

2020/2021

ANNUAL REPORT





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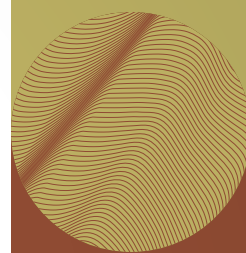
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MESSAGE FROM THE HON. CHIEF JUSTICE



Her Ladyship, The Hon.

Dame Janice M. Pereira, DBE, LL.D, Chief Justice

Welcome to another edition of the Annual Report of the Eastern Caribbean Supreme Court. This Report gives an overview of the work of the Court during the period 2020/2021. It also details significant developments which have taken place since the last edition. I wish at the outset to thank you for taking the time to read this report. It provides a useful opportunity for gaining a deeper understanding of the Court's processes and how they work over time in the delivery of justice within the Eastern Caribbean.

During the 2020-2021 period, the Court remained quite busy as it continued navigating the COVID-19 pandem-

ic. Through the use of ICT, the wheels of justice continued turning - albeit mostly in a virtual environment. Whilst the Court of Appeal and the Civil Division of the High Court have largely operated uninterrupted, the operations of the Criminal Division of the High Court in some of our Member States and Territories were hampered by their inability to hold jury trials primarily due to the social distancing constraints occasioned by the pandemic and the physical space limitations of our courtrooms across the OECS. I invite you to review the statistics which provides detailed insight into the work of the Court over the last year, the work load of the Court

and the trends in the Court's performance.

The last year also continued to be one of unprecedented reform. The Court took a number of steps towards improving the administration of justice in the OECS. I take this opportunity to briefly highlight a few significant developments over the past year.

Having recognised how instrumental the E-Litigation Portal ("the Portal") has been in managing the COVID-19 pandemic, the Court forged ahead with plans to launch the Portal in all Member States and Territories. This was finally achieved by October 2021 with the linking of the Member State of



Saint Vincent and the Grenadines, with Grenada, and the Commonwealth of Dominica having come on stream in the prior months. The Portal has made a positive difference to the administration of justice in the OECS in a myriad of ways. It has brought about the ease of accessing and managing electronic documents - from anywhere in the world, despite natural

disasters, and despite the ongoing pandemic. The Court is now moving into the second phase of its implementation. This will see an expansion in the types of matters filed and managed on the Portal to include High Court Criminal and Family matters. I anticipate that this second phase will begin to take shape in the upcoming months. The E-Litigation Por-

tal team at the Court's Headquarters is hard at work in making this a reality.

In the last edition of this Report, I had briefed you on the work of a few of the Court's review committees. I am pleased to report that in June 2021, the Court issued a comprehensive revised Code of Judicial Conduct, replacing the 17-year-old ECSC Code of Ethics. The principles set out in the new Code of Judicial Conduct serve as guidance for the standard of conduct expected of judicial officers including magistrates and registrars in their day-to-day work, or during off duty activities. It includes guidance on several matters which have never

before been set out in any document, such as social media usage – a major part of a modern technology-driven society which the Court must navigate.

Like last year, the Sentencing Advisory Committee continued apace with its work. The Advisory Committee has now rolled out a full range of Sentencing Guidelines. This has brought the Sentencing Advisory Committee's work to a close, paving the way for the next stage, which is the establishment of the Sentencing Guidelines Committee. This new Committee's mandate will be to monitor the effectiveness of the Guidelines and propose changes or new guidelines as may be

deemed necessary. I am quite heartened by the extensive reliance by judicial officers, and legal practitioners alike, on the sentencing guidelines issued so far. These guidelines have no doubt had a positive impact on the criminal justice system in the OECS.

Since the re-issuing of the Court-Connected Mediation Practice Direction in October 2020, the court-connected mediation programme has continued to be a priority for the Court. With the help of external partners, we have been able to train a new cadre of mediators resulting in a marked increase in the number of mediators on the rosters across the

OECS. In addition, through our public education campaign, the buy-in to mediation by members of the wider public is steadily increasing.

Over the past year, the Rules Review Committee also made great strides towards reforming our Civil Procedure Rules. The Committee is now at the stage of finalising its revision of the Rules. I anticipate that the new and updated Civil Procedure Rules will be promulgated in the upcoming months. Significant progress has also been made in respect of the Family Division Pilot Project earmarked for Antigua and Barbuda. The Family Division Committee has drafted rules and

a practice direction which will underpin the court processes in the Family Division of the Court. These are at the stage of finalisation, with their anticipated promulgation as well as the actual commencement of the Family Division slated to take place in the upcoming months. I very much look forward to this long-awaited Division taking shape.

I wish at this juncture to place on record my sincere appreciation to all the members of the Court's review committees for their efforts over the last year. While I have mentioned only a few of the tasks the Court has undertaken over the last year, as you venture deeper into this Report, I have



no doubt that you will get a better picture of the significant work the Court has undertaken.

In reflecting upon the last year, I believe

that the Court has not merely persevered but thrived. The judicial officers, management and staff of the Court have worked arduously to ensure that you the public were not shut out in seeking to obtain justice. Our goal was in large part achieved as the justice system did not buckle under the weight of the pandemic. And so, I wish to take this opportunity to thank our judicial officers and staff for their commitment to the Court's mission. As we journey forward, we hope to continue to modernise the Court's processes and put in place the mechanisms which allow for even greater accessibility to justice. It is only through doing so that we will keep

true to our promise to you of providing a system of justice that is efficient, effective and accountable.

On behalf of the Judges, Management and Staff, of the Eastern Caribbean Supreme Court Headquarters and the various High

Court Offices and on my own behalf, I thank you for your support of the Court as it moves towards a reimagined justice system for the OECS and one which will be recognised as a centre of excellence. We remain committed to serving you the people of the Eastern

Caribbean. Together, we will ensure that you have access to a system of justice in which you can continue to remain proud.

**Dame Janice M.
Pereira, DBE, LL.D.
Chief Justice**

MESSAGE FROM THE COURT ADMINISTRATOR



Court Administrator
Gregory Girard

During the year under review, the Eastern Caribbean Supreme Court (“ECSC”) continued to face many challenges resulting from the ongoing COVID-19 pandemic which has been affecting all of its Member States and Territories. Notwithstanding these challenges which were faced, the year under review presented the ECSC with several great opportunities for improvement to the delivery of justice. We quickly realised that the ECSC’s pre-pandemic move to increase reliance on Information and Communications Technology (ICT) was the best decision we could have ever made.

Our response to the

pandemic benefited greatly from years of preparing and learning to do more with less. The E-litigation Portal (“the Portal”) was also thoroughly tried and tested during this period. I am pleased to report that it was able to withstand the test in the Member States and Territories in which it was already operational. As a result, we forged ahead with plans to link the Member States of Grenada and the Commonwealth of Dominica to the Portal, allowing those States to benefit from the many advantages of the Portal already being enjoyed by six of the other ECSC Member States and Territories. The general feedback given by stakeholders

in those two Member States is that the Portal is making their law practice more efficient by reducing significant time and cost to clients, making it easier to meet deadlines, and saving commute time to the Court Offices and to serve documents on opposing counsel. As a result of the buy-in by legal practitioners and other court users alike as well as the primarily virtual operations of courts across the OECS, the maintenance and expansion of the Portal has become a large part of our goal to leverage ICT to improve the delivery of justice while at the same time reducing operational costs. In this regard, I am pleased to report that we are planning for the



subsequent phases of the Portal to begin roll out in the first quarter of 2022.

During the year under review, the work of the Judicial Education Institute (JEI) and the Human Resource Department continued. Through their efforts, the ECSC once again committed to ensuring that judicial officers and administrative staff participate in appropriate and rel-

evant continuing education to keep up to date with the latest developments in the law; changes in court administration practices in the COVID environment; and new and improved methods of delivering court services. The period under review was no different as the JEI utilised the Zoom platform to carry out its training sessions across all Member States and Territories. By all accounts, these

training sessions were well received by the participants. Similar initiatives of this nature will be pursued in the upcoming year.

The ECSC mediation arm also provided support to continue to improve the administration of justice by facilitating access to an alternative means of dispute resolution. All citizens and residents of the Court's Member States and Territories were provided with an excellent alternative to the litigation process. Further, notwithstanding the challenges brought on by the pandemic, the ECSC completed mediation training in Saint Lucia, the Commonwealth of Dominica, Montserrat, and St. Kitts and Nev-

is during the period under review. We are thankful for the funding provided by the United Nations Development Programme (UNDP), which facilitated training in the Commonwealth of Dominica and to the Government of Montserrat, which funded the training in that Territory. The hosting of these mediation training sessions in those four jurisdictions afforded the ECSC an additional pool of 106 certified mediators who would be available for selection and placement on the respective High Court Mediators' Rosters. Additionally, a mediation refresher training session was held in Antigua and Barbuda which also increased the number

of mediators available to be placed on their Roster. The JEI and Mediation sections of this Annual Report will provide more in-depth information into their operations.

The Court Year 2020-2021 was a year of unprecedented challenges - yet, it has also been a year of unprecedented innovation and transformation. All in all, if I were asked to describe the ECSC's approach during the past year amidst the pandemic, I would say that we managed to adapt well to the dramatic change in our circumstances through the use of ICT as well as through the hard work of the judicial officers and staff of the ECSC's Headquarters

throughout the different Member States and Territories. They have all, through their efforts, demonstrated exceptional commitment to the continued improvement in the administration of justice. The pandemic has re-cast attitudes towards the adoption of technology and its transformative potential and has presented the ECSC with a unique opportunity to reconsider long-held assumptions as to what justice requires and how technology might change the way that it is administered. We must continue to build on this momentum so that the ECSC remains on the cutting edge of innovation and change.

In closing, as we continue to strive for excellence work at the ECSC is never done, and we shall continue to press on purposefully to deliver the high standards that have come to be expected of us. I wish to thank the Honourable Chief

Justice, Judges, Masters, Registrars and all the staff of the Court, both at the Headquarters and in the various Member States and Territories, for their continued dedication and effort throughout the year. Together with the technological

tools which have been provided it is this dedication and effort that has allowed the ECSC to continue to deliver justice in accordance with our mission and vision.

Gregory Girard

APPELLATE JURISDICTION **CASEFLOW MANAGEMENT**



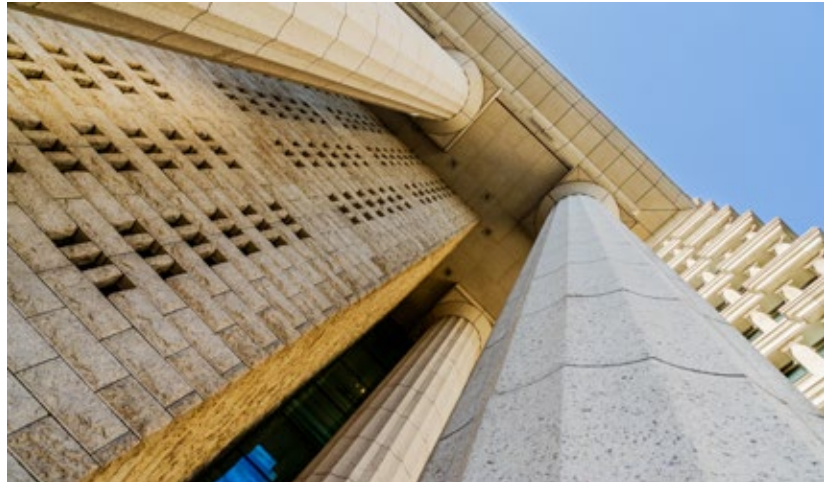
INTRODUCTION

Over the period under review, the Registry of the Court of Appeal performed its function of managing appeals from decisions of the Magistrates' Courts and High Courts in the nine Member States and Territories and from decisions of the Labour Tribunals in Montserrat and Antigua and Barbuda.

The department worked diligently to ensure the timely processing of appeals from the tribunals stated above.

STAFF COMPLEMENT

During the period under review, the staffing of the Court of Appeal



Registry went through a few changes.

RESIGNATIONS

We bade farewell to Mr. Peter Marshall, Judicial Research Assistant in March 2021 and Mr. Jordan Jarrett, Judicial Research Assistant in June 2021. The court is tremendously grateful to them both for the assistance which they provided during their tenure. We wish them every success in their

future endeavours.

APPOINTMENTS

During this period, the department was strengthened with the addition of Ms. Andrena Athill as a Judicial Research Assistant in April 2021.

At the end of the period under review the total staff complement of the department was twelve (12) broken down as follows:

- Chief Registrar
- Deputy Chief Registrar
- 5 Case Managers
- 5 Judicial Research Assistants

WORKLOAD

There were 419 appeals filed in total in the High Courts and Magistrates Courts during the calendar year 2020. This represents a decrease from 481 cases which were filed in 2019.

The number of Civil Appeals filed in 2020 increased by 22 from the previous year, making a total of 242 civil appeals filed.

There was however a significant decrease in the number of criminal appeals filed in 2020 from the previous year, making a total of

132 criminal appeals filed compared to 223 criminal appeals filed in 2019. In 2020 there was a slight increase in the number of commercial appeals filed, bringing the number from 26 in 2019 to 37 in 2020. There was also a slight decrease in the number of appeals filed in the Industrial Court from 12 in 2019 to 8 in 2020.

A detailed analysis of the case load for 2020 can be found in the section on court performance in this Report.

COURT SITTINGS

A total of 998 appeal matters were heard via Full Court sittings, Chamber Hearings and video/tele-

conferences in 2020 broken down as follows:

- There were twenty-one (21) full court sittings conducted for the year 2020 although 22 sittings were scheduled. Due to the onset of the COVID-19 pandemic the Court of Appeal Sitting for the Territory of the Virgin Islands for March 2020 was vacated; however, all other sittings were held as scheduled. Antigua and Barbuda, Saint Lucia and St. Kitts and Nevis had three (3) sittings each; Territory of the Virgin Islands, Grenada, St. Vincent and the Grenadines, Anguilla, Montserrat and The Commonwealth of

Dominica had two (2) sittings each.

- From May 2020 all Full Court sittings have been held Virtually via Zoom. This allowed the Court to ensure that despite the pandemic and its effects, we were able to continue to provide service to the Member States and Territories.
- There were eleven (11) Chamber Hearings, conducted on average at least once a month for the purpose of case management and dealing with interlocutory applications. This led to a hearing of 437 matters. The matters scheduled for consideration at Cham-

ber Hearings were dealt with on paper.

- A total of 21 Status Hearings were held, conducted by the Chief Registrar.

DELIVERY OF JUDGMENTS

The total number of written judgments delivered for 2020 was 66; an increase from 48 judgments delivered in 2019. The judgments of the Court continue to be published on the Court's website once delivered, unless the Court specifically orders that the judgment should not be. Included in the judgments delivered were judgments where written reasons were provided following the oral delivery of the decision

in Court.

In 2020, the Court also delivered 258 oral decisions. These decisions have been captured in the digests of decisions produced by the Court. The digests of decisions are summaries of all matters heard at sittings of the Court and written judgments which were delivered. In addition to the oral decisions given, the digests also provide information on the issues dealt with in a matter, the order made and the reasons given for the order. All digests, once approved, can also be found on the Court's website and prove very useful to practitioners especially where there are no written judgments.



HIGHLIGHTS

CASE MANAGEMENT

The Court continued to conduct the case management of matters listed on the preliminary cause lists at least three to four weeks prior to a scheduled sitting. This allows for the weeding out of matters which are not ready to be heard and in which the parties agree to an adjournment due to lack of readiness or

some other reason. This exercise allows the Court to concentrate on matters that are ready for hearing and to structure the sitting allotting specific hearing days to each matter. It must be noted that there is still much progress which can be made in this area, however it requires the cooperation of counsel and the parties. There are still far too many matters which, although during case

management are presented as being ready, are still not ready for hearing when the Court of Appeal sitting comes around. In the coming year we will endeavor to resolve this issue.

THE LEGAL INTERNSHIP PROGRAMME

The Legal Internship Programme has for many years now been a prominent feature on the Court's calendar. To make this programme a reality, the Court partners with the law schools in the Caribbean to offer placements for two students in its 10-week legal internship programme, during the months of June to August of every year.

Unfortunately, due to the COVID-19 pandemic, the Court was this year unable to offer this internship. It is our hope that with the resumption of normal operations we will once again be in a position to continue our partnership with the law schools in the Caribbean.

SIGNIFICANT JUDGMENTS DELIVERED IN 2020

The following judgments delivered in 2020 are worthy of mention:

URBAN ST. BRICE v THE ATTORNEY GENERAL Delivered 31st July 2020

Civil appeal - Appeal

from refusal of constitutional relief - Section 8(1) of the Constitution of Saint Lucia - Right to fair hearing within reasonable time - Effect of delay in determination of criminal charge on the right to fair trial - Charge for murder without final disposal or determination after 18 years - Whether right to fair hearing within reasonable time was breached — Delay in trial substantially caused by defendant's actions - Whether delay by a defendant is decisive of whether right to fair hearing within reasonable time has been breached - Remedies for breach of constitutional right pursuant to section 16 of the Constitution of Saint Lucia - Whether indictment

should be permanently stayed or quashed - Threshold for grant of permanent stay of criminal proceedings - Whether circumstances justify grant of compensatory, vindictory or exemplary damages

Mr. Urban St. Brice (“Mr. St. Brice”) was charged with murder in 2002. To date, the charge for murder has not been finally disposed of or determined on account of a number of intervening occurrences including several aborted murder trials, various constitutional applications, applications for a stay of the proceedings, judicial review applications and several appeals.

The present appeal arises from a constitutional motion filed by Mr. St. Brice in 2018 seeking declaratory and other relief on the basis that his constitutional and common law rights had been breached as a result of the non-determination of the murder charge. The motion was heard by a learned judge who summarised the issues arising as follows: (i) whether Mr. St. Brice's constitutional right to a fair hearing within a reasonable time had been infringed; (ii) whether Mr. St. Brice had been subjected to inhumane and degrading treatment and false imprisonment; (iii) whether his right to disclosure had been infringed; (iv) whether he had been falsely

imprisoned; (v) whether any of the matters raised were *res judicata*; and (vi) whether Mr. St. Brice was entitled to the remedies sought, i.e. the quashing of the indictment, a stay of the proceedings, vindictory, aggravated, exemplary and general damages, and costs.

The learned judge refused the motion and found, *inter alia*, that Mr. St. Brice was largely responsible for the delay in his trial and therefore that his right to a fair hearing within a reasonable time had not been infringed.

Mr. St. Brice appealed. The issues for consideration by the Court of Appeal were: (i) whether Mr. St. Brice's right to a fair hearing within

a reasonable time had been infringed; and (ii) the appropriate remedies to be granted if Mr. St. Brice's right was in fact breached.

Held: allowing the appeal to the extent that a declaration is granted that Mr. St. Brice's right to a fair hearing within a reasonable time as guaranteed by section 8(1) of the Constitution of Saint Lucia has been breached; ordering that the criminal proceedings against Mr. St. Brice are permanently stayed; making no order for damages; and ordering costs to Mr. St. Brice here and below to be assessed if not agreed within 14 days, that:

1. A finding that a defendant is largely responsible for the

delay in the completion of his criminal trial is not decisive of whether the right to a fair hearing within a reasonable time has been breached, as the time may come where the overall delay is so great, irrespective of who caused it, that the court is impelled to conclude that the right has been breached. At the time the learned judge considered the matter in 2018, almost 16 years had elapsed since Mr. St. Brice's arrest and charge for murder without that charge being determined. The learned judge erred in law by focusing on the cause of the delay

in the matter and by failing to directly address the question of overall delay in the context of the constitutional guarantee to a fair hearing within a reasonable time, irrespective of who caused, authored or orchestrated it. In the circumstances, the extraordinary time period which has elapsed from the time of Mr. St. Brice's arrest and charge in November 2002 to present, without the murder charge having been finally heard and determined, leads to the inexpressible conclusion that the overall delay has been so great that the reasonable time guar-

antee in section 8(1) of the Constitution has been violated. **Fa' Afete Taito v The Queen and James McLeod Bennett and Ors v The Queen** [2002] UKPC 15 considered; **Dyer v Watson and Anor** [2004] 1 AC 379 considered; **Gibson v The Attorney General of Barbados** [2010] CCJ 3 (AJ) considered; **Prakash Boolell v The State** [2006] UKPC 46 applied; **Elaheebocus v The State of Mauritius** [2009] UKPC 7 applied; **Abeeluck v The State of Mauritius** [2010] UKPC 13 applied; Section 8(1) of **the Constitution of Saint Lucia**, Cap 1.01 of the Revised Laws of Saint Lucia

2015 applied; **Urban St. Brice v The Attorney General** SLUHCVAP 2012/0027 (delivered 31st October 2016, unreported) considered.

2. A permanent stay of criminal proceedings is an exceptional remedy which ought to be deployed sparingly, carefully and for compelling reasons. While it is that a permanent stay may well reward Mr. St. Brice by permitting his escape from being brought to justice, Mr. St. Brice has spent approximately 17 years and 3 months in prison awaiting the determination or disposal of the murder charge against

him. It could not have been contemplated or countenanced that an accused would be in custody for over 17 years awaiting trial or retrial for murder. The circumstances pertaining to Mr. St. Brice's case are exceptional such as to warrant the imposition of a permanent stay of the criminal proceedings in order to vindicate the breach of his right to trial within a reasonable time.

R v Horseferry Road Magistrates Court, ex p Bennett [1994] 1 AC 42 applied; **R v DS** [2020] EWCA Crim 285 applied; **The Queen v Scott Crawley and Ors** [2014] EWCA

Crim 1028 applied; **Gibson v The Attorney General of Barbados** [2010] CCJ 3 (AJ) applied; **Attorney General's Reference (No. 2 of 2001)** [2004] AC 72 applied; **Prakash Boolell v The State** [2006] UKPC 46 applied; **Darmalingum v The State** [2000] UKPC 30 applied.

3. Mr. St. Brice's application to quash the indictment is now moot in view of the grant of a permanent stay. In any event, there would be no basis for the grant of such an order as the indictment was properly preferred against him. As Mr. St. Brice would have been

lawfully arrested and charged at the outset, and his arrest and detention would not have been unlawful, he would also not be entitled to damages for false imprisonment at common law, which could possibly flow from the quashing of the indictment.

4. It has been concluded in several proceedings, including proceedings before the Court of Appeal, that Mr. St. Brice was largely responsible for the delay in the determination of the charge against him. There is no evidence here of dilatory tactics by the State – on the contrary, the Director of Public Prosecutions was al-

ways ready to proceed with the matter. In the circumstances therefore, an award of exemplary or vindictory damages would not be appropriate. Having regard to the gravity of the offence and all the circumstances of the case, declaratory relief coupled with the exceptional remedy of a permanent stay of the criminal proceedings would provide an emphatic vindication of the breach of Mr. St. Brice's constitutional right to trial with a reasonable time.

Taikitota v The Attorney General [2009] UKPC 11 applied; **Rookes v Barnard** [1964] AC 1229 applied; **Kuddas v Chief Constable of Leicestershire Constabu-**

lary [2000] EWCA Civ 39 applied; **WalumbaLumba (previously referred to as WL Congo) v Secretary of State for the Home Department** [2011] UKSC 12 applied; **Graham v The Police Service Commission and the Attorney General of Trinidad and Tobago** [2011] UKPC 46 applied; **Attorney General of Trinidad and Tobago v Ramanoop** [2006] 1 AC 328 applied; **Gibson v The Attorney General of Barbados** [2010] CCJ 3 (AJ) applied.

GANY HOLDINGS (PTC) SA et al v ZORIN SACHAK KHAN et al ; BVIHCMAP 2018/0045



Heard together with
**GANY HOLDINGS
 (PTC) SA et al v ZO-
 RIN SACHAK KHAN et
 al ; BVIHCMAP 2018/
 0048**

**Delivered 30th March
 2020**

*Commercial appeal
 - Costs - Recovery of
 costs for work done by
 persons not enrolled
 as legal practitioners
 in the Virgin Islands -
 Statutory interpreta-
 tion - Section 18(3) of*

*Legal Profession Act of
 the Virgin Islands - Pre-
 sumption against ret-
 rospective application
 of statutes - Whether
 Legal Profession Act
 prohibits recovery of
 costs of overseas law-
 yers acting as legal
 practitioners in the
 Virgin Islands where
 costs incurred prior to
 commencement of
 Act - Whether costs
 incurred after com-
 mencement of Legal
 Profession Act by UK
 costs draftsman not*

*entitled to practise law
 in the Virgin Islands re-
 coverable*

ZorinSachak Khan, Af-
 aque Ahmed Khan
 and Sasheen Anwar
 (“the respondents”)
 were beneficiaries of
 the ZVM Trust. Gany
 Holdings (PTC) SA and
 Asif Rangoonwala (“the
 appellants”) were the
 trustee and appointor
 respectively of the
 ZVM Trust (the “Trust”).
 The respondents filed
 a claim in the Com-
 mercial Court in the
 Territory of the Vir-
 gin Islands (“the BVI”)
 seeking, among other
 things, to have the ap-
 pellants removed as
 trustee and appointor
 of the Trust. The claim
 was dismissed and the
 respondents were or-
 dered to pay the ap-
 pellants’ costs. The

respondents appealed to the Court of Appeal. The Court allowed the appeal and ordered the appellants to pay the respondents' costs, with such costs to be assessed by the Commercial Court, if not agreed within 21 days. The appellants appealed the Court of Appeal's judgment to the Privy Council and the Privy Council dismissed the appeal in its entirety.

Subsequently, the respondents applied to the Commercial Court to have their costs in the proceedings assessed pursuant to the Court of Appeal's order; costs having not been agreed in the 21 days following the order. The respondents filed a detailed sched-

ule of costs which was prepared by a UK qualified legal practitioner, referred to by the parties as a "costs draftsman". The costs draftsman was not, at any material time, a legal practitioner in the BVI entitled to practise BVI law. The appellants contested the assessment proceedings, making two objections on the basis of section 18(3) of the Legal Profession Act, 2015 (the "Act") to the costs claimed. First, the appellants contended that the costs incurred by the respondents' use of overseas lawyers were not recoverable, as section 18(3) prohibits a person acting as a legal practitioner from recovering costs in any action, if the said person is not registered

on the Roll. Second, that the costs incurred in relation to the costs draftsman similarly could not be recovered. The learned judge overruled the objections and allowed the recovery of the costs claimed for the work done by the respondents' overseas lawyers and for the preparation of the schedule of costs by the costs draftsman.

The appellants filed two notices of appeal ("Appeal No. 45 and Appeal No.48") against the learned judge's decision. The notices of appeal raise two broad issues for this Court's determination. On Appeal No. 45, the issue is whether the Act prohibits the recovery of the costs of overseas lawyers acting as legal

practitioners in the BVI, where such costs were incurred prior to the commencement of the Act. On Appeal No. 48, the issue is whether costs incurred after the commencement of the Act for the preparation of the schedule of costs by the costs draftsman are recoverable under section 18(3) of the Act.

Held: dismissing Appeal No.45 and affirming the judge's decision that the costs incurred by the respondents' use of overseas lawyers prior to commencement of the Act are recoverable; allowing Appeal No.48 and setting aside the judge's decision to allow the recovery of costs incurred by the respondents' use of the costs draftsman;

and making no order as to costs, that:

1. The well-established presumption against the retrospective operation of legislation is that, save for circumstances where an enactment so provides expressly or by necessary implication, an enactment is presumed to operate prospectively. The presumption does not apply exclusively to circumstances where a statute takes away or impairs a vested right acquired under existing laws, but also applies where a statute creates a new obligation, or imposes a new duty, or attaches a new disability, in

regard to an event already past. In this case, the application of section 18(3) of the Act to costs already incurred is very properly an attachment of a new disability to extant proceedings and therefore engages the rules on retrospective application of enactments.

Yew Bon Tew Alias Yong Boon Tiew and Another v Kenderaan Bas Mara [1982] 3 WLR 1026 applied; **Manchester Ship Canal Company Ltd. v United Utilities Water Plc (Canal & River Trust and others intervening); Bridgewater Canal Co Ltd v Same (Same in-**

tervening) [2014] 1 WLR 2576 considered; **Wilson v First County Trust Ltd.** [2003] UKHL 40 applied; **Wright v Hale** [1860] 30 LJ Ex 40 distinguished; **Dimitry Vladimirovich Garkusha v Ashot Yegiazaryan et al** BVIHCMAP 2015/ 0010 (delivered 6th June 2016, unreported) distinguished; **John Shrimpton et al v Dominic Scriven et al** BVIHCMAP 2016/ 0031 (delivered 3rd February 2017, unreported) distinguished.

2. The question of whether a statute is to operate retrospectively is to be determined by the usual rules of statu-

tory interpretation. The objective of statutory interpretation is to determine the manner in which Parliament intended the statute to operate. In the Act, the expressions “Roll” and “legal practitioner” are given a forensic meaning. The “Roll” as defined by the Act did not exist prior to the commencement of the Act and no person could be a “legal practitioner” under the Act until the Roll came into existence. Therefore, in so far as section 18(3) bars the recovery of costs in respect of anything done by a person “whose name is not registered on the Roll”

who was “acting as a legal practitioner”, it relates to things done after the coming into force of the Act. Having construed section 18(3) of the Act and its corollary provisions according to their plain and ordinary meaning, it is clear that section 18(3) was intended by Parliament to apply prospectively, that is, to the recovery of costs incurred after the coming into force of the Act.

Sections 33 and 42(1) of the **Interpretation Act**, Cap. 136, Revised Laws of the Virgin Islands 1991 considered; **Asiyah Grant v Javier Maduro** BVI-HCVAP2019/0001

(delivered 13th November 2019, unreported) considered.

3. In cases of purportedly retrospective statutes, the court should consider whether the consequences of applying the statutory provision retrospectively would be so unfair that Parliament could not have intended it to be applied retrospectively. Here, there was no opportunity for the respondents to relieve themselves of the prohibition in section 18(3), because section 18(3) did not then exist. The respondents would have incurred the costs that they did well knowing that

the costs were recoverable, subject to the findings of a judge on the reasonableness of the costs. The unfairness to the respondents and similarly situated litigants is patent and could not have been intended by Parliament. Therefore, section 18(3) does not apply to bar the recovery of costs incurred prior to the commencement of the Act and the learned judge did not err in so finding.

Wilson v First County Trust Ltd. [2003] UKHL 40 applied; **Wright v Hale** [1860] 30 LJ Ex 40 considered.

4. In order for costs to

be irrecoverable under section 18(3) of the Act, the judge ought to have been satisfied that the costs draftsman was acting as a legal practitioner and was so acting while not registered on the Roll. By its very nature, section 18(3) requires an examination of the circumstances in which costs claimed were incurred. Whereas it can easily be determined whether a person was enrolled as a legal practitioner, the requirement that costs were incurred while a person was acting as a legal practitioner can only be sensibly assessed by examining the work for

which the costs are claimed, as against conduct that amounts to “acting as a legal practitioner”. It therefore cannot be said that the learned judge undertook an impermissible assessment of the work done by the costs draftsman in order to make a determination as to the recoverability of the costs claimed.

5. When faced with an allegation that costs are irrecoverable under section 18(3) of the Act, the court is required to examine the work done by the person whose costs are claimed, against the roles and functions of a legal prac-

itioner. Here, the broad description of the work done by the costs draftsman lends itself to the view that the costs draftsman was engaged in a substantive legal capacity in the production of the schedule of costs. There is no doubt that the costs draftsman was acting as a legal practitioner within the terms of section 18(3). Accordingly, the costs incurred by the respondents’ use of the costs draftsman are not recoverable, and the learned judge erred by finding to the contrary.

Dimitry Vladimirovich Garkusha v Ashot Yegiazary-

an et al BVIHC-MAP 2015/ 0010 (delivered 6th June 2016, unreported) followed; John Shrimpton et al v Dominic Scriven et al BVIHC-MAP 2016/ 0031 (delivered 3rd February 2017, unreported) followed.

**THE ATTORNEY
GENERAL OF SAINT
CHRISTOPHER AND
NEVIS v DR. DENZIL
DOUGLAS
SKBHC-VAP 2019/
0007**

**Delivered 12th March
2020**

Civil appeal - Constitutional interpretation - Disqualification



from National Assembly on account of circumstances which arose after election - Acknowledgment of allegiance, obedience or adherence to a foreign state - Section 28(1)(a) of the Constitution of Saint Christopher and Nevis - Diplomatic passport issued to respondent by the Commonwealth of Dominica - Whether respondent's application for, receipt and use of diplomat-

ic passport issued by the Commonwealth of Dominica amounts to an acknowledgment of allegiance to the Commonwealth of Dominica - Section 31(3)(c) of the Constitution - Whether respondent required to vacate his seat in National Assembly

The respondent ("Dr. Douglas") is a citizen of Saint Christopher and Nevis, the Leader of the Opposition and a

Member of Parliament, having been elected to the National Assembly (or "the Assembly"). At the invitation of the Prime Minister of the Commonwealth of Dominica (or "Dominica"), Dr. Douglas applied for a Dominican diplomatic passport. He completed a passport application form with the exception of two columns of the form which required him to represent himself as a Dominican citizen, which he was not. The diplomatic passport was issued to Dr. Douglas by the Government of Dominica and the bio data page of the passport states that he is a citizen of Dominica. The passport also contains an endorsement requesting that he be accord-

ed the protections of a citizen of Dominica. Dr. Douglas has used the passport to travel and gain entry to several countries for 'convenience of travel and business purposes'. The appellant (the "Attorney General") became aware of Dr. Douglas' diplomatic passport and filed an originating motion in the High Court on the footing of sections 28(1)(a) and 31(3)(c) of the Constitution of Saint Christopher and Nevis (the "Constitution") seeking, inter alia, a declaration that Dr. Douglas, by reason of his becoming a person who, by virtue of his own act, is under an acknowledgment of allegiance, obedience or adherence to the Commonwealth of Dominica, is automat-

ically disqualified from sitting as a member of the Assembly and is required to vacate his seat.

The originating motion was heard and determined by a judge of the High Court. The learned judge determined that Dr. Douglas was not under an acknowledgment of allegiance in accordance with Dominican law, and refused the relief sought in the motion with no order as to costs.

The Attorney General appealed. The main issue for this Court's determination is whether Dr. Douglas, by his application for, receipt and use of a Dominican diplomatic passport, is under an ac-

knowledgment of allegiance, obedience or adherence to a foreign power or state, in terms of section 28(1)(a) of the Constitution, and is therefore required to vacate his seat in the National Assembly in accordance with section 31(3)(c) of the Constitution.

Held: allowing the appeal; declaring that Dr. Douglas is required to vacate his seat in the Assembly; and ordering that each party shall bear their own costs before this Court and in the court below, that:

1. Section 28(1)(a) of the Constitution provides for three distinct legal requirements to be proved for a person

to be disqualified from sitting in the Assembly. There must be: (i) a de jure allegiance owed to a foreign power or state; (ii) some voluntary act on the part of the allegedly disqualified person; and (iii) the voluntary act by the allegedly disqualified person amounts to an acknowledgment of that allegiance. This disqualifying provision was included in the Constitution as a means of avoiding the possibility of elected members having split loyalties which would render them incapable of acting in the interests of Saint Christopher and Nevis, in circumstances where such acts are

diametric to the interests of the state to which they possess a competing loyalty. Section 28(1)(a) of **the Constitution of Saint Christopher and Nevis**, Cap. 1.01, Revised Laws of Saint Christopher and Nevis 2009 applied; **Sykes v Cleary** [1992] HCA 60 applied; **Hewitt v Rivers, Solomon and Attorney General** [2013] (2) CILR 262 applied.

2. By the issuance of a passport, a state undertakes an obligation of protection in respect of the passport holder, such that would give rise to a corresponding obligation of fidelity or allegiance. This ap-

plies equally to diplomatic passports. By issuing a diplomatic passport, upon the application of Dr. Douglas, the Commonwealth of Dominica consented to the presentation and use by Dr. Douglas of the passport and to him praying in aid the state's protection at his convenience. Accordingly, Dr. Douglas has been vested with a concomitant duty of obedience or allegiance to the Commonwealth of Dominica.

Joyce v Director of Public Prosecutions [1946] AC 347 applied; **Sykes v Cleary** [1992] HCA 60 applied; **Hewitt**

v Rivers, Solomon and Attorney General [2013] (2) CILR 262 considered; **Hicks v Ruddock** (2007) 156 FCR 574 considered.

3. It is evident that there must be some element of knowledge and participation in the acts which are claimed to have placed a person under an acknowledgment of allegiance, whether that participation is active or passive. The requirement for voluntariness of conduct is imported by the words "by his own act" contained in section 28(1)(a). In this case, the voluntariness of the acts which were claimed to place Dr. Douglas under an

acknowledgment of allegiance, is undisputed as he admitted that he applied for, received and used the Dominican diplomatic passport to travel.

Section 28(1)(a) of the **Constitution of Saint Christopher and Nevis**, Cap. 1.01, Revised Laws of Saint Christopher and Nevis 2009 applied.

4. Whether there has been an acknowledgment of allegiance is a determination to be made on the facts of each case. Here, Dr. Douglas invoked the protection and privileges of the state of Dominica, by the presentation

of his diplomatic passport, knowing that the passport represented him as a subject and citizen of Dominica and not Saint Christopher and Nevis. The terms of the passport are unequivocal, very clearly represent Dr. Douglas as a citizen of Dominica and request that he be accorded the protections of a Dominican citizen. Accordingly, an acknowledgment of allegiance in respect of which section 28(1)(a) of the Constitution is aimed has been made out. **Joyce v Director of Public Prosecutions** [1946] AC 347 considered; **Sykes v Cleary** [1992] HCA 60

considered; **Hewitt v Rivers, Solomon and the Attorney General** [2013] (2) CILR 262 considered; **Dabdoub v Vaz** (CA 45 & 47 of 2008, 13th March 2008) considered; **Green and Joseph v Saint Jean and Skerrit** DOMHCVAP 2012/0001 (delivered 11th March 2013, unreported); **Nile v Wood** [1988] HCA 30 considered.

CONCLUSION

It has been our greatest pleasure to share with you our readers the highlights from our Department for the period under review. We do hope that you have been enlightened and that you have now formed a greater appreciation for the work of the Department.

As we manage our way through the COVID-19 pandemic, our hard-working team continues to surpass all expectations

in order to ensure the dispensation of justice through professionalism and excellence in a timely, effective and efficient manner.

We are truly grateful to counsel, litigants and all court users for the confidence placed in the Court and for your support as we continue to evolve, particularly through the use of Information Technology, to ensure that the Court serves the citizens of the Eastern Caribbean with distinction.

COURT-CONNECTED **MEDIATION**



The Eastern Caribbean Supreme Court's Mediation Programme though impacted by the ongoing COVID-19 Pandemic, continued to make strides during the reporting period.

MEDIATION TRAINING

A core focus of the mediation programme has always been ensuring that all jurisdictions are well equipped with an adequate cadre of certified court-connected Mediators. To that end, the Eastern Caribbean Supreme Court's (ECSC) Judicial Education Institute (JEI) / University of the West Indies (UWI) 40-hour mediation training workshop was held in Saint Lucia, Dominica, Montserrat and St.



Trainee Mediators, Coaches and Facilitator (on-screen) during mediation training held in Saint Lucia - October, 2020.

Kitts during the reporting period.

We are thankful for funding provided by the United Nations Development Programme (UNDP) which facilitated training in Dominica and to the Government of Montserrat which funded training in that jurisdiction.

The hosting of training in these 4 jurisdictions

afforded the ECSC a pool of 106 certified Mediators available for selection and placement on the respective High Court Rosters. Additionally, mediation refresher training was held in Antigua and Barbuda in an effort to increase the numbers of Mediators on their High Court Roster. With the advent of COVID-19, the ECSC in conjunction with UWI (St. Augustine cam-



Trainee Mediators, Coaches and Facilitator (on-screen) during mediation training held in Saint Lucia - October, 2020.



Participants during mediation training held in Dominica in February, 2021

pus), was compelled to adapt to the restrictions brought about by the pandemic by

amending the format of the mediation training workshop. This precipitated the

training of 43 Mediators from 8 Member States and Territories (MSTs), to function as mediation coaches, to support the Facilitator with the assessment of trainees (since the Facilitator could not be present in-person) during the hosting of mediation training workshops. Training sessions for mediation coaches were held on August 21st, 2020, October 16th, 2020, January 26th, 2021 and May 14th, 2021. A Mediation Coaches Policy was developed and came into effect on 13th October, 2020. The Mediation Coaches Policy was designed to ensure that the adoption of mediation coaches could be achieved seamlessly and implemented with little to no teeth-

ing issues. During the reporting period, mediation coaches were used successfully.

MEDIATION COMMITTEES

In recognition of the important role and function of mediation committees in the 9 MSTs under the ECSC's jurisdiction and the need to streamline the work being done by the respective committees, terms of reference (TOR) were developed and issued to the Chairperson of each committee. The TOR took effect on November 13th, 2020 and provides each committee with guidance in relation to its role, responsibilities, powers, membership and general operations. While

the TOR is intended to serve as a guide (save for those guidelines imported from the Practice Direction on Court-connected Mediation), Chairpersons were encouraged to actively adopt the TOR as an aid to adding much needed structure to the committees' work.

During the reporting period mediation committees were appointed, supplemented or revived in the following jurisdictions: Anguilla, Montserrat, Saint Lucia. New Chairpersons were also appointed to lead the mediation committees in Antigua and Barbuda and St. Kitts and Nevis. The mediation committees actively engaged in public awareness activ-

ities such as outreach to churches, schools and community centers. Several mediation committees are also planning further public awareness initiatives such as the creation of a mediation jingle, presentations on local radio and Government Information Services (GIS) platforms, and even a mediation webinar.

PRACTICE DIRECTION ON COURT-CONNECTED MEDIATION (RE-ISSUE)

The ECSC issued Practice Direction (Re-Issue) Nos. 6 and 7 of 2020 on Court-Connected Mediation which came into effect on 2nd November, 2020.

The re-issued Practice Direction (PD) which represents an overhaul of PD No. 1 of 2003, did not only address many of the limitations of the mediation programme, but also paved the way for advancements such as provisions for virtual and pre-action mediations and the inclusion of a number of practice forms and schedules. Noteworthy was the addition of a Code of Ethics for Mediators and a Disciplinary Committee to address complaints against Mediators. The re-issued Mediation PD aims to enhance the mediation process for all stakeholders and to positively impact on the administration of justice.

The advent of COVID-19 has meant the increased use of virtual mediations with its attendant challenges and has led to the identification of additional measures which would further improve mediation delivery. With this in mind, amendments to PD No. 6 (and No. 7) of 2020 are expected in the not too distant future.

OTHER INNOVATIONS IN PROGRESS AND ON THE HORIZON

On 18th November, 2020 the ECSC's **Regional Mediation Committee** came to life with its first meeting of representatives from the various MSTs. The core role and func-

tion of the Committee is to serve as an advisory body to the Chief Justice. However, it is hoped that the Committee could also assist with the growth of the mediation programme throughout the OECS, by providing support particularly to those Member States where there were very few referrals to mediation and / or low rates of success.

On 24th March, 2021, the Regional **Fee Harmonisation Committee (FHC)** held its first meeting. The FHC comprises members from the ECSC's 9 MSTs and was formed to **examine** all possible mediation related fees, **develop** a proposed fee structure which takes these fees

into account and **submit** a formal proposal of recommendations for the implementation of harmonised fees across the MSTs, to Her Ladyship the Honourable Chief Justice for consideration. We expect the harmonisation of fees to improve this aspect of the regional mediation programme and to be a welcomed innovation throughout the OECS.

The ECSC is actively exploring, and have commenced work with respect to **the introduction of Criminal Mediations** throughout the Court's jurisdiction. The impetus towards the introduction of the ECSC's criminal mediation programme is a call toward the path of restorative justice as

well as a thrust to more meaningfully engage and positively impact on the child and youth justice platforms established throughout the Eastern Caribbean.

The ECSC's criminal mediation programme will primarily focus on an all-round collaborative approach to criminal justice. It will seek to reduce the Court's backlog of minor criminal cases, actively explore alternative sentencing and introduce diversionary measures for children and youth in conflict with the law.

During the last quarter of 2021 and in the coming year, focus will be placed on the completion of detailed Mediation Practice Directions (Criminal Divi-

sion). Stakeholder engagement will form a meaningful part of the process and will be activated at appropriate milestones along the project timeline.

The new reporting period beckons and looks to be an exciting one! Novel ideas will take flight, new training opportunities will be advanced, pioneering policies will be developed and implemented and greater collaboration will be pursued with both internal and external stakeholders.

REPORTS FROM MEMBER STATES AND TERRITORIES

Statistical data received from the MSTs has been captured in the table

below to provide a brief synopsis of mediation activities for 2020:

Criteria	Ang.	SLU	AG	Gren.	Dom.	Mont.	Nevis	St. Kitts	SVG	TVI
Number of matters referred to mediation	11	162	102	116	44	9	11	30	29	18
Number of mediations held	9	86	129	120	26	6	10	30	12	15
Number of cases settled before mediation	0	0	0	0	5	0	0	1	1	0
Outcome: number of mediations settled	1	17	10	33	0	0	3	7	7	3
Outcome: number of mediations partially settled (some issues settled)	1	0	1	0	4	0	1	0	0	1
Outcome: number of mediations not settled	5	11	17	39	12	6	5	15	2	9
Number of further mediations to be held	2	58	20	12	14	3	2	6	3	1
Number of mediations (lawyer)	5	63	96	40	31	2		0	14	10

Number of mediations (non - lawyer)	0	99	5	80	11	4	9	29	15	5
Number of settled cases which were settled within 30 days	0	0	0	3	0	0	2	0	0	0
Number of settled cases which were settled within 60 days	0	17	0	20	0	0	1	0	7	3

PROGRAMME EVALUATION

Comparative data related to mediations in the Eastern Caribbean during 2019 and 2020 depict small increases in the number of matters referred to mediation in all but 4 MSTs during 2020. However, the number of actual mediations held in 2020 when compared to 2019, decreased or remained the same

in all MSTs save for St. Vincent and the Grenadines (SVG). The number of successful outcomes to mediation, that is the number of cases fully settled or partially settled at mediation, also decreased or remained the same in all MSTs save for SVG, where there was a very small increase in settled cases in 2020. In light of challenges posed by the pandemic and the

consequent changing socio-economic climate, the ECSC has begun adopting innovative approaches to adapt to these changes, in an effort to effectively serve our court-users and other stakeholders. To this end, we will leverage technologies available to us, to closely monitor and evaluate the mediation programme and work toward incremental improvements.

THE JUDICIAL **EDUCATION INSTITUTE**



The Judicial Education Institute (JEI) of the ECSC is responsible for the capacity strengthening of the Judicial Officers, and during the period under review, the JEI continued its objective of providing training for jurists and staff of the ECSC despite the many challenges posed by the COVID-19 pandemic. During the period, the JEI was able to host some of its training programmes virtually.

JOINT SYMPOSIUM – 11TH SEPTEMBER 2020

The Joint Symposium is an annual activity co-sponsored by the JEI and the OECS Bar Association. On 11th

September 2020, the Joint Symposium was held virtually via the Zoom platform under the theme 'Virtually Together: A Vision for the Future'. The symposium focused on the topics: (i) 'The Dos and Don'ts of Advocacy on Which Senior Judges and Arbitrators Agree and Disagree' - which featured a panel comprising Her Ladyship, The Hon. Dame Janice M. Pereira, DBE, LL.D, Chief Justice, ECSC, His Lordship The Hon. Mr. Justice C. Dennis Morrison, Retired President of the Court of Appeal of Jamaica, and Mrs. M. Georgia Gibson-Henlin, QC, FCI Arb; (ii) 'Navigating the Fog of COVID-19: The Clash Between Emergency Powers and Individual Rights' presented by

Her Ladyship, The Hon. Mde. Justice Esco Henry, High Court Judge, ECSC, Dr. Francis Alexis, QC and The Hon. Dr. Kenny D. Anthony; (iii) 'The Civil Procedure Rules: Twenty Years On – Where are we now and where are we headed?' presented by His Lordship, The Hon. Mr. Paul Webster, Justice of Appeal, ECSC; and (iv) Professional and Ethical Obligations Associated with Contingency Fees, Litigation Funding and Similar Arrangements, presented by Mr. Rajiv Persad, Attorney-at-Law.

Although the symposium was held virtually, by all accounts it was a resounding success and the participants were pleased with the

level of discussion and interaction between the Bench and the Bar.

TRAINING FOR HIGH COURT STAFF OF MONTSERRAT, THE TERRITORY OF THE VIRGIN ISLANDS AND ANGUILLA

The ECSC through the JEI continued its capacity building programme with a series of training workshops for High Court Staff across the Member States and Territories which it serves. This tranche of training, for the islands of the British Overseas Territories held from July – September of 2020, ended the series of training which started in April of

2019 with the island of Saint Lucia. The training for the British Overseas Territories were all held virtually because of the COVID-19 pandemic which affected in person facilitation. The training for each of the Territories was held over a four-day period. The training workshops were held in the respective courtrooms in each Territory, adhering to the social distance protocols. The workshops brought together judge's secretaries, court clerks, filing clerks, case managers, court administrators and bailiffs. The objectives of the workshops were to improve the quality of service delivered to the general public and legal fraternity, increase occupational skills and

knowledge, and to enhance the overall function of the court office.

The areas of focus at the workshops included: Building Relationships with the Public through effective customer service, managing High Court procedures such as Probates and the Administration of Estates, the Civil Case Process including the Appeals Process and the Criminal Trial Process. The participants were also trained in the use of video and web conferencing applications, audio recording and filing. The workshops were facilitated by an experienced team of Judicial Officers and staff who delivered their presentations through practical exercises, hands-on

demonstrations and role playing. The Court has already seen the benefits of the training in the various islands through increased efficiency and positive feedback from the public. It is JEI's hope that the development of training manuals will allow for consistency in the areas which require improvement.

Through partnership with the JURIST Project, the JEI provided much needed training in areas of importance to the work of the ECSC's judiciary during the period under review. The JEI extends thanks to the JURIST Project for its financial support towards the hosting of these vital training workshops. Having completed the

series of training for High Court Staff, the JEI now looks towards providing the same support to the Magistrates' Courts of the OECS during the second half of 2021.

ORIENTATION PROGRAMME FOR NEWLY APPOINTED JUDGES

From 20th to 22nd January 2021, the JEI held its Orientation Programme for newly appointed Judges of the ECSC. The training was held virtually over the three-day period.

The topics canvassed at the orientation included: Judicial Ethics, Judicial Independence, Recusal, Implicit Bias, How and When to De-

termine Costs, Judgment Writing and Oral Decisions, The Importance of Statistics, and Digital Technology in the Judicial Process. Judges also benefitted from an information session on the Human Resource Department.

The facilitators of the Orientation Programme included Her Ladyship, The Hon. Dame Janice M. Pereira, DBE, LL.D, Chief Justice, ECSC; The Honourable Mr. Justice Adrian Saunders, President, Caribbean Court of Justice; Ms. Tatiana Veress, United Nations Office on Drugs and Crime (UNODC); The Honourable Mr. Justice Dennis Morrison, Retired President of the Court of Appeal of Ja-

maica, The Honourable Dame Linda Dobbs, Dr. Janeille Matthews, Lecturer, UWI Cave Hill Campus, Mr. Dylan Bily, Human Resource Manager, ECSC, Mr. Mark Ernest, Information Technology Manager, ECSC, Ms. Myrtene Cenac, Statistician, ECSC, Mr. Anderson Henry, Systems Administrator, ECSC, Mrs. Cynthia Ramjeawan, Application Support Officer, ECSC, Mr. Augustus Marcellin, Network Administrator, ECSC and Mr. Demetrius Charles, Website Administrator, ECSC.

At the end of the Orientation Programme, judicial officers provided positive feedback, evincing the success of the training. Indeed, they considered

the Orientation Programme as vital as they embarked on their roles as judicial officers.

LEADERSHIP TRAINING FOR MAGISTRATES, REGISTRARS AND COURT ADMINISTRATORS 2021

During the period under review, the JEI held a Leadership Training for the Magistrates, Registrars and Court Administrators of the OECS. The training was held virtually via the Zoom platform and was facilitated by Mrs. Ann Diaz, Project Coordinator, Mediation Unit of the University of the West Indies. The training for both Magistrates and the Registrars and

Court Administrators were conducted in two groups. The training for groups one and two for Magistrates were held from 28th - 29th January 2021 and from 1st - 2nd February 2021 respectively. The training for groups one and two of the Registrars and Court Administrators were held June 22 - 23, 2021 and June 24 - 25, 2021 respectively.

The training covered areas such as 'How to be an effective leader', 'Team building and Team Work' and there was also a session on dealing with conflict. The training included many 'think tank' sessions where the participants were placed in break out groups to carry out exercises for effective leadership.

The participants considered the training to be extremely useful for their roles as leaders of their respective Courts.

MAGISTRATES CONFERENCE 2021

The Magistrates' Conference followed the leadership training and was held virtually via Zoom from 3rd – 5th February 2021. The training focused on the following areas: 'Judicial Ethics', facilitated by The Hon. Mr. Justice Adrian Saunders, President, Caribbean Court of Justice and The Hon. Madame Justice Kimberly Cénac-Phulgence, High Court Judge, ECSC; 'Implicit Bias' presented by Dr. Janeille Matthews, Lecturer, UWI

Cave Hill Campus; 'A Magistrate's Relationship with Social Media and Mainstream Media' facilitated by The Hon. Mr. Justice Delys Barrow, Judge of the Caribbean Court of Justice; 'Judicial Independence and Recusal', facilitated by Dame Linda Dobbs; 'Judgment Writing Workshop and Reasons for Decisions' by The Hon. Mr. Justice Dennis Morrison, Retired President of the Court of Appeal of Jamaica; 'Case Flow Management' presented by The Hon. Madame Justice Agnes Actie, High Court Judge and The Hon. Mr. Justice Ermin Moise, High Court Judge; and 'Bail Applications', presented by The Hon. Mr. Justice Colin Williams, High

Court Judge.

Additionally, presentations on the new Eastern Caribbean Supreme Court Sentencing Guidelines were carried out in each Member State and Territory, with the Judges from the Criminal Division of the High Court in each island leading the sessions. At the end of the training, the magistrates thanked the JEI for facilitating such a significant training. The magistrates also indicated that these training programmes should be held annually with a view to strengthening the capacity of the Magistracy across the OECS.

The ECSC judicial officers participated in

several other virtual training programmes during the period under review including:

- Second Caribbean Judges Forum on HIV, Human Rights and the Law, 18th – 19th November 2020, United Nations Development Programme and the Judicial Education Institute of Trinidad and Tobago;
- Confiscation Training on 25th November 2020, National Centre for State Courts; and
- Enhancing Public/Private Cooperation in Cyberspace Training, Cyber-crime Programme Office, Council of Europe.

- CAJO's Judgment Writing Course, May 27, 2021.
- Judicial KIT Programs coordinated by the National Center for State Courts in areas such as Sentencing Best practices, Case Management and Problem-Solving Courts. Those KITs were held throughout the year from March 2021 to August 2021.

JEI: CONCLUSION

Through partnerships with international agencies such as the JURIST Project, UNDP, and the Government of the United Kingdom, the Judicial Education Institute pro-

vided much needed training in areas of importance to the work of the ECSC's judiciary during the period under review. The JEI extends thanks to all its partners and looks forward to continued collaboration for the promotion of efficiency in the justice system of the Eastern Caribbean.

SUPPORTING **THE COURT**





OUR HUMAN RESOURCES

CHANGING TO SUIT THE NEW NORMAL

The global COVID-19 pandemic has forced the ECSC into a forward-thinking approach to how we work as an organisation. The Human Resource Department has continued to go through significant shifts due to the introduction of a

telecommuting policy and in-office staff rotation in response to the COVID-19 pandemic.

Implementation of the telecommuting policy required stringent measures to ensure that all employees remained motivated and productive in their duties. This change required significant support from all departments of the ECSC.

As we slowly adjust

to the world and its new normal. The Human Resource Department will continue to strengthen our role in providing mental and physical health support to all employee's well-being. Although still faced with the restrictions that COVID-19 has placed on us, this effect has forced the ECSC Human Resource to redesign its training programmes through virtual means and suspend some of the annual training and development activities for 2020-2021. Still, we seek to use alternative means to ensure that the needs of all employees are met through virtual engagement and providing the flexibility that the ECSC has recognised as being

essential to move forward in the new normal.

CUSTOMER SERVICE TRAINING HELD BY THE JUDICIAL EDUCATION INSTITUTE

The Judicial Education Institute embarked on a Customer Service Training for the magistracy of the Eastern Caribbean States. The HR Department alongside other members of the ECSC assisted with the facilitation of this training.

HR INTRANET PORTAL

The HR Department is working in collaboration with the Website Administrator to develop an HR Portal for

all staff members. This is currently underway and would provide all employees a central location to gather all relevant HR Information, updates, engagement, and policy guidelines.

ECSC PENSION PLAN

The HR Department, together with the Bank of Saint Lucia, is currently finalising the ECSC employee pension plan. The ECSC pension plan is for the

exclusive benefit of participants and their beneficiaries.

VACCINATION DRIVE AT ECSC HEADQUARTERS

As part of our COVID-19 information drive, The Human Resource Department shared relative information and resources with consistent updates and actions to educate all employees regarding the COVID-19 virus.



ZOOM MENTAL
HEALTH AND
EMPLOYEE
WELLBEING

The Human Resource Department held sessions pertaining to the COVID-19 pandemic and the fear, anxiety and stresses brought about as a result. These sessions were all well attended by the employees giving all the opportunity to share any questions or concerns that they may have concerning the pandemic.

BEAST CANCER
AWARENESS
WORKPLACE
CAMPAIGN

Breast Cancer Awareness Workplace Campaign, The Human Resource Department, along with the support of our local charity, continues to raise awareness among the employees of the ECSC.

INTERNATIONAL
MEN AND WOMEN'S
DAY

International Men and Women's Day is recognized annually on November 19th and March 8th globally, The Human Resource Department expresses gratitude to all Men and Women employed with the ECSC.

MOTHER'S AND
FATHERS DAY
RECOGNITION

The Human Resource Department recognizes all mothers and fathers of the Court during the annual Mother's and Father's Day celebrations.



OUR FINANCIAL RESOURCES

FUNDING OF THE EASTERN CARIBBEAN SUPREME COURT

The Eastern Caribbean Supreme Court (ECSC) is financed by contributions from nine members of the Organization of Eastern Caribbean States (OECS) in accordance with an agreed percentage. This percentage

of the approved annual budget is set by the Judicial & Legal Services Commission in concurrence with the OECS Heads of Government (or the Authority). Factors influencing the percentage contribution made by each Member State are the number of resident judges and number of Court sittings in each Member territory. The Member State contributions present-

ly agreed to are as follows:

MEMBER STATES CONTRIBUTIONS (PERCENTAGE)



Anguilla	8
Antigua & Barbuda	13
BVI	13
Dominica	11
Grenada	13
Montserrat	5
St. Kitts & Nevis	11
Saint Lucia	13
SVG	13

BUDGET PREPARATION

The Court's Financial Year begins on September 1st and ends on August 31st. As part of its normal functions, the Accounts Department

prepares the annual budget of the ECSC and it is submitted by the Chief Justice to the Heads of Government of the OECS (or the Authority) for their approval.

Before the annual budget of the ECSC is approved by the Authority, it goes through three stages of analysis and review.

- In its first stage, under the direction of the Chief Justice and the Court Administrator, the budget is prepared by the Accountant utilizing historical data and information provided by the Department Heads at the ECSC Headquarters based on their respective de-

partmental work plans. Upon completion, the draft budget is discussed at the ECSC level and signed off by the Chief Justice.

- In the second stage, the budget is presented to the Budget Committee (comprising of budget officers and/or financial secretaries from each of the Member States and Territories) for their review and discussion. Once reviewed, they may make recommendations and suggest possible changes for the Court to consider prior to moving to the next stage.
- In its final stage, the budget is presented to the Au-

thority by the Chief Justice. The budget is again reviewed, and critical aspects may be discussed and adjusted as agreed before its final approval by the Authority. It is a requirement that the decision to approve the budget must be unanimous.

Once the Budget is approved by the Authority, it becomes a **treaty obligation** of each Member State to pay the contributions in accordance with the preset percentages highlighted earlier. Section 15 of the Supreme Court Order provides that the amounts approved for the expenses of the Supreme Court, in the preset percentage for that

State or Territory, become a charge against the Consolidated Fund of the State or Territory. These contributions are due on September 1st of each calen-

dar year. The Court has been flexible in accepting contributions and the option is available for Member States to pay monthly, quarterly, or annually, in advance.

The approved budgets for the financial year under review and the prior financial year are as follows:

Cost Centre	Approved Budget 2019/2020	Presented Budget 2020/2021	Percentage Increase / (Decrease)
Personal Emoluments	12,917,285	13,319,397	3.11%
Administrative Expenses	4,171,344	2,869,266	-31.21%
Capital Expenditure	130,050	130,050	0.00%
Judicial Education	526,728	250,590	-52.43%
Judicial and Legal Services Commission	129,267	120,328	-6.92%
Total	17,874,674	16,689,631	-6.63%

The ECSC presented a budget with an overall decrease of 6.63% for the period 2020/2021. This decrease was mainly due to the fol-

lowing:

- Reduced regional travel by the Judiciary and Staff of the ECSC as hearings were conduct-

ed virtually.

- The scope of the judicial education training programme was reduced.

TIMELY FUNDING

We have continued to face the untimely receipt of cash contributions from some Member States and Territories (MSTs) and the situation with the COVID-19 pandemic has made the situation that much worse. We continue to work with and urge the different MSTs to put a plan in place to address the arrears of contributions. We hope that as we move into the next financial year, we wit-

ness an improvement in the situation so that the Court can continue to provide the desired level of service to the users of the justice system.

Over the years, the ECSC has been fortunate to receive donor funding to assist with various reforms and training activities. It is this support from the various donor agencies which has allowed the ECSC to undertake certain activities since

there are occasions when the approved funding has not been received from the MSTs. During the year under review, the Judicial Education Institute (JEI) of the ECSC is thankful for the funding from the JURIST Project which allowed it to host a Leadership training workshop for Magistrates, from January 28 – 29, 2021 and February 1-2, 2021. This training was conducted virtually.

OUR INFORMATION RESOURCES

RECORDS MANAGEMENT UNIT

The period under review was very challenging for the Records Management Unit [RMU]. However, staff continued to manage the court's records as we adjusted to the new work environment.

CORRESPONDENCE MANAGEMENT

The web-based Correspondence Management Database has proven to be very effective as we continue to work from home. There are still some problems with the generation of reports and the Website Ad-

ministrator is currently reviewing the situation with a view to rectification by the end of 2021.

ACTIVE RECORDS MANAGEMENT

The bulk of active records management activities revolved around coding and filing of paper-based records and the provision of access to both paper-based and electronic records. It must be noted that we have not been able to keep up with the filing of paper-based records as the filing cabinets are in the Renham Building.

INACTIVE RECORDS MANAGEMENT

This activity has been the most challenging for the RMU. Work at



the Records Centre has halted due to insufficient shelves to access records transferred over the past three years. Currently, 302 boxes are waiting for accession. This situation has hindered our ability to retrieve requested records from these boxes. It is hoped that additional shelves will be acquired early in 2022 so that we can continue accession activities at the Record Centre.

LAW LIBRARY

The ECSC Law Library has continued to support the information and research needs of the Court by providing the Justices, Judicial Research Assistants (JRAs), and court staff with relevant publications and electronic databases and current information legal topics. The Library assisted with numerous enquiries ranging from requests for case-law reports, journal articles and legislation, to more detailed re-

search, including some with an international element. The increase we believe were because of the ongoing global Pandemic, and our facilities are still closed to members of the public as a safety measure. In addition to our in-house clients, service was offered to members of the legal fraternity and registered students of academic institutions, primarily in the form of research and photocopying. Most external requests were either

emailed or packaged for contactless delivery once payment was received by our Accounts department.

The ECSC Library team decided that the global Pandemic has presented an opportunity to take enormous strides forward in moving most of our services away from a predominantly print-focused offering and towards one almost exclusively digital. To that end, we cancelled a significant number of relatively expensive print subscriptions and diverted this expenditure into enhancing our access to other research databases. This pivot enabled the Library team to continue to provide real-time service of most of our



Core functions that were provided mainly in the office in the past. As a result, during the period under review, we can report that the team could satisfy most research requests received both internally and externally. The team also took advantage of our Ca-

ribbean and International networks to help satisfy requests for material that could not be found in our collection.

The Library Team continues to be active participants in the international and regional law library community and was represented at the

35th Conference/Annual General Meeting of the Caribbean Association of Law Libraries (CARALL) convened digitally via Zoom in August 2021. The ECSC was ably represented by the Information Services Manager and Information Services Officer.

INFORMATION TECHNOLOGY

The Report focuses on two main activities that characterized the work of the Information Technology Department during the fiscal year

1. ECSC E-LITIGATION PORTAL

The implementation of the ECSC E-Litigation Portal in the remaining MSTs – Commonwealth of Dominica, Grenada and St. Vincent and the Grenadines was finally effected. The Portal went live in Grenada on June 22, 2021, in the Commonwealth of Dominica on July 3, 2021, and in St. Vincent &



the Grenadines on September 27, 2021. As usual, the training of all stakeholders constituted a major aspect of the implementation of the Portal. A significant number of the Grenada training sessions was conducted virtually via the Zoom Meeting Platform. The training sessions in Dominica and St. Vincent & the Grenadines

were conducted “by and large” using face-to-face modalities. Sessions were conducted in large training rooms in adherence to social distancing protocols in effect then. Over 200 legal practitioners and secretaries participated in the Grenada training sessions via zoom. The number of legal practitioners and secretaries trained in Domini-

ca and St. Vincent & the Grenadines were approximately 100 in each case.

Litigants in all Member States and Territories are now able to file and manage all civil and appeal matters online via the ECSC E-Litigation Portal. Matters that were originally file and managed manually can be migrated into the E-Litigation Portal through the filing of an application by one of the parties in the matter. The Process is driven by the ECSC Practice Guide 1 of 2020 – “Migration of Court of Appeal, Civil, and Commercial Matters manually filed prior to the

implementation of the Electronic Litigation Portal.”

The ECSC E-Litigation Team continues to provide prompt responses to the various support requests from users of the Portal including legal practitioners, court staff and judicial officers.

The web-based feature of the Portal, which allows all users access anytime, anywhere and on any devices, continues to be highly useful during this COVID-19 pandemic as Court Registries have had to undertake temporary closures as a means of controlling the spread of the virus.

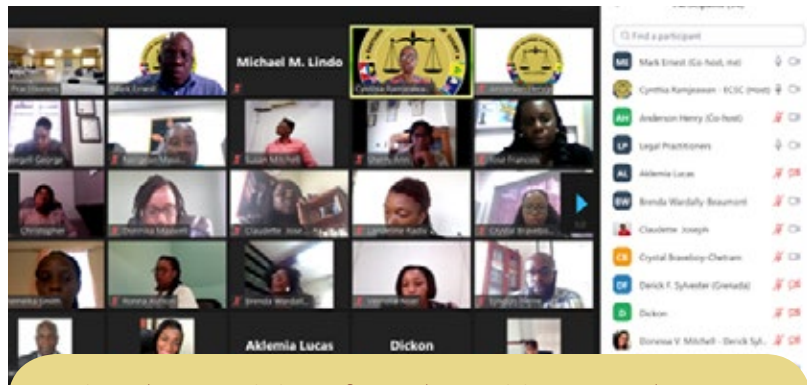
Now that all MSTs have gone-live with the filing and management of civil and appeal matters the ECSC ELP Team has been placing much focus on finalizing the configuration of the Family and Criminal modules of the Portal. Those modules will be available for implementation at both Magistrates and High Courts within MSTs during 2022.

2. REMOTE OPERATIONS OF THE COURT

The COVID-19 Pandemic has indeed created a greater shift towards the use on Digital technology by all Courts and Staff in the

MSTs. The sitting of the Court of Appeal continues to be completely virtual via Zoom. Several High Courts, Masters' Courts and now, Magistrates Court have also been conducting a large number of their sittings using the Zoom platform. The ECSC has to date, acquired over 55 Zoom licenses primarily for the hosting of hearings within the aforementioned levels of the Judicial System.

Three key agencies have been in the forefront with the provision of significant technology-related support to Courts within MSTs. These agen-



Virtual ELP training of Legal Practitioners and Secretaries, Grenada



Systems Administrator, Mr. Anderson Henry training Staff of the High Court Registry, Comm. of Dominica



Application Support Officer, Ms. Cynthia Ramjeawan leading training sessions in SVG



Attorney-at-Law Ms. Vynette Frederick with her Clerk successfully creating the first case on the E-Litigation Portal in St. Vincent & the Grenadines

cies included the JURIST Project, the British High Commission for Barbados and the Eastern Caribbean and cariSECURE through the United Nations Development Programme (UNDP).

JURIST under “Support for business continuity and remote working facilitation” Project to the Eastern Caribbean provided technological hardware in the sum of approximately US

\$100,000 to Courts of the Sub-region.

COURT PERFORMANCE



The following report is an analysis of data on cases which are managed by the various

Courts under the jurisdiction of the ECSC. Data are provided mostly for the calendar

year 2020 while there are occasions where trends from 2018 to 2020 are highlighted.

COURT PERFORMANCE AT A GLANCE

EASTERN CARIBBEAN SUPREME COURT 2020

COURT OF APPEAL

Total filed appeals: 419

Full Court matters listed and heard: 389 and 351

Status matters listed and heard: 320 and 200

Chamber matters listed and heard: 479 and 437

Video/teleconference matters listed and heard: 10

Written Judgments: 66 | Oral Judgments: 258

HIGH COURTS

Overall clearance rate: 59.36%

Total filed cases: 6,792

Total disposed cases: 4,032

MAGISTRATES COURTS

Overall clearance rate: 61.49%

Total filed cases: 37,614

Total disposed cases: 23,130

FAMILY COURTS

SVG clearance rate: 87.03%

SVG Total filed cases: 2,212

SVG Total disposed cases: 1,925

SLU clearance rate: 60.69%

SLU Total filed cases: 346

SLU Total disposed cases: 210

The ECSC extends thanks to all personnel within the Courts who assisted with the verification of data obtained

from JEMS or provided information for this report. Data within this report are rounded to two decimal plac-

es and are subject to slight round off error; however the data remain valid.

SECTION 1 COURT OF APPEAL

There were 419 appeals filed in total in the High Courts and Magistrates Courts during the year 2020 as listed below:

- 203 High Court Civil Appeals
- 72 High Court Criminal Appeals
- 37 High Court Commercial Appeals
- 8 Industrial Court/Labor Tribunal Appeals
- 39 Magisterial Civil Appeals
- 60 Magisterial Criminal Appeals

Table 1(a) highlights total filed appeals by case type from 2018 to 2020. Total filed appeals de-

clined from 2018 to 2020. The more significant drop of 12.89% in filed appeals from 2019 to 2020 could to some extent be attributed to the effects of the COVID-19 pandemic on the Court system.

In 2020, Civil and Criminal appeals represented 57.76% and 31.50% respectively of total filed appeals. The 37 High Court Commercial appeals included 32 from the Territory of the Virgin Islands and 5 from Saint Lucia. There were 8 Labour/Industrial Court appeals filed in Antigua and Barbuda. More information on appeals filed in 2020 is given in Tables 1(b) to 1(g).

From 2018 to 2020, Civil appeals were more

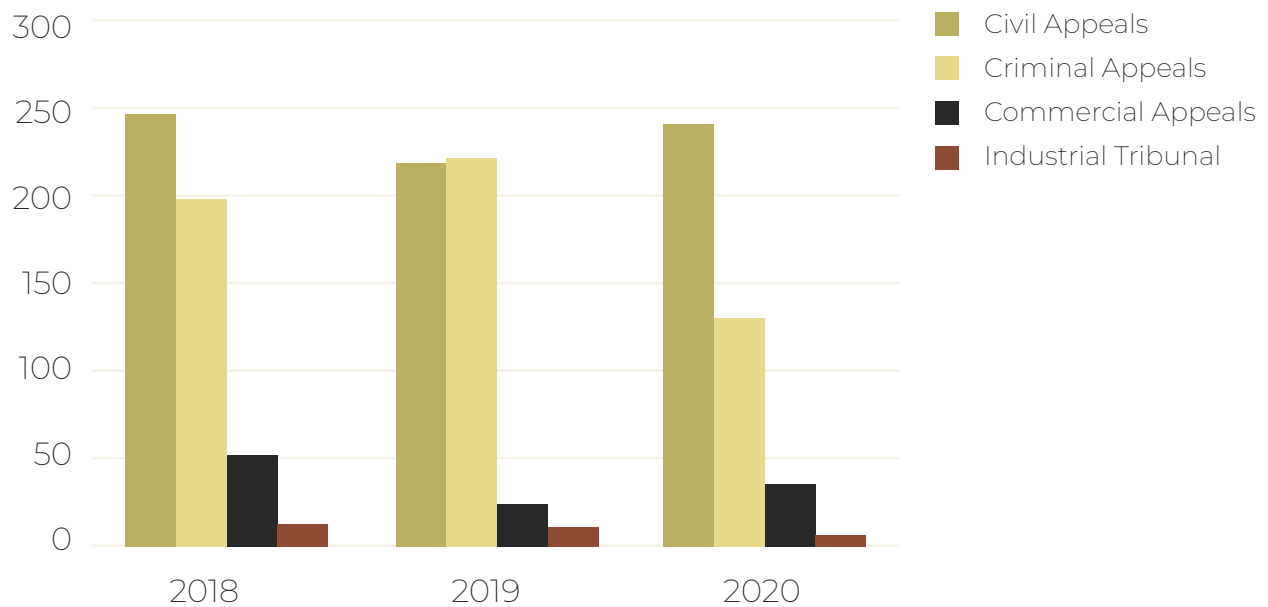


dominant in the High Courts, whereas more Criminal Appeals were filed in the Magistrates Courts. Over this three year period, Civil appeals were on average 59.27% of total appeals filed in the High Courts and Criminal appeals were on average 70.53% of total appeals filed in the Magistrates Courts.

TABLE 1 (A) TOTAL APPEALS FILED BY CASE TYPE, 2018 TO 2020

Type of Appeal	2018			2019			2020		
	High Court	Magistrates Court	Total	High Court	Magistrates Court	Total	High Court	Magistrates Court	Total
Civil Appeals	193	54	247	186	34	220	203	39	242
Criminal Appeals	72	127	199	106	117	223	72	60	132
Commercial Appeals	54		54	26		26	37		37
Industrial/Labour	13		13	12		12	8		8
Total	332	181	513	330	151	481	320	99	419

FIGURE 1: TOTAL APPEALS FILED BY CASE TYPE, 2018 TO 2020



Tables 1(b) to 1(g) list the number of filed appeals by case type for the various Member States and Territories over the last 3 years; 2018 to 2020.

1(B) HIGH COURT CIVIL APPEAL CASES FILED FROM 2018 TO 2020

High Court Civil Appeal Cases Filed	2018	2019	2020
Anguilla	14	6	21
Antigua and Barbuda	49	24	42
Commonwealth of Dominica	11	6	13
Grenada	17	27	22
Montserrat	11	17	21
Saint Lucia	41	28	28
Saint Vincent and the Grenadines	14	23	19
St. Kitts and Nevis	29	50	37
Territory of the Virgin Islands	7	5	0
Total	193	186	203

1(C) HIGH COURT CRIMINAL APPEAL CASES FILED FROM 2018 TO 2020

High Court Criminal Appeal Cases Filed	2018	2019	2020
Anguilla	0	2	0
Antigua and Barbuda	12	16	13
Commonwealth of Dominica	1	4	0
Grenada	22	30	21
Montserrat	3	4	3
Saint Lucia	2	5	5
Saint Vincent and the Grenadines	26	31	17
St. Kitts and Nevis	6	12	9
Territory of the Virgin Islands	0	2	4
Total	72	106	72

1(D) HIGH COURT COMMERCIAL APPEAL CASES FILED FROM 2018 TO 2020

High Court Commercial Appeal Cases Filed	2018	2019	2020
Territory of the Virgin Islands	53	20	32
Saint Lucia	1	6	5
Total	54	26	37

1(E) HIGH COURT INDUSTRIAL/LABOUR APPEAL CASES FILED FROM 2018 TO 2020

High Court Industrial/Labour Appeal Cases Filed	2018	2019	2020
Antigua and Barbuda (Labour Tribunal)	11	8	8
Saint Lucia	1	-	-
Montserrat	1	4	0
Total	13	12	8

1(F) MAGISTERIAL COURT CIVIL APPEAL CASES FILED FROM 2018 TO 2020

Magisterial Court Civil Appeal Cases Filed	2018	2019	2020
Anguilla	0	0	0
Antigua and Barbuda	4	5	10
Commonwealth of Dominica	12	7	3
Grenada	3	3	0
Montserrat	2	0	5
Saint Lucia	2	2	2
Saint Vincent and the Grenadines	6	10	10
St. Kitts and Nevis	22	7	9
Territory of the Virgin Islands	3	0	0
Total	54	34	39

1(G) MAGISTERIAL COURT CRIMINAL APPEAL CASES FILED FROM 2018 TO 2020

Magisterial Court Criminal Appeal Cases Filed	2018	2019	2020
Anguilla	1	0	0
Antigua and Barbuda	1	4	5
Commonwealth of Dominica	11	18	6
Grenada	21	21	9
Montserrat	10	7	3
Saint Lucia	16	6	3
Saint Vincent and the Grenadines	56	47	20
St. Kitts and Nevis	8	11	3
Territory of the Virgin Islands	3	3	11
Total	127	117	60

The numbers of written Judgments by Member State for the years 2018 to 2020 are shown in Table 1(h). These

written Judgments include oral Judgments reduced to writing and reasons for decisions. There were 66 of these

written Judgments delivered **by** the Full Court in 2020.

TABLE 1(H): WRITTEN JUDGMENTS DELIVERED BY THE COURT OF APPEAL BY MEMBER STATE, 2018 TO 2020

Total Written Judgments Delivered (including oral Judgments reduced to writing and reasons for decisions)						
Member States	2018 Total	2018 (%)	2019 Total	2019 (%)	2020 Total	2020 (%)
Anguilla	3	5.36	4	7.27	4	6.06
Antigua and Barbuda	6	10.71	12	21.82	11	16.67
Commonwealth of Dominica	2	3.57	1	1.82	5	7.58
Grenada	7	12.50	3	5.45	2	3.03
Montserrat	4	7.14	2	3.64	6	9.09
Saint Lucia	4	7.14	15	27.27	12	18.18
Saint Vincent and the Grenadines	3	5.36	1	1.82	1	1.52
St. Kitts and Nevis	3	5.36	2	3.64	7	10.61
Territory of the Virgin Islands	24	42.86	15	27.27	18	27.27
Total	56	100.00	55	100.00	66	100.00

The different sittings held by the Court of Appeal from 2018 to 2020 are shown in Table 1(i) below. From 2019, the sittings for the Full Court and Status Hearings were held separately. In the previ-

ous years, Status Hearings were heard by the Court of Appeal; however, from January 2019, the Status Hearings were conducted by the Chief Registrar. Also notable is that from April 2020 all sittings

including Full Court and Status Hearings were heard virtually as video conferences due to the health and travel restrictions brought on by the COVID-19 pandemic.

TABLE 1 (I) ACTIVITIES OF THE COURT OF APPEAL: 2018 TO 2020

Activity	2018	2019	2020
Full Court Sittings	22	21	22
Status Hearing sittings	-	21	20
Chamber Hearings	13	11	11
Video/teleconferences	7	10	8
Total	42	63	61

FIGURE 2A: TOTAL ACTIVITIES OF THE COURT OF APPEAL, 2018 TO 2020

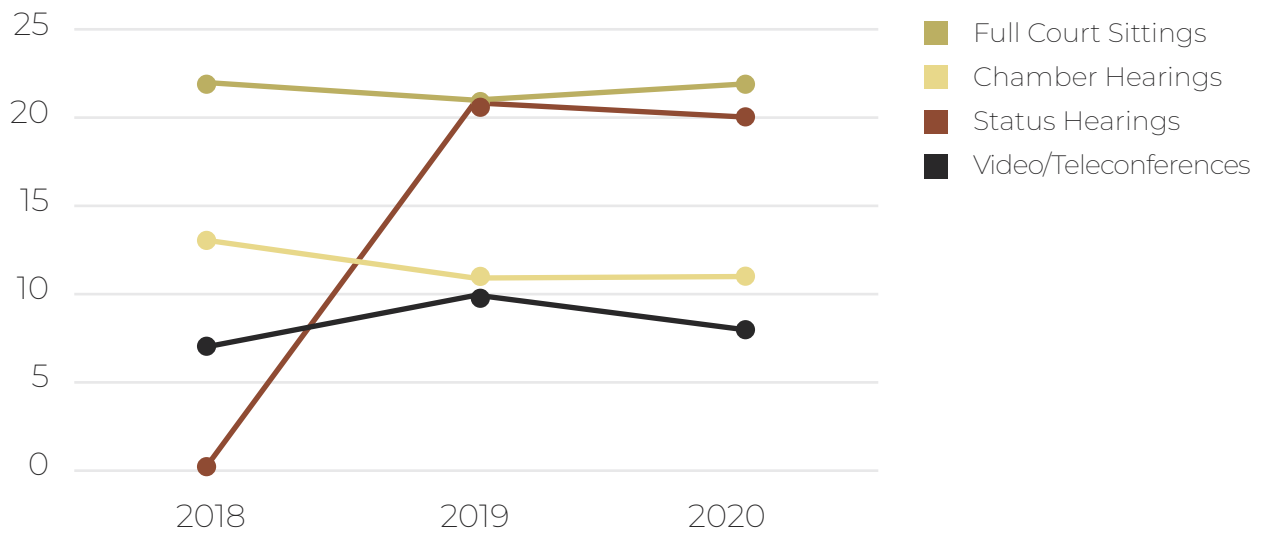
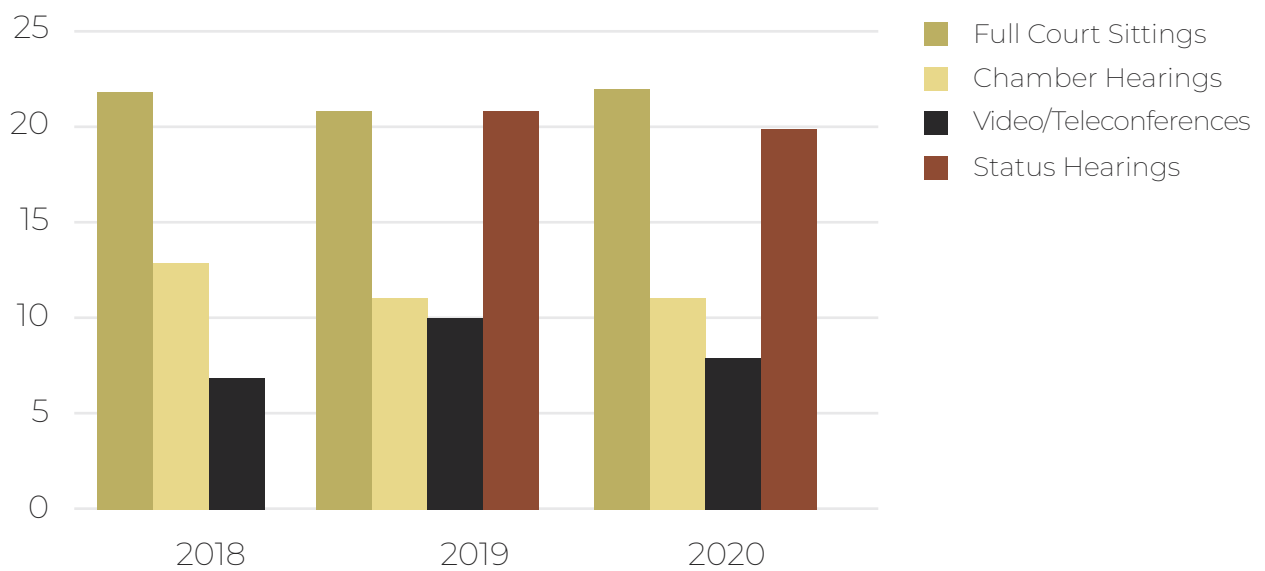


FIGURE 2B: TOTAL ACTIVITIES OF THE COURT OF APPEAL, 2018 TO 2020



The numbers of appeal matters dealt with during Chamber Hearings and Video/

teleconferences are shown in Table 1 (j) below.

TABLE 1 (J) APPEAL MATTERS HEARD DURING CHAMBER HEARINGS, VIDEO/TELE CONFERENCES: 2018 TO 2020

Year	2018		2019		2020	
	Total no. of sittings	No. of matters heard	Total no. of sittings	No. of matters heard	Total no. of sittings	No. of matters heard

Chamber Hearings	13	436	11	456	11	437
Video/ Teleconferences	7	8	10	13	8	10

(does not include virtual court sittings for the Full Court or status hearings)

Table 1(k) lists the total numbers of appeal matters (applications and appeals) listed and heard (excluding adjournments) for the year 2020. The matters heard during the Court sittings have outcomes which can be categorized as: oral Judgments/decisions, directions, reserved decisions and adjournments. In this table,

the outcomes for matters heard excludes only the adjournments. Thus Table 1(g) shows that In 2020, for all court sittings combined, there were 998 matters which were heard (or 83% of matters) out of the 1,198 listed matters. Fourteen (14) of the High Court Civil Appeals listed and heard during Full Court sittings were

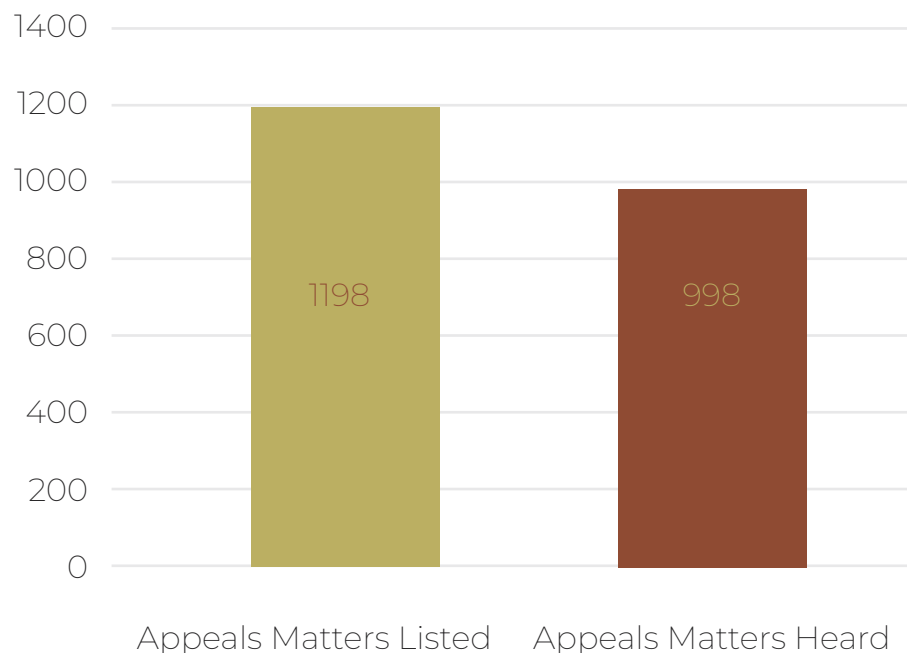
Commercial cases. The numbers of appeals heard do not directly correlate with appeals filed (refer to previous tables in this section) since appeals filed from previous years could have been heard during 2020 and also not all appeals filed in 2020 were necessarily heard.

TABLE 1 (K): NUMBERS OF APPLICATIONS AND APPEALS LISTED AND HEARD DURING 2020

Type of Matter	Matters Listed	Matters Heard excluding Adjournments
Full Court Sittings		
Applications/Motions	113	109
High Court Civil Appeals	118	108
High Court Criminal Appeals	74	61
Magisterial Civil Appeals	15	13
Magisterial Criminal Appeals	69	60

Total for Full Court Sittings	389	351
Status Hearings		
High Court Civil Appeals	87	50
High Court Criminal Appeals	104	70
Magisterial Civil Appeals	52	28
Magisterial Criminal Appeals	77	52
Total for Status Hearings	320	200
Chamber Hearings		
Total for all Chamber matters	479	437
Video/Teleconferences		
Total for all Video/ teleconference matters	10	10
Total for all Sittings	1198	998

FIGURE 3: COMPARISON BETWEEN TOTAL APPEAL MATTERS (APPLICATIONS AND APPEALS) LISTED AND HEARD, 2020



DISPOSED APPEALS AND APPLICATIONS

Figures 4(a) and 4(b) illustrate the flow of matters during Full Court Sitzings and Status Hearings in 2020.

As previously stated, the matters heard during Court sittings have outcomes which can be categorized as: oral judgements/decisions, directions, reserved decisions and

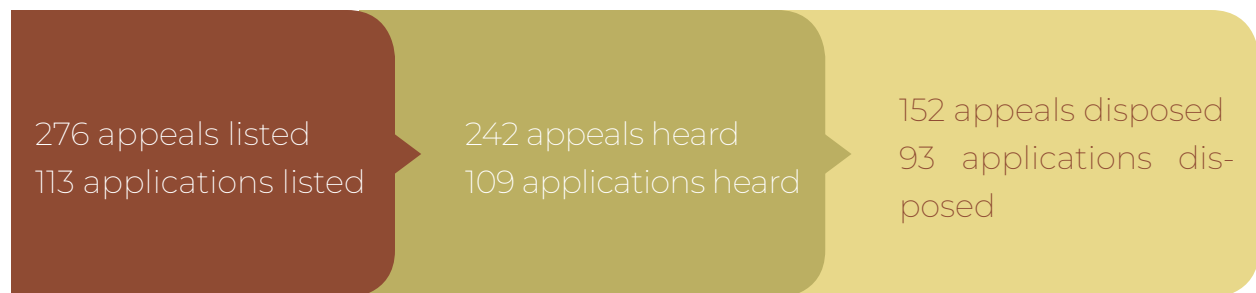
adjournments. The disposed appeals and applications include only the oral judgements/decisions where final decisions or judgments were made and given during the sittings.

The flow of matters (numbers of listed and heard matters are obtained from Table 1(g)) is shown in Figures 4(a) and 4(b). During Full Court Sittings, there

were 152 appeals disposed out of the 242 appeals heard, hence approximately 63% of appeals heard were disposed of. Additionally, during Full Court

Sittings, there were 93 applications disposed out of the 109 which were heard and thus roughly 85% of applications heard were disposed of.

FIGURE 4A: NUMBER OF APPEALS AND APPLICATIONS LISTED, HEARD AND DISPOSED DURING FULL COURT SITTINGS IN 2020



Status Hearings are geared more towards determining the status of matters which at the time have not progressed to the stage of hearing. At these hearings, orders are made

to further the matter along in preparation for hearing. 200 out of the 320 listed status matters were heard and dealt with whether via directions or decisions which were

given. During Status Hearings, there are a few instances where dispositions occur and during the Status Hearings held in 2020 13 appeal matters were disposed of.

FIGURE 4B: NUMBER OF APPEAL MATTERS LISTED AND HEARD DURING STATUS HEARINGS IN 2020



A comparison between the number of oral and written decisions is given in Table 1(l). Oral judgments/decisions

(which can be added up from the disposed applications and appeals in Figures 4(a) and (b) above) formed

the majority of total decisions in 2020 and were approximately 79% of total decisions delivered.

TABLE 1 (L) COMPARISON BETWEEN ORAL AND WRITTEN JUDGMENTS DELIVERED BY THE COURT OF APPEAL, 2020

Year	2020	2020 (%)
Number of written judgments	66	20.37
Number of oral judgments/decisions	258	79.63
Total Decisions delivered	324	100

SECTION 2 HIGH COURTS

The performance of the High Courts during the year 2020 is discussed in this section. The overall clearance rates from 2018 to 2020 are observed in Table 2(a). The overall clearance rate slightly fluctuated over the three years and registered a small increase from 58.85% to 59.36% from 2019 to 2020. Saint Lucia High Court was the only High Court to attain a clearance rate above 100% in 2020. Both total filed as well as disposed cases fluctuated over the three years.

In 2020, COVID-19 affected court hearings and the ECSC imple-



mented measures to swiftly move to a virtual platform to cushion these impacts. Despite this there was a slight increase in the overall clearance rate from 2019 to 2020 as previously highlighted. There were increases in overall clearance rates of cases from 2019 to 2020 for the following Member States: Commonwealth of Dominica, Grenada, Saint Lucia, Saint Vincent and

the Grenadines as well as the Territory of the Virgin Islands. Some Member States such as Anguilla, Antigua and Barbuda, Montserrat and St. Kitts and Nevis recorded reductions in clearance rates from 2019 to 2020. The decline in the clearance rate for Montserrat from 93.50% in 2019 to 37.62% in 2020 was particularly noticeable.

TABLE 2 (A) COMPARISON OF CLEARANCE RATES IN THE HIGH COURTS: 2018 TO 2020

Country	2018			2019			2020		
	Total Cases Filed	Total Cases Disposed	Clearance Rates (%)	Total Cases Filed	Total Cases Disposed	Clearance Rates (%)	Total Cases Filed	Total Cases Disposed	Clearance Rates (%)
Anguilla	181	112	61.88	159	108	67.92	154	63	40.91
Antigua and Barbuda	1005	1063	105.77	1396	953	68.27	981	473	48.22
Commonwealth of Dominica	842	189	22.45	422	127	30.09	528	185	35.04
Grenada	1032	411	39.83	1463	435	29.73	1350	416	30.81
Montserrat	110	88	80.00	123	115	93.50	101	38	37.62
Saint Lucia	1565	1313	83.90	1618	1480	91.47	1654	1742	105.32
Saint Vincent and the Grenadines	445	226	50.79	631	394	62.44	595	541	90.92
St. Kitts and Nevis	775	294	37.94	738	323	43.77	653	146	22.36
Territory of the Virgin Islands	836	437	52.27	900	449	49.89	776	428	55.15
Total	6791	4133	60.86	7450	4384	58.85	6792	4032	59.36

Figure 5 depicts the fluctuation of total filed and disposed cases and also shows that

total filed cases were more than the disposed totals from 2018 to 2020. Figure 6 illus-

trates the clearance rates.

FIGURE 5: TOTAL FILED AND DISPOSED CASES IN THE HIGH COURTS: 2018 TO 2020

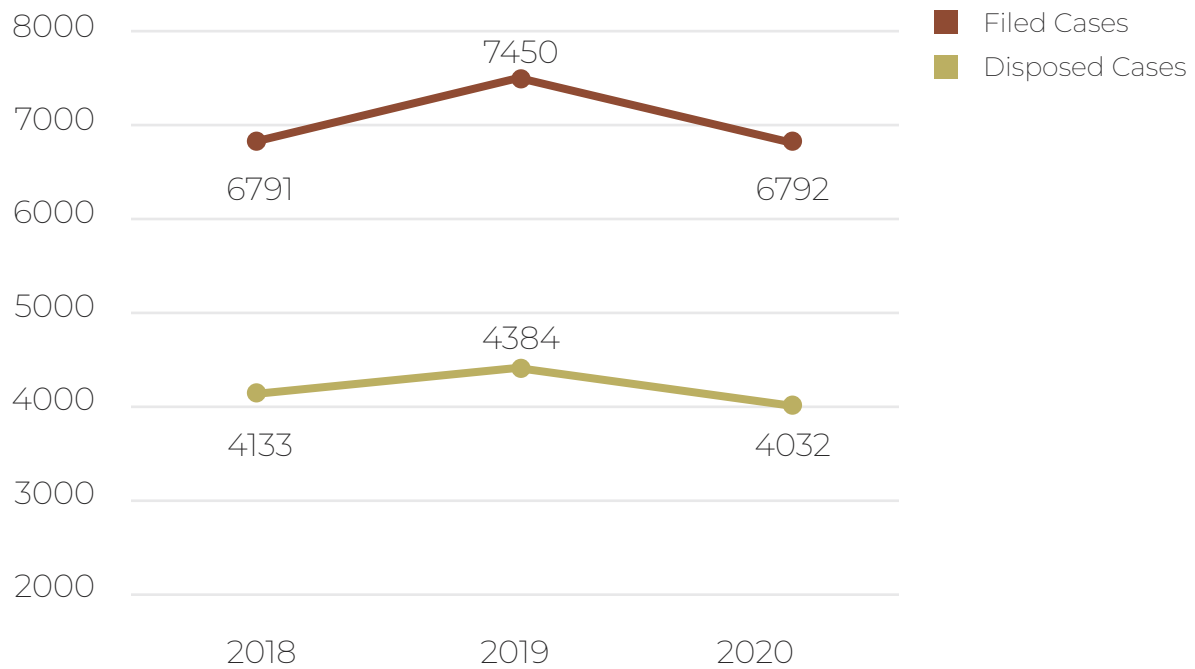
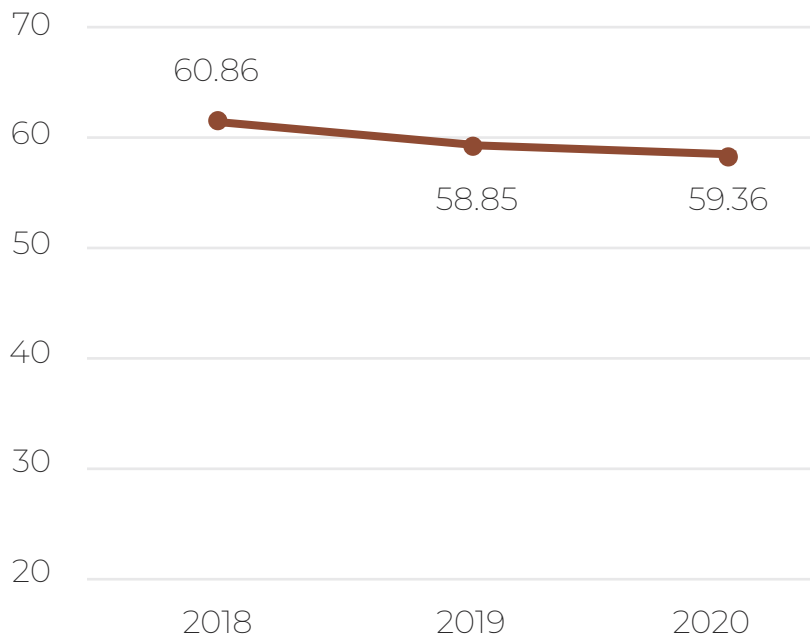


FIGURE 6: TOTAL CLEARANCE RATES (%) OF CASES IN THE HIGH COURTS: 2018 TO 2020



Data in Table 2(b) indicates that the most common filed and disposed cases in 2020 were Civil cases (41.56%

and 35.62% of total filed and disposed cases respectively). Civil and Probate cases collectively were 69.37% of

total filed cases and 62.83% of total disposed cases.

TABLE 2 (B) CASES FILED AND DISPOSED BY MAJOR CASE TYPE IN THE HIGH COURTS: 2020

Case Type	2020			
	Filed Cases	% of Total Filed Cases	Disposed Cases	% of Total Disposed Cases
Civil	2,823	41.56	1,436	35.62
Probate	1,889	27.81	1,097	27.21
Matrimonial	973	14.33	511	12.67
Criminal	742	10.92	740	18.35
Commercial	308	4.53	235	5.83
Adoption	36	0.53	13	0.32
Admiralty	8	0.12	0	0.00
Other	13	0.19	0	0.00
TOTAL	6,792	100.00	4,032	100.00



The breakdown for the number of filed cases by case type and jurisdiction are given in Table 2 (c). Some of the more noticeable aspects include:

- Saint Lucia had the highest percentage share (24.35%) of total filed cases

- Civil cases were a significant 41.56% of total filed cases
- Two jurisdictions recorded 68.33% of total filed Criminal cases; Saint Lucia and Antigua and Barbuda. Notably also is that Saint Lucia accounted for

51.35% of total filed Criminal cases

- Grenada was the sole jurisdiction with over 500 filed probate cases
- The 13 filed cases categorized as “Other” from Saint Lucia were Disciplinary cases for the Bar Association
- For Saint Vincent and the Grenadines, 48 Possessory Title cases were part of total 196 Civil cases and 33 Bail Application cases were part of total 81 filed Criminal cases

TABLE 2 (C) CASES FILED IN THE HIGH COURTS BY CASE TYPE AND MEMBER STATE: 2020

Member States	2020									Country Total as a % of Total
	Admir.	Adopt.	Civil	Comm.	Crim.	Matri.	Probate	Other	Total	
Anguilla		1	57		15	38	43		154	2.27
Antigua and Barbuda	2		479		126	144	230		981	14.44
Comm. of Dominica		7	268		11	64	178		528	7.77
Grenada	4	4	550		58	220	514		1350	19.88
Montserrat			39		15	8	39		101	1.49
St. Kitts and Nevis		6	373		13	120	141		653	9.61
Saint Lucia		17	603	80	381	188	372	13	1654	24.35
Saint Vincent and the Grenadines	1	1	196		81	149	167		595	8.76
Territory of the Virgin Islands	1		258	228	42	42	205		776	11.43
Total	8	36	2,823	308	742	973	1,889	13	6,792	100.00
Case Type as a % of Total	0.12	0.53	41.56	4.53	10.92	14.33	27.81	0.19	100.00	

Admir. (Admiralty), Adopt. (Adoption), Comm. (Commercial), Crim. (Criminal), Matri. (Matrimonial)



Table 2(d) shows data on disposed cases in the Member States by Case Type. Some points to note are listed below:

- 43.20% of total disposed cases were from Saint Lucia
- Similar to filed cases, Civil cases were the most frequently disposed case type

(35.62% of total disposed cases)

- Saint Lucia disposed of 908 Civil cases which were 63.23% of total disposed Civil cases
- Two jurisdictions accounted for 74.05% of total disposed Criminal cases: Saint Lucia and Saint Vincent and

the Grenadines

- 83.56% of disposed Matrimonial cases were in the three jurisdictions of Grenada, Antigua and Barbuda, and Saint Lucia

TABLE 2 (D) CASES DISPOSED IN THE HIGH COURTS BY CASE TYPE AND MEMBER STATE: 2020

Member States	2020									Country Total as a % of Total
	Admir.	Adopt.	Civil	Comm.	Crim.	Matri.	Probate	Other	Total	
Anguilla			16		3	26	18		63	1.56
Antigua and Barbuda			72		73	132	196		473	11.73
Comm. of Dominica		4	129		23	6	23		185	4.59
Grenada			89		40	177	110		416	10.32
Montserrat			12		10	4	12		38	0.94
St. Kitts and Nevis		1	35		13	18	79		146	3.62
Saint Lucia		7	908	106	302	118	301		1742	43.20
Saint Vincent and the Grenadines		1	136		246	23	135		541	13.42
Territory of the Virgin Islands			39	129	30	7	223		428	10.62
Total	0	13	1,436	235	740	511	1,097	0	4,032	100.00
Case Type as a % of Total	0.00	0.32	35.62	5.83	18.35	12.67	27.21	0.00	100.00	

Admir. (Admiralty), Adopt. (Adoption), Comm. (Commercial), Crim. (Criminal), Matri. (Matrimonial)

TIME TO DISPOSITION REPORTS FOR HIGH COURTS

Table 2(e) showcases the numbers of cases disposed (within the listed timeframes) in 2020, by Member State. **It must be noted that in some instances, the data are not consistent with the previous totals on disposed cases. This is because only data from JEMS and the E Litigation Portal were used in the time to disposition reports in this section, while in the previous**

tables there are some instances when manual data were included during the data verification process with the Court Offices. With the introduction and implementation/roll out of the recently introduced new E-Litigation Portal there is the hope that the Court Offices will ensure that all cases are entered into the software so that there is consistency with reporting; in particular for the time to disposition reports. Data for Saint Lucia as well as Saint Vincent and the

Grenadines are not included because of inaccuracies with the report (either minimal data entry or incorrect dates entered). Saint Lucia had already started an exercise to rectify the errors with the data at the time that this report was being prepared, however the exercise was not able to be completed in time for publication of the report.

Table 2(e) shows the time to disposition in days by time frame and Member State. The time range when

the most cases were disposed of was “181 to 360 days” where 22.09% of cases were disposed. Figure 7 depicts the

overall percentage of cases disposed within the time ranges specified in Table 2(e).

TABLE 2(E) THE NUMBERS OF CASES DISPOSED (WITHIN THE LISTED TIMEFRAMES) IN THE HIGH COURTS IN 2020 BY MEMBER STATE

Time to disp. of all cases	Ang.	Antigua and Barbuda	Comm. of Dom.	Gren.	Mont.	St. Kitts and Nevis	TVI	Total	% of Total
<1	0	0	0	2	0	0	0	2	0.13
1 to 90	5	48	7	101	12	7	113	293	18.98
91 – 180	8	59	6	75	9	6	89	252	16.32
181-360	20	115	11	99	8	25	63	341	22.09
361-720	12	140	16	42	8	34	79	331	21.44
>720	8	111	36	96	1	51	22	325	21.05
Total cases	53	473	76	415	38	123	366	1544	100.00

FIGURE 7: PERCENTAGE OF CASES DISPOSED WITHIN THE SPECIFIED TIME PERIODS IN THE HIGH COURTS, 2020

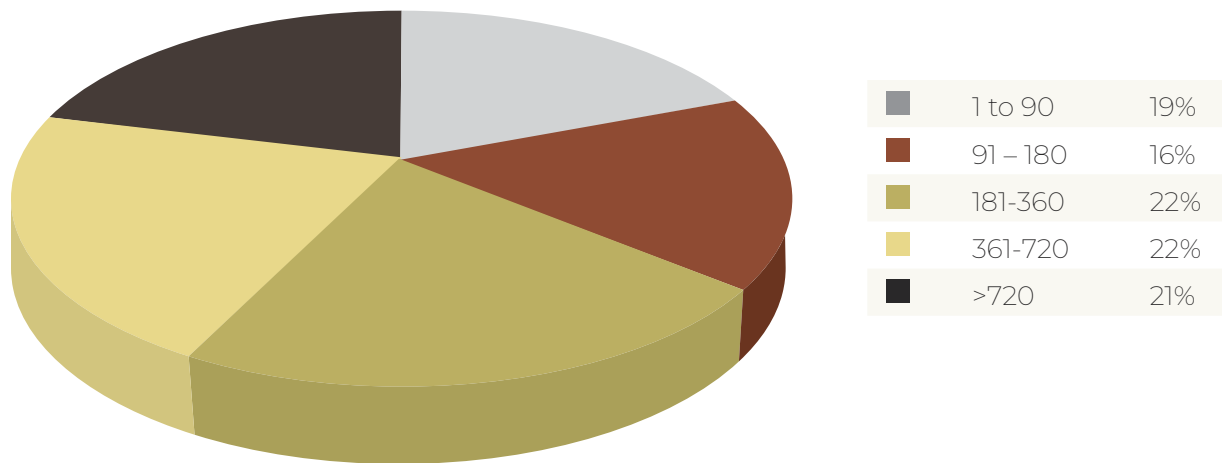


Table 2(f) gives information on the cumulative percentages (which indicate the percentage of cases disposed within the said timeframes), by Member State for the

year 2020. Cumulatively for the High Courts: more than half of cases (57.51%) were disposed within the one-year mark while 78.95% of cases were disposed within two years. Mont-

serrat and the Territory of the Virgin Islands were the only two Member States/Territories which disposed of over half of their cases within 6 months.

TABLE 2(F) CUMULATIVE PERCENTAGES; TIME TO DISPOSITION FOR THE HIGH COURTS, 2020

Timeframes	Member States/Territories							
	Anguilla	A&B	DOM	Gren.	Mont.	SKN	TVI	Overall
90 days/ 3 months	9.43	10.15	9.21	24.82	31.58	5.69	30.87	19.11
180 days/ 6 months	24.53	22.62	17.11	42.89	55.26	10.57	55.19	35.43
360 days/ 12 months/1 year	62.26	46.93	31.58	66.75	76.32	30.89	72.40	57.51
720 days/ 24 months/2 years	84.91	76.53	52.63	76.87	97.37	58.54	93.99	78.95

Data on the average time to disposition by case type are shown in

Table 2(g) as obtained from JEMS and the E Litigation software.

TABLE 2(G) AVERAGE TIME TO DISPOSITION IN DAYS BY CASE TYPE FOR THE HIGH COURTS, 2020

Case Types	Anguilla		Antigua and Barbuda		Comm. of Dominica		Grenada	
	#of cases	Avg. Time to Disp.	# of cases	Avg. Time to Disp.	# of cases	Avg. Time to Disp.	# of cases	Avg. Time to Disp.
Admiralty								
Adoption					2	142		
Civil	6	1,127	72	1,099	47	1,875	89	1,188
Criminal	3	24	73	423	23	775	39	933
Matrimonial	26	401	132	454	4	1,233	177	496
Probate	18	411	196	595			110	86

TABLE 2(G) CONTINUED AVERAGE TIME TO DISPOSITION IN DAYS BY CASE TYPE FOR THE HIGH COURTS, 2020

Case Types	Montserrat		St. Kitts and Nevis		TVI	
	# of cases	Avg. Time to Disp.	# of cases	Avg. Time to Disp.	# of cases	Avg. Time to Disp.
Admiralty					n/a	n/a
Adoption					n/a	n/a
Civil	12	486	35	954	38	594
Commercial					129	n/a
Criminal	10	153	6	1,007	30	427
Matrimonial	4	227	18	595	7	588
Probate	12	28	64	923	223	178

Data in Table 2 (h) indicate that Chamber Hearings were the most common events

in the High Courts in 2020. Chamber Hearings and Case Management Conferences

(including Masters Hearings) together represented 37.53% of total events.

TABLE 2 (H) SUMMARY OF EVENTS IN THE HIGH COURTS: 2020

Types of Events	2020										
	Ang.	A&B	DOM	Gren.	Mont.	SKN	SLU	SVG	TVI	Total	% of Total
Chamber Hearing	157	395	413	546		474	1,419	1,264	443	5,111	21.12
Case Management Conference/ Masters Hearing/Order on Case Management Conference	25	936	366	302	68	386	1,678		211	3,972	16.41
Open Court Hearing	1	87	594		2	293	581	667	589	2,814	11.63
Criminal Trial	4	10	4	32		10	1,070	401*	30	1,561	6.45
Sufficiency Hearing							1,524			1,524	6.30
Fixed Date Claim Form Hearing/First Hearing	5	262		708		13	346		103	1,437	5.94
Application Without Hearing	1					32	1,052		1	1,086	4.49
Status Hearing	13		62	10		34	649		12	780	3.22

Types of Events	2020										
	Ang.	A&B	DOM	GD	Mont.	SKN	SLU	SVG	TVI	Total	% of Total
Omnibus Conference/ Hearing							763			763	3.15
Judgment Delivery	2	430	66			9	106		47	660	2.73
Sentencing						6	634			640	2.64
Arraignment			12				611		6	629	2.60
Civil Trial	4	96	18	49		41	177	69*	30	484	2.00
Pre-Trial Re- view/ confer- ence	1	96	37	1		20	243	1	15	414	1.71
Uncontested Divorce	6	45				67	240		4	362	1.50
Bail Hearing (note this is captured un- der Criminal Trial for other jurisdictions)							277		3	280	1.16
Application for Commit- tal Orders/ Committal Proceedings		109					86			195	0.81
Application for special procedure/ Special Proce- dure				185						185	0.76
Hearing of Petition		152								152	0.63

Types of Events	2020										
	Ang.	A&B	DOM	GD	Mont.	SKN	SLU	SVG	TVI	Total	% of Total
Divorce/ Contested Divorce/ Decree Nisi	30	62					2		31	125	0.52
Disciplinary Hearing							120			120	0.50
Matrimonial/ Ancillary Relief						15			89	104	0.43
Mixed cause list	101									101	0.42
Judicial Sale							81			81	0.33
Application without Notice			59	3						62	0.26
Fitness Hearing							37			37	0.15
Decree Absolute	33									33	0.14
Adoption Or- der/ Adoption			6							6	0.02
Other	12	1	221	2	3	61	93	1	88	482	1.99
Total	395	2,681	1,858	1,838	73	1,461	11,789	2,403	1,702	24,200	100.00

** For some of the Member States including SLU; data includes adjournments and this would account for the high figures. For SVG there was minimal data entered in the software for events and also the Criminal and Civil trials were estimated and were obtained from the judges and masters forms which provided data on scheduled trials.

THE SEXUAL OFFENCES MODEL COURT (SOMC) IN ANTIGUA AND BARBUDA 2020

Antigua and Barbuda was chosen as the first site for the establishment of a Sexual Offences Model Court which is a specialized Court to prosecute sexual offence cases. The

Model Sexual Offences Court was implemented in January 2019. More information on the implementation of the SOMC as well as case data for 2019 can be found in the previous **ECSC 2019/ 2020 Annual Report**.

DATA ON THE SOMC FOR 2020

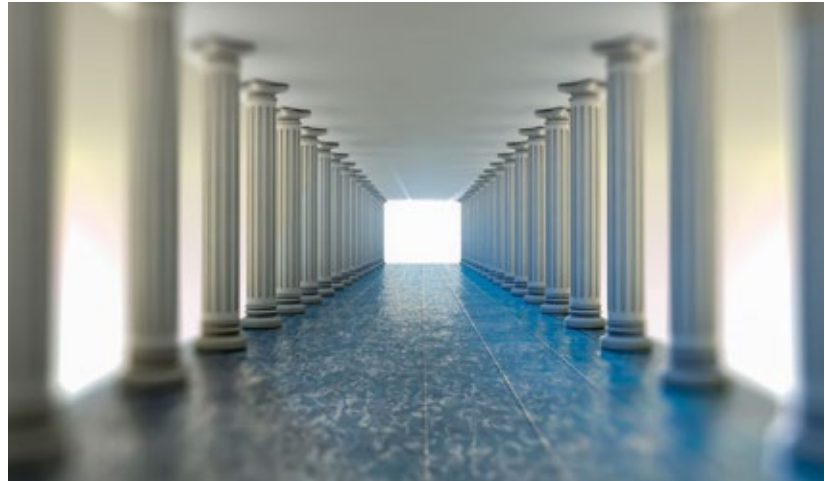
Six (6) Sexual Offence Matters were concluded

in 2020. No jury trials have been held since March 2020 and most of those matters are scheduled to go to trial. Of the 6 matters concluded, 3 were guilty pleas and the remaining 3 were discontinued.

SECTION 3 MAGISTRATES COURTS

This section provides data on the performance of the Magistracies for the year 2020 with comparative data included in the first table. Data on family court matters in Saint Lucia as well as Saint Vincent and the Grenadines are included in the following section on Family Courts because these 2 jurisdictions have official Family Courts.

The overall clearance rate, as seen in Table 3(a), fluctuated from 2018 to 2020 and was lowest in 2020 at 61.49%.



This was attributed mostly to a substantial reduction in disposed cases in 2020 due to the COVID-19 pandemic and the resulting shut downs and adjustments to Court sittings. Notable however is that the following Member States and Territories recorded increases in their

clearance rates from the year 2019 to 2020: Anguilla, Antigua and Barbuda, Montserrat as well as Saint Vincent and the Grenadines. Anguilla had a clearance rate over 100% in 2020 and this is commendable.

TABLE 3 (A) CASES FILED AND DISPOSED BY MEMBER STATE IN THE MAGISTRATES COURTS WITH ACCOMPANYING CLEARANCE RATES: 2018 TO 2020

Country	2018			2019			2020		
	Total Cases Filed	Total Cases Disposed	Clearance Rates (%)	Total Cases Filed	Total Cases Disposed	Clearance Rates (%)	Total Cases Filed	Total Cases Disposed	Clearance Rates (%)
Anguilla	609	589	96.72	572	600	104.90	529	560	105.86
Antigua and Barbuda	4,210	1,092	25.94	3,808	1,718	45.12	5,623	3,047	54.19
Commonwealth of Dominica	4,190	4,108	98.04	3,843	4,037	105.05	2,964	2,664	89.88
Grenada	11,286	10,153	89.96	11,545	8,025	69.51	10,902	5,698	52.27
Montserrat	313	252	80.51	415	305	73.49	466	416	89.27
Saint Lucia	12,021	9,717	80.83	9,874	8,785	88.97	7,475	3,690	49.36
Saint Vincent and the Grenadines	5,509	4,266	77.44	3,994	3,711	92.91	3,848	3,755	97.58
St. Kitts and Nevis	6,246	4,664	74.67	5,932	4,425	74.60	4,808	2,626	54.62
Territory of the Virgin Islands	917	1,247	135.99	1,070	1,125	105.14	999	674	67.47
Total	45,301	36,088	79.66	41,053	32,731	79.73	37,614	23,130	61.49

Table 3(b) shows that in 2020, Traffic and Criminal cases were

the most frequently filed and disposed case types and accounted

for 82.71% of total filed cases and 76.97 % of total disposed cases.

TABLE 3 (B) CASES FILED AND DISPOSED BY MAJOR CASE TYPE IN THE MAGISTRATES COURTS: 2020

Case Type	2020			
	Filed Cases	% of Total Filed Cases	Disposed Cases	% of Total Disposed Cases
Civil	4,135	10.99	3,364	14.54
Coroner/Inquests	14	0.04	28	0.12
Criminal	14,516	38.59	8,957	38.72
Domestic Violence/ Family	417	1.11	289	1.25
Juvenile	193	0.51	161	0.70
Maintenance/ Affiliation	1,744	4.64	1,483	6.41
Traffic	16,595	44.12	8,848	38.25
Total	37,614	100.00	23,130	100.00

FIGURE 8A: PERCENTAGE OF CASES FILED BY MAJOR CASE TYPE IN THE MAGISTRATES COURTS: 2020

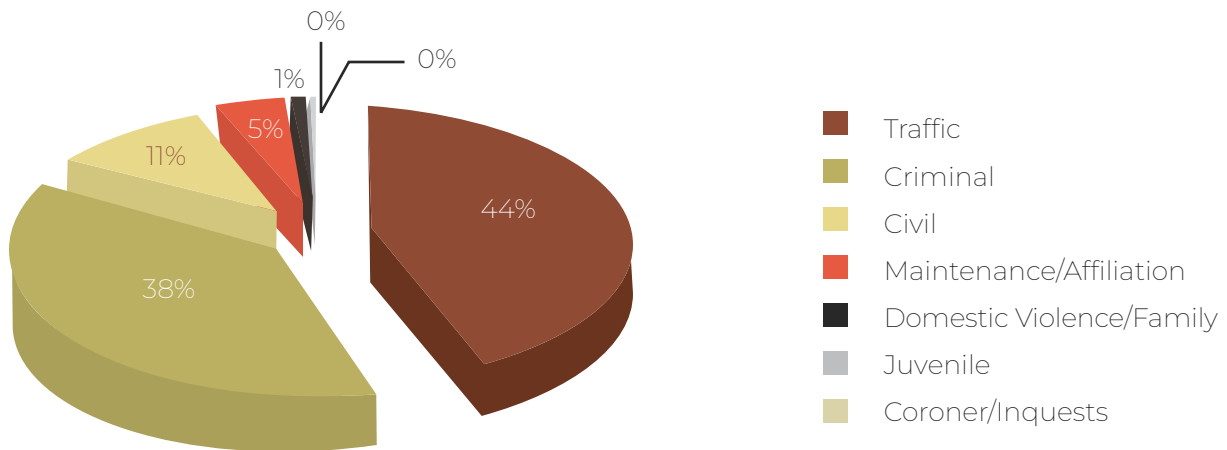
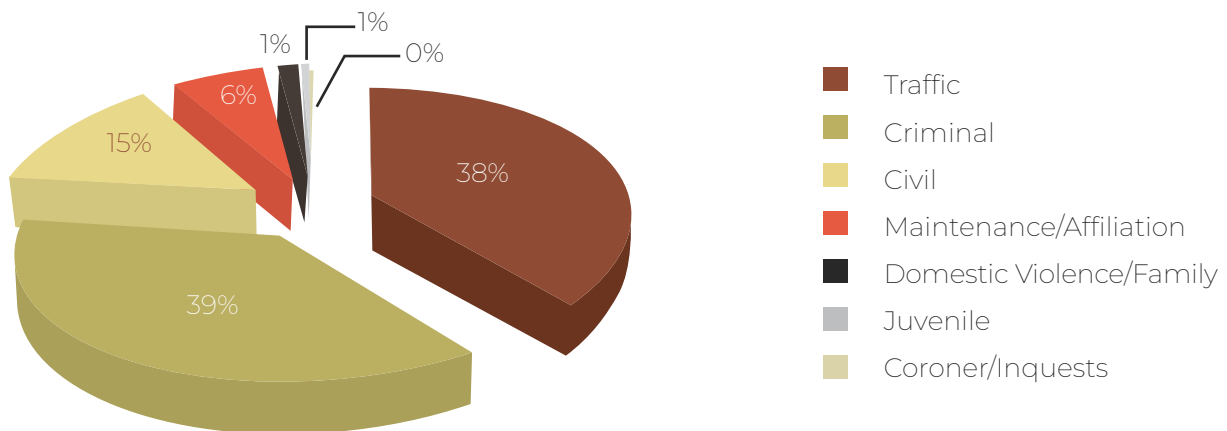


FIGURE 8B: PERCENTAGE OF CASES DISPOSED BY MAJOR CASE TYPE IN THE MAGISTRATES COURTS: 2020



Some of the more significant observations from Table 3 (c) include:

- Grenada Magistrates Court had the greatest percentage share of total filed cases (28.98%)
- Traffic and Criminal filed cases when

combined were 82.71% of total filed cases

- 39.08% of total Criminal cases were filed in Grenada
- St. Kitts and Nevis had the largest share (28.51%) of to-

tal Civil cases and was the only jurisdiction with over 1000 of these cases

- 58.42% of filed Traffic cases were from the 2 jurisdictions, Saint Lucia and Grenada

TABLE 3(C) CASES FILED BY MEMBER STATE AND CASE TYPE IN THE MAGISTRATES COURTS: 2020

Member States	2020								Country Total as a % of Total
	Criminal	Civil	Traffic	Dom/Fam-ily	Juvenile	Maint/Aff	Coroner/Inquests	Total	
Anguilla	280	69	92	22	14	42	10	529	1.41
Antigua and Barbuda	2,678	832	2112		1			5,623	14.95
Comm. of Dominica	1,023	401	922	126	84	408		2,964	7.88
Grenada	5,673	292	4,135	223	74	501	4	10,902	28.98
Montserrat	278	41	118	13	3	13		466	1.24
Saint Lucia	1,518	397	5,560					7,475	19.87
SVG	1,836	747	1,265					3,848	10.23
SKN	770	1,179	2112	33	9	705		4,808	12.78
TVI	460	177	279		8	75		999	2.66
Total	14,516	4,135	16,595	417	193	1,744	14	37,614	
Case Type as a % of Total	38.59	10.99	44.12	1.11	0.51	4.64	0.04		

Some of the main points from Table 3 (d) include:

- Grenada Magistrates Court recorded the highest percentage share of disposed Criminal

cases (24.63%)

- Criminal and Traffic cases together were a major 76.97% of total disposed cases
- 33.65% of total disposed Criminal cas-

es were from Grenada

- Saint Lucia had the highest number and percentage share of total disposed Traffic cases (35.65%).

TABLE 3(D) CASES DISPOSED BY MEMBER STATE AND CASE TYPE IN THE MAGISTRATES COURTS: 2020

Member States	2020								Country Total as a % of Total
	Criminal	Civil	Traffic	Dom/Fam-ily	Juvenile	Maint/Aff	Coroner/Inquests	Total	
Anguilla	308	79	83	26	9	42	13	560	2.42
Antigua and Barbuda	1571	475	1001					3,047	13.17
Commonwealth of Dominica	837	415	904	111	58	339		2,664	11.52
Grenada	3,014	589	1,389	135	56	510	5	5,698	24.63
Montserrat	244	35	116	7	1	13		416	1.80
Saint Lucia	348	188	3,154					3,690	15.95
SVG	1,850	699	1,196				10	3,755	16.23
St. Kitts and Nevis	470	815	766	10	7	558		2,626	11.35
Territory of the Virgin Islands	315	69	239		30	21		674	2.91
TOTAL	8,957	3,364	8,848	289	161	1,483	28	23,130	
Case Type as a % of Total	38.72	14.54	38.25	1.25	0.70	6.41	0.12		

TIME TO DISPOSITION REPORTS FOR MAGISTRATES COURTS IN 2020, AS OBTAINED FROM JEMS

Tables 3(e), 3(f) and 3(g) give information on the time to disposition of cases. The data are not precisely consistent with the previous totals on disposed cases; whereas only data from JEMS were used in 3(e), 3(f) and 3(g), additional manual data were submitted by the respective Court Offices for some of the previous tables.

Nevis, Saint Vincent and the Grenadines as well as the Montserrat Magistrates Courts are



either not connected to JEMS or do not use the software and thus there is no time to disposition data given for these jurisdictions. Although data for Grenada and Saint Lucia are included, not all the branches of their Magistracies were connected to or used JEMS in 2020, hence this data would be much less than what is reflected in previous disposition tables.

Data presented in Table 3 (e) shows that

overall, the timeframe where the most cases were disposed was 1 – 90 days where 31.34% of cases were disposed. All the Member States and Territories shown had most cases disposed in the 1 – 90 days time period with the exception of Saint Lucia where most cases were disposed within 91 - 180 days. The percentage shares of cases disposed in the timeframes indicated in Table 3(e) are depicted in Figure 9.

TABLE 3(E) TIME TO DISPOSITION IN DAYS AS OBTAINED FROM JEMS, MAGISTRATES COURTS 2020

Time to disp. of all cases	Ang.	Antigua and Barbuda	Comm. of Dom.	Gren.	Saint Lucia	St. Kitts	TVI	Total	% of Total
<1	8	798	173	17	6	5	10	1,017	10.00
1 to 90	280	851	1013	135	59	678	170	3,186	31.34
91 – 180	102	441	365	69	450	482	122	2,031	19.98
181-360	65	404	383	46	166	615	120	1,799	17.70
361-720	31	326	355	21	67	363	129	1,292	12.71
>720	61	202	358	1	25	71	123	841	8.27
Total cases	547	3,022	2,647	289	773	2,214	674	10,166	100.00

FIGURE 9: PERCENTAGE OF CASES DISPOSED PER TIME FRAME IN THE MAGISTRATES COURTS, 2020

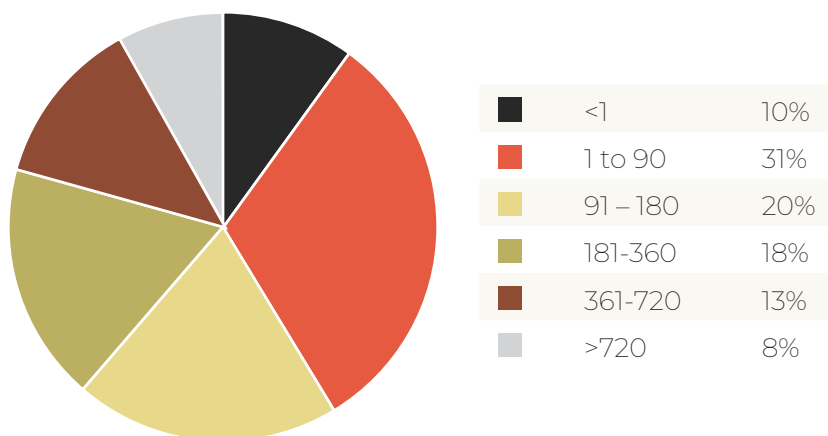


Table 3(f) displays the cumulative percentages which indicate the percentage of cases disposed within certain time frames for each Member State. Over 50% of cases were disposed of within 3 months for Anguilla, Antigua and Barbuda as well as Grenada Magistrates Courts. For

Dominica, St. Kitts and Saint Lucia this was accomplished within 6 months while the Territory of the Virgin Islands achieved this within 1 year.

Overall, 91.73% of cases were disposed of within 2 years in the Magistrates Courts. The following had over 90%

of cases disposed of within 2 years: Antigua and Barbuda, Grenada, St. Kitts and Saint Lucia. Of additional note is that all of the represented Member States and Territories had more than 80% of their cases disposed of within 2 years.

TABLE 3(F) CUMULATIVE PERCENTAGES (% OF CASES DISPOSED WITHIN GIVEN TIMEFRAMES), MAGISTRATES COURTS 2020

Cumulative percentages: % cases disposed within:	Member States/Territories							Overall
	Ang.	A&B	DOM	Gren.	SLU	St. Kitts	TVI	
90 days/ 3 months	52.65	54.57	44.81	52.60	8.41	30.85	26.71	41.34
180 days/ 6 months	71.30	69.16	58.59	76.47	66.62	52.62	44.81	61.32
360 days/ 12 months/ 1 year	83.18	82.53	73.06	92.39	88.10	80.40	62.61	79.02
720 days/ 24 months/ 2 years	88.85	93.32	86.48	99.65	96.77	96.79	81.75	91.73

Table 3(g) highlights the average time to disposition by case type for the jurisdictions where this data were available.

TABLE 3(G) AVERAGE TIME TO DISPOSITION IN DAYS BY CASE TYPE, MAGISTRATES COURTS 2020

Case Types	Anguilla		Antigua and Barbuda		Comm. of Dominica		Grenada	
	#of cases	Avg. Time to Disp.	# of cases	Avg. Time to Disp.	# of cases	Avg. Time to Disp.	# of cases	Avg. Time to Disp.
Civil	79	141	475	171	406	1,118		
Criminal	308	302	1,571	1,390	830	386	171	140
Domestic Violence/ Family	26	19			111	65		
Juvenile	9	151			58	346	2	109
Maint./Aff.	42	81			339	196		
Traffic	83	128	976	204	903	172	116	106

Case Types	Saint Lucia		St. Kitts		TVI	
	#of cases	Avg. Time to Disp.	# of cases	Avg. Time to Disp.	# of cases	Avg. Time to Disp.
Civil	169	412	716	294	69	249
Criminal	176	267	404	268	315	589
Domestic Violence/ Family			10	76		
Juvenile			6	466	30	990
Maint./Aff.			513	117	21	127
Traffic	428	136	565	205	239	243

SECTION 4 FAMILY COURTS

This section provides data on the cases managed by the Saint Lucia Family Court and the Saint Vincent and the Grenadines Family Court by case type. These are the only two official Family Courts within the ECSC jurisdiction. Data pertaining to family court matters are included in the Magistrates Courts section for the remaining Member States and Territories.

SAINT VINCENT AND THE GRENADINES FAMILY COURT

Data on cases filed by case type in the Saint Vincent and the Grenadines Family Court is



given in Table 4 (a). Total filed cases fluctuated over the three years but was lowest at 2,212 in 2020 and registered a decline of 20.29% from 2019 to 2020.

The most numerous filed cases from 2018 to 2020 pertained to Ar-rears and Maintenance and these case types together were on average 67.40% of total filed cases over the three years. Additionally Ar-rears and Maintenance

cases were 67.14% of total filed cases in 2020.

Of additional note is that in 2020, the SVG Family Court amended the previous 2018 and 2019 Adoption data hence there have been changes made to these figures and the consequent totals in this report.

TABLE 4(A) NUMBERS OF CASES FILED IN THE SAINT VINCENT AND THE GRENADINES FAMILY COURT: 2018 TO 2020

Case Type	2018		2019		2020	
	No. of cases	% of total	No. of cases	% of total	No. of cases	% of total
Adoption	9	0.35	13	0.47	12	0.54
Arrears	1,069	41.48	1,054	37.98	902	40.78
Criminal Offences	198	7.68	387	13.95	209	9.45
Custody/ Access	368	14.28	346	12.47	286	12.93
Legal Guardianship	0	0.00	0	0.00	20	0.90
Maintenance	725	28.13	762	27.46	583	26.36
Protection Order	208	8.07	213	7.68	200	9.04
Total	2,577	100.00	2,775	100.00	2,212	100.00

**Adoption figures and consequent totals have been amended for 2018 and 2019

Data on disposed cases from 2018 to 2020 are given in Table 4 (b). Total disposed cases fluctuated over the three years with a decline by 19.62% from 2019 to 2020. Arrears and Maintenance cas-

es together averaged 68.76% of the total disposed caseload over the three years and were 64.31% of total disposed cases in 2020. Although there were no new filed Occupation Orders as a result

of implementation of the 2015 Domestic Violence Act as previously explained; there were 5 disposed in 2020 as well as in 2019 ; these would have been filed in a previous period.

TABLE 4(B) NUMBERS OF CASES DISPOSED IN THE SAINT VINCENT AND THE GRENADINES FAMILY COURT: 2018 TO 2020

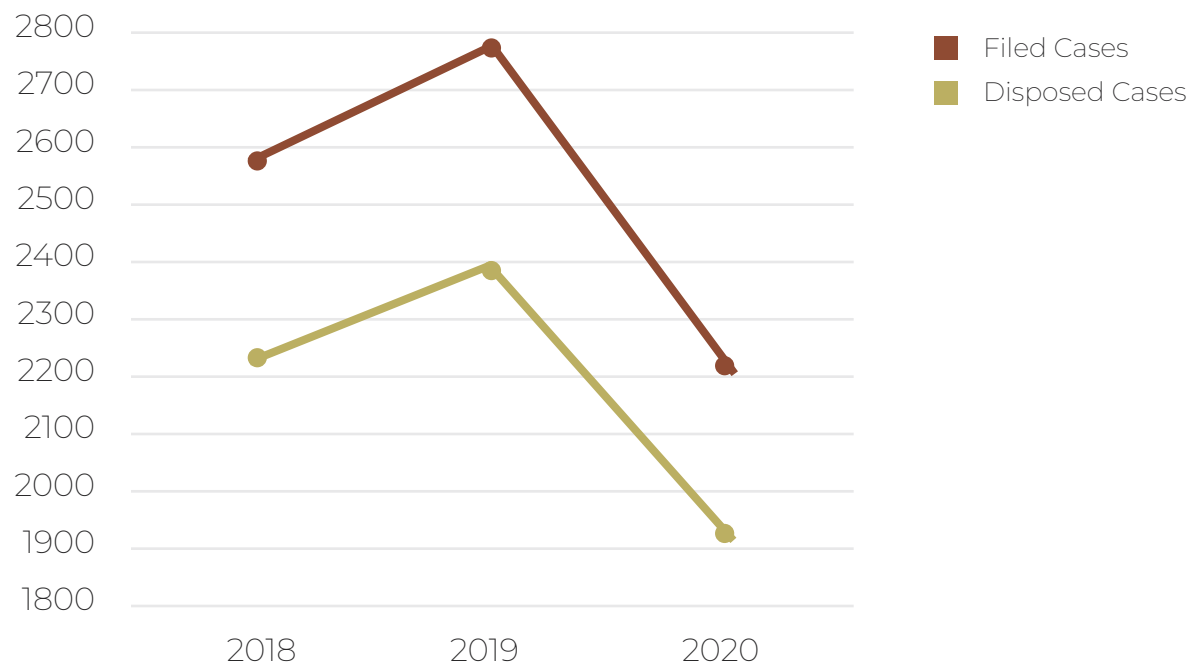
Case Type	2018		2019		2020	
	No. of cases	% of total	No. of cases	% of total	No. of cases	% of total
Adoption	9	0.40	12	0.50	11	0.57
Arrears	915	41.09	1,036	43.26	707	36.73
Criminal Offences	252	11.32	120	5.01	148	7.69
Custody/ Access	276	12.39	308	12.86	292	15.17
Legal Guardianship	2	0.09	1	0.04	27	1.40
Maintenance	608	27.30	726	30.31	531	27.58
Occupation Order	0	0.00	5	0.21	5	0.26
Protection Order	165	7.41	187	7.81	204	10.60
Total	2,227	100.00	2,395	100.00	1,925	100.00

**Adoption figures and consequent totals have been amended for 2018 and 2019

Figure 10 illustrates the total numbers of filed and disposed cases from 2018 to 2020. The

sharp declines for both total filed and disposed cases from 2019 to 2020 are clearly observed.

FIGURE 10: CASES FILED AND DISPOSED IN THE SVG FAMILY COURT, 2018 TO 2020



The following can be deduced from data shown in Table 4 (c): the overall clearance rates of cases in the Saint Vincent and the Grenadines Family Court were below 100% in all 3 years and

remained somewhat constant in the region of 86% and 87% from 2018 to 2020. For the year 2020, Custody/ Access, Legal Guardianship and Protection Orders recorded clearance rates above 100%.

The clearance rate could not be calculated in instances where there was a division by zero and thus na (not available) is written in such instances.

TABLE 4 (C) CLEARANCE RATES IN THE SAINT VINCENT AND THE GRENADINES FAMILY COURT: 2018 TO 2020

Case Type	2018			2019			2020		
	Cases Filed	Cases Disposed	Clearance Rate (%)	Cases Filed	Cases Disposed	Clearance Rate (%)	Cases Filed	Cases Disposed	Clearance Rate (%)
Adoption	9	9	100.00	13	12	92.31	12	11	91.67
Arrears	1,069	915	85.59	1,054	1,036	98.29	902	707	78.38
Criminal Offences	198	252	127.27	387	120	31.01	209	148	70.81
Custody/ Access	368	276	75.00	346	308	89.02	286	292	102.10
Legal Guardianship	0	2	na	0	1	na	20	27	135.00
Maintenance	725	608	83.86	762	726	95.28	583	531	91.08
Occupation Order	0	0	0.00	0	5	na	0	5	na
Protection Order	208	165	79.33	213	187	87.79	200	204	102.00
Total	2,577	2,227	86.42	2,775	2,395	86.31	2,212	1,925	87.03

**Adoption figures and consequent totals and percentages have been amended for 2018 and 2019

The Criminal offences are broken down into subtypes which are listed in Table 4 (d). Criminal cases in relation to Assault/Indecent

Assault were 41.63% of total filed cases. Cases pertaining to Sexual Offences such as Unlawful Sexual Intercourse and Rape were

34.44% of total filed cases. The aforesaid case subtypes formed the major part of total filed and total disposed Criminal cases.

TABLE 4 (D) CASES FILED AND DISPOSED: BREAKDOWN OF CRIMINAL OFFENCES, 2020

Case Type	2020			
	Cases Filed	% of total filed	Cases Disposed	% of total disposed
Abduction	4	1.91	0	0.00
Assault/ intent to commit assault	26	12.44	13	8.78
Buggery	1	0.48	2	1.35
Damage to Property	4	1.91	3	2.03
Grievous Bodily Harm	5	2.39	0	0.00
Incest	1	0.48	5	3.38
Indecent assault	61	29.19	55	37.16
Neglect (including child neglect/abandonment)	3	1.44	1	0.68
Possession of offensive weapon	1	0.48	1	0.68

Rape/ intent to commit rape	23	11.00	14	9.46
Robbery/Burglary	1	0.48	0	0.00
Theft/ Intent to commit theft/Removal of stolen goods	16	7.66	10	6.76
Threatening Language	4	1.91	2	1.35
Unlawful and malicious wounding, actual bodily harm	2	0.96	1	0.68
Unlawful exposure/Gross Indecency	4	1.91	3	2.03
Unlawful Sexual intercourse/attempt (includes also Intercourse with a girl 13 to 15/ under 13)	49	23.44	36	24.32
Other	4	1.91	2	1.35
Total	209	100.00	148	100.00

ADDITIONAL INFORMATION FROM THE PRESIDENT OF THE FAMILY COURT IN SAINT VINCENT AND THE GRENADINES

The Court continues to embrace the mediatory and conciliatory approach to family related disputes, with the result that a significant number of matters are resolved through mediation. During the period September 2019 to July 2020, **291** matters were referred to mediation and **247** were effectively settled without proceeding to trial.

The Court also partners with external non-governmental agencies, to make referrals for parents who

have been identified as needing co-parenting training or in need of improving their parenting skills, as well as juvenile offenders who have been identified as being amenable to reform and rehabilitation.

The Department places great emphasis on ongoing training for staff, in fields relevant to the work of the court. One of our counselors is currently pursuing a PhD in clinical psychology, another is undergoing training in a paralegal programme and one member of staff is pursuing a Masters degree in marriage and family therapy. This would undoubtedly enhance our internal capacity and would allow us to

improve upon the social support services offered.

The Court has also introduced the use of anatomically correct dolls in sexual offences matters, in order to assist child victims/witnesses to easily identify and to distinguish between the male and female anatomy.

SAINT LUCIA FAMILY COURT

Information on the caseload for the Family Court in Saint Lucia for the year 2020 is given below.

Table 4(e) shows that 346 new cases were lodged in the Saint Lucia Family Court while

210 cases were disposed. **Total disposed cases is derived by adding the categories; cases heard and final orders given, cases discharged, cases withdrawn and cases transferred to another court.** There were also 171 cases which were heard and interim orders given hence some

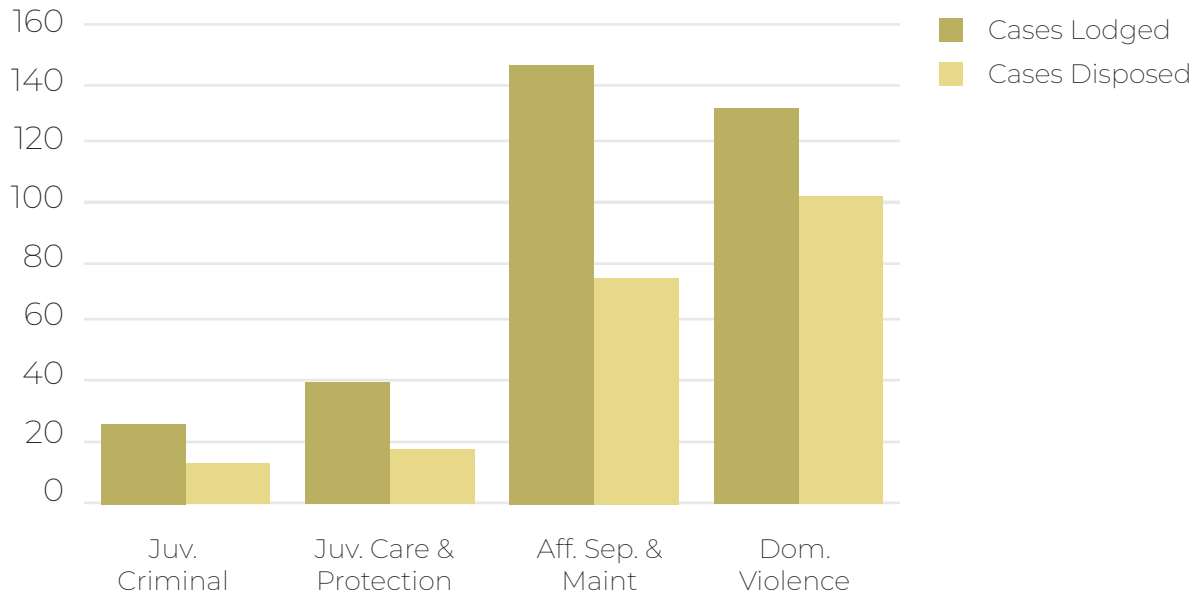
management of these cases has been done.

Affiliation, Separation and Maintenance cases together with Domestic Violence cases were a major 80.64% of total filed and 85.24% of total disposed cases.

TABLE 4 (E) CASES FILED AND DISPOSED IN THE SAINT LUCIA FAMILY COURT , 2020

	Juvenile		Affiliation, Separation & Maintenance	Domestic Violence	Total
	Criminal	Care & Protection			
New Cases Lodged	27	40	147	132	346
Cases Heard and Interim Orders Given	n/a	39	n/a	132	171
Cases Heard and Final Orders Given	10	5	24	44	83
Cases Discharged	0	13	38	51	102
Cases withdrawn by applicant	3	0	14	8	25
Cases Transferred to another Court	0	0	0	0	0
Total Cases Disposed	13	18	76	103	210

FIGURE 11: CASES LODGED AND DISPOSED IN THE SAINT LUCIA FAMILY COURT, 2020



The clearance rates for the various case types are shown in Table 4(f).

The overall clearance rate was 60.69% for the year 2020. Domestic Vi-

olence cases had the highest clearance rate of 78.03%.

TABLE 4 (F) CLEARANCE RATES OF CASES BY CASE TYPE IN THE SAINT LUCIA FAMILY COURT, 2020

	Juvenile		Affiliation, Separation & Maintenance	Domestic Violence	Total
	Criminal	Care & Protection			
New Cases Lodged	27	40	147	132	346
Total Cases Disposed	13	18	76	103	210
Clearance Rates	48.15	45.00	51.70	78.03	60.69

CONCLUSION

With the introduction and implementation/roll out of the recently introduced new E-Litigation Portal all new matters will be entered into the software by the legal practitioners or the Court Office for

self-represented litigants so there will be consistency with reporting; in particular for the time to disposition reports. 2020 was a challenging year and the initial shut downs faced by the Member States and Territories would have caused an initial increase in case

backlog. The ECSC however took immediate steps to facilitate virtual court sessions to minimize any increases in backlog. These measures are ongoing however the situation varies from Member State to Member State.

THOSE WHO **SERVE**



The Hon. Chief Justice
Dame Janice M. Pereira, DBE

JUSTICES OF APPEAL



The Hon. Justice
**Davidson Kelvin
Baptiste**



The Hon. Justice
**Louise Esther
Blenman**



The Hon. Justice
**Mario
Michel**



The Hon. Justice
**Gertel
Thom**



The Hon. Justice
**Paul Webster
[Ag.]**



The Hon. Justice
**Gerard Farara
QC [Ag.]**

HIGH COURT JUDGES

ANGUILLA



The Hon. Justice
Shawn Innocent

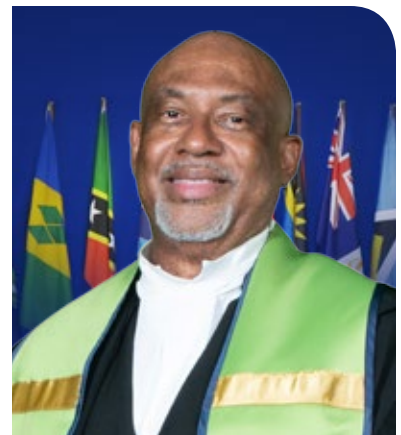
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The Hon. Justice
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Raulston Glasgow



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ST. KITTS AND NEVIS



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The Hon. Justice
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Ermin Moise

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SAINT LUCIA



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ST. VINCENT AND THE GRENADINES



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The Hon. Justice
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ST. VINCENT AND THE GRENADINES



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Adrian Jack [Ag.]

TERRITORY OF THE VIRGIN ISLANDS



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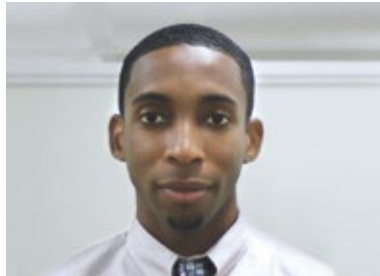
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2020/2021

ANNUAL REPORT



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