



MISADMINISTRATION OF THE PROSECUTORIAL SYSTEM



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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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1. Executive summary

Almost four (4) years have passed and similar to previous years, during 2022, the KPC has continued the "old way" by failing to fulfill the legal obligations for the approval of acts derived as an obligation from the new Law on the Kosovo Prosecutorial Council.

During 2022, the majority of disciplinary cases against prosecutors at the KPC ended with lenient measures such as public and non-public written reprimand. During this time, the KPC successfully completed the performance evaluation of prosecutors. The Council failed to exercise control against the heads of the Prosecution Offices through their reporting before its members and it was enough that they submitted their written reports.

The lack of transparency of the prosecutorial system was shown in report to requests for access to public documents submitted by KLI, in which only 50% of the requests were answered positively. Approximately half of the decisions adopted by the KPC have not been published on their official web page, the same also did not publish its adopted decision in the Serbian language also.

The KPC has shown a non-transparent approach even when it ignored the British Embassy's offer to support the process of selecting the new Chief State Prosecutor. In terms of increasing transparency, KLI during the year 2022 through the Information and Privacy Agency (AIP) has won two legal battles against the KPC, one for access to the score sheets of the candidates for Chief State Prosecutor and the other for access to the decisions to dismiss criminal charges and suspend investigations.

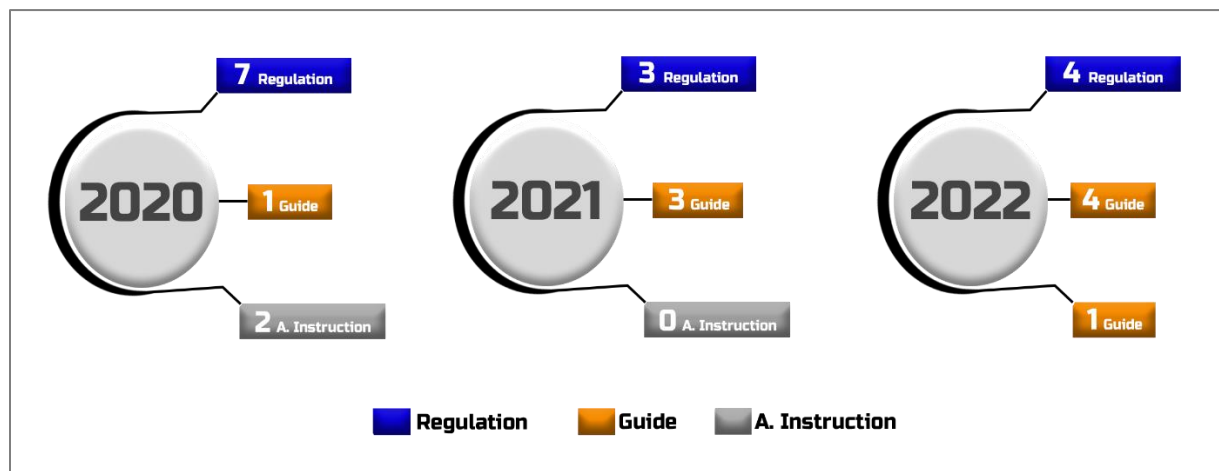
It's been two years since Jetish Maloku was illegally elected as the head of the KPC, he had constantly proclaimed transparency to the public, yet Maloku, apart from the annual conference, has only appeared in one interview in 2022. In 2022, one of the most important processes in the prosecutorial system was developed, that of the selection of the new Chief State Prosecutor, but according to the coalition of NGO's, the KPC in this process did not ensure meritocracy, objectivity and equal treatment for the candidates. In this regard, KLI reiterated the need for the Chief State Prosecutors to emerge from a process that has undisputed integrity.

During 2022, KPC has failed to fulfill the obligations for the full realization of the Work Plan, which has resulted in a number of unfulfilled objectives. On the other hand, KLI has found that over 90% of leadership positions in the prosecutorial system are led by male prosecutors.

Regarding the Government's decision to reduce salaries, KLI considers that the KPC should have followed the legal ways from the beginning and not suspend its work since this KPC action has gone to the detriment of the citizens. The KPC statement that they will not respect the new law on the KPC are scandalous statements that should not happen in a proper legal order.

2. Progress and regress in adopting secondary legislation

The Kosovo Prosecutorial Council (KPC) during 2022 has not shown a high efficiency in adopting secondary legislation compared to two previous years, respectively in 2020 and 2021¹, since during this period of time only adopted four (4) regulation², four (4) guidelines³ and one Administrative Instruction (AI).⁴



Graph 1: Adoption of sub-legal acts from KPC 2020-2022

The negative phenomena that followed the KPC during 2022 was their failure to adopt sub-legal acts specified in the Work Plan for this year, and 1) Regulation on the Activity, Internal Organization and Systematization of Workplaces in the Secretariat of the KPC, 2) Regulation on the Internal Organization and functioning of the State Prosecutor and 3) Regulation on the Administration and Archiving of Documents in the Institution of the State Prosecutor.⁵

¹ **Note:** In the KPC comments (April 6, 2023) for this report, the reason of the regress of the adoption of acts is justified by stating that: “*The comparison of sub-legal acts in the previous years, specifically 2020 and 2021, these years, in which results to have a larger number of acts issued, is as such because in 2019 changes to the Law on the Kosovo Prosecutorial Council were made, which obligated the Council to issue bylaws in harmony with the new law, while those that were in contradiction could not be implemented. In the monitoring year from your side in year 2022, many sub-legal acts were already adopted in harmony with the law. This is the reason for the decline in ne number of sub-legal acts for 2022*”.

² Regulation No. 01/2022, No.02/2022, No.03/2022, No.04/2022.

³ Basic Referral Guidelines for pre-investigative and disciplinary investigative bodies, Guidelines with the rules of the qualifying test for candidates for state prosecutor, Guidelines for the implementation of the regulation on the transfer and advancement of state prosecutors, no. 1104.2022 and Guidelines with the rules of the written test for candidates for state prosecutors.

⁴ Administrative Instruction No.01.2022 for Seals and Symbols in the Prosecutorial System of the Republic of Kosovo.

⁵ **Note:** In the comments provided by the KPC to KLI on April 6, 2023, the KPC stated that: “*the reason why they were not approved in the Council is because, as you were also aware, we were in the process of legal changes, namely the Law on the Kosovo Prosecutorial Council and the Law on the State Prosecutor, laws that directly affect these by-laws*”.

Also, during 2022, the KPC did not approve 4) Guidelines for unifying the prices of expertise for the entire prosecutorial system.⁶

Also, during this period, the KPC has continued the “old way” that is, it has not managed to approve the sub-legal acts that derive from the new law on the KPC, although almost four years have passed since the entry into force of said law.⁷ The Law on the KPC which entered into force on April 18, 2019 had expressly determined the issuance of a certain number of regulations within 6 months after coming into force, such as: the *Regulation on the Duties and Responsibilities of the Permanent Commissions for the KPC*, the *Regulation on the Process of the Appointment and Re-appointment of Prosecutors from under-represented Communities among the prosecutors serving in Kosovo* and *Regulations for the Organizational Structure and Functioning of the SKPK*. The KPC has justified the non-implementation of these legal obligations with the fact that there are regulations in force that regulate the above-mentioned issues. The KPC has announced that the Regulation on the organizational structure and functioning of the KPC is expected to be approved soon⁸.

KLI, as in previous years, reiterates and reminds KPC that the regulations in question are by-laws that were first of all issued on the basis of a law which has already been repealed. In this regard, the regulations mentioned by the KPC must be applied only until the approval of other acts, which according to the law must be approved within six (6) months from the entry into force of Law no. 06/L-056 on KPC.⁹

KLI reiterates that one of the primary obligations of the KPC is the adoption of bylaws and every lack of regulations, represents a legal gap. Therefore, it is necessary that the KPC through the Normative Issues Committee adopt the whole lost of obligations that must be fulfilled. In terms of the implementation of obligations defined by law, it is necessary to avoid negative practices thus far where the laws that have obliged the KPC would be repealed, while the obligations deriving from them will remain unimplemented by this institution.¹⁰

⁶ This guideline was foreseen by Regulation 15/2015 on the appointment of judicial experts.

⁷ **Note:** Law No. 06/L-056 on the Kosovo Prosecutorial Council.

⁸ Answers by the KPC to KLI 11 January and 2 February 2023.

Note: *Reminder that for this the KPC during 2022 stated that it was going to be adopted, but so far it has not been approved.*

⁹ Law no. 06/L-056 për KPK. Article 37.1 “The by-laws defined in this law will be issued within six (6) months after the entry into force of this law”

¹⁰ Bajraktari, L. Gashi, L: “*Violation of the integrity of the Councils by the Councils*”. Pristina. April 2021. Pg.36-39. Makshana, L. Thaqi, M: “*Administration of the Justice System by Councils*”. Pristina. June 2022. Pg.18

3. Accountability and integrity of the prosecutorial system

Most of the disciplinary cases against prosecutors in the KPC during 2022 ended with mild disciplinary measures such as public reprimands and non-public written reprimands. During the year 2022, KPC received nine (9) requests for initiation of disciplinary procedures, of which eight (8) investigative panels were established, while one (1) request for initiation of the procedure was rejected by KPC. In eight disciplinary cases, the KPC has issued eight (8) disciplinary decisions, of which the most serious measure imposed is the permanent transfer of a prosecutor to another Prosecutor's Office.

In the context of the fulfillment of legal obligations, it should be noted that the KPK and the State Prosecutor (SP) have approved the annual work reports for 2021 and published them on the official website. However, as it happened in the past years, for this year these reports only contain numerous statistical data, but do not build a concrete analysis related to these statistical data. KPK, like in 2021, also during this period had successfully completed the evaluation process of prosecutors.

Reporting to the Council of Chief Prosecutors of the respective Prosecutions is one of the most important control mechanisms of the KPC. Through this mechanism, the KCK holds responsible and monitors the functioning of the Prosecutor's Offices. This enables the KPC to adequately exercise its powers. Despite this, during 2022, KPC failed to implement this mechanism.

The chief prosecutors of the relevant prosecutions have reported to the members of the KPC only for the first three months of 2022.¹¹ The KPC has not given any justification as to why the Chief Prosecutors have not reported to its members, but according to the KPC, the Chief Prosecutors have reported for the three (3) months of 2022 in writing.¹² This form of reporting, without being challenged by members of the KPC, does not represent a real reporting of the chief prosecutors, but only a formal fulfillment of this obligation.

The members of the KPC in the absence of the chief prosecutors had decided to postpone the reporting for another meeting where concerns were raised by the member of the KPKC Armend Zenelaj, who had said that the chief prosecutors should be at the meeting themselves to present their reports and not just send it in writing. The non-presence of the chief prosecutors during the presentation of the work reports has made it impossible for the members of the KPC to ask for additional clarifications or to receive answers from them for certain data contained in those work plans.

The reporting of the Chief Prosecutors only in writing, without being challenged by the members of the KPC, does not represent a real reporting of the Chief Prosecutors, but only a formal

¹¹ “*Chief prosecutors report for the period January-March 2022 to the Prosecutorial Council*”. Betimi për Drejtësi. 17 May 2022. (available at: <https://betimiperdrejtesi.com/kryeprokuroret-raportojne-per-periudhen-janar-mars-2022-ne-keshillin-prokurorial/>). (Last accessed 4 February 2023).

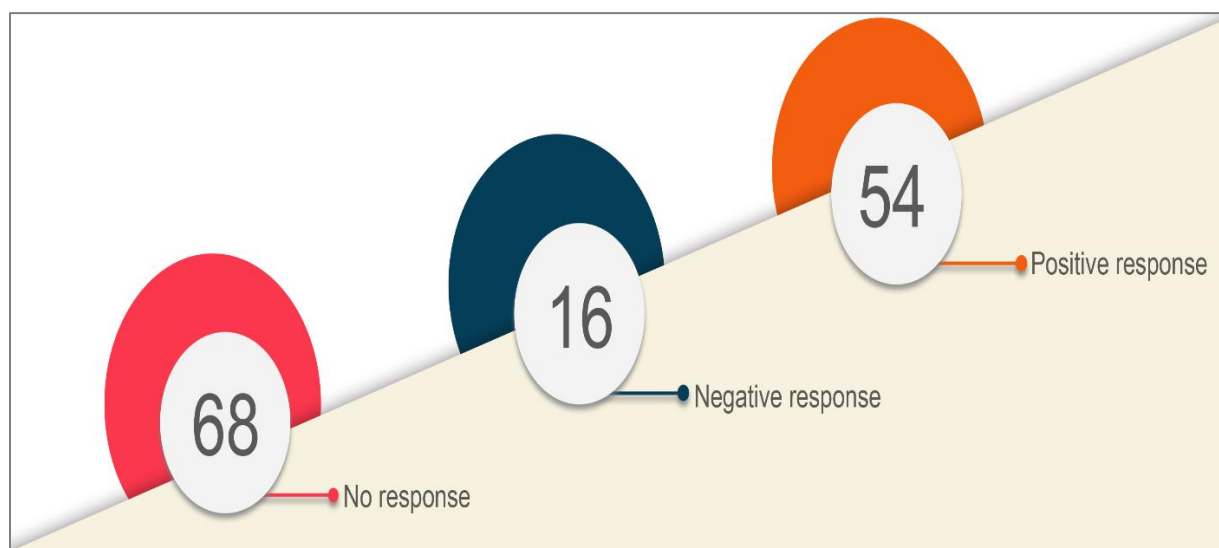
¹² KPC replies to KLI. 21 February 2023.

fulfillment of this obligation. In this regard, KLI assesses that it is necessary that the approval of these reports is not only transformed into a formal fulfillment of obligations, but to enable the members of the KPC to hold the chief prosecutors accountable and to enable the general public to be well informed about the real work and challenges of the prosecutorial system.

4. Transparency of the KPC and the prosecutorial system

KPC constantly proclaims the increase of transparency and accountability. For this purpose, KPC has also approved regulations¹³ and strategy¹⁴. This was also expressed in the annual Work Plan.¹⁵ However, this willingness for transparency, is not reflected enough in practice.

Out of 138 requests for access to public information and documents addressed to the prosecutorial system, KLI accepted 68 positive replies (50%), 16 negative replies (10%), whereas 54 replies remained unanswered (40%). KLI during this period submitted 38 requests to the KPC, of which in 20 cases (52%) positive replies were received, in 4 cases (10%) of the requests were negative replies and 14 other requests (36%) the KPC did not answer at all.¹⁶



Graph 2: Transparency of the prosecutorial system during 2022.

Regarding publication of decisions, during 2022 the KPC issues 199 decisions¹⁷, of which only 96 decisions were published on the KPC website.¹⁸ Expressed in percentage, it means that the

¹³ Regulation no.03/2019 for the Service of Public Communication in the prosecutorial system.

¹⁴ Communication Strategy of the Prosecutorial system 2021-2023.

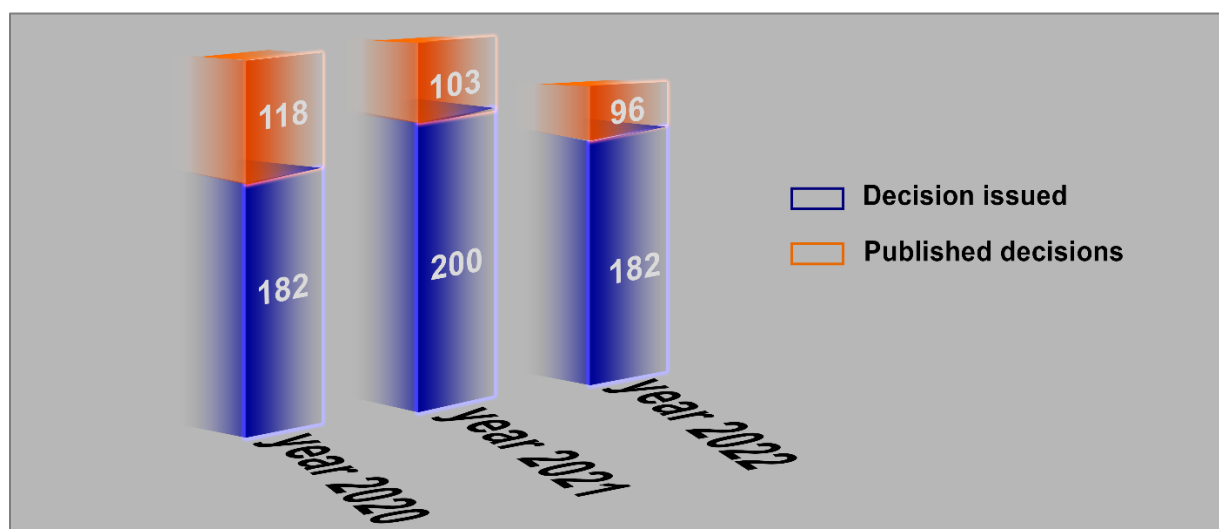
¹⁵ "Annual work plan 2022 of the Kosovo Prosecutorial Council".

¹⁶ **Note:** According to KPC comments (6 April 2023) all the requests were treated pursuant to the applicable law and as far as there was opportunity and legal opportunity.

¹⁷ KPC answers to KLI. 11 January 2023.

¹⁸ The last data related to the publication of the decisions were issued on 16 March

KPC during 2022 published 51% of decisions, whereas it did not publish 49% of decisions. Compared with 2021 and 2020, it results that the KPC published less decisions that shows a decline in the level of transparency. With the publication of decisions, the Council should of at least shown minimum transparency, however the KPC this minimum transparency did not fulfill, even though it has a legal obligation according to the Law on the Kosovo Prosecutorial Council and other sub legal acts. (*See graph no.3*).



Graph 3: Regression of the KPC in the publication of decisions during 2020-2022

The KPC justifies the non-publication of all decisions by the fact that not all decisions are public, where according to them the decisions related to the performance reports of the prosecutors, the decisions in cases where disciplinary proceedings are underway against any prosecutor and that in these cases only the decisions of the court and not the decisions of the Council are published. Also, according to the KPC, there are decisions related to the appointment of prosecutors with an initial and permanent mandate that are not published, but also other decisions that are not made public at the request of organizational units and prosecutors' offices.¹⁹

Regarding this KPC response, KLI considers that taking into account the monitoring of the KPC meetings by KLI, the latter's non-public decisions cannot constitute more than 10% of the decisions issued during a year, this is also based on the Law on KPC in cases where the Council can hold closed meetings.²⁰ Meanwhile, KPC during 2022 did not publish a total of 49% of the issued decisions. Thus, the argument of the KPC that only the decisions which according to the law should not be published are not published. The argument that the decisions of prosecutors' disciplinary procedures are not published by this Council also does not stand, as the KPC has

2023.

¹⁹ KPC answers to KLI. 6 April 2023.

²⁰ Law No. 06/L-056 for the Kosovo Prosecutorial Council. Article 14, par 3.

published such final decisions in several cases [See decision: KPC/No.510/2022 or KPC/No.512/2022].

The lack of transparency has followed the work of the Permanent Committees of the Council, since there is also a special window/tab for the same on the KPC website, there is no detailed data regarding the decisions, reports and work plans. The lack of such data prevents the public to be informed about the work of these committees.

The lack of transparency of the KPC and SP was also shown towards a serious international partner such as the British Embassy in Kosovo, by ignoring the offer by this Embassy in support of the recruitment process for the Chief State Prosecutor. This ignorance without a doubt sends a negative message to the public opinion thus strongly damaging the credibility of one of the most important processes in the prosecutorial system, such as the selection of the new Chief State Prosecutor.²¹

On the other hand, the lack of transparency was also shown in two (2) other Council meetings. In one instance [*Meeting held on April 21, 2022*], the agenda was not published but only a press release was submitted. Also, with a lack of transparency a meeting was held on November 24, 2022, since the same did not publish the agenda and did not issue a press release. KLI recommends to the KPC that during 2023 to not continue with the same practice of holding online meetings, but to undertake all concrete actions in a manner that the agenda for these meetings are public according to the legally prescribed deadlines.

Criticism for non-transparency regarding KPC meetings were also raised by Council members. Prosecutor Jehona Grantolli in one of the KPC meetings requested from the Council that KPC meetings to be transmitted in the manner in which the Kosovo Judicial Council transmits their meetings.²²

4.1.(Non) respect of the publication of decision in two languages

Even during 2022, the KPC has continued with the usual practice of not publishing all decisions and other acts even in the Serbian language. This is because during 2022, only 26 decisions were published in the Serbian language out of 188 issued by the Council during 2022. Expressed as a percentage, only 13% of the decisions issued by the KPC were published on its official website.

²¹ “*Exclusive (document): How Maloku and Lumezi ignored for two months the British Embassy's offer to support the process of electing the Chief State Prosecutor?*”, Betimi për Drejtësi, 25 January 2022 (available at: <https://betimiperdrejtesi.com/ekskluzive-dokument-si-maloku-dhe-lumezi-injoruan-per-dy-muaj-oferten-e-ambasades-britanike-per-mbeshtetje-te-procesit-te-zgjedhjes-se-krveprokurorit-te-shtetit/>). (Last accessed on 13 February 2023).

²² “*With controversy among members, the KPC decides to publish the interviews and concept documents of the candidates for Chief State Prosecutor*”. Betimi për Drejtësi. 16 March 2022. (Available at: <https://betimiperdrejtesi.com/me-polemika-mes-anetareve-kpk-vendos-qe-te-publikohen-intervistat-dhe-koncept-dokumentet-e-kandidateve-per-krveprokuror-te-shtetit/>). (Last accessed on 8 April 2023).

Whereas, of the five (5) approved regulations, only three (3) of them have been published in the Serbian language.

KLI reminds the KPC again that two (2) languages in a constitutional principle, which must be implemented by all public institutions. In addition, within the prosecutorial system, Serbian prosecutors are also engaged and according to the report of the SP for the nine months of 2022, there are 14 or 7.65% prosecutors from this community, including members of the KPC and the non-publication of decisions, regulations and other acts in the Serbian language, in addition to representing a constitutional violation, also represents an impossibility for Serbian prosecutors and support staff to recognize the rules established by the KPC.

5. (Non) Completion of the work plan

In February 2022 the KPC adopted and published the work plan for 2022. Some of the KPC plans that were included were fulfilled, among them the adoption of the Strategic Plan for the Prosecutorial system 2022-2024, establishment of the working group for monitoring the plan, adoption of the Regulation on the Election and Termination of the Mandate of the General Director of the Secretariat of the Kosovo Prosecutorial Council and the Director of the Unit for Review of the Performance of Prosecution, adoption of the Regulation on the Recruitment of Senior Officials for Professional Cooperation, adoption of the Regulation for interns etc. Meanwhile, as regards the objectives for increasing transparency and communication with the public and the media, the KPK has not managed to fulfill most of the planned objectives, such as the presence of the KPK in social networks and the live broadcast of its meetings on the web - the portal of the prosecution system.²³

On the other hand, many of the planned objectives in this work plan were not fulfilled during this year, such as:

- 1) Amending/supplementing Regulation 05/2019 on Disciplinary Responsibility of Prosecutors
- 2) Adoption of the Regulation on the Activity, Internal Organization and systematization of Workplaces in the KPC Secretariat²⁴
- 3) Adoption of the Regulation on the Internal Organization and functioning of the State Prosecutor
- 4) Drafting of the Regulation for the Administration and Archiving of Documents in the State Prosecutor's Institution
- 5) Drafting of the guide for the unification of expertise prices for the entire prosecutorial system foreseen by Regulation 15/2015 for the appointment of judicial experts

²³ “Annual work plan 2022 of the Kosovo Prosecutorial Council”

²⁴ **Note:** The adoption of this Regulation was planned to take place in 2021 yet it failed to be approved that year, it was carried over to the Work Plan for 2022, but this regulation failed to be approved during this year also, and it was again carried over to the following year, i.e. 2023.

- 6) Regular reporting of chief prosecutors on issues of administration and efficiency in handling cases
- 7) Establishment of a mechanism for ethical issues concerning prosecutors²⁵ etc.

Work plans cannot be seen only as plans left on paper and as formal obligations, much less as a plan with abstract objectives and long calendar deadlines for the fulfillment of those objectives.²⁶ In this regard, KLI recommends to the KPC that in approving the annual work plan, it should show clear goals, set objectives that are measurable and that during the year, exercise strict supervision for the fulfillment of the planned objectives during that calendar year.

6. Legal battles won by KLI for the transparency of the Prosecutorial system

6.1.Score sheets of the candidates for Chief State Prosecutor

In the year we left behind, one of the most important processes took place, that of the selection of the Chief State Prosecutor, a process that according to civil society²⁷, international partners and other actors as contested. The positive in this process was the broadcast of the candidates' interviews on public television and the publication of the candidates' concept documents, which allowed direct monitoring of this process. However, although the score filed of the candidates for Chief State Prosecutor are public documents which do not constitute as confidential data, the KPC did not give access to the same.

Therefore, the coalition of No-Governmental Organizations, the Kosovo Law Institute (KLI), the Group for Legal and Political Studies (GLPS) and FOL Movement, filed a complaint with the Information and Privacy Agency (IPA) for silence in the request for access to public documents of April 4, 2022, whereupon IP on June 6, 2022 rendered a decision by which it forced the KPC to provide access to these score sheets.²⁸

6.2.Decisions on the dismissal of criminal charges and suspension of investigations

An important step to pave the way for NGOs and the media was the victory of the KLI and "Betimi për Drejtësi" against the Basic Prosecutor's Office in Pristina for access to the decisions to dismiss criminal charges. KLI has continuously requested to provide access to such documents, all this in order to understand what are the reasonings of the prosecutors in the cases

²⁵ **Note:** The establishment of this mechanism was foreseen in the work plan for 2021, but it was not established

²⁶ **Note:** Most of the objectives-activities planned in the Work Plan for 2022 have a deadline of fulfillment from January 1 to December 31, 2022. Such planning creates chaos and most of the objectives remain unfulfilled, because a short time frame for each objective.

²⁷ KLI, GLPS, FOL: "Integrity of the Selection of the Chief State Prosecutor". Pristina, March 2022.

²⁸ "After the complaint of KLI, FOL and GLPS, the Prosecutorial Council is forced to provide access to the scoring of the candidates for Chief State Prosecutor". Betimi për Drejtësi. 6 June 2022. (Available at: <https://betimiperdrejtesi.com/pas-ankeses-se-ikd-fol-dhe-glps-keshilli-prokurorial-detyrohet-te-ofroje-qasje-ne-poentimin-e-kandidateve-per-krveprokuror-te-shtetit/>). (Last accessed on 15.02.2023)

when they dismiss the criminal charges and also when the investigations are terminated. All this in accordance with the Law on Access to Public Documents.

After the Basic Prosecutor's Office in Pristina had remained silent on the request for access to 7 decisions of this prosecution, KLI and BPD had appealed to the IPA, where the latter on April 6, 2022 had forced the prosecution to allow access to the requested documents.²⁹

Prosecutors escape from responsibility has ended, thanks to the victory of KLI and BPD that, through the use of legal mechanisms in force, have overthrown this illegal practice. The legal obligation not represents a decision-making standard and as such applies equally to all prosecutors' offices and prosecutors in the Republic of Kosovo. Also, such a decision offers more legal security for citizens, but also raises the quality of the work of prosecutors, whose decision from now on are subject to public monitoring.³⁰

7. (Non) transparency of Chair Maloku for the media and public

Its been two years since Jetish Maloku was unlawfully elected³¹ as Chair of the KPC. For two years, he was preset for journalists only four times, specifically during closing conferences for 2021 and 2022 and two (2) times in media interviews.³² From the moment of his election as Chair of the KPC in January 2021, Maloku continuously proclaimed transparency and accountability before the public. The same presented three, one of which was **transparency**.³³ According to the KPC Maloku during his mandate, went before the media when it was necessary. Also, it was emphasized that Chair Maloku has given interviews to various local and foreign media, reflecting the general and special activities of the KPC.³⁴ Except for one interview given in 2022 and one in 2023³⁵, KLI has not found any other interviews given by the Chair of the KPC, neither in the local media nor in the international media. KLI has asked the KPC about these interviews, yet until the publication of this report, the latter have not returned an answer.

Maloku has conducted only one interview during 2022, despite requests. Only the "Betimi për Drejtësi" has invited Maloku to an interview at least dozens of times, to discuss the functioning

²⁹ "After the complaint of the "Betimi për Drejtësi", chief prosecutor Kujtim Munishi is forced to provide access to public documents". Betimi për Drejtësi. 17 April 2022. (Available at: <https://betimiperdrejtesi.com/pas-ankeses-se-betimit-per-drejtesi-krjeprokurori-kujtim-munishi-detyrohet-te-ofroje-qasje-ne-dokumentet-publike/>). (last accessed on 16 February 2023).

³⁰ "Promo: The victory of KLI and BpD over KPC". Betimi për Drejtësi. 3 November 2022. (Available at: <https://www.youtube.com/watch?v=F0Qemg7ICvo>). (Last accessed on 16 February 2023).

³¹ Makshana, L. Thaqi, M: "Administration of the Justice System by Councils". Pristina. June 2022. Pg.22

³² "Maloku: 1000-1050 euros is expected to be the salary of judges and prosecutors" (available at: <https://www.facebook.com/watch/?v=1569876703473145>). (Last accessed on 8 April 2023)

³³ "The ceremony of accepting and handing over the office of the Chair of the KPC was held". KPC. 18 January 2021. (Available at: <https://prokuroria-rks.org/kpk/lajm/6302>). (Last accessed on 19 February 2023).

³⁴ KPC comments on this report. 6 April 2023.

³⁵ See: <https://www.facebook.com/watch/live/?ref=search&v=914896216178304>). (Last accessed on 8 April 2023).

of the KPC, which topic is of interest to the public. Chair Maloku had promised each time that this interview would be carried out, but that he never had the will to carry out the interview.³⁶

Thus, in contrast to the KJC but also to the former chair of the KPC, Chair Maloku for 2022 has chosen that his appearances in the media will be rare or not appear at all, despite his promises of transparency.

8. Failure of accountability mechanisms in KPC

8.1. Failure of KPC in addressing disciplinary responsibility in the murder case of S.M

As stated above, most of the disciplinary decisions issued by the KPC during 2022 ended with mild disciplinary measures such as public reprimands and non-public written reprimands. Only one case had ended with a more severe measure, namely the transfer of a prosecutor. According to the Progress report for Kosovo for 2022, although there are efforts to implement the appropriate legal framework regarding disciplinary procedures, however, a lot of will, diligence and work is needed to ensure the sustainable and effective implementation of disciplinary procedures.³⁷

Since March 14, 2021, when the late S.M was killed by her ex-husband, who had also killed himself, the responsible institutions have not yet taken any measures to address the institutional responsibility in this regard.

Regarding this case, KLI and the Kosovo Women's Network (KWN), on March 17, 2021, had published an analysis where they testified to the violation of the right to life of S.M. In this report, the main findings and violations of state institutions were presented, including recommendations for accountability in this particular case. According to the KLI and the KWN, since March 4, 2021, the State Prosecutor has not undertaken any investigative or other action to clarify the case or measure to offer the necessary protection to the victim S.M. Also, KLI and KWN had assessed that the Republic of Kosovo, namely the Basic Prosecutor's Office in Pristina and other state institutions through their non-action, non-fulfillment of legal obligations in cases where women's integrity is violated in criminal acts of domestic violence, have now violated the late S. M the right to life, this right guaranteed by the Constitution, as the most basic human right, from which all other rights derive.³⁸

The claims made by KLI and KWN were confirmed by the Constitutional Court of Kosovo on March 22, 2023. The latter made a decision regarding the request submitted by the daughter of the deceased S.M, through which the violation of the right to life is found, which is guaranteed

³⁶ “*The prosecution system's fear of transparency?*”. Betimi për Drejtësi. 8 October 2022.(available at: <https://betimiperdrejtesi.com/betimi-per-drejtesi-289-frika-e-sistemit-prokurorial-nga-transparenca/>). (Last accessed on 26 March 2023).

³⁷ Kosovo Progress Report 2022.

³⁸ Rrezniqi,A & Shala, G. “*The state, by not acting, deprives Sebahate Sopi of her life*”. March 2021. Pristina. Pg. 4.

by the Constitution. This request was drafted by the Center for Free Legal Aid of KLI, on behalf of the children of the now deceased and was submitted by her daughter V.S.³⁹

In this particular case, despite the fact that the now deceased S.M. had reported the case to the Police and the Prosecutor and the Basic Prosecutor's Office in Pristina had not taken the necessary actions for the protection of the same, as described in detail in the judgment of the Constitutional Court No. KI129 /21, the Chief Prosecutor of the Basic Prosecution in Pristina had not taken any action to address accountability in this particular case. In this regard, it should be noted that the Chief Prosecutor of the Basic Prosecution in Pristina had prejudiced this case from the beginning, categorically refusing to conduct investigations for addressing the accountability in this case.

Faced with the need for the Chief Prosecutor of the Basic Prosecution in Pristina to act as a competent authority and fulfill his obligations, he had chosen to insult KLI through a press release issued by the Basic Prosecution in Pristina. The press release elaborated how the determination of the Chief Prosecutor of the Basic Prosecution in Pristina not to address accountability in this particular case. As stated above, through the press release, the Basic Prosecutor's Office in Pristina, led by Mr. Kujtim Munishi, had described KLI findings as *“ungrounded, unprofessional and tendentious which aim to damage the work, image and create distrust of citizens in the State Prosecutor's Office”*⁴⁰. Yet, in fact these claims have been proven through the Ombudsperson Institution Report No. Nr. 150/2021 and through the Constitutional Court decision No.KI129/21.

Even two years were not enough for the prosecutorial system to address the disciplinary responsibility for this case, despite the findings of KLI, KWN and Ombudsperson.⁴¹ The initiation of the disciplinary procedure was made only after the decision of the Constitutional Court, by the Office of the Chief State Prosecutor, and this only for the prosecutor of the case.⁴²

8.2.The case of the rape of the 11-year-old girl and the case of the murder of S.D

During the year 2022, two more cases occurred which shocked the public opinion. The case of the rape of the 11-year-old and the case of the murder S. D, and for which cases the prosecutorial system has not yet notified the public if any disciplinary proceedings have been initiated against the prosecutors of the case and the Chief Prosecutors of the relevant Prosecutor's Offices.

³⁹ See: Decision no.KI129/21. 22 March 2023.

⁴⁰ “Reaction from the Basic Prosecutor's Office in Pristina”. Pristina. 17 March 2021. (Available at: <https://prokuroria-rks.org/psh/lajm/6547>). (Last accessed on 12 April 2023)

⁴¹ “Ombudsperson Report - Ex officio no. 150/2021”. 27.04.2021.

⁴² “After the decision of the Constitutional Court, a disciplinary procedure was initiated against the prosecutor of the case of Sebahate Morina”. Betimi për Drejtësi. 5 April 2023. (Available at: <https://betimiperdrejtesi.com/pas-vendimit-te-gjykates-kushtetuese-inicohet-procedure-disiplinore-ndaj-prokurorit-te-rastit-te-sebahate-morines/>). (Last accessed on 11 April 2023)

Regarding the case of the rape of the 11-year-old, the Ombudsperson on August 31, 2022 opened an ex-officio case and received the necessary information from the responsible institutions regarding the case. After analyzing the case, the Institution of the Ombudsperson came out with findings related to the findings of the case, where a number of violations were identified. In the report published on April 3, 2023 by the Ombudsperson, the actions of each institution are described, where the actions and inactions of the responsible institutions in the case of the rape of the 11-year-old are highlighted. In the part of the recommendations in this report, among other things, the need to take measures by the KPC to ensure accountability for the responsible officials involved in the case, due to their failure to fulfill their legal obligations, is emphasized.⁴³ This case was also mentioned in the report on Human Rights of the US Department of State for Kosovo (USAS).⁴⁴

Even in the case of the now deceased S.D, disciplinary responsibility has not yet been addressed. On November 8, 2022, in the village of Kuk, Municipality of Dragashi, N.A and J.A in cooperation with each other and in their common house are accused of committing psychological violence against the victim/sister-in-law and their aunt S.D. In the report published by KLI, it is stated, among other things, that the Kosovo Police had handled this case on the same day and had notified the guardian prosecutor and the Office for Protection and Assistance to Victims (OPAV). On the same day, the guardian Prosecutor of this Prosecutor's Office had decided that the case should be processed in a regular procedure. Whereas, seven (7) days later, on November 15, 2022, the Kosovo Police filed a criminal complaint with the Basic Prosecutor's Office of Prizren. While nine (9) days later, this Prosecutor started the investigations. Until December 21, 2022, when the Basic Prosecutor's Office in Prizren filed an indictment for this case, this Prosecutor did not undertake additional actions for the protection of the victim. This case was dealt with in a regular procedure, since the Prosecutor had not initiated any request for the appointment of any of the measures for the appointment of the security of the person in the criminal procedure. Also, during this period of time, no protective order had been issued against the victim. This is because for this case, even though OPAV had been notified, it had not made a request at all for the appointment of a protective order according to the Law on Protection from Domestic Violence. The Center for Social Work in Dragash had visited the victim in this case. This Center, on the grounds that it had known from other cases that the shelters do not have adequate conditions for cases like this, had not referred the case to the Shelter at all.⁴⁵ Conversely, on January 30, 2023, KLI submitted a request to the Ombudsperson for the initiation of investigations into human rights violations, where this institution was requested to address this issue and conduct investigations in order to ascertain from this institution that on the part of the above-mentioned authorities, the rights of the now deceased S.D. as defined by the

⁴³ "Ombudsperson Report- Ex-officio no.468/2022". 03.04.2023 (Available at: [file:///C:/Users/hp/Downloads/Raporti-I-AP-Ex-officio-468-2022%20\(1\).pdf](file:///C:/Users/hp/Downloads/Raporti-I-AP-Ex-officio-468-2022%20(1).pdf)).

⁴⁴ Kosovo 2022 Human Rights Report.

⁴⁵ Rrezniqi,A & Shala,G.“ *Saima Domazeti is murdered in the hands of the state also*”. December 2022. Pristina.

Constitution, the European Convention on Human Rights, other laws and acts have been violated.

Regarding this issue, despite these failures, for the Chief Prosecutor of the Basic Prosecution in Prizren, Admir Shala, this case could not have been prevented, since according to him, no one would have thought that such a crime could be committed.⁴⁶ KLI considers that such statements are not serious, since state actors never dare to guess whether or not a criminal offense will be committed, but in such cases, especially of domestic violence, all actions must be taken in order to prevent the commission of a criminal offense which may have fatal consequences.

Unfortunately, in this case, and not only, the chain failure of the institutions makes it clear once again that domestic violence is being treated with a deep lack of professionalism, with no adequate response to this phenomenon and with a lack of accountability from the actors responsible.

9. The contested integrity of the election process for the Chief State Prosecutor

The process of selecting the new Chief State Prosecutor by the KPC during 2022 was accompanied by numerous irregularities, making this process contested. This competition was announced by the KPC on January 12, 2022, after the mandate of Aleksandër Lumezi, who had exercised this position, ended on April 21, 2022. After a process of several weeks, the KPC unanimously voted for the prosecutor Blerim Isufaj, as the Chief State Prosecutor and recommended him for decree to President Vjosa Osmani.⁴⁷

On the other hand, the KPC has assessed that in the statements related to the recruitment process for Chief State Prosecutor, there were many untruths and unprofessional, low and malicious statements, in relation to the prosecutorial system of Kosovo. Also, the KPC has emphasized that in this aspect the public opinion has been misinformed, because the Kosovo Prosecutorial Council has been transparent and open since the day it made the decision to announce the competition, in which case all procedures have been carried out in full transparency in front of international partners and civil society representatives. Also, there has been a constant call for the monitoring of this process.⁴⁸

However, this process evoked many reactions in Kosovo, with which the Civil Society and the main embassies in the country reacted. According to the coalition of NGOs, the process of selecting the Chief State Prosecutor did not ensure meritocracy, objectivity and that the candidates were not treated equally, which according to the coalition, this process was

⁴⁶ “*State Prosecutor Shala: The murder of Saima Domazeti could not be prevented*”. Betimi për Drejtësi. 21 January 2023. (Available at: <https://betimiperdrejtesi.com/kryeprokurori-shala-vrasja-e-saime-domazetit-nuk-mund-te-parandalohet/>). (Last accessed 12 April 2023)

⁴⁷ “*KPC votes for Blerim Isufaj as Chief State Prosecutor*”. Betimi për Drejtësi. 6 April 2022. (Available at: <https://betimiperdrejtesi.com/refuzohen-kundershtimet-e-kandidateve-per-kryeprokuror-te-shtetit-kpk-po-pergatitet-per-votimin-e-blerim-isufajt-per-kryeprokuror-te-ri-te-shtetit/>). (Last accessed on 20 February 2023).

⁴⁸ KPC comments in this report. 6 April 2023.

accompanied by numerous violations of the procedures. Likewise, the German Ambassador in Kosovo, Jorn Rohde, described the process of selecting the Chief State Prosecutor as disappointing since, according to him, the principles for a fair process based on meritocracy were not respected. The Office of the European Union was also surprised and disappointed with this process, describing as disappointing the action of the KPC regarding the proposal of Blerim Isufaj for Chief State Prosecutor. Also, the US ambassador to Kosovo, Jeffrey M. Hovenier, has said that the selection of the chief state prosecutor by the KPC contradicts the expectations of the US and Kosovar citizens that the process should be fair, objective, transparent and based on merit.⁴⁹ So, the integrity of this process was violated from the very beginning, as the British Embassy was also withdrawn from monitoring, which was ignored for two months by the KPC and the Chief State Prosecutor.⁵⁰

KLI considers that the KPC's arguments for unprofessionalism in the reports and analyzes for the selection process of the Chief State Prosecutor are unsustainable, this is due to the fact that like KLI but also other Civil Society Organizations have described this process as lacking integrity. The reactions of foreign embassies in the Republic of Kosovo and the reactions of other NGOs who expressed disappointment with this process prove that the positions of the KLI regarding this issue have been professional and supported by arguments. Moreover, the Progress Report for Kosovo for 2022 has highlighted the disappointment of the embassies and civil society for the lack of justice, transparency and principles of merit in the process developed by the KPC.⁵¹

⁴⁹ **Note:** The British Embassy, the German Embassy, the European Union Office in Kosovo and the American Embassy have reacted to this process, expressing their disappointment with this process.

"Even Germany disappointed with the process of selecting the Chief State Prosecutor". Betimi për Drejtësi. 7 April 2022. (Available at: https://betimiperdrejtesi.com/edhe-gjermania-e-zhgenjyer-me-procesin-e-perzgjedhjes-se-kryeprokurorit-te-shtetit/?fbclid=IwAR0_L4D_-4VtMuA4I6MiYZPXpbd2TCOutkbTOW8YNarGj7fkZV2pwbD8vnU). (Last accessed on 20 February 2023).

"Szunyog reacts to the KPC after the vote of Blerim Isufaj for Chief State Prosecutor: We are surprised and disappointed". Betimi për Drejtësi. 6 prill 2022. (Available at: https://betimiperdrejtesi.com/szunyog-i-reagon-kpk-se-pas-votimit-te-blerim-isufajt-per-kryeprokuror-te-shtetit-jemi-te-habitu-dhe-te-zhgenjyer/?fbclid=IwAR18t_fFSKo0qWVL0yCc-urUVsHmIJI9MGLYnucvP2xSKHifa6a7sm6FK0). (Last accessed on 20 February 2023).

"The American ambassador, worried about the way the Chief State Prosecutor was voted for, says that the standards were not respected". Betimi për Drejtësi. 7 April 2022. (Available at: <https://betimiperdrejtesi.com/ambasadori-amerikan-i-shqetesuar-per-menyren-se-si-u-votua-per-kryeprokurorin-e-shtetit-thote-se-nuk-u-respektuan-standardet/?fbclid=IwAR2ZF4-44Tmbk498zmmvs-0lWfhw49AdRyt9l2QSYFNSVI4JLWZF2PyaH0>). (Last accessed on 20 February 2023).

⁵⁰ *"Exclusive (document): How Maloku and Lumezi ignored for two months the British Embassy's offer to support the process of electing the Chief State Prosecutor?"*, Betimi për Drejtësi, 25 January 2022 (Available at <https://betimiperdrejtesi.com/ekskluzive-dokument-si-maloku-dhe-lumezi-injoruan-per-dy-muaj-oferten-e-ambasades-britanike-per-mbeshtetje-te-procesit-te-zgjedhjes-se-kryeprokurorit-te-shtetit/>). (Last accessed on 20 February 2023).

⁵¹ Progress Report for the Republic of Kosovo for 2022. Pg.20.

Now, the issue of the Chief Prosecutor is in the hands of President Vjosa Osmani, who has not yet made a decision to decree or not Blerim Isufaj as Chief Prosecutor. Whereas, KLI reiterates the need for the Chief State Prosecutor to emerge from a process that has undisputed integrity.

10. Inadequate reaction of the KPC against the Government

The Government of the Republic of Kosovo in November 2022 decided to reduce the salaries of judges and prosecutors.⁵²

KLI and other Civil Society Organizations had reacted harshly to the Government of the Republic of Kosovo, which, contrary to constitutional standards and using false facts, issued a decision to reduce the salaries of judges and prosecutors. Through, a reaction KLI and other civil society organizations had considered that the Government's decision to reduce the salaries of judges and prosecutors clearly represents interference in the independence of the judiciary and is contrary to the standards established by the Venice Commission.⁵³

However, the path followed by KPC to respond to this decision of the Government was not adequate. On November 23, the KPC issued a decision through which it decided to reduce the work in the Prosecutor's Office, where according to this decision only essential services would be provided. Also, according to this decision, the prosecutor's offices had suspended all forms of cooperation with the representatives of the Government. The Council called the Government's decision an unconstitutional and illegal decision, as well as a flagrant interference in the independence of the prosecutorial system.⁵⁴ Such a decision rendered by the KPC caused many actions for the handling of cases by the prosecutor's offices to be suspended. This suspension of work in the country's prosecutor's offices had lasted until December 5, 2022, after the BC in Pristina, Administrative Department approved a temporary measure of the Association of Prosecutors against government's salary decision.⁵⁵

KLI considers that, just like KJK and KPK, they had to follow the legal ways from the very beginning regarding the Government's decision to reduce salaries and be satisfied with this. The suspension of work has harmed the rights of citizens. Faced with an anti-constitutional decision of the Government, the justice system should be an example and model of how a right is

⁵² Decision **No.03/109 dated 23.11.2022.**

⁵³ *"Civil society: Reducing salaries for the justice system represents an interference with justice and increases the corruptive potential"*. Kosovo Law Institute. 23 November 2022. (Available at: <https://kli-ks.org/shoqeria-civile-ulja-e-pagave-per-sistemin-e-drejtësisë-paraqet-nderhyrje-ne-drejtësi-dhe-rrit-potencialin-korruptiv/>). (Last accessed on 14 January 2023).

⁵⁴ *"After the decision on salaries, the KPC also reduces the work of the prosecutor's offices and suspends cooperation with the Government"*. Betimi për Drejtësi. 23 November 2023. (Available at: <https://betimiperdrejtësi.com/pas-vendimit-per-pagat-edhe-kpk-redukton-punën-e-prokurorëve-dhe-pezuallon-bashkëpunimin-me-qeverinë/>). (Last accessed on 15 February 2023).

⁵⁵ *"The suspension of the decision on salaries, even the Prosecutor's Offices return to work on Monday with full capacity"*. Betimi për Drejtësi. 2 December 2022 (Available at: <https://betimiperdrejtësi.com/pezullimi-i-vendimit-per-pagat-edhe-prokurorët-i-kthehen-punës-te-henën-me-kapacitet-te-plota/>). (Last accessed on 15 February 2023).

protected through legal channels and not take actions that go to the detriment of the citizens of the Republic of Kosovo.

11. KPC threats with the non-implementation of the law

According to the Ministry of Justice (MoJ), KPC was considered to be primarily responsible for the lack of integrity and professionalism.⁵⁶ This Ministry, in the framework legal reforms identified in the Rule of Law Strategy, among of the first steps undertaken was the reform of the Prosecutorial Council through the amendments of the Law on the KPC. The Assembly of the Republic of Kosovo on June 23, 2022 approved in the second reading the Draft Law on the KPC.⁵⁷ However, on March 24, 2023, the Constitutional Court declared this law invalid, since according to the latter this law was not in accordance with the Constitution. We recall that IKD had reported that this court had not decided within the 60-day deadline, as provided by the Law on the Constitutional Court.⁵⁸ Therefore, the Ministry of Justice expressed surprise⁵⁹, at the decision of the Constitutional Court to overturn the new Law on KPC.⁶⁰

On the other hand, with the new Law on the KPC, which has already been overturned by the Constitutional Court, a complete restructuring of this institution was foreseen, as it was determined that the number of KPC members of the KPC would be reduced from thirteen (13) to seven (7) members. Also, this law foresees that the number of prosecutor and non-prosecutor members would be balanced. Thus, the Council would consist of three (3) prosecutors elected by their colleagues, as well as the Chief State Prosecutor ex officio, while three (3) members will be non-prosecutor members. Two (2) elected by the Assembly and (1) one appointed by the Ombudsperson.

Otherwise, the KPC itself was against the new changes, as this institution had categorically opposed the adoption of the new law, where according to them, this law seriously violated the independence of this constitutional institution. The same accused the MoJ of never taking into

⁵⁶ “*The Committee for Legislation reviewed in principle the Draft Law for the Kosovo Prosecutorial Council*”. Ministry of Justice. 16 March 2022. (Available at: <https://md.rks-gov.net/page.aspx?id=1,15,2675>). (Last accessed on 26.03.2023).

⁵⁷ “*The Draft Law on amending and supplementing the Law in the Kosovo Prosecutorial Council was approved in the second reading*” Betimi për Drejtësi, 23 June 2022. (Available at: <https://betimiperdrejtesi.com/miratohet-nellexim-te-dyte-projektligji-per-ndryshimin-dhe-plotesimin-e-ligjit-per-keshillin-prokurorial-te-kosoves>). (Last accessed on 23 February 2023).

⁵⁸ **Note:** “*In the event that the law or the decision approved by the Assembly is disputed according to Article 113, paragraph 5 of the Constitution, the Constitutional Court must issue a decision on the dispute no later than sixty (60) days after submitting the request*”, is stated in Article 43, of this law.

⁵⁹ “*Minister of Justice: For the Constitutional Court, the interest of some members of the KPC is more important than the general interest*”. Betimi për Drejtësi. 25 March 2023. (Available at: <https://betimiperdrejtesi.com/ministrja-e-drejtises-per-gjykatën-kushtetuese-me-i-rendesishem-interesi-i-disanetareve-te-kpk-se-se-sa-interesi-i-pergjithshem/>). (Last accessed on 26 March 2023).

⁶⁰ “*KPC welcomes the decision of the Constitutional Court, calls Albulena Haxhiu's statements reckless and frivolous*”. Betimi për Drejtësi. 25 mars 2023. (Shih linkun: <https://betimiperdrejtesi.com/kpk-mirepret-vendimin-e-kushtetueses-i-quan-te-pamatura-dhe-joserioze-deklarimet-e-albulena-haxhiut/>). (Last accessed on 26 March 2023).

account the proposals of this institution. Likewise, the KPK, through a press release, had emphasized that the content of this Law will prevent the functioning of the prosecutorial system and, according to them, will make this system influenced by politics. After the adoption of the Law, the KPC had declared that it would pursue all legal avenues to challenge the content of this Law, but in addition to that, in the same press release, they had emphasized that no member of the Council would be subject to unconstitutional and illegal demands of this Law.⁶¹

Pursuing legal avenues to challenge the legality of this law is fully the constitutional and legal right of the KPC. However, their statements that they will not respect the law are scandalous statements that should not happen in a proper legal order. Warnings for non-compliance with the law by a Constitutional institution such as the KPC convey negative messages to citizens and seriously damage the image of this institution. KLI has continuously demanded that a reform in the Kosovo Prosecutorial Council should happen, but that it should happen in full accordance with the Constitution.

On the other hand, regarding the decision of the Constitutional Court on the repeal of the Draft Law on KPC, it should be emphasized that the decisions of the Constitutional Court have the power equivalent to the constitutional norm. As such, the same must be respected by all institutions. It is not up to any institution, including the Ministry of Justice, to throw accusations at the Constitutional Court for the way they make their decisions.

But, based on the findings of the Rule of Law Strategy⁶², corporatist composition of KP C⁶³ and KLI's findings on the failure of internal mechanisms and the lack of results of the prosecutorial system, reform of the prosecutorial system remains a necessity. Thus, it is up to the Ministry of Justice, after the verdict of the constitutional court, to clarify the path it will follow in order to develop the reform in the prosecutorial system, which reform, first of all, must be in accordance with the Constitution of the Republic of Kosovo and findings of the judgment of the Constitutional Court regarding this law.

12. KPC challenges with the budget

The KPC budget for 2022 was 17 million and 144 thousand and 178 euro. Compared to the KPC budget request that was 21 million 697 thousand and 194 euro, meaning 1 million 582 thousand

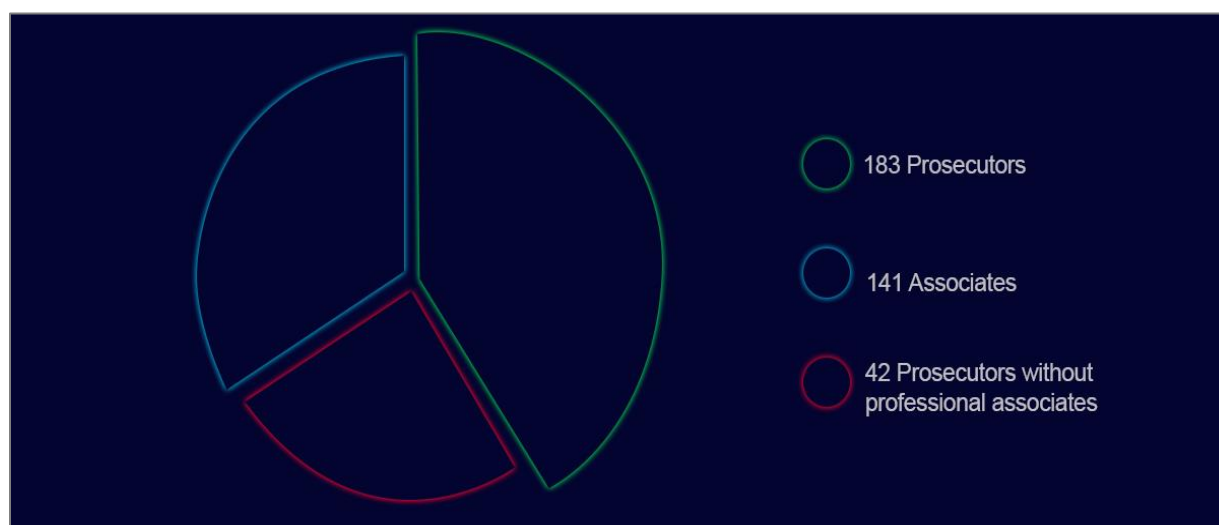
⁶¹ "KPC: The law approved by the Assembly seriously violates the independence of this constitutional body". Betimi për Drejtësi, 23 June 2022. (Available at: <https://betimiperdrejtesi.com/kpk-ligji-i-miraturar-ne-kuvend-cenon-rende-pavaresine-e-ketij-organi-kushtetues/>). (Last accessed on 23 February 2023).

⁶² "Rule of Law Strategy 2021-2026". Ministry of Justice. (Available at: <https://md.rks-gov.net/desk/inc/media/6DC1CBD5-0DF1-46AE-9D1A-78C96146C7D0.pdf>).

⁶³ "OPINION ON THE DRAFT AMENDMENTS TO THE LAW ON THE PROSECUTORIAL COUNCIL". EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW (VENICE COMMISSION). 13 December 2021. (Available at: [https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD\(2021\)051-e](https://www.venice.coe.int/webforms/documents/default.aspx?pdffile=CDL-AD(2021)051-e)). (Last accessed on 27 March 2023).

912 euros less have been allocated to this institution. This allocated budget for the KPC has made this institution unable to fulfill all its legal obligations and plans.

The Ministry of Finance and the Assembly have not met the requirements of the KPC for the allocation of funds for the implementation of the Laws that have been approved by the Assembly itself. With the Law on the State Prosecutor, it is determined that for the performance of their responsibilities, every prosecutor must have at least one professional associate.⁶⁴ According to the KPC, 141 professional associates were employed in 2022. If it is compared with the number of prosecutors, which by the end of 2022 were 183 prosecutors, then it should be noted that 42 prosecutors are left without professional associates.



Graph 4: The number of professional associates in relation to the number of prosecutors.

It is interesting to note that although the aforementioned law foresees the increase in the number of professional associates, the Ministry of Finance and the Assembly have not provided an additional budget to fully implement this law, this has made it impossible to increase the number of associates, affecting in the efficiency of the prosecution system. In relation to this issue, the KPC have stated that in order to implement the legal obligation for a professional associate, their budget requirements have been divided for a period of three years and that according to them, this legal obligation is foreseen to be fulfilled in the period 2022-2024.⁶⁵

For this reason, the Ministry of Finance must include these KPC requests in the budget planning and then the Assembly of the Republic of Kosovo must adopt the allocation of these financials means in address to the KPC so that Article 12 B of the Law on the State Prosecutor is fully implemented, as it is known, the operation and fulfillment of the constitutional mandate of the

⁶⁴ Law No. 06/L -025 for amending and supplementing law no. 03/L-225 for the state prosecutor as amended and supplemented by law No. 05/L-034. Article 12B.

⁶⁵ KPC answers to KLI.28 February 2023.

Council, among other things, depends on the budget that these two institutions allocate to the KPC.

13. (No) Gender Equality in the Prosecutorial System

In Kosovo, equal gender representation in public institutions is required by the Constitution and regulated by separate laws, specifically regulated by the Law on Gender Equality.⁶⁶

Likewise, the Law on the Prosecutorial Council has determined that the KPC will oversee the criteria for admission to the prosecutor's office, criteria that include gender equality. In fact, according to this law, the members of the Council reflect the multi-ethnic nature and the principles of gender equality in the Republic of Kosovo. However, in practice, gender equality in general in the prosecutorial system leaves much to be desired, and moreover, this inequality is more pronounced in leadership positions, where over 90% of them are led by male prosecutors.

At the end of the ninth month of 2022, the total number of prosecutors in the State Prosecutor's Office was 183 prosecutors. Of the total number of prosecutors, 105 or 57.38% are men and 78 or 42.62% are women.⁶⁷ According to the 2022 Progress Report, Kosovo still has a low percentage of women judges and prosecutors compared to most other European countries.⁶⁸

The percentage is almost similar in terms of the composition of the KPC. Out of 11 members of the KPK, only three (3) are women. Expressed as a percentage, 73% of the KPC is made up of men members and only 27% of the KPC is made up of women members.

The most pronounced inequality is expressed in leadership positions. The percentage of women in leadership positions is not equivalent to the overall percentage of female prosecutors in the justice system.

This is because, out of ten (10) prosecutor offices in Kosovo, the position of the Chief Prosecutors is held by men.

Therefore, the fact that 42.62% of the prosecutorial system is composed of women prosecutors, only 3 % of them are in leadership position (refer to graph below).

⁶⁶ **Note:** Article 6, par 8 of the Law on Gender Equality states: "Equal gender representation in all legislative, executive and judicial bodies and other public institutions is achieved when a minimum representation of fifty percent (50%) is ensured for each gender, including their governing and decision-making bodies".

⁶⁷ State Prosecutor's Work Report January-February 2022.

⁶⁸ Kosovo Progress Report 2022.

