



# STRATEGY AT A CROSSROADS

(REPORT ON THE MONITORING OF THE  
IMPLEMENTATION OF THE RULE OF LAW  
STRATEGY AND ACTION PLAN)



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

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## SHKURTESAT

<b>KLI</b>	Kosovo Law Institute
<b>FRRLS</b>	Functional Review of the Rule of Law Sector
<b>RoLS</b>	Rule of Law Strategy
<b>MoJ</b>	Ministry of Justice
<b>MIA</b>	Ministry of Internal Affairs
<b>KJC</b>	Kosovo Judicial Council
<b>KPC</b>	Kosovo Prosecutorial Council
<b>FLAA</b>	Free Legal Aid Agency
<b>KCS</b>	Kosovo Correctional Service
<b>KPS</b>	Kosovo Probation Service
<b>JC</b>	Justice Academy
<b>APC</b>	Agency for the Prevention of Corruption
<b>KBA</b>	Kosovo Bar Association
<b>IPA</b>	Information and Privacy Agency
<b>KP</b>	Kosovo Police
<b>CCPRK</b>	Criminal Procedure Code of the Republic of Kosovo





# 1. Executive summary

On August 11, 2021, the Government of the Republic of Kosovo approved the Rule of Law Strategy (RoLS) for 2021-2026. This Strategy stems from the Functional Review of the Rule of Law Sector (FRRLS), one of the most significant initiatives to enhance the rule of law in Kosovo. However, the adoption of this Strategy has not been matched by a sufficient commitment to its practical implementation. In the previous report, KLI identified two main issues: a lack of activity implementation in line with the RoLS and FRRLS documents, and inaccurate reporting on the implementation of activities according to the Action Plan (AP). These problems with RoLS implementation have persisted.

The European Commission's 2023 report on Kosovo highlighted the slow implementation pace of the RoLS and AP. The Steering Committee's report on the RoLS and AP implementation also notes regression, citing insufficient budget as a significant challenge. This challenge underscores the Government's lack of commitment to implementing the Strategy. The government responsible for approving the RoLS and AP also prepares and approves the budget, having the parliamentary majority to do so. Therefore, adopting the RoLS and AP without allocating an adequate budget demonstrates a lack of genuine intent to implement the Strategy effectively.

Additionally, the KLI found that some activities, essentially identical, have been duplicated across different policy measures in the AP. Moreover, KLI identified numerous instances of inaccurate reporting on the RoLS implementation. These issues create a misleading impression of the actual level of RoLS implementation.

Furthermore, KLI identified 38 activities scheduled for completion in 2022, which, according to the 2023 Annual Report on the implementation of the RoLS, were neither completed nor initiated by 2023. Additionally, KLI recorded 71 activities from 2022 listed as partially implemented in the 2023 Annual Report, but their implementation remains incomplete even in 2023. KLI also noted a significant number of activities that, despite not facing major obstacles, have not been fully implemented.

Furthermore, the RoLS has fallen out of implementation. The RoLS relies on its Action Plan, which expired at the end of 2023. The RoLS itself indicated that the mid-term review of the Action Plan would occur "...no later than early 2024...". Typically, "early" in the year can be interpreted as the end of March, or the end of the first quarter. Therefore, the mid-term review of the Strategy should have been completed by March 31, 2024. This obligation has not been fulfilled, leaving the RoLS without an Action Plan. The failure to conduct the mid-term evaluation and adopt a new Action Plan has effectively paralyzed the RoLS, reducing it to a document with no practical implementation.

## 2. Implementation of the Strategy in numbers

On May 13, 2024, the Steering Committee (SC) of the Rule of Law Strategy (RoLS) presented the Annual Report for 2023. This report indicates a regression in the implementation of the RoLS compared to the previous year. It shows that only 41% of the RoLS Action Plan (AP) for 2023 was fully implemented, which is 2% less than the previous year. Additionally, 34% of the planned activities were partially implemented, representing an 11% decrease from the previous year. Non-implementation increased by 12%, bringing the percentage of activities not implemented according to the SSL Action Plan to 24%.

	2022	2023
<b>Implemented</b>	43%	41%
<b>Not implemented</b>	12%	24%
<b>Partial</b>	45%	34%

**Indicator no. 1, Percentage of activities, comparison between 2022 and 2023**

Overall, the SC RoLS report indicates that the RoLS 2021-2023 Action Plan was fully implemented for 55% of the activities, partially implemented for 26%, and not implemented at all for 19%.

<b>Implemented</b>	55%
<b>Not Implemented</b>	19%
<b>Partial</b>	26%

**Indicator no. 2, Percentage of activities, 2022 and 2023**

Setting aside the issues related to the reporting of RoLS implementation highlighted in the previous and current IKD[1] reports, the fact that 45% of the activities outlined in the Action Plan (19% not implemented and 26% partially implemented) were not fully completed is concerning. This is particularly troubling given the crucial role of RoLS in advancing the rule of law in Kosovo.

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[1] Zekaj E., Makshana L., Shala G., Jakaj N., "(Non) Implementation of the Rule of Law Strategy in Practice", Kosovo Law Institute, Pristina, October 2023. (See: <https://kli-ks.org/ep-content/uploads/2023/10/Mos-Zbatimi-i-Strategjise-se-Sundimit-te-Ligjit-ne-Praktike-1.pdf>). (Last accessed 10 June 2024)

The report does not provide detailed explanations for why 19% of activities were not implemented and why 26% were only partially implemented. The report's author should have identified the specific reasons for the non-completion of each activity. While budgetary constraints, inter-institutional cooperation issues, and staff shortages are mentioned in the report as general challenges affecting RoLS implementation, there is no specific analysis provided for each activity that failed to be implemented. Consequently, the report fails to offer reasons for the non-fulfillment of specific activities. Unfortunately, this lack of detailed information in the report could potentially impact the thoroughness of the review of the Action Plan and the formulation of a new one.

### 3. Paralysis of RoLS

Following the completion of the Functional Review of the Rule of Law Sector, the Government of the Republic of Kosovo approved the Rule of Law Strategy for 2021–2026 on August 11, 2021. Integral to this strategy was its Action Plan covering 2021–2023, which detailed specific activities, strategic objectives, actions, responsible institutions, implementation costs, and performance indicators [2]. However, by the end of 2023, this plan had already lapsed.

The Rule of Law Strategy itself stipulates that "the strategy is expected to undergo a mid-term review, no later than the beginning of 2024, to assess the effectiveness and efficiency of its implementation...". The Annual Report on the Implementation of the RoLS for 2023 underscores that "The mid-term review of the Strategy is slated for 2024, with this review and the drafting of the new Strategy Action Plan for 2024–2026 anticipated to be preceded by sector-specific analyses, supported by Kosovo's development partners." [3]

Firstly, it is noteworthy that the RoLS itself has stipulated that the mid-term review of the Action Plan will occur "...no later than early 2024...". By conventional interpretation, "early" in the year typically refers to the end of March, marking the conclusion of the first quarter. Following this logic, the mid-term review process of the Strategy was expected to be completed by March 31, 2024.

This requirement of the Strategy has not been met. Consequently, the RoLS has been left without an Action Plan. The RoLS, in its current form, lacks self-enforcement mechanisms without a specific Action Plan outlining the activities that institutions need to undertake to achieve the objectives set forth by the RoLS. Therefore, the failure to conduct the mid-term evaluation of the RoLS and to adopt a new Action Plan has effectively rendered the RoLS ineffective, reducing it to a document without a means of implementation.

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[2] "Rule of Law Strategy 2021-2026", pg. 41, Ministry of Justice, August 2021. (See: <https://md.rks-gov.net/desk/inc/media/6DC1CBD5-0DF1-46AE-9D1A-78C96146C7D0.pdf>). (Last accessed 10 June 2024).

[3] "Annual Report (2023) on the implementation of the Action Plan on the implementation of RoLS", pg.2., Ministry of Justice. (See: <https://md.rks-gov.net/desk/inc/media/7C77BBBD-C7BD-44D6-A5FC-AB21ADE19481.pdf>). (Last accessed 10 June 2024).

On the contrary, there exists a discrepancy between the statements made in the RoLS and the RoLS Implementation Report for 2023. While the RoLS indicates that the mid-term review will commence in early 2024, the Annual Implementation Report only mentions the year 2024 without specifying the start date.

However, according to the Minister of Justice's statements, it appears that there will be no Action Plan at all for the year 2024. During the Steering Committee meeting, Haxhiu emphasized that despite facing obstacles, they will continue their efforts and focus on the new Strategy Action Plan for 2025-2026 and other commitments to ensure the reform's completion. This situation could potentially lead to a paralysis of the Rule of Law Strategy throughout the year, which contradicts the defined goals of the RoLS.

## 4. Lack of budget

The Annual Report (2023) on the Implementation of the RoLS initially reveals that only 32% of the budget allocated for activities in 2023 has been expended on implemented activities. Moreover, the report highlights that the costliest activities remain outstanding. It identifies the lack of budget and capacity as risks hindering the full implementation of activities within the RoLS Action Plan (AP). However, the report does not specify which activities faced budget shortages or attribute institutional responsibility for the funding gaps. Additionally, one of the Steering Committee's recommendations emphasized the need to secure budgets for certain activities. It urged the Ministry of Finance and the Assembly of Kosovo to consider the budgetary requirements of institutions to advance activities stalled under the Strategy.

The rule of law strategy in Kosovo is founded on an integrated planning framework designed to promote a cohesive, efficient, and unified approach. As outlined, the strategy aims for complete alignment with government policy planning and budgetary documents.<sup>[4]</sup> This entails that every aspect of the strategy should have explicit financial backing outlined in the relevant budgetary documents. However, as evidenced by the Annual Report on the implementation of RoLS, this has not been consistently achieved. While the strategy anticipates budget planning, implementation reports highlight deficiencies in this regard.

Lacking financial support, these strategies will remain unrealized, compromising the effectiveness of the rule of law in the country. Simply approving documents that outline obligations for relevant institutions without allocating sufficient budgetary resources for their fulfillment cannot advance the rule of law. It is paradoxical that while the Strategy is approved by the Government, which also drafts and the Assembly approves the budget, documents from the Steering Committee, which includes participation from the MoJ, express concerns about budgetary shortfalls.

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[4] "Rule of Law Strategy 2021-2026", pg. 41, Ministry of Justice, August 2021. (See: <https://md.rks-gov.net/desk/inc/media/6DC1CBD5-0DF1-46AE-9D1A-78C96146C7D0.pdf>). (Last accessed 10 June 2024).

Therefore, to ensure a fair and efficient justice system, it is imperative for the government to allocate adequate funding to support institutions and ensure the comprehensive implementation of the strategy. Public institutions cannot be effectively held accountable if they lack the necessary budgetary resources to carry out their activities.

## CONCLUSION

*According to the RoLS Implementation Annual Report (2023), only 32% of the budget planned for 2023 has been utilized, with the most expensive activities remaining unimplemented. The report identifies the lack of budget and resources as significant risks, although it does not specify institutional accountability for these shortcomings. The Steering Committee recommends that the Ministry of Finance and the Assembly consider the budgetary needs for activities that have stalled. Clear planning and funding are essential components of the strategy, yet these have not been fully realized, thereby impeding the effectiveness of the rule of law in the country. Adopting the Rule of Law Strategy without ensuring adequate budgetary provisions reflects insufficient commitment to advancing the rule of law.*

## 5. The Assembly's unconstitutional discussions on justice

According to Article 108, paragraph 8 of the Constitutional of Kosovo, "the Chair of the Kosovo Judicial Council addresses the Assembly of the Republic of Kosovo at least once a year regarding the Judicial System". In the case of the KPC, the Law stipulates that the Chair of the KPC "submits a written report at least once a year to the Assembly on the performance, actions, expenses and needs of the State Prosecutor".[5]

One of the planned activities in the RoLS Action Plan was the regular discussion of the annual reports from the KJC and KPC in the Assembly of Kosovo. However, this activity was not carried out.

The issue is not merely the non-implementation of this activity but rather its planning, which is unconstitutional. Activities that involve discussing the reports of independent constitutional institutions like KJC and KPC should not be held under any circumstances. Such discussions in the Assembly amount to one branch of power interfering in the affairs of another. Regardless of the discussion's outcome, no actions can follow, rendering such interventions pointless.

According to Article 108, Paragraph 8 of the Constitution, this provision mandates that the Chair of the KJC addresses the Assembly annually, akin to the President of the country.[6] Therefore, as per the Constitution, the Chair of the KJC is obligated to provide pertinent information about the judiciary to the Assembly. This obligation extends beyond special reporting requirements. In the case of the KPC, the law specifies the obligation to notify the Assembly in writing, but not to provide a special report.

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[5] Article 11, sub-paragraph 2.6; Law No. 06/L-056 on Kosovo Prosecutorial Council; 7 March 2019, Kosovo Official Gazette. (See: <https://gzk.rks-gov.net/ActDocumentDetail.aspx?ActID=18920>), (Last accessed 10 June 2024).

[6] Article 84, paragraph 3; Republic of Kosovo Constitution; April 2008, Kosovo Official Gazette; (<https://gzk.rks-gov.net/ActDetail.aspx?ActID=3702>), (Last accessed 10 June 2024).

Due to these reasons, KLI recommends to the Government that the new Action Plan should eliminate this activity and instead establish the following: "The Chair of the KJC addresses the Assembly of Kosovo at least once a year, and the KPC notifies the Assembly in writing".

## CONCLUSION

*Activities intended for discussing reports of justice system institutions in the Assembly of Kosovo contradict the Constitution of Kosovo, existing laws, and international standards. The Assembly lacks the authority to hold justice system institutions accountable. Such activities and others of similar nature should be omitted from the new Action Plan.*

## 6. Inflating the number of activities

In the RoLS Implementation Action Plan, as observed in the Annual Report (2023), certain policy measures include duplicated activities that essentially serve the same purpose. This practice leads to an inaccurate depiction when reporting on RoLS implementation.

In Chapter 2.4, titled "Ensuring the integrity of the Kosovo Police," under the policy measure "Infrastructure and administration empowering police officers," activities 1 and 6, as well as under the policy measure "Improved vetting and compliance with the code of ethics," activities 11, 15, and 16, are essentially repetitions of the same activity. Specifically, these activities all pertain to completing and amending the Police Law, as mandated by the RoLS and FRRLS policy documents. Therefore, these five planned activities essentially represent a single task spread across two measures. However, KLI noted that the initial plan was to approve this Draft Law by mid-2022 [7], and at the end of 2022[8]. Nevertheless, the Government did not succeed in passing this bill in 2022, and this failure persisted. Subsequently, the government abandoned the approval of this Draft Law, omitting it from both the legislative program for 2023 [9], and that for 2024.[10] Consequently, this situation highlights another issue: the lack of alignment between the RoLS Action Plan (AP) and the Government's Legislative Program (LP). The RoLS AP is intended to be a strategic document spanning three years, guiding and integrating other planned actions. The failure to align separate documents, such as the Government's LP with the RoLS AP, disregards the strategic intent of the RoLS AP, undermining its role in strategic planning.

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[7] "Legislative Program for the year" 2022; Prime Minister's Office; June 2022; (See: <https://kryeministri.rks-gov.net/wp-content/uploads/2022/05/Programi-Legjislativ-per-vitin-2022.pdf>), (Last accessed 10 June 2024).

[8] Ibid.

[9] "Legislative Program for 2023"; Prime Minister's Office; January 2023; (See: <https://kryeministri.rks-gov.net/wp-content/uploads/2023/11/Programi-Legjislativ-per-vitin-2023-9.11.2023.pdf>), (Last accessed 10 June 2024).

[10] "Legislative Program 2024"; Prime Minister's Office; January 2024; (See: <https://kryeministri.rks-gov.net/wp-content/uploads/2024/02/Programi-Legjislativ-per-vitin-2024-.pdf>), (Last accessed 10 June 2024).

Additionally, there is an increase in the number of activities observed in activities 27 on page 55, activity 32 on page 56, activity 4 on page 72, and activities 4, 5, and 7 on page 41, all related to the Draft Law on Supplementing and Amending the Law on the KPC and the Draft Criminal Code of the Republic of Kosovo.

## CONCLUSION

*The RoLS Action Plan for 2021-2023 shows an inflation in the number of activities, often dividing activities that are essentially the same. This creates an unrealistic portrayal when reporting on RoLS implementation. Therefore, the new Action Plan should aim to streamline activities, ensuring each one is clearly defined and aligned with the RoLS and FRRLS policy documents.*

## 7. Inaccuracy in reporting

In the report titled "(Non) Implementation of the Rule of Law Strategy in Practice," KLI identified inaccuracies in reporting concerning the fulfillment of the RoLS Action Plan (AP). Similar inaccuracies were also noted in the report on the implementation of the RoLS AP for the year 2023.

Therefore, KLI has determined that the activity "KPC undertakes continuous media and information campaigns to increase public awareness of the new legal system of disciplinary responsibility of prosecutors" has been reported as fulfilled. However, the report indicates that "there was no campaign during the reporting period" for this activity. On the other hand, the report on the implementation of the RoLS AP activities for 2022 mentions that the KPC prepared an awareness campaign through a video spot about the prosecutorial system's work, but it does not specify the funding source or where this campaign was launched.

Another activity plagued by reporting issues regarding its implementation is the "Establishment of a single working group for the review of legislation in the commercial field." The anticipated outcome for this activity is the establishment of a functional Commission. According to comments on the activity's progress, it is noted that "the Draft Law on Bankruptcy has been approved by the Government, and this matter has also been addressed in the process of drafting relevant concept documents: Concept Document for the Administrative and Labor Court and Concept Document for the Code of Civil Procedure."

Upon analyzing this data, it becomes evident that reporting this activity as partially implemented is inaccurate. The primary goal of this activity is simply to establish and ensure the functioning of the Committee tasked with reviewing all legislation in this field. Specifically, this activity focuses on forming a working group dedicated to reviewing legislation within the commercial field. Other initiatives that may have indirectly addressed this issue should not be deemed relevant to this specific activity.

On the contrary, during the monitoring of RoLS implementation, KLI also identified instances where activities were completed but inaccurately reported as not implemented. One such instance is the regulation "Drafting a new Regulation for the recruitment, examination, appointment, reappointment, and transfer of judges." Although the KJC demonstrated that the expected outcome was approved in November 2021 [11], three months after RoLS and its AP were approved, this activity was erroneously categorized as unimplemented. Another discrepancy involves activity 19 on page 43, which was reported as partially implemented despite explanations indicating its full completion.

KLI has identified another instance of inaccuracies in activity reporting. In 2022, there was a planned approval of the Regulation on the handling of requests and selection of cases for free legal aid. This activity was marked as partially implemented, despite the regulation being scheduled for drafting following the approval of the new Law on Free Legal Aid. However, the bill for this law was slated for approval in 2021 but was not included in the legislative program for 2022, 2023, or scheduled for 2024.

An example of incorrectly assigning responsibility for activity implementation is found in number 22 on page 65, where the responsibility for updating the 'My Court' portal with crucial additional and simplified information for the public, including legal information, templates, documents for court submission, and other instructions, was assigned to the KJC. However, it should be noted that this portal was created and is maintained by the Faculty of Law at the "Hasan Prishtina" University of Pristina.[12]

In another instance, KLI finds that despite confirming that the list of defense lawyers is published and accessible on the KBA website, it was marked in red as not implemented in the report. However, no adequate justification has been provided for why it was marked in red, whether due to technical issues or other reasons.

Another activity that raises concerns regarding its realism is the adoption of the Strategy for Communication with the Public in accordance with the Law on Access to Public Documents. The intended outcome for 2022 was the adoption of this strategy. The report's author indicated that the Ministry of Justice has planned a working group, and the drafting and approval of this strategy are expected in 2023.[13]

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[11] "Regulations for the recruitment, examination, appointment and reappointment of judges"; Kosovo Judicial Council, 2021; (See the link: [https://www.gjyqesori-rks.org/wp-content/uploads/lgs/66244\\_Rregullore\\_Nr\\_03\\_2021\\_per\\_rekrutimin\\_provimin\\_emerimin\\_dhe\\_riemerimin\\_gjyqtareve.pdf](https://www.gjyqesori-rks.org/wp-content/uploads/lgs/66244_Rregullore_Nr_03_2021_per_rekrutimin_provimin_emerimin_dhe_riemerimin_gjyqtareve.pdf)), (Last accessed June 10, 2024).

[12] "One-year report (2023) for the implementation of the Action Plan for the implementation of SSL", p.65. activity 22; Ministry of Justice; (See link: <https://md.rks-gov.net/desk/inc/media/7C77BBBD-C7BD-44D6-A5FC-AB21ADE19481.pdf>), (Last accessed June 10, 2024).

[13] Ibid., p. 83, activity 2.



Thus, despite expectations for the intended outcome, only the planning of a working group has been undertaken, leading to this activity being classified as partially implemented. Part of this partial implementation would involve drafting the strategy and making it available on the Online Public Consultation Platform.

According to the provisions of the Law on Courts in the Republic of Kosovo, the presidents of the basic courts and the Court of Appeal are tasked with the daily administration of the court, following the rules and procedures established by the KJC.

The Kosovo Judicial Council exercises its authority over the courts through mechanisms established by current legal provisions, including oversight through court presidents, who are mandated to report to the KJC. The Law on Courts specifies an official reporting framework where court presidents are required to collaborate with other judges in formulating an annual case management plan, assigning cases to departments and judges, and submitting annual written reports to the KJC on the outcomes of implementing these plans.

annual All court presidents are legally obligated to submit quarterly and annual reports to the KJC. The reports should be based on the information provided in the regular quarterly reports. Both types of reports must be published.

The Kosovo Law Institute has previously addressed the topic of "Independence, Efficiency, Accountability, and Integrity of the Judicial and Prosecution System," focusing, among other things, on the deficiencies related to the problems in quarterly reports [14].

In 2023, the Kosovo Judicial Council's official website shows that these reports are published. However, according to the Annual Report on the Implementation of the Rule of Law Strategy for 2023, the content of these quarterly reports supposedly includes a special section detailing the reasons for postponements or delays in hearings. In reality, the quarterly reports contain only statistical data from the courts and lack any explanations for the delays or postponements of hearings. The Kosovo Law Institute (KLI) recommends that these published reports include both statistics and specific reasons for session postponements. Otherwise, this omission undermines efficiency, accountability, and transparency in the judiciary.

The Government of Kosovo has made significant strides in the field of Rule of Law by establishing free legal professions, including notaries, private bailiffs, mediators, and bankruptcy administrators. It should be acknowledged that considerable efforts have been made to support and further empower these professions.

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[14] Shala G; *"Independence, Efficiency, Accountability and Integrity of the Judicial and Prosecutorial System"*; Kosovo Law Institute; Pristina, January, 2019; (See: <https://kli-ks.org/wp-content/uploads/2023/10/Mos-Zbatimi-i-Strategjise-se-Sundimit-te-Ligjit-ne-Praktike-1.pdf>), (Last accessed 10 June 2024).

Now, it is time to support their institutional consolidation and growth, enabling them to become trusted partners within the legal system and significantly enhance service quality. Further measures should be taken in accordance with European and international standards and best practices.

According to the policy document "Improving the Quality of Service Delivery in Professions Related to the Justice System," several actions are needed to enhance enforcement. These actions focus on ensuring an equal geographic distribution of private enforcement services by increasing the number of private enforcement agents. When the document mentions recruitment, it specifically refers to increasing the number of bailiffs.

The Rule of Law Strategy aims to enhance the quality of services provided by independent legal professions (ILPs) by strengthening their roles and competencies. To improve service delivery, one measure from the RoLS is to increase the number of private bailiffs for better geographic distribution and to create a uniform system for data collection, enabling a comprehensive overview of system performance.

According to the Annual Report on the Implementation of the Rule of Law Strategy for 2023, the decision to recruit 10 additional private bailiffs for better geographic distribution of enforcement services is considered only partially completed. In reality, in October 2023, the Ministry of Justice opened just one competition for the appointment of private bailiffs, not the recruitment of additional bailiffs as the annual report claims. The report itself acknowledges the distinction between recruitment and appointment: recruitment involves a competition where candidates can gain the status of private bailiff through testing and other legal procedures, while appointment involves a competition where already selected bailiffs apply for specific territories within Kosovo. Consequently, the KLI has found that the Report on the Implementation of RoLS has failed to accurately define this issue.

The Law on Mediation stipulates that the Ministry of Justice is responsible for developing policies for the mediation profession, as well as the training, certification, and supervision of mediators. According to the policy document on improving the quality of free profession services, there is a need to further strengthen the capacities of the Ministry of Justice in this area to effectively carry out these responsibilities. To date, mediator training has primarily been funded on an ad hoc basis by various donors and projects.

The specialization of mediators, particularly in family mediation, which is highly sensitive, is a weak point in Kosovo's mediator training system. [15] There is currently no initial training curriculum for mediators.[16] Additionally, recommendations to the relevant authorities in Kosovo have emphasized that mediators should regularly attend refresher courses.

According to the Rule of Law Strategy, several activities are planned to enhance the quality of services provided by all Independent Legal Professions (ILPs). This includes developing or enhancing initial, ongoing, and specialized training curricula tailored to the comprehensive analysis of relevant training needs. Implementing such curricula aims to alleviate the workload in courts and prosecutors' offices, ensuring the rule of law by safeguarding citizens' rights to a fair trial and timely examination.

By developing such a curriculum, the goal is to alleviate the workload in courts and prosecutors' offices, ensuring the rule of law by guaranteeing citizens' rights to a fair trial and timely examination.

In the Annual Report on the implementation of the Rule of Law Strategy, concerning the drafting of this crucial curriculum, it is noted that the deadline for drafting was in 2021. However, it has only reached the consultation stage and is currently with the Legal Department of the Ministry of Justice, marked as partially implemented. KLI evaluates this situation and emphasizes that the drafting of such significant documents, which directly impact the workload in courts and prosecutors' offices, should be treated with utmost priority and diligence.

## 8. Stagnation in the “process”

Recording activities as partially implemented assumes that the process has begun and should reasonably be completed within a set timeframe. However, many activities outlined in the RoLS AP have not progressed as expected. Institutional stagnation in fulfilling these obligations persists, even nearly three years after the AP's approval, highlighting a recurring issue in its implementation. Despite being marked as partially implemented in 2022, many activities are still unfinished as of 2023.

KLI has identified a total of 71 activities scheduled for 2022, noted in the Annual Report on the implementation of the Rule of Law Strategy 2023 as partially implemented. However, these activities remained incomplete even by the end of 2023.

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[15] "Support for Free Legal Professions and the Kosovo Bar Association"; The EU-funded project; (EuropeAid/136612/DH/SER/XK) – Draft Recommendations for Mediators/Preliminary Report on Challenges for the Free Legal Professions; June 2017

[16] Ibid.

The situation where activities scheduled for a specific year begin but remain incomplete even into the following year reflects insufficient commitment from institutions towards implementing the Rule of Law Strategy (RoLS).

Alternatively, KLI has identified 38 activities planned for 2022, as per the Annual Report on the implementation of the Rule of Law Strategy in 2023, which were supposed to be completed that year. However, these activities have not been initiated or fulfilled as of 2023.[17]

Therefore, this situation demonstrates that certain institutions have stagnated in implementing that part of the Rule of Law Strategy's Action Plan, making no further progress.

As observed, stagnation remains a critical issue within the 2021-2023 Action Plan of the Rule of Law Strategy, particularly concerning the reform of the Kosovo Prosecutorial Council (KPC). Despite being slated for completion by 2023 according to the RoLS Action Plan, this reform has not been implemented even as the term of the current RoLS Action Plan nears its end and the Government approaches the end of its mandate.

## CONCLUSION

*These 71 activities were marked as partially implemented since 2022, yet they remained uncompleted even in 2023. Additionally, 38 activities scheduled for completion in 2022 did not commence by 2023. This scenario underscores inadequate commitment by institutions to implement the Rule of Law Strategy.*

## 9. Lack of gender equality in KPC

The Rule of Law Strategy ensures that its activities promote gender equality within the institutions of the rule of law. This commitment is reflected in policy documents such as the Functional Review of the Rule of Law in Kosovo, which aligns with the principles of the Constitution of the Republic of Kosovo, the Law on Gender Equality, and other relevant legal frameworks. These documents establish obligations aimed at ensuring that the Judicial Council and the Prosecutorial Council, as the primary policy-making bodies within the justice system, uphold gender equality.

In the policy document for the Functional Review of the Rule of Law in Kosovo titled "Improving the Integrity of Judges and Prosecutors," the composition of the Prosecutorial Council (KPC) is highlighted. It emphasizes that the legal framework conforms to international standards by establishing an independent KPC separate from other state institutions. Furthermore, it acknowledges the multi-ethnic nature of Kosovo and underscores the importance of achieving gender equality.....[18]

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[17] "Annual Report (2023) on the implementation of the Action Plan for the implementation of RoLS"; pg.19-99; Ministry of Justice; (See: <https://md.rks-gov.net/desk/inc/media/7C77BBBD-C7BD-44D6-A5FC-AB21ADE19481.pdf>), (Last accessed 10 June 2024).

[18] "Improving the integrity of judges and prosecutors".Policy Document, pg. 74; Ministry of Justice; 2019

The Rule of Law Strategy's Action Plan includes provisions for the Kosovo Judicial Council (KJC) and the Kosovo Prosecutorial Council (KPC) to implement policies ensuring gender and ethnic representation. However, as of March 27, 2024, the KPC lacks adequate gender representation following the conclusion of prosecutor Merita Bina-Rugova's mandate as a member from the Special Prosecutor's Office of the Republic of Kosovo (SPRK). Currently, out of the 12 members on the KPC, only two are women. Regulation No. 06/2020 for the Election of Prosecuting Members of the Kosovo Prosecutorial Council, specifically Article 5, paragraph 2, mandates the KPC to conduct preliminary assessments regarding gender representation. Paragraph 3 of Article 5 stipulates that the KPC should ensure its composition includes at least one member from non-majority communities and at least three female members. [19]

The Kosovo Prosecutorial Council (KPC) had the opportunity to avoid this violation by selecting a female prosecutor to fill the vacancy left by Merita Bina-Rugova. Instead, the KPC chose Milot Krasniqi over Habibe Salihu, despite Krasniqi receiving 10 votes compared to Salihu's three in the March 15, 2024 elections for the SPRK representative. Based on legal provisions and past practices, the KPC was expected to prioritize achieving gender balance in its composition. This expectation is rooted in previous instances where the KPC ensured ethnic representation, such as when Jovo Radović, despite losing elections with 9 votes to Naim Beka's 11 in October 2020 at the Mitrovica Basic Prosecutor's Office, was still appointed to the KPC to ensure representation from the Serbian community.[20]

To avoid such infractions, the KPC received a cautionary press release from three civil society organizations: KLI, Lévizja FOL, and INPO. Issued on March 18, 2024, the press release urged the KPC to uphold gender representation in its composition when selecting a new member from among the prosecutors of the Special Prosecutor's Office of the Republic of Kosovo, as stipulated by its authority.[21]

Regarding the NGOs' request, it was deliberated upon during the 244th meeting of the KPC on March 19, 2024. Additionally, some members of the KPC also raised concerns during this meeting about potential breaches of the legal provisions and bylaws governing the gender quota in the KPC's composition.[22]

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[19] "Regulation No. 06/2020 on the Election of Prosecuting Members of the Kosovo Prosecutorial Council"; Article 5, paragraph 2 and 3.

[20] "Although he lost the elections, prosecutor Jovo Radović was elected a new member of the KPC"; Betimi për Drejtësi; (See: <https://betimiperdrejtesi.com/edhe-pse-humbes-i-zgjedhjeve-prokurori-jovo-radoviq-zgjdhjet-anetar-i-ri-i-kpk-se/>), (Last accessed 10 June 2024).

[21] "KLI, FOL and INPO: KPC to ensure gender representation with at least three women members, with the election of a new member from the ranks of the SPRK"; Betimi për Drejtësi; (See: <https://betimiperdrejtesi.com/ikd-fol-dhe-inpo-kpk-ja-te-siguroje-perfaqesim-gjinator-me-se-paku-tri-anetare-gra-me-zgjedhjen-e-anetarit-te-ri-nga-radhet-e-psrk-se/>), (Last accessed 10 June 2024).

[22] "The 244th meeting of the KPC held on March 19, 2024, and broadcast live through the Facebook page of the prosecutorial system"; (<https://www.facebook.com/61551128751137/videos/446639384457586>), (Last accessed: 10 June 2024).

Regarding the fulfillment of the gender quota in the KPC's composition, Chair Ardian Hajdaraj stated during the 244th meeting that two positions still remain unfilled: one from the Basic Prosecutor's Office of Mitrovica and one non-prosecutorial member from the ranks of the Kosovo Bar Association. He also mentioned the intention to officially request the Kosovo Bar Association to nominate a woman for one of these positions.[23] However, this overlooks Regulation No. 06/2020 for the Election of Prosecutor Members of the Kosovo Prosecutorial Council, specifically Article 5, paragraph 3, which mandates that the KPC itself must ensure a composition with at least three (3) female members, rather than delegating this responsibility to the Kosovo Bar Association. Thus, the KPC cannot transfer its obligations to another institution.

The Kosovo Bar Association submitted its nominations for KPC members, but none of the three proposals included a woman.[24] On May 16, 2024, the Assembly elected a male member to the KPC from the ranks of the KBA.

The argument that the gender quota will be met once a member is selected from the Basic Prosecutor's Office of Mitrovica does not justify the KPC operating indefinitely without fulfilling gender equality rights. This is because the member elected from the Basic Prosecutor's Office in Mitrovica must not only meet the gender quota but also the ethnic quota, as the composition requires at least one member from non-majority communities. Given that all Serbian prosecutors from this office have resigned and ceased practicing since November 7, 2022 [25], and replacement procedures are uncertain, it is unclear when these quotas will be fulfilled. According to the KPC's stance, it will continue to operate without adequate gender representation until that situation is resolved.

## CONCLUSION

*The KPC's failure to uphold gender equality demonstrates a lack of commitment. Consequently, this constitutional institution operates with a composition that contradicts its own regulations and commitments to justice system reform.*

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[23] "The 244th meeting of the KPC held on March 19, 2024, and broadcast live through the Facebook page of the prosecutorial system"; (<https://www.facebook.com/61551128751137/videos/446639384457586>), (Last accessed on 10 June 2024).

[24] "Exclusive: These are the candidates proposed by the Kosovo Bar Association for the position of a member in the KPC (Names)"; Betimi për Drejtësi; (See: <https://betimiperdrejttesi.com/ekskluzive-keta-jane-kandidatet-e-propozu-ar-nga-oda-e-avokateve-per-poziten-e-nje-anetari-ne-kpk-emrat/>), (Last accessed 10 June 2024).

[25] "10 prosecutors from the Serbian community of the Basic Prosecutor's Office of Mitrovica hand over their resignations"; Betimi për Drejtësi; (See: <https://prokuroria-rks.org/kpk/lajm/ofrojne-doreheqje-10-prokurore-te-komunitetit-serb-te-prokurorise-themelore-te-mitrovices/>), (Last accessed 10 June 2024).

## 10. Failure to implement easily applicable activities

In the Annual Report on the RoLS Implementation, certain activities marked as partially fulfilled include others that institutions could implement easily and without significant obstacles. For instance, within the KJC's activities, media campaigns were planned to raise public awareness about the new legal framework for judges' disciplinary responsibility. However, full implementation has not been achieved, even though informative posters have been placed in all courts and their branches. Launching media campaigns should not present a significant challenge, especially considering the continuous donor support enjoyed by the KJC.

he KPC did not complete the same activity in 2023[26], as discussed in the "Inaccuracy" section. This was despite the fact that, like the KJC, implementing this activity did not pose any significant difficulties.

Another straightforward activity in operational terms is the establishment of regular public surveys involving the public, businesses, and professionals, as planned by the KJC, KPC, and MoJ. However, according to official records, there has been no progress on this activity, with no justification provided for the delay.[27]

The drafting of guidelines for prosecutors' offices regarding social networks was initially deemed challenging to implement. However, according to the Report after two years, the drafting of these guidelines was supported by donors.[28]

The Policy Document on the Role and Structure of the Ministry of Justice anticipates that certain departments have a limited number of employees proficient in foreign languages.[29] According to this document, proficiency in English is expected to be a requirement for positions at the MoJ, particularly in departments like European Integration, the Legal Department, and International Legal Cooperation. Despite plans for the Ministry of Justice to recruit four new officials with advanced English language skills for the Department for European Integration and Policy Coordination by 2022, this activity remained unimplemented in 2023, despite no significant obstacles preventing its completion.

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[26] "Annual Report (2023) for the implementation of the Action Plan for the implementation of RoLS"; pg.25, activity 40; Ministry of Justice; (See: <https://md.rks-gov.net/desk/inc/media/7C77BBBD-C7BD-44D6-A5FC-AB21ADE19481.pdf>), (Last accessed 10 June 2024).

[27] Ibid; pg.29, activity 56; Ministry of Justice; (See: <https://md.rks-gov.net/desk/inc/media/7C77BBBD-C7BD-44D6-A5FC-AB21ADE19481.pdf>), (Last accessed 10 June 2024).

[28] "Action Plan (2021-2023) for the implementation of the Rule of Law Strategy 2021-2026", August 2021 and |Annual Report (2022) for the implementation of the Action Plan for the implementation of RoLS; pg.29, activity 57; Office of the Prime Minister; March 2023; (See: <https://kryeministri.rks-gov.net/wp-content/uploads/2023/04/Raporti-l-vjecar-FINAL.pdf>), (Last accessed 10 June 2024).

[29] "Annual Report (2023) for the implementation of the Action Plan for the implementation of RoLS"; pg.87, activity 8; Ministry of Justice; (See: <https://md.rks-gov.net/desk/inc/media/7C77BBBD-C7BD-44D6-A5FC-AB21ADE19481.pdf>), (Last accessed 10 June 2024).

## CONCLUSION

*The Legal Department of the MoJ plans to recruit new officials proficient in English, as indicated in the report on the Rule of Law Strategy's implementation. Mentioned in the report is an official with advanced English skills [30] initially transferred from the Prime Minister's Office, who subsequently resigned. This activity is deemed partially completed since the required recruitment of the official has not been fulfilled. In conclusion, the RoLS Action Plan includes crucial yet straightforward activities. The failure of institutions to commit to implementing these activities, which pose no significant obstacles, reflects a lack of institutional will to adhere to the RoLS.*

## 11. Concept Document for Persons whose freedom of movement has been restricted by the Court

The Action Plan (2021-2023) for implementing the Rule of Law Strategy 2021-2026, within the Policy Measure focused on Legislative Development, included the preparation of a Concept Document for electronic surveillance of individuals whose mobility is restricted by court order, aimed at exploring the integration of electronic monitoring.[31] The approval of this document, scheduled for 2022, did not occur as planned. The annual report (2022) on the implementation of the RoLS AP noted that this activity was partially implemented[32] indicating that the concept document is now included in the National Development Plan for 2023.[33]

The report on the implementation of the RoLS AP for 2023 indicates that despite the determination that this activity is no longer necessary, it is still categorized as partially implemented. According to comments from the Ministry of Justice regarding this action, they stated that "Since funds have been allocated for the implementation of the Law on electronic surveillance of persons whose movement is restricted by court decision, then the Ministry of Justice has suspended the drafting of this Concept Document." The costing for electronic monitoring has been completed based on a feasibility study and has been integrated into the Medium-Term Expenditure Framework for the next three years. Therefore, the Ministry of Justice proposed removing this activity during the revision of the Rule of Law Strategy/Action Plan. [34]

Regarding this activity, there are two problems: Inadequate planning of the activity and inaccuracy in reporting.

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[30] "Annual Report (2023) for the implementation of the Action Plan for the implementation of RoLS"; pg.87, activity 8; Ministry of Justice; (See: <https://md.rks-gov.net/desk/inc/media/7C77BBBD-C7BD-44D6-A5FC-AB21ADE19481.pdf>), (Last accessed 10 June 2024).

[31] "Action Plan (2021-2023) on the implementation of the Rule of Law Strategy 2021-2026", August 2021 and Annual Report (2022) for the implementation of the Action Plan for the implementation of RoLS; pg.50; Office of the Prime Minister; March 2023; (See: <https://kryeministri.rks-gov.net/ep-content/uploads/2023/04/Raporti-1-vjecar-FINAL.pdf>), (Last accessed 10 June 2024).

[32] "Annual Report (2022) for the implementation of the Action Plan for the implementation of RoLS"; pg.50; Office of the Prime Minister; (See: <https://kryeministri.rks-gov.net/wp-content/uploads/2023/04/Raporti-1-vjecar-FINAL.pdf>), (Last accessed 10 June 2024).

[33] "National Development Plan 2023-2025"; pg. 65; 15 March 2023; Office of the Prime Minister; (See: <https://kryeministri.rks-gov.net/wp-content/uploads/2023/03/06032023-RKS-Plani-Kombetar-per-Zhvillim-2023-2025.pdf>), (Last accessed 10 June 2024).

[34] "Annual Report (2023) for the implementation of the Action Plan for the implementation of RoLS"; pg.55; Ministry of Justice; (See: <https://md.rks-gov.net/desk/inc/media/7C77BBBD-C7BD-44D6-A5FC-AB21ADE19481.pdf>), (Last accessed 10 June 2024).



The Ministry of Justice was informed about a report on the monitoring of the implementation of the Law on Electronic Surveillance of Persons whose movement is restricted by court decision, conducted in 2022 by the Committee for Legislation. Officials from the Ministry of Justice were involved in responding to the findings. The report concluded that the law is impracticable in reality, not due to legal requirements, but because of the lack of action by responsible institutions such as the Ministry of Justice and the Ministry of Internal Affairs.[35] Despite this, the drafting of a Concept Document was included in the RoLS AP. Furthermore, this Concept Document was reported as partially implemented in the Annual RoLS Implementation Report for 2022. However, in the RoLS Implementation Report for 2023, it is proposed that this activity be removed. This situation highlights inadequate planning by the Ministry of Justice (MoJ) and Ministry of Internal Affairs (MIA), which took years to recognize the unnecessary nature of this Concept Document, despite the existence of the Legislation Commission's Report prior to the approval of the RoLS AP.

On the contrary, it is paradoxical that an activity deemed unnecessary and slated for deletion is documented as partially implemented, thereby affecting the overall percentage of RoLS AP implementation.

## CONCLUSION

*Besides the lack of institutional commitment in addressing issues with the implementation of the Law on Electronic Surveillance for Persons under Court Restrictions, there is also inadequate planning by the Ministry of Justice and the Ministry of Internal Affairs in this regard. Despite the Commission for Legislation's report highlighting problems, the RoLS and AP still planned to draft a Concept Document, which was deemed unnecessary approximately two years later. Moreover, KLI identifies a pattern where activities proposed for removal are reported as partially implemented, indicating insufficient transparency in the RoLS's AP implementation reporting*

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[35] "The Law on Electronic Surveillance of persons whose movement is restricted by court decision does not apply"; Betimi për Drejtësi; (See <https://betimiperdrejtesi.com/nuk-gjen-zbatim-ligji-per-mbikexyrjen-elektronike-te-personave-te-cileve-u-kufizohet-levizja-me-vendim-te-gjykates/>), (Last accessed 10 June 2024).





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