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KËSHILLI GJYQËSOR I KOSOVËS
SUDSKI SAVET KOSOVA - KOSOVO JUDICIAL COUNCIL



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SUDSKI SAVET KOSOVA
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**Plan for the Systematisation,
Digitalisation and Automatization
of Archives
for the Kosovo Judicial Council**



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List of acronyms

AI	Administrative Instruction
CMIS	Case Management Information System
EAG	European Archives Group
E-ARK	European Archival Records and Knowledge Preservation
EU	European Union
EUKOJUST	European Union Kosovo Justice Sector Programme
ICT	Information and Communication Technology
JIU	Judicial Inspection Unit
KIPA	Kosovo Institute for Public Administration
KJC	Kosovo Judicial Council
KPC	Kosovo Prosecutorial Council
MIA	Ministry of Internal Affairs
MoJ	Ministry of Justice
MTE	Medium Term Expert
NCCR	National Center for Criminal Records
OCR	Optical Character Recognition
SSD	Solid State Device
USAID	United States Agency for International Development
UNDP	United Nations Development Program



Executive Summary

The situation of archive spaces in Kosovo courts and their branches requires urgent attention. The Chairman of the KJC has rightly decided to devote attention to this often neglected sector, and EUKOJUST is supporting this effort.

The main findings resulting from the overview of the current judicial archive regulatory framework, digital support, archive space and human resources can be summarised as follows:

- 1) The legal and regulatory framework allowing to carry out record management related processes in judicial archives is in place.
- 2) Record management related processes in judicial archives are currently not supported by any digital tool.
- 3) Some courts are located in new buildings while other are using temporary premises, in some cases rented spaces. Even new building in some cases do not have optimal storage conditions and may be subject to floods.
- 4) With the exception of Pristina Basic Court, courts lack free space for archives and do not make an optimal use of the space they have with sliding cabinets. Files are sometimes kept in disastrous conditions: in some courts they may be found on the ground, along the stairs, corridors or in garages due to the lack of proper archive space.
- 5) No court possesses at the moment data on the used archive space and on their projected future needs once a proper records management is performed.
- 6) The handover of old case files to local or central archives has so far been sporadic.
- 7) No destruction of old cases has taken place since 2007-08, when a certain number of cases, especially enforcement cases related to utility bills and misdemeanours, has been destroyed.
- 8) No court has initiated the process of regular screening of archive files in order to identify the ones which are ready for destruction. Only Misdemeanours case, whose retention is 5 years after their archival, are currently being handled for destruction, and this process is absorbing all the limited resources which are available to work on archives.
- 9) Court archives and staff are additionally burdened by the cases received from retired notaries.
- 10) Archives in courts suffer mostly from chronic understaffing and lack of qualified archivists. Staff is often asked to handle the archive without any previous induction training or specific instruction, and after a while may be replaced by another staff member.

The overview and comments to the current situation and the discussion of perspectives for digitalisation and automation lead to 25 recommendations, which are divided in 3 groups. The first group consists of one recommendation only: strategic forward planning, to take into account the expected transition to natively electronic judicial proceedings (when cases are initiated via electronic filing, or are immediately digitalised upon submission, so-called 'digital by default' approach) which will reduce drastically the need for new archive spaces in the future. The time framework for this transition will be crucial to determine the archive space needs.

The second group gathers 16 recommendations aimed at posing the basis for the systematisation of judicial archives in each court and court branch, initiating the disposal of records and providing elements for tailored long-term logistical solutions.



The third group includes 8 recommendations which can indirectly contribute to a more efficient judicial archive system in Kosovo.

The recommendations, listed as they emerge from the analysis and complemented with expected timelines and responsible(s) for the realisation, are included in the following table:

#	Recommendation	Responsible	Proposed deadline
1.	Liaise with the Archive Agency during the draft of the new bylaws which will regulate the management of archive records.	KJC	September 2023
2.	Once the bylaws are in place, harmonise the internal regulations and instructions regulating the management of records.	KJC	End of 2023
3.	Revise the retention deadlines in AI 02/21 for cases of minor interest and include the permanent retention of small samples of cases otherwise bound for destruction.	KJC	End of 2023
4.	Revise the Administrative Instruction 02/2021 so to eliminate the requirement of the production of a detailed list and the scanning of all final decisions for the case files to be destroyed.	KJC	Beginning of 2023
5.	Cooperate with the competent Archive Agency articulation in the judicial archives mapping exercise and agree on a realistic timeline for the transfer of case files.	Courts	End of 2022
6.	Adopt a template for the <i>Mapping of judicial archive space and projected needs</i> which is then to be filled by each court	KJC and courts	Mid 2023
7.	Draft a Plan for the systematisation of archives which may include the acquisition of sliding cabinets, adjustments of buildings, staffing and other measures.	Courts	End of 2023
8.	Prepare a revised project proposal for the purchase of cabinets based on the Court plans for courts and branches which are not located in temporary premises.	KJC	End of 2023
9.	Define, with the consent of the Archive Agency, a retention schedule for notary deeds and documents, introduce the obligation for notaries to proceed with destruction of files before their retirement and regulate the case of sudden end of the activity of a notary.	Ministry of Justice (MoJ) with Notary Chamber	As soon as possible
10	On the basis of the approved schedule, proceed with the destruction of the records received from notaries whose retention deadline has expired.	Courts	If and when convenient
11.	In the course of the current revision of the Law on Notaries, identify a more sustainable legislative solution for the transfer of cases from notaries which have ceased their activity which relieves courts from this burden to the largest possible extent.	MoJ with Notary Chamber	As soon as possible
12.	Accelerate the transition to a system of issuance of electronic deeds and of storing certified copies of the original	MoJ with Notary	As soon as possible



	documentation submitted by the parties.	Chamber	
13.	Prepare of a <i>Feasibility study for the establishment of centralised location for judicial archives</i>	KJC	Mid 2023
14.	On the basis of the results of the <i>Feasibility study for the establishment of centralised location for judicial archives</i> proceed with the realisation of its recommendations	KJC	End 2023
15.	Establish a Judicial Archives Coordinating Unit within the KJC Secretariat.	KJC	Beginning of 2023
16.	Train archivists and members of the Archive Coordinating Unit.	KJC, Judicial Academy and Archive Agency	Mid 2023
17.	Produce from NCCR database initial digitised register books for criminal cases containing all data already recorded on conviction cases.	KJC	Beginning of 2023
18.	Analyse information extracted from the NCCR in order to suggest possible revision of the retention rules for specific criminal case files.	KJC	Mid 2023
19.	Draft instructions and prepare simple tools for the digitalisation of court registers related to archived cases and pilot them in one Basic Court or branch.	KJC and one court	Beginning of 2023
20.	Proceed with the digitalisation of court registers related to archived cases.	Courts	End of 2023
21.	Develop, test and deploy a CMIS module for the management of archived judicial records.	KJC	End of 2024
22.	Migrate all data from digitalised court registers to the CMIS.	KJC	End of 2024
23.	In consultation with the Archive Agency and other interested stakeholders take a decision on the digitalisation (scanning) of specific types of case files or documents.	KJC	End of 2023
24.	Include in the KJC Digital Strategy 2023 – 2027 clear deadlines for the introduction of digital by default judicial criminal and civil proceedings, and corresponding automating handling of archive records management.	KJC	Beginning of 2023
25.	Appoint a Working Group for the implementation of the <i>Plan for the Systematisation, digitalisation and automation of judicial archives</i>	KJC	Beginning of 2023

An Action Plan for the Systematization, Digitalization and Automatization of Judicial Archives concludes this document.



0. Background

The European Union (EU) Kosovo Justice Sector Programme (EUKOJUST) is an EU funded project implemented by a consortium led by the German Foundation for International Legal Cooperation (IRZ) and including the Dutch Center for International Legal Cooperation (CILC), and the Ministry of Justice of Croatia (MOJ Croatia).

Its overall objective is to reform the justice system in line with European and international standards. The programme will assist institutions in the consolidation of the legal and institutional framework, strengthen the independence, impartiality, accountability, professionalism, quality, efficiency, and transparency of the judiciary and also improve access to justice for every citizen, especially for women and disadvantaged or marginalised groups. The project works with the key stakeholders in the justice sector, including the Kosovo Judicial Council (KJC) and the Kosovo Prosecutorial Council (KPC).

The second of the four specific objectives of EUKOJUST consists in *Strengthening the independence, impartiality, accountability, professionalism, quality, efficiency and transparency of the judiciary*. This includes the achievement of *Result 2.3. Infrastructure of judiciary improved*. The drafting of the current plan is part of the corresponding *Activity 2.3.2. Improve situation of judicial archives*, together with a similar plan to be developed for the KPC.

This detailed plan blueprints specific actions on how to tackle mounting problems with archiving materials in courts and prosecution offices. The plan is aimed, taking into account similar EU Member States practices, at being substantiated with clear and pragmatic ICT solutions and provide a strategic, extensive, and clear roadmap on how KJC should steer the process of systemizing existing archival materials, introduce digitalization of archives and – as the end goal – equip courts with necessary ICT software-based solutions to reach full automatization of archiving processes.

The Plan will have, following its discussion and adoption by the KJC, to be complemented with guidelines and operating procedures for its realisation.

1. Methodology

The drafting of this report has been carried out in close consultation with the relevant stakeholders. Regular meetings have been held with the key KJC stakeholders: the Chairman of the Council, the Chairperson of the Committee for Court Management of the Council, the Head of the Internal Inspection Unit and the Director of the IT Department, in order to gather information and exchange views about the state of play in judicial archives. Useful meetings have been carried out with the Director of the National Center for Criminal Records (NCCR) and the Team leader and staff of the EU-funded NCCR project, as well as with the director of the Department for General Administration and of the Division for Archive at the KJC. This final version has been validated in a workshop with key KJC members and staff and Basic court administrators held on December 12, 2022, and it reflects the valuable feedback which was received.

Appropriate contacts have been established also with the main external stakeholders, primarily the Kosovo State Archive Agency, which is in charge to oversee and support the whole archival system in Kosovo, and eventually to take over all documentation which has to be permanently kept. A good working relationship has been established with its Chief Executive Officer and the heads of Archiving and Inspection units, who



are well versed on the situation in courts. Other stakeholders were also met to touch upon specific aspects which are relevant for this Plan, such as the Notary Chamber and the Agency for Information Society.

A desk analysis of the legal and regulatory framework, as well as of other available documents and reports. In particular, a very useful basis for the overview of the current status of judicial archives has been the EUKOJUST Assessment Report *In-site assessment of the suitability of the archiving system in courts and prosecution offices* prepared by the Short Term Expert Shqiprim Haliti in November 2021. Its findings have been complemented by visits to selected courts across the country (Basic Courts in Gjilan, Pristina and Prizren and the Supreme Court) in order to meet and exchange views with relevant officials and staff and assess current work practices on archiving. Visits have been paid to two private companies in order to get a sense of the services in terms of systematisation and digitalisation of archives that the local Kosovo market can offer.

2. Introduction

Archives are meant for the long term preservation of records, that is of all information which an organisation has received or produced in the course of its activities. Records consist of content (which may be stored on paper or electronic support) and metadata (which describe the context, content and structure of the records, as well as their management through time).

Not all records can and should be permanently kept. The differentiated disposal of records is an integrating part of records management, and a responsibility of proper handling of an archive. On the basis of pre-defined rules (retention schedules), it is necessary on a regular basis to set aside records which are earmarked for destruction or for transfer to Archive institutions. For this, it is essential that a well defined regulatory framework is in place.

Regardless of their importance, archives are often neglected and are not provided with the necessary resources for their proper functioning. Albeit this can be understandable to a certain extent, since they deal with records which by definition are not more necessary for the operations of the organisation, it cannot be justified. Judicial archives, in particular, may include not only documentation with special historical value but that may also be required for future transactions.

Conditions in which documents are kept are important to ensure adequate preservation. Acceptable and relatively stable temperature and relative humidity conditions should be ensured¹ and disaster prevention conditions (floods, fires and natural disasters) and contingency plans in case disruptive events do occur should be in place. It has been argued that too that low energy impact and cheaper solutions based on buildings design are excluded by too strict standards, even if it has not be proven that such deviations may cause effective damage.²

Planning for judicial archives needs in the current times has to take into due account the perspectives of full digitalisation of judicial proceedings, that can become *digital by default*. This passage can radically decrease the need for physical archives for new cases in the near future.

¹ A temperature below 18 °C is recommended by several standards.

² See Tim Padfield (2008), [Simple climate control in archives is hindered by too strict standards](#)



The following section starts with a general overview of the current status of judicial archives, which is followed by more detailed findings on four key areas (legislative framework, archive space, human resources and current digitalisation), each complemented by comments and relative recommendations. A separate section is dedicated to the discussion of perspectives for archives digitalisation and automation, based on European good practices and experiences and accompanied by the relative recommendations. The last section is constituted by the Plan for the implementation of the recommendations, which are divided in three groups and are sequentially ordered.

3. Overview of the current status, with comments and recommendations

The situation of archive spaces in Kosovo courts and their branches requires urgent attention and action to be taken. The Chairman of the KJC has rightly decided to devote attention to this often neglected sector.

The main findings can be summarised as follows:

- 1) The legal and regulatory framework allowing to carry out record management related processes in judicial archives is in place.
- 2) Record management related processes in judicial archives are currently not supported by any digital tool.
- 3) Some courts are located in new buildings while other are using temporary premises, in some cases rented spaces. Even new building in some cases do not have optimal storage conditions and may be subject to floods.
- 4) With the exception of Pristina Basic Court, courts lack free space for archives and do not make an optimal use of the space they have with sliding cabinets. Files are sometimes kept in disastrous conditions: in some courts they may be found on the ground, along the stairs, corridors or in garages due to the lack of proper archive space.
- 5) No court possesses at the moment data on the used archive space and on their projected future needs once a proper records management is performed.
- 6) The handover of old case files to local or central archives has so far been sporadic.
- 7) No destruction of old cases has taken place since 2007-08, when a certain number of cases, especially enforcement cases related to utility bills and misdemeanours, has been destroyed.
- 8) No court has initiated the process of regular screening of archive files in order to identify the ones which are ready for destruction. Only Misdemeanours case, whose retention is 5 years after their archival, are currently being handled for destruction, and this process is absorbing all the limited resources which are available to work on archives.
- 9) Court archives and staff are additionally burdened by the cases received from retired notaries.
- 10) Archives in courts suffer mostly from chronic understaffing and lack of qualified archivists. Staff is often asked to handle the archive without any previous induction training or specific instruction, and after a while may be replaced by another staff member.

The following sub-sections provide details, comments and recommendations related to each of the following key areas: regulatory framework and its implementation, archive space, human resources and current digitalisation. Perspectives for further digitalisation and automation of processes are provided in the following section 4.



3.1. Regulatory framework

The basic rules for the organization, administration and functioning of the archival service – which apply to all institutions of the Republic of Kosovo, including courts – are dictated by the **Law on archives**. A new version of this law, superseding the previous one adopted in 2012, has just come into force in September 2022³. The law definition and concepts are designed to be compliant with the international standard *ISO 15489-1 on Information and documentation Records management*. According to this law, the Kosovo State Archives Agency (hereinafter: Archive Agency, or Agency) is the only executive institution of the state administration that organizes, directs and controls the archival activity in the Republic of Kosovo.⁴

The Agency shall ensure the implementation of policies and strategic orientations for the advancement and development of archival activity and it advises, instructs and supervises implementation of legislation on archival material. In cooperation with the Institute for public administration shall prepare and organize professional training for archival officials.⁵

Every Kosovo public institution is considered an archive fund creator, and as such is obliged to establish an unit responsible for the archive, to maintain the material it possesses according to the criteria provided by the law, to select the material with permanent value and the material which can be destroyed. Fund creators are due, under threat of being punished as institution and responsible person by minor offence pecuniary sanction, to hand over to the competent archive all the archival material when 30 years have elapsed since their first archival. These aspects will be regulated by four bylaws which will have to be drafted by the Agency and adopted by the Ministry competent for Culture within one year from the entering into force of the Law (i.e. by September 2023). In the meanwhile the existing bylaws will remain in force, including in particular the most relevant: the **Administrative Instruction 08/2007 on selection of archive material and annihilation of worthless registration material** and the **Administrative Instruction 09/2007 on receiving and hand-over of archive material**, both issued by the Office of the Prime Minister on the basis of the 2003 Law on Archives and Archive material which was in force at the time, and the **Administrative Instruction (MPA) nr. 01/2017 on office work administration, basic evidences and job description of the archivist**, issued by the Ministry of Public Administration on the basis of the **Law on Office Work Administration**.

According to the same **Law on Office Work Administration**⁶, the Ministry responsible for public administration⁷ must issue a regulation on unique signs of classification of documents with timelines for storing documents. The first regulation of this type was issued in 2015; its revised version, the **Regulation (MIA) No. 05/2020 amending and supplementing the regulation (MPA) No. 01/2015 on unique marks for classification of documents and their storage deadlines**, introduces a more detailed retention schedule with different timelines for different types of court cases. This schedule had been proposed by the KJC (the

³ Law No. 08/L-111.

⁴ See Article 4.

⁵ See Article 6.

⁶ Law No. 04/L-184, see Article 3.10.

⁷ The Ministry of Internal Affairs (MIA) took this competence from the previous Ministry for Public Administration (MPA) in accordance with points 5.1 and 5.3 of Annex 1 of the *Regulation (GRK) - No. 02/2021 on the areas of administrative responsibility of the Office of the Prime Minister and Ministries* issued by the Government of the Republic of Kosovo (GRK).



Council adopted it on the basis of an initial draft prepared by the Unit for Judicial Inspection) and agreed upon by the Agency for Archives.

According to the **previous Law on archives** (Law No. 04/L-088, adopted in 2012) every Kosovo institution was due⁸ to issue an instruction on ways of preserving and using archive material. The Kosovo Judicial Council (hereinafter: KJC) complied with this obligation issuing its **Administrative Instruction 02/2021 on keeping, transmitting and destroying court registers and cases**, which applies to all courts in Kosovo (with the exception of the Constitutional Court). The previous law also made an exception for a few institutions, including notably the Supreme Court of Kosovo, which were given the possibility to develop their own permanent archive within their fields of operation.⁹ The corresponding provision on special archives in the current law does not include any more the Supreme Court among the institutions allowed to keep their own archive. As a consequence, courts as all other public entities are obliged to hand over to the Archives the material which has passed the deadline of 30 years.

The *KJC Administrative Instruction 02/2021* identifies the main organs and officers in charge of its implementation: primarily the KJC itself, via its Court Management Committee, with the support of the Judicial Inspection Unit, and then all court Presidents and Supervising judges (the judge in charge of a branch of a Basic Court, who is accountable to the President of a Basic Court for the operations of that branch), all court administrators and their deputies, all Heads of the Offices for Case Management and all archivists in courts.

Comments:

- The legal framework which is necessary for courts for carrying out record management related processes in judicial archives (archival, retrieval and access of files, selection and destruction of unnecessary case files and documents, transfer to State Archives) is complete.
- The choice of the legislator (Article 3 of the *Law on Office Work Administration*) to leave the determination of the storage deadlines to a single general regulation issued by the MIA lacks of the necessary flexibility. It would have been much better to leave it to each institution (in the case of judiciary, to the KJC) in consultation with the State Archive Agency. Every time a new court register is added it is necessary to determine also the relative retention deadline(s). Also, on the basis of experience changes regular updates may be needed. KJC will have in any case to make such determinations, and to communicate any changes to the MIA in order to periodically update the Regulation on storage deadlines.
- An additional problematic provision is Article 7 of the *Law on Office Work Administration*, mandating that the destruction of the documents which according to the legislation into force are considered old shall be done by burning them in the presence of the commission in charge of destroying them. No other modalities for destruction, such as via recycling paper for less sensitive materials or shredding, are envisaged. Such provision creates logistical problems and it is not compliant with environmental protection and global warming concerns. The Archive Agency has tackled this issue with the Ministry of Internal Affairs; so far no answer has been provided.
- Further comments on specific points of the regulations (retention schedules, procedures for destruction, transfer to Archive Agency) are included in the sections below.

⁸ See Article 17 of the Law on Archives.

⁹ See Article 9 of the Law on Archives.



Recommendations

- Rec 1.** KJC to liaise with the Archive Agency during the drafting of the new bylaws which will regulate the management of archive records, in order to make sure that the procedures take into account the complexity, specificities and size of judicial archives and do not impose obligations whose compliance is not realistic.
- Rec 2.** Once the bylaws are in place, KJC to harmonise its regulations and instructions regulating the management of records.

3.1.1 Retention schedule

While courts records include very different types of documents related to their internal and external activities, the type of records which occupy almost all the archive space, and that deserve a specific treatment are the files of completed judicial cases. On these we will focus our attention. The definition of the timeline for the retention of each type of case file has consider their possible future use or interest for parties and their heirs, the degree of historical interest that in the future it may have, and at the same time take into account the objective constraints given by the availability of storing space and of human resources for its eventual triaging, check and preparation for transfer. Retention deadlines are calculated starting from the day in which records were archived, i.e. from the finality date of the last decision in the case file.

There is not a single right way to determine a judicial retention schedule. In Austria the Rules of Procedure for the courts contain indications of the retention time for each category of case files. In Italy until recently each court defined its own retention schedule, but the Ministry of Justice shared guidelines drafted by the national Archives, while in other countries like France or the United Kingdom detailed and prescriptive instructions in the form of retention tables are issued by the Ministry of Justice, always with the advice of the national archive institutions. Whichever is the case, retention schedules and guidelines bind to keep each of the documents/cases for at least the listed deadline, but does not bar from keeping it, or a part of it, for a longer time and it does not mandate destruction. Retention rules may also determine that for some type of cases only a randomly selected sample of cases is kept, in order to keep future memories of how a certain type of affairs was handled across time.

Retention schedules benefit from frequent revisions, to take into account changes in judicial proceedings and in the types of cases, of events such as the change in the statute of limitation and of the experience with their implementation (was the effective use of retained documentation worth the effort and space required?). France, for example, since 2003 has already revised twice the retention table, in some cases shortening and in some other extending the retention timeline and amending the sampling method in order to ensure better representativity. KJC has adopted a retention schedule in 2020 which envisages, among court cases, a retention time of 5 years only for misdemeanours cases (without making any difference based on their nature, i.e. treating traffic cases as the others), with the exception of the ones which are considered of historical value (for example such can be considered the cases relative to Public Order in former Yugoslavia, where they were frequently used as an instrument of political control). Other cases have a retention period of at least 10 years.



The following table compares the choices made for retention schedules for criminal cases in different

Jurisdiction	Type of cases	Retention deadline
Kosovo	Criminal, serious crimes [P-Kr], Criminal enforcement of custody sanctions [PED] for serious crimes	Permanent
Kosovo	Criminal [P], Criminal with minors [PM], Criminal enforcement of custody sanctions [PED]	30 years
Kosovo	Criminal investigation [HEP], criminal preliminary procedure [PPr and PPr-Kr], confirmation of indictment [PKA]	10 years
Kosovo	Minor offences [K]	5 years
England and Wales	Crown court: Criminal cases more than 7 years of prison, or Sex offenders, Cases of public interest, appealed cases	Permanent
England and Wales	Crown court: criminal cases less than 7 years of prison	7 years
England and Wales	Magistrate Court: all cases (max 2 years of prison)	3 years
France	Cour d'Assise [CAss]: Terrorism, joint criminal enterprise,	30 years

jurisdictions:



	wartime Crimes	
France	CAss: All other crimes	20 years
France	Tribunal de Justice [TJ]: Terrorism, joint criminal enterprise, wartime Dèlits	20 years
France	TJ: Dèlits [max 10 years of prison]	10 years
France	TJ: Dèlits - Plea bargaining	7 years
France	TJ: Contraventions [no prison]	5 years
Italy [guidelines]	Tribunale, Corte d'assise: All crimes	Permanent* [possibility to dispose of repetitive typologies such as theft or fraud]
Italy [guidelines]	Plea bargaining	30 years

Table 1 – Comparison of retention schedules for criminal cases in different jurisdictions

[source: own compilation]

Comments

- The KJC retention schedule has been included both in the *Regulation (MIA) No. 05/2020 amending and supplementing the regulation (MPA) No. 01/2015 on unique marks for classification of documents and their storage deadlines* and in the *KJC Administrative Instruction 02/2021*. Since the first has been adopted on the basis of the *2014 Law on Office Organisation* and the second on the basis of the now repealed *2012 Law on Archives*, any future amendment to the schedule should be realized amending the first, hence with KJC suggesting changes, agreed with the Archive Agency, to the MIA.
- These retention deadlines appear for some of the cases to be determined very much on the conservative side. It should be weighted the possibility to shorten the retention deadlines for cases of minor interest, such as petty and less serious crimes (for example the ones with a maximum penalty of 5 years) and, in the civil field, for small monetary claims adjudication and enforcement. Cases in which the enforcement was realised with the alienation of real property should be kept permanently, as already envisaged by the Administrative Instruction (AI) 02/21¹⁰.
- Any change in the retention deadlines should be reflected also in amendments to the *Regulation (MIA) No. 05/2020 amending and supplementing the regulation (MPA) No. 01/2015 on unique marks for classification of documents and their storage deadlines*.

Recommendation

Rec 3. KJC to revise the retention deadlines in AI 02/21 for cases of minor interest, such as petty and less serious crimes and, in the civil field, for small claims adjudication and enforcement of monetary claims and include the permanent retention of small random samples of cases otherwise bound for destruction.

3.1.2 Procedure for destruction

According to the *KJC Administrative Instruction 02/2021*, the main responsibility for the maintenance and destruction of court case files in each court or branch, unless differently decided by the Court President,

¹⁰ See the Annex, *List of deadlines for keeping archive documents by the Kosovo judiciary*, group number 772.



lies with the Head of the Office for Case Management or the Deputy Administrator, under the monitoring of the President and the Court Administrator. The flow of actions to be undertaken for the procedure for destruction, which as mentioned above is not supported by ICT tools, are sketched in Figure 1.

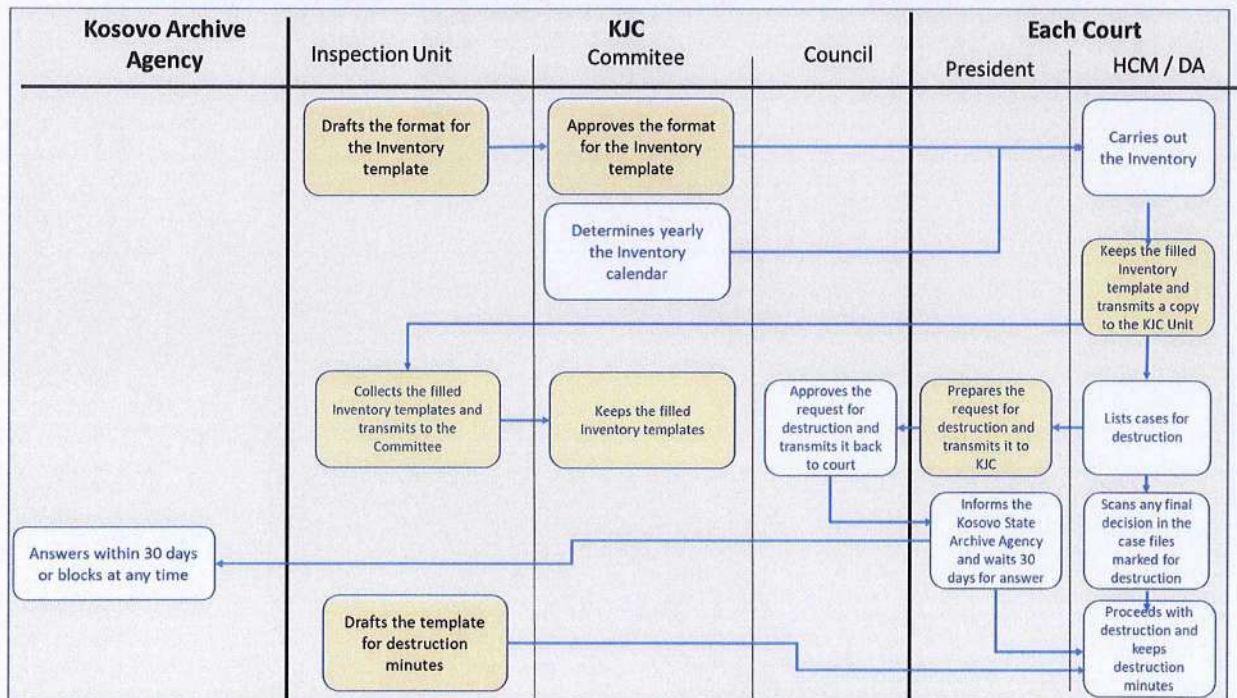
Figure 1: Process for the destruction of worthless materials according to KJC AI 02/21

Note: Boxes with orange background represent actions which need to be carried out only once, while the other ones take place every year. Boxes with yellow background represent actions related only to information exchange.

Courts have started to identify the files which have the shortest expired retention deadlines, i.e. misdemeanours cases ('Kundervajte'), in order to proceed with their destruction. In Prizren Basic Court, in particular, a total of 277,000 such cases have been identified as suitable for destruction since more than 5 years have elapsed since their last decision became final. More than 95% are related to Traffic violations, while the rest is divided among Economic, Public Order and Juvenile cases. Approximately 10% of them have been registered so far, by 4 internal staff members hired during the week-end.

Comments:

- The *Administrative Instruction of the government of Kosovo 08/2007* mandates fund creators and possessors to prepare a register of worthless materials which is proposed for destruction, containing "a detailed registration of material which is proposed for annihilation on the basis of years of creation, number of register unit (fascicle, boxes, registrator, binding, books etc.),



classification mark from the List of categories, conservation date set in the List of categories, quantity of annihilated material expressed in meters long and data on physical condition and conservation of the fund from which the archive material was selected and has conducted the annihilation of worthless material".



The KJC *Administrative Instruction 02/21* goes beyond this general requirement, prescribing the production of a list, on a given format, of all cases earmarked for destruction. Such list, which are produced on a spreadsheet and subsequently printed and bounded as a book, can have a very limited practical use, if any, since it indicates only that a Traffic violation case existed against a person whose identification is generally not possible and a date of a decision whose outcome is not known.

6827	6989	Vejsel	Vilaku	Mitrovica	Komunikacion	26.09.2014	
6828	6990	Beral	Grezda	Mitrovica	Komunikacion	25.03.2014	
6829	6991	Hihat	Kelmendi	Mitrovica	Komunikacion	23.03.2014	
6830	6992	Bashkim	Muharremi	Mitrovica	Komunikacion	23.03.2014	
6831	6993	Gëzim	Kelmendi	Mitrovica	Komunikacion	23.03.2014	
6832	6994	Xhevdet	Rama	Mitrovica	Komunikacion	26.03.2014	
6833	6995	Blerim	Xhafa	Mitrovica	Komunikacion	25.03.2014	
6834	6996	Artan	Mustafa	Mitrovica	Komunikacion	26.03.2014	
6835	6997	Ahmet	Berisha	Mitrovica	Komunikacion	25.03.2014	
6836	6998	Baeri	Zekolli	Vushtrri	Komunikacion	03.07.2013	Vushtrri
6837	6999	Fadil	Oemani	Skenderaj	Komunikacion	03.07.2013	Skenderaj
6838	7000	Besim	Zeqiri	Mitrovica	Komunikacion	28.01.2014	
6839	7001	Sokol	Habibaj	Mitrovica	Komunikacion	16.05.2014	
6840	7002	Sedat	Zenuni	Mitrovica	Komunikacion	16.05.2014	
6841	7003	Astrit	Sadiku	Mitrovica	Komunikacion	19.05.2014	
6842	7004	Kastriot	Bahiri	Mitrovica	Komunikacion	03.06.2014	
6843	7005	Driton	Brahimi	Mitrovica	Komunikacion	19.05.2014	
6844	7006	Shqip	Idrizi	Mitrovica	Komunikacion	21.05.2014	
6845	7007	Isuf	Isufi	Mitrovica	Komunikacion	19.05.2014	
6846	7008	Gëzim	Kasapi	Mitrovica	Komunikacion	19.05.2014	
6847	7009	Turke	Jakupi	Mitrovica	Komunikacion	19.05.2014	
6848	7010	Safet	Tahiri	Mitrovica	Komunikacion	22.05.2014	
6849	7011	Shemsedi	Tahiri	Mitrovica	Komunikacion	19.05.2014	
6850	7012	Imer	Murtaj	Mitrovica	Komunikacion	19.05.2014	
6851						16.05.2014	

Figure 2: Example of lists of cases earmarked for destruction.

Note: Names are not erased from this figure since there appear to be no personal data protection concerns.

It would be much more efficient, instead of the list, to prescribe a blanket description based on the information available in the respective court register, e.g. “All 567 Minor offence cases from the year 2014 which were registered as archived/finalised on 12 February 2018 [i.e. 5 years before the date in which the exercise is initiated]”.

- The procedure envisages¹¹ that, for each case file which has been identified as suitable for destruction, every final decision which is contained there is scanned. The Instruction does not define how such scanned decisions should be in the future be accessed and used. It has to be noted that this is a very unusual practice. Documents and cases are considered suitable for destruction when they may no longer serve any function and have a limited historical value, and for this reason there is no need to proceed with scanning them. The MTE is not aware of any other country in which, even for judicial documents, there is an exception to this approach. On the contrary, it is for cases which do need to be kept permanently, that it may be possible in some cases to proceed with their scanning, so to replace the paper files with their electronic image and proceed with the destruction of the originals in order to save space. This is not such a common approach, though, and it is always accompanied by measures which allow to ensure both the authenticity and non-repudiability of the documents (it is well known that it is easier to forge an image of a paper document than its original) and the completeness and safety of their repository. These aspects will be discussed further in the context of digitalization of the archive processes.

¹¹ Article 8 paragraph 2.



- The limited resources available in courts to support the disposal and transfer of archived case files are being used to register and start scanning hundreds of thousands of misdemeanours cases earmarked for destruction. In Basic Court Prizren, considering that the 4 staff members are paid around €22 per day (30% of the net basic salary), assuming they can record 500 cases a day each and work 50 days per year (e.g. 40 during week-ends and 10 days of annual leave), we arrive to a cost estimation of approximately € 10.000 and a completion time longer than 2 years. To this, the time and cost of scanning decision, which is planned to be outsourced, should be added, as well as the time and resources for IT staff to devise and implement a way to make such scanned decisions available.
- The procedure for registration of case files suitable for destruction is not supported by ICT, but the lists of cases earmarked for destruction are in any case produced as spreadsheet documents. A redesigned more efficient procedure may start from the digitalization of the relevant registers' metadata, without the need to wait for a comprehensive solution for this task (such as the upgrade of the CMIS with an archive module, as discussed below in section 4.2), but at the same time preparing the ground for such solution:
 1. All the main data in the given register, including the case number, the parties and the date of finality of the decision, could be added in a spreadsheet, ensuring that the data format is compliant with the one used by SMIL in order to facilitate later data migration.
 2. At the given date, simply filtering these data (finality date not later than the cut-off date determined on the basis of the retention schedule for that type of cases) it will be possible to obtain the list of cases candidates for destruction.
 3. Such list should be used as a tool to check and extract the relative case files, correcting eventual errors in the sheet (and, if needed, in the register).
 4. The advantage of this procedure is also that, provided the spreadsheet is updated whenever a new case is archived, the following year it will be possible to proceed starting from step 2.
 5. Finally, once a more comprehensive solution for the digitization of old registers will be in place, the relative data for the register already processed will be ready for migration into the new system, without further work.

Recommendation:

Rec 4. KJC to revise the Administrative Instruction 02/2021 so to eliminate the requirement of the production of a detailed list and the scanning of all final decisions for the case files to be destroyed.

3.1.3 Transfer to the Archive Agency

As mentioned above, the law, especially in its last version, mandates the transfer to the Archives Agency of material which has been archived for 30 years. The Agency disposes of a total of 8 Kilometres of archiving space, approximately 4 of which in its central seat in Pristina (with half of it still available) and the other 4 subdivided (quite unequally) among the 7 inter-municipal archive seats in Ferizaj, Gjakova, Gjilan, Mitrovica, Peja, Pristina and Prizren, i.e. in the same seats of Basic courts. In principle, Basic courts should hand over these cases to the competent inter-municipal archive, while higher courts such as the Court of Appeals and the Supreme Court should give to the central seat.



The archive funds of the courts which have ceased to exist, such as the County courts ('Gjykata e Rrethit') of the Yugoslav period and the subsequent District courts ('Gjykata e Qarkut', abolished in 2013), have been transferred to the Basic court which took their place. So far, the Supreme Court and Basic Courts have proceeded with handing over part of their funds, as reported in Annex 1.

The Archive Agency has recently started a mapping exercise for all institutions in Kosovo, aimed at collecting by the end of 2022 information on the total number of linear meters of archive material and of the number of linear meters of archive material older than 30 years in their possess, which has – once eliminated any worthless document – to be transferred to the Agency. The Agency is ready to accept, once duly prepared, all archive materials preceding the end of the 1999 war, until the year 2000.

It has to be noted that not all Inter-municipal branches of the Agency, which are due to receive all records from Basic courts, are ready to do so, because they have no free space available. The Archive Agency is working to establish sufficient and adequate spaces for each of these branches. In particular, in Prizren and Peja the Agency has asked the municipalities to provide a plot of land for a new construction, while in Ferizaj the inter-municipal archive is planned to move in the next months to its new building.

The transfer process is still regulated by the *Administrative Instruction 09/2007 on receiving and hand-over of archive material*, to be replaced within September 2023 by a new instruction drafted by the Archive Agency. Records to be handed over have to be prepared for the transfer, removing metal staples and plastic folders if present, and accompanied by an electronic list with basic metadata of the transferred case files.

Comments

- The collection by the Archive Agency of data on cases ready for transfer is a very useful and timely exercise, and it allows to start the planning and preparation of transfer activities which should be one of the key priorities at this stage.
- The preparation of cases for transfer is a time-consuming activity which require resources which are most probably not available. Even diverting the efforts of internal staff extra-hours which are now devoted to the preparation for destruction (see section 3.1.2) to this activity may not be sufficient. The option to locally hire on a temporary basis students to perform this task or to outsource to a company the whole process should be considered. The latter would be justified in particular if it will be decided that part of the case files will be digitalised (see discussion below in section 4.3). In this case, it would be logic to split the costs of such operation with the Archive Agency which would get the resulting digitalised files, since these are not necessary for judicial but only for documentary and historical purposes – and in exceptional cases for requests by the individuals concerned or their heirs. Considered as a whole, the process of digitalisation contextual to the preparation for transfer would be much more efficient than if the two operations are carried out separately (preparation at court and digitalisation at the Agency) since the handling of individual physical case files would be carried out only once.
- If the cut-off date for transfer to Archives is agreed to be the year 2000, then for some of the transferred cases the 30 years deadline for destruction would expire after the transfer. Depending from the quantity and type of such cases, it can be decided on case-by-case basis for each court or branch if to retain in temporary locations the files which would wait for their destruction or of to transfer them all to the Archives together with the rest, hence keeping them on a permanent basis



because of their documentary and historical interest. Alternatively to the first option, an amendment to the Administrative Instruction 2/2021, could be introduced by KJC with the agreement of the Kosovo Archive Agency, would reduce the retention deadline from 30 to 20 years for all cases which were initiated before the year 1999.

- If an Inter-municipal archives would not have the possibility to intake cases already prepared for transfer, temporary arrangements should be made to take them out of the court archives so to be able to proceed with its reorganisation. One possibility could be in such cases to use a container (as it is now done for storing misdemeanours cases earmarked for destruction in Prizren Basic Court) but since these would not be cases earmarked for permanent retention, care should be taken that the container is ventilated to avoid the formation of moisture coming from the vapour condensation which occurs when there are changes in the temperature. Another possibility is to move temporarily these cases to locations / buildings which can be dedicated to judicial archive storage (see *Rec 13* and *Rec 14* below).

Recommendations

Rec 5. Court Presidents, Court Administrators and Heads of Case Management sections should cooperate with the competent Archive Agency articulation (central or inter-municipal) in the judicial archives mapping exercise and agree on a realistic timeline for the transfer of all case files preceding the year 2000 from their main seat and its branches.

3.2. Archive space: current and projected

The lack of adequate archive space is the most pressing problem. In some courts, case files are kept on the ground, in corridors, rooms or even garages. Some of the archive spaces are not in acceptable conditions, either because exposed to high levels of moisture or for the risk of floods, being located in premises which are lower than the ground level, and without any type of protection from this possibility.

Pristina Basic Court, which is located in a new building in the Justice Palace and has been equipped with sliding cabinets thanks to donations is the only court which is not in need of archive space. On the other hand, in view of the large number of case files which outnumbers all other courts together and the lack of dedicated archive staff there is a pressing necessity to proceed with the systematisation of the archive.

The data collected so far in courts and kindly shared by the Archive Agency (see the preceding sub-section) seem to indicate that a remarkable portion of archive space could be freed by the transfer. In Ferizaj, out of 1600 linear meters of archive materials, 800 are older than 30 years, and in its branch court in Kaçanik, out of 367 meters there are 240 which could be transferred (or partly destroyed). This could happen after the local inter-municipal archive in Ferizaj moves to a new location, which is expected to take place soon. In Gjilan Basic Court, the percentage of space which could be liberated is around 10% (76 out of 760 meters) because a very skilled archivist (who unfortunately is retiring next year) has already proceeded in the past years to a thorough selection of worthless material.

In June 2020 the KJC submitted to UNDP a project proposal for the *Modernization of Court Archives in the Kosovo Judiciary* which, for a value of € 160,000 would have guaranteed to purchase and install sliding cabinets in all Basic courts (with the exception of Pristina, already covered). No answer has been provided so far.

Comments



- In addition to the data collection relative to the possible transfer of old cases (see section 3.1.3), it would be useful to proceed with a mapping of the space occupied by different case types in order to project how much space could be made available on a yearly basis, both with the current retention schedule or with modifications of it (see *Rec 3* above).
- These data would allow each court, taking into account the possible identification of central archive locations (see *Rec 13* and *Rec 14* below) and on the transition to judicial proceedings which are digital by default (see *Rec 24* below), to prepare a tailored plan for the systematisation of its archives (including the one of its branches).
- Such plans would provide to KJC the basis for preparing consolidated project proposals specifying needs and results which their fulfilment would make possible, e.g. comparing the number of linear meters of archive obtained with the relative projected needs.

Recommendations

- Rec 6.** KJC to adopt a template for the *Mapping of judicial archive space and projected needs* including information, broken down by case type, on the number and space occupied by cases whose retention or transfer deadline is expired, and those that can be approach these deadline next year, to be then filled by each court.
- Rec 7.** Each court to draft a *Plan for the systematisation of archives* which may include the acquisition of sliding cabinets, adjustments of buildings, hiring of external temporary staff for the systematisation of archives and other measures.
- Rec 8.** KJC to prepare a revised project proposal for the purchase of cabinets based on the *Court plans* for courts and branches which are not located in temporary premises and other possible interventions aimed at covering more courts.

3.2.4 Special issue: Transfer to courts of notary archives

The Law on Notary prescribes¹² that in the event of cessation of a Notary's functions in a certain court district, the municipal court with jurisdiction over this district shall keep the Notary's records and books, as well as the documents handed over to him or her in his or her official capacity, and the seals declared null and void. Such court shall issue upon all requested transcripts and extracts of the records of the concerned Notary. Only subject to the approval of the Ministry of Justice (and probably with the consent) the records, books and documents of a Notary who has ceased to carry out his or her functions may be handed over to the Notary replacing him or her.

As a matter of comparison, the same law prescribes that in the event of temporary suspension of a Notary, the Chamber of Notaries appoints another Notary for the purposes of issuing transcripts, certificates and extracts from the archives of the temporarily suspended Notary.

The hand over to courts was already envisaged by the previous Law on Notaries. The logic is that if there no new notary only courts can be entrusted to provide authenticated copies of contracts and deeds – as they used to do before the notaries were introduced. This appears however a quite unique solution in the European panorama. In other countries, it is usually the Ministry of Justice or the Notary Chamber itself

¹² Law No. 03/L-10, Article 61.



which takes the burden of permanently storing the documentation of retired notaries and to issue all necessary copies of deeds to the public.

It has to be noted also that original Notarial deeds have to be kept forever, while for requests such as the authentication of documents and statements one year. However, as informed by the Notary Chamber no destruction has taken place so far. The MIA Regulation in its list of deadlines for the retention of documents does not contain any reference to notaries, nor the Notary Chamber has adopted its own list.

Since the introduction of notaries in Kosovo in 2012, 19 notaries have retired, and 18 handed over their cases to courts. The number of retired notaries had a sudden increase after, in 2019, the retirement age was changed by law from 70 to 65 years. Only in 2021, 11 notaries had to retire due to age limit. Another 4 notaries are expected to retire until the end of 2023 (2 of them in the early months).

As pictorially described by the secretary of the Notary chamber, who attended all the hand-overs, in some cases the transferred cases could be taken in the trunk of a car, in others trucks were needed. More than 300,000 cases have been taken over by Pristina Basic Court, more than half of whom from a notary who was the previous president of the court and had a lot of clients. It has to be noted that out of the 707.906 cases that courts had taken over from 18 notaries in October 2022, 75% consisted of certificates and only one quarter of real deeds to be kept.¹³

Their archives are checked by a Ministry/Chamber/Court commission comparing files with registers, and records any missing file. The number of documents varied considerably.

Newly appointed notaries for the same area would be happy to take over the document since they would 'inherit' all the clients, but currently the appointments are blocked by an injunction of the Administrative court of Kosovo.

There should be in Kosovo 180 notaries (according to the law one every 100,000 inhabitants) but only 56 were appointed at the beginning. A competition finished in 2019 was passed by 176 candidates, but it was stopped by the Ministry of Justice of the newly appointed government, which claimed that the appointment had been irregular. Following a challenge by some candidates of that competition, the Administrative court quashed the stopping decision, and this verdict has been appealed by the Ministry. The case is still open. After the Ministry declared publicly its intention to launch a new competition to reach a larger group of 350 enable to work as notaries, a temporary measure to stop new competition was asked by two plaintiffs, and issued by the court.

Comments:

- The files received by notaries often do not occupy ordinary judicial archive space, but are generally in ad-hoc locations sometimes of difficult access (as it is the case for the court which took most of them, Pristina Basic court). Even in such cases, it has to be noted that the procedures for hand-over and for providing copies to parties upon request demand a diversion of the time available to judicial staff, which goes at the detriment of regular archive maintenance activities.
- It is reasonable to assume, as suggested by the Notary chamber, that new notaries would have a commercial interest in taking over old cases from their predecessor so to be able to "inherit" also their

¹³ Source: Memorandum of the KJC Court Inspection Unit dated 14 October 2022.



customers. Once the stall for the appointment of new notaries will end and a sufficient number of notaries will be appointed, the timely filling of notary seat as soon as vacant should ensure that the archives are handed over from the incumbent notary to the one replacing him in the same area, so that courts should not be burdened anymore.

- Still, to be on the safe side, it would be good to amend the Law on Notary to avoid that unexpected circumstances again result in the burdening of courts.

Recommendations

Rec 9. The Ministry of Justice and the Notary Chamber should agree, with the consent of the Archive Agency, on a retention schedule for notary deeds and documents, which would clearly indicate which documents can be destroyed and oblige notaries to proceed with destruction of files before their retirement. The case of sudden end of the activity of a notary could be regulated by a Memorandum of Understanding of KJC with the Notary Chamber and the Ministry of Justice which should define that in such cases the destruction of all cases whose retention time is expired should take place contextually to the transfer of case files to court.

Rec 10. On the basis of the approved schedule, with the most possible expedite procedure (no specific listing) courts could also, if it is convenient to free useful space, to proceed with the destruction of the records they received from notaries whose retention deadline has expired.

Rec 11. The Ministry of Justice should, in the course of its current revisions of the Law on Notaries, in cooperation with the Notary Chamber, identify a more sustainable legislative solution for the transfer of cases from notaries which have ceased their activity which relieves, to the largest possible extent, courts from this burden.

Rec 12. The Ministry of Justice and the Notary Chamber should, on the basis of the new legal framework for electronic signatures and seals (see section 4.4 below) accelerate the transition to a system of issuance of electronic deeds and of storing certified copies of the original documentation submitted by the parties, possibly creating a centralised portal for the upload by all notaries, so to make unnecessary the transfer of any related physical records from notaries.

3.2.5 Special issue: central archive for the judiciary

It has been under consideration the possibility to establish a central archive for the whole judiciary, also in consideration of the fact that the previous Law on Archives in force until September 2022 offered the possibility to the Supreme Court, and hence to the judiciary, to keep permanent archive materials in its own archive. Now that this possibility has been ruled out, it still remains the opportunity to consider the establishment of one or more centralised locations, which may serve for the following purposes: 1) permanent storage of cases received from the notaries 2) temporary storage of cases earmarked for transfer to the Archive Agency, in case the competent Intercommunal archive is not yet ready to accept them 3) collection of sorting to prepare them for transfer in this centre

Comments

- A central archive presents a series of advantages, mainly related to economies of scale. There is a case for investing in adequate locations, with the right temperature and humidity conditions, well-prepared



- staff. Often such archives are located in economically depressed areas where the cost of premises is much lower and they can contribute to provide at least some work places for their maintenance.
- Off-site archives must have in place procedures for the extraction and provision of archived content upon request. This can be realised more efficiently with ‘scanning on-demand’ modalities. The Office of the Notary of the Government of Malta, which collects all archives of retired notaries, has created an interface for notaries to ask for copies of a particular deed, which is then located in the archive, scanned and made available electronically to the requestor in a couple of days. In such cases, a scanned copy if provided with a digital seal (see below, section 4.4) can be vested with legal value, avoiding the need for any physical handover of the document, or the copy can be electronically transmitted, printed, stamped in any court location and handed over to the requesting party.
 - The new law of Archives, which obliges each institution to transfer to the Archive Agency (its Central seat for the Supreme Court and the KJC, and the relevant inter-municipal archive for all Basic Courts and their branches) creates a scenario in which any transfer to a judiciary central archive would have a temporary character, even when the documents have to be kept permanently. Of course, any legislative solution can be amended, if there is a good reason to do it. However, it has to be noted that the main use of archived judicial records which are older than 30 years is for historical research, which is not in the judiciary domain, and international practice is that national Archives institutions take care of it.
 - Two possible candidates for such centralised locations have been already identified by KJC: the new building currently hosting the Minor Offence department of Prizren Basic Court (currently only part of the building, and the whole building once the new building for the court will be ready and will host all court departments) and the former building of BC Ferizaj, which is currently empty after all departments moved to the new building. Others may follow.
 - Before proceeding with any necessary refurbishment of buildings which can serve as centralised archive locations, it is advisable to carry out a feasibility study which would not only broadly assess the amount of such restructuring costs, but also estimate the other related costs (furniture) and the running costs (utilities, security, staff, ordinary and extraordinary maintenance) in order to assess the cost-benefit ratio of such endeavour and its sustainability over time.

Recommendations

Rec 13. Preparation of a *Feasibility study for the establishment of centralised locations for judicial archives* including a projection of running costs for their maintenance.

Rec 14. On the basis of the results of the *Feasibility study for the establishment of centralised locations for judicial archives* proceed with the realisation of its recommendations.

3.3. Human resources



In 2015 the Judicial Performance Review Unit (subsequently transformed in the Judicial Inspection Unit) made a survey of several courts in relation to the way in which archives were kept¹⁴. It remarked how none of the archivists had followed any specific training regarding the procedures and conditions for managing archive court cases. While each court has a certain number of position systematized as “Archivist”, the reality has often been that they were not filled, or that the person hired to cover this position has been assigned to other duties, and the archive related work was covered on a temporary basis.

The systematisation of archive related positions has been recently reviewed. Pristina Basic Court has assigned two *Senior Archivists* (a position which requires a degree in Law) and three *Archivists* (secondary school diploma required). In all other 6 Basic Courts one Senior Archivist and one Archivist have to be employed, while in court branches (21 of them) only one Archivist (reporting directly to the Deputy Administrator in charge of that branch).

In addition, in each Basic Court it has been added a new position of *Supervisor for the sector of Execution, Archives, Statistics* – reporting to the Head of the Office of Case Management and supervising the work of all Archivists and Senior Archivists in their court.

A two-days training on archives has been provided recently by the Kosovo Public Administration Institute for civil servants, including possibly court staff.

Comments

- The human factor lies at the heart of a well organised and functional physical archive. Dedicated and well trained staff have to be devoted to this task.
- The creation of the new Archives Supervisor posts represents a good step forward, and it will allow to better oversee the work of archive staff in Basic Courts.
- The leading role on all archive related has *de facto* been played in the last years by the Judicial Inspection Unit (JIU). This included maintaining all contacts with external stakeholders such as the Archive Agency, Notary Chamber and others. Decoupling these two functions establishing two new positions for the coordination of activities related to judicial archives would give the possibility to the JIU to concentrate on its primary role of reviewing the performance of courts in a wider sense.¹⁵ Such coordination unit could also functional oversee the archive related work of the Supervisors for Execution, Archives and Statistics, and of possible central Archive locations, ensuring unity of approach, good quality and transmitting them any relevant information. One possibility is to assign this task to the section for KJC Archive within the Common Services Unit.
- Specialised training should be provided, given the specificities of judicial archives, to archivists, their supervisors and managers. The training should include the use of any ICT tool supporting the archive work, and be provided possibly with the involvement of the Judicial Academy and of the Archive Agency, which has

Recommendations

¹⁴ KJC, Judicial Performance Review Unit, Report No. 2014/04, *Review of judicial performance / General review of model court archives (pilots)*.

¹⁵ The tasks of the JIU are specified by the KJC Order 04/2020 on the authority, organisation and functioning of the Judicial Inspection Unit.



Rec 15. Establish an Archive Coordinating Unit within the KJC Secretariat.

Rec 16. Train archive staff, Supervisors for Execution, Archive and Statistics and members of the Archive Coordinating Unit on basic records management procedures and on the use of the tools necessary for their work.

3.4. Digital support

The Case Management Information System (CMIS) is in use by all courts of Kosovo for all types of cases. Its electronic case files include many, but not necessarily all, documents (scanned by the courts or imported).

When a judge or a clerk mark a case as completed with a final decision creates a task for the archival of the related case file for the archivist(s) of the Court. Once the archivist has checked that all documents and data which are required for the archival are present, he or she will change the status of the case to 'archived'. Since this moment, the judge and clerks who were working on the case cannot access it anymore, and it can be retrieved only by the archivist, who will also receive any new document or notification related to that case. The president of the court, judges, judicial associates and clerks can request access to archived cases. When receiving a valid request to this purpose, the archivist has the possibility to search for a case in the CMIS database and to grant permissions to access it.

Only cases which were archived after the deployment of the CMIS (which took place between 2018 and 2021, depending from the court level and location) are hence currently marked as 'archived'.

Some court staff make use of spreadsheets containing basic information from the registers to support the search of case files by name of the parties.

The KJC ICT department has planned the creation of a new module for the inclusion of cases already archived which were never recorded in the CMIS (entering a lesser number of mandatory fields than for a new case, and make possible to add one or more scanned or digital documents to it) and to support all archive related processes. Such module will be developed within the first half of 2024, according to the schedule for improvements and new modules that will be agreed with the contractor in charge of CMIS maintenance and upgrade.

Comments

- The KJC ICT choice to develop an archive module is justified by the fact that since 2019 all cases are being archived within the CMIS, and that is more convenient to have all cases in one place. It could be possible to devise an autonomous software solution to manage archived records, but this would imply to export all archived files and documents from the CMIS to this new system and would increase the number of systems to be maintained and handled by the ICT department.
- Since there are currently other priorities in the CMIS development schedule, it would not be possible to have this new module in place in the next months. This does not imply however that the systematisation of archives has to wait or that it will not be initially supported by ICT. It is possible to start with a simpler tool such a spreadsheet or a simple database to be used locally to digitise information from the registers, making sure that all data collected are compatible with the CMIS format and required minimum data set. Such tool could temporarily support the process of disposal of



records, and the new CMIS module could be built on the basis of the experience acquired using it. The relative recommendations are included in the following section 4.

3.4.1 Special issue: Criminal convictions

The most frequent requests to extract documents from archives are related to criminal records: police clearance certificates on pending criminal cases, court certificates on past convictions and requests for rehabilitation. The project for the National Center for Criminal Records (NCCR), funded by the EU, has proceeded with the indexation and scanning (ongoing) of all final judgments concluded with a conviction, which are stored in a central location and are searchable by authorised staff. This allows to centrally produce criminal record certificates and also to make them available online via the e-Kosova portal. The procedures of *ex-lege* and judicial rehabilitation for the cancellation of criminal records after a certain time has elapsed since the enforcement of the sanctions without committing other crimes still require obtaining (from judicial archives or from prisons) information on the enforcement of criminal sanctions. In some courts these information are included in separate case files for this phase ('PED' register, enforcement of prison sanctions).

Comments

- Thanks to the NCCR project, archive staff is relieved from the burden of frequent retrievals of criminal case files. This frees resources to re-organise archive in view of better organisation of archives.
- The NCCR will find the best solution to record information on the enforcement of criminal sanctions.
- It is possible to take advantage of the indexing effort already performed by the NCCR project in order to produce electronic lists already containing data already available. Taking into account that, according to the available data on the KJC website, in the last 4 years the average number of criminal cases ended with an outcome different from a conviction was 27%, this would reduce the effort by approximately three quarters the effort to index the criminal registers P, PM and PKr. This would be helpful also for NCCR, since it would provide a further data quality improvement mechanism, immediately signalling if any of the NCCR recorded information differs from that present in the actual case file .
- It would be also useful to aggregate the NCCR data so to produce information on how many convictions are recorded by type of crime, which may have possible reconsideration of the rules for the retention of specific criminal files (now it is 30 years for all P and PM and permanent for PKr). Similar information is available for cases concluded in the last 4 years, as extracted from the CMIS, but NCCR has recorded all convictions regardless of their date, hence contains previous information on old cases.

Recommendations

Rec 17. NCCR to produce from NCCR database and share with KJC for distribution to courts initial digitised register books for criminal cases containing all data already recorded on conviction cases.

Rec 18. NCCR to extract and KJC to analyse information from the NCCR database on the aggregate number of case conviction case files by type of crime in order to suggest possible revision of the rules for the retention of specific criminal case files.



4. Digitalisation and automation of archives, with recommendations

Digitalisation of judicial archives does not usually receive any particular attention in the planning of ICT for the judiciary, but of course it can meaningfully support records management also in this phase.¹⁶

Digitalisation of judicial archives usually starts from the establishment of electronic court registers (a step which Kosovo has already realised since more than one year) and allows to digital processes and in some cases the records which have to be retained. This will be the subject of the two following sub-sections.

But what is of paramount importance to put any plans for judicial archives in the context of the overall trend towards the digitalization of judicial proceedings, which is ongoing in Kosovo as elsewhere in Europe and beyond, and of the archiving of electronic records. These aspects are treated in the third sub-section below.

4.1. Digitalisation of court registers

The indexation of all archived records, that is the association of relevant meta-data associated to them is hence the first step. It does not only allow to easily search for a case on the basis of its metadata and retrieve the location of the file, but also can guide the processes related to records disposal. On the basis of information about the case type and finality date of the last decision (which is also the date of archival for the case file), it is possible to identify all cases which, on the basis of the case type and of the corresponding retention deadline, are ready for destruction or transfer to the Archive Agency.

The KJC should define a minimum data set which should be digitalised. Digitalising only the relevant meta-data from the registers, i.e. without picking the case files from the archives – unless a register is missing and it has to be reconstructed, is a quicker process than a full inventory. This exercise may require the temporary engagement of human resources (e.g. students) to be carried out. Piloting the procedure in one court can provide precious indications also on the estimated needs of such resources in function of the number of cases.

The pilot would allow also to fine-tune the instructions for the generalisation of this exercise and the digital tool to be used, but also provide a first glimpse on the quantity of case files by type of case, which can help to revise the retention schedule.

For the criminal trials registers, in order to avoid useless duplications of efforts, the data already digitalised by NCCR should be used as a basis (see **Rec 18**), to be integrated by data on non-conviction cases which have not been recorded.

Recommendations

Rec 19. Draft instructions and prepare a spreadsheet template or simple local database for the digitalisation of court registers related to archived cases and pilot them in one Basic Court or branch.

¹⁶ See European commission for the efficiency of justice, [Guidelines on how to drive change towards Cyberjustice](#), CEPEJ (2016)13.



Rec 20. Proceed with the digitalisation of court registers related to archived cases based on improved instructions and spreadsheets, as the first priority step for the introduction of digitally-supported processes in judicial archives.

4.2. Digitalisation of archive-related processes

Records management in archives can largely benefit from a proper digital support.

There are two basic options to realise this – either developing an ad-hoc tool to handle archived case files data (and possibly digitalised documents, see the discussion in the section 4.3 below) or to have this functionalities covered by an existing Case Management System (CMS) or Document Management System (DMS). The option chosen depends mainly from the history of development of the technological infrastructure.

In the case of KJC, the ICT Department has decided (as explained in section 3.4) for the second of these options, creating a new CMIS module for the managing of archived cases.

Archive operations can be further supported by tools to facilitate the quick identification of case files and their location.

Use of devices able to locate files such as Radio Frequency Identification (RFID) tags, which allow retrieving location and information without direct visual contact. This technology, which lies at the heart of electronic tools such as the anti-theft tags usually put on clothes in shops or the automated payment of tolls, once applied a RFID label on every document or case-file, allows to automatically record its movements and location. For archives, in particular judicial archives, which are quite static and do not require wide movements of case files, this is not very relevant, and movements can be recorded manually on the software, possibly with the support of bar codes.

Bar codes are of much wider use, especially in judicial archives. A bar code stores data in a compact machine-readable form. One-dimensional bar codes (like the ones used to tag products and are usually scanned in supermarkets) or two-dimensional bar codes (which can contain much more information, and include the nowadays ubiquitous QR codes) can be attached both to case files and to archive locations (such as any individual shelf, or a specific portion of it). Scanning the two allows to easily update the location of a case file, streamlining the operations for any movement of case files. Barcode readers are not expensive. They can also be replaced by smartphones equipped by an app, but care should be taken not to create vulnerability to the security if connecting to court computers via wi-fi.

In Italy, courts have been recently instructed by the Ministry of Justice to record in the information system for the managing of judicial building S.I.G.E.G. ('Sistema Informativo Gestione Edifici Giudiziari'), which they use to upload documents and data, specific information on the number of linear meters of archive material stored, transferred or destroyed. This data collection tool has no operative function but it serves for planning and especially for monitoring purposes.

Recommendations

Rec 21. Development, testing and deployment of a CMIS module for the management of archived judicial records. The module should allow to record movements of case files out of the archive or within



the archive from one location to another also making use of bar codes and to prepare lists of cases candidates for transfer or destruction, on the basis of finality date and of type of case.

Rec 22. Migration of all data from digitalised court registers to the CMIS.

4.3. Digitalisation of case files

The digitalisation of all content of paper court files already archived is an option rarely taken, if ever. Many countries that have switched already to full electronic proceedings starting with electronic filing and the creation of digitally native case files, such as Austria, Italy (civil cases only) or Spain, chose to leave the pre-existing files in the original paper format.

In Bosnia and Herzegovina court have been provided with a simple Document Management System (DMS) for archived cases, based on the open source software Alfresco, which allows to scan, index and retrieve selected documents. This has been used to streamline the provision of certified copies of documents (such as for example on business registration) upon request, avoiding the necessity to physically visit the archive to retrieve them, just printing its scanned image and stamping it. No destruction of the original case files has however taken place.

Generally, no destruction of case files takes place where documents are digitalised after the submission, such as in Italy (criminal cases) or Bosnia and Herzegovina. An exception is constituted by France, where a [Memorandum of Understanding](#) has been signed recently (September 2021) between the responsible at the Ministry of Justice for the project *Procédure Pénale Numérique* (PPN, 'Digital criminal procedure') and the head of the inter-ministerial archive service, to allow the anticipated destruction, regardless of the retention schedule rules, of all paper documents which have been digitally created or have been digitalised within the project *Numérisation de Procédure Pénale* (NPP, 'Digitalisation of the criminal procedure') started in 2008 and now included in PPN until a full electronic procedure will be in place. This decision is justified with the mechanisms in place to ensure the reliability of the digital case files and their security. The authenticity is ensured by a qualified digital signature apposed on digitalised documents by a judge or clerk to guarantee it corresponds to the original, and by the logging on an electronic journal of all actions taken within the system. The security is guaranteed by the fact that the Document Management System, also based on Alfresco, has adequate back-up and disaster recovery procedures in place, and will transfer all completed cases to the hybrid electronic archival system of the Ministry of Justice, Axone, once it will be in place.

Comments

- The digitalisation of existing case files or documents can bring a series of advantages. Images can be easily shared and viewed from any location, can be backed up at will, as well as be integrated in existing document management systems. Fully dematerialised work-flows are easier to implement and require much less human resources since there is no physical retrieval and movement of case files. In case of already archived cases, though, the digitalisation effort has to be weighted against the possible use which can be made of the digitalised files.
- In Kosovo, the project aimed at establishing the National Center for Criminal Records (NCCR) is proceeding to the digitalisation of all convicting judgments with the aim of streamlining the process of



centralised rehabilitation of offenders (see section 4.5 for further details and discussion). This is by far the more common reason for extracting documents from the archives.

- The anticipated destruction of original paper case files is advisable only if adequate guarantees on the completeness, authenticity and security of the digitalised files are in place.
- Any digitalisation of some scale cannot be conducted in-house and it has to be outsourced to a company with the necessary know-how, staff and technical support. In the Kosovo market it is active at least one such company, which is experienced in providing (so far only to the private sector, mainly banks) digitalisation and systematisation services for archives, including the scanning of documents, indexation and text extraction with Optical Character Recognition (OCR), storing and retrieval of images and meta-data and the disposal with secure modalities.

Recommendation

Rec 23. In consultation with the Archive Agency and other interested stakeholders, on the basis of projected estimated costs weighted against possible use, take a decision on the digitalisation (scanning) of specific types of case files or documents, which could be based on a possible cost-sharing scheme.

4.4. Automated records management for digital native archived case files

Countries that have switched to a digitally native court proceedings, such as Austria, Spain and (for civil cases only) Italy, do not have any need to keep paper files even when some of the documents may have been printed, since the original provided with legal value is the electronic document, provided with an electronic seal or signature which guarantees its authenticity and non-repudiability.

As noted in the EUKOJUST *Assessment report on ICT system in the justice sector in Kosovo*, “the implementation of qualified digital signature into court proceedings is a technical cornerstone of digital transformation of the justice sector”. The Law on Electronic Identification and Trust Services in Electronic Transactions has been adopted by Kosovo Parliament The **Law no. 08/L-022 on Electronic Identification and Trusted Services in Electronic Transactions**, which defines digital identity and authentication harmonized with the [EIDAS EU Regulation](#)¹⁷ has been recently adopted. The bylaws which are necessary for its implementation should be adopted within December 2023, and the Ministry for Commerce which is in charge of the implementation of this law confirmed that the legal framework will be soon fully in place, so that it will be possible to have in the upcoming months digital signatures and seals provided in Kosovo. In Kosovo there is at least one company (the one which is providing the digital seals for the certificates issues by e-Kosova, which attest the authenticity but do not have legal value yet) able to and interested in becoming a trust services provider.

The exchange of digital files and documents between prosecution services and courts is already enabled by the CMIS. It is still required to be accompanied by a paper trail (with a unique bar code). It is planned, once it has been shown how the system can work, to propose legislative amendments which would make the paper trail redundant. The adoption of the legislative framework for digital signatures and seals open the

¹⁷ Regulation (EU) No 910/2014 of the European Parliament and of the Council of 23 July 2014 on electronic identification and trust services for electronic transactions in the internal market and repealing Directive 1999/93/EC.



way for exchanging digitally signed electronic documents rather than scanned versions of paper documents, which would simplify the . The same exchange possibilities exist between prosecution services and the police. As noted in a recent regional e-Justice survey “this positions Kosovo in the regional, and even European, forefront in the movement towards ensuring full digital communication among different systems along the criminal justice chain”.¹⁸

Once in Kosovo it will be introduced the possibility to initiate court cases electronically, the digitally native files will be the ones to be archived, while any printed copy would be devoid of legal value. The possibility to submit papers to courts should not be denied to self-represented litigants who are natural persons, but it will be residual, and the scanned images of these submissions can be converted with digital seals or timestamp in legally authentic copies, relinquishing again in most cases the need to keep the original paper.

It is possible hence to fully automate the management of such digital records once it is confirmed that the case is completed and it is entered (or calculated) the finality date of the last decision in the case. Archived electronic cases and documents can be separated also physically from live cases. The Austrian *Federal Center for Computing*, which supports the work of the courts, transfers archived cases from the Solid State Device (SSD) fast disks where the database is hosted to magnetic tape storages, whose maintenance costs are lower, ensure faster transfer for large quantities of data and are the best solution for long term storage. Such approach makes however quite complicated the process of accessing a specific record if need would occur. An alternative is to move archived cases to a different tablespace or hard disk.

The need for destruction is superseded, given that electronic storing space has become virtually unexpensive, so that all digital case files can be retained permanently.

The transfer of electronic records to Archives can also be automated. This presupposes of course that the Archive Agency is also equipped for this digital transformation.

The *European Archival Records and Knowledge Preservation* project (E-ARK) was a multinational archiving and big data research project aimed at improving the methods and technologies of digital archiving. It developed an open source module for e-archiving and several interesting pilot experiences. At the close of the E-ARK project the results were handed over to the DLM Forum for long-term preservation and management. The [DLM Forum](#) is a community of public archives and interested parties from government, commercial, academic and voluntary sectors who are active in information governance.¹⁹ It was founded by the European Commission back in 1996 and today it is a not-for-profit foundation providing industry specifications, participating in activities and serving members.

The EAG is working on the development of principles and methodologies that can enable National Archives to implement *Archiving by design*, so that market software vendors can apply them in their services and products offered to public sector organizations in Europe, fully automating the transfer to Archives.

Comments

¹⁸ See [Mapping the state of play of digitalisation of justice in the Western Balkans](#), Regional Cooperation Council, January 2022, page 16.

¹⁹ When the DLM Forum was first established DLM was an acronym for the French ‘données lisibles par machine’ (machine-readable data), however, since the DLM Forum 2002 in Barcelona, the acronym has come to mean ‘Document Lifecycle Management’.



- The realisation of a digital by default system for electronic judicial proceedings can be realised once both external and internal users can create and transfer to the system digitally native electronic documents.
- The authenticity (i.e. the assurance that the effective author of the document is the person that is declaring to be) and the non-repudiability (which is the guarantee that the document has not been changed or tampered after its creation) can be guaranteed by electronic signatures (which are attached to natural persons) and electronic seals (attached to institutions or legal persons).
- It can be noted that while for external users a digital signature is necessary to fulfil both goals, for judges and other internal users of the electronic system the non-repudiability can be guaranteed by a digital seal of the court, or of the judiciary as a whole, while the authenticity can be assured by the fact that the document has been created by the user of the system whose identity is assured with the same assurance level as a digital signature, namely via a two-factors authentication mechanism (for example username and password and a one-time-password, verification code, sent on the mobile phone of that person). This means that it is possible to digitally seal all documents created by courts and prosecution offices and to proceed to digital by default criminal proceedings without equipping each judge or prosecutor with a digital signature, sparing all the administration of these signature and (in case there are only private trust certificates providers) money for their purchase.
- Planning should take into account the transition to natively electronic judicial proceedings ('digital by default') which will reduce drastically the need for new archive spaces in the future. The time framework for this transition will be crucial to determine the archive space needs.
- Time bound goals should be set for switching to digital by default for criminal and then for civil cases, with the corresponding introduction of automated management of the digital archived records.

Recommendation

- Rec 24.** Include in the KJC Digital Strategy 2023 – 2027 clear deadlines for the introduction of digital by default judicial criminal and civil proceedings, ensuring that all documents are digitally signed, sealed or time-stamped in order to ensure their reliability and allow the automated management of archived records.



5. Implementation of the recommendations

The KJC has timely recognized the necessity to systematise and modernize judicial archives. The previous sections of this report contain a series of 24 recommendations to achieve these goals. This last section elaborates on the dependencies and timelines for their realisation, indicating a time horizon for their realisation and who is responsible for the implementation.²⁰ It also adds a last recommendation, aimed at ensuring that the current Plan is adequately implemented and the progress of activities in courts constantly monitored:

Recommendation

Rec 25. Appoint a Working Group for the implementation of the *Plan for the Systematisation, digitalisation and automation of judicial archives*. The group could include the Supervisors for Archives and Statistics from Basic courts, experienced archivists, a representative from the Legal department to support the drafting of amendments to internal acts and a coordinator with strong skills and experience in the matter such as the former Head of the Judicial Inspection Unit.

5.1. Digitalisation and automation milestones

The determination of the time framework for the digitalisation and automation of archived records management will be necessary, as discussed above, to provide an horizon for the other activities and to project the long term needs for judicial archive space. In line with the given recommendation (**Rec 24**), these goals and deadlines should be included in the KJC ICT Strategy which is being drafted and should be finalised by the end of the 2022.

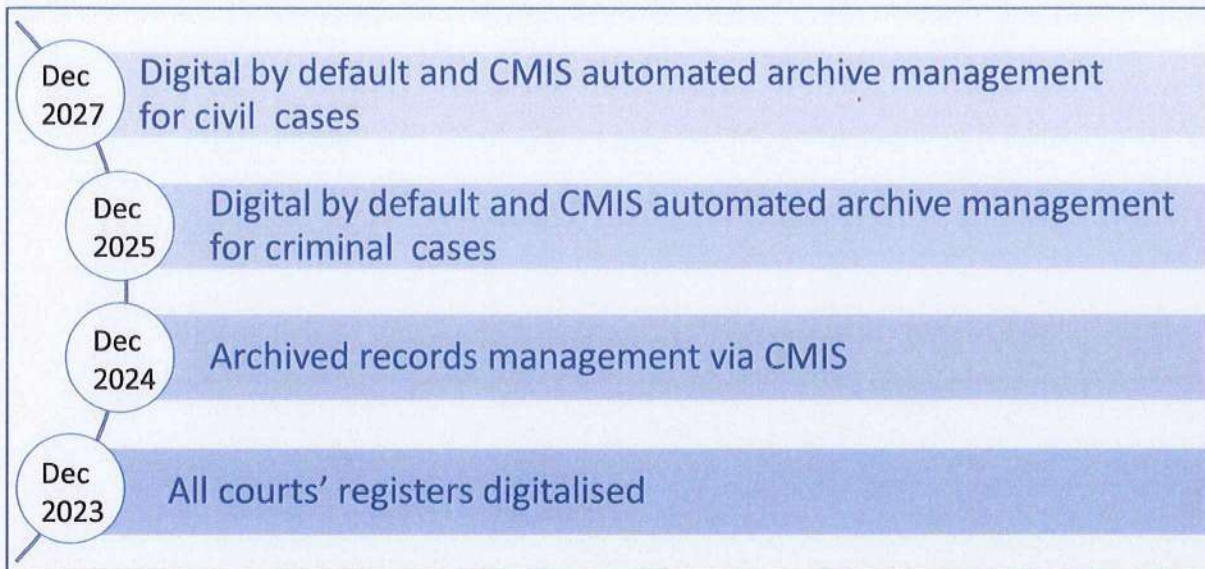
The transition to *digital by default* proceedings could take place earlier in criminal proceedings which are initiated by the public prosecutor offices, which, as discussed above, are already able to and should only be provided with digital seals (or signatures). The attorneys intervening in these cases should also be put in condition to electronically file their submission to courts after having digitally signed them. A residual channel for paper submission (to be scanned and digitally time-stamped by the system) should be left open. Three full years should be sufficient to realise this goal, once clearly set.

Given that civil proceedings are initiated by lawyers, and possibly in some cases by citizens alone, the introduction of a digital by default system will take a longer time. Of course attorneys working bot with criminal and civil cases would be already on board. Also in this case, a residual channel for paper submission (to be scanned and digitally time-stamped by the system) should be left open. Two additional full years after the realisation of the previous goal should be sufficient to realise this goal, once clearly set.

²⁰ A list with proposed deadlines and responsible for its realization can be found in the Executive Summary above.



Figure 3 – Archives digitalisation and automation proposed milestones.



The completion (including testing) of the new CMIS module and the migration of registers' metadata already digitally recorded should take place, as already planned by the KJC ICT department, within the first half of 2024; considering that piloting is not necessary since the procedures should have already been tested with simpler ICT tools, 6 months for the staff training and deployment should be sufficient.

The deployment of these simple tools could take place at the beginning of 2023. Given the resources constraints of the KJC ICT department, EUKOJUST could prepare a first version of these tools in consultation with the Judicial Archive Unit and submit them to the KJC ICT Department for verification. After 2 months of piloting and one of adjusting, in the remaining 9 months of 2023 it should be possible to have all judicial registers digitalised.

5.2. Systematisation of archives

A total of 16 among the recommendations aim at preparing the ground for the first transfer and destruction of cases and to complete all the planning steps which are necessary for the proper systematisation of court archives and the provision of adequate archive space for all courts.

KJC could immediately encourage courts to cooperate with the competent Archive Agency articulation in the judicial archives mapping exercise which should be completed by the end of 2022, and agree on a realistic timeline for the transfer of case files (**Rec 5**).

At the beginning of 2023, the judiciary could send a clear signal of interest for the improvement of archives situation, establishing a judicial archive coordination unit is established at the KJC secretariat (**Rec 15**) and appointing a Working Group for the Archive Plan implementation (**Rec 25**). The implementation of **Rec 16** on staff training may follow, and be repeated on a regular basis.

In the same period, KJC could implement **Rec 19**, selecting one Basic court or branch and defining the rules for the pilot digitalisation of judicial registers, using the data from NCCR project (**Rec 17**). NCCR data could also provide elements (**Rec 18**) for the revision of the retention schedule included in Administrative Instruction (AI) 02/21 (**Rec 3**), to be revised also in the part defining the procedures for destruction of non-



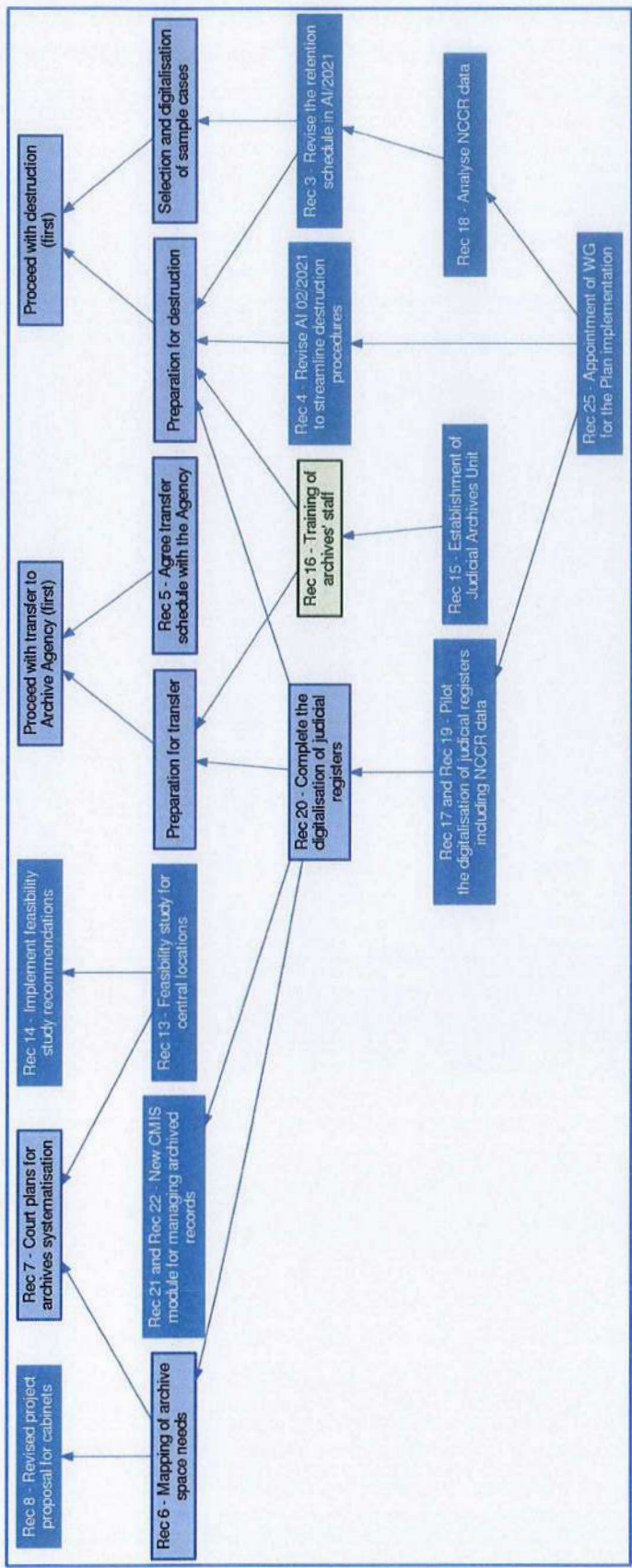
relevant files (**Rec 4**) and for the subsequent digitalisation of all court registers (**Rec 20**). These data will be eventually migrated (**Rec 22**) to the new CMIS module for archives (**Rec 21**).

By mid-2023, upon completion of the registers' digitalisation, KJC could initiate the *Mapping of judicial archive space and projected needs* to be carried out by all courts (**Rec 6**). The results of this exercise would help courts to build their plans with proposed measures for their archives systematisation (**Rec 7**) and KJC to revise and represent its proposals for cabinets acquisition (**Rec 8**). Court plans should take into account the possible availability of centralised locations for judicial archive cases (**Rec 14**), which should be preceded by a feasibility study to ensure its long-term sustainability (**Rec 13**).

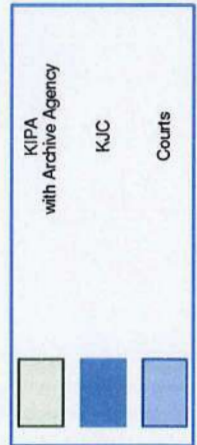
By the beginning of 2024, all cases concluded before the year 2000 should be ready for transfer to the Archive Agency and by the end of 2024 they should either be transferred or moved out to a protected temporary location. By then, courts should be able to regularly dispose of cases in need of destruction or transfer.

Figure 4 in the following page indicates how these recommendations are linked and which should be realised first (the ones on the bottom).

Figure 4 – Implementation of recommendations and activities for the systematisation and digitalisation of judicial archives.



Note: This diagram is prepared with Theory Maker and it can be edited at the link <http://theorymaker.info/?permalink=judicial-archives-short-v3>





5.3. Implementation of other recommendations

The third group includes 8 recommendations which can indirectly contribute to a more efficient judicial archive system in Kosovo.

The KJC, during 2023, could – possibly with the support of the Judicial Archive Unit:

- Rec 1.** Liaise with the Archive Agency during the draft of the new bylaws which will regulate the management of archive records, in order to make sure that the procedures take into account the complexity, specificities and size of judicial archives and do not impose obligations whose compliance is not realistic.
- Rec 2.** Once the bylaws are in place, harmonise the internal regulations and instructions regulating the management of records.
- Rec 24.** In consultation with the Archive Agency and other interested stakeholders, on the basis of projected estimated costs weighted against possible use, take a decision on the digitalisation (scanning) of specific types of case files or documents, which could be based on a possible cost-sharing scheme.

The Ministry of Justice and the Notary Chamber, could, as soon as possible:

- Rec 9.** Define, with the consent of the Archive Agency, on a retention schedule for notary deeds and documents, the obligation for notaries to proceed with destruction of files before their retirement and regulate the case of sudden end of the activity of a notary.
- Rec 11.** In the course of the current revisions of the Law on Notaries identify a more sustainable legislative solution for the transfer of cases from notaries which have ceased their activity which does not involve courts.
- Rec 12.** Accelerate the transition to a system of issuance of electronic deeds and of storing certified copies of the original documentation submitted by the parties.

For courts, after the Recommendation 9 is implemented, only if it is convenient for them in order to free useful space, could:

- Rec 10.** On the basis of the approved schedule, with the most possible expedite procedure (no specific listing) to proceed with the destruction of the records they received from notaries whose retention deadline has expired.

The KJC should also, on the basis of an analysis of the results of the *Mapping of judicial archive space and projected needs*:

- Rec 13.** Take a decision if to establish a central judicial archive location, including in the affirmative case its estimated dimension.



5.4. Action Plan for the Systematization, Digitalization and Automatization of Judicial Archives

#	Activity	Related recommendations	#	Responsible	Action	Remarks / Pre-conditions / Resources needed	Planned start	To be completed by
1	Inclusion in the KJC Digital Strategy 2023 – 2027 of clear deadlines for digital by default judicial proceedings and automated archive records management	24	1.1	ICT Department	First draft		Now	March 2023
			1.2	Committee for Court Management	Discuss and finalise draft			
			1.3	Council	Discuss and adopt			
2	Amend AI 02/21 revising the procedures for destruction and replacing the Unit for Judicial Inspection with a new Judicial Archives Coordination Unit (JACU)	4	2.1	Unit for Judicial Inspection	First draft	Submit draft to the Archive Agency	After the adoption of the Plan	February 2023
			2.2	Legal Department	Review			
			2.3	Committee for Court Management	Discuss and finalise draft			
			2.4	Council	Discuss and adopt			
3	Establish JACU at the KJC secretariat	15	3.1	Department of General Administration	First draft of amended systematisation		After the adoption of the Plan	February 2023
			3.2	Council	Discuss and adopt			
4	Establish Working Group for the Implementation of the Plan for the Systematisation, Digitalisation and Automation of Judicial Archives [WGIPA]	25	4.1	Committee for Court Management	Draft decision		After the adoption of the Plan	February 2023
			4.2	Council	Discuss and adopt			
5	Pilot digitalisation of court registers	18 19	5.1	WGIPA	Draft template instruction and spreadsheet			March 2023

#	Activity	Related recommendations	#	Responsible	Action	Remarks / Pre-conditions / Resources needed	Planned start	To be completed by
5			5.2	Committee for Court Management	Discuss and finalise draft			
			5.3	Council	Discuss and adopt			
			5.4	NCCR	Provide compiled data			
			5.5	Selected court/branch	Pilot and report on resources used, issues and possible improvements			
			5.5	Selected court/branch	Pilot and report on resources used, issues and possible improvements			
6	Amend AI 02/21 revising the retention deadlines	3 17	6.1	NCCR	Provide consolidated data		Now	May 2023
			6.2	WGIPA	First draft			
			6.3	Legal Department	Review			
			6.4	Committee for Court Management	Discuss and finalise draft			
			6.5	Council	Discuss and adopt			
			7.1	WGIPA	Draft template			
			7.2	Committee for Court Management	Discuss and finalise draft			
			7.3	Council	Discuss and adopt			
			7.4	WGIPA, Judicial Academy	Training			
			7.5	All courts	Fill the template			
7	Mapping of judicial archive space and projected needs	6 16				Training in cooperation with Archive Agency	April 2023	
							May 2023	
8	Preparation of a Feasibility study for the establishment of centralised location for	13					September 2023	
							May 2023	

#	Activity	Related recommendations	#	Responsible	Action	Remarks / Pre-conditions / Resources needed	Planned start	To be completed by
	<i>judicial archives</i>							
9	Draft a Plan for the systematisation of archives in the court and all branches	7 23	9.1	WGIPA	Draft Plan template and instructions	Based on revised retention deadlines and on mapping results, KJC to instruct on scanning needs and possible central location	September 2023	December 2023
			9.2	Committee for Court Management	Discuss and finalise draft template			
			9.3	Council	Discuss and adopt template			
			9.4	Courts	Fill in template			
10	On the basis of the results of the <i>Feasibility study for the establishment of centralised location for judicial archives</i> proceed with the realisation of its recommendations	14	10.1	WGIPA and Committee for Court Management	Prepare draft decision			June 2023
			10.2	Council	Discuss and adopt			
			10.3	Joint Services Unit	Prepare tender documentation			
			10.4	Procurement Unit, Joint Services Unit	Tender, Award and Monitoring of works			
11	Prepare a revised project proposal for the purchase of cabinets based on the Court plans	8	11.1	WGIPA, Joint Services Unit	Prepare draft		September 2023	December 2023
			11.2	Council	Discuss and adopt			
12	Proceed with the digitalisation of court registers related to archived cases.	20	12.1	Courts		Revise template based on revised retention templates	September 2023	April 2024

#	Activity	Related recommendations	#	Responsible	Action	Remarks / Pre-conditions / Resources needed	Planned start	To be completed by
13	Development, testing and deployment of a CMIS module for the management of archived judicial records.	21 22	13.1	ICT Department	Define specifications	If resources available, contextually prepare for transfer / destruction		December 2024
			13.2	ICT Department	Monitor implementation by the contractor			
			13.3	ICT Department	Monitor import of digitalized registers data			



Annex 1 – Archive funds already transferred by courts to Kosovo State Archive Agency

(source: Kosovo State Archive Agency)

#	Court which created the funds	Period concerned	Location
1.	Supreme Court of Kosovo (Gjykata Supreme e Kosovës)	1964 – 1991	Central State Archive
2.	United Labour Court (Gjykata e Punës së Bashkuar)	1977 - 1991	Central State Archive
3.	High Misdemeanor Court (Gjykata e Lartë për Kundërvajtje)	1966-1975	Central State Archive
4.	Economic Court of Kosovo (Gjykata Ekonomike e Kosovës)	until 1995	Central State Archive
5.	Ferizaj District Court (Gjykata e Rrëtit Ferizaj)	1945-63	Central State Archive
6.	Basic Court of the United Labour Gjakova (Gjykata Themelore e Punës së Bashkuar Gjakovë)	1977-1991	Central State Archive
7.	Gjilan District Court (Gjykata e Qarkut Gjilan)	1945-1963	Inter-municipal Archive Gjilan
8.	Mitrovica District Court (Gjykata e Qarkut Mitrovicë)	1975-1997	Inter-municipal Archive Mitrovica
9.	Peja District Court (Gjykata e Rrëtit Pejë)	1945-1963	Inter-municipal Archive Peja
10.	Peja District Court (Gjykata e Qarkut Pëje)	1946-1980	Inter-municipal Archive Peja
11.	Prizren Municipal Court (Gjykata Komunale Prizren)	Criminal and Civil 1945-97/98	Central State Archive
12.	Pristina District Court (Gjykata e Qarkut Prishtinë)	1945-1995 Criminal, Civil 1945-1970	Central State Archive
13.	Pristina Municipal Court (Gjykata Komunale Prishtinë)	1945-1998	Inter-municipal Archive Pristina