

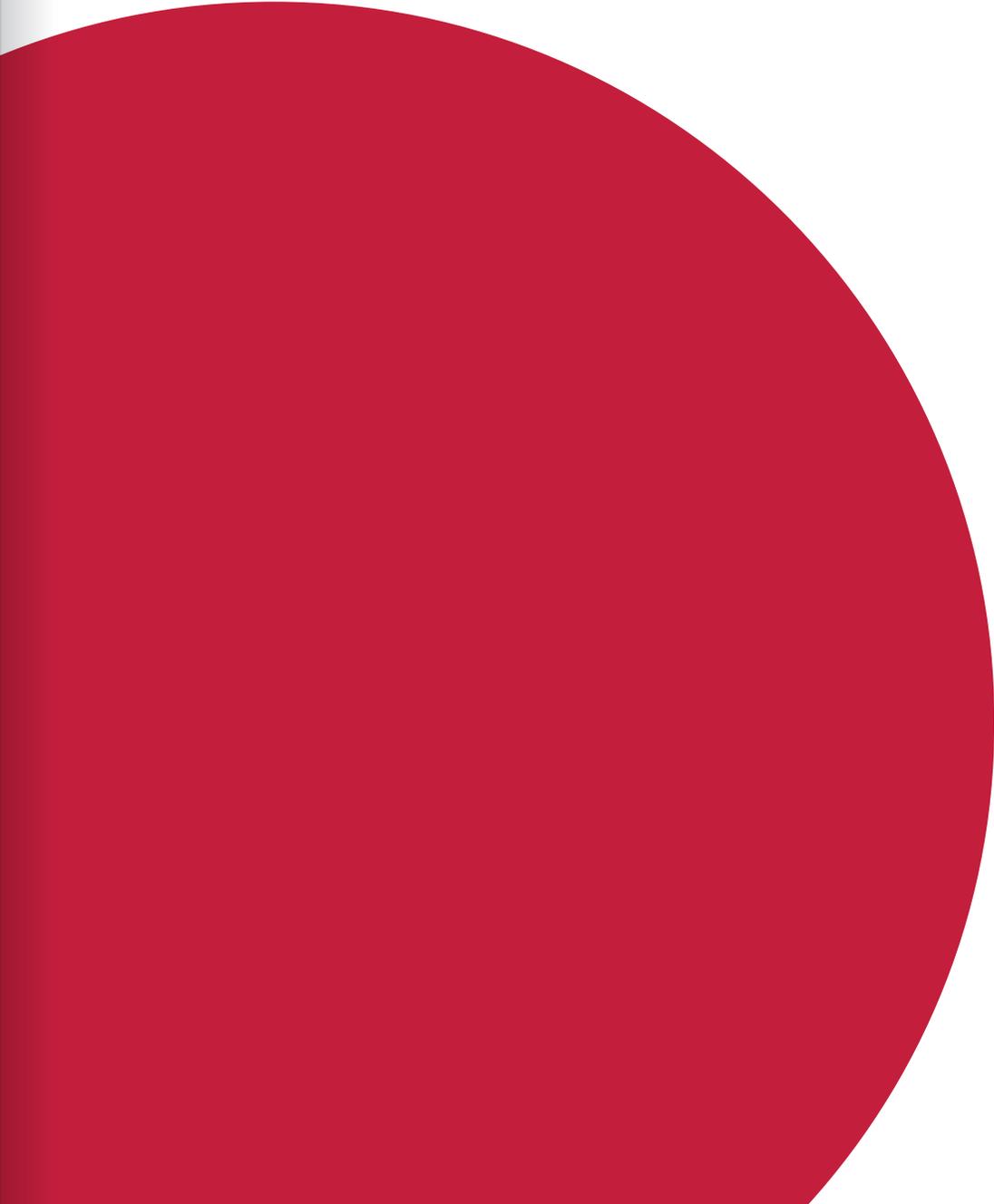


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**JUSTICE SYSTEM
STRENGTHENING PROGRAM**
MONITORING THE PUBLICATION
OF JUDGMENTS



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STRENGTHENING PROGRAM**
MONITORING THE PUBLICATION OF
JUDGMENTS

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EXECUTIVE SUMMARY

The FOL Movement, in partnership with BIRN Kosovo, and with the support of USAID's Justice System Strengthening Program (JSSP), is implementing the "Demanding Transparency in Kosovo's Judicial System" project. Through this project, FOL and BIRN aim to improve efficiency, transparency, accountability, and public trust in the Kosovo judicial system.

The "Monitoring of Publication of Judgments" report includes findings from monitoring the publication of judgments on the Kosovo Judicial Council website from May 1 to November 15, 2019.

Publishing judgments directly helps increase citizens' trust in the judicial system, limits arbitrariness, and encourages all parties, including judges, to argue cases in the best possible manner. The process also benefits students and researchers, as it helps them to better understand the judicial decision-making by studying specific cases and increasing legal certainty by allowing familiarization with the manner in which courts act in cases with the same characteristics as interested parties.

The purpose of this report is to assess whether legal obligations regarding the publication of judgments are being met by courts of all levels. It contains data showing the total number of judgments published by courts in Kosovo, identifies problems and challenges in the publication of judgments, and provides a list of recommendations for actions to be taken by judicial bodies in order to improve the publication process.

By publishing various categories of data in relation to the judgement publication process, the report also aims to improve transparency and widen access to information that enables citizens and other interested parties to better understand the nature of the courts' decision-making.

As a first step, monitors assessed the level of compliance of published judgments with the specific requirements of the Law on Courts¹, the Administrative Instruction on Anonymization and the Publication of Final Court Judgments², as well as the Decision on the Standardization of Judgments Forms³.

Secondly, monitors followed and collected data on the number of judgments published, as well as the nature of the process. Since the beginning of monitoring, we have noticed an ongoing increase in the publication of judgments by the seven Basic Courts (and their branches), the Court of Appeals and the Supreme Court. With regards to the latter, the following findings reflect some of the general characteristics of this process..

- During the reporting period, from May 1 to November 15, 2019, the courts published 6,611 judgments, or around 1,000 judgments per month. This is a huge increase when compared to the period between January 2016 and April 2019, during which the courts published a total of 10,091 judgments in the course of three years, or around 250 judgments per month.
- The number of judges who have published judgments also increased by around 75%. In May 2019, only 91 judges had published judgments. By November 2019, the number of judges who had published judgments increased to 159.

1 Assembly of the Republic of Kosovo. Law on Courts. December 2018.

2 Kosovo Judicial Council, Administrative Instruction on Anonymization and Publication of Final Court Judgments.

3 Kosovo Judicial Council, Standard Judgment Templates (2019).

- The three courts with the highest number of published judgements during the monitoring period are: the Basic Court of Ferizaj with 1,245 judgments published, the Court of Appeals with 1,176 judgments published, and the Basic Court of Prizren with 1,056 judgments published.
- During the monitoring period, the Basic Courts of Mitrovica and Gjakova (from 16 to 707) have seen a steady increase in publication of judgments. The Basic Court of Mitrovica went from 0 judgments published before the monitoring period to 715, and the Basic Court of Gjakova went from 16 judgements before the monitoring period to 707. In comparison, the rest of the courts are trailing in publication: the Basic Court of Prishtina (674), the Basic Court of Peja (504), The Supreme Court (314), and the Basic Court of Gjilan (221).
- The branches of the Basic Courts that have published the highest number of judgments are the branch court in Kaçanik with 215 judgments published, the branch court in Istog with 172 judgments, and the branch court in Leposavic with 145 judgments published.
- Out of the 6,611 judgments published between May 1, 2019, and November 15, 2019, 68% are judgments involving criminal cases; 28% involving civil cases; 25% involving administrative cases, and 2% involving commercial.
- Out of the published judgments, only 60 were cases involving corruption offenses; 52 were cases involving domestic violence and 21 were cases involving organized crime.
- Out of the 6,611 judgments published during the monitoring period, the courts have used the legally prescribed template in 3,856 judgments. In 42% of judgments published the template was not used.
- Out of the 6,611 judgments, 91% were published in the Albanian language, whereas 9% were published in the Serbian language.
- Only 54 judgments have not been anonymized. By the end of the reporting period, in October and November, there were zero instances.
- On average, it took 125 days for courts to publish a judgment after it was decided, more than double the 60 days foreseen in the law. As a result of monitoring by FOL and BIRN, the Kosovo Judicial Council began to publicly report the number of judgments published by the courts of Kosovo.

In addition to the monitoring of judgments, FOL visited the Supreme Court, Court of Appeals, and seven Basic Courts, interviewing officers responsible for publishing these judgments. Based on these visits, the main problems faced by the courts are:

- A lack of responsible staff for publication of judgments.
- A lack of professional associates, who are responsible for anonymization of judgments.
- A lack of Information Officers at several courts, as they have not yet been assigned.
- Technical problems, in particular at the Basic Court of Mitrovica, whose branch courts in Leposavic and Zubin Potok have no access to the internet.
- Staff responsible for publication of judgements were uniformed on the Kosovo Judicial Council's decisions on publication of judgments.
- Staff responsible for publication of judgements were uniformed on the Kosovo Judicial Council's decisions on publication of judgments.

INTRODUCTION

The “Monitoring of Publication of Judgments” report aims to present the current state of affairs at courts regarding the publication of judgments. Through this report we also aim to increase court transparency, accountability, and efficiency.

The report identifies the shortcomings in respecting the Law on Courts⁴, the Administrative Instruction on Anonymization of Judgments⁵, and the Decision on Standardization of Judgments⁶. It also contains data on the type of cases in which courts have tended to more frequently publish judgments and specific indicators showing the most active judges in the publication of judgments.

USAID’S JUSTICE SYSTEM STRENGTHENING PROGRAM is a five-year rule of law activity in Kosovo, a continuation of USAID’s earlier efforts to advance the rule of law in Kosovo and ensure that the justice system operates in a professional, efficient and accountable manner.

The program focuses on promoting a judicial system that adheres to high standards of independence, impartiality, integrity, accountability, transparency and supporting the functioning and integrity of judicial structures in the municipalities in the north, as well as strengthening the efficiency and effectiveness of the administration of the judiciary in the provision of quality services. Through USAID, the Justice System Strengthening Program assists the Kosovo Judicial Council (KJC) and the courts in consolidating results, their effectiveness, and their management.

THE FOL MOVEMENT IS A NON-GOVERNMENTAL organization committed to contributing to good governance and the promotion of active citizenry, enhancing transparency and accountability of public institutions. Through policy research, advocacy, technical and institutional support and monitoring public institutions, FOL increases public pressure on decision-makers to reduce the abuse of public power. In addition to the strengthening of transparency and accountability of decision-making authorities and public officers, FOL works to create new channels of communication between the government and its citizens and reduce civic apathy.

BIRN KOSOVO IS AN INDEPENDENT NON-GOVERNMENTAL ORGANIZATION, whose main purpose is to contribute to a successful democratic process, including reforms in the justice system. To this end, BIRN has developed an online anti-corruption platform, regularly produces and broadcasts televised debates, conducts field research and produces analytical reports.

4 Assembly of the Republic of Kosovo. Law on Courts. December 2018.

5 Kosovo Judicial Council, Administrative Instruction on Anonymization and Publication of Final Court Judgments.

6 Kosovo Judicial Council, Standard Judgment Templates (2019).

METHODOLOGY

The FOL Movement applied the method of ongoing monitoring, i.e. daily monitoring of the KJC web portal. All courts have been informed in advance via email that they will be subject to monitoring in regards to both the number of judgements published and whether the publication of judgments complies with the specific requirements of the law, administrative instruction, and other relevant decisions.

Data collected from the monitoring process has been presented in the form of infographics, which, accompanied by short articles, were published on a monthly basis on the website and social media accounts of the FOL Movement and on the KALLXO.com⁷ platform.

Initially, the FOL Movement collected data on the number of judgments already published by every court, including their branches. Data collection was divided into two phases: (1) Judgments published based on the old Law on Courts enforced between January 1, 2016, and December 31, 2018, and (2) Judgments published after the new Law on Courts entered into effect, between January 1, 2019, and April 30, 2019.

The FOL Movement then established a database for published judgments, which measures, among other things:

- The number of judgments published by all courts, by month;
- Adherence to protocols and deadlines set for the publication of decisions and compliance of the published judgments with the Law on Courts and Administrative Instructions;
- The protection of personal data of the parties and other specifications governed by the law and other acts;
- The total number of all judgments published by the Supreme Court, Court of Appeals, and Basic Courts of Kosovo, including their branches;
- The total number of published judgments by each judge;
- Implementation of the standard template of judgments;
- The language of published judgments, and
- The types of cases which account for the highest number of judgments published.

In order to identify the shortcomings in the judgement publishing process on the KJC web portal, the FOL Movement visited the courts and conducted interviews with the staff assigned by the courts to publish judgments. Data collected from interviews have been used in this report to identify challenges and best practices in the publication process.

⁷ Publication of Judgments by all Kosovo Courts in July (2019). <https://kallxo.com/ligji/gjykata/publikimi-i-aktgjykimeve-nga-te-gjiitha-gjykatat-e-kosoves-ne-muajin-korrik/>

PUBLICATION OF JUDGMENTS – LEGAL BASIS

The principle of open trials implies the courts' obligation to publish its judgments. This principle is also incorporated in the Constitution of the Republic of Kosovo. Article 31 of the Constitution stipulates that trials shall be open to the public, except in limited circumstances in which the court determines that in the interest of justice, the public should be excluded⁸.

This legal standard, of course, derives from international conventions as well. Article 6, paragraph 1 of European Convention on Human Rights stipulates that judgments shall be pronounced publicly⁹.

The Law on Courts, adopted in December 2018, obliges every court to publish each of its judgments on their official website within 60 days, as provided in paragraph 3 of Article 6 of the Law¹⁰. In addition to this, with the aim of implementing the Law on Courts, the Kosovo Judicial Council established a working group for drafting a new Administrative Instruction on the publication of processed judgments and a manual for publishing processed judgments.

In relation to the issue of protection of personal data in publication of judgments, in 2016 the Kosovo Judicial Council issued an Administrative Instruction on the Anonymization and Publication of Final Court Judgments by the Courts of Kosovo¹¹.

This Administrative Instruction defines the rules of anonymization in judgments prior to their publication on the websites. When the Instruction went into effect, the litigants' personal data (including name, surname, address, date and place of birth, ID or passport number, or the number of any other personal document, such as a driver's license or vehicle license plates) had to be anonymized¹².

According to this instruction, the professional associate in each court and its branches, who are appointed by the President of the respective court, is responsible for anonymizing judgments.

According to Article 6 of the Instruction, the professional associate should forward the anonymized final judgment to the court's public information officer, or other authorized court staff, to upload the final judgment to the courts web page.

Similarly, according to this Instruction, the judgments shall be uploaded to the official website in PDF format¹³. The Kosovo Judicial Council is currently working on the new Administrative Instruction on the publication of judgments, which will be in line with the new Law on Courts.

PUBLICATION OF JUDGMENTS BETWEEN JANUARY 2016 AND APRIL 2019

As the legal regulation regarding the publication of court judgments began in 2016, the FOL Movement also carried out an assessment of courts' publication of judgements during the period when the (old) Law on

8 Constitution of the Republic of Kosovo. April 2008.

9 Council of Europe. European Convention on Human Rights. October 2013.

10 Assembly of the Republic of Kosovo. Law on Courts. December 2018.

11 Kosovo Judicial Council, Administrative Instruction on Anonymization and Publication of Final Court Judgments.

12 Kosovo Judicial Council. Administrative Instruction (02/2016) on Anonymization and Publication of Final Court Judgments. February 2016.

13 Ibid.

Courts was in effect, and courts were obliged to publish only the final judgments on their official websites.

As can be seen in the table below, during this three-year period (from January 2016 to April 2019), a total of 10,091 judgments were published. The Basic Court of Prizren leads with the highest number of published judgments, followed by the Basic Court of Prishtina and the Basic Court of Ferizaj.

Publication of judgments January 2016 - 30 April 2019	2016	2017	2018	2019, until April 30
Supreme Court	77	54	272	219
Court of Appeals	67	376	521	224
Basic Court of Prishtina	68	508	1,110	200
Basic Court of Ferizaj	125	657	650	55
Basic Court of Prizren	102	223	1,291	232
Basic Court of Gjakova	18	264	444	278
Basic Court of Peja	7	131	198	37
Basic Court of Mitrovica	0	8	604	120
Basic Court of Gjilan	169	448	330	4
Total	633	2,669	5,420	1,369

Grand total 10,091

TABLE I: Data on the publication of judgments by each Court for 2016, 2017, 2018 and 2019 up until April 30

With the new Law on Courts, entering into effect in January 2019, Kosovo's Courts are now obliged to publish every judgment on their official website within sixty (60) days of the date of issuance of the judgment, irrespective of whether they are final or not.

Before the initiation of monthly monitoring in May, the FOL Movement assessed the status of the publication of judgments according to the Law in question. From January 1, 2019 until April 30, 2019, the Courts published a total of 1,369 judgments, a relatively low number compared to the current statistics on publication. During the monitoring period (from May 1 to November 15, 2019), courts and their branches published 6,611 judgments, an 80% increase.

The previously referenced data can be compared to the same period in 2018. However, due to the amendment in the legal framework, this comparison would be unfair. According to the old legal framework, the courts were obliged to publish only final judgments, whereas the new Law on Courts requires the publication of all judgments, irrespective of whether they are final or not.

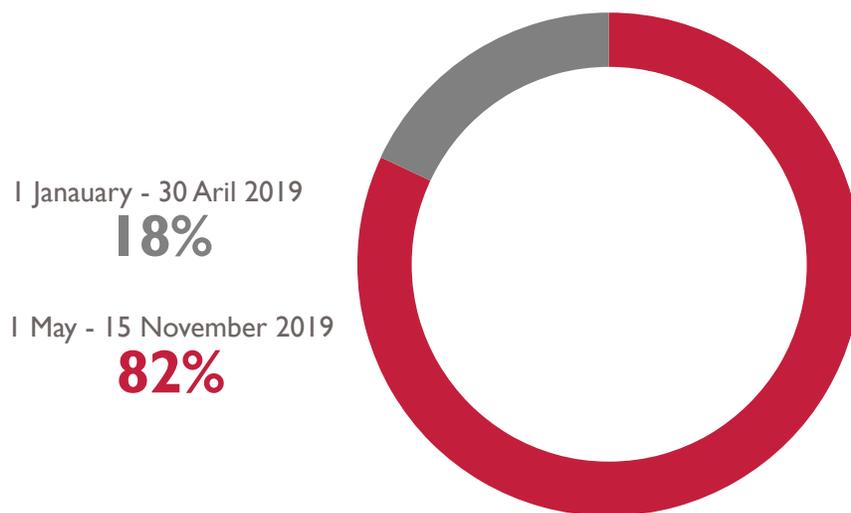


FIGURE 1: Overview of the publication of judgments during 2019

The chart below gives an accurate overview of the publication of judgments by all courts in Kosovo, including their branches.

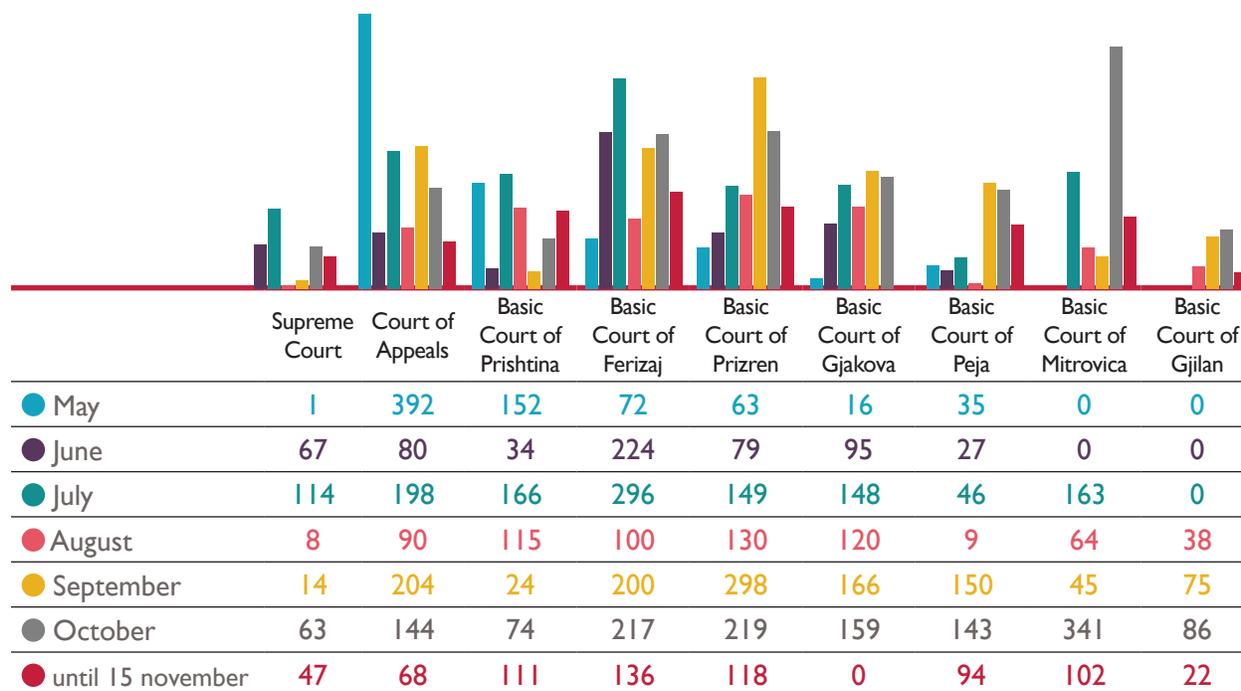


FIGURE 2: Data on the publication of judgments for each court for each month from the beginning of monitoring

FINDINGS FROM MONITORING THE PUBLICATION OF JUDGMENTS

Before providing our assessment on the monitoring process, it should be clarified that since April 2019, the web portal of the Kosovo Judicial Council (KJC) and the courts has enabled all interested parties to comment on draft documents through public consultations, as well as be informed data related to the council, courts, and statistics. The publication of judgments on the courts' web portal is one of the most significant types of information found on the court website. Publication of judgements contributes to increased court transparency, raising public awareness of the courts' work. It also helps stimulate public debate on important social and legal issues.

However, the monitoring carried out by FOL Movement found numerous technical irregularities, made during the publication of judgements. One of the most notable issues has been the publication of the same judgment multiple times. During the monitoring process, cases were encountered in which the same judgment was published up to four times by the same court, sometimes in the same month.

In many cases, the publication of verdicts rather than judgments was also discovered. The legislation in effect does not foresee the publication of verdicts as they are frequently issued during judicial proceedings.

Monitors also noted several inconsistencies in regards to the judgement's announcement date and its publication date. For example, upon opening the judgement, it was noted that the date that appears on the web portal and the one inside the judgement differs.

As far as the anonymization of judgments is concerned, the officers in charge of their publication have generally been attentive. Out of 6,611 judgments published, only 154 (2%) were non-anonymized. Non-anonymized judgements have been found most frequently at the Basic Court of Prizren, the Court of Appeals, and the Supreme Court.

During the monitoring, judgements published using Microsoft Word, not converted to PDF as required by the Administrative Instruction on Anonymization of Judgments, were encountered, while some blank judgements were also identified.

There were also technical errors in the language of the publication of judgments. For example, some judgments in the Albanian language were published on the Serbian language version of the website, and vice versa. Another problem was the publication of judgments with different contents but identical case numbers.

Regarding attempts towards standardization, it should be said that some of the judgments were written using different standards depending on the judge who compiled the judgment. Discrepancies were noted in the way the emblem of the Republic of Kosovo or the Council was inserted, as well as where the number of the case, the date, and judgement announcement appears.

Another finding from the monitoring process and field visits was the distinction between decisions taken by the KJC and the extent to which they were being implemented by the courts. Most officers in charge of the publication of judgments stated that they were not informed of the (new) Law on Courts, which obliges them to publish judgments which are not final.

SUPREME COURT

The Supreme Court, including the Appellate Panel as well as the Special Chamber, published a total of 314 judgments between May 1 and November 15, 2019.

The publication of judgments by the court reached its peak in July, when 114 judgments were published. Unfortunately, the same standard was not reached in August or September.

The following graph shows the trends on publication of judgements at the Supreme Court, divided by month.

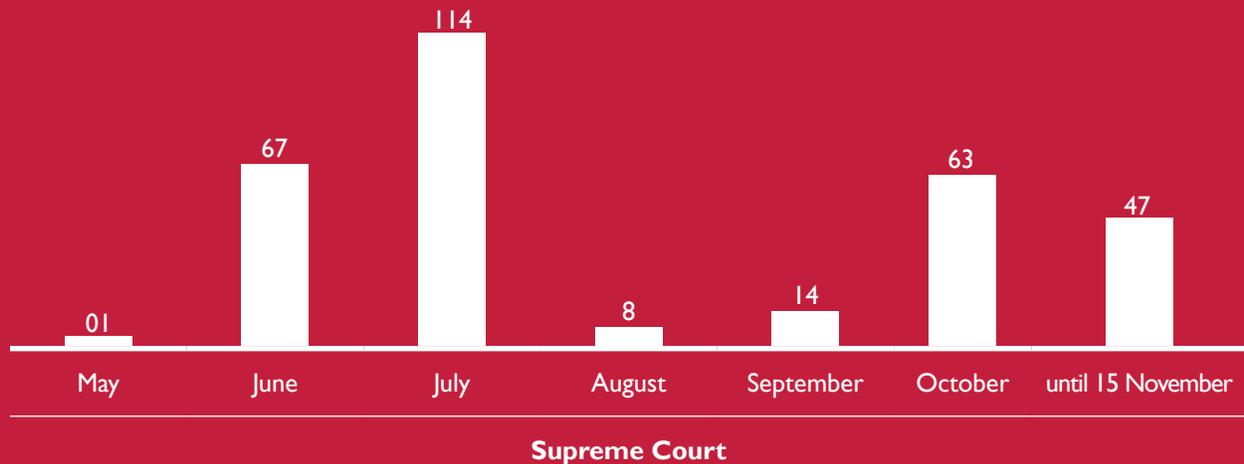


FIGURE 3: Overall statistics showing judgments published by the Supreme Court

The Special Chamber and the Appellate Panel have jointly published 47 judgments. The following chart shows the publication of judgments by each court throughout the monitoring period.

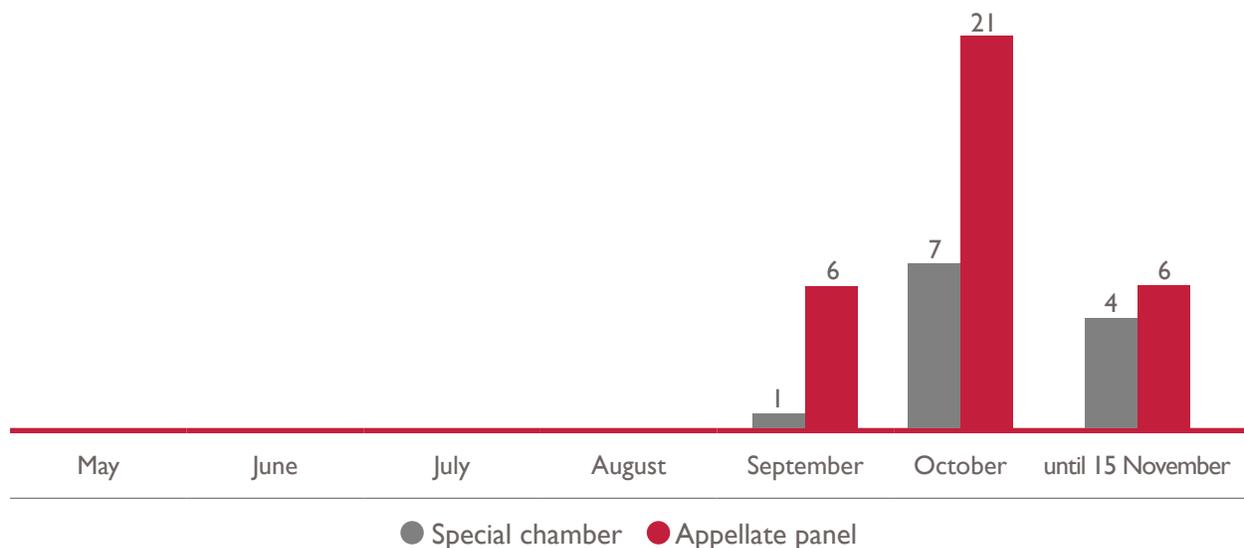


FIGURE 4: Publication of judgments by branches of the Supreme Court

The table below displays that the Supreme Court published more judgments in civil cases and fewer judgments in criminal, administrative, and commercial cases.

The following table shows the division of judgments published by case type:

Case nature	Criminal	Civil	Administrative	Commercial
Supreme Court	97	132	71	14

Total 314

TABLE 2: Judgments divided by nature of offence.

Out of the total number of judgments published by the Supreme Court during the monitoring period, only three cases were related to organized crime, one case was related to corruption, and one was related to a case involving gender-based violence.

Regarding the implementation of the Standard Template of Judgments, the Supreme Court has not properly implemented the Kosovo Judicial Council’s decision. Out of 314 judgments published, only 36 are published in the standard format, as per the requirements of the Kosovo Judicial Council.

The following chart shows the use of the Standard Template of Judgments by Supreme Court judges.

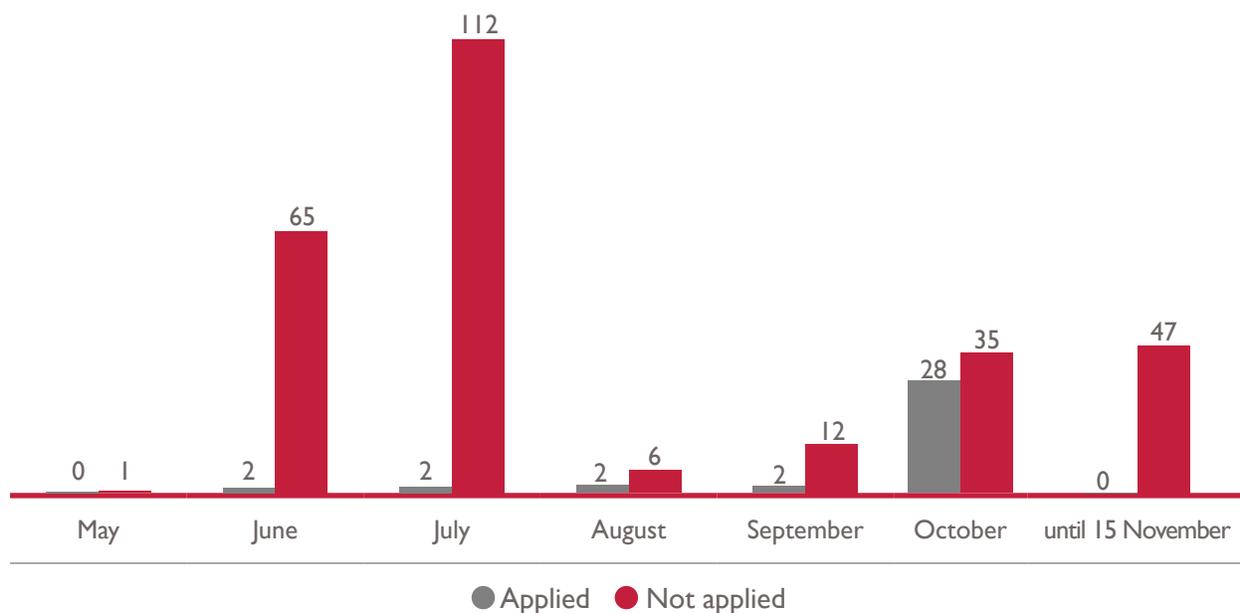
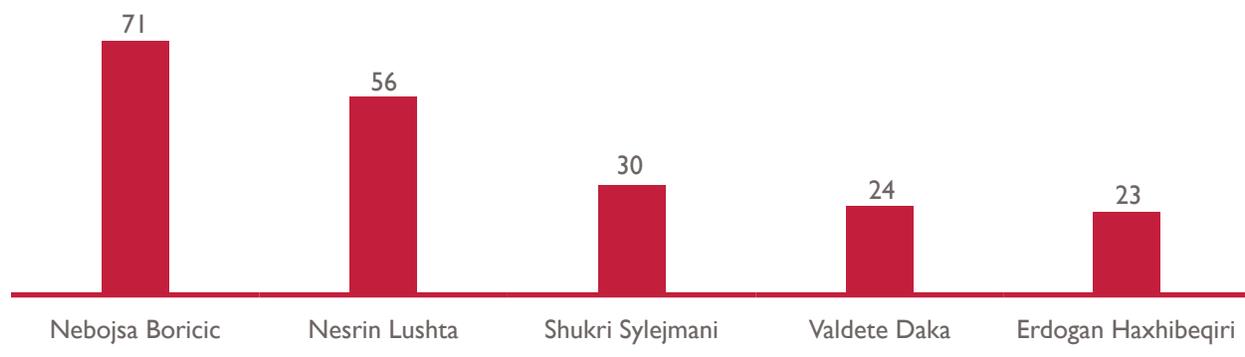


FIGURE 5. Use of template in judgements.

Regarding compliance of the Supreme Court with the Administrative Instruction on Anonymization of Judgments, out of 314 published judgments, only 17 were non-anonymized.

During the monitoring period, the Supreme Court took an average of 130 days to publish its judgments, far beyond the deadline defined by the law. However, the average time taken for the Supreme Court to publish its judgments is improving significantly compared to the initial months of monitoring.

The FOL Movement has also monitored the publication of judgments by judges. From this monitoring, we have listed the five judges at the Supreme Court who have published the highest number of judgments during the monitoring period. The following graphic shows the list of judges in question:



Judges with highest number of published judgments in the Supreme Court

FIGURE 6. Overview of judges with the highest number of published judgments in the Supreme Court

THE COURT OF APPEALS

The Court of Appeals is the second largest court in the country, with the largest number of judgments published during the monitoring period, a total of 1176 judgments.

The following chart shows trends in the Court of Appeals' publication of judgments by month (i.e. from May to mid-November).



FIGURE 7. Overall statistics of judgments in the Court of Appeals

The Division of Mitrovica has published only 10 judgments during the aforementioned period. The graph below shows the trend of publication of judgments divided by month.

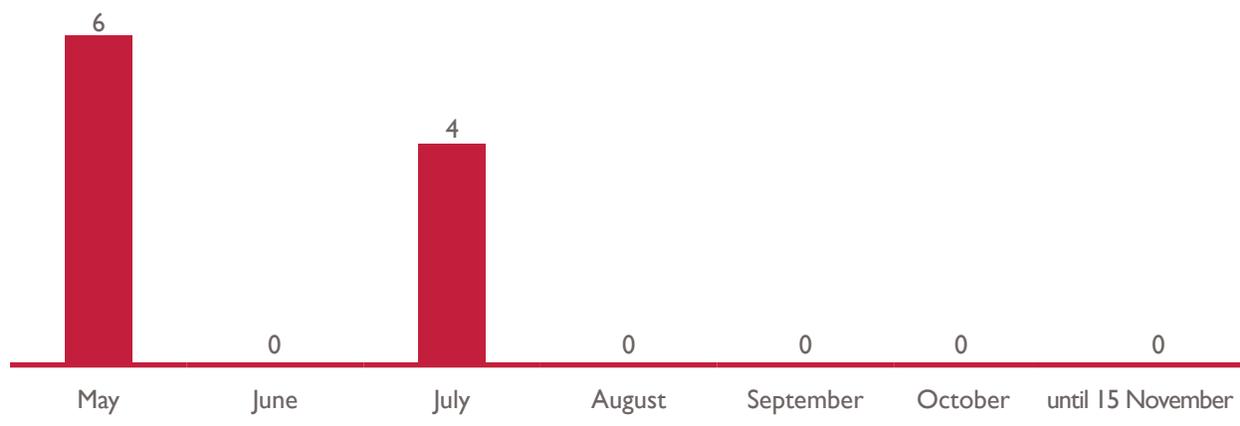


FIGURE 8. Publication of judgments by the branch of the Court of Appeals

Regarding the type of cases, the Court of Appeals published the most judgments involving civil cases. Of the total number of judgments published, 783 involved civil cases.

The following table shows the publication of the judgments of this court, divided by case type.

Nature of cases	Criminal	Civil	Administrative	Commercial
Court of Appeals	294	783	41	58

Total 1,176

TABLE 3: Judgments divided by nature of offence

Out of the 294 judgments involving criminal cases, the Court of Appeals published 20 judgments for corruption-related offenses, 6 related to gender-based violence, and 4 for organized crime.

Regarding the application of the template for standardization of judgments, the Court of Appeals and the Appellate Division in Mitrovica did not publish any judgments using the standardized template out of the 1176 judgements published by the courts. During our visit to the Court of Appeals and during the interview, our researchers were informed that this court was not told about the decision to utilize this template by the Judicial Council¹⁴. However, according to the data presented by the Kosovo Judicial Council Secretariat, the KJC's decision was forwarded to the president of every court.



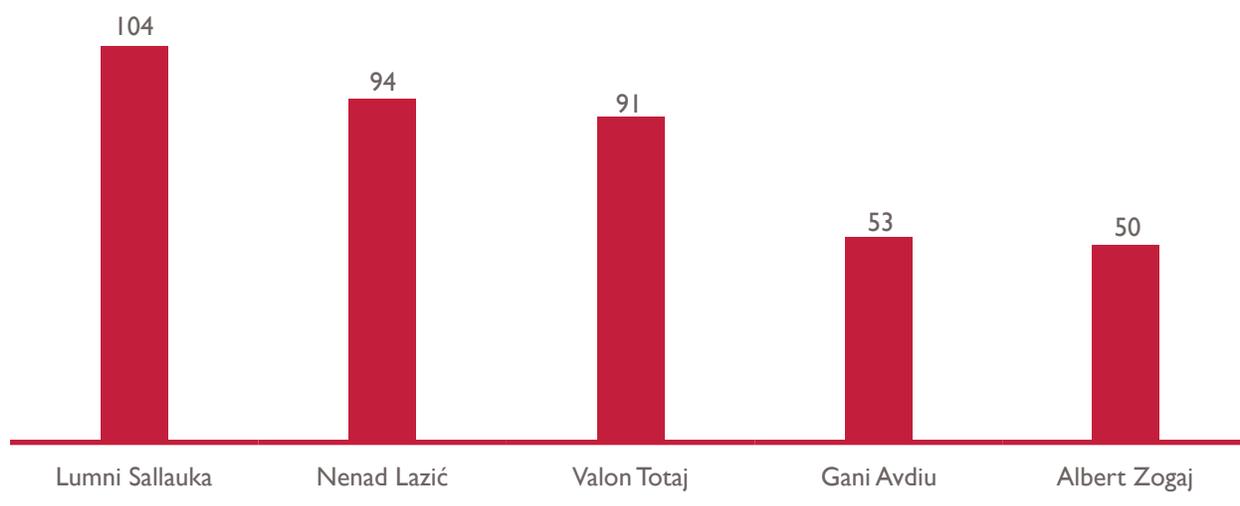
FIGURE 9. Use of template in judgements

¹⁴ Interview with Arbër Jashari, Professional Associates / Information Officer at the Court of Appeals. Date of the interview: 14.10.2019

On the issue of protection of personal data, namely anonymization, the Court of Appeals has demonstrated compliance. Out of 1176 judgments published by this court, only 18 were published without prior anonymization. Given that this court lacks professional associates, as well as an information officer, and given the relatively large number of published judgments.

A particular finding of this report is that the Court of Appeals has fully adhered to the legal deadline for publication of judgments. This court publishes its judgments on average within 54 days. Regarding adherence to the time limit, the Court of Appeals stands as the best out of all the courts.

The most active judges in the process of publishing the judgments of this court are outlined in the table below.



Judges with the highest number of published judgments in the Court of Appeals

FIGURE 10. Overview of judges with the highest number of published judgments at the Court of Appeals

BASIC COURT OF PRISHTINA

The Basic Court of Prishtina is one of the courts with the most cases. This court operates with 4 branches: Podujevo, Gracanica, Lipjan and Glllogovc.

The reason for the large number of cases at the Prishtina Basic Court is its exclusive jurisdiction over all first instance commercial and administrative cases. The number of judgments published by this court, over more than six months, was relatively low. During the monitoring period, this court published a total of 676 judgments across its four branches.

The following chart provides the data on the number of judgments published by the Basic Court of Prishtina during the months monitored.



FIGURE 11. Overall statistics of judgments in the Basic Court of Prishtina

During our meetings at this court, the lack of staff, in particular professional associates, as well as the overwhelming workload of the information office were given as justification for the publication of such a small number of judgments¹⁵.

The publication of judgments for each branch of the Basic Court of Prishtina can be seen in the following chart.

¹⁵ Interview with Mirlinda Gashi, Information Officer at Basic Court of Prishtina. Date of the interview :24.10.2019

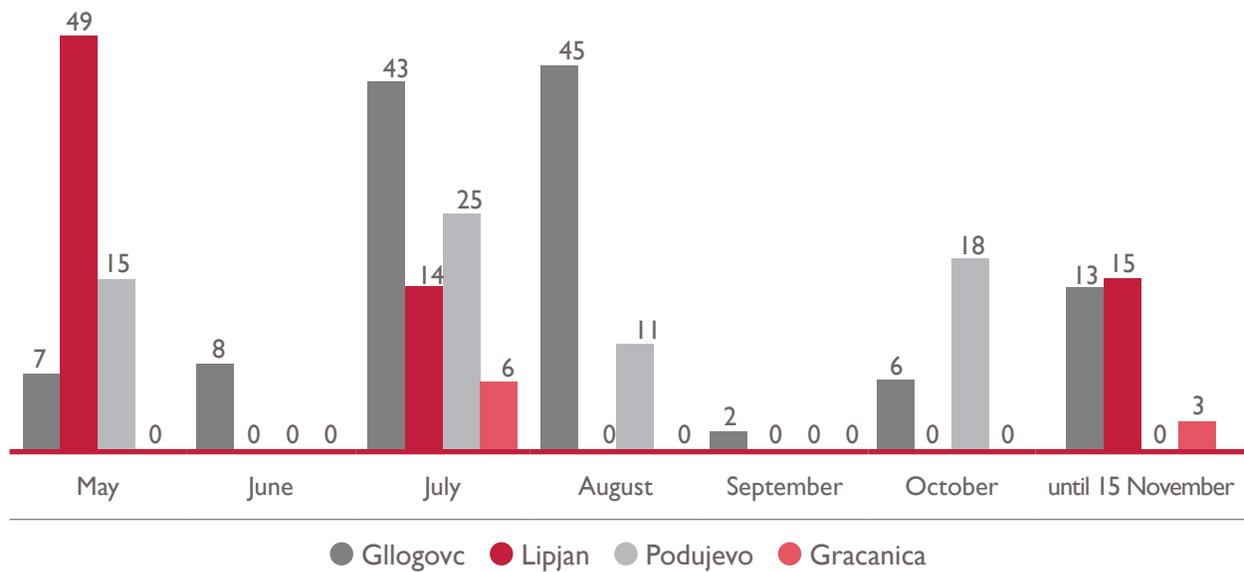


FIGURE 12. Publication of judgments by branches of the Basic Court of Prishtina

The Law on Courts provides that the Basic Court of Prishtina, in addition to criminal and civil cases, is also competent to handle all administrative and commercial cases throughout Kosovo¹⁶.

The following table shows how this court has performed regarding the publication of judgments divided by types of cases.

Nature of cases	Criminal	Civil	Administrative	Commercial
Basic Court of Prishtina	480	138	21	37
Total 676				

TABLE 4: Judgments divided by nature of the offence

Out of 480 criminal law judgements, 23 are corruption offences, 3 are related to gender-based violence, and 4 of them are organized crime cases.

The following chart shows the extent of the application of the Template for Publication of Judgments by the judges of this court.

¹⁶ Assembly of the Republic of Kosovo. Law on Courts. December 2018.

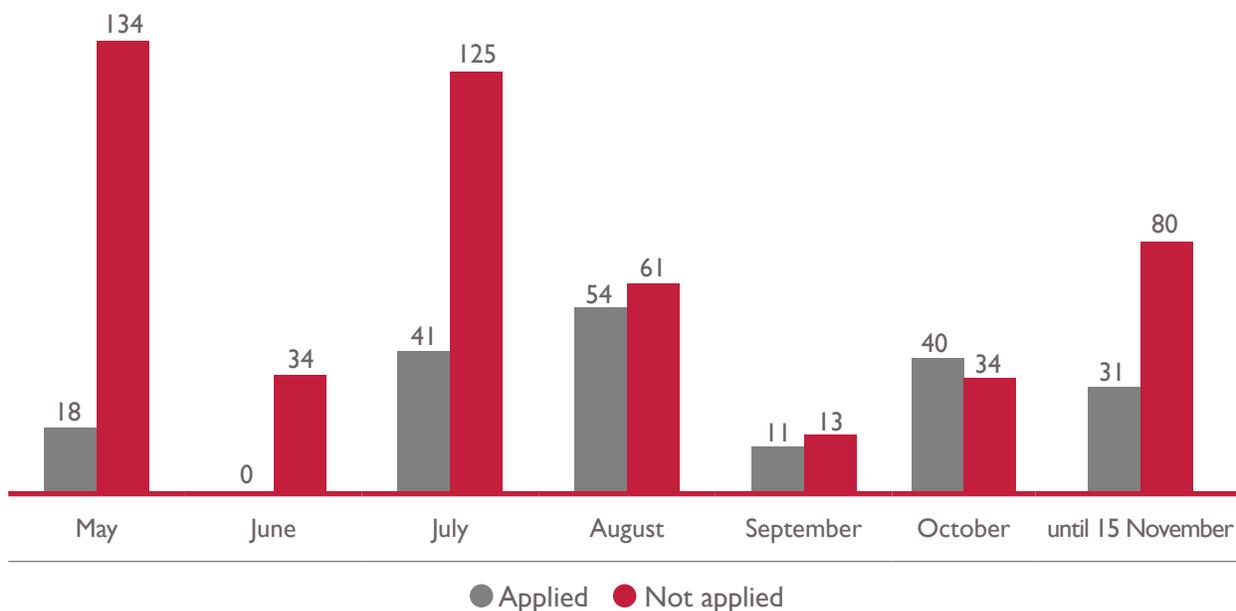
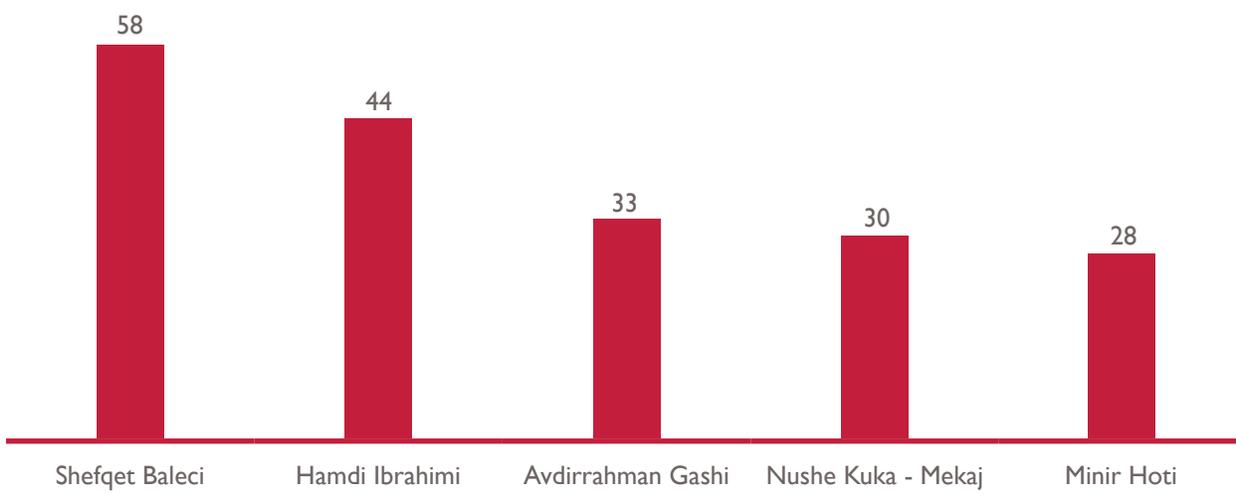


FIGURE 13. Use of template in judgments

There is still significant improvement needed at the Basic Court of Prishtina regarding its adherence to the legal deadline for the publication of judgments on its website. During the monitoring, we have noticed that the average length of time it takes for the publication of its judgments is over 160 days, calculated from the date of their announcement.

The most active judges in this court, who have given greater importance to the publication of judgments, are presented in the table below.



Judges with the highest number of published judgments in the Basic Court of Prishtina

FIGURE 14. Overview of judges with the highest number of published judgments in the Basic Court of Prishtina

BASIC COURT OF FERIZAJ

The Basic Court of Ferizaj has two branches, one in Kacanik and Shterpce. This court is ranked as the most successful court with regard to the publication of judgments during our monitoring period. This court has published a total of 1245 judgments, a relatively large number given that this court also faces staff and resource shortages.

The following table shows the trends in the publications by this court during the monitoring months

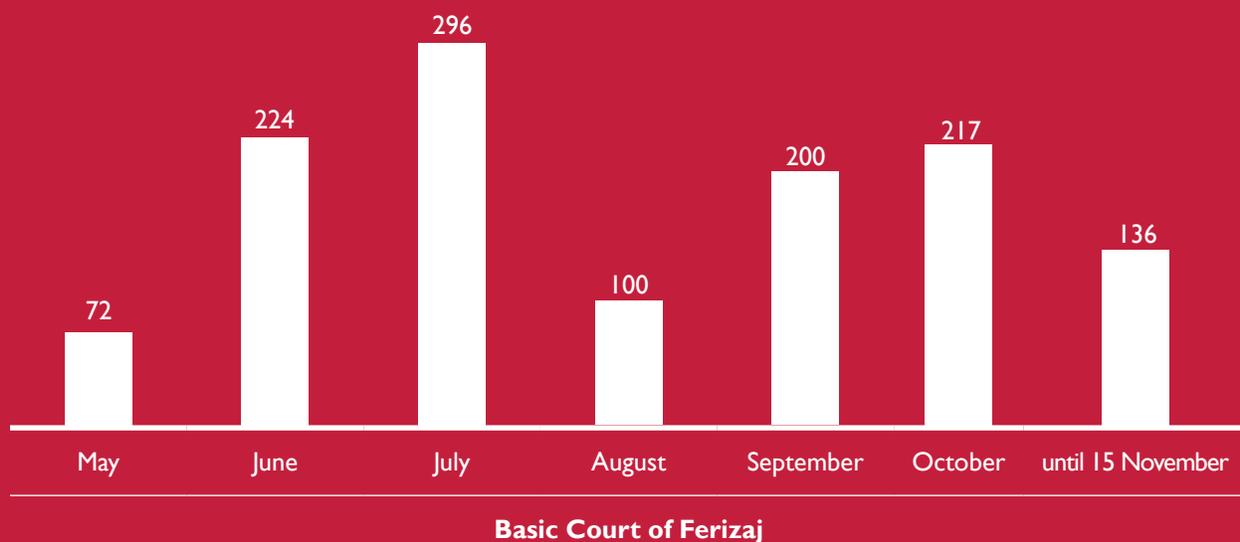


FIGURE 15. Overall statistics of judgments in the Basic Court of Ferizaj

Branches of this court played an important role in increasing the number of publications of the Basic Court of Ferizaj. The Branch of Kacanik holds the highest number of publications, 215 in total.

The following table shows the number of publications made by the branches in Kacanik and Shterpce.

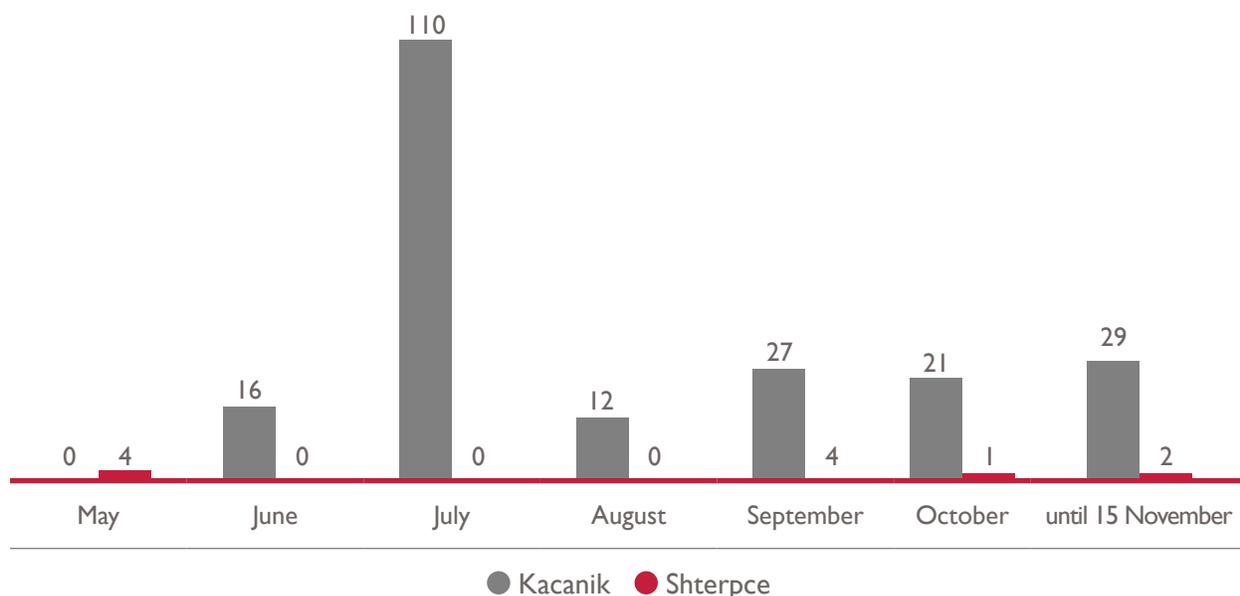


FIGURE 16. Publication of judgments from the branches of the Basic Court of Ferizaj.

During our interview with the officers of this court, we were informed that this court has managed to register all cases in CMIS, and therefore their publication is streamlined¹⁷.

The Basic Court of Ferizaj, during the monitoring period, published a significantly higher number of judgments involving criminal cases than civil cases.

The following table shows the division of judgments published by case types.

Nature of cases	Criminal	Civil
Basic Court of Ferizaj	1,066	179
Total 1,245		

TABLE 5: Judgments divided by nature of the offence.

Out of 1,066 court decisions involving criminal cases, 7 were corruption-related cases, while 34 were related to gender-based violence.

The Basic Court of Ferizaj, along with its branches, is the court that most frequently implemented the decision of the Kosovo Judicial Council regarding the use of the Standard Template of Judgments.

¹⁷ Interview with Albenora Bekteshi – Information Officer at Basic Court of Ferizaj. Date of the interview: 15.10.2019.

See below how this standard is implemented in its entirety.

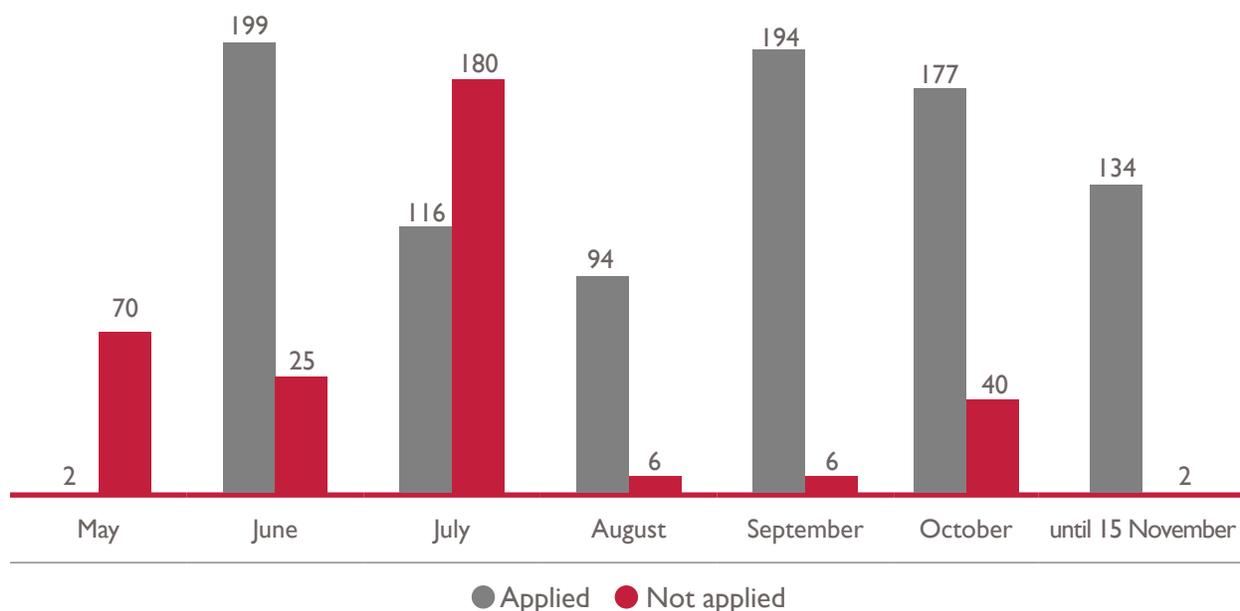
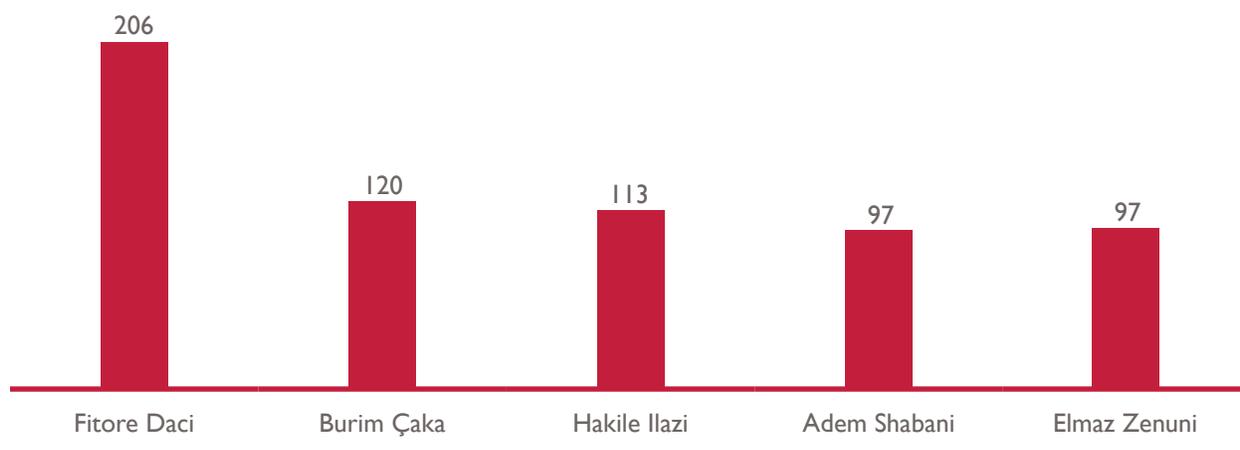


FIGURE 17. Use of template in judgments

On the issue of protection of personal data, namely anonymization of parties involved in judgements published during the monitoring period, the Basic Court of Ferizaj has not published any non-anonymized judgments.

Regarding the adherence to the 60-day deadline for the publication of judgments on the website, during this monitoring period it was noted that this court took an average of 85 days to publish them.

The following table lists the five judges with the highest number of published judgments during the monitoring period.



Judges with the highest number of published judgments

FIGURE 18. Overview of judges with the highest number of published judgments at the Basic Court of Ferizaj

BASIC COURT OF MITROVICA

The Basic Court of Mitrovica and its four branches, Skenderaj, Vushtrri, Leposavić and Zubin Potok, published a total of 715 judgments on its website during the period May 1 to November 15 2019. The Basic Court of Mitrovica is one of the courts which, despite not having published any judgments in the first two months of our monitoring period, still managed to publish a considerable number of judgments throughout other months.

The following chart shows this trend of positive change.

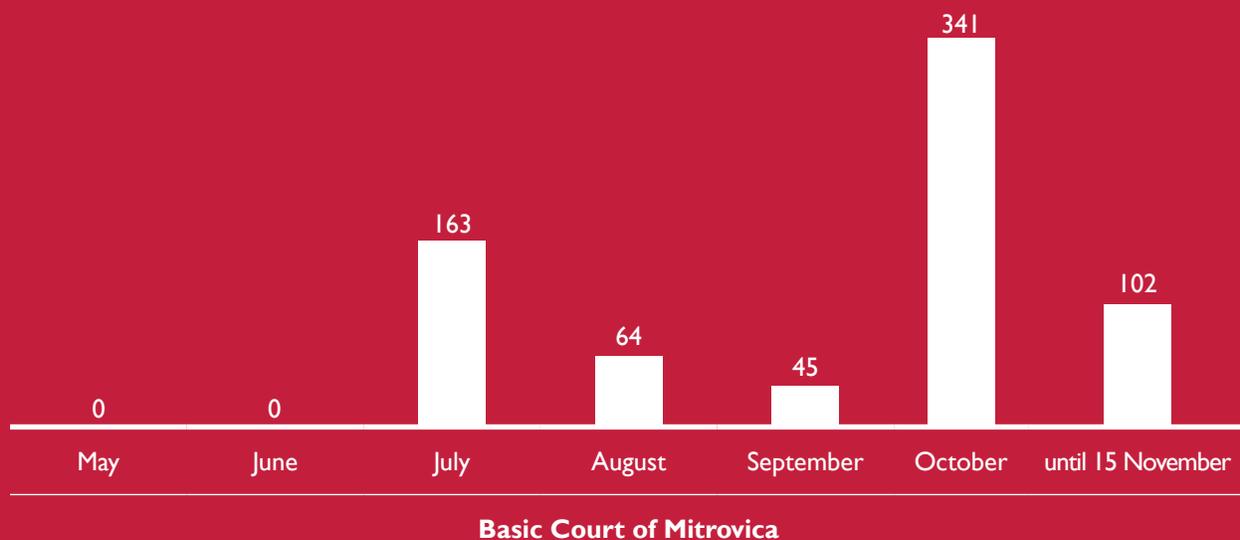


FIGURE 19. Overall statistics of judgments in the Basic Court of Mitrovica.

The following chart reflects how the various branches of the court performed, divided by months.

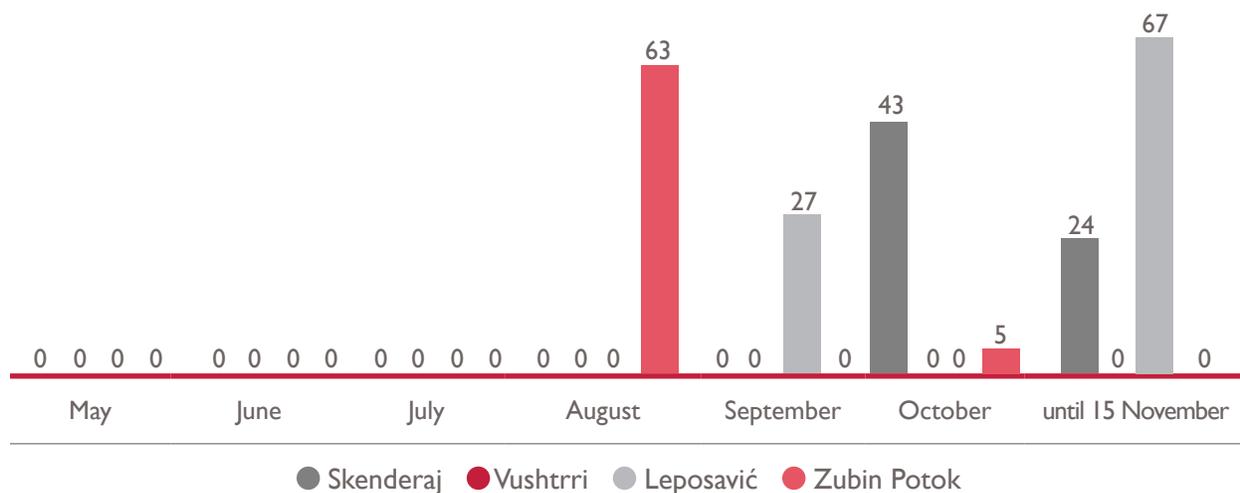


FIGURE 20. Publication of judgments from the branches of the Basic Court of Mitrovica

As we can see above, the branches did not publish any judgments for three consecutive months (June, July and August).

Most of the judgements that were published involve criminal cases. The following table gives an overview of the types of the judgements published.

Nature of cases	Criminal	Civil
Basic Court of Mitrovica	561	154
Total 715		

TABLE 6: Judgments divided by nature of the offence.

During this time, the Basic Court of Mitrovica published 3 corruption-related judgements and 7 related to gender-based violence.

During the monitoring period, we did not encounter any non-anonymized judgments at the Basic Court of Mitrovica.

Concerning the implementation of the Decision on Standardization of Judgments Forms, out of all judgments published by this court and its branches, only 309 complied with this decision.

The following table shows the trends in implementation of this decision.

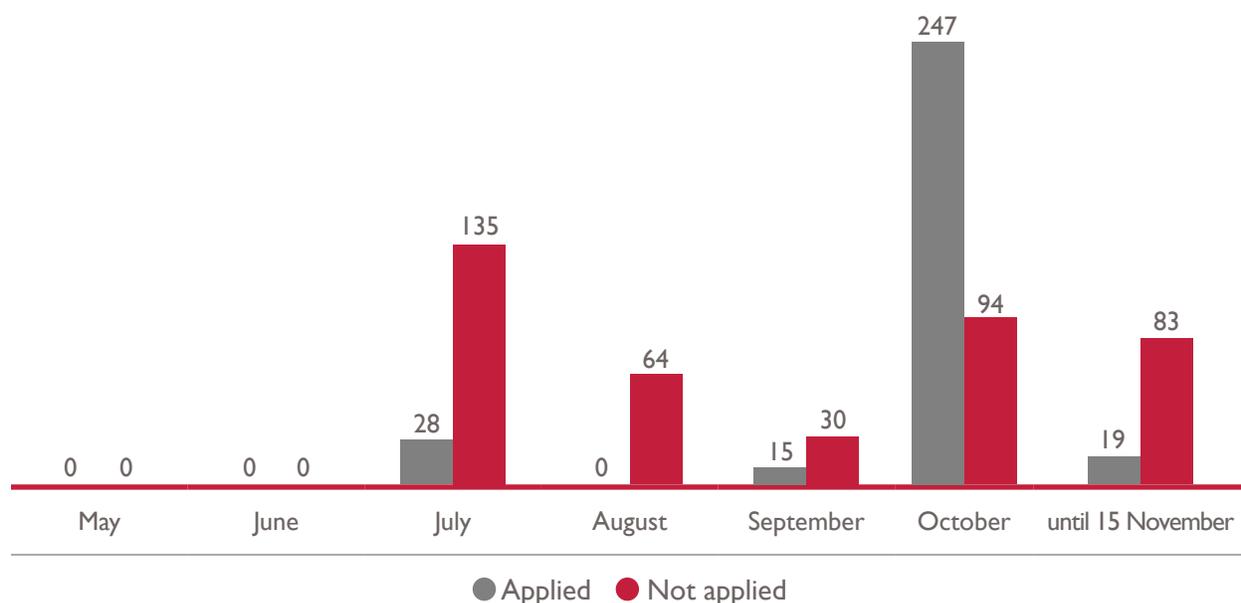


FIGURE 21. Use of template in judgments.

At this court, the average number of days it took for judgments to be published on the website after their announcement is 190 days, a number that is clearly in conflict with the deadline set by law.

The following table shows the five judges with the highest number of judgments published during this period in this court.



FIGURE 22. Overview of judges with the highest number of published judgements in the Basic Court of Mitrovica.

Technical problems at the Basic Court of Mitrovica should be emphasized as well, with branches such as Leposavic and Zubin Potok having no internet access. The IT Officer of this court is obliged to bring paper copies of the court decisions to the Basic Court of Mitrovica for publication. The IT Officer is also responsible for the publication of all judgments, in addition to other work set out in their employment contract¹⁸.

¹⁸ Interview with Ahmet Buzolli – IT Officer at Basic Court of Mitrovica. Date of the interview: 1.11.2019.

BASIC COURT OF PRIZREN

During the monitoring period, the Basic Court of Prizren was ranked as the third most successful court regarding the publication of judgments. During this period, this court has published a total of 1054 judgments.

The trend in publication of judgments for each month is shown in the following chart, indicating that September was its most successful month.



FIGURE 23. Overall statistics for judgments from the Basic Court of Prizren

Its branches in Dragash and Suhareka did not contribute much to the overall performance of the court as far as the publication of judgments is concerned.

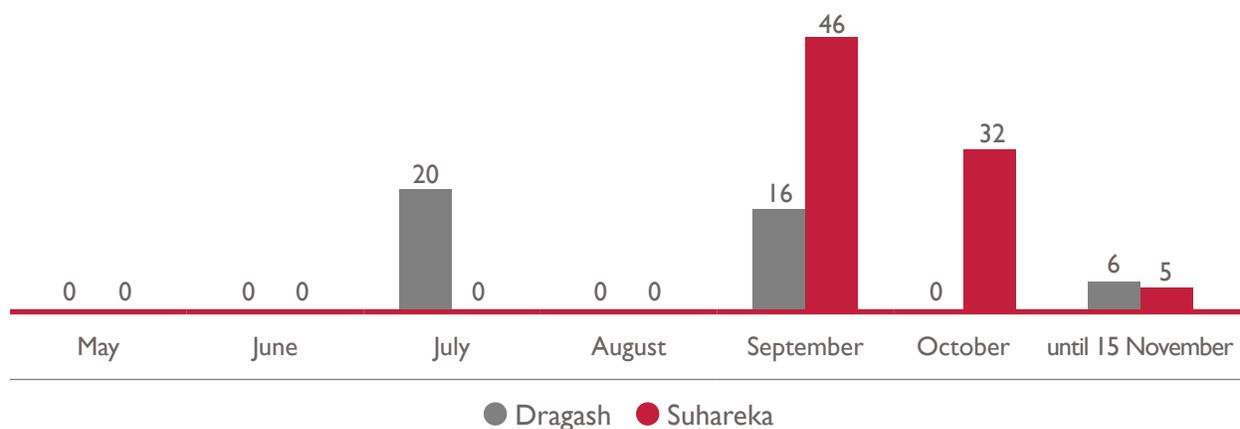


FIGURE 24. Publication of judgments from the branches of the Basic Court of Prizren

The following table shows that the Basic Court of Prizren has published significantly more judgments involving criminal cases than civil cases.

Nature of cases	Criminal	Civil
Basic Court of Prizren	891	163

Total 1,054

TABLE 7: Judgments divided by nature of offence

Out of 891, 3 judgments have been identified as corruption-related, and 7 judgments are related to organized crime.

Regarding the protection of personal data, this court did not comply with anonymization in some of its judgments. Out of 1,054 judgments published, 64 have been non-anonymized.

The following chart shows the level of application of the template for judgments by judges of the Basic Court of Prizren during the monitoring period.

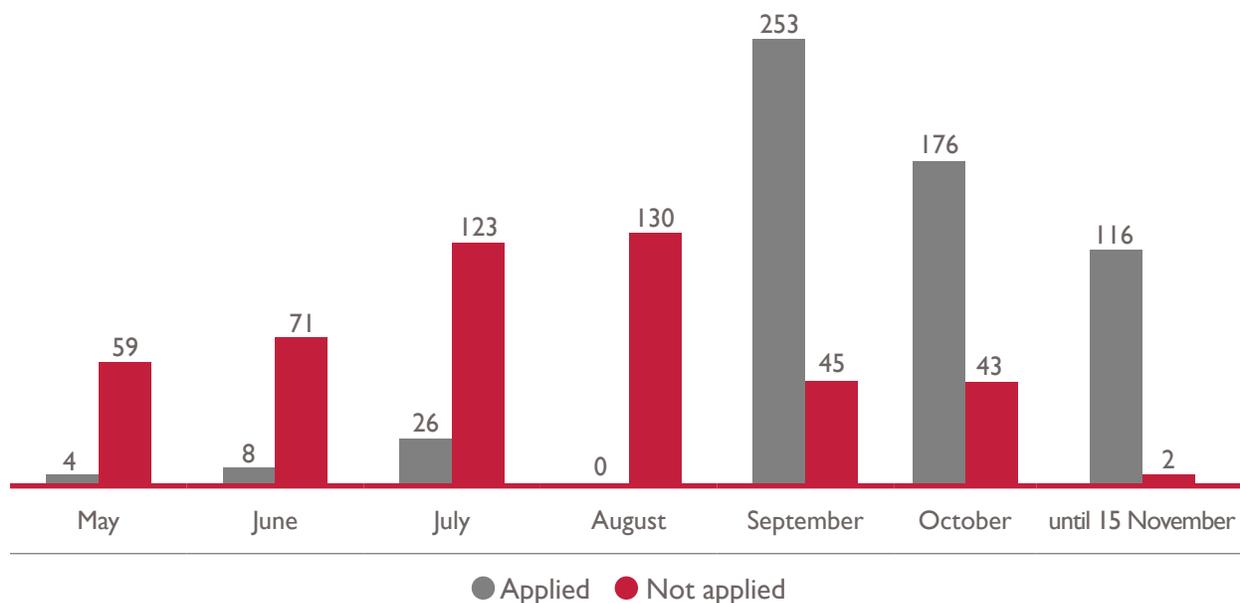


FIGURE 25. Use of template in judgments

Following the monitoring process, it was noted that the Basic Court of Prizren takes an average of 90 days to publish its judgments on the website.

The following table shows the five most active judges with the highest number of published judgments.

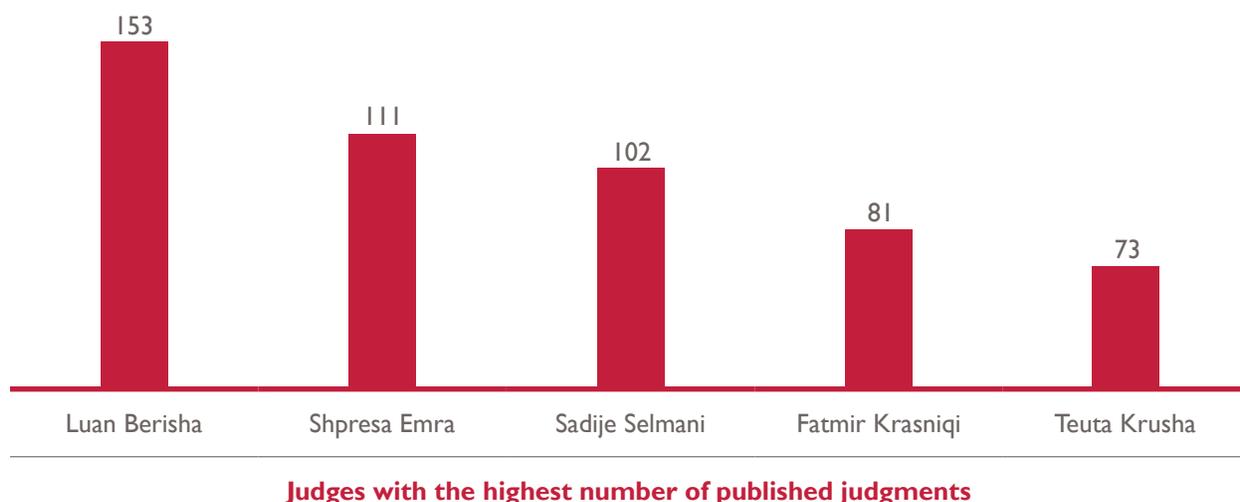


FIGURE 26. Overview of judges with the highest number of published judgments in the Basic Court of Prizren

During the interview with the Information Officer at the Basic Court of Prizren, similar problems were identified as in other courts. One of the main problems was the lack of staff, in particular the lack of professional associates and information assistants. Moreover, the persons in charge of publishing the judgments did not have access to edit the documents published on the website in case they contained technical errors or omissions. The person in charge of editing or deleting the judgments from the website was the IT Officer¹⁹.

¹⁹ Interview with Afërdita Kicaj – Information Officer at the Basic Court in Prizren. Date of the interview: 23.10.2019

BASIC COURT OF GJAKOVA

The Basic Court of Gjakova, together with its branches in Rahovec and Malisheva, published a total of 704 judgments on the official website.

This court ranks fifth in terms of the highest number of published judgments.

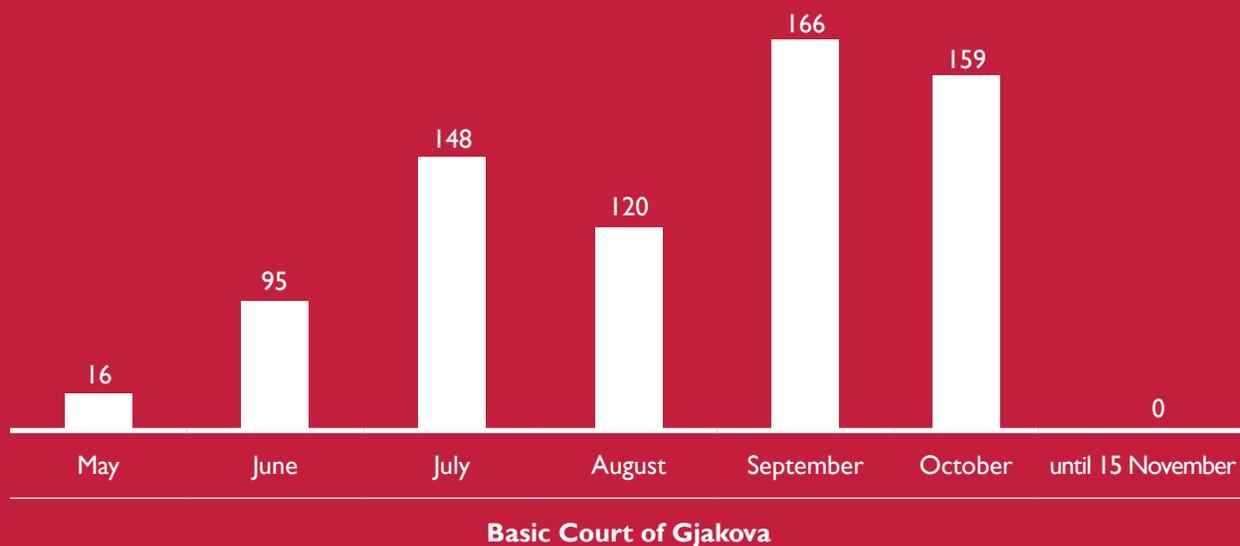


FIGURE 27. Overall statistics of judgments in Basic Court of Gjakova

The number of cases published by branches of this court are reflected in the statistics of the Basic Court of Gjakova, outlined in the chart below.

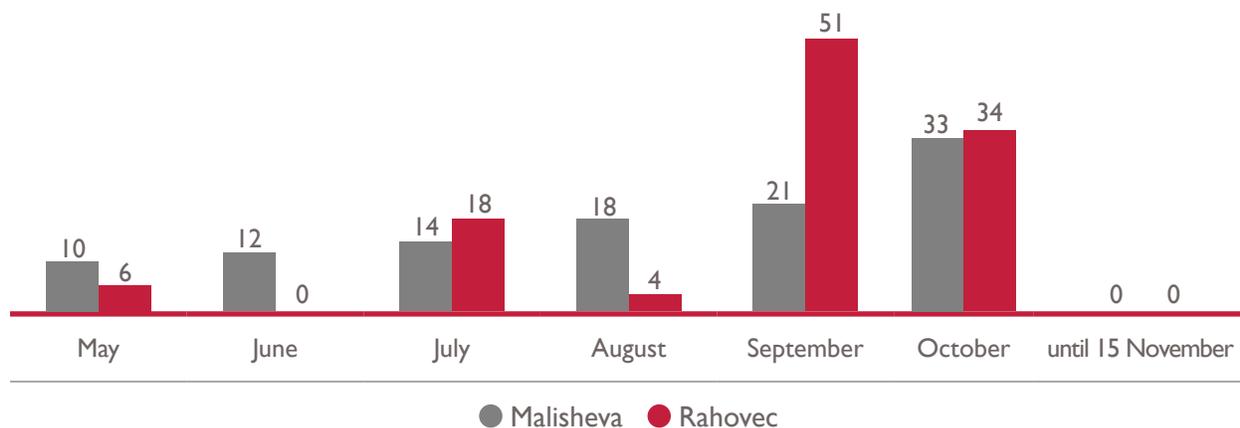


FIGURE 28. Publication of judgments by branches of the Basic Court of Gjakova

The following table shows the number of criminal and civil judgements published by this court.

Nature of cases	Criminal	Civil
Basic Court of Gjakova	515	189

Total 704

TABLE 8: Judgments by nature of case

During this period, the court published no judgments related to corruption, 4 judgments related to gender-based violence, and only 1 judgment related to organized crime.

As far as anonymization of judgments is concerned, we have encountered only 14 non-anonymized judgments out of a total of 704 judgments.

In relation to the application of the Standard Template for the Publication of Judgments, it is evident that judges from this court have largely adhered to this principle.

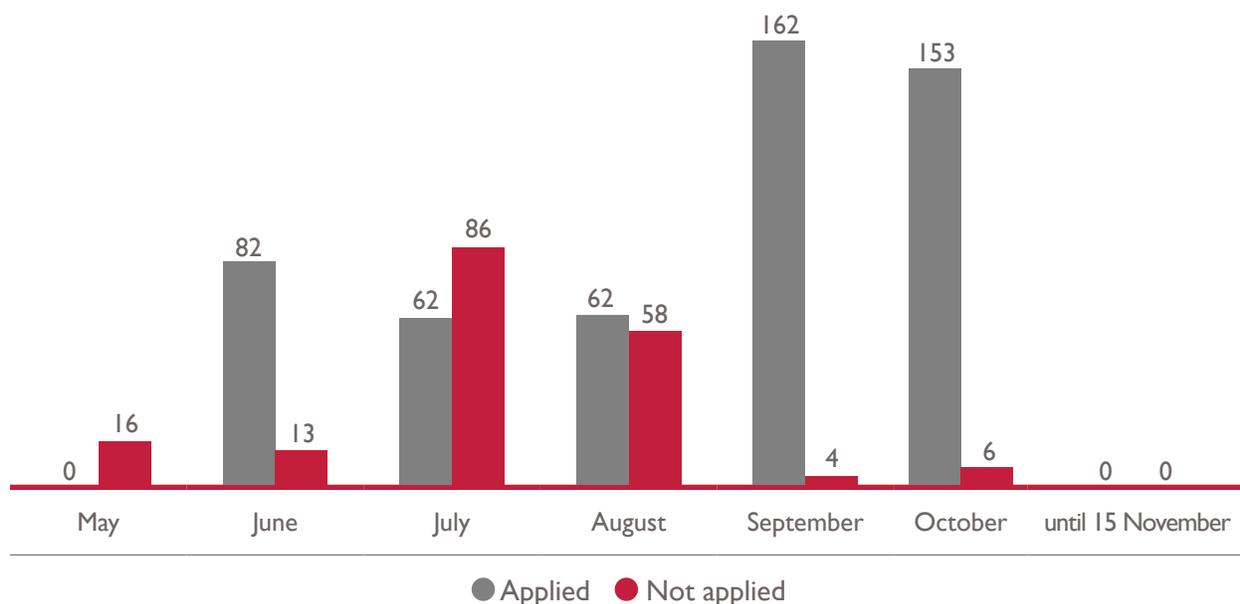


FIGURE 29. Use of template in judgments

Due to the technical problems caused by the officers in charge of the publication of judgments, it has been impossible for us to discern the average time between issuance of the judgment to its publication.

The five judges most active related to the publication of judgments in the Basic Court of Gjakova are shown in the following chart.

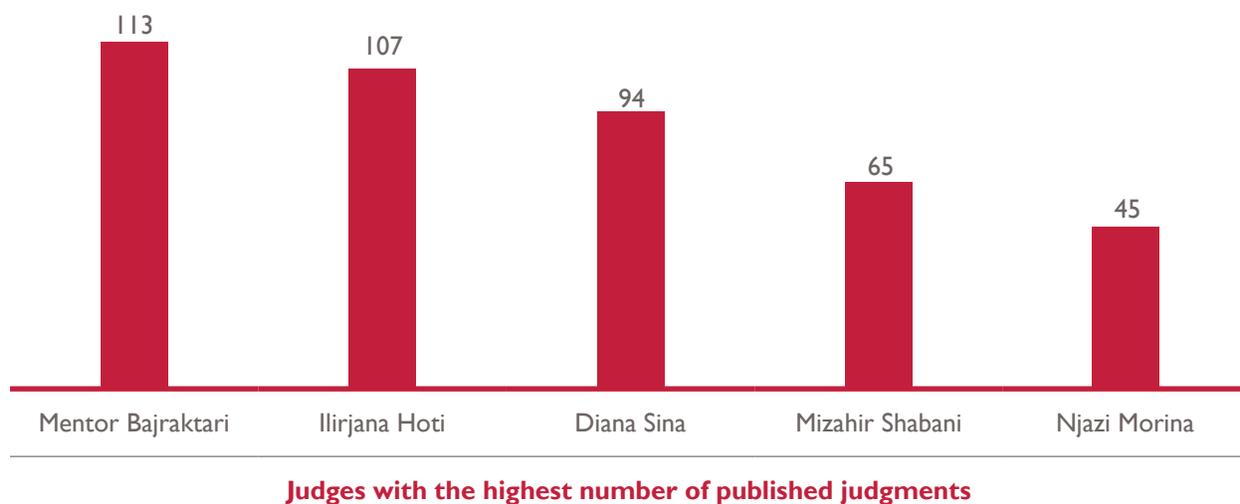


FIGURE 30. Overview of judges with the highest number of published judgments in the Basic Court of Gjakova

From an interview conducted with a professional associate at the Basic Court of Gjakova, who is in charge of anonymizing judgments, it was discovered that this court receives paper copies of the judgements through clerks, because not all cases are recorded through CMIS. This has resulted in delays in the process of publication of judgments²⁰.

²⁰ Interview with Nëntor Oseku – Professional Associate at Basic Court of Gjakova. Date of the interview: 28.10.2019

BASIC COURT OF PEJA

The Basic Court of Peja, along with its branches in Decan, Istok, and Klina, is ranked among the courts with the lowest number of published judgments. In total, this court published 504 judgments throughout the monitoring period. During the meeting with the officer in charge of publishing the judgments, the lack of human resources was mentioned as having contributed to the poor performance of the Basic Court of Peja²¹.

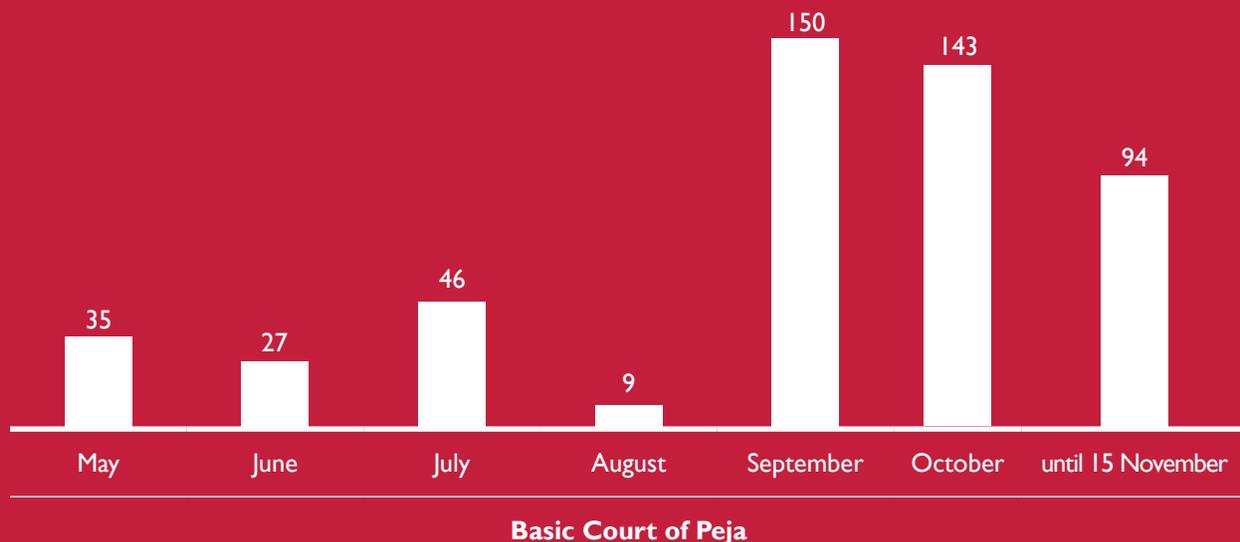


FIGURE 31. Overall statistics of judgments at the Basic Court of Peja

As we can see in the table above, the Basic Court of Peja saw an increase in publication during the last months of monitoring, with 35 judgments published in May, 150 published in September, and 143 published in October. The Deçan branch did not publish any judgments during the monitoring period. It is also worth noting that this is the only branch that did not publish a single judgement.

In the graph below, it can be seen that the branches of the Basic Court of Peja published only 5 judgments in total during the first 4 months of monitoring. The situation was quite different during the last three months of monitoring, with the branch of Istog's performance being particularly noteworthy, seeing significant growth and managing to become the branch with the second highest number of published judgments.

²¹ Interview with Tringa Zhuti – Information and Media Monitoring Officer. Date of the interview: 28.10.2019

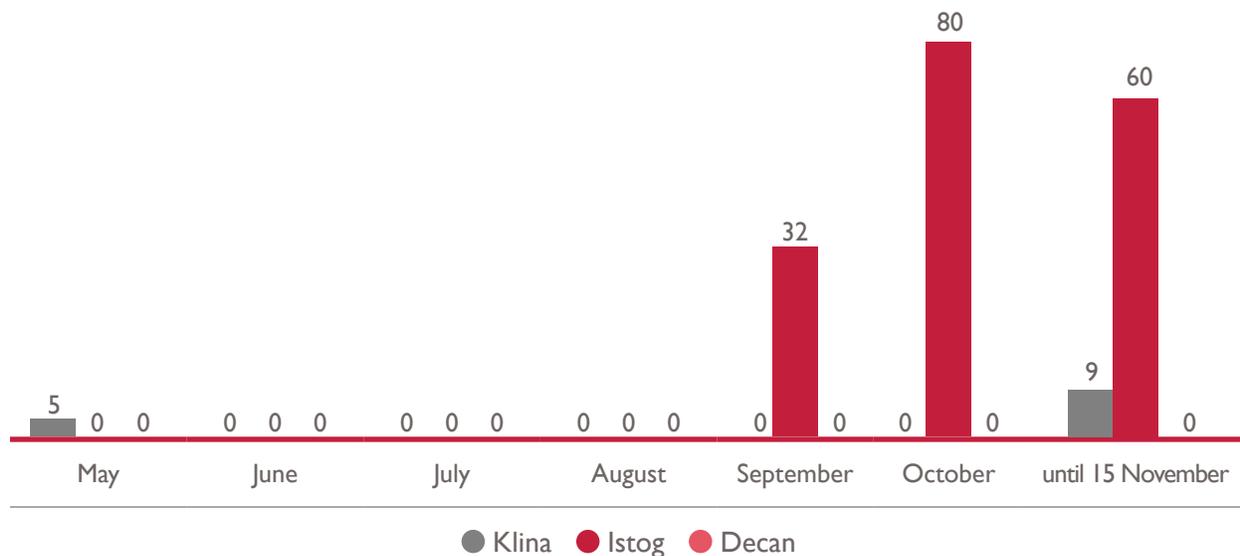


FIGURE 32. Publication of judgments by branches of the Basic Court of Peja

As seen in the following table, the number of criminal cases is double that of civil cases.

Nature of cases	Criminal	Civil
Basic Court of Peja	385	119
Total 504		

TABLE 9: Table 9: Judgments by nature of case

Out of all published judgments, we identified only 1 judgment related to corruption, 3 judgments related to gender-based violence, and 3 judgments related to organized crime.

The Basic Court of Peja published only 14 non-anonymized judgments out of a total of 504 judgements published in total.

The following graph shows that out of 504 judgments published, 199 were published in accordance with the Standard Template of Judgments.

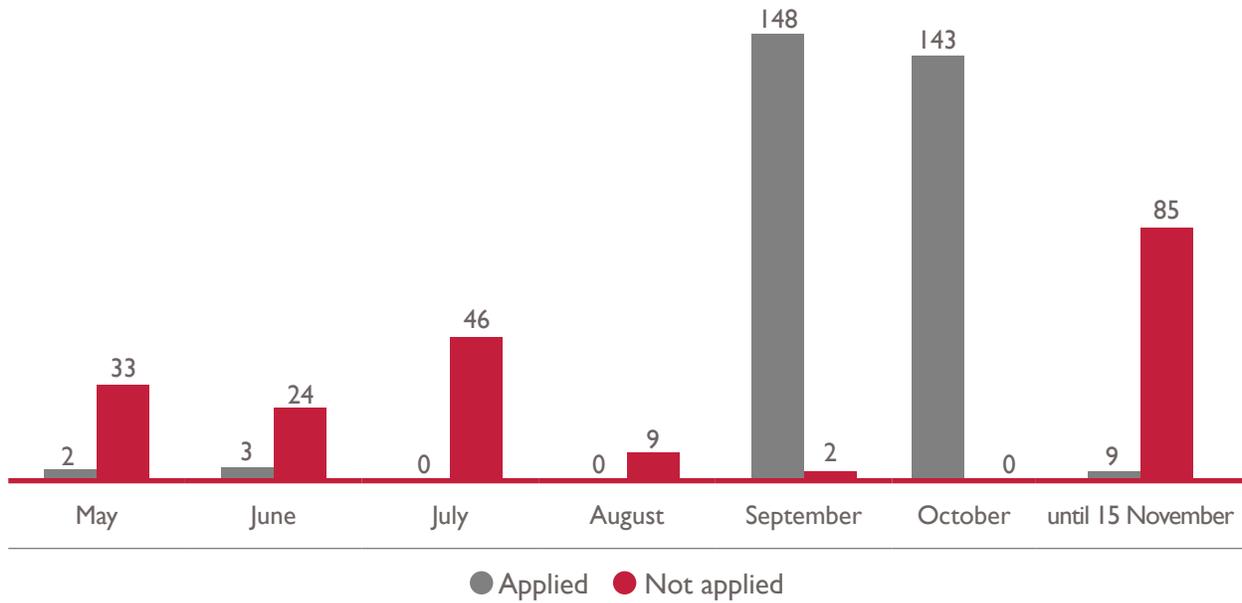
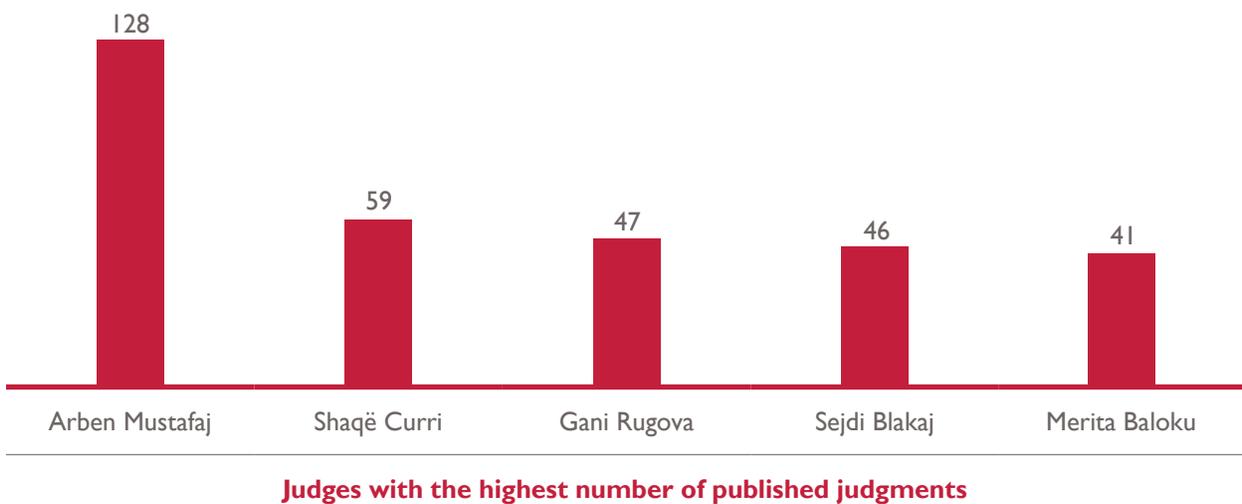


FIGURE 33. Use of template in judgments

The average length of time between decision announcements and publication of judgments by this court is approximately 140 days, calculated from the date of the judgment to the date of publication of the judgment on the website. The 60-day deadline provided by law has not been consistently respected by this court.

The following chart lists the 5 judges most active in terms of their publication of judgments at this court.



Judges with the highest number of published judgments

FIGURE 34. Overview of judges with the highest number of published judgments at the Basic Court of Peja

BASIC COURT OF GJILAN

The Basic Court of Gjilan, together with its branches in Kamenica, Viti, and Novoberde, is the court with the fewest published judgments during the monitoring period. During this period, this court published a total of 221 judgments, which were mainly published during the last months of the monitoring process.

As can be seen in the table below, this court did not publish any judgments during the months of May, June, and July. This situation then changed and the court published its highest number of judgments (86) in October.

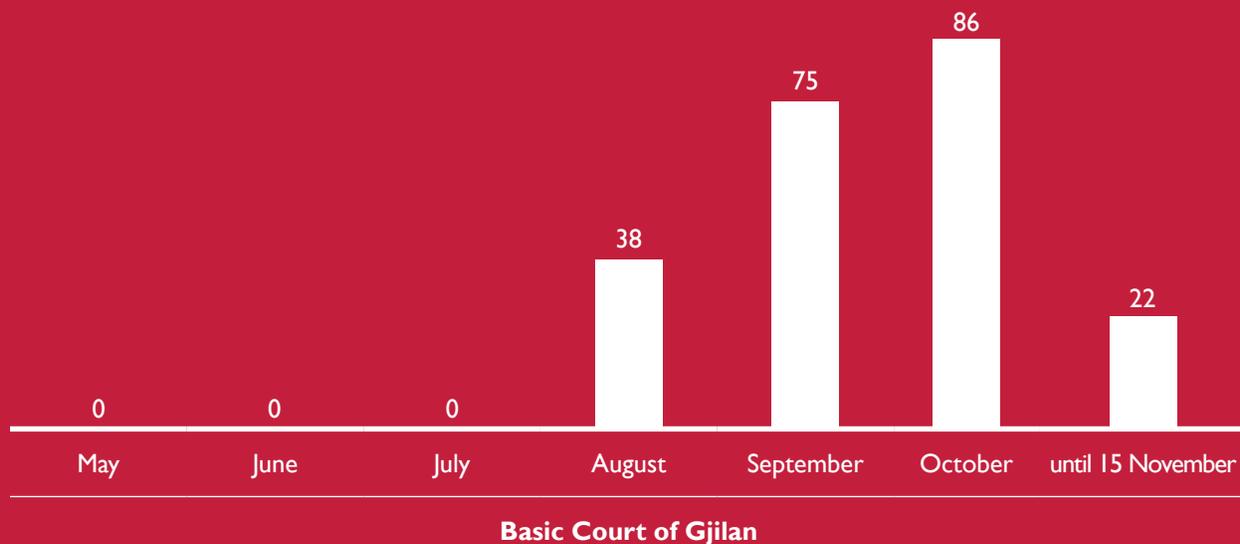


FIGURE 35. Overview of judges with highest number of published judgments at the Basic Court of Gjilan

The table below shows the performance of the branches of this court.

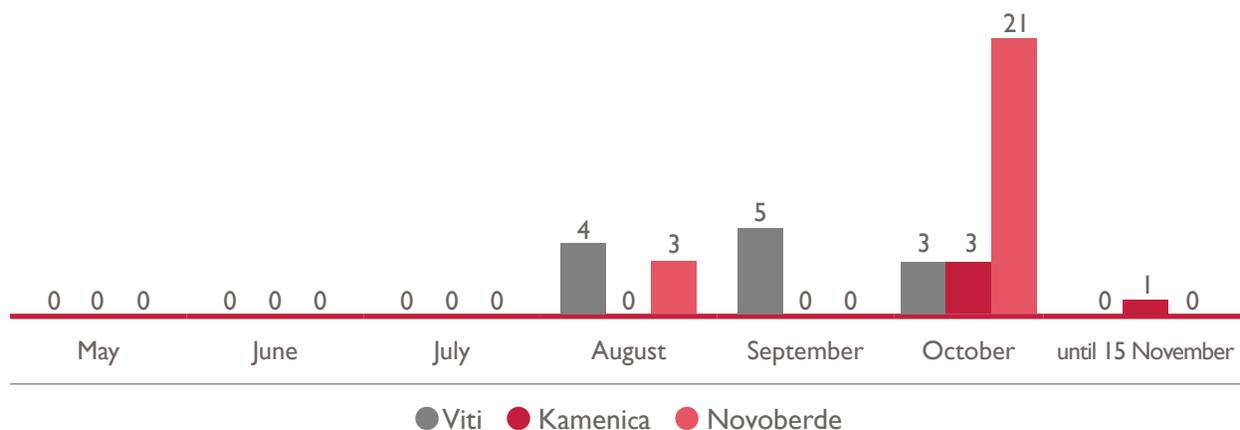


FIGURE 36. Publication of judgments by branches of the Basic Court of Gjilan

Both the court and its branches have been very passive in their publication of judgments. Only the branch of Novoberde stands apart, with 24 published judgments in total.

Out of these decisions, most judgments involve criminal cases, with the remainder being civil. The following table gives an overview of the ratio of criminal and civil cases published.

Table 9: Judgments by nature of case.

Nature of case	Criminal	Civil
Basic Court of Gjilan	188	33

Total 221

TABLE 9: Judgments divided by nature of the offence

Concerning the implementation of the Administrative Instruction on Anonymization of Judgments, out of all published judgments, only 15 of them were not anonymized.

The implementation of the Decision on Standardization of Judgments Forms by this court is at a satisfactory level. This is depicted in the graph below.

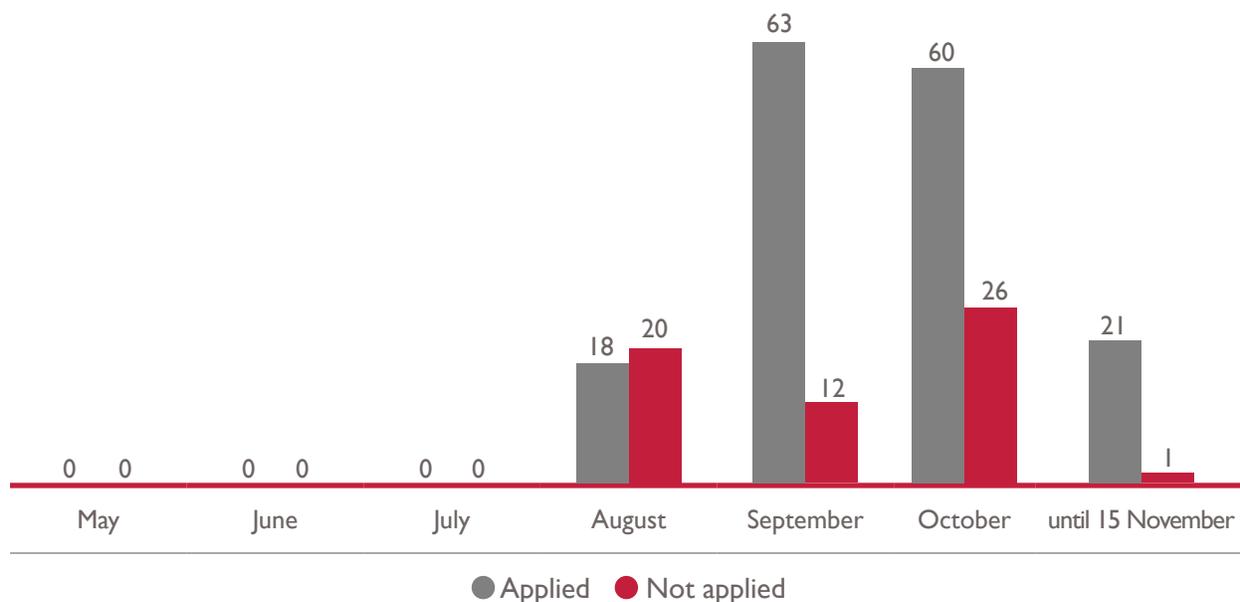


FIGURE 37. Use of template in judgments

During the monitoring period, this court took an average of 180 days to publish judgments from the day of their announcement.

The following table shows the judges with the highest number of published judgments at this court.

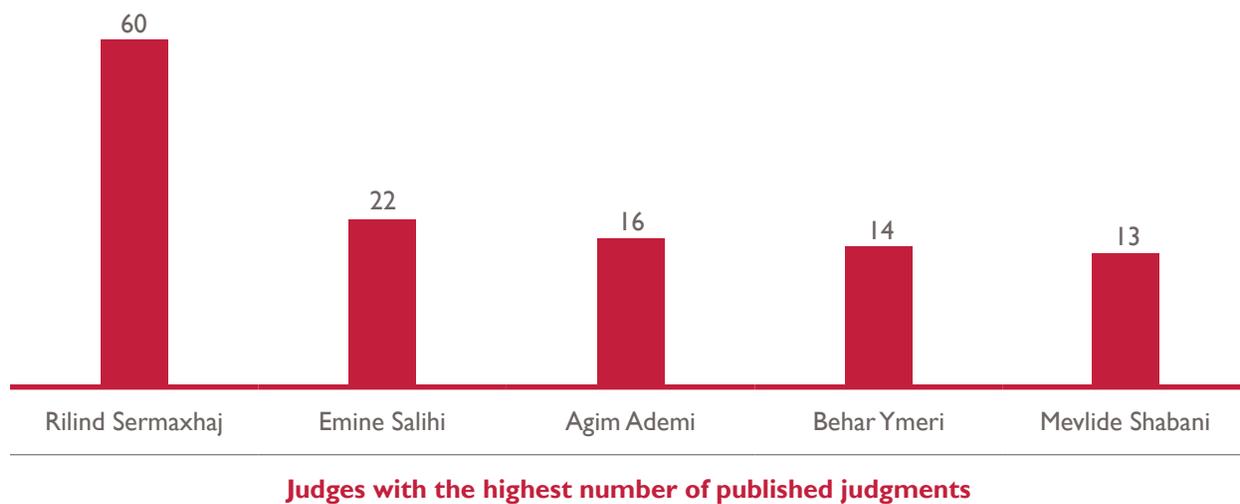


FIGURE 38. Overview of judges with the highest number of published judgments at the Basic Court of Gjilan

RECOMMENDATIONS

Based on the monitoring report's findings, the following recommendations are suggested for improving judgement publication process:

- 1 The Kosovo Judicial Council should monitor the Kosovo court system and its implementation of all regulations and decisions of the Kosovo Judicial Council, including the KJC Decision on Standardization of Judgments Forms. At the same time, the KJC should ask court presidents to report on the reasons for non-compliance with the regulations and decisions in question. Monitoring from FOL Movement revealed that this decision was implemented across only 42% of the monitored judgments.
- 2 The Kosovo Judicial Council should send decisions to be enforced by the courts via email to the responsible officers, while informing them that such decisions and regulations are also to be published on the Kosovo Judicial Council web portal. Decisions and regulations not yet published on the web portal should be published when the website is being updated and finalized. During our monitoring work and field visits, FOL Movement has noticed a failure in communication regarding the dissemination of information to the courts by the Council or even to the person responsible for disseminating such information, including the decision of the Kosovo Judicial Council on the use of the Standard Template of Judgments. As presented during the analysis, this standard was not applied by all courts equally.
- 3 The Kosovo Judicial Council should appoint information officers in each court. In addition, courts with more cases must have two information officers or office assistants, particularly in the Basic Courts of Prishtina and Prizren. This recommendation only applies if the information officers already exercise other functions that necessitate an increase in the number of officers. The process of publishing judgments would be easier if the courts concerned had officers designated for this purpose.
- 4 The Basic Court of Mitrovica should provide internet access to its two branches, Leposavic and Zubin Potok. The publication of judgments necessarily requires access to the internet. This court should also fill the position of Information Officer, who plays an important role in approving the publication of judgments.
- 5 The KJC web portal should be updated with daily news and important public announcements. During the monitoring period, FOL Movement observed that the web portal was often not updated with recent news, including statistical reports, which had to be published on a monthly basis. It is also worth noting that information on active judges in the courts should be updated (many courts include retired judges, judges who have changed courts, or even those who have died).
- 6 Capacity building for officers in charge of publishing the judgments should be a priority. During our field visits, we noted that the officers in charge of publishing the judgments need to be further trained on the publication of judgments process.
- 7 Every published judgment should be converted into PDF format. As this criterion is foreseen in the Administrative Instruction on Publication of Judgments, courts must comply with it.

- 8 Every judgment should, prior to publication, be reviewed by the Information Officers to ensure compliance with the Administrative Instruction on Anonymization and Publication of Final Court Judgments. As noted above, a significant number of judgments have been published without undergoing anonymization. We therefore request the relevant officers to review the judgment prior to publication.
- 9 Every judgment should, prior to publication, be checked in the language which it is being published in, in order to prevent the publication of the same judgment in all official languages, as the number of published judgments would then appear to be incorrect.
- 10 Case numbers should be harmonized. Each case should have its own unique number and not be shared with a case of a completely different nature. During the monitoring, FOL Movement encountered judgments with identical case numbers, which differed in content. Therefore, courts should be careful when registering cases in order to avoid using the same number.
- 11 Archive number prefixes intended to indicate what the type of the case is (e.g. criminal, civil, etc.) should be marked in every judgment. During our monitoring, we were not able to identify the type of judgment based only on the case number. Therefore, it would be preferable for the courts to add a prefix showing the type of case to the unique case number.

SOURCES

- 1 Constitution of the Republic of Kosovo. April 2008.
- 2 Council of Europe. European Convention on Human Rights. October 2013.
- 3 Assembly of the Republic of Kosovo. Law on Courts. December 2018.
- 4 Kosovo Judicial Council. Administrative Instruction (02/2016) on Anonymization and Publication of Final Court Judgments. February 2016.
- 5 Kosovo Judicial Council. Standard Template of Judgments – Volume I. 2018.
- 6 Interview with Arbër Jashari, Professional Associate / Information Officer at the Appellate Court. Interview conducted on: 14.10.2019.
- 7 Interview with Mirlinda Gashi, Information Officer at the Basic Court of Prishtina. Date of interview: 24.10.2019.
- 8 Interview with Albënora Bekteshi – Information Officer at the Basic Court of Ferizaj. Date of interview: 15. 10 .2019.
- 9 Interview with Ahmet Buzolli – IT Officer at the Basic Court of Mitrovica. Date of interview: 1. 11. 2019.
- 10 Interview with Afërdita Kicaj – Information Officer at the Basic Court of Prizren. Date of interview: 23.10.2019.
- 11 Interview with Nëntor Oseku – Professional Associate at the Basic Court of Gjakova. Date of interview: 28.10.2019.
- 12 Interview with Tringa Zhuti – Information and Media Monitoring Officer. Date of interview: 28.10.2019

