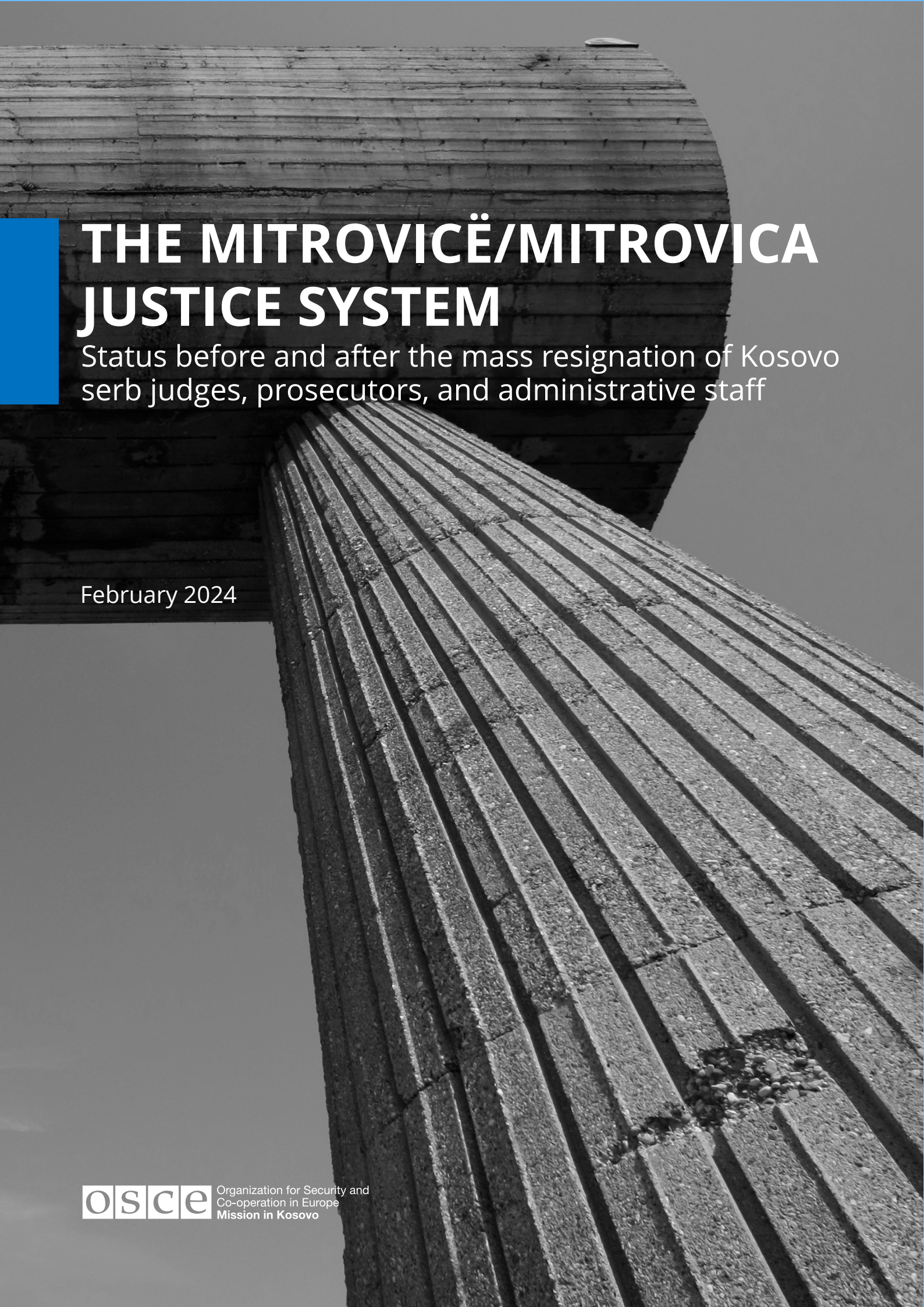




THE MITROVIĆE/MITROVICA JUSTICE SYSTEM

Status before and after the mass resignation of Kosovo
serb judges, prosecutors, and administrative staff

February 2024



Organization for Security and
Co-operation in Europe
Mission in Kosovo

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TABLE OF CONTENTS

EXECUTIVE SUMMARY	5
1. INTRODUCTION	7
1.1. Methodology	8
2. STATUS OF THE MITROVICE/MITROVICA JUSTICE SYSTEM BEFORE AND AFTER THE MASS RESIGNATION	10
2.1. The integration of Kosovo Serb judges, prosecutors, and administrative staff into the Kosovo justice system in the Mitrovicë/Mitrovica region	10
2.2. The context of the mass resignation of Kosovo Serb judges, prosecutors, and administrative staff in the Mitrovicë/Mitrovica region	11
2.3. Measures taken to address the situation after the mass resignation of Kosovo Serb judges, prosecutors, and administrative staff	12
2.3.1. Mitrovicë/Mitrovica Basic Court	12
2.3.2. Court of Appeals Division in Mitrovica/Mitrovicë North	13
2.3.3. Mitrovicë/Mitrovica Basic Prosecution Office	13
2.3.4. Kosovo Judicial Council, Kosovo Prosecutorial Council	13
2.4. Comparison of the functioning of the Mitrovicë/Mitrovica justice system before and after the mass resignation	14
2.4.1. Staffing Structure	14
2.4.2. Caseload	16
2.4.3. Backlog of cases	20
2.4.4. Adjourned hearings	23
2.5. Impacts of the mass resignation on the functioning of the Mitrovicë/Mitrovica justice system	24
3. CONCLUSIONS	27

LIST OF ABBREVIATIONS

CoA Division	Court of Appeals Division in Mitrovica/Mitrovicë North
KJC	Kosovo Judicial Council
KPC	Kosovo Prosecutorial Council
KP	Kosovo Police
MI BC	Mitrovicë/Mitrovica Basic Court
MI BPO	Mitrovicë/Mitrovica Basic Prosecution Office
OSCE	Organization for Security and Co-operation in Europe Mission in Kosovo

EXECUTIVE SUMMARY

On 7 November 2022, the justice system in the Mitrovicë/Mitrovica region experienced an unprecedented development when after five years of successful functioning of integrated judiciary and prosecution as introduced by the First Agreement of Principles Governing the Normalization of Relations, signed in April 2013, in Brussels (“the 2013 Brussels Agreement”), all integrated Kosovo Serb judges, prosecutors, and administrative staff resigned en masse from their posts (“the mass resignation”).

This report provides a factual overview of the functioning of the Mitrovicë/Mitrovica justice system, comparing the situation before and after the mass resignation of all Kosovo Serb judges, prosecutors, and administrative staff from their posts in the integrated judiciary and prosecution in the Mitrovicë/Mitrovica region.

The report examines publicly available statistical data and factual observations collected about the functioning of the Kosovo justice system institutions in the Mitrovicë/Mitrovica region before and after the mass resignation to identify its potential impacts on the performance and efficiency of the Mitrovicë/Mitrovica justice system, with a focus on compliance with the rule of law principles and fair trial standards.

Following the mass resignation, the capacity of the Mitrovicë/Mitrovica Basic Court, Court of Appeals Division in Mitrovica/Mitrovicë North, and the Mitrovicë/Mitrovica Basic Prosecution Office to administer justice timely and efficiently was alarmingly reduced due to the sudden and significant staffing shortage.

As the report confirms, based on the public statistical data collected, compared, and analyzed, such reduced capacity of the Mitrovicë/Mitrovica Basic Court and the Mitrovicë/Mitrovica Basic Prosecution Office led to a decrease in caseload clearance rate calculated between newly received cases and solved cases; this decrease was mirrored in a noticeable increase in overall backlog of unsolved cases, impacting the speed of prosecution and judicial proceedings.

The mass resignation also contributed to an increase of adjourned hearings in court cases. Right after the mass resignation, all hearings in cases assigned to Kosovo Serb judges and prosecutors were not held. Another factor contributing to the increase of adjourned hearings in criminal cases is the ongoing staffing shortage at the Mitrovicë/Mitrovica Basic Prosecution Office, especially its General Department.

Closure of the premises of the Mitrovicë/Mitrovica Basic Court branches in Leposavić/Leposaviq and Zubin Potok and Court of Appeals Division in Mitrovica/Mitrovicë North limited physical access to court and impacted the availability of court services for residents. Also, some of the mitigating measures taken by the Mitrovicë/Mitrovica Basic Court and the Mitrovicë/Mitrovica Basic Prosecution Office in response to the mass resignation might have imposed challenges on the right of parties to access justice effectively and equally.

Based on the findings, the report concludes that the mass resignation has had a substantial negative effect on the integration process of judiciary and prosecution, leading to severe consequences for the rights of the residents in the Mitrovicë/Mitrovica region, notably the right to a trial within a reasonable time and right to access justice, and highlights the need to restore the efficient and fair functioning of the Mitrovicë/Mitrovica justice system.

1. INTRODUCTION

An effective and accessible justice system is crucial in upholding the rule of law, safeguarding human rights, and promoting a sense of security and trust among residents.

As a part of its mandate, the Organization for Security and Co-operation in Europe, Mission in Kosovo (OSCE), monitors and reports on the work of the Kosovo justice system to ensure its compliance with the rule of law principles and human rights standards.

From 2008 to 2017, the justice system in the Mitrovicë/Mitrovica region was functioning only in a limited capacity, preventing residents from all communities from exercising or protecting their rights before the courts effectively.

The Brussels Agreement paved the way for integrating Kosovo Serb judges, prosecutors, and administrative staff into the Kosovo justice system. The integration modalities were set out in the Agreement on Justice (“the 2015 Justice Agreement”) signed in February 2015, defining the jurisdiction of the Mitrovicë/Mitrovica Basic Court and Mitrovicë/Mitrovica Basic Prosecution Office.¹

Since the implementation of the integration in October 2017, the Mitrovicë/Mitrovica Basic Court and its branches in Leposavić/Leposaviq and Zubin Potok, the Court of Appeals Division in Mitrovica/Mitrovicë North, and Mitrovicë/Mitrovica Basic Prosecution Office have been successfully administering justice with integrated Kosovo Serb judges, prosecutors, and administrative staff.

In November 2022, following the 5 November decision that political and institutional representatives of Kosovo Serbs in Kosovo institutions in northern Kosovo would leave Kosovo institutions, on 7 November, all Kosovo Serb judges, prosecutors, and administrative staff submitted their resignations from the posts in integrated judiciary and prosecution in the Mitrovicë/Mitrovica region. This mass resignation created an extraordinary situation directly affecting the functioning of the Mitrovicë/Mitrovica Basic Court and Mitrovicë/Mitrovica Basic Prosecution Office.

The report aims to outline the possible impacts of the mass resignation and the continuing extraordinary situation on the performance of the Mitrovicë/Mitrovica justice system concerning the rule of law principles and fair trial standards.

¹ Balkans Policy Research Group, The Dialog-Info Platform. *Justice Agreement*, 2015. Available at: <https://dialogue-info.com/wp-content/uploads/2020/09/Agreement-on-Justice-9-February-2015.pdf> (accessed 15 September 2023).

The report's analysis covers three main areas. First, it provides a brief overview of the judiciary and prosecution integration process in the Mitrovicë/Mitrovica region concluded in October 2017 and the context of the mass resignation in November 2022. Second, it compares the functioning of the Mitrovicë/Mitrovica justice system before and after the mass resignation; this is based on the statistical data and factual observations obtained for the report. Third, it examines the potential impacts of mass resignation and the continuing extraordinary situation on the right to access justice, the right to a trial within a reasonable time, and other observed human rights concerns. Finally, the report presents a set of conclusions regarding the identified impacts.

1.1. Methodology

The data collection for the report is based on:

- (i) Desk research of the data regarding the functioning of the Mitrovicë/Mitrovica Basic Court and its branches in Leposavić/Leposaviq, Skënderaj/Srbica, Vushtrri/Vučitrn, and Zubin Potok, and Mitrovicë/Mitrovica Basic Prosecution Office in the reporting period from January 2022 to June 2023 ("the reporting period"), encompassing:
 - (a) public statistical reports on the work of Kosovo Basic Courts and Basic Prosecution Offices in the reporting period published by the Kosovo Judicial Council, Kosovo Prosecutorial Council, and Kosovo Prosecutor;
 - (b) public statistical reports on the work in the reporting period published by the Mitrovicë/Mitrovica Basic Court and Mitrovicë/Mitrovica Basic Prosecution Office;
 - (c) the internal OSCE reports and Notes to the File, as well as relevant media articles concerning the functioning of the justice system in the Mitrovicë/Mitrovica region in the reporting period.
- (ii) Meetings with the representatives of the Mitrovicë/Mitrovica Basic Court and its branches, Mitrovicë/Mitrovica Basic Prosecution Office, and the Mitrovicë/Mitrovica Regional Office of the Kosovo Bar Association, as well as representatives of Kosovo Serb judges who submitted their resignations, all held in July 2023.

The findings of the report are based on the comparative quantitative analysis of the public statistical data concerning the functioning of the justice system in the

Mitrovicë/Mitrovica region in the reporting period, i.e. before and after the mass resignation, in particular the number of judges, prosecutors, and administrative staff assigned to the Mitrovicë/Mitrovica Basic Court and its branches, Court of Appeals Division in Mitrovica/Mitrovicë North, and Mitrovicë/Mitrovica Basic Prosecution Office, overall caseload and clearance rates, backlog of unsolved cases. Some of the report's findings are illustrated by direct observations made by the OSCE trial monitors during the hearings monitored after the mass resignation.

2. STATUS OF THE MITROVICE/MITROVICA JUSTICE SYSTEM BEFORE AND AFTER THE MASS RESIGNATION

2.1. The integration of Kosovo Serb judges, prosecutors, and administrative staff into the Kosovo justice system in the Mitrovicë/Mitrovica region

Based on the 2013 Brussels Agreement and the 2015 Justice Agreement, Kosovo Serb judges, prosecutors, and administrative staff completed their integration into the Kosovo justice system on 24 October 2017. Namely, the Mitrovicë/Mitrovica Basic Court and its newly established branches in Leposavić/Leposaviq and Zubin Potok received the assignment of 25 Kosovo Serb judges,² the Mitrovicë/Mitrovica Basic Prosecution Office received the assignment of nine Kosovo Serb prosecutors,³ and the Court of Appeals Division in Mitrovica/Mitrovicë North received the assignment of five Kosovo Serb judges.⁴

The integration of Kosovo Serb judges, prosecutors, and administrative staff into the Kosovo justice system significantly affected the establishment of a functional justice system in four northern Kosovo municipalities, leading to enhanced compliance with the rule of law principles and improved protection of human rights.⁵ Since the integration, positive developments have been observed in the operation of the Mitrovicë/Mitrovica justice system, including effective bilingual functioning of the court and prosecution office. Also noteworthy is the highly professional and praised collaboration between Kosovo Albanian and Kosovo Serb judges, prosecutors, and administrative staff, reduced case backlog, and transparent court proceedings, resulting in overall progress in adhering to human rights and the rule of law principles.⁶

2 12 women judges, 13 men judges.

3 Seven women prosecutors, two men prosecutors.

4 One woman judge, four men judges.

5 Mitrovica/Mitrovicë North, Leposavić/Leposaviq, Zubin Potok, and Zvečan/Zveçan.

6 In March 2020, the OSCE monitors conducted interviews with 16 justice actors from the Mitrovicë/Mitrovica region, all of them assessing the professional relationships between Kosovo Albanian and Kosovo Serb judges, prosecutors, and administrative staff, as excellent.

Kosovo Judicial Council, *Statistical Report on Works of Courts, Annual 2018*. Available at:

[Raporti vjetor statistikor per vitin 2018 mbi punen gjykatave Srb.pdf \(gjyqesori-rks.org\)](#) (accessed 9 November 2023); Kosovo Judicial Council, *Statistical Report on Works of Courts, Annual 2019*. Available at:

[9986 Raporti vjetor statistikor per vitin 2018 mbi punen gjykatave Srb.pdf \(gjyqesori-rks.org\)](#) (accessed 9

November 2023); Kosovo Judicial Council, *Statistical Report on Works of Courts, Annual 2020*. Available at:

[23323 KGJK Raporti vjetor statistikor per vitin 2010 mbi punen gjykatave Shq.pdf \(gjyqesori-rks.org\)](#) (accessed 9

November 2023); Kosovo Judicial Council, *Statistical Report on Works of Courts, Annual 2021*. Available at:

[91632 KGJK Raporti Statistikor Vjetor Gjykatave 2021.pdf \(gjyqesori-rks.org\)](#) (accessed 9 November 2023).

Kosovo Judicial Council, *Osnovni sud u Mitrovici vodi na objavljivanje presuda*, 7 November 2019. Available at: [Osnovni sud u Mitrovici vodi na objavljivanje presuda – Këshilli Gjyqësor i Kosovës \(gjyqesori-rks.org\)](#) (accessed 13 November 2023).

2.2. The context of the mass resignation of Kosovo Serb judges, prosecutors, and administrative staff in the Mitrovicë/Mitrovica region

In the latter half of 2022, the political situation in northern Kosovo was unstable and tense.⁷

On 28 October, the Government announced the adoption of the decision on re-registration of vehicles with Serbian-issued license plates with denominations of Kosovo cities (Serbian-issued license plates).⁸ The decision introduced reprimands and fines for drivers of vehicles with Serbian-issued license plates who would not register their cars in line with the decision.

On 2 November, the Kosovo Serb director of the Kosovo Police (KP) Regional Directorate for the North region, Nenad Đurić, publicly announced that the Kosovo Serb KP officers serving in the North region would not be implementing the decision on phased RKS license plate registration.⁹ The next day, on 3 November, KP suspended Đurić for *“failure to exercise legal powers and implement official decisions”*.¹⁰

In reaction to Đurić suspension, on 5 November, after the meeting of the political and institutional representatives of Kosovo Serbs in Kosovo institutions in northern Kosovo held in Zvečan/Zveçan, *Srpska lista* President announced the decision that political and institutional representatives of Kosovo Serbs in Kosovo institutions in northern Kosovo would leave Kosovo institutions (“the 5 November meeting in Zvečan/Zveçan”).

Following this decision, on 7 November, all Kosovo Serb judges and administrative staff of the Mitrovicë/Mitrovica Basic Court and the Court of Appeals Division in Mitrovica/Mitrovicë North submitted their resignations from their posts in the

7 Hovenier, J. [@USAmbKosovo]. (2 August 2022). *The U.S. welcomes the decision by Kosovo's leaders to suspend temporarily the implementation of reciprocity measures on license plates & entry/exit documents, both measures are fully in line with the Brussels agreements and were coordinated with the international community*. [Tweet]. X. Available at: <https://x.com/USAmbKosovo/status/1554393408004816897?s=2> (accessed 9 November 2023);

Borrell, J.F. [@JosepBorrellF]. (18 August 2022). *I am convening this morning the High-level Belgrade-Pristina Dialogue meeting. Recent tensions in the north of Kosovo have demonstrated yet again that it is time to move forward towards full normalisation. I expect both leaders to be open and flexible to find common ground*. [Tweet]. X. Available at: <https://x.com/JosepBorrellF/status/1560184533579927552?s=20> (accessed 8 November 2023);

European Union External Action, *Kosovo/Serbia: Statement by the High Representative on the recent developments*, 5 November 2022. Available at: [Kosovo/Serbia: Statement by the High Representative on the recent developments | EEAS \(europa.eu\)](https://eeas.europa.eu/kosovo-serbia-statement-by-the-high-representative-on-the-recent-developments) (accessed 8 November 2023).

8 Kosovo Government, *Decision No. 05/103*, 28 October, 2022. Available at: [ActDetail.aspx \(rks-gov.net\)](https://rks-gov.net/ActDetail.aspx); [ActDocumentDetail.aspx \(rks-gov.net\)](https://rks-gov.net/ActDocumentDetail.aspx); [engVendimet-103.doc \(live.com\)](https://live.com/eng/Vendimet-103.doc) (accessed 31 July 2023).

9 “Djuric confirms the police of the region north will not issue reprimands”, *KoSSev*, November 2, 2022. Available at: [Djuric confirms the police of the region north will not issue reprimands - KoSSev](https://www.kosovosev.net/djuric-confirms-the-police-of-the-region-north-will-not-issue-reprimands) (accessed 31 July 2023).

10 Kosovo Police, *The regional director of Mitrovica North suspended*, 3 November 2022. Available at: [The regional director of Mitrovica North suspended - Kosovo Police](https://www.kosovopolice.net/the-regional-director-of-mitrovica-north-suspended) (accessed 31 July 2023).

integrated judiciary in the Mitrovicë/Mitrovica region. Later the same day, all Kosovo Serb prosecutors and administrative staff of the Mitrovicë/Mitrovica Basic Prosecution Office offered their resignations from their posts in integrated prosecution in the Mitrovicë/Mitrovica region.

2.3. Measures taken to address the situation after the mass resignation of Kosovo Serb judges, prosecutors, and administrative staff

2.3.1. Mitrovicë/Mitrovica Basic Court

In reaction to the mass resignation and following a series of meetings between representatives of the Kosovo Judicial Council (KJC) and the Mitrovicë/Mitrovica Basic Court, on 9 November, the Vice-President of the Mitrovicë/Mitrovica Basic Court submitted to the Chairman of KJC the temporary action plan. This focused on the continuation of work of the Mitrovicë/Mitrovica Basic Court and its branches after the mass resignation ("the temporary action plan"), with concrete measures to address the existing extraordinary situation:

- (i) reorganization and functioning of the departments within the Mitrovicë/Mitrovica Basic Court,
- (ii) identification of cases to be transferred to other courts,
- (iii) reorganization of professional staff,
- (iv) reorganization of the administration.

Based on the temporary action plan, two Kosovo Albanian judges from the Mitrovicë/Mitrovica Basic Court (MI BC) General Department were transferred to the MI BC Serious Crimes Department. One Kosovo Albanian judge from the MI BC branch in Vushtrri/Vučitrn and one Kosovo Albanian judge from the MI BC General Department, Civil Division, were transferred to the MI BC General Department, Criminal Division. Four Kosovo Albanian judges were assigned to handle criminal and civil cases at the MI BC branches in Leposavić/Leposaviq and Zubin Potok.

At the same time, all judges were tasked to prioritize cases of pre-trial detention on remand, criminal and civil domestic violence cases and cases reaching the statute of limitations.

In line with the temporary action plan to address the staffing shortage at the Mitrovicë/Mitrovica Basic Court, in total, 81 cases from the court were identified to be transferred to other Basic Courts in Ferizaj/Uroševac, Gjakovë/Đakovica, Gjiilan/Gnjilane, Pejë/Peć, and Prizren.

2.3.2. Court of Appeals Division in Mitrovica/Mitrovicë North

On 7 November 2022, the Court of Appeals Division in Mitrovica/Mitrovicë North (CoA Division) ceased its operations, transferring all pending cases from the CoA Division to the Court of Appeals in Prishtinë/Priština. The Court of Appeals took over 27 unsolved criminal cases and 160 unsolved civil cases initially assigned to the CoA Division.¹¹

2.3.3. Mitrovicë/Mitrovica Basic Prosecution Office

Following the mass resignation, the Acting Kosovo Chief Prosecutor decided on the temporary transfer of three prosecutors from the Prishtinë/Priština and Ferizaj/Uroševac Basic Prosecution Offices to the Mitrovicë/Mitrovica Basic Prosecution Office (MI BPO), General Department as right after the mass resignation, the department had only one Kosovo Albanian prosecutor left to handle all criminal cases. The implementation of the measure lasted from 15 November 2022 to 15 May 2023.

On 23 May 2023, based on the request of the MI BPO Chief Prosecutor, the Kosovo Prosecutorial Council (KPC) decided on the temporary transfer of two prosecutors from the Ferizaj/Uroševac Basic Prosecution Office to the MI BPO General Department for a period of six months, starting from 23 May, and 5 June respectively.

To address the significant staffing shortage, the Mitrovicë/Mitrovica Basic Prosecution Office also took a measure to prioritize pre-trial detention on remand cases, domestic violence cases, corruption and economic crimes cases, and cases reaching the time limits of investigation.

2.3.4. Kosovo Judicial Council, Kosovo Prosecutorial Council

As of the date of this report, neither KJC nor KPC has decided about the individual resignations of Kosovo Serb judges and prosecutors submitted in November 2022.

On 28 July 2023, after conducting respective disciplinary procedures, KJC rendered decisions on disciplinary sanctions against three Kosovo Serb judges who submitted their resignations in November 2022. Based on the disciplinary decisions, KJC imposed a disciplinary sanction of a proposal for dismissal¹² upon

¹¹ Divizioni i Apelit në Mitrovicën Veriore jofunksional, 187 lëndë barten në Gjykatën e Apelit në Prishtinë, *Betimi per Drejtesi*, 14 January 2023. Available at: <https://betimiperdrejtesi.com/divizioni-i-apelit-ne-mitrovicen-veriore-jofunksional-187-lende-barten-ne-gjykatën-e-apelit-ne-prishtinë/> (accessed on 31 July 2023).

¹² Law No. 06/L-057, On Disciplinary Liability of Judges and Prosecutors, Article 7 (1) (1.5.)

two Kosovo Serb judges and a disciplinary sanction of public written reprimand¹³ upon one Kosovo Serb judge for committing disciplinary offences in relation to their attendance of the 5 November meeting in Zvečan/Zveçan.¹⁴

2.4. Comparison of the functioning of the Mitrovicë/Mitrovica justice system before and after the mass resignation

2.4.1. Staffing Structure

The 2015 Justice Agreement sets the staffing structure of the Mitrovicë/Mitrovica Basic Court, Court of Appeal Division in Mitrovica/Mitrovicë North, and the Mitrovicë/Mitrovica Basic Prosecution Office, specifying the numbers and ethnicity of judges, prosecutors, and administrative staff assigned to these justice institutions.

According to the staffing table annexed to the 2015 Justice Agreement, the Mitrovicë/Mitrovica Basic Court would operate with 32 Kosovo Albanian judges and 34 Kosovo Serb judges, while the Court of Appeals Division in Mitrovica/Mitrovicë North would consist of two Kosovo Albanian judges and five Kosovo Serb judges. The MI BC branches in Leposavić/Leposaviq and Zubin Potok would have two Kosovo Serb judges each. The Mitrovicë/Mitrovica Basic Prosecution Office would have nine Kosovo Albanian prosecutors, including the chief prosecutor, and nine Kosovo Serb prosecutors.¹⁵

During the mass resignation, in total, 20 Kosovo Serb judges and 110 administrative staff members of the Mitrovicë/Mitrovica Basic Court and its branches in Leposavić/Leposaviq and Zubin Potok submitted resignations from their posts. More specifically, at the Mitrovicë/Mitrovica Basic Court, 17 Kosovo Serb judges, 65 Kosovo Serb and one Kosovo Gorani administrative staff members resigned. At the MI BC branch in Leposavić/Leposaviq, two Kosovo Serb judges and 20 Kosovo Serb administrative staff members resigned. At the MI BC branch in Zubin Potok, one Kosovo Serb judge and 24 Kosovo Serb administrative staff members resigned.¹⁶

¹³ Law No. 06/L-057, On Disciplinary Liability of Judges and Prosecutors, Article 7 (1) (1.2.)

¹⁴ One of the Kosovo Serb judges was disciplinary sanctioned also for the attendance and addressing the public gathering of Kosovo Serb residents held in the centre of Mitrovica/Mitrovicë North on 6 November 2022.

¹⁵ Balkans Policy Research Group, The Dialog-Info Platform. *Annex to Justice Agreement*, 2015. Available at: <https://dialogue-info.com/wp-content/uploads/2013/04/integration-of-judiciary.jpg> (accessed 15 September 2023).

¹⁶ Kosovo Judicial Council, *Judges on Duty*. Available at: *On Duty – Gjykata Themelore Mitrovicë* (gjyqesori-rks.org) (accessed 31 August 2023); Mitrovicë/Mitrovica Basic Court, *Report on Work No. 135/2022*, 18 January 2023. Available at: 88198.GjTh.Mitrovica.Raporti.rregullt.punes.periudha.1.tetor.31.dhjetor.2022.pdf (gjyqesori-rks.org) (accessed 31 August 2023).

On the same day, four Kosovo Serb judges of the Court of Appeals Division in Mitrovica/Mitrovica North resigned from their posts.

Regarding staffing, the mass resignation did not directly affect the MI BC branches in Skënderaj/Srbica and Vushtrri/Vučitrn, as these court branches had no integrated Kosovo Serb judges and administrative staff members assigned.

Table 1. Overview of the MI BC staffing structure before and after the mass resignation

MI BC and its branches	September 2022			June 2023		
	Mitrovicë/ Mitrovica	Leposavić/ Leposaviq	Zubin Potok	Mitrovicë/ Mitrovica	Leposavić/ Leposaviq	Zubin Potok
Judges	33	2	2¹⁷	18¹⁸	0	0
Kosovo Albanians	16	0	0	17	0	0
Kosovo Serbs	17	2	2	0	0	0
Men	18	1	1	10	0	0
Women	15	1	1	8	0	0
Administrative staff	148¹⁹	20	24	79²⁰	0	3
Kosovo Albanians	78	0	2	76	0	3
Kosovo Serbs	65	20	26	0	0	0
Men	65	13	14	37	0	2
Women	83	7	14	42	0	1

Regarding the Mitrovicë/Mitrovica Basic Prosecution Office, within the mass resignation, on 7 November 2022, 10 Kosovo Serb prosecutors and 22 administrative staff members submitted resignations from their posts.

¹⁷ Supervisory judge of the MI BC branch in Zubin Potok was also assigned to the Mitrovicë/Mitrovica Basic Court in the Mitrovica/Mitrovicë North court building.

¹⁸ Including one Kosovo Bosniak woman judge.

¹⁹ Including four Kosovo Bosniak women employees and one Kosovo Gorani man employee.

²⁰ Including three Kosovo Bosniak women employees.

Table 2. Overview of the MI BPO staffing structure before and after the mass resignation

MI BPO	September 2022	June 2023
Prosecutors	19	10
Kosovo Albanians	9	10
Kosovo Serbs	10	0
Men	9	6
Women	10	4
Administrative Staff	65	47²¹
Kosovo Albanians	43	47
Kosovo Serbs	22	0
Men	34	26
Women	31	21

2.4.2. Caseload

On 7 November 2022, a substantive number of judges, prosecutors, and administrative staff left their posts at the Mitrovicë/Mitrovica Basic Court and its branches in Leposavić/Leposaviq and Zubin Potok, Court of Appeals Division in Mitrovica/Mitrovicë North, and Mitrovicë/Mitrovica Basic Prosecution Office. This inevitably affected the overall functioning, efficiency, and effectiveness of the justice system in the Mitrovicë/Mitrovica region.

Mitrovicë/Mitrovica Basic Court

Concerning the caseload at the Mitrovicë/Mitrovica Basic Court after the mass resignation, 1,520 criminal cases and over 5,000 civil cases assigned to Kosovo Serb judges had to be re-assigned to Kosovo Albanian judges.²² During the process of mass resignation, Kosovo Serb judges identified the most urgent cases assigned to them and handed over respective case files to Kosovo Albanian judges to ensure proper and timely processing of such urgent cases.

When considering the possible impact of mass resignation on the caseload at the Mitrovicë/Mitrovica Basic Court, a quantitative comparison of statistical data is helpful. More specifically, data published in the KJC reports on the work of this court in the first six months of 2022, i.e., before the mass resignation, and the first

²¹ Including three Kosovo Bosniak employees.

²² 700 criminal cases assigned to Kosovo Serb judges of the MI BC Serious Crimes Department and 820 criminal cases assigned to Kosovo Serb judges of the MI BC General Department.

six months of 2023, i.e., after the mass resignation, shows a substantive decrease in the overall clearance rate for all types of cases.²³

During the first six months of 2022, the Mitrovicë/Mitrovica Basic Court received 3,574 new cases and solved 2,686 cases, with an overall clearance rate for all types of cases of 75 %. In contrast, during the first six months of 2023, the Mitrovicë/Mitrovica Basic Court received 3,214 new cases and solved 1,899 cases, with the overall clearance rate for all types of cases of 59 %.

A more detailed analysis shows that the decrease in clearance rate concerns mainly general crime cases, civil dispute cases, and execution of court decisions.

Regarding the general crime pre-trial cases, there was not a substantial quantitative decline in the overall clearance rate. It shifted from 89 % in the first half of 2022 to 86 % in the first half of 2023, but there was a substantial drop in the total number of received cases from 115 cases in the first half of 2022 to only 66 cases in the first half of 2023.

Concerning general crime main trial cases, the statistical data show a notable decline in the overall clearance rate from 117 % in the first half of 2022 to 74 % in the first half of 2023. Also, there was a decrease in the total number of received cases from 436 cases in the first half of 2022 to 270 cases in the first half of 2023.

Comparing the statistical data of the first half of 2022 to the same period in 2023, serious crime cases and juvenile crime cases predominantly experienced a drop in the total number of received cases but an increase in clearance rate.

When it comes to civil dispute cases, the statistical data demonstrate a decline in the overall clearance rate from 61 % in the first half of 2022 to 52 % in the first half of 2023. Also, there is a decrease in the total number of received cases from 1098 cases in the first half of 2022 to 885 cases in the first half of 2023.

As for the execution of court decisions, the statistical data indicate a noticeable drop in the overall clearance rate from 64 % in the first half of 2022 to 25 % in the same period in 2023. Related to that substantive clearance rate drop, the backlog of court decisions to be executed increased from 2,550 unsolved cases by June 2022 to 3,901 unsolved cases by June 2023.

²³ Kosovo Judicial Council, *Statistical Report on Works of Courts, Annual 2022*. Available at: [45114-RAPORTI-STATISTIKOR-I-GJYKATAVE-VJETOR-2022.pdf](https://gjjkqesori-rks.org/45114-RAPORTI-STATISTIKOR-I-GJYKATAVE-VJETOR-2022.pdf) (gjjkqesori-rks.org) (accessed 31 July 2023).

Table 3. Comparison of the MI BC caseload

MI BC	January – June 2022			January – June 2023		
	Cases received in the reporting period	Cases solved in the reporting period	Clearance rate % ²⁴	Cases received in the reporting period	Cases solved in the reporting period	Clearance rate %
General Crime pre-trial cases	115	102	89	66	57	86
General Crime main trial cases	436	508	117	270	201	74
Serious Crime pre-trial cases	120	99	83	108	129	119
Serious Crime main trial cases	161	177	110	120	265	221
Juvenile Crime pre-trial cases	22	21	95	33	27	82
Juvenile Crime main trial cases	75	30	40	38	24	63
Civil Dispute Cases	1098	675	61	885	457	52
Execution of court decisions	1133	729	64	1353	333	25
All types of cases	3574	2686	75	3214	1899	59

Since the mass resignation, the premises of the MI BC branches in Leposavić/Leposaviq and Zubin Potok have been closed as all Kosovo Serb judges assigned to these court branches resigned, together with all Kosovo Serb administrative staff. Based on the 9 November temporary action plan, four Kosovo Albanian judges of the Mitrovicë/Mitrovica Basic Court handle all criminal and civil cases under the jurisdiction of these court branches.

According to the statistical data published in the KJC reports on the work of these MI BC branches in the first six months of 2022 and the first six months of 2023, both court branches experienced a decrease in the total number of received cases. Also, they received a considerable decline in the overall clearance rate for all types of cases.

More specifically, the MI BC branch in Leposavić/Leposaviq reported a decrease in the total number of received cases from 199 to 45 cases and a decline in the

²⁴ Clearance rate is the proportion between number of solved cases in the reporting period and number of newly received cases in the reporting period.

overall clearance rate for all types of cases from 75 % to 20 %. Similarly, the MI BC branch in Zubin Potok reported a decrease in the total number of received cases from 118 to three cases and a decline in the overall clearance rate for all types of cases from 74 % to an alarming 0 %.²⁵

Mitrovicë/Mitrovica Basic Prosecution Office

Concerning the caseload of the Mitrovicë/Mitrovica Basic Prosecution Office after the mass resignation, in total, 5,302 criminal cases of all types assigned to Kosovo Serb prosecutors had to be re-assigned to Kosovo Albanian prosecutors.

In assessing the possible impact of the mass resignation on the caseload at the Mitrovicë/Mitrovica Basic Prosecution Office, the quantitative comparison of statistical data published in the Kosovo Prosecutor's work report for the first half of 2022, i.e., before the mass resignation, and KPC reports on the work of this prosecution office for the first half of 2023, i.e., after the mass resignation, show a decline in overall clearance rate for all types of cases.

To elaborate more, in the first half of 2022, the Mitrovicë/Mitrovica Basic Prosecution Office received 2,836 new cases - criminal reports, out of which 2,117 cases were solved, with an overall clearance rate for all types of cases of 75 %.²⁶ On the other hand, in the first six months of 2023, the Mitrovicë/Mitrovica Basic Prosecution Office received 1,236 new cases - criminal reports, out of which 709 cases were solved, with an overall clearance rate for all types of cases of 57 %.²⁷

In greater detail, from January to March 2023, the Mitrovicë/Mitrovica Basic Prosecution Office reported 528 new cases-criminal reports, out of which 458 cases were solved, with an overall clearance rate for all types of cases of 87 %. From April to June 2023, the Mitrovicë/Mitrovica Basic Prosecution Office reported 708 new cases-criminal reports, out of which 251 cases were solved, with a clearance rate for all types of cases of 35,45 %.

Also, when comparing the total numbers of new cases - criminal reports received in the first half of 2022 and the first half of 2023, the statistical data show a decline from 2,836 new cases - criminal reports to 1,236 new cases - criminal reports, which represents a decrease of 43 %.

25 Kosovo Judicial Council, *Statistical Report on Work of Courts, Annual 2022*. Available at: [45114_RAPORTI STATISTIKOR I GJYKATAVE VJETOR 2022.pdf \(gjyqesori-rks.org\)](#) (accessed 31 July 2023).

26 Kosovo Prosecutor, *Six-month Report on the Work of Prosecutor, January - June 2022*. Available at: [170.pdf \(prokuroria-rks.org\)](#) (accessed 15 September 2023).

27 Kosovo Prosecutorial Council, *Reporting Mechanism of the MI BPO Chief Prosecutor, July-September 2022*. Available at: [Mekanizmi i raportimit të Kryeprokurorit të PTH Mitrovicë, periudha korrik-shtator 2022, nr.1793.2022.pdf \(prokuroria-rks.org\)](#) (accessed 15 September 2023).

2.4.3. Backlog of cases

Mitrovicë/Mitrovica Basic Court

The extensive backlog of unsolved court cases represents a continuous challenge that the Mitrovicë/Mitrovica Basic Court and its branches have been facing long term.²⁸

To assess the possible impact of mass resignation on the backlog of court cases, the statistical data published in the KJC reports on the work of this court in 2022 before the mass resignation and the first half of 2023 after the mass resignation. The data illustrates the trend of decreasing clearance rates of newly received cases and an increasing backlog of all types of cases from the beginning of 2022 to the first half of 2023.

In detail, from January to June 2022, the court achieved a clearance rate of 75.15 %, leaving a backlog of 11,487 unsolved cases. Right before the mass resignation, by September 2022, the clearance rate of the court was 79.62 %, with a backlog of 11,497 unsolved cases. After the mass resignation, by December 2022, the clearance rate of the court dropped to 74.43 %, with a backlog of 12,172 unsolved cases.²⁹ From January to June 2023, the clearance rate of the court continued to decline gradually to 59 %, leaving a backlog of 13,313 unsolved cases.³⁰

These figures show that the mass resignation directly affected the capacities of the Mitrovicë/Mitrovica Basic Court court to handle cases promptly. In 2022, the overall increase in backlog was 1,694 unsolved cases, while only in the first half of 2023, the overall increase of backlog was already 1,315 unsolved cases.

Concerning the decrease in the caseload clearance rate and increase in the backlog of unsolved cases after the mass resignation, a substantive decline in the number of solved cases is also evident. In the first three months of 2022, the court solved 1,475 cases;³¹ in the first three months of 2023, the court solved only 1,032

28 At the Mitrovicë/Mitrovica Basic Court, in 2018, the backlog was 8,929 unsolved cases; in 2019, the backlog was 8,642 unsolved cases; in 2020, the backlog was 8,279 unsolved cases; and in 2021, the backlog was 10,745 unsolved cases.

29 Kosovo Judicial Council, *Statistical Report on Work of Courts, January-September 2022*. Available at: [17924_KGJK_Raporti_statistikor_gjykatave_nentemujori_2022.pdf \(gjyqesori-rks.org\)](#) (accessed 31 July 2023); Kosovo Judicial Council, *Statistical Report on Work of Courts, Annual 2022*. Available at: [45114_RAPORTI STATISTIKOR I GJYKATAVE VJETOR 2022.pdf \(gjyqesori-rks.org\)](#) (accessed 31 July 2023).

30 Kosovo Judicial Council, *Statistical Report on Work of Courts, January-June 2023*. Available at: [62812_KGJK_Raporti_statistikor_gjykatave_gjashtemujor_pare_2023.pdf \(gjyqesori-rks.org\)](#) (accessed 31 July 2023).

31 Kosovo Judicial Council, *Statistical Report on Work of Courts, January-March 2022*. Available at: [86839_KGJK_Raporti_statistikor_gjykatave_tremujorit_pare_2022.pdf \(gjyqesori-rks.org\)](#) (accessed 31 July 2023).

cases.³² From January to June 2022, the court solved 2,686 cases; however, during the same period in 2023, the court solved only 1,899 cases. The decreasing number of solved cases after the mass resignation is even more apparent when considering only data from April to June 2023, when the court solved only 867 cases with a clearance rate of 52.83 %, as it entered 1,641 new cases.³³

Table 4. Overview of the MI BC backlog

MI BC	Cases solved in the reporting period	Clearance rate %	Backlog by the end of the reporting period
January - March 2022	1,475	94	10,695
January – June 2022	2,696	75,15	11,487
January – September 2022	3,931	79,62	11,497
January - December 2022	4,930	74,43	12,172
January – March 2023	1,032	65,61	12,585
January – June 2023	1,899	59	13,313

The MI BC branches in Leposavić/Leposaviq and Zubin Potok, whose premises have been closed since November 2022, also experienced a drop in the number of received cases, the number of solved cases and the clearance rate.³⁴

Mitrovicë/Mitrovica Basic Prosecution Office

In terms of the possible impact of the mass resignation on the backlog of unsolved cases, the quantitative comparison of statistical data published in the Kosovo Prosecutor's reports on the work of the Mitrovicë/Mitrovica Basic Prosecution Office in 2022, i.e. before the mass resignation, and the KPC reports on the work of this prosecution office in the first half of 2023, i.e., after the mass resignation, indicates the significant decrease in the clearance rate of the newly received cases and an increase of backlog of all types of cases in the first six months of 2023.

³² Kosovo Judicial Council, *Statistical Report on Work of Courts, January-March 2023*. Available at: [15988_KGJK_Raporti_statistikor_tremujorit_pare_2023_mbi_punen_gjykatave.pdf \(gjyqesori-rks.org\)](#) (accessed 31 July 2023).

³³ Kosovo Judicial Council, *Statistical Report on Work of Courts, January-June 2023*. Available at: [62812_KGJK_Raporti_statistikor_gjykatave_gjashtemujor_pare_2023.pdf \(gjyqesori-rks.org\)](#) (accessed 31 July 2023).

³⁴ Kosovo Judicial Council, *Statistical Report on Work of Courts, Annual 2022*. Available at: [45114_RAPORTI_STATISTIKOR_I_GJYKATAVE_VJETOR_2022.pdf \(gjyqesori-rks.org\)](#) (accessed 31 July 2023); Kosovo Judicial Council, *Statistical Report on Work of Courts, January-June 2023*. Available at: [76394_KGJK_Raporti_statistikor_gjykatave_gjashtemujor_pare_2023_SRB.pdf \(gjyqesori-rks.org\)](#) (accessed 31 July).

Concretely, during 2022, the prosecution office kept the clearance rate of newly received cases at an average of 75 %, with an overall backlog of 8,041 unsolved cases by December 2022.³⁵ On the contrary, in the first half of 2023, the clearance rate of newly received cases dropped to 57%,³⁶ increasing the overall backlog to 9,042 unsolved cases by June 2023.³⁷

These data imply that the mass resignation had a direct consequence on the efficiency of the Mitrovicë/Mitrovica Basic Prosecution Office as in 2022, the overall increase of backlog was 1,235 unsolved cases, while only in the first six months of 2023, the overall increase of backlog was already 1,001 unsolved cases.

When comparing the first half of 2022 and the first half of 2023, it is evident that the Mitrovicë/Mitrovica Basic Prosecution Office also experienced a decline in the number of solved cases. From January to June 2022, the prosecution office solved 2,117 cases,³⁸ while from January to June 2023, the prosecution office solved only 709 cases, which represents an apparent decline.³⁹

Table 5. Overview of MI BPO backlog

MI BPO	Cases solved in the reporting period	Clearance rate %	Backlog by the end of the reporting period
January – June 2022	2,117	74,64	7,525
January – September 2022	3,060	75,22	7,814
January – December 2022	4,863	74,60	8,041
January – June 2023	709	57	9,042

35 Kosovo Prosecutor, *Annual Report of the State Prosecutor 2022*. Available at: [RAPORTI VJETOR I PROKURORIT TE SHETIT 2022.pdf \(prokuroria-rks.org\)](#) (accessed 28 September 2023).

36 Kosovo Prosecutorial Council, *Reporting Mechanism of the MI BPO Chief Prosecutor, January-March 2023*. Available at: [Mekanizmi i raportimit të Kryeprokurorit PTH Mitrovicë, periudha janar-mars 2023.pdf \(prokuroria-rks.org\)](#) (accessed 28 September); Kosovo Prosecutorial Council, *Reporting Mechanism of the MI BPO Chief Prosecutor, April - June 2023*. Available at: [Nr.1207.2023-Mekanizmi i Raportimit të Kryeprokurorit të PTh. Mitrovicë.pdf \(prokuroria-rks.org\)](#) (accessed 28 September).

37 Number of backlog of unsolved cases was obtained from the Mitrovicë/Mitrovica Basic Prosecution Office.

38 State Prosecutor, *Six-months Work Report of the State Prosecutor January-June 2022*. Available at: [170.pdf \(prokuroria-rks.org\)](#) (accessed 28 September).

39 Kosovo Prosecutorial Council, *Reporting Mechanism of the MI BPO Chief Prosecutor, January-March 2023*. Available at: [Mekanizmi i raportimit të Kryeprokurorit PTH Mitrovicë, periudha janar-mars 2023.pdf \(prokuroria-rks.org\)](#) (accessed 28 September).

2.4.4. Adjourned hearings

At the Mitrovicë/Mitrovica Basic Court and all its branches, the mass resignation immediately led to a situation where hearings in cases assigned to Kosovo Serb judges, cases tried by panels composed of Kosovo Serb judges, or cases represented by Kosovo Serb prosecutors were not held or were adjourned. Based on the data available through the Mitrovicë/Mitrovica Basic Court official website, from 7 November 2022 to the beginning of 2023, at least 191 hearings scheduled in cases assigned to Kosovo Serb judges at the Mitrovicë/Mitrovica Basic Court and its branches in Leposavić/Leposaviq and Zubin Potok were not held due to their absence.⁴⁰

Although the MI BC branches in Skënderaj/Srbica and Vushtrri/Vučitrn had no integrated Kosovo Serb judges assigned to work there, immediately after the mass resignation, the OSCE monitored several hearings in criminal cases adjourned due to the absence of Kosovo Serb prosecutors who submitted their resignations. For example, on 9 November 2022, a Kosovo Albanian judge adjourned the initial hearing in a criminal case of Misappropriation of another's property⁴¹ to 9 December 2022, as a Kosovo Serb prosecutor representing the cases did not appear due to the mass resignation.

Right after the mass resignation, the absence of Kosovo Serb prosecutors critically affected the MI BPO General Department, with only one Kosovo Albanian prosecutor left to handle all criminal cases, as most of the Kosovo Serb prosecutors were assigned to this department. To highlight the seriousness of the situation, in September 2022, the MI BPO General Department had 10 Kosovo Albanian and Kosovo Serb prosecutors.⁴²

From January to June 2023, the situation of the MI BPO General Department remained challenging as only four Kosovo Albanian prosecutors handled all criminal cases. This continuing reduced capacity of the Mitrovicë/Mitrovica Basic Prosecution Office caused an increase in the number of hearings in criminal cases adjourned due to the insufficient number of prosecutors. This trend was confirmed to the OSCE by the Vice-President of the Mitrovicë/Mitrovica Basic Court, both Supervisory Judges of the MI BC branches in Skënderaj/Srbica and Vushtrri/Vučitrn, as well as by the Chief Prosecutor of the Mitrovicë/Mitrovica Basic Prosecution Office.

40 Mitrovicë/Mitrovica Basic Court, *Schedule of Court Hearings*. Available at: [Orari i seancave – Gjykata Themelore Mitrovicë \(gjyqesori-rks.org\)](https://gjyqesori-rks.org/); [Raspored sudskih saslušanja – Gjykata Themelore Mitrovicë \(gjyqesori-rks.org\)](https://gjyqesori-rks.org/) (accessed 31 July).

41 CC 2019, Art. 318 (1), Misappropriation of another's property

42 Kosovo Prosecutorial Council, *Reporting Mechanism of the MI BPO Chief Prosecutor, July-September 2022*. Available at: [Mekanizmi i raportimit të Kryeprokurorit të PTH Mitrovicë, periudha korrik-shtator 2022, nr.1793.2022.pdf \(prokuroria-rks.org\)](https://prokuroria-rks.org/), (accessed 25 September).

2.5. Impacts of the mass resignation on the functioning of the Mitrovicë/Mitrovica justice system

The mass resignation of all Kosovo Serb judges, prosecutors, and administrative staff assigned to the Mitrovicë/Mitrovica Basic Court, Court of Appeals Division in Mitrovica/Mitrovicë North, and the Mitrovicë/Mitrovica Basic Prosecution Office created an extraordinary situation, causing serious consequences for the overall functioning, efficiency and effectiveness of the justice system in the Mitrovicë/Mitrovica region.

Mid-term impacts of the mass resignation

As an immediate impact of the mass resignation, there were no hearings held in cases assigned to Kosovo Serb judges, cases tried by panels composed of at least one Kosovo Serb judge, or cases represented by Kosovo Serb prosecutors at the Mitrovicë/Mitrovica Basic Court and its branches on the day of the mass resignation. Furthermore, all hearings in cases assigned to Kosovo Serb judges already scheduled to be held at the Mitrovicë/Mitrovica Basic Court and its branches in Leposavić/Leposaviq and Zubin Potok until the beginning of 2023 were adjourned or cancelled.

The mass resignation of 10 Kosovo Serb prosecutors significantly reduced the capacity of the Mitrovicë/Mitrovica Basic Prosecution Office, especially its General Department, which eventually led to an increase in the number of hearings in criminal cases adjourned due to the ongoing staffing shortage of Kosovo Albanian prosecutors.

After the mass resignation at the Mitrovicë/Mitrovica Basic Court and its branches in Leposavić/Leposaviq and Zubin Potok, in total, 1,520 criminal cases and over 5,000 civil cases assigned to Kosovo Serb judges were reassigned to Kosovo Albanian judges. Upon the reassignment, each court case was required to be recommenced from the beginning.⁴³ At the Mitrovicë/Mitrovica Basic Prosecution Office, 5,302 criminal cases assigned to Kosovo Serb prosecutors were reassigned to Kosovo Albanian prosecutors. In the situation of a continuing staffing shortage at the Mitrovicë/Mitrovica Basic Court and the Mitrovicë/Mitrovica Basic Prosecution Office, such reassignment of cases not only increased the caseload of individual Kosovo Albanian judges and prosecutors but could have also contributed to the case delays, thus negatively affected the fundamental fair trial principle of timely justice for parties.

⁴³ 2013 CPC Art. 311, 2023 CPC Art. 307

Based on the temporary action plan, the Mitrovicë/Mitrovica Basic Court transferred 81 cases to other Basic Courts in Ferizaj/Uroševac, Gjakovë/Đakovica, Gjiilan/Gnjilane, Pejë/Peć, and Prizren. Such extraordinary transfer of cases to the Basic Courts in other Kosovo regions imposed challenges regarding access to justice for participants, witnesses, and legal representatives. The logistical demands of travelling to other Basic Courts could have affected the ability of parties to participate effectively in judicial proceedings; increased travel costs might have been particularly burdensome for participants living in rural or remote areas.

As per the temporary action plan effective until April 2023, all judges were instructed to prioritize cases of pre-trial detention on remand, criminal and civil domestic violence cases, and cases reaching the statute of limitations. While such a strategy of emphasis on specific cases definitely serves the purpose of expeditious resolution and concentrated attention on urgent or sensitive cases, it might have also led to a situation of procedural delays in less urgent or less serious cases. This affects the equal rights of the parties and might lead to the perception of unequal access to justice. On the same note, the Mitrovicë/Mitrovica Basic Prosecution Office adopted a similar measure of prioritization of pre-trial detention on remand cases, domestic violence cases, corruption and economic crimes cases, and cases reaching the time limits of investigation.

Long-term impacts of the mass resignation

The capacity of the Mitrovicë/Mitrovica Basic Court substantively reduced due to the mass resignation led to a major decrease in the overall clearance rate calculated between newly received cases and solved cases from 79.62 % by September 2022 to 59 % by June 2023 and a significant increase in the overall backlog of unsolved cases from 11,497 cases by September 2022 to 13,313 cases by June 2023. The number of solved cases also declined from 2,696 cases in the first half of 2022 to 1,899 cases in the first half of 2023. The closure of the premises of the MI BC branches in Leposavić/Leposaviq and Zubin Potok further exacerbated the extraordinary situation, creating serious access to justice barriers. This includes limited physical access for residents of these municipalities, a continuing decrease in clearance rate between newly received cases and solved cases and an increase in the overall backlog of unsolved cases.

Similarly, as the Mitrovicë/Mitrovica Basic Court, the mass resignation substantively reduced the capacity of the Mitrovicë/Mitrovica Basic Prosecution Office, causing a decrease in the overall clearance rate calculated between newly received cases and solved cases from 75,22 % by September 2022 to 57% by June 2023 and an increase in the overall backlog of unsolved cases from 7,814 cases by September 2022 to 9,042 cases by June 2023.

The number of solved cases also declined from 2,117 cases in the first half of 2022 to 709 cases in the first half of 2023.

Finally, the mass resignation challenged the implementation of the “2013 Brussels Agreement” and the “2015 Justice Agreement”. Both agreements clearly define the quota and the ethnicity of judges and prosecutors assigned to the Mitrovicë/Mitrovica Basic Court, Court of Appeals Division in Mitrovica/Mitrovicë North, and the Mitrovicë/Mitrovica Basic Prosecution Office; to properly implement both agreements, the positions for which the resignations were submitted must be assigned to Kosovo Serb judges, prosecutors, and administrative staff.

3. CONCLUSIONS

The mass resignation of all Kosovo Serb judges, prosecutors, and administrative staff from their posts in the integrated judiciary and prosecution in the Mitrovicë/Mitrovica region has created an ongoing extraordinary situation with far-reaching and adverse effects on the Mitrovicë/Mitrovica justice system and the principles of fair trial, especially concerning the right to a trial within a reasonable time, and access to justice.

Immediately, the mass resignation resulted in an instant disruption in court proceedings, with no hearings held in cases assigned to Kosovo Serb judges and prosecutors. This disruption continued for an extended period, leading to a substantial number of adjourned court hearings.

On the same note, the continuing staffing shortage of Kosovo Albanian prosecutors to replace their Kosovo Serb counterparts created operational challenges within the Mitrovicë/Mitrovica Basic Prosecution Office, particularly its General Department, which in turn also contributed to an increase in the number of adjourned hearings in criminal cases.

A large number of criminal and civil cases initially assigned to Kosovo Serb judges and prosecutors were reassigned to Kosovo Albanian judges and prosecutors. This reassignment, coupled with staffing shortages at the Mitrovicë/Mitrovica Basic Court and the Mitrovicë/Mitrovica Basic Prosecution Office, led to an increased caseload of individual Kosovo Albanian judges and prosecutors and potential case delays, impacting the timely delivery of justice.

In response to the mass resignation, the Mitrovicë/Mitrovica Basic Court transferred selected court cases to other Basic Courts in different Kosovo regions. This measure challenged the access to justice for participants, witnesses, and legal representatives, as travelling to distant courts and increased costs might have affected their ability to access justice effectively.

Both Mitrovicë/Mitrovica Basic Court and Mitrovicë/Mitrovica Basic Prosecution Office implemented mitigating measure of the prioritization of specific cases, such as pre-trial detention, domestic violence cases, and cases nearing statute of limitations or time limits of investigation. While correctly aimed at expeditious resolution of urgent cases, at the same time, this strategy raised concerns about potential procedural delays in less urgent cases and the possible perception of unequal access to justice for residents.

The mass resignation substantially reduced the capacity of both the Mitrovicë/Mitrovica Basic Court and the Mitrovicë/Mitrovica Basic Prosecution Office, causing a decrease in clearance rates, a noticeable rise in backlog of unsolved cases, and a decline in the number of cases solved. Such a situation has a pronounced impact on access to justice and the efficiency of the Mitrovicë/Mitrovica justice system.

The mass resignation represents a major setback concerning the Mitrovicë/Mitrovica justice system after successfully integrating Kosovo Serb judges, prosecutors, and administrative staff into the Kosovo justice system in 2017. This ongoing extraordinary situation resulted in the functioning of the Mitrovicë/Mitrovica Basic Court and the Mitrovicë/Mitrovica Basic Prosecution Office only in a reduced capacity due to an ongoing staffing shortage. The noticeable decline in caseload clearance rates of both institutions, disruptions in court proceedings, increased case delays, and access to justice challenges for residents underscore the critical need for measures to address these challenges and restore the efficient and fair functioning of the Mitrovicë/Mitrovica justice system.

