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Report from
Group for Legal
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Rule of Law Performance Index in Kosovo

ROLPIK

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7TH EDITION

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British Embassy
Pristina



Group for Legal
and Political
Studies

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INTRODUCTION

The performance index of rule of law institutions in Kosovo (RoLPIK) is a monitoring mechanism designed to assess the performance of institutions, with a particular focus on the justice system in Kosovo.

RoLPIK serves as an open access platform, accessible to the general public, where each year the performance of the justice system institutions in Kosovo is analyzed and reflected over years. This index contains indicators that provide data about the perceptions and experiences of Kosovo citizens with the rule of law institutions, as well as structural data that provide the reasons that condition efficient and independent functioning of these institutions.

The first edition of the performance index analyzed citizens' perception about justice institutions, and focused mainly on measuring courts' efficiency. The second index conducted during June 2016, assessed the performance of the prosecutorial system, between 2013-2015, while continuously analyzing the data on citizen perception about responsible institutions for the rule of law.

The third edition conducted during June 2017, continued with the measurements of civil perception as well as the performance of the justice system in investigating, adjudicating and resolving cases during the years 2013-2016. Whereas, in the fourth edition, the analysis of citizen perception data after the fourth survey conducted in June 2018, and the measurement of the performance of the justice system in relation to investigating, adjudicating and resolving cases during 2013-2017 were done.

The fifth edition analyzed the data of the civil perception from a survey conducted in September 2019, as well as measured the performance of the justice system during 2018, by comparing these data with those from previous years.

Whereas, the sixth edition, aimed to analyze the data of public perception from a survey conducted during September, 2020. Also, this publication aimed to measure the performance of justice system institutions during 2019, and also compared these data with previous years.

Whereas, based on the survey conducted during September 2021, the seventh edition was compiled with the aim of presenting the civic perception towards the rule of law institutions and which contains data related to their performance during 2020. Also, during the treatment of special indicators contained in this publication, the issue of comparing the perception of citizens and the performance of law enforcement institutions during 2020 in relation to the data from the publications of previous years is included.

In terms of indicators, in contrast to previous publications, the seventh edition also includes statistical data on civic perception of the treatment of marginalized persons/groups by justice institutions and data on the percentage of citizens that have received or were provided services from the police, courts and prosecution in the last five (5) years.

Public perception means the impression of the citizens of a country about certain institutions, in this specific case of the institutions that have been established to implement legal norms, therefore this indicator is considered very important in the assessment of the state authorities' performance. In this regard, it should be mentioned that the justice system in Kosovo has been constantly characterized by various initiatives and reforms that have largely resulted in legislative changes, the creation of new mechanisms or their abolition, as well as the rearrangement of competencies within several institutions.

The same has been characterized as changes that have failed to address the problems at their core, such as the serious shortcoming the justice system has in ensuring justice, independence, impartiality from political actors and the lack of professionalism prevalent in these institutions.

Part of this cycle of reforms were the two initiatives of the Ministry of Justice, which took place during 2018 - 2019, with the main aim of restoring citizens' confidence in justice. These are the "Justice 2020" agendas and the "Functional Review of the Justice Sector" which were parallel reforms launched by the Ministry of Justice, but due to the collapse of the Government, they have not been finalized yet. Moreover, the justice system overtook the January 2013 reform to form a new system of courts and prosecution offices throughout the Republic of Kosovo.

The Law on Courts defines this system, consisting of the Supreme Court with its Special Chamber, as the highest judicial instance and with jurisdiction throughout the territory of the Republic of Kosovo; with the Court of Appeals as a second instance court, with jurisdiction throughout the territory; the Basic Courts, as courts of the first instance distributed in seven regions, divided into further divisions and departments.

The new prosecutorial system, the State Prosecutor's Office is organized by the Office of the Chief State Prosecutor as the highest instance with jurisdiction throughout territory of the Republic of Kosovo; the Appeals Prosecution as a second instance, also with a competence throughout the territory; Special Prosecution as a specialized prosecutorial body with jurisdiction throughout the territory of the Republic of Kosovo and Basic Prosecutions in the seven regions of Kosovo, divided into departments.

Rule of law institutions, such as the Kosovo Prosecutorial Council (KPC) and the State Prosecutor Institution (SP), in 2020, had some changes in their structure, it is worth noting the election of seven new members and the Chairperson of the KPC, the election of new Chief Prosecutors of several Basic Prosecution Offices, the Appellate Prosecution Office and the Special Prosecution Office of the Republic of Kosovo (SPRK). Regarding the SPRK, at the beginning of 2020, three new departments were established within this institution in order to increase the efficiency and prosecutors' profiling, the Department of Corruption and Economic Crimes, the Department of Organized Crime and the Department of Terrorism.

The year 2020 is also characterized by the change of government, in which case one of their priorities in terms of rule of law was the process of functional review and Vetting in the justice system. Regarding these two processes, the Government of Kosovo has approved the Rule of Law Strategy which precedes the Vetting process, which according to this strategy is expected to be completed in 2025. Another initiative of the current executive is to create a legal basis for confiscation of unjustifiable property of any natural person, in cases where it is established that property is acquired illegally.

Therefore, given the high number of reforms carried out in this sector, this report, through this index, enlightens the individual's experience with these institutions and assesses their performance through case resolution, aiming to use this data in the future for complete functioning of the justice system, hoping that future reforms applied in this sector will begin once the findings of this type of study are taken into account and do not remain just as Blanco reforms.

METHODOLOGY

This report is based on primary data such as public perception and those secondary official reports from the responsible and managing bodies of the justice system in Kosovo. Primary data include citizens' survey of the Republic of Kosovo during September 2021, conducted in cooperation with UBO Consulting.

The sample selected for this survey consists of 1063 respondents over the age of 18 years across the territory of Kosovo with Albanians (979), Serbians (42) and members of other communities (42). The sample was then weighted, to reflect the ethnic structure in Kosovo using population weights and to reflect the sample in urban and rural areas, from official data from the Kosovo Agency of Statistics (KAS). The third stratification is based on the number of surveys conducted in each settlement. The method used for this survey is based on random selection of families. The survey was conducted face-to-face with the family member who has the nearest first birthday and is over 18 years old. Before administering the questionnaire in the field, a test of the questionnaire to identify logical and substantive issues was done, as well as the training of interviewers. Based on the data obtained from the survey, perception indicators were compiled that assess the perception of Kosovo citizens about the performance of the rule of law institutions: courts, prosecution, police and EULEX. All survey questions are grouped into nine indicators to evaluate the performance of the rule of law institutions from different perspectives. Secondary data to assess the efficiency of work in

courts and prosecutions are collected and analyzed from official reports of the Kosovo Judicial Council (KJC), the Kosovo Prosecutorial Council (KPC), and the Kosovo Budget Law. More precisely, the data related to the number of cases received within one year in each court and prosecution were analyzed; the number of cases inherited from the previous year; the number of judges and prosecutors in proportion with the population of Kosovo, as well as the budget allocated to the judicial and prosecutorial system during 2013, 2014, 2015, 2016, 2017 and 2018 and 2019.

Structural indicators reflect the capacities and resources of the prosecution offices and courts to carry out their duties, thereby enabling assessment of the efficiency of their work. Since the new structure of the judiciary has come into force in January 2013, the indicators are based on data from the last six years (2013, 2014, 2015, 2016, 2017, 2018, 2019 and 2020). It must be emphasized that the assessment and analysis of the number of cases resolved or inherited within one year in each court and prosecution, was done without assessing the difficulty of resolving them or dividing them into different court and prosecution departments. Mainly because the essential purpose in constructing structural indicators is to assess the overall performance efficiency of the courts, prosecution offices and the individual quantitative performance of prosecutors and judges.

CITIZEN PERCEPTION ON JUSTICE SYSTEM INSTITUTIONS

POLITICAL IMPACT

It is concerning that the majority of citizens of Kosovo hold the belief that persons with political influence are less likely to be punished by law. The survey results show that about 60 % of citizens answered in the affirmative to the question “Do you think that people with political influence are less likely to be punished by law?” On the other hand, only 31.4% of respondents think that regardless of their political position or influence, these people are likely to get punished by provisions of the law. Whereas, 8.7% of the respondents said that they do not know or have chosen not to answer at all regarding this issue.

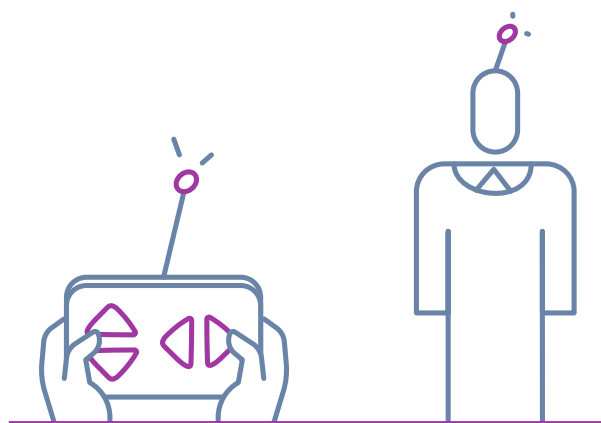
If we compare last year’s data, the trend of citizens who believe that the justice system is influenced by their political position has increased by 8.5 percentage points.

32.9% of the respondents, who believed that persons with political influence are less likely to be punished by law, think that courts are the institutions that are most influenced by political influence. Regarding this phenomenon, the citizens place the Prosecution, with 31.3% second, and the Kosovo Police with 19.7%.

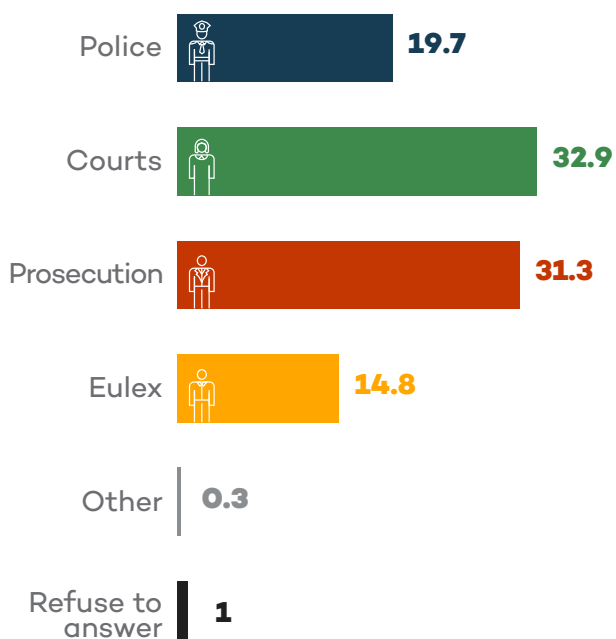
Do you think that people with political influence are **less likely to be punished** by law?



Whereas, according to the respondents (only 14.8%), EULEX remains the institution that is least influenced by people with political influence. But, if we compare last year’s data, the public perception of the influence of people with political positions in Courts, Prosecution and EULEX has increased, while this perception decreased about the Kosovo Police Institution.



Which institutions are most **influenced** by political influence?



BRIBERY

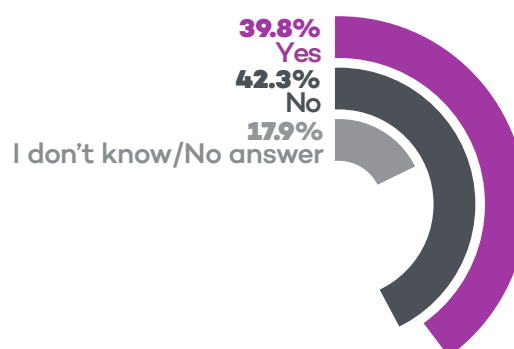
The citizens of the Republic of Kosovo believe that justice institutions continue to be affected by the phenomenon of bribery. From the results of the 2021 polls, the data show that 39.8% of respondents think that employees and officials of rule of law institutions accept and require bribes. Compared to the previous year the percentage has decreased by 8.3 percentage points, but the negative perception remains by the majority of respondents.

There is a positive trend in the perception of citizens about whether employees or officials that enforce the law receive or require bribes, because 42.3% of respondents believe that they do not, compared to last year's results 29.4%. It is worth noting that the citizens' trust has increased these last few years.

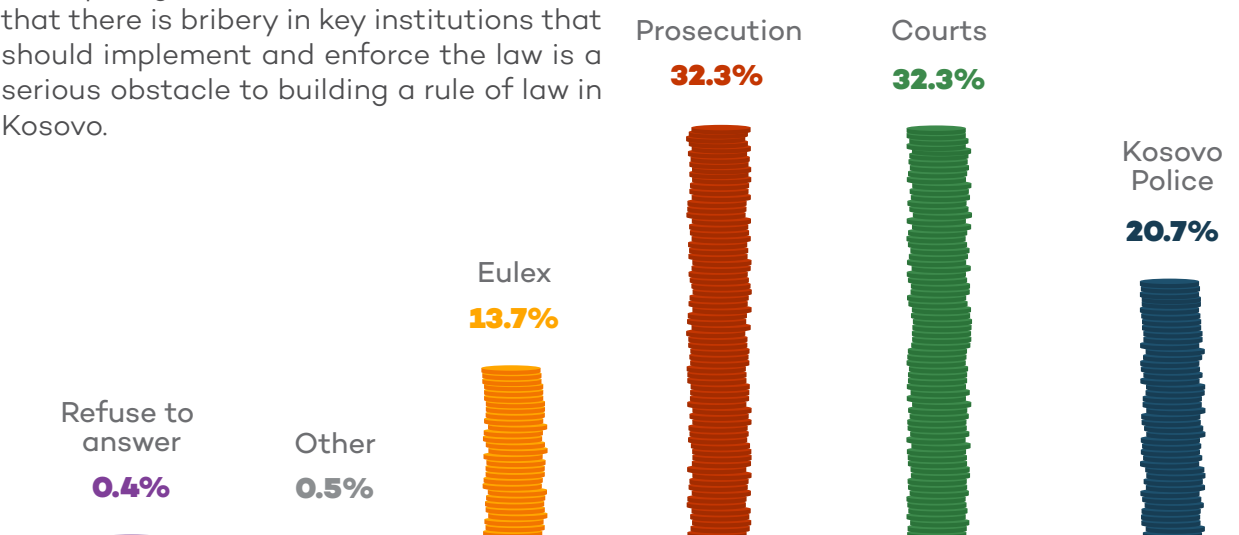
This year, as in the previous one, respondents believe that the institutions most affected by this phenomenon are the courts and the prosecution with about 53%, and compared to last year, this percentage has decreased by 6.5 percentage points. Whereas the practice of bribery according to citizens is less present in the Kosovo Police, with 20.7%, which is a little bit higher compared to last year. Regarding this question there is a positive trend about EULEX receiving or requiring bribes with 13.7%. The belief that there is bribery in key institutions that should implement and enforce the law is a serious obstacle to building a rule of law in Kosovo.



According to your opinion, do you think that officials/employees of rule of law institutions (Police, Courts, Prosecution Offices, and EULEX etc) accept/require bribes?



In your opinion, which officials/employees continuously require/accept bribes?



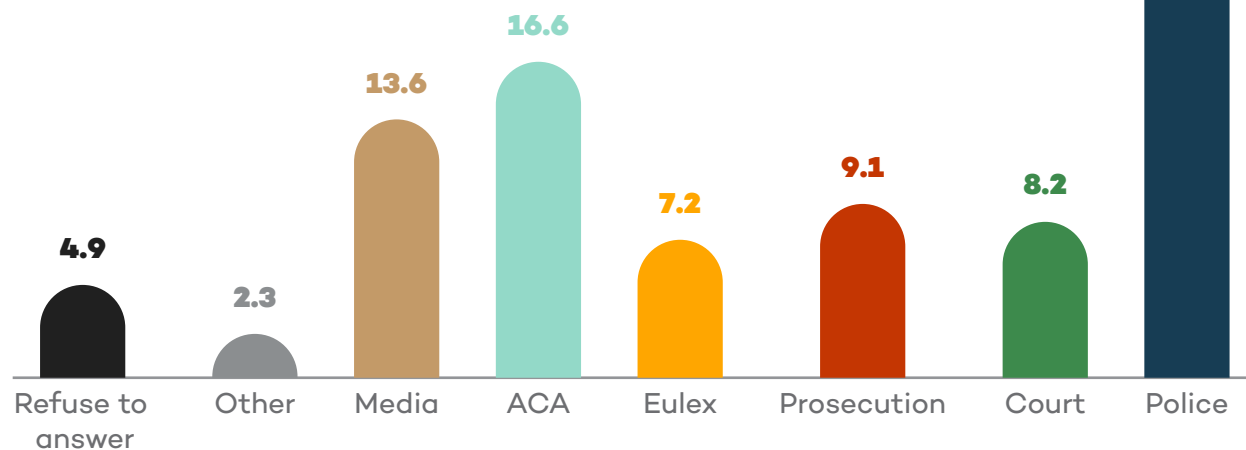
EFFICIENCY IN FIGHTING CORRUPTION

Citizens of Kosovo, this year as well, rank the Kosovo Police as the most effective institution in the fight against corruption, at 38.2% which has decreased by 9.9 percentage points compared to last year. Regarding the fight against corruption by the Courts and Prosecutions, the respondents think that the Prosecution is more effective in the fight against criminal cases than the Courts. Regarding this index, in the previous edition, citizens put the Prosecution with a lower percentage at 4.8%, while this year this has doubled in percentage points. Hence, this means that there is an increase in citizens' trust about the institution of the Prosecution regarding the fight against corruption.

In terms of effectiveness in the fight against corruption, respondents ranked the institutions as follows: EULEX 7.2%, Courts 8.2%, Prosecution 9.2%, Media 13.6%, Anti-Corruption Agency 16.6%, Kosovo Police 38.2%.

So this year as in previous years, citizens do not trust the Prosecution and Courts in the fight against corruption, and not even EULEX, who once were considered the leaders of this phenomenon. However, this year, the positive opinion of the citizens has doubled for the Prosecution, and it has increased a little about the positive role of the media and the Anti-Corruption Agency, in terms of efficiency in combating this negative phenomenon.

In your opinion, which of the following institutions is most effective in the fight against corruption?



REPORTING CORRUPTION

The willingness of Kosovo citizens to report corruption and criminal offences exists to a large extent, despite the fact that they are dissatisfied with the work of institutions in combating these phenomena in society. When participants were asked if they would be willing to report corruption or criminal cases, 70.5% said they would, while 23.3% said they would not. From the past years, the trend of willingness for reporting corruption to relevant institutions is decreasing. Based on the data taken from the 6th edition, it results that 16.7% of citizens had stated that they would not feel ready to report, now the mass of citizens who join this opinion is 23.3%. The number of citizens that were unsure whether they would report a case of corruption or crime has started to decrease, from 6.8% last year to 6.2% this year. The decrease in the number of unsure citizens as a percentage seems to have been due to the shift in the proportion of those who would not report these negative phenomena.

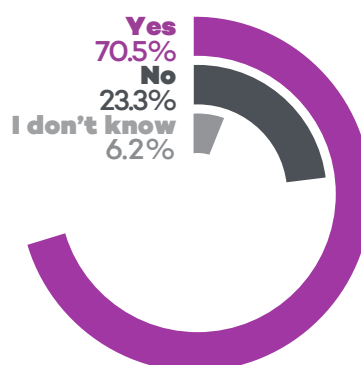
The number of those who would not be willing to report has decreased by 0.6 percentage points, compared to those who responded that they would not report a case of corruption or crime which increased by 6.6%. Reducing the percentage of citizens to help institutions in the fight against crime and corruption is a tendency to reduce civic activism which contributes to addressing negative phenomena. This could be an indicative of personal past citizen experiences with the rule of law institutions in Kosovo. For more, declining readiness is a clear message that shows that citizens are dissatisfied with the way judicial bodies handled and resolved cases in the past.

When asked in which institution would they report corruption, 78.6% of the interviewed citizens answered that they would report to the Police. If we compare it to last year, it turns out that we have a decrease of 10.3 percentage points of citizens who would report a case of crime or corruption

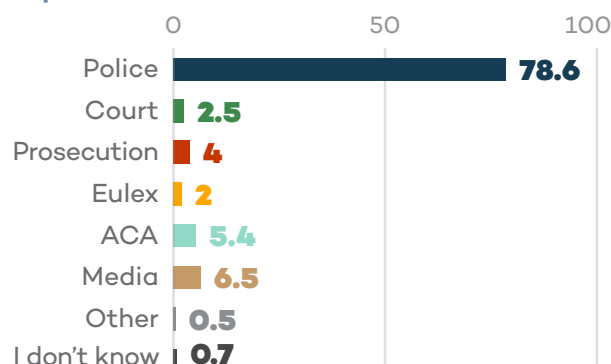
to the Kosovo Police. However, in terms of reporting to the Prosecutor and the Court, the percentage of respondents who would report corruption remains low compared to those who would pick the Police. About 2.5% of respondents would report to the Court, while 4% of citizens would report to the Prosecutor.

From last year, the percentage of citizens who would report a case of corruption or crime to the Court has increased by 0.5 percentage points, while the number of people who would report injustices or violations to the Prosecutor's Office has increased by 2.8 percentage points. This survey result shows that the police continue to be the most reliable address of citizens to report criminal offences, but there is a significant increase in the percentage of citizens who would report to the Anti-Corruption Agency and the media.

If you noticed any cases of corruption or crime (theft, violence, etc.), would you be willing to report it?



If Yes, which institution would you report it to?



SATISFACTION

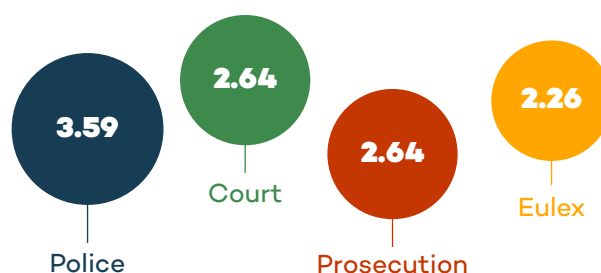
Satisfaction indicator shows how justice institutions act in accordance with citizens' expectations and responsibilities. Data for 2020, similar to those from previous years, show that citizens are more satisfied with the Kosovo Police, while less satisfied with EULEX. The question posed to the interviewers was: "how satisfied are you with the work or performance of these institutions". Whereas the answer could be derived from the value 1 corresponding to not at all satisfied up to the value of 5 totally satisfied. According to the citizens' responses, the list of the institutions by average is as follows: Kosovo Police 3.59, Kosovo Courts 2.64, Kosovo Prosecution 2.64 and finally EULEX 2.26. From these data, we conclude that there is a decrease in citizens' satisfaction with the performance of these four institutions compared to last year, where the biggest difference is in the Kosovo Police at 0.28, the Courts and EULEX at 0.19, and the Prosecution with 0.14.

While However, regarding the issue of how much do the respondents agree with the statement that justice institutions treat marginalized persons/groups in the same way as women, minorities, persons with disabilities, persons with minimum income, the same could answer on a scale of 1 (I do not agree at all) to 5 (I completely agree). The respondents answered as follows: 10.8% chose number 1, 15.8%



chose number 2, while 42.6% of them chose number 3. Whereas, 24.8% of the respondents chose number 4, while only 6% of the total respondents fully agree that the institutions treat all the persons/groups mentioned above equally. So, if we take the average of the response values (2.99), we conclude that citizens agree to some extent that justice institutions treat marginalized persons/groups in the same way as women, minorities, persons with disabilities, persons with disabilities and people with minimal income.

How satisfied are you with the work/performance of the following institutions?



Please tell us how much you agree with the following statement:

"Justice institutions treat in the same way marginalized persons/groups as: women, minorities, people with disabilities, people with minimal income"

Answer on a scale of 1 to 5.

- 1 - Strongly disagree; 2 - Disagree;
- 3 - Somewhat agree;
- 4 - Agree; 5 - Strongly agree



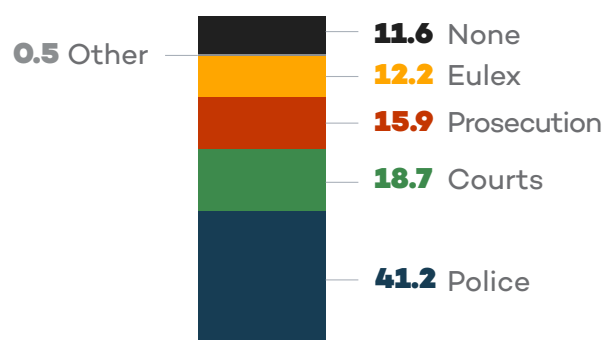
INDEPENDENCE IN DECISION-MAKING

Independence and impartiality are principles and conditions of a state in order to have a functioning system of law. Regarding the independence of the institutions that protect the legality, 41.2% of the citizens still rank the police as an institution that can perform its duties and responsibilities independently. Whereas, only 18.7% of the respondents think that the Courts can be independent in exercising their duty, while the Prosecution is only 15.9%. This year, the percentage of citizens who believe that the Police can perform impartial work has increased by 1.3%; such an increase in the percentage points is observed for other institutions. The perception from 2020 is now higher for the Court and the Prosecution. It is worth mentioning that the citizens have answered this year that they are satisfied with the work of the EULEX mission, where, compared to last year, the percentage points of those who think that this mission can do independent work has increased by 2.7 percentage points.

Citizens' perception shows that the principle of independence in decision-making seems to be very little applicable by the rule of law bodies in the country. The increase in credibility in the independence of institutions from 2020 to 2021 shows that citizens think that independence in the judiciary and prosecutorial bodies is possible. Citizens think of the Court as a less independent institution in the exercise of legal duties, compared to the Kosovo Police; about 34.5% of respondents consider that judges, when making decisions, are influenced by pressure, corruption and private interest. Whereas, 29.1% of the respondents think that judges base their decision-making under the influence of pressure exerted by senior officials or persons with political influence. The number of citizens who share this opinion from last year has decreased by 3.5 percentage points.

Further, this year, 34.3% of citizens, or 7.1 percentage points more than last year, believe that most judges in making decisions are based on the legal framework. Although the perception of citizens who share the opinion that the judiciary is influenced in decision-making by private interests and the pressure exerted by persons with political influence, has decreased by 6.7 percentage points, the majority of citizens, exactly 63.6% of them, think that judges do not make decisions based on available facts and the legal framework of the country.

In your opinion, in practice, which of the following Kosovo institutions are able to perform their duties/responsibilities independently?



In your opinion, when making a decision most judges in Kosovo are based on:

In the available facts and in the legal framework of the country
34.3%

Under the influence of corruption/private interests
34.5%

Under the influence of pressure exerted by senior officials/persons with political influence
29.1%

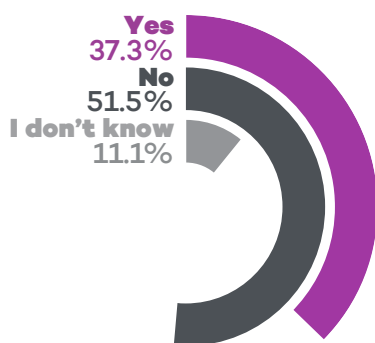
Other
2.1%

IMPROVING THE JUDICIARY

Despite the 'Justice 2020' agenda and the Functional Review process, both initiated by the Ministry of Justice, with the main aim to ensure the well-being and to restore citizens' confidence in justice, more than half of the citizens deny having noticed any improvement in the justice system. But, the functionality of the Special Department within the Basic Court in Pristina and the Court of Appeals of Kosovo, provided by the Law on Courts, since 2018, seem to have changed the opinions of citizens on improving the judiciary. Thus, 37.3% of citizens, or 6.6 percentage points more than last year, believe that the judiciary has managed to improve, while 11.1% have not given an answer.

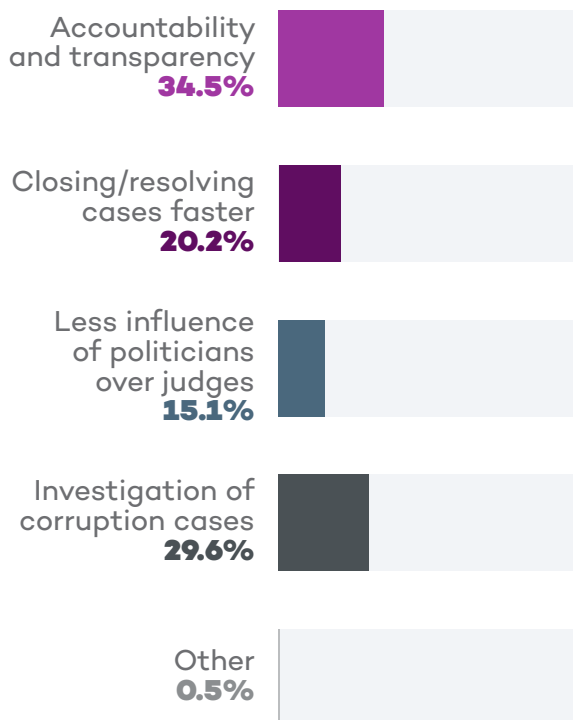
34.5% of the total percentage of citizens who believe that the judicial system has improved think that the courts are now more transparent and accountable, 29.6% believe that the investigation of corruption cases has improved, 20.2% believe that cases are resolved faster, while 15.1% of them think that politicians already have less influence over judges.

In your opinion, has the justice system improved in recent years?



Citizens' perception of the positive effects on improving the judicial system is based on the fact that, in the opinion of citizens, there is an increase in the percentage that the justice system has delivered better results in the investigation of corruption cases. Whereas, compared to the data from the previous publication, it turns out that we have a decrease in the percentage of citizens who think that the justice system has improved in terms of dimensions: time of closing and resolving cases, the influence of politicians on judges, accountability and transparency.

Which of these dimensions of the justice system has improved the most?



WORKING CONDITIONS

Regarding the disciplinary measures or even dismissal of judges or prosecutors for violating the rules or procedures 12.6% of citizens believe that this never happens. While 81.4% hold the belief that these measures are rarely or sometimes taken, 5.9% say that such measures are often or always applied. It is worth noting that based on these data; it is worrying that a very low percentage of citizens think that judges or prosecutors, who violate the rules or procedures, often or always take disciplinary measures up to dismissal. Compared to last year, the perception regarding the punishment with disciplinary measures of judges and prosecutors as violators of rules or procedures has changed in a negative aspect. Thus, 7.7% of citizens had this opinion last year, while this year this percentage is only 5.9%.

Apart from the fact that most citizens perceive the judiciary and the prosecution as untouchable by sanctions if they break the rules, only 7.9% of citizens fully agree that judges and prosecutors have the tools or resources needed to protect themselves from threats, harassment, attacks or intimidation. The respondents answered a scale question between the values or parameters 1 and 5, respectively between 'I do not agree at all' and 'I completely agree'. Thus, 5.7% chose parameter 1, 15.2% chose parameter 2, a total of 47.2% picked parameter 3, 24% of respondents answered under parameter 4. So, if we take the average of the response values, regarding citizens' opinion on whether judges and prosecutors have the tools or resources needed to protect themselves from threats, harassment, attacks or intimidation, it turns out that from a scale of 1 to 5, citizens expressed a value of 3.13.

Please tell us how much you agree with the following statement:

"Courts/prosecutors have the tools and resources needed to protect judges/prosecutors from threats, harassment, assault, or intimidation"

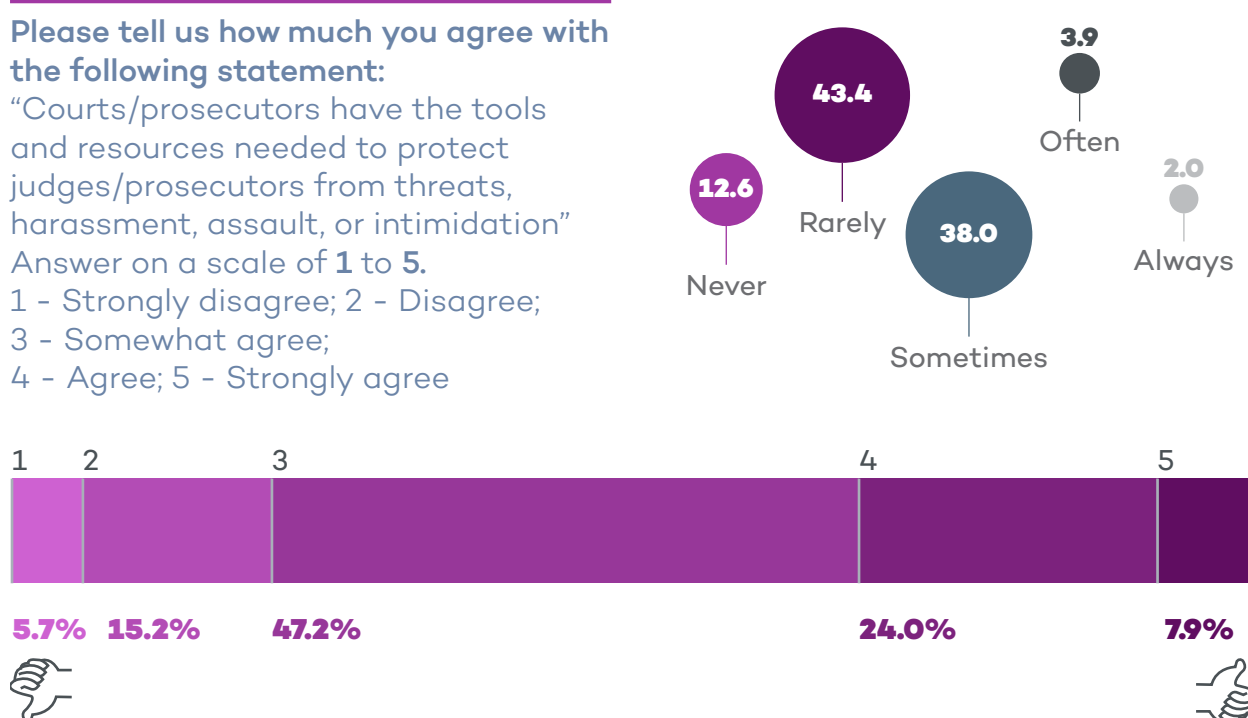
Answer on a scale of **1** to **5**.

1 - Strongly disagree; 2 - Disagree;

3 - Somewhat agree;

4 - Agree; 5 - Strongly agree

In your opinion, is it likely that disciplinary action will be taken up to the dismissal of judges/prosecutors who violate the rules or procedures?

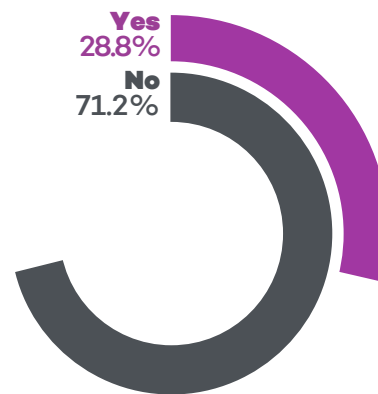


SERVICES FROM JUSTICE INSTITUTIONS

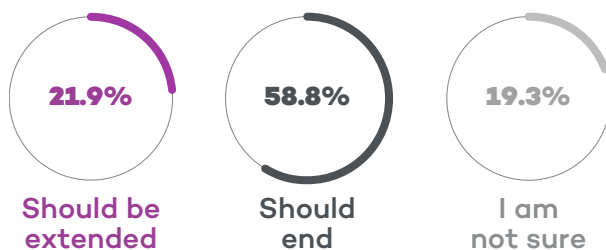
Through this index it is intended to know, within a certain period, how many citizens of our country have received or were provided services from the police, court and prosecution. To the question “Have you received services during the last 5 years from justice institutions?”, Respondents had the opportunity to answer “Yes”, if they had received these services, and “No”, if during this certain period they had not received any services from the above institutions.

From the analysis of their answers, 71.2% of respondents answered that they have not received any services from these institutions in the last half decade. Whereas, 28.8% of the citizens answered that in the last 5 years they had received services from the police, court or prosecution.

Have you received services during the last 5 years from justice institutions (Police, Prosecution, Court)?



What is your opinion on the EULEX mandate:



EULEX MANDATE

This year, 58.8% of respondents, or 7.4 percentage points more than last year, were convinced that the EULEX mandate should not be extended. While, 19.3% were not sure what should happen next with the international mission in Kosovo, thus leaving only 21.9% of respondents in the opinion that the mandate should be extended. From past years, there is a change in the perception of the citizens, where now the largest number of them are listed in the group of those who think that the mandate of EULEX should not be extended, reducing the number of citizens who were unsure what should happen with this mission over the years. So, this is an indicator that shows that many citizens are sceptical about the further need for such an institution in Kosovo.

PERFORMANCE ASSESSMENT OF JUSTICE SYSTEM

Performance Assessment of Justice System

The seventh edition of the Index was focused on extracting data on the justice system following the application of legislative and structural reform of the justice system. Such an assessment has been made since 2013 in a manual manner. The first edition of RoLPIK focused on assessing the efficiency of the work of the judicial system in resolving cases, through the analysis of data for each court during the years 2013-2015. The second edition concentrated on the efficiency of the work of the prosecutorial system in Kosovo, as an impartial, independent body for the prosecution of criminal offenses and violations of legal norms. Subsequently, the third edition focused on the analysis of the work of courts and prosecutors during 2016, as the fourth edition reflected the performance of these two institutions during 2017. Then, the fifth and sixth edition assessed the performance of the justice system for 2018, respectively 2019 comparing it to previous years. Similar to the previous edition, in order to make a correct assessment of the efficiency, the organizational structures under which the Kosovo prosecutorial and judicial systems operate were followed. The assessment of the performance of the prosecutorial system is conducted for: Office of the Chief State Prosecutor (OCS), Appellate Prosecution (AP), Special Prosecution of the Republic of Kosovo (SPRK) and the seven Basic Prosecutions (BP). Therefore, the data from the judicial system have also been analyzed based on the performance of the Supreme Court of Kosovo (SCK), Special Chamber of the Supreme Court of Kosovo (SCSCK), the Court of Appeals of Kosovo (CAP) and the seven Basic Courts (BC). The efficiency of the work of the criminal prosecution system and the protection of legality have been assessed by the official data provided by the Kosovo Prosecutorial Council (KPC), Chief State Prosecutor's Office (CSPO), Kosovo Judicial Council (KJC), Kosovo Budget Law, etc.

From these official data, structural indicators have been created that aim to evaluate the mechanisms of the justice system from different perspectives. Structural indicators show aspects of the performance of the prosecutorial and judicial system: from the assessment of the requests for legality protection, the number of cases resolved, the efficiency of performance, the workload of prosecutors and judges, the degree of overloading and the time that with a consistent work would the system manage to resolve current cases, up to the analyzes of the budget allocation to assess the prioritization of the justice system in Kosovo. The analysis of the performance of the prosecution and courts depends on many external and internal factors. Thus, it should be considered that this assessment cannot identify all relevant indicators that determine the volume of work of prosecutors and judges. In the following chapters, this report aims to reflect on the primary factors that quantitatively determine the performance of the prosecutorial and judicial system, comparing it with the effectiveness of these bodies throughout 2013 - 2019. Through this assessment, the report aims to elaborate on two sides of the coin, from the perspective of the citizen to the work being carried out in the judiciary, in order that in the future these deficiencies and obstacles to be used accordingly to eliminate them, with a more adequate planning for perfecting the rule of law system in Kosovo.

Given the circumstances created after the spread of the COVID-19 pandemic, which for a while forced country's courts and prosecutors to deal only with urgent cases and to work with reduced staff, it is important to consider that in these structural indicators is assessed only the quantitative aspect of the work of prosecutors and courts for 1 calendar year and not the difficulty and manner of resolving cases.

PERFORMANCE OF THE PROSECUTION

Number of new cases and resolved cases

The new cases the prosecution receives within a year indicate the capacity of work for each prosecution. Whereas the potential of cases to be resolved within one year is fulfilled only for the certain number of cases resolved. Data such as the “number of cases” indicate the workload of the respective prosecution offices, as well as the society’s expectation towards this institution. On the other hand, the “resolved cases” indicator indicates the capacity of this body to meet the requirements for the protection of legality. The data presented in the table show the average of new and resolved cases, divided for each prosecution body, which show the number of cases for that body in relation to the number of prosecutors engaged within a year. From the data collected, it appears that the Office of the Chief Prosecutor during 2019 had a higher number of new cases per year for 1 prosecutor compared to last year. The average of solved cases this year has been equal to the average of received cases. Given that even in 2020 OCSP had 8 prosecutors engaged; this resulted in successful work of this institution because it managed to solve only one case less than the total number of cases received this year. It is worth mentioning that in relation to the data from 2013 to 2019, this year is marked with the lowest average of cases received and those resolved by OCSP. Whereas, the Special Prosecution of the Republic of Kosovo (SPRK) this year had a higher average of resolved cases compared to the average of cases received. This year, the Appellate Prosecution (PA) achieved the trend of completing almost all cases received within the year, although this Prosecution since 2017 engaged only 5 prosecutors. While, even this year, the Basic Prosecution Offices managed to record a higher average of resolved cases compared to the average of new cases.

Table 1. Average of new cases received versus cases solved

Office of the Chief Prosecutor			Special Prosecution		
Year	Average of new cases	Average of solved cases	Year	Average of new cases	Average of solved cases
2020	134	134	2020	22	34
2019	150	149	2019	48	28
2018	138	141	2018	14	15
2017	201	198	2017	15	14
2016	228	231	2016	12	23
2015	396	403	2015	9	11
2014	153	146	2014	12	6
2013	212	215	2013	11	10

Appellate Prosecution			Basic Prosecutions		
Year	Average of new cases	Average of solved cases	Year	Average of new cases	Average of solved cases
2020	1438	1436	2020	225	265
2019	1350	1334	2019	275	420
2018	1148	1148	2018	323	411
2017	724	724	2017	375	475
2016	880	880	2016	229	257
2015	645	645	2015	250	234
2014	549	549	2014	255	182
2013	584	584	2013	320	255

Efficiency of prosecution in resolving cases

The evaluation of the efficiency of the prosecution's performance reflects the willingness of the prosecutorial system to respond to the requests for protection of the legality within one year. The efficiency of this year is also calculated by comparing the ratio of received cases by the prosecution institutions, compared to the number of resolved cases. The table shows efficiency percentages, where the value of 100% indicates that the prosecution was fully efficient in resolving all received cases during that year. When this percentage is less than 100% it indicates that that body has failed to complete all the received cases. Whereas, when the percentage is higher than 100%, it shows that the prosecution has resolved even more cases than it has received, reducing the number of inherited cases from previous years. The Office of the Chief State Prosecutor in 2020 continued the trend of efficiency of 100%, solving cases as it has received, the same efficiency it had in 2019.

The Special Prosecution of the Republic of Kosovo, in 2020, showed the highest efficiency in case resolution since 2016, solving 153% of the total number of cases in progress during this year. Regarding the Basic Prosecution Offices, compared to the data from the previous two years, for 2020, they reached the lowest level of efficiency in resolving cases, but they completed all new cases and some inherited cases from the past. Whereas, the Appellate Prosecution, despite the fact that it continues to have a small number of engaged prosecutors, in 2020, achieved 100% efficiency, resolving almost the same number of cases as of those received. Based on this indicator, we note that the Special Prosecution of the Republic of Kosovo, compared to other prosecutions, this year has marked the largest increase in the percentage of efficiency.

Table 2. Efficiency of prosecution

Year	Chief Prosecutor's Office	Special Prosecution	Appellate Prosecution	Basic Prosecutions
2020	100	153	100	118
2019	100	59	116	153
2018	102	105	99	127
2017	98	93	100	112
2016	101	192	100	112
2015	102	125	100	94
2014	96	51	100	71
2013	101	94	100	80

Workload of Prosecutors

The average number of cases a prosecutor is expected to resolve within one year is identified through determination of the extent of prosecutors' workload. The calculation of this indicator is done through the sum of pending cases at the beginning of the year and new received cases, in relation to the number of prosecutors engaged during the same year. These cases are not examined in terms of quality of difficulty, but only in terms of the number of cases a prosecutor receives within a year. The Appellate Prosecution leads the chain of the prosecutorial system in terms of the number of cases expected to be resolved by a prosecutor by 2020.

This trend continues with the Basic Prosecution Offices, then the Office of the Chief State Prosecutor and the Special Prosecution Office of the Republic of Kosovo, which have a smaller number of cases pending by prosecutors engaged in these institutions. Consequently, this translates into a greater burden for prosecutors engaged in the prosecutorial system, in addition to prosecutors of first instance. According to the prosecutions' manner of organization, the largest caseload for 2019 was seen in the Appeals Prosecution, followed by the Basic Prosecutions and the Office of the Chief Prosecutor. Whereas, the Special Prosecution had a lower average of cases waiting to be resolved by prosecutors during 2020, same as the previous year.

Table 3. Workload of prosecutors

Year	Chief Prosecutor's Office	Special Prosecution	Appellate Prosecution	Basic Prosecutions
2020	136	128	1471	753
2019	151	146	1160	920
2018	142	116	1148	1047
2017	203	46	724	404
2016	234	72	880	506
2015	412	53	645	540
2014	155	50	549	463
2013	217	48	584	509

The prosecution's caseload

Data from this indicator predict how long it would take to complete all the collected cases within a year in a sector, if the amount of work by the prosecution would be constant. Based on the performance of the prosecution from previous years, through the degree of overloading we can roughly estimate the efficiency that prosecutors would need in the future to resolve all cases. The data in this table show the number of new and inherited cases in relation to the number of cases resolved. Apparently, the Office of the Chief Prosecutor and the Prosecutor's Office of Appeals would need just over a year of operational efficiency to complete all cases without accepting any new cases. On the other hand, the Special Prosecution Office would need more than 4 years to complete only the currently existing cases, while the Basic Prosecution Office would need around 3 years.

Table 4. The prosecution's caseload

Year	Chief Prosecutor's Office	Special Prosecution	Appellate Prosecution	Basic Prosecutions
2020	102	378	102	284
2019	102	559	868	219
2018	101	766	101	255
2017	104	395	100	157
2016	101	314	100	197
2015	102	462	100	231
2014	106	826	100	255
2013	101	479	100	199

Budget

Through the budget we can estimate for each year how much priority was given to the justice system in the previous year. Data on the budget allocated over the years for the Kosovo Prosecutorial Council show a steady increase since 2013, in proportion with the increase of the state budget of Kosovo. In 2020, it exceeded the amount of EUR €14 million allocated to the KPC during 2019, amounting to €15 million. As a percentage, the allocation of Kosovo budget to the prosecutorial system does not reach even 1% of the state budget, despite the progressive increase in the amount allocated to the prosecution bodies. As in the past, revenue growth, planning and drafting of increased budget lines for the KPC haven't been done as a result of any policy prioritizing the justice system, or based on any needs assessment, but as a result of an increase of Kosovo's annual budget. 69.7% of the planned budget for the prosecution in 2020 has been distributed for salaries and per diems, 16.8% for goods and services, 1.3% for utilities and 12.2% for capital expenditures. This distribution shows that the priorities of the prosecuting management authorities are salaries and per diems, leaving little room for planning and funds allocation for capacity buildings, profiling of prosecutors and staff support.

Table 5. Budget for the Prosecutorial system

	KPC Budget	The Republic of Kosovo Budget	Allocation %
2020	15,021,836€	2,356,860,915€	0.63
2019	14,170,065€	2,378,231,797€	0.59
2018	11,092,826€	2,080,480,837€	0.53
2017	9,483,682€	2,001,020,484€	0.47
2016	8,013,619€	1,678,709,487€	0.48
2015	7,158,086€	1,682,486,849€	0.43
2014	6,872,000€	1,589,324,952€	0.43
2013	5,775,534€	1,591,118,599€	0.36

PERFORMANCE OF COURTS

Number of new cases/ resolved cases

The number of new cases each court receives in Kosovo's judicial system within a year accordingly determines the work that awaits these institutions in implementing and protecting the law. The number of new cases together with the number of inherited cases is indicators of the workload of judges during a calendar year. The number of resolved cases is a factor that indicates their capacity to resolve cases that are entrusted to these institutions. The table shows the average load of new cases for each court, in proportion to the number of judges employed in that court. The same applies to the average of resolved cases within a year. 2020 data show that the Supreme Court had a greater caseload compared to caseload in the two previous years. In this court the number of resolved cases is lower than those pending, despite the fact that the number of judges engaged in this court is the same as last year; in 2020 the difference between the number of cases resolved compared to those accepted increased, respectively there is less efficiency in the work of judges engaged in this court. In the Special Chamber of the Supreme Court, the average number of new cases is lower than in the previous seven years, while the average number of completed cases is almost three times higher than the number of cases submitted to the court. One of the reasons that brought such efficiency to this institution is that in 2020, four (4) more judges were added to the Special Chamber of the Supreme Court, from

11 in the previous year. In the Court of Appeals of Kosovo, we have the lowest average of cases received and resolved cases compared to 2019-2013. This year as well, the average number of completed cases is higher than the number of new cases, which in the Court of Appeals, last time occurred only in 2019 and in 2013. It is the basic courts which from the average of cases completed during 2020, it turns out that in addition to not being able to choose the same number with new cases presented in these institutions, the same marked the lowest average of solved cases for a calendar year in the last seven years. It is worth noting the fact that in the courts of the first instance of the justice system during 2020, 334 judges were engaged, eight less than in the previous year. The annual work report of the courts for 2020 shows that the Supreme Court has the lowest number of cases awaiting an epilogue in 2021, while the basic courts lead with the number of cases remaining unresolved at the end of the reporting period. Nevertheless, it is important to take into account that this table does not assess the difficulty of cases or how are they solved, but only the quantitative aspect of the work of the courts for 1 calendar year, as well as the circumstances created after the spread of the COVID-19 pandemic, which influenced the courts, with special emphasis the first instance court that worked with reduced staffs, for a while to deal only with urgent cases.

Table 6. Average of new cases received versus solved cases

Supreme Court			Special Chamber		
Year	Average of new cases	Average of solved cases	Year	Average of new cases	Average of solved cases
2020	88	70	2020	81	215
2019	82	78	2019	123	166
2018	72	80	2018	114	106
2017	89	88	2017	177	198
2016	82	73	2016	146	190
2015	74	78	2015	378	173
2014	68	66	2014	950	263
2013	56	113	2013	356	191

Court of Appeals			Basic Courts		
Year	Average of new cases	Average of solved cases	Year	Average of new cases	Average of solved cases
2020	273	289	2020	263	158
2019	307	332	2019	282	360
2018	342	333	2018	361	582
2017	367	330	2017	794	1153
2016	362	313	2016	1621	1785
2015	320	286	2015	1398	1376
2014	362	331	2014	1422	1548
2013	334	344	2013	1843	1474

The efficiency of courts in solving cases

The efficiency of the courts' performance in resolving cases is calculated by evaluating the ratio of cases received by each court at the beginning of the year, compared to the number of cases completed within that year. This form of measuring the efficiency of the judiciary does not assess the difficulty of completed cases as content but only the number of completed cases as a quantity. From the data of 2020, it seems that the basic courts have had the lowest efficiency in completing cases, where they have marked the lowest percentage of efficiency compared to previous years. While the Special Chamber of the Supreme Court has had higher efficiency compared to other levels of the judiciary, as well as compared to the efficiency shown in the previous seven years.

Even this year, the Court of Appeals of Kosovo has managed to exceed the number of resolved cases in relation to the number of cases received, continuing the efficiency it had last year. Whereas, the Supreme Court of Kosovo, in comparison between the number of cases received and those resolved within 2020, has recorded the lowest number of cases resolved within a calendar year, which is the lowest in the previous seven years. The indicator of the efficiency of the courts in resolving new cases shows that the Special Chamber and the Court of Appeals, from the cases that they received during the year, have not left any case to be inherited for 2021, while this does not apply to The Supreme Court and the courts of first instance.

Table 7. Efficiency of courts

Year	Supreme Court	Special Chamber	Court of Appeals	Basic Courts
2020	84	264	106	60
2019	95	135	108	177
2018	110	92	97	161
2017	98	112	90	145
2016	89	130	186	110
2015	105	46	89	98
2014	98	28	92	109
2013	201	54	103	80

Workload of judges

The judge workload indicator determines the average load of a judge within a year by summing the total number of cases that are expected to be judged in proportion to the number of the judges employed. This indicator does not only take into account the number of new cases that the court receives during the reporting year, but also examines the caseload inherited from previous years, so as such, in relation to the efficiency indicator gives a more realistic picture of the work condition under which judges adjudicate cases. However, this indicator also does not consider the gravity of the cases that judges face during the trial process. Judges of the Special Chamber, Court of Appeal and Basic Courts have had a lower workload in 2020 compared to the previous year, while judges of the Supreme Court had a higher workload compared to last year. The reduction of the workload of judges in the Special Chamber comes as a result of the increase in the number of engaged judges, while in the Court of Appeals and the Basic Courts, this year we have a smaller number of cases received compared to the previous year. But despite this indicator, it is noticed that the Special Chamber continues to have a greater workload with the number of cases that a judge is expected to complete, compared to other institutions. On this basis, the number of judges engaged in the future in this institution should be increased, as it is clear that the increase in the number of judges in the Special Chamber has made this year increase the efficiency in resolving more cases, more than in each calendar year from 2013.

Table 8. Workload of judges

Year	Supreme Court	Special Chamber	Court of Appeals	Basic Courts
2020	99	1477	497	595
2019	89	2070	552	899
2018	86	1519	649	1330
2017	106	1837	680	2224
2016	88	1850	644	3187
2015	83	1816	539	2848
2014	75	2211	583	3080
2013	121	821	558	3133

The Caseload of Courts

The rate of the overload of the courts, based on the yearly performance, calculates the time all new cases received could be completed in any instance of the judiciary without receiving any new cases. This indicator also assumes that the efficiency of the courts would be uniform over the years. The rate for 2019 indicates that the Special Chamber would need more than 6 years to complete all of the cases already assigned to them, without receiving new ones. According to this indicator, Basic Courts could complete all active cases for four (4) years, on the condition of not receiving new ones. On the other hand, if the Court of Appeals and the Supreme Court did not receive any new cases, they would need more than two (2) years to finish all the active cases.

Table 9. Caseload of Courts

Year	Supreme Court	Special Chamber	Court of Appeals	Basic Courts
2020	133	688	172	376
2019	114	1245	166	250
2018	108	1660	195	228
2017	120	926	205	192
2016	120	975	206	179
2015	107	1085	188	207
2014	113	841	176	199
2013	107	430	132	213

Budget

Budget allocation always shows the priority that a governing system gives to a particular sector in developing and strengthening it. In this case, over the years, the budget allocation in the justice system, even to the budget planned for the Kosovo Judicial Council, shows that the state organization does not invest more than 1.3% of its budget in the justice system in Kosovo. In 2020, there was an increase in the allocation of the state budget to the KJC, but this growth is small in proportion to the state budget of Kosovo. The increase in the percentage allocation to the judiciary is not due to its prioritization but due to the progressive increases of the state budget of Kosovo, even though this year we have a lower value of the total state budget compared to last year. This year, the KJC was allocated 29 million 821 thousand 540 EUR, or over 400 thousand EUR more than in 2019. Such a growth in proportionality is small compared to 2014, but as such it should be analyzed in more detail how it could be used to enhance the performance of the justice system in Kosovo in the future.

The budget allocation projected for the judicial system reveals that most of it is allocated for salaries and per diems sector. This phenomenon has been present since 2013, but the percentage already allocated for salaries goes up to 78.97% of the budget allocated for justice, leaving 13.46% that goes for goods and services. This phenomenon has been present since 2013, but 78.97% of the budget allocated to justice goes to salaries, and leaving 13.46% that goes for goods and services. This indicator of overall budget allocation indicates that there is a lack of planning and focus of the justice management authorities on enhancing the performance and capacity of the judiciary in Kosovo. Therefore, from total 1.3% of the state budget allocated to the justice system, only a small portion is used for activities to increase efficiency, performance, and human capacity in the courts.

Table 10. Kosovo Judicial Council (KJC) budget

	KPC Budget	The Republic of Kosovo Budget	Allocation %
2020	29,821,540€	2,356,860,915€	1.27
2019	29,404,466€	2,378,231,797€	1.24
2018	23,495,024€	2,080,480,837€	1.13
2017	21,793,948€	2,001,020,484€	1.09
2016	20,465,770€	1,678,709,487€	1.22
2015	21,288,771€	1,682,486,849€	1.27
2014	20,833,483€	1,589,324,952€	1.31
2013	19,910,467€	1,591,118,599€	1.25

About RoLPIK

The main goal of RoLPIK is to promote better participation of civil society and citizens in demanding responsibility for the performance of the justice system through continuous monitoring, consultation and evaluation.

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