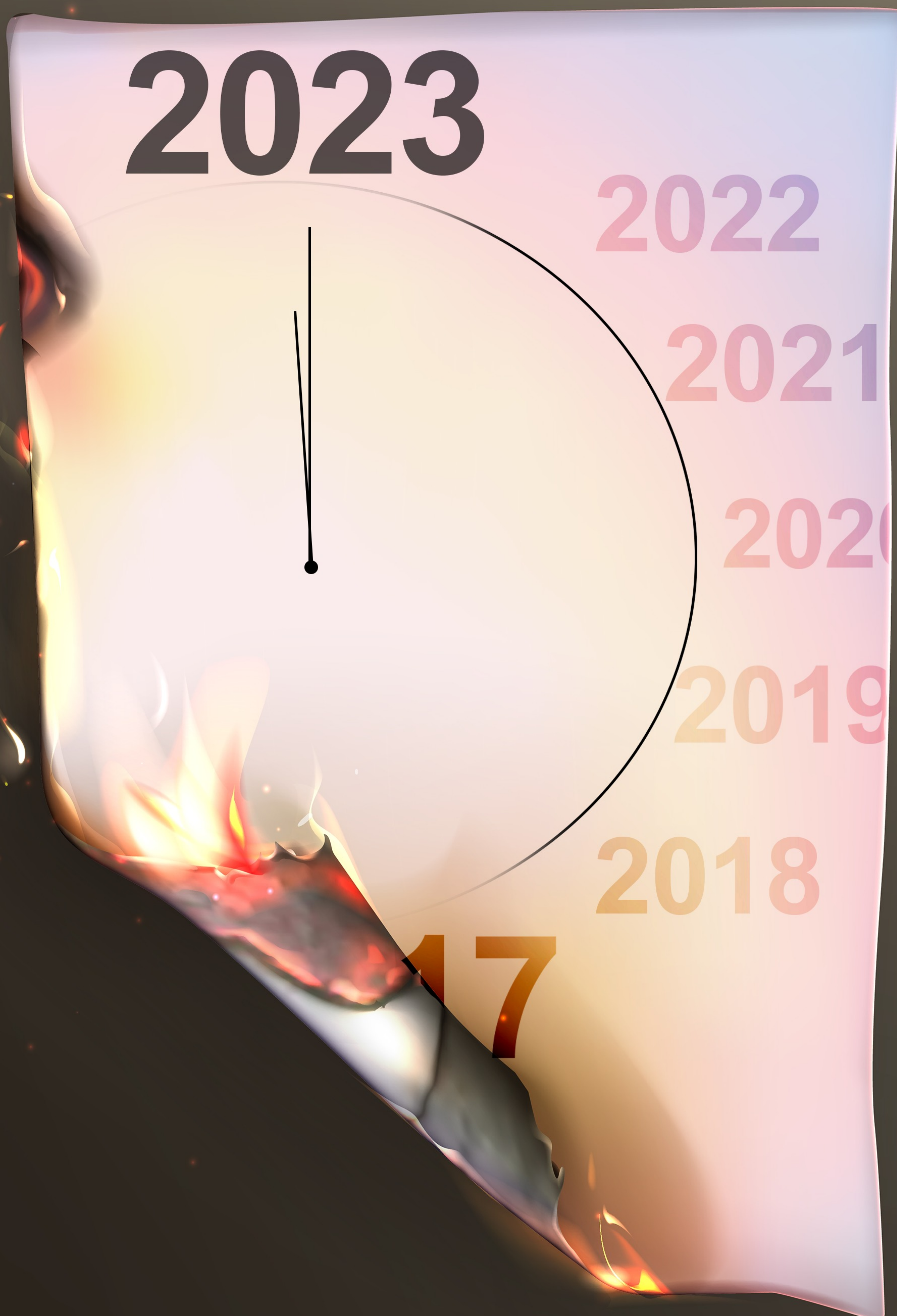




# Amnesty of criminality through the statute of limitation









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## **ABOUT KLI**

KLI, Kosovo Law Institute, is a non- governmental and non-profit organization of public policy, a think tank specialized in the justice sector.

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## **List of acronyms**

<b>KLI</b>	<b>Kosovo Law Institute</b>
<b>KJC</b>	<b>Kosovo Judicial Council</b>
<b>KPC</b>	<b>Kosovo Prosecutorial Council</b>
<b>CPCRK</b>	<b>Criminal Procedure Code of the Republic of Kosovo</b>
<b>CCRK</b>	<b>Criminal Code of the Republic of Kosovo</b>
<b>FRRLS</b>	<b>Functional Review of the Rule of Law Sector</b>
<b>USDS</b>	<b>US Department of State</b>
<b>SD</b>	<b>Special Department</b>
<b>BCP</b>	<b>Basic Court Pristina</b>
<b>BPOP</b>	<b>Basic Prosecution Office Pristina</b>
<b>GD</b>	<b>General Department</b>
<b>SCD</b>	<b>Serious Crime Department</b>
<b>MIA</b>	<b>Ministry of Internal Affairs</b>
<b>SP</b>	<b>State Prosecutor</b>



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## 1. Executive summary

One of the main challenges that has challenged the criminal justice system in Kosovo in a period of several years is the large number of cases reaching the statute of limitation. The number of cases reaching the statute of limitation has become a problematic issue in all aspects of criminal justice in the country.

Despite the fact that with plans on paper and with different strategies of the KJC and KPC, corruption issues should be treated with absolute priority, such a thing has not happened in practice over the years, because a large number of cases over the years have become obsolete, making a merit-based judgement impossible. Pursuant to KLI monitoring of the justice system, it has been found that factors that influence the statute of limitation of criminal cases, with special emphasis on those pertaining to corruption, belong to two categories: objective and subjective circumstances or reasons. As for the objective reasons, the large number of cases, the lack of judges, the lack of administrative staff, and others, are some of the reasons that affect the delay in handling corruption cases, which delay causes the statute of limitation being reached for these cases.

KLI in their report "Statute of limitation of Corruption", found that during 2023, the cases of 24 accused, who participated in 18 court cases, were at risk of reaching the statute of limitation. This warning seemed to have been successful up to a point, since during this year the cases of seven (7) accused who are involved in five (5) court cases have reached statute of limitation. Therefore, 17 accused less risking reaching the statute of limitation. If the damage claimed by the prosecutor's office in these cases is calculated, it turns out that only within the year 2023 the cases that reached the statute of limitation, the damage exceeds the value of 142 thousand and 817 euros. However, this value was calculated only for two (2) cases, while for three (3) cases it was not calculated as the prosecution did not determine the damage alleged in the indictment. Thus, despite the insufficiency, the data speak of progress in this area. Since out of 18 court cases that were at risk of reaching the statute of limitation during the year 2023, only five (5) cases have reached the statute of limitation. While in 2022, 16 cases involving 28 people reached the statute of limitation. On December 9, 2023, there is a risk that a court case of corruption will reach the statute of limitation.

Despite this, the statute of limitations will be a problem in the following years as well, since during 2024 the cases of 20 accused persons, which include 14 court cases, are at risk of being statute-barred. The damage calculated according to the indictments of the Prosecutor's Office, turns out to be 582 thousand 872 euros and 87 cents. The statute of limitations seems to be a problem in the following years as well, since in the next three years there is a potential risk that the cases of nearly 100 accused will become statute-barred.

KLI has continuously monitored the court cases of politicians who have problems with the law. As for the statute of limitations of cases involving politicians, KLI finds that in 2023 a court case has reached statute of limitation, which is the case against the Minister of Internal Affairs (MIA), Xhelal SveÁla. Meanwhile, there are also eight (8) politicians, whose cases for some crimes are at risk of reaching the statute of limitation in the next three (3) years.



## 2. The notion of the statute of limitation

Statute of limitation Institute is one of the most important institutions in criminal justice. Statute of limitation is an important concept, which means that a certain person cannot be prosecuted or judged upon reaching a certain legal term. With statute of limitation, time limits are established for the prosecution or trial of a certain person for a criminal offense of a certain nature. This means that the time set for limitation is determined by law and at the moment when the limitation period is reached, the criminal prosecution cannot be carried out, and if the same is being developed at the time of reaching this term, the procedure must be interrupted. The reaching of the limitation period has the consequence that the accused persons remain untried in a meritorious manner. For the statute of limitation of criminal prosecution, justice system institutions must take care according to their official duties. Thus, regardless of the existence of the defendant's request, in each case when the statute of limitations for the criminal prosecution has reached, the institutions should not start the criminal prosecution, respectively they should stop the criminal prosecution.<sup>1</sup>

The Criminal Code of the Republic of Kosovo (CPCRK) has determined the statute of limitations, depending on the penalty determined by law. This Code recognizes two types of limitation periods: relative and absolute. By relative statute of limitation, we mean the delay of the institutions of the justice system to undertake certain procedural actions, for which reason criminal prosecution is also statute-barred. While, by absolute statute of limitation, we mean the time elapsed from the commission of the criminal offense to the moment when the criminal offense is statute-barred. In the second case, the actions of the justice institutions are not relevant in relation to the limitation period. The absolute limitation period is longer than the relative one.<sup>2</sup>

Achieving the statute of limitations amnesties potential perpetrators of various criminal offenses. But, at the same time, this deadline damages and has consequences in the lives of unjustly accused persons who are held "hostage" to justice and in the end a verdict cannot be obtained for their cases, leaving those cases to become obsolete and reach the statute of limitation.

The new Criminal Code that entered into force in April 2019 has significantly extended the statute of limitations. The Kosovo Law Institute (hereafter KLI) had assessed that the extension of the statute of limitations does not represent a fair and proportional solution for the treatment of corruption cases. According to KLI, in the justice system, institutional capacities must be strengthened to deal with criminal offenses of corruption<sup>3</sup> within a reasonable time. The lack of these capacities should not harm the legal security of citizens.

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1 Salihu I. Zhitija H. and Hasani F. "Commentary on the Criminal Code of the Republic of Kosovo". Edition 1. Pristina. March 2014. Page 329-330. (Last accessed on 23 October 2023).

2 Criminal Code Republic of Kosovo No. 06/L-074, Article 99-100

3 Gashi L. and Shala G. "Corruption cases on the brink of reaching statutory of limitation". KLI. Pristina. December 2021. Page 5-6. (See link: (Last accessed on 25 October 2023)).



### 3. The phenomenon of statute of limitation in Kosovo

The phenomenon of the statute of limitation in Kosovo has always been a disturbing phenomenon in the Kosovar justice system. The large number of cases with statute of limitation over the years have been problematic in all areas of criminal justice in Kosovo. Also, much more worrying has been the statute of limitation of corruption cases. The statute of limitation of corruption cases, despite the prioritization of these cases with different strategies over the years, has shown that this phenomenon still remains a problem without adequate addressing. The statute of limitations for corruption cases has in some cases also been considered as corruption amnesty.<sup>4</sup>

That the statute of limitations was a disturbing phenomenon in the criminal field in the past, is best shown by the policy document "Execution of criminal sanctions", this document issued by the Functional Review of the Rule of Law Sector (FRRLS)).<sup>5</sup> Another document that emerged from this process, stated that *"[m]onitoring found that during 2018, corruption cases in Kosovo's courts reached statute of limitation, even those marked for visa liberalization"*.<sup>6</sup> During the years 2015-2019, indictments were filed against 50 people or 4.56% of resolved cases in the Basic Courts.<sup>7</sup> KLI findings, mentioned the marked inefficiency in the handling of corruption cases, where as a result during 2022 the cases against 28 defendants accused of corruption reached the statute of limitation, and in total there were 16 cases of corruption.<sup>8</sup> The problem with the statute of limitations was also highlighted in the report of the US Department of State (USDS) for the year 2022, where the KLI report was also cited.<sup>9</sup>

Referring to the KLI report on the statute of limitations for corruption during 2022, the members of the KJC requested that corruption cases be treated with priority.<sup>10</sup>

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4 Iustitia 2 Amnesty of Corruption through the statute of limitation . Iustitia. 08 May 2021. (See link: <https://betimiperdrejtesi.com/iustitia-amnistia-e-korrupsionit-permes-vjetersimit-te-lendeve-2/>). (Last accessed 25 October 2023).

5 Policy document on the execution of criminal sanctions . Ministry of Justice. Pristina. November 2019.

6 Functional Review of the Rule of Law Sector Raising professionalism and competence in the judicial and prosecutorial system . Ministry of Justice. Page 24

7 Gashi L. and Shala G. Corruption cases on the brink of reaching statutory of limitation . KLI. Pristina. December 2021. Page 5-6. (See link: <https://k-li-ks.org/wp-content/uploads/2021/12/Korrupsioni-ne-prag-te-vjetersimit-Final.pdf>). (Last accessed 25 October 2023).

8 Statute of Limitation of Corruption . KLI. Pristina. December 2022. Page 4. (Last accessed 25 October 2023).

9 "2022 Country Reports on Human Rights Practices: Kosovo . U.S Department of State. March 2023. (See link: <https://www.state.gov/reports/2022-country-reports-on-human-rights-practices/kosovo/>). (Last accessed 30 October 2023).

10 The KLI report on the statute of limitation of corruption is discussed at the KJC meeting, the members request that these cases be treated as a priority . Betimi per Drejtesi. 27 December 2022. See link:



## 4. Statute of limitation

### 4.1. Statute of limitation of corruption

KLI in the 2022 report on statute of limitation of corruption, evidenced that the cases of 28 defendants accused of the criminal offence of corruption have reached the statute of limitation, where a total of the cases of these 28 defendants were part of 16 court cases.<sup>11</sup> In this report, in addition to the identification of the cases that reached the statute of limitation, KLI drew attention to the risk of other cases that will reach the statute of limitation, by identifying the exact dates of the corruption cases which were in the process. After the publication of this report, the year 2023 has been significantly more successful in the fight against the statute of limitation for corruption cases. This is because KLI in the “Statute of limitation of corruption” report has evidenced that during the year 2023, the cases of 24 accused, who were part of 18 court cases, were at risk of reaching the statute of limitation.<sup>12</sup> This warning seems to have been successful up to a point, since during this year the cases of seven (7) accused who are involved in five (5) court cases reached the statute of limitation. Therefore, 17 accused less than they risked reaching the statute of limitation. While, in 2023, there is also a potential risk of reaching the statute of limitation in the case of Shaban Gallopeni, that will reach the statute of limitation on December 9, 2023.<sup>13</sup>

If the damage claimed by the prosecutor's office in these cases is calculated, it turns out that only within the year 2023 corruption cases reached statute of limitation, in which the damage exceeds the value of 142 thousand and 817 euros. However, this value was calculated only for two (2) cases, while for three (3) cases it was not calculated as the prosecution did not determine the alleged damage in the indictment.

Thus, despite the insufficiency, the data speak of progress in this area. Since out of 18 court cases that were at risk of being prescribed during the year 2023, only five (5) cases have reached the statute of limitation. While in 2022, 16 cases involving 28 people were prescribed. Despite this, the statute of limitations will be a problem in the following years as well, since during 2024 the cases of 20 accused persons, which include 14 court cases, are at risk of being statute-barred. The damage calculated according to the indictments of the Prosecutor's Office, turns out to be 582 thousand 872 euros and 87 cents. The statute of limitations seems to be a problem in the following years as well, since in the next three years there is a potential risk that the cases of nearly 100 accused will become statute-barred.

### 4.2. Statute of limitation of crimes from politicians

KLI, from its systematic monitoring of the justice system, has evidenced in previous years inefficient treatment of politicians' cases by the judiciary and non-compliance with legal deadlines. KLI has considered that this approach of the judiciary creates a negative perception among the public for the lack of courage in handling the cases of politicians by the courts, especially, if the same cases reached the statute of limitation.<sup>14</sup> The case against the Speaker of the Assembly of the Republic of Kosovo, Glauk Konjufca, shows that the cases of politicians are not being handled efficiently, who was charged with a criminal offense in 2022

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<sup>11</sup>“Statute of limitation of corruption”. KLI. Pristina. December 2022. Page 4. (Last accessed 25 October 2023).

<sup>12</sup> *ibid.*

<sup>13</sup> Note: One of the cases is at risk of reaching the statute of limitation of 9 December 2023.

<sup>14</sup> Thaqi M.: “Challenges in dealing with general crimes”. Pristina. July 2022. Pg. 6-9.



but that the statute of limitations was established only in 2023. Criminal offense prescribed turns out to be "Obstruction of an official person during the performance of official duties". Otherwise, for this case, Konjufca is also being accused of the criminal offense "Use of a weapon". This case is being judged by the judge of the General Department, Edita Çanta.<sup>15</sup>

KLI has continuously monitored the court cases of politicians who have problems with the law.<sup>16</sup> Regarding the handling of these court cases involving politicians, KLI had found that these cases are being pursued with a much greater delay than the delays encountered in other cases involving ordinary citizens, and that some cases due to delays have reached absolute statute of limitation.<sup>17</sup> Regarding the statute of limitations for politicians' cases, KLI finds that in 2023 a court case has reached the statute of limitation, which is the case against the Minister of Internal Affairs (MIB), Xhelal Sveçla, who was accused of the criminal offense "Participation in the crowd committing criminal offense and hooliganism".<sup>18</sup> Regarding the delays and statute of limitation of this case, one of the court's reasons was the absence of the defendants in the hearings.<sup>19</sup> Otherwise, the "Betimi per Drejtësi" had previously announced that this case would reach the statute of limitations.<sup>20</sup> This case was judged by the judge of the General Department (DP), Eroll Gashi.<sup>21</sup>

Meanwhile, there are also eight (8) politicians, whose cases for some offenses risk the statute of limitation in the next three (3) years. There are seven (7) deputies, four (4) of whom come from the ranks of the Vetëvendosje Movement, two (2) deputies come from the ranks of the Alliance for the Future of Kosovo (AAK) and one from the Democratic Party of Kosovo (PDK). (See graphic below).

15 "Konjufca is charged with the criminal offense of obstructing an official". Betimi për Drejtësi. 25 October 2023.

(Shih linkun: <https://betimiperdrejtesi.com/adem-grabovci-nuk-me-kujto-het-qe-ndonjehere-glauk-konjufca-ka-hedhur-gaz-lotsjelles/?fbclid=IwAR3hbnEHCE7yHj-gFggYw8io7Z4wJDrbfdtLByolt5T6B2KN0BvwNxAt62Y> ).

(Last accessed 28 October 2023).

16 "Governance with clean hands". Kosovo Law Institute. Pristina. December 2022.

17 "Incomplete investigations and petty judgment". Kosovo Law Institute. September 2023.

18 When the court and the judge fail, Minister Sveçla and other criminal offence reaches the statute of limitation". Betimi për Drejtësi. 24 June 2023. (See link : <https://betimiperdrejtesi.com/kur-gjykata-dhe-gjyqtari-deshtojne-ministrit-svecla-dhe-te-tjereve-iu-parashkruhen-veprat-penale/>). (Last accessed 29 October 2023).

19 The statute of limitation for criminal offenses against Minister Sveçla and others is justified by the absence of the defendants in court sessions. Betimi për Drejtësi. 13 July 2023 (See link: <https://betimiperdrejtesi.com/parashkrimi-i-veprave-penale-ndaj-ministrit-svecla-dhe-te-tjereve-gjykata-arsyetohet-me-mungesen-e-te-pandehurve-ne-seanca/>). (Last accessed 25 October 2023).

20 When the court and the judge fail, Minister Sveçla and other criminal offence reaches the statute of limitation". Betimi për Drejtësi. 24 June 2023. (Shih linkun: <https://betimiperdrejtesi.com/kur-gjykata-dhe-gjyqtari-deshtojne-ministrit-svecla-dhe-te-tjereve-iu-parashkruhen-veprat-penale/>). (Last accessed 17 August 2023).

21Thaqi M.: "Challenges in dealing with general crimes". Pristina. July 2022. Pg.15,16,17.



## 5. Reasons for cases reaching the statute of limitations according to KLI monitoring

From the monitoring that KLI makes of the justice system, it has been found that the factors that influence the statute of limitation of criminal cases, with special emphasis on those of corruption, belong to two categories: objective and subjective circumstances or reasons.

One of the objective reasons that affects the statute of limitation of court cases is the **overload of the judicial system**. At the end of the ninth (9) month of 2023, over 268 thousand and 476 cases remained. Regarding the large number of unresolved cases, the Rule of Law Strategy in Kosovo has emphasized that this large number of unresolved cases creates numerous procedural delays.<sup>22</sup> Also, another objective reason that KLI has identified are the cases where the procedures are delayed due to the fact that the **defendant is on the run** and cannot be found, when the parties have **health problems** or other **situations of this nature**.

On the other hand, KLI found a series of subjective reasons that influence the statute of limitation of corruption cases. One of them, and most important, remains the **non-proceeding of court cases within certain legal deadlines**. In order to guarantee the trial within a reasonable time limit, which trial in principle prevents the statute of limitation of cases, the Criminal Procedure Code has determined the time limits of the investigation<sup>23</sup> and trial. Likewise, priority treatment of corruption cases and cases that threaten the statute of limitations is also given by the KJC Strategy for prioritizing cases, and according to this strategy, the cases that threaten the statute of limitations must be handled within the shortest possible<sup>24</sup> time frame. It was also a priority in the past years, yet that in reality the priority has remained only as an obligation on paper and not implemented in practice.

Failure to adequately process cases by judges is one of the main reasons for the statute of limitations. An illustrative case for this is the case against the former director of the Municipal Directorate of Inspectorates in the Municipality of Prizren, Bujar Nerjovaj. Even though IKD had announced that the case would reach the statute of limitations in February 2023, this case still failed to receive an epilogue. The criminal offense in this case was committed continuously from 2011 until February 21, 2013. The indictment in this case was filed only after five (5) years. So, from the beginning, five years were lost from the Prosecutor's Office.

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22 Government of the Republic of Kosovo, Rule of Law Strategy 2021-2026, July 2021. Pg. 12 and 22. (See link <https://md.rks-gov.net/desk/inc/media/6DC1CBD5-0DF1-46AE-9D1A-78C96146C7D0.pdf>). (Last accessed 25 October 2023).

23 Criminal Procedure Code No. 08/L-032, Article 157, Article 234, Article 236 and Article 310.

24 Note: On May 31, 2022, the KJC approved the Strategic Plan for improving access to justice 2022-2025 regarding the efficiency and prioritization of cases within the judicial system, where according to this plan, respectively in Chapter VI, point 1,1 it is stated that: "Regarding the cases of the criminal field - which endanger the statute of limitations, judges must take care that they are dealt with within the shortest possible time, taking care that the hearings are held within a certain period of time and are continuous until the case is resolved, not dealing with the cases which endanger the statute of limitations affects the damage to the image of the justice system on the one hand and on the other hand also affects the trust of citizens and parties in the justice system".



Although the first-instance judgment was received in record time by the Basic Court in Prizren, that is, on June 3, 2019, the same treatment was not given to this case in the retrial, as the Court in Prizren had not managed to finish this case either for more than 3 years and 2 months or for 1 thousand 169 days. This case reached the statute of limitations on February 21, 2023.<sup>25</sup>

Moreover, another reason that affects the statute of limitation of cases is the **frequent return of cases for retrial** by the Court of Appeal or the Supreme Court. Then, the **return of cases to point zero** due to the passage of more than three (3) months since the last hearing or due to the change of members of the trial panel.<sup>26</sup> Only during 2022, KLI identified a total of 23 cases that had to be returned to point zero.<sup>27</sup> Whereas, in 2023, 17 cases were recorded, 14 of which were due to change members of the trial panel. The application of the provision of the Criminal Procedure Code for the substitute judge would be optimal solution so that the change of the trial panel does not affect the return of cases to point zero.<sup>28</sup>

Even the poor administration of court hearings is one of the factors that affects reaching the statute of limitations for court cases. According to KLI monitoring, out of 685 hearings monitored until November 1, 2023, 172 hearings have been postponed, or 25% of them. For this, KLI in the previous reports had recommended holding block hearings, in such a way that for a certain case, the hearings would be held every day for a certain period of time, so that this action would result in a significant number of cases would be judged within a short period of time.<sup>29</sup> This recommendation has started to be implemented by the Special Department of the Basic Court in Pristina.<sup>30</sup>

25“On February 21, the former director of Prizren has a statute of limitations on the case for corruption, KLI warned about the risk of statute of limitations in this case”. Betimi për Drejtësi. 19 February 2023. (See link: <https://betimiperdrejtesi.com/ish-drejtorit-te-prizren-it-me-21-shkurt-i-vjetersohet-lenda-per-korrupsion-ikd-paralajmeroi-per-rrezikun-e-parashkrimit-te-ketij-rasti/> ).(Last accessed 31 October 2023).

26 Note: With the new amendments to the Criminal Procedure Code, the three (3) month term has changed and now the current Code, the return of cases to point zero occurs when six (6) months have passed since the last hearing (Article 307, par 3).

27 Shala G & Makshana L “Failure of Justice in the fight against corruption”. Pristina. Pg. 21.

28 Note: Criminal Procedure Code No. 08/L-032, Article 284: “If it is anticipated that the trial will last, the presiding judge can request from the Court President to appoint a judge to take part in the trial in order to replace the members of the trial in case they cannot attend the trial. This judge is called a substitute judge”.

29 “Statute of limitation of corruption”. KLI. Pristina. December 2022. Page 7. (Last accessed 28 October 2023).

30“The Basic Court in Pristina begins scheduling block hearings as recommended by the Kosovo Law Institute”. Betimi për Drejtësi. 22 September 2023. (See link: <https://betimiperdrejtesi.com/gjykata-themelo-re-ne-prishtine-fillon-caktimin-e-blok-seancave-sic-kishte-rekomanduar-instituti-i-kosoves-per-drejtesi/> ). (Last accessed 28 October 2023).



## 6. Lack of accountability for statute of limitation

For cases that reach the statute of limitation as a result of bad administration by judges and prosecutors, disciplinary procedures must be initiated by the Competent Authorities and disciplinary measures must be imposed by the KJC and KPC. Yet, unfortunately, even though many court cases reach statute of limitation over the years, there is a lack of initiation of disciplinary procedures for cases reaching the statute of limitation. This, taking into account that a large number of corruption cases have reached the statute of limitation.

A positive aspect can be considered the standard set by the KJC regarding the imposition of disciplinary measures against judges who for a long time have not taken any procedural action in court cases, even when they had the opportunity to do so, can be considered positive.<sup>31</sup> The illustrative case is the case against the judge of Serious Crimes, of the Basic Court in Prishtina, Naser Foniki, who was imposed a disciplinary sanction after the "Betimi per Drejtesi" broadcast, since for almost five (5) years he had not scheduled any hearing nor had he taken any procedural action in a usury case.<sup>32</sup>

Such a practice should also be followed in cases of corruption, and this standard should also be applied by the KPC.

## 7. The filing of indictments and the imposition of the statute of limitations

### 7.1. The filing of indictments on the brink of the statute of limitations

Failure to act and timely reaction of the prosecution may result in the statute of limitation of criminal offences and the amnesty of the perpetrators of these offences. This filing of indictments on the brink of reaching the statute of limitation of the criminal offence limits the court to finish the corruption case within a very short time.

KLI has found that the State Prosecutor in 2023 filed an indictment on the brink of the statute of limitations. This indictment was filed by the Basic Prosecutor's Office in Mitrovica, against the accused Haxhimet Ferati, who is accused of abusing his official position in the capacity of the manager of the Public Procurement Office in the Municipality of Mitrovica, creating benefits for the operator of the NTP "Tropik" in value of 220

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31 "Kept a decision in a drawer for 3 years and did not send a copy to the parties, the KJC reduced the salary of judge Afijete Sada-Gllogjani for 4 months". Betimi per Drejtesi. 18 October 2023. See link: <https://betimiperdrejtesi.com/3-vite-e-mbajti-ne-sir-tar-nje-vendim-e-nuk-ua-dergoj-kopjen-paleve-kgjk-i-ul-pagen-per-4-muaj-gjyqtares-afijete-sada-gllogjani/> ).

"It was established that three cases returned for retrial were delayed, the KJC reduced the salary of judge Labinot Zeka by 40% for 6 months". Betimi per Drejtesi. 31 October 2023. (Last accessed 31 October 2023). (See link: <https://betimiperdrejtesi.com/u-konstatua-se-tri-lende-te-kthyer-ne-rigjykim-u-zvarriten-kgjk-i-ul-pagen-per-40-per-6-muaj-gjykatesit-labinot-zeka/> ). (Last accessed 31 October 2023).

32 "After the investigation of the "Betimi per Drejtesi", KJC issues a written public warning to judge Naser Foniki for dragging out the usury case for nearly 5 years.". Betimi per Drejtesi. 24 October 2023. (See link: <https://betimiperdrejtesi.com/pas-hulumtimit-te-betim-it-per-drejtesi-kgjk-i-shqipton-verejtje-publike-me-shkrim-gjyqtarit-naser-foniki-se-zvarriti-per-afro-5-vite-lenden-e-fajdese/> ). (Last accessed 31 October 2023).



thousand euros.<sup>33</sup> This indictment turns out to have been filed on October 2, 2023, while the criminal offense is suspected to have been committed on November 19, 2014, i.e. nine (9) years ago. According to the indictment, the criminal complaint at the PTH in Mitrovica was received on July 11, 2019. This Prosecutor issued a decision to start the investigation on October 4, 2021. From the receipt of the criminal report to the decision to start the investigation, more than two (2) years had passed. or 816 days. Whereas, until the indictment was filed, over four (4) years or 1,544 days. However, from the decision to start the investigation to the filing of the indictment, nearly two (2) years or 728 days had passed.

Despite the fact that corruption cases are considered a priority, SP has not treated this case as such. This is because, initially, the treatment of this case from the acceptance of the criminal report shows the marked negligence of the SP, i.e., by not handling the criminal report within 30 days from its receipt as provided by the Criminal Procedure Code,<sup>34</sup> but it was necessary to wait more than 2 years to issue a decision to start investigations and more than four (4) years to file an indictment.

Failure to take timely action by the State Prosecutor limits the court's time to make a meritorious decision within the statute of limitations of a case.

## **7.2. Decisions on the brink of statute of limitation precludes its argument at the Supreme Court**

KLI in its report "Statute of limitation of corruption", had evidenced that during the year 2023 the cases of 24 accused, who participated in 18 court cases, were at risk of reaching the statute of limitation. But since 2023, the cases of eight (8) accused who are involved in six (6) court cases have reached the statute of limitation. Whereas, for 16 accused, their cases were not time-barred, so that the courts of first instance had announced their judgments before the statute of limitations had reached, and their decisions were made binding even by the Appeal. After the Appeal decision, these cases had reached the limitation period, thus making it impossible to exercise extraordinary means in the Supreme Court.

Despite the fact that meritorious decision-making has been achieved in these cases and the cases are not statute-barred, the decision on the brink of statute of limitations has been problematic. This decision on the brink of the statute of limitations prevented a decision from the Supreme Court, since no proceedings can be continued at the moment when the statute of limitations has reached, or at least even if the case were to be sent to the Supreme Court, the effect would be the same. An illustrative case for this is the "Hydropower Plant Affair", where Besim Beqaj, Mimoza Kusari-Lila, Dardan Gashi, Nenad Rashiq and Fllanza Hoxha were accused in this case. This case was in danger of reaching the statute of limitation on May 8, 2023, but the decision of the Basic Court was made on November 8, 2023, while it was confirmed by the Court of Appeal on March 27, 2023, i.e. two (2) months before reaching the statute of limitations.

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33 "The procurement official in Mitrovica, accused of corruption, is declared innocent". Betimi per Drejtesi. 26 tetor 2023. (See link: [https://betimiperdrejtesi.com/deklarohet-i-pafajshem-zyrtari-i-prokurimit-ne-mitrovice-i-akuzuar-per-korrupsion/?fbclid=IwAR2ZAvJ8vT\\_VsPMEO6jw7AMlt-EQnCrTE1P-24qxb5jL2WiqL-EHHI1\\_Unk](https://betimiperdrejtesi.com/deklarohet-i-pafajshem-zyrtari-i-prokurimit-ne-mitrovice-i-akuzuar-per-korrupsion/?fbclid=IwAR2ZAvJ8vT_VsPMEO6jw7AMlt-EQnCrTE1P-24qxb5jL2WiqL-EHHI1_Unk)). (Last accessed 13 October 2023).

34 Note: Article 84 par 1 of the Criminal Procedure Code No. 08/L-032 "Within 30 days after receiving the criminal report, the state prosecutor issues a written decision by which he dismisses the criminal report or requests additional information in accordance with Article 83 of this Code. If the state prosecutor has requested additional information, he issues a decision to drop the criminal report within six (6) months from the date of submission of the initial criminal report".



## 8. Recommendations

1. Judges should treat corruption cases as a priority.
2. To avoid unreasonable delays in the cases of politicians.
3. Judges to schedule block hearings, in such a way that for a specific case, hearings are held every day for a specific period of time.
4. Apply the substitute judge provision so that cases do not return to zero.
5. Judges in cases where the parties are absent without justification, to apply the measures provided by the Criminal Procedure Code.
6. Court Presidents should take as a basis that cases that risk statute of limitation in this report and identify other cases as well, in order not to allow the statute of limitation.
7. The Court of Appeals should consider the possibility of not returning the cases to a retrial, but decide on the merits.
8. The Committee for Monitoring the Strategic Plans of the KJC to monitor with special emphasis the statute of limitation of corruption cases.
9. Competent Authorities to initiate disciplinary procedures in cases where there is a basis that due to poor administration on the part of judges and prosecutors, a certain case of corruption has reached the statute of limitations.



## 9.The cases of politicians that reached the statute of limitation and that are at risk of reaching the statute of limitation 2023-2026



**Name and Surname:**  
Xhelal Sveçla

**Position:**  
Minister of Internal Affairs

**Criminal offence:**

“Participating in a crowd committing criminal offense and hooliganism”

**Stage of the procedure:**

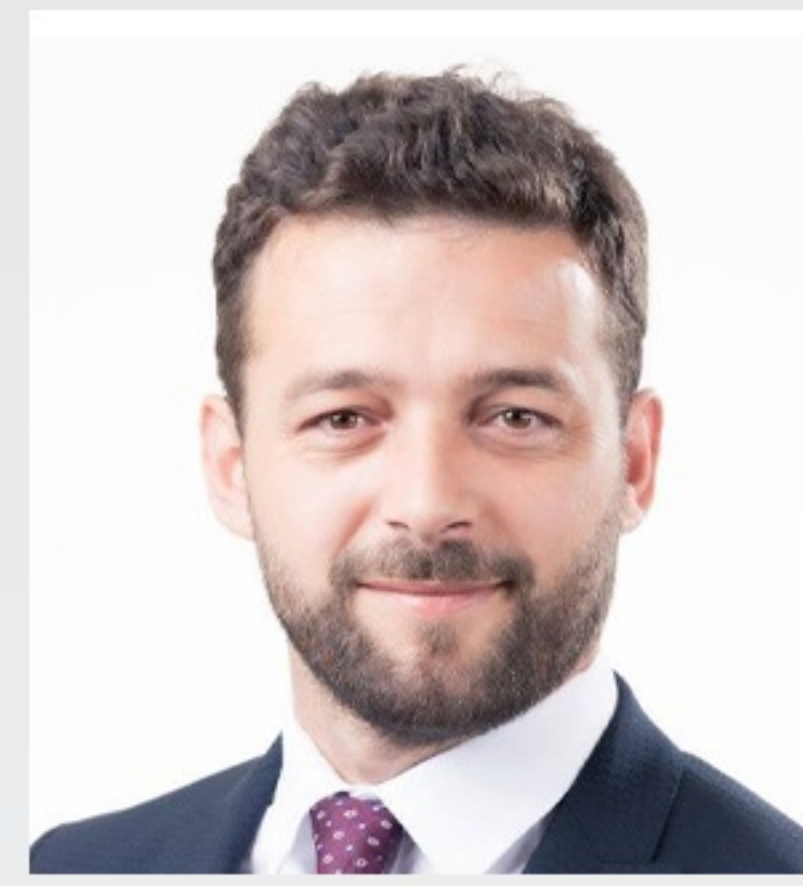
Rejecting judgement

**Execution time:**

30.06.2013

**Statute of limitation:**

30.06.2023



**Name and Surname:**  
Valon Ramadani

**Position:**  
VM MP

**Criminal offence:**

“Obstruction of the Official Person, in the performance of the official duty”

**Stage of the procedure:**

Case in process (one criminal offence reached the statute of limitation)

**Execution time:**

21.03.2018

**Statue of limitation**

21.03.2024



**Name and Surname:**  
Sali Zyba

**Position:**  
VM MP

**Criminal offence:**

“Obstruction of the Official Person, in the performance of the official duty”

**Stage of the procedure:**

Case in process (one criminal offence reached the statute of limitation)

**Execution time:**

21.03.2018

**Statue of limitation**

21.03.2024



**Name and Surname:**  
Fitore Pacolli-Dalipi

**Position:**  
VM MP

**Criminal offence:**

“Obstruction of the Official Person, in the performance of the official duty”

**Stage of the procedure:**

Case in process (one criminal offence reached the statute of limitation)

**Execution time:**

21.03.2018

**Statue of limitation**

21.03.2024



**Name and Surname:**  
Drita Millaku

**Position:**  
VM MP

**Criminal offence:**

“Obstruction of the Official Person, in the performance of the official duty”

**Stage of the procedure:**

Case in process (one criminal offence reached the statute of limitation)

**Execution time:**

21.03.2018

**Statue of limitation**

21.03.2024



**Name and Surname:**  
Xhavit Haliti

**Position:**  
PDK MP

**Criminal offence:**

“Assault”

**Stage of the procedure:**

In process

**Execution time:**

28.08.2015

**Statue of limitation**

28.08.2025





**Name and Surname:**  
Sali Zyba

**Position:**  
VM MP

**Criminal offence:**  
“Attack on the Official Person”

**Stage of the procedure:**  
In process

**Execution time:**  
28.08.2015

**Statue of limitation**  
28.08.2025



**Name and Surname:**  
Time Kadrijaj

**Position:**  
AAK MP

**Criminal offence:**  
“Unauthorized ownership, control or possession of weapons”

**Stage of the procedure:**  
In process

**Execution time:**  
15.12.2015

**Statue of limitation**  
15.12.2025



**Name and Surname:**  
Albulena Haxhiu

**Position:**  
Minister of Justice

**Criminal offence:**  
“Unauthorized ownership, control or possession of weapons”

**Stage of the procedure:**  
Re-trial

**Execution time:**  
19.02.2016

**Statue of limitation**  
19.02.2026



**Name and Surname:**  
Pal Lekaj

**Position:**  
AAK MP

**Criminal offence:**  
“Unauthorized ownership, control or possession of weapons”

**Stage of the procedure:**  
Re-trial

**Execution time:**  
19.02.2016

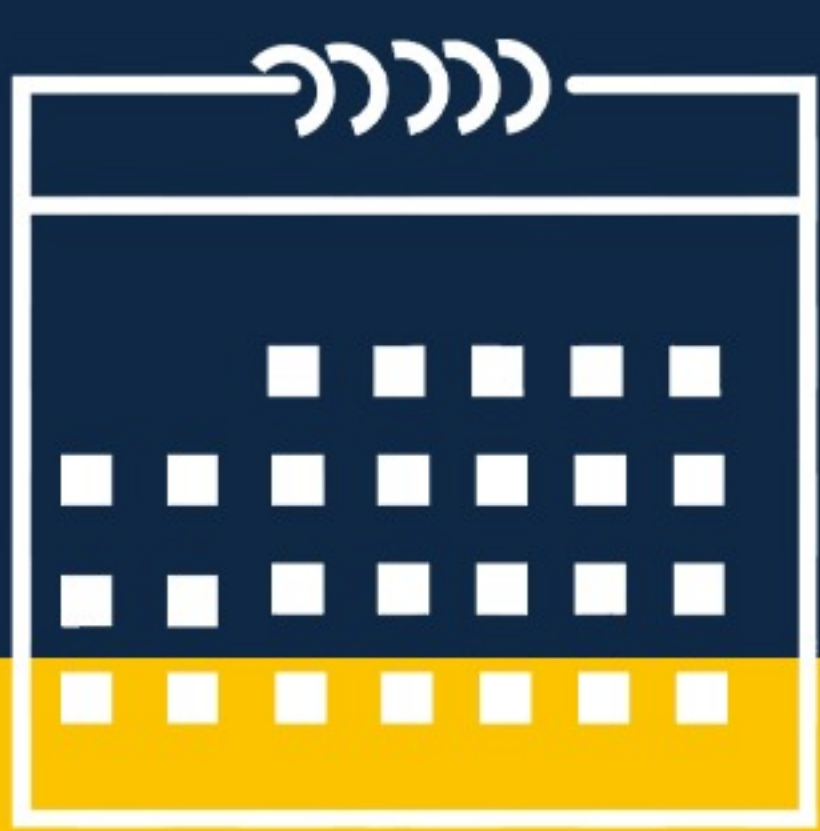
**Statue of limitation**  
19.02.2026



CORRUPTION CASES THAT REACHED THE STATUTE OF LIMITATION IN 2023



Name of the accused



Time of the criminal offence



Filing of the indictment



Statute of limitation of the offence



Damage

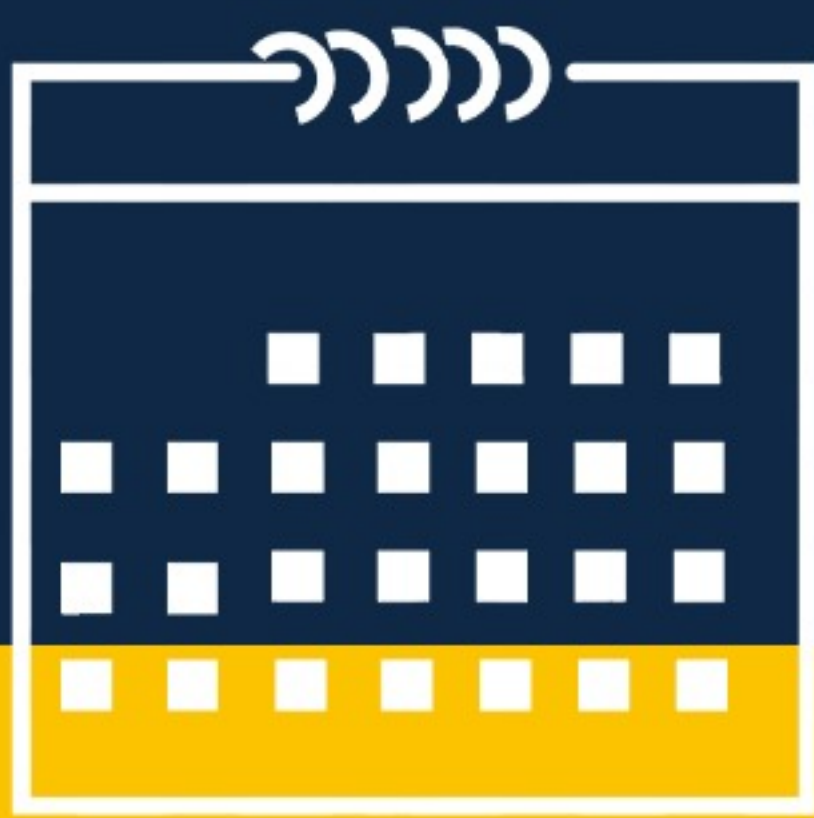
Bujar Nerjovaj	2011-2013	30.10.2018	21.02.2023	36.143.00
Bujar Nerjovaj	2013	31.12.2019	08.04.2023	104.674.61
Agron Thaqi	2013	31.12.2019	2023	104.674.61
Naim Avdyli	2013	31.12.2019	2023	104.674.61
Zoja Krasniqi	2011-2014	31.01.2018	2023 -“Conflict of interest”	Not defined
Xhabir Zharku	2008-2010	07.10.2020	2023	Not defined
Latif Ibrahimimi	2013	13.11.2018	2023	Not defined
Shaban Gollopeni	09.12.2013	2016	09.12.2023 (statute of limitation reached)	Not defined



CORRUPTION CASES AT RISK OF REACHING THE  
STATUTE OF LIMITATION DURING 2024



Name of  
the accused



Time of the  
criminal offence



Stage of the  
procedure



Statute of limitation  
of the offence



Damage

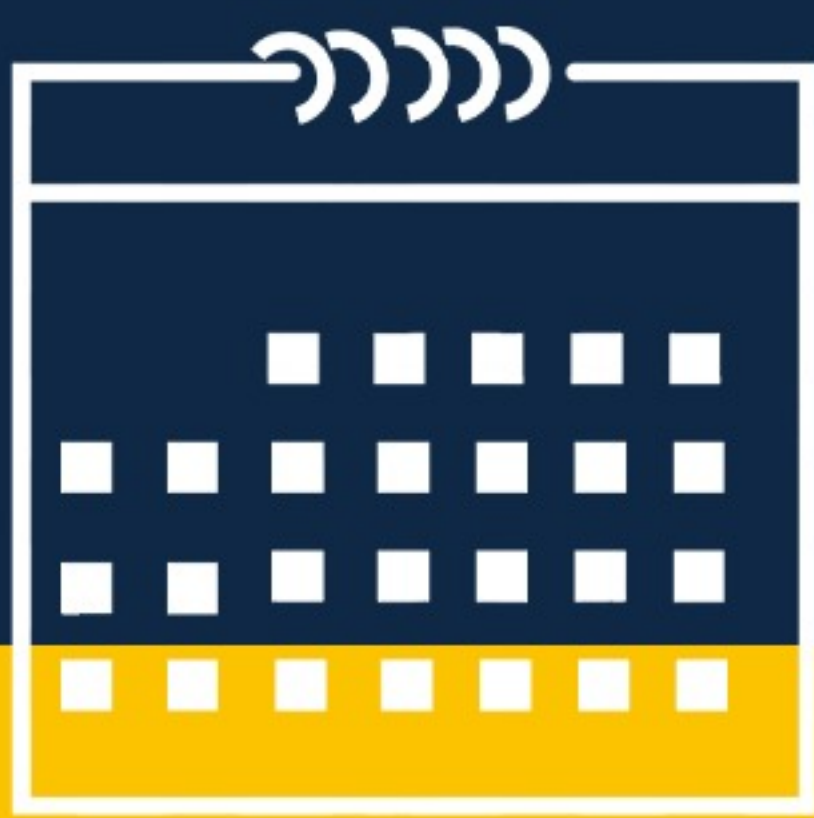
Sladjan Trajkovic	13.10.2014	First instance decision	13.10.2024	58.021.47€
Fatmir Pireva	2012-2014	First instance decision	2024	3.738.88€
Behxhet Hasani	2012-2014	First instance decision	2024	3.738.88€
Rrahim Osmani	2012-2014	First instance decision	2024	3.738.88€
Sadik Paçarizi	10.02.2014	Re-trial	10.02.2024	104.674.61€
Nijazi Kryeziu	30.05.2014	Re-trial	30.05.2024	104.674.61€
Zeqir Gashi	21.02.2014	Trial	21.02.2024	53.000.00€
Qazim Reqica	21.02.2014	Trial	21.02.2024	53.000.00€
Rexhep Gashi	21.02.2014	Trial	21.02.2024	53.000.00€
Agron Hajrizi	21.02.2014	Trial	21.02.2024	53.000.00€
Dukagjin Emërllahu	January 2014	Trial	January 2024	Not defined
Mobere Hyseni	30.05.2014	First instance decision	30.05.2024	Not defined
Agron Limani	20.03.2018	Trial	20.03.2024	5.000€
Salih Kqiku	22.10.2014	First instance decision	22.10.2024	358.437.91€
Hatixhe Përzhella	27.05.2014	First instance decision	27.05.2024	Not defined
Fadil Rexhepi	November 2014	Confirmation of sentence	November 2024	Not defined
Remzi Bislimi	November 2014	Confirmation of sentence	November 2024	Not defined
Nezir Aliu	12.06.2014	Re-trial	12.06.2024	Not defined
Zoja Krasniqi	2011-2014	Trial	2024	Not defined
Haxhimet Ferati	19.11.2014	Trial	19.11.2024	Not defined



CASES AT RISK OF REACHING THE STATUTE OF LIMITATION DURING  
**2025-2026**



Name of  
the accused



Time of the  
criminal offence



Stage of the  
procedure



Statute of limitation  
of the offence



Damage

Almir Saiti	22.10.2015	First instance decision	22.10.2025	Not defined
Muhamet Bajrami	22.10.2015	First instance decision	22.10.2025	Not defined
Enver Franca	January 2015	Second instance decision	January 2025	Not defined
Maxhun Maluku	2015	Second instance decision	2025	Not defined
Egzon Hyseni	April 2019	Second instance decision	April 2025	2.500.00€
Gani Bajraktari	2011-2015	First instance decision	2025	11.430.00 €
Daut Gorani	2011-2015	Trial	2025	11.430.00 €
Hamza Selmani	2011-2015	First instance decision	2025	11.430.00 €
Ismail Avdimetaj	2011-2015	First instance decision	2025	11.430.00 €
Aferdita Selmanaj	2011-2015	First instance decision	2025	11.430.00 €
Sali Shala	2011-2015	First instance decision	2025	11.430.00 €
Nexhat Rexhepaj	2011-2015	First instance decision	2025	11.430.00 €
Agron Besimi	2011-2015	First instance decision	2025	11.430.00 €
Bajram Mziu	2011-2015	First instance decision	2025	11.430.00 €
Petrit Ademaj	2011-2015	First instance decision	2025	11.430.00 €
Agron Leka	2011-2015	First instance decision	2025	11.430.00 €
Driton Miftari	2011-2015	First instance decision	2025	11.430.00 €
Besim Gruda	2011-2015	First instance decision	2025	11.430.00 €
Mirdi Strana	2011-2015	First instance decision	2025	11.430.00 €
Shemsedin Shabollari	2011-2015	First instance decision	2025	11.430.00 €
Fisnik Hima	2011-2015	First instance decision	2025	11.430.00 €
Luan Pazhari	2011-2015	First instance decision	2025	11.430.00 €

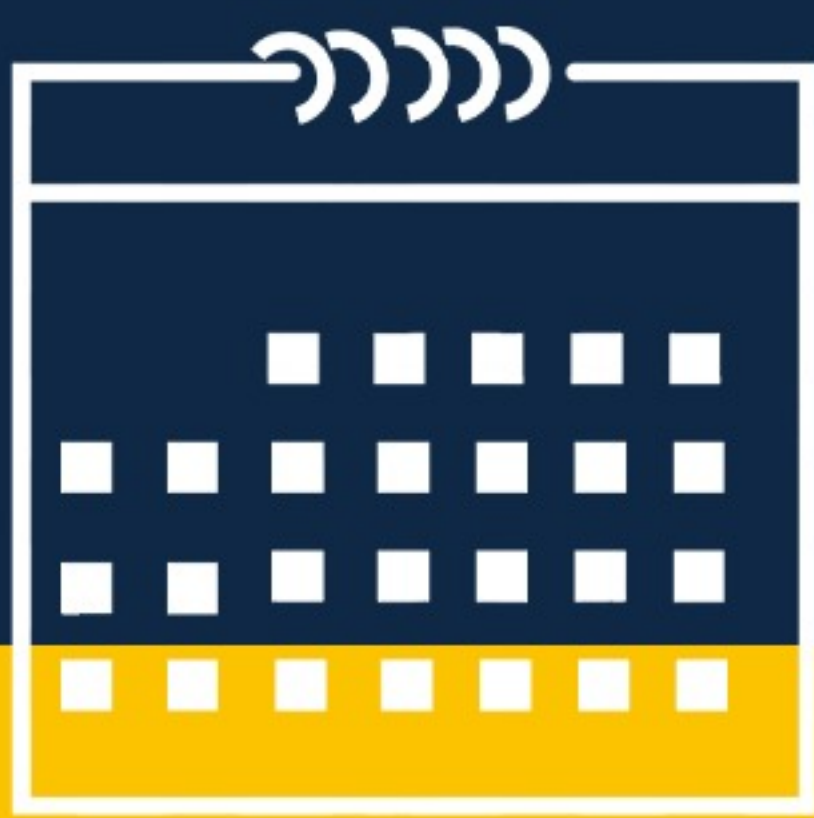


CASES AT RISK OF REACHING THE STATUTE OF LIMITATION DURING

2025-2026



Name of the accused



Time of the criminal offence



Stage of the procedure



Statute of limitation of the offence



Damage

Galina Berisha	2011-2015	First instance decision	2025	11.430.00 €
Bajram Preteni	2011-2015	First instance decision	2025	11.430.00 €
Lulzim Kamberi	2011-2015	First instance decision	2025	11.430.00 €
Faik Shatri	2011-2015	First instance decision	2025	11.430.00 €
Ejup Pllana	2011-2015	First instance decision	2025	11.430.00 €
Florim Sadiku	2011-2015	First instance decision	2025	11.430.00 €
Halim Halili	2011-2015	First instance decision	2025	11.430.00 €
Agim Krasniqi	2011-2015	First instance decision	2025	11.430.00 €
Hajdin Çitaku	2011-2015	First instance decision	2025	11.430.00 €
Edmond Haliti	2011-2015	First instance decision	2025	11.430.00 €
Besnik Koliqi	2011-2015	First instance decision	2025	11.430.00 €
Afrim Poniku	2011-2015	First instance decision	2025	11.430.00 €
Banush Gashi	2011-2015	First instance decision	2025	11.430.00 €
Nebi Musliu	2011-2015	First instance decision	2025	11.430.00 €
Xhevdet Krasniqi	2011-2015	First instance decision	2025	11.430.00 €
Dardan Koqinaj	2011-2015	First instance decision	2025	11.430.00 €
Lazer Prekpalaj	2011-2015	First instance decision	2025	11.430.00 €
Rexhep Manaj	2011-2015	First instance decision	2025	11.430.00 €
Kelmend Pallaska	2011-2015	First instance decision	2025	11.430.00 €
Arlind Batalli	2011-2015	First instance decision	2025	11.430.00 €
Masar Gashi	31.12.2015	Trial	31.12.2025	Not defined
Murat Abazi	31.12.2015	Trial	31.12.2025	Not defined

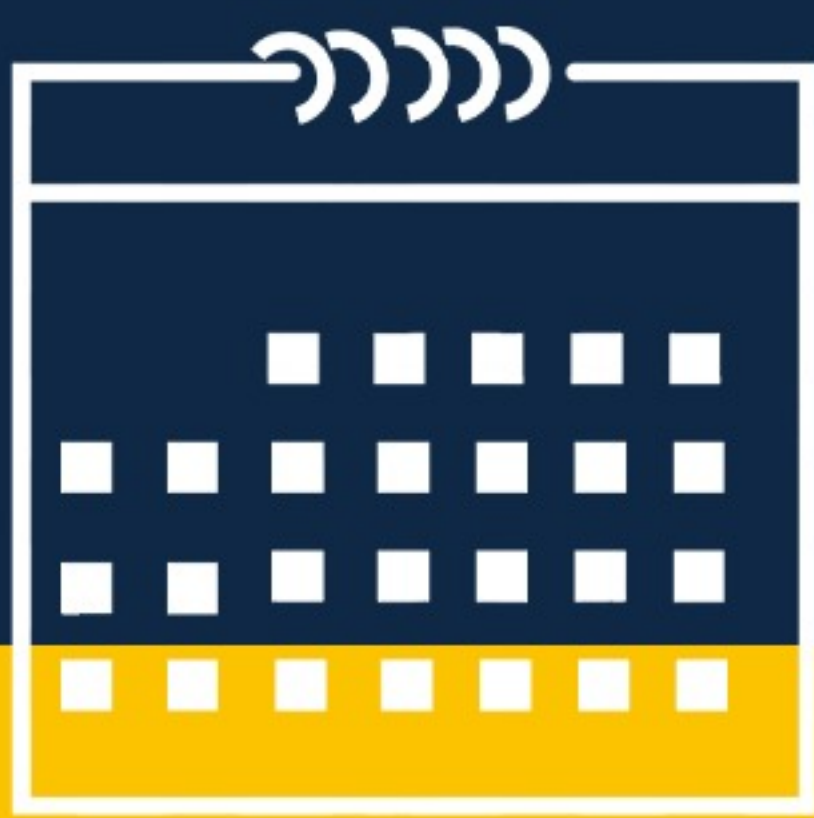


CASES AT RISK OF REACHING THE STATUTE OF LIMITATION DURING

2025-2026



Name of  
the accused



Time of the  
criminal offence



Stage of the  
procedure



Statute of limitation  
of the offence



Damage

Elfedin Muhaxheri	31.12.2015	Trial	31.12.2025	Not defined
Nexhmi Zeqiri	31.12.2015	Trial	31.12.2025	Not defined
Ferid Susuri	31.12.2015	Trial	31.12.2025	Not defined
Ferihane Sefa	31.12.2015	Trial	31.12.2025	Not defined
Selatin Retkoceri	12.10.2015	First instance decision	12.10.2025	9.995.77€
Remzi Llumnica	12.10.2015	First instance decision	12.10.2025	9.995.77€
Fidan Pacolli	06.05.2015	First instance decision	06.05.2025	2.500.00€
Sabri Maliqi	06.05.2015	First instance decision	06.05.2025	2.500.00€
Nehat Basha	28.08.2021	Trial	28.08.2025	Not defined
Nijazi Kryeziu	31.12.2015	Re-trial	31.12.2025	7.200.00€
Nexhmije Krasniqi	09.01.2015	Trial	09.01.2025	Not defined
Nebi Sheqiri	2016	Second instance decision	2026	Not defined
Nazmi Musliu	13.05.2016	Trial	13.05.2026	Not defined
Sinan Visoka	15.02.2016	Trial	15.02.2026	Not defined
Fitim Veliqi	30.07.2016	Trial	30.07.2026	34.176.00
Latif Ibrahimimi	2016	First instance decision	2026	Not defined
Bejtullah Shala	2016	First instance decision	2026	Not defined
Bojan Borzanovic	27.08.2016	Trial	27.08.2026	Not defined
Besim Zeqiri	19.05.2016	Trial	19.05.2026	Not defined
Muharrem Haliti	19.05.2016	Trial	19.05.2026	Not defined
Artan Ferati	01.04.2016	Re-trial	01.04.2026	Not defined
Besnik Beshi	01.04.2016	Re-trial	01.04.2026	Not defined

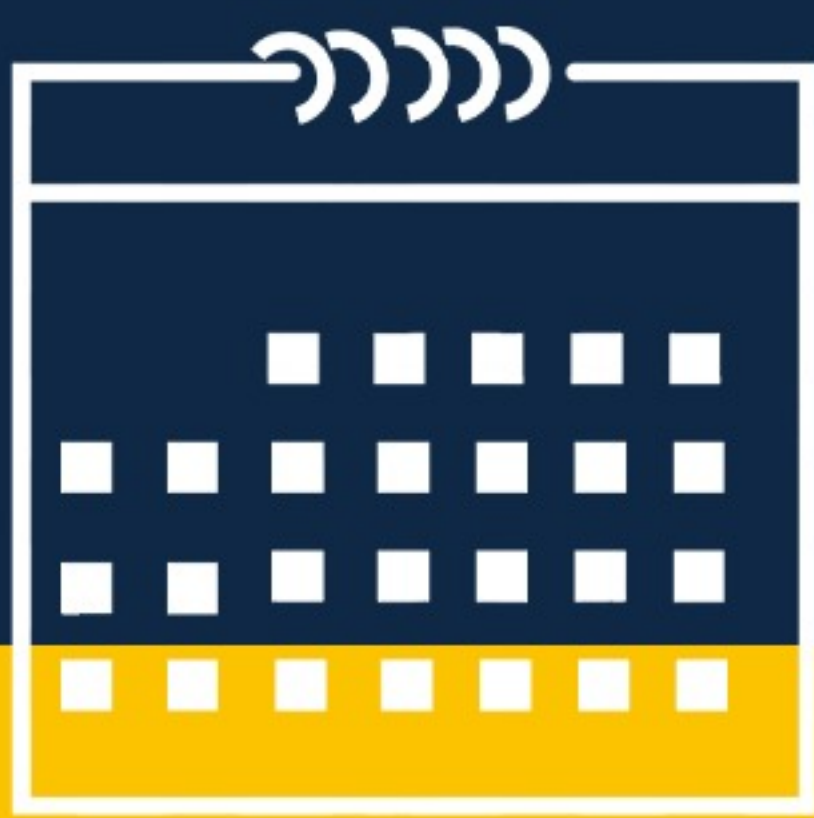


CASES AT RISK OF REACHING THE STATUTE OF LIMITATION DURING

2025-2026



Name of  
the accused



Time of the  
criminal offence



Stage of the  
procedure



Statute of limitation  
of the offence



Damage

Xhelil Bekteshi	2016	First instance decision	2026	Not defined
Besim Tahiri	2016	First instance decision	2026	Not defined
Zekirja Shabani	2016	Trial	2026	Not defined
Xhevat Lajçi	01.03.2016	Second instance decision	01.03.2026	Not defined
Liridon Hashani	01.03.2016	Second instance decision	01.03.2026	Not defined
Emri Lladrovci	30.03.2016	Trial	30.03.2026	Not defined
Jakup Tërnavë	22.08.2016	Trial	22.08.2026	Not defined
Liridona Mustafa Sadiku	17.10.2016	Trial	17.10.2026	Not defined
Bedri Duraku	July 2016	First instance decision	July 2026	Not defined
Veton Prekazi	Decemeber 2016	Trial	December 2026	Not defined
Naim Shasivari	07.12.2016	Trial	07.12.2026	Not defined
Deme Dashi	14.11.2016	Second instance decision	14.11.2026	Not defined
Haki Kartallozi	18.10.2016	Second instance decision	18.10.2026	18.275.98€
Ilir Baldedaj	31.12.2016	Second instance decision	31.12.2026	72.898.98€
Arian Idrizaj	2010	Trial	2026	Not defined
Nikola Nojkiq	August 2015 May 2016	First instance decision	May 2026	10.390.50€
Mirdi Strana	30.06.2015	Trial	30.06.2025	14.482.25€
Ixhmet Rexhepi	30.06.2015	Trial	30.06.2025	14.482.25€
Zahir Musa	30.06.2015	Trial	30.06.2025	14.482.25€
Rrahim Merovci	30.06.2015	Trial	30.06.2025	14.482.25€
Fatime Zeneli	30.06.2015	Trial	30.06.2025	14.482.25€
Bukurije Kushtova	31.03.2016	Trial	31.03.2026	Not defined