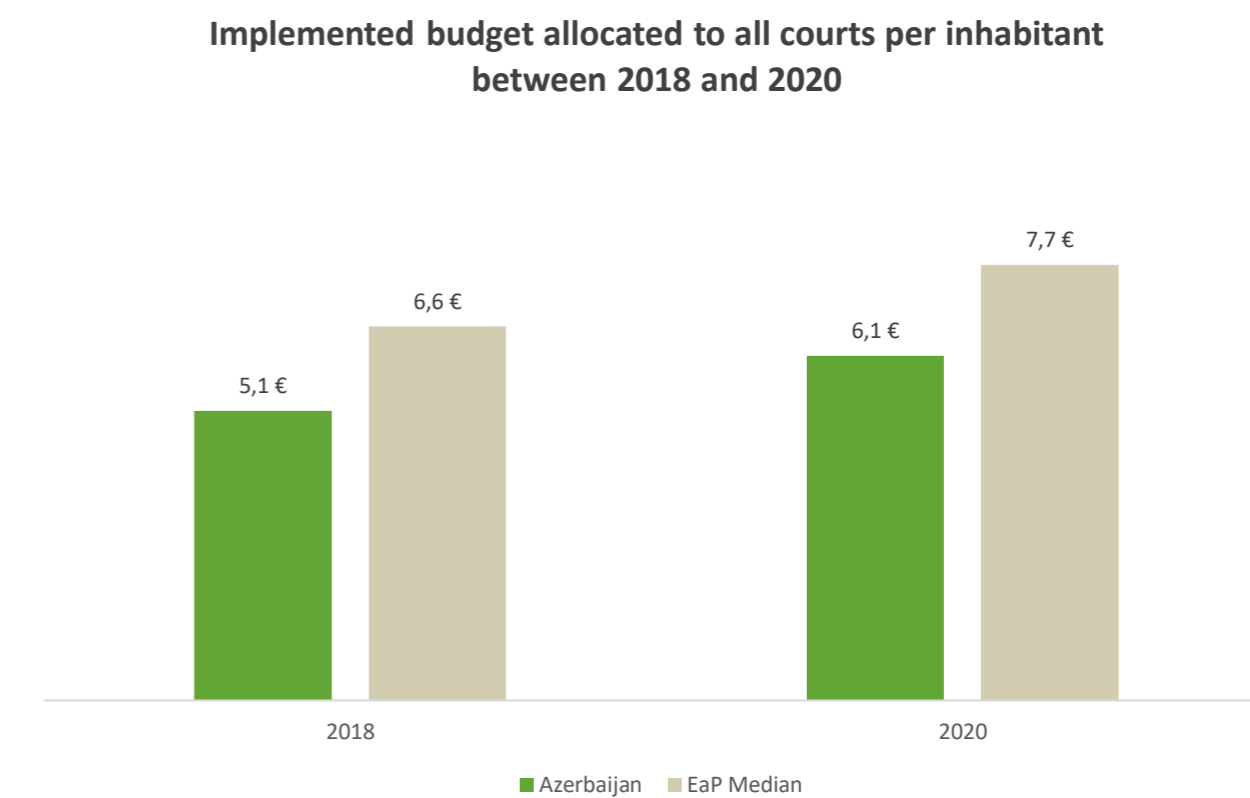
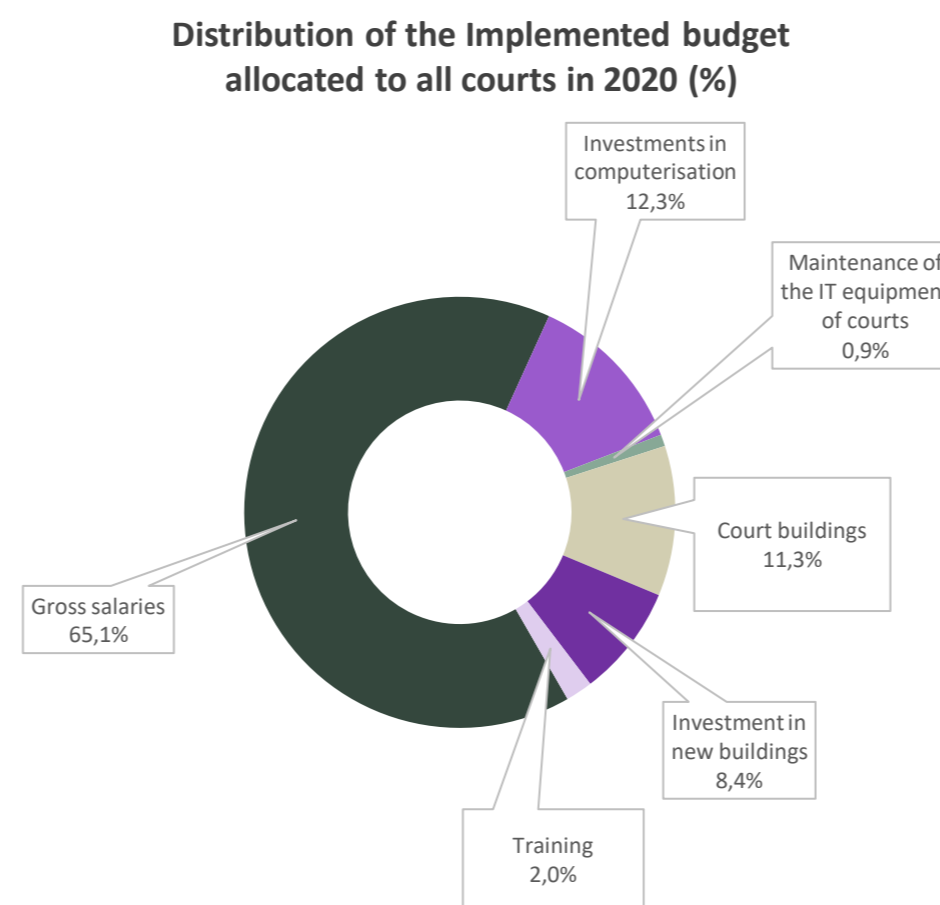
**Budget allocated to the functioning of all courts**

In 2020, Azerbaijan spent 61 175 891€ as implemented budget for courts. This represents 6,1€ per inhabitant which is less than the EaP median of 7,7€.

The budget implemented for the functioning of all courts increased of 21,1% between 2018 and 2020. The main changes were related to salary increasing, investment in technologies and court buildings modernization and maintenance. The increase of salaries is due to the Presidential Decree "On Deepening of the Reforms in the Judicial-Legal System" of April 3, 2019 which decided on the increase of judges' salaries in order to improve their social protection. The increase of budget allocated to court buildings was also foreseen in the same Presidential decree, according to which the additional funds should be allocated for clerical work and proceedings maintenance related needs. As to decrease of the budget related to investments in new court buildings, there were no construction of new court buildings planned in 2020, though such investments are planned in near future.

65,1% was spent for gross salaries, 13,2% for computerisation (total), 11,3% for court buildings, 8,4% for investment in new buildings, 2% for training.

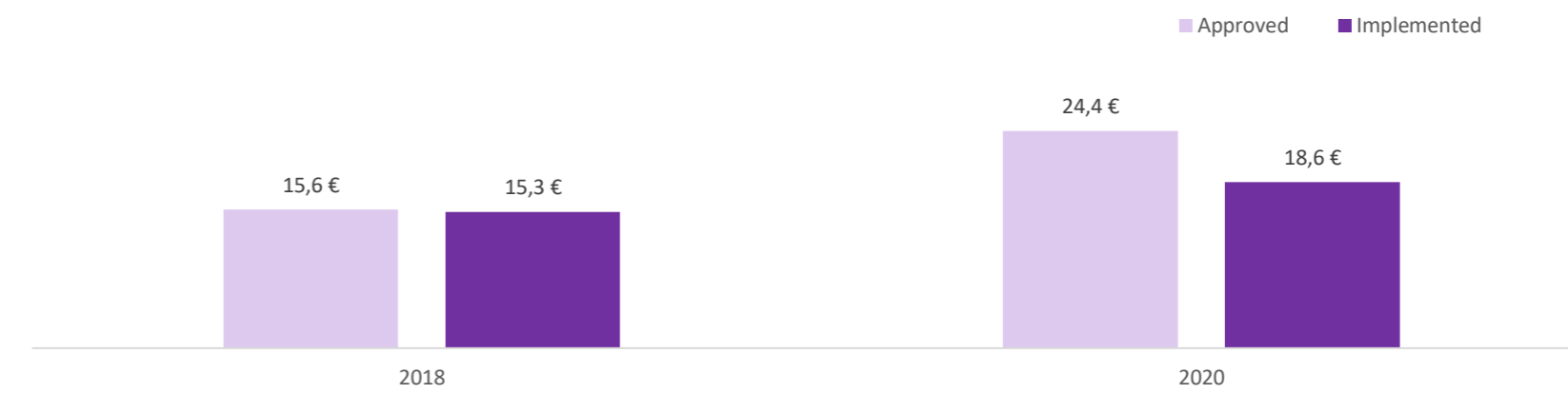
	2020		% Variation between 2018 and 2020	
	Approved budget	Implemented budget	Approved budget	Implemented budget
<b>Total</b>	65 972 235 €	61 175 891 €	24,8%	21,1%
<b>Gross salaries</b>	43 908 953 €	39 845 298 €	105,3%	109,0%
<b>Investments in computerisation</b>	7 555 756 €	7 553 164 €	6,3%	6,3%
<b>Maintenance of the IT equipment of courts</b>	537 217 €	537 217 €		
<b>Justice expenses</b>	NAP	NAP	NA	NA
<b>Court buildings</b>	7 377 954 €	6 887 884 €	132,4%	117,5%
<b>Investment in new buildings</b>	5 122 068 €	5 122 068 €	-74,1%	-74,1%
<b>Training</b>	1 470 287 €	1 232 998 €	2,5%	-14,1%
<b>Other</b>	NAP	NAP	NA	NA



**Budget allocated to the whole justice system**

Whole Justice System	2020		% Variation of the Whole Justice System per inhabitant 2018 - 2020
	Absolute number	Per inhabitant	
Approved	245 648 742 €	24,4 €	56,6%
Implemented	187 571 452 €	18,6 €	21,8%

Whole Judicial System Budget between 2018 and 2020 (€ per inhabitant)



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

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

The budget allocated to the whole justice system calculated per inhabitant increased significantly since 2018 (+56,6%). The main changes were related to increases in the Judicial System Budget (increase in the budget of courts (see above) and increase of the budget for legal aid). The difference between the approved and implemented budget is due to Cov-19 related quarantine measures in 2020.

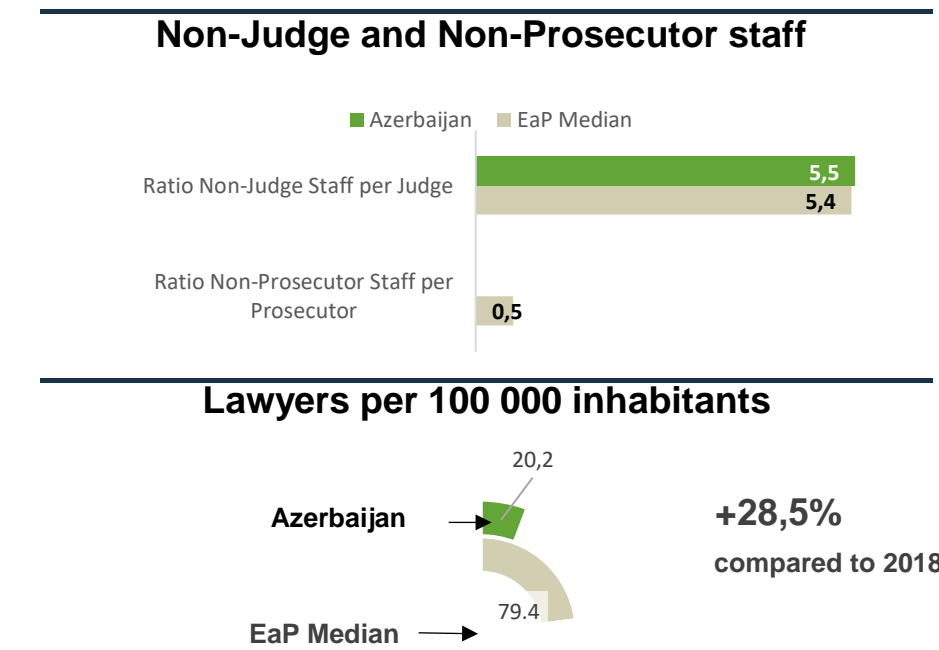
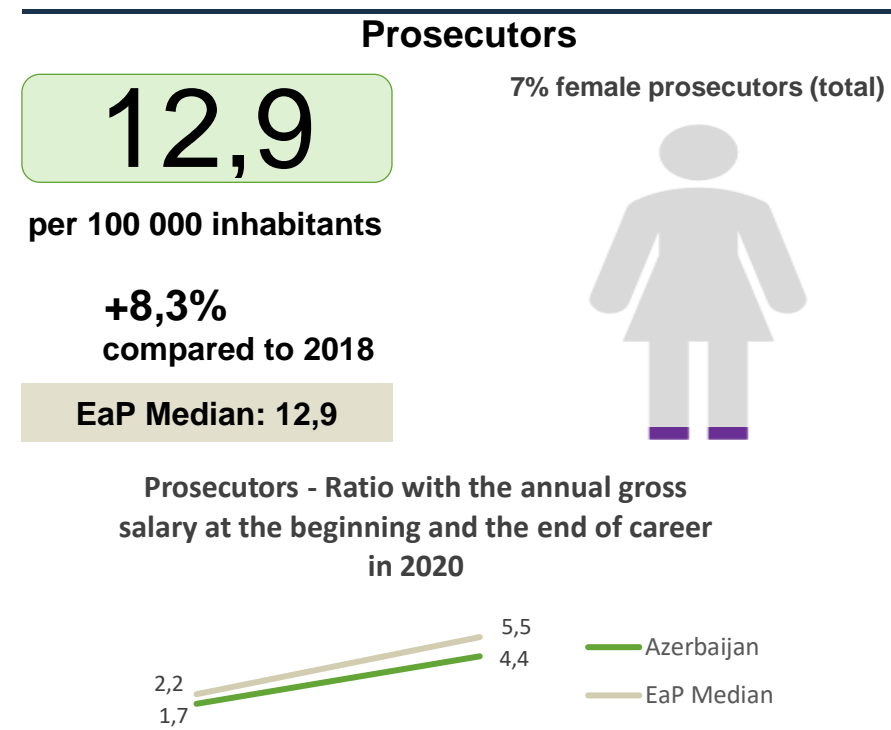
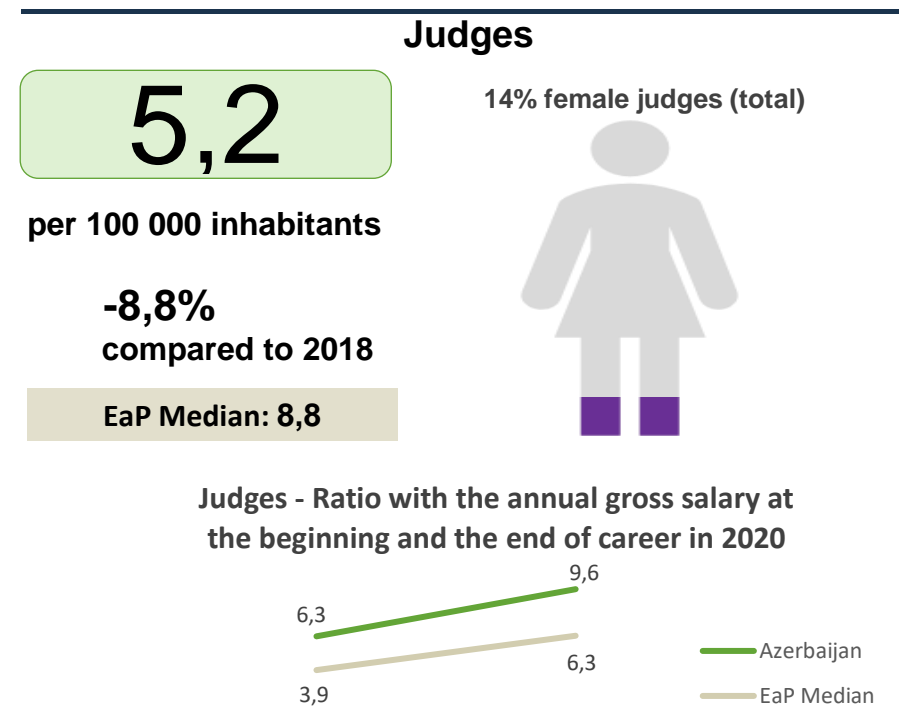
**Budget received from external donors**

	Absolute value	Calculated as %	In percentage (%)
All courts	NA	NA	NA
Prosecution services	NA	NA	NA
Legal aid	NA	NA	NA
Whole justice system	NA	NA	NA

There is no data available regarding the ratio between external donations and the budgets for courts, prosecutions services, legal aid and the whole justice system in 2020 in Azerbaijan. In Azerbaijan most of the international projects are financed partly by state budget and partly by loan (to be repaid), as only some are financed by international organisations.

The projects currently implemented in Azerbaijan are as follows: The CEPEJ project Strengthening the efficiency and quality of the judicial system in Azerbaijan (2019-2022), regional project "Support for a better evaluation of the result of the judicial reform efforts in the Eastern Partnership Project" ("Justice Dashboard EaP" Project) (2021-2024), "Support further Development of Alternative Dispute Resolution Services and Specialized Courts in Azerbaijan" (2020-2022), Judicial Services and Smart Infrastructure Project of the World Bank (2014-2024).

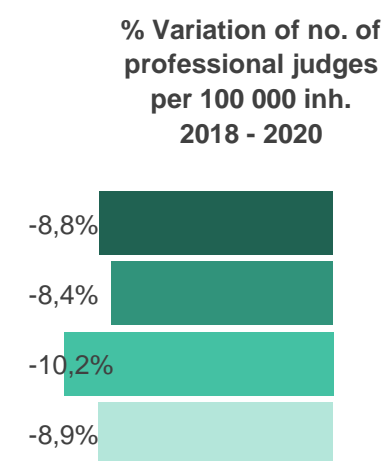
## Professionals and Gender Balance in judiciary in Azerbaijan in 2020 (Indicators 2 and 12)



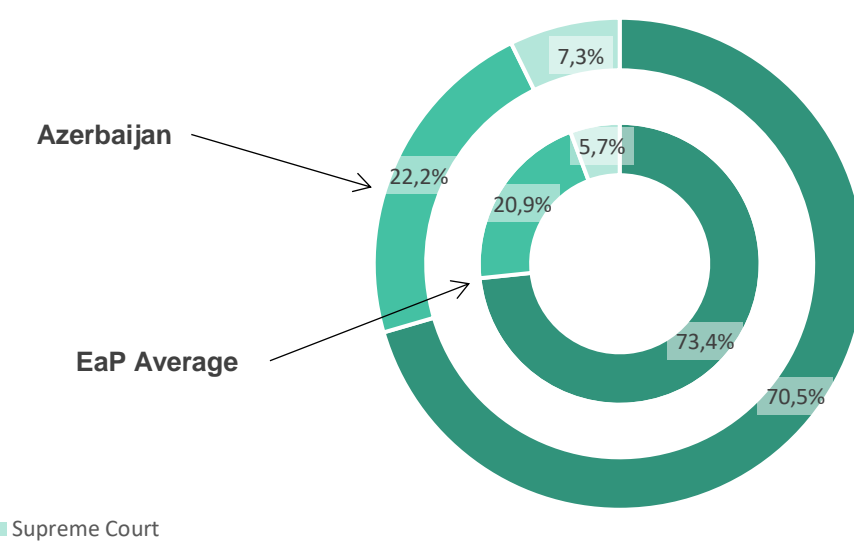
In 2020, Azerbaijan had 5,2 professional judges per 100 000 inhabitants (lower than the EaP Median of 8,8) and 12,9 prosecutors per 100 000 inhabitants (corresponds to the EaP Median). Less than half of professional judges (14,4%) and prosecutors (6,7%) were women (the EaP Medians were 49,7% and 31,3%, respectively).

### Professional Judges

	Professional judges			
	Absolute number	% of the total	Per 100 000 inhabitants	EaP Median per 100 000 inhabitants
<b>Total</b>	522	100,0%	5,2	8,8
<b>1st instance courts</b>	368	70,5%	3,7	6,2
<b>2nd instance courts</b>	116	22,2%	1,2	2,2
<b>Supreme Court</b>	38	7,3%	0,4	0,5



Distribution of professional judges by instance in 2020 (%)



The absolute number of professional judges in Azerbaijan in 2020 was 522, which corresponds to 5,2 judges per 100 000 inhabitants (lower than the EaP Median of 8,8).

Compared to 2018, the number of professional judges per 100 000 inhabitants decreased by -8,8%.

The figures show a difference of 2,9 percentage points between the percentage of judges in the first instance (70,5%) and the EaP Average (73,4%).

Distribution of professional judges per 100 000 inhabitants by instance in 2018 and 2020



## • Non-judge staff

In 2020, the total number of non-judge staff in Azerbaijan was 2855. This represents 28,4 non-judge staff per 100 000 inhabitants, which is below the EaP Median of 48,5. The number of non-judge staff increased by 8% between 2018 and 2020. This increase is due to measures taken to increase the productivity of judges such as the establishment of the new position “assistant to judge”, the increase of the number of IT consultants in courts etc.

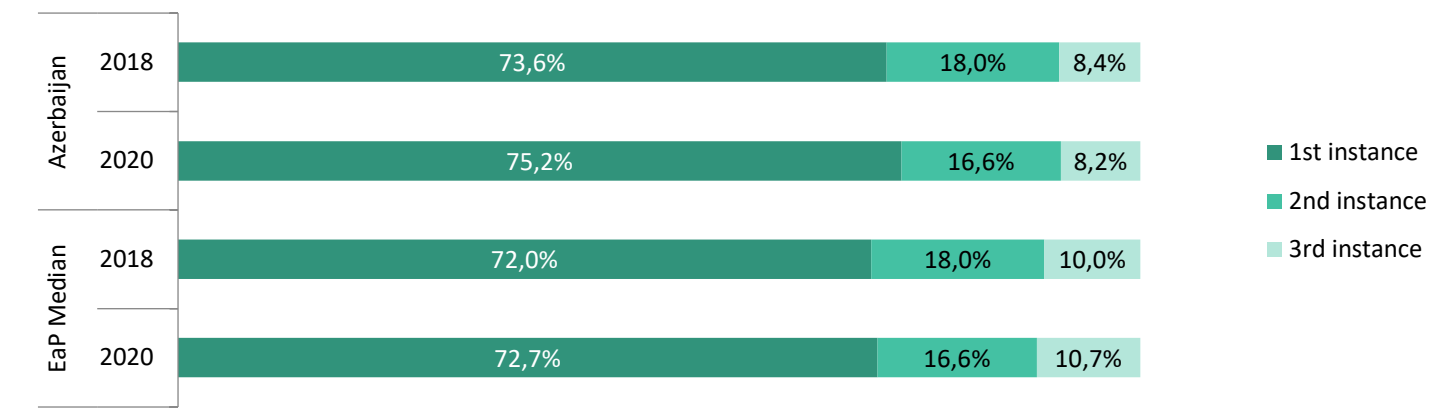
Compared to 2018, there was no significant variation in the distribution of non-judge staff among instances in 2020 but there was an increase of 1,6% of non-judge staff in first instance against a decrease of 1,4% of non-judge staff in second instance.

The highest number of non-judge staff were in charge of administrative tasks (43,3% of the total) and assisting the judges (43,6% of the total).

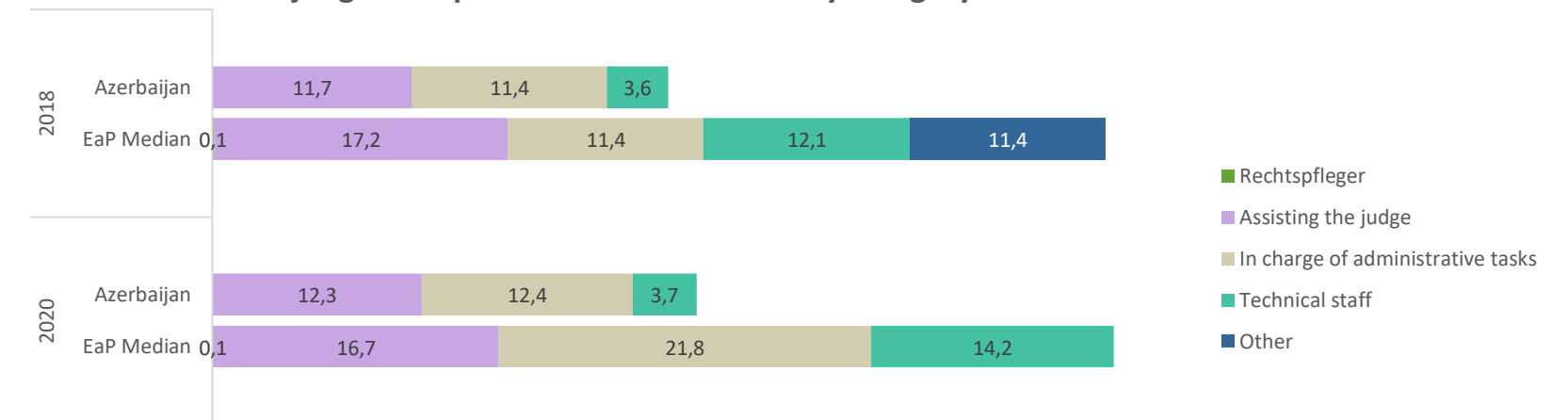
	Number of non-judge staff by instance			
	Absolute number	% of the total	Per 100 000 inhabitants	EaP Median per 100 000 inhabitants
<b>Total</b>	2855	100,0%	28,4	48,5
<b>1st instance courts</b>	2146	75%	21,3	38,4
<b>2nd instance courts</b>	474	17%	4,7	7,8
<b>Supreme Court</b>	235	8%	2,33	3,49

	Number of non-judge staff by category			
	Absolute number	% of the total	Per 100 000 inhabitants	EaP Median per 100 000 inhabitants
<b>Total</b>	2855	100,0%	28,4	48,5
<b>Rechtspfleger</b>	NAP	-	NAP	0,1
<b>Assisting the judge</b>	1235	43,3%	12,3	16,7
<b>In charge of administrative tasks</b>	1244	43,6%	12,4	21,8
<b>Technical staff</b>	376	13,2%	3,7	14,2
<b>Other</b>	NAP	NAP	NAP	-

Distribution of non-judge staff by instance in 2018 and 2020



Number of non-judge staff per 100 000 inhabitants by category between 2018 and 2020

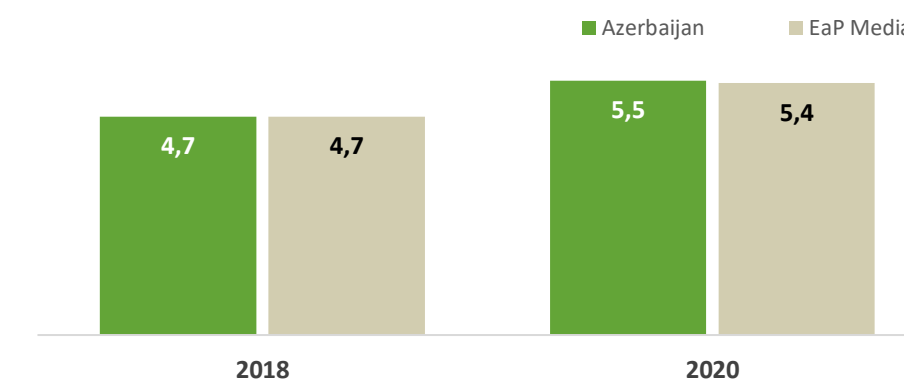


## • Ratio between non-judge staff and professional judges

In Azerbaijan, the ratio of non-judge staff per professional judge was 5.5 in 2020 which is just above the EaP median (5.4) and represents an increase of 16,5% compared to 2018.

	Ratio in 2020		% Variation between 2018 and 2020	
	Azerbaijan	EaP Median	Azerbaijan	EaP Median
<b>Total</b>	5,5	5,4	16,5%	15,4%
<b>1st instance courts</b>	5,8	5,8	18,4%	20,1%
<b>2nd instance courts</b>	4,1	4,1	9,3%	11,0%
<b>Supreme Court</b>	6,2	7,1	14,2%	14,0%

Ratio between non-judge staff and judges between 2018 and 2020





• Prosecutors

	Number of prosecutors by instance			
	Absolute number	% of the total	Per 100 000 inhabitants	EaP Median per 100 000 inhabitants
<b>Total</b>	1 303	100,0%	12,9	12,9
1st instance courts	NA	NA	NA	-
2nd instance courts	NA	NA	NA	-
Supreme Court	NA	NA	NA	-

% Variation of no. of prosecutors per 100 000 inh. 2018 - 2020



■ Total ■ 1st instance courts ■ 2nd instance courts ■ Supreme Court

In 2020, the absolute number of prosecutors in Azerbaijan was 1303, which represents 12,9 prosecutors per 100 000 inhabitants. It corresponds to the EaP median.

The total number of prosecutors increased by 8,3% between 2018 and 2020. There was no data available on how the total number of prosecutors is divided in the different instances.

Distribution of prosecutors per 100 000 inhabitants by instance in 2018 and 2020

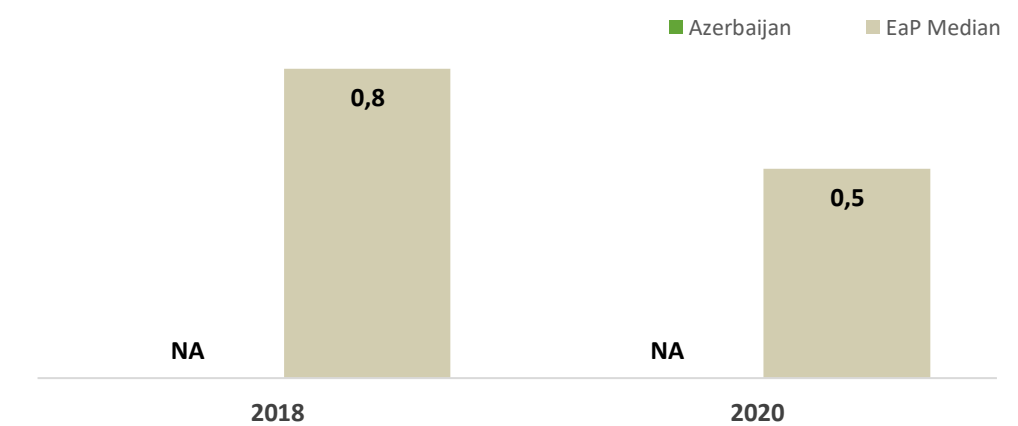


• Non-prosecutor staff and Ratio between non-prosecutor staff and prosecutors

	Non-prosecutor staff in 2020			Ratio between non-prosecutor staff and prosecutors in 2020		% Variation of the ratio between 2018 and 2020	
	Absolute number	Per 100 000 inhabitants	EaP Median per 100 000 inhab.	Azerbaijan	EaP Median	Azerbaijan	EaP Median
<b>Total</b>	NA	NA	9,5	NA	0,5	-	-32,2%

There was no data available on the number of non-prosecutor staff in Azerbaijan in 2020.

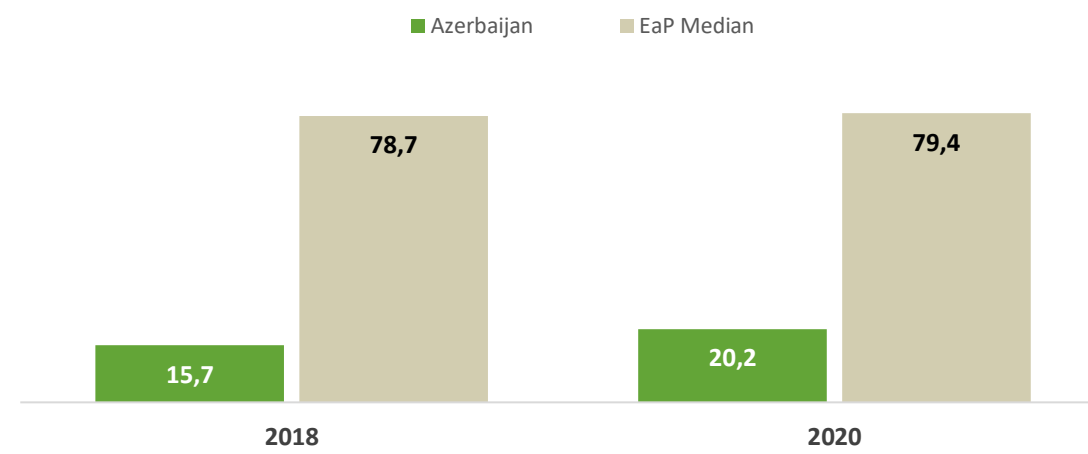
Ratio between non-prosecutor staff and prosecutors between 2018 and 2020



• Lawyers

	Number of lawyers			% Variation between 2018 and 2020	
	Absolute number	Per 100 000 inhabitants	EaP Median per 100 000 inhabitants	Azerbaijan	EaP Median
<b>Total</b>	2 031	20,2	79,4	28,5%	2,0%

Number of lawyers per 100 000 inhabitants between 2018 and 2020



In 2020 in Azerbaijan, the number of lawyers was 20,2 per 100 000 inhabitants, which was remarkably lower than the EaP Median (79,4). However, the number of lawyers increased by 28,5% between 2018 and 2020 due to an on-going process with the organisation of admission exams on a regular basis by the Azerbaijani Bar Association. This follows the monopoly given to lawyers over court representation in the legislation in 2017.

**Salaries of professional judges and prosecutors**

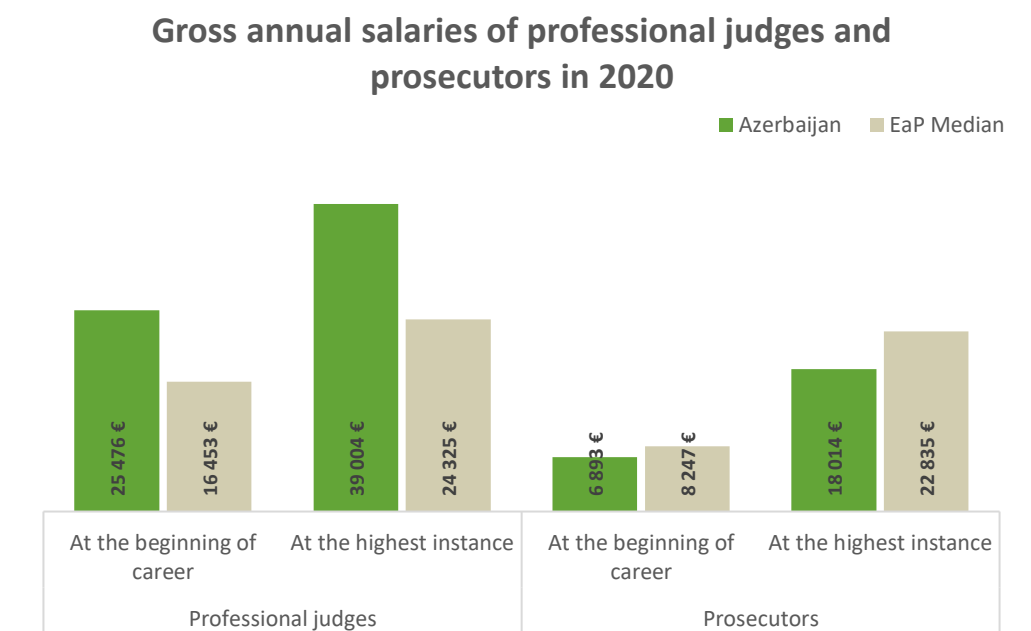
In 2020, the ratio between the salary of professional judges at the beginning of career with the annual gross average salary in Azerbaijan was 6,3, which was more than the EaP Median (3,9).

At the end of career, judges were paid more than at the beginning of career by 53,1%, which was less than the variation of EaP Median (62,4%).

In 2020, the ratio between the salary of prosecutors at the beginning of career with the annual gross average salary in Azerbaijan was 1,7, which was less than the EaP Median (2,2).

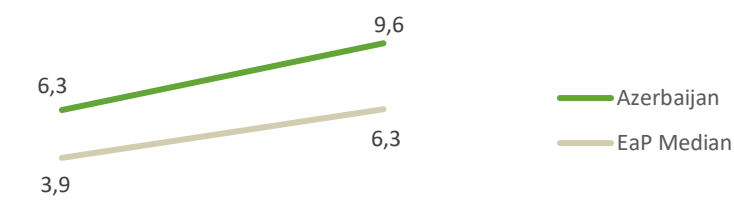
At the end of career, prosecutors were paid more than at the beginning of career by 161,3%, which was more than the variation of EaP Median (146,2%).

		Salaries in 2020				% Variation of Gross Salary between 2018 and 2020	
		Gross annual salary in €	Net annual salary in €	Ratio with the annual gross salary	EaP Median Ratio with the annual gross salary	Azerbaijan	EaP Median
Professional judge	At the beginning of his/her career	25 476	22 162	6,3	3,9	71,8%	9,1%
	Of the Supreme Court or the Highest Appellate Court	39 004	34 667	9,6	6,3	62,6%	5,8%
Public prosecutor	At the beginning of his/her career	6 893	6 066	1,7	2,2	80,4%	-13,9%
	Of the Supreme Court or the Highest Appellate Court	18 014	15 556	4,4	5,5	61,5%	30,9%

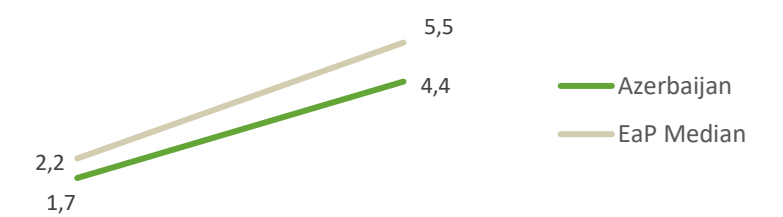


In order to improve the quality and efficiency of justice, on 3 April 2019, The President of Azerbaijan signed the Decree "On Deepening Reforms in the Judicial and Legal System" which provided for a substantial increase of the salary of judges. Accordingly the salary of prosecutors was increased as well.

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

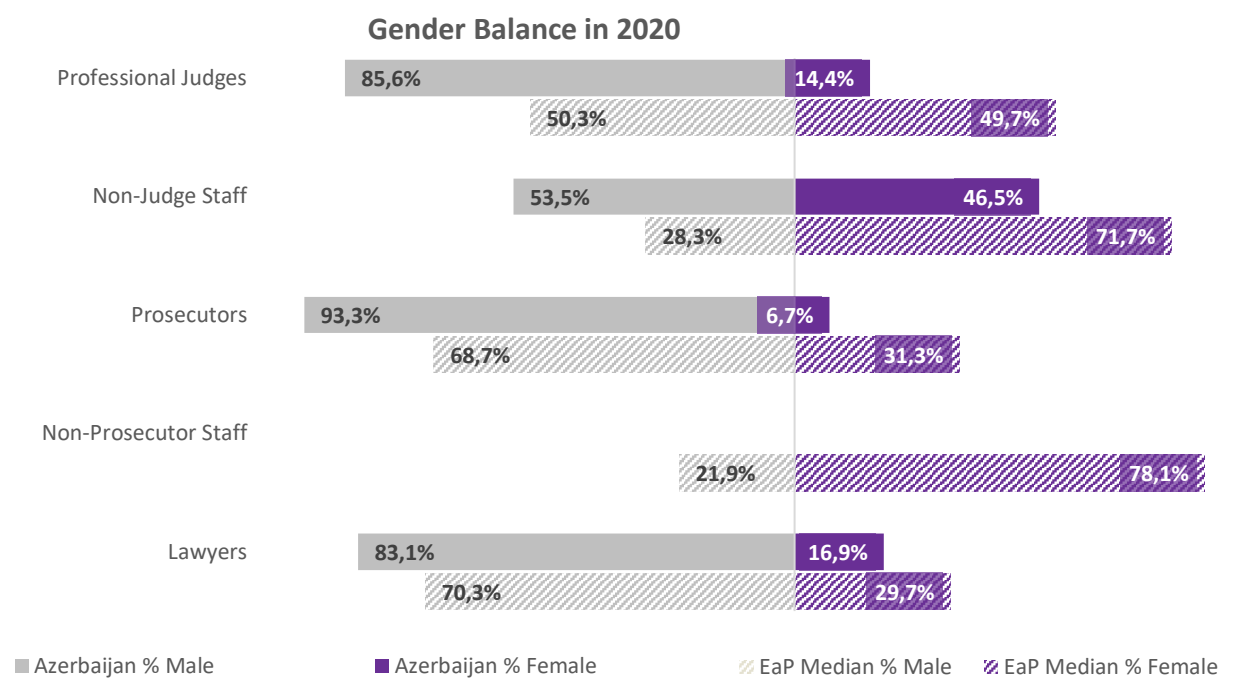


**Additional benefits and bonuses for professional judges and prosecutors**

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

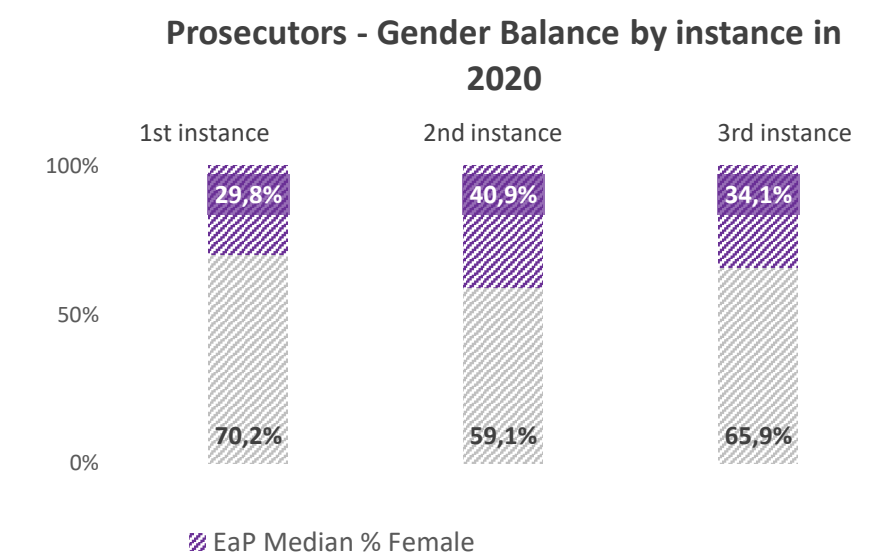
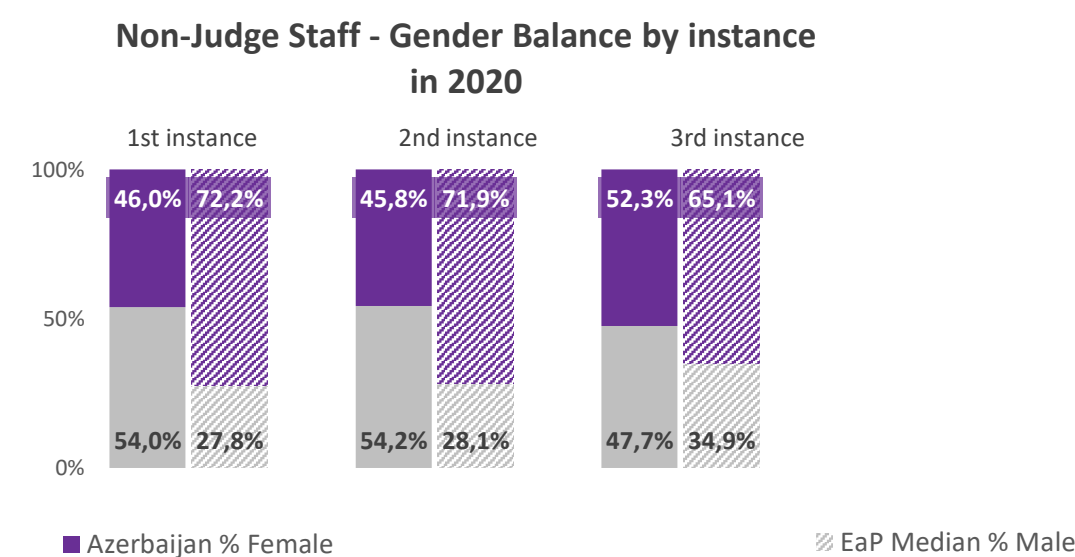
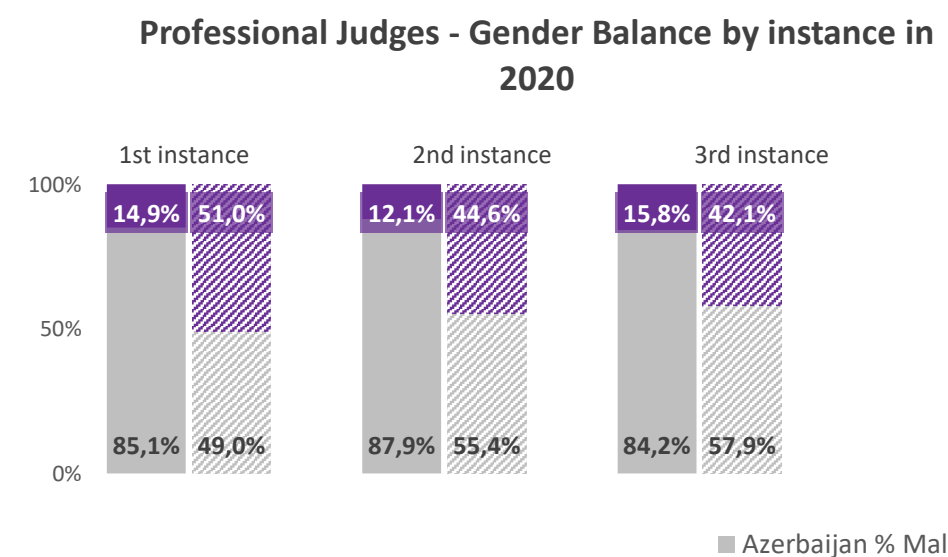
**Gender Balance**

	Total number per 100 000 inh.	% Female	EaP Median	Variation of % females between 2018 and 2020 (percentage points)	
				Azerbaijan	EaP Median
Professional Judges	5,2	14,4%	49,7%	0,0	2,4
Non-Judge Staff	28,4	46,5%	71,7%	-1,4	-6,9
Prosecutors	12,9	6,7%	31,3%	0,3	1,6
Non-Prosecutor Staff	NA	NA	78,1%	NA	12,1
Lawyers	20,2	16,9%	29,7%	0,9	-6,9



In 2020, in Azerbaijan women were hardly represented in the legal professions. Indeed, all percentages of females in judicial professions were below 50% and below the EaP medians: 14,4% of judges (49,7% EaP median); 46,5% of non-judge staff (71,7% EaP Median); 6,7% of prosecutors (31,3% EaP Median); 16,9% of lawyers (29,7% EaP Median). The profession with the highest percentage of females was non-judge staff (46,5%) while the one with the lowest was prosecutors (6,7%).

	% Female Professional Judges		% Female Non-Judge Staff		% Female Prosecutors	
	Azerbaijan	EaP Median	Azerbaijan	EaP Median	Azerbaijan	EaP Median
1st instance courts	14,9%	51,0%	46,0%	72,2%	NA	29,8%
2nd instance courts	12,1%	44,6%	45,8%	71,9%	NA	40,9%
Supreme Court	15,8%	42,1%	52,3%	65,1%	NA	34,1%



For both non-judge staff and judges, the instance with the biggest percentages of females is the third instance. This differs from the EaP medians which show a decrease in the number of female judges and non-judge staff from the first to the third instance.

• Gender Equality Policies

	Recruitment		Promotion		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	
Court president	✗				
Head of prosecution services	✗				
Judges	✗	✓	✗	✓	✗
Prosecutors	✗	✓	✗	✓	✗
Non-judge staff	✗	✓	✗	✓	✗
Lawyers	✗		✗		
Notaries	✗		✗		
Enforcement agents	✗		✗		

In Azerbaijan there is no national programme or orientation document to promote gender equality that applies specifically to the judiciary.

The Government of Azerbaijan conducts regularly women’s awareness operations. The State Committee for Family, Women and Children Affairs (SCFWCA) has organized awareness missions to promote among women the General Recommendations of the CEDAW Committee, including the CEDAW itself (the Convention on Elimination of All Forms of Discrimination against Women) and its Additional Protocols. The special project on Strengthening the Role of Civil Society in Promotion of Gender Equality and Women’s Rights is being elaborated to increase the role of non-governmental organizations in monitoring and reporting to ensure the implementation of the Convention on Elimination of All Forms of Discrimination against Women (CEDAW). Capacity building activities have been fulfilled to accomplish: i) increasing of overall legal literacy of NGOs on various international mechanisms on women’s rights, and particularly, the CEDAW and its Additional Protocol; ii) increasing the knowledge of NGO sector to act as an effective advocate of women’s rights; iii) providing NGOs with resources and practical skills to conduct a monitoring and elaborate alternative reports on women’s rights. Capacity building measures have included the preparation of educational resources and tools coupled with awareness sessions and training courses. 20 NGO representatives have taken part in training sessions. Legal guidelines on CEDAW Convention are developed and printed for NGOs. At the same time, the set of core principles is formed and printed to be used in drawing the alternative CEDAW reports. A training module comprising resources related to the increasing economic and social rights of women on the basis of CEDAW is developed and circulated to different users.

There are no specific provisions for facilitating gender equality regarding the recruitment and promotion of justice professionals. However on October 10th 2006, the Law of the Republic of Azerbaijan “On Ensuring Gender (Men and Female) Equality” was adopted. According to Article 1 of the Law, its purpose is to ensure gender equality by eliminating all forms of gender discrimination, creating equal opportunities for male and female participation in political, economic, social, cultural and other fields of social life. In accordance with Article 6 of the Law, the state takes measures for eliminating all forms of gender discrimination, creating equal opportunities for males and females, not allowing superiority of persons belonging to any gender in state governing and decision-making. The text of the said Article is available at the following link: <http://e-qanun.az/framework/12424>.

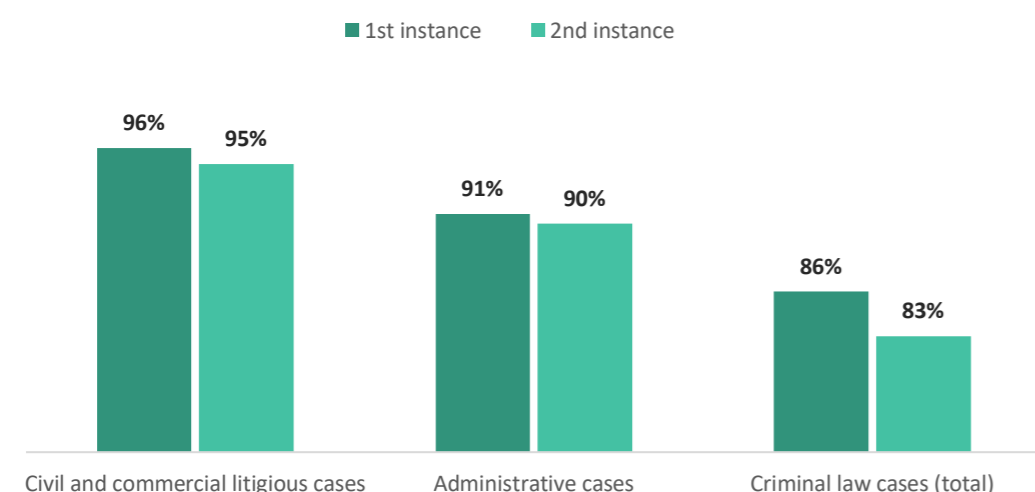
The specific institution dealing with gender issue at the national level on the topics of recruitment and promotion of judges, prosecutors and non judge staff is the State committee for family, women, and children affairs. It was established by the Decree of the President of the Republic of Azerbaijan, dated February 6th 2006 and according to the article 8.12 of its Statute it is tasked with supervising the insurance of gender equality in all areas.

At the courts of prosecution services level, there is no persons or institutions responsible for the respect of gender equality.

## Efficiency in Azerbaijan in 2020 (Indicators 3.1 and 3.2)

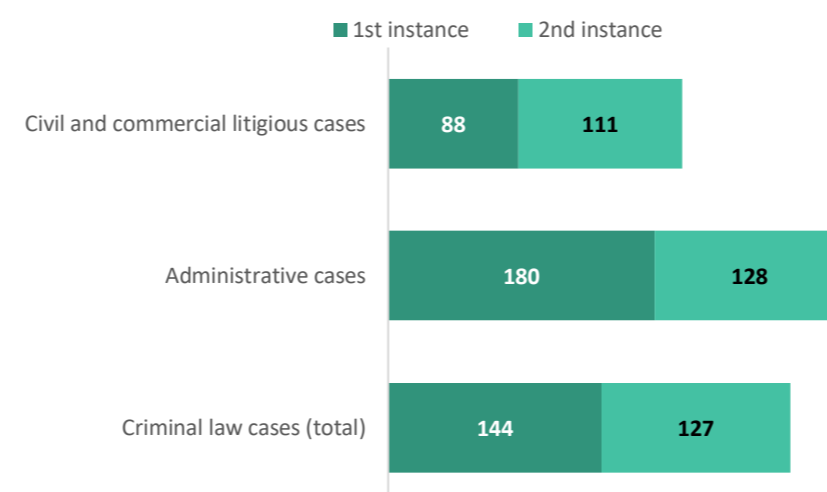
### Clearance Rate in 2020 (%)

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.

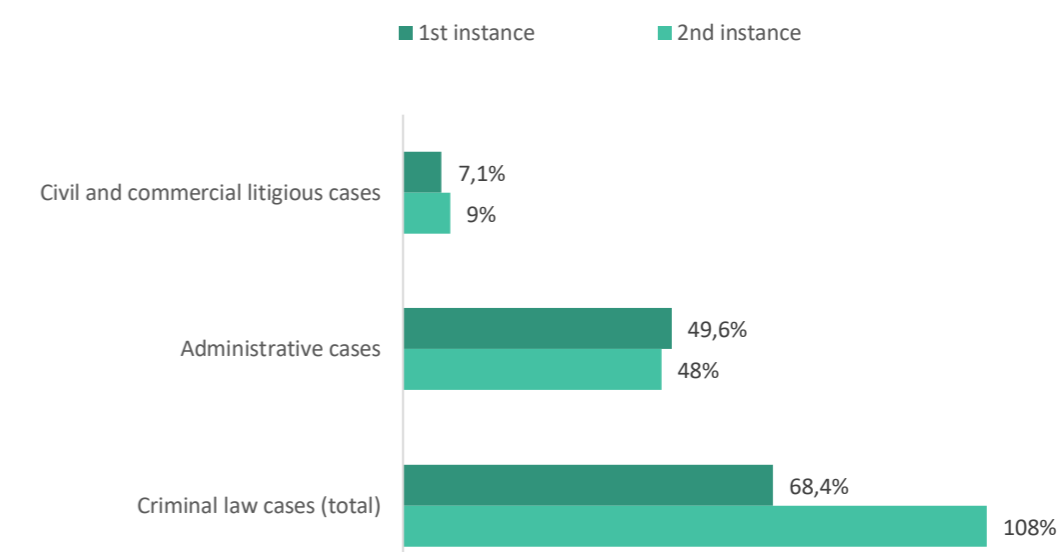


### Disposition Time in 2020 (in days)

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 2018 and 2020 (%)



For the purpose of this Profile, the data of only 1st and 2nd instance courts is analysed. In 2020, some backlog was created for all types of cases in both first and second instance (Clearance Rates below 100%). First instance civil and commercial cases were resolved faster than other types of cases with a Disposition Time of 88 days and also had the highest Clearance Rates (96%). However, for both administrative and criminal cases, the second instance was the fastest with shorter Disposition Times.

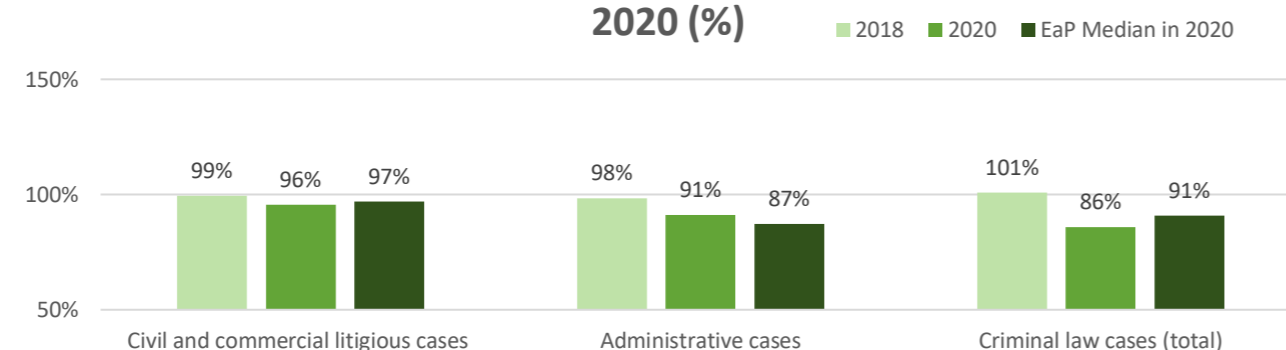
Since 2018, Clearance Rates for all types of cases have decreased while the Disposition Times have increased. However, it is to be noted that there were severe restrictions on the work of the courts for about 4 months during the year of 2020. It was recommended to temporarily postpone the consideration of the cases except if they needed to be considered urgently or did not require a court hearing (i.e., selection, prolongation, changing and lifting of judicial sanctions, cases of administrative detention, enforcement of lawsuits, order proceedings, simplified proceedings on small claims, special proceedings on some categories, etc.). To provide efficiency and access to justice, it was recommended to widely use the "Electronic Court" information system by the courts, especially on civil and commercial disputes, as well as to consider administrative cases without oral hearings (with the consent of the parties). All cases related to early release from custody, as well as issues of extending the period of arrest were considered using a remote video conference system. All citizens were notified and asked to sue or file other documents electronically only. Every court provided a separate telephone number which would be active for citizens consulting on their specific questions related to activity of courts during quarantine or provide answers on general topics.

In 2020, all Clearance Rates were lower or equal to the EaP medians, except for administrative cases in first instance (CR at 91% with EaP median at 87%). All Disposition Times were lower than the EaP medians except for criminal cases in second instance (DT at 127 days with EaP median at 113 days).

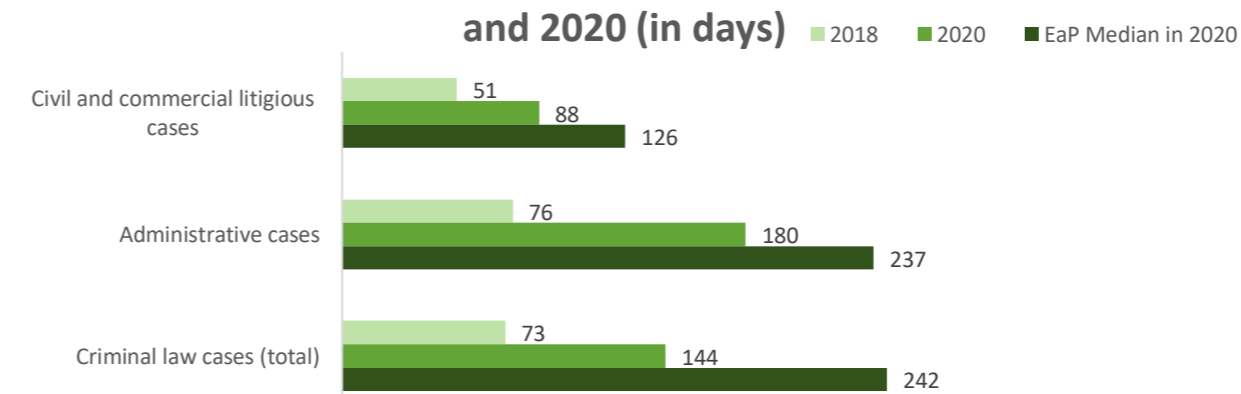
Compared to 2018, the pending cases at the end of the year increased for all types of cases in both first and second instances. The smallest increases were for civil and commercial cases.

### First instance cases

#### Clearance Rate for first instance cases between 2018 and 2020 (%)

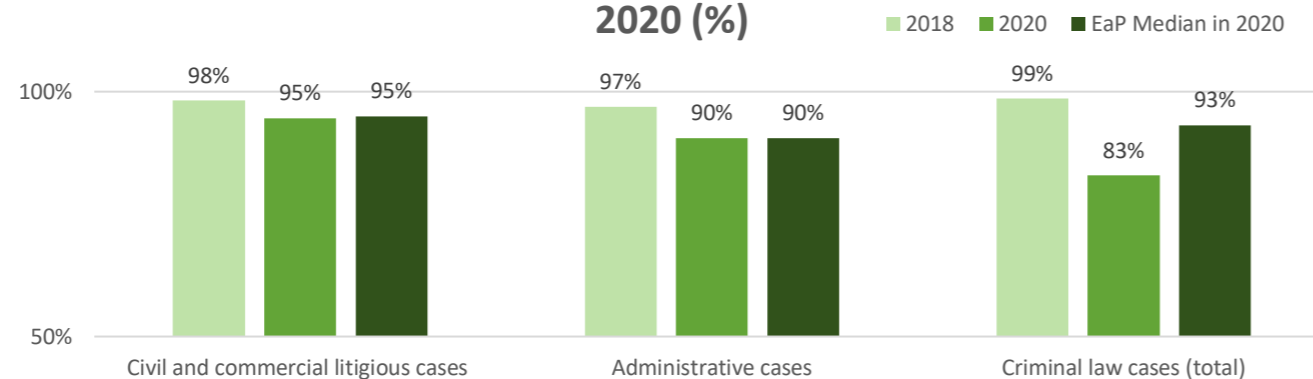


#### Disposition Time for first instance cases between 2018 and 2020 (in days)

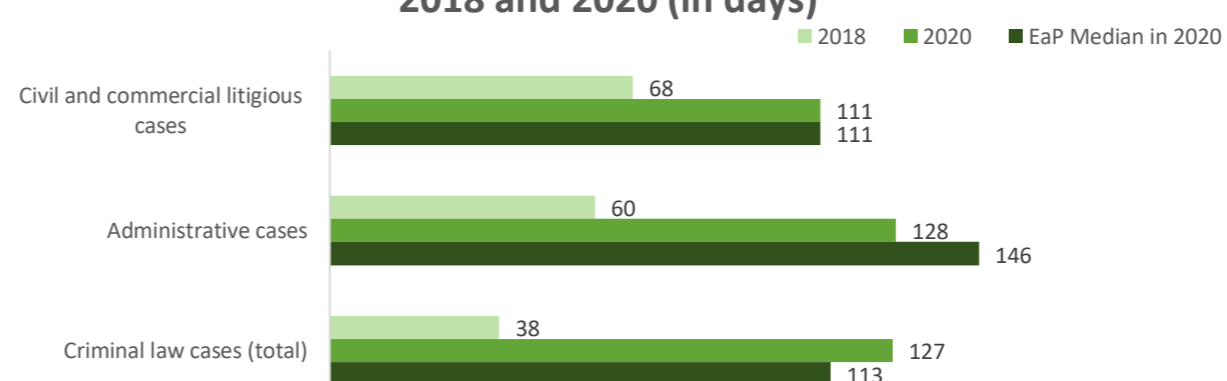


### Second instance cases

#### Clearance Rate for second instance cases between 2018 and 2020 (%)



#### Disposition Time for second instance cases between 2018 and 2020 (in days)



• First instance cases - Other than criminal law cases

1st instance	2020								Per 100 inhabitants in 2020				% Variation between 2018 and 2020					
	Incoming cases	Resolved cases	Pending cases 31 Dec	Pending cases over 2 years	CR (%)	EaP Median CR (%)	DT (days)	EaP 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 (%)
<b>Total of other than criminal law cases (1+2+3+4)</b>	162 150	154 544	39 866	765	95,3%	95,6%	94	133	1,61	1,54	0,40	0,01	-34,8%	-37,4%	11,4%	55,5%	-4,0	78,0%
<b>1 Civil and commercial litigious cases</b>	150 130	143 588	34 474	726	95,6%	97,0%	88	126	1,49	1,43	0,34	0,01	-35,0%	-37,5%	7,1%	58,2%	-3,8	71,3%
<b>2 Non-litigious cases**</b>	NAP	NAP	NAP	NAP	NAP	97,5%	NAP	123	NAP	NAP	NAP	NAP	NAP	NAP	NAP	NAP	NAP	NAP
<b>3 Administrative cases</b>	12 020	10 956	5 392	39	91,1%	87,2%	180	237	0,12	0,11	0,05	0,00	-31,6%	-36,7%	49,6%	18,2%	-7,3	136,3%
<b>4 Other cases</b>	NAP	NAP	NAP	NAP	NAP	100,0%	NAP	97	NAP	NAP	NAP	NAP	NAP	NAP	NAP	NAP	NAP	NAP

PPT = Percentage points

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

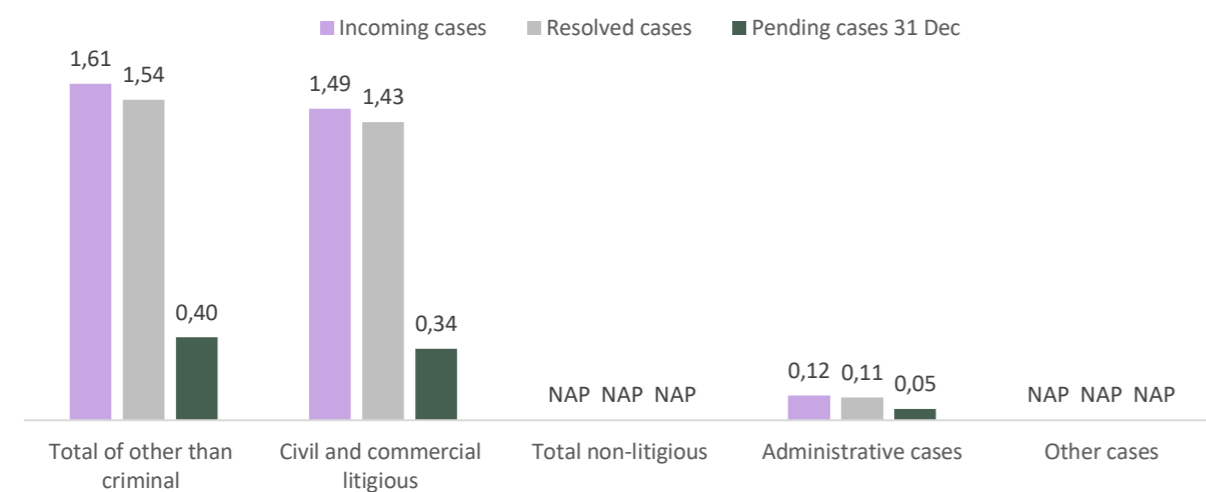
In 2020, there were 150 130 incoming civil and commercial litigious cases in first instance in Azerbaijan, which was 1,49 cases per 100 inhabitants and -35% less than in 2018. 143 588 cases were resolved which is less than the number of incoming cases. It represented 1,43 resolved cases per 100 inhabitants and -37,5% less than in 2018. As a consequence, there were more civil and commercial litigious pending cases at the end of 2020 than at the end of 2018 and the Clearance Rate for this type of cases was 95,6%. This decreased by -3,8 percentage points compared to 2018 and was below the EaP Median (97%).

Finally, the Disposition Time for civil and commercial litigious cases in first instance was approximately 88 days in 2020. This has increased by 71,3% compared to 2018 but it remained below the EaP Median (126 days).

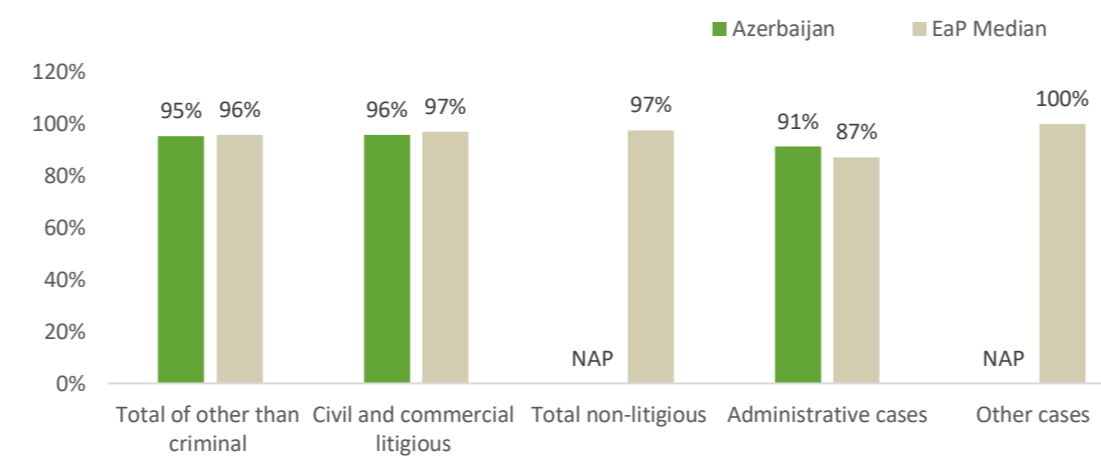
In 2020, there were 12 020 incoming administrative cases in first instance, which was 0,12 per 100 inhabitants and -31,6% less than in 2018. 10 956 cases were resolved, which was also 0,11 case per 100 inhabitants and -36,7% less than in 2018. The number of resolved cases was lower than the incoming cases. As a consequence, there were more administrative pending cases at the end of 2020 than at the end of 2018 and the Clearance Rate for this type of cases was 91,1%. This decreased by -7,3 percentage points compared to 2018 but it was above the EaP median (87,2%).

Finally, the Disposition Time for administrative cases in first instance was approximately 180 days in 2020. This has increased by 136,3% compared to 2018 and but it remained below the EaP Median (237 days).

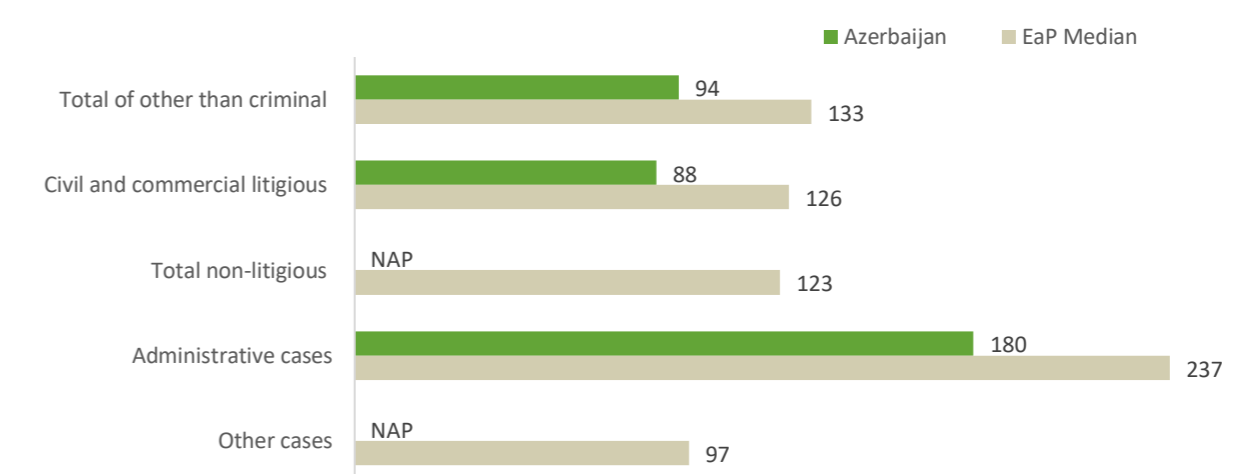
First instance Other than criminal cases per 100 inhabitants in 2020



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



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



• First instance cases - Criminal law cases

1st instance	2020								Per 100 inhabitants in 2020				% Variation between 2018 and 2020					
	Incoming cases	Resolved cases	Pending cases 31 Dec	Pending cases over 2 years	CR (%)	EaP Median CR (%)	DT (days)	EaP 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 (%)
<b>Total of criminal law cases (1+2+3)</b>	12 414	10 663	4 205	184	85,9%	90,8%	144	242	0,12	0,11	0,04	0,00	-0,1%	-14,9%	68,4%	54,6%	-15,0	98,0%
<b>1 Severe criminal cases</b>	2 082	1 599	1 008	63	76,8%	86,7%	230	184	0,02	0,02	0,01	0,00	20,1%	-8,2%	104,9%	6,8%	-23,7	123,2%
<b>2 Misdemeanour and / or minor criminal cases</b>	10 332	9 064	3 197	121	87,7%	88,2%	129	124	0,10	0,09	0,03	0,00	-3,3%	-16,0%	59,5%	101,7%	-13,3	89,9%
<b>3 Other cases</b>	NAP	NAP	NAP	NAP	NAP	NA	NAP	NA	NAP	NAP	NAP	NAP	NAP	NAP	NAP	NAP	NAP	NAP

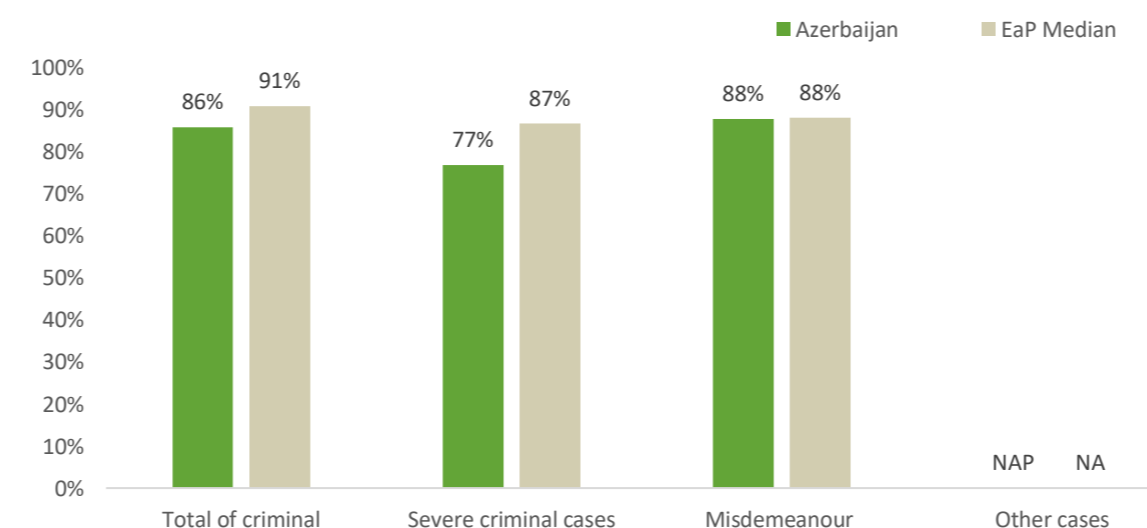
In 2020, there were 12 414 incoming criminal cases in first instance, which was 0,12 case per 100 inhabitants and -0,1% less than in 2018. 10 663 cases were resolved, which was 0,11 per 100 inhabitants and -14,9% less than in 2018. Hence, the number of resolved cases was lower than the incoming cases. As a consequence, there were more criminal pending cases at the end of 2020 than at the end of 2018 and the Clearance Rate for this type of cases was 85,9%. This decreased by -15 percentage points compared to 2018 and was below the EaP Median (90,8%).

Finally, the Disposition Time for total criminal cases in first instance was approximately 144 days in 2020. This has increased by 98% compared to 2018 but it was well below the EaP Median (242 days).

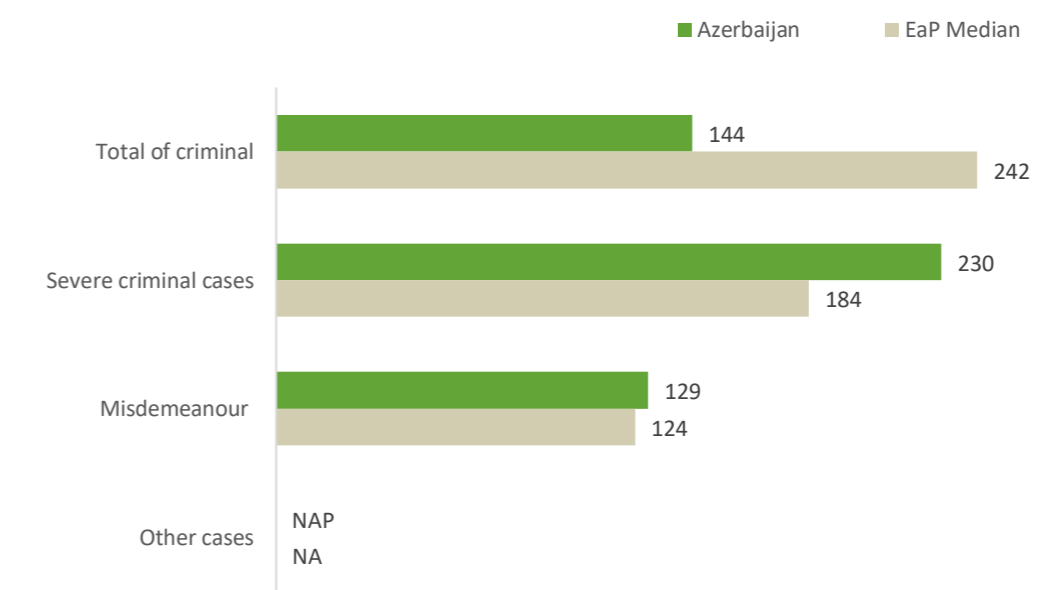
First instance Criminal law cases per 100 inhabitants in 2020



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



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





• Second instance cases - Other than criminal law cases

2nd instance	2020								Per 100 inhabitants in 2020				% Variation between 2018 and 2020					
	Incoming cases	Resolved cases	Pending cases 31 Dec	Pending cases over 2 years	CR (%)	EaP Median CR (%)	DT (days)	EaP 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 (%)
<b>Total of other than criminal law cases (1+2+3+4)</b>	25 633	24 070	7 474	163	93,9%	94,1%	113	115	0,25	0,24	0,07	0,00	-29,6%	-32,5%	14,2%	71,6%	-4,1	69,2%
<b>1 Civil and commercial litigious cases</b>	21 382	20 223	6 128	146	94,6%	95,0%	111	111	0,21	0,20	0,06	0,00	-30,3%	-32,8%	8,7%	58,7%	-3,6	61,9%
<b>2 Non-litigious cases**</b>	NAP	NAP	NAP	NAP	NAP	100,0%	NAP	NA	NAP	NAP	NAP	NAP	NAP	NAP	NAP	NAP	NAP	NAP
<b>3 Administrative cases</b>	4 251	3 847	1 346	17	90,5%	90,5%	128	146	0,04	0,04	0,01	0,00	-26,0%	-30,9%	47,7%	466,7%	-6,4	113,7%
<b>4 Other cases</b>	NAP	NAP	NAP	NAP	NAP	99,1%	NAP	61	NAP	NAP	NAP	NAP	NAP	NAP	NAP	NAP	NAP	NAP

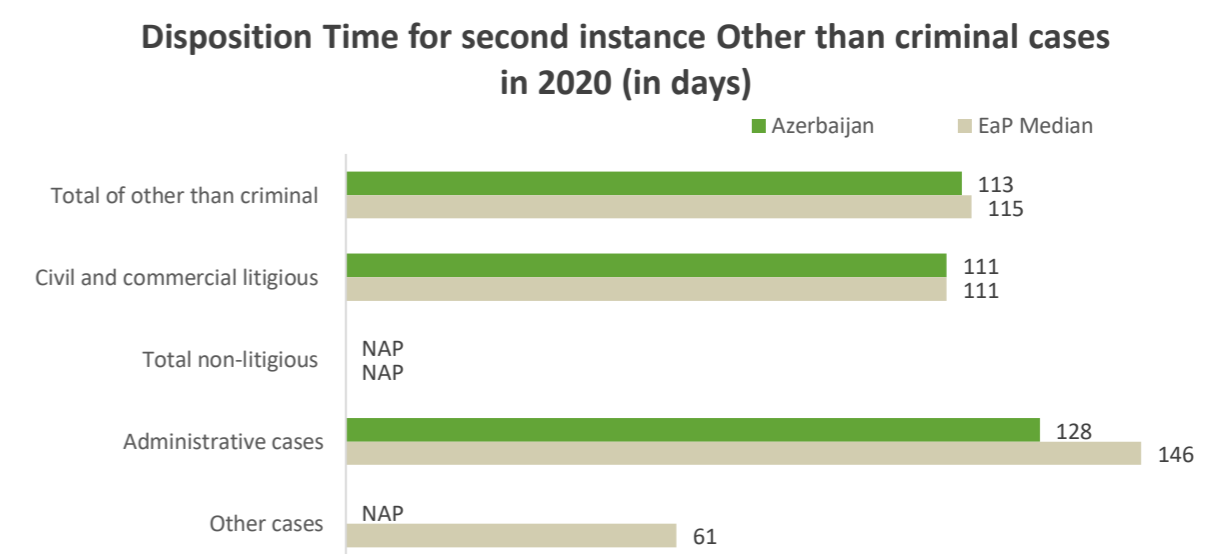
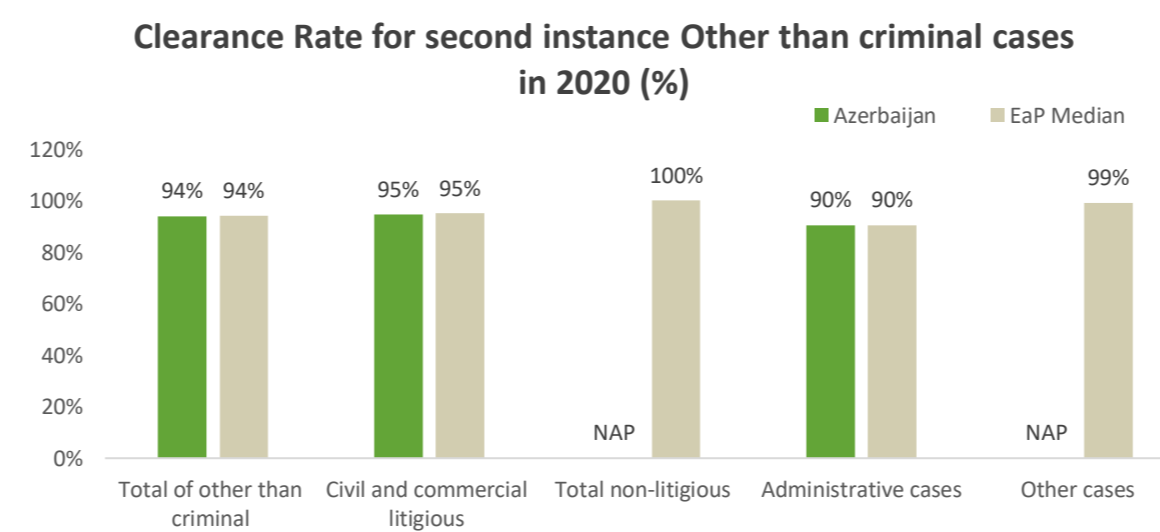
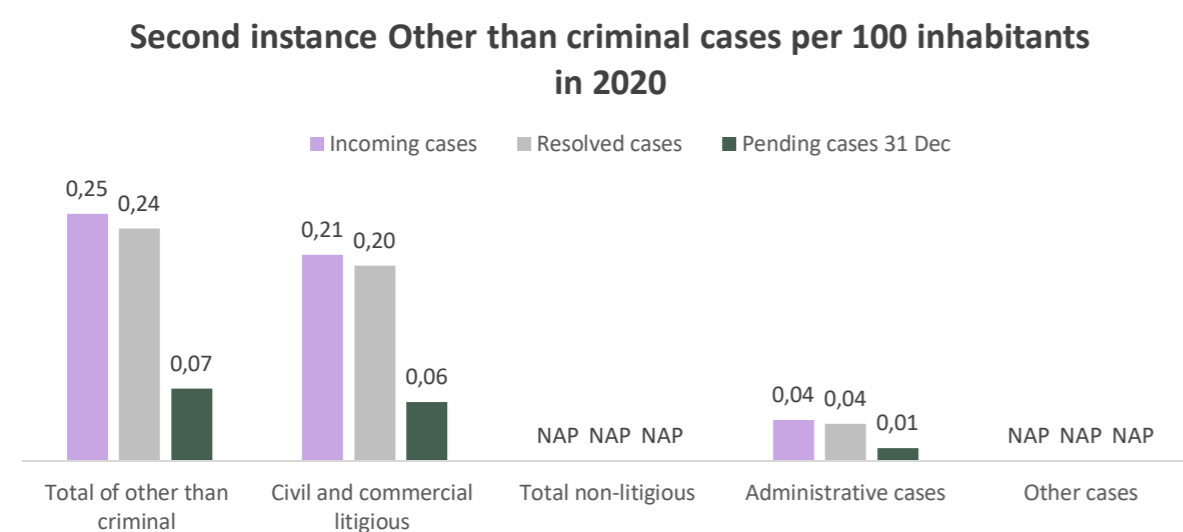
\*\* Non-litigious cases include: General civil (and commercial) non-litigious cases, Registry cases and Other non-litigious cases.

In 2020, there were 21 382 incoming civil and commercial litigious cases in second instance, which was 0,21 case per 100 inhabitants and -30,3% less than in 2018. 20 223 cases were resolved, which was 0,20 per 100 inhabitants and -32,8% less than in 2018. Hence, the number of resolved cases was lower than the incoming cases. As a consequence, there were more civil and commercial litigious pending cases at the end of 2020 than at the end of 2018 and the Clearance Rate for this type of cases was 94,6%. This decreased by -3,6 percentage points compared to 2018 and was slightly below the EaP Median (95%).

Finally, the Disposition Time for civil and commercial litigious cases in second instance was approximately 111 days in 2020. This has increased by 61,9% compared to 2018 but it corresponds to the EaP Median (111 days).

In 2020, there were 4 251 incoming administrative cases in second instance, which was 0,04 case per 100 inhabitants and -26% less than in 2018. 3 847 cases were resolved, which was 0,04 per 100 inhabitants and -30,9% less than in 2018, as well as less than the number of incoming cases. As a consequence, there were more administrative pending cases at the end of 2020 than at the end of 2018 and the Clearance Rate for this type of cases was 90,5%. This decreased by -6,4 percentage points compared to 2018 but it corresponded to the EaP median.

Finally, the Disposition Time for administrative cases in second instance was approximately 128 days in 2020. This has increased by 113,7% compared to 2018 but it was below the EaP Median (146 days).



• Second instance cases - Criminal law cases

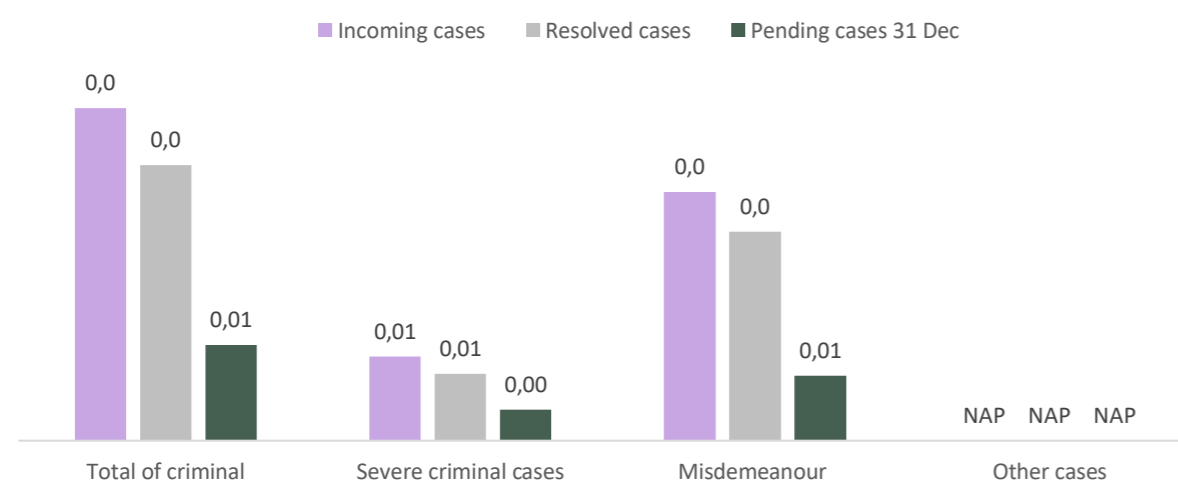
2nd instance	2020								Per 100 inhabitants in 2020				% Variation between 2018 and 2020					
	Incoming cases	Resolved cases	Pending cases 31 Dec	Pending cases over 2 years	CR (%)	EaP Median CR (%)	DT (days)	EaP Median DT (days)	Incoming cases	Resolved cases	Pending cases 31 Dec	Pending cases over 2 years	Incoming cases	Resolved cases	Pending cases 31 Dec	Pending cases over 2 years	CR (PPT)	DT (%)
<b>Total of criminal law cases (1+2+3)</b>	4 335	3 592	1 249	22	82,9%	93,2%	127	113	0,04	0,04	0,01	0,00	-25,6%	-37,4%	107,8%	-12,0%	-15,7	232,2%
<b>1 Severe criminal cases</b>	1 094	873	401	12	79,8%	83,6%	168	218	0,01	0,01	0,00	0,00	-13,8%	-31,3%	63,7%	-14,3%	-20,4	138,3%
<b>2 Misdemeanour and / or minor criminal cases</b>	3 241	2 719	848	10	83,9%	91,9%	114	78	0,03	0,03	0,01	0,00	-28,8%	-39,2%	138,2%	-9,1%	-14,2	291,6%
<b>3 Other cases</b>	NAP	NAP	NAP	NAP	NAP	NA	NAP	NA	NAP	NAP	NAP	NAP	NAP	NAP	NAP	NAP	NAP	NAP

PPT = Percentage points

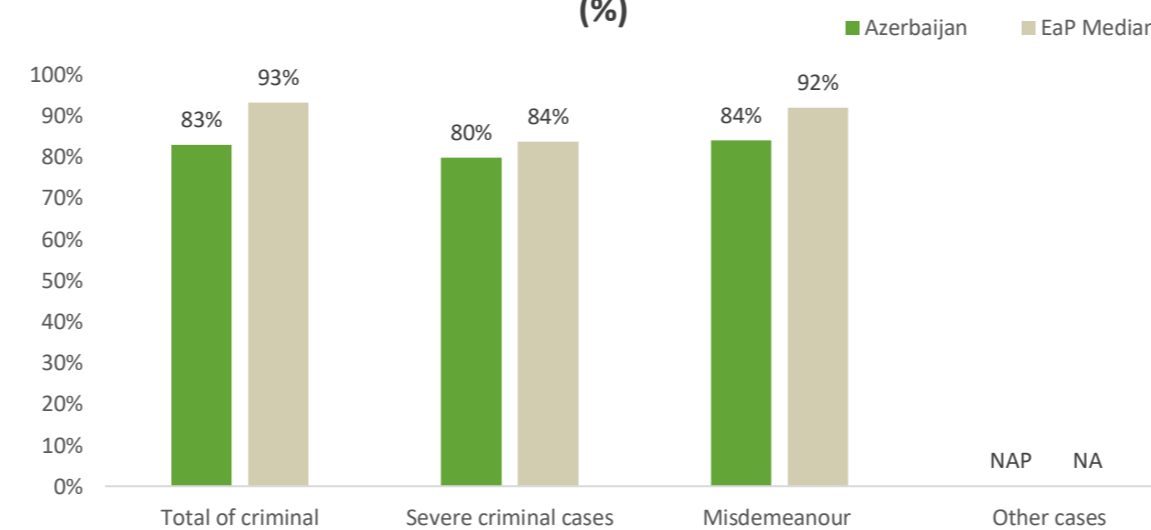
In 2020, there were 4 335 incoming criminal cases in second instance, which was 0,04 case per 100 inhabitants and -25,6% less than in 2018. 3 592 cases were resolved, which was also 0,04 case per 100 inhabitants and -37,4% less than in 2018, as well as less than the number of incoming cases. As a consequence, there were more criminal pending cases at the end of 2020 than at the end of 2018 and the Clearance Rate for this type of cases was 82,9%. This decreased by -15,7 percentage points compared to 2018 and was below the EaP Median (93,2%).

Finally, the Disposition Time for total criminal cases in second instance was approximately 127 days in 2020. This has increased by 232,2% compared to 2018 and it was above the EaP Median (113 days).

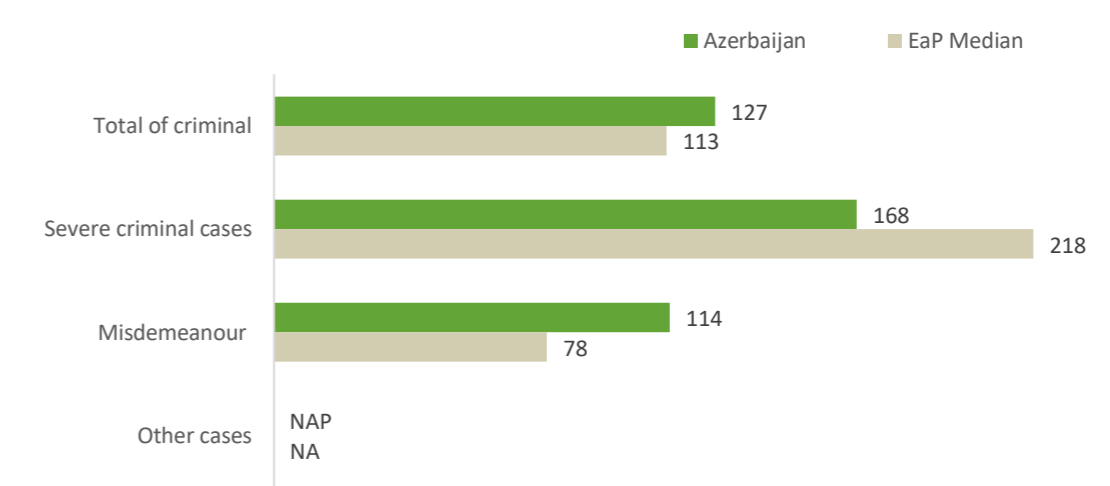
Second instance Criminal law cases per 100 inhabitants in 2020



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



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



• Average length of proceedings for specific category cases ( in days - from the date the application for judicial review is lodged)

	2020						% Variation between 2018 and 2020					
	Decisions subject to appeal (%)	Average length of proceedings (in days)				% of cases pending for more than 3 years for all instances	Decisions subject to appeal (PPT)	Average length of proceedings (in days)				Cases pending for more than 3 years for all instances (PPT)
		First instance	Second instance	Third instance	Total			First instance	Second instance	Third instance	Total	
Civil and commercial litigious cases	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
Litigious divorce cases	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
Employment dismissal cases	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
Insolvency cases	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
Robbery cases	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
Intentional homicide cases	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
Bribery cases	NA	NA	NA	NA	NA	NA						
Trading in influence	NA	NA	NA	NA	NA	NA						

There was no data available on the average length of cases in Azerbaijan in 2020.

However, some information was provided on the maximum legal durations of cases.

According to the Civil Procedural Code, litigious divorce cases are to be considered within 4 months at first instance, within 3 months in courts of appeal, within 2 months in the Supreme Court (totally 9 months). According to the Family Code, if one of the parties does not agree to the dissolution of the marriage, the court may adjourn the case by setting a period of 3 months for the couple to reconcile.

Employment dismissal cases are to be considered within 1 month at first instance, within 3 months in courts of appeal, within 2 months in the Supreme Court (totally 6 months).

The length of investigation of robbery cases and intentional homicide is 3 months, but the term may be extended till 12 month.

The preliminary consideration of the criminal case in the appellate court is to be carried out by the judge within 15 days (in case of high number of accused persons or complicity of the criminal case - within 30 days). The judge should foresee the consideration of the criminal case in 30 days, but in case of high number of accused persons or complicity of the criminal case this term may be extended till 45 days.

**• Quality standards and performance indicators in the judicial system**

In Azerbaijan there are quality standards determined for the judicial system at national level. There is specialised personnel entrusted with implementation of these national level quality standards both within the courts and within the public prosecution services

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

In Azerbaijan 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	Yes
in the public prosecution services	Yes

The Monitoring Dashboard of the "Azemis" e-court information system allows to track procedural and/or reasonable timeframes and notify in case of delays.

• Quantitative targets for each judge and prosecutor

In Azerbaijan there are quantitative targets for both judges and prosecutors

Responsible for setting up quantitative targets for judges	
Executive power (for example the Ministry of Justice)	✗
Legislative power	✓
Judicial power (for example the High Judicial Council, Supreme Court)	✓
President of the court	✗
Other:	✗

Responsible for setting up quantitative targets for public prosecutors	
Executive power (for example the Ministry of Justice)	✗
Prosecutor General /State public prosecutor	✓
Public prosecutorial Council	✗
Head of the organisational unit or hierarchical superior public prosecutor	✗
Other	✗

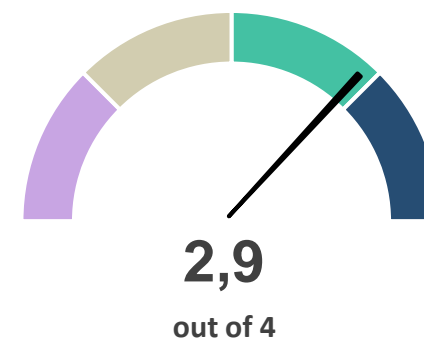
Consequences for not meeting the targets	Judges	Public prosecutors
Warning by court's president/ head of prosecution	✗	✗
Disciplinary procedure	✗	✗
Temporary salary reduction	✗	✗
Other	✗	✗
No consequences	✓	✓

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

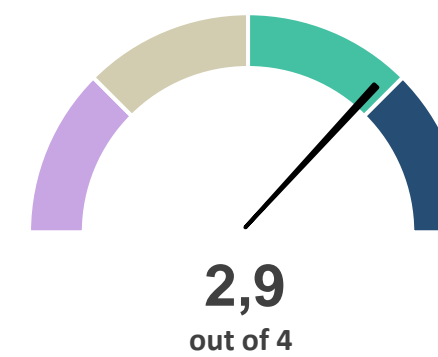
The Case Management System (CMS) Index is an index from 0 to 4 points calculated based on five questions on the features and deployment rate of the CMS of the courts of the respective beneficiary.

The methodology for calculation provides one index point for each of the 5 questions for each case matter. The points regarding the four questions on the features of the CMS (status of cases online; centralised or interoperable database; early warning signals; status of integration with a statistical tool) are summarised while 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 an adequate evaluation.

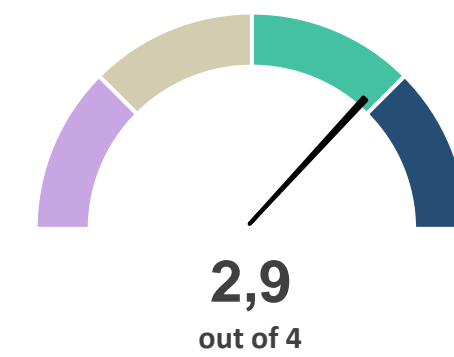
CMS index in Civil and/or commercial



CMS index for Criminal



CMS index for Administrative



### Electronic case management system

In Azerbaijan, there is no IT Strategy for the judiciary.

There is a case management system (CMS), eg software used for registering judicial proceedings and their management, called the "Electronic court" information system, which has been developed more than 10 years ago (operating since 2011).

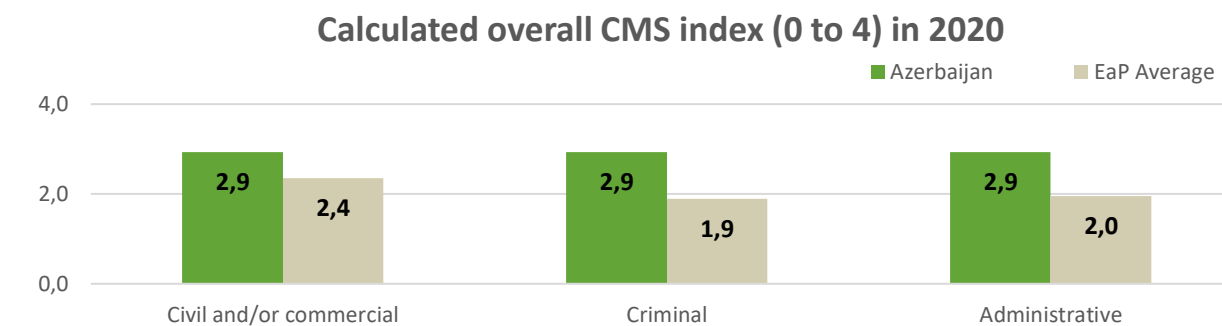
The CMS index for Azerbaijan is 2.9 for each types of cases (civil and/or commercial, criminal, administrative) which is higher than the Eastern Partnership averages of 2.4 for civil and/or commercial cases, 1.9 for criminal cases and 2.0 for administrative cases.

The CMS has a deployment rate between 50 and 99% for all courts and the data is stored on a database consolidated at national level.

There is a plan to develop a new CMS in the framework of a cooperation with the World Bank.

	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%	Both	✓	✓	Integrated	Both: Accessible to parties Publication of decision online
Criminal	50-99%	Both	✓	✓	Integrated	
Administrative	50-99%	Both	✓	✓	Integrated	

	Overall CMS Index in 2020	
	Azerbaijan	EaP Average
Civil and/or commercial	2,9	2,4
Criminal	2,9	1,9
Administrative	2,9	2,0



• **Centralised national database of court decisions**

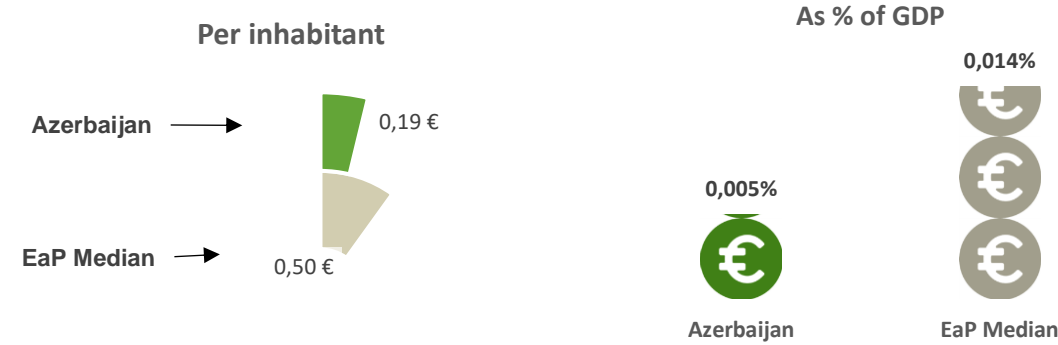
In Azerbaijan, there is a centralised national database of court decisions in which judgments for all instances are collected, with anonymised data. The anonymisation of data for civil and/or commercial cases follows amendments to the legislation in 2018 while the availability of all criminal and administrative cases in the database is the result of recent improvements (in 2018, only some judgments for the second and third instances were available).

The case-law database is available for free online but not in open data. There are no links with ECHR case law (hyperlinks which reference to the ECHR judgments in HUDOC database) in this database.

	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
<b>Civil and/or commercial</b>	Yes all judgements	Yes all judgements	Yes all judgements	✗	✓	✓	✗
<b>Criminal</b>	Yes all judgements	Yes all judgements	Yes all judgements	✗	✓	✓	✗
<b>Administrative</b>	Yes all judgements	Yes all judgements	Yes all judgements	✗	✓	✓	✗

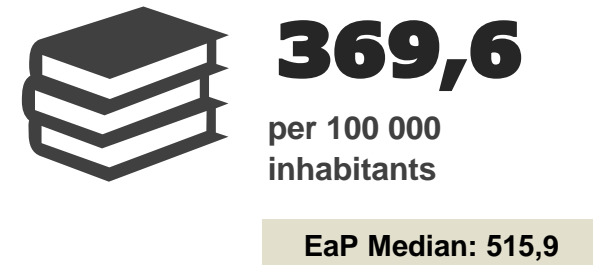
## Legal Aid in Azerbaijan in 2020 (Indicator 4)

### Total implemented budget for Legal Aid in 2020

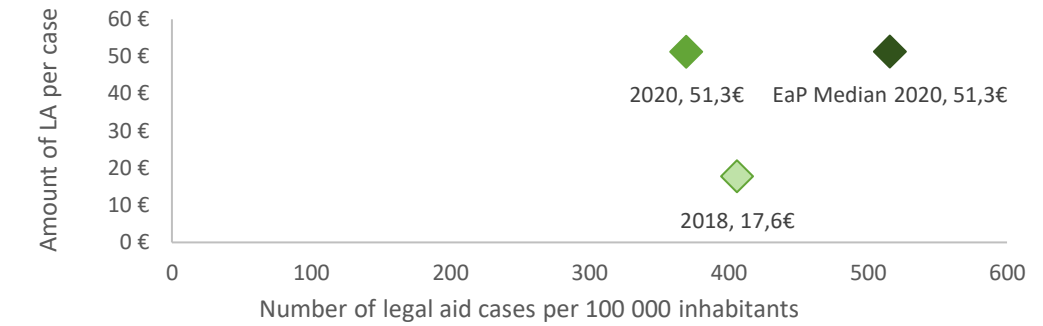


In 2020, the implemented budget for legal aid spent by Azerbaijan was 0,19€ per inhabitant (below the EaP Median of 0,5€). This was equal to 0,005% of the GDP (below the EaP Median 0,014%).

### 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



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 EaP Median means that the Beneficiary has more (less) number of LA cases per 100 000 inh. than the EaP Median. A figure above (below) the EaP Median shows that the Beneficiary has spent per LA case more (less) than the EaP 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 (2018 - 2020)	Cases brought to court	Cases not brought to court	Azerbaijan	EaP Median	Azerbaijan	EaP Median
<b>Total</b>	1 909 585 €	169,3%	1 909 585 €	NAP	0,19 €	0,50 €	0,005%	0,014%
<b>In criminal cases</b>	NA	NA	NA	NAP				
<b>In other than criminal cases</b>	NA	NA	NA	NAP				

In 2020, the total implemented budget for legal aid was 1 909 585€, which was 169,3% more compared to 2018. The increase in the amount of the public budget implemented for legal aid is explained by the increase of the service fee for the legal aid. According to the decision of the Cabinet of the Ministries, payment for each hour to a lawyer increased three times.

In total, Azerbaijan spent 0,19€ per inhabitant in legal aid (below the EaP Median of 0,5€).

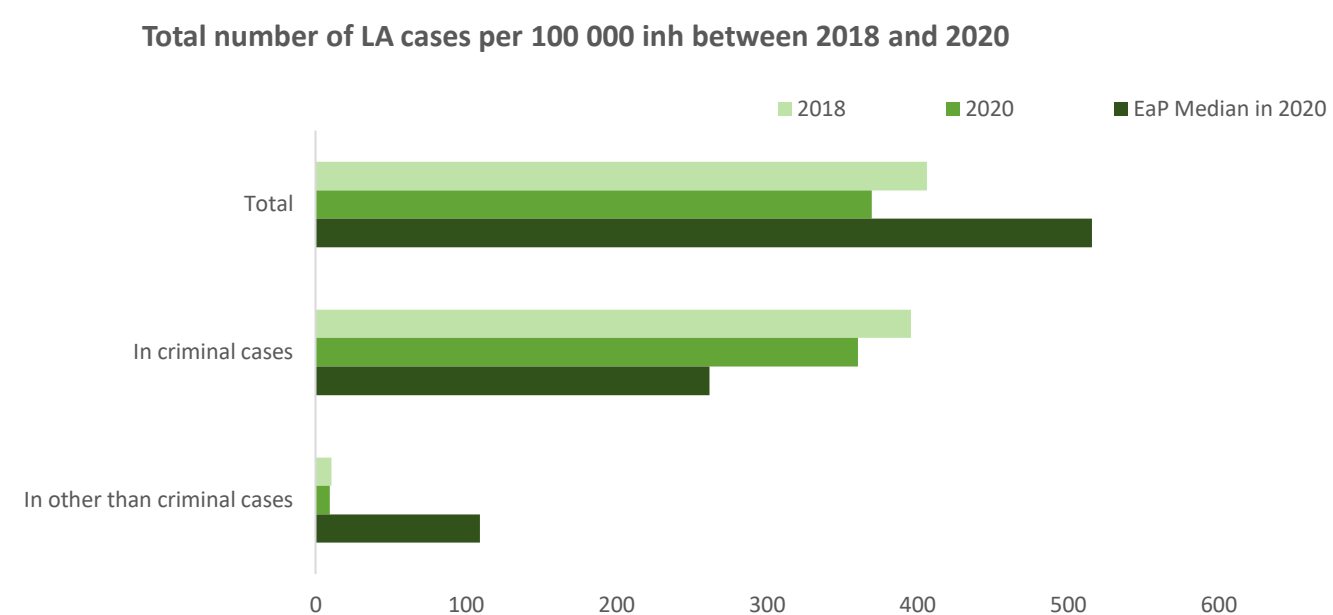
According to the Presidential Decree "On deepening reforms in the judicial system" dated 2019, in order to ensure accurate forecasting and centralized accounting of funds required for legal assistance under the state budget, it was decided to allocate these funds directly to the Bar Association of the Republic of Azerbaijan (before, it was allocated to the relevant executive power, and there was no information about the work done, decisions, statistics). In 2020 the budget was not allocated for cases not brought to court. But According to the decision of the Cabinet of Ministers from November 2020, legal assistance under the state budget will be provided not only on the basis of a court decision, but also on the basis of a decision of the investigating authority (cases in the investigating authority which are investigated and completed at this stage are not brought to court).



	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 (2018 - 2020)					
<b>Total</b>	37 209	370	-9,0%	21 913	15 296	51,3 €	87,1 €	NA
<b>In criminal cases</b>	36 259	360	-8,9%	20 963	15 296	NA	NA	NA
<b>In other than criminal cases</b>	950	9	-10,9%	950	0	NA	NA	NA

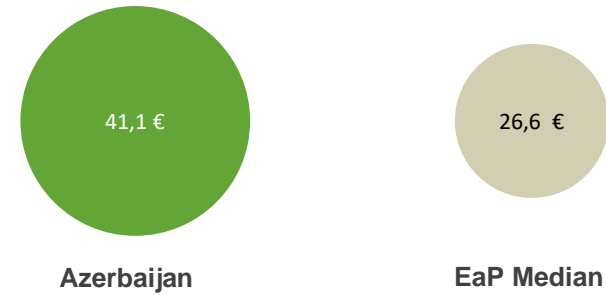
In 2020, legal aid was granted to 37 209 cases, which was -9% less compared to 2018 due notably to the Covid-19 pandemic and the fact that courts did not operate for a couple of months during the year. Those cases were mainly criminal cases (36 259 criminal cases received legal aid while only 950 other than criminal cases did). Out of those 37 209 cases, 21 913 were brought to court and 15 296 were not.

On average, Azerbaijan spent 51,3€ for a case which was granted legal, which is the Eastern Partnership median.

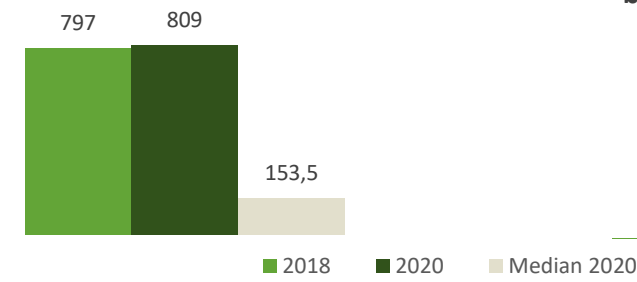


## Training of judges and prosecutors in Azerbaijan in 2020 (Indicator 7)

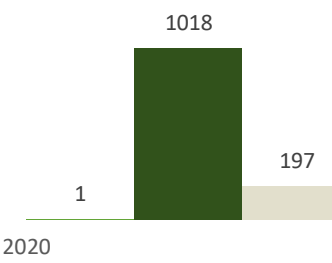
### Total budget for Training per 100 inhabitants



### Delivered in-person training courses between 2018 and 2020 (in days)

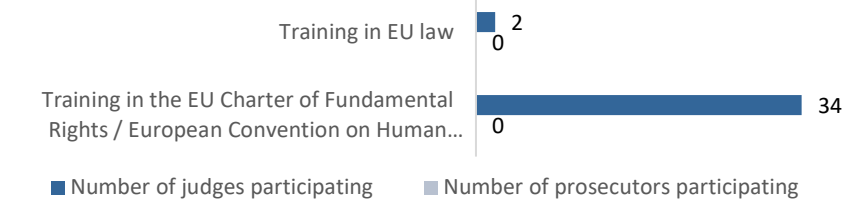


### Number of online training courses (e-learning) available between 2018 and 2020



### Training in EU law (participants in 2020)

Organised/financed by the training institutions for judges and prosecutors



In 2020, the total budget for training of judges and prosecutors (budgets spent by the training institutions, the courts and the public prosecution services on training) in Azerbaijan was 41,1€ per 100 inhabitants, which is above the Eastern Partnership median (26,6€ per 100 inhabitants). The number of delivered in-person training days increased slightly between 2018 and 2020 (from 797 days to 809 days) while the number of online available courses increased considerably due to the pandemic.

## 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 2018 - 2020 per 100 inhabitants	EaP Median per 100 inhabitants
<b>Total</b>	2 049 515 €	2 088 661 €	4 138 176 €	41,1 €	12,0%	26,6 €
<b>Judges</b>	1 133 163 €	1 232 998 €				
<b>Prosecutors</b>	916 352 €	855 663 €				
<b>One single institution for both judges and prosecutors</b>	NAP					

In Azerbaijan, there is one institution (the Academy of Justice) ensuring initial training of judges and prosecutors. The same institution ensures continuous training of judges, while continuous training of prosecutors is carried out by another separate institution (the Training Center of prosecutors).

In total, the training institutions, courts and public prosecution services in Azerbaijan spent 4 138 176€ for training for judges and prosecutors in 2020, which is 41,1€ per 100 inhabitants (above the EaP Median of 26,6€ per 100 inhabitants). Between 2018 and 2020, the budget allocated to the judicial system increased, including the budget allocated to trainings. In 2020, Azerbaijan spent for training per 100 inhabitants 12% more than in 2018.

**• Type and frequency of trainings**

	Judges		Prosecutors	
	Compulsory/Optional	Frequency	Compulsory/Optional	Frequency
Initial training	Compulsory		Compulsory	
In-service training				
General	Compulsory	Regularly	Compulsory	Regularly
Specialised judicial functions	Compulsory	Regularly	Compulsory	Regularly
Management functions of the court	Compulsory	Regularly	Compulsory	Regularly
Use of computer facilities in courts	Compulsory	Regularly	Compulsory	Regularly
On ethics	Compulsory	Regularly	Compulsory	Regularly

In Azerbaijan, no sanction is foreseen if judges and prosecutors do not attend the compulsory training sessions. However, participation in trainings is indicated on the scorecard for judges and taken into account when they are promoted.

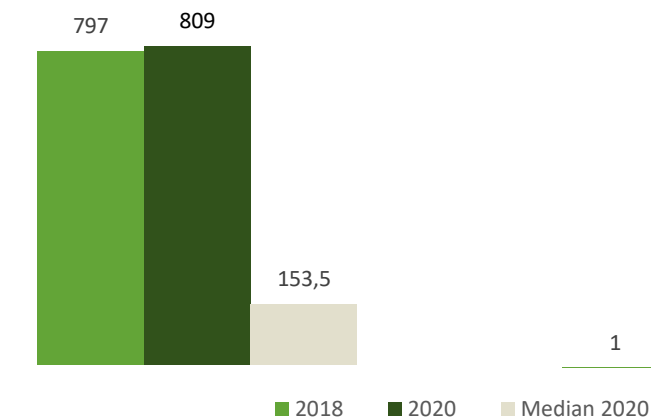
In Azerbaijan, judges and prosecutors have to undergo compulsory in-service training solely dedicated to ethics, the prevention of corruption and conflicts of interest. This training lasts 2-3 days and they need to participate to it more than once on an ad hoc basis.

Prosecution offices have specially trained prosecutors in domestic and sexual violence.

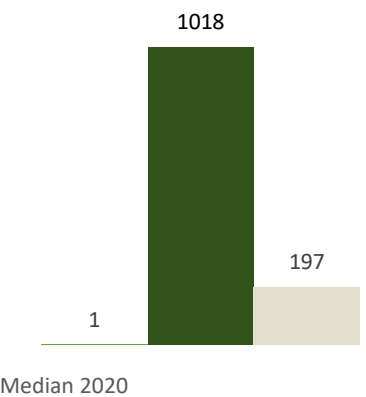
**• Number of in-service trainings and participants**

	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 2018 - 2020		In 2020	% Variation 2018 - 2020	
<b>Total</b>	NA	809	2%	640	1018	101700%	1457
<b>Judges</b>	NA	62	-7%	68	25	2400%	98
<b>Prosecutors</b>	NA	0	-100%	0	6	-	6
<b>Non-judge staff</b>	NA	10	-38%	106	6	-	89
<b>Non-prosecutor staff</b>	NA	0	-100%	0	0	-	0
<b>Other professionals</b>	NA	737	-	466	981	-	1264

Delivered in-person training courses between 2018 and 2020 (in days)



Number of online training courses (e-learning) available between 2018 and 2020

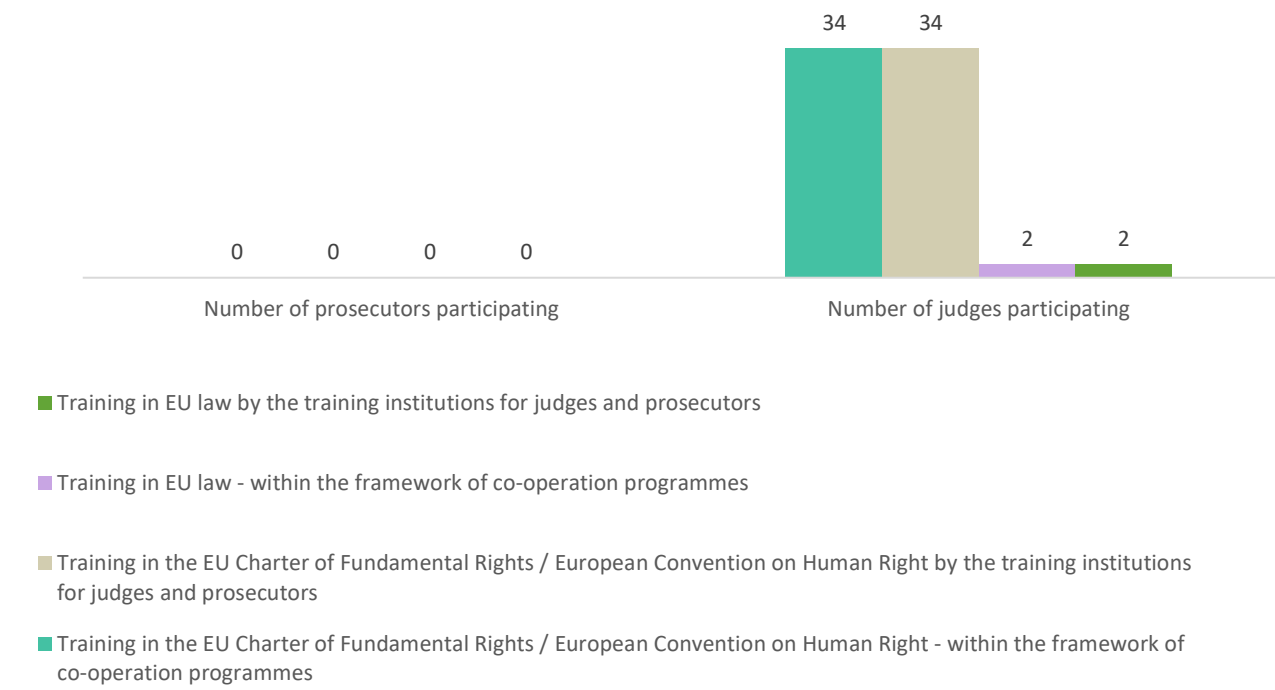


Before the pandemic, courses were preferably provided in person. However, the skills and technologies needed to provide online courses were already developed and in 2020 many trainings were therefore switched from in person to online trainings.

• Number of EU law training courses and participants

	Training in EU law		Training in the EU Charter of Fundamental Rights / European Convention on Human Rights	
	Organised/financed: By the training institutions for judges and prosecutors	Organised/financed: Within the framework of co-operation programmes	Organised/financed: By the training institutions for judges and prosecutors	Organised/financed: Within the framework of co-operation programmes
Number of in-person training courses available	45	45	8	8
Number of delivered in-person training courses in days	36	36	17	17
Number of online training courses (e-learning) available	0	0	18	18
Number of judges participating	2	2	34	34
Number of prosecutors participating	0	0	0	0

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

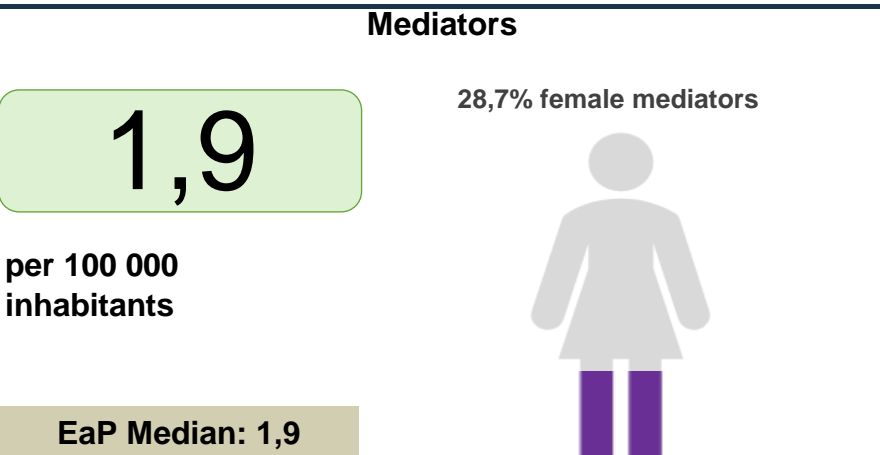


In 2020, all the trainings days in EU Law and on the EU Charter of Fundamental Rights/European Convention on Human Rights which were delivered in person in Azerbaijan were organised in the framework of co-operation programmes. Regarding online courses, all available trainings concerned the EU Charter of Fundamental Rights/the European Convention on Human Rights and were also available in the framework of such programmes. The partnering institutions were the European Union and the Council of Europe.

Only judges were trained but no prosecutors.

## Alternative Dispute Resolution in Azerbaijan 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



In Azerbaijan, court related mediation procedures are available and legal aid can be granted for those procedures. There was no data available on the number of court-related mediations in 2020. In 2020, the number of mediators per 100 000 inhabitants was 1,9, which was the same as the EaP median. Only 28,7% were female mediators.

In Azerbaijan, the judicial system does not provide for mandatory mediation or mandatory information sessions with a mediator.

### • Mediation procedures

The Law “On Mediation” was adopted on 29.03.2019 and the provisions regarding voluntary mediation were in force in 2020. According to this law, at any stage of the proceedings the court may, on its own initiative or at the request of one of the parties, offer to settle the dispute through mediation, taking into account the circumstances of the case. If an "Agreement on the Application of the Mediation Process" is concluded between the parties, the proceedings shall be suspended until a conciliation agreement and a protocol on the results of the mediation process are submitted. When a dispute between the parties is resolved through mediation, a settlement agreement shall be submitted to the court. If the court approves the submitted conciliation agreement, the proceedings on the case shall be terminated.

Regarding the provision of legal aid for court-related mediations, the procedure for payment of mediation services at the expense of the state budget is envisaged in the "Rules for payment of mediation expenses at the expense of the state budget" approved by the Resolution of the Cabinet of Ministers of the Republic of Azerbaijan on August 16, 2019.

The legislation does not provide for a mandatory mediation procedure. However, the law provides for a mandatory preliminary session on family, labor, and commercial disputes but this provision came into force in July 2021.

### • Other ADR methods

Mediation other than court-related mediation	✓	Arbitration	✗	Conciliation (if different from mediation)	✗	Other ADR	✗
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• Mediators and court-related mediations

Accredited/registered mediators for court-related mediation			% Variation between 2018 and 2020	
Absolute number	Per 100 000 inhabitants	EaP Median per 100 000 inhabitants	Azerbaijan	EaP Median
195	1,9	1,9	NAP	2,1%



In 2020, the total number of mediators in Azerbaijan was 195. This represents 1,9 mediators per 100 000 inhabitants which corresponds to the EaP Median.

	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
<b>Total (1 + 2 + 3 + 4 + 5+ 6)</b>	NA	NA	NA				
<b>1. Civil and commercial cases</b>	NA	NA	NA	✓	✗	✗	✗
<b>2. Family cases</b>	NA	NA	NA	✓	✗	✗	✗
<b>3. Administrative cases</b>	NA	NA	NA	✓	✗	✗	✗
<b>4. Labour cases incl. employment dismissals</b>	NA	NA	NA	✓	✗	✗	✗
<b>5. Criminal cases</b>	NAP	NAP	NAP	NAP	NAP	NAP	NAP
<b>6. Consumer cases</b>	NA	NA	NA	✓	✗	✗	✗

In Azerbaijan, court related mediations are provided by private mediators for all types of cases where court-related mediation is available (civil and commercial cases, family cases, administrative cases, labour cases, consumer cases).

As mentioned above, the provisions of the Law on Mediation regarding voluntary mediation were into force in 2020. There is no official information on the number of mediation cases in 2020. However, it was reported that a small number of cases were considered on a pilot basis.

## European Convention on Human Rights in Azerbaijan in 2020 (Indicator 10)

European Convention on Human Rights – Article 6 – Right to a fair trial - (extract):

*In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law. Judgment shall be pronounced publicly but the press and public may be excluded from all or part of the trial in the interests of morals, public order or national security in a democratic society, where the interests of juveniles or the protection of the private life of the parties so require, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice.*

Number of judgements finding at least one violation of ECHR in 2020



Number of cases considered as closed after a judgement of the ECHR and the execution of judgements process in 2020



### ECHR

In Azerbaijan, there is no monitoring for violations related to Article 6 of ECHR but there is a possibility to review a case after a decision by the ECtHR.

Monitoring system for violations related to Article 6 of ECHR		
Civil procedures (non-enforcement)	Civil procedures (timeframe)	Criminal procedures (timeframe)
✗	✗	✗

Possibility to review a case after a decision on violation of human rights by the ECHR

Yes

In 2020, for Azerbaijan, there were 525 applications allocated to a judicial formation of the European Court of Human Rights. 37 judgements found at least one violation and 6 cases were considered as closed after a judgement and the execution of judgements process.

	2020
Number of applications allocated to a judicial formation of the Court **	525
Judgements finding at least one violation**	37

\*\* Source: ECHR

	2020
Number of cases considered as closed after a judgement of the ECHR and the execution of judgements process***	6

\*\*\* Source: Department of Execution of sanctions of the Council of Europe

## EUROPEAN COMMISSION FOR THE EFFICIENCY OF JUSTICE (CEPEJ)

### Support for a better evaluation of the results of judicial reform efforts in the Eastern Partnership "Justice Dashboard EaP" Project

Data collection 2020

#### Part 2 (B) - Beneficiary Profile – Azerbaijan

This analysis has been prepared on the basis of the replies from the beneficiary (Dashboard correspondent) to the CEPEJ Questionnaire for the Justice Dashboard Eastern Partnership, and relevant GRECO reports from the GRECO Fourth Evaluation Round on Prevention of corruption in respect of members of parliament, judges and prosecutors.

Level of implementation of GRECO recommendations in October 2020 (adoption of the GRECO Addendum to the Second Compliance Report on Azerbaijan)

	JUDGES	PROSECUTORS
Implemented	57,00%	80,00%
partially implemented	29,00%	10,00%
not implemented	14,00%	10,00%



## Selection and recruitment of judges and prosecutors

### • Procedure of recruitment of judges

Recruitment requirements are regulated by the Constitution (Article 126, para. 1) and the Law on Courts and Judges (hereinafter: LCJ) and are as follows: 1. citizenship of Azerbaijan; 2. of at least 30 years of age; 3. have the right to vote; 4. a university degree in law; 5. a clean criminal record; and 6. at least 5 years' work experience in the legal field. As a rule, senior judicial posts (appeal, two Supreme Courts and the Constitutional Court) may be filled by persons with at least five years' work experience as a first instance court judge (Article 93-4, LCJ), while persons prominent in the legal field, with 20 years' experience as law practitioners and high moral qualities can be subject to special recruitment and appointed directly (without having to pass exams and undergo training at the Justice Academy) to senior posts on a proposal by the JLC.

Judges are appointed by the President of the Republic upon proposal of the Judicial Legal Council (hereinafter: JLC). The President of the Republic has a right to appoint some and reject some among the proposed candidates.

Recruitment procedure is regulated in the LCJ (Article 93-3) and in the Rules for selection of non-judge candidates to vacant judicial posts adopted by the JLC in 2005. Initial recruitment is overseen by a Judges' Selection Committee appointed by the JLC for a five-year term. It consists of 11 members: two Supreme Court judges, three appeal court judges, one NAR Supreme Court judge and one representative of the Ministry of Justice, the General Prosecutor's Office, the JLC staff, the Bar and the academia respectively. Members of the Committee who are not judges must have a university degree in law and more than five years' work experience in the legal field. To have a quorum, the presence of seven members is required. Decisions are taken by an open simple majority vote and can be appealed to the JLC.

The initial recruitment (together with the entry criteria) is publicly advertised and comprises written and oral exams. Candidates who have successfully sat the tests must undergo a one-year training programme in the Justice Academy. At the end of the training, following another round of tests and an interview, the applicants are shortlisted according to merit and grades achieved, and successful candidatures are forwarded to the JLC for the final interview and appointment proposal to be made to the President of the Republic.

The list of pre-selected candidates is published on internet. Non pre-selected candidates may appeal the decision of the Judges' Selection Committee to the JLC and against the JLC's decision to the Plenum of the Supreme Court, on the correctness of the application of the legislation on legal issues within twenty days from the date of submission of these decisions by the JLC.

The integrity of candidate judges is checked by the Justice Academy which reports to the Judges' Selection Committee the results of the training (including degree of success participation in training, conduct of candidates) (Rules on the selection of non-judicial candidates to vacant judicial posts).

District court judges are appointed by the President of the Republic, on the recommendation of the JLC. Judges of the Constitutional Court, the Supreme Court, the NAR Supreme Court and courts of appeal are appointed by the Milli Majlis (Parliament) on the recommendation of the President of the Republic. Presidents of the two Supreme, appellate and serious crime courts are appointed directly by the President, while all other court presidents, their deputies and presidents of court collegiums are appointed by the President of the Republic on the proposal of the JLC. As a rule, court presidents have a five-year tenure which is renewable once (see [the GRECO Evaluation Report on Azerbaijan](#), para. 58).

In the NAR (Nakhchivan Autonomous Republic), judges of the general and specialised courts are appointed by the President of the Republic on the basis of a proposal by the Chair of the NAR Supreme Council (Parliament). As for judges of the NAR Supreme Court, they are appointed by the National Assembly (Milli Majlis) having been presented by the President of the Republic on the basis of a proposal by the Chair of the NAR Supreme Council (see [the GRECO Evaluation Report on Azerbaijan](#), para. 56).

*GRECO Recommendation vi. GRECO recommended that judicial independence be further strengthened by i) increasing the role of the Judicial Legal Council in the appointment of all categories of judges and court presidents; and ii) substantially reducing the five-year probation period for judges and making permanent appointments to the post of judge subject to clear, objective and transparent criteria.*

In [the Evaluation Report](#) (see para. 59), GRECO noted that an independent judiciary presided over by judges free of any taint of corruption, political pressure or interference was a requirement imposed by the laws of Azerbaijan. Nevertheless, the information gathered by the GET strongly suggested that the executive branch wielded significant powers over the judges' appointment, giving rise to suspicions of political favouritism and undue influence permeating the process. The appointments were made either by the President of the Republic alone (presidents of appeal, serious crime and the two Supreme courts), or on the recommendation of the JLC (all district/city court judges and other court presidents, their deputies and presidents of court collegiums), which since its inception in 2005 had been chaired by the Minister of Justice and relies on the majority appointed by branches of power other than the judiciary. Where judicial appointments were in the hands of the parliament (appeal, two Supreme and Constitutional court judges), they were made on the recommendation of the President without consulting a judicial body, their legitimacy being reduced by the absence of an effective parliamentary opposition capable of challenging inappropriate nominations. The judicial appointments system therefore needed to be re-examined so as to ensure that it was predominantly led by the judiciary itself and that safeguards were in place to shield the appointment process from any undue influence, within the overall system of checks and balances. The GET also noted with concern that judges were initially appointed for a five-year term. Such a lengthy probation period could undermine their independence, since judges might feel under pressure to decide cases in a particular way. Furthermore, objective and transparent criteria for the evaluation of judges specifically for the purpose of permanent appointment appeared to be lacking. Consequently, GRECO issued the recommendation vi (see above).

In the compliance procedure ([the Compliance Report](#), see para. 37-41, [the Second Compliance Report](#), see para. 36-40, and [the Addendum to the Second Compliance Report](#), para. 23-27) authorities reported on the increased role of the JLC in the selection of judges since, due to legislative amendments, the President of the Republic appoints all the judges only upon recommendation of the JLC, except the Supreme Court Chief Justice. Amendments to the LJLC in 2014 provided for the appointment of the presidents of the serious crimes courts and

appellate courts by the President of the Republic only on the proposal of the JLC. The authorities also demonstrated the systematic endorsement of JLC proposals for appointment of chairs of the Supreme Court, of appeal courts, judges of the supreme and appeal courts and first instance court judges by the President of the Republic in the past year. Nevertheless, GRECO regretted the lack of progress in ensuring that the JLC be involved in the appointment of all categories of judges (first part of the recommendation). With regard to the second part of the recommendation, the authorities reported on reducing the probation period of newly recruited judges from five to three years. However, no clear, objective and transparent criteria for permanent appointments to the post of judge have been presented to GRECO. GRECO therefore assessed this recommendation to be partly implemented.

### • **Mandate of judges**

Initial appointments of district judges are made for a three-year term, at the end of which the performance of a judge is evaluated by the JLC and, if satisfactory, his/her mandate is prolonged until the retirement age (66 – for the judges of the first and second instance courts, or 68 – for judges of the Supreme Court, or 70 in case of Constitutional Court justices). If the judge has not been assessed as having completed a three-year probation period satisfactorily, s/he has a right to appeal against the JLC's decision.

Other grounds for termination of a judge's mandate include: 1. resignation; 2. dismissal; 3. physical incapacity established by court; 4. death; 5. a court ruling establishing disappearance or death; 6. failure to meet recruitment requirements; 7. incompatibilities; 8. renouncement of citizenship; acquisition of citizenship or taking up of obligations in respect of a foreign state; 9. inability to fulfil duties due to sickness for more than six months established by a special medical commission under the JLC; 10. disciplinary offences on two occasions in any calendar year; and 11. multiple gross violations of law while reviewing a case.

### • **Procedure of recruitment of prosecutors**

Recruitment of prosecutors is regulated in the Constitution, the Prosecutor's Office Act (POA) and the Act on Service in the Prosecutor's Office (POSA).

Recruitment requirements for a prosecutor are laid down in Articles 29 POA and 4 POSA.

Applicants must be citizens of Azerbaijan, with a university degree in law, voting rights and relevant professional skills. As a rule, persons with at least five years' experience in the Prosecutor's Office may be appointed prosecutor, and appointments to senior posts are reserved for those over 30 years of age.

The recruitment procedure is governed by Decree No. 50965 of the President of the Republic on "Rules for the recruitment of employees into the Prosecutor's Office", Ordinance No. 10/01-11/410- k 66 of the Prosecutor General on "Rules for the competitive recruitment of candidates to the Prosecutor's Office" and Ordinance No. 10/72-11/540-K endorsing the Rules for Competitive Filling of Vacant Positions in

the Prosecutor's Office (relating to 3<sup>rd</sup>-8<sup>th</sup> categories of staff out of 9 categories). The provisions of the Civil Service Act, notably on competitive and transparent recruitment and regular evaluation, also apply (Article 2.2, POSA).

Vacancies at the entry level (also at the medium and senior levels) are announced in the media (together with entry criteria). The initial selection is overseen by a special Competition Commission composed of seven members, including prominent lawyers and academics, appointed by the Prosecutor General with the involvement of the Collegial Board. The Competition Commission may deliberate if five members are present. It adopts decisions by open vote and majority of votes. The chairman is the last to vote. Dissenting opinions are attached to the final decision. The Competition Commission participates in all stages of the competition.

The competition comprises four stages and, among them, two written tests and an interview with those candidates who successfully passed the qualification exams (tests and written exams). Successful candidates undergo mandatory one-year training in the Scientific-Educational Centre under the Prosecutor General's Office and six months internship period within the Prosecutor's Office, following which they become eligible for permanent recruitment if given a positive opinion by the head of the prosecutor's office. Those candidates with more than 5 years of experience in the legal profession may be recruited without internship period. There is no list of preselected candidates made and no possibility to appeal for non pre-selected candidates. At the recruitment stage, checks are made for criminal records and on previous work experience, to ascertain candidates' integrity, and, during the traineeship, they may be subject to monitoring by the Internal Security Service of the Anti-Corruption Directorate. The candidates are assessed and ranked on the basis of the following criteria: a) the level of professionalism; b) efficiency; c) results of work; and d) moral qualities.

Some of the candidates employed by the Prosecutor's Office (approx. 1%) are recruited by the Examination Commission directly from other law enforcement bodies (Ministry of Taxes, the police) to enhance the capacities of the prosecution services (the financial investigation capabilities, operational capacities etc.). In order to have objective and transparent criteria and procedure for such recruitment in place, the Prosecutor General adopted the Order 10/65 of 13/07/2015 by which the Rules for Appointment of Other Law Enforcement Staff to The Prosecutor's Office were approved. The rules are published on the website of the Prosecutor's Office (see [the GRECO Evaluation Report on Azerbaijan](#), para. 93 and [the GRECO Compliance Report on Azerbaijan](#), para. 73).

Appointments are made by the General's Prosecutor Office of the Republic of Azerbaijan. S/he has a right to appoint some and reject some among the selected candidates by the Competition Commission.

The Prosecutor General is appointed by the President subject to endorsement by the Assembly (Article 133 (III) of the Constitution). His/her deputies, chief specialised prosecutors and the chief NAR prosecutor are appointed by the President on recommendation of the Prosecutor General; territorial and specialised prosecutors are appointed by the Prosecutor General with the consent of the President (Article 133 (IV-V) of the Constitution). The tenure of appointments is five years renewable once (see [the GRECO Evaluation Report on Azerbaijan](#), para. 94).

The non-selected candidates have a right to appeal against the decision of appointment to court (based on Article 14.0.8 of the Law on Citizens' Appeals).

- **Mandate of prosecutors**

Prosecutors are appointed with no limitation on their term in office, until they reach the retirement age of 60, which may be prolonged until 65 years of age by the Prosecutor General. This rule however does not apply to prosecutors appointed by the President of the Republic with regard to whom the age limit has not been prescribed (Article 32.3, POSA).

A probation period of one year (reduced to three months in 2021) is envisaged in the law for prosecutors before being appointed “for life” (Article 5.3 of the Law on Service in the Prosecutor’s Office). The Higher Attestation Commission of the Prosecutor General’s Office decides if the probation period was successful.

## Promotion for judges and prosecutors

### • Promotion of judges

Promotion of judges is regulated in LJLC. It is carried out by the JLC based on results of the performance evaluation to which a judge is subject to not less than every five years.

Judge's performance evaluation is carried out in accordance with Article 13, LJLC and the Rules for the Evaluation of Judges' Performance which have been approved by the JLC in 2020. It takes into account the opinion of relevant court presidents, including presidents of superior courts, and information collected by the Ministry of Justice and the JLC (Article 12, LJLC).

There is no special procedure prescribed for promotion of judges.

Evaluation criteria have been determined by the JLC, which also include years of experience, professional activity, communication skills and compliance with requirements of the Code of Judges' Ethical Conduct.

There is possibility to appeal the decision on promotion to the Presidium of the Supreme Court.

### • Promotion of Prosecutors

Promotion of prosecutors is regulated in the Prosecutor's Office Act (POA), the Act on Service in the Prosecutor's Office (POSA) and the Civil Service Act, according to which performance appraisal constitutes one of the key principles of the civil service, to which all prosecutors belong.

Prosecutors have the right to be promoted, following successful service in a particular grade for one to two years, on average (Article 32, POA).

Vacancies are publicly advertised, also at the medium and senior level.

Applications to any vacant position are managed by the Personnel Department of the Prosecutor General's Office that makes relevant submissions to the Prosecutor General, based on the performance indicators of the applicant and his/her superiors' references. Performance indicators for promotion within the grade include: 1. diligence; 2. professional qualifications; 3. work results; and 4. personal qualities (Article 11.3, POSA).

All prosecutors, including senior ones (employees of the Prosecutor's Office holding positions corresponding to the 3<sup>rd</sup>-9<sup>th</sup> grade, except the Prosecutor General, his/her first deputy, deputies, the Director of the Anti-Corruption Directorate, Military Prosecutor and Prosecutor of Nakhchivan Autonomous Republic who hold positions corresponding to the 1<sup>st</sup> and 2<sup>nd</sup> grade) undergo performance evaluation every five

years by Attestation Commissions composed of prosecutors representing the Prosecutor General's Office, the Military Prosecutor's Office, the Baku Prosecutor's Office and the NAR Prosecutor's Office, respectively. Evaluation is conducted via interview.

The evaluation is based on 39 criteria, including: 1. the internal division of tasks; 2. the level of criminality in a district/city; 3. the crime prevention dynamics; 4. the results of prosecution in court; 5. the work plan implementation; 6. the quality of quarter/semi-annual/annual reports; 7. the implementation of the Prosecutor General's orders; 8. the registration and review of complaints; 9. the registration and handling of crime-related information; 10. the quality of oversight over inquiries; 11. compliance with ethical principles and rules of conduct prescribed by the Prosecutorial Code of Ethical Behaviour, etc. Optional attestations can be conducted in cases of early promotion, demotion, impossibility to exercise one's duties, negligent attitude to work, or upon request. The Prosecutor's Office is furthermore subject to internal inspections by the Internal Security Service of the Anti-Corruption Directorate, which is primarily responsible for investigating internal corruption and which is to pass relevant information to the Organisational-Analytical Department of the Prosecutor General's Office.

Any change in position (promotion, transfer, demotion or dismissal) is to be formalised in a written and reasoned order issued by the Prosecutor General.

There is a possibility to appeal the decision on promotion to court.

## Confidence and satisfaction of the public with their justice system

The authorities have not provided any information on the system for compensating users in cases like excessive length of proceedings, non-execution of court decisions, wrongful arrests, wrongful convictions or others.

A national procedure for filing complaints about the functioning of the judicial system exists and several authorities are responsible for dealing with the complaints, namely the court concerned, the higher court, the Ministry of Justice, the JLC and the Ombudsman. Time limit exists for dealing with the complaint.

	2020	
	Number of complaints	Compensation amount granted
Court concerned	NA	NA
Higher court	NA	NA
Ministry of Justice	NA	NA
High Judicial Council	NA	NA
Other external bodies (e.g. Ombudsman)	NA	NA

There is a procedure in place to effectively challenge a judge in case a party considers the judge is not impartial. No information is available on the ratio between the total number of initiated procedures of challenges and total number of finalised challenges for 2020.

According to the Constitution, prosecution services are within the judicial branch and constitute an integral centralized body characterized by the subordination of territorial and specialized procurators to the General Procurator of the Azerbaijan Republic. As an authority, prosecutor's office is independent. The prosecutor's office may carry out procedural actions restricting the rights and freedoms of man and citizen, only on the basis of a court decision, as provided for by the Constitution of the Republic of Azerbaijan. No law or other regulation exist to prevent specific instructions to public prosecutors to prosecute or not. Specific instructions may be issued by a superior prosecutor or the head of prosecution office, however only in exceptional circumstances. Instructions should be given in writing and reasoned, are mandatory and should be recorded in the case file.



## Promotion of integrity and prevention of corruption

### • Independence of judges

The principle of judicial independence is enshrined in the Constitution (article 127), the Law on Court and Judges (Article 8, 93) (LCJ) as well as relevant provisions of the Law on Judicial Legal Council (LJLC).

Judges are independent and bound only by the Constitution and laws (Article 127, the Constitution and Article 100 of the LCJ). Judges must be impartial, fair, act on the basis of facts and according to law (Article 127, Constitution; Article 8, LCJ). Direct or indirect interference in the administration of justice is prohibited (Article 127, Constitution). Judges may not be involved in political activity or join political parties and should cease their membership before taking up a position of a judge (Article 105, LCJ). Legal safeguards include irremovability during the term of office (Articles 97 and 100, LCJ), immunity (Article 101, LCJ), security and financial and social provision commensurate with the post (Articles 98, 102, LCJ). The JLC is competent to ensure independence of judges and court system in Azerbaijan as well as to take measures to ensure independence of judges and to prevent interference in their activity (Articles 1 and 11, LJLC). The budgets of the first instance courts are managed by the Ministry of Justice in consultation with the respective court presidents and the opinion of the Judicial Legal Council is solicited. Presidents of the Supreme and higher courts draw up their own budgetary proposals which are addressed directly to the Ministry of Finance.

### • Independence of prosecutors

Independence of prosecutors is guaranteed by relevant provisions of the Constitution as well as Prosecutor's Office Act (POA), Act on Service in the Prosecutor's Office (POSA) and the Criminal Procedure Code.

Pursuant to Article 36 POA, prosecutors are independent in the exercise of their duties. Hierarchical relations within the Prosecutor's Office are governed by the Criminal Procedure Code, the POA and the POSA. Prosecutors may only receive instructions from their superiors as well as the Prosecutor General, and the execution of all lawful instructions is mandatory. Senior prosecutors may perform the functions of their subordinates and abrogate, recall, change or substitute their decisions or acts. The requirement for instructions to be reasoned and provided in writing is not prescribed by law but is said to be respected in practice. Verbal instructions are issued as well, and there is no need for them to be given in writing in addition. Direct or indirect restriction, influence, threats or illegal interference in the lawful activities of the Prosecutor's Office and of individual prosecutors are forbidden and incur liability according to law (Articles 7 and 36, POA). Engagement of prosecutors in political activities and membership of political parties are prohibited. The Criminal Procedure Code criminalises any interference in prosecutor's activities as well as attempt on his/her life, threats or bodily harm and damage of property when performing official duties.

*GRECO Recommendation xii. GRECO recommended that i) the Prosecutor's Office Act be reviewed as to eliminate any undue influence and interference in the investigation of criminal cases in the exercise of statutory controls over the activities of the Prosecutor's Office; and ii) the setting up, closure and basic organisational structure of all prosecution offices be determined by law*

In [the Evaluation Report](#) (see para. 85 and 90), GRECO noted that the Prosecutor General was accountable to the parliament and the President of the Republic: it informed the parliament annually of the Service's activities, except for criminal cases under investigation, and systematically informed the President (annually and upon request) of the same, including criminal cases under investigation. Furthermore, GRECO noted that the pivotal role that the President of the Republic played in the establishment, overall functioning of and control over the Prosecutor's Office was obvious and underscored even more by the fact that s/he appointed the Prosecutor General and all senior prosecutors. In this light, any additional powers vested with the President, such as the right to familiarise him/herself with the investigation and prosecution in specific cases, could be perceived as intervening in the autonomy of the Prosecutor's Office and the independence of individual prosecutors thus creating opportunities for improper influence, disguised orders or indirect pressure. Bearing in mind that the Prosecutor's Office in Azerbaijan was construed as an independent authority, it was essential, in the GET's view, that, in the performance of its duties, the Office was and was actually seen to be genuinely independent of the executive branch of power and that the influence on prosecutorial decisions by the executive was minimised; otherwise, credence could be given to allegations that political opponents in Azerbaijan were selectively targeted and due process in their regard was not followed. This was particularly important due to the fact that criminal investigations on passive and active bribery of an official (Article 311 and 312 of the Penal Code) fell within the remit of the Prosecutor's Office, which was also responsible for investigating charges against persons enjoying immunities (in this case, the investigation is in the hands of the Prosecutor General's Office) and charges concerning crimes committed by abuse of authority by the President, MPs, the Prime Minister, judges, police, security, tax and customs officials. Concerns for the effective autonomy also extended to issues, such as the setting up and closure of prosecution offices, which at the moment were regulated via presidential orders rather than laws. In view of the foregoing, GRECO issued the recommendation xii.

The recommendation was partly implemented in the compliance procedure, since the POA was amended in 2017 in respect of the interaction between the Prosecutor General and the legislative and executive powers. The term "oversight" was replaced by a notion of "information". Section 44 of the law now provides that the Prosecutor General shall inform the Head of State about the work of the Prosecutor's Office, except for pending investigations. A similar provision applies in relation to Parliament (first part of the recommendation). No progress was made with respect to the second part of the recommendation and GRECO's overall conclusion was that recommendation xii has been partly implemented (see [the Compliance Report](#), para. 65-71 ; [the Second Compliance Report](#), para. 45-49 ; and [the Addendum to the Second Compliance Report](#), para. 32-35).

### • Breaches of integrity for judges

Different possible breaches of integrity of judges are described in LCJ. Article 111 states elements that may trigger a motion for initiating a disciplinary proceeding (e.g. complaint of a natural or legal person, information published in the media, statutory violations revealed in the

consideration of cases before the appellate and cassation courts, statutory violations reflected in the decisions of the European Court of Human Rights and the Constitutional Court of Azerbaijan, statutory violations revealed in the court of a judge's assessment, other information received by a person competent to submit a motion to initiate disciplinary proceeding against a judge). Grounds for disciplinary liability of judges are: 1. breach of the judicial ethics; 2. gross violations of law on labour or performance discipline; 3. failure to comply with financial requirements contained in Article 5.1 of the Fight Against Corruption Law; 4. commission of acts provided by Article 9 of the Fight Against Corruption Law; 5. commission of acts unworthy of the good name of a judge; and 11. gross violation or multiple violations of law while reviewing a case. Only the JLC may institute a disciplinary proceeding against a judge (Article 112, LCJ). The JLC may adopt a decision: 1. to reproof a judge; 2. to reprimand a judge; 3. to propose to the appointing body to demote a judge; 4. to propose to the appointing body to transfer a judge to another judicial post; 5. to propose to the appointing body to terminate a judge's mandate; or 6. to terminate the disciplinary proceeding.

### • Breaches of integrity for prosecutors

Different possible breaches of integrity of prosecutors are described in the Code of Ethical Conduct for Employees of the Prosecutor's Office from 2008. The Code defines basic requirements for ethical conduct, requirements for the professional conduct of the prosecutor's office, prevention of illegal acquisition of material and intangible goods, privileges or concessions, requirements for out of office conduct of the prosecutor's office, enforcement of the requirements of the Code and responsibility of the prosecutor's office for violation of these requirements. These breaches invoke disciplinary proceedings against prosecutors.

According to Article 26, POSA, disciplinary sanctions that may be imposed on a prosecutor for violation of service discipline, improper performance of duties, as well as non-compliance with the requirements of the Code of Ethical Conduct for Employees of the Prosecutor's Office are: 1. remark; 2. rebuke; 3. severe rebuke; 4. transfer to the lower position; 5. demotion of rank; 6. dismissal from the position (in this case, the prosecutor may be at the disposal of up to three months, and during this period, if there are no grounds for exclusion from the prosecutor's office, s/he is appointed to work in the prosecutor's office); 7. dismissal from the prosecutor's office; and 8. dismissal from the prosecutor's office with deprivation of rank in cases prescribed by law.

### • Breaches of integrity for staff of Courts

Different possible breaches of integrity of staff of the court are prescribed in the Law on Rules of Ethical Conduct of Civil Servants since staff of the court are civil servants as per provisions of the Law On Civil Service. The Law on Rules of Ethical Conduct of Civil Servants determines the norms, ethics and conduct applicable to civil servants and sets the legal mechanisms for following these norms. The law regulates service conduct, impermissibility of acquiring material and non-material gifts, privileges and concessions, prevention of corruption and conflicts of interests, control over compliance with guidelines of ethical conduct, responsibility for violation of ethical conduct guidelines and other matters. Law on Civil Service states that non-performance or unduly performance of the duties assigned to civil servants, as well as non-compliance with obligations determined by this Law shall constitute grounds for disciplinary proceedings, unless otherwise provided by the law. Certain

infringements of obligations stated in Articles 18 (Principal duties of civil servant), 20 (Limitations related to civil service) and 25.11 (If civil servant does not meet requirements set forth in article 5.1 of the Law of the Republic of Azerbaijan "On fighting against corruption" or violates law (unless they cause administrative or criminal responsibility) indicated in article 9 of the same law, then s/he must be called to the disciplinary responsibility) may be subject to the following sanctions: 1. rebuke; 2. reduction in salary from 5% up to 30% for a period of one year; 3. transfer to the same grade but less paid position; 4. transfer to the lower grade position; 5. demotion of professional rank; and 6. dismissal from the civil service.

**• Number of criminal cases against judges and prosecutors**

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:

	2020			
	Judges		Prosecutors	
	Abs	per 100	Abs	per 100
Number of initiated cases	0	0,00	0	0,00
Number of completed cases	0	0,00	0	0,00
Number of sanctions pronounced	0	0,00	0	0,00

**• Existence of specific measures to prevent corruption**

Specific measures to prevent corruption among judges and prosecutors are in place, namely gift rules, specific training and safe complaints mechanisms. In addition, rotation of assignments of prosecutors and internal controls are envisaged to prevent corruption among prosecutors.

**• In-service training on ethics**

Both judges and prosecutors have to undergo regularly compulsory in-service training solely dedicated to ethics, the prevention of corruption and conflicts of interest. This training is 2-3 days long.

## • Codes of ethics for judges and prosecutors

Both judges and prosecutors have their respective codes of conduct adopted which are published on the website of the judiciary/prosecutor's office and are regularly updated.

The Code of Judges' Ethical Conduct was elaborated by judges and their professional associations and approved by the JLC in 2007. It represents a collection of ethical principles and standards of conduct and consists of four parts: general provisions, rules on judicial duties, rules on extra-judicial activities and the Code's relevance to the evaluation of judges' performance. Violation of judicial ethics is one of the grounds for instituting disciplinary procedure against a judge (the [GRECO Evaluation Report on Azerbaijan](#), para. 66 and 76).

The Code of Ethical Conduct for Employees of the Prosecutor's Office was endorsed by the Collegial Session of the Prosecutor General's Office in 2008, following a broad consultation. It consists of six parts: the objectives; the main requirements for ethical conduct; the requirements for behaviour while on duty; the inadmissibility of illegal receipt of material and immaterial goods, privileges and concessions; the requirements for out-of-office conduct; enforcement and liability. Its goal is to present the essence and lay down patterns for the ethical conduct expected of a prosecutor and to demonstrate that the prestige of the Prosecutor's Office and the citizens' trust in the criminal justice and law enforcement is conditional on there being high moral values and professional skills within the Prosecutor's Office. The requirements incumbent on prosecutors include serving as a model for others, avoiding conflicts of interest, refraining from using official power for personal gain and demonstrating impartiality, including specifically by withdrawing from proceedings. Violations of the standards of conduct - whether on or off duty – incur disciplinary liability (para. 34, 36.7 and 37 of the Code). Certain breaches may be subject to examination by the Supreme Attestation Commission, which may file a motion for instituting disciplinary proceedings directly with the Prosecutor General or compel the prosecutor concerned to make an apology in the media or to specific persons (the [GRECO Evaluation Report on Azerbaijan](#), para. 108).

## • Bodies giving opinions on ethical questions

The Counselling Group was established in 2016 which operates on a continuous basis, providing counselling on ethical issues upon request and on a confidential basis. It is composed of three experienced judges, representing all court instances (district court, appellate court and Supreme Court) and genders (the [GRECO Compliance Report on Azerbaijan](#), para. 49). Its opinions are publicly available.

The Ethics Commission which was established in the Prosecutor General's Office is competent to review information collected during official inspection on violations of ethical rules, conflict of interest, transparency and anti-corruption and to provide opinions on imposing disciplinary sanctions. The Ethics Commission submits its opinion to the Prosecutor General. They are not publicly available. It is composed of 7 members (prosecutors and other legal professionals), appointed by the Prosecutor General from among candidates elected by the Board of the Prosecutor General's Office. Five members of the Commission are authorised to carry out disciplinary proceedings.

- **Established mechanisms to report influence/corruption on judges and prosecutors**

With regard to established mechanisms to report attempts on influence/corruption on judges, the authorities refer to article 100, LCJ which requires a judge to turn to the JLC in case of outside influence on his/her professional activities. According to Article 11, LJLC, the JLC takes measures to ensure independence of judges and to prevent interference in their professional activities. As per Article 286 of the Criminal Code, any form of interference in the judicial process in order to impede the administration of justice is a criminal offence. In addition, a special hotline was established in 2009 by the JLC to receive notifications from judges in case of interference with their activities.

A mechanism to report attempts on influence/corruption on prosecutors is envisaged by the Code of Ethical Conduct for Employees of the Prosecutor's Office.

- **Transparency in distribution of court cases**

There is transparency in distribution of court cases ensured in the judicial system of Azerbaijan via random allocation (completely by random algorithm), with a possibility to exclude a judge from the allocation (due to judge's illness, business trip or vacation, in case a higher court sends the case back to a lower court for reconsideration or under exceptional circumstances). However, in case of repeated appeals to the court on returned or pending cases, the system provides for the transfer of these cases to the judge who returned the case or did not consider it (presiding in a collegial form), regardless of the number of cases filed in the current year. All interventions on the system with regard to distribution of cases are irreversibly registered/logged.

Cases' reassignments are all processed through the computerised distribution of cases, via random allocation (completely by random algorithm). Different reasons for reassigning a case include conflict of interest declared by the judge; recusal of the judge or requested by the parties; physical unavailability (illness, longer absence). Some decisions on reassignment of cases have to be reasoned.

## Declaration of assets for judges and for prosecutors

Law on Approval of Procedures for Submission of Financial Information by Public Officials (hereinafter: LAPSFI) and Law on Combatting Corruption (hereinafter: LCC) regulates submission of asset declarations of judges and prosecutors. For prosecutors, additional rules are contained in the Rules of work organisation at the Prosecutor General's Office. The authorities report that the legal framework has not been implemented in 2020 due to the lack of approval of the declaration form (see below information from GRECO reports).

*GRECO Recommendation ix. GRECO recommended that i) the format for asset disclosure by judges be established as a matter of priority and that the confidentiality in respect of asset disclosure by judges be lifted, with due regard being had to their and their relatives' privacy and security; and that ii) the asset disclosure regime applicable to judges be put into effect (including by allocating commensurate administrative and expert resources to the Commission on Combating Corruption), accompanied by adequate sanctions for non compliance with the rules and that details, including the underlying reasoning, of the sanctions imposed be made public.*

No asset declaration form has been provided by the authorities. In [its Evaluation Report](#) (see para. 75), GRECO noted that a well-functioning system of asset disclosure is a powerful tool in corruption prevention and detection, including specifically within the judiciary. It is therefore difficult to understand that the assets disclosure rules formally adopted in 2005 (that apply also to MPs) were still not operational for the mere reason that the Cabinet of Ministers has failed to reach an agreement on the appropriate format of the asset declaration form. In the GET's view, such a major delay not only casted doubts on the sincerity of the government's anti-corruption campaign but also deprived the Law on Combatting Corruption of its key component. In order to strengthen public trust in the judiciary and to increase transparency, the asset disclosure system not only needed to be introduced speedily, it also needed to provide public access to the annual declarations of all categories of judges. Also, the disciplinary penalties of reproof and reprimand could not qualify as being sufficiently proportionate and dissuasive for gross violations of the asset disclosure rules (e.g. non-submission of a declaration or concealing assets). Furthermore, since the relevant oversight body – the Commission on Combating Corruption – had been mandated, in addition to judges, to collect and verify asset declarations of a vast number of public officials (some 2 000 persons in total), supplying it with commensurate administrative and expert resources, enabling quality periodic checks, would be essential. In this light, GRECO issued the recommendation ix.

*GRECO Recommendation xx. GRECO recommended that i) the format for asset disclosure by prosecutors be established as a matter of priority and the confidentiality in respect of asset disclosure by all prosecutors be lifted, with due regard being had to prosecutors' and their relatives privacy and security; and that ii) the asset disclosure regime applicable to prosecutors be put into effect, including through the designation of an effective oversight structure within the Prosecutor General Office.*

As for prosecutors, who have to declare their assets, income, liabilities and interests, in the same scope and under the same terms as judges, GRECO noted that due to the lack of agreement on the format for the asset disclosure form, prosecutors, along with judges, have been affected by a long delay in the implementation of the LAPSFI, which is hard to justify. Its swift enforcement is fundamental and had to be accelerated, and its full implementation required the setting of the procedure and the development of a practice for the checking and in-depth verification of declarations, as well as regular reporting by the Prosecutor General to parliament of the success, or otherwise, of such

measures. Since some prosecutors were to present their declarations to the Prosecutor General's Office, the latter was to designate an internal supervisory structure. At the time of the visit, this was a pending issue, and whether this function would be assigned to a newly created commission, or the existing Financial Department remained to be decided. Additionally, while the prime objective of asset disclosure is to promote transparency, accountability and public trust, the very strict confidentiality clause applicable to the declarations of all prosecutors appeared to pursue a contradictory goal, which could be detrimental to the forging of an immaculate image for the Prosecutor's Office and could cast doubts on the holding of assets by individual prosecutors, particularly at the senior level (also given the mode of their appointment). For all of these reasons, GRECO issued recommendation xx. Since the capacities of the Commission on Combatting Corruption, as the body in charge of monitoring the assets of senior prosecutors (as well as judges) is addressed in paragraph 75 GRECO refrained from making any further comments on this matter here (see [the Evaluation Report](#), para. 119).

In the compliance procedure, no progress has been made with regard to implementation of both recommendations. In [the Compliance Report](#) (see para. 53-56 and 103-106), GRECO noted information received from the authorities that implementation of these two recommendations has been linked to implementation of recommendation iv concerning parliamentarians. The Government of Azerbaijan had asked the Cabinet of Ministers and the Minister of Justice to take the necessary measures for the introduction of asset declarations for public officials, including in respect of parliamentarians, judges and prosecutors and any new developments would be reported to GRECO. No developments have been noted by GRECO in [the Second Compliance Report](#) (see para. 41-44 and 58-61) as well as in [the Addendum to the Second Compliance Report on Azerbaijan](#) (see para. 28-31 and 41-44).

The declarations are to include: 1. annual income (type, source and amount); 2. property calculated for tax purposes; 3. bank deposits, securities and other financial holdings; 4. participation and shares held in companies, funds and other entities as a shareholder or founder; 5. debts exceeding five thousand times the nominal financial unit (5 500 Manats/EUR 5 300); 6. other financial and property-related obligations exceeding one thousand times the nominal financial unit (Article 5, LCC).

Asset declarations have to be submitted within 30 days from taking up duties, by 30<sup>th</sup> January annually and one year after departure from office (Article 6, LAPSFI).

The reporting requirement also extends to family members of a judge/prosecutor: spouse, parents and children living in the same household (Article 5.1 of the LCC). The declaration for family members is the same as for the declarant.

Declaration of a judge is to be submitted to the Anti-Corruption Commission (Article 3, LAPSFI). The Prosecutor General, his/her deputies, city/district and military prosecutors are to submit their declarations to the Commission on Combatting Corruption, while all others to the General Prosecutor's Office (see [the GRECO Evaluation Report on Azerbaijan](#), para. 11).

Completeness and accuracy of the data submitted is verified. Unexplained financial discrepancies (unusual change in assets, liabilities, income, etc.) are also checked.



No register of declarations is kept, and the declarations are not published. The data contained in the declarations is considered private and is to be kept confidential (Article 9, LAPSFI). Exceptions exist when reasonable enquiries are made by the Commission on Combatting Corruption, prosecution office or courts in connection with corruption-related offences. Illegally collecting and distributing such information constitute a crime (Article 9.3, LAPSFI).

Article 10 of the LAPSFI refers to criminal, administrative and disciplinary liability in case of violations of the procedures of the law. Authorities report that a draft has been prepared to include a provision in the Code of Administrative Offences which will envisage administrative liability for officials in case of non-submission, later submission or false statement made in declarations by officials. In case of violating obligations set in Article 5, LCC, a fine or more serious administrative sanction will be prescribed. Violations of the asset disclosure requirement by a judge are subject to disciplinary measures of reproof and reprimand (according to Article 6.3 LCC, read in conjunction with Articles 111-1 and 112 Law on Courts and Judges). In case of prosecutors, violations of the reporting obligation are subject to disciplinary liability.

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

Azerbaijan	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	
2020	NAP	NAP	NAP	NAP	NAP	NAP	NAP	NAP	NAP	NAP	NAP	NAP	NAP

## Conflict of interest for judges and for prosecutors

### • Procedures and mechanisms for managing potential conflict of interest for judges

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, regarding incompatibility of judicial office (Article 126); 2) the Ethical Code, as regards rules on recusal (Article 7) and rules on gifts (Article 18); 3) the Criminal and Civil Procedure Codes contain rules on recusal; 4) the Law on Courts and Judges (LCJ), which regulates incompatibilities and accessory activities (Article 104) and an obligation to recuse (Article 16); and 5) the Law on Combating Corruption (LCC), which prohibits acceptance of gifts (Article 8).

The Ethical Code obliges a judge to avoid any interference with his/her professional activity by relative, friends and familiars. In case a judge's family member or other relative has a private interest in the matter a judge is deciding upon or in case of a doubt in his/her impartiality, s/he must recuse himself/herself (Article 7).

Provisions of the Criminal and Civil Procedure Codes require a judge to withdraw from specific proceedings if his/her impartiality is put to doubt. In criminal cases, a judge is to recuse him/herself or is to be disqualified following a motion by a party if: 1. s/he was not lawfully appointed to the post of judge; 2. s/he does not have the required authority to hear the criminal case in accordance with law; 3. s/he is a victim, civil party, defendant to the civil claim or their representative or legal representative in the same case; 4. s/he is or can be questioned as a witness in the same case or in another prosecution matter related to it; 5. s/he has participated previously as a witness, court clerk, interpreter, specialist or expert in the same case or in another prosecution matter related to it; 6. s/he has participated as a judge in the hearing of the same case or another prosecution matter in the first, appeal or cassation instance on the basis of new circumstances; 7. s/he has any kinship or other dependent relationship with a party or his/her (legal) representatives; 8. if there are grounds for believing that s/he has a direct or indirect interest in the prosecution, or other circumstances put into doubt his/her impartiality (Criminal Procedure Code, Article 103). Similar rules apply in civil law cases (Article 19, civil Procedure Code) and are reflected in the Ethical Code.

A judge who has tried a case in the first, appeal or cassation court may not retry it in another instance, and if any doubts persist as regards his/her impartiality, s/he is to recuse him/herself from proceedings (Article 16, LCJ).

According to the LCC (Article 8), judges may not solicit or accept for themselves or others gifts that may influence or appear to influence the objective and impartial performance of duties or represent or appear to represent a reward, except for minor gifts and conventional hospitality not exceeding a total value of 55 Manats/EUR 60 during any twelve month period. Furthermore, judges may not obtain undue privileges or advantages in the exercise of their duties while entering into or performing civil contracts with any person. Violations of the LCC carry disciplinary, civil, administrative or criminal liability. According to Article 18 of the Ethical Code, a judge may not accept a gift, award, favour or benefit that is in connection with the case under his/her consideration and s/he will avoid accepting any services if they may affect the outcome of the case.

## • Procedures and mechanisms for managing potential conflict of interest for prosecutors

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 Code of Ethics of Prosecutors, regarding acceptance of gifts and other benefits (Articles 28-30); 2) the Prosecutor's Office Act (POA), regarding incompatibilities and accessory activities (article 30); 3) the Criminal and Civil Procedure Codes, rules on recusal; 4) the Rules for the ethical conduct of civil servants, regarding prevention of corruption and conflicts of interest; 5) the Law on Service in the Prosecutor's Office, regarding termination of office in case of performance of incompatible activity (Article 29); 6) the Law on Combating Corruption (LCC), which prohibits close relatives working together (Article 7) and imposes restrictions regarding gifts (Article 8); and 7) the Penal Code, which criminalises passive bribery (Article 311).

Within the criminal justice process, the case-by-case identification, registration and handling of prosecutors' private interests are regulated by the Criminal Procedure Code (CPC). It places an obligation on prosecutors to withdraw from specific proceedings in case of a conflict of interests and imposes a ban on a prosecutor who has carried out the investigation on a criminal case or been in charge of its procedural aspects from taking part in the court hearing as a public prosecutor (Article 109). A prosecutor may recuse him/herself or may be disqualified following a motion by a party. Article 112 CPC prescribes the procedure for a prosecutor's withdrawal or replacement, and each prosecution office (or court) keeps a register of such recusals/disqualifications and the re-assignment of cases.

Outside the criminal justice process, conflicts of interest of prosecutors are governed by the Law on Combatting Corruption (LCC) (receipt of gifts, assets disclosure, prohibition on employing a relative in a position of direct subordination). There are no restrictions on prosecutors holding financial interests.

By virtue of Article 8 LCC, prosecutors may not solicit or accept for themselves or others gifts that may influence or appear to influence the objective and impartial performance of duties or represent or appear to represent a reward, except for minor gifts and conventional hospitality not exceeding a total value of 55 Manats/EUR 60 during any twelve month period. Furthermore, prosecutors may not obtain undue privileges or advantages in the exercise of official duties while entering into or performing civil contracts with any person. Violations of the LCC carry disciplinary, civil, administrative or criminal liability. Similar requirements are contained in the "Rules for the ethical conduct of civil servants" Act and the Code of Ethics of Prosecutors. The former inter alia imposes a ban on acting or failing to act on making decisions with a view to obtaining illegal material or immaterial benefits, privileges or advantages, and requesting or accepting gifts which may affect or may seem to affect the impartial performance of duties, with the exception of token or hospitality gifts permitted under the LCC. In case of doubts on whether to accept or reject a gift, a prosecutor is to seek his/her superior's guidance.

The prohibition on accepting bribes under Article 311 of the Penal Code (passive bribery) also applies and carries a custodial sentence of up to twelve years with deprivation of the right to hold certain positions or engage in certain activities for up to three years as well as property confiscation. In the case of substantial damage to the public interest, non-compliance with the rules on incompatibilities and accessory activities gives rise to criminal liability under Article 309 of the Penal Code (abuse of official powers). In less serious cases, prosecutors are subject to disciplinary (suspension and dismissal) and civil liability.

## • Possibility for judges and prosecutors to perform additional activities

According to the LCJ, being a judge is incompatible with any other public, private or political activity, or any other activity and remuneration thereof, except for research, pedagogical or creative work (Article 104, LCJ). Non-compliance triggers the disciplinary punishment of dismissal. There are no restrictions on judges holding financial interests. No authorisation is needed for a judge to perform accessory activities (teaching, research and publication, cultural functions) and no obligation to inform his/her hierarchy about these accessory activities.

A prosecutor's office is incompatible with any other public, private, elected or political activity, or any other activity and related remuneration, except for academic, pedagogical or creative activity (Article 30, POA). For the latter, according to the Order 10/66 of 13/07/2015 of the Prosecutor General, the prosecutor concerned must obtain an official consent from the head of the office concerned and the Prosecutor General in consultation with the Department of Human Resources. The Rules on Accessory Activities in Prosecutorial Bodies in Substitutional Order (part of the Rules of Work Organisation at the Prosecutor General's Office) regulate conditions under which prosecutors may carry out accessory activities (e.g. when is involvement in accessory activities prohibited, consent to be obtained to carry out the activity, information to be provided to the prosecutor's office on the labour contract signed by a prosecutor, limitations imposed with regard to number of working hours spent for accessory activities etc.)(see [the GRECO Compliance Report on Azerbaijan](#), para. 100, and App. 6 to the Compliance Report)

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				

## • Breaches of rules on conflict of interest

Various laws and regulations regulate proceedings for breaches of rules on conflicts of interest in respect of judges, namely the Criminal Procedure Code, the Civil Procedure Code and the Ethical Code.

The procedure to sanctions these breaches is regulated in the Criminal Procedure Code, the Civil Procedure Code and the LCJ.

Law or regulation that regulates proceedings for breaches of rules on conflicts of interest in respect of prosecutors are the Code of Ethical Conduct for Employees of the Prosecution Authorities and the Act on Service in the Prosecutor’s Office (POSA).

The procedure to sanction breaches of rules on conflicts of interest in respect of prosecutors is regulated in the Code of Ethical Conduct for Employees of the Prosecution Authorities.

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

Azerbaijan	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
2020	0	0,00	0	0,00	0	0,00	0	0,00	0	0,00	0	0,00

## Discipline against judges and prosecutors

### • Description of the disciplinary procedure against judges

Provisions on the disciplinary regime for judges are contained in the Law on Courts and Judges (hereinafter: LCJ).

According to article 111-1, LCJ, violation of judicial ethics is one of the grounds for instituting disciplinary procedures against a judge.

Judges are subject to disciplinary liability for: 1. gross or multiple infringements of law while adjudicating a case; 2. ethical breaches; 3. gross disciplinary violations; 4. failure to comply with the asset disclosure rules; 5. the commission of corruption-related offences stipulated in Article 9 LCC; and 6. acts damaging their reputation and good name.

Relevant sanctions are: 1. reproof (or “remark” in the table below); 2. reprimand; 3. demotion; 4. transfer; and 5. dismissal.

Disciplinary proceedings against judges may be initiated by the JLC, the Ministry of Justice (regarding violations committed by judges in court proceedings before first and second instance courts) as well as chairpersons of the Supreme Courts and courts of appeal.

According to Article 112, LCJ, only the JLC has the competence to institute disciplinary proceedings against judges and it has the sole disciplinary power over judges (only those JLC members who are judges, bar the Supreme Court president and the judge-rapporteur, have the right to vote).

Disciplinary procedures may be launched following a complaint from any person, information published in the media, statutory violations revealed during a judge’s evaluation or while preparing the summary of judicial practice, statutory violations identified by higher courts and those contained in the special decisions of higher courts in respect of a particular judge (e.g. in the case of a gross violation of procedural norms identified when reviewing a case), decisions of the Constitutional Court, the European Court of Human Rights and any other information obtained by persons authorised to file a motion with the JLC, i.e. presidents of the two Supreme and appeal courts and the Ministry of Justice. Furthermore, any person can send a complaint directly to the JLC (see [the GRECO Evaluation Report on Azerbaijan](#), para. 78).

For instituting a disciplinary proceeding, a limitation period of one year applies from the detection of a violation and three years from the moment it was committed. Whether to act on a motion is decided within two months and within a further three months the JLC is to examine the case in the presence of the judge concerned and a judge-rapporteur appointed from within the JLC’s ranks. The judge concerned has the possibility to be heard and to submit his/her statement, evidence in writing. The decisions are passed by a simple majority vote, and the JLC is considered quorate if at least five of its members with the right to vote are present. A JLC member whose impartiality is put into doubt may recuse him/herself or is to be withdrawn. The principle decision is to be announced immediately, and the substantiated decision has to be prepared within ten days. A similar decision-making process applies for the consideration of motions for dismissal and the institution of criminal proceedings against judges (see [the GRECO Evaluation Report on Azerbaijan](#), para. 79).

Within twenty days of the receipt of the JLC's decision, it can be challenged before the Plenary of the Supreme Court on points concerning the proper application of the law. The Supreme Court judges who participated in the JLC vote must withdraw from any vote on the same matter.

All JLC's decisions on disciplinary procedures are presented to the media and published in the Ministry of Justice's "Legality" journal. Decisions, including minority opinions, are published within one month from the moment they take effect (see [the GRECO Evaluation Report on Azerbaijan](#), para. 79).

A judge can be transferred to another court without his/her consent for disciplinary and organisational reasons.

### • Description of the disciplinary procedure against prosecutors

Provisions on the disciplinary regime for prosecutors are contained in the Act on Service in the Prosecutor's Office (hereinafter: POSA) and the Prosecutor's Office Act (hereinafter: POA).

According to Article 26, POSA, disciplinary sanctions that may be imposed on a prosecutor for violation of service discipline, improper performance of duties, as well as non-compliance with the requirements of the Code of Ethical Conduct for Employees of the Prosecutor's Office.

The applicable disciplinary sanctions are: 1. Reproof (or "remark" in the table below); 2. reprimand; 3. severe reprimand; 4. demotion; 5. demotion in special rank; 6. temporary dismissal; 7. dismissal; and 8. dismissal with deprivation of a special rank. A demotion in rank by one degree is also applicable for a disciplinary breach.

Procedures may be launched on the motion of a senior prosecutor or triggered by an external complaint (but not an anonymous one) or a news item in the media (see [the GRECO Evaluation Report on Azerbaijan](#), para. 120).

The disciplinary action against prosecutors may be launched within a month from the date of the detection of the misconduct (leave, travel, sickness, inspection or criminal investigation being excluded from this period) but not later than three years from the time of its commission (see [the GRECO Evaluation Report on Azerbaijan](#), para. 121).

Disciplinary procedures are carried out by the Prosecutor General and may be delegated, within certain limits, to the Military Prosecutor, the NAR prosecutor and the prosecutor of Baku (see [the GRECO Evaluation Report on Azerbaijan](#), para. 122).

Prosecutor concerned may be heard and submit in writing his/her statement and evidence.

The prosecutor concerned is notified in writing of the results which can be appealed against to the Prosecutor General (in case the Prosecutor General delegated the power to carry out disciplinary procedures to other prosecutors) or to court (in case the Prosecutor General exercised the disciplinary power). Certain procedures may bring about an internal inspection, the order and the contents of which are prescribed by the

Prosecutor General. Although the Prosecutor General may discipline all prosecutors subordinate to him/her, the sanction of dismissal from office may be only imposed in respect of senior prosecutors by the President of the Republic (due to the mode of their appointment). In [the Evaluation Report](#) (see para. 122) GRECO noted that since there appears to be no legal means of ensuring that the President is bound by the findings and conclusions of the specific proceedings leading to a prosecutor's dismissal, it is essential that in each case of rejection to dismiss a senior prosecutor, relevant explanations are provided to the Prosecutor General.

The authorities furthermore indicate that gross violations of conflicts of interest rules leading to criminal cases are published on the web site of the Prosecutor General's Office and communicated to the media (see [the GRECO Evaluation Report on Azerbaijan](#), para. 123).

The table below presents the number of disciplinary proceedings initiated during the reference years, the number of cases completed in the reference year, and the number of sanctions pronounced during the reference year, against judges and prosecutors.

\*The authorities explained that the notion of "professional incapacity" as a ground for initiating disciplinary proceeding against a judge refers to gross infringement of the requirement of legislation in the course of consideration of a case.

\*\*The authorities explained that the notion of "professional incapacity" as a ground for initiating disciplinary proceeding against a prosecutor refers to violation of official disciplines and improper performance of official duties.



		2020			
		Judges		Prosecutors	
		Abs	per 100	Abs	per 100
Number of disciplinary proceedings initiated during the reference year	Total number (1 to 5)	9	1,72	28	2,15
	1. Breach of professional ethics (including breach of integrity)	1	0,19	9	0,69
	2. Professional inadequacy	8*	1,53*	19**	1,46**
	3. Corruption	0	0,00	NAP	NAP
	4. Other criminal offence	NAP	NAP	NAP	NAP
	5. Other	NAP	NAP	NAP	NAP
Number of cases completed in the reference year	Total number (1 to 5)	7	1,34	28	2,15
	1. Breach of professional ethics (including breach of integrity)	1	0,19	9	0,69
	2. Professional inadequacy	6	1,15	19	1,46
	3. Corruption	0	0,00	NAP	NAP
	4. Other criminal offence	NAP	NAP	NAP	NAP
	5. Other	NAP	NAP	NAP	NAP
Number of sanctions pronounced during the reference year	Total number (total 1 to 10)	7	1,34	28	2,15
	1. Reprimand	3	0,57	14	1,07
	2. Suspension	NAP	NAP	8	0,61
	3. Withdrawal from cases	NAP	NAP	NAP	NAP
	4. Fine	NAP	NAP	NAP	NAP
	5. Temporary reduction of salary	NAP	NAP	NAP	NAP
	6. Position downgrade	NAP	NAP	0	0,00
	7. Transfer to another geographical (court) location	0	0,00	NAP	NAP
	8. Resignation	0	0,00	2	0,15
	9. Other (remark)	4	0,77	4	0,31
10. Dismissal	0	0,00	0	0,00	

### • Council for the Judiciary

Only the judiciary has a self-governing body in Azerbaijan, the Judicial Legal Council (JLC). It is regulated by the Law on Judicial Legal Council (hereinafter: LJLC).

The 15 members of the JLC have a five-year tenure which is renewable once. Membership in the JLC is not a full-time position.

The JLC president has a renewable five-year term and is elected from within the JLC's ranks. Since the establishment of the JLC in 2005, it has been presided over by the Minister of Justice.

The JLC is composed of: 1. the Supreme Court Chief Justice (*ex officio* member); 2. a judge appointed by the Constitutional Court; 3. two Supreme Court justices appointed by that Court from among candidates proposed by the judges' associations; 4. two appeal court judges appointed by the JLC from among candidates proposed by the judges' associations; 5. two first instance court judges appointed by the JLC from among candidates proposed by the judges' associations; 6. a judge of the Nakhchivan Autonomous Republic (NAR) Supreme Court appointed by that Court from among candidates proposed by the judges' associations; 7. the Minister of Justice (*ex officio* member) and one person appointed by him/her; 8. one person appointed by the President of the Republic, the Parliament, and the Prosecutor General's Office respectively; and 9. a lawyer appointed by the Bar (Article 6, LJLC).

The election/appointment of members of the Council, both judge and non-judge members is regulated by Article 6 of the LJLC. According to this article, non-judge members of the JLC are appointed directly by the body they represent. As a rule, these bodies determine their representative by discussing them at the meetings. Associations of judges offer at least two candidates to one vacancy in the JLC. The list of candidates for members of the JLC could be rejected only once by the person who selects them. Subsequently, nominated persons shall be selected to the JLC.

The selection criteria for non-judge members of the JLC include high law education and more than five years of work experience.

Within its competence, the JLC (Article 1) ensures the organisation and operation of courts, ensures independence of judges and court system, proposes the number of judges per court, decides on the selection, evaluation, promotion, transfer and disciplinary measures against judges and implements self-governance functions of the judiciary. The decisions of the JLC are adopted, as a rule, by an open simple majority vote of at least eight members present, the presiding member always being the last one to vote.

Operational arrangements in place to avoid over-concentration of powers in the same hands concerning different functions to be performed by members of the JLC include regulation of rights and duties as well as matters regarding conflicts of interest in the LJLC. Members of the JLC are equal in their rights in resolving all issues pertaining to its functions (Article 9). Decisions are taken by open voting and by simple majority of the votes of the JLC's members present, except in cases prescribed by law. The presiding member will be the last to vote. When

deciding in the framework of disciplinary proceedings, except the Supreme Court Chief Justice and a judge-rapporteur, only judge members may vote. JLC forms the Judges' selection Committee in order to conduct selection of judges and members of the JLC cannot be members of the Committee.

Accountability is achieved through transparency of the JLC's activities, namely broadcasting of its sessions on national television, attendance of representatives of civil society and access to the minutes of the sessions and decisions taken on the JLC's official website (see [the GRECO Evaluation Report on Azerbaijan](#), para. 51). Decisions of the JLC are reasoned. Activity reports are also published.

In case it is evident there is a breach of the independence or the impartiality of a judge, a judge must apply to the JLC (Article 100, Law on Court and Judges). The JLC takes measures to ensure independence of judges and prevent interference in their activities (Article 11, LJLC). Any form of interference in the judicial process in order to impede the administration of justice is a criminal offence (Article 286, the Criminal Code). Additional guarantee for judges is a hotline introduced in 2019 at the JLC in order to receive applications from judges in case of interference with their activities.

*Recommendation v. That i) the objectives of Safeguarding and strengthening judicial independence be explicitly stipulated in the mandate of the Judicial Legal Council (JLC); and ii) the role of the judiciary within the JLC be reinforced, notably by providing for not less than half of its members to be composed of judges who are directly elected or appointed by their peers and by ensuring that the JLC president is elected from among the JLC members who are judges.*

In the Evaluation Report (see para. 52), GRECO noted that the setting up of an independent judicial council, endowed with guarantees for its composition, powers and autonomy, is an appropriate way of guaranteeing judicial independence and has been pursued by many GRECO member States. In Azerbaijan, however, the observance and strengthening of judicial independence had not been included amongst the JLC's objectives. Moreover, the pluralistic composition of the JLC was dominated by appointees from branches of power other than the judiciary (8 of the 15 members), even though, according to law, nine JLC members must be, and are, judges. This creates opportunities – real and perceived - for undue influence by the executive, which undermined the JLC's status as an independent institution capable of safeguarding the values and fundamental principles of justice. Such a perception was reinforced by the perennial chairmanship of the JLC by the Minister of Justice and the decisive involvement of the President of the Republic in judges' appointment. Given its influence on the selection, appointment, career and disciplinary measures against judges, the legitimacy and credibility of the JLC demanded that it be free from undue influence of other branches of power. This could be achieved by providing for the majority of the JLC members to consist of judges who are appointed or elected directly by their peers, as required by Recommendation CM/Rec(2010)12 of the Committee of Ministers on judges: independence, efficiency and responsibilities. In this light, the entire selection procedure, which was unnecessarily complex and multi-layered, would merit to be simplified and streamlined. Consequently, GRECO issued recommendation v.

In the GRECO compliance procedure, Azerbaijan was able to demonstrate some progress with regard to implementation of the first part of the recommendation since a new law on JLC was adopted in 2016 that explicitly extended the mandate of the JLC to preserve judicial independence. However, GRECO regretted that the JLC had not undergone a more clear-cut and ambitious reform with regard to its

composition. Although nine out of fifteen members of the JLC are judges (as it was at the time of adoption of the Evaluation Report), only a minority of them are appointed or elected by their peers. Furthermore, the JLC was still chaired by the Minister of Justice and not elected from among the JLC members who are judges, as it was recommended. GRECO considered that the second part of the recommendation remained to be addressed. Overall, this recommendation was assessed as partly implemented (see [the Compliance Report](#), para. 31-26; [the Second Compliance Report](#), para. 32-35; and [the Addendum to the Second Compliance Report](#), para. 19-22).