

JUSTICE MONITOR

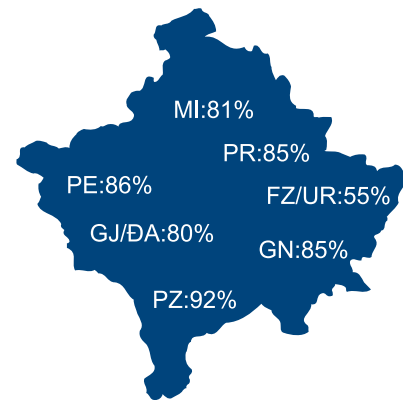
1 January 2017 to 31 December 2017

The Organization for Security and Co-operation in Europe (OSCE) Mission in Kosovo supports increased compliance of the justice sector in Kosovo with international fair trial rights and rule of law standards. To assist in this effort, the OSCE Mission in Kosovo regularly monitors and reports on court proceedings. The Justice Monitor is an annual publication of the observations of OSCE Mission in Kosovo that monitors in the first instance courts in Kosovo (the Basic Courts), which are divided into seven regions: Ferizaj/Uroševac (FE/UR); Gjakovë/Đakovica (GJ/DA); Gjiilan/Gnjilane (GN); Mitrovicë/Mitrovica (MI); Pejë/Peć (PE); Prishtinë/Priština (PR) and Prizren (PZ). The Justice Monitor aims to provide policymakers and justice sector actors with indicators, not otherwise available, that would assist in the identification of compliance gaps in the administration of justice and the tracking of progress achieved in closing those gaps.

OSCE MONITORING

Judicial Department	Hearings	Cases
General Department (Criminal Cases)	601	446
Serious Crimes Department [^]	1162	439
Juveniles Department	31	19
General Department (Civil Cases)	590	482
Administrative Department	20	19
Commercial Department	14	14
Total	2418	1419

PERCENTAGE OF JUDGES MONITORED*

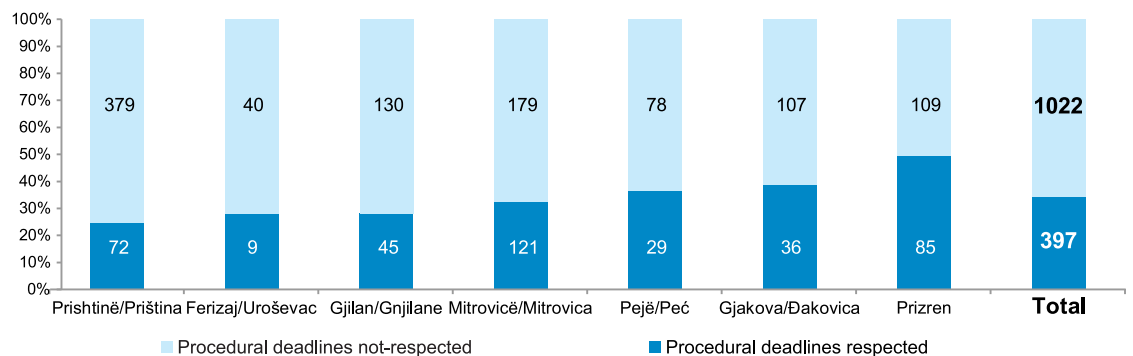


TIMELY TRIAL

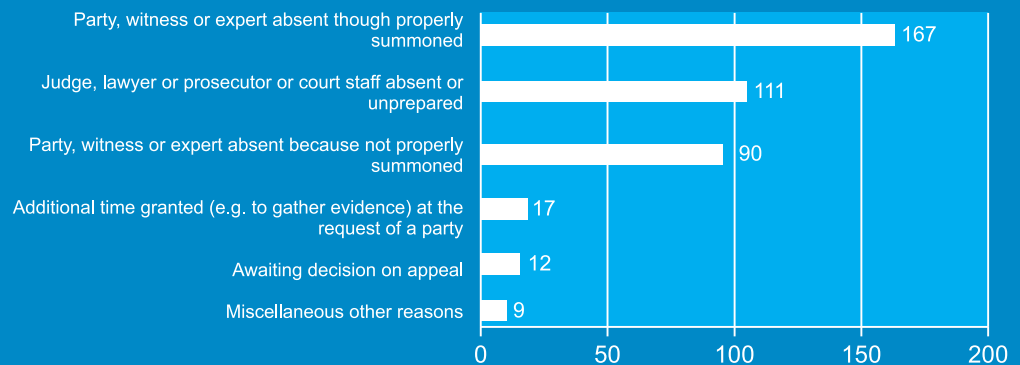
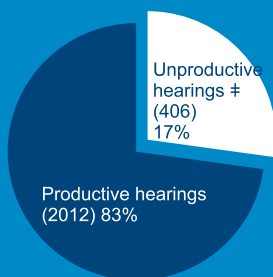
Court Efficiency

In its statistical report of the courts for 2017, the Kosovo Judicial Council reported a backlog of 366,072 cases in the Basic Courts at the beginning of 2017. Court Efficiency (defined as completed cases / received cases) was rated at 145.28 per cent. Thus, for every 100 new cases filed, 145 cases were completed. At the end of 2017 reporting period, the backlog was 273,888 cases⁺

RESPECT FOR PROCEDURAL DEADLINES IN CASES MONITORED

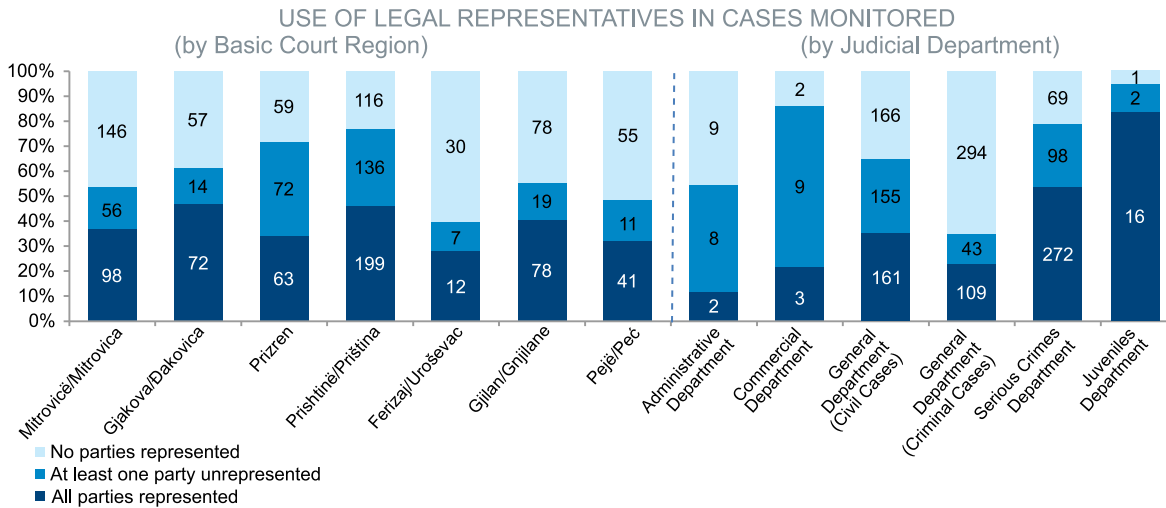


REASONS FOR ADJOURNMENTS IN UNPRODUCTIVE HEARINGS



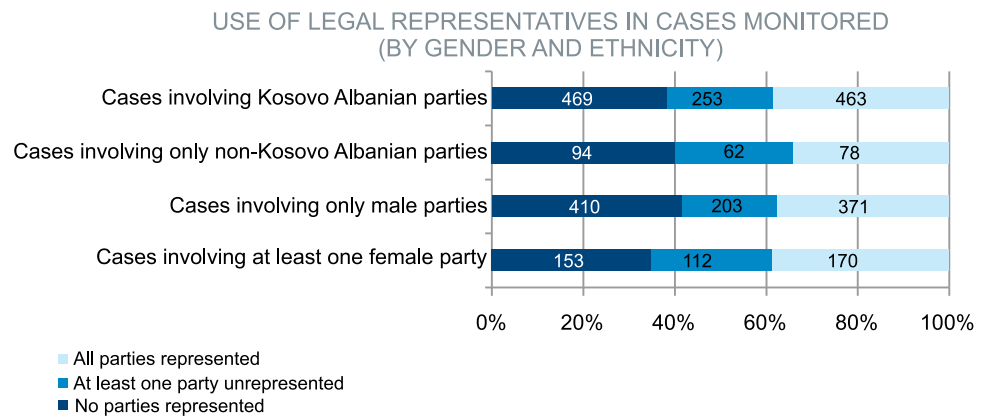
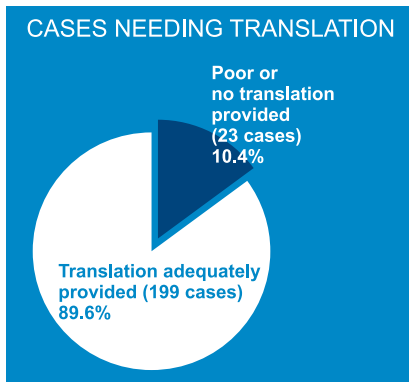
[^] Cases falling within the OSCE Mission in Kosovo's monitoring priorities, such as terrorism, corruption, and war crimes cases are heard in the Serious Crimes Department.
^{*} Based on the Kosovo Judicial Council's list of judges (dated 1 November 2017), excluding minor offenses and newly integrated judges, who were not monitored. The divergence in monitoring percentages between court regions is due to variance, by court, in the number of cases aligning with Mission monitoring priorities.
⁺ Kosovo Judicial Council, "Statistical Report of the Courts 2017", available at <http://www.gjyqesori-rks.org/en/kjc/report/list/1>.
[‡] In an "unproductive hearing" nothing of any value or substance occurred (no evidence taken, motions heard or decided, case management issues discussed, etc.).
 Of the 111 hearings, judges were absent on 47 occasions, prosecutors on 33 occasions, and lawyers on 28 occasions. Judges were unprepared twice, and prosecutors once.

ACCESS TO JUSTICE



Number of Lawyers

By the end of December 2017, there were 835 advocates registered with the Kosovo Chamber of Advocates, or 46 lawyers per 100,000 residents. In 2016, the European Commission for the Efficiency of Justice evaluated the number of lawyers in different jurisdictions. Just three jurisdictions had fewer than 46 lawyers per 100,000 residents.*

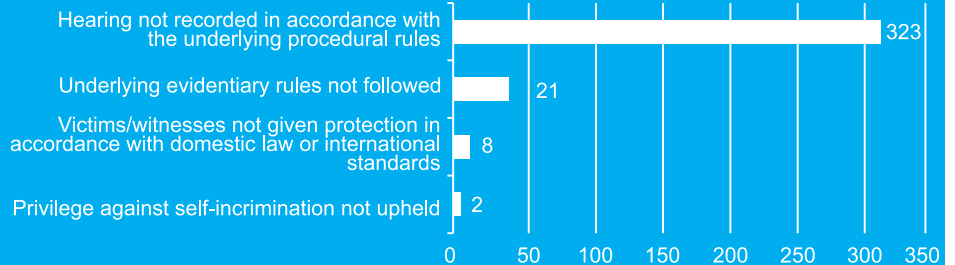


EVIDENTIARY PROTECTIONS

Recording of Criminal Trials

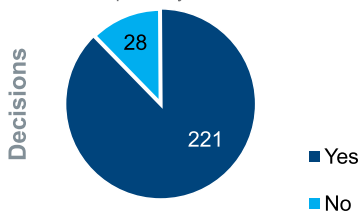
Article 315(2) of the Criminal Procedure Code requires that the "main trial shall be either audio- or video-recorded or recorded stenographically." The OSCE monitored 978 main trial sessions in criminal cases. 74 such sessions (7.6 per cent) were audio-visually recorded. Stenographic or verbatim transcripts were kept in 73 sessions (7.5 per cent). The remaining 831 sessions (84.9 per cent) were summarily recorded in writing.

CONCERNS OBSERVED IN EVIDENTIARY HEARINGS (618 EVIDENTIARY HEARINGS OBSERVED)

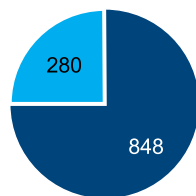


REASONED DECISIONS

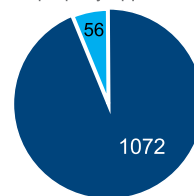
Written decisions given when required by law?



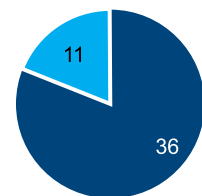
Decisions fully reasoned?



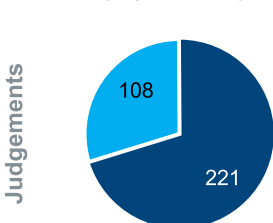
Procedural and substantive law properly applied?



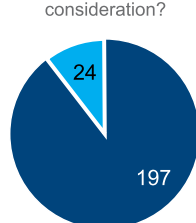
Alternatives to detention on remand considered?



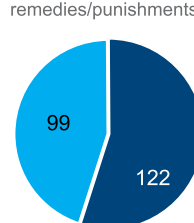
Written judgments timely issued?



Views of victims given due consideration?



Due justification provided for remedies/punishments?



Rights and Freedoms

The OSCE Mission in Kosovo assessed clear grounds for appeals based on constitutional rights and freedoms in 152 (10.7 per cent) of the 1419 cases monitored. Moreover, concerns were expressed regarding the independence and impartiality of nine (5 per cent) of the 207 judges monitored.

* European Commission for the Efficiency of Judicial Systems, "European judicial systems – Edition 2016 (2014 data): efficiency and quality of justice" available at http://www.coe.int/T/EGH/Cooperation/cepej/evaluation/2016/publication/REV1/2016_1%20-%20CEPEJ%20Study%202023%20-%20General%20report%20-%20EN.pdf. Please note that the CEPEJ 2018 report (analysing 2016 data) will be published on 4 October 2018. For the Kosovo specific CEPEJ report see <https://rm.coe.int/in-depth-assessment-report-of-the-judicial-system/16807828e6>.