

REPORT

ON THE ACTIVITY OF THE HIGH JUDICIAL COUNCIL AND THE HIGH
PROSECUTORIAL COUNCIL, AS WELL AS THE ADMINISTRATION OF
TEN COURTS WITH THE HIGHEST CASELOAD IN THE COUNTRY

FOR THE MONITORING PERIOD OF
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ALBANIAN HELSINKI COMMITTEE
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ABBREVIATIONS

HJI	High Justice Inspector
HJC	High Judicial Council
HPC	High Prosecutorial Council
Councils	High Judicial Council and the High Prosecutorial Council
IQC	Independent Qualification Commission
SAC	Special Appeals College
Law No. 115/ 2016	Law no. 115/ 2016 “On the Governing Bodies of the Justice System,” amended
Law No. 96/ 2016	Law no. 96/ 2016 “On the Status of Judges and Prosecutors in the Republic of Albania,” amended
Law No. 98/ 2016	Law no. 98/2016 “On the Organization of the Judicial System in the Republic of Albania,” amended
Law No. 97/2016	Law no. 97/ 2016 “On the Organization and Functioning of the Prosecution Office in the Republic of Albania,” amended
Law No. 84/ 2016	Law no. “On the transitory evaluation of judges and prosecutors in the Republic of Albania”
Law No. 49/2012	“On Administrative Courts and the adjudication of administrative disputes,” amended
LSU	Legal Service Unit at the Courts
SCCOC First Instance	First Instance Special Court against Corruption and Organized Crime
SCCOC Appeals	Appeals Special Court against Corruption and Organized Crime
HC	High Court
Vetting	Transitory re-evaluation of judges and prosecutors

INTRODUCTION

Pursuant to fulfilling its mission to protect and respect human rights and the rule of law, from the moment when reform in the justice system was approved, the Albanian Helsinki Committee (AHC) continues to have at the focus of its activity the monitoring of the establishment and functioning of the new governing bodies of the justice system and the temporary functioning of the previous justice system bodies during the transitory phase, until the establishment of the new institutions.

The High Judicial Council (HJC) and the High Prosecutorial Council (HPC), otherwise known as the Councils or two of the governing bodies of the justice system, namely the judiciary and the prosecution, were established with a delay of almost 2 years, in December 2018. During the first phase of their functioning, the Councils had as priorities the regulation of their activity through normative acts, but also the acceleration of reforms and support for the courts and prosecution offices with capacities, in the circumstances of vacancies created as a result of the process for the transitory re-evaluation of judges and

prosecutors (vetting). Some of the key priorities that appear to have been fulfilled included the appointment of the General Prosecutor, the filling of 9 of 19 vacancies in the High Court, the establishment of SPAK and the Special Courts.

On the International Day against Corruption on December 15, 2021, this report in its draft format, was part of a consultation at a technical round table with actors of the justice system such as the High Judicial Council (HJC), the High Prosecutorial Council (HPC) and the courts with the highest caseload in the country, as well as partners and experts of civil society.

Furthermore, with the goal of mutual constructive cooperation with the monitored institutions, on 23.03.2022, we again shared electronically the Monitoring Report, in its draft format. Only the HJC responded to the electronic request for feedback and suggestions.

Pursuant to respect for internal and external independence, AHC reflected in the report those comments or remarks that were considered relevant by the drafting team. Every differing view, position or opinion to them is the full responsibility of the implementing organization, the AHC.

EXECUTIVE SUMMARY

This executive summary only reflects some of the main findings and conclusions of the systematic monitoring of the activity of the Councils during the almost one-year period during December 2020 – October 2021. The respective sections of this report elaborate an analysis, according to law, the activity of the Councils in the material and procedural aspect, the priorities established by the Councils vis-à-vis the recommendations issued for Albania by the European Commission (the latest report), and the transparency of the Councils, taking constantly into consideration the Covid-19 pandemic. In particular, the legal experts engaged by AHC analyzed and processed generally qualitative, and sometimes quantitative, data, focusing on the normative acts and by-laws, decisions, regulations, collective and individual administrative acts, written minutes and audio recordings, announcements, and plenary meetings of the Councils.

• Decision-making of the Councils

During the analyzed part, the majority of decision-making of the Councils has to do with the approval of individual and collective administrative acts, notably the acts that have to do with temporary assignments. This is understandable, taking into consideration the vacancies created as a result of the transitory re-evaluation process but also the conclusion of the mandate of magistrates for other legal causes, for the avoidance of which, the Councils turned to these “fast solutions.” As will be analyzed in the following sections, in the long-term, it is necessary to identify more sustainable legal or practical instruments, in terms of judicial efficiency and economy, but also the reduction of financial costs, based on the latest legal amendments.

• Systematic approach to completing the by-laws

Based on special laws, the Councils have the obligation to approve a series of by-laws, which have not been approved, such as internal rules as well as standard regulations for the internal functioning of courts by the HJC as well as the Code of Ethics, and the regulations on the professional and ethical evaluation of prosecutors by the HPC. It is worth-noting that the HJC had a higher normative and regulatory activity compared to the HPC, which only approved one set of rules for the monitoring period.

AHC appreciates the fact that the HJC, during the monitoring period, approved the Code of Judicial Ethics, and also responded efficaciously to the amendments in the justice reform legal package, by amending a series of by-laws that have to do with the judges as well as civilian judicial employees. On the other hand, we note that the HPC should react with greater priority in terms of drafting and approving by-laws.

Although the priorities of the Councils are challenging, AHC considers that the drafting and approval of all normative acts envisaged in the legislation in force by both Councils requires more systematic and added engagement, in order to complete the legal framework they function within, as well as to avoid any equivocal elements or ambiguity in carrying out their competences.

• Collaboration with civil society on the new judicial map

The new judicial map proposed by the Council about one year ago brings about substantial changes to the configuration of the system, with the most courageous proposal is that of having a single appeals court at the national level. Earlier, this proposal encountered opposition also by the Ministry of Justice.¹ AHC reacted publicly by emphasizing the fact that the priority in the new organization of courts should be citizens' effective access, which is a key objective of justice reform. AHC notes that in this process, the HJC did not display an open, transparent approach or effective cooperation with civil society organizations. For a long time, AHC has suggested the taking of measures by the HJC and the MoJ to include groups of interest and civil society in the consultation process at an early phase of the drafting process in order to avoid a formal consultation process and guarantee the provision of quality opinions/suggestions that might improve and consolidate the new judicial map. Given that informative and consultation sessions were undertaken with interest groups, representatives of the business community, and some civil society organizations, including AHC, standing by our critique and recommendations that have been made public,²³ we have noticed a lack of transparency on the part of the HJC to publish a summarizing material that reflects the feedback/suggestions taken into consideration fully, partially, or those that have been refused.

AHC suggested to HJC to make public on its official website the meeting minutes of discussions of the working group on the new judicial map and of documents or drafts discussed in every meeting, but this recommendation was not reflected although the working group met about 10 times over a three-year period.

1 <https://gazetasi.al/harta-e-re-gjyqesore-perplas-ministrine-e-drejtise-dhe-klgj-ne/>
<https://www.balkanweb.com/mosdakordesite-me-klgj-per-harten-e-re-e-gjyqesorit-gjonaj-reduktimi-i-gjykatave-per-momentin-nuk-eshte-i-vlefshem-do-vijojme-konsultimet-per-variantin-me-te-mire/>

2 <https://ahc.org.al/deklarate-publike-oponence-ndaj-propozimeve-per-harten-e-re-gjyqesore-per-shqiperine/>

3 Based on information provided by the HJC, through letter no. 2145 prot., dated 08.04.2022, it is made known that: "The HJC, in collaboration with the MoJ, concluded on March 11, 2022, the cycle of public consultations on the proposal of the New Judicial Map. This cycle of 8 consultative meetings took place during the period January-March 2022 and consisted of 6 consultations with groups of interest exercising their activity in the jurisdictions of the appeals courts in Vlore, Gjirokastrë, Korçë, Durrës, Shkoder and Tirana, as well as 2 meetings with representatives of civil society and the business community. Participating in these meetings were representatives from the local chambers of lawyers, the General Prosecution Office, judges and civil judicial employees, etc. Given the high level of interest by civil society organizations and the business community, the HJC and the MoJ organized 2 other consultations, respectively with these two groups, in order to obtain a complete picture of their opinions, suggestions, and recommendations."

• Vacancies in the judicial system

Until November 4, 2021, there is a total of 76 vacancies at all instances of the judiciary in the country.⁴ With regard to filling vacancies in the High Court, there are currently 5 vacancies in this Court. The HJC has taken some important steps for their partial filling, but the Council is encouraged to take other more proactive steps to fill all vacancies in the High Court.⁵ This Court still has a high number of cases to hear and the appointment of any judge, in any of its colleges, would bring about tangible change in the functioning of this court.

It is worth mentioning that during the period of the monitoring, the constitutional quorum of judges in this court, necessary for proposing members to the Constitutional Court, has not yet been completed.

One of the priorities of HJC's work for 2021 is the completion of staffing of appeals courts with 35 judges and the Judicial District Courts with 32 judges. Regarding the vacancies in these courts, AHC reconfirms its position that there needs to be better mutual coordination and collaboration between the Councils and the vetting institutions, as well as a unified and harmonized stance by them regarding promotions of magistrates, as it pertains to the transitory re-evaluation process. It results that the HJC promoted magistrates based on the successful and final passing of the vetting process while the HPC took a different stance. AHC notes that the Councils have reflected positively on the earlier recommendation on the need to hold joint meetings, with the latest meeting held on November 1, 2021, in collaboration with the HJI and the heads of the vetting institutions, during which they discussed on disciplinary proceedings on magistrates. In order to fulfill the legal obligation of consultation and consolidation of different positions, AHC recommends the holding of joint meetings on a periodical basis.

Because of resignations or dismissals in the context of the vetting process and appointments to the High Court, during the monitoring period, the Special Court against Corruption and Organization Crime (SCCOC) in both instances, has 14 vacancies, namely 6 judges out of 11 envisaged by law and 7 at the first instance court out of 16 envisaged by law. Three of the judges serving on the first instance SCCOC have been assigned by delegation and 2 judges have been appointed by the HJC in the appeals SCCOC. It is worth noting that the SCCOC, as part of specialized institutions against corruption and organized crime, needs to be completed with all the necessary number of judges, because the number of investigations in this field by the special prosecution office is voluminous. AHC notes that the HJC has been active in encouraging judges to become part of

4 Based on data provided by the HJC.

5 Filling the vacancies in the High Court is also one of the recommendations issued by the European Commission in its latest Progress Report on Albania approved in October 2021.

these courts, but there has been a lack of expected interest in applications. Based on this situation, in the future, more effective strategies are needed, coordinated with other institutions of the justice system, in order to fill vacancies. Another element that made it difficult to appoint candidates who have expressed an interest is the fact that they have not passed the vetting process by final decision.

• **Vacancies in the prosecution system**

Vacancies in prosecutor magistrates have also affected the prosecution system in the country. According to data provided by the HPC, it results that there are a total of 57 vacancies at all instances of the prosecution office, 6 of which at the General Prosecution Office, 5 at SPAK, 6 at the Appeals Courts Prosecution Offices, and the highest number – 40 – in the Judicial District Prosecution Offices.

Until the end of the monitoring period, it results that 151 prosecutors were subjected to the vetting process, of which 40 were dismissed, 40 were suspended, and only 71 were confirmed. Given that another 174 prosecutors are expected to undergo vetting and, considering the fact that the number of vacancies is higher in this system compared to the judicial system, AHC suggests the taking of preliminary measures by the HPC to unblock the impasse that may arise as a result of an increased number of vacancies.

• **Disciplinary Proceedings**

During the monitoring period, it is worth noting that the Councils acted based on the provisions of the law with regard to the handled disciplinary cases. Likewise, it was noticed with concern that there are decisions on disciplinary processes with a significant impact in the public that are not possible to access on the HJC website. In our opinion, the HJC should demonstrate maximal care on transparency before the public regarding these decisions and the transcribed meeting minutes of meetings on disciplinary proceedings. Likewise, AHC notes that there is a need to unify the standard that each of the Councils pursued regarding disciplinary proceedings on magistrates who have not yet passed the vetting process.

• **Public reactions by the Councils to defend the system's independence**

The HPC has been more active in protecting the figure and integrity of prosecutors, reacting on time, compared to the HJC, which should be more active with regard to public political statements on disciplinary processes on judges, especially when having to do with representatives of the executive.

• Transparency to the public

Through their internet websites, the Councils provided structured and generally updated information. However, further efforts are needed for such information to be processed carefully so as it is better understood by the broader public. AHC notes that the HJC respects its obligation for the publication of audio recordings of plenary meetings within 24 hours.⁶ On the other hand, the HJC should continue to improve some of the aspects of transparency before the public, announcing its meetings on time, and approving and publishing relevant meeting minutes in a manner that reflects actuality and contain summaries of discussions by participating members in the meetings. It is worth stressing in this report the concern raised in some instances by BIRN Albania on the conduct of some HJC meetings behind closed doors. On this position of the HJC, referring to article 69(2) and 69(3) of Law no. 115/2016, it does not appear that the law-maker envisaged any exemption of the general rule of publishing audio recordings and meeting minutes. Although the HJC tried to guarantee the protection of confidential and personal information of individuals in question, it appears that protection and guarantee of transparency in this case is an overruling principle. In the absence of concrete provisions of the law on exemptions from the rule to publish recordings and meeting minutes, AHC notes that the HJC based this decision referring to a *lex generalis*, and not a *lex specialis*, such as Law no. 115/2016.

• Strategic Priorities

The HPC published its priorities through the Strategic Plan for 2021 – 2024 while the HJC has not finalized or published this document during the period under monitoring. The HJC displayed its key objectives for 2021 in its annual report to the Assembly in a plenary session, in June of the same year. AHC suggests that these objectives are further processed and fulfilled within a longer timeframe, being displayed in the Council's 2 or 3-year strategic plan. This would contribute to a systematic pursuit of priorities and the transparency that the Council should have toward the public and actors interested in the strategic objectives of this period.

⁶ This audio publication includes the names of Council members who were present in the meeting and voted, in favor or against.

• **Transparency of the activity of the Councils' Standing Committees**

During the monitoring period, AHC found that the HJC published the report of activities of the Standing Committees while such publication is missing from the HPC. Also, both Councils should publish more clearly and structured in specific rubrics the activity and decision-making of the Standing Committees on their official websites. This would help the public and interested actors to understand and analyze the concrete activity of each committee, the level of discussions, and their efficacy

• **Internal democracy, decision-making, and transparency of the Councils**

AHC considers that diverse and constructive debate makes a positive contribution to the Councils' internal democracy, especially in addressing issues of importance, such as promotions. Interventions without a microphone by members (in certain cases) during meetings of the Councils should cease and, if necessary, start disciplinary proceedings in case of repetitions. Based on audio recordings, the terminology used by members was comprehensible by the media and the public. AHC notes that HPC meetings contain more internal debate compared to the HJC.

During the monitoring period, Councils' meetings were held with the physical presence of members or virtually or a combination of the two methods. With regard to the publication of decision-making, an analysis of the online monitoring of the HJC's official website, indicates that unlike the case of the HPC, the official website reflects decision-making in a categorized manner, according to article 97 of law no. 115/2016, into collective, individual administrative acts, normative acts or by-laws, as well as acts for the approval of internal rules, etc. AHC recommends to the HPC to pursue the same positive practice as the HJC in publishing decision-making in a categorized manner, according to decision-making made in plenary meetings and committee meetings. Furthermore, it is difficult to highlight in the HPC's official website what administrative acts are of a collective nature, which are acts for the internal approval of procedural regulations, and non-binding instructions.

Unlike the practice pursued by the HPC, the HJC has not published on its official website decision-making signed by its members. AHC notes that in the context of transparency with the broader public, this form of publication does not provide effective access to official information. In order to understand the manner of voting of each member, the public has to read the contents of the plenary session's meeting minutes, which takes a long time and creates barriers in terms of access.⁷

⁷ While the publication of names of Council members is considered essential in the contents of the meeting minutes, it is unclear why the respective names and signatures are not reflected in the published decision-making.

Referring to article 66/9 of law no. 115/2016, AHC has found that none of the meeting minutes of the Councils' meetings highlights the opinion of the minority members. Although the referenced provision leaves it in the minority member's discretion on whether to publish the dissenting opinion and attach it to the relevant decision-making, AHC considers that failure to publish is an indicator that makes transparency before the public more difficult

EXECUTIVE SUMMARY OF THE MONITORING OF 10 COURTS WITH THE HIGHEST CASELOAD IN THE COUNTRY

• Access to justice and delays in judicial processes

Referring to the latest report of the European Commission for Albania, the average time needed for a case at the appeals level is 998 days for criminal cases (or about 3 years), and 1742 days for civil cases (about 5 years). Based on the concerns raised by lawyers in the media about delays of adjudication at appeals, it is important to conduct a careful statistical and qualitative analysis of cases under review or on the waiting list until the end of this year, in order to re-evaluate the impact of all this situation on the right to access to justice and justice without delay. This would require well-coordinated cooperation between institutions of the justice system in order to evaluate the alternative ways that might unblock this situation somewhat and not all of them might require changes in legislation.

• Monitoring of 10 courts with the highest caseload in the country

Referring to some of the competences that are envisaged for the HJC in articles 88 and onwards of law no. 115/2016, AHC also identified the need to monitor the 10 courts with the highest caseload in the country.⁸ This monitoring was conducted according to a methodology drafted specifically for this purpose, securing information through official letters to these courts. The information and documentation made available was subjected to a legal analysis, in keeping with legislation in force and known standards of access to justice.

8 Namely the High Court, the Appeals Courts, Tirana, Durrës, Shkodra of general jurisdiction and the Administrative Appeals Court, and the First Instance Courts of Tiranë, Elbasan and Shkodër of general jurisdiction, and the First Instance Administrative Court in Tirana and Durrës.

• Cooperation between HJC and the Courts

The cooperation of the Courts with HJC is deemed as very good. However, AHC has identified moments when such cooperation could have been more efficient, as is the case of the Tirana Appeals Court, which addressed the HJC with a request for the delegation of judges but had not received a response even 9 months after.

• Three key problems

Judges' vacancies reflect the greatest problem in the normal functioning of the monitored courts. This situation makes it impossible to meet reasonable deadlines in the adjudication of cases, creating considerable delays in delivering justice. Furthermore, another encountered problem has to do with the lack of a unified case management system for inputting, administering, and processing the statistics that might enable a more impactful evaluation of the judges' caseload. The need to have the position of an advisor in the first instance court and the continued training and qualification of advisors at the appeals courts might have a positive contribution toward increasing the efficiency and reduction of the case backlog of these courts.

• High Court

According to this court, respect for reasonable deadlines is not possible to guarantee in the current situation of the HC.⁹ Until 31.10.2021, this court reported a total of 36,140 (thirty-six thousand and one hundred and forty) cases waiting for adjudication. The filling of every vacancy in the HC would have a positive impact on increasing the pace of adjudication of cases and the efficiency of this court.

However, it is worth mentioning that both the High Court and the HJC have taken measures that have made a positive contribution to accelerating the review and trial of cases, already tried, maximizing the use of human resources and the addition of legal aides or administrative personnel.

• Vacancies in the Appeals Courts and effects on their caseload

The Appeals Court in Tirana and the Appeals Administrative Court are the courts that, due to their caseload, state that it is impossible to respect reasonable deadlines for the adjudication of cases. Meanwhile, the Appeals Court in Shkodra and the Appeals Court in Durrës do not display concerns in this regard. It is disturbing that the Administrative Court of Appeals is

⁹ In the High Court, during the period of monitoring by AHC, 9 of 19 judges exercised their duties, thus prolonging the time needed for cases that are pending trial.

currently reviewing cases registered in 2016 with the court, that is more than 4 years ago. This court also states the concern about the lack of processed data, due to the short time since their approval. In the Tirana Appeals Court (general jurisdiction) it results that cases of 2017 are being tried, which is more than 4 years ago, except for those of an urgent nature.

In the appeals courts under monitoring, from a statistical standpoint, it appears that about 30% of the judges have undergone vetting by final decision and passed it successfully. Meanwhile, vacancies created due to resignations, dismissals, suspensions, or other causes of the interruption or termination of the status of magistrates are considerable. Data made available by the appeals courts under monitoring, until October 2021, indicate the following situation:

- a. The Shkodra Appeals Courts had 10 judges, only 4 judges have passed the vetting process by final decision.
- b. The Durrës Appeals Court has 13 judges, but there are 5 vacancies. Of the remaining 8 judges, only 1 has passed vetting by final decision.
- c. The Tirana Appeals Court has an approved number of 31 judges and 6 judges have passed the vetting process by final decision.
- d. The Administrative Court of Appeals should have 13 judges. It appears that 4 judges have passed vetting by final decision.

• Delays in adjudication due to the pandemic

The situation created by the global Covid-19 pandemic also had a negative impact on the backlog of cases and delays in judicial processes, mainly on the First Instance Administrative Court in Durrës and the First Instance Court in Shkodra. Of the monitored appeals courts, only the Shkodra Appeals Court provided statistical data, noting that during the pandemic, it faced an increased backlog of cases that reached 1,852 cases, while the other courts did not maintain statistical data/evidences during the pandemic, which could have had a positive impact on drafting research and analyses on the management of risk that may be created by similar epidemic situations in the future.

It is worth mentioning as a positive standard that of the Elbasan Court of First Instance, where online trial rooms were created and had a positive impact in not interrupting judicial processes and respecting deadlines.

- **Need for an electronic system of unified and contemporary standards in information technology**

According to article 289, paragraph 5 of law no. 115/2016, the Council of Ministers does not appear to have respected the 6-month deadline since the law's entering into effect to approve rules for general state policies on the information technology system for the justice system. The relevant CMD¹⁰ was approved on December 2, 2020, about 4 years since law no. 115/2016 went into effect or 2 years since the establishment of the HJC. This delay is unjustified in the conditions and challenges that the courts have faced in the country. The creation of the Center appears to have been taken place on 19.10.2021, which coincides with the first meeting of its Steering Board.

Article 92 of law no. 115/2016 envisages some obligations related to the electronic system of information technology, and tasks specifically the Council of Ministers and the HJC. AHC supports the need for the HJC to identify a new case management system, which would contribute to increasing the efficiency, transparency, and quality of judicial services to the public. The establishment and operation of this system should be accompanied by the allocation of the necessary budget by the Council of Ministers.

- **Impact and challenges of the new legal amendments that sought to increase judicial efficiency**

In order to increase judicial efficiency, it appears that on March 31, 2021, additions and amendments were made by law no. 46/2021 to law no. 98/2016 "On the organization of the judicial power in the Republic of Albania," for the adjudication of a category of cases by a judicial panel consisting of one judge. Monitoring data indicate that such provisions are not applied evenly by the monitored courts.

Thus, the Administrative Court of Appeals highlights as necessary the approval of other amendments that would make it possible to have cases tried by one judge, with this being reflected in the provisions of law no. 49/2012. The same finding applies also to the first instance courts. At the Durrës Administrative Court of First Instance, there were no such cases, while the Shkodra First Instance Court tried with judicial panels consisting of one judge or three judges. The Elbasan First Instance Court stated that, in spite of respect for the new procedural provisions, it did not have a positive impact due to the immediate reduction of the number of judges in it, mainly as a result of the vetting process.

¹⁰ "On the organization, functioning, and setting the competences of the information technology center for the justice system"

The courts appreciate the new legislation for the justice system and remain open to other legal amendments, while AHC notices a hesitating or passive approach in identifying specific problems and procedural legal means to intervene with in terms of legal amendments that might increase efficiency and judicial administration.

- **Activation of the body of the “Judges’ Meeting” and the formalization of audio recordings and meeting minutes**

Referring to article 40 of law no. 98/2016, an important body of judicial administration of every court in the country is the meeting of its judges. Based on received data, we highlight that this body does not meet regularly. The Durrës Appeals Court has not held regularly a general meeting of the judges.¹¹ The Tirana Appeals Court states that the meetings of this court take place often about different problems but their documentation is not formalized, in violation of article 29/1 of law no. 98/2016.¹² The Administrative Court of Appeals and the Appeals Court of Shkodra state that they hold meetings regularly. The same was indicated by the three First Instance Courts that responded to the official request for information. However, it is worth stressing that in order to achieve a more accurate conclusion regarding obligations imposed by articles 29/1 and 40 of law no. 98/2016, more systematic monitoring is needed on whether audio recordings and meeting minutes were held on these meetings; in the majority of cases, they were not made available to AHC.

- **Establishment of the Legal Service Units and completing the staff with legal aides at the Appeals Courts**

The Legal Service Unit was not established at the Administrative Court of Appeals, while the staffing structure of legal aides at the other courts indicates considerable vacancies, approximately half of them.¹³ In total, the monitored Appeals Courts indicate 14 legal aides, or half of the 26 such that they should have according to the staffing structure. Filling the vacancies for legal aides, adding them, and increasing efficiency are recommendations of the monitored courts themselves. In their opinion, this would have a positive impact on reducing the caseload that judges face in these courts. In order to increase the efficiency of legal aides, systematic training and continued qualifications are needed. Based on official communication with the courts, we find delays regarding continued training for civil employees of the judicial service by the HJC.

¹¹ They were held in January 2019 and February of 2021

¹² According to which “The audio recording and the transcribed meeting minutes are preserved for at least ten years and is made available to relevant judges, members of the High Judicial Council, and the High Justice Inspector.”

¹³ During the period 2020-2021, the Tirana Appeals Court (general jurisdiction) had temporary assignments of 10 legal aides of the 15 it should have. The Durrës Appeals Court effectively has 3 of 6 legal aides it should have according to the structure. The Shkodra Appeals Court has 1 of 5 aides it should have.

• Vacancies in First Instance Courts and effects on their caseload

Statistical data made available on the number of the backlog of cases highlight that for 2019-2021, there was a decreasing trend in the Shkodra Court of First Instance.¹⁴ An increasing trend of the backlog was reported in the Elbasan Judicial District Court and the Administrative Court of First Instance in Durrës. However, data made available by them do not present the same processing standard as the Shkodra court.

With regard to vacancies created by the vetting process, data made available by the first instance courts under monitoring, until October 2021, highlighted that:

- a. The Elbasan District Court has 6 judges under the vetting process and currently exercising their functions. Four judges were dismissed in this court due to dismissal in vetting at the first instance while 2 judges have resigned.
- b. At the Durrës Administrative Court of First Instance, it results that 1 judge passed the vetting process by final decision. Two other judges resigned and 1 judge has not passed vetting in the first instance and is in the process of appeal with the SAC (suspension).
- c. At the Shkodra Judicial District Court, it results that the court Chair was dismissed by final decision, 2 other judges were dismissed by first instance decision and are in the SAC appeals process, and 2 judges passed the vetting process.

• Lack of legal service units and legal aides in the First Instance Courts

Official data indicate that the Legal Service Unit has not been established in any of the five first instance courts that responded to the official request for information. Legal aides, since December 2020, are no longer part of the personnel structure in administrative courts and first instance courts. Taking into consideration the current situation that the first instance courts are faced with, the vacancies noticed among magistrates, as well as the considerable number of the backlog of cases, AHC suggests that HJC take concrete measures to guarantee the appropriate number of legal aides for each court, in order to manage the conduct of business of the courts, in keeping with the provisions envisaged in law no. 46/2021.

¹⁴ In this court, the highest number of cases under review is in 2019 with 1,208 cases, with a total of 12 judges, while the lowest number is for this current year (that is not over yet), namely with 1,088 cases, with a total of 13 judges.

- **Overseeing the impact of training of the School of Magistrates**

Another monitored aspect was the continued training for judges, reported to have been conducted mainly by the School of Magistrates, while seminars and training courses have been conducted by the HJC with chancellors. For 2020, the HJC states that 61.3% of judges participated in training programs conducted by the School of Magistrates. Nevertheless, AHC suggests the creation and implementation of a mentoring mechanism to measure the effectiveness of such training in the judges' performance as that represents one of the legal obligations of law no. 115/2016, which requires monitoring and public reporting by the HJC.

PART ONE

1.1. DECISION MAKING ACTIVITY OF THE COUNCILS

1.1.1. Quantitative data

During the monitoring period, December 1, 2020 – October 31, 2021, based on categorization in keeping with article 7 of law no. 115/ 2016, the HJC approved a total of 566 acts and held 90 plenary meetings, whose agenda, based on verification in the HJC official website, does not appear to have been published before the conduct of the meeting, as prescribed by law.¹⁵

During the same period, the HPC issued 423 acts and held 43 plenary meetings, whose agenda, based on verification on the HPC official website,¹⁶ appears to have been published before the conduct of the meeting, as prescribed by law.

Likewise, it is worth noting that during August 2021, the HJC held three plenary sessions on August 4, 5, and 26, 2021. On the other hand, it does not appear that the HPC held any meeting during August 2021, which runs counter to article 164, paragraph 1, of law no. 115/ 2016. Given that Law no. 97/ 2016 tasks the Council with the approval of a package of by-laws and regulations, this also represents an argument why the HPC should respect the minimal number of meetings envisaged in the law on a monthly basis, in order to respond effectively to the needs of the prosecution system vis-à-vis its legal competences.

It appears that the largest part in the activity of the Councils consists in approving administrative acts to respond temporarily to vacancies or the system's overload. For the HJC, an important volume has been that of acts to assign judges to hear special cases, in courts different from the ones they normally carry their functions permanently. The HJC has been active also in making functional the delegation scheme and has made decisions for promotions to the High Court, the Appeals Courts, and the SCCOC. With regard to promotions, there were also decisions in the form of preparatory actions. Also, taking into consideration the specific legal criteria that should be met by candidates applying to join the judicial panels of the SCCOC,¹⁷ and the evident lack of human resources as a result of the vetting process, in spite of the continued announcement of calls for vacancies in both instances of the special courts, the number of applications has remained very low.¹⁸

¹⁵ Article 66, paragraph 4, of law no. 115/2016 "On the governing bodies of the justice system." In fact, the agenda of these meetings on issues to be addressed during the meeting is communicated at the start of the session by the Council Chair, Ms. Naureda Llagami

¹⁶ <https://klp.al/>

¹⁷ Change approved by law no. 50/2021 'On some additions and amendments to law no. 96/2016 'On the status of judges and prosecutors in the Republic of Albania,' amended,": <https://qbz.gov.al/eli/ligj/2021/03/23/50/be63a008-c9b1-49ec-9425-570e0b1f9105>

¹⁸ Due to legal requirements for these positions, the HJC, during the monitoring period, made decisions regarding the ethical and professional evaluation of judges.

The HJC has sought to encourage the involvement of magistrates through guaranteeing an additional ‘job difficulty’ payment at 80% of the initial salary for the category of judges of these Courts. This indicates the systemic efforts of the Council to alleviate vacancies created in these Courts.

In the HPC’s decision-making too, the largest part is for issues such as the temporary assignment of prosecutors but also decision-making on interruption of the mandate, assignment as acting, and evaluation of professional capabilities of prosecutors. As in the case of the HJC, the Council made preparatory decisions regarding promotions.

During this monitoring period, it results that none of the Councils made any decisions for appointment to posts of magistrates, in spite of the vacancies caused by the vetting process, the end of status, or resignations by judge and prosecutor magistrates.

1.1.2 By-laws and Regulatory Acts of the Councils

The approval of by-laws by the Councils is one of the urgent obligations according to the relevant laws of justice reform.¹⁹ Thus, article 155 of law no. 97/2016 envisages that the HPC drafts and approves by-laws in keeping with this law. Meanwhile, law no. 98/2016, article 91.1, has set concrete deadlines for the HJC to approve all by-laws envisaged by the law in question, no later than 6 months since the establishment of this body.

During the consultation phase, the HJC made known that it is aware of the obligation stemming from the legislation in force to approve a series of by-laws, stressing, *“in the conditions of the inability to approve all necessary acts envisaged by law due to the workload, a fact seen in the number of plenary sessions and reactions to the needs of the system in real time, the Council has set its priorities in the strategic plan 2022-2024, to be approved within May 2022.”*

AHC notes that failure to approve by-laws within the deadline, not only is not in accordance with the cited laws, but it also causes problems in terms of the smooth functioning of the Councils, which base their activity, among other things, also on the by-laws issued pursuant to the implementation of the laws. These acts further elaborate important regulations of their work, but above all for the proper functioning of the judicial and prosecutorial system. This applies particularly to the HPC, which compared to the HJC, has been more passive in its normative and regulatory activity.

¹⁹ Law no. 98/ 2016 and Law no. 97/ 2016

A. High Judicial Council

During the monitoring period, the HJC approved a series of important by-laws, of which we may mention the following:

- i. Decision no. 643 dated 23.12.2020 “On the approval of standard regulations for the staffing pattern, job description, and responsibilities of the categories of employees of the High Court”

It is understandable that the Council began the implementation of this provision due to the importance of filling vacancies in the High Court and the urgency of making it operational to cope with the current caseload. However, law no. 115/2016 (Article 91) envisages that the Council should approve internal standard rules for internal functioning, quality, and efficiency for all courts.

It is also worth stressing that the HJC has not yet concluded the drafting and approval of its own internal rules of procedure, although the Council has established a temporary commission for it.²⁰ Approval of this document should be a priority for the Council as it has been carrying out its activity for over three years without one of its most important normative acts.

- ii. Decision no. 622, dated 10.12.2020 “On parallel assignments, promotions, and acceptance to the civil judicial service”
- iii. Decision no. 47, dated 11.02.2021 “On the approval of ‘guidelines’ on maintaining and completing tables with statistical data in order to measure and monitor court productivity and efficiency”
- iv. Decision no. 171, dated 22.04.2021 “On the approval of the Code of Judicial Ethics”

Its approval represents a constitutional²¹ as well as legal²² obligation. This act is based on and is harmonized with the best international standards, which have been cited in this document. It is to be appreciated that the rules of this Code extend to the extent possible also to civil judicial employees, advisors, and legal aides.

- v. Decision no. 193, dated 12.05.2021 “On the approval of the “Methodology of points-ranking system for the purpose of establishing the level of reward for assistant magistrates in the High Court”

²⁰ Decision no. 318, dated 19.12.2019

²¹ Article 147/a paragraph 1, letter ç of the Constitution of the Republic of Albania

²² Article 83/1 of Law 115/2016 and Article 4. 3 of Law 96/2016

- vi. Decision no. 194, dated 12.05.2021 “On the approval of the “Rules of evaluation of judges assigned as acting to the High Court”
- vii. Decision on. 214, dated 26.05.2021 “On the approval of the standard form of evaluation of assistant magistrates in the High Court”
- viii. Decision no. 215, dated 26.05.2021 “On the approval of standard tables with statistical data necessary for the ethical and professional evaluation of assistant magistrates in the High Court”

Decisions 194, 214 and 215, cited above are part of the evaluation scheme, applicable only to judges assigned as acting assistant magistrates in the High Court. It is to be appreciated that the HJC was careful in completing the evaluation scheme with regulatory acts that make this process implementable.

With regard to internal rules, the HJC approved decision no. 176, dated 29.04.2021 on the approval of the “Annual Report of the Judicial System and the High Judicial Council for 2020.”

AHC notes that according to the division of the law,²³ this report may not be characterized as an internal procedural regulatory act, given that it is only a reflection of the situation and activity of the Council for a given period of time. Also to be noted is the fact that although the decision on the approval of this report is on the HJC’s official website,²⁴ the Report itself was published on June 25, 2021.²⁵

During July 2021, the HJC was very busy with internal rules, in response to amendments approved by the Assembly at the start of 2021, in the main organic laws of justice reform. As a result, the proactiveness demonstrated in this regard for the efficacious functioning of the courts should be appreciated. Among these acts, it is worth mentioning:

- ix. Decision no. 325, dated 22.07.2021, “On an amendment to the Decision of the High Judicial Council no. 643, dated 23.12.2020 “On the approval of standard rules on the staffing structure, job description, and responsibilities of the categories of employees of the High Court.”²⁶.

²³ Article 97 of Law 115/ 2016

²⁴ <http://klgj.al/wp-content/uploads/2021/04/VENDIM-Nr.-176-dat%C3%AB-29.04.2021-P%C3%8BR-MIRATIMIN-E-%E2%80%99CRAPORTI-VJETOR-I-SISTEMIT-GJYQ%C3%8BSOR-DHE-K%C3%8BSHILLIT-T%C3%8B-LART%C3%8B-GJYQ%C3%8BSOR-P%C3%8BR-VITIN-2020%E2%80%99D.pdf>

²⁵ During the process of the written consultation of the contents of the monitoring draft report, the HJC stated that the report may be found at: <http://klgj.al/raporti-vjetor-klgj-2020/>

²⁶ This decision was approved from the perspective of the legal amendments that came as a result of the entry into effect of law no. 46/2021 “On some additions and amendments to law no. 98/2016 “On the organization of the judicial power in the Republic of Albania.” Law no. 643, dated 23.12.2020 of the HJC, namely the professional experience and other capabilities.

- x. Decision no. 324, dated 22.07.2021, “On an amendment to the decision of the High Judicial Council no. 7, dated 21.12.2018 “Regulations on the approval of rules for the election of deputy chairs of the courts,” was based on law no. 46/2021 that amended article 26/3 of law no. 98/2016. By means of this law, the HJC reflected relevant amendments in terms of the procedure for the election of the court deputy chairperson.
- xi. Decision no. 323, dated 22.07.2021, „On an amendment to decision of the High Judicial Council no. 338, dated 24.09.2020 “On establishing the criteria and procedures for granting the status of the civil judicial employee to employees working in the courts.”²⁷

A. Annual Reports of the HJC Commissions

During February, March, and April 2021, the HJC has approved the annual reports on the activity of its four standing commissions, for 2020.²⁸ Based on article 62, paragraph 16 of law no. 115/2016, the reports in question should be submitted to the Council’s plenary meeting, within January of each calendar year. Although the delay may be understood due to the high workload and the different problems addressed by the Commissions, it is necessary that the Council respect legal deadlines continuously.

On the other hand, it is positive that the reports were published regularly on the official website of the Council. We may add here that the activity of the Disciplinary Commission has been somewhat delayed due to the time taken for completing the new bodies, such as the HJI, as well as deficiencies in the legal framework, specifically the impact of Decision no. 34, dated 10.04.2017²⁹ of the Constitutional Court, which invalidated some provisions of law no. 96/2016.

B. High Prosecutorial Council

During the monitoring period, it results that the activity of the HPC for approving by-laws and regulatory acts is slower compared to the HJC. Namely, the HPC approved only one by-law, namely:

- i. Decision no. 284, dated December 17, 2020 “On the manner of compensating overtime work by civil employees of the prosecution office.”

The HPC’s annual report³⁰ establishes that, during 2020, the important regulation for the Council’s internal operation would be finalized and ap-

27 This decision is also in response to the amendments based on Law no. 46/2021 and has to do with the judicial secretaries on duty and do not have higher law education but have over three years of experience. According to the legal amendments, these civil workers may continue to remain on duty if the Council of the Court considers their performance positive.

28 Namely Decisions no. 39, dated 04.02.2021, no. 74, 04.03.2021, and 86, 11.03.2021, No. 150, dated 08.04.2021

29 https://www.gjk.gov.al/ëeb/Vendime_perfundimtare_100_1.php

30 https://klp.al/wp-content/uploads/2020/05/RAPORTI_KUVENDI_VJETOR_WEB.pdf

proved and would specify the decision-making process within the Council but also the lines of communication and administrative action for carrying out duties and achieving objectives. Based on the research on the HPC's official website, it is found that the communication strategy of this institution has not been published,³¹ while the internal regulations were only made public during December.³²

The Council's priorities for 2021 also included the drafting and approval of the regulations on promotions of prosecutors and the regulations for evaluating the prosecutors' work, which have yet to be approved.

Another act of key importance, which is missing in the HPC's activity, is the Code of Ethics. The provisions of this act are important with regard to the exercise of competences by the Council, in terms of ethical-professional evaluation and those linked with discipline over ethical issues. The delay in the approval of this act harms the smooth functioning of the body and, as a result, should be an absolute priority for the Council in the ensuing period.

It should be added that the HPC's internet website features the document Draft Strategic Plan for 2021 – 2024³³, which appears to have been drafted with the assistance of the EURALIUS mission, but no additional explanations are provided on this website.

Annual Reports of HPC Commissions

Unlike the HJC, the HPC's official website lacks reports and publication of acts that have to do with the 4 Standing Commissions of the HPC. This fact calls into question the existence of these reports and, therefore, the fulfillment of legal obligation for their approval according to article 16 of Law no. 115/2016.

1.1.3 Councils' Administrative Acts

As has been noted above, in the circumstances of vacancies in the system and the caseload in some courts and prosecution offices, the activity of the Councils during the monitoring period focused on the approval of administrative acts, mainly temporary assignment of judges to review special cases, at different courts from those where they carry out their functions permanently, as well as temporary assignment of prosecutors.

31 Although the conduct of a seminar to present the communication strategy has been published on the Council's website, failure to publish this communication strategy in our opinion is an element of lack of transparency.

<https://klp.al/2020/09/24/keshilli-i-larte-i-prokurorise-pergatit-strategjine-e-komunikimit-2021-2024/>

32 <https://klp.al/category/akte-nenligjore-te-klp/>

33 <https://klp.al/ep-content/uploads/2021/01/Plani-Strategjik-2021-2024.pdf>

Article 15.2 of law no. 96/2016, with the latest amendments, envisages that the magistrate in the delegation phase, the magistrate transferred temporarily, or the magistrate who has been temporarily assigned, when delegated, is temporary transferred or temporarily assigned for a period of time that is longer than 22 working days, benefits a monthly compensation at no more than 80% of the referral basic salary. This provision has served to encourage and motivate magistrates toward mobility in order to alleviate vacancies in the system.

A. High Judicial Council

During the monitoring period, the HJC made a series of decisions for the assignment of judges to hear special judicial cases in other courts, different from the ones that they carry out their functions permanently.

The largest number of requests for temporary assignment appears to have come from the appeals courts, where vacancies are most disturbing (247 requests), followed by requests from the first instance courts (155 requests), the special courts against corruption and organized crime (35 requests), and the administrative courts (16 requests). Among the courts with a higher number. Of judges assigned temporarily are the Appeals Court in Korça, Vlora, and Gjirokastra as well as the Kukës Judicial District Court.

According to data obtained officially by AHC,³⁴ submitted by the HJC, it results that there are 13 magistrates in the delegation phase, who have been assigned to acting positions for a 1-year period. Also, for the period of April 1 – October 15, 2021, the HJC transferred temporarily a total of 9 magistrates. During the same period, 107 magistrates were assigned temporarily to different courts in the country, to hear a total of 524 special cases.

With regard to this point, it should be stressed that although the temporary assignments are a somewhat efficacious instrument to unblock the system's situation, in terms of financial costs and the quality of adjudication, they may not be viewed as a convenient and usable solution in the mid-term.

On the other hand, it should be mentioned that the HJC activated the delegation scheme by making about 22 decisions about this scheme³⁵ and by deciding on assigning 3 magistrates as acting. Likewise, the Council made 16 decisions regarding temporary transfers³⁶, just as there were decisions

34 Letter no. 5061/1 Prot. dated 15.11.2021 of the High Judicial Council

35 According to information provided officially by the HJC, regarding the period 01.04.2021 and 15.10.2021, 13 magistrates (judges) were assigned through a delegation scheme; they were assigned for a 1-year period.

36 According to information provided officially by the HJC, for the period 01.04.2021 and 15.10.2021, a total of 9 magistrates (judges) were temporarily transferred to meet court needs (letter no. 5061/1 prot., dated 15.11.2021 of the HJC)

on the interruption of temporary transfers, assignment of judges in the scheme or assignment of the judge in the scheme to adjudicate in two courts at the same time, with a 50% workload in each of them.³⁷

Also, it is worth analyzing decision no. 249, dated June 9, 2021,³⁸ by which the HJC decided on the assignment of a judge from the Fier Judicial District Court to the post of “Director of Juridical Services Department and Foreign Relations,” at the High Judicial Council. In the circumstances of an aggravated vacancy situation in the system and the number of judges temporarily assigned to courts that are different from the ones they adjudicate in, AHC considers that the contribution of a magistrate would be more valuable in a court than in a post in a directory. Regarding similar assignments, AHC considers that an analysis is conducted to avoid the risk of premises of a corporatist approach to bring such magistrates to Tirana.

B. High Prosecutorial Council

According to information obtained from HPC, from the start of this process to the end of the monitoring period, 40 prosecutors were dismissed by final decision in the context of vetting and 40 were suspended, awaiting a final verdict. Likewise, from the start of the justice reform process, 15 prosecutors have resigned.³⁹

In response to the created vacancies, HPC made Decision no. 38, dated February 2, 2021, “On the approval of the list of candidates meeting the conditions for running as candidates through the parallel movement procedure.” According to this decision, there are 56 candidates who meet the conditions for parallel movement to general jurisdiction prosecution offices.

On March 31, 2021, HPC made some decisions on ranking candidates for each vacancy for each prosecution office in the first instance courts and the appeals courts where this procedure was opened.⁴⁰ It is worth mentioning that in this decision-making process, the Council decided by majority of votes to approve the decision proposed by the Career Standing Commission to consider as experience for the appeals level only experience at this level and not at the General Prosecution Office. This criterion is somewhat limiting and disputable in the sense of the spirit of the law, the logic of career development, and meritocracy.

37 <http://klgj.al/ep-content/uploads/2021/05/VENDIM-Nr.-190-dat%C3%AB-07.05.2021-P%C3%8BR-ND%C3%8BRPRERJEN-E-TRANSFERIMIT-T%C3%8B-P%C3%8BRKOHSH%C3%8BM-DHE-KOMANDIMIN-N%C3%8B-SKEM%C3%8BN-E-DELEGIM-IT-T%C3%8B-GJYQTARIT.pdf>

38 <http://klgj.al/ep-content/uploads/2021/06/VENDIM-Nr.-249-dat%C3%AB-09.06.2021-P%C3%8BR-KOMANDIMIN-E-GJYQTARES-ZNJ.-%E2%80%A6-N%C3%8B-K%C3%8BSHILLIN-E-LART%C3%8B-GJYQ%C3%8BSOR.pdf>

39 Data provided officially by the HPC, by letter no. 2374/1 prot., dated 04.11.2021 “Response”

40 The First Instance Prosecution Office in Tirana, the Tirana Appeals Prosecution Office, the Durrës First Instance Prosecution Office, the Shkodra Appeals Prosecution Office, the Vlora Appeals Prosecution Office, the Lushnje First Instance Prosecution Office, the Durrës Appeals Prosecution Office, the Kruja First Instance Prosecution Office, the Elbasan First Instance Prosecution Office

Referring to provisions in article 45 of law no. 96/2016, regarding the delegation scheme as a flexible mechanism for effective governance of the judiciary and the prosecution office, it was found that this scheme is yet to be created by the HPC, unlike the HJC that has already approved it. In the absence of this scheme, the HPC has used the mechanism of temporary transfers according to article 59 of law no. 96/2016⁴¹ and approved 72 decisions for temporary transfers during the monitoring period. It results that during the monitoring period, the Council did not have any decision-making regarding the assignment procedure, while after the approval of the Justice Reform laws (2016) until November 2021, 19 magistrates (prosecutors) were appointed to some of the First Instance Court Prosecution Offices around the country.

1.1.4. New Judicial Map

Judicial reorganization or the new judicial map is a process deemed as important toward improving the efficiency of the judiciary and the prosecution office as well as for reducing delays and improving the judicial quality and economy.

Based on information that AHC possesses, the HJC created an inter-agency working group (IWG) by Order no. 78, dated 18.02.2019 of the Council Chair, with the participation of three HJC members, two representatives of the Ministry of Justice, representatives from all three judicial levels, with assistance from international partners. For such a process that has vital importance for citizens, the IWG conducted a total of 10 meetings. These meetings were not open to the public and those interested, including civil society organizations.

While reform in the justice system enabled a comprehensive reform in the composition of the Councils (HJC and HPC), for the purpose of achieving balances to fight corporatist elements noticed by previous bodies, regarding the career and discipline of judges/prosecutors, the same approach could have been reflected in the composition of the IWG on the new judicial map.

The new map proposed by the Council envisages that a total of 16 courts exist instead of the 35 first instance and appeals court that currently exist.⁴² More concretely, instead of 22 general jurisdiction courts there will be 12; instead of 6 administrative courts of first instance, there will be 2; there will be 1 administrative court of appeals; and the most courageous proposal appears to be the one of having 1 appeals court for the entire country in Tirana. This latest proposal appears to have encountered the greatest

41 Based on the Regulations "On the criteria and procedure of temporary transfer of the prosecutor:" <https://klp.al/wp-content/uploads/2020/07/RREGULLORE-PER-TRANSFERIMIN-E-PERKOHSEHEM.pdf>

42 Without factoring in the special courts against corruption and organized crime.

reservations initially from the Ministry of Justice. The interagency working group on the new judicial map shared electronically on 28/12/2021 the evaluation report that it had drafted to interested stakeholders, including civil society representatives.

From the moment when the preliminary evaluation draft on the new judicial map was launched for discussion, the Albanian Helsinki Committee (AHC) together with nine other civil society organizations drew attention to:

- Lack of transparency and access to meetings of the Inter-Agency Working Group established by the HJC;
- Lack of an inclusive process during the phase of drafting the evaluation report;
- Lack of a study or objective and comprehensive evaluation, with the pluses and minuses of the re-organization of judicial districts and their terrestrial competences.

AHC notes that the methodology pursued for the evaluation conducted by the IWG on the new judicial map creates serious premises for the violation of access to justice of people belonging to groups in need in the country, which represents one of the 3 objectives envisaged in establishing terrestrial competences, in article 14/letter “a” of the law on the organization of the judiciary.

The evaluation report on the new judicial map does not determine the quality of roads or road transport, the lacking means of transportation in some of the remote rural areas, and access of economically disadvantaged groups to using roads and means of transport.

If we calculate the time that an inhabitant of Cerem, Tropoja, needs to go to the Kukës Court, that time is 3 hours and 6 minutes exactly, in a private vehicle, while the economic situation for inhabitants of this area or of remote areas of Tropojë Municipality makes access to justice difficult or not possible.

Judicial re-organization and the establishment of the number of judges should have been two processes conducted in full cohesion and in parallel. Judicial re-organization according to the HJC proposal was conditioned by an old staffing pattern of 10 years ago, approved by decree of the President of the RA, which does not respond to the needs for justice of the citizens living in the areas where the courts are proposed to be dissolved.

Setting or preserving a balance between the distribution of workload and the distribution of judges among the courts, according to the IWG, is an indicator of the system’s lack of efficiency, which should be corrected in

the new map. However, it is noticed that some of the courts proposed to be dissolved, and with the staffing pattern of judges, have a higher case-load than the average of 429 cases per year (Kavaja 591, Kurbin 671, Kruja including the IEPD Kruja 593, and Lushnje 490).

1.1.5. Training of Magistrates

Articles 88 and 186 of law no. 115/2016 envisage the cooperation of the Councils with the School of Magistrates on the continued training of judges and prosecutors, among others, monitoring and publicly reporting on the efficacy of training.

With regard to the training of judges, the HJC has approved two decisions on the participation of judges in continued training at the School of Magistrates for 2021.⁴³ Regarding academic year 2021-2022, there appears no similar decision by the Council. On the other hand, the website of the School of Magistrates⁴⁴ has published the Table of Courses for the academic year 2021-2022.

AHC considers that to increase the efficiency of advisors and legal aides, systematic and continued training and qualifications are needed. Referring to official communication with the courts, we notice delays regarding continued training of civil employees of the judicial service, who have not taken continued training from the HJC. Also, AHC suggests the creation and implementation of a mentoring mechanism for measuring the effectiveness of these training courses in the performance of judges as that is one of the legal obligations that requires monitoring and public reporting by the HJC.

1.1.6. Promotions

Article 47/1 of law no. 96/2016 envisages that the promotion is the movement from: i) a post in the judicial or prosecutorial system to another one of a higher level; ii) a post of general jurisdiction to a post in one of the special courts for adjudicating the criminal offenses of corruption and organized crime or the Special Prosecution Office; iii) a post as a magistrate to the post of chair of a court or a prosecution office; iv) from an acting position to the delegation scheme, to a higher post than the post before being assigned as acting.

⁴³ Decision no. 647, dated December 23, 2020, for the period January – March 2021 and Decision no. 97, dated March 17, 2021, for the period April – July 2021. The topics in the focus of these training programs have been constitutional law, criminal law, commercial law, obligations, the right of obligations, civil procedure, and tax law. Some of the training programs in question were done in cooperation with international partners and there were about 15 courses.

⁴⁴ https://admin.magjistratura.edu.al/uploads/Kalendar_TV_2021_2022_d3664b26c1.docx

A. High Judicial Council

During the monitoring period, the HJC conducted 10 promotions, of which 6 have to do with the High Court and 4 with the Appeals Special Court against Corruption and Organized Crime. Both of these courts, but especially the High Court, are of special importance in our judicial system, both due to the need to reduce the backlog of cases and deliver justice at the highest instance, but also due to the material competence, such as the Special Court against Corruption and Organized Crime. Regarding the promotions, the Council during the monitoring period also undertook preparatory actions, related mainly to the appeals courts of general jurisdiction and the special courts against corruption and organized crime.

Due to the process of transitory re-evaluation of judges and prosecutors, as well as the resignations or end of the mandate for other reasons, the High Court during 2019-2020 was left with only 1 of 19 judges that it had to have in its structure. To unblock the situation, the HJC assigned some time ago judges of the Appeals Courts to enable the review of emergency cases related to extraditions. In spite of this temporary mechanism, it is worth mentioning that based on information obtained from the Facebook page of the High Court, until the end of the monitoring period, the High Court had a backlog of 36,140 cases awaiting trial. As a result, filling every single vacancy in this court has brought and will continue to bring about significant change in the functioning of this key body of the judicial power.

One of the problems encountered in filling the vacancies of the High Court came as a result of the exercise of the legitimate right of candidates who were part of the application procedure. During the monitoring period, there was one administrative complaint by one of the candidates on the HJC decision-making regarding the procedure to verify the legal criteria for application for a judge in the High Court.⁴⁵ The Administrative Court of Appeals decided to restore the magistrate candidate (judge) back in the competition,⁴⁶ a decision that was not welcomed by the HJC. The Council exercised the right of appeal to the High Court, which decided on 18.01.2021 to reverse the Tirana Administrative Court of Appeals' ruling and reject the lawsuit as unfounded in the law.⁴⁷

Regarding the situation in the High Court, AHC deems it necessary to emphasize:

- At present, the Court has 11 of the 19 that it should have and it still has a very high number of cases to hear.⁴⁸

⁴⁵ Decision no. 201/4, dated 11.06.2020 of the HJC

⁴⁶ Decision no. 93, dated 10.11.2020 of the Tirana Administrative Court of Appeals

⁴⁷ http://www.gjykataelarte.gov.al/web/Informacion_mbi_perfundimin_e_ceshtjeve_administrative_ne_seance_gjyqesore_me_prani_te_paleve_date_18_Janar_2021_8132_1.php

⁴⁸ 6 of the members were appointed from the judiciary, during the period March-July 2021. In the first months of 2022, 2 judges were appointed.

- There is a lack of quorum of 10 judges to propose as members of the Constitutional Court, in keeping with its constitutional obligations,⁴⁹

Regarding the Special Courts against Corruption and Organized Crime, which are institutions of special importance and should be equipped with special judges with experience in the profile of cases under review, it is noticed that there are presently 7⁵⁰ of 16 judges who should be in the first instance court, while there are 6 of the 11⁵¹ judges who should be at the appeals level, according to law no. 98/2016.⁵² The number of vacancies in these courts, namely 15, is considerable. It is worth stressing that the HJC is in the process of verifying the formal and legal conditions and criteria and the assets of 5 candidates regarding their promotion to the SCCOC and 4 for the Appeals SCCOC. Procedures depend also on the conclusion of the vetting process for these candidates.

What was noticed is the lack of interest of judges who meet the legal criteria to become part of these courts. It is thought that this is linked with the responsibility and weight of activity in public, as well as with the limiting constitutional and legal criteria, the right to privacy of these judges (considered proportional by the Venice Commission that reviewed it).

Based on information available, the HJC undertook some measures, in the form of events to encourage judges to become part of these courts, seeking to exchange experiences and ideas; nevertheless, interest in these events was lukewarm. Likewise, an important encouraging measure is the amendment to law no. 96/2016, regarding the addition to job difficulty by 80% of the initial salary for the judges of these courts.

B. High Prosecutorial Council

In December 2020, the HPC made a decision to approve the list of 26 candidates who meet the criteria for promotion to the post of head of the prosecution offices at the first instance courts and appeals courts of general jurisdiction. On the same day, the HPC made a series of decisions on the names prohibited to run for leading positions of the prosecution offices.⁵³ It results that of 28 prosecution offices where there were vacancies for the chairperson's position, in 10 of them there was no interest, the conditions were not met by candidates, or applications were submitted beyond the deadline. It may be added that in the overwhelming majority of the 18 prosecution offices where there are applications by a single candidate, as stated by the Chair of the Council, there is a lack of competitive-

⁴⁹ Article 125.1 of the Constitution.

⁵⁰ Irena Gjoka, Etleva Deda, Daniela Shirka, Flora Hajredinaj, Iliriana Olldashy and Erjon Çela

⁵¹ Nertina Kosova, Saida Dollani, Dhimitër Lara and Miliana Muça

⁵² Article 15. 4, c and ç of Law no. 98/2016

⁵³ <https://klp.al/2020/12/21/vendime-date-17-12-2020/>

ness. Likewise, it is worth mentioning that the realization of this process late by the Council led to the heads of some prosecution offices remaining in office beyond their mandates. There were also delays in the transitory re-evaluation process.

Regarding this process, it is worth analyzing decision no 231, dated October 27, 2020,⁵⁴ by means of which, the Council approved amendments to the Regulations “On the procedure for verifying the conditions and legal criteria for the recruitment, appointment as magistrate, and the assignment to posts of candidates for prosecutors, and the career development of prosecutors.” With these amendments, the Council assumed attributes to appoint as heads of prosecution offices even magistrates who had not passed the re-evaluation process. This decision-making saw a division of HJC members, namely 6 in favor and 3 against. While for prosecutors and judges appointed to the specialized institutions against corruption and organized crime, the passing of the vetting process successfully represents a compulsory legal criterion, for the other promotions, the special laws⁵⁵ do not contain clear provisions. Coordination of career procedures with the vetting bodies, in AHC’s opinion, is an immediate need that requires systematic coordination between the Councils and the vetting bodies. AHC considers that in the current circumstances, the importance of passing the vetting process successfully should be taken into consideration (as an extraordinary temporary process), as it better guarantees the ethical-professional integrity of candidates. Disputable decisions are those of March 26, 2021, whereby by decision no. 71, the head of the Tirana Prosecution Office of the Judicial District Court was appointed and by decision no. 74, the head of the Elbasan Prosecution Office of the Judicial District Court was appointed.

In spite of debates, the Council decided to continue the process of promotions to the prosecution offices where there was only one candidate and reopen the process for those prosecution offices where there were no candidates.⁵⁶ On January 14, 2021, the HPC made decision no. 9 to qualify candidates for the 3 prosecution offices out of 10 for which vacancies had been opened for promotions as heads of the prosecution office.

Regarding promotions in the Special Prosecution Office, during May and July 2021, the Council decided to appoint as a prosecutor to the Special Prosecution Office Mr. S.K., Mr. D.P., Mr. V.M. and Ms. M.K. for a 9-year mandate without the right to renewal. On October 8, 2021, the HPC published the announcement for expression of interest for 2 vacant positions at the

⁵⁴ <https://kjp.al/wp-content/uploads/2020/10/Vendim-nr-231-27.10.2020.pdf>

⁵⁵ Article 48/8 of law no. 96/2016 envisages that candidates who pass the asset and figure verification process and have no active disciplinary measures, are accepted in further promotion procedures.

⁵⁶ For the latter, the HPC made decision no. 298, dated December 23, 2020, to repeat the call for the 10 prosecution offices without candidates.

Special Prosecution Office against Corruption and Organized Crime.⁵⁷ AHC views the activity of the Council to complete such an important institution as SPAK as positive.

C. Ununified standards

With regard to decision-making related to promotions, AHC notes a different standard in the Councils' practice. The HPC has decided to not wait for decisions of the vetting bodies in promoting magistrates (prosecutors), thus giving priority to the subject's right to a career; meanwhile, the HJC has conditioned this process with the vetting of magistrate subjects. The existence of different approaches by the two bodies responsible for the judicial system and the prosecutorial system is an element that does not serve the public's confidence in justice bodies, given that a magistrate's career should be built on strong and consolidated foundations in terms of standards, such as the process of transitory re-evaluation.

AHC considers that procedures for the promotion of judge magistrates by the HJC reflect the major spirit and objectives of justice reform and represent an aspect of work of the Council that needs to be appreciated.

1.1.7. Ethical – Professional Evaluation

Law no. 96/2016 envisages provisions regarding the ethical and professional evaluation of the magistrate, which seek to constantly improve ethics and professional capabilities, the setting of sustainable standards for the quality and quantity of the magistrates' activity.⁵⁸

A. High Judicial Council

During the monitored period, the HJC made a series of decisions on the procedure for ethical and professional evaluation of magistrates. It is worth mentioning as a regulatory act the Decision no. 75, dated March 4, 2021, "On the start of the procedure for ethical and professional evaluation for the purpose of establishing the evaluation level of judges who have successfully passed the re-evaluation process."

HJC was found at a disadvantage with regard to the lack of ethical-professional evaluation of judges by its predecessor, the ex-HCJ. However, based on the number of acts approved, it seems that the pace of this process, which is certainly voluminous, is slow. Should the Council continue at this pace, the premises for concluding the process of ethical-professional

⁵⁷ <https://kjp.al/ep-content/uploads/2021/10/Thirrje-per-SPAK-i-fundit.pdf>

⁵⁸ Article 68 and onwards of Law no. 96/2016

re-evaluation of 121 judges, according to the approved evaluation plan for 2020-2021, seem difficult.⁵⁹ For the purposes of transparency, in general, decisions of the Council regarding ethical and professional evaluation are not accompanied by the respective reasoned reports.

B. High Prosecutorial Council

During the monitoring period, the HPC issued 40 decisions to approve reports on ethical-professional evaluations, for the purpose of the process of transitory re-evaluation and the evaluation of magistrates in the sense of Law no. 96/2016. It has happened often that these reports were provided in a very summarized manner by the relevant Commission, without mentioning the main findings and how they were evaluated against the law. Likewise, for the sake of transparency, it should be mentioned as a shortcoming that they were not published on the Council's official website.

1.1.8. Disciplinary Issues

Law no. 96/ 2016 envisages the principles and what is considered a disciplinary violation for judges and prosecutors⁶⁰ and also envisages the disciplinary measures should the Councils conclude that the magistrate has in fact committed such violations.

A. High Judicial Council

For the sake of transparency of discipline procedures that the Council pursues and applies, it should be stressed that the decisions of the Standing Disciplinary Commission of the Council are not published on the official website. During the reporting period, the HJC decided on some disciplinary issues, of which we may point out:

- 1 disciplinary proceeding on judge M.K. of the Korça Judicial District that ended with the decision of the HJC for his dismissal no. 633, December 10, 2020.
- 1 disciplinary proceeding that was concluded by the HJC with the dismissal of judge E.H. from duty on March 17, 2021. The reasoned decision has not been made public. Earlier, the HJC suspended the magistrate,⁶¹ because the competent criminal court assigned the personal security measure of “arrest in prison.”

⁵⁹ During the monitoring period, the Council made a series of decisions regarding ethical and professional evaluation; however, the current pace is not satisfactory, considering the volume of evaluations to be processed.

⁶⁰ Article 100 and onwards

⁶¹ As an intermediate measure according to article 140, paragraph 3 “a” of the Constitution and article 151, paragraph 1 “a” of law 96/2016.

- 1 disciplinary proceeding that resulted initially with the suspension from duty of magistrate E.K., a judge in the Elbasan Judicial District Court. It is not possible to access the decision to suspend this magistrate from duty on the HJC's official website, while the audio recording of the said hearing is published regularly and fully. Likewise, the press release published by the HJC⁶² envisages the suspension of the judge until the conclusion of the HJI's disciplinary investigation.

AHC views as essential the importance of ethical behavior of judges both while exercising their functions and outside it, reflecting integrity and generate confidence in public. AHC appreciates the fast reaction of the Council in these cases.

B. High Prosecutorial Council

The HPC has a dedicated rubric on its official internet website on disciplinary proceedings, which is positive in terms of transparency. During the monitoring, disciplinary cases reviewed by the Council were conditioned mostly by criminal proceedings pursued by SPAK and SCCOC on some prosecutor magistrates, such as:

- On March 31, 2021, the Council decided to accept the request of the HJI and dismissal of prosecutor B.M.⁶³ The decision in question has been published on the Council's website, accompanied by the relevant reasoning.
- The HPC decided on June 22, 2021, to suspend from duty prosecutor S.H., based on decision no. 40, dated June 17, 2021, of the SCCOC First Instance, according to which, the personal security measure of "arrest in prison" was issued on the magistrate in question.
- The disciplinary proceeding on prosecutor E.K., whereby the Council decided to suspend him from duty because on June 30, 2021, the SCCOC First Instance issued on the magistrate in question the personal security measure of "arrest in prison" for the criminal offense of active and passive corruption of judges, prosecutors, and other functionaries of justice.
- Suspension from duty of prosecutor M.S. was also based on the decision of June 30, 2021, of the SCCOC First Instance, which decided to issue the personal security measure of "house arrest" on the magistrate in question, accused of the criminal offense of abuse of office.

AHC considers these decisions just and in keeping with constitutional provisions, Law 96/2016 and Law 115/2016.

⁶² <http://klgj.al/njoftim-per-shtyp-date-7-qershor-2021/>

⁶³ <https://klp.al/epcontent/uploads/2021/04/Vendimi%20perfundimtar%20Bujar%20Memia%20per%20publikim.pdf>

1.1.9. Independence of Judges and Prosecutor

The Councils did not take the same positions on the protection of independence of judges and prosecutors toward strong political rhetoric in public, which has the premises of being seen in the eyes of the public as a prevailing display of the executive over the judiciary. In fact, the system of governance in the country, is based on the principle of checks and balances of powers, while the judiciary is independent from the legislative and the executive.

A. High Judicial Council

On March 17, 2021, the HJC concluded with the dismissal from office of the judge E.H. Earlier, on February 15, 2021, the Council had suspended the magistrate due to the personal security measure of “arrest in prison” by the competent criminal Court. During the time of the suspension measure, there was harsh public rhetoric by the executive on the judge in question.⁶⁴ The HJC did not react on these statements, in respect also of the principle of presumption of innocence of the magistrate, during a criminal process

The HJC reacted on July 15, 2021, on the case published widely in the media regarding the physical violation of judge A.B. in the Vlora Appeals Court. the HJC reacted quickly on the case in question and denounced the actions and insulting language used toward the judge in question and expressing commitment to restoring public confidence in the courts.⁶⁵

B. High Prosecutorial Council

On the other hand, in its plenary meeting of April 14, 2021, the HPC discussed the letter of a group of 50 prosecutors of the Prosecution Office at the Tirana First Instance Court, urging it to issue a statement of protection against the attacks to the head of this prosecution office by the head of the opposition party. The Chair and some members maintained the position that the issue should be discussed not publicly and in counseling chambers, in order to avoid media comments. The discussion of high profile and important cases for public opinion in Counseling Chambers, without granting access to the media and the public because of potential comments from the media violates the level of transparency of this Council. On the other hand, the approach of the HPC to react in protection of the figure and independence of the prosecutor is to be appreciated.

⁶⁴ <https://tvklan.al/arrestimi-i-gjyqtares-hoxha-rama-cuarja-e-ketij-llumi-para-drejtewise-te-vazhdoje/>

⁶⁵ <http://klgj.al/deklarate-per-mediat-juridiksioni-i-apelit-vlore/>

1.2. TRANSPARENCY

1.2.1 Legal provisions

Law no. 115/2016 envisages transparency of the new governing bodies of the justice system, emphasizing that the justice system is based on the principle of accountability and transparency. The publication of the activity of the two Councils is envisaged respectively by article 69 for the HJC and 167 for the HPC.⁶⁶ Likewise, in keeping with two other provisions, namely article 82 for the HJC and article 181 for the HPC, the Councils have the legal obligation to report before the Assembly on the state of the judicial and prosecutorial system for the previous calendar year, at least 1 per year and no later than May 1st of each year.

1.2.2 Public Access to Councils' Internet Websites

The official internet websites of the HJC and HPC are easily accessible by users; their addresses feature the abbreviated acronyms. Even if one searches on the search engines on the internet with the terms 'HJC' or 'HPC,' the first options to appear are precisely these pages. The websites of the Councils contain a dedicated window to the "Transparency Program," which contains information about the manner for submitting requests for information, contact persons on the access to information, complaint procedures, etc.

Although the websites of the Councils differ visually, they maintain a similar structure with regard to information provided and its contents. It may be said that, at first sight, access is easier to HJC's decision-making, given that under the rubric "Decisions," one finds the categories of acts that the HJC approves,⁶⁷ listed chronologically. The same finding applies to information on meetings conducted and the audio recording of HJC plenary sessions.⁶⁸

The HPC internet website features a space dedicated to plenary sessions, divided into two subcategories that are "Decisions/Acts" and "Administrative".⁶⁹ These include announcements for plenary meetings as well as the plenary meeting. It is to be stressed that announcements about plenary meetings are to be found under "Announcements".⁷⁰ Also, it

66 According to these provisions, the Chair is responsible for securing that the administration takes all necessary measures for the orderly documenting of the plenary meeting, through: a) the audio recording that should be made public on the official website of the Councils within 24 hours from the day of the meeting; b) meeting minutes of the discussions, which is published on the internet website after being approved by the following meeting, deleting any reference to concrete names, except for the names of the Councils and the judges or prosecutors on whom disciplinary measures of suspension and dismissal have been issued.

67 Normative by-laws, collective administrative acts, individual administrative acts, internal rules, and instructions

68 For more information, go to <http://klgj.al/dokumentimi-i-mbledhjes-plenare/>

69 For more information, go to <https://klp.al/category/seanca-plenare/>

70 For more information, go to <https://klp.al/category/seanca-plenare/#>

is worth mentioning that before February 16, 2021, the HPC's decision-making was categorized in a specific manner, specifying whether an act is related to temporary assignment, assignment as acting, verification, etc.

The HJC's internet website under "Announcements" includes press releases, publications, announcements about vacancies, and the calendar.⁷¹ However, we find that the latter has not been updated and does not contain information on the items of the agenda to be reviewed in subsequent sessions.⁷² Likewise, it should be emphasized that there is no window for obtaining complete information on following meetings or communicating the planned agenda.⁷³ HJC's decisions are published unaccompanied by the relevant reports on which the decisions are based, providing insufficient transparency for the public. Also, it has been noticed that the updating of meeting minutes under the title 'Summary of Discussions' is slower compared to the audio recording of meetings under "Audio Recordings".⁷⁴ Audio recordings are of good quality, enabling one to understand the discussion, except for rare exceptions. The rubric "Transparency Program"⁷⁵ contains among others the important section of "Register of Requests and Responses," which illustrates in a summarized manner the entirety of requests for information from the public, organizations, or institutions and data regarding responses given. The register of requests is updated time after time. Until the end of the monitoring period, the register provided information on requests for information until October 26, 2021.⁷⁶

HPC meetings are documented and published, in audio recordings and written meeting minutes, and may be accessed under the same rubric, as mentioned at the start of this chapter. In special cases, the discussion takes place without an audio recording and the HPC publishes only the conclusion of the discussion and the vote. However, such cases are exceptions.⁷⁷ The HPC's official website, under the rubric "Transparency Program"⁷⁸ is similar to HJC's while the meeting minutes under "Plenary Sessions",⁷⁹ are accompanied by the audio recording, which makes it practical for the user to access at the same time the written summary and the audio recording. The meeting minutes often are missing in the newest au-

71 <http://klgj.al/njoftime/>

72 From the period of January-August 2021, the calendar does not offer information regarding future sessions and the search engine is not functional

73 The agenda is usually communicated by the HJC Chair at the start of the session and it is not so unusual that, in accordance with article 67.3 of law no. 115/2016, at least 6 members present decide to include an issue that was not part of the agenda

74 At the end of August 2021, the audio recording of the last session of the month (August 26, 2021) had been published, the summary of discussions stopped at June (namely meeting of June 25, 2021). Although Law no. 115/2016, article 69(3), envisages that the meeting minutes of the HJC meeting should be approved by the next meeting of the Council, this procedure is not seen regularly in audio recordings of the meetings and is not reflected in the publication of written summaries on the date of the following session.

75 <http://klgj.al/programi-i-transparences/>

76 <http://klgj.al/regjistri-i-kerkesave-dhe-pergjigjeve-i-perditesuar-2021/>

77 We may mention here the meeting of April 1, 2021, in the context of disciplinary proceedings on prosecutor B.M., a prosecutor at the Krujë Judicial District Prosecution Office.

78 Until the end of the monitoring period, the register contains requests dating up to August 2021

79 <https://klp.al/2021/04/15/seanca-plenare-nr-94/>

audio recordings, given that they are approved by members during the following plenary sessions.⁸⁰ This has become more evident during the summer July – August 2021, given that until the start of September 2021, no written meeting minutes were published next to the audio recordings. As the audio recordings, the meeting minutes of HPC meetings offer the possibility to be downloaded by anyone, unlike the HJC's practice, which enables the download of the meeting minutes but not the audio recordings. It is worth stressing that, unlike the HJC, the announcement about subsequent meetings are generally published on the internet website. However, as in the case of the HJC, the agenda of the meeting is presented at the start of each meeting by the Chair. Likewise, the addition of new issues for discussion in the meetings is a normal practice.

1.2.3 Reasoning and Publication of Council Decisions

During the monitoring period, we notice that the decision-making of the Councils is characterized by an elaboration and arguments of the reasoning, with special emphasis on decisions having to do with the ethical and professional evaluation and the issuance of disciplinary measures. The standard of publication of decision making in plenary meetings of the Councils is not applied evenly even for decisions of the Commissions functioning in the Councils. AHC notes that the Councils' official websites should contain special rubrics on the decision-making of each commission.

A. High Judicial Council

Decisions of the HJC have clear language and reasoning is relatively understandable by the public, accompanied by the citing of the legal provisions they rely upon. The reasons for the ethical and professional evaluation of judges are argued in a more detailed manner by the rapporteurs, devoting extensive attention to each of the legal criteria of evaluation. The importance attached to the ethical and professional evaluation process for judges is reflected also in the length of discussions on them. A similar approach is noticed in discussions regarding the issuance of disciplinary measures. Usually, plenary session that included such issues in the agenda lasted longer (over 3 hours) compared to plenary sessions that didn't, which may vary from 30 minutes to about 1 hour.⁸¹ Regarding the candidacy of magistrates for promotions, the Council generally was careful to evaluate each of the candidates and argue the selection of one of them.⁸²

Unlike the practice pursued by the HPC, the High Judicial Council did not publish on its official website the decisions signed by the members. In or-

⁸⁰ For instance, for audio recordings of HPC meetings of 18.03.2021, 26.03.2021 and 29.03.2021, the meeting minutes are yet to be attached (note of 30.03.2021).

⁸¹ The above values are based on an average estimation of the length of sessions by topics discussed. There may be exceptions

⁸² For instance, the meeting of 29.04.2021

der to understand the way each member voted, those interested should read the contents of the meeting minutes from the plenary session. According to the law,⁸³ publikimi i emrave të anëtarëve të Këshillit vlerësohet i domosdoshëm në the publication of the names of Council members is considered essential in the contents of the meeting minutes, it is unclear why the names and respective signatures are not reflected in the published decisions.

On October 14, 2022, the HJC reacted with a press statement,⁸⁴ in response to claims of a media representative about lack of transparency in the activity of the Council, in the context of the verification process for court chancellors on duty.⁸⁵ The meeting where this issue would be discussed was decided to be held behind closed doors, in order to review materials that 'contain personal, confidential data, and in certain cases even classified data.' AHC considers that the HJC relied in this decision on a *lex generalis* and not a *lex specialis*, such as law no. 115/2016. On the other hand, the HJC justifies its position (among others) on the inability to reveal a state secret but does not provide details on the nature of the classified information as such and which the bodies are that are tasked with making this classification. In AHC's opinion, the HJC could have used methods envisaged in the law for the protection of such information, such as publication of these materials by deleting references to concrete names and other confidential information.

B. High Prosecutorial Council

As the HJC, the decision-making of the HPC also features the use of clear and understandable language, characterized by complete and detailed reasoning in cases of disciplinary proceedings of magistrates, as well as cases of verification of assets and the figure of candidates. Decisions on the issuance of disciplinary measures on prosecutors have been elaborated and reasoned by reflecting a higher level of transparency than the HJC. To illustrate, the case of a decision to issue a disciplinary measure on prosecutor B.M., in a very elaborated material, the HPC argued in detail the prosecutor's problematic decisions, his legal deficiencies, and the claims of the subject of proceedings.

83 Looking at article 66, paragraphs 8 and 9, as well as 69, paragraphs 2 and 3, of law no. 115/2016, the lawmaker devoted special importance to transparency before the public through the publication of the meeting minutes with the summary of discussions and the audio recordings, deleting every reference to concrete names, except for the names of the members of the Council and the names of judges on whom disciplinary measures of suspension and dismissal were issued.

84 The HJC states in its statement that it respected legislation on information classified as "State secret" and the one on personal data protection, the Administrative Procedure Code, and article 10/2 of the ECHR.

85 <http://klgj.al/deklarate-2/>

Reports on the ethical-professional evaluation of prosecutors are not published as separate documents by the HPC, but only mentioned in the meeting minutes. Under the rubric of “Decisions/Administrative Acts” regarding the approval of the ranking of candidates for a vacancy,⁸⁶ the accompanying reports that are part of the decisions have not been published.

1.2.4 Transparency to the public in terms of priorities

Regarding this issue, the HPC appears to be a step ahead given that the Strategic Plan for the period 2021 – 2024, approved in December 2020, is published on its official internet website. The failure of the HJC to publish this document is an element that affects the Council's transparency (a finding noted close to the end of 2021). The strategic plan is of importance for the public and anyone else interested, as it contains the programs and objectives of the Council, what has been accomplished and what remains to be accomplished, the action plan, risk assessment, performance indicators, and expenses.

1.3 PRINCIPLE OF RESPONSIBILITY (PARTICIPATION, QUORUM, AND INTERNAL DEBATE)

1.3.1. Participation of Members in Council Meetings

In the Council meetings, we notice the participation of all members and only in some exceptions, there were few absences by members for health or other objective reasons. In any case, the meetings reflected on the respective internet websites of the Councils do not indicate lack of quorum among members.

1.3.2. Debate in meetings – Indicator of Internal Democracy

A. High Judicial Council

In HJC's plenary sessions during the monitoring period, we find agreement and a calm environment of discussion among members about topics on the agenda. In the first plenary meeting of March 12, 2021, on the proposal of the President of the Republic for 4 candidates for members of the High Court, there was no debate, but unanimous agreement by HJC members. Without seeking to minimize the importance of this meeting and the HJC's decision-making, in principle, we consider the constructive

⁸⁶ E.g., decisions no. 83, 84, 85 etc. of 31.03.2021:
<https://klp.al/ep-content/uploads/2021/04/vendim-nr-83-date-31.03.2021.pdf>
<https://klp.al/ep-content/uploads/2021/04/vendim-nr-84-date-31.03.2021.pdf>
<https://klp.al/ep-content/uploads/2021/04/vendim-nr-85-date-31.03.2021.pdf>

debate about the quality of candidates for one of the key bodies of the judicial system, would be very valuable.

In general, the ethical-professional evaluations of judges and magistrates were accompanied by discussions and questions-and-answers among members and the subjects of proceedings. Regarding the disciplinary proceedings of magistrates, the latter were given the opportunity to listen and participate in discussions. An important and intensive discussion was that on the disciplinary proceedings on the former chair of the Elbasan Judicial District Court, who was accused of disciplinary violations after the publication on “TikTok” social media of videos violating the principles of the magistrate’s ethics.⁸⁷ Following a referral by the HJI, the hearing continued with numerous questions and answers by the members of the Council to the magistrate who was the subject of the proceedings.⁸⁸ It is notable that the discussions of the members, following the departure of the parties⁸⁹ are not audible. The registration is interrupted at the end of the questioning session and resumes when the decision is given by the HJC. Regarding procedures pursued by the HJC on the promotion of judges, we notice brief discussions and, after the assignment of the presented candidates, the Council proceeds with verifying the legal criteria for running for promotions.⁹⁰ The HJC reflected almost absolute agreement on issues of a frequent or routine nature, such as the assignment of judges to hear special judicial cases in courts different from the ones where they exercise their functions permanently, exclusion of judges from the electronic lots for objective reasons, etc.

B. High Prosecutorial Council

Compared to the HJC, the HPC features more debate in a considerable number of meetings. As in the case of the HJC, the majority of discussions have to do with disciplinary proceedings of magistrates. To illustrate, AHC observers report that in the meeting of June 22, 2021, during the disciplinary proceedings on prosecutor S.H., there was discussion among HPC members about the rules of announcing HPC decisions in cases when the subject of the proceedings is under isolation, in keeping with article 190 of law no. 96/2016. Similar elements were noticed also in the debate that preceded the decision for the suspension of prosecutors M.S. and E.K.⁹¹ Also, on issues such as the transfer of prosecutors through parallel assignments, AHC observers report that there were discussions in the Council,

⁸⁷ Held in the session of June 7, 2021

⁸⁸ It is noticed that such materials (or their summaries) are not accessible by the public

⁸⁹ Around 01:14:00

⁹⁰ For instance, in the meeting of 29.04.2021

⁹¹ In the meeting of July 7, 2021

such as the case of the meeting on June 9, 2021.⁹² The debate on a few exceptional cases takes place with two or more members speaking at the same time, which makes it difficult for those listening to the audio recording to follow the conversation.⁹³ However, such cases are not frequent and do not last.

On the other hand, one notices that the approval of reports about the ethical-professional capabilities of subjects of re-evaluation (prosecutors), in most cases, was voted without much debate by members.

Regarding the voting process on decision-making, the HPC Chair states the agreement of the Council (in cases of unanimous or non-unanimous agreement) and members do not express themselves audibly about their agreement. This is a practice different from that of the HJC, which guarantees good transparency before the public as, in every case, both in case of unanimous decisions in favor or against, HJC members pronounce personally about their decisions.

1.3.3 Monitoring of the quorum and aspects related to premises of corporatism, based on divisions among members from the judiciary and outside the judiciary in HJC decision-making

Referring to the meeting minutes that reflect discussions of members present in the meetings held during the monitoring period, it is noticed that all decisions were taken with full unanimity of members; there was no case of members voting against or having parallel views. At first sight, the lack of divisions in decision-making among members from the judiciary and outside the judiciary does not create premises for decision-making of corporatism, i.e. the judiciary favoring or protecting the judiciary. Nevertheless, unanimity in decision-making again is a disputable element of internal democracy that creates premises of a status-quo that, if continued long-term, might bear the potential of “capture.”

These decisions, as will be analyzed below, are categorized for the most part as individual or collective administrative acts while a smaller number are regulatory acts, followed by normative acts.

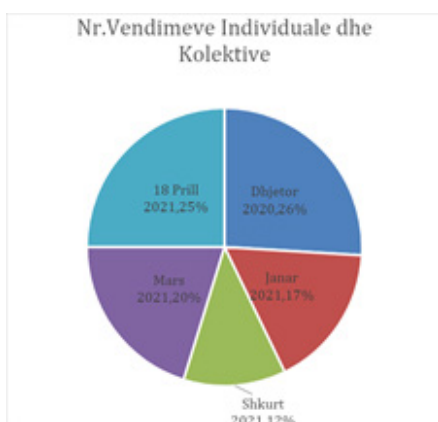
In some cases, as will be illustrated further, there were absences of members in the meetings, which were reported in the meetings. In most cases of absences of members, it is noted that they are usually the same mem-

⁹² In this meeting, a part of the members discussed the effectiveness of opening vacancies for parallel assignments, given that there are still magistrates who do not have two work evaluations to become part of the parallel movements, which would lead to marked vacancies, especially in remote areas.

⁹³ For instance, the debate in the plenary session of February 16, 2021, from minute 06:00 and onwards.

bers. In sporadic cases, the absence of one or more members from among the judiciary has led to decision-making in the presence of other members of the judiciary who either were the same number as non-magistrate members or there were cases when they were in minority. In this regard, it is worth pointing out the meeting of December 29 where it appears that 6 decisions⁹⁴ were taken unanimously among 5 non-magistrate members and 3 magistrate members, in the absence of 3 members from the judiciary. However, the unanimity of decision-making in this section, in spite of discussions on elements of internal democracy, on the other hand, did not harm the superiority of judge members compared to non-judge members.⁹⁵

1.3.3.1 Individual and collective administrative acts



The process of monitoring HJC decision-making extended over two respective periods. Namely, during the first period of monitoring, 01.12.2020 – 18.04.2021, the HJC made 208 decisions that are categorized as collective and individual administrative acts. The highest number of decision-making in the category of collective and individual acts is found in December 2020 (54 decisions or about 26%) and 1-18 April, 2021 (33 decisions or about 25%).

Based on the monitoring conducted during December 2020, it was found that almost all meetings featured absences of members. Namely, on 01.12.2020 there was a unanimous vote between 5 non-magistrate members and 4 magistrate members,⁹⁶ due to the declared absence of two other members. Also, in the meetings on 04.12.2020,⁹⁷ 10.12.2020⁹⁸ and 16.12.2020⁹⁹ it was found that one of the members from the judiciary did not participate, making the quorum of members present in the meeting voting unanimously in favor of decisions contain 5 magistrate and 5 non-magistrate members. The publication of the meeting minutes of the meeting on 16.12.2020, during the review of decision-making no. 634 and 635, remains unclear. Aside from stating and reflecting the unanimous

94 Decisions no. 348-354

95 This is because even if the presence of absent members was presumed, the decisions were taken by such a majority that they would still be valid even in those cases .

96 Decision no. 596, dated 01.12.2020 <http://klgj.al/ep-content/uploads/2020/12/VENDIM-No.-596-dat%C3%AB-01.12.2020-P%C3%8BB-CAKTIMIN-E-GJYQTAR%C3%8BVE-P%C3%8BB-GJYKIMIN-E-%C3%87%C3%8BSHTJEVE-GJYQ%C3%8BSORE-T%C3%8B-VE%C3%87ANTA-N%C3%8B-GJYKATA-T%C3%8B-TJERA-T%C3%8B-NDRYSHME-NGA-AJO-KU-USHTROJN%C3%8B-FUNKSIONET-N%C3%8B-M%C3%8BNYR%C3%8B-T%C3%8B-P%C3%8BRHERSHME.pdf>

97 Decisions no. 600-608

98 Decisions no. 609-633

99 Decisions no. 634-639

vote in favor of participating members, AHC observers refer that for the 2 non-magistrate members and 1 magistrate member, the audio published on the HJC's official website is not possible to hear the vote. Even the summary of the decision does not reflect the approval by unanimity or by simple majority of participating members. **This form of publication of the summary of discussions should have been administered with due diligence by the HJC.**¹⁰⁰ In the meeting of December 23, there appear to have been two individual decisions¹⁰¹ and three collective administrative acts,¹⁰² while discussions during the review of which are not published on any transcript, although the audio recording is published on the official website.¹⁰³ This fact **runs counter to article 69, paragraph 3 of law no. 115/2016, because the subsequent plenary meeting of the HJC was held on 29.12.2020,¹⁰⁴ but even the transcript of discussions in this meeting was not transcribed or published in the HJC official website.**¹⁰⁵

In January 2021, we find that the HJC made decisions to review various issues in 35 plenary sessions. One of the magistrate members in the HJC did not participate in the discussion of issues and the review of decision-making during two meetings of 21.01.2021¹⁰⁶ and 25.01.2021,¹⁰⁷ making these decisions be approved unanimously by the 10 present members, with equal participation from those representing the judiciary and those outside the judiciary.

In February 2021, there were 25 decisions made by the HJC during the review of different issues in plenary sessions. The first meeting of February 2021, held on 04.02.2021, where 5 decisions were made¹⁰⁸ took place with the presence of all HJC members; meanwhile, decisions in the following meetings were made in the absence of the non-magistrate member, in her capacity of HJC Chair. The possibility of holding meetings by video-conference created flexibility also for members who were not able to be present in the meetings.

During March 2021, the HJC made 42 decisions. The first two meetings and the last meeting did not have any absences of HJC members, while there were absences in some of the ensuing meetings. To illustrate, in the meeting of 03.03.2021, where there were two decisions,¹⁰⁹ one non-magistrate

100 In respect of paragraphs 4), 5) and 6) of article 69 of law no. 115/2016, members whose vote was not understood clearly enjoyed the right to have the meeting minutes corrected within the 5-day deadline and highlight the accurate result of voting.

101 Decisions no. 644 and 642 dated 23.12.2020

102 Decisions no. 645, 646 and 647 dated 23.12.2020

103 <http://klgj.al/regjistrimi-audio/>

104 Press Release, 29.12.2020 <http://klgj.al/njoftim-per-shtyp-date-29-dhjetor-2020/>

105 By decision no. 46, dated 11.02.2021, the HJC approved meeting minutes of meetings held on 23.12.2020 and 29.12.2020. <http://klgj.al/wp-content/uploads/2021/02/VENDIM-NR.-46-DAT%C3%8B-11.02.2021P%C3%8BR-MIRATIMIN-E-PROCESVERBALEVE-T%C3%8B-MBLEDHJEVE-T%C3%8B-K%C3%8BSHILLIT-T%C3%8B-LART%C3%8B-GJYQ%C3%8BSOR-1.pdf>

106 Decisions no. 13-17

107 Decisions no. 18-32

108 Decisions no. 38, 39, 40, 41 and 42

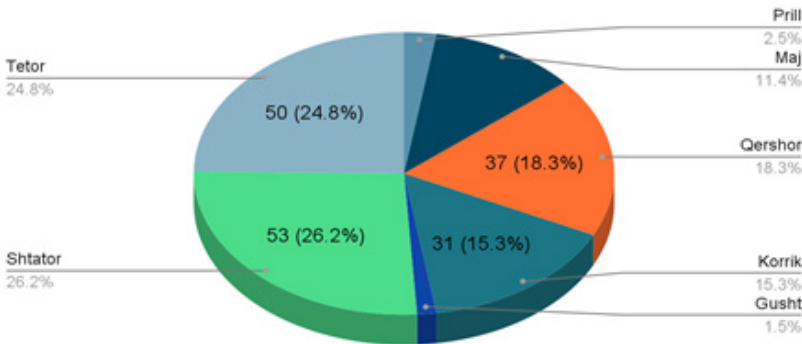
109 Decisions no. 72 dhe 73 datë 03.03.2021

member and two magistrate members were absent, reducing the valid quorum for decision making to 4 non-magistrate members and 4 magistrate members. The meeting minutes for meetings held on 04.03.2021¹¹⁰, 05.03.2021¹¹¹, 09.03.2021¹¹², 11.03.2021¹¹³, 12.03.2021¹¹⁴, 17.03.2021¹¹⁵, 18.03.2021¹¹⁶, it appears that the magistrate member did not participate for objective health reasons, with the quorum of members voting in favor consisting of 5 magistrate members and 5 non-magistrate members.

During the period April 1, 2021 – April 18, 2021, 52 decisions were published on the HJC's official website. For the most part of the decisions, we notice the presence of all HJC members, but there were also exceptions. In the meeting of 02.04.2021, one magistrate was absent, while decisions were taken unanimously between the 5 magistrate members and the 5 non-magistrate members, all present in the meeting. The absence of two magistrate members and the HJC chair as a non-magistrate member in the meeting of 08.04.2021 led to five decisions¹¹⁷ being approved unanimously by 8 members of the HJC, namely 4 magistrate members and 4 non-magistrate members.

During the second half of the monitoring period, 19.04.2021 - 30.10.2021, the HJC made a total of 286 decisions, approving individual and collective administrative acts. With regard to administrative acts, we notice that the HJC approved the highest number of decisions in September (53 decisions or about 26.2%) and October 2021 (50 decisions or about 24.8%).

Nr. Vendimeve



¹¹⁰ Decisions no. 74-78

¹¹¹ Decisions no. 79

¹¹² Decisions no. 80-83

¹¹³ Decisions no. 84-87

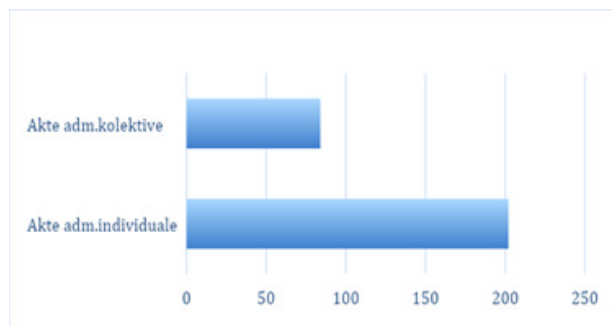
¹¹⁴ Decisions no. 88-91

¹¹⁵ Decisions no. 92-98

¹¹⁶ Decisions no. 99-103

¹¹⁷ Decisions no. 138-142

Based on the number of decisions made during this period, we notice that the HJC fulfilled its legal obligation per article 66 of law no. 115/2016 as the meetings conducted within a 1-month period, are more than 1 per month.¹¹⁸ Furthermore, it is noticed that the highest number of decisions corresponds to individual administrative acts, namely 202 issued decisions while 84 consist of collective administrative decisions .



Based on the verified meeting minutes, given that the reading of the decisions does not reflect the quorum of members present and respective absences, it is found that all decisions monitored were approved unanimously, that is with the votes of all members who were present. All decisions appear to have

been made in accordance with the valid quorum of members present, based on article 68, paragraph 1, of law no. 115/2016.

During the period April 19-30, 2021, the HJC made 11 decisions in its plenary meetings, approving 6 collective administrative acts and 5 individual administrative acts. During this period, there were absences of members only in two of the meetings, namely the HJC Deputy Chair, as a non-magistrate member in the meeting of 22.04.2021¹¹⁹ Meanwhile, in the meeting of 26.04.2021, it is noticed that the meeting took place with the presence of 8 members, namely 4 non-magistrate members and 4 magistrate members.

In May 2021, the HJC issued 33 decisions, approving 10 collective administrative acts and 23 individual administrative acts. The overwhelming majority of the decisions were taken by full quorum of members, namely 6 magistrate members and 5 non-magistrate members, while only in the meeting of 28.05.2021, there was an objective absence of a magistrate member, leading to the approval of the decision by 10 present members, 5 of which magistrates and 5 others non-magistrate members.¹²⁰

During June 2021, the HJC approved 49 decisions, of which 37 individual administrative acts and 12 collective administrative acts. During this

¹¹⁸ An exception occurs only in August 2021, whereby the HJC appears to have held only the meetings of 04/08/2021 and 05/08/2021, in which it only issued one collective decision "On the assignment of a judge to review a case through the delegation scheme" and 3 individual decisions "On setting hearing sessions to review requests of the High Justice Inspector on starting disciplinary proceedings on two magistrates, judges, namely in the Elbasan and Vlora Judicial District Courts, as well as "On the termination of the status of a judge in the Tirana Judicial District Court due to her resignation from this status."

¹¹⁹ Four decisions were made in this meeting, namely decisions no. 168, 169, 170, 173. <http://klgj.al/akte-administrative-individuele-2/>

¹²⁰ Decision no. 221, dated 28.05.2021 <http://klgj.al/ep-content/uploads/2021/07/221-vendim-aktim-gjyqtari-delegime-28.05.2021-KLGJ-1.pdf>

month too, there were absences of some members that did not affect the quorum for the validity of meetings and for making decisions. To illustrate, in the meeting of 02.06.2021, about 9 decisions were made in the absence of the non-magistrate member, who is also the HJC chairperson.¹²¹ Also, the absence of the Chair and 2 magistrate members led to the meeting of 10.06.2021 making unanimous decisions of 4 magistrate members and 4 non-magistrate members.¹²² A high number of decisions, namely 8, were made in the plenary session of 17.06.2021,¹²³ in the presence of 10 members, during which 5 magistrate members and 5 non-magistrate members voted in favor.

During July 2021, the HJC issued 58 decisions, of which 2 preliminary decisions¹²⁴ and 1 draft decision.¹²⁵ In most of the plenary sessions held during this month, there is an absence of the HJC chair, specifically in the meeting of 22.07.2021, in which 8 decisions were made¹²⁶ unanimously between the 4 non-magistrate members and the 6 magistrate members. The same finding applies to the meetings of 26.07.2021¹²⁷, 27.07.2021¹²⁸ and 28.07.2021¹²⁹. In the meeting of 23.07.2021, the Chair, one non-magistrate member, and a magistrate member are absent,¹³⁰ etc.

In August, which is partially a month of the members' annual holidays, there were 2 meetings, namely on August 4 and 5, in which there were 4 decisions, 3 of which were made with one magistrate member absent.¹³¹

During September 2021, 69 decisions were verified on the HJC's official website. There were absences in three of the meetings. The absence of the magistrate members was noticed in the meetings of 02.09.2021¹³² and 16.09.2021¹³³, with only 5 magistrate members and 5 non-magistrate members being in favor of the decisions. The absence of the Chair in her

121 The following decisions were made in this meeting no. 222, 223, 224, 225, 226, 227, 228, 229, 210

122 Decision no. 252, dated 10.06.2021

123 Decisions no. 255, 256, 257, 258, 259, 260, 261, 262.

124 Preliminary decision no. 314, dated 16.07.2021, <http://klgj.al/ep-content/uploads/2021/09/VENDIM-PARAPRAK-No.-314-dat%C3%AB-16.07.2021-P%C3%8BR-PROPOZIMIN-P%C3%8BR-EM%C3%8BRIM-N%C3%8B-GJYKAT%C3%8BN-E-LART%C3%8B-N%C3%8B-POZICIONIN-E-LIR%C3%8B-N%C3%8B-FUSH%C3%8BN-E-T%C3%8B-DREJT%C3%8BS-ADMINISTRATIVET%C3%8B-SHPALLUR-ME-VENDIMIN-NO.-245-DAT%C3%8B-09.07.pdf>

Preliminary decision no. 304, dated 13.07.2021 <http://klgj.al/ep-content/uploads/2021/07/VENDIM-PARAPRAK-No.-304-dat%C3%AB-13.07.2021-P%C3%8BR-PROPOZIMIN-P%C3%8BR-EM%C3%8BRIM-N%C3%8B-GJYKAT%C3%8BN-E-LART%C3%8B-N%C3%8B-POZICIONIN-E-LIR%C3%8B-N%C3%8B-FUSH%C3%8BN-E-T%C3%8B-DREJT%C3%8BS-CIVILE.pdf>

125 Draft decision no. 322, dated 22.07.2021, <http://klgj.al/ep-content/uploads/2021/09/PROJEKTVENDIM-No.-dat%C3%AB-2021-P%C3%8BR-PROPOZIMIN-P%C3%8BR-EM%C3%8BRIM-N%C3%8B-GJYKAT%C3%8BN-E-LART%C3%8B-T%C3%8B-KANDIDATIT-Z.-%E2%80%A6.pdf>

126 Decisions no. 317, 318, 320, 321, 315, 316, 319, 328

127 Decision no. 330

128 Decisions no. 331 and 332.

129 Decisions no. 333 and 334.

130 Decision no. 239 was taken in this meeting

131 Decisions no. 338, 339, 341

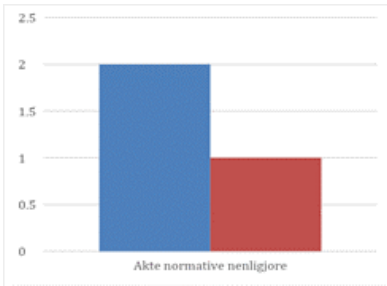
132 Absent in this meeting was member Mr. Bici, decision no. 344 was taken

133 Absent in this meeting was member Ms. Ukperaj, and the decisions taken were no. 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356

capacity as a non-magistrate member and one magistrate member was noted in the meeting of 23.09.2021 and the decisions were approved by 4 non-magistrate members and 5 magistrate members.

During October, the HJC issued 62 decisions. The absence of 2 non-magistrate members led to 10 decisions¹³⁴ taken in the meeting of 04.10.2021 to be voted in favor by 3 non-magistrate members and 6 magistrate members. Also, the absence of a non-magistrate member was also noted in the meetings of 05.10.2021 and 13.10.2021. In the latter one, also one magistrate member was absent, with the quorum of members present and voting in favor of 6 decisions¹³⁵ of this plenary session and the votes of 4 non-magistrate members and 5 magistrate members.

1.3.3.2 Normative Acts



During the first phase of the monitoring, December 1, 2020 – April 18, 2021, the HJC issued decisions on a limited number of normative by-laws, exactly 3 acts, 2 of which approved in December 2020¹³⁶ and 1 approved¹³⁷ in February 2021.

Through the normative by-laws, the HJC approved the instructions on maintaining and filling tables with statistical data for the purpose of measuring and monitoring the productivity and efficiency of the courts,¹³⁸ standard rules for the organizational structure and job descriptions,¹³⁹ as well as rules on parallel appointments, promotions, and admission into the civil judicial service.¹⁴⁰ In the meeting of 11.02.2021, we find that the guide was approved with the quorum of 4 non-magistrate members and 5 magistrate members, in the absence of the HJC chair and 1 magistrate member. **The meeting minutes of discussions in the meeting of 23.12.2020, during which an act was approved by decision no. 643 has not yet been published, making it impossible to verify the way in which members present in the meeting voted.**¹⁴¹

¹³⁴ Decisions no. 430, 431, 432, 433, 434, 436, 437, 438, 439, 440

¹³⁵ Decisions no. 465, 469, 471, 472, 473, 474

¹³⁶ Decision no. 622, dated 10.12.2020 and no. 643, dated 23.12.2020

¹³⁷ Decision no. 47, dated 11.02.2021 <http://klgj.al/ep-content/uploads/2021/03/VENDIM-No-47-dat%C3%AB-11.02.2021-P%C3%8BR-MIRATIMIN-E-%E2%80%99CUDH%C3%8BZUESI-%E2%80%99CP%C3%8BR-MBAJTJEN-DHE-PLOT%C3%8BSIMIN-E-TABELAVE-ME-T%C3%8B-DH%C3%8BNA-STATISTIKORE-P%C3%8BR-EFEKT-T%C3%8B-MATJES-DHE-MONITORIMIT-T%C3%8B-PRODUKTIVITETIT-DHE-EFI%C3%87ENC%C3%8BS-S%C3%8B-GJYKATAVE%E2%80%9D%E2%80%9D.pdf>

¹³⁸ Decision. no.47, dated 11.02.2021

¹³⁹ Decision no. 643, dated 23.12.2020

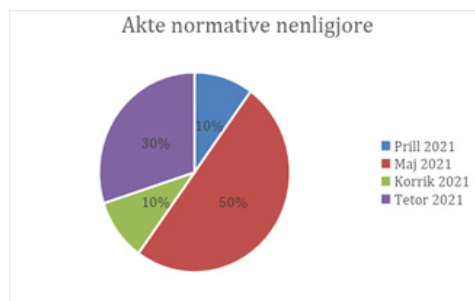
¹⁴⁰ Decision no. 622, dated 10.12.2020

¹⁴¹ Press release, dated 23.12.2020 <http://klgj.al/njoftim-per-shtyp-date-23-dhjetor-2020/>

During the second phase of the monitoring period, April 19, 2021 – October 30, 2021, the HJC issued 10 decisions categorized as normative by-laws, the highest number of which was approved in May 2021.

In April 2021, the HJC approved one of the most important normative acts, the Code of Judicial Ethics. In the meeting of 22.04.2021, it results that the decision was approved unanimously by 4 non-magistrate members and 6 magistrate members, with the absence of the Deputy Chair.¹⁴²

The normative acts approved in May and July 2021 were approved by all members present in the meetings of 12.05.2021¹⁴³, 26.05.2021¹⁴⁴ and 01.07.2021¹⁴⁵. During October, the HJC approved 3 normative by-laws. The meeting held on 05.10.2021 was held in the presence of most of the members, in the absence of the non-magistrate member, with three decisions being approved by the votes in favor of 4 non-magistrate members and 6 magistrate members.¹⁴⁶



1.3.3.3 Regulatory Acts

During the period of monitoring, the HJC issued 25 decisions on internal rules of procedure, which consist in the approval of various budget requests, meeting minutes, reduction or addition of funds, annual reports of the judicial system, and amendments of decisions. Such decisions were made with full unanimity of all HJC members, or the majority of members present in the meeting while in no case was there a citation of a minority view/opinion of a member that voted against.

¹⁴² Decision no. 171, dated 22.04.2021 <http://klgj.al/ep-content/uploads/2021/04/VENDIM-NO-171-DAT%C3%8B-22.04.2021-P%C3%8BR-MIRATIMIN-E-%E2%80%9CKODI-H-ETIK%C3%8BS-GJYQ%C3%8BSORE%E2%80%9D.pdf>

¹⁴³ Decisions no. 193, 194, 195

¹⁴⁴ Decisions no. 214 and 215

¹⁴⁵ Decision no. 277 <http://klgj.al/ep-content/uploads/2021/07/VENDIM-No-277-dat%C3%AB-01.07.2021-P%C3%8BR-MIRATIMIN-E-FORMULARIT-N%C3%8B-ZBATIM-T%C3%8B-NENIT-IO-T%C3%8B-LIGJIT.pdf>

¹⁴⁶ Decisions no. 441, 442 and 443

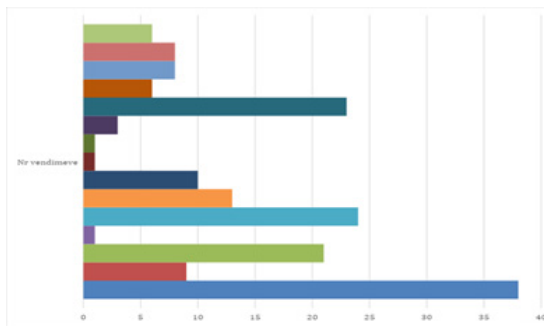
1.3.4 Monitoring the quorum and aspects related to premises of corporatism, based on the division between members from the prosecution system and outside the prosecution system, in HPC decisions

Unlike the HJC, it is difficult to highlight the nature of decision-making of the HPC on the HPC's official website; whether they are administrative acts of a collective nature, acts for the internal approval of rules of procedure and non-binding instructions.¹⁴⁷ The practice encountered in the signing of published decisions are different, including decisions for which the right to sign has been transferred to the chair and in his absence the deputy chair, while in some other decisions (as will be described further), there are instances of a lack of signatures, mainly of one or two members. In some instances, these members were absent entirely or partially on certain topics of the agenda, during discussions and decisions made in the meeting. The reasons for their absence have not been documented in the meeting minutes.

Unlike in the case of the HJC, HPC decisions feature sporadic cases of decisions that have not been made unanimously. In some cases, the decisions have been signed even by members who voted against, but the official website of the HPC does not publish their minority opinion. It is unclear whether such minority views or opinions were drafted by the respective members. Nevertheless, overall, the same conclusion applies to the HPC as to the HJC, as at first sight, there are no considerable divisions in decision-making among members from the prosecution and those outside the prosecution, which does not create premises for decision-making indicating corporatism, but on the other hand, does not avoid in the long-term premises for the status quo or "capture."

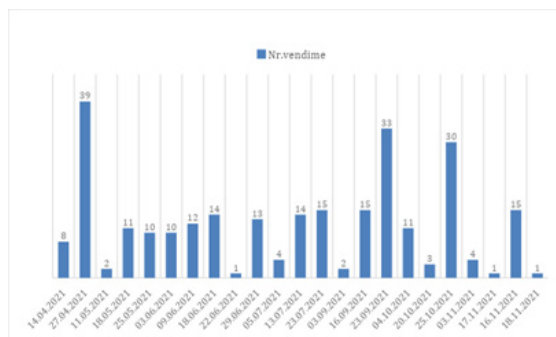
The first phase of monitoring of the decision-making activity of the HPC extended during 01.12.2020-13.04.2021. During this period, the HPC made 172

decisions, the highest number of which was approved on 29.12.2020, a total of 38 decisions, followed by the meeting of 27.01.2021, with 24 decisions.



Meanwhile, during the second phase of the monitoring, 14.04.2021 – 18.11.2021, the HPC made decisions in 268 cases, with the highest number of decisions

¹⁴⁷ Article no. 189 of law no. 115/2016. As a result, the analysis on this section does not pursue the same structural logic as in the case of the HJC decisions



on April 27, 2021, specifically 39 decisions, followed by the meeting of September 23, 2021, with 33 meetings.

Looking at the decisions under review, it is noticed that most of them were made unanimously by the 11 members of the HPC, namely with the signature of 6

magistrate members and 5 non-magistrate members, while some exceptions also occurred.

During this period, 38 decisions were signed by the HPC Chair,¹⁴⁸ based on the legal competence recognized in article 164, paragraph 8 of law no. 115/2016. Meanwhile, there are also 14 decisions signed only by the HPC deputy chair, 3 of which made on January 2021;¹⁴⁹ 1 decision approved in February 2021,¹⁵⁰ and 10 of them made in May 2021.¹⁵¹ The decisions appear to have been made by the majority of members present in the meeting, specifically 5 magistrates and 5 non-magistrates.

We found that there are no signatures by non-magistrate member Mr. Bazaj and magistrate member Mr. Staka in decisions of 10.12.2020¹⁵² and 10.02.2021.¹⁵³ These two members appear to have signed against the decisions made in the meeting of 14.01.2021.¹⁵⁴ Also, non-magistrate member Ms. Seiti signed against two decisions made in the meeting of 27.01.2021.¹⁵⁵ These decisions were approved by the majority of 10 members, specifically 4 non-magistrate members and 6 magistrate members.

The 10 decisions made on February 16, 2021, were in the absence of a magistrate member and a non-magistrate member, but were approved unani-

148 Decisions no. 284, dated 17.12.2020; no. 294, dated 17.12.2020; no. 17, dated 27.01.2021; no. 38, dated 02.02.2021; no. 41, dated 03.02.2021; no. 58, dated 12.03.2021; no. 60, dated 18.03.2021; no. 67, dated 26.03.2021; no. 82, dated 31.03.2021; no. 150, dated 27.04.2021; no. 152, dated 11.05.2021; no. 157, dated 18.05.2021; no. 163, dated 18.05.2021; no. 170, dated 25.05.2021; no. 173, dated 25.05.2021; no. 183, dated 03.06.2021; no. 184, dated 03.06.2021; no. 185, dated 03.06.2021; no. 186, dated 25.05.2021; no. 187, dated 25.05.2021; no. 188, dated 25.05.2021; no. 189, dated 25.05.2021; no. 190, dated 25.05.2021; no. 191, dated 25.05.2021; no. 204, dated 18.06.2021; no. 207, dated 18.06.2021; no. 228, dated 13.07.2021; no. 241, dated 13.07.2021; no. 250, dated 23.07.2021; no. 255, dated 23.07.2021; no. 305, dated 23.09.2021; no. 319, dated 04.10.2021; no. 326, dated 25.10.2021; no. 327, dated 25.10.2021; no. 328, dated 25.10.2021; no. 329, dated 25.10.2021; no. 351, dated 25.10.2021; no. 352, dated 25.10.2021.

149 Decisions no. 31, 32 and 33 dated 27.01.2021

150 Decision no. 42, dated 10.02.2021

151 Decisions no. 164 – 173 <https://klp.al/2021/05/27/vendime-date-25-05-2021/>

152 Decision no. 273, dated 10.12.2020 <https://klp.al/ep-content/uploads/2020/12/vendim-10.12.2020.pdf>

153 Decision no. 42, dated 10.02.2021 <https://klp.al/ep-content/uploads/2021/02/vendim-nr-42.pdf>

154 During which the interruption of the procedure to verify the assets and figure of the candidate magistrate for appointment as acting inspector at the HJI was being reviewed. See decision no. 8, dated 14.01.2021 <https://klp.al/wp-content/uploads/2021/01/vendimi-nr-8.pdf>

155 The decisions consisting in the verification of assets and figure of the two candidates for admission into the preliminary program of the School of Magistrates for academic year 2020-2021.

See Decision no. 32, dated 27.01.2021 <https://klp.al/wp-content/uploads/2021/02/Vendim-nr-32-date-27.01.2021.pdf>

See Decision no. 33, dated 27.01.2021 <https://klp.al/wp-content/uploads/2021/02/Vendim-nr-33-date-27.01.2021.pdf>

mously by 4 non-magistrate members and 5 magistrate members, except for one of the decisions in which, aside from the mentioned members, another magistrate member was also absent.¹⁵⁶

Of the 51 decisions made in March 2021, there were several absences of members, in some of the plenary session meetings. The absence of the magistrate member, a representative of the Prosecution Office at the Durrës Appeals Court led to 4 of the 5 decisions made in the plenary session of 12.03.2021¹⁵⁷ to be signed by 5 magistrate members and 5 non-magistrate members, while one of the decisions also saw the absence of the signature of non-magistrate member Ms. Seiti.¹⁵⁸

The signature against of non-magistrate member Ms. Seiti was also seen in the decision of 31.03.2021, in which a disciplinary measure on prosecutor B.M.¹⁵⁹ was reviewed. **The HPC official website does not contain the minority opinion of this member, which runs counter to article 164 paragraph 9 of law no. 115/2016.** There was also a lack of the signature by this member of 14 decisions of 13.07.2021¹⁶⁰, which were signed by 6 magistrate members and 4 non-magistrate members.

The signature of magistrate member Ms. Keshi was also noticed in the 4 decisions made on 05.07.2021,¹⁶¹ which were signed by 5 magistrate members and 5 non-magistrate members, present in the meeting. Two of these decisions had to do with suspension from duty of two prosecutors, pursuant to personal security measures issued on them. On 23.07.2021, the 15 decisions approved by the HPC are lacking the signatures of 3 HPC members while they have been made unanimously by members present in the meeting, 4 of which magistrates and 4 non-magistrates.

Of the 33 decisions made in the HPC's plenary session on 23.09.2021, we find that in 4 of them, the signature is missing for non-magistrate member Mr. Sandër Beci, representative of the body of lecturers of law schools and the School of Magistrates.¹⁶² These decisions consist in verifying the assets and figure of 4 candidates for admission into the beginner's program in the School of Magistrates for 2021-2022. Also, in this session, one of the signatures of two magistrate members and one non-magistrate member, the HPC chair, are missing in one of the decisions due to their absence while the case was being reviewed.¹⁶³

¹⁵⁶ Decision no. 47, dated 16.02.2021 was approved by 8 members, of which 4 from the prosecution system and 4 non-magistrates

¹⁵⁷ Decisions no. 53-57, dated 12.03.2021 <https://klp.al/2021/03/12/vendime-date-12-03-2021/>

¹⁵⁸ Decision no. 54, dated 12.03.2021

¹⁵⁹ <https://klp.al/ep-content/uploads/2021/04/Vendimi%20perfundimtar%20Bujar%20Memia%20per%20publikim.pdf>

¹⁶⁰ Decisions no. 228-241, dated 13.07.2021 <https://klp.al/2021/07/14/vendime-date-13-07-2021/>

¹⁶¹ Decisions no. 224-227 dated 05.07.2021 <https://klp.al/2021/07/08/vendime-date-05-07-2021/>

¹⁶² Decisions no. 292, 293, 294, 295 dated 23.09.2021

¹⁶³ Decisions no. 308, dated 23.09.2021

There is no signature by non-magistrate member Mr. Sandër Beci, representing lecturers of law schools and the School of Magistrates, in 3 of the decisions of 20.10.2021.¹⁶⁴ Present members in the plenary meeting voted in favor of these decisions, specifically 6 magistrate members and 4 non-magistrate members.

In the four decisions approved in the meeting on 03.11.2021, members present in the meeting, specifically 6 magistrate members and 4 non-magistrate members agreed unanimously and signed the decisions.¹⁶⁵ Non-magistrate member Ms. Seiti, a representative from the lawyers, was absent from this plenary session. Also, in one of the decisions, there is no signature by magistrate member, representative of the General Prosecution Office, Mr. Beluri.¹⁶⁶

On 17.11.2021, in counseling chamber, the HPC held its plenary session in the presence of the HJI, to review the request of this institution for the disciplinary proceeding of a prosecutor magistrate. At the end of this session, it was decided to accept the request and issue the disciplinary measure of “public reprimand” for disciplinary violations envisaged by paragraph 102, paragraph 1, letter d) of law no. 96/2016, amended. The decision was published anonymized and does not contain any of the signatures of the members who were part of the meeting.¹⁶⁷ **With regard to the lack of evidenced signatures in the decision by the present members, based on an analysis of article 190 of law no. 115/2016, AHC notes that the lawmaker did not envisage and did not intend to. highlight the possibility of extending anonymity even regarding the signature by Council members.**

The plenary session of 16.11.2021 concluded with 15 decisions by present members and, again, in some of them there is no signature by members.¹⁶⁸¹⁶⁹ There is an absence in the meeting and lack of signature of the non-magistrate member, the HPC Chair, in 6 of these decisions,¹⁷⁰ while 1 of them is not signed by 2 members, namely magistrate member Ms. Keshi (Cami), representative of the prosecution office and non-magistrate member, lawyers' representative Mr. Baza.¹⁷¹

Based on the number of cases of reviews of different issues on the agenda, in which some of the members did not participate during the review,

164 Decisions no. 320, 321 and 322 dated 20.10.2021 <https://klp.al/2021/10/20/vendime-date-20-10-2021/>

165 Decisions no. 353-365 dated 03.11.2021 <https://klp.al/2021/11/04/vendime-date-03-11-2021/>

166 Decision no. 354, dated 03.11.2021 <https://klp.al/wp-content/uploads/2021/11/vendim-nr-354-date-03.11.2021.pdf>

167 The meeting minutes of this session, although it has been 15 days since the announcement of the decision, has not been published on the HPC official website. This has to do with decision no. 372, dated 17.11.2021 accessible at <https://klp.al/2021/11/17/vendim-date-17-11-2021/>

168 In 7 decisions, there is a lack of signatures of magistrate member Mr. Staka, representing the Prosecution Office at the Shkodra First Instance Court, namely decisions no. 357, 358, 359, 360, 361, 362, 363 dated 16.11.2021 <https://klp.al/2021/11/18/vendime-date-16-11-2021/>

169 In 4 decisions, there is an absence and lack of signature of magistrate member Mr. Sheshi. This member did not participate in the review of several issues on the agenda of the meeting that issued 11 decisions, decisions no. 360 – 370.

170 Decisions no. 364, 365, 366, 367, 368, 370

171 Decision no. 370 dated 16.11.2021 <https://klp.al/wp-content/uploads/2021/11/Vendim-No.370-dated-16.11.2021.pdf>

but then returned, AHC would suggest that the plenary chair state in the meeting the reasons for the spontaneous absences of the members. Based on the analysis of audio registrations and meeting minutes of some of the meetings, it is unclear why there are absences and whether it is linked with their disagreement about certain issues and decisions. Debate in the Council, when reflecting different positions, is dominated by the narrative of non-magistrate members.

During the monitoring period, the HPC issued decisions on 1 by-law that approves the Regulations for the way of compensating overtime for prosecution office civil employees.¹⁷² Unlike the HJC, the HPC published the by-laws under the “HPC by-laws” legislation section.

¹⁷² Decision no. 284, dated 17.12.2020 <https://kjp.al/wp-content/uploads/2020/12/284.pdf>

PART TWO

2.1 ADMINISTRATION OF THE TEN COURTS WITH THE HIGHEST CASELOAD IN THE COUNTRY

In the context of monitoring the activity of the HJC and HPC, AHC identified the need to map 10 courts with the highest caseload in the country and to partially analyze the problems created in these courts after the reform in the justice system, in terms of efficiency and their internal management.

From a methodological standpoint, upon receiving information from the HJC about the 10 courts with the highest caseload, AHC addressed these courts with some official requests for information.

Data made available by these courts were not complete due to the lack of a standardized case management system. Nevertheless, AHC processed them and then analyzed them according to legislation in force; the purpose was to share the findings and recommendations with the HJC, the courts, researchers of the field, and above all to the broad public.

The 10 courts with the highest caseload in the country during the monitoring period were the High Court, the Appeals Courts of Tirana, Durrës, Shkodra (general jurisdiction), the Administrative Court of Appeals, the First Instance Courts of Tirana, Elbasan, and Shkodra (general jurisdiction), and the Administrative Courts of First Instance of Tirana and Durrës.

2.1.1 High Court of the Republic of Albania¹⁷³

2.1.1.1 Vacancies and the case backlog

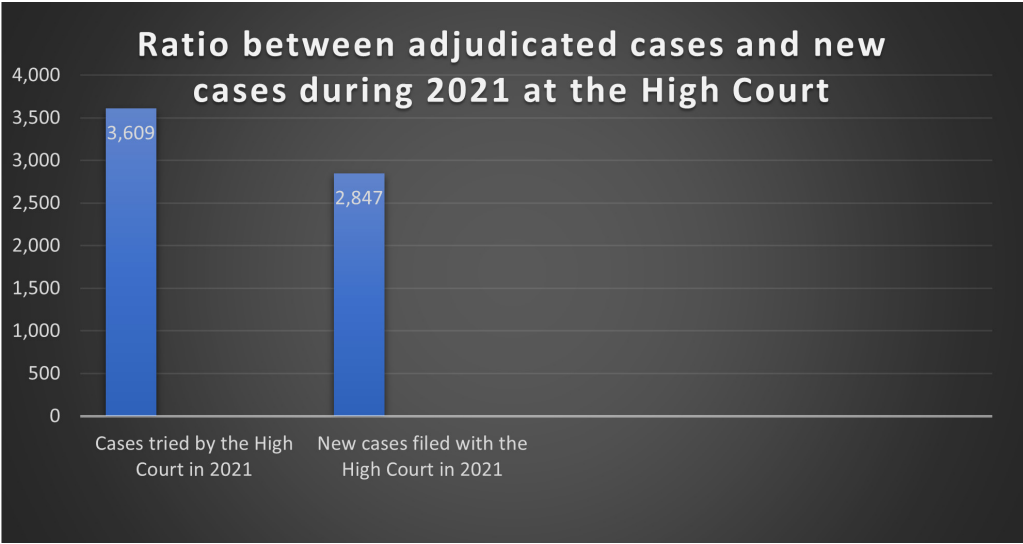
During the monitoring period, the High Court had 9 of the 19 members it should have in its structure. During 2016, 6 new members were appointed, which made it possible to form 9 panels of judges with three each, to adjudicate according to the respective colleges. However, it is worth stressing that during the first four months of the past year (2021), the High Court functioned with three judges while in the period April-September 2021, it functioned with 7 judges. From September 2021 onwards, it was possible to function with 9 judges.

At the end of 2020, the total number of cases awaiting trial in the High Court was 36,288 cases,¹⁷⁴ data made public by the High Court itself for

¹⁷³ Data reflected in this section have been obtained after official communication with AHC, namely the High Court, no. prot. 3724/1 dated 04.11.2021. Administered at AHC with no. prot. 751 dated 05.11.2021

¹⁷⁴ HJC Annual Report for 2020. P. 56. <http://klqj.al/wp-content/uploads/2021/06/Raporti-Vjetor-KLGJ-2020.pdf>

2021 indicate a reduction of the backlog. For 2021, the High Court rendered 3,609 decisions, thus bringing about a downward trend of the case backlog after a long time, with the caseload per year for one High Court judge during 2021 was over 500 cases.¹⁷⁵ Although the pace of adjudication was very good, it is worth emphasizing that the remaining backlog of cases created through the years is also increased with the new cases filed during 2021, namely 2,847 cases, with the total of cases awaiting trial at the High Court reaching 35,837.



2.1.1.1 Legal Service Unit (LSU)



During the period 2020 – 2021, a total of 11 new legal advisors were appointed to the High Court, of which 4 are assigned assistant-magistrates and 7 are non-magistrate legal aides, who concluded professional training at the School of Magistrates. According to the staffing structure approved by the HJC, the number of legal advisors at the Legal Service Unit should be 34 while it only has 1/3rd of the resources. AHC recommends the taking of further measures to complete the staff as that would make a positive contribution to supporting judicial bodies in reviewing cases that are on the waiting list.

measures to complete the staff as that would make a positive contribution to supporting judicial bodies in reviewing cases that are on the waiting list.

¹⁷⁵ The above statistical data have been obtained from communication with High Court Deputy Chair Mr. Sokol Sadushi on 30.12.2021 http://www.gjykataelarte.gov.al/web/Takim_i_Zevendeskrjetarit_te_Gjykates_se_Larte_z_Sokol_Sadushi_me_medi-an_13182_1.php

2.1.1.2 Measures to increase efficiency in this court

Referring to official communication,¹⁷⁶ it results that measures taken by the High Court and the HJC to increase efficiency in this court have moved in parallel, enabling the increased professional capacities of the court administration, improvement of work processes, and even an increased speed in conveying judicial information. The High Court speaks of effective cooperation with the HJC, in favor of identifying solutions for different problems it has encountered. Requests submitted to the HJC have consisted in the need to increase funds in order to carry out the activity of the court and increase the administrative staff. It is worth stressing that HJC's position on these requests has been supportive and approving. Also, partnership in the context of implementing different projects supported by international assistance missions,¹⁷⁷ has enabled the increase of professional and organizational capacities for coping with the high number of cases awaiting trial.

In particular, measures to cope with the case backlog may be summarized in the following table:

Measures of an administrative-organizational nature taken by the High Court to speed up the handling of cases			
Increase of administration's professional capacities	Improvement of working processes and quality of judicial services	Quick transfer of judicial information	Increased public transparency

Measures taken by HJC to increase High Court's efficiency		
Increase of administrative staff	Approval of agreement with the "Justice for All" project in Albania	Assignment of judges from lower courts to adjudicate special cases

Completion of the body of this Court with other judges – until the end of the monitoring period, there are 9 judges who cope with a high caseload of cases – has and will continue to have the most important impact in the efficient management of cases.

¹⁷⁶ Letter no. 3724/1 prot., dated 04.11.2021 "Response" to AHC, by the High Court

¹⁷⁷ Approval of the Agreement with the "Justice for All" project in Albania, funded by USAID

On March 23, 2021, the Assembly of the RA approved among others, by law no. 46/2021, some additions and amendments to law no. 98/2016 “On the organization of the judicial power in the RA.”¹⁷⁸ The proposed amendments regulate some aspects that have to do with the organization, functioning, competences, and internal organization of the courts; they also envisage that the system of legal aides expands also to the first instance courts.¹⁷⁹ It is worth stressing that the amendments to this law and to 9 other laws that are part of the justice reform package, a total of 154 additions and amendments were made to the Criminal Code, the Criminal and Civil Procedure Code, the organic laws of the Constitutional Court and the Prosecution Office, the laws on the organization of the judicial power, and the new institutions against corruption and organized crime. Thus, by law no. 44/2021 approved on the same day, some additions and amendments were made to the Civil Procedure Code of the RA that consisted, among others, in reducing the number of judges in panels of judges, for certain civil cases or in certain courts. such as that of the general Appeals Court and the High Court.¹⁸⁰ More or less along the same lines are the changes for the reduction of the number or clarification of the number of panels of judges for criminal cases, enacted by law no. 41/2021 “On some additions and amendments to law no. 7905, dated 21.3.1995, “Criminal Procedure Code of the Republic of Albania,” amended.”¹⁸¹

With regard to these amendments, 71 civil society organizations reacted to express concern that the process pursued to review and approve these draft laws represents a negative precedent as it is conducted through an accelerated procedure and runs counter to the Constitution of the Republic of Albania and the Rules of Procedure of the Assembly.¹⁸² Furthermore, the entire parliamentary procedure for reviewing these draft laws was carried out in the absence of transparency with the public and consultation with civil society, in conditions of urgency, in less than 30 days from the submission to parliament on February 25, 2021.¹⁸³

In spite of this position, AHC would recommend to the High Court but also to the other courts, especially the Appeals courts, to evaluate continually the impact resulting from these amendments since their entry into effect, vis-à-vis the efficiency of judicial activity, improved public access, simplification and acceleration of judicial procedures.

178 <https://www.parlament.al/Files/Akte/20210326115714ligj%20nr.%2046.%20dt.%2023.3.2021.pdf>

179 https://www.parlament.al/Files/ProjektLigje/202103221647522021_%20Raporti%20i%20projektligjit%20per%20disa%20shtesa%20dhe%20ndryshimeve%20ne%20ligjin%20per%20orga%20e%20pusht%20gjyq%20ne%20RSH_seance%20plenare.pdf

180 <https://www.parlament.al/Files/Akte/20210401122912ligj%20nr.%2044.%20dt.%2023.3.2021.pdf>

181 <https://qbz.gov.al/preview/b4819f4d-c246-49b3-87a9-2e6c8512c975>

182 Article 83, paragraph 3 of the Constitution of the Republic of Albania prohibits the application of the accelerated procedure in reviewing draft laws that require a qualified majority of all members of the Assembly.

183 <https://ahc.org.al/deklarate-per-media-kuvendi-miraton-ndryshime-te-rendeshime-te-reformes-ne-drejtisi-ne-mungese-te-nje-procesi-konsultimi-dhe-transparence/>

It is also worth emphasizing that according to the High Court, although the latest legal amendments had a positive impact on its work, “the possibility may not be ruled out to make further amendments to this end.” AHC considers that the courts, as part of the judicial power, should play a more proactive and well-coordinated role with one another (depending on their material competences) by making concrete proposals for amendments to the legal framework in force, to improve public access, and increase the efficiency of judicial activity. It is also worth stressing that in keeping with article 93 of law no. 115/2016, as the governing body of the judiciary, the HJC could coordinate such initiatives and exercise its competence to express opinions and make proposals regarding amendments to legislation that could affect the work of the judiciary.

Also, in spite of a very good pace of adjudication, referring to the high number of cases awaiting trial at the end of 2021 in the High Court, we suggest to the HJC to continue at a more dynamic pace the process of promoting to this court as well as to the Courts of Appeals where there have been vacancies resulting from the promotion of judges from the appeals level to the High Court. The HJC should be evaluated with adequate care by the HJC, with a strategic approach that does not create considerable vacancies and blocking of higher courts, such as the appeals ones.

2.1.1.4 Justice without Delay

Our civil procedure legislation explicitly establishes the reasonable deadlines that should be met in concluding investigations, adjudication, or the execution of decisions (reference to article 399/2 Civil Procedure Code). Given the vacancies in the High Court, the case backlog inherited through the years, as well as the considerable vacancies in the Legal Service Unit, there is an objective inability of the court to guarantee respect for reasonable deadlines for adjudication.

In its correspondence, the High Court underscores, “Respect for reasonable deadlines, envisaged in the Civil Procedure Code, as an element of the right to due legal process, as interpreted by the ECtHR in its jurisprudence, is not possible to guarantee in the current situation that the High Court is in”.

Based on article 89 of law no. 115/2016, AHC notes that the HJC should continue with further, more pro-dynamic steps, regarding judicial management in order to improve the productivity of the courts or reduction of the workload of judges and civil judicial employees. In the conditions of support provided by International Assistance Missions (such as USAID), we suggest to the HJC to draft a policy document, accompanied by a concrete implementation plan that seeks to encourage and recruit as many qualified jurists with integrity as possible, as legal aides; this would

contribute to increasing the pace for reducing the case backlog awaiting adjudication.

With regard to the criteria for taking cases under review, it appears that the review of cases in the High Court is done according to a chronological order, taking into consideration the time of their filing in court and, in special cases, the case is heard by an accelerated procedure, according to regulations envisaged by the HJC, and according to the order of the Court Chair, as an element of internal regulation.

2.1.1.5 General Meeting of Judges

With regard to the internal organization of the High Court, it is worth highlighting that the general meetings of the judges of the High Court have taken place regularly and discussed about the dissemination of judges to colleges; these positions have then been considered by the Court Council in relevant decisions.

2.1.2. Appeals Courts¹⁸⁴

In this part of the report, we will analyze the workload of four appeals courts, 3 of which are of general jurisdiction (namely, in Tirana, Durrës, and Shkodra) and the Tirana Administrative Court of Appeals.

2.1.2.1. Vacancies and the Case Backlog (including the situation during the pandemic)

The vetting process, as is known, has had positive effects in terms of cleaning up the judicial system of judges and prosecutors that have been found to have problems, mostly with assets, but also with integrity and their professional capabilities. However, as a result of this process, considerable vacancies have been created, mainly in the highest instances of the judicial system in the country, including those of appeals. It is worth noting that these vacancies are added to those that the courts had before the justice system reform; meanwhile, during the implementation of the reform, other vacancies have been created as a result of resignations, retirements, and other legal reasons.

With regard to the creation of vacancies by the vetting process, AHC reconfirms the position expressed in the interim monitoring report that there needs to be better coordination and mutual cooperation between

¹⁸⁴ The information processed in this section has been obtained officially by AHC through official letters, specifically: Letter by the Durrës Court of Appeals administered at AHC, no. 780, dated 11.11.2021. Letter of the Shkodra Court of Appeals, administered at AHC, no. 756, dated 08.11.2021. Letter of the Tirana Court of Appeals, administered at AHC, no. 795, dated 16.11.2021

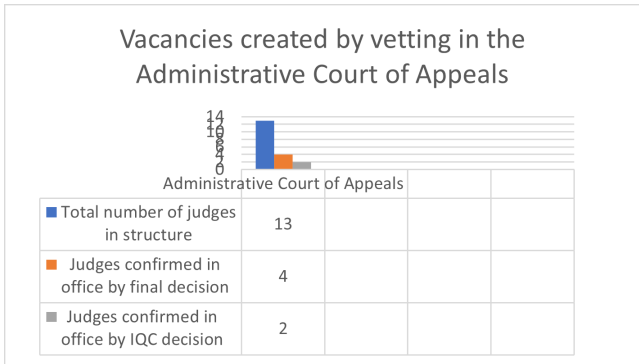
the Councils and the vetting bodies.

Due to the global pandemic SARS Covid-19, on 10.03.2020, the HJC decided to suspend the judicial activity and services in the country's courts until 22.04.2020. Considering the case backlog in some of the country's courts, this suspension partially led to its increase, delays in the adjudication of cases, and the slowdown of the courts' work, which will be analyzed in parallel for each court of appeals in this section.¹⁸⁵ Nevertheless, it is worth emphasizing that only the Shkodra Court of Appeals has provided statistical data processed during the global Covid-19 pandemic. Taking and analyzing data on the case backlog and court efficiency during the pandemic, in our opinion, would be useful to mutual coordination between the judiciary and HJC. The latter, in keeping with articles 89, letter b) and article 90, paragraph 2 of law no. 115/2016, would be able to monitor more efficaciously and better manage the caseload of judges and the courts.

• **Administrative Court of Appeals**

The Administrative Court of Appeals has 13 judges approved in its staffing structure. As a result of the vetting process, during the monitoring period, 6 judges passed vetting by decision of the IQC, of which 4 have final decisions.

This court did not make available to AHC data on the number of carryover cases from before the country faced the Covid-19 global pandemic.

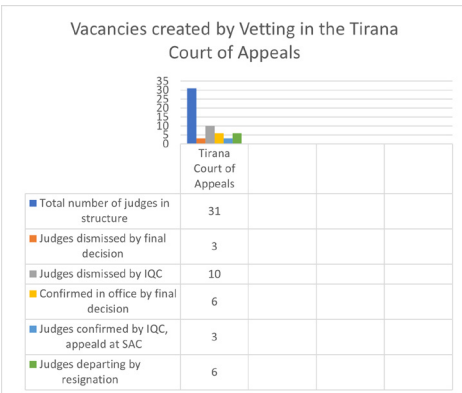


During 2020, considered the first year of the pandemic, the Court issued 1,379 decisions, seen by the court itself as “considerably lower than in other years”.¹⁸⁶ AHC notes with concern that during the monitoring period, the judges of this Court are adjudicating cases filed with the court 5 years ago, specifically 2016.

185 Which coincides with the period 10.03.2020 until 23.06.2020

186 Letter no. 438 prot., dated 15.11.2021, “Response,” issued by the Administrative Court of Appeals

- **Tirana Court of Appeals (general jurisdiction)**



The Tirana Court of Appeals has in its staffing structure 31 judges; according to data from this court on September 29, 2021, there are 6 judges serving in the court.¹⁸⁷ While the average caseload at the national level for Courts of Appeals is 217 cases per judge,¹⁸⁸ for this court, the caseload is extraordinary, with 160% more, or 3500 cases per judge. As a result of vetting 13 judges were not confirmed by vetting, of which 3 were dismissed by final decision, 9 judges passed vetting, of which 3 have been appealed at the SAC, and 6 have left the system by resigning.

In communication with the appeals courts, we noticed a lack of statistical data regarding the backlog of cases during the pandemic by the Tirana Court of Appeals. During this period, this Court reviewed 109 cases, 85 of which were files involving security measures. Although 13,869 cases had been carried over from previous years, during the first year labeled as the pandemic year (January – December 2020), only 1,847 cases have been adjudicated; in November 2021, it results that 18,814 cases are under review. AHC finds that disproportionality between the trend of cases filed with the court¹⁸⁹ and those presently under review in the Court is insignificant compared to the adjudicated cases.

- **Durrës Court of Appeals (general jurisdiction)**

This Court has in its staffing structure 13 judges, while according to data until September 29, 2021, 5 judges effectively exercise their duties in this court, and there are considerable vacancies of 8 judges, which were created not only as a result of the vetting process.¹⁹⁰ As a result of this process, 1 judge passed this process by final decision, 1 judge was confirmed by IQC decision and is awaiting the SAC process, 2 judges have been dismissed by final decision of the SAC, 4 judges have been dismissed by the IQC and await a SAC decision.

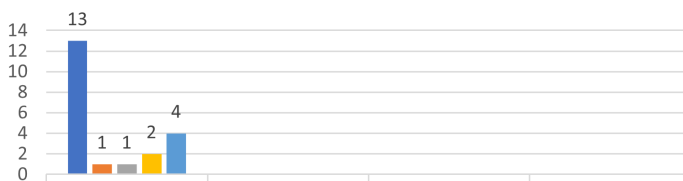
¹⁸⁷ Information obtained from page 107 of the Draft New Judicial Map. <http://klgj.al/wp-content/uploads/2021/12/NJ%C3%8B-HART%C3%8B-E-RE-GJYQ%C3%8BSORE-.pdf>

¹⁸⁸ Information obtained from page 107 of the Draft New Judicial Map. <http://klgj.al/wp-content/uploads/2021/12/NJ%C3%8B-HART%C3%8B-E-RE-GJYQ%C3%8BSORE-.pdf>

¹⁸⁹ From January 1, 2020, until November 2021, 6,792 new cases were filed with the court.

¹⁹⁰ Information obtained from page 109 of the Draft New Judicial Map. <http://klgj.al/wp-content/uploads/2021/12/NJ%C3%8B-HART%C3%8B-E-RE-GJYQ%C3%8BSORE-.pdf>

Vacancies created by vetting, Durrës Court of Appeals



	Durrës Court of Appeals			
Total number of judges in structure	13			
Judges that passed process by final decision	1			
Judges confirmed by IQC decision, awaiting SAC decision	1			
Judges dismissed by final decision	2			
Judges dismissed by IQC and awaiting SAC decision	4			

The Durrës Court of Appeals stated that it does not have registered official statistical data regarding the number of backlog cases, during the suspension of judicial activity during the pandemic, while it has reviewed 70 cases during this time.¹⁹¹

- Shkodra Court of Appeals (general jurisdiction)**

Results of the Vetting Process, Shkodra Court of Appeals



	Shkodra Court of Appeals			
Total number of judges	10			
Judges confirmed by final decision	4			
Dismissed judges	1			
Suspended judges	4			
Resigned judges	1			

This court has in its structure 10 judges; according to data until September

¹⁹¹ Letter no. 4/1 prot., dated 09.11.2021 "Provision of information and documentation," Durrës Court of Appeals

29, 2021, 5 judges are effectively exercising their duties in the court.¹⁹² The Court has sufficient workload to justify the minimal number of 10 judges established by law,¹⁹³ considering that the average at the national level of the caseload is 217 cases per judge in the appeals courts. As a result of the vetting process, 1 judge resigned, 1 judge was delegated by HJC decision, 1 judge was dismissed, 4 judges were suspended and in the vetting process, and 4 judges passed vetting by final decision.

Data provided by the Shkodra Court of Appeals indicate that during the Covid-19 pandemic, the stock of cases filed and awaiting adjudication in it reached 1,852 cases. However, it is not clear whether this increasing trend of the backlog was created during the suspended judicial activity or even after it.

2.1.2.2 Legal Service Units (LSU)

- **Administrative Court of Appeals**

This Court said that the LSU has not yet been created in it. Pursuant to law no. 49/2012 and in accordance with article 165 of law no. 96/2016, 8 legal aides were appointed to this court out of 13 such that should serve there according to the staffing structure approved for the institution. Meanwhile, about 1/3rd of the aides or 5 of them have left the post by resigning. No legal aide has been appointed to this court during the period 2020-2021. Given that legal aides play an important role in terms of helping prepare the panel of judges to review the case, it is our opinion that the HJC should have taken the necessary measures for the establishment of this unit, which is its competence.¹⁹⁴

- **Tirana Court of Appeals (general jurisdiction)**

Unlike the Administrative Court of Appeals, the LSU was created at the Tirana Court of Appeals in November 2020. During 2020-2021, 10 legal aides were appointed temporarily to this court and there are 5 vacancies in it out of the 15 approved by the HJC. According to this court, given that the legal aide has direct relations with the judge for preparing the report on the case assigned to the judge, an increase of their performance is expected.¹⁹⁵ Based on the legal provision of article 52, paragraph 2 of law no.

192 Information obtained from page 115 of the Draft New Judicial Map. <http://klgj.al/ep-content/uploads/2021/12/NJ%C3%8B-HART%C3%8B-E-RE-GJYQ%C3%8BSORE-.pdf>

193 Information obtained from page 116 of the Draft New Judicial Map. <http://klgj.al/ep-content/uploads/2021/12/NJ%C3%8B-HART%C3%8B-E-RE-GJYQ%C3%8BSORE-.pdf>

194 Article 42, paragraph 1 of law 98/2016 "On the organization of the judicial power in the Republic of Albania"

195 Referring to article 42, paragraph 10 of law no. 98/2016, aside from approving detailed regulations on the conditions and professional criteria that legal aides should meet in the courts of appeals, the HJC also determines the kind and nature of their duties, the kind and nature of cases to be processed and prepared by them, as well as the regular evaluation of the workload of legal aides.

98/2016, it results that it is the School of Magistrates, in collaboration with the HJC, the Ministry of Justice, the courts, and other institutions that carry out the initial training of chancellors, legal advisors in the High Court and other legal aides.

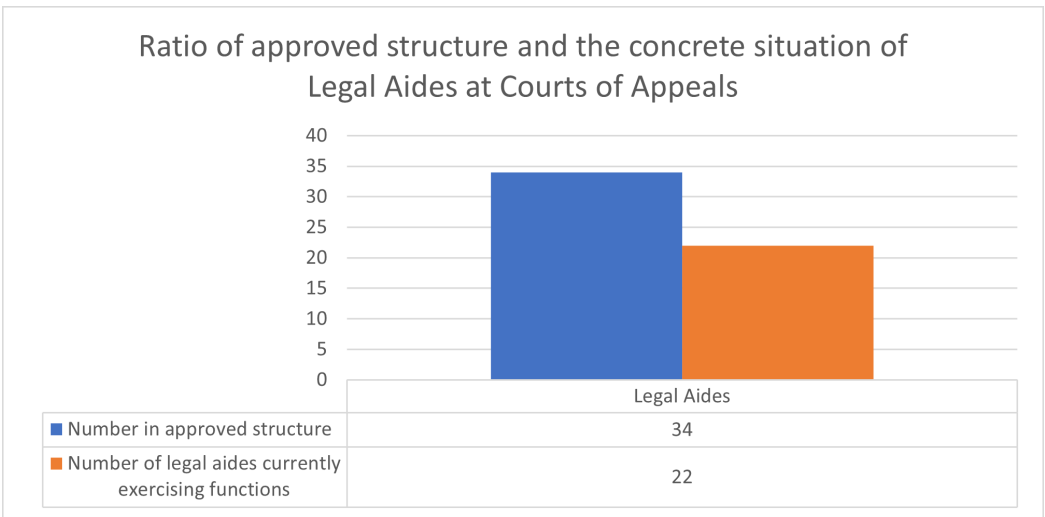
- **Durrës Court of Appeals (general jurisdiction)**

At this Court too, the LSU has been established and, according to the staffing structure approved by the HJC on 21.10.2020, it should be completed with 6 legal aides. During December 2020, 3 legal aides were appointed to this court; in March 2021, the HJC approved the addition of 1 legal aide to the structure.

- **Shkodra Court of Appeals (general jurisdiction)**

Although the LSU has been established at this court with a structure of 5 employees (3 aides + legal advisors), only 1 legal aide works there currently.¹⁹⁶ This situation that the Court has pointed to with concern does not offer optimal working conditions for the panels of judges and has a negative impact on preparing and reviewing cases properly and within reasonable deadlines.

Per the above, taking into consideration the structure of the LSU approved



by the HJC¹⁹⁷ for the three Courts of Appeals, there are 22 legal aides attached to them out of the 34 that should be there, meaning 12 vacancies

¹⁹⁶ Letter no. 2016/1 prot., dated 04.11.2021 "Response to request for information," by the Durrës Court of Appeals

¹⁹⁷ Decision no. 495, dated 21.10.2020 of the High Judicial Council

or 1/3rd of the total of seats for this position. Based on the legal competences that the HJC has, in our opinion this institution should have been a priority for filling these vacancies, with a special focus in those with the highest caseload. Filling the vacancies for the position of legal aides, increasing their number as well as their efficiency, are recommendations of the courts themselves. These would contribute positively to reducing the caseload that judges are facing in these courts. also, AHC suggests an escalation of coordination efforts of responsible institutions such as the HJC, the School of Magistrates, and the Ministry of Justice, to increase the efficiency of legal aides by involving them in periodic and continued training programs.

2.1.2.3 Justice without Delays

The Tirana Court of Appeals and the Administrative Court of Appeals are the bodies of the judiciary that, due to the number of vacancies, find it impossible to respect reasonable legal deadlines for the adjudication of cases.



On the other hand, the Shkodra Court of Appeals and the Durrës Court of Appeals appear efficient in reviewing cases and delivering decisions within legal deadlines.

- **Administrative Court of Appeals**

This court has stated that the determination of cases for review is done by the rapporteur judge on the basis of provisions of article 49 of the law “On administrative courts and

the adjudication of administrative disagreements.” During the period in question, this court is reviewing judicial cases filed with it in 2016, which are small in number, nearing the end. The amendments approved by law no. 46/2021 in law no. 98/2016 “On the organization of the judicial power in the Republic of Albania,” although they sought to create facilitating mechanisms for the review of judicial cases,¹⁹⁸ this court states that it has not processed analytical data on their impact in accelerating the review of cases. Another factor impacting this situation is the short period of time since the amendments went into effect.

- **Tirana Court of Appeals (general jurisdiction)**

Except for emergency criminal cases, security measures, or judicial cases with a deadline, this court states that it is the rapporteur judge who has the discretion to realize the planning for the review of judicial cases. At present, the Court is reviewing cases of 2017 en masse. One of the cri-

¹⁹⁸ By means of panels of judges consisting of one judge or a panel of judges consisting of three judges, except cases when the law envisages otherwise.

teria taken into consideration in this planning is the date when the case was filed with the court. Due to the high volume of cases for review, a disproportionate indicator compared to the low number of judges, it has become impossible to guarantee the review of cases within legal deadlines,¹⁹⁹ creating premises for a violation of due legal process.

- **Durrës Court of Appeals (general jurisdiction)**

This court reviewed civil cases of 2018, 2020, 2021 and criminal cases of 2019, 2020, 2021. The court states that law no. 46/2021 has facilitated the process of managing backlog cases. However, the fact that this court continues to review cases of 3-4 years ago causes consequences between the litigating parties with regard to justice without delays and the right to due legal process.

- **Shkodra Court of Appeals (general jurisdiction)**

This court, in spite of the vacancies referred in the positions of legal aides, secretaries, and judicial employees, states that it has managed well the internal case referral system, giving priority to criminal cases having to do with personal security measures, domestic violence, immediate protection orders, and civil cases on pensions, including those with preclusive deadlines about the statute of limitations. Referring to the time provisions of article 399/2 of the Civil Procedure Code, this Court is currently reviewing the backlog of cases carried over from 2020 and those of 2021.

Regarding the above, taking into consideration the deadlines established in article 399/2 of the Civil Procedure Code, pursuant to article 94, paragraph 4, letters “a”, “b” and “c” of law no. 115/2016, AHC suggests to the HJC to take measures for the systematic monitoring of their implementation, for the purpose of identifying unblocking measures, in intensive coordination and consultation with the courts in question, for those cases when the review of cases surpasses legal deadlines envisaged in procedural legislation. This would be a concrete reaction to the findings of the HJC itself in the 2020 Annual Report²⁰⁰ that stresses “judges of the High Court appear to have higher productivity than their colleagues in the appeals courts and the same finding applies for first instance courts that are more efficient in trying cases compared to the appeals courts”.

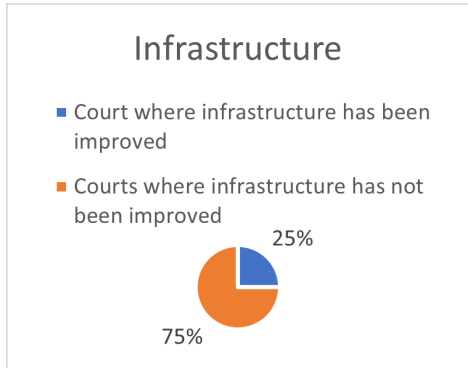
2.1.2.4. Other measures to increase efficiency in these Courts

Other measures to increase the efficiency of the appeals courts are also investments and improvements in infrastructure, continued training of magistrates, filling vacancies of judicial employees, their training, judicial

¹⁹⁹ Legal guarantee envisaged in article 339/2 of the Civil Procedure Code

²⁰⁰ For more, see 2020 HJC Annual Report, page 59 <http://klgj.al/wp-content/uploads/2021/06/Raporti-Vjetor-KLGJ-2020.pdf>

administration through the archival system, and standard electronic samples for drafting decisions.



According to evaluations by CEPEJ at the European level, infrastructure is an important element for guaranteeing the continuity of work and functionality of the Court, but also providing opportunities for communication between judicial service providers and citizens as direct beneficiaries. Data offered by the Appeals Courts under monitoring highlight that only of these courts had infrastructural improvements made. The Tirana Administrative Court of Appeals states that it did not need to

ask the HJC for funds for building reconstruction as it was refurbished about 3 years ago.²⁰¹ The Tirana Court of Appeals also noted that it did not need infrastructure improvements. Based on information made public through the New Judicial Map, the Tirana Court of Appeals has 28 judges' offices, 18 administration offices, and 7 courtrooms. The working group established by the HJC considered that the number of courtrooms is not sufficient for handling the workload that this court has. Regarding the building of the Durrës Court of Appeals, it has 13 judges' offices, 5 administration offices, 4 courtrooms, compared to the Shkodra Court of Appeals that has 9 judges' offices, 11 administration offices, and 5 courtrooms.²⁰² In terms of infrastructure, this court said its offices were built after a public procurement procedure, with HJC funds, and it meets all needs for quality judicial service to citizens. The Durrës Court of Appeals appears to be the only one among the monitored courts that benefited funds to improve its infrastructure.²⁰³

Since 2014,²⁰⁴ the Council of Ministers approved the establishment of the judicial system archive but this decision, due to the constitutional and legal amendments in the context of justice reform was invalidated, also by Decision of the Council of Ministers in 2019.²⁰⁵ Based on responses from some of the courts, it is unclear when the state archive of the judicial system was established in them, what the needs were, and how that archive fit with the requirements of the 2019 decision of the Council of Ministers (a finding that is mostly valid for the Appeals Courts of General Jurisdiction).

201 The Administrative Court of Appeals, in July 2018, began to function as a restored building adapted to the court's needs.

202 Information obtained from Page 107, 110, 117 of the Draft of the New Judicial Map. <http://klgj.al/ep-content/uploads/2021/12/NJ%C3%8B-HART%C3%8B-E-RE-GJYQ%C3%8BSORE-.pdf>

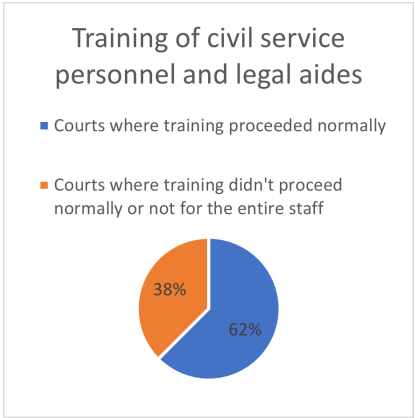
203 Due to the earthquake of November 2019, the building of this institution sustained significant damages, which made it impossible to continue court activity. In response to this situation, a HJC decision made it possible to move the court activity to the premises of the Kavaja First Instance Court. In July 2020, this court resumed full functionality to provide judicial services

204 CMD no. 903, dated 17.12.2014 "On the creation of the state archive of the judicial system"

205 CMD no. 888, dated 31.12.2019 "On the organization and functioning of the state archive of the judicial system"

Based on article 5 of law no. 96/2016, magistrates have the right to participate in the continued training program provided by the School of Magistrates. The Appeals Courts do not have statistics about the participation of magistrates (judges) in these training programs, with the justification that such training cycles are offered by the School of Magistrates. In spite of the direct competence of the School on the continued training of working magistrates, working state attorneys, and legal aides and chancellors working in courts and prosecution offices, AHC considers that cooperation between the courts and the School of Magistrates should be strengthened in the context of periodicity and mutual engagement to analyze statistical and qualitative data on the participation of magistrates and the civil judicial service in different activities that focus on increasing their professional capacities. With regard to training of civil service personnel and legal aides, data indicate a relatively low number of training programs with them, which could contribute positively toward efficiency.

Based on information from the Courts of Appeals, it results that none of them abides by any standard and unified format on drafting judicial decisions. The Tirana Court of Appeals, aside from a lack of reference to such use of standard models, says that “judges are of the opinion that if they would use these standard models, there would be higher-paced review of cases”.²⁰⁶



• Administrative Court of Appeals

As one of the Courts with the highest case backlog in the country, this court addressed the HJC with requests to take measures to fill vacancies of civil judicial service, for which it is the Court Council that announces recruitment procedures.²⁰⁷ Also, we were informed that the chancellor and the legal aides are involved in the continued program of the School of Magistrates while some judicial secretaries, chief secretary, and budget branch chair are currently attending training at the HJC.

This court says that from its start, it established the judicial archiving system, which preserves decisions it has issued, fundamental registers created through the years, procurement procedures, and judicial cases that the court tries as a first instance court.

²⁰⁶ Letter no. 5206/1 prot., dated 15.11.2021 “Response” by the Tirana Court of Appeals

²⁰⁷ During the period 2020-2021, namely on 12.11.2021, the court had hired only one employee through the parallel appointment procedure.

- **Tirana Appeals Court (ordinary jurisdiction)**

According to data from this court, there have been no requests to the HJC on the vacancies found in the civil service.²⁰⁸ During this period, several training courses were held for the chancellor, legal aides, and civil judicial employees. On the latter, the court addressed the HJC and the School of Magistrates and the requests were taken into consideration.

This court states that in October 2021, it established the Expertise Commission on Judicial Archive.²⁰⁹ The functionality and the role of the Expertise Commission in every court has been established through the Internal Rules of Procedure “On the organization and functioning of the state archive of the judicial system,” approved by the Minister of Justice.²¹⁰ Nevertheless, the establishment of this commission does not mean the establishment of the judicial archiving system as the Commission only functions to review and establish the value of preserving documents produced, preserved, and administered in the archival network of the judicial system.

- **Durrës Court of Appeals (ordinary jurisdiction)**

The Durrës Court of Appeals also indicates a lack of addressing requests on vacancies and difficulties encountered by the civil service.²¹¹ This court stated that the chancellor, legal aides, and civil employees underwent a series of periodical training courses conducted by the School of Magistrates.

- **Shkodra Court of Appeals (ordinary jurisdiction)**

During 2020-2021, the Shkodra Court of Appeals did not have any procedure of admission into the civil service, but only parallel assignments of employees to the position of judicial secretary. The court's chancellor is involved in periodical training of the School of Magistrates while training for legal aides and civil judicial service employees were not conducted.

2.1.2.5 Cooperation of the Appeals Courts with the HJC

208 Regarding parallel appointments in this service, there was 1 parallel appointment to the post of the budget branch chair, and in 2021, there were 6 parallel assignments to the position of the judicial secretary.

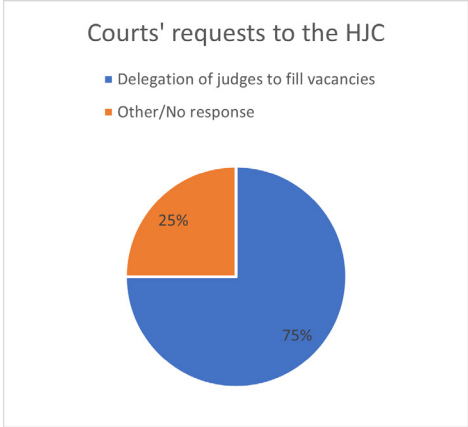
209 Decision of the Court Council, 15.10.2021, not published on the official website of the Tirana Court of Appeals: <http://www.gjykata.gov.al/apel-tiran%C3%AB/gjykata-e-apelit-tiran%C3%AB/mbledhja-e-k%C3%ABshillit-t%C3%AB-gjykat%C3%ABs/>

210 Approved by Order no. 4643/1 prot., dated 31.01.2017 of the Minister of Justice: <http://ashsgi.gov.al/wp-content/uploads/2018/05/Urdh%C3%ABr-No.-4643-1-dat%C3%AB-31.01.2017-P%C3%ABr-Miratimin-e-Rregullores-s%C3%AB-Brendshme%E2%80%9CP%C3%ABr-Organizimin-dhe-Funksionimin-e-Arkivit-Shtet%C3%ABror-t%C3%AB-Sistemit-Gjyq%C3%AB-sor%E2%80%9D.pdf>

211 In March 2021, by parallel assignments, the recruitment procedure for 1 employee in the executive position of judicial secretary was concluded and in October 2021, 1 employee was admitted into the civil judicial service as an executive specialist for information technology.

During the monitoring, special attention was devoted to cooperation between the courts under monitoring and the institution responsible for governing the judicial system, the HJC.

The Appeals Courts state they addressed the HJC periodically about the temporary transfer of judges,²¹² or the delegation of judges²¹³ through schemes established by the HJC. These requests reviewed by the HJC appear to have been looked positively in some cases, overcoming obstacles created as a result of vacancies, or conditions of incompatibility of working judges in certain cases. However, there were also cases, such



as the request of the Tirana Court of Appeals to the HJC in February 2021, seeking the delegation of judges for adjudication needs in the two judicial bodies, for a period of 6 months/1 year. On this request, the HJC did not make a decision within the legal deadlines or later, even during the period under monitoring by AHC.²¹⁴

Although the Shkodra Court of Appeals viewed the work with HJC as collaborative, in principle, on different issues, in the official response, it does not provide concrete data on the most frequent requests to the HJC.²¹⁵

2.1.2.6 General Meeting of Judges

Based on the legal framework in force, the general meeting of all judges should take place at least once per month, with audio recording and the discussions should be transcribed into meeting minutes. The importance of maintaining these meeting minutes for 10 years and making it available to judges, HJC members, and the HJI is prescribed by article no. 29 paragraph 2 of law no. 98/2016.

Based on official data made available by the Courts of Appeals, it is found that meetings are not held regularly and in a periodical manner while in some cases, it is not possible to verify online the holding of these meetings

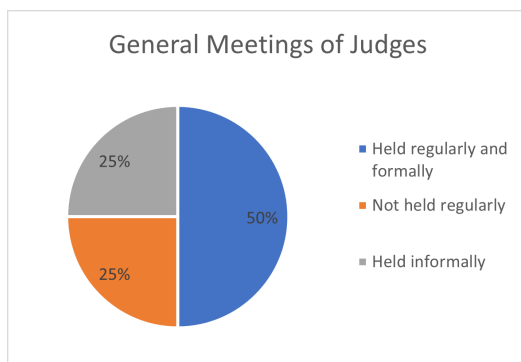
212 The Durrës Court of Appeals by letter no. 4/1 prot., dated 09.11.2021 "Providing information and documentation"

213 The Tirana Administrative Court of Appeals, by letter no. 438 prot., dated 15.11.2021 "Response"
Tirana Court of Appeals, by letter no. 5206/1 prot., dated 15.11.2021 "Response"

214 Letter no. 5206/1 prot., dated 15.11.2021 "Response" of the Tirana Court of Appeals. In this letter, the Tirana Court of Appeals itself quotes letter no. 860 prot. dated 17.02.2021.

Referring to article 45 of law no. 96/2016, the court chair or the head of the prosecution office has the right to ask the Council (HPC or HJC) to assign for a certain case or a certain period a magistrate from the delegation scheme to the relevant court or prosecution office presenting the reasons for the need to assign the magistrate and the requested period of time. Based on paragraph 7 of the same provision, the Council reviews the request within 3 days upon its receipt, and decides on its admissibility by causing the assignment of the magistrate through the delegation scheme.

215 Letter no. 2016/1 prot., dated 04.11.2021 "Response to request for information"



due to the failure to publish transcribed meeting minutes of meeting discussions.

Concretely, AHC notes that at the Durrës Court of Appeals, the judges' meetings have not been held regularly. For three years in a row, they are only held 2 out of 36 times they should have been according to law, specifically in January 2019 and September 2021.²¹⁶ At the Tirana Appeals

Court, due to the small number of judges, the judges' meetings are often held for certain issues but not formalized. On the other hand, the Tirana Administrative Court of Appeals and the Shkodra Court of Appeals confirm that they hold meetings regularly 1 every month; the latter says that the documenting of meetings is only done through audio recordings. AHC notes that their failure to provide concrete information, concretely the audio recording on CDs and the anonymized transcript of the meeting, which prove the holding of the general meeting of the judges, is against the guarantees prescribed in article 29, paragraph 2, of law no. 98/2016.

2.1.3. First Instance Courts

In this part of the report, we will analyze the caseload of five first instance courts, three of general jurisdiction (namely Tirana, Durrës and Elbasan) and two administrative courts of first instance (Tirana and Durrës).

2.1.3.1. Vacancies and the Case Backlog (including the situation during the pandemic)

Vacancies among judges, as well as the considerable case backlog remain disturbing indicators that weaken judicial efficiency and the need to deliver justice without delays, even in the 5 first instance court that the HJC has identified as having the highest caseload. Although the impact of this process is not felt the same as in other higher instance courts (due to the order and priority subjects), again, as long as this process takes place in these courts, vacancies have existed. As for the appeals courts, it is worth emphasizing that these vacancies are on top of those that the courts had before the justice system reform and others have been created during its implementation as a result of resignations, retirements, or other legal causes. In part of these courts, the working group established by the

²¹⁶ Order no. 3, dated 08.01.2019 "On convening the general meeting of judges of the Durrës Appeals Court for the election of the deputy chair"
Order no. 85, dated 28.09.2021, "On convening the general meeting of judges of the Durrës Appeals Court for the election of the deputy chair"

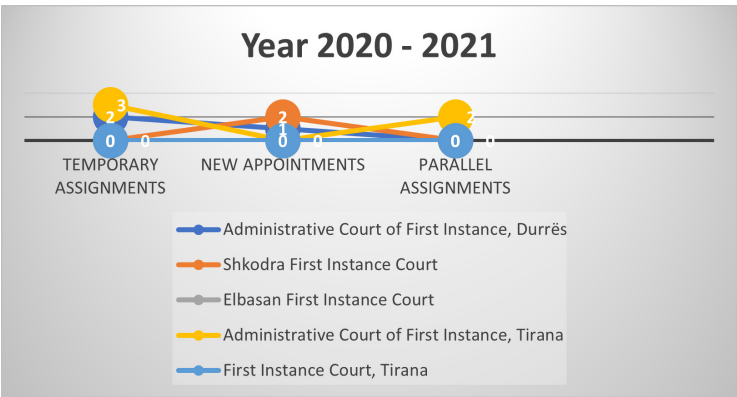
HJC has considered that the number of judges in the staffing structures should be higher in order to respond effectively to the caseload and pace of review of cases.

With regard to new appointments, there were two such in the Shkodra Court of First Instance during 2020-2021, there was only one in the Administrative Court of First Instance in Durrës in 2021, and there were no new magisters appointed in the three other courts. In spite of measures taken by the School of Magistrates for the approval of added quotas, in the context of implementation of justice reform legislation, AHC finds that this mechanism is not fully serving the considerable reduction of magistrates' vacancies. Pursuant to article 85, paragraph 1, of law no. 115/2016 and article 29 of law no. 96/2016, if it is noticed that the process of applications of jurists for initial training opened by the School of Magistrates does not ensure optimal short-term solutions for filling vacancies created in the justice system, the HJC should seriously look at other opportunities for filling these vacancies, offering sustainable solutions that may be formulated even as opinions for changing the legal framework in force.

At the Administrative Court of First Instance in Tirana, during this period, there were 2 parallel assignments of judges. At the Tirana Court of First Instance, one of the judges was transferred by parallel assignment in the CC.

In its 2020 annual report, the HJC highlights that for the first instance courts of general jurisdiction, "the average time necessary to resolve a case has increased by 47.6 days".²¹⁷ For the Administrative Courts of First Instance, aside from the increase of the case backlog by 24% compared to 2019, the average time necessary to resolve a case has increased from 119 days in 2019 to 163 days in 2020.²¹⁸ Referring to article 94 of law no. 115/2016, para-

graph 4, letters "a", "b" and "c," the HJC has the opportunity to set standards for the adjudication of different kinds of judicial cases, including, when possible, the deadlines for the main phases of the procedure as well as standard actions



²¹⁷ Page 95, raporti_vjetor_klgj_2020_6578.pdf (gjkataelarte.gov.al)

²¹⁸ Page 104, raporti_vjetor_klgj_2020_6578.pdf (gjkataelarte.gov.al)

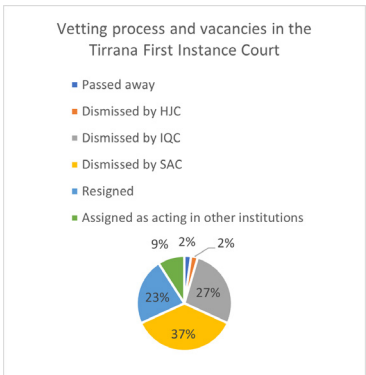
to be undertaken when the review of cases surpasses the deadlines.²¹⁹ AHC has found that the HJC has not approved any normative act for implementing this provision.

The legal amendments approved by law no. 46/2021 that proposed some solutions of an unblocking nature to reduce the number of judges in panels of judges reviewing cases, in order to guarantee efficiency in delivering justice, do not appear to have brought any tangible changes in the first instance courts with the highest caseload that were the subject of this monitoring. The Tirana and Durrës Administrative Courts of First Instance stated that they had not applied these provisions as the composition of the panels of judges for these instances is determined by the special law on the adjudication of administrative disputes no. 49/2012.

Per the above and referring to data to be analyzed further in this section, AHC considers that vacancies created in these courts and their inability to guarantee the delivery of justice within reasonable legal deadlines, should lead to HJC setting priorities of issues. Also, AHC emphasizes the need to collect statistical data and draft quality and statistical analyses based on them, a competence envisaged in articles 89 letter b) and 90, paragraph 2 of law no. 115/2016, which would serve as a positive starting point for drafting long-term and short-term strategies to address issues, manage risks, and reduce the created backlog at an increased pace.

• Tirana Judicial District Court

This is the court identified as having the highest caseload in the country compared to other courts of the same jurisdiction. Its structure should have 75 judges. At present, about 60% exercise their functions, about 44 judges or 32 less. According to the HJC, this court has sufficient work-

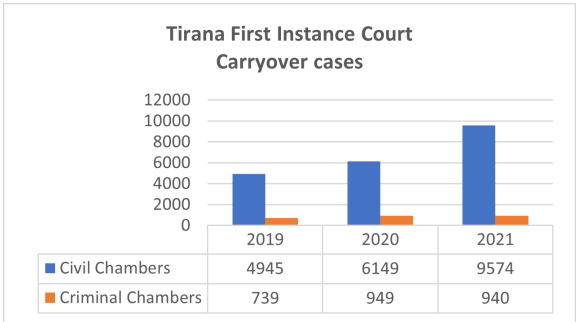


load to justify 68 judges' positions,²²⁰ to enable the review of cases. Vacancies of judges in this court are for different reasons: 27% were dismissed by final decision by the vetting bodies; 23% have resigned; 23% have passed away; 2% have been dismissed by the HJC; and 9% have been appointed as acting in other justice institutions. namely, the process of vetting has led to 12 judges being dismissed by IQC decision and 16 judges have been dismissed by second instance of vetting (SAC).

During 2020, since March when the global pan-

²¹⁹ This would serve as a good regulatory basis for the adjudication within reasonable deadlines. Such an element, if organized in a quality manner, might also impact the performance of judges in the system.

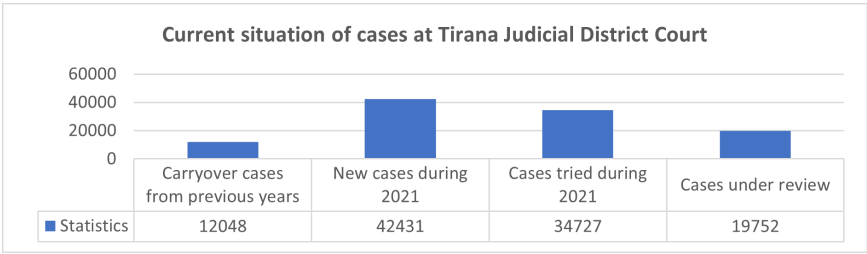
²²⁰ Data on the optimal number of judges that the court should have, taken from the Draft New Judicial Map, page 33. <http://klgj.al/wp-content/uploads/2021/12/NJ%C3%8B-HART%C3%8B-E-RE-GJYO%C3%8BSORE.pdf>



demic began, the civil chambers of this court have carried 6,149 cases in civil chambers and 949 in the criminal chambers. For 2021, the civil chambers had 9574 carryover cases and the criminal chambers had 940 cases. Data indicates a disturbing situation of the case backlog in the civil section.

Based on analysis by the court itself, the factors impacting this considerable caseload included the suspension of court activity during the Covid-19 pandemic, decisions of vetting bodies that dismissed judges, and resignations of the judges.

Referring to statistics conveyed by this court officially to AHC, 5990 civil cases have been concluded within 6 months. With regard to criminal cases, the average time for reviewing them is 2-6 months for 911 cases, while the period 6 months to 1year corresponds only to 221 cases.



Based on the above data, AHC notes that this court functions in sacrificing conditions while the HJC has tried periodically to meet the court requests for additions to court's administrative personnel.

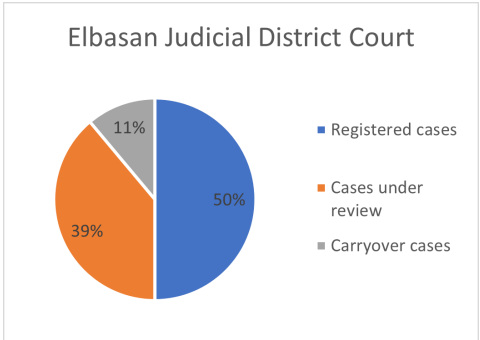
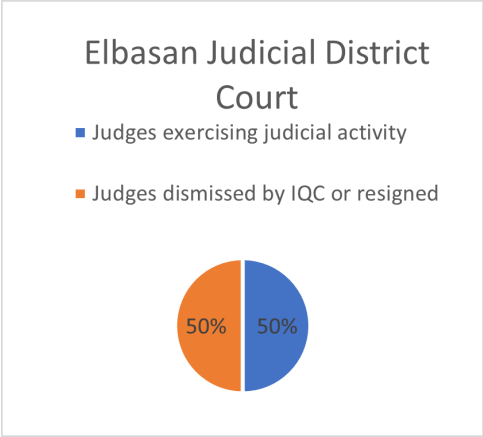
- Elbasan Judicial District Court**

There are 6 judges exercising their functions at the Elbasan First Instance Court who are undergoing the vetting process. It appears that 6 judges who used to carry out their duties in this court were suspended/dismissed due to vetting decisions or the process on them was interrupted due to resignation, during the implementation of justice reform.

Based on the analysis by the working group in the context of the new Judicial Map, the Elbasan First Instance Court has sufficient caseload to justify 20 judges' positions in this court, considering that the average caseload in judicial district courts during 2018-2020 was 429 cases per judge. The structure planned for this court should have 14 judges while only 6 of

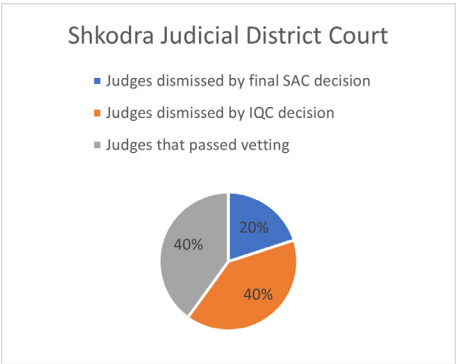
them actually work there. This court shows a growing trend of the case backlog during 2019-2021, with one of the main factors being the reduced number of judges, precisely 6 of them.

Regarding the situation created as a result of the pandemic, this court states that HJC's decision to suspend court activity did not weaken or delay the review of judicial cases. Unlike the other courts, online review chambers were created in this court that helped respect deadlines and judicial procedures, enabling adjudications within reasonable legal deadlines, on cases considered urgent according to legislation in force. Also, judicial cases are reviewed by the panel of judges within legal deadlines.



• **Shkodra Judicial District Court**

The structure of this court envisages 14 judges' positions, while data up to September 29, 2021, indicate that 11 judges exercise their duties in it.²²¹ In spite of the current situation, the Court has sufficient caseload to justify 17 judges' positions.²²² Due to vetting, it results that the Court Chair was dismissed by final SAC decision, 2 other judges were dismissed by IQC decision, which have been appealed, and only 2 judges successfully passed vetting.



AHC finds that at the Shkodra First Instance Court, the case backlog has seen a downward trend during 2019-2021.

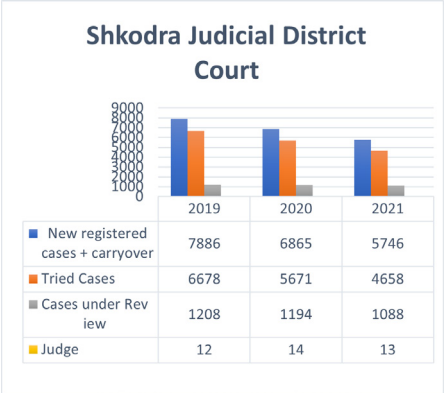
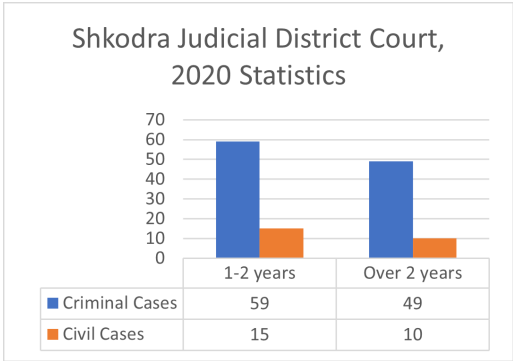
Referring to statistics of this court for 2020, which coincided with the start of the period, for 49 criminal cases and 10 civil cases, the timespan for adjudica-

²²¹ Statistics obtained from the draft New Judicial Map, page 92. <http://klgj.al/ep-content/uploads/2021/12/NJ%C3%8B-HART%C3%8B-E-RE-GJYQ%C3%8BSORE-.pdf>

²²² Statistics obtained from the draft New Judicial Map, page 93. <http://klgj.al/ep-content/uploads/2021/12/NJ%C3%8B-HART%C3%8B-E-RE-GJYQ%C3%8BSORE-.pdf>

tions surpassed the procedural minimum envisaged in legislation in force.

- Tirana Administrative Court of First Instance**

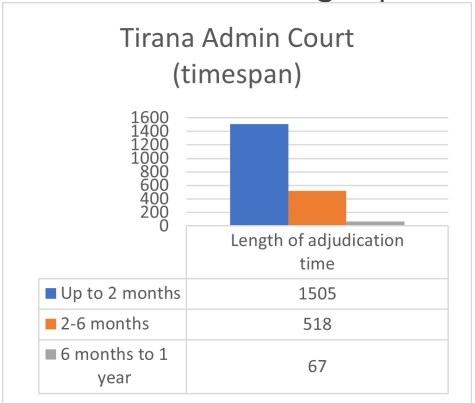


The structure of this court envisages 16 judges' positions.²²³ Of 16 judges envisaged in the structure of this court, so far 2 judges have successfully passed vetting by final decision, 1 judge has passed vetting by IQC decision, and another one has been dismissed by IQC decision. Referring to

the average number of cases per judge, the court says that there is sufficient caseload to justify 18 judges.²²⁴ This court indicates a downward trend of the case backlog during 2019 – 2021, but it cannot provide official statistical data that could enable the statistical processing of data by AHC, considering that the calculation of carryover cases is done at the end of each calendar year. Based on information made public by the HJC in its 2020 Annual Report, AHC finds that the case backlog reported by this court for 2019 has 1020 cases,

while for 2020, it starts with a caseload increased by 54% compared to cases carried over in the previous year (or about 342 cases).²²⁵

At this court, in 67 cases, the adjudication lasted 6 months to 1 years while, in keeping with the procedural standard



223 Statistics obtained from the draft New Judicial Map, page 128. <http://klgj.al/ep-content/uploads/2021/12/NJ%C3%8B-HART%C3%8B-E-RE-GJYQ%C3%8BSORE-.pdf>

224 Statistics obtained from the draft New Judicial Map, page 129. <http://klgj.al/ep-content/uploads/2021/12/NJ%C3%8B-HART%C3%8B-E-RE-GJYQ%C3%8BSORE-.pdf>

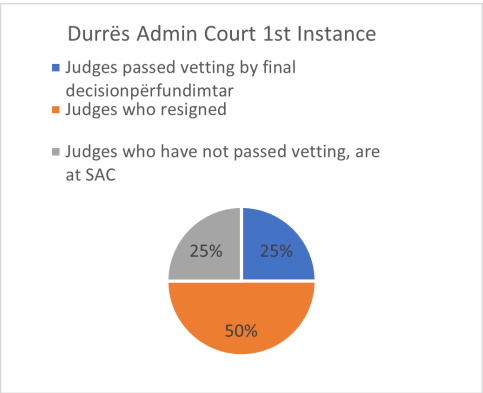
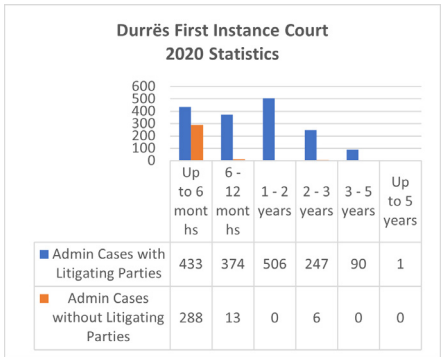
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for the deadlines envisaged by article 399/2, letter a) Civil Procedure Code, 1 years from the start of adjudication.

• Durrës Administrative Court of First Instance

This court has sufficient workload to justify 5 judges, which is the number currently working. The average at the national level of the caseload of a judge in administrative courts of first instance during 2018-20 is 378 cases.²²⁶ At the Durrës Administrative Court of First Instance, 1 judge passed vetting by final decision, 2 other judges resigned, 1 of the judges appealed IQC dismissal decision to the SAC.

For the period 2019 – 2021, this court says that carryover cases have seen an upward trend. However, the length of judicial processes carried over from other years, for 2020, is considerable for a 1–2-year period, followed by those lasting 2-3 years, and those for 3 years.



2.1.3.2 Legal Service Units

In 2016, when the basic package of reforming the justice system was approved, with the entry into effect of law no. 98/2016, the lawmaker envisaged the possibility of

establishing the Legal Service Unit (LSU) at the Courts of Appeals and the High Court.²²⁷ About five years later, the amendments approved by law 46/2021 envisaged the establishment and functioning of LSUs also at the first instance courts.²²⁸ But though this law went into effect in May 2021, AHC has found that during the monitoring period, this unit does not ap-

²²⁶ Statistics obtained from the draft New Judicial Map, page 131. <http://klqj.al/ep-content/uploads/2021/12/NJ%C3%8B-HART%C3%8B-E-RE-GJYQ%C3%8BSORE-.pdf>

²²⁷ Articles 34 and 42 of law no. 98/2016

²²⁸ Article 9, paragraph 2 of law no. 46/2021

pear to have been established in any of these courts.²²⁹

AHC suggests that HJC take concrete measures to establish this unit and guarantee the appropriate number of legal aides in each court in order to manage court work and efficiency. AHC considers that the contribution of legal aides to these units would be felt also in terms of reducing the disturbing case backlog for some of the first instance courts.

2.1.3.3 Other measures to increase efficiency in these courts

Other measures to increase the efficiency of first instance courts that have been the subject of the monitoring are also infrastructure investments and improvements, continued training of magistrates, filling vacancies of judicial employees, their training, judicial administration of the archive system, and standard electronic forms for drafting decisions.

Based on correspondence with these courts, taking into consideration the difficulties and challenges that the first instance courts are facing around the country, AHC considers that they should play a more active role in the context of addressing recommendations, suggestions, analysis, and research reports to the HJC, for the purpose of assessing current risks and highlighting plans to reduce the impact of vacancies and increasing their efficiency.

As in the case of the Appeals Courts, AHC finds that even first instance courts do not possess statistical data on continued training of judges developed and conducted by the School of Magistrates. The latter, prepares every year for a 2-year period the training program that judges attend regularly individually as an opportunity to develop their capacities. AHC notes the need to further strengthen cooperation of the Courts, HJC, and the School of Magistrates to encourage magistrates to engage proactively and periodically in these training programs, as an opportunity to strengthen their professionalism and efficiency.

HJC says that it has given priority and taken approving decisions on requests by most of these courts for additional financial and human resources. The Tirana Administrative Court of First Instance is the only judicial power body that did not file requests for this purpose during 2021. The professional training of civil judicial employees is guaranteed through their inclusion in the initial training programs on the basis of which they are accepted to the judicial civil service and are trained during their probation period, and in the continued training program, pursued by working employees of the civil judicial service. Based on data from institutions

229 Letter no. 754 prot., dated 08.11.2021 (Durrës Admin Court); Response by email (Tirana Admin Court), Letter no. 779 prot., dated 11.11.2021 (Shkodra First Instance Court), Letter no. 796 prot., dated 16.11.2021 (Elbasan First Instance Court), Letter no. 865 prot., dated 15.12.2021 (Tirana First Instance Court)

under monitoring, AHC finds that chancellors of first instance courts were involved in training programs/seminars provided by HJC, USAID, or the School of Magistrates. In the context of cooperation between the School of Magistrates, HJC, the Ministry of Justice, courts and other institutions, including civil society, AHC suggests the taking of measures to include civil judicial employees in the initial and continued professional training program as an opportunity to increase their efficiency in the system.

With regard to infrastructure, the information provided by these courts is of a general nature while detailed data has been highlighted after familiarization with the draft of the New Judicial Map, reflected later here.²³⁰ The buildings of the Durrës Administrative Court of First Instance and the Shkodra First Instance Court need reconstruction as these courts carry out their activities in shared premises with the State Bailiff's Services of counties and the Durrës Probation Service (for the Durrës court). The need to allocate funds for infrastructure problems of existing buildings has been raised with the HJC by the courts. The HJC has allocated a special fund for the Shkodra First Instance Court but the use of this fund has been suspended due to administrative problems carried over for years regarding the plot of land the building is erected on.²³¹

- **Tirana Judicial District Court**

This court has two buildings, the civil and the criminal sections. The building of the civil section has 42 judges' offices, 12 administration offices, and 20 courtrooms. The criminal section building has 24 judges' offices, 2 administration offices, and 7 courtrooms. None of the two buildings of the court meets the standards of security and communications. Likewise, the public service area has not been done according to required standards. Recently, after a request to the HJC, it was made possible to refurbish the archive offices, which made it possible to have new space inside the court and possibilities for better service.

- **Elbasan Judicial District Court**

This court is in a 4-floor building, built in 2017, with 10 courtrooms with adequate space, 20 judges' offices, and 19 administration offices. The court meets the standards for security and has service spaces for the public done according to required standards.

²³⁰ This draft has been submitted for AHC review on 28.12.2021, which coincides with the process of review of this monitoring report, and not during the its drafting or consultation with interested parties, including the HJC and representatives of the courts under monitoring.

²³¹ Also, another reason cited in letter no. 1162/1 prot., dated 09.11.2021 of the Shkodra First Instance Court is "activity undertaken by the HJC on drafting the new judicial map, so that after the completion of the new judicial map, space and structure needs that the Shkodra Judicial Court may have are clearer."

• Shkodra Judicial District Court

The building of this court includes 14 judges' offices, 10 administration offices, and 7 courtrooms (3 criminal and 4 civil). The court building does not meet the design standards for security and avoiding *ex-parte* communication, i.e. dedicated entry and exit for court personnel, litigating parties, and detainees. Also, the public service area has not been done according to required standards.²³²

• Tirana Administrative Court of First Instance

The building of this court is organized into 16 judges' offices and 9 administration offices, as well as 7 courtrooms. The court meets the design standards and has a space for public services that has been done according to required standards.²³³ AHC lawyers, as a litigating party in different cases in this court, have found that often court hearings are held in judges' offices, due to insufficient access to courtrooms.²³⁴

• Durrës Administrative Court of First Instance

The Durrës Administrative Court of First Instance has a building that includes 4 judges' offices, 3 administration offices, and 1 courtroom. The court does not meet the design standards for security and for avoiding *ex-parte* communications.²³⁵ The functionality of only 1 courtroom requires immediate intervention by the HJC to plan and find solutions to guarantee the holding of judicial hearings in appropriate premises that offer solemnity of adjudication and transparency to the parties and the public.

• Judicial Archiving System

Each of the courts under monitoring showed that they have established a judicial archiving system. In the Durrës Administrative Court of First Instance and the Shkodra First Instance Court, Expertise Commissions were established according to instructions for the State Archive of the Judicial System. There are 3 archives functioning at the Tirana Administrative Court of First Instance while the Tirana First Instance Court has full functionality of the internal archiving system and also realizes the transfer of files to

Information obtained from p. 93 of the draft New Judicial Map. <http://klgj.al/wp-content/uploads/2021/12/NJ%C3%8B-HART%C3%8B-E-RE-GJYQ%C3%8BSORE-.pdf>

233 Information obtained from page 129 of the draft New Judicial Map. <http://klgj.al/wp-content/uploads/2021/12/NJ%C3%8B-HART%C3%8B-E-RE-GJYQ%C3%8BSORE-.pdf>

234 Such a problem has been encountered earlier by AHC and it officially referred the concern to the Chair of this Court, noting that with the goal of realizing judicial processes within a short time, the fundamental principles of the solemnity and lawfulness of judicial review should not be affected as this practice does not ensure audio recording of judicial hearings. AHC letter 731 prot., dated October 28, 2021

235 Information obtained from page 131, new Judicial Map. <http://klgj.al/wp-content/uploads/2021/12/NJ%C3%8B-HART%C3%8B-E-RE-GJYQ%C3%8BSORE-.pdf>

the State Archive of the Judicial System. In general, information provided on judicial archiving is insufficient to conduct an analysis of shortcomings and needs of these courts in this regard.

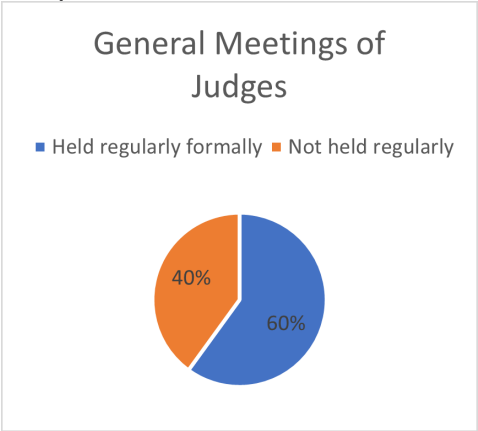
- **Standard forms for transcribing judicial decisions**

Data indicate that the Elbasan First Instance Court uses standard electronic models for drafting judicial decisions while the other four courts do not.

2.1.3.1 General Meeting of Judges

The general meetings of judges at the Elbasan First Instance Court, the Shkodra First Instance Court, and the Durrës Administrative Court of First Instance are done regularly once every month. The Shkodra First Instance Court states that in emergency cases, it convenes this internal court body more frequently. On the other hand, the Tirana Administrative Court of First Instance states that meetings were not held regularly according to legal provisions in force during March 2020 – December 2021 due to the restrictions imposed by the HJC due to Covid-19. The same finding applies to the Tirana Judicial District Court, which states that meetings were held only in emergency cases.

Based on information provided by the courts under monitoring, AHC was not provided with statistical data on the number of meetings held during the monitoring period; nor were audio recordings or anonymized transcripts of meetings, which raises questions about their actual conduct in practice.



Also, failure to fulfill this obligation by two of the courts, with the argument of anti-Covid measures and the suspension of judicial activity by the HJC does not stand as that was the case for a very limited time, while the HJC itself gave a positive example of periodical conduct of plenary meetings.

Given that this situation runs counter to article 39, paragraph 3, of law no 98/2016, AHC suggests that the HJC take concrete measures to exercise a more systematic oversight role to guarantee respect for normative provisions of law no. 98/2016.

KEY RECOMMENDATIONS

Some of the most important recommendations of AHC's monitoring on the activity of the Councils and the courts with the highest caseload in the country highlight particularly the need for:

- a. HJC to continue the pace of the process to complete the necessary quorum of High Court members, which would contribute to unblocking the appointment process to the Constitutional Court for the 3 members elected by the High Court, and further increase the efficiency of this court to review cases.
- b. Systematic coordination of the Councils with Institutions for the Transitory Re-evaluation of Judges and Prosecutors, to realize with pri-

ority and at a higher pace, the vetting for candidates who have expressed an interest in being part of the Courts of Appeals and leading positions in prosecution offices or courts.

- c. HJC should seriously look at the need to research other opportunities for filling vacancies created in the Appeals Courts and first instance courts, providing a sustainable solution that may be formulated as opinions for amendments to the legal framework in force and that guarantee professional judicial corps with integrity, independent, and impartial.
- d. The major challenge in the fight against corruption requires filling vacancies in the SCCOC, specialized human resources, proactive investigations in reasonable deadlines, otherwise all these factors make it possible to increase the punishability of offenses of corruption and organized crime and influence the trust of citizens in the new justice bodies.
- e. Realize transparency on the HJC official website about the meetings and discussions of the interagency working group on the new judicial map, and reflect the level of acceptance or argued rejection of opinions/comments or suggestions offered by third parties interested during the consultative round tables conducted by the HJC.
- f. Further improve transparency of the Councils to publish on time decisions and transcripts (audio and transcribed) of plenary meetings and Standing Committees, and to better organize certain sections of the official website to facilitate public access to information and documentation of the Councils.
- g. Strengthen periodical cooperation between the HJC and the courts under monitoring to encourage the proposing role for legislative initiatives for various legal amendments, which could be positive for efficacious administration of the judicial system, increased efficiency, and guarantee the rights and freedoms of consumers of judicial services.
- h. Display a more open trend to listen to views or critiques of researchers and civil society organizations and present arguments and counter-arguments that enable parties to conduct an open, democratic dialogue, contributing to strengthening transparency, responsibility, and accountability of the Councils.
- i. We recommend to the Council of Ministers and the Assembly of the RA to provide necessary budgetary support for the establishment and

functioning of an improved, contemporary, and unified case management system, with healthy statistical capacity based on CEPEJ methodology.

- j. The majority of the monitored courts should respect the obligation to hold regular meetings of an important body of judicial administration (as is the meeting of judges), ensure audio recordings and transcripts for them.
- k. Use more efficaciously tools recognized by the new legal framework for timely resolution of cases, based on the finding that often courts remain “loyal” to earlier provisions of Procedure Codes, thus causing delays in the adjudication of cases.
- l. Take concrete measures to reduce existing vacancies in the civil judicial administration, by encouraging admissions to the civil service or temporary appointments of judicial employees, for the purpose of establishing legal service units at the First Instance Courts, and the full functioning of existing ones in the Appeals Courts under monitoring, and the High Court. Establish the system that enables initial and continued training of civil judicial employees.
- m. m) The monitored Courts should play a proactive role in collecting and analyzing statistical data on the impact of suspended judicial activity (as caused by Covid-19) in internal proper administration and on guaranteeing effective and efficient legal process.

