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The Cost of Unpaid Jubilee Salaries

(An Analytical Report on the Financial and Judicial Impact of Court Cases Involving Jubilee Salaries)

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Table of Contents

List of abbreviations	5
1. Executive summary	6
2. Methodology	7
3. The legal framework regulating the jubilee salary	8
4. Trend in court workload due to jubilee salary cases received	10
4.1. The courts workload with jubilee salary cases received in 2021	11
4.2. The courts workload with jubilee salary cases received in 2022.....	13
4.3. The courts workload with jubilee salary cases received in 2023.....	14
5. The trend of the workload in relation to the number of inhabitants.....	16
5.1. The Basic Court of Pristina.....	17
5.2. The Basic Court of Mitrovica.....	17
5.3. The Basic Court of Peja.....	18
5.4. The Basic Court of Prizren	19
5.5. The Basic Court of Ferizaj	20
5.6. The Basic Court of Gjilan.....	21
5.7. The Basic Court of Gjakova	22
6. Analysis of the case data of the Kosovo Judicial Council on cases of jubilee salary	23
6.1. Status of the cases.....	23
7. Analysis of court judgments on cases of jubilee salary.....	25
8. Average annual expenses for jubilee salary cases.....	29
9. Main findings and conclusions	30
10. Recommendations	31

List of abbreviations

CMIS	Case Management Information System
FLAA	Free Legal Aid Agency
KAS	Kosovo Agency for Statistics
KJC	Kosovo Judicial Council
KLI	Kosovo Law Institute
LCP	Law on Contested Procedure
LOR	Law on Obligational Relationships
NGO	Non – Governmental Organization

I. Executive summary

A jubilee salary is an additional salary given to the employee based on a collective contract or an internal act. This salary is awarded for different periods of service. The legal basis for the jubilee salary is established by Law No. 03/L-212 on Labor that stipulates that “*Collective Contract shall not include any less favorable rights for the employee and employer than the rights defined by this Law.*” While the law outlines basic salary, additional salary and other benefits, the Collective Contract allows for an extension of additional rights to workers, such as travel allowance, food allowance, additional compensation for work experience, retirement allowance and Jubilee salary payments.

KLI has found that the workload of the courts has fluctuated over the years in terms of the number of jubilee salary cases received annually. The year 2021 stands out as having the highest number of received cases of this nature. Whereas there was a noticeable decline in the ratio of jubilee salary cases to the total number of civil cases in contested procedure over the three years. In 2021, jubilee salary cases made up 20% of the total number of civil cases in contested procedure, which decreased to about 10% in 2022 and 8% in 2023. Despite the total number of civil cases increasing significantly in 2023, the percentage of jubilee salary cases relative to the total cases has decreased.

KLI has successfully analyzed and presented data regarding the workload of each court with jubilee salary cases over the last three years, in relation to the population size of each region. On average for the last three years approximately every 300th inhabitant of the Pristina region has initiated a lawsuit in court regarding jubilee salaries. This is followed by the Mitrovica region where approximately every 360th inhabitant has initiated such a lawsuit. In the Gjilan region approximately every 425th inhabitant initiated jubilee salary case lawsuit, whereas in the Prizren region approximately every 740th inhabitant and in the Ferizaj region approximately every 880th inhabitant has initiated such lawsuits. At the bottom of the list stand Peja region with approximately every 965th inhabitant and Gjakova region with approximately every 1,050th inhabitant has initiated a lawsuit in court regarding jubilee salaries.

KLI has analyzed court judgments on jubilee salary cases that shows that on average it took 690 days, or nearly 2 years, to rendering a judgment by first-instance court. The decisions on such cases showed that the lawsuit was completely approved in 70% of cases, partially approved in 13% of cases, and refused in 17% of cases. KLI’s analysis revealed that only one of the 30 analyzed cases was subject of the financial expertise. Whereas the plaintiffs were represented by attorneys in all cases. These attorneys were privately hired and paid for by the plaintiffs themselves. In this analysis KLI found that in 80% of cases the plaintiffs requested coverage for procedural costs, which the courts approved, obliging the other party – always a state institution – to cover such costs.

Based on the case analysis, it turns out that the annual costs paid by the state for jubilee salary cases reaches around 10 million euros.

2. Methodology

Throughout the Legal Clinic of KLI's program, students were able to identify some problems that challenge the justice system, and together with their mentors decided to work on a specific topic, namely the challenge of realizing the right to jubilee salary, the workload of the justice system, as well as the costs as an aftermath. The students of the Legal Clinic of KLI, after completing necessary units of study, have been trained to work on justice data, analyze them and generate a comprehensive report, addressing the identified problem within the justice system.

The scope of this report encompasses a detailed analysis of the justice data gathered from the Kosovo Judicial Council (KJC), as well as an analysis of the applicable legislation, and other legal instruments and regulations, that provide necessary information on the provision of the right to jubilee salary for citizens. Such an approach enables a comprehensive understanding of the initial problem, its judicial process, as well as the consequences it causes.

Additionally, the report includes an analysis of thirty court cases concerning jubilee salaries. The court cases were selected randomly. This analysis examines various aspects such as the length of proceedings, case outcomes, whether any financial or other expertise was requested, and the source of legal representation (Free Legal Aid Agency, NGOs, or privately assigned defense lawyers). It also details the amount requested in each lawsuit versus the amount approved by the court, the procedural costs claimed by the plaintiffs, and the corresponding amounts approved by the court.

Furthermore, the report provides a calculation of costs covered for a case of jubilee salary. This was calculated based on the data generated from the KJC's database as well as the analysis of several court judgments.

During each phase of compiling the report, the students of the Legal Clinic of KLI received consistent support from their mentors. This guidance ensured that the findings were accessible to a wide audience, including those without a legal background. Consequently, the report's findings are specific and clear, aiming to present an approach that is understandable for everyone.

3. The legal framework regulating the jubilee salary

A jubilee salary is an additional salary given to the employee based on a collective contract or an institutional internal act. This salary is awarded for different periods of service.

Moreover, the jubilee salary is considered a type of compensation awarded to workers in recognition of their continuous contribution to an organization. The purpose of the jubilee salary is to encourage and reward workers for their dedication to the employer, serving as a source of motivation. The jubilee salary is typically given as a fixed amount of money or as a percentage of the employee's annual salary.

The legal basis for the jubilee salary is established by Law No. 03/L-212 on Labor, which states that *“an employee is entitled to a salary defined in compliance with this Law, Collective Contract, Employer's Internal Act and Employment Contract.”*¹ It also specifies that *“the right to salary, overtime, salary compensation and other income, shall be exercised by the employee on the basis of the agreement reached with the employer for the work performed and time spent at work as defined in the employment contract.”*² These provisions thus allow for the possibility of granting more favorable rights to workers through the Collective Contract.

Furthermore, the Labor Law stipulates that *“Collective Contract shall not include any less favorable rights for the employee and employer than the rights defined by this Law.”*³ This means that the Collective Contract cannot provide fewer rights than the those guaranteed bylaw. While the law outlines basic salary, additional salary and other benefits, the Collective Contract allows for an extension of additional rights to workers, such as travel allowance, food allowance, additional compensation for work experience, retirement allowance and Jubilee salary payments.

In Kosovo, the jubilee salary is governed by Collective Contracts established between employers' organization and employees' organizations. The purpose of these contracts is to regulate the rights, duties, and responsibilities deriving from the employment relationship agreed upon in the Collective Contract.

To date, several Collective Contracts have been concluded, all of which have included provisions for Jubilee salary. These contracts include:

- General Collective Agreement of Kosovo (2014).
- Collective Agreement of Education of Kosovo (2014 – 2017).
- Collective Agreement of Education of Kosovo (2017 – 2021).
- Sectorial Collective Agreement (2018 – 2021).

All these contracts have addressed the issue of Jubilee salaries. On February 27, 2023, the Supreme Court of the Republic of Kosovo issued a Legal Opinion on the Jubilee award, which clarified the legal grounds for these contracts. This legal opinion was approved during a general session of the Supreme Court. The Legal Opinion of the Supreme Court provided clarity on various aspects of Jubilee salaries in collective contracts, including the applicable time period,

¹ Law No. 03/L-212 on Labor, Article 55, par. 1.

² Ibid, par. 2.

³ Ibid, Article 4, par. 2.

the conditions that must be met within collective and sectoral contract agreements, as well as the criteria required for employees to be eligible for the Jubilee salary.⁴

Additionally, on October 9, 2023, the Supreme Court issued another Legal Opinion concerning the implementation of the Sectoral Collective Agreement dated June 12, 2018, regarding the claims of health workers for the 13th salary. The Supreme Court's Legal Opinion on this matter stated that health workers involved labor-related court disputes, who are seeking the compensation for the 13th salary based on the Sectoral Collective Contract, are entitled to such compensation for each calendar year, equivalent to their basic salary, depending on the employers' budgetary capabilities.⁵

In the same session on October 9, 2023, the Supreme Court issued a Legal Opinion on the compensation of daily allowance, the 13th salary, salary increases for educational qualifications, and Jubilee salary for the Kosovo Police. According to the Supreme Court's opinion in the labor law disputes, specifically regarding claims for Jubilee salary based on Article 29, paragraph 5 of Administrative Instruction No. 02/2018, as well as based on Article 30, paragraph 5 of Administrative Instruction No. 01/2021 on Labor Relations in the Kosovo Police, police personnel are entitled to receive the Jubilee salary for the years 2018, 2019, 2020, 2021 and 2022.⁶

⁴ Follow the link for more information: https://supreme.gjyqesori-rks.org/wp-content/uploads/legalOpinions/8628_Mendim%20juridik%20per%20shperblimin%20jubilar.pdf

⁵ Follow the link for more information: https://supreme.gjyqesori-rks.org/wp-content/uploads/legalOpinions/7687_7.%20Mendim%20Juridik-p%C3%ABr%20zbatimin%20e%20kon.%20kolektive%20sektor.%20lidhur%20me%20k%C3%ABrkesat%20e%20pages%20se%2013%20ne%20sektorin%20e%20shendetesise.pdf

⁶ Follow the link for more information: https://supreme.gjyqesori-rks.org/wp-content/uploads/legalOpinions/2491_8.%20Mendim%20Juridik%20-%20per%20personelin%20e%20policise,%20shperblimin%20e%20shujtes%20ditore.%20pages%20se%2013-te,%20shatesat%20ne%20page....pdf

4. Trend in court workload due to jubilee salary cases received

This report will focus only on analyzing the data relating to Jubilee salary cases over the past three years. However, to provide a clear picture of the courts' overload over time, a general overview of Jubilee salary cases received in the last 5 years is presented in the chart below.

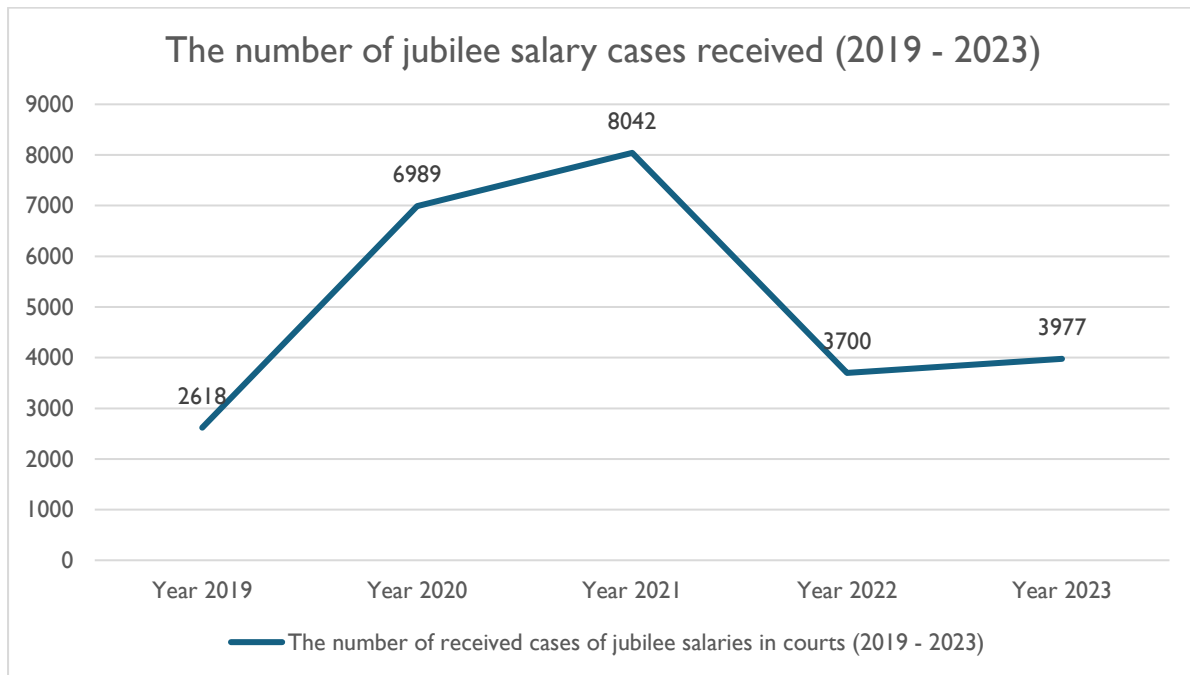


Chart 1: Number of jubilee salary cases received in Kosovo Courts (2019 – 2023)

In this context, it is evident that the workload of the courts has fluctuated over the years in terms of the number of cases received annually. The year 2021 stands out as having the highest number of received cases of this nature. In contrast, the next two years, 2022 and 2023, marked a decrease in the number of such cases compared to 2021. Nevertheless, the statistics indicate general stability in the number of Jubilee salary cases received, with just a slight increase from 2022 to 2023.

In addition to the trend of workload of Jubilee salary cases, it was deemed necessary to clearly compare the number of Jubilee salary cases received annually with the total number of civil cases in contested procedures received each year. The statistics reveal that in relation to the overall number of contested civil cases, there has been a slight decrease in the number of Jubilee salary cases annually.

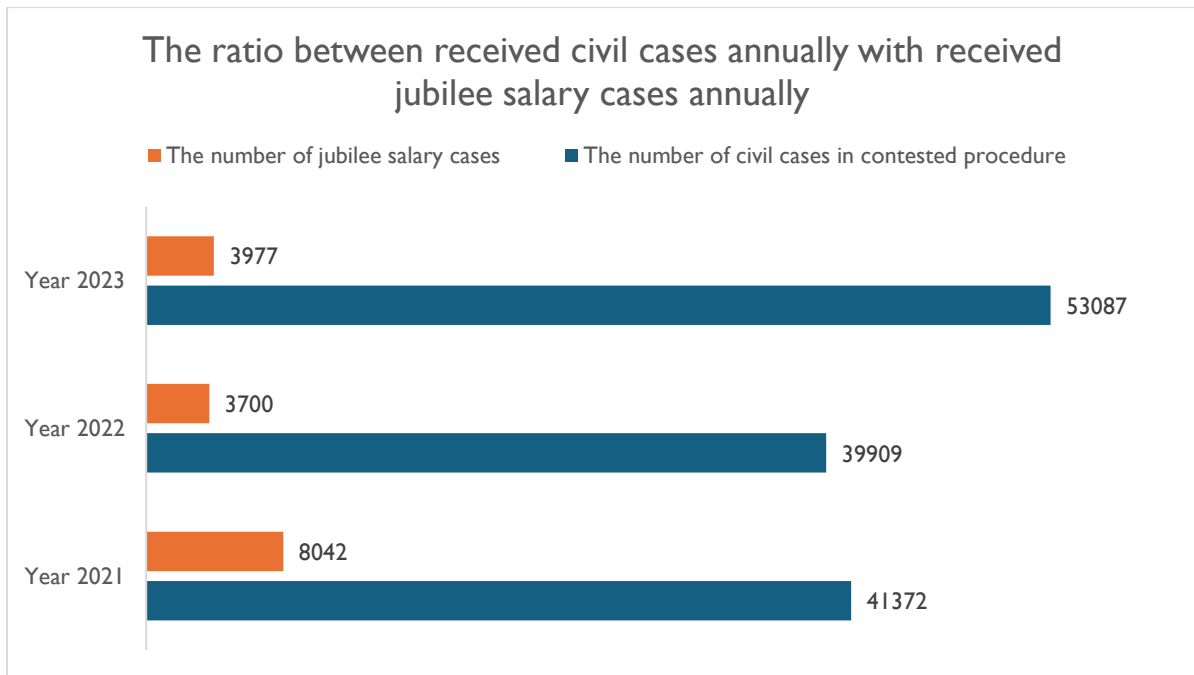


Chart 2: The ratio between received civil cases annually with received jubilee salary cases annually

It seems that there was a noticeable decline in the ratio of Jubilee salary cases to the total number of civil cases in contested procedure over the three years. In 2021, Jubilee cases made up 20% of the total number of civil cases in contested procedure, which decreased to about 10% in 2022 and 8% in 2023. Despite the total number of civil cases increasing significantly in 2023, the percentage of jubilee salary cases relative to the total cases has decreased. This might reflect the fact that as the number of cases related to jubilee salaries diminishes, their percentage of the overall caseload decreases, especially if the total number of civil cases increases.

4.1. The courts workload with jubilee salary cases received in 2021

The workload of the courts handling jubilee salary cases has varied across different regions. Therefore, the following data will be presented by region.

The chart shows that in 2021, the Basic Court in Pristina including its branches, has received the largest number of jubilee salary received cases, with a total of 3,677. In contrast, the Basic Court in Gjakova with its branches received the lowest number of such cases, with only 214, which is approximately 17 times less than the Pristina region.

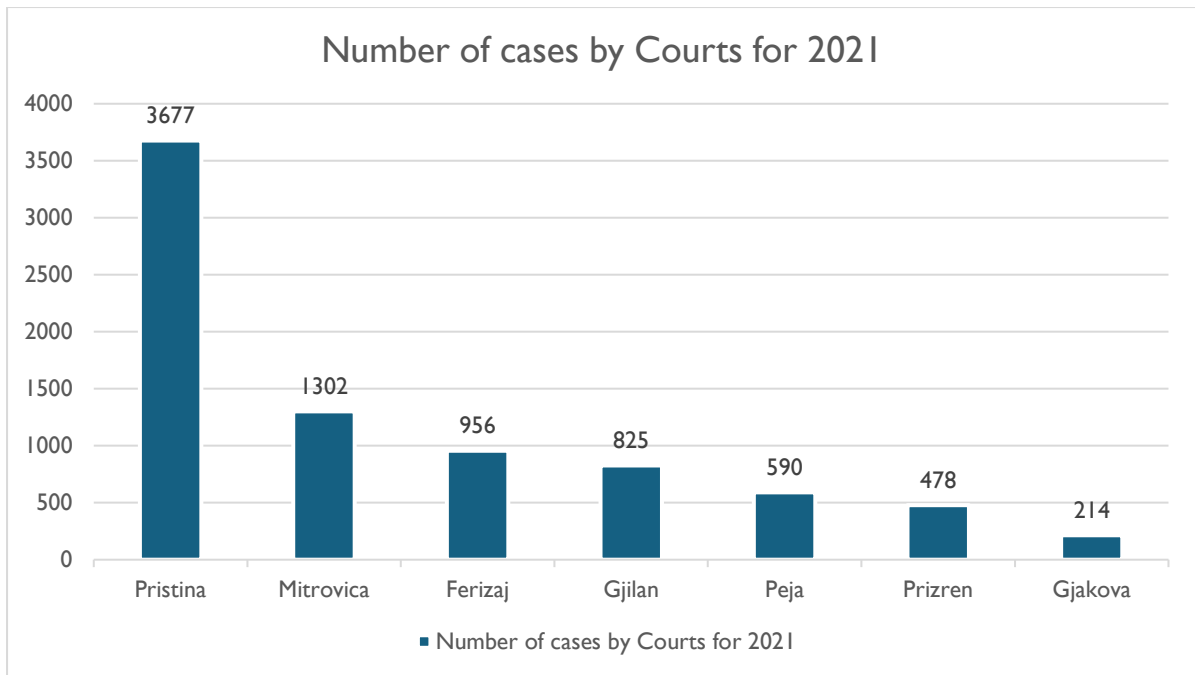


Chart 3: Number of jubilee salary cases by Courts in 2021

Expressed as a percentage, the Basic Court in Pristina and its branches handled almost half of the received jubilee salary cases in 2021. Specifically, the Pristina region accounted for 46% of the cases, followed by Mitrovica region with 16%, Ferizaj region with 12%, whereas Gjakova along with its branches had the lowest percentage at only 3%.

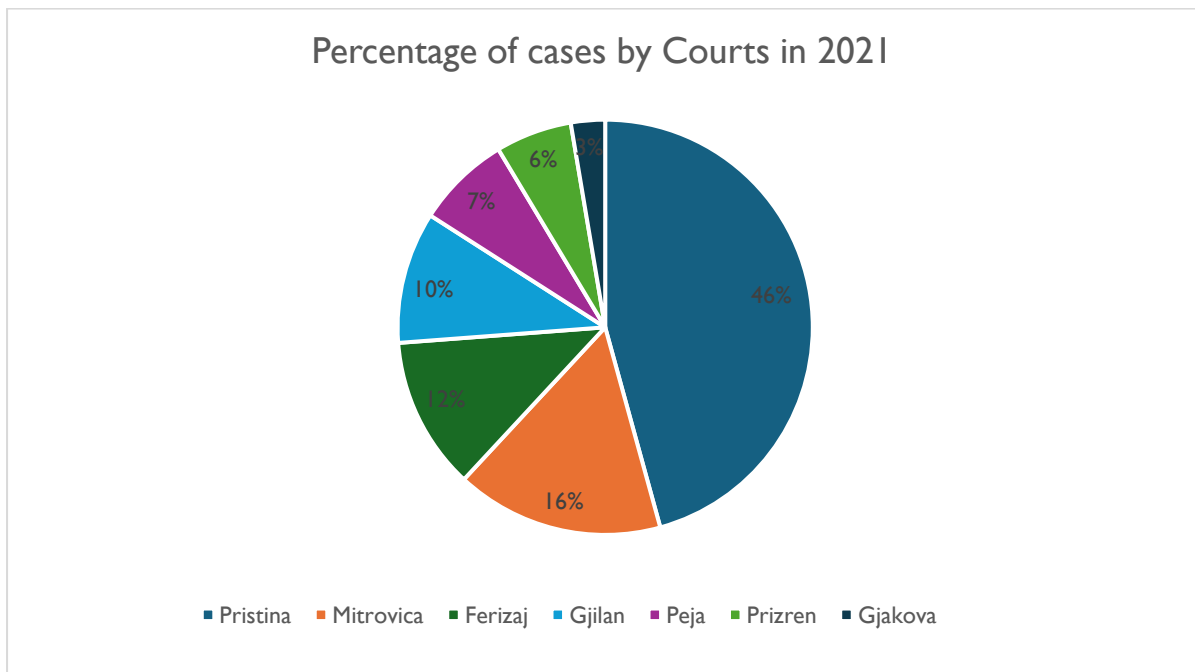


Chart 4: Percentage of jubilee salary cases by Courts in 2021

4.2. The courts workload with jubilee salary cases received in 2022

Each region experienced varying workloads of jubilee salary cases, which are presented in the chart below. For 2022, similar to the previous year, the Basic Court in Pristina and its branches received the largest number of cases, totaling 1,795.

In contrast to the previous year, the Basic Court in Prizren along with its branches, had the second largest number of cases, with 678.

In the year 2022 the Basic Court in Ferizaj and its branches reported the lowest number of cases, with only 114, which is approximately 15 times less than in the Pristina region.

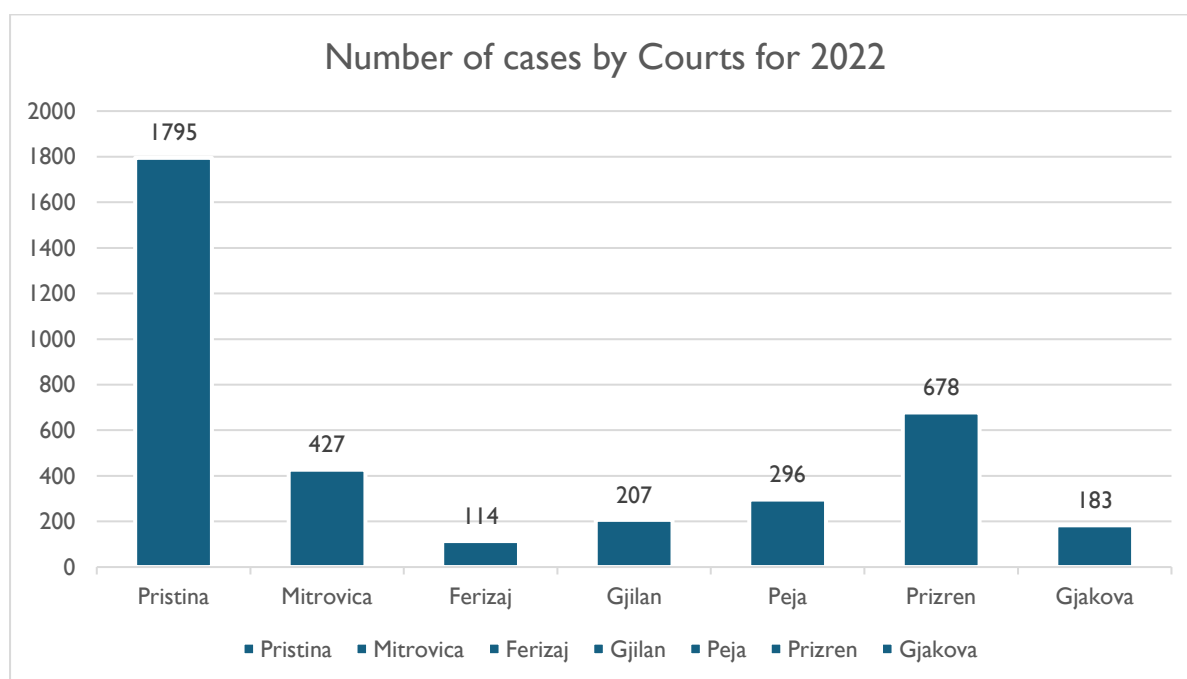


Chart 5: Number of jubilee salary cases by Courts in 2022

Converting the data into percentages, reveals that for the second consecutive year, the Basic Court in Pristina and its branches handled almost half of the jubilee salary cases. Specifically, the Pristina region accounted for 48% of the cases, followed by Prizren with 18%, Mitrovica with 12%, whereas Ferizaj had the lowest percentage at only 3%.

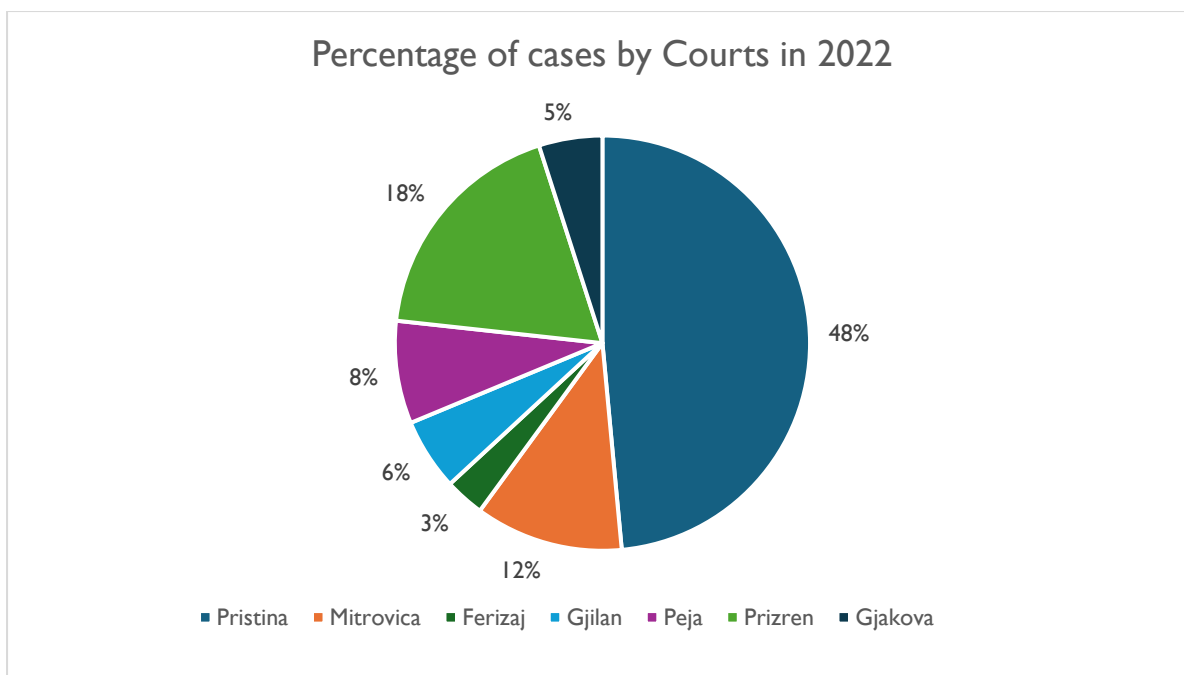


Chart 6: Percentage of jubilee salary cases by Courts in 2022

4.3. The courts workload with jubilee salary cases received in 2023

In 2023, each region received a specific number of jubilee salary cases. An interesting trend emerged in 2023 – for the first time, the Basic Court in Pristina and its branches did not receive the largest number of jubilee salary cases. Instead, the data shows that in 2023 the Basic Court in Mitrovica, along with its branches, topped the list with 1,216 cases. This is followed by the Basic Court in Gjilan and its branches, with 1,017 cases. The Basic Court in Pristina and its branches ranked third, with 970 cases. The lowest number of cases was recorded at the Basic Court in Gjakova and its branches, with a total of 84 cases – about 15 times less than in the Mitrovica region that had the largest number of cases received in 2023.

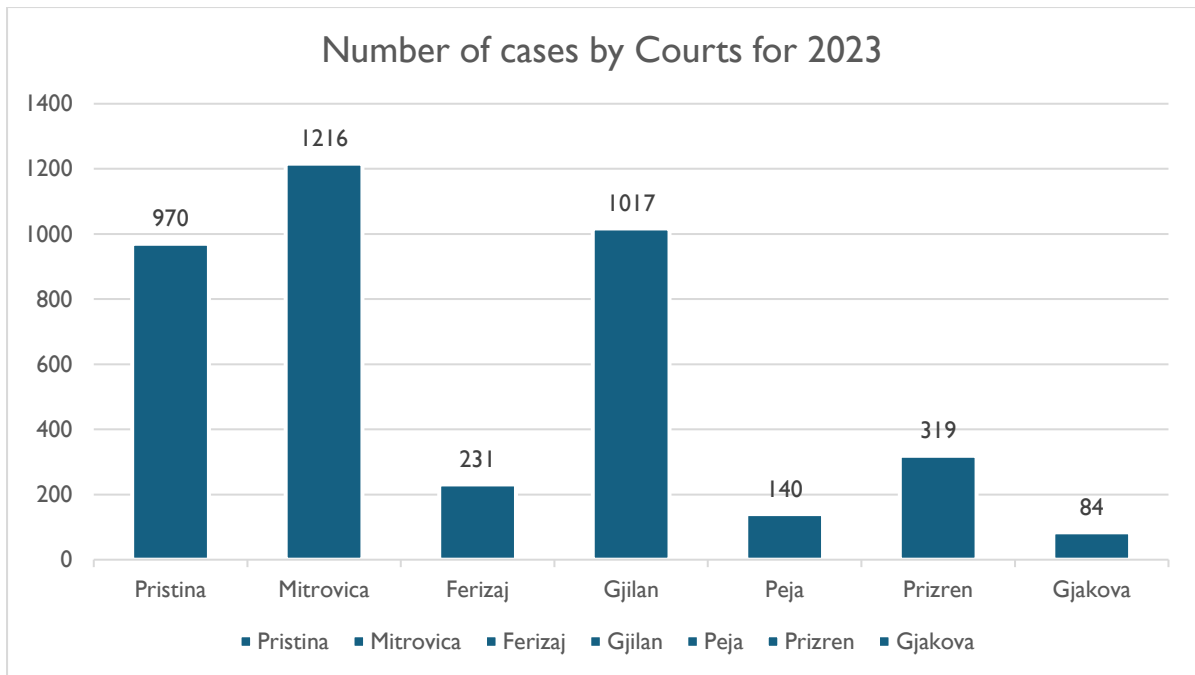


Chart 7: Number of jubilee salary cases by Courts in 2023

The percentage breakdown for the year 2023 shows a more balanced distribution, particularly among the top three regions. The Basic Court in Mitrovica and its branches leads with 31%, followed closely by Gjilan and Pristina, each with 26% and 24%, respectively. Meanwhile, Peja accounted for 3%, and Gjakova had the lowest percentage of received cases at only 2% for 2023.

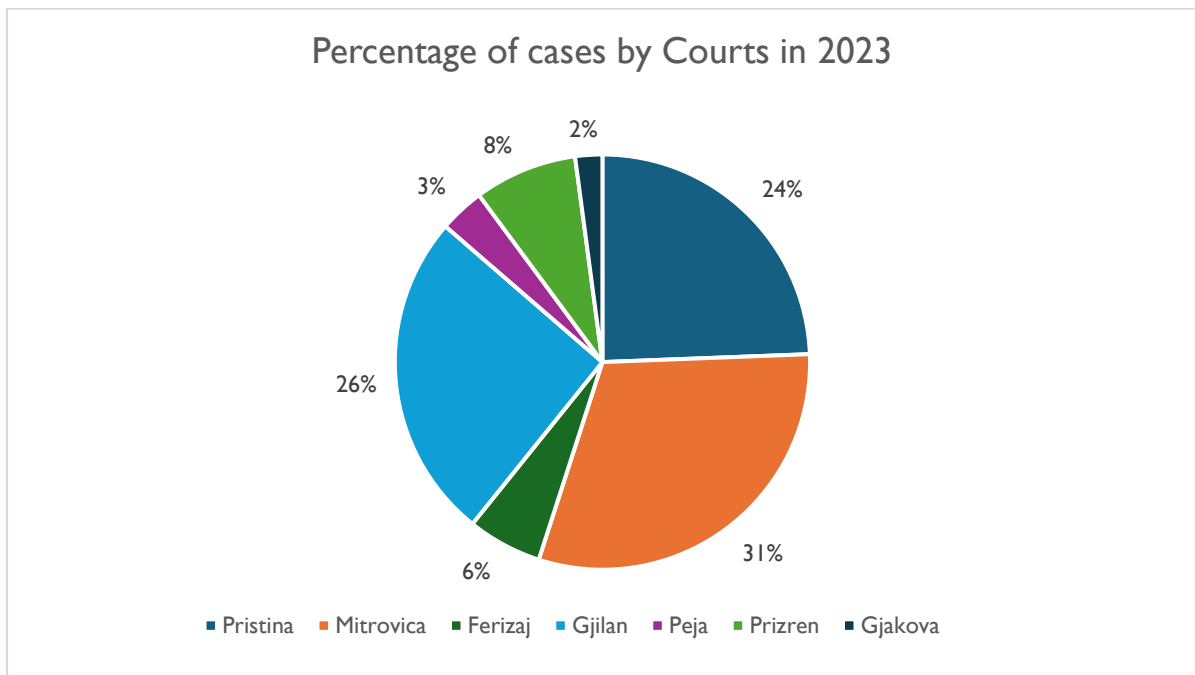


Chart 8: Percentage of jubilee salary cases by Courts in 2023

5. The trend of the workload in relation to the number of inhabitants

KLI has successfully analyzed and presented data regarding the workload of each court with jubilee salary cases over the last three years. This chapter will analyze the workload of the courts in relation to the population size of each region. To facilitate meaningful comparisons, the data is presented per 100,000 inhabitants, ensuring a standardized metric that aligns with the population size of each region.

It is worth mentioning that these calculations are based on the regional divisions used for court purposes, not the divisions used for the purposes of municipal administration. In this regard the Law on Courts stipulates that the Basic Courts are established as follows:

- The Basic Court of Pristina with its seat in Pristina shall operate within the territory of the Municipalities of Pristina, Fushe Kosovo, Obilic, Lipjan, Podujeva, Gillogovc, and Gracanica.
- The Basic Court of Mitrovica with its seat in Mitrovica shall function within the territory of the Municipalities of Mitrovica South and Mitrovica North, Leposaviq, Zubin Potok, Zvecan, Skenderaj, and Vushtrri.
- The Basic Court of Peja with its seat in Peja shall operate within the territory of the Municipalities of Peja, Decan, Junik, Istog, and Klina.
- The Basic Court of Prizren with its seat in Prizren shall operate within the territory of the Municipalities of Prizren, Dragash, Suhareka, and Mamusha.
- The Basic Court of Ferizaj with its seat in Ferizaj shall operate within the territory of the Municipalities of Ferizaj, Kacanik, Shtime, Shterpce, and Hani i Elezit.
- The Basic Court of Gjilan with its seat in Gjilan shall operate within the territory of the Municipalities of Gjilan, Kamenica, Novobrdó, Ranilug, Partes, Vitia, Killokot, and Verboc.
- The Basic Court of Gjakova with its seat in Gjakova shall operate within the territory of the Municipalities of Gjakova, Malisheva, and Rahovec.⁷

Whereas the data regarding the number of inhabitants for each of the abovementioned municipalities were gathered from the Kosovo Agency of Statistics (KAS).⁸

⁷ Law no. 06/I-054 on Courts, article 9, par. 2.

⁸ For more information, please follow this link: <https://ask.rks-gov.net/Themes/Population>.

5.1. The Basic Court of Pristina

Throughout the years 2021, 2022 and 2023 based on KAS data, the municipalities that make up the territory of the Basic Court of Pristina, namely Pristina, Fushe Kosova, Obilic, Lipjan, Podujeva, Glllogovc and Gracanica had a total of 470,583 inhabitants. Whereas the number of received jubilee salary cases in the Basic Court of Pristina and its branches (Podujeva, Gracanica, Lipjan, Glllogovc and Fushe Kosova) for each year has decreased from 3,677 as it was in 2021, to 1,795 in 2022 and 970 in 2023.

Presented in relation to 100,000 inhabitants of this region, the number of received jubilee salary cases in the courts show 743 cases for 2021, 363 cases for 2022 and 196 cases for 2023. This means that in 2021, approximately every 135th inhabitant of the Pristina region has filed a lawsuit regarding a jubilee salary case. Then in 2022, approximately every 275th inhabitant of the Pristina region filed a lawsuit of this nature. Whereas in 2023, approximately every 510th inhabitant of the Pristina region has filed a jubilee salary lawsuit to the court.

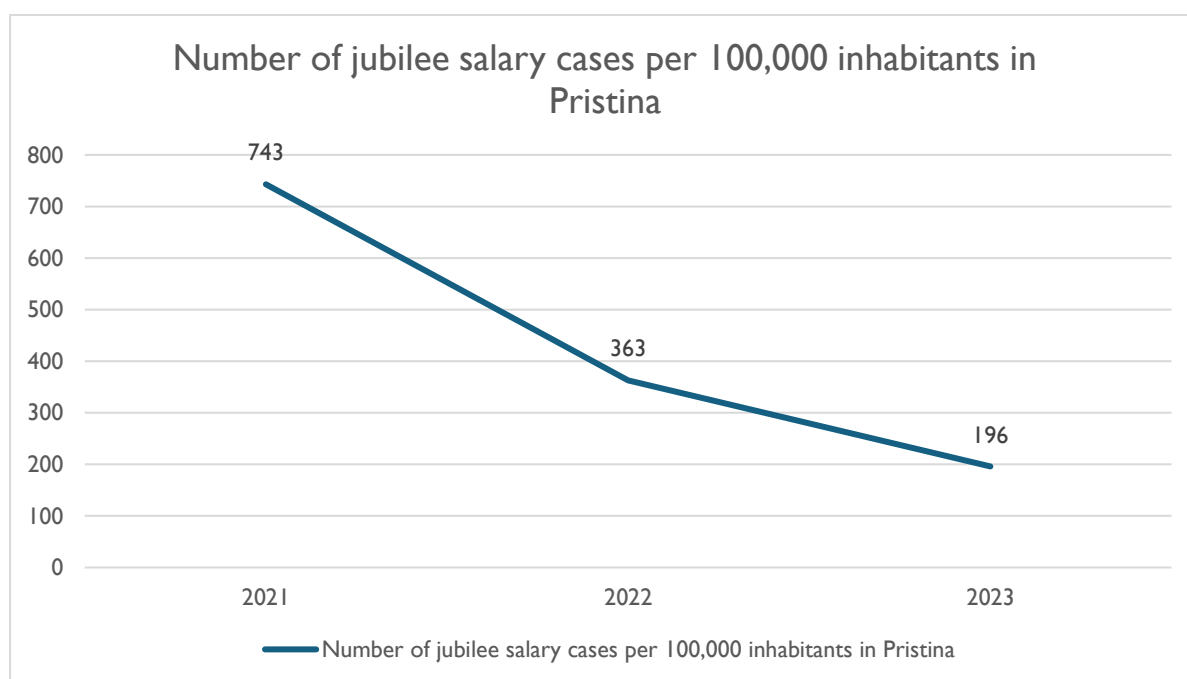


Chart 9: Number of jubilee salary cases per 100,000 inhabitants in the region of Pristina

On average for the last three years (2021, 2022, and 2023), approximately every 300th inhabitant of the Pristina region has initiated a lawsuit in court regarding jubilee salaries.

5.2. The Basic Court of Mitrovica

Throughout the years 2021, 2022 and 2023 based on KAS data, the municipalities that make up the territory of the Basic Court of Mitrovica, namely North Mitrovica, South Mitrovica, Leposavic, Zubin Potok, Zvecan, Skenderaj and Vushtrri had a total of 275,904 inhabitants.

Whereas, the number of received jubilee salary cases in the Basic Court of Mitrovica and its branches (Leposavic, Vushtrri, Zubin Potok, Skenderaj) from year to year has fluctuated from 1,302 as it was in 2021, to 427 in 2022 and 1,216 in 2023.

Presented in relation to 100,000 inhabitants of this region, the number of received jubilee salary cases in the courts show 472 cases for 2021, 155 cases for 2022 and 441 cases for 2023. This means that in 2021, approximately every 212th inhabitant of the Mitrovica region has filed a lawsuit regarding a jubilee salary case. Then in 2022, approximately every 645th inhabitant of the Mitrovica region filed a lawsuit of this nature. Whereas in 2023, approximately every 227th inhabitant of the Mitrovica region has filed a jubilee salary lawsuit to the court.

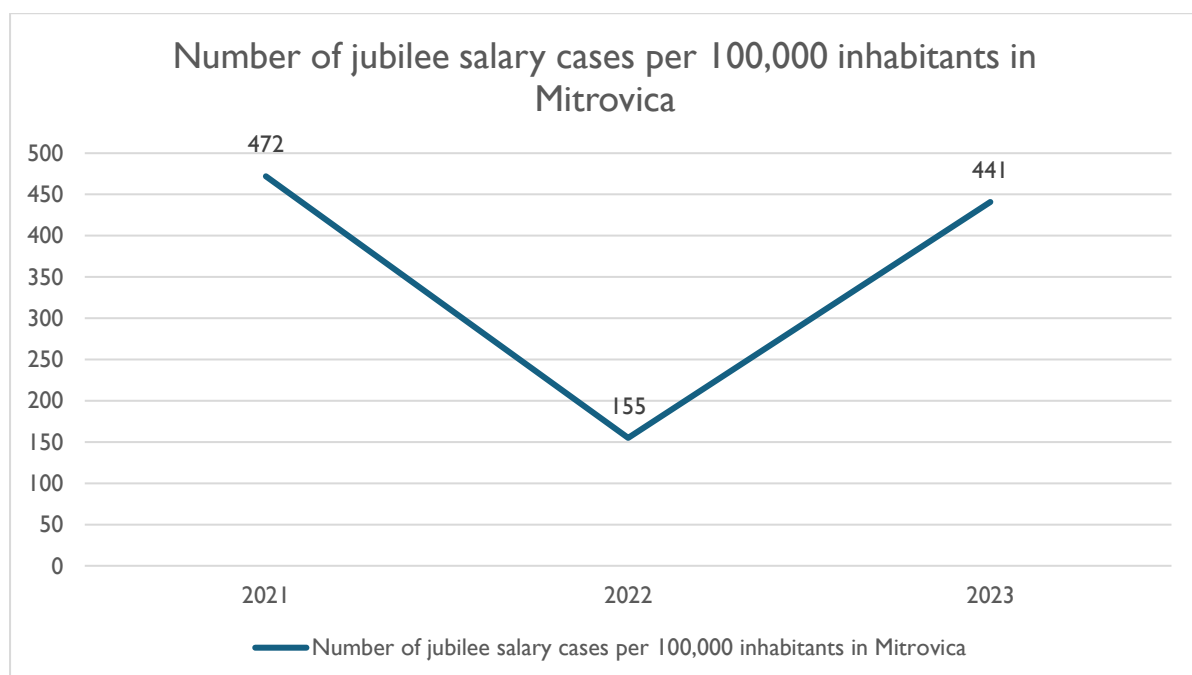


Chart 10: Number of jubilee salary cases per 100,000 inhabitants in the region of Mitrovica

On average for the last three years (2021, 2022, and 2023), approximately every 360th inhabitant of the Mitrovica region has initiated a lawsuit in court regarding jubilee salaries.

5.3. The Basic Court of Peja

Throughout the years 2021, 2022 and 2023 based on KAS data, the municipalities that make up the territory of the Basic Court of Peja, namely Peja, Decan, Junik, Istog and Klina had a total of 236,823 inhabitants. Whereas the number of received jubilee salary cases in the Basic Court of Peja and its branches (Istog, Klina, Decan) from year to year has decreased from 590 as it was in 2021, to 296 in 2022 and 140 in 2023.

Presented in relation to 100,000 inhabitants of this region, the number of received jubilee salary cases in the courts show 249 cases for 2021, 125 cases for 2022 and 59 cases for 2023.

This means that in 2021, approximately every 402th inhabitant of the Peja region has filed a lawsuit regarding a jubilee salary case. Then in 2022, approximately every 800th inhabitant of the Peja region filed a lawsuit of this nature. Whereas in 2023, approximately every 1,695th inhabitant of the Peja region has filed a jubilee salary lawsuit to the court.

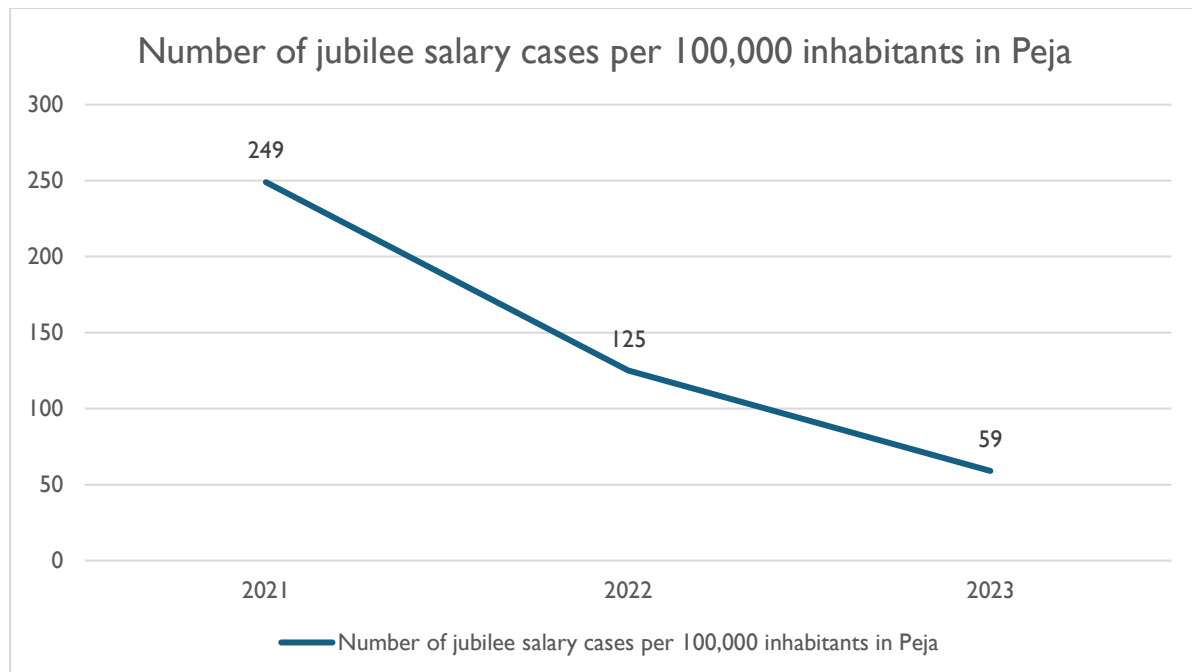


Chart 11: Number of jubilee salary cases per 100,000 inhabitants in the region of Peja

On average for the last three years (2021, 2022, and 2023), approximately every 965th inhabitant of the Peja region has initiated a lawsuit in court regarding jubilee salaries.

5.4. The Basic Court of Prizren

Throughout the years 2021, 2022 and 2023 based on KAS data, the municipalities that make up the territory of the Basic Court of Prizren, namely Prizren, Dragash, Suhareka and Mamusha had a total of 331,620 inhabitants. Whereas the number of received jubilee salary cases in the Basic Court of Prizren and its branches (Dragash and Suhareka) from year to year has fluctuated from 478 as it was in 2021, to 678 in 2022 and 319 in 2023.

Presented in relation to 100,000 inhabitants of this region, the number of received jubilee salary cases in the courts show 144 cases for 2021, 204 cases for 2022 and 96 cases for 2023. This means that in 2021, approximately every 695th inhabitant of the Prizren region has filed a lawsuit regarding a jubilee salary case. Then in 2022, approximately every 490th inhabitant of the Prizren region filed a lawsuit of this nature. Whereas in 2023, approximately every 1,042th inhabitant of the Prizren region has filed a jubilee salary lawsuit to the court.

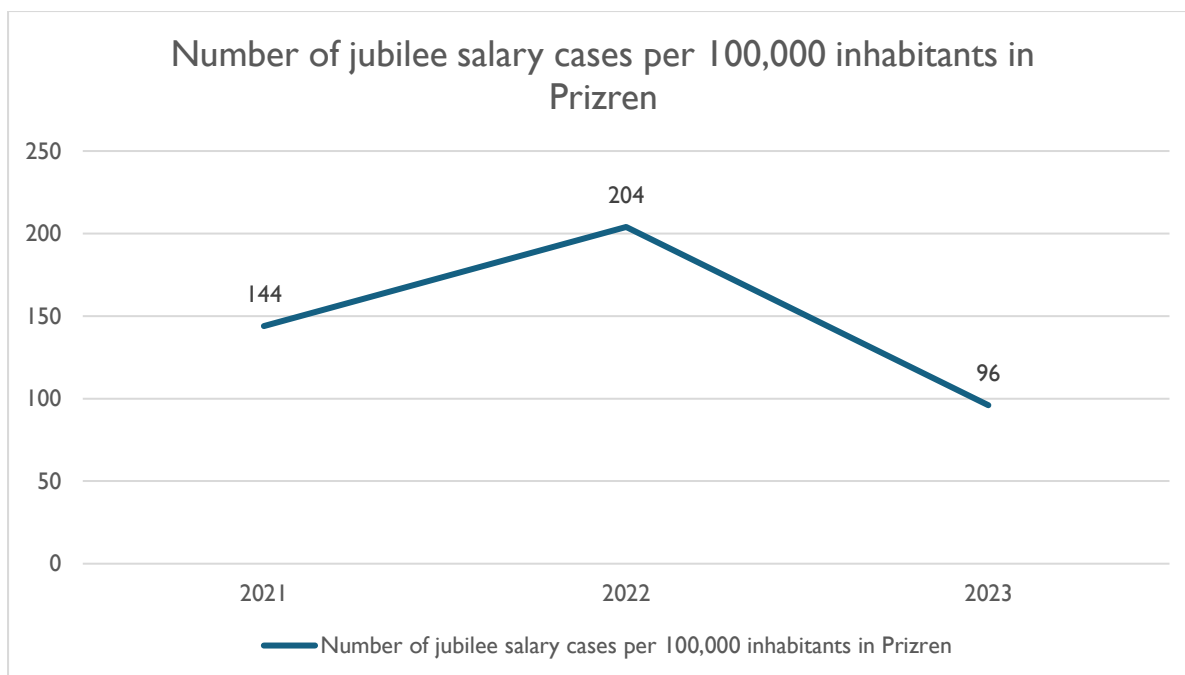


Chart 12: Number of jubilee salary cases per 100,000 inhabitants in the region of Prizren

On average for the last three years (2021, 2022, and 2023), approximately every 740th inhabitant of the Prizren region has initiated a lawsuit in court regarding jubilee salaries.

5.5. The Basic Court of Ferizaj

Throughout the years 2021, 2022 and 2023 based on KAS data, the municipalities that make up the territory of the Basic Court of Ferizaj, namely Ferizaj, Kacanik, Shtime, Shterpce and Hani i Elezit had a total of 185,695 inhabitants. Whereas, the number of received jubilee salary cases in the Basic Court of Ferizaj and its branches (Kacanik and Shterpce) from year to year has fluctuated from 956 as it was in 2021, to 114 in 2022 and 231 in 2023.

Presented in relation to 100,000 inhabitants of this region, the number of received jubilee salary cases in the courts show 515 cases for 2021, 61 cases for 2022, and 124 cases for 2023. This means that in 2021, approximately every 195th inhabitant of the Ferizaj region has filed a lawsuit regarding a jubilee salary case. Then in 2022, approximately every 1,640th inhabitant of the Ferizaj region filed a lawsuit of this nature. Whereas in 2023, approximately every 807th inhabitant of the Ferizaj region has filed a jubilee salary lawsuit to the court.

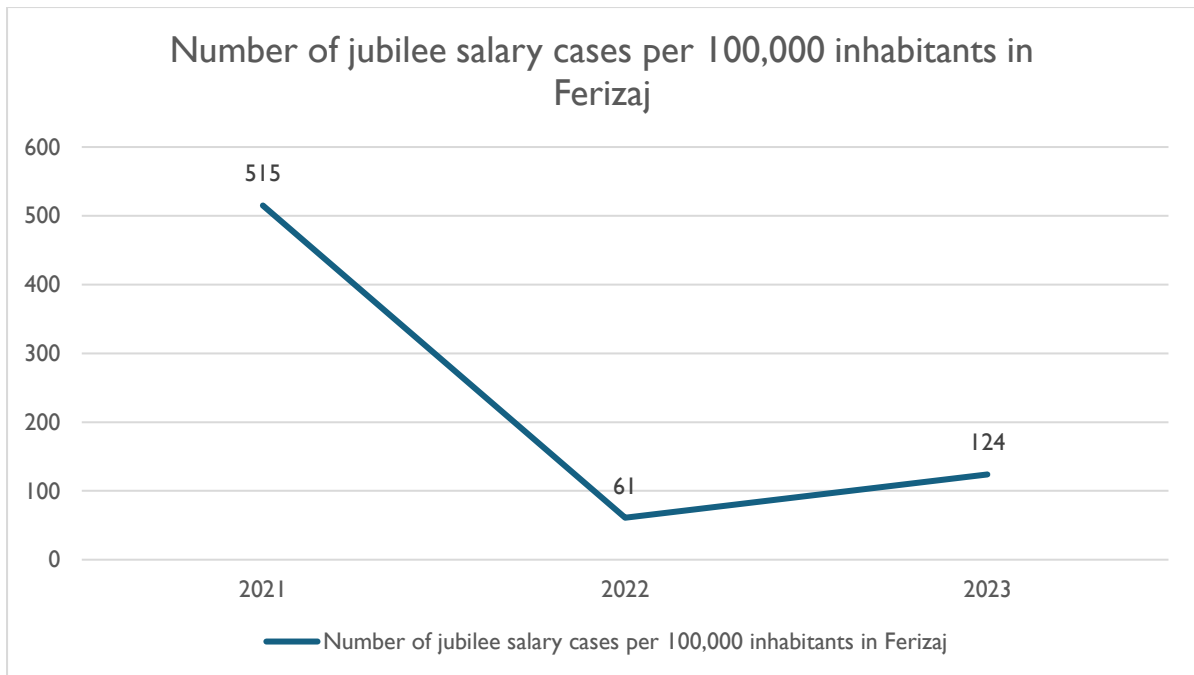


Chart 13: Number of jubilee salary cases per 100,000 inhabitants in the region of Ferizaj

On average for the last three years (2021, 2022, and 2023), approximately every 880th inhabitant of the Ferizaj region has initiated a lawsuit in court regarding jubilee salaries.

5.6. The Basic Court of Gjilan

Throughout the years 2021, 2022 and 2023 based on KAS data, the municipalities that make up the territory of the Basic Court of Gjilan, namely Gjilan, Kamenica, Novoberdo, Ranilug, Partes, Vitia, Kllokot and Verboc had a total of 181,459 inhabitants. Whereas the number of received jubilee salary cases in the Basic Court of Gjilan and its branches (Kamenica, Vitia and Novoberdo) from year to year has fluctuated from 825 as it was in 2021, to 207 in 2022 and 1017 in 2023.

Presented in relation to 100,000 inhabitants of this region, the number of received jubilee salary cases in the courts shows 455 cases for 2021, 114 cases for 2022, and 560 cases for 2023. This means that in 2021, approximately every 220th inhabitant of the Gjilan region has filed a lawsuit regarding a jubilee salary case. Then in 2022, approximately every 877th inhabitant of the Gjilan region filed a lawsuit of this nature. Whereas in 2023, approximately every 179th inhabitant of the Gjilan region has filed a jubilee salary lawsuit to the court.

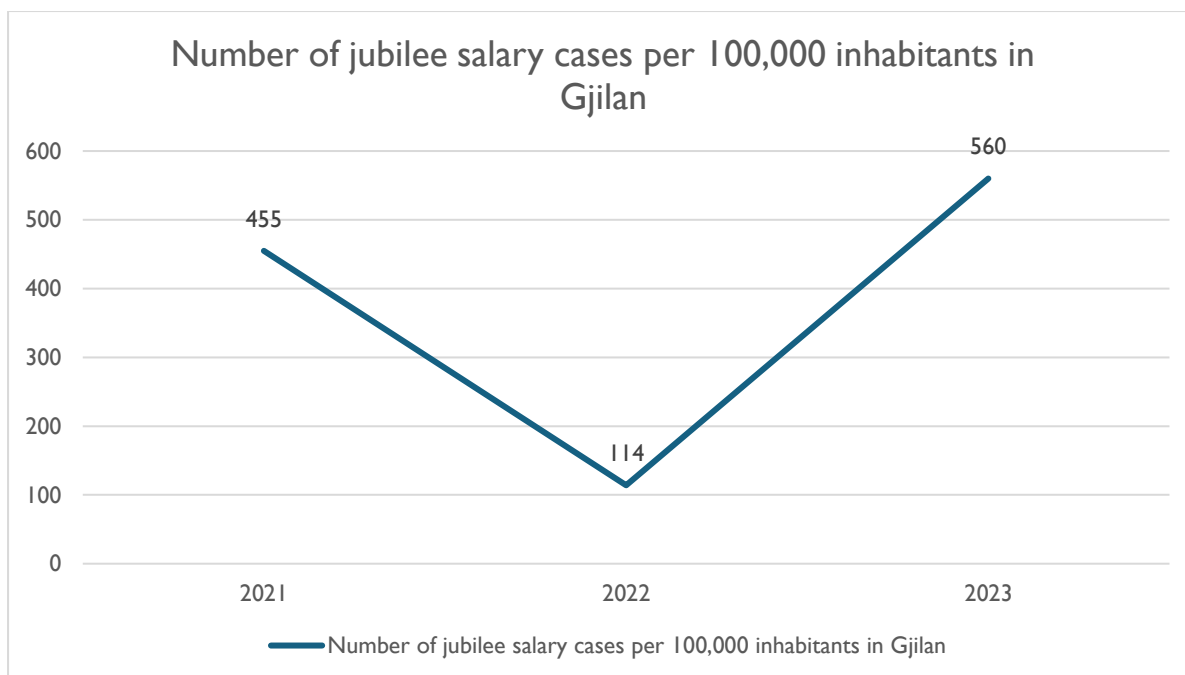


Chart 14: Number of jubilee salary cases per 100,000 inhabitants in the region of Gjilan

On average for the last three years (2021, 2022, and 2023), approximately every 425th inhabitant of the Gjilan region has initiated a lawsuit in court regarding jubilee salaries.

5.7. The Basic Court of Gjakova

Throughout the years 2021, 2022 and 2023 based on KAS data, the municipalities that make up the territory of the Basic Court of Gjakova, namely Gjakova, Malisheva and Rahovec had a total of 196,867 inhabitants. Whereas the number of received jubilee salary cases in the Basic Court of Gjakova and its branches (Malisheva and Rahovec) from year to year has decreased from 214 as it was in 2021, to 183 in 2022 and 84 in 2023.

Presented in relation to 100,000 inhabitants of this region, the number of received jubilee salary cases in the courts show 109 cases for 2021, 93 cases for 2022, and 43 cases for 2023. This means that in 2021, approximately every 917th inhabitant of the Gjakova region has filed a lawsuit regarding a jubilee salary case. Then in 2022, approximately every 1,075th inhabitant of the Gjakova region filed a lawsuit of this nature. Whereas in 2023, approximately every 1,190th inhabitant of the Gjakova region has filed a jubilee salary lawsuit to the court.

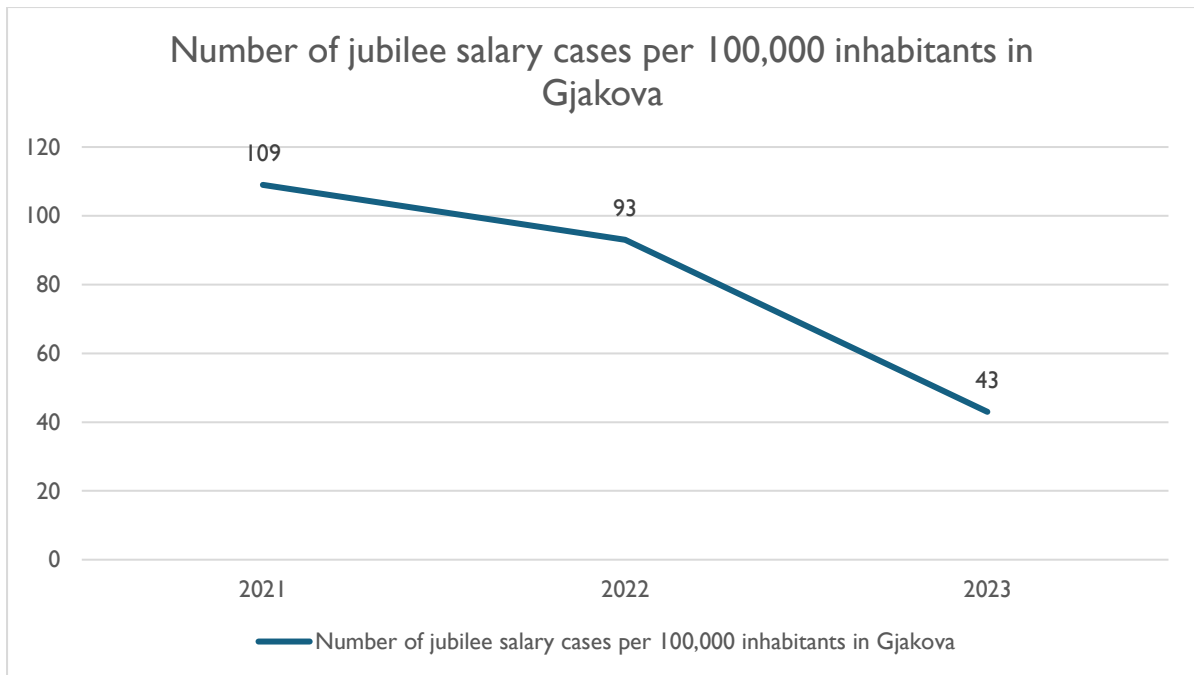


Chart 15: Number of jubilee salary cases per 100,000 inhabitants in the region of Gjakova

On average for the last three years (2021, 2022, and 2023), approximately every 1,050th inhabitant of the Gjakova region has initiated a lawsuit in court regarding jubilee salaries.

6. Analysis of the case data of the Kosovo Judicial Council on cases of jubilee salary

Over the last three years, a total of 15,719 jubilee salary cases have been filed in courts across Kosovo. This analysis is based on the data processed and presented by the KJC.

The following data indicate how many of the cases received during the last three years have been handled by the judicial system and how many of them have not yet begun to be handled. Further, the data also show more about the manner of solving jubilee salary cases, in those cases where they were solved. To assess whether these cases have been resolved by the courts or are still pending, both the status of the cases and the outcomes of those that have been concluded, has been reflected below.

6.1. Status of the cases

In the KJC's database, the case statuses are categorized into eight different options: registered, admitted, assigned, referred for mediation, solved, solved through mediation, appealed, final decision, and archived.

Status of the case	Number of cases
Registered	8076
Admitted	32
Assigned	12
Referred for mediation	11
Solved	4222
Solved through mediation	929
Appealed	1921
Final decision	79
Archived	436
No information	1
TOTAL	15 719

Table 1: Status of jubilee salary cases during the period 2021 – 2023

In order to have a clear understanding of what each kind of the status of cases means, KLI has contacted the KJC and received the following clarifications:

- Registered – is the status that the CMIS system gives to the case at the moment when the last step of the case registration is completed and the Judge is appointed.
- Admitted – is the status that the CMIS system gives to the item when a document is imported and the item type and item number is identified.
- Assigned – is the status that the CMIS system gives to the case at the moment when the Judge or the professional collaborator scheduled the main hearing.
- Referred to mediation – is the status that the CMIS system gives to the case when the Judge or professional collaborator refers the case to mediation.
- Resolved – is the status that the CMIS system gives to the case at the moment when the last step of the decision by the Judge is completed.
- Resolved through mediation – is the status that the CMIS system gives to the case at the moment when the last step of the decision by the Judge is completed, which decision he/she selected with the overall result “Resolved through mediation”.
- Appealed – is the status that the CMIS system gives to the case at the moment when a complaint is served and the case is transferred to the Court of Appeal.
- Final decision – is the status that the CMIS system gives to the subject at the moment when the responsible official in the Court sets the clauses of the final decision and as

soon as this action is registered in the system, then the “final decision” status is granted.⁹

- Archived – is the status that a case gets when it is final and set to the archive.

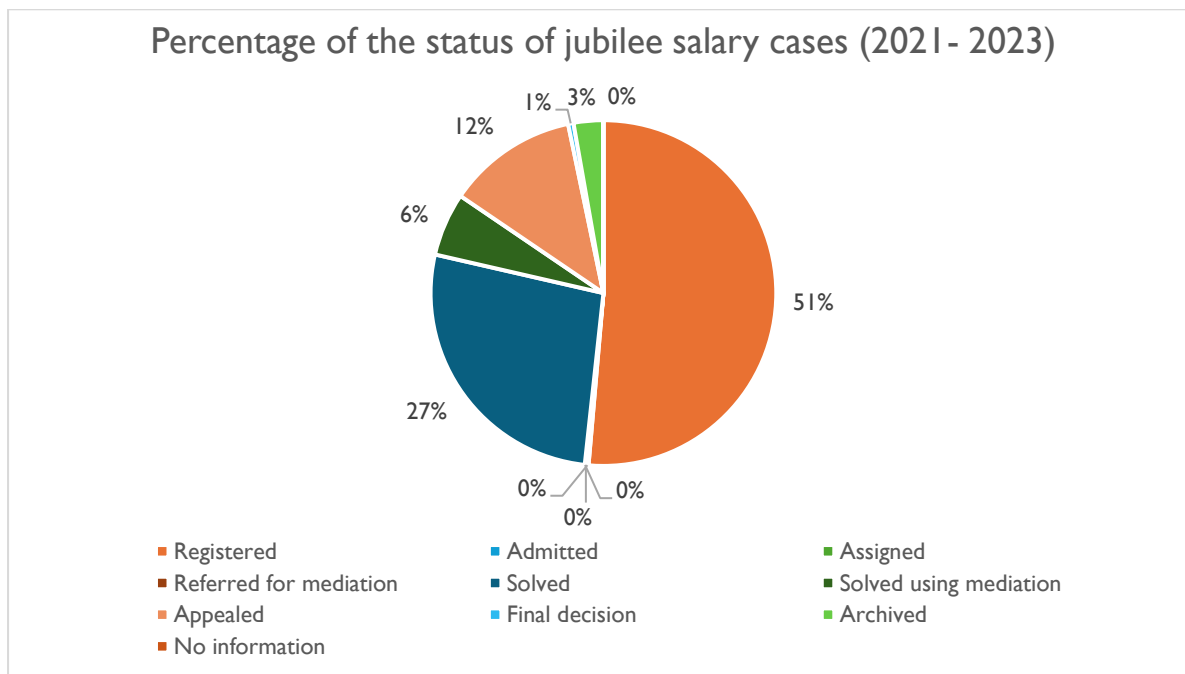


Chart 16: Percentage of the status of jubilee salary cases during the period 2021- 2023

Based on data provided by the KJC, 5,666 out of 15,719 jubilee salary cases have been concluded over the past three years. This means that over 35% of these cases have been handled and resolved by courts across Kosovo. On the other hand, 8,076 cases have only been registered, with no further action taken. As a result, more than 51% of the cases admitted in the last three years have not yet been reviewed or progressed towards resolution.

7. Analysis of court judgments on cases of jubilee salary

For the purposes of this report, the KLI analyzed 30 court judgments on jubilee salary cases. These court judgments were randomly selected from court websites and include judgments rendered during the period 2021 – 2023.

The analysis will provide insights into various aspects of the cases, including the length of proceedings, the outcome of the cases, whether any expertise was requested, the number of cases the attorney was provided by the Free Legal Aid Agency (FLAA), NGOs, or if the attorney was privately assigned by the plaintiff. Additionally, it will examine the amount requested in the lawsuit versus the amount approved by the court, as well as whether the plaintiff claimed procedural costs and how much of those costs were approved by the court.

⁹ Kosovo Judicial Council (KJC) answer for KLI, through e-mail, dt. 18.07.2024.

The analysis of these 30 court judgments shows that, on average, it took 690 days, or nearly 2 years, from the filing of the lawsuit to the rendering of a judgment by first-instance court judges.

Of the 30 cases analyzed, the KLI found that the lawsuit was completely approved in 21 cases, partially approved in 4 cases, and refused in 5 cases.

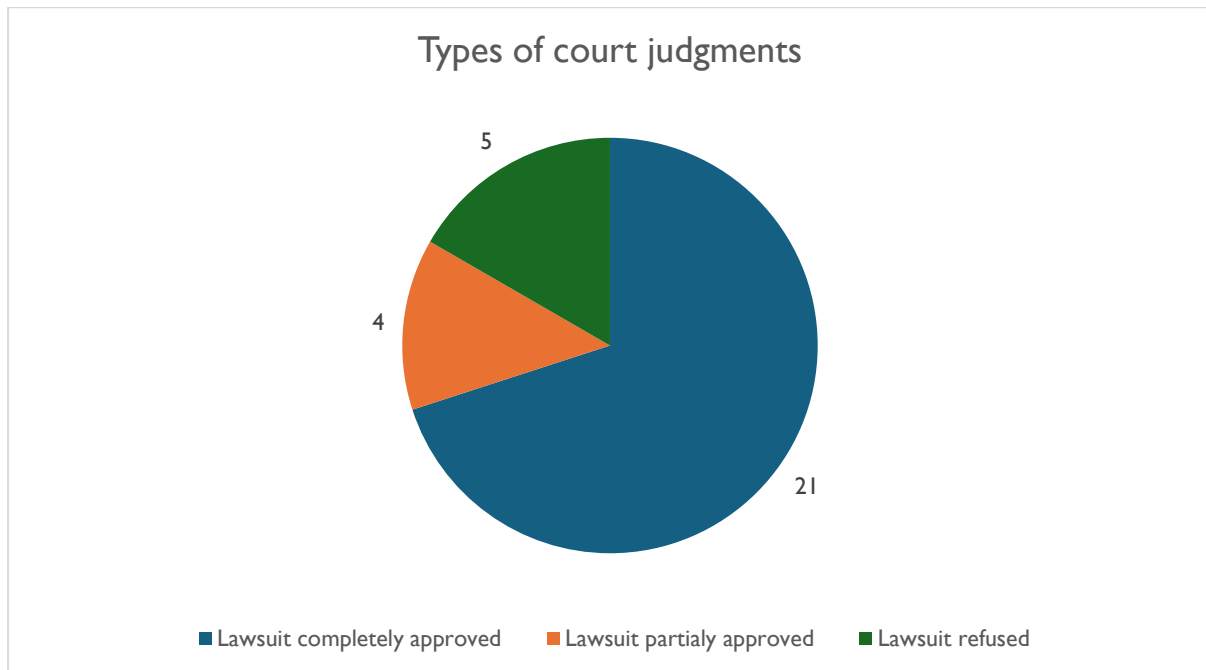


Chart 17: Court judgments in jubilee salary cases analyzed by KLI

As to whether the cases had undergone an expertise, KLI's analysis revealed that only one of the 30 analyzed cases involved financial expertise. The remaining 29 cases did not include any type of expertise.

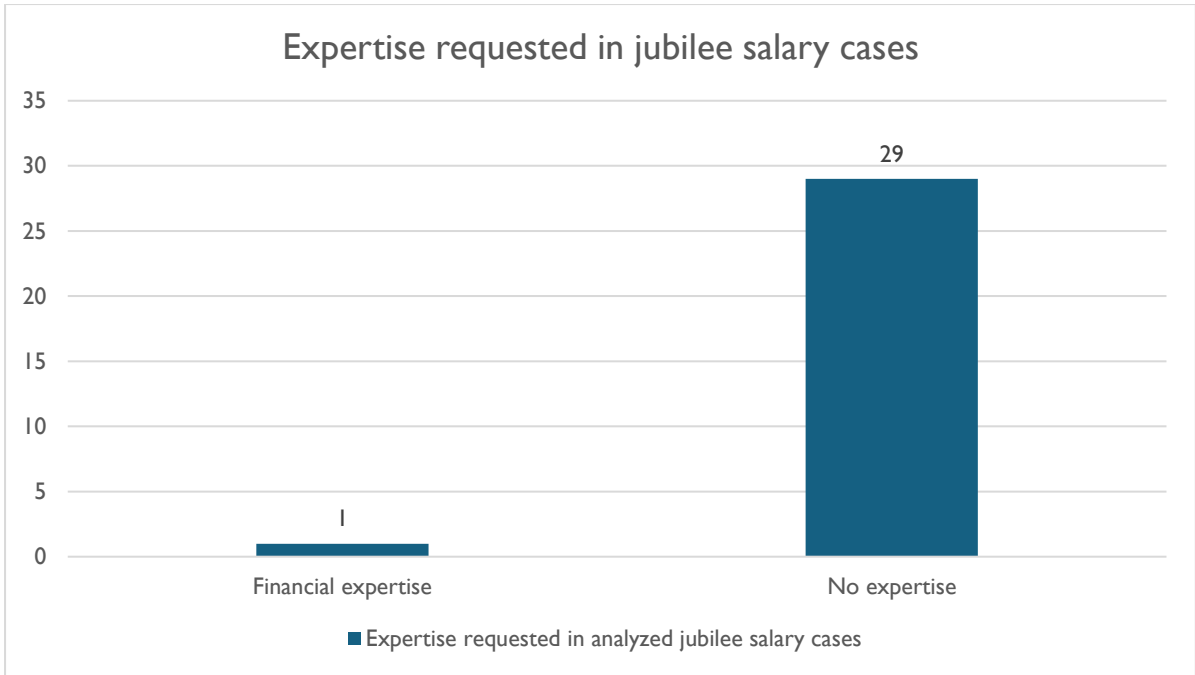


Chart 18: Expertise requested in jubilee salary cases analyzed by KLI

Additionally, the KLI found that in all 30 analyzed cases, the plaintiffs were represented by attorneys. These attorneys were privately hired and paid for by the plaintiffs themselves.

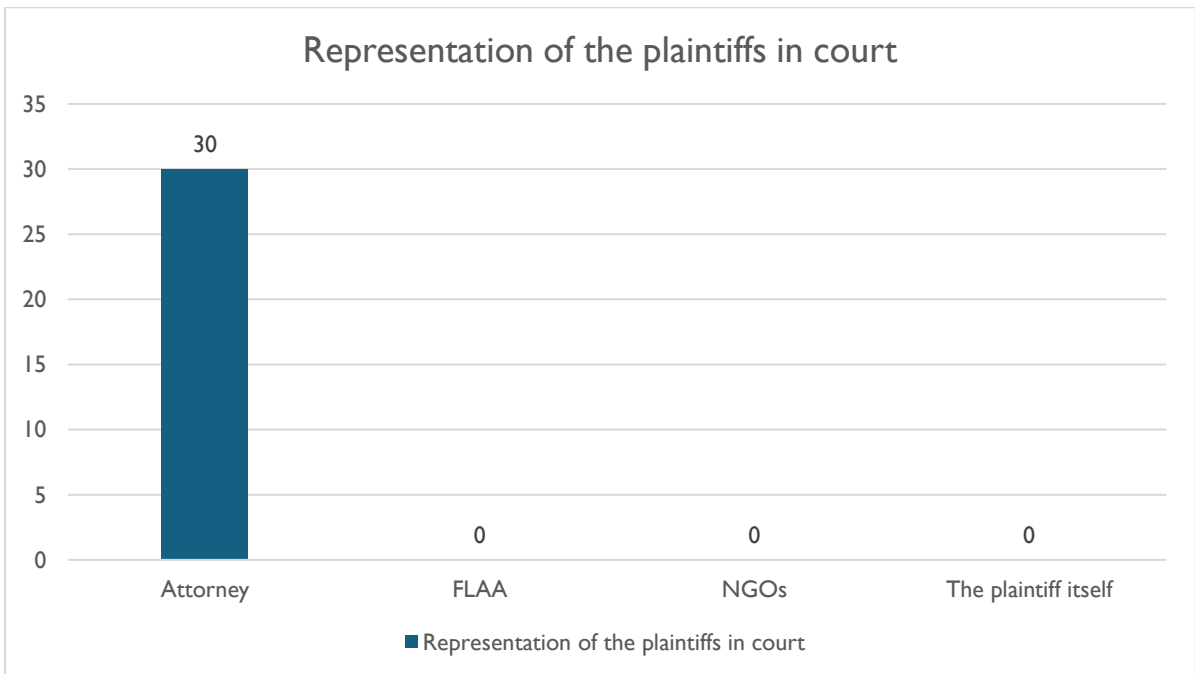


Chart 19: Representation of the plaintiffs in court in jubilee salary cases analyzed by KLI

During the case analysis, the KLI also examined procedural costs. Based on the Law on Contested Procedure (LCP), “procedural costs consist of the expenses occurred during the court process”.¹⁰ The LCP stipulates that “procedural costs consist of the lawyer fee, and to the other persons that the law gives them the right to be reimbursed”.¹¹ Additionally, the LCP mandates that “the party that losses the court process has to entirely cover all costs of the winning party, as well as intermediaries costs if he/she joined the process”.¹²

In this analysis of 30 cases, the KLI found that in only 1 case the plaintiff did not request reimbursement for procedural costs. Whereas in the other 5 cases where the lawsuit was refused, based on the LCP, the court ruled, that “each party carries its own costs caused by its own procedural deeds”.¹³ In the remaining 24 cases, the plaintiffs requested coverage for procedural costs, which the courts approved, obliging the other party – always a state institution – to cover such costs.

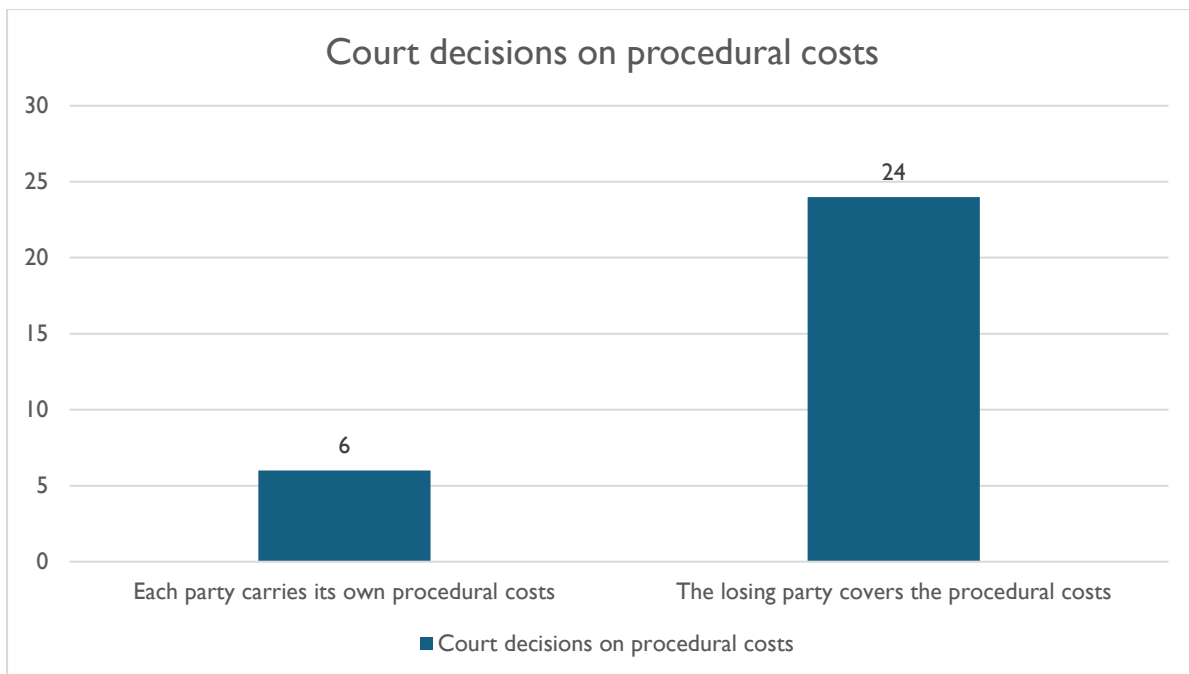


Chart 20: Court decisions on procedural costs in cases analyzed by KLI

¹⁰ Law on Contested Procedure, Article 449, par. 1.

¹¹ Ibid, par. 2.

¹² Ibid, article 452.

¹³ Law on Contested Procedure, article 450.

8. Average annual expenses for jubilee salary cases

The analysis of the cases indicates that the average amount approved for jubilee salary cases in a lawsuit is approximately 1,300 euros. Additionally, the average procedural costs amount to about 300 euros. The Law on Obligational Relationships (LOR) specifies a penalty interest rate of eight percent (8%) per annum, unless stipulated otherwise by a separate act of law.¹⁴

Based on the case analysis, the average expenses for handling jubilee salary cases are calculated as follows:

- It is considered that the average amount approved in a lawsuit is approximately 1,300 euros.
- The analysis shows that the average duration for resolving such a case in the first instance is 2 years.
- The average procedural costs amount to about 300 euros.

To account the value of money, 16% penalty interest is added to the 1,300 euros (8% for each year for two years), which totals 1,508 euros. Adding the procedural costs of 300 euros results on average total cost of 1,808 euros for a jubilee salary case. Given that Kosovo courts received 15,719 jubilee salary cases over the last three years, averaging 5,240 cases annually, the total average expense for these cases is approximately 9,473,920 euros annually.



Illustration 1: Annual average expenses for cases of jubilee salaries

This means that the annual costs paid by the state for jubilee salary cases reaches about 10 million euros.

¹⁴ Law no. 04/L-077 on Obligational Relationships, Article 382.

9. Main findings and conclusions

- The workload of the courts has fluctuated over the years in terms of the number of jubilee salary cases received annually. The year 2021 stands out as having the highest number of received cases of this nature. In contrast, the next two years, 2022 and 2023, marked a decrease in the number of such cases compared to 2021. Nevertheless, the statistics indicate general stability in the number of Jubilee salary cases received, with just a slight increase from 2022 to 2023.
- There was a noticeable decline in the ratio of jubilee salary cases to the total number of civil cases in contested procedures over the three years. In 2021, Jubilee cases made up 20% of the total number of civil cases in contested procedure, which decreased to about 10% in 2022 and 8% in 2023.
- On average for the last three years, approximately every 300th inhabitant of the Pristina region has initiated a lawsuit in court regarding jubilee salaries. This is followed by the Mitrovica region where approximately every 360th inhabitant has initiated such a lawsuit. In the Gjilan region approximately every 425th inhabitant initiated a jubilee salary case lawsuit, whereas in the Prizren region approximately every 740th inhabitant, and in the Ferizaj region approximately every 880th inhabitant has initiated such lawsuits. At the bottom of the list stand Peja region with approximately every 965th inhabitant and Gjakova region with approximately every 1,050th inhabitant has initiated a lawsuit in court regarding jubilee salaries.
- On average it took 690 days, or nearly 2 years, to render a judgment by first-instance court judges.
- The decisions on such cases showed that the lawsuit was completely approved in 70% of cases, partially approved in 13% of cases, and refused in 17% of cases.
- Only one of the 30 analyzed cases involved financial expertise.
- The plaintiffs were represented by attorneys in all cases. These attorneys were privately hired and paid for by the plaintiffs themselves.
- In 80% of cases the plaintiffs requested coverage for procedural costs, which the courts approved, obliging the other party – always a state institution – to cover such costs.
- The annual costs paid by the state for jubilee salary cases reach almost 10 million euros.

10. Recommendations

- The Ministry of Finance, through the Government and the Assembly of the Republic of Kosovo, should allocate the necessary budget for the municipalities, so that jubilee salary cases can be resolved through administrative means, without the need to be addressed in court.
This will include a scenario where sufficient budgetary resources, can fulfill citizens' requests or claims directly, thereby reducing the number of disputes that escalate to the judiciary. This can be considered a people-centered approach since it focuses on the needs and experiences of individuals, rather than merely adhering to legal procedures and institutions.
- Courts, upon receiving jubilee salary cases, should inform the plaintiffs about the possibilities of referring these cases to mediation as an alternative dispute resolution procedure.
- Lawyers representing jubilee salary cases are encouraged to resolve them through mediation procedures.

