



Financuar nga
Bashkimi Evropian



POLICY PAPER, 2023/ JUSTICE SYSTEM : POLICIES FOR IMPROVING ITS BUDGET MANAGEMENT

**Increased budget transparency and
accountability in the Justice system through
monitoring and research**

TIRANA, 2024

Justice system : policies for improving its budget management

Summary of the budget management in Justice

For the year 2023, Justice system institutions were financed by the State Budget to the extent of about 98 percent of their budget. A very small part of the budget consisted of the personal income of some courts, realized during the year.

During the year 2023, the contributions of donors, international institutions or embassies of Western countries, in different items of system investments, have been at a negligible level of funding.

The composition of the Justice system budget

The budget of the Justice system is prepared by the High Judicial Council (KLGJ) for the entire judicial system, by the General Prosecutor's Office for the prosecutor's offices, by the High Prosecutor's Council (KLP) for its own unit, as well as by the SPAK, which formulates a budget of its own as well.

The above four budgets make up the budget of the Justice system.

The process of consultation and approval of the budget

The financial statements and balance sheets of these four budgets, after consultation with the specialists in the Ministry of Finance, become part of the draft law of the State Budget for the coming year.

The budget of the Justice system is discussed in a special session of the Parliamentary Committee for Legal Affairs, Public Administration and Human Rights, together with the Budget of the Ministry of Justice. The Minister of Finance usually participates in this session.

After the budget of the Justice system is approved in the Commission, it is voted in a plenary session by the Parliament of Albania, as part of the law for the implementation of the State Budget for the coming financial year.

Deri tani, asnje nga institucionet kryesore te sistemit te Drejtesise nuk kane zgjedhur opsionin e paraqitjes se nje buxheti alternativ ne Kuvend, edhe pse, pakenaqesite e disa prej tyre per projektbuxhetin e vitit 2023, sidomos te Keshillit te Larte te Drejtesise, i cili administron pjesen me te madhe te buxhetit te sistemit te Drejtesise, kane qene serioze.

The independence of the Justice system to request as much funds as it needs

The laws that regulate the functioning of the new Justice system make it roughly clear the weight of Justice institutions in determining their budget. These laws guarantee that, in case of inconsistency with the budget proposed by the Government, the Justice institutions present an alternative budget for discussion and approval in the Parliament.

Until now, none of the main institutions of the Justice system have chosen the option of presenting an alternative budget to the Parliament, even though there is deep dissatisfaction in some of them for the budget of 2023, approved by the Ministry of Finance. The deepest concern is with the High Council of Justice, which administers the largest part of the Justice system budget.

According to the online investigative portal "Reporter.al" in its article dated November 14, 2022 (<https://www.reporter.al/2022/11/14/buxheti-2023-kuvendi-kenaq-kerkesat-e-institucioneve-te-drejtewise/>), at the meeting of the Parliamentary Committee for Legal Affairs on the same day, the Chairwoman of the KLGJ, Mrs. Naureda Llagami, during the discussion in principle of the draft budget of the Justice system for 2023, *"... had expressed dissatisfaction with the budget provided by the Government for the judicial system, calling it 6 times smaller than what was requested by the High Judicial Council and that this budget had neglected the implementation of the New Judicial Map"*.



- The Acting Chairperson of the KLGJ, Mrs. Naureda Llagami at the meeting of the Parliamentary Committee for Legal Affairs, November 14, 2022, the lady in the centre

Solving the acute problem of delayed capital investments in the Justice system

Dissatisfaction increased during the implementation of the 2023 budget for the judicial system, after the Ministry of Finance opened in May 2023 the fund of 344 million lek or 3.4 million euros. The Ministry issued the fund as a frozen one. The fund was dedicated to capital investment funds for the High Judicial Council. According to the High Judicial Council, the argument used for freezing the fund does not stand.

Although the disagreement with main figures of the budget, such as the level of capital investments is visible, the KLGJ chose not to present a parallel budget of its own, to be discussed in the Parliament. This testifies the low degree of financial independence of the Justice system, in the perception of its leaders.

Regardless of the fact that, from 2019 to 2023, the budget for the Justice system, especially for the judiciary, has doubled and the approved budget for 2024 is 14 percent higher than 2023, capital investments have been approved below the level of requested and presented as a necessity by the institutions of the Justice system, especially by the KLGJ and SPAK.

The KLGJ and SPAK have tried to reflect their requests for capital investments in the medium-term budget plan 2024-2026, but the ceilings of funds allowed by the Ministry of Finance have been very low and have not enabled the KLGJ and SPAK to introduce the appropriate requests for funds.

As a result, many institutions, such as KLGJ, SPAK, the Supreme Court, etc., have been forced to postpone for later periods some of their important capital investments, such as reconstruction of buildings or construction of new buildings, investments in information technology, etc.,.

The Project considers that there are two possible ways to solve the acute problem of capital investments foreseen in the Ministry of Finance ceilings of the Medium-Term Budget Program far less than the vital necessities of the system:

- A. The main Justice system institutions may and can present to the Parliament an alternative budget for 2025, which will also include funds for deferred investments, due to the very low ceilings of capital investments set by the Ministry of Finance, in the Medium-Term Budget Program 2024- 2026, strongly advocating in the Parliament their indispensable capital investment needs.
- B. The main Justice system institutions may invite the Government, seeking the assistance of the Parliament to this, to become a partner in the drafting of a Master Plan for the Infrastructural Development of the new Justice system, as envisaged in the Justice Reform Strategy, the Seventh Pillar, Objective 9, which defines that "*The drafting by the Government of an efficient Master Plan for the infrastructural development of the Justice system, accompanied by an Action Plan of legal, institutional and administrative*

measures, which will address its needs for financial, material and logistical support, as well as the development of information technology".

The most important institutions of the Justice system can request a hearing session from the Parliamentary Committee for Legal Affairs, to discuss with high representatives of the Ministry of Justice and the Ministry of Finance the modalities of the preparation and implementation of the Master Plan, which could include also the increase of the ceilings for capital investments of the Justice system for the years 2025-2027.

Involvement of the Parliament in advocating near the Executive for more capital funds for the Justice system

The Parliament Assembly exercises its control over the Justice system, through the monitoring of the implementation of its resolutions for the Justice institutions, based on the annual reports presented to Parliament by these institutions and on the monitoring carried out by the Directorate of Monitoring of Institutions in the Parliament.

None of the resolutions of the Parliament so far have mentioned budgetary problems of the Justice system.

Parliamentary supervision of the Justice system institutions is ensured through the mechanism of reporting to the Parliament from the High Judicial Council (KLGJ), the High Prosecutor's Council (KLP), the High Justice Inspector (ILD), the General Prosecutor's Office and the head of SPAK, not less than once a year.

None of these institutions has ever reported more than once to the Parliament.

In whatever situation that these institutions deem necessary, they can report to the Parliament. Until now, there has been no report to Parliament from the KLGJ or SPAK on budget issues.

Involvement of judges and prosecutors in drafting the budget

The involvement of judges, prosecutors or other interest groups in the drafting of the budget is not included in the internal regulations of the Justice system institutions. It is expressed only in the budget monitoring regulation of the Ministry of Finance.

Budget implementation monitoring reports are prepared according to the relevant instructions of the Ministry of Finance and Economy. The internal monitoring of the budget in the main institutions of the Justice system is developed quite technically and has a rigid financial language and perspective, without noting the specifics of the Justice system and the importance of achieving the indicators of capital investments in the budget, for the objectives of the system.

Magistrates have never felt part and partners in the advocating efforts of their system for a larger budget, leaving this “job” to the Finance staff, although the magistrates meet and experience serious deficiencies in their normal daily work and working environments, although they see with their own eyes the needs for investment in information technology, etc.

How public the Justice system goes in budgetary terms?

The transparency programs of the Justice institutions include the publication of the budget and budget monitoring reports.

The budget, as well as the budget monitoring reports are not user friendly for the magistrates, the public or the interest groups, forcing them not to read the reports completely, and even when they read some part of them, they understand very little.

Some institutions of the system often do not publish in time these budget reports, new laws, Council of Ministers’ decisions or other by-laws related to the system of budget administration and monitoring.

xx

After reviewing the budget publications of Justice system institutions, their periodic reports on the implementation of the budget, after analyzing the data and gathering facts and findings from the interviews and communication with the managers and specialists of the Finance departments, directorates and sectors of these institutions, the Project, along with the main proposal contained in the Summary above, proposes the pursuit of following policies, accompanied by concrete measures for the implementation of these policies, in order to improve budget management in the Justice system:

- I. Problem: The approval of the New Judicial Map in 2023 was not accompanied by the relevant financial bill, which required an urgent increase in funds for almost all budget implementation units in the judicial system. As a result, the Ministry of Finance was forced to freeze the funds for capital investments in the system for the exercise year 2023, at levels of several million euros. These funds are practically erased, since the Law on the State Budget does not provide for recovery in the coming fiscal years of the funds that are not used during a financial year.

Reasoning: Funds necessary to cover the additional costs of the implementation of the New Judicial Map, which began in February 2023 and continued until July 2023 (resettlement of judges and prosecutors to offices in other cities, increased transportation costs, replacement of the archives, etc.) were met during the year 2023,

from the funds of payrolls of judges and prosecutors vacant in the system, due to the Vetting of magistrates. The freezing and erase of capital investment funds for 2023 does not mean that the needs for these investments are no longer there. Over time, these needs have increased, especially for additional work spaces and new buildings for courts and prosecutor's offices, as well as investments in information technology.

Policy to address the problem: The immediate task of the staff of the Finance departments/directorates/sectors in all Budget implementation units of the Justice system is to identify the needs for capital investments, *to convince their "governments"*, the High Judicial Council (KLGJ) and the High Prosecutors' Council (KLP) for the necessity of carrying out these capital investments and *to reflect these needs in the figures of the Medium-Term Budget Program 2025-2027*, by advocating strongly and continuously with the KLGJ and KLP, that these funds should be requested to the Ministry of Finance, during the discussions for the approval of the Budget of the Justice system for the year 2025, but also in the review of the figures of the Medium-Term Budget Program 2025-2027 for the Justice system.

Measures to implement the policy:

1. Meetings of the heads of the KLGJ and KLP with members of the Parliamentary Committee on Economy and Finance in September 2024
2. Consultations of the financial managers of KLGJ and KLP with managers and experts of the Ministry of Finance in September-October 2024
3. Sensitization in the traditional and social media for the necessity of completing the requests for capital investments of the units of the Justice system, as an immediate and very effective way to increase the quality of the magistrates' work and to significantly reduce their stress at work.

xx

- II. Problem: Judges and prosecutors of the Justice system, regardless of whether they receive periodic information or not, from the Finance departments, directorates and sectors, have insufficient knowledge about the main indicators of the budget and the capital investment needs of their unit. Their budget literacy is generally at very low levels. Practically, they are not aware of the financial and budgetary challenges of their unit for the next year and in the medium term.

Reasoning: Although the answer to the question regarding the internal consultation carried out, at the level of judges and prosecutors, for the indicators of the 2024 draft Budget for their unit and whether their requests/suggestions/remarks were received, was positive (meaning, the judges and prosecutors were asked in different forms), this answer was not exhaustive.

It was clearly understood that in most of the contacted and interviewed units, the internal consultation at the level of the unit's judge and/or prosecutor, regarding budget needs/deficiencies and requests for the new budget, was carried out in a formal manner, without giving time and opportunity, as well as without asking and insisting on the concrete opinion or suggestion of the judge/prosecutor of the unit. They, as the main actors of the system, were not sufficiently involved in the budgetary challenges of their unit and the Justice system as a whole.

In general, the lack of involvement was justified by the lack of time of magistrates. If the financial and budget information is selected and dedicated to the magistrates, then this justification falls away.

Policy to address the problem: It should be a permanent duty of the managers and staff of the Finance departments/directorates/sectors in all the Budget implementation units of the Justice system, to distribute periodic, dedicated and selected information to magistrates, for the main indicators of the budget and the capital investment needs of their unit.

This information does not have to be a copy paste of their periodic reports to the "governments" of the system, or to the Ministry of Finance, according to the requirements of the Law on the Management of the Budget System in the Republic of Albania of 2008, since no magistrate would be able and have time to read these long reports full of technical terms.

A short, clear and understandable summary is enough for every magistrate. There is a positive example from the detailed preparation of information on budget indicators, from the Finance Department of the High Judicial Council. The capillary way of their reporting to the Commissions of the KLGJ and the members of the Council can serve as a good format for all other units of the Justice system.

The periodical, dedicated and selected information of the magistrates should be turned into work tasks for the staff of the Finance departments/directorates/sectors in all the Budget implementation units of the Justice system.

If the body of magistrates becomes fully aware of the financial and budgetary challenges of its system, the shortcomings of which is experienced every day them, then this body will naturally

become a party to the attempts to gain more funds for capital investments and information technology of their unit.

The body of magistrates must be informed of any achievements, failures in negotiations, advocacy, consultations, "duels" with experts from the Ministry of Finance, with Parliamentary Commissions, etc.

Measures to implement the policy:

1. The preparation and digital distribution to the magistrates and to the financial staff of the Justice system, of the "Budget Literacy Guide", a key idea and deliverable of the Project, which must be implemented as soon as possible;
2. Two-day training of the staff of Finance departments/directorates/sectors of all Budget implementation units of the Justice system, for the technique of preparing financial and budgetary information dedicated and selected for magistrates. Preparation of training curricula and slides;
3. Preparation of the job description item to provide periodic, dedicated and selected information for each magistrate, regarding the main indicators of the unit's budget and other important financial information, which should be included in the overall Job Description of at least one employee from the staff of Finance departments/directorates/sectors in all Budget implementation units of the Justice system.

xx

- III.** Problem: Although, in general, the courts and prosecutors' offices have identified the objects in their property or of that of the Justice system, which must be reconstructed or built from scratch, in order to solve their most acute problem, the need to have additional work spaces, some courts or prosecutor's offices still lag behind. They lack the figure and/or the investment project, supported by a professional study, or, as in the case of SPAK, the project and the investment figure has been determined from only one professional source.

Reasoning: In the case of the adaptation of existing buildings, or the construction of new buildings, important capital investments are involved, at the level of one or some million euros. It is required that the documentation for the implementation of the respective tender, until the time of securing the necessary funds from the State Budget, should be as complete as possible. For this, one should, these courts and

prosecutor's offices do not need to wait until the moment of the opening of the fund by the Ministry of Finance, but should act now.

Policy to address the problem: With rare exceptions, the staff of Finance departments/directorates/sectors in all Budget implementation units of the Justice system have no experience in tendering capital investments for the construction or adaptation of buildings for new working spaces.

In order to fill the knowledge gap and the lack of experience, it is advisable that a specialist, chosen from every unit of the Justice system, that in the future will carry out such capital investments, be trained and acquire the appropriate knowledge.

Measures to implement the policy:

1. Senior leaders of the KLGJ and KLP may and should address a written request to the Chairman of the Supreme State Audit (KLSH), to enable a joint work seminar for a week, where procurement experts of the Justice system are trained, advised and exchange experiences with KLSH auditors, with experience in auditing tenders for the construction or rehabilitation of buildings;
2. With the agreement of the Chairman of the KLSH, experienced auditors of the KLSH can temporarily serve as mentors in the process of preparing the tender documents and control of the realization of the capital investments of the Justice system in the years 2025-2030.

xx

- IV.** Problem: The Agreement of the High Judicial Council (KLGJ) with the Swedish Embassy has been drawn up and sent for approval to the Ministry of Finance, although still without an answer¹. This agreement, with a very high financial value, seeking to provide support from the funds of the Swedish State Budget, has been a personal investment in time and efforts of the acting head of the KLGJ and is in danger of being lost, while the new head of the Institution is not yet appointed, to see the possibility of recovering the efforts to realize the Agreement. The reasons why the Ministry of Finance has not yet returned an answer are unclear.

Reasoning: The Draft Agreement, the text of which we did not received, aimed to guarantee financial support and important expertise, in function of investments in

¹ High Judicial Council Annual Report 2023, Pages 13-14, <https://klgj.al/wp-content/uploads/2024/04/RAPORT-VJETOR-2023.pdf>

information technology and the renewal of the entire work system in the KLGJ. This opportunity should not be lost.

Policy to address the problem: Due to the extraordinary importance of the Agreement, the Project can and should make maximum efforts to support the efforts of the High Judicial Council to revive the Agreement, even though the new head of KLGJ is not yet appointed and the acting director in office may have lost the main impetus to continue the efforts for the Agreement.

There is a possibility that the head of the Department of Finance in the KLGJ will not be able to sensitize enough to revive the Agreement. The Project, with its advisory capabilities, can help in the regeneration of the Agreement, if the conditions for this still exist.

Measures to implement the policy:

1. The preparation and sending to the acting director of KLGJ of a letter of awareness from the head of the Project, to examine the possibility that the Agreement of the High Judicial Council with the Swedish Embassy can still be recovered;
2. If the response to the letter from acting director of KLGJ is positive, there is need for immediately contacting the Ministry of Finance, to understand where its response to the opening of the relevant fund in the State Budget, dedicated to the support of the Agreement, has stalled.
3. If the response to the letter is positive, the KLGJ should restore the contacts with the Swedish Embassy, to reactivate the procedures for the implementation of the Agreement.

xx

- V. Problem: The present Public Procurement Law No. 162/2020 is insufficient and unsuitable for SPAK's sensitive procurements, for the provision of state-of-the-art listening and detection equipment.

Reasoning: Public Procurement Law No. 162/2020, Article 83 "Provision of the Offer" (https://tkob.gov.al/wp-content/uploads/pt/ligj_nr_162_dt_23.12.2020.pdf) expressly requires the provision of local offers, for every tender that takes place.

Plotesimi i kesaj kerkese rrit ne menyre te ndjeshme kostot e ofertave qe mund te siguroje SPAK nga ofrues nderkombetare te pajisjeve te nevojshme dhe ka bere qe deri tani, SPAK te terhiqet nga marrja e pajisjeve te tilla, per shkak te koshtos se larte.

Completing this law provision does significantly increase the costs of the offers that SPAK can get from international providers of the necessary equipment and has forced SPAK to withdraw from receiving such equipment, due to the high cost.

Policy to address the problem: The Public Procurement Law No. 162/2020 should be amended in the relevant article, to enable institutions such as the National Information Service, SPAK, etc. to carry out procurements at lower cost and directly from the producer outside the country.

Measures to implement the policy:

1. The head of SPAK may send a written request to the head of the National Information Service, to make him aware of the possibility of the initiative to amend the Public Procurement Law No. 162/2020 and that this initiative should come from the National Information Service.
2. The Finance Department of SPAK, after the agreement of the head of SPAK for the written request, shall prepare the text of the relevant article that must be amended in the law.

xx

- VI.** Problem: Some courts and SPAK have suffered costs artificially increased from fees applied by public services that have a monopoly or quasi monopoly position, such as the Albanian Post and the State Cadastre Agency. These expenses are suffering their budget.

Reasoning: Due to the nature of their work, some courts have to order from the Albanian Post tens of thousands of notices for appearing in court within a year. Since the Albanian Post is a state-owned joint stock company, it does not make economic sense for this company to charge a court the same fee for tens of thousands of notices per year, as if there was an individual customer who ordered one or some of such notices.

Until now, all the attempts of the courts to find an understanding with the managers of the Albanian Post, to set a logically much lower fee for the large stock of orders, have failed.

The same thing has happened with SPAK and the service of obtaining the verification of the assets of the citizens under its investigation, from every district

of the Republic, through the State Cadastre Agency. The same intransigent, completely meaningless attitude of the leaders of the State Cadastre Agency, towards the request of SPAK to reduce the fee, has happened.

Policy to address the problem: The illogical economic stance of two state institutions, such as the Albanian Post and the State Cadastre Agency, should be made a problem to the leaders of the relevant Ministries that supervise the Albanian Post and the State Cadastre Agency.

The fact is that both institutions have monopoly or aquasi monopoly positions in the respective markets and the execution of special contracts with the courts for the Albanian Post, as well as with SPAK for the State Cadastre Agency does not harm these institutions in their position in the respective markets.

Measures to implement the policy:

1. The heads of the Finance department/directorate/sector of the courts and SPAK should prepare and address a memo to the heads of the courts and to SPAK, where they explain in detail the significant financial losses of their institutions from the economic nonsense stance of the Albanian Post and the State Cadastre Agency, in charging tens of thousands of notices for trial and ownership verifications, as if it were a single customer. The memo will also include the reasoning that this problem for the budget of their institution can only be solved through a conversation with the head of the Ministry that covers the Albanian Post and the State Cadastre Agency. If the fee is reduced several times, as economic logic wants it to be, important funds are released for the courts and SPAK;
2. The Project could sensitize the traditional and social media, regarding the unfair charging of the courts and SPAK by the Albanian Post and the State Cadastre Agency;
3. The courts themselves, if they deem it reasonable, can raise their voices in the traditional and social media, in regard to the issue.

xx

- VII.** Problem: From the consultation and round tables held with professors and law students of several universities in Tirana, with representatives from interest groups and lawyers active in civil society, it was raised the concern that the State subsidized fee services of 3 thousand ALL/hour for lawyers who provide services to people on social assistance is very low and insufficient to secure qualitative services.

Reasoning: Although the fund for State subsidized legal services for people on social assistance is not a budgetary problem of the independent Justice system and pertains to the budget of the Ministry of Justice, the Project considers that it should be addressed seriously and in time by the Ministry of Justice. The fee of 3,000 ALL/hour has remained as such for over two decades, at a time when the market fees are sensibly higher.

Due to this low fee, the lawyers offer a quasi formal and low-quality service to persons on social assistance. The Ministry of Justice should no longer allow the most vulnerable layer of the population, the persons on social assistance, to be protected in court with the lowest possible service.

Policy to address the problem: The Ministry of Justice has all the professional capacities and experts to correct in time and adequately the State subsidized fee for lawyer's services to persons on social assistance, by setting up a competitive fee for lawyers who practice the service.

Measures to implement the policy:

1. The establishment of a working group with experts from the Ministry of Justice, to study the market of lawyer's service fees and determine, by means of a study, the new fee, in accordance with the market demand and offer for these services.

1. Advocacy with the Ministry of Finance, on the part of the Ministry of Justice, for the provision of funds to cover the new fee, in accordance with the annual requests for this type of service, on the part of persons on social assistance.

xxx