

A POLICY REPORT BY THE GROUP FOR LEGAL AND POLITICAL STUDIES

NO. 04 – MAY 2013



Are Judges Underpaid?

— the Impact of Salary Rates on the
Performance of the Judiciary in Kosovo



GROUP FOR LEGAL
AND POLITICAL
STUDIES

ABOUT GLPS

Group for Legal and Political Studies is an independent, non-partisan and non-profit public policy organization based in Prishtina, Kosovo. Our mission is to conduct credible policy research in the fields of politics, law and economics and to push forward policy solutions that address the failures and/or tackle the problems in the said policy fields.

GLPS is institutionally supported by:



Policy Report 04/2013

Are Judges Underpaid? The Impact of Salary Rates on the Performance of the Judiciary in Kosovo

Delfinë Elshani *

May 2013

For their contribution, we would like to thank the external peer reviewers who provided excellent comments on earlier drafts of this policy product. GLPS internal staff provided very helpful inputs, edits and contributed with excellent research support.

© Group for Legal and Political Studies, May, 2013.

The opinions expressed in this document do not necessarily reflect those of Group for Legal and Political Studies donors, their staff, associates or Board(s). All rights reserved. No part of this publication may be reproduced or transmitted in any form or by any mean without the permission. Contact the administrative office of the Group for Legal and Political Studies for such requests.

Group for Legal and Political Studies
"Rexhep Luci" str. 10/5
Prishtina 10 000, Kosovo
Web-site: www.legalpoliticalstudies.org
E-mail: office@legalpoliticalstudies.org
Tel/fax.: +381 38 227 944

* Research Fellow, Group for Legal and Political Studies

This Report has been developed under the Think Tank Young Professional Development Program

This page intentionally left blank

ARE JUDGES UNDERPAID? THE IMPACT OF SALARY RATES ON THE PERFORMANCE OF THE JUDICIARY IN KOSOVO

I. INTRODUCTION

The judiciary, being one of the three branches of government, is the core component of a democratic state. Having that primary role in the polity, judiciary's sustainability and accountability remain the core components of a state under a development perspective. A thriving judiciary is an important pillar of a democratic society, the main role of which is to safeguard the rights of citizens and provide for fairness and impartiality in the administration of justice. Nevertheless, Kosovo struggles with insufficient capacities to instate rule of law, mainly as a result of a weak judicial system. In order for the judiciary to perform its obligations and functions accurately and to accordingly attract and preserve professional judges who would help build a more accountable and efficient judicial system, states are accountable to provide sufficient remunerations for judges. Therefore, common sense favours the practice that higher judicial salaries precondition a more accountable delivery of justice.

As to the more concrete context of judicial salaries, there has been a constant disagreement between judicial pay advocates and opponents (policy advocates that proved judicial pay does not affect performance). On the one hand, judicial pay advocates argue that low salaries hinder judicial quality, strength and independence, whilst high salaries induce judges to invest more efforts into their function, thus increasing judicial quality and independence.¹ On the other hand, although there appear very few empirical studies in this regard owing to the unavailability of data, some policy scholars have proven that increases in judicial salaries do not empower performance, neither in terms of efficiency nor in terms of general overload.

In mind of the above, this Policy Report will shed light on the impact of salaries on judicial performance/efficiency in the context of Kosovo. More precisely, the Report will examine the effectiveness of the judiciary, and will assess whether low salaries were/are one of the key impediments hindering a stronger, transparent and effective judicial system, and how the increase in salaries affects its performance/efficiency. Lastly, the Report will provide suitable recommendations centred on guiding the judiciary towards a more developed salary system that promotes its functional and professional growth, and which produces more efficient and tangible results in the entire rule-of-law sector.

The following sections of this Policy Report will be structured as follows. Section II provides a detailed explanation of the two basic judicial salary theories that are the 'salary matters' and 'substitutes theory', which theorise the impact of salaries on judicial performance. Briefly, the former theory supports the increase in judicial salaries whereas the latter opposes it. Section III provides a thorough examination of the current situation of the judiciary in Kosovo. More specifically, the Report will analyse the policy of remuneration of judges during the last six years and its effect on their efficiency, their remuneration in comparison with the Executive and Legislative branch of government, and a general account for the differences amongst key sectors. Section IV provides a cross-sectorial comparison of the salaries in Kosovo, with judicial salaries comprising the core comparison standard. Section V offers a comparison of the judicial

¹Watson, R. and Wolfe, M. (2008). "Comparing Judicial Compensation: Apples, Oranges and Cherry Picking". *Duke University- School of Law. Working paper*. Available at: <http://dx.doi.org/10.2139/ssrn.1106244>

salary picture in Kosovo and Macedonia, Serbia, Albania, and Montenegro. Section VI describes the methodology used to assess the judicial efficiency and the results attained from the analysis, whilst Section VII provides policy recommendations on the means authorities should adopt in order to improve the salary system and policy in the judicial sector as a key means of improving the accountability and efficiency of the judicial system in Kosovo.

II. The Two Key Theories about the Impact of Salaries on Judicial Performance

The performance assessment of judges and their respective compensation has been a struggle that policy makers have been facing extensively. Performance is the intensity approach that employees pursue to accomplish a given assignment, whilst salary/compensation is considered a motivator or a driving force amongst employees to achieve a goal or complete a certain task. Appropriate salaries are indispensable for good judicial performance, which is the backbone for a successful rule of law and a democratic society. With that said, it is of the utmost importance to assess the effect of salaries on judicial performance in Kosovo with a view to shedding light on a new policy that needs be established in order to increase the motive and professional accountability of judges.

Considering the fact that a good judicial performance is influenced by the compensation provided to the judges i.e. appropriate/higher salaries, the literature provides three main arguments for the need to increase the judicial salaries.² The first argument states that, if salaries are not appropriately increased, the judgeship bench will then be less diversified. Alternatively, a salary increase will attract private bar lawyers for the judgeship position, which in turn upholds a mixture of backgrounds on the bench.³ The second argument implicates the retention of judges, meaning that a low level of judicial salaries leads to high turnover rates. High turnover rates, in turn, increase the costs to fill the vacancy, implicating the entire recruitment and then capacity-building process, thus imposing higher workload for those judges that are still part of the judiciary.⁴ The third argument stresses that high judicial salaries increase the chances of attracting more competent and qualified candidates to apply for the positions in the judiciary.⁵ On the contrary, low judicial salaries usually keep attracting less professionally-capable judges and candidates that have almost no place in the competing private market sector.⁶ Another feature of the low judicial salary is that it hinders judicial performance in the sense that judges who intend to resign/leave the job may be biased in favour of a possible future employer. With this noted, the upgrading of judicial performance is crucial and may come about in two ways: the first one refers to 'the incentive effect', which stresses that judges with higher salaries are more incentivised to provide a higher level of performance; the second captures 'the selection effect', which assumes that salary increase improves the quality of applicants for the judicial position by screening out low-quality judges.⁷

²Baker, S. (2008). "Should We Pay Federal Circuit Judges More". *Boston University Law Review*. Vol. 88. p. 63-112

³Ibid, pp.71

⁴ Ibid, pp.70

⁵ Ibid, pp.72

⁶ Denton, B. (2009). "The Federal Judicial Salary Crisis". *Drexel Law Review*. Vol. 2. p.152-160

⁷Choi, S.J., G.M. Gulati, and E.A. Posner, (2009). "Are Judges Overpaid? A Skeptical Response to the Judicial Salary Debate". *Journal of Legal Analysis* Vol.1. No.1. p. 47-117

Different theories were developed with regard to the impact of salaries on judicial performance, which have a significant effect if applied to the Kosovo context; however, the most notable theories are the 'salary matters theory' and 'substitutes theory'.⁸ The former holds that the increase in judicial salaries, as could be the case in Kosovo's context, will attract more enhanced candidates, as candidates with higher levels of human capital require higher salaries.⁹ Despite salaries, judges correspondingly value prestige, status, and power, amongst others. How much each candidate values the non-pecuniary benefits reflects the judge's interest and position in the work as opposed to the salary. When low salaries are provided to judges, only the candidates who place an important value on the judgeship position would take the bench.¹⁰ However, increasing judicial salaries attracts not only the candidates who would accept the judgeship position for a lower salary, but also the candidates with higher qualities or human capital characteristics that require higher salaries and are less attracted by non-pecuniary benefits. If the salary is increased further, the number of those willing to apply for the bench further increases. Increasing the judicial salary not only affects the increase in the number of applicants willing to be part of the bench, but is also the main motivator for high-quality candidates who value/require a higher salary.¹¹ Thus, according to this theory, high-quality candidates will apply for judgeship only if the salary provided for the job is proportionate with that they would receive working elsewhere, which clearly considers judgeship salary as a means to which labour market references should be made.¹² In Kosovo in 2007 there were 15 vacancies for judgeship positions and the number of applicants was 173 meaning that on average 11.53 candidates applied for one position. However, in 2008 out of 40 positions, 213 candidates applied; hence, the average number of candidates per position dropped to 5.23 candidates. Given that there is no accurate number of candidates for the positions available in 2009 and 2010, we could not find out if there was an increase or decrease in the number of applicants per judgeship position. In 2011, however, out of 106 positions, the overall number of candidates was 815, leading to an increase in the average number of candidates per position, 7.68. From this evidence available, one can suggest that the number of candidates for the judgeship position proved to have a positive correlation with the salary increase, further supporting the relevance of 'salary matters theory' in Kosovo's context.¹³

The 'substitutes theory', on the other hand, provides a different insight into the impact of the increase in judicial salaries. Assuming that the President of the Republic, with the proposal of the Kosovo Judicial Council, chooses the same class of people for the judgeship position (upholding a merit-based system), irrespective of the composition of the applicants/candidates, then in a supply-driven judicial-job market, increasing the judicial salary has no effect as there will be an equally capable substitute to take the place of another who would not work for a lower wage. In order for this theory to hold, two conditions must be met: first, political institutions should determine judicial selection; and second, the candidates applying for the job should contain near-perfect substitutes (candidates' ability, appeal, and performance are the same).

⁸Baker, S. (2008). "Should We Pay Federal Circuit Judges More". *Boston University Law Review*. Vol. 88. p. 63-112

⁹Watson, R. and Wolfe, M. (2008). "Comparing Judicial Compensation: Apples, Oranges and Cherry Picking". *Duke University- School of Law*. Working paper. Available at: <http://dx.doi.org/10.2139/ssrn.1106244>

¹⁰Baker, S. (2008). "Should We Pay Federal Circuit Judges More". *Boston University Law Review*. Vol. 88. p. 63-112

¹¹ Ibid, pp.74

¹²Marks, S. (2008). "A Comment on the Relationship Between Judicial Salary and Judicial Quality". *Boston University Law Review*. Vol.88. p.843-853.

¹³ Data acquired by Kosovo Judicial Council Secretariat, February and March 2013

When the president selects the person for the bench and the person refuses the job/offer, the next person chosen will then be equally capable in his/her judicial performance. Since the group of candidates applying for the job contains a large number of near-perfect substitutes, the reduction in the number of applications due to low salaries would be insignificant.¹⁴ It is clearly not the case with Kosovo's judicial policy-setting to see the 'substitutes theory' being applied as it is obvious that huge discrepancies in human resource capacities and skilled individuals exist in Kosovo's labour market in this regard.

Various empirical studies have attempted to shed light on the issue of whether or not the increase in judicial salaries improves the judicial performance, which remains a key point for considering Kosovo's weaknesses in this regard. The majority of the studies suggest that the correlation between salary and judicial quality is not strong and/or the increase in judicial salary is generally irrelevant to the performance of the judges. One of the most important and most commonly cited empirical studies is that conducted by Baker (2008), who tried to reply to the statements that low judicial salaries are creating constitutional crisis and attracting low-quality judges. The results of his study suggest that the effect of low judicial salaries on judicial performance almost do not exist: salary increase does not have an effect on voting, citations, or in the opinion quality. Another empirical study conducted in United States by Choi *et al.* (2009) suggests that the correlation between salary and judicial performance/quality is not strong; hence, it is not advisable to use wages as a proxy for quality. One should be careful applying the same policy evidence to Kosovo's context as the pure transitional characteristics that Kosovo faces make it rather different from developed polities, such as those tested by Baker (2008). With this taken into account, in a labour market with huge lack of professional capacities and a huge competition and unemployment, salary caps for judgeship remain a very important point that needs be contextualised into Kosovo's new and strategic reform of the judiciary. However, the Report will examine this issue in the chapters below.

III. A Situational Mapping of the Judicial Salaries vs. General Public sector in Kosovo

Although some studies suggest that salaries do not affect performance, a worldwide debate has still taken place during the last decade in regard to whether or not the judiciary should undergo an increase in salaries in order to perform its obligations and functions accurately and to attract and preserve professional judges in the bench. These studies and theories may not be fully applicable to the Kosovo case since such studies have measured the impact of the increase in salaries of judges in countries where judges' salaries equalled those of other public officials, and essentially went above the high-medium salary of the lawyers' labour market. Thus, in the case of Kosovo, this argument turns out be inappropriate due to inequalities that exist between the salaries of judges and other public officials.¹⁵ A moderate increase in these countries' salaries would not have an impact on the performance of the judges; however, considering the fact that salaries are very low in Kosovo, even a slight increase might have a positive impact on the performance of judges since they would be more incentivised to provide a more accountable work.

¹⁴Baker, S. (2008). "Should We Pay Federal Circuit Judges More". *Boston University Law Review*. Vol. 88. p. 63-112

¹⁵ For further details refer to the following section "Cross-sectorial comparison of salaries in Kosovo"

That said, up until 2011, Kosovo has persistently provided judges with considerably low salaries that were not sufficient neither in terms of supporting their families without the need to find other sources of finance nor in retaining and attracting high quality judges.¹⁶ The salaries of judges were approximately the same with the salaries of prosecutors; however, the salaries of the officials of other government branches, the legislative and executive, were higher than the ones of the judiciary.¹⁷ This inadequate situation threatened the impairment of the quality of judicial function and judges' position in the public-sector labour market.

In the years 2007 and 2008, judges received a monthly base salary, based on a hierarchical coefficient, and an additional amount of 81 Euros, which was allocated to the risk faced for performing their job. As displayed in Table 1, the president of the Supreme Court (coefficient 18) received a monthly salary of 587 Euros and 81 Euros for riskiness, thus amounting to a total of 667 Euros per month. The judges of the Supreme Court (coefficient 16.8) received a total monthly salary of 628 Euros.¹⁸ The presidents of the District Court, High Court for Minor Offences, and Commercial Court (coefficient 15.6) were entitled to a total monthly salary of 589 Euros, whereas the judges of the three aforementioned courts (coefficient 14.4) received a monthly salary of 550 Euros. The presidents (coefficient 13.2) and the judges (coefficient 12) of the Municipal Courts were entitled to a monthly salary of 511 and 472 Euros, respectively. The presidents (coefficient 11.2) and the judges (coefficient 9.6) of the Minor Offences Courts were entitled to a monthly salary of 446 and 393 Euros, respectively.¹⁹ The average monthly salary of the judiciary in the year 2007 and 2008 was in the region of 540 Euros.

Judicial salaries in 2009 experienced a slight base-salary increase of approximately 10%, which continued in the coming year as well. The average monthly salary increased from approximately 540 Euros in the years 2007 and 2008 to 588 Euros in the years 2009 and 2010.²⁰ This moderate increase was not considered sufficient; therefore, the Kosovo Judicial Council underwent a series of attempts to establish practical solutions to the salary increase problem; however, had not been fully successful. A more comprehensive policy on this issue was never devised by the Kosovo Judicial Council or the Kosovo's Assembly.

¹⁶ American Bar Association (ABA) Rule of Law Initiative, 2010. *Judicial Reform Index for Kosovo Vol. IV*. Washington: American Bar Association

¹⁷ American Bar Association (ABA) Rule of Law Initiative, 2007. *Judicial Reform Index for Kosovo Vol. III*. Washington: American Bar Association

¹⁸ All the following (2007 and 2008) total salaries are comprised of the base salary + 81 addition for riskiness

¹⁹Behluli, V. (2012). *Judicial Salaries in Kosovo*. [Interview] December 2012.

²⁰ Refer to table I for further information

Table 1: Judicial salaries for four years (2007–2010)
 Source: Kosovo Judicial Council Secretariat—Budget and Finance Department

Position	2007 and 2008	2009 and 2010 ²¹
	Salary and additions	Salary and additions
President of the Supreme Court	667€	724.5€
Judges of the Supreme Court	628€	681.6€
Presidents of the District and Commercial Court	589€	658.7€
Judges of the District Courts	550€	610.1€
Judges of Commercial Courts	550€	595.8€
Presidents of the Municipal Courts	511€	552.9€
Judges of the Municipal Courts	472€	510€
President of the High Court for Minor Offences	589€	638.7€
Judges of the High Court for Minor Offences	550€	595.8€
Presidents of the Minor Offences Court	446€	481.8€
Judges of the Minor Offences Court	393€	424.2€

However, things began to take a different path when the judicial salaries were increased considerably (on average 98.57%) with the adoption of the new Law on Courts—an increase that became effective on January 1, 2011. The new average monthly salary is approximately 1,165 Euros, with the modifications made with the new Law on Courts displaying a step forward in judges' remuneration position, which is also a good incentive for attracting more qualitative judges to apply for the job. One imperative implication of the salary increase is the indispensable need to equalise the three government branches' salaries, legislative, executive and the judiciary. The new scheme on judicial salaries offered the president of the Supreme Court of Kosovo a salary equivalent to the salary of the Prime Minister, whereas to the judges of the Supreme Court a salary which corresponds to that of the Ministers of the Government.²² The presidents of the District Courts are entitled to a salary that is equal to the salary of the Supreme Court judges, whilst the judges of this Court receive a salary equivalent to 90% of the salary of the president of the District Court. The president of the Municipal Court receives a salary correspondent with those of the judges of the District Court and the judges receive a salary not less than 70% of the

²¹ Total salaries (2009 and 2010) are comprised of the base salary + 81 addition for riskiness

²² For further details about the increase in judicial salaries refer to table 2.

president of the Court. The judges of the Minor Offence Courts receive a salary equivalent with 90% of the Municipal Court.²³

Table 2 provides further information on the judicial salaries for the year 2011 and 2012 after experiencing the increase. With a new scheme on salaries, judges receive only the base salary,²⁴ and therefore are no longer entitled to the additional 81 Euros paid for riskiness prior to the new Law on Courts became effective.

Table 2: Judicial salaries for the year 2011 and 2012 (as with the new Law on Courts)
Source: Author's adaptation based on official data from the Kosovo Judicial Council Secretariat, Budget and Finance Department.

Judicial Salaries for 2011 and 2012		
Position	Salary	% compared to previous years
President of the Supreme Court	1,443€	99.17% ↑
Judges of the Supreme Court	1,271€	86.47% ↑
Presidents of the District and Commercial Court	1,271€	92.95% ↑
Judges of the District Courts	1,144€	87.51% ↑
Judges of Commercial Courts	1,144€	92.01% ↑
Presidents of the Municipal Courts	1,144€	100.90% ↑
Judges of the Municipal Courts	1,030€	101.96% ↑
President of the High Court for Minor Offences	1,271€	98.99% ↑
Judges of the High Court for Minor Offences	1,144€	92.01% ↑
Presidents of the Minor Offences Court	1,030€	113.78% ↑
Judges of the Minor Offences Court	927€	118.52% ↑

From another point of view, it is important to note that candidates selected for judgeship or incumbent judges receive almost no financial compensation for their professional education, nor is there a mechanism implemented that provides in-depth professional education support. One such institute, however, does exist: the Kosovo Judicial Institute; this provides candidates that have been recruited for judgeship with basic education on very basic issues.²⁵ On the other hand,

²³ Law on Courts- Article 29; Similar findings can be found in the following sources -Kosovo Centre for Security Studies, 2011. *Re-Establishment and Reform of The Justice System in Kosovo 1999 – 2011 A Context Analysis*. Prishtinë: Kosovo Centre for Security Studies; and American Bar Association (ABA) Rule of Law Initiative, 2010. *Judicial Reform Index for Kosovo Vol. IV*. Washington: American Bar Association

²⁴Refer to table 2 for further details

²⁵ Rule of Law Initiative American Bar Association (ABA), 2010. *Judicial reform index for Kosovo Vol. IV*. Washington: American Bar Association

there seems to be no fund established to support judges' institutional capacity-building process, wherein judges undertake mandatory education related to the profession on regular basis. Such a gap is absolutely visible in the current salary policy for judges and the judiciary at large. It is also important to note that the current judicial compensation system in Kosovo does not take into account the progressive salary components, such as judges' experience, education, efficiency or workload. It follows a simple model of compensation, comprising direct compensation and an indirect compensation of 20 days' paid annual leave. With regard to pensions, another very important compensation component is the fact that judges, irrespective of their previous workload, achievements or years of service, receive a monthly state pension amount of 80 Euros upon retirement,²⁶ which places them in the same footing as all other retired employees in Kosovo. More importantly, the current compensation policy for judges does not provide or account for any achievement bonuses of any kind, monthly allowances for educational or professional capacity-building, transportation costs, awards for extra efficiency rates, retirement programs, pay-for-performance schemes, health insurance, security for them and their families before and after retirement, or any other benefits that are considered vital for the adequate remuneration and security of the judiciary. In this regard, it is obviously reported that the salary policy for judges in Kosovo is very basic, not progressive, and clearly does not account for a broader policy picture—both before and after retirement. Such a system does not guarantee a sustainable growth of the judiciary, and offers no credible account for Kosovo's judicial development in terms of human resources' motivation, capacity-building and post-retirement securitization.

IV. Cross-sectorial Comparison of Salaries in Kosovo with Judges as One Variable

When providing a cross-sectorial comparison of the salaries in Kosovo, one can observe that more than 50% of the chiefs of Kosovo public institutions receive salaries that are higher than the one of the President of the Supreme Court and its judges. Almost the same observation could be applied for lower institutions compared with lower courts. As an example, the executive directors of Kosovo Pension Saving Trust, Post and Telecommunications of Kosovo and Prishtina International Airport receive salaries that are peculiarly higher than that of the President of the Supreme Court, its judges and lower courts' judges. On the other hand, the judges of the Municipal Court are in the worst position when it comes to salary rates; only the members of the Competition Committee and General Director of Railway Regulatory Authority receive lower salaries than judges of the municipal courts. Compared to this background, the Managing Director of Kosovo Pension Saving Trust receives a salary that is roughly 244% higher than that of the President of the Supreme Court, 291% higher than the salaries of the Supreme Court judges, 334% higher than the judges of the district courts and Commercial Court, and 382% higher than the salary of the municipal courts judges. The Executive Director of Post and Telecommunications of Kosovo is entitled to a salary that is roughly 189% higher than the salary of the President of the Supreme Court, 228% higher than the one of the Supreme Court Judges, 264% higher than the salaries of the judges of district and commercial courts, and 304% higher than the salaries of the municipal courts' judges. The Executive Director of Prishtina International

²⁶Kosovo Agency of Statistics, 2011. *Social Welfare Statistics 2011*. Prishtinë: Kosovo Agency of Statistics

Airport receives a monthly salary that is approximately 109% higher than the salary of the President of the Supreme Court, 137% higher than those of the Supreme Court Judges, 164% higher than the salaries of the judges of district and commercial courts, and 193% higher than the salaries of the municipal court judges. Moreover, if we compare the riskiness of the function, one can conclude that judges are far poorly remunerated in comparison with the risks they face to perform their job.²⁷

Table 3: Cross Sectorial Comparison of Salaries in Kosovo
Source: Authors' adaptations based on data from Anti-corruption Agency- Declaration of Assets

Institutions and positions	Salaries ²⁸ at the institutional level	Salaries of judges and their respective salary percentage differences compared to other institutions				
		President of the Supreme Court	Judges of the Supreme Court	Judge of the District Court	Judge of the Commercial Court	Judge of the Municipal Court
↓	↓	1,443	1,271	1,144	1,144	1,030
Director of Anti-corruption Agency	1,633	13.16% ↑	28.48% ↑	42.74% ↑	42.74% ↑	58.54% ↑
Head of the Board of Telecommunication Regulatory Authority	1,550	7.41% ↑	21.95% ↑	35.48% ↑	35.48% ↑	50.48% ↑
Managing Director of Kosovo Pension Saving Trust	4,970	244.42% ↑	291.03% ↑	334.44% ↑	334.44% ↑	382.52% ↑
Committee member of the Competition Committee	890	62.13% ↓	42.80% ↓	28.53% ↓	28.53% ↓	15.73% ↓
Board Director of the Energy Regulatory Office	2,194	52.04% ↑	72.61% ↑	91.78% ↑	91.78% ↑	113.01% ↑
Director of Kosovo Intelligence Agency	1,270	13.62% ↓	0.07% ↓	11.01% ↑	11.01% ↑	23.30% ↑
Director of Water and Wastewater Regulatory Office	1,350	6.88% ↓	6.22% ↑	18.01% ↑	18.01% ↑	31.07% ↑
General Director of Railway Regulatory Authority	931	54.99% ↓	36.51% ↓	22.87% ↓	22.87% ↓	10.63% ↓
Executive Director of Prishtina International Airport	3,015	108.93% ↑	137.21% ↑	163.55% ↑	163.55% ↑	192.72% ↑
Managing Director of Kosovo Energy Corporation	2,800	94.04% ↑	120.30% ↑	144.75% ↑	144.75% ↑	171.84% ↑
Executive Director of Termokos	1,100	31.18% ↓	15.54% ↓	4.00% ↓	4.00% ↓	6.79% ↑

²⁷ For detailed information refer to table 3

²⁸ All salaries are expressed in Euros

Executive Director of Post and Telecommunications of Kosovo	4,166	188.70%↑	227.77% ↑	264.16%↑	264.16%↑	304.46%↑
---	-------	----------	-----------	----------	----------	----------

A further comparison of the three branches of government is provided in Table 4 and Table 5 below. The tables suggest that the high-level judiciary is in the same footing with the executive branch regarding salaries;²⁹ however, when compared to the legislative branch, the judiciary besides receiving lower wages is also not entitled to other compensations.³⁰ As Table 5 demonstrates, MPs' salaries are 3.11% higher than that of the President of Supreme Court and 17.07% higher than the latter's judges, not making this comparison at all with lower courts' judges. MPs, following the expiration of their mandate, are entitled by law to a transitional salary of up to 12 months until they begin to receive financial income or pension; judges are not entitled to such compensation. MPs are also eligible to extra compensation for attending parliamentary hearings and meetings, whereas judges are not. MPs also receive a monthly expense allowance related to the work on the Assembly, whereas judges do not. Last but not least, judges of all courts are entitled to an 80 Euro state pension following retirement, whereas MPs who serve for one term receive a pension equal to 50% of their base-parliamentary salary, those who serve two terms are entitled to a pension equivalent to 60% of their base-parliamentary salary, and those serving for three terms are eligible for a pension equal to 70% of their base-parliamentary salary.

It is therefore clearly submitted that judicial salaries have far lower bases than most of those high-ranked officials from other independent and regulatory institutions. On the other hand, a clear misbalance between salary policy for legislators and judges is obvious, with judges having almost no additional compensation beyond the base salary. Building upon this, a cross-sectorial analysis of public salaries reveals a significant discrepancy between senior public authorities, adding that judges remain the least served with a suitable salary policy, although the nature of the judicial function embodies several types of risk and public responsibility that are more important than most of other public jobs explained in the table.

Table 4: Comparison of the salary rates³¹ between the Executive and the Judiciary
Source: Author's adaptation based on data from Anti-corruption Agency, Declaration of Assets Database.

Executive		Judiciary	
Prime Minister	Ministers	President of the Supreme Court	Judge of Supreme Court
1,443	1,271	1,443	1,271
The new Law on salaries effective January 1, 2011 put the executive and judiciary branch of government on the same footing regarding the salaries.			

²⁹ Refer to table 4 for further details

³⁰ Refer to table 5 for further details

³¹ All salaries are expressed in Euros

Table 5: Comparison of salaries between the Judiciary and Legislative
 Source: Author's adaptation based on data from the Anti-corruption Agency, Declaration of Assets Database and Law No. 03/L-111 of the Republic of Kosovo.

Position	Salaries ³²	Transitional salary	Compensation for hearings/meetings	Monthly expense allowance	Pensions
President of the Supreme Court	1,443	No	No	No	Yes (80 Euros after retirement)
Judge of the Supreme Court	1,271	No	No	No	Yes (80 Euros after retirement)
MPs	1,488	Yes (for 12 months after the end of their term)	Yes	Yes	Yes (MPS serving One term=50% base salary; Two terms= 60% base salary; and Three terms=70% base salary)

V. Comparison of Judicial Salary Rates of Kosovo with Albania, Macedonia, Montenegro, and Serbia

In order to achieve a more thorough understanding of the comparative salary policy in the judicial sector in other states in the region, it is important to provide a comparison of the judicial salaries between Kosovo and various other countries in the Balkans. This type of analysis reveals whether or not Kosovo stands at least in the average regional lines of compensation policy for the judicial sector. In Albania, the average monthly judicial salary in 2007 for the High Court was 163,025 ALL (Albanian LEK) or approximately 1,160 Euros,³³ whereas the salary for Serious Crimes Appellate Court was 122,107 ALL or roughly 870 Euros. The Appellate Court received an average monthly salary of 113,967 ALL, roughly 810 Euros. The Serious Crimes Court and district courts received an average monthly salary of 97,686 ALL or nearly 700 Euros and 81,405 ALL or 580 Euros, respectively. However, in 2008, when compared with the previous year, all courts experienced a modest increase in salary from 2007, namely High Court 2.2%, Serious Crimes Appellate Court 2.4%, Appellate Courts and Serious Crimes Court 2.3%, and District Courts 2.0%. Aside from the Serious Crime Court judges who are awarded with one additional monthly salary, other judges, just like in Kosovo, do not receive any additional benefits.³⁴ Moreover, newly recruited judges in 2009 received only a salary of 85,000 ALL, approximately 600 Euros. However, this salary increases with years' experience: after five years working in the court, the salary increases by 2% per year, whilst after ten years' experience, the salary becomes 93,500 ALL, roughly 670 Euros. The judges of Court of Appeal received a salary that was 20% higher than those of the judges of first instance, whereas the Supreme Court judges received a salary of

³² All salaries are expressed in Euros

³³ There might be slight changes in salaries (Euros) due to the currency exchange

³⁴ American Bar Association (ABA) Rule of Law Initiative, 2008. *Judicial Reform Index for Albania. Vol. IV.* Washington: American Bar Association

170.000 ALL or nearly 1220 Euros.³⁵ The latest data on judicial salaries for Albania (2010) suggest that the gross annual salary of a judge of the Supreme Court or the Highest Appellate Court was 14,700 Euros or approximately 1,225 Euros monthly, and the gross annual salary of the first instance professional judge was 7,350 Euros, roughly equating to 612 Euros monthly.³⁶ In 2009, at the beginning of their careers Serbia's judges were entitled to a monthly salary of 860 Euros, which would increase at an annual rate of 4%. This, in turn, means that after ten years' experience, the monthly salary of the municipal judges becomes 895 Euros. Judges in the district court position received a salary equal to 935 Euros per month.³⁷ Serbia, in 2010, provided its first-instance professional judges with an annual gross salary of 13,595 Euros per annum or 1,130 Euros per month, whereas the judges of the Supreme Court or the Highest Appellate Court with 22,514 Euros per annum or roughly 1,870 euros per month.³⁸

Macedonian judges are remunerated based on the type of the court, court division, experience, and performance of the judges, amongst others.³⁹ With the adoption of the new Law on the Salaries of Judges in late-2007, the salaries of judges increased annually by 10% for the period 2007–2009. The highest salary—that of the President of the Supreme Court—amounted to 53,960 MKD or almost 880 Euros, whereas the lowest salary was 40,835 MKD (Macedonian Denar), roughly equating to 670 Euros. Contrary to the case of Kosovo, Macedonia provides its judges with many additional benefits, such as transportation (to and from work), food allowance equal to 25% of the country's average monthly salary in the last three months, per diem and hotel costs for national and international official trips, reimbursement for the use of private vehicles for work purposes, and retirement payment equal to two average monthly salaries paid in the last three months in the country. In addition, after ten, twenty, and thirty years' experience, judges receive an award equal to one, two and three monthly salaries, respectively.⁴⁰ In 2009, judicial salaries experienced a further increase compared to those of 2008, where the judge of the basic court received a salary equal to 84,000 MKD or roughly 1,368 Euros (the lowest salary), whilst the President of the Supreme Court received a salary of 109,316 MKD, equating to almost 1,780 Euros (the highest salary). The judgeship position was considered far more competitive due to the salary increase.⁴¹ The latest data (2010) on salaries of Macedonian judges suggest that the annual gross salary of a judge of the Supreme Court and first instance professional judge were 21,211 Euros or approximately 1,780 Euros monthly and 17,219 Euros or roughly 1430 Euros monthly, respectively.⁴²

³⁵Support for Improvement in Governance and Management (SIGMA), 2009. *Albania Public Integrity System Assessment 2009*. Albania: Support for Improvement in Governance and Management

³⁶European Commission for the Efficiency of Justice (CEPEJ), 2012. *European judicial systems Edition 2012 (2010 data): Efficiency and quality of justice An overview*. Vienna: European Commission for the Efficiency of Justice

³⁷Support for Improvement in Governance and Management (SIGMA), 2009. *Serbia Public Integrity System Assessment 2009*. Serbia: Support for Improvement in Governance and Management

³⁸European Commission for the Efficiency of Justice (CEPEJ), 2012. *European judicial systems Edition 2012 (2010 data): Efficiency and quality of justice An overview*. Vienna: European Commission for the Efficiency of Justice

³⁹Organization for Security and Co-operation in Europe (OSCE), 2009. *Legal Analysis: Independence of the Judiciary*. Skopje: Organization for Security and Co-operation in Europe

⁴⁰Support for Improvement in Governance and Management (SIGMA), 2008. *Former Yugoslav Republic of Macedonia Public Integrity System Assessment 2008*. Macedonia: Support for Improvement in Governance and Management

⁴¹Support for Improvement in Governance and Management (SIGMA), 2009. *Former Yugoslav Republic of Macedonia Public Integrity System Assessment 2009*. Macedonia: Support for Improvement in Governance and Management

⁴²European Commission for the Efficiency of Justice (CEPEJ), 2012. *European judicial systems Edition 2012 (2010 data): Efficiency and quality of justice An overview*. Vienna: European Commission for the Efficiency of Justice

Montenegro remunerates its judges according to the Law on Earning and other Income based on their functions and years' experience. The highest judicial base salary is that of the President of the Supreme Court, whilst the lowest judicial salary grade is that of a judge of a basic court. The lowest salary given to the judges of Montenegro is 975 Euros monthly. Salaries are increased based on years' experience, i.e. for 10, 10–20, and 20–30 years' experience there is an annual increase in salary by 0.5%, 0.75% and 1%, respectively. Alongside the salary, other benefits are provided to the judiciary, such as meals during work days, compensation for up to three basic monthly salaries for housing rental, and life insurance, amongst others.⁴³ The latest data (2010) on salaries about Montenegro suggest that the gross annual salary of a Supreme Court judge or the Highest Appellate Court was 32,202 Euros or approximately 2,680 Euros monthly, whereas the gross annual salary of a first instance professional judge was 24,142 Euros or approximately 2,010 Euros monthly.⁴⁴

The above-mentioned data, also provided in the table below, demonstrate that each of the aforementioned countries provides higher base and cap salaries for the judicial sector, along with many additional benefits to judges; judges of Kosovo, on the other hand, remain comparatively poorly remunerated and are not entitled to any additional benefits. Also, considering the fact that high inflation indicates a decline in the value of money (purchasing power decreases), from the data on CPI provided in Table 6, one can notice that, despite providing lower salary base and ceiling rates for its judges in comparison with other countries in the region, Kosovo has a CPI that is higher than that of Albania and Macedonia. Notably, only Montenegro and Serbia have a higher CPI than Kosovo.⁴⁵

⁴³ Support for Improvement in Governance and Management (SIGMA), 2009. *Montenegro Public Integrity System Assessment 2009*. Montenegro: Support for Improvement in Governance and Management

⁴⁴European Commission for the Efficiency of Justice (CEPEJ), 2012. *European judicial systems Edition 2012 (2010 data): Efficiency and quality of justice An overview*. Vienna: European Commission for the Efficiency of Justice

⁴⁵Refer to table 6 for further details about nominal and real salaries of each country and their respective CPI

Table 6: A comparison of judicial (nominal/real) salaries between countries (in Euro)
 Source: Authors' adaptations based on the data from the World Bank database; CEPEJ 2010; CEPEJ 2012;
 SIGMA 2008; SIGMA 2009; Kosovo Judicial Council Secretariat- Budget and Finance Department

COUNTRY/YEAR		2007		2008		2009		2010		2011	
KOSOVO	CPI	105.0		114.8		112.1		116.0		124.5	
	Salaries→	Nom	Real	Nom	Real	Nom	Real	Nom	Real	Nom	Real
	1 st Instance Judge	393	355.65	393	352.78	424.2	381.44	424.2	380.10	927	824.36
	Supreme Court Judge	628	568.32	628	563.32	681.6	612.89	681.6	610.75	1,271	1130.28
ALBANIA	CPI	105.4		108.9		111.4		115.4		119.3	
	Salaries→	Nom	Real	Nom	Real	Nom	Real	Nom	Real	Nom	Real
	1 st Instance Judge	580	524.69	590/	532.05	600	539.85	612	548.68	.*	-
	Supreme Court Judge	1,160	1049.39	1,190	1073.13	1,220	1097.71	1,225	1098.26	-	-
FYROM	CPI	119.7		115.2		113.4		114.3		105.5	
	Salaries→	Nom	Real	Nom	Real	Nom	Real	Nom	Real	Nom	Real
	1 st Instance Judge	-	-	670/	600.78	1,368	1228.66	1430	1283.31	-	-
	Supreme Court Judge	-	-	-	-	-	-	1,780	1597.41	-	-
MONTENEGRO	CPI	107.4		116.8		120.9		121.6		125.5	
	Salaries→	Nom	Real	Nom	Real	Nom	Real	Nom	Real	Nom	Real
	1 st Instance Judge	-	-	975	873.03	-	-	2,010	1792.08	-	-
	Supreme Court Judge	-	-	-	-	-	-	2,680	2389.44	-	-
SERBIA	CPI	118.9		133.6		144.5		153.3		170.4	
	Salaries→	Nom	Real	Nom	Real	Nom	Real	Nom	Real	Nom	Real
	1 st Instance Judge	-	-	-	-	860	751.41	1,130	979.79	-	-
	Supreme Court Judge	-	-	-	-	-	-	1,870	1621.43	-	-
*Note: No data found											

Moreover, Table 7 provides a comparison between the salaries of judges and average salary in Kosovo and other countries in an attempt to examine whether judges are paid more than the average salary in each country. The average gross salary in Kosovo in 2010 was 340 Euros; the lowest judicial salary was 424.2 Euros, and the highest judicial salary was 681.6 Euros. With this noted, 1st-instance-judge salary was roughly 25% higher than the average salary, whereas Supreme Court judges' salary was approximately 100% higher than the average salary in Kosovo in 2010. In Albania, on the other hand, the average salary in 2010 was 335 Euros, whilst the lowest and highest salaries of the judiciary were 82.68% and 265.67% higher than the average gross salary in Albania. Macedonia had the highest average gross salary in the region; at the same time, however, it also had the highest judicial salaries. The lowest and highest judicial salaries were 181.11% and 274.82% higher than the average salary in Montenegro. Macedonia's average gross salary was 516 Euros, meaning that the lowest rank in the judiciary received a 177.13% higher salary than the average salary, whereas the highest judicial rank was entitled to a salary that was 244.96% higher than the average salary. Lastly, Serbia's monthly average gross salary was 425 Euros. With this noted, 1st-instance judges received a salary which was 165.88% higher than the average salary whilst the Supreme Court judge has a salary, which was 340% higher than the average salary in Serbia in 2010.

Table 7: Monthly Average Gross Salary and Judges' Salaries in 2010⁴⁶

Source: Author's adaption based on the data from Kosovo Agency of Statistics; Statistical Institute of Albania; State Statistical Office Republic of Macedonia; Statistical Office of Montenegro; National Bank of Serbia

Country	Monthly Average Gross Salary	1 st Instance Judge salary	Higher/lower than Average salary	Supreme Court Judge	Higher/lower than Average salary
Kosovo	340 ⁴⁷	424.2	24.76% ↑	681.6	100.47% ↑
Albania	335	612	82.68% ↑	1,225	265.67% ↑
Montenegro	715	2,010	181.11% ↑	2,680	274.82% ↑
Macedonia	516	1430	177.13% ↑	1,780	244.96% ↑
Serbia	425	1,130	165.88% ↑	1,870	340% ↑

VI. Performance Assessment Methodology Compared to Salary Rates and Results

Considering the fact that there is a lack of data surrounding the judiciary in Kosovo, this Policy Report focuses only on statistical data on judicial cases which were accessible in the reports prepared by the Statistical Department of the Kosovo Judicial Council (KJC). These reports contain specific data for each court, including the total number of cases, inherited and new cases brought up during the year, and cases completed and uncompleted during the reporting year,

⁴⁶There might be slight changes in salaries (Euros) due to the currency exchange

⁴⁷ Net salary in Kosovo in 2010 was 310 Euros; therefore, we have performed calculations which led to this gross amount

amongst others. This type of analysis will shed light on the question or whether the increase of salary rates in the judicial sector improves judicial performance and case efficiency.

The clearance rate was calculated by dividing the number of cases completed by the number of new cases received and multiplying the result by 100. This rate illustrates court's efficiency in handling cases during the six-year period (2007–2012),⁴⁸ compared with the context of salary hikes during the same periods.

$$\text{Clearance rate} = (\text{Completed cases/new cases received}) * 100$$

A clearance rate of less than 100% suggests that judges solve fewer cases than received during the same year, meaning that there is an increase in the number of unresolved cases. A rate of 100% means that judges are able to solve all cases filed during the reporting period; hence, there is no increase in the backlogs. Finally, a clearance rate of more than 100% indicates that judges are able to solve more cases than received, thus leading to a decrease in the number of unsolved cases from previous years.⁴⁹ The clearance rate is then tested against salary hikes during the same periods. This type of case-data analysis reveals whether the judicial sector performance is conditioned by the salary level, and whether an increase in the salary level would seem likely to increase judicial performance in Kosovo.

The results from the calculations provided in detail in Table 8 and Table 9 suggest that, in 2007, the Supreme Court had a clearance rate of 100.37, which therefore points towards the ability of the court to solve more cases than received during the same year, thus reducing slightly the backlogs inherited from the previous years. In 2008, the same court experienced a clearance rate of 113.22%, roughly 13% higher than in 2007, with the same number of judges but with a decrease of roughly 14% in the total number of cases submitted. However, the efficiency of the court slightly dropped in 2009, thus leading towards an increase in the backlogs by 3.83%, and also in 2010 it experienced a drop in the efficiency by 10 percentage points, increasing the number of unresolved cases at the end of the reporting period by 17.94 %. In 2011, when the judges experienced a considerable salary hike, although the total number of cases increased by roughly 16%, the efficiency increased by 1%. The increase in efficiency continued to boost in 2012 by approximately 12% from 2011. More precisely, the number of unresolved cases by the end of the reporting period increased steadily.

The Commercial Court in 2007 had an efficiency (clearance) rate of 107.44%, decreasing the number of unresolved cases inherited from the previous years. Conversely, in the following year, the efficiency dropped by more than 50 percentage points, leading to an increase in the backlogs by roughly 126%. As illustrated in the report, 2009 and 2010 experienced a slight increase in efficiency, leading to a slower increase in the number of backlogs. In 2011, the number of backlogs increased further due to a decrease in the efficiency rate of judges (57.33%), which was accompanied by a slight increase in the efficiency in the following year.

The district courts at the outset experienced an efficiency of more than 100%; in turn, this helped out in terms of reducing the number of unresolved cases inherited from previous years. In the three following years, the efficiency dropped whereas the highest efficiency rate

⁴⁸European Commission for the Efficiency of Justice (CEPEJ), 2010. *European judicial systems Edition 2010 (2008 data): Efficiency and quality of justice*. France: European Commission for the Efficiency of Justice

⁴⁹*ibid*, pp.135

from the three years was in 2009. Moreover, in 2011, when the salaries increased considerably, district courts experienced an increase in clearance rate by approximately 10 percentage points or 12.41%—even though the total number of cases increased by roughly 10%. With that said, the boost points towards a slower increase in the number of backlogs. The following year was accompanied by a slight increase in efficiency.

With regard to the municipal courts, the efficiency rate in 2007 was 91.58%. On the other hand, in 2008, the number of judges decreased by roughly 3.5% and the number of total cases increased by approximately 20%, whilst the efficiency dropped by roughly 2%. However, in the four coming years, judges' efficiency increased year by year, where the peak was achieved last year (2012 at 98.83%). In 2009, the total number of cases increased by roughly 23%, and the efficiency also increased by approximately 3%. However, in 2011, although efficiency increased by 4%, the number of cases decreased by 48%. This suggests that, as the years passed, the number of unresolved cases experienced an increase but at a slower pace. In the year 2012 the efficiency rate of these courts reached its peak at 103.27%, thus leading to a decrease in the number of backlogs mainly owing to the increase in the number of judges by 40%.⁵⁰

Overall, in 2008, one year before the slight increase in salaries, the efficiency rate dropped, and simultaneously there was a further increase in the number of backlogs. When the judiciary experienced the first increase of salaries in 2009, the efficiency rate increased by roughly 4%, and at the same time the total number of cases increased by roughly 21%. Regarding the number of backlogs, one can conclude that it dropped by 5 percentage points, leading to a more efficient judiciary. With the adoption of the new Law on Courts, which considerably increased the salaries of judges, the courts overall experienced an efficiency rate of 95.85% or an increase by roughly 3% compared with previous years. Moreover, the total number of cases increased by 44% and the increase in the number of unsolved cases at the end of the reporting period dropped from 10.17 in 2010 to 1.71 in 2011. In 2012, the efficiency (clearance) rate was 101.42% which was the highest in six years. This, in turn, means that the increase in backlogs dropped as well.

The aforementioned results generally suggest that, based on the clearance rate, which is known to measure the efficiency of judges, the highest efficiency rate of courts in total improved considerably, especially in 2009, 2011, and 2012, wherein the remuneration policy improved significantly. Having considered this, however, one can argue that there is a positive relationship between the salary and judicial performance, with the salary hikes playing a core function in increasing the judicial performance and effectiveness. The chart below shows the trend of the efficiency of courts during a six-year period.

Therefore, as the evidence suggests, there is a clear positive correlation between the salary cap policy and judicial performance in Kosovo, with salaries being one of the core indicators and incentives in terms of preconditioning the judicial performance. This evidenced, the salary matters theory clearly plays a key role in explaining Kosovo's judicial performance and judges' motive to an accountable judicial system. This theoretical approach, although applied very narrowly in the case of Kosovo, shows that judges in the country seem to be preconditioned by the salary rates in terms of their functional performance. This being the evidence and theoretical explanation of the judicial sector in Kosovo, the core conclusion is that the need to increase judicial salaries in Kosovo—to at least balance them with the core public sectors—seems

⁵⁰ For further information refer to table 8 and 9. Also, in the municipal courts, from the uncompleted cases in 2007, 2217 of them were transferred. .

the most relevant policy input that could make Kosovo's rule-of-law environment more responsible to judicial performance and accountability.

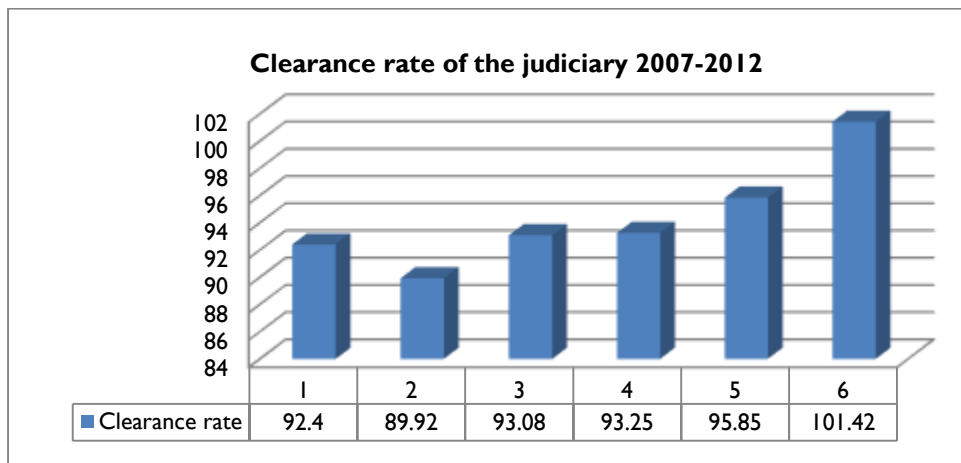


Table 8: Court cases for the years 2007, 2008, and 2009

Year	Cases	Courts				
		Supreme Court	Commercial Court	District Court	Municipal Court	TOTAL
2007	Total No. of Cases 2007	7727	1527	28962	385124	423340
	Inherited cases from 2006	2907	653	12343	135245	151148
	New cases received	4820	874	16619	249879	272192
	Completed cases	4838	939	16901	228841	251519
	Uncompleted cases	2889	588	12061	154066	169604
	Clearance rate	100.37	107.44	101.70	91.58	92.40
	% Increase/Decrease of backlogs	-0.62	-9.95	-2.28	13.92	12.21
2008	Total No. of Cases 2008	6595	2072	20356	460433	489456
	Inherited cases from 2007	2889	588	8993	150595	163065
	New cases received	3706	1484	11363	309838	326391
	Completed cases	4196	743	10003	278546	293488
	Uncompleted cases	2399	1329	10353	181887	195968
	Clearance rate	113.22	50.07	88.03	89.90	89.92
	% Increase/Decrease of backlogs	-16.92	126.02	15.12	20.78	20.18
2009	Total No. of Cases 2009	5693	2392	19643	565561	593289
	Inherited cases from 2008	2399	1329	8754	173280	185762
	New cases received	3294	1063	10889	392281	407527
	Completed cases	3202	851	10456	364813	379322
	Uncompleted cases	2491	1541	9187	200748	213967
	Clearance rate	97.21	80.06	96.02	93.00	93.08
	% Increase/Decrease of backlogs	3.83	15.95	4.95	15.85	15.18

Table 9: Court cases for the years 2010, 2011, and 2012

Source: Authors' adaptations based on data from the Kosovo Judicial Council Secretariat- Statistics Department

Year	Cases	Courts				
		Supreme Court	Commercial Court	District Court	Municipal Court	TOTAL
2010	Total No. of Cases 2010	6017	2795	19644	507835	536291
	Inherited cases from 2009	2491	1541	9187	200748	213967
	New cases received	3526	1254	10457	307087	322324
	Completed cases	3079	848	8890	287743	300560
	Uncompleted cases	2938	1947	10754	220092	235731
	Clearance rate	87.32	67.62	85.01	93.70	93.25
	% Increase/Decrease of backlogs	17.94	26.35	17.06	9.64	10.17
2011	Total No. of Cases 2011	7033	3175	21693	263941	295842
	Inherited cases from 2010	2938	1947	9908	194655	209448
	New cases received	4095	1228	11785	69286	86394
	Completed cases	3611	704	11262	67228	82805
	Uncompleted cases	3422	2471	10431	196713	213037
	Clearance rate	88.18	57.33	95.56	97.03	95.85
	% Increase/Decrease of backlogs	16.47	26.91	5.28	1.06	1.71
2012 ⁵¹	Total No. of Cases 2012	8116	4124	22928	267313	302481
	Inherited cases from 2011	3422	2471	10376	194470	210739
	New cases received	4694	1653	12552	72843	91742
	Completed cases	4666	958	12195	75227	93046
	Uncompleted cases	3450	3166	10733	192086	209435
	Clearance rate	99.40	57.96	97.16	103.27	101.42
	% Increase/Decrease of backlogs	0.82	28.13	3.44	-1.23	-0.62

⁵¹ In 2012 the Special Chamber of Supreme Court was included in the statistical report which (when included) changes/modifies the clearance rate from 101.42% to 98.03%. It also affects the increase/decrease of backlogs from -0.62 to 0.87

VII. Policy Recommendations

1. As noted above, judges in Kosovo are entitled to a fixed salary per month regardless of their efficiency and/or performance at-large; their salaries are generally with a lower salary base than the ones of other Kosovan institutions provided in Section IV. Therefore, the need to at least balance the judicial salaries with the core public sector, including an addition for the risk-attribute of the judicial function, is of immediate concern. This Report therefore recommends increasing both the base of judicial salaries and adding to that several other components that make the salary also progressive beyond its base. This form of compensation encompasses a guaranteed wage, up to a certain minimum-level of output, plus additional compensation for increased output of judges (piece-rate system). In other words, judges would be entitled to a fixed compensation and additional compensation for performance that produces increased output both in terms of quality and quantity. The introduction of this new scheme of compensation would set out two types of effects: the incentive and the sorting effect. Output increases when high-ability judges put more effort to remain at the piece-rate compensation which emphasises the incentive effect. The ability of the low-quality judges does not decrease and the ability of highest-quality judges increases, leading to an increase in the average ability of the judicial work force; therefore, the switch of compensation improves retention and recruitment of high quality workers which stresses the sorting effect. In turn, low-ability judicial employees may increase their output since the output of high quality judges increases considerably and they may feel obliged to increase their output in order to avoid disutility from being considered low ability judges.
2. Given that judges are entitled only to an 80 Euro state pension after retirement, this is not considered appropriate given the risks involved with their function. Henceforth, the Law on Pensions should regulate the pension scheme for the judiciary employees with a certain degree of distinction. This Report recommends that judges should be entitled to pensions along these lines: judges who have been on the bench for up to ten years should be entitled to a pension equal to fifty per cent (50%) of their base salary after retirement; judges who had up to twenty years' experience should be entitled to a pension equivalent to sixty percent (60%) of their base salary; and judges with up to thirty or more years' experience should be provided with a state-pension equal to seventy percent (70%) of their base salary. Moreover, judges who are injured during the exercise of their duties—with such injury having caused them the inability to work—should be entitled to supplementary pension of seventy per cent (70%) of their base salary. This, in turn, would put judges and MPs on the same footing with regard to state-pension policy.
3. Since the new Law on Courts provides judges only with a fixed monthly salary, it is of crucial importance to provide judges with additional benefits. At least the following salary-related benefits should be covered normally within the judicial compensation: transportation costs to and from work; meals during work days; reimbursement for using private vehicles for work purposes and injury-due-to-function insurance (since they are more prone to function-based risks).
4. As evidenced by this Policy Report, the current salary policy is not progressive and does not take into account additional benefits for those performing better. Therefore, it is highly important that judges are incentivised with additional salary bonuses for their performance beyond the general average. The additional benefits for increased performance, that would make the judicial salary policy progressive in nature, should be

quantified with the following criteria: clearance rate, professional quality of rulings and adjudication and professional capacity-building, and education throughout the year.

5. The Kosovo Judicial Council should initiate the implementation of a strategy that addresses all security concerns of judges having faced a risky environment of work before retirement, and their families at home and other off-site places. This should include protection for judges and their family members during their travel destinations and at home, including trainings on close safety and security protection.
6. A financial plan should be developed in order to allow judges to receive annual rates of financial packages for professional capacity-building and education within and outside of Kosovo, with a clearly quantifiable matrix that measures the yearly increase in judges' skills and capacities for the judicial function.

Table 10: Visual Presentation of the payment system of the Judiciary in Kosovo

Payment System →	Salary ↓	Pension ↓	Other benefits ↓
How it is! →	Fixed (Base) salary	80€ per month	-
How it should be! →	<p>Piece- rate System</p> <p>=</p> <p>Higher guaranteed base salary</p> <p>+</p> <p>Additional compensation for increased output.</p>	<p>Three lines of pensions</p> <p>1. 10 years of experience = 50% of the base salary</p> <p>2. 20 years of experience = 60% of the base salary</p> <p>3. 30 or more years of experience = 70% of the base salary</p>	<ul style="list-style-type: none"> - Transportation costs - Meals during work days - Reimbursement for using private vehicles for work purposes - Injury-due-to-function insurance - Additional benefits (bonuses) for increased performance - Packages for professional capacity-building and education within and outside Kosovo

POLICY REPORTS

Policy Reports are lengthy papers which provide a tool/forum for the thorough and systematic analysis of important policy issues, designed to offer well informed scientific and policy-based solutions for significant public policy problems. In general, Policy Reports aim to present value-oriented arguments, propose specific solutions in public policy – whereby influencing the policy debate on a particular issue – through the use of evidence as a means to push forward the comprehensive and consistent arguments of our organization. In particular, they identify key policy issues through reliable methodology which helps explore the implications on the design/structure of a policy. Policy Reports are very analytical in nature; hence, they not only offer facts or provide a description of events but also evaluate policies to develop questions for analysis, to provide arguments in response to certain policy implications and to offer policy choices/solutions in a more comprehensive perspective. Policy Reports serve as a tool for influencing decision-making and calling to action the concerned groups/stakeholders.