

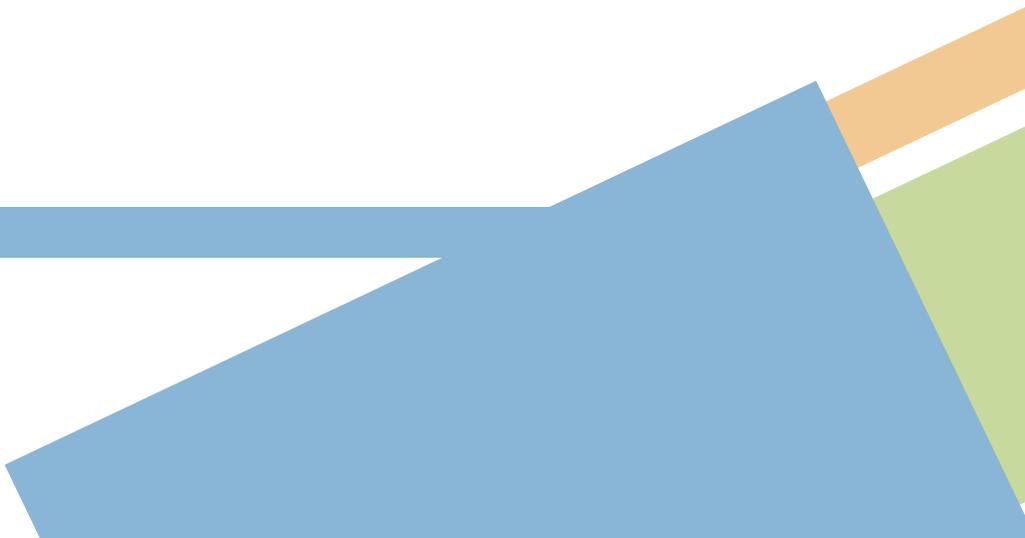


FORUM
for
SECURITY

SERIOUS CRIME, ONLY IN PAPER

Prosecution and Sentencing
Policies in Weapon Related Cases

Pristina, March 2013





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FORUM for SECURITY

FORUM FOR CIVIC INITIATIVES (FIQ), THE INSTITUTE FOR ADVANCED STUDIES (GAP), THE INSTITUTE FOR DEVELOPMENT POLICY (INDEP), AND KOSOVO LAW INSTITUTE (KLI)

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1. EXECUTIVE SUMMARY

Weapon related criminal offences are amongst the most frequent in the Republic of Kosovo. There is a rather complex relation between possession of arms and other crimes. On one hand, weapons are a source of murders, injuries, robberies and other threats. On the other hand, the weapons are used as a protective measure, due to uncertainty of citizens for their lives and properties. This insecurity comes also as a result of the failure of institutions of justice to prosecute and sentence perpetrators of thefts and robberies in a merit-based manner.

In Kosovo, confiscation of weapons is mostly undertaken by the Kosovo Police, whereby a large amount of such arms are seized during actions to combat various illicit occurrences. Over 1,500 weapons are confiscated annually by the Police, thereby emphasizing the illicit possession of weapons as a rather concerning phenomenon. During 2012, only in family ceremonies, the Police have confiscated 131 illicit weapons, and have arrested 67 persons.

After such confiscation of weapons by the Police, prosecutors have a rather easy job in filing the charges, which makes illicit possession and use of weapons amongst the easiest offences to be charged and judged. From charges filed against 1,822 persons, in 79% of the cases, the charges were direct, without any need of investigation, while 21% of the cases, the charges were filed after investigation, since possession of weapons was related to other offences. Although around 10 cases of illicit weapons can be built within an hour by a prosecutor, by the end of 2012, there were 1,345 pending cases in the Prosecution offices. The District Prosecution in Prishtina, one of the most overloaded prosecution offices in terms of case load, despite intensified activities in the last two years, had around 86% of 1,345 cases were still pending by the end of 2013.

The Justice System in Kosovo does not treat all citizens equally before law. In an absence of unified sentencing policy, the sentences have differed within the same court, and obviously between different courts. Every year, Kosovo courts adjudicate over 1,000 cases, in which in 4% of the cases, imprisonment sentences are rendered, 80% of the sentences are fines from EUR 400 to 1,000, and over 10% are conditional sentences, a category which had peaked in 2008, with around 32%. Such a sentencing policy has not been able to repel the citizens from illicit weapons, and simultaneously, all institutional stakeholders have consented to such a policy, and in 2010 and 2011, the Supreme Court has received only 169 cases of illicit weapons, confirming around 50% of these cases.

Another major problem in the justice system is the statutory limitation issue. From 2008 until October 2012, the number of pending cases has increased for 27%, recording and increase from 1,324 to 1,681 cases. Worse than cases being extended is their prescription, where in 2012, the State Prosecutor has been informed with the report that 724 rejection decisions have been rendered due to statutory limitation by the Kosovo Courts on weapon cases. The KLI has found that in 10 municipal courts, during 2012, 27 decisions were subject to statutory limitations, related to offences of illicit possession of weapons. Such limitation means that the persons involved in such offences have gone through the justice system without any consequence, as if nothing had happened, apart from confiscation of the weapon.

2. METHODOLOGY

Considering that this is the first research paper detailing the response of justice authorities against weapon related offences, the KLI had to obtain all records directly from relevant institutions, and was unable to refer to earlier reports. Furthermore, the KLI has had 20 interviews with prosecutors, judges, police officers and bailiffs (court execution clerks).

Due to the lack of a common database for all justice authorities, the KLI embarked on its objective of providing an accurate account, by engaging into a detailed field research, including all Municipal Courts in Kosovo, in an effort of collecting all statistical records on criminal offences involving weapons. KLI researchers have physically traced all execution titles on weapons for 2012 in the former Municipal Court in Prishtina, now the Basic Court in Prishtina.

Despite maximum efforts to obtain accurate and updated statistics, the KLI considers that the statistics do not meet a satisfactory level, due to objective reasons as mentioned, the absence of an automated database common to all justice institutions.

The KLI wishes to express its gratitude for all courts and prosecution offices for their grand effort in providing the most recent data, despite the obvious difficulty of collecting them manually or, simply stated, by browsing physically through the cases.

3. CRIMINAL OFFENCES INVOLVING WEAPONS

The Criminal Code of Kosovo, which was applicable until the end of 2012, regulated the issue of weapons in the Chapter prescribing criminal offences against public order and legal proceedings.¹ Articles 327, 328, 329 and 330 of the Criminal Code of Kosovo had provided the legal framework for sentencing perpetrators of offences involving weapons.² The major absurdity in the first two articles is the fact that the primary sentence is a fine, while the gravity of the secondary sentence is up to eight years of imprisonment. The possibility of imposing the two types of sentences was not approximated with the gravity of the criminal offence.

The Article 327 of the old Criminal Code regulated the matters of unauthorized supply, transport, production, exchange or sale of weapons, punishable up to EUR 7,500, or imprisonment of up to 10 years. Article 328 regulated unauthorized ownership, control, possession or use of weapons, thereby providing on fines of up to EUR 10,000 or imprisonment of up to ten years. Article 329 prescribed the issues of incompliance with authorization requirements. Any offence in this article was to be sentenced by a fine of up to EUR 5,000, or imprisonment up to 3 (three) years. The last article on weapons, Article 330, regulated the issue of manufacturing and supply of weapons and instruments designed to commit criminal offences, for which the Article provides on imprisonment sentences from 3 (three) months to 5 (five) years. Prosecution and trials of criminal offences provided upon by Articles 327 and 328 was undertaken by Prosecution Offices and Courts at the district level, while for Articles 329 and 330, municipal-level Prosecution Offices and Courts dealt with the offences. Municipal courts through the territory of the Republic of Kosovo rendered all execution decisions, except the District Court in Peja.

1 Criminal Code of Kosovo, Chapter XXVIII: Criminal Offences Against Public Order and Legal Proceedings. Assembly of the Republic of Kosovo, 6 July 2003.

2 Criminal Code of Kosovo, Articles 327, 328, 329 and 330, Kosovo Assembly, 6 July 2003.

Since 1 January 2013, the new Criminal Code of Kosovo is in force, it is of critical importance to elaborate on the amended provisions of this Code on the weapons. Considering the fact that illicit possession of weapons, namely Article 328 of the old Criminal Law is the most important article in this Report, we will elaborate the amendments made to this provision.

UNAUTHORIZED OWNERSHIP, CONTROL, POSSESSION OR USE OF WEAPONS

	Criminal Code 2004-2012	Criminal Code 2013 -	Comment
Use of weapon to intimidate or threaten	Fine: Up to €10,000 fine or Imprisonment: 1-10 years	Fine: Up to €10,000 and Imprisonment: 1-10 years	Harsher / The new code has more severe sentences for this criminal offence, providing on a cumulative fine and imprisonment sentence
Possession, control, and ownership of weapon without a valid permit	Fine: Up to €7,500 or Imprisonment: 1-8 years	Fine: Up to €7,500 or Imprisonment: Up to 5 years	Lenience / Compared to the old Code, the new Criminal Code has provided on a more lenient sentence of effective imprisonment, from 8 to 5 years. Also, the new Code has lowered the minimum to 0-5 years, compared to the old Code, which provided from 1 to 8 years of imprisonment.
Use of weapon without a valid permit	Fine: Up to €7,500 or Imprisonment: 1-8 years	Imprisonment: 1-8 years	Harsher / the New Criminal Code does not provide on a fine in the case of use of weapon, but provides on a stricter sentence from 1-8 years, different from the old Criminal Code.
Possession, control and ownership of large amounts of weapons without a valid permit	Imprisonment: 1-8 years	Imprisonment: 2-10 years	Harsher / In comparison to the old Code, the New Criminal Code has clarified on the numbers of weapons and ammunition seized. If more than 4 weapons, or more than 400 bullets are seized, sentences are rather harsh, from 2-10 years of imprisonment.

Source: Old Criminal Code (in force until the end of 2012), and the new Criminal Code (in force from 2013)

Source: Old Criminal Code (in force until the end of 2012), and the new Criminal Code (in force from 2013)

The new Criminal Code of Kosovo, which is currently in force, has paid more attention to the regulation on the issues of weapons, thereby providing on a special chapter on weapon related criminal offences.³ Now, offences are clearly specified and sentences are harsher.

The current legislation has created some dilemmas in the cases of possession of arms, since the Law on Courts, which provides on competencies of adjudicating criminal offences by the Courts, holding of weapons is not determined as a serious offence.⁴ Nevertheless, the Criminal Procedure Code, approved after the Law on Courts, has provided otherwise, prescribing the weapon holding as a serious crime.⁵ In principle, criminal offences categorized as serious

³ Criminal Code of Kosovo, Law no. 04/L-082, Chapter XXX: Weapon offences. Kosovo Assembly, 20 April 2012.

⁴ Law on Courts, Law no. 03/L-199, Chapter III: Organizational Structure and Competencies of the Courts; Article 15: Serious Crimes Department of the Basic Court. Kosovo Assembly, 22 July 2010.

⁵ Criminal Procedure Code, no. 04/L-123, Chapter 2: Competencies of the Courts, Article 22: Offences Considered as Serious Crimes for the Purpose of this Code. Kosovo Assembly, 13 December 2012.

offences are prosecuted and adjudicated by Departments of Serious Crimes. Though, the Basic Court in Prishtina will try its illicit weapons cases in the General Department, and not the Serious Crimes Department, despite the fact that the Criminal Procedure Code has categorized such an offence as a serious offence.⁶ On the other hand, the head of the Court of Appeal, a second instance court, interprets this issue differently, thereby claiming that these crimes be tried by the Department for Serious Crimes.⁷

Different interpretations within the judicial system may create serious problems in implementing the provisions, and require a timely and unified clarification. Until 2009, Kosovo has established its legal framework on the fields of small arms and light weapons (SALW). Until that time, the legal infrastructure was deficient, thereby favouring a good environment for an illicit weapons market. The approval and entry into force of the Law on Weapons and its Administrative Instructions,⁸ has allowed for remarkable progress in the field of weapons, in pursuit of European standards. While the keeping of weapons has been allowed to a wider circle of people in the society, bearing weapons is allowed only for employees of legal entities dealing in the field of security of persons, safety of money and other valuables, or that need to hold weapons in their working hours.⁹

6 KLI, Interview with Mr. Hamdi Ibrahim, President of the Basic Court in Prishtina, January 2013.

7 KLI, Interview with Mr. Salih Mekaj, President of the Court of Appeal, January 2013.

8 Law on Weapons, Law no. 03/L-143, Article 1 on the Purpose and Scope, paragraph 1, Official Gazette of the Republic of Kosovo, number 59, Assembly of the Republic of Kosovo, 17 September 2009.

9 Law no. 03/L-143 on Weapons, Article 17, Assembly of the Republic of Kosovo, 17 September 2009.

4. PROSECUTION OF ILLICIT WEAPONS HOLDERS

Sentences imposed upon persons charged with criminal offences involving weapons must aim at deterring convicts and other persons from activities related to such crimes in the future. The sentence must also reflect the gravity of the offences, and take account the consequences to victims from offences committed. In due account of the large number of cases of illicit weapon holding, and crimes related, the response of judicial authorities against such crimes has been inefficient, while the sentences imposed by courts have been lenient, and even further, in various cases, these court rulings were never executed. In 2012, "Kosovo Prosecution Offices have received from Kosovo Courts 724 rejecting decisions due to statutory limitation, in relation to Articles 327, 328, 329 and 330".¹⁰ Suspension of execution of court rulings due to statutory limitation means that the accused have passed without any tangible punishment from the justice system. Such an occurrence is not only a concern of impunity, but has also encouraged the citizens to continue illicit hold and use of weapons.

In the absence of a joint database between the Police, Prosecution and Courts, below is a table which aims to explicate the response of judicial authorities against weapons offences.

Prosecution of cases by justice authorities

Year	Kosovo Police	Prokuroritë (veprat 327,328,329, 330)	Courts (Article 328, CCK)
2010	1,477 weapons confiscated	- 1,794 cases received - 1,293 cases resolved	- 874 cases received - 750 cases tried
2011	1,613 weapons confiscated	- 1,751 cases received - 1,821 cases resolved	- 1,064 cases received - 1,051 cases tried
2012	1,542 weapons confiscated	- 1,938 cases received - 2,121 cases resolved	Data only for the first nine months - 736 cases received - 792 cases tried

Source: Information and Public Relations Office, General Police Directorate of the Republic of Kosovo, Performance Assessment Unit in the Kosovo Prosecutorial Council, and Department for Statistics in the Kosovo Judicial Council Secretariat

Much more informed policies would be developed if the cases would have had a uniform monitoring starting from the reporting, Police procedures and up to the final ruling of the Court, and further execution of such ruling.

The difficulty in comparing data and the lack of basic data renders very difficult the policy-making processes in the field. Consequently, there cannot be a well-informed strategy or good laws, if we fail to comprehend the source of the problem, and the impact of such actions.

¹⁰ KLI, e-mail correspondence with Mr. Ehat Miftari, Director of the Prosecutors' Performance Assessment Unit, the Kosovo Prosecutorial Council.

5. POLICE ACTIVITIES IN SEIZING WEAPONS

Every year, the Police seize over 1,500 weapons, emphasizing thus the high frequency of criminal offences involving weapons in Kosovo, with a focus on unauthorized holding of weapons. The confiscation of weapons, since the end of the war, has been mainly an activity of the Kosovo Police. Police records show that 2005 was the year in which most weapons were confiscated, a total of 1,919.

Confiscation of weapons by the Kosovo Police, by year

Year	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011
Weapons	586	776	1127	1610	1515	1919	1754	1610	1613	1477	1613	1542

Source: Information and Public Relations Office, General Police Directorate of the Republic of Kosovo

The Kosovo Police seizes weapons from the citizens in its actions for combating various illicit activities, in many cases.¹¹ In such actions, the Kosovo police officers engage in searches, which result in finding and confiscation of weapons held by the citizens, or possessed by them and stored in various locations.

The summer season normally includes most intensive activities of the Kosovo Police in confiscating illicit weapons.¹² During such seasons, the Kosovo Police implements police plans with a view of preventing various criminal offences, including police activities in preventing and capturing persons shooting in family festivities. The period most yielding in confiscation of weapons is from early July to early September, a period of frequent family festivities, mainly weddings. During the summer, Police has its special plans to maintain law and order, which also include seizures of illegal weapons.

Kosovo Police Action: "Festivities and Weddings", 11.07.2012 – 04.09.2012"

	Police interventions	Seized weapons	Seized ammunition	Injured persons	Arrested persons
Prishtina	60	60	620	01	41
Gjilan	06	06	220	00	00
Ferizaj	12	18	96	00	08
Prizren	21	19	142	03	02
Pejë	20	16	392	04	14
Mitrovicë	21	12	105	02	02
Total	140	131	1575	10	67

Source: Information and Public Relations Office, General Police Directorate of the Republic of Kosovo

Meanwhile, confiscation of other weapons is related to other plans of the Kosovo Police, aiming at combating other illicit activities, such as trafficking in narcotics, or others, which also result in seizure of weapons.

11 KLI, e-mail correspondence with the Information and Public Relations Office, General Police Directorate of the Republic of Kosovo, January 2013.

12 KLI, e-mail correspondence with the Information and Public Relations Office, General Police Directorate of the Republic of Kosovo, January 2013.

6. EFFICIENCY OF PROSECUTIONS

Unauthorized holding of weapons is an offence that does not require much time for the prosecutors to handle.¹³ In 2012, for 1,822 persons charged, in 79% of the cases, the charges were direct, without a need for further investigation, while in 21% of cases, charges were filed after investigation. Cases related to charges requiring investigation are cases which involve other criminal offences; therefore the offence of unauthorized weapons does not need any complex investigation.

Despite the easiness of charging persons for cases involving weapons, pending cases have accumulated to alarming figures of a backlog of over 1,500 cases. This problem has mostly been contributed by the lack of efficiency of public prosecution offices from 2008 to 2010, caused also due to the process of appointment and vetting of prosecutors.

Efficiency of prosecutors

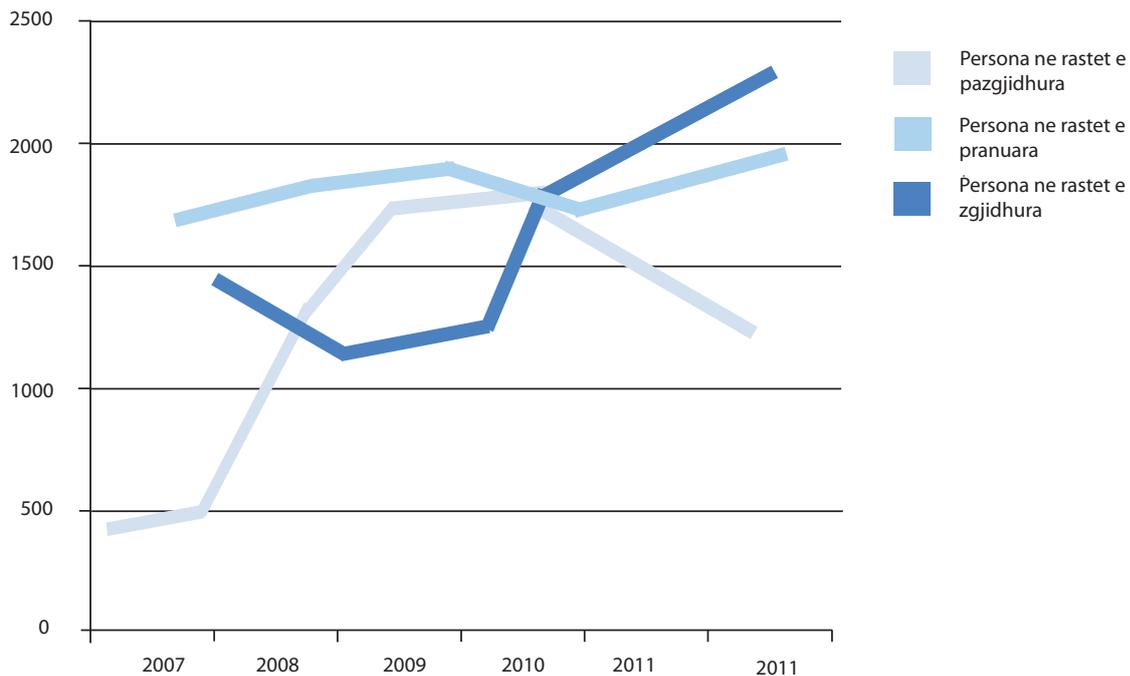
Year	2008	2009	2010	2011	2012
Persons in cases received	1692	1775	1794	1751	1938
Persons in cases resolved	1494	1175	1293	1821	2121
Persons in cases unsolved	518	1301	1802	1732	1345

Source: Prosecutors Performance Assessment Unit in the Kosovo Prosecutorial Council

The graph below clearly shows that the backlog came mostly as a result of inefficiency of prosecutors in handling such cases, and this is definitely not related with the increased number of cases received for prosecution. Nevertheless, it is worth noting that in 2011 and 2012, prosecution offices have increased their efficiency, and have shown greater readiness in handling such cases. Prosecutors have also used the resolution of these cases in improving their performance statistics,¹⁴ which in turn have had their influence in appointment of prosecutors to the positions included in the transformation of the prosecutorial system in Kosovo.

13 A prosecution can complete up to 20 cases of unauthorized weapons within 3 hours. KLI, Interview with a prosecutor in the Prosecution of Appeal in Prishtina, January 2013.

14 KLI, Interview with Mr. Salih Mekaj, President of the Court of Appeal, former President of the District Court in Peja, January 2013.



The District Prosecution in Prishtina has increased efficiency in the recent years, thus in 2012, it received cases involving 747 persons, and resolved cases involving 1,028 persons, or 138%. Nevertheless, by the end of 2012, 86% of 1,345 persons involved in pending cases have pertained to this prosecution office alone.

Although prosecutors have stated that the sentencing policy is lenient, their actions speak otherwise, due to the fact that the Supreme Court has not received any considerable numbers of appeals by such prosecutors. In 2010 and 2011, the Supreme Court has only received 169 cases of unauthorized weapons, which is much smaller than the number of 1,801 cases tried in District Courts during this period.

7. SENTENCING POLICY

The sentences imposed by the courts show that the judicial system in Kosovo does not treat everyone equally before the law. The sentencing policies have been different from one court to the other, but also different within the same court.¹⁵ All this is a consequence of the absence of a unified sentencing policy.

Kosovo is yet to create conditions to accurately assess which sentence would be more adequate. The lack of databases causes various problems, and it is difficult to know the effects produced by various sentences.¹⁶ The lack of detailed research only contributes to the confusion of punitive policies. According to some interviewees, the conditional sentence is harsher than the fine, since a category of people does not have any difficulty of paying the fine, but have more difficulty of holding weapons while being aware of risking imprisonment.¹⁷ Some others have taken the side of the idea that the sentencing policy must be built upon fines, and only specific cases of imprisonment, thereby underlining that holding weapons is not an isolated offence, but it is very much related to the lack of security and endangering of their property.¹⁸ On a third item, there is wide consensus of prosecutors and judges who say that fines have not given their desired effect.¹⁹ Despite such a wider consensus, the most frequent sentences imposed involved fines, and fines of around EUR 400 until recently. Nevertheless, the policy has grown harsher in the years.²⁰ Fines for unauthorized weapons of over EUR 800 are expected to ensure more satisfactory outcomes in the field.²¹

The unauthorized weapons offences continue to further burden the judicial system, since the number of received cases in 2011 has considerably grown, from 900 to 1000 cases annually. The increase in numbers of new cases in courts is rather connected to the higher efficiency of prosecutors in filing charges, and less with the larger numbers of seized weapons by the Kosovo Police.

Illicit weapons possession is one of the easiest offences to try. The Kosovo judicial systems have spent an average of 1.5 years in resolving such cases, from its initiation with the Court, and until the final judgment at the District Court. Since 2008 and until 2012, the Judiciary has resolved 727 up to 1,051 cases a year, which shows higher efficiency in resolving such cases. For the same period, the number of unresolved cases has only grown, where in the period between 2008 and October 2012, such number has grown for 27%, thereby recording the increase from 1,324 to 1,681 unresolved cases.

15 KLI, Interview with Mr. Salih Mekaj, President of the Court of Appeal, former President of the District Court in Peja, January 2013.

16 KLI, interviews with judges and prosecutors, December 2012 – January 2013.

17 KLI, Interview with Mr. Zyhdi Haziri, former President of the District Court in Gjilan, January 2013.

18 KLI, Interview with Mr. Hamdi Ibrahim, President of the Basic Court in Prishtina, former President of the District Court in Prishtina, January 2013.

19 KLI, Interviews with judges and prosecutors, December 2012 – January 2013.

20 According to District Judges, two recent years have recorded more fines and imprisonment sentences. KLI, Interview with Mr. Zyhdi Hoxha, former Judge at the District Court in Gjilan, January 2013.

21 KLI, Interview with Mr. Fejzullah Hasani, President of the Supreme Court of the Republic of Kosovo.

Cases of illicit weapons possession in Kosovo Courts

	2008	2009	2010	2011	2012
Unresolved cases by the end of the period	1,324	1,406	1,600	1,724	1,737
Cases received	853	921	874	1,064	736
Total cases active	2,177	2,327	2,474	2,788	2,473
Total cases resolved	771	727	750	1,051	792
Cases pending by the end of period	1,406	1,600	1,724	1,737	1,681

Source: Department of Statistics, Secretariat of the Kosovo Judicial Council

Weapons are related to many other crimes in society, which often endanger human lives. Around 50.9% of respondents state that firing weapons is one of the most frequent crimes in the community.²² Independently of such a fact, judges have imposed the most lenient possible sentences for the vast majority of these cases, and in this sense, court rulings demonstrate that judges have found that illicit holding of weapons does not represent any serious problem for the society. Only in 4% of instances courts imposed imprisonment sentences. The vast majority of sentences, which already makes over 80%, are in fines totalling from EUR 400 to EUR 1,000. Meanwhile, over 10% of the cases resolved are conditional sentences - a category that reached its peak with 32% of the cases in 2008.

YEAR	Number of cases resolved, by ruling							
	Judgment					Acquittal judgment	Rejection judgment	Otherwise completed
	Imprisonment sentence	Cases completed by convicting judgment			Other sentences			
Fine sentence		Conditional sentence	Other sentences					
2008	30	438	243	10	32	3	15	
2009	32	523	140	11	10	9	2	
2010	53	545	110	12	9	12	9	
2011	35	847	115	0	13	11	29	
October 2012	20	685	69	1	2	10	5	

Source: Department of Statistics, Secretariat of the Kosovo Judicial Council

In 2011, the Supreme Court received 99 cases of unauthorized weapons holding, and has upheld 46% of cases from the District Courts, while only imposing harsher sentences in 23% of the cases. The upholding in higher instance of the decisions by the Supreme Court has been a signal for the District Courts that they are properly handling the cases, and imposing adequate sentences. Such an approach has discouraged prosecutors from appealing, especially at the time when success of prosecutors in appeals was part of their performance assessment.²³

22 "Still Time to Act" (London: Saferworld, October 2012)

23 KLI, Interview with Mr. Ismet Kabashi, Chief State Prosecutor, January 2013.

Cases in the Supreme Court				
	2010		2011	
Received	70		99	
Upheld	35	50%	46	46%
Amended				
Harsher sentence	5	7%	23	23%
Lenient sentence	7	10%	2	2%
Only amended	0	0%	3	3%
Annulled	16	23%	9	9%
Other rulings	7	10%	2	2%
Pending	0	0%	14	14%
TOTAL:	70		99	

Source: Supreme Court of the Republic of Kosovo

Decisions of the District Courts were upheld by the Supreme Court at a rate of 50% or 46%, in 2010 and 2011, respectively.²⁴ Such an approach has lowered the willingness of prosecutors to file appeals in years, thereby suggesting that the majority of sentences rendered by District Courts were adequate.

The nature of the crime of holding weapons is not complex, and it does not bear any difficulty in handling the cases. Failure in prosecuting and proper trial of such cases is related to the lack of accountability of judicial authorities. In certain cases, excessive delays of court trials have caused the existence of cases of unpermitted weapon holding which are subject of court proceedings for more than a half of a decade.

For example, in 2012, the Municipal Court in Prishtina suspended the execution of the court decision due to absolute statutory limitation. Six years earlier, the convict had used a weapon to intimidate another person. The trial of the case was held in 2007 at the District Court, and the convict had never paid the fine. After many years, when the Court had transformed the fine into imprisonment, the timeline for execution had already lapsed.²⁵

Court decisions which are left unexecuted are even more harmful than lenient sentences, since they render "incomprehensible the imposing of sentences which are not executed" for the judges and the whole system."²⁶ According to the State Prosecution, in 2012, 724 rejecting decisions were reported due to statutory limitation as rendered by Kosovo courts on weapons cases. The KLI has found that in 10 Municipal Courts²⁷, only in 2012, 27 decisions were subject to statutory limitation, decisions related to illicit weapons holding.

24 Prosecutors clearly claim that the level of upholding of court decisions by the Supreme Court was rather too high. KLI, Interview with Mr. Sylë Hoxha, former Acting Chief District Prosecutor in Prizren, and Mr. Agron Galani, former Chief District Prosecutor in Peja, January 2013.

25 Decision on execution of sentence by the Municipal Court in Prishtina, whereby the person was fined to EUR 1,500.

26 KLI, Interview with Mr. Salih Mekaj, President of the Court of Appeal, former President of the District Court in Peja, January 2013.

27 Municipal Courts in Dragash, Gjakova, Gjilan, Istog, Kaçanik, Klinë, Malisheva, Prishtina, Rahovec and Suhareka. There is a large difference between records in possession of the State Prosecution and those offered by the courts on decisions suspended due to statutory limitation.

8. RECOMMENDATIONS

With a view of having a more adequate response of judicial authorities against offences involving weapons, the KLI hereby shares the following recommendations for the relevant institutions and stakeholders:

- **The Kosovo Police** must be more active in producing intelligence-led information in discovering locations of weapons held by citizens. In this way, the Kosovo Police must strictly implement the Administrative Instruction on Firearms Tracing, with a view of establishing a database that would serve to identify leads for the police units to seize unauthorized weapons.
- **The Kosovo Police** must develop more action plans to prevent the use of weapons in family festivities. Although a greater commitment has already been seen, especially during the summer, these operations must be more frequent in number, so that weapons are confiscated, and the awareness is raised amongst the population.
- **The State Prosecutor** must improve cooperation with the Kosovo Police, the Courts and other institutions, in developing adequate policies and actions plans to prosecute persons involved in criminal offences involving weapons.
- **Courts** must have more severe sentencing policies on cases of illicit weapons, so that the objective of the sentence is fulfilled and perpetrators are deterred, as well as the awareness of others in strengthening of rule of law is increased.
- **The Ministry of Justice** must approximate the criminal legislation, so as to avoid confusion, like in the case of weapons holding, where there is a collision between laws, thereby clarifying the competencies of prosecution and trial of criminal offences of unauthorized weapons.
- The process of developing a common database to serve for information exchange between stakeholders, namely the police, prosecution and courts, must be pushed forward. This process requires better coordination between **police, prosecution and courts**. Such information would render possible more adequate policies in the field.
- In due consideration of the easiness in prosecuting and trying cases of unauthorized weapons, **the State Prosecutor** must investigate the occurrence of statutory limitation over cases involving unauthorized weapons.

