



Eastern Caribbean
Supreme Court

55



2021-2022
Annual Report

Table of Contents

MESSAGES.....	04
Chief Justice	04
Court Administrator	12
APPELLATE JURISDICTION- CASEFLOW MANAGEMENT	18
COURTS PROJECT	45
Family Division	46
COURT-CONNECTED.MEDIATION.....	51
THE JUDICIAL EDUCATION INSTITUTE	61
THE LEGAL INTERNSHIP PROGRAMME	68
SUPPORTING THE COURT.....	75
Our Human Resources	76
Our Financial Resources	81
Our Information Resources	86
Information and Communications Technology.....	89
Court Performance	93
Overview.....	94
Court of Appeal.....	96
High Courts	109
Magistrates Courts	122
Family Courts	134
Those Who Serve	146
Judicial Officers	147
Administrative and Support Staff	155



Eastern Caribbean Supreme Court
CIVIL PROCEDURE RULES 2000

Message from the Hon. Chief Justice

I am delighted to welcome you to another edition of the Annual Report of the Eastern Caribbean Supreme Court (ECSC) for the period 2021/2022. It is always a pleasure to address you through this medium. This Report serves the dual purpose of allowing the Court to take stock of its progress as well as to reflect on the challenges it continues to face as an institution of justice in the OECS. As it would be impossible to delve into great detail through this medium, I encourage you to read the complete report in order to gain a full appreciation for the work of the Court over the past year.

The period under review was quite eventful. On 27th February 2022, the ECSC observed the 55th anniversary of its establishment. The ECSC's 55th anniversary celebrations took the form of a week of activities all under the theme 'The ECSC @ 55 navigating, redefining and reimagining the future.' It provided an occasion for us to reflect on the Court's achievements in its 55 years of establishment. The anniversary celebrations also set the stage for a promising future for the Court and for the delivery of court services to you, our stakeholders. I take this opportunity to express my gratitude to all persons who helped make the Court's 55th anniversary a memorable one.

During its 55th year and the months leading to it, the Court continued along a path of reform and innovation of many of its processes and procedures. This was done through fully embracing modern technologies as a means for improving access to justice. Our ultimate aim is to bridge the geographical divide between our Member States and Territories through greater integration of technology at every level of the court system. Towards this objective, there have been significant developments. Permit me to highlight a few here.





One of the major initiatives which commenced during this past year, and which is anticipated will continue into the next reporting period, is the expansion of the ECSC E-Litigation Portal. It is undeniable that a considerable part of our mandate of improving access to justice is the development of a digitally driven court system. Having recognised the tangible benefits to be gained from greater reliance on technology, the Court has been actively pursuing the integration of technologies like the Portal into its everyday operations. During the period under review, the Court completed the first phase of implementation and the Portal is now in operation in all our Member States and Territories for new High Court civil matters and new Court of Appeal matters. Very soon, the second phase of implementation of the Portal will be underway. This phase will see the long-awaited expansion of the Portal to accommodate proceedings filed in the Magistrate's/District Courts in each Member State and Territory. It is also a further step towards integration of the Magistracy into the higher judiciary, which remains a priority on our agenda.

All in all, having observed first-hand the positive difference the Portal has made to the Court's operations, I very much look forward to the transformation this expansion will bring to the lower level of the judiciary. I take this opportunity to thank our committed E-Litigation Portal Implementation Team who remains hard at work towards making full implementation of the Portal a reality.

During the period under review, the ECSC also continued its public awareness efforts on court-connected mediation in each Member State and Territory. This was undertaken through financial support from the Judicial Reform and Institutional Strengthening (JURIST) Project. The biggest challenge for the ECSC has been sensitising the public on the benefits of mediation, the continued training of existing mediators and increasing the number of available mediators on the Courts' roster. To address these challenges, the ECSC conducted mediation public awareness campaigns and hosted training workshops with the assistance of the Mediation Unit of the University of the West Indies. We endeavour to continue our sensitization and training efforts while also seeking to expand and improve upon our court-connected mediation programme in the short term.

During the year under review, the ECSC through its Judicial Education Institute (JEI) also organised training sessions for judicial officers on a variety of topics, including insolvency the conduct of judicial settlement conferences and audio recording of court proceedings. Given the importance of ensuring proper recording of court proceedings, the JEI held two in-person training sessions on the use of digital audio recording of court proceedings for judicial officers and staff of the High Court of each Member State and Territory. These sessions were quite well-received. Not only were judicial officers and staff able to better familiarise themselves with the digital audio recording platform, both these sessions were the first opportunity since COVID-19 that judicial officers from each Member State and Territory were able to gather physically in the same place. The training sessions were therefore a welcomed return to some level of normalcy in our judicial education programme. We hope to continue to host similar training sessions in-person in the near future and remain grateful to our partners, including the JURIST Project, UNDP, the National Centre for State Courts and the Governments of the OECS





Member States, for their assistance. We look forward to continued collaboration with them for the promotion of efficiency in the justice system.

The next development I wish to touch on concerns the revisions to the Civil Procedure Rules. During the period under review, the Rules Review Committee finalised the proposed amendments to the Civil Procedure Rules. These were subsequently circulated for consultation among judicial officers and members of the Bar across the OECS Member States and Territories. The Rules Review Committee reviewed the helpful feedback received and completed the final draft of the amended Civil Procedure Rules. The draft amendments have now been handed over to the IMPACT Justice Project who will be providing the necessary drafting assistance for the final stage of this project. The amended Rules will bring about much needed modernisation to civil procedure and practice. It is anticipated that the revised edition of the Civil Procedure Rules will come on stream before the end of 2023.

In reflecting on the last year, I feel immense pride. The ECSC has taken many progressive steps towards creating a more

resilient justice system. I hope that going forward we will continue to see improvement in the delivery of court services as we continue to better integrate technology into our processes. As we look forward, we will strive to embrace the innovations and lessons learned from the past two years. By adopting that approach, I am confident that the ECSC will ably navigate any challenges that come its way.

In closing, I take this opportunity to express my sincere gratitude to the judicial officers of the Court, including registrars and magistrates, as well as the management and staff of all the Court offices across the Eastern Caribbean for their professionalism, fortitude and continued hard work. I also express my gratitude to you, the reader, for taking the time to read our annual Report. I hope that through this medium you will gain useful insight into the operations of the Court in a way that instills greater confidence and trust in the administration of justice. With your support, the ECSC will continue to deliver on its mandate of improving access to justice for the people of our region.

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



Message from the Court Administrator

The start of a new year always brings hope, and I hope, in the not-too-distant future, to see the complete restoration, as far as practicable, of in person operations so crucial to the elemental humanity in our court system. As we look forward, we hope to embrace innovation and lessons learnt from the past two years as we continue to do whatever it takes to meet new challenges to safeguard what is precious to all of us – a fair, impartial, and independent judiciary.

The year under review saw the Eastern Caribbean Supreme Court (ECSC) working again under continued financial pressure in facilities that are not adequate for the intended purpose. Additionally, the Court and its staff have had to contend with continuing health measures and restrictions to stem the successive waves of the Covid-19 Pandemic. Despite these challenges, the Court's staff has ensured continuity in providing access to justice by drawing on the lessons learned and the new habits acquired since the Pandemic started in 2020 through remote working and effective communication techniques.

I am proud that the administration of the Court continues, against these challenges, to provide a high level of service to litigants and members of the public in all Member States and Territories.

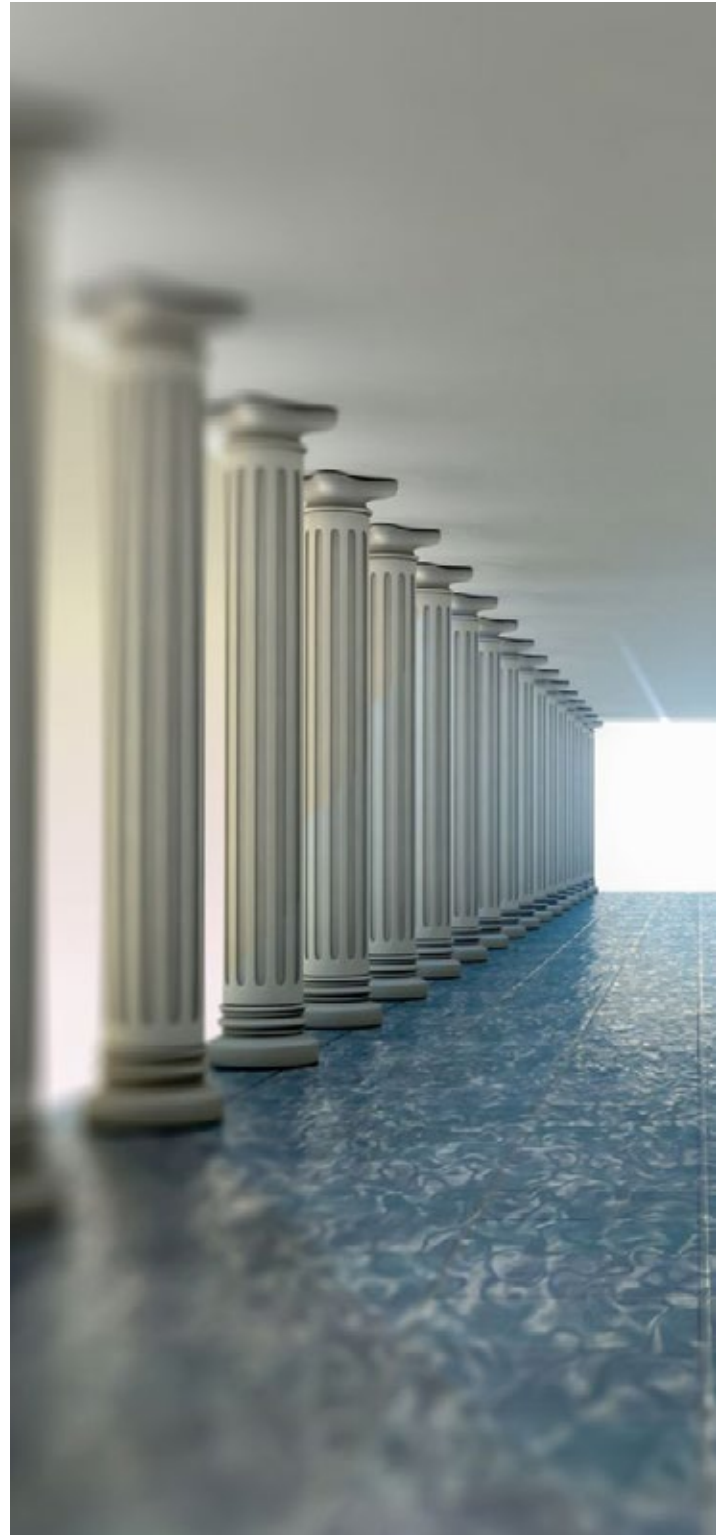
As a Court we came to terms with the fact that we would have to learn to live with the challenges of the Pandemic for some time, and as such going forward, we started to look at creative ways to continue providing our core functions safely. I am pleased to report that the ECSC has made significant progress in continuing to leverage

technology to enhance access to justice. These include the use of remote hearings and the Court's e-litigation portal with guidance provided through practice directions from the Office of the Chief Justice which all allowed the administration of justice to continue uninterrupted despite the evolving COVID-19 situation.

As we advance, we hope to continue bringing technological tools into the mainstream of our work and how we engage with our stakeholders as these will be vital steps in our drive towards realizing our vision of being a model regional court. Harnessing the tremendous potential of technology will surely be among our most significant projects in the years to come.

During the year under review we achieved some goals despite varying challenges experienced. I will briefly share a few in this message; however, I encourage you to read the annual report in full for a more comprehensive understanding and appreciation of the Court's work outlined in each department's contribution to this report.

The ECSC continued its Court-Connected Mediation Public Awareness Campaign in each Member State and Territory with the kind support from the Canadian-funded Judicial Reform and Institutional Strengthening





(JURIST) Project. The ECSC believes that for the mediation process to be fully utilized, the public must become more informed on the mediation process and understand its many benefits.

There was also an inaugural mediation conference held on 03rd February 2022 during the Covid-19 Pandemic. It was, from all accounts, a significant success and was very well attended by a diverse cross-section of judicial officers, court staff, legal practitioners, mediators, law students and other stakeholders. There was also Mediation refresher training held in the Territory of the Virgin Islands with the other Member States and Territories to follow suit in the new reporting year. Much policy-related work was undertaken during the reporting period regarding mediation. We hope to continue the work in more detail in the upcoming year as we seek to modernise the Court's mediation programme across all the Member States and Territories.

During the year under review, there was a greater resumption of travel. As such, the Judicial Education Institute (JEI) was able to carry out some face-to-face training for our Judicial Officers. In recognition of the importance of proper recording of court proceedings, the ECSC, through its JEI, hosted two training sessions on the use of digital audio recording of court proceedings for judicial officers, court clerks and bailiffs. The in-person training was conducted in two cohorts covering theory and

practical exercises. Cohort one was held in Saint Lucia in mid-April 2022 and Cohort two was held later in the month but in the Member State of Antigua and Barbuda. Judicial officers were also able to attend in-person conferences, meetings and training overseas for the first time since the COVID-19 Pandemic. I must reiterate that in striving for excellence, the work here at the ECSC is never complete; nevertheless, we press on purposefully to deliver the high clientele standards that we not only anticipate but which we also continuously try to exceed. Hence, we continue to strategise and prioritise fit-for-purpose training for all staff members, even with a limited budget.

One challenge which we continue to face, and which has been having a major adverse impact on the administration of, and access to, justice is the adequacy of our facilities in all the Member States and Territories. This has been an area under discussion for several years now and we will continue to emphasize its importance so that all the Courts can be housed in facilities which are fit for purpose and which allows the justice system to operate without interruption.

Finally, in what has again been an extremely busy and challenging year, I wish to thank the 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 dedicated and diligent efforts throughout the year.

“ Justice is the adequacy of our facilities in all the Member States and Territories. This has been an area under discussion for several years now and we will continue to emphasize its importance so that all the Courts can be housed in facilities which are fit for purpose and which allows the justice system to operate without interruption.



Appellate Jurisdiction

Caseflow Management



Introduction

Over the period under review, the Registry of the Court of Appeal worked diligently to perform its function of processing and 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.

Staff Complement

During the period under review, the staffing of the Court of Appeal Registry went through significant changes.

Resignations

We bade farewell to two of our Judicial Research Assistants, Ms. Andrena Athill, on 18th April, 2022 and Ms. Leonnette Headley on 9th March 2022. The court is tremendously grateful to both ladies for the assistance which they provided during their tenure and wish them every success in their future endeavours.

Appointments

During this period, the department was strengthened with the addition of the following persons:

Judicial Research Assistants:

Mr. K-wani Roberts who joined on 1st September 2021;

Ms Amanda DeFreitas who joined on 6th September 2021;

Ms. Jovelle Lewis who joined on 1st October 2021;

Mrs. Stephine Lionel and Ms. Michelle d'Auvergne who joined on 19th April 2022.

At the end of the period under review the total staff complement of the department was fourteen (14) broken down as follows:

Chief Registrar

Deputy Chief Registrar
4 Case Managers
8 Judicial Research Assistants

Workload

There were 379 appeals filed in total in the High Courts and Magistrates Courts during the calendar year 2021. This represents a decrease from 419 cases which were filed in 2020.

The number of Civil Appeals filed in 2021 decreased by 30 from the previous year, making a total of 212 civil appeals filed.

There was also a slight decrease in the number of criminal appeals filed in 2021 from the previous year, making a total of 114 criminal appeals filed compared to 132 criminal appeals filed in 2020.

There was however an increase in the number of commercial appeals filed, bringing the number from 37 in 2020 to 53 in 2021.

There were no appeals filed in the Industrial Court/ Labour Tribunal, compared to 8 matters which were filed the year before.

A detailed analysis of the case load for 2021 can be found in the section on court performance in this Report.

Court Sittings

A total of 1175 appeal matters were heard via Full Court sittings, Chamber Hearings, Status Hearings and video/teleconferences in 2021 broken down as follows:



- There were twenty-two (22) full court sittings conducted for the year 2021 where 330 matters were heard. Antigua and Barbuda, Territory of the Virgin Islands, Saint Lucia and St. Kitts and Nevis had three (3) sittings each; Grenada, St. Vincent and the Grenadines, Anguilla, Montserrat and The Commonwealth of Dominica had two (2) sittings each.
- There were 3 extraordinary full court sittings held for the year under review for the hearing of 3 matters.
- In 2021 the court of appeal continued to hear all Full Court sittings virtually via Zoom. This allowed the Court to ensure that despite the pandemic and its effects, which includes the constraints in relation to regional travel, 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 425 matters. The matters scheduled for consideration at Chamber Hearings were largely dealt with on the papers.
- A total of 22 Status Hearings were held, conducted by the Chief Registrar where 417 matters were heard.

Delivery of Judgments

There were 50 written judgments delivered by the Full Court in 2021. These written judgments included 8 oral judgments where written reasons for decisions were provided by the court.

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.

In 2021, the Full Court also delivered 220 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 sitting comes around. In the coming year we will endeavor to take necessary steps to resolve this issue.

Legal Internship Programme

The Legal Internship Programme has for many years been a prominent feature on the Court's calendar. Every year the court looks forward to offering placements in its 10-week legal internship program, during the months of June and August of every year, to two students from the regional Law Schools. To make this program a reality, the Court partners with the law schools in the Caribbean.

After a 2-year hiatus occasioned by the COVID-19 pandemic, the Court was delighted that it was in a position to offer an in person internship in 2022. The court welcomed Ms. Iyka Dorival and Ms. Jessica Zouetr, both students at the Norman Manley Law School. During the internship, in addition to attending court sittings, the students were exposed to tasks such as preparing digests, writing legal opinions, preparing draft orders, headnoting and vetting judgments. The full account of the internship from the students perspective can be read in this annual report. The Court looks forward to the continuation of its partnership with the Law Schools in the Caribbean.

Significant Judgments Delivered

The following judgments delivered in the period under review are worthy of mention:

THE NEVIS ISLAND ADMINISTRATION V OCEAN REEF RESORTS LIMITED NEVHCVAP2018/0006

Interlocutory appeal – Preliminary issue – Juridical status of the Nevis Island Administration – Whether the Nevis Island Administration is part and parcel of the Crown for the purposes of civil proceedings pursuant to the Crown Proceedings Act – Whether the Nevis Island Administration was the proper party to be served with the claim - Request and entry of default judgment

The appellant, the Nevis Island Administration (the “NIA”), is a body established under the Constitution of Saint Christopher and Nevis (the “Constitution”) to advise the Governor General in the government of the island of Nevis. It has exclusive responsibility

for the administration within the island of Nevis in relation to specific subject matters under the Constitution. The respondent, Ocean Reef Resorts Limited (“Ocean Reef”), filed a claim against the NIA seeking damages for breach of a contract pertaining to the development of certain property in Nevis. The claim was served on a secretary in the Legal Department of the NIA. The NIA failed to acknowledge service of the claim within the 14-day period prescribed for so doing under the Civil Procedure Rules 2000 (the “CPR”). Consequently, Ocean Reef filed a request for entry of judgment in default of acknowledgement of service. The Registrar entered judgment in default against the NIA for an amount to be decided by the court. The NIA then applied to set aside the default judgment on the basis that the claim was not served personally in accordance with CPR 5.1(1), as the Legal Department of the NIA was not authorised to accept service on behalf of the NIA. Ocean Reef in response argued that the Legal Department is authorised to accept service on behalf of the NIA.

The learned master dismissed the application to set aside the default judgment and awarded costs to Ocean Reef. He found that there was proper service of Ocean Reef’s claim on the NIA by service on the secretary of the Legal Department of the NIA. He therefore concluded that there was no basis on which the default judgment could be set aside under CPR 13.2.

Being dissatisfied, the NIA appealed against the decision of the master. When the appeal first came on for hearing, the Court raised as a preliminary issue whether the proper party was served with the claim for the purposes of the entry of default judgment; and further, as the claim is one for breach of contract against the NIA, whether the NIA is a juridical person separate and apart from the Crown or is part and parcel of the Crown for the purposes of proceedings governed by the Crown Proceedings Act. This preliminary issue, having not been considered by the master or canvassed by the parties in the proceedings below, the Court invited the Attorney General as *amicus curiae* to provide a legal opinion on the issue and also directed the parties to file written submissions on the issue. The Court thereafter heard the parties on the preliminary issue.

Held: finding that the NIA has no legal standing to sue and be sued in civil proceedings given the applicability of the Crown Proceedings Act to Nevis and further, that the

proper party to Ocean Reef's claim and the proper party to be served in respect of the claim is the Attorney General of Saint Christopher and Nevis; and ordering that each party bear its own costs, that:

1. The Constitution confers substantial authority on the NIA as an organ of government and carves out eight specific areas for which the NIA shall have exclusive responsibility within the island of Nevis. This includes the responsibility for land and buildings in Nevis vested in the Crown and specifically appropriated to the use of the Government. There is however nothing in the Constitution which imbues the NIA with legal standing to sue or be sued in respect of land and buildings vested in the Crown, or indeed in respect of any of the other areas of exclusive responsibility. Furthermore, the Nevis Island Legislature has no power under the Constitution to make laws relating to proceedings by or against the Crown, other than as it relates to the conduct of proceedings under section 112 of the Constitution. It is therefore clear that, barring public law or 'Crown-side' type proceedings, the NIA only has legal standing in circumstances where section 112 is engaged. This section addresses disputes as between the NIA and the Federal Government and is therefore inapplicable to the case at bar.

Sections 102, 106 and section 3 of Schedule 5 of the **Constitution of Saint Christopher and Nevis**, Cap 1.01 Laws of Saint Christopher and Nevis considered.

2. The Crown Proceedings Act is federal legislation which applies to both Saint Christopher and Nevis. According to section 3 of the Crown Proceedings Act civil proceedings against the Crown must be instituted against the Attorney General. There are no provisions in the Constitution which disapply section 3 of the Crown Proceedings Act in relation to Nevis. There is also no separate Attorney General for Nevis, but one Attorney General for the Federation. Furthermore, no specific carve out has been made in the Crown Proceedings Act to permit the NIA to assume the role of the Attorney General as it relates to civil proceedings commenced in Nevis against the Crown. It therefore follows that the NIA is part and parcel of the Crown for the purposes of civil proceedings under the Crown Proceedings Act. Accordingly,

Ocean Reef's claim, being civil proceedings under the Crown Proceedings Act, ought to have been instituted against and served on the Attorney General.

3. The mere fact that civil proceedings by and against the NIA are commonplace is not a good or legitimate reason for overlooking the clear provisions of the Crown Proceedings Act. It is well-settled that a common practice engaged in over a number of years does not thereby render it correct by common and repetitive usage over time. Furthermore, the practical expediency or other advantages of naming the NIA as the defendant to civil proceedings in Nevis, instead of the Attorney General, ought not to result in the clear provisions of the Crown Proceedings Act being disregarded and more so where clear expression of its exception is contained in the Constitution itself. It would therefore not be correct to construe the provisions of the Crown Proceedings Act to allow for the institution of civil proceedings against the NIA.

Sections 3, 13 and 14 of the **Crown Proceedings Act**, Cap 5.06, Revised Laws of Saint Christopher and Nevis applied; **Bryan James v Attorney General** SLUHCVAP2013/0023 (delivered 22nd April, 2014, unreported) followed; **Elmoalis Ltd. v The Attorney General** of Anguilla AXAHCVAP2019/0002 (delivered 21st May 2021, unreported) followed; **Beverley Levy v Ken Sales and Marketing Limited** [2008] UKPC 6 considered; **Ferdinand James v Planviron (Caribbean Practice) Limited** SLUHCVAP2017/0050 (delivered 16th October 2019, unreported) followed; **Choice FM Limited v Nevis Island Administration et al** NEVHCV2013/122 (delivered 20th October 2014, unreported) disapproved.





DAVID DORSETT V THE ATTORNEY GENERAL
MNIHCVAP2020/0026

Civil appeal – Inherent jurisdiction – Appointment of counsel amicus curiae -- Whether the court can appoint an attorney amicus curiae against his will – Whether the appointment of amicus curiae constitutes employment under the Code of Ethics to the Legal Profession Act – Difference between standby counsel and amicus curiae

The appellant is an attorney at law who was admitted to practise in Montserrat in 2014. He was retained by an accused person in criminal proceedings to represent him on a number of issues up to arraignment and appeared for him in several matters between 2016 and 2020. The accused eventually indicated to the court that he wished to represent himself at the criminal trial. However, the court refused to grant the appellant leave to withdraw from the proceedings and further appointed him amicus curiae to assist the court in cross-examining six vulnerable witnesses for the Crown. The appellant refused this appointment.

The appellant commenced administrative proceedings seeking relief under Part 56 and section 20 of the Constitution of Montserrat seeking several heads of declaratory relief, his main issue being: ‘can the court appoint an attorney amicus curiae against his will?’ The learned judge considered the rights of the appellant under the Constitution and

under the Code of Ethics and found that the court acted reasonably and in accordance with settled legal principles, and the order appointing the appellant as amicus curiae was made ex abundante cautela in the circumstances and in the express exercise of its inherent jurisdiction.

On appeal, the appellant's position was that the learned judge had failed to answer the question of whether the court can appoint an attorney amicus curiae against his will. He also posited that he was entitled to decline or withdraw from employment pursuant to the Code of Ethics. The respondent contended on the other hand that the true question to be determined was whether the appellant should be allowed to leave the matter after holding himself out as counsel for the accused and that the question of entitlement to refuse employment simply did not arise as the appellant remained engaged by the accused until he was granted leave by the court to withdraw.

Held: dismissing the appeal and making no order as to costs, that:

1. The appointment of counsel amicus curiae is not employment. The court cannot enter into an employment relationship with a person appearing before it as that would fly in the face of the need for impartiality in the judicial proceedings. The power to appoint an attorney amicus curiae is derived from the court's inherent jurisdiction, i.e. its reserve of powers as a superior court that is essential to the administration of justice and the maintenance of the rule of law and the Constitution. Any limitation on the inherent jurisdiction of a superior court must arise from express legislation or necessary implication.
2. The Code of Ethics, where it speaks to the right to decline employment, does not meet either of these criteria and so did not limit the inherent jurisdiction of the court in making such appointments. Therefore, the appellant was not entitled to decline his appointment as amicus curiae pursuant to clause 9 section A of the Code of Ethics. In any event, as Persad J in the criminal proceedings had refused to grant leave to the appellant to withdraw from representation, he was constrained to act for the accused in the criminal proceedings.

Section 37(3) of the **Legal Profession Act**, 2014 No. 8 of 2014 of the Laws of Montserrat applied; **Fahey v The Queen** [2017] NZCA 596 considered; **Her Majesty The Queen v Criminal Lawyers' Association of Ontario and Lawrence Greenspon** 2013 SCC 43 considered.

3. Every person who is subject to an order of the court risks facing sanctions for contempt for failure to obey. The product of our adversarial system of justice is that court orders are almost invariably made against the will of persons save for consent orders. Therefore, an order of the court appointing the appellant amicus curiae could not have been made in vain merely because the appellant was so appointed against his will.
4. The court below did answer the question posed by the appellant in the administrative proceedings by considering whether the appellant had any statutory or constitutional rights to decline the appointment as amicus curiae.



FLAVIO MALUF V DURANT INTERNATIONAL CORP BVIHCMAP2021/0025

Interlocutory appeal – Preliminary issue – Whether leave was required to appeal order dispensing with service – Fresh evidence – Ladd v Marshall principles – Service Out of the Jurisdiction – Part 7 of Civil Procedure Rules – Whether service had been effected on the appellant in accordance with Brazilian law – Whether service on appellant had been effected in accordance with Hague Service Convention – Whether service on the appellant in Brazil by sending Letters Rogatory directly to the Brazil courts was contrary to the Reservation by the Federal Republic of Brazil to Article 10 of the Hague Convention – Whether good service had been effected on the appellant in accordance with the Service Out Order – Rules 13.3 and 13.4 of the E-litigation Portal Rules – Whether the purported service was ineffective

under rule 13.4 of the E-Litigation portal rules – Judicial discretion – Test for dispensing with service – Exceptional circumstances – Whether the judge erred in making an order dispensing with service of the BVI Court Documents on the appellant pursuant to CPR 7.8B – Whether the judge erred in failing to discharge the freezing order on the basis that the validity of the claim form had expired

This interlocutory appeal concerns two separate proceedings commenced in the Commercial Court in the Territory of the Virgin Islands (“BVI”). On 6th November 2017, Durant International Corp (“Durant”), a company incorporated in the BVI, was put into liquidation by order of the Commercial Court in Claim No. 134 of 2017 and the second and third respondents appointed joint liquidators (“the Liquidation Proceedings”). It is alleged that the appellant, Mr. Flavio Maluf, a resident of the Federal Republic of Brazil and his father, the then mayor of São Paulo, between 1993 and 1996, committed fraud against the municipality of São Paulo in the Federal Republic of Brazil involving massive kickbacks and bribes. The moneys arising from the said fraud have allegedly been laundered through numerous companies, including the first-named respondent, Durant. The appellant was at all material times a director of Durant. The alleged fraud has been the subject of civil and criminal proceedings brought by the municipality and the Federal Republic of Brazil. These include civil proceedings before the Royal Court of Jersey resulting in a money judgment against Durant and another BVI company, and criminal proceedings in Brazil and in France resulting in convictions against the appellant and his father in Brazil and the appellant in France.

On 22nd April 2020, the learned judge granted ex parte in the Liquidation Proceedings a world-wide freezing order against the appellant up to the value of US\$45 million (“the Freezing Order”) on the undertaking of the liquidators to issue and serve a claim form against the appellant for appropriate relief. On the same day, the judge also granted permission to Durant, on an ex parte application in the Liquidation Proceedings, to serve the claim form, statement of claim and other documents (“the BVI Court Documents”) on the appellant out of the jurisdiction, in Brazil (“the Service Out Order”).

further documents required to be served out of the jurisdiction on the appellant at his address in Brazil or other address for service in Brazil. It also provided for the BVI court to issue a Letter Rogatory to the relevant court in Brazil in the form exhibited to the Service Out Order. Pursuant to the Service Out Order, the learned judge issued a Letter Rogatory dated 22nd April 2020 addressed to the President of the Superior Court of Justice (“SCJ”) in Brazil, in each claim, seeking assistance from the Brazilian Court by granting exequatur to: (i) without notice to the appellant, enforce the Freezing Order in Brazil; and (ii) serve the appellant with the claim form in the Debt Claim (then to be filed by Durant) and the Freezing Order at his address in Brazil stated in the Letter Rogatory. By order dated 4th May 2020, the judge varied paragraph 1 of the Service Out Order to permit service of the revised claim form and revised statement of claim.

Following this, on 7th May 2020 Durant by its liquidators brought an action (No. 62 of 2020) against the appellant seeking repayment of outstanding loan debts owed to Durant by the appellant (“the Debt Claim” or “the substantive proceedings”). In the alternative, they sought compensation in equity for alleged breaches of fiduciary duty, knowing receipt and dishonest assistance in relation to the loan.

By application dated 27th November 2020 (“the Application”), the appellant challenged the jurisdiction of the BVI Court in both the Debt Claim and the Liquidation Proceedings on the basis that service had not been validly effected on him in Brazil; and for an order discharging the Freezing Order. In a judgment delivered 23rd August 2021 after a hearing, the learned judge dismissed the appellant’s application, made an order dispensing with service of the BVI Court Documents on the appellant (“the Dispensation Order”), continued the Freezing Order and awarded costs of the Freezing Order and the appellant’s Application to Durant (in liquidation).

The appellant has appealed to this Court against the judgment and orders made by the learned judge on 23rd and 24th August 2021. The following issues arose for this Court’s determination: (i) whether good service had been effected on the appellant in Brazil pursuant to the Service Out Order; (ii) whether the judge erred in concluding that good service had been effected on the appellant in accordance with Brazilian

law; (iii) whether the appellant had been served personally in Brazil with the BVI Court Documents; (iv) whether the judge erred in not considering the provisions of CPR 7.10(3) in circumstances where the BVI Court Documents were sent or delivered, not through diplomatic channels, but directly to the judicial authorities in Brazil; (v) whether the purported service was ineffective under rule 13.4 of the E-Litigation portal rules; (vi) whether the judge erred in making an order dispensing with service of the BVI Court Documents on the appellant pursuant to CPR 7.8B; and (vii) whether the judge erred in failing to discharge the Freezing Order on the basis that the validity of the claim form in the substantive proceedings had expired.

The respondents, in their skeleton arguments, raised the preliminary issue of whether the appellant was required to apply for and obtain leave to appeal the Dispensation Order. Further, the appellant, after the hearing of the appeal, applied to this Court for an order that the written opinion of the Deputy Federal Attorney General of Brazil dated 8th November 2021 issued in proceedings in Brazil be admitted as fresh evidence in the appeal proceedings.

Held: dismissing the appeal, affirming the orders of the judge in the court below dated 23rd and 24th August 2021 dispensing with service and continuing the Freezing Order; setting aside the order awarding costs to the respondents in the court below and ordering that each party bear their own costs of this appeal and in the court below, that:

1. Section 30(4) of the Eastern Caribbean Supreme Court (Virgin Islands) Act provides that, subject to the exceptions stated therein (none of which are applicable to the instant matter) no appeal shall lie without the leave of the Court of Appeal from any interlocutory order or interlocutory judgment made by a judge of the High Court. In this case, it is pellucid that the learned judge considered and, for the reasons foreshadowed in his unsealed judgment circulated to counsel for the parties, granted the appellant's application filed subsequently to dispense with service. It follows therefore that the order of a single judge of this Court granting leave to appeal the judgment "in so far as it concerns issues of service", clearly incorporates an appeal challenging the Dispensation Order of the court below.

Accordingly, the respondents' preliminary point is without merit and is dismissed.

Section 30(4) of the Eastern Caribbean Supreme Court (Virgin Islands) Act Cap. 80 of the Revised Laws of the Virgin Islands, 1991.

2. The three step test in *Ladd v Marshall* to be applied by an appellate court when considering whether to grant to a litigant permission to adduce fresh evidence on the hearing of an appeal, is intended to ensure that the important requirement of bringing finality to litigation and the overriding objective and duty of a court to manage litigation justly and proportionately are complied with, and permission to adduce fresh evidence is only granted in circumstances where the application satisfies all three requirements of the test. In the instant matter, the appellant's application, made after the hearing of the appeal, for an order that the written opinion of the Deputy Federal Attorney General of the Republic of Brazil dated 8th November 2021 issued in proceedings before the courts in Brazil, satisfies all three limbs of the test and should be granted. Specifically, had the November 2021 opinion been before the judge below it would probably have had an important influence on the judge's determination of the issue of service of the BVI Court Documents in accordance with Brazilian law, and the said document, albeit a non-binding legal opinion issued in proceedings before the Brazilian courts, is apparently credible. Moreover, the opinion focuses on the legal issue of Durant's standing under Brazilian law to send the Letter Rogatory from the BVI Court directly to the courts in Brazil and is material to any determination of whether the appellant was properly served with the BVI Court Documents in accordance with Brazilian law, and in accordance with the process for effecting service on a defendant in Brazil under the Hague Service Convention. *Ladd v Marshall* [1954] EWCA Civ 1 applied; *Emmerson International Corporation and another v Viktor Vekselberg* [2021] ECSCJ No. 718 (delivered 8th October 2021) considered.
3. The learned judge erred in coming to the conclusion that the evidence before him favoured good service having taken place on the appellant in accordance with Brazilian law. This is so because it is questionable so as to be unclear whether the

exequatur decision of the President of the STJ also authorised the service of the BVI Court Documents on the appellant. Further, the First dos Santos decision, properly construed, falls short of deeming access to the file and documents by the appellant’s lawyers as ‘service’ or as ‘good service’ in accordance with Brazilian law. Service on the appellant has not been shown or established by the First dos Santos Decision to have been effected under Brazilian law, and the learned judge erred in so concluding. It follows therefore that the judge erred in finding that service had been effected on the appellant pursuant to the avenue permitted under CPR 7.8(1)(b), in accordance with the law of the country in which it is to be served. It was for Durant to satisfy the court that service on the appellant had in fact been effected under Brazilian law and in accordance with the Hague Service Convention and the Service Out Order. However, the evidence led was unsatisfactory and inconclusive as to good service on the appellant in Brazil.

Rule 7.8(1)(b) of the Civil Procedure Rules 2000 considered.

4. Where an order permitting service out requires personal service to be made at a specified address, a claimant cannot serve at an alternative address and rely on CPR 7.8(1)(b). In the case at bar, permission was granted to serve the appellant at a specified address in São Paulo, Brazil or at any other address for service in Brazil. However, it is clear that the appellant had not in fact been served “personally” with the said documents in accordance with the Service Out Order which specified service in accordance with the Hague Service Convention. The Service Out Order did not authorize service in accordance with the laws of Brazil pursuant to CPR 7.8(1)(b). It follows therefore that such service in accordance with CPR 7.8(1)(b), as found by the learned judge, was not service in compliance with the Service Out Order.

YA II PN Ltd v Frontera Resources Corporation [2021] EWHC 1380 (Comm) distinguished.

5. CPR 7.10 provides that service through the judicial authorities of another state must take place through diplomatic channels and not directly to the judicial authorities of that state.



In the instant matter, the Letters Rogatory were not addressed or sent to the minister with responsibility for foreign affairs but directly to the Brazilian Court in clear breach of CPR 7.10(3). Further, this breach of BVI procedural law, was compounded by the resulting breach of Brazilian law by utilising a method of transmission of the request which was clearly not in compliance with that country's law in light of its 2018 Reservation to the methods stipulated in Article 10 of the Hague Service Convention. Accordingly, it cannot be said that service was effected on the appellant in accordance with the laws of Brazil when his lawyers there were permitted access to the court file which also contained the BVI Court Documents required to be served on the appellant as requested by the Letters Rogatory. The learned judge therefore erred in finding that good service had been effected on the appellant in accordance with Brazilian law or pursuant to CPR 7.8(1)(b), which was not the chosen method of service or one of the chosen methods. Rules 7.8 and 7.10 of the Civil Procedure Rules 2000 applied; *YA II PN Ltd v Frontera Resources Corporation* [2021] EWHC 1380 (Comm) distinguished.

6. Pursuant to rules 13.3 and 13.4 of the E-Litigation Portal Rules a party to civil litigation must serve the claim form and other documents in accordance with the applicable rules of court relating to service and the authorisation code generated by the Electronic Litigation Portal must also be served on the other party at the same time. Rule 13.4 specifies that a failure to serve the authorisation code at the same

time with the documents has the consequence that service is deemed not to have been effected. However, the failure to serve the authorisation code at the same time as the court documents is a mere procedural misstep and is not fatal and may be remedied by re-serving the court documents with the authorisation code. In the instant matter, the respondents did not have the appellant served in Brazil with the BVI Court Documents and the authorisation code. Instead, they relied on service of the BVI Court Documents being deemed to have been effected under Brazilian law and in accordance with CPR 7.8(1)(b), albeit without service of the authorisation code. Accordingly, the judge's conclusion that service was effected and complete when the authorisation code was provided subsequently to the appellant's BVI lawyers, does not accord with rules 13.3 and 13.4 of the E-Litigation Portal Rules and is flawed.

Rules 13.3 and 13.4 of the Eastern Caribbean Supreme Court Electronic Litigation Filing And Service Procedure Rules 2018 applied.

7. It is trite that the purpose of service of documents in civil proceedings is to bring the claim form and other documents setting out the allegations of fact and the legal basis for the claim to the attention of the defendant. The significance of this requirement for service of originating process, is a fundamental pillar in ensuring open litigation in a free and democratic society, and to give meaning to the imperative for justice to be dispensed openly and according to law, buttressed and circumscribed by applicable rules of court which have, as their overriding objective, courts dealing with cases justly and ensuring that the parties are, as far as it is practicable, on an equal footing.

Abela and others v Baadarani [2013] UKSC 44, [2013] 1 WLR 2043 considered.

8. CPR 8.13 expressly provides that an application to extend the time for service of a claim form must be made prospectively, that is, prior to expiration of the stipulated period of validity for service of the claim form or any extended period granted by the court upon application. There is no provision to apply retrospectively to extend the time for service of a claim form.

Rules 8.13 and 26.1(2)(k) of the Civil Procedure Rules 2000 considered.

9. The court's general case management power and discretion under CPR 26.1(2)(k) to extend time to comply with a rule, practice direction or order and to do so even after the time for compliance had expired, is not applicable to extend the time for service of a claim form, since the power to extend time for service of a claim form is circumscribed by CPR 8.13. However, where special circumstances were shown to exist, a court has the power under CPR 26.1(6) to wholly disapply the times lines established by CPR 8.13 for obtaining an extension of time for service of a claim form. This notwithstanding, Durant made no application to disapply the timelines in CPR 8.13. It is clear that the judge in coming to his conclusion and granting the application to dispense with service, did not consider or address the invalidity of the claim form in his reasons for decision. This he ought properly to have done and his failure to do so was a grave omission and an error of principle in the proper exercise of his discretion, thus entitling this Court to exercise its discretion afresh. *JSC VTB Bank v Alexander Katunin and another* (BVIHCMA2016/0047 delivered 18th April 2018, unreported) considered.

10. Where the evidence before the judge establishes that a defendant has not disputed that the claim form and other court documents were received by his legal advisers and were brought to his attention by a permitted method of service within the requisite period of the validity of the claim form, a court may retrospectively dispense with service notwithstanding the subsequent expiration of the validity of the claim form ("Anderton Category 2"). In the instant matter, Durant obtained a Service Out Order providing for service of the claim form and other documents on the appellant under the Hague Service Convention in Brazil and the BVI Court issued Letters Rogatory addressed directly to the court in Brazil. This was a clear attempt to serve the claim form and other documents on the appellant in Brazil through one of the modes of service permitted under CPR 7.8. In the circumstances, it can be said that an Anderton Category 2 case arises here. It follows therefore that the judge was correct to consider whether to exercise his discretion to dispense with service on the appellant.

Rhiannan Anderton v Clwyd County Council [2002] EWCA Civ 933 applied.

11. CPR 7.8B empowers a court, in the exercise of its discretion, to dispense with service on a defendant of the claim form and statement of case where it is satisfied, on application, that exceptional circumstances have been made out. It follows therefore that a court is empowered to consider and to make an order dispensing with service on a defendant, in circumstances where, as here, there has been a clear attempt by the claimant to serve the claim form and other documents on the defendant. In the instant matter, service on the appellant in Brazil pursuant to the Hague Service Convention was being effected during the current prevailing world-wide COVID-19 pandemic, making it difficult, if not impossible, to utilise the normal diplomatic channels to effect service on the appellant in Brazil in accordance with the Hague Service Convention. Further, it is clear that the evidence before the learned judge discloses conclusively, and the appellant has not disputed, that the BVI Court Documents were received by his lawyers in Brazil and have been brought to his attention since August 2020, well before the validity of the claim form would have expired under CPR 8.12. Accordingly, the fundamental requirement of service of court process on a defendant has been satisfied in this matter and the appellant is fully aware of the claim brought against him in the BVI proceedings in Claim No. 62 of 2020. In the circumstances, this Court concludes that the decision by the learned judge to dispense with service of the BVI Court Documents on the appellant was the correct decision and must be upheld.

Rule 7.8B of the Civil Procedure Rules 2000 considered; Commercial Bank of Dubai v 18 Elvaston Place Ltd 2020] ECSCJ No. 202 (delivered 16th June 2020) considered; Michel Dufour and others v Helenair Corporation Ltd (1996) 52 WIR 188 applied; Olafsson v Gissurason (No.2) [2008] EWCA Civ 152 considered; Lonestar Communications Corp LLC v Kaye [2019] EWHC 3008 (Comm) considered.

12. Having found that the court was entitled to dispense with service and that the judge was correct to conclude that the test of exceptional circumstances had been met by Durant, it follows that the judge was correct not to have discharged the Freezing

Order on the basis that the validity of the claim form in the substantive proceedings had expired.



AKIM MONAH V THE QUEEN
GDAHCRAP2021/0015
(FORMERLY GDAHCRAP2014/0002)

Criminal Appeal – Appeal against sentence – Failure of sentencing judge to provide reasons for sentence – Whether sentence manifestly excessive in the circumstances – Constitutional law – Sections 8 and 16 of the Constitution of Grenada – Right to fair hearing within a reasonable time – Unjustified delay in the production of transcript of proceedings – Whether unjustified delay in production of transcript of proceedings by State gives rise to breach of the right to a fair hearing within reasonable time – Redress for breach of fundamental rights – Whether Court can reduce sentence as redress for breach of constitutional rights

Mr. Akim Monah (“Mr. Monah”) was charged with the non-capital offence of murder contrary to section 230 of the Criminal Code of Grenada. He was remanded into custody on 30th June 2012 and pleaded not guilty on his first arraignment. Several months later during his re-arraignment on 14th October 2013, he pleaded guilty. His sentencing hearing was held on 23rd January 2014 after several adjournments. During the hearing, the sentencing judge heard Mr. Monah’s then defence counsel’s plea in mitigation, Mr. Monah’s evidence and his mother’s evidence. Upon the request of his then counsel, the sentencing hearing was adjourned to 4th February 2014 to allow an authority to be presented by the defence counsel. On 4th February 2014, Mr. Monah was sentenced to 18 years imprisonment, to run from 30th June 2012.

Mr. Monah, dissatisfied with the decision of the sentencing judge initially appealed against both his conviction and sentence on 24th February 2014. Despite repeated requests by him for the State of Grenada to provide the transcript of the proceedings

in the court below in order for him to prosecute his appeal, he did not receive the transcript until 7 years after the date of his sentence. The prosecution of his appeal was therefore delayed in excess of 7 years. Furthermore, the transcript primarily consisted only of brief notes totaling 7 pages from the sentencing judge's notebook which did not indicate any reasons for the imposition of the sentence of 18 years imprisonment on Mr. Monah.

During the hearing of his appeal before this Court, Mr. Monah withdrew his appeal against conviction and sought leave of the Court to advance an additional/alternative ground of appeal, namely that the delay by the State in providing the transcript of proceedings resulted in the delay of the prosecution of his appeal which amounts to a breach of his fundamental right to a fair hearing within a reasonable time as guaranteed by the Constitution of Grenada. Upon noting no objection by counsel for the State, leave was so granted.

The four main issues on appeal were: (i) whether the sentence imposed by the learned judge was manifestly excessive; (ii) if so, whether this Court should exercise its discretion so as to reduce the sentence; (iii) whether the delay by the State in providing the transcript of proceedings in the court below breached the fundamental right to a fair hearing within a reasonable time and (iv) if so, what is the appropriate redress in the circumstances.

Held: dismissing the appeal against sentence on the basis that it was not excessive but allowing the appeal against sentence on the basis that the delay by the State in providing the transcript of proceedings infringed Mr. Monah's fundamental right to a fair hearing within reasonable time and making the orders as set out in paragraphs 87(2)(a) and (b), that:

1. Where a sentencing judge fails to provide reasons for the imposition of a sentence, the onus falls on the Court of Appeal to determine whether the sentence was just and appropriate as if the judge had provided reasons. However, the Court will only interfere with a sentence passed by a judge in the court below if there is an error

in principle. In this case, it is inappropriate to utilise the new Sentencing Guidelines of the court which were promulgated several years after the date of Mr. Monah's sentencing, to determine whether the judge committed an error of principle. It therefore falls to this Court in determining whether or not the sentence imposed was excessive, to apply the guidelines that were provided by this Court in the cases and which were applicable at that the time of the sentencing hearing. Accordingly, the Court is obliged to give deliberate consideration to: (i) the circumstances of both the offender and the circumstances in which the offence was committed; (ii) the principles of sentencing namely retribution, deterrence, prevention and rehabilitation; (iii) the maximum penalty for the offence and the appropriate notional sentence; (iv) the mitigating and the aggravating factors, weighing them against each other; and (v) the credit to be given to the guilty plea entered on re-arraignment and to the time Mr. Monah spent in custody awaiting sentence. In all of the circumstances of this case and applying the principles stated above, there is no basis upon which the Court can properly conclude that the sentence of 18 years is manifestly excessive. The appeal against sentence on the basis that the sentence of 18 years imprisonment is manifestly excessive is accordingly dismissed. Section 230 of the **Criminal Code** Cap 72 of the Laws of Grenada as amended by the Criminal Code Amendment Act applied; **R v Ball** (1951) 35 Cr App Rep 164 applied; **R v Newsome**; **R v Browne** [1970] 2 QB 711 applied; **Romeo DaCosta v The Queen** [2011] CCJ 6 (A) applied; **Callachand & Anor v The State of Mauritius** [2008] UKPC 49 applied; **R v Sergeant** (1974) 60 Cr App R 74 considered; **Desmond Baptiste v The Queen** High Court Criminal Appeal No.8 of 2003 (delivered 6th December 2004, unreported) applied; **Desmond Fletcher v The Queen** GDAHCRAP2015/0011 considered.

2. Section 8(1) of the Constitution of Grenada guarantees the right to a fair hearing within a reasonable time. This includes the appellate process. Indeed, the main objective of the reasonable time guarantee in relation to the right to a fair hearing, is to ensure that there is efficient disposition of criminal cases. In this case, the State of Grenada conceded that the unjustified delay in the provision of the transcript of proceedings in the court below occasioned a delay in excess of 7 years of the prosecution of Mr.

Monah's appeal. This unjustified post sentence delay amounts to an egregious breach of Mr. Monah's fundamental right to a fair trial within a reasonable time as guaranteed by section 8(1) of the Constitution of Grenada. The situation is further compounded by the fact that this matter was not complex and there was not a full trial in the court below as Mr. Monah pleaded guilty to the offence of non-capital murder. Further, the transcript which was eventually produced consisted of only 7 pages of the judge's notes which indicated no reason for the imposition of the sentence.

Section 8(1) of the **Grenada Constitution Act** Cap. 128A, Revised Laws of Grenada 2010 applied; **Singh v Harrychan** [2016] CCJ 12 (A) applied; **Marin v The Attorney General** [2021] CCJ 6 (A) applied; **Rashid Pigott v The Queen** ANUHCRA2009/0009 (delivered 13th April 2015, unreported) applied.

3. The Court has a broad discretion to fashion effective redress to secure the enforcement of fundamental rights. However, the redress which the Court provides is fact sensitive. Furthermore, the fact that the Court finds that a sentence imposed in the court below was not manifestly excessive does not restrict the remedies this Court may grant. Additionally, there is a consistent stream of jurisprudence which has established that a breach of the fundamental right to a fair hearing within a reasonable time of a convicted person can result in the reduction of his or her sentence. In this case, there are therefore no impediments which prevent this Court from fashioning redress which includes a reduction in Mr. Monah's sentence in addition to making a declaration to that effect. Mr. Monah has not withdrawn his appeal and is still serving the sentence of 18 years imprisonment.

Section 16 of the **Grenada Constitution Act** Cap. 128A, Revised Laws of Grenada 2010 applied; **Maya Leaders Alliance v Attorney General of Belize** [2015] CCJ 15 (A) applied; **Rashid Pigott v The Queen** ANUHCRA2009/0009 (delivered 13th April 2015, unreported) applied; AG's Reference (No. 2 of 2001) [2004] 2 AC 72 applied; **Singh v Harrychan** [2016] CCJ 12 (A) applied; **Frank Errol Gibson v Attorney General of Barbados** (2010) 76 WIR 137 applied; **Marin v The Attorney General** [2021] CCJ 6 (A) applied; **Boolell v The State** [2006] UKPC 46 applied;

Elaheebocus v The State of Mauritius [2009] UKPC 7 applied; **Tapper v DPP** [2012] UKPC 26 considered; **Evans v The Attorney General** SCCrApp. No 181 of 2010 (delivered 6th December 2018, unreported) applied; **Rambarran and others v R** [2019] 5 LRC 431 applied.

4. Taking into account the totality of the circumstances of the breach of Mr. Monah's fundamental right to a fair hearing within a reasonable time and the consistent stream of jurisprudence from the Caribbean Court of Justice and Her Majesty's Privy Council, this Court is of the clear view that the appropriate redress that should be granted to Mr. Monah is a reduction of his sentence of 18 years imprisonment by 2 years or 24 months. Consequently, his sentence of 18 years is set aside and a sentence of 16 years is substituted therefor. In addition, the Court grants a declaration that Mr. Monah's fundamental right to a fair hearing within a reasonable time has been breached by the State of Grenada.



Conclusion

We are delighted to share with you our readers, snippets of the highlights of the Court of Appeal Registry Department for the period under review. We trust that this account has afforded you the opportunity to not only review the work done by the department, but has also allowed you a greater understanding of the work done by the court in this regard.

As we chart our way through the Covid-19 pandemic, our hard-working and diligent team continues to surpass all expectations in order to ensure the dispensation of justice through professionalism and excellence.

We take this opportunity to express our thanks to the Registrars, Deputy Registrars and staff of the High Court and Magistrates courts in the court's jurisdiction. The support which you provide is integral to our achievements over the year. We look forward to our continued fruitful relationship in the coming year. We also extend our gratitude to counsel, litigants and all court users.

As the court continues to evolve, particularly in the area of Information Technology, we remain resolute in our commitment to the citizens of the Eastern Caribbean. We are grateful for your continued confidence in us as a Court and renew our pledge to serve you our users by providing access to a system of justice that is accountable and independent, and administered by officers in a prompt, fair, efficient and effective manner.

Courts Project



Family Division



L-R - Her Ladyship, the Hon. Justice Gertel Thom, Justice of Appeal, The Hon. Steadroy Benjamin Attorney General and Minister of Legal Affairs Antigua and Barbuda, Ms. Heather Stewart, Child Protection Specialist, UNICEF Office for the Eastern Caribbean, Mrs. Cecile Hill, Registrar High Court of Justice, Antigua and Barbuda, Her Ladyship, the Hon. Dame Janice Pereira, DBE LL.D, Chief Justice and Her Ladyship, the Hon. Justice Nicola Petra Byer, High Court Judge and Her Ladyship, the Hon. Justice Marissa Robertson, High Court Judge.

The Family Division pilot project was officially launched in Antigua and Barbuda on July 15, 2022. This followed years of hard work which included the following:

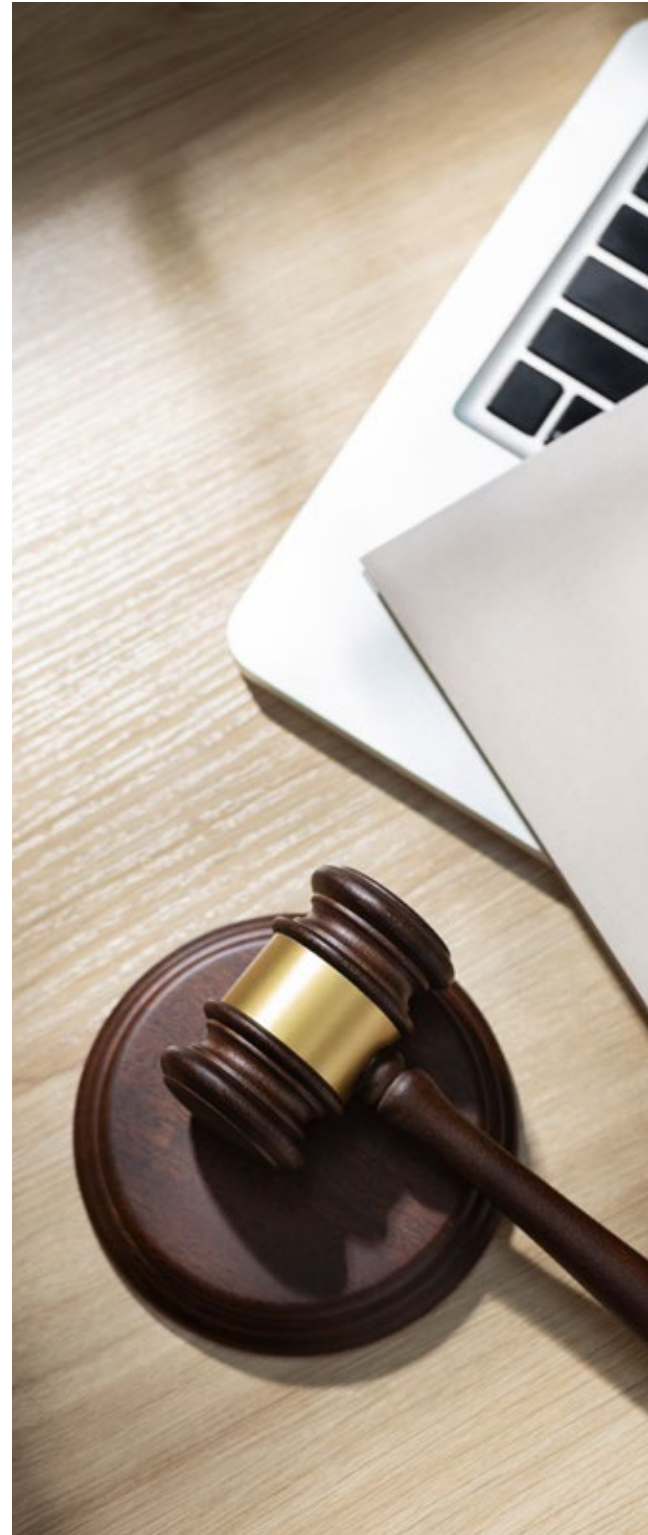
- A baseline study and conceptualization of the project
- Drafting and enactment of modern Family Law legislation to support the division namely: (a) Children Care and Adoption Act, (b) Domestic Violence Act (c) Maintenance and Access to Children Act (d) Juvenile Justice and (e) Status of Children Act. Other legislative reviews were conducted to ensure conformity with the Family Proceedings Rules, chief among which were amendments to the Magistrate Code

of Procedure Act in Antigua.

- Review and assessment of the provisions of the Matrimonial Causes Act and the Divorce Rules of Antigua and Barbuda
- Drafting and promulgation of the new Family Proceedings Rules and forms for use in the courts.
- Development of a new regime of fees for family proceedings
- Renovation and outfitting of a temporary location to house the court
- Staffing and logistical support for the new division.
- Installation and training of staff on the new E-Litigation portal for family proceedings for the High Court and Magistrates Court

The launch of the Family Division signaled an important milestone in law reform in the OECS. This is the first such attempt in the sub-region to integrate the social services in the court system to realise a service delivery model that softens the effect of law, focuses on a customer-oriented service to litigants and ensured dignity and stability among family members seeking justice in a traditionally adversarial court environment. As the service provided continues to improve with time and resources, we will continue to ensure this best practice is replicated in the other Member States and Territories of the OECS.

The unveiling of the plaque for the launch was done by Her Ladyship Dame Janice Pereira alongside the Hon. Prime Minister Gaston Browne and Hon. Attorney General Steadroy Benjamin.





L-R- Her Ladyship, the Hon. Justice Marissa Robertson, High Court Judge, Her Ladyship, the Hon. Justice Gertel Thom, Justice of Appeal, Her Ladyship, the Hon. Dame Janice Pereira, DBE LL.D, Chief Justice and Her Ladyship, the Hon. Justice Nicola Petra Byer, High Court Judge.

The Court remains indebted to UNICEF and UN-Women for the continued financial and technical support to this and other projects of ECSC and look towards the continued collaboration in the future.

The Family Division integrates (administratively) the jurisdiction of the High Court and Magistrates Court in one location preserving their jurisdictional limits but ensuring uniformity and consistency in the treatment of cases within the Division. It will be replicated in the other Member States and Territories.

FAMILY DIVISION

The Family Division pilot project was officially launched in Antigua and Barbuda on July 15, 2022. This followed years of hard work which included the following:

1



A baseline study and **conceptualization** of the project and **drafting and enactment** of modern Family Law legislation to support the division namely:

- a. Children Care and Adoption Act,
- b. Domestic Violence Act
- c. Maintenance and Access to Children Act
- d. Juvenile Justice and
- e. Status of Children Act.

Review and assessment of the provisions of the Matrimonial Causes Act and the Divorce Rules of Antigua and Barbuda, **drafting and promulgation** of the new Family Proceedings Rules and forms for use in the courts, and **development** of a new regime of fees for family proceedings

2



3



Renovation and outfitting of a temporary location to house the court and Staffing and logistical support for the new Division.

Installation and training of staff on the new ELitigation portal for family proceedings for the High Court and Magistrates Court

4

FAMILY DIVISION CONT'D

The launch of the Family Division signaled an important milestone in law reform in the OECS.



This is the first such attempt in the sub-region to integrate the social services in the court system to realize a service delivery model that softens the effect of law, **focuses on a customer-oriented service to litigants and ensured dignity and stability among family members seeking justice** in a traditionally adversarial court environment.

As the service provided continues to improve with time and resources, we will continue to ensure this best practice is replicated in the other Member States and Territories of the OECS



The Court remains indebted to **UNICEF and UN-Women** for the continued financial and technical support to this and other projects of ECSC and look towards the continued collaboration in the future.

The Family Division integrates (administratively) the **jurisdiction of the High Court and Magistrates Court in one location** preserving their jurisdictional limits but ensuring uniformity and consistency in the treatment of cases within the Division. It will be replicated in the other Member States and Territories



Court-Connected Mediation



The Mediation Unit of the Eastern Caribbean Supreme Court (ECSC) adopted the mantra of ‘**Doing Things Better**’ during the 2021/2022 reporting period. This philosophy focused on finding simple yet effective ways to improve the mediation process and was supported by teamwork from both local and regional stakeholders.

Introduction of Electronic Evaluation Forms

Evaluation forms have been a mainstay of the mediation process from the inception of the ‘Court-Annexed’ Mediation Programme as it then was and it remains a pillar of any successful mediation programme. As stated in Paragraph 13.1 of the Court-Connect Mediation Practice Direction No. 6 of 2022, “The information gathered from the Evaluation Forms is very important to the Eastern Caribbean Supreme Court as it is analysed to identify areas where improvements can be made to the Mediation Programme.”

Despite the premium placed on the information to be derived from mediation evaluation forms, the rate of submission of these forms by parties to a mediation and their legal practitioners has been less than satisfactory. To address this shortfall the paper-based evaluation forms were digitized and put into full effect on 16th August, 2021. This undertaking was made possible through the collaborative efforts of the ECSC Information Technology (IT) and Information Services Units, the ECSC Statistician and the ECSC Regional Mediation Coordinator.

The digitisation of the mediation evaluation forms provides several benefits, including more efficient and timely completion and submission of evaluation forms; real-time feedback and analysis of mediation data and faster implementation of corrective measures - all leading to an improved mediation experience. Furthermore, the electronic forms remove the burden of collection, dissemination, storage and data entry of bundles of hard copy forms. As such, the introduction of electronic mediation evaluation forms augurs well for the overall success of the mediation programme.



The Hon. Vasheist Kokaram, Judiciary of Trinidad and Tobago, during his delivery of the feature address.

Inaugural Mediation Symposium

The Eastern Caribbean Supreme Court's mediation programme got off to a remarkable start in 2022 with the launch of the Antigua and Barbuda Mediation Committee's Inaugural Mediation Symposium **Respecting People, Process and Perspective: Restoring the Peace!** This inaugural event was held on 03rd February, 2022 during the Covid-19 pandemic and was very well attended by a diverse cross-section of judicial officers, court staff, legal practitioners, mediators, law students and other stakeholders. The audience was captivated very early on with the introduction of the Committee's new, catchy mediation jingle which touted '...try mediation first!'

The thought-provoking feature presentation was delivered by well-known Caribbean jurist, the Hon. Vasheist Kokaram, Judiciary of Trinidad and Tobago.

The symposium climaxed with a panel discussion on **The Future of Mediation in the OECS** with esteemed panelists: Her Ladyship the Hon. Dame Janice M. Pereira DBE, LL.D, Chief Justice of the Eastern Caribbean Supreme Court and Justice Kokaram. The panelists fielded a number of intriguing questions and left the audience wanting more, by the time the curtains came down on the inaugural symposium. The symposium's success may be attributed to the leadership of the Chairperson of the Mediation Committee, Her Ladyship the Hon. Justice Marissa Robertson, the hard work of the symposium subcommittee and the partnership of the IT Department at the ECSC Headquarters. The Antigua and Barbuda Mediation Committee's 2023 mediation symposium promises to return with renewed and heightened vigour and is an event which should not be missed!

The Introduction of Harmonised Mediation Fees

During the reporting period, the Regional Mediation Fee Harmonisation Committee at its penultimate meeting, reviewed its draft Fee Harmonisation Proposal with related definitions and Schedule of Proposed Revised Mediation Fees. The dissemination of the aforementioned documents to the nine (9) Mediation Committees under the ECSC's jurisdiction for review, would place the Committee on the cusp of the successful completion of this notable assignment. The introduction of harmonised mediation fees is anticipated to commence within the next reporting period.

Mediation Training

Members of the Mediation Committee and Mediators in the British Virgin Islands (BVI) benefitted from a 1-day Mediation Refresher Workshop held on 22nd June, 2022. This was a day truly well spent with a packed programme, designed to ensure that attendees were brought up-to-date with everything mediation. Participants were well engaged in this highly interactive session. Some of the topics covered included:

- Overview of the Reissued Practice Direction No. 6 of 2020
- Virtual Mediations



Her Ladyship the Hon. Justice Vicki-Ann Ellis with participants at the workshop.

- Guidance To Mediators - Electronic Evaluation Forms M11 & M12
- Annual Mediator's Fee
- Mediation Coaches Policy
- Fee Harmonisation Committee - Aim and Objectives
- The Future - Criminal Mediations

On The Horizon...

Criminal Mediation

The ECSC advanced one step closer to its mandate for the introduction of criminal mediation, with the completion of the first draft of the Practice Direction on Court-Connected Mediation (Criminal Division). The court's criminal mediation project is predicated on the ECSC's thrust toward the integration of the Magistracy into the higher

Judiciary and is expected to revolutionise the dispensation of justice, primarily in relation to minor criminal offences. Mediation of permitted criminal cases will afford victims and offenders, the opportunity to resolve their case in a manner similar to the well-established civil mediation process and in that sense may offer a degree of ‘healing’ to the victims of minor crimes. The ECSC, led by our Honourable Chief Justice, has wholeheartedly embraced the philosophy and tenets of restorative justice, with the criminal mediation project being fundamental to the court’s adoption of peace jurisprudence.

Civil Mediation – Summary Courts

Users of the civil jurisdiction of Summary Courts in the nine Member States and Territories can look forward to the opportunity (where this has not previously existed) to have their matters referred to and dispensed with, by means of court-connected mediation, in the near future and likely to take effect within the next reporting period. This welcome endeavour will cater to the resolution of civil disputes by the parties while still providing for enforcement through the court. The introduction of civil mediation at the Summary Court level is also part of the ECSC’s impetus to integrate the lower Judiciary into the higher Judiciary.

Mediation Promotion

Mediation promotion continues in the Member States and Territories. Notable efforts are being made to keep mediation fresh on the minds of citizens by the Mediation Committee for Antigua and Barbuda. Some of their upcoming mediation promotion projects include: the official launch of their mediation jingle with related animation, a secondary schools programme and skit, mediation flyers, a breakfast meeting and their annual Mediation Symposium.

Reports from Member States and Territories

Statistical data received from the Member States and Territories has been captured in the table below to provide a brief synopsis of mediation activities for 2021. Information for Grenada is regrettably unavailable but will be reflected in the 2022/2023 report.

Criteria	Ang.	A&B	Dom.	Gren.	Mont.	Nevis	SKU	SLU	SVG	TVI
Number of matters referred to mediation (Pre-Action)	0	0	0		0		4	2	0	19
Number of matters referred to mediation (Pre-Case Management)	3	141	96		0	7	14	159	30	0
Number of matters referred to mediation (Post- Case Management) NEW FOR 2022					0				14	
Out of the mediations referred, how many mediators selected were lawyers	3	97	73		1		0	65	25	17
Out of the mediations referred, how many mediators selected were non- lawyers	0	42	24		0	2	5	94	19	2
Out of the mediations referred, how many were not held	1	2	16		0	2	4	53	18	3
Number of mediations held (#of initial sessions)	2	104	56		2	5		106	26	16
Out of the mediations held how many mediators were lawyers	2	75	42		1		0	28	13	14

Out of the mediations held how many mediators were non-lawyers	0	32	13	0	5	68	13	1	
Number of cases settled before mediation	0	0	2	0	0	1	1	1	
Outcome: number of mediations settled out of total mediations held	1	32	11	1	1	3	26	10	2
Outcome: number of mediations partially settled (some issues settled) out of total mediations held	0	4	5	0	1	0	1	1	1
Outcome: number of mediations not settled out of total mediations held	1	39	22	0	4	9	26	13	13
Number of further mediations to be held out of the total mediations held	0	29	22	0	2	2	64	2	1
Number of further mediations actually held	0	106	33	1			36	0	0
Number of settled cases which were settled within and up to 45 days	0	9	6	0	1	2	3	5	
Number of settled cases which were settled after 45 days	1	5	4	0		1	27	5	

““ *The 2022/2023 reporting period will be an extraordinary one for mediation as the ECSC will initiate many firsts, not only for the court but in many respects for the region as well. We look forward to sharing more on these exciting advancements as they unfold.*

Programme Evaluation

Mediation statistics for 2021 reflect the impact the Re-Issued Practice Direction on Court-Connected Mediation No. 6 of 2020, had on the mediation programme for that year, with 25 pre-action matters being referred to mediation.

Comparative data related to mediations in the Eastern Caribbean during 2020 and 2021 depict small increases in the number of matters referred to mediation in 4 Member States and Territories (MSTs) during 2021. Concomitantly, the number of actual mediations held in 2021 when compared to 2020, also increased in 4 MSTs. The number of successful outcomes to mediation, that is the number of cases fully settled or partially settled at mediation, also increased in 4 MSTs.

Targeted focus will be placed particularly on the smaller jurisdictions during the new reporting period with a view to all-round improvements in the mediation programme. The 2022/2023 reporting period will be an extraordinary one for mediation as the ECSC will initiate many firsts, not only for the court but in many respects for the region as well. We look forward to sharing more on these exciting advancements as they unfold.

The Judicial Education Institute



The past year has offered the Judicial Education Institute (JEI) an opportunity to disseminate training assessment questionnaires to its Judicial Officers in an effort to develop and implement its three-year strategic training plan.

With the support of the staff at the Eastern Caribbean Supreme Court (ECSC) headquarters, the staff of the High Courts and Magistrates Courts of its Member States, and in collaboration with donor partners, such as JURIST Project, UNDP, National Centre for State Courts (NCSC), and the governments of the OECS, the JEI was able to provide the much-needed training to strengthen the justice sector in the court's Member States and Territories..

Joint Symposium – 17th September 2021

The Joint Symposium, a component of the annual OECS Bar Association Regional Law Conference formed part of the 2nd Virtually Together Conference held on 17th September 2021. This activity is co-sponsored by the JEI and the OECS Bar Association. The symposium focused on the topic 'MORE THAN A MASK: Ethics, Professional Conduct and Civility as the Core of the Legal Professions' which featured a panel comprising His Lordship, the Hon. Mr. Gerard Farara, Justice of Appeal [Ag.] of the ECSC; Dr. Francis Alexis, QC; and Dr. Surendra Arjoon, Professor of Professional Ethics at the University of the West Indies, St. Augustine Campus. The participants were quite pleased with the outcome of the symposium and the level of stimulating discussion and interaction between the Bench and the Bar.

Judicial Insolvency Training – 12th to 15th October 2021

The ECSC partnered with the Eastern Caribbean Central Bank (ECCB), the International Finance Cooperation and INSOL International to host Judicial Insolvency Training for commercial judges of the ECSC. The training was held virtually over a four-day period. This training was developed as a result of the economic fallout from the COVID-19 pandemic on the members of the Eastern Caribbean Currency Union (ECCU). The four-day insolvency training programme covered elements of insolvency such as the legal

framework for insolvency, debtor and creditor rights and considerations for restructuring composed of themes covering the main elements of insolvency.

The objective of the training was to provide judges of the ECSC with the opportunity to gain intermediate information on best practices in insolvency, including in relation to business restructuring and liquidation, they were updated on elements of international best practices, and to network and strengthen professional ties to gain a deeper understanding of countries' domestic insolvency regime. The program was delivered by leading international experts through a combination of presentations, discussions, group exercises, and case studies.

Training for Judicial Research Assistants - 1st to 2nd December 2021

During the period under review, the Judicial Research Assistants (JRAs) of the Eastern Caribbean Supreme Court Headquarters and of the High Courts of the Territory of the Virgin Islands, Antigua and Barbuda, Grenada and Saint Lucia received training on judgment writing, headnoting, preparation of digests and transcripts.

The two-day workshop was held virtually. The training was facilitated by Her Ladyship, the Hon. Dame Janice M. Pereira, DBE, LL.D, Chief Justice; His Lordship, the Hon. Justice Paul Webster, Justice of Appeal, and Mrs. Michelle John-Theobalds, Chief Registrar, ECSC.

The participants comprised newly appointed and experienced JRAs. The focus of the training was to improve the quality and accuracy of court documents. To achieve this, participants were heavily engaged in practical exercises over the two days. Emphasis was placed on the essentials of good judgment writing, proper vetting of digests, and utilising quality control mechanisms to produce court documents which reflect a true and complete record of court proceedings. The participants described the capacity development training as enlightening and timely. Participants also commented that with the guidance of the Hon. Chief Justice and Hon. Justice of Appeal Webster, the training ultimately sharpened their writing skills. The training was conducted as part of the JEI's continuing education programme.

Audio Recording Workshop – 19th to 22nd and 25th to 28th April 2022



Her Ladyship, The Hon. Dame Janice M. Pereira, DBE, Chief Justice and Her Ladyship, The Hon. Justice Gertel Thom, Justice of Appeal and Chair ECSC Judicial Education Institute, other Judicial Officers, Trainers and Participants of cohort 1 of the digital audio recording training.

St. Lucia Cohort April 19 – 22, 2022

In recognition of the importance of proper recording of court proceedings, the ECSC through the JEI hosted training sessions on digital audio recording of court proceedings for judicial officers, court clerks and bailiffs. The in-person training was carried out in two cohorts covering both theory and practical exercises. Cohort one was held in Saint Lucia from 19th – 22nd April 2022. Judges and the court staff members from the Member States of Grenada, Saint Vincent and the Grenadines, and Saint Lucia who operate the Liberty Audio Recording equipment were trained in Saint Lucia. The second cohort was held in Antigua and Barbuda from 25th – 28th April 2022. Judges and the court staff

from the Member States of Antigua and Barbuda, the Commonwealth of Dominica, Saint Kitts and Nevis, and the Territories of Anguilla, Montserrat, and the Virgin Islands participated in cohort two.

The training on digital audio recording of court proceedings was facilitated by the Hon. Karen Cassidy, retired Assignment Judge of the Superior Court of Union County, New Jersey, now of Counsel to Bramnick, Rodriguez, Grabas, Arnold and Mangan in Scotch Plains, New Jersey along with Mr. Collins Ijoma, retired Trial Court Administrator for the Superior Court of Newark, New Jersey, and Mr. Jeffrey Newman, CEO of Newman Sage Consulting.

Throughout the training programme, the facilitators used video messages, highlighted best practices, and used scenes from court related movies to engage the participants. The training allowed the participants to share their experiences using the recording system. In addition, they were given helpful guidance on how to overcome challenges using the system. During the practical sessions, a mock court was set up with a judge, litigant, attorney, bailiff and recording clerk. The focus was to allow the recording clerk to effectively capture and tag key points in the hearing, to facilitate easy retrieval and playback. The use of audio recording in the administration of justice seeks to reduce the time taken for each trial. It will also allow trials to be conducted at normal conversational pace. In addition, audio recording will assist in eliminating the practice of taking handwritten notes.

The training served as a refresher for the more senior judges and court staff. Recently appointed judges and clerks found that the content was relevant to their tasks and had the opportunity to observe the methods used by their counterparts to overcome technological challenges. This training was sponsored by the Canadian funded Judicial Reform and Institutional Strengthening (JURIST) Project which is working with judiciaries in the region to support their efforts to improve court administration and strengthen the ability of the courts and the judiciary to resolve cases efficiently and fairly.

Antigua Cohort April 25 – 28, 2022



Participants at the Digital Court Reporting training in Antigua and Barbuda

During the period under review, judicial officers of the ECSC also participated in other short virtual training programmes including:

- The Caribbean Association of Judicial Officers (CAJO) Webinar - Social Media and Caribbean Courts: Risk or Opportunity? - Thursday, 18th November 2021.
- The Caribbean Association of Judicial Officers (CAJO) Webinar - The Future of Caribbean Courts: A Service or a Place? - Friday 29th October 2021.
- National Centre for State Courts (NCSC) Judicial KIT - Judicial Wellness and Resilience Wednesday, 15th December 2021.

JEI: Conclusion

The JEI extends sincere gratitude to its partners such as the JURIST Project, UNDP, the NCSC, CAJO, and the Governments of the OECS, for their unwavering support and looks forward to future collaborations with the aim of improving the efficiency of the justice sector in the Eastern Caribbean.

Legal Internship Programme





Legal Internship Reflection

IYKA DORIVAL

Tuesday the 12th day of April 2022 is one etched in my memory. On that day, I received word that among numerous stellar applicants emanating from the region's three law schools, I secured one of two distinguished places as a Legal Intern at the Eastern Caribbean Supreme Court. I dreamt about this opportunity long before my admission to the Norman Manley Law School and I was now living in an answered prayer.


Initially, the internship was set to take place virtually due to the effects of the COVID-19 pandemic. However, I was pleasantly surprised and excited when we were informed that we would be able to undertake this experience in-person at the Eastern Caribbean Supreme Court Headquarters in Saint Lucia. My colleague and I opted to participate

in a hybrid modality having our first three weeks conducted virtually, and the remaining seven weeks in Saint Lucia. We are privileged to be the court's first group of interns to participate this way.

I was thrown into the deep end for my first task. I had to attend a Court of Appeal sitting for Saint Lucia and help with the preparation of digests in real time. Throughout the internship, this task proved to be most challenging for me as it required me to act quickly on my feet and methodically in my approach in order to prepare accurate summaries of cases as they were being heard. However, it would be remiss of me if I omitted to mention the assistance I received from the Judicial Research Assistants who were sources of invaluable support throughout the internship. They truly addressed all queries and were patient in providing guidance on assigned tasks.

Vetting judgments proved to be my favourite assignment as it provided me with a deeper appreciation for the importance of being detailed oriented and having a sharp eye for the most minute of inconsistencies. However, the most interesting project I received involved writing a legal opinion on the juridical status of the Nevis Island Administration in the Federation of Saint Kitts and Nevis. Conducting research for this task enabled me to gain an appreciation of the similarities and differences in the laws of other Caribbean countries as a comparative analysis was necessary to capture the judgment fulsomely. It was also fulfilling as I





knew that the research from this opinion assisted the judges of the Court of Appeal in arriving at a ground-breaking judgment which significantly altered the *modus operandi* in Nevis. The sense of pride I experienced when I realised that we had contributed to changing precedent in the region was unmatched.

We were also assigned tasks such as drafting orders for Status Hearings and Hearings in Chambers, as well as researching the procedure for initiating matters in the Magistrates' Courts of each Member State. However, work assignments apart, the internship at the ECSC enabled me to network with an amazing team of individuals at the Court. The staff was welcoming, and they adopted us into the work family from our first day in the office. We were exposed to Saint Lucian culture and were accompanied on our many exploits around the island.

All in all, this experience was edifying and fruitful. I gained insight on a range of legal matters across multiple territories, which gave me specialised knowledge on the idiosyncrasies of each Member State. I was also able to learn from and analyse the reasoning of some of the region's most acclaimed attorneys, and distinguished judges while fully immersing myself in the court's processes. I am appreciative of the opportunity to have been chosen for such an amazing experience, and I extend commendations to the Court for providing such an opportunity to budding attorneys so that they may hone their legal repertoire in such practical ways.



JESSICA ZOUETR

When I first heard about the Eastern Caribbean Supreme Court's Legal Internship, I knew I had to apply. Past interns constantly encouraged me to apply and told me that the experience is like no other, and they were right. When the internship was advertised, I applied instantly. After receiving an invitation to be interviewed the nerves kicked in. I really was not sure how to prepare for the interview. I thought I lost my shot at being selected for the internship when the Executive Legal Assistant to the Chief Justice, Mr. Stephen Corrington, asked me who the Chief Justice is and the nerves got the better of me, my brain went blank and I responded, "I really cannot remember her name at this moment, but I do know that it is a very long name that takes up almost two whole lines". A few days later, I received a call being asked if I would be willing to travel to Saint Lucia if chosen, as the internship was initially advertised as a virtual internship. I was so excited at the thought of being able to do the internship in person, at the Eastern Caribbean Supreme Court Headquarters.

The first three weeks of the internship were conducted virtually. My fellow intern and I were the 'guinea pigs' of this online mode, as the legal internship was paused due to Covid-19. I genuinely appreciated the court's approach to ensuring that we were well equipped to complete tasks assigned to us throughout the 10-week period. This preparation was done via a week of training and virtual introductions to various members of the staff. This definitely made transitioning from student to legal intern at the Eastern Caribbean Supreme Court much smoother. We learned how to vet and headnote judgments, prepare draft Chamber hearing orders, Status Hearing orders and digests for Court of Appeal sittings.

The first three weeks flew by very quickly and before I knew it, it was my first day walking into the second floor of the Heraldine Rock Building, Waterfront, Castries. I was more nervous than I had ever been. I questioned whether I would fit in well in the office environment and whether I would be able to complete tasks assigned to me to a high standard. However, all these nerves and doubts left as soon as I started to interact with the staff and realized how willing they all were to answer any questions and noticed their genuine interest in ensuring that my fellow intern and I were very comfortable.

While interning at the court, I was so amazed at the exposure to the different jurisprudences of the OECS countries. I was most grateful for being able to sit in on Court of Appeal matters for several OECS territories, which not many law students can say they have had the privilege of experiencing. I was exposed to the entire process of the appellant court, from status hearings to the appeal hearings. I also drafted digests for these matters, draft orders for status hearings, and vetted and edited judgments. I was also given the opportunity to research and give my opinion on what the correct decision would be for some chamber hearing matters. Being asked to give an explanation as to why I opined something was the most exciting part, as I explained what I found through research and how it led to my various conclusions. I did research for a very interesting judgment involving the Nevis Island Administration, and it was such a fulfilling feeling seeing my research underlying the official judgment.



One thing for certain, this internship was not just about work. The staff ensured that my fellow intern and I got the full Saint Lucian experience, from sight-seeing in Soufriere to “feteing” to Dennerly music in Micoud. At the start of physical component of the internship the highly debated question was “who is the biggest limer in the office?” I can say with certainty that my fellow intern and I were able to answer that question before we left. (*cough* Andy *cough*) It would be remiss of me not to mention my favourite Lucian food spot, ‘Glamity’. Their barbequed chicken and pork are to die for.

Overall, this internship was the best experience in my life thus far. I must commend the Eastern Caribbean Supreme Court for this initiative and all that they did to ensure that we were able to experience it this year. It is definitely an edifying experience and I have gained a plethora of knowledge which I intend to build upon and utilize to further the Caribbean’s jurisprudence on a whole.

Supporting the Court



The Human Resource Department

The Human Resource Department is a strategic partner in supporting the Eastern Caribbean Supreme Court’s overall mission and is committed to developing and administering comprehensive programs grounded in attracting, retaining and supporting a talented work force.



PERSONNEL ADMINISTRATION	RECRUITMENT SELECTION INDUCTION	SUCCESSION AND CAREER PLANNING
WORKFORCE PLANNING	TRAINING AND DEVELOPMENT	PERFORMANCE MANAGEMENT



CONTINUATION OF COVID GUIDANCE TO ALL STAFF

The COVID-19 epidemic proved to be a very extremely active year for many organisations. The HRD of the Eastern Caribbean Supreme Court continued to take proactive steps in maintaining a safe workplace with little interruption in the operations of the court. During this period, we were able to boast a 90% vaccination rate of employees. In addition, Employees remained regularly informed of safety protocols and other criteria imposed by the World Health Organisation and our local agencies. Employees fully returned to in office work in September 2022.

BREAST CANCER AWARENESS

Every October, the Human Resource Department, in collaboration with the Ministry of Health Saint Lucia, raises awareness for Breast Cancer Month.

Our sensitisation efforts included a staff event “Pink Fridays,” where employees were encouraged to dress in various shades of pink to represent Breast Cancer. Breast cancer is just as prevalent as it is devastating. In 2022, we rallied as a team to assist one of our employees in her fight against this disease. We intend to continue increasing awareness within the organisation about healthy lifestyle campaigns as part of our calendar of events.

EMPLOYEE RECOGNITION

The Court of Appeal Registry welcomed four new staff members promoted within and to the department.

Stephine Narcisse-Lionel was promoted from Case Manager to Judicial Research Officer. Sheron Baptiste - promoted from Case Manager I to Case Manager II

Abigail Lansiquot- Promoted from Receptionist to Case Manager I and Baldwin Paul - Promoted from Office Assistant/Driver to Case Manager I

RECRUITMENT

The COVID-19 outbreak accelerated a need to optimise remote onboarding and recruitment for new hires. This created a positive outcome for new employees. The HR department intends to further incorporate technology in our onboarding experience.

NEW HIRES

Marcellina St. Edward-Preville- Financial Controller

K-Wani Roberts- Judicial Research Assistant

Jovelle Lewis - Judicial Research Assistant

Amanda De-Freitas - Judicial Research Assistant

Michelle D'Auvergne - Judicial Research Assistant

INTERNSHIP

In 2021, Amid the covid 19 pandemic, the ECSC continued a blended approach with the ECSC Legal Internship program for ten weeks. Ms Lyka Dorival from the Commonwealth of Dominica and Ms Jessica Zouetr from Antigua and Barbuda participated in the programme. They are current year one students from the Norman Manley Law school in Jamaica.



HR INTRANET PORTAL

The HR Department continues to collaborate with the Website Administrator to develop an HR Portal for all staff members. It is hoped that this portal would provide all employees a central location to gather all relevant HR Information, updates, engagement, and policy guidelines.

ECSC PENSION PLAN

The HR Department and the Bank of Saint Lucia are currently finalising the ECSC employee pension plan. The ECSC pension plan is for the exclusive benefit of participants and their beneficiaries.

HR INTRANET PORTAL

EMPLOYEE
ENGAGEMENT

PEOPLE MANAGEMENT

RECRUITMENT

CAREER DEVELOPMENT

TRAINING

““ I found the virtual onboarding by the Human Resources Department on my arrival to be informative and very welcoming. Any questions I had were addressed and I believe it facilitated a smooth transition despite the on- going pandemic.”

Ms. Jovelle Lewis- Judicial Research Assistant



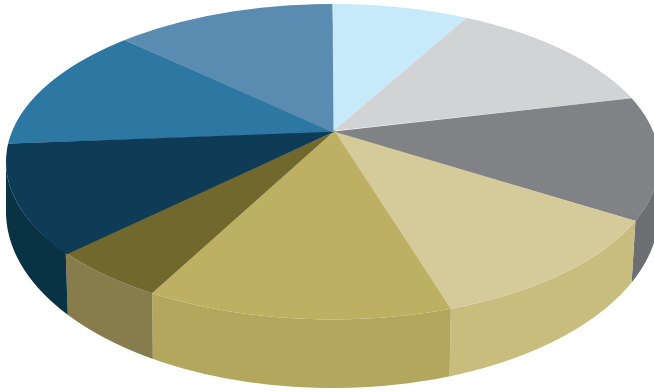


Our Financial Resources

FUNDING OF THE EASTERN CARIBBEAN SUPREME COURT

The Eastern Caribbean Supreme Court (ECSC) is funded 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 include the number of resident judges and number of Court of Appeal sittings which are scheduled for each Member State and Territory. The percentage contributions which is presently in effect for the Member States and Territories 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
Saint Vincent & the Grenadines	13

BUDGET PREPARATION

The Court’s Financial Year runs from 1st September to 31st August. 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 Financial Controller utilising historical data and information provided by the Department Heads at the ECSC Headquarters based on their respective departmental 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 Authority 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 by the OECFS Heads of Government (the Authority).

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. These contributions are due on 1st September of each calendar year. The Court has been flexible in accepting contributions and the option is available for Member States and Territories 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 2020/2021	Presented Budget 2021/2022	Percentage Increase / (Decrease)
Personal Emoluments	13,319,397	13,510,190	1.43%
Administrative Expenses	2,869,266	2,353,280	-17.98%
Capital Expenditure	130,050	130,050	0.00%
Judicial Education	250,590	250,590	0.00%
Judicial and Legal Services Commission	120,328	120,328	0.00%
Total	16,689,631	16,364,438	-1.95%



The ECSC presented a budget with an overall reduction of 1.95% for the period 2021/2022. This budget was designed to continue to provide the Court with the judicial and staff resources to perform its mandate whilst operating in an economic environment adversely affected by the COVID-19 pandemic.

The reduced budget for 2021/2022 was primarily due to the following:

- Reduction in travel costs for the Judiciary and the Staff of the ECSC.
- Reduction in Judicial Education Institute (JEI) training programs.
- Reduction in the scope of the Human Resources training and development programs.
- Reduction in Administrative costs associated with professional and consultancy services.

DONOR FUNDING

The ECSC received some funding support from the Judicial Reform and Institutional Strengthening (JURIST) Project with one of the significant items being training for Judges and Courtroom Clerks in the use of the Liberty Digital Audio Recording System for the recording of court proceedings. This was conducted in two cohorts with one being held in Saint Lucia from 19th to 22nd April 2022 and the second in Antigua & Barbuda from 25th to 28th April 2022. This was the first face-to-face training program which the JEI coordinated for the Judges of the ECSC since the onset of the pandemic.

The JURIST Project has also funded a Public Education Mediation Campaign for 2021/2022.

The IMPACT Justice Project has also continued to provide support to the ECSC over the period under review in various areas including aiding with the formatting and drafting of the revised Civil Procedure Rules.

Also, during the period under review, the United Nations Children's Fund (UNICEF) contributed to the official opening of the Family Division of the Court in Antigua & Barbuda. This contribution was for the provision of the furniture and equipment to support the opening of the Division in July 2022.

TIMELY FUNDING

We continue to be challenged by the untimely receipt of cash contributions from some Member States and Territories (MSTs) and the effects of the COVID-19 pandemic has only exacerbated the situation. During the year we also noted an improvement in the Contributions from those MSTs who regularly contribute to the Court. We will continue to work with and urge the different MSTs to put a plan in place to address the payment of any arrears of contributions which they may have. We hope that as we move into the next financial year, we will witness 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.



Our Information Resources

RECORDS MANAGEMENT UNIT

During this review period the Records Management Unit [RMU] encountered a few challenges with space constraints. Management of the court's records continued despite these shortcomings.

CORRESPONDENCE MANAGEMENT

During the pandemic, court staff and many stakeholders worked from home. The Post Office also had its challenges with shipping and receiving mail. That led to a dramatic decrease in regular mail received. For this reason, during the period 2021 - 2022 a total of 382 pieces of regular mail was received compared to over 800, and 40 outgoing pieces compared to over 400 in the past period this is due to the fact that we are sending out most of our correspondences via electronic mail.

Thus far, there have been improvements with the web-based Correspondence Management Database. The Website Administrator has streamlined the application and continues to fix bugs whenever they pop up. This is still somewhat of a new database, and it will be some time before it's a near perfect system.

ACTIVE RECORDS MANAGEMENT

Active records management activities have restarted as we are back to our regular work program. To ensure that records are up to date fostering seamless business continuity, refining of the Vital Records program is an ongoing project that is needed at this time. A project to manage electronic records is coming along smoothly in the form of harvesting records from emails, to reduce unnecessary use of email space on our servers.

INACTIVE RECORDS MANAGEMENT

Due to insufficient shelves, regular accession of records has halted and boxes are now stacked on top of each other, creating quite a challenge for space and records retrieval.

New transfers to the Records Centre have also stopped and this has inevitably caused a space crisis at the headquarters.

During the period under review 2021 – 2022, 73 additional boxes were transferred to the RC in addition to the 302 transferred in the previous year. These boxes are still awaiting accession.

It is hoped that additional shelves and building space will be acquired in 2023. If this milestone is not achieved soon, the RMU will be unable to receive any more records in the near future.

LAW LIBRARY

The ECSC Law Library has continued to support the information and research needs of the Court by providing the Judicial Officers, Judicial Research Assistants (JRAs), and court staff with relevant publications and electronic databases and current information on legal topics. The library assisted with numerous enquiries ranging from requests for case-law reports, journal articles and legislation, to more detailed research, including some with an international element. The increase, we believe, was 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 research and photocopying. Once our Accounts department received payment, most external requests were emailed or packaged for contactless delivery.

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 many 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 for 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 internally and externally. The team also took advantage of our Caribbean and International networks to help satisfy requests for material that our collection could not find.

The Library Team continued to participate actively in the international and regional law library community and was represented at the 37th Conference/Annual General Meeting of the Caribbean Association of Law Libraries (CARALL), convened digitally via Zoom in August 2022. In addition, the Information Services Manager and Information Services Officer ably represented the ECSC.



Information Technology

ECSC E-LITIGATION PORTAL

Following the last go-live of the Portal, for filing and management of all Civil (inclusive of Commercial) and Appeal matters, in St. Vincent and the Grenadines, focus has been placed on implementation of the Family Module for Magistrates Courts and Family Courts/Divisions in Member States and Territories (MSTs). This module has finally been configured by CrimsonLogic, and demonstration of the system is being planned initially for users of the first three MSTs that have been selected for implementation.

MEMBER STATES AND TERRITORIES (MSTS)

Territories of the Virgin Islands (TVI)

Antigua & Barbuda and Saint Lucia. Implementation of the E-Litigation Portal for the filing and management of Family Matters will be undertaken with the above-mentioned MSTS during the latter part of 2022. Implementation of the ELP within the remaining six MSTS is expected to be completed by July 2023.

Configuration of the Criminal Module for Magistrates and High Courts in the MSTS is progressing, and the plan remains for implementation of that Module in the first MST by early 2023.



Honourable Chief Justice, Dame Janice M. Periera (in the background) following the hands-on use of the Liberty Digital Recording System on the LCD Project screen by Justice Raulston Glasgow and a Clerk from the Grenada High Court.



Consultancy Team from Ijoma Consulting & Associates presenting at the Digital Court Reporting Workshop session in Saint Lucia, April 2022



Section of the Digital Court Reporting Training, Antigua & Barbuda, April 2022

TRAINING IN DIGITAL COURT REPORTING

During April 2022, the JEI along with the IT Department hosted a **Digital Court Reporting Training** for High Court Judges and Masters and Court Clerks of the OECS Sub-region. The training workshop series was sponsored by the JURIST Project and was held over a two-week period. Over sixty participants were trained in various aspects of Digital Court technology including the following:

1. The Courtroom – Why do Courts turn to Digital Recording?
2. Review of the Liberty Digital Court Recording Software
3. Review of the ECSC Court Recording User Manual
4. Time Stamping and Annotations
5. Audio Duplications
6. Judicial Notetaking

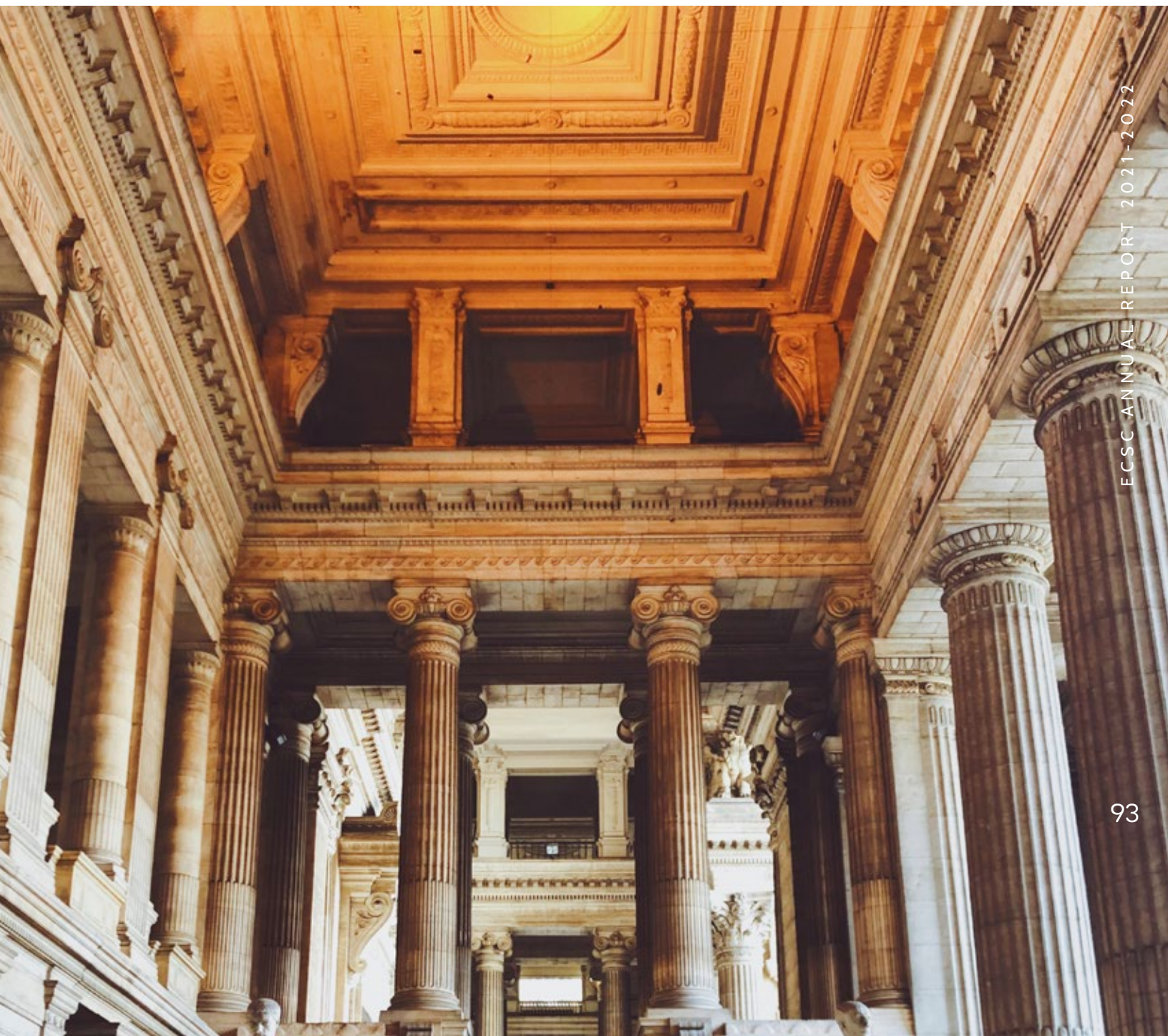
7. Digital Twist in a Pandemic environment
8. Virtual or Remote Hearing
9. Admissibility of Electronic Evidence in Court Proceedings
10. Extensive hands-on use of Liberty Digital Court Recording software via Mock

COURT SCENARIOS

The training focused on pairing Judges and Court Clerks during mock hearings, as practice sessions, involving the use of the Liberty Digital Court Recording system. Activities provided opportunities for Clerks and judges to use several features of the system including: (i) text substitutions, (ii) annotations, (iii) merging of Judges Liberty Notes with copies of recordings of court proceedings, (iv) confidence monitoring, (v) playbacks, (vi) testing of mics before commencement of court, etc.

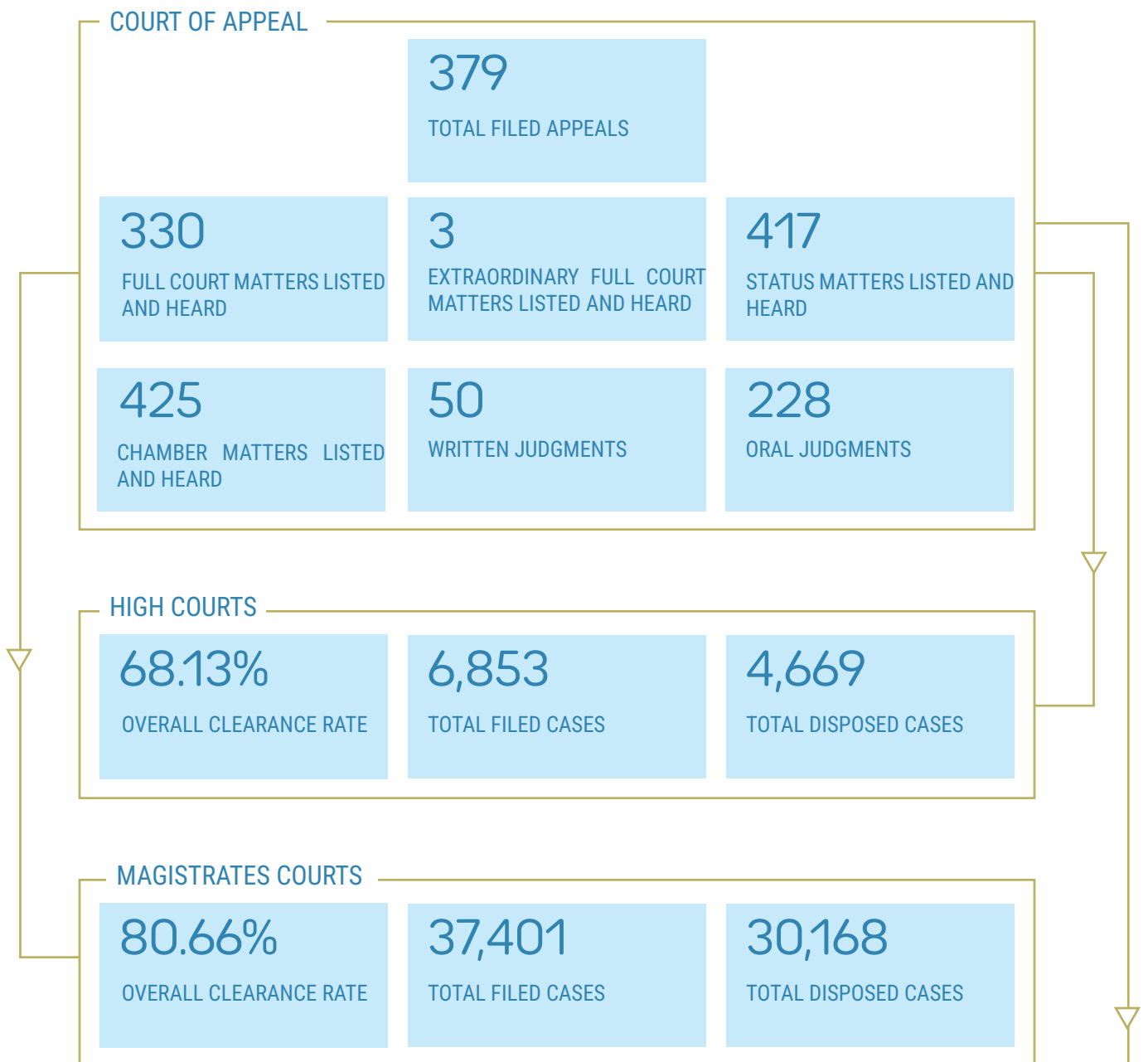
The Training lead to the development of several recommendations one of which involved the need for use of Digital Clocks, linked to the Liberty System, as a visual indicator of when the Court is “on and off the record.”

Court Performance



The flowchart below gives a snapshot of the caseload of the Court of Appeal, High Courts, Magistrates Courts and Family Courts in the OECS during the year 2021. This is followed by an analysis of case flow within these Courts in 2021 including comparisons with previous years in some instances.

Court Performance at a Glance



FAMILY COURTS

83.28%

SVG CLEARANCE RATE

1,926

SVG TOTAL FILED CASES

1,604

SVG TOTAL DISPOSED CASES:

78.79%

SLU CLEARANCE RATE

429

SLU TOTAL FILED CASES:

338

SLU TOTAL DISPOSED CASES:

Section 1: Court of Appeal

There were 379 appeals filed in total in the High Courts and Magistrates Courts during the year 2021 as listed below:

- 176 High Court Civil Appeals
- 61 High Court Criminal Appeals
- 53 High Court Commercial Appeals
- 0 Industrial Court/Labor Tribunal Appeals
- 36 Magisterial Civil Appeals
- 53 Magisterial Criminal Appeals

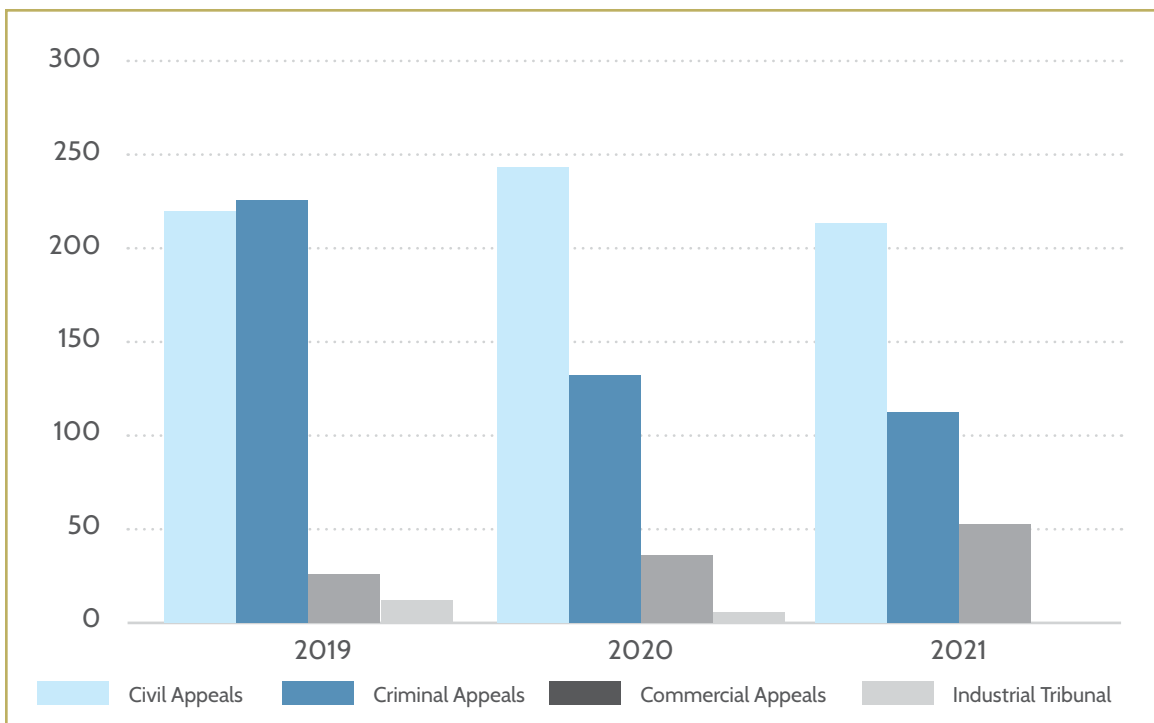
Table 1 (a) highlights total filed appeals by case type from 2019 to 2021. Total filed appeals declined over these three years, which may to some extent be attributed to the effects of the COVID- 19 pandemic on the Court system.

In 2021, Civil and Criminal appeals represented 55.94% and 30.08% respectively of total filed appeals. From 2019 to 2021, Civil appeals were on average 60.11% of total appeals filed in the High Courts and Criminal appeals were on average 67.85% of total appeals filed in the Magistrates Courts. More detailed information on appeals filed in 2021 is given in Tables 1(b) to 1 (g).

TABLE 1 (A) TOTAL APPEALS FILED BY CASE TYPE, 2019 TO 2021

Type of Appeal	2019			2020			2021		
	High Court	Magistrates Court	Total	High Court	Magistrates Court	Total	High Court	Magistrates Court	Total
Civil Appeals	186	34	220	203	39	242	176	36	212
Criminal Appeals	106	117	223	72	60	132	61	53	114
Commercial Appeals	26		26	37		37	53		53
Industrial/Labor	12		12	8		8	0		0
Total	330	151	481	320	99	419	290	89	379

FIGURE 1: TOTAL APPEALS FILED BY CASE TYPE, 2019 TO 2021



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: 2019 to 2021.

1(B) HIGH COURT CIVIL APPEAL CASES FILED FROM 2019 TO 2021

High Court Civil Appeal Cases Filed	2019	2020	2021
Anguilla	6	21	11
Antigua and Barbuda	24	42	27
Commonwealth of Dominica	6	13	13
Grenada	27	22	42
Montserrat	17	21	12
Saint Lucia	28	28	17
Saint Vincent and the Grenadines	23	19	15
St. Kitts and Nevis	50	37	29
Territory of the Virgin Islands	5	0	10
Total	186	203	176

1(C) HIGH COURT CRIMINAL APPEAL CASES FILED FROM 2019 TO 2021

High Court Criminal Appeal Cases Filed	2019	2020	2021
Anguilla	2	0	0
Antigua and Barbuda	16	13	12
Commonwealth of Dominica	4	0	2
Grenada	30	21	17
Montserrat	4	3	4
Saint Lucia	5	5	7
Saint Vincent and the Grenadines	31	17	11
St. Kitts and Nevis	12	9	8
Territory of the Virgin Islands	2	4	0
Total	106	72	61

1(D) HIGH COURT COMMERCIAL APPEAL CASES FILED FROM 2019 TO 2021

High Court Commercial Appeal Cases Filed	2019	2020	2021
Territory of the Virgin Islands	20	32	48
Saint Lucia	6	5	5
Total	26	37	53

1(E) HIGH COURT INDUSTRIAL/LABOR APPEAL CASES FILED FROM 2019 TO 2021

High Court Industrial/Labor Appeal Cases Filed	2019	2020	2021
Antigua and Barbuda (Labor Tribunal)	8	8	0
Montserrat	4	0	0
Total	12	8	0

1(F) MAGISTERIAL COURT CIVIL APPEAL CASES FILED FROM 2019 TO 2021

Magisterial Court Civil Appeal Cases Filed	2019	2020	2021
Anguilla	0	0	0
Antigua and Barbuda	5	10	6
Commonwealth of Dominica	7	3	3
Grenada	3	0	0
Montserrat	0	5	2
Saint Lucia	2	2	4
Saint Vincent and the Grenadines	10	10	8
St. Kitts and Nevis	7	9	13
Territory of the Virgin Islands	0	0	0
Total	34	39	36

1(G) MAGISTERIAL COURT CRIMINAL APPEAL CASES FILED FROM 2019 TO 2021

Magisterial Court Criminal Appeal Cases Filed	2019	2020	2021
Anguilla	0	0	1
Antigua and Barbuda	4	5	4
Commonwealth of Dominica	18	6	14
Grenada	21	9	8
Montserrat	7	3	4
Saint Lucia	6	3	2
Saint Vincent and the Grenadines	47	20	13
St. Kitts and Nevis	11	3	3
Territory of the Virgin Islands	3	11	4
Total	117	60	53

There were 50 written judgments delivered by the Full Court in 2021. These written judgments included oral judgments reduced to writing and reasons for decisions. The total number of written judgments fluctuated over the years 2019 to 2021 as observed in Table 1(h).

TABLE 1(H): WRITTEN JUDGMENTS DELIVERED BY THE COURT OF APPEAL BY MEMBER STATE, 2019 TO 2021

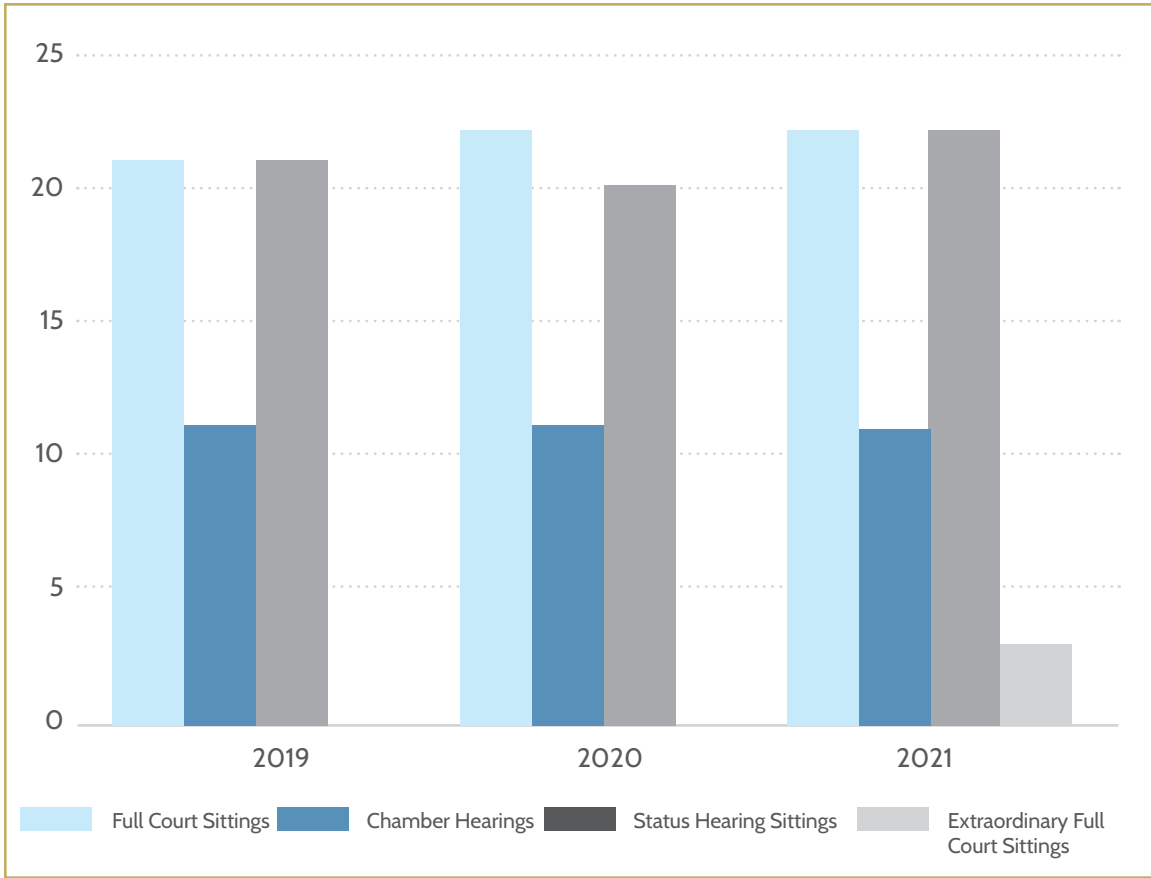
Total Written Judgments Delivered (including oral judgments reduced to writing and reasons for decisions)						
Member States	2019 Total	2019 (%)	2020 Total	2020 (%)	2021 Total	2021 (%)
Anguilla	4	7.27	4	6.06	2	4.00
Antigua and Barbuda	12	21.82	11	16.67	8	16.00
Commonwealth of Dominica	1	1.82	5	7.58	2	4.00
Grenada	3	5.45	2	3.03	4	8.00
Montserrat	2	3.64	6	9.09	3	6.00
Saint Lucia	15	27.27	12	18.18	5	10.00
Saint Vincent and the Grenadines	1	1.82	1	1.52	4	8.00
St. Kitts and Nevis	2	3.64	7	10.61	3	6.00
Territory of the Virgin Islands	15	27.27	18	27.27	19	38.00
Total	55	100.00	66	100.00	50	100.00

The various Court of Appeal sittings which occurred from 2019 to 2021 are shown in Table 1(i) below. In 2021, all Full Court, Extraordinary Full Court and Status Hearings were heard virtually. Chamber Hearings were done on paper. From 2019, the sittings for the Full Court and Status Hearings were held separately with the Status Hearings being conducted by the Chief Registrar. Full Court Sittings are sittings scheduled in advance for any calendar year for the Member States and Territories but the Extraordinary sittings are extra full court sittings scheduled as necessary during non-sit weeks. In 2021, there were 3 extraordinary full court sittings held.

TABLE 1 (I) ACTIVITIES OF THE COURT OF APPEAL: 2019 TO 2021

Activity	2019	2020	2021
Full Court Sittings	21	22	22
Extraordinary Full court sittings			3
Status Hearing sittings	21	20	22
Chamber Hearings	11	11	11

FIGURE 2: ACTIVITIES OF THE COURT OF APPEAL, 2019 TO 2021



The numbers of appeal matters dealt with during Chamber Hearings over the past 3 years are shown in Table 1 (j) below.

TABLE 1 (J) APPEAL MATTERS HEARD DURING CHAMBER HEARINGS, 2019 TO 2021

Year	2019		2020		2021	
	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	11	456	11	437	11	425

Table 1(k) lists the total numbers of appeal matters (applications and appeals) listed and heard for the year 2021. The matters heard during the Court sittings have outcomes which can be categorized as: oral judgments/decisions, directions, reserved decisions and adjournments. Adjournments are included in matters heard. In 2021 all listed matters were heard. There were, however, instances where matters were delisted or removed from the list prior to the actual sittings.

The numbers of appeals heard do not directly correlate with appeals filed [Tables 1(a) to 1(g)] since appeals filed from previous years could have been heard during 2021 and not all appeals filed in 2021 were necessarily listed for hearing.

Table 1(k) indicates that in 2021, for all court sittings combined, there were 1,175 matters which were listed and heard apart from judgments which were shown previously in Table 1 (h). Thirty-three (33) of the High Court Civil Appeals listed and heard during Full Court sittings were Commercial cases.

TABLE 1 (K): NUMBERS OF APPLICATIONS AND APPEALS LISTED AND HEARD DURING 2021

Type of Matter	Matters Listed 2021	Matters Heard 2021 (including adjournments)
Full Court Sittings		
Applications/Motions	108	108
High Court Civil Appeals	128	128
High Court Criminal Appeals	32	32
Magisterial Civil Appeals	14	14
Magisterial Criminal Appeals	45	45
Labor Tribunal Appeals	3	3

Total for Full Court Sittings	330	330
Extraordinary Full Court Sittings		
Applications/Motions	1	1
High Court Civil Appeals	2	2
Total Extraordinary Full Court Sittings	3	3
Status Hearings		
High Court Civil Appeals	155	155
High Court Criminal Appeals	114	114
Magisterial Civil Appeals	70	70
Magisterial Criminal Appeals	76	76
Labor Tribunal Appeals	2	2
Total for Status Hearings	417	417
Chamber Hearings		
Total for all Chamber matters	425	425
Total for all Sittings	1,175	1,175

The flow of appeal matters in relation to matters listed and heard as well as the outcomes, is shown in Figure 3. The outcomes in the last tiers in red font indicate those which reflect dispositions. It must be noted that Status Hearings are geared more towards determining the status of matters which at the time have not progressed to the stage of hearing and hence not many matters are disposed during these hearings.

FIGURE 3: APPEAL MATTERS HEARD AND DISPOSED OF DURING ALL SITTINGS IN 2021

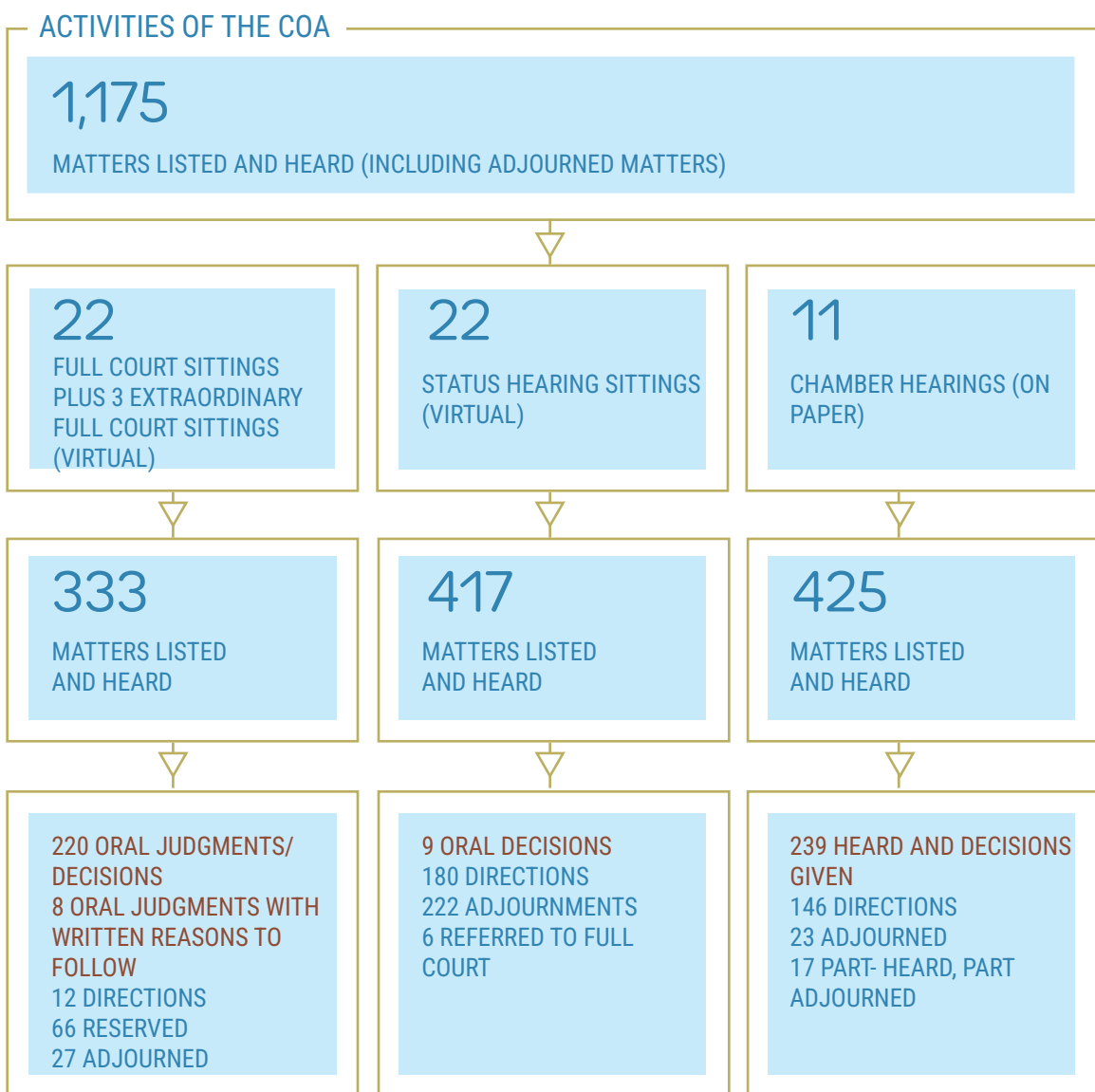


TABLE 1 (L) OUTCOMES OF APPEAL MATTERS HEARD BY THE FULL COURT; GIVEN BY CATEGORY APPLICATION OR APPEAL

Full Court Sitings	Appeals	Applications	Total
Oral judgments /decisions	133	84	217
Oral judgments/decisions written reasons to follow	7	1	8
Directions	5	7	12
Reserved	58	8	66
Adjourned	19	8	27
Total	222	108	330
Extraordinary Full Court Sitings			
Oral judgments/decisions	2	1	3
TOTAL	224	109	333

Oral judgments and decisions [Figure 3 and Table 1 (l)] and written judgments [Table 1(h)] are compared in the Table following. Oral judgments and decisions were 82% of the decisions delivered by the Court of Appeal in 2021.

TABLE 1 (M) COMPARISON BETWEEN ORAL JUDGMENTS/DECISIONS AND WRITTEN JUDGMENTS DELIVERED BY THE COURT OF APPEAL, 2021 FOR FULL COURT SITTINGS

Year	2021	2021 (%)
Number of written judgments	50	17.99
Number of oral judgments/decisions	228	82.01
Total Decisions delivered	278	100.00

Section 2: High Courts

This section highlights the caseload and the performance of the High Courts, to the extent that the data is available, in 2021. Despite the continued COVID 19 challenges during 2021, the E Litigation portal allowed remote filing of cases and virtual hearings facilitated Court sittings. There was a continuous improvement in the clearance rate of cases from 2019 to 2021, but particularly, the increase from 59.36% in 2020 to 68.13% in 2021 is noteworthy.

TABLE 2 (A) COMPARISON OF CLEARANCE RATES IN THE HIGH COURTS: 2019 TO 2021

Country	2019			2020			2021		
	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	159	108	67.92	154	63	40.91	166	121	72.89
A&B	1,396	953	68.27	981	473	48.22	1,015	716	70.54
Comm. Dominica	422	127	30.09	528	185	35.04	410	167	40.73
Grenada	1,463	435	29.73	1,350	416	30.81	1,151	453	39.36
Montserrat	123	115	93.50	101	38	37.62	87	50	57.47
SKN	738	323	43.77	653	146	22.36	703	462	65.72
Saint Lucia	1,618	1,480	91.47	1,654	1,742	105.32	1,899	1,489	78.41
SVG	631	394	62.44	595	541	90.92	518	477	92.08
TVI	900	449	49.89	776	428	55.15	904	734	81.19
TOTAL	7,450	4,384	58.85	6,792	4,032	59.36	6,853	4,669	68.13

Figures 4 and 5 depict the total numbers of filed and disposed cases from 2019 to 2021 as well as the clearance rates.

FIGURE 4: TOTAL FILED AND DISPOSED CASES IN THE HIGH COURTS: 2019 TO 2021

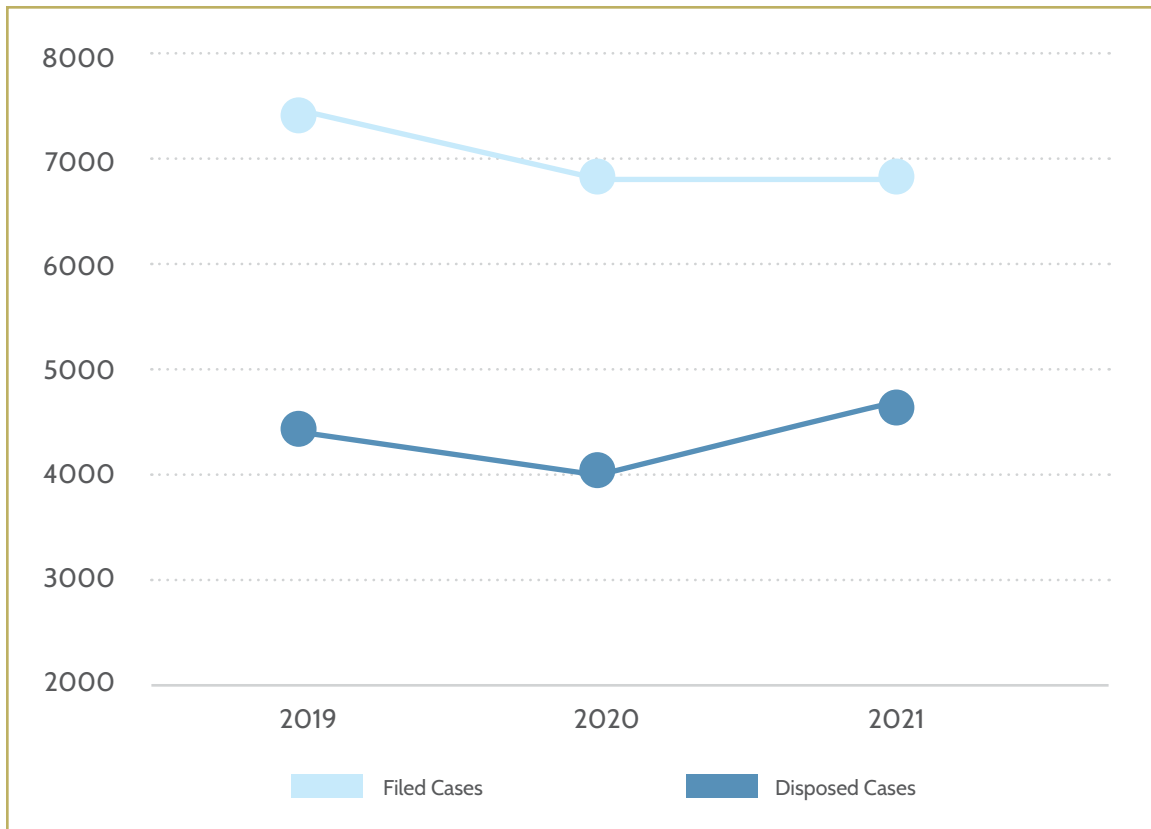
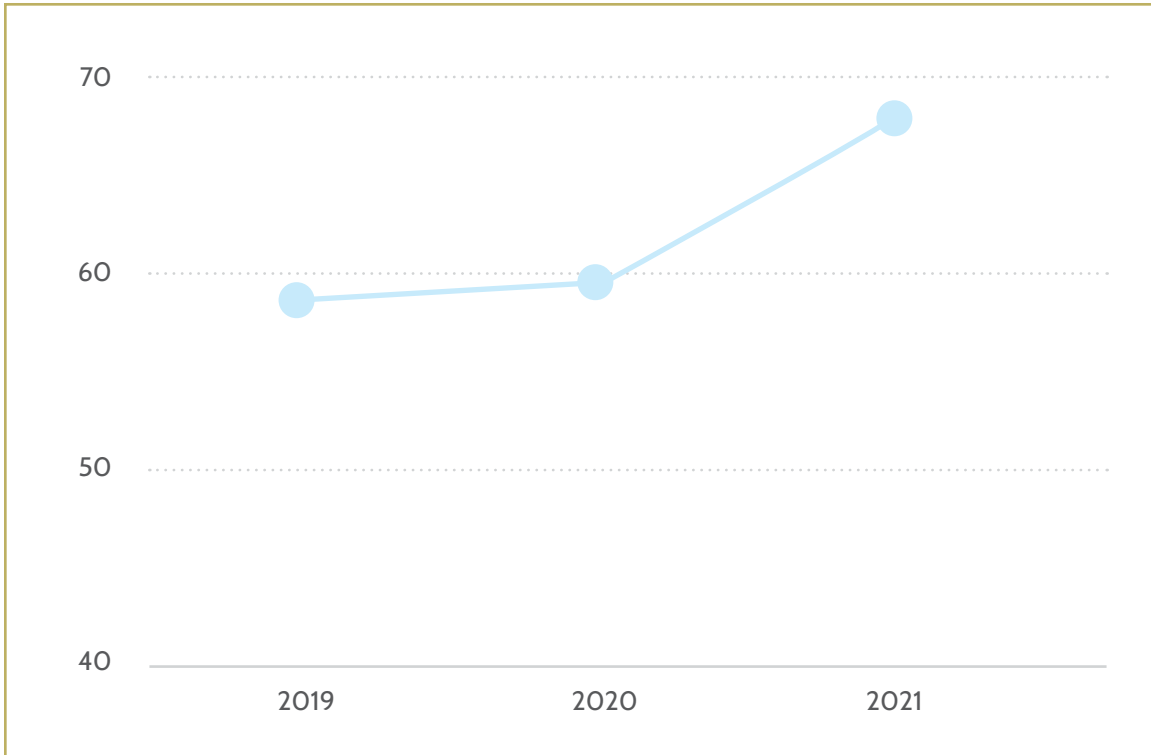


FIGURE 5: TOTAL CLEARANCE RATES (%) OF CASES IN THE HIGH COURTS: 2019 TO 2021



Data in Table 2(b) show that Civil and Probate cases were the more frequent case types in the High Courts and jointly were 67.68% of total filed cases and 61.92% of total disposed cases.

TABLE 2 (B) CASES FILED AND DISPOSED BY MAJOR CASE TYPE IN THE HIGH COURTS: 2021

Case Type	2021			
	Filed Cases	% of Total Filed Cases	Disposed Cases	% of Total Disposed Cases
Civil	2,843	41.49	1,505	32.23
Probate	1,795	26.19	1,386	29.69
Matrimonial	945	13.79	749	16.04
Criminal	892	13.02	727	15.57
Commercial	294	4.29	275	5.89
Adoption	56	0.82	25	0.54
Admiralty	12	0.18	2	0.04
Other	16	0.23	0	0.00
TOTAL	6,853	100.00	4,669	100.00

Table 2 (c) gives information on the numbers of filed cases by case type and jurisdiction. Some points are highlighted as follows:

- Saint Lucia High Court had the highest percentage share (27.71%) of total filed cases out of the nine jurisdictions
- A major 41.49% of total filed cases were Civil cases
- Saint Lucia recorded relatively high numbers of filed Criminal cases compared to other jurisdictions; however, this is likely to be because of the fact that a new case is created for every offence which a person is charged with instead of each case being linked to an incident where several charges are laid against the accused
- The 16 filed cases categorized as “Other” from Saint Lucia were Disciplinary cases for the Bar Association

TABLE 2 (C) CASES FILED IN THE HIGH COURTS BY CASE TYPE AND MEMBER STATE: 2021

Member States	2021									Country Total as a % of Total
	Admir.	Adopt.	Civil	Comm.	Crim.	Matri.	Probate	Other	Total	
Anguilla	1	2	64		14	44	41		166	2.42
Antigua and Barbuda	1	8	486		78	168	274		1,015	14.81
Comm. of Dominica		13	276		10	56	55		410	5.98
Grenada	7	11	535		59	186	353		1,151	16.80
Montserrat			36		15	6	30		87	1.27
St. Kitts and Nevis	1	3	388		25	127	159		703	10.26
Saint Lucia		17	512	60	605	215	474	16	1,899	27.71
Saint Vincent and the Grenadines	1		201		63	100	153		518	7.56
Territory of the Virgin Islands	1	2	345	234	23	43	256		904	13.19
TOTAL	12	56	2,843	294	892	945	1,795	16	6,853	100.00
Case Type as a % of Total	0.18	0.82	41.49	4.29	13.02	13.79	26.19	0.23	100.00	

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

Data on disposed cases by jurisdiction and case type are shown in Table 2(d). A few noteworthy observations are listed:

- Saint Lucia had the highest total number of disposed cases (31.89%)
- Civil and Probate cases together formed 61.92% of the disposed caseload
- Saint Lucia recorded high numbers of disposed Criminal cases compared to other jurisdictions. As indicated earlier for filed Criminal cases, this may be attributed to the fact that the Court Office records each offence as a separate case

TABLE 2 (D) CASES DISPOSED IN THE HIGH COURTS BY CASE TYPE AND MEMBER STATE: 2021

Member States	2021								Country Total as a % of Total
	Admir.	Adopt.	Civil	Comm.	Crim.	Matri.	Probate	Total	
Anguilla		1	28		12	24	56	121	2.59
Antigua and Barbuda	1	6	314		60	139	196	716	15.34
Comm. of Dominica		5	57		11	65	29	167	3.58
Grenada			91		83	217	62	453	9.70
Montserrat			24		19	7		50	1.07
St. Kitts and Nevis		1	192		15	90	164	462	9.90
Saint Lucia		12	432	46	458	125	416	1,489	31.89
SVG			131		58	58	230	477	10.22
TVI	1		236	229	11	24	233	734	15.72
TOTAL	2	25	1,505	275	727	749	1,386	4,669	100.00
Case Type as a % of Total	0.04	0.54	32.23	5.89	15.57	16.04	29.69	100.00	

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

As observed from data in Table 2 (e); Chamber Hearings, Case Management Conferences (including master’s Hearings) were the most common events in the High Courts in 2021. These represented 36.64% of total events in that year.

TABLE 2 (E) SUMMARY OF EVENTS IN THE HIGH COURTS: 2021

Types of Events	2021										
	Ang.	A&B	Comm. of Dom.	Gren.	Mont.	SKN	SLU	SVG	TVI	Total	% of Total
Chamber Hearing	193	499	243	726	2	359	1,279	843	799	4,943	18.66
Case Management Conference/ Masters Hearing/ Order on Case Management Conference	36	832	362	623	10	293	2,264	169	173	4,762	17.98
Open Court Hearing	37	209	357	23	352	169	532	159	506	2,344	8.85
Fixed Date Claim Form Hearing/First Hearing	8	230		812	149	29	471	227	149	2,075	7.83
Sufficiency Hearing					9		1,653			1,662	6.27
Application Without Hearing			22	7		7	1,123	1	117	1,277	4.82

Types of Events (cont.)	2021										
	Ang.	A&B	Comm. of Dom.	Gren.	Mont.	SKN	SLU	SVG	TVI	Total	% of Total
Status Hearing	4				100	14	987	65	22	1,192	4.50
Criminal Trial	15	11	4	14	10	10	1,032	58	9	1,163	4.39
Arraignment		2			11		907	42		962	3.63
Sentencing		3			11	16	729	25		784	2.96
Pre -Trial Review/ conference	6	46	24		177	25	308	90	16	692	2.61
Uncontested Divorce	48	173		8	5	106	280		8	628	2.37
Omnibus Conference/ Hearing							627			627	2.37
Judgment summons		429	136			21			20	606	2.29
Civil Trial	2	59	10	106	5	45	185	45	19	476	1.80
Bail Hearing (note this may be captured under Criminal Trial for other jurisdictions)							370			370	1.40

Types of Events (cont.)	2021										
	Ang.	A&B	Comm. of Dom.	Gren.	Mont.	SKN	SLU	SVG	TVI	Total	% of Total
Application for Committal Orders/ Committal Proceedings	1	122				6	88	18		235	0.89
Divorce/ Contested Divorce/ Decree Nisi	37	36	101			8	11		39	232	0.88
Report								230		230	0.87
Application for special procedure/ Special Procedure				185						185	0.70
Judgment Delivery/ Decision Hearing	12	6			5	18	80	33		154	0.58
Exparte Hearings	3	1	4	2		17	73		23	123	0.46
Admission to bar									87	87	0.33
Disciplinary Hearing							85			85	0.32
Mention/ Further Mention						80				80	0.30

Types of Events (cont.)	2021										
	Ang.	A&B	Comm. of Dom.	Gren.	Mont.	SKN	SLU	SVG	TVI	Total	% of Total
Assessment								72		72	0.27
Mixed cause list	70									70	0.26
Judicial Sale							65			65	0.25
Fitness Hearing							57			57	0.22
Hearing of Petition		37								37	0.14
Request for directions									37	37	0.14
Oral Exam		15				3	3	12		33	0.12
Matrimonial/ Ancillary Relief									29	29	0.11
Decree Absolute	24									24	0.09
Application without Notice								21		21	0.08
Adoption Order/ Adoption			6							6	0.02
Other		5		3	28	9	9	8		62	0.23
Total	496	2,715	1,269	2,509	874	1,235	13,218	2,118	2,053	26,487	100.00

THE SEXUAL OFFENCES MODEL COURT (SOMC) IN ANTIGUA AND BARBUDA 2021

The Model Sexual Offences Court was implemented in January 2019 in Antigua and Barbuda. More information on the establishment and implementation of the SOMC can be found in the ECSC 2019/2020 Annual Report.

Data for January 1 – December 31, 2021

1. Number of completed SOMC cases 2021: 11
2. Types of Offences for the completed SOMC cases:

TABLE 2 (F) : BREAKDOWN OF THE COMPLETED CASES BY TYPE OF OFFENCE

Offence	Number of cases
Incest	
Indecent Assault	5
Rape	3
Serious Indecency	2
Unlawful Sexual Intercourse	1
Total	11

3. Of the 11 completed cases, there were:
 - 6 Guilty Pleas
 - 0 Convictions after trial
 - 3 Acquittals
 - 2 matters discontinued by the Office of the DPP

Section 3: Magistrates Courts

Information on case flow within the Magistrates Courts is given in this section. Jurisdictions such as Saint Lucia and St. Vincent and the Grenadines with official Family Courts have such data represented in Section 4.

Data in Table 3(a) show that the overall clearance rate fluctuated over the years 2019 to 2021 and was highest in 2021 at 80.66%. The overall clearance rate decreased from 79.73% in 2019 to 61.49% in 2020 followed by an increase to 80.66% in 2021. This increase between 2020 and 2021 might point to the Courts having readjusted after the initial COVID 19 challenges. Montserrat and Saint Lucia Magistrates Courts recorded clearance rates above 100% in 2021.

TABLE 3 (A) CASES FILED AND DISPOSED BY MEMBER STATE IN THE MAGISTRATES COURTS WITH ACCOMPANYING CLEARANCE RATES: 2019 TO 2021

Country	2019			2020			2021		
	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	572	600	104.90	529	560	105.86	817	690	84.46
A&B	3,808	1,718	45.12	5,623	3,047	54.19	5,001	3,051	61.01
Comm. of Dominica	3,843	4,037	105.05	2,964	2,664	89.88	3,337	2,838	85.05
Grenada	11,545	8,025	69.51	10,902	5,698	52.27	10,307	7,312	70.94
Montserrat	415	305	73.49	466	416	89.27	368	391	106.25
Saint Lucia	9,874	8,785	88.97	7,475	3,690	49.36	6,950	8,488	122.13
SVG	3,994	3,711	92.91	3,848	3,755	97.58	3,891	3,442	88.46
SKN	5,932	4,425	74.60	4,808	2,626	54.62	5,801	3,149	54.28
TVI	1,070	1,125	105.14	999	674	67.47	929	807	86.87
TOTAL	41,053	32,731	79.73	37,614	23,130	61.49	37,401	30,168	80.66

Traffic and Criminal cases together were a significant 78.36% of total filed cases and 78.35% of total disposed cases. The cases categorised as “other” were COVID 19 tickets from Saint Lucia.

TABLE 3 (B) CASES FILED AND DISPOSED BY MAJOR CASE TYPE IN THE MAGISTRATES COURTS: 2021

Case Type	2021			
	Filed Cases	% of Total Filed Cases	Disposed Cases	% of Total Disposed Cases
Traffic	17,431	46.61	13,716	45.47
Criminal	11,874	31.75	9,920	32.88
Civil	5,572	14.90	4,264	14.13
Maintenance/ Affiliation	1,754	4.69	1,539	5.10
Domestic Violence/ Family	426	1.14	320	1.06
Juvenile	151	0.40	204	0.68
Coroner/Inquests	173	0.46	172	0.57
Other	20	0.05	33	0.11
TOTAL	37,401	100.00	30,168	100.00

FIGURE 6A: PERCENTAGE OF CASES FILED BY MAJOR CASE TYPE IN THE MAGISTRATES COURTS: 2021

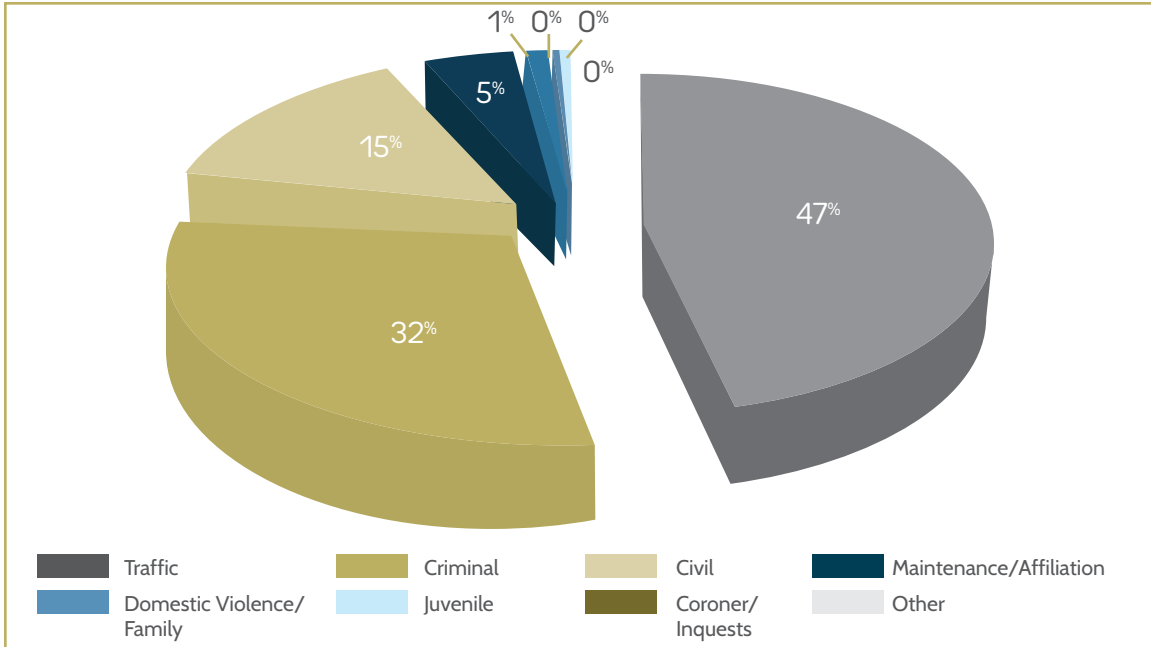
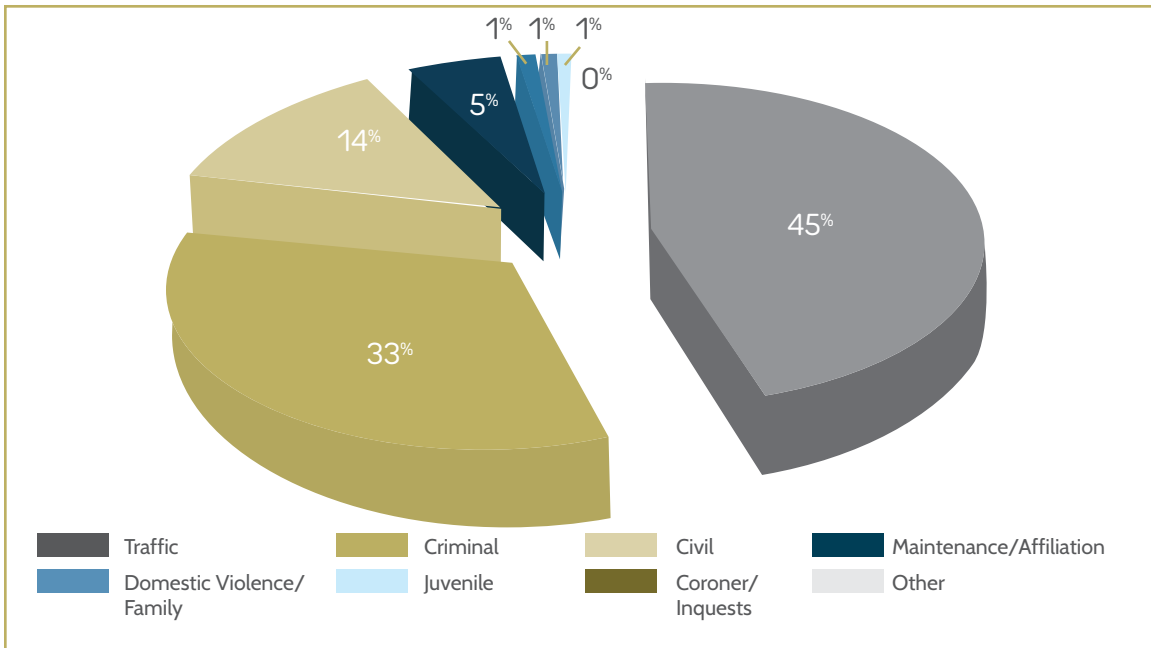


FIGURE 6B: PERCENTAGE OF CASES DISPOSED BY MAJOR CASE TYPE IN THE MAGISTRATES COURTS: 2021



The breakdown of cases filed by case type for each jurisdiction is shown in Table 3 (c) which follows. Some key points to note are:

- Grenada Magistrates Court had the greatest percentage share of total filed cases (27.56%)
- Traffic and Criminal filed cases together were a major 78.36% of total filed cases
- Grenada accounted for 27.50% of total filed Criminal cases
- 49.05 % of total filed civil cases were from Grenada and St. Kitts and Nevis
- 54.60% of filed Traffic cases were from Saint Lucia and Grenada; each recorded over 4,700 of these cases

TABLE 3(C) CASES FILED BY MEMBER STATE AND CASE TYPE IN THE MAGISTRATES COURTS: 2021

Member States	2021									Country Total as a % of Total
	Criminal	Civil	Traffic	Dom/ Family	Juv.	Maint/ Aff	Coroner/ Inquests	Other	Total	
Anguilla	404	129	152	40	15	57	20		817	2.18
Antigua and Barbuda	2,427	860	1,714						5,001	13.37
Comm. of Dominica	1,036	471	1,161	118	63	344	144		3,337	8.92
Grenada	3,265	1,381	4,793	264	46	549	9		10,307	27.56
Montserrat	118	26	207	4	2	11			368	0.98
Saint Lucia	1,748	457	4,725					20	6,950	18.58
Saint Vincent and the Grenadines	1,883	676	1,332						3,891	10.40
St. Kitts and Nevis	684	1,352	3,039		15	711			5,801	15.51
Territory of the Virgin Islands	309	220	308		10	82			929	2.48
TOTAL	11,874	5,572	17,431	426	151	1,754	173	20	37,401	
Case Type as a % of Total	31.75	14.90	46.61	1.14	0.40	4.69	0.46	0.05		

Table 3(d) contains data on disposed cases by case type and by Member State/Territory. A few points which stand out are:

- Saint Lucia, followed closely by Grenada had the highest shares of total disposed cases (52.38% of the total)
- 78.35% of total disposed cases were Criminal and Traffic cases
- Grenada had the highest numbers of both disposed Criminal and Civil cases
- 44.39% of disposed traffic cases were from Saint Lucia

TABLE 3(D) CASES DISPOSED BY MEMBER STATE AND CASE TYPE IN THE MAGISTRATES COURTS: 2021

Member States	2021									Country Total as a % of Total
	Criminal	Civil	Traffic	Dom/ Family	Juv.	Maint/ Aff	Coroner/ Inquests	Other	Total	
Anguilla	327	105	139	38	20	49	12		690	2.29
Antigua and Barbuda	1,764	357	930						3,051	10.11
Comm. of Dominica	754	505	946	97	63	319	154		2,838	9.41
Grenada	2,420	1,333	2,712	182	111	550	4		7,312	24.24
Montserrat	146	30	200	3	3	9			391	1.30
Saint Lucia	1,940	426	6,089					33	8,488	28.14
Saint Vincent and the Grenadines	1,897	496	1,047				2		3,442	11.41
St. Kitts and Nevis	397	832	1,344		5	571			3,149	10.44
Territory of the Virgin Islands	275	180	309		2	41			807	2.68
TOTAL	9,920	4,264	13,716	320	204	1,539	172	33	30,168	
Case Type as a % of Total	32.88	14.13	45.47	1.06	0.68	5.10	0.57			

TIME TO DISPOSITION REPORTS FOR MAGISTRATES COURTS IN 2021, AS OBTAINED FROM JEMS

Tables 3(e), 3(f) and 3(g) give information on the “time to disposition” of cases obtained solely from the JEMS system. Some of the data is not consistent with previous tables on disposed cases, since the Court Offices manually added data in the process of verifying the information contained in the previous tables on disposed cases. Data from Nevis, St. Vincent and the Grenadines as well as the Montserrat Magistrates Courts are not represented in the following tables as JEMS is not being used in those courts due to JEMS connectivity issues. Some of the District Courts in Grenada and Saint Lucia are not connected to the JEMS system which resulted in minimal data being entered into the JEMS software so the data from these countries have not been included. Once the E-Litigation software is implemented and effectively used in the Magistracies, then disposed data should be consistent across all tables.

Table 3 (e) shows that the overall timeframe where the most cases were disposed was “1 – 90 days” where 30.73% of cases were disposed. However, Antigua and Barbuda had their highest numbers of cases disposed in the “less than 1 day” timeframe and St. Kitts had most cases disposed in the “91 to 180 days” category. The data from Table 3 (e) is illustrated in Figure 7.

TABLE 3(E) TIME TO DISPOSITION IN DAYS AS OBTAINED FROM JEMS, MAGISTRATES COURTS 2021

Time to disp. of all cases	Anguilla	Antigua and Barbuda	Comm. of Dominica	St. Kitts	TVI	Total	% of Total
<1	15	676	143	6	6	846	8.60
1 to 90	395	658	1,220	535	216	3,024	30.73
91 – 180	165	557	306	683	165	1,876	19.06
181-360	72	515	275	676	202	1,740	17.68
361-720	15	422	310	491	159	1,397	14.19
>720	13	222	430	235	59	959	9.74
Total cases	675	3,050	2,684	2,626	807	9,842	100.00

FIGURE 7: PERCENTAGE OF CASES DISPOSED PER TIME FRAME IN THE MAGISTRATES COURTS, 2021

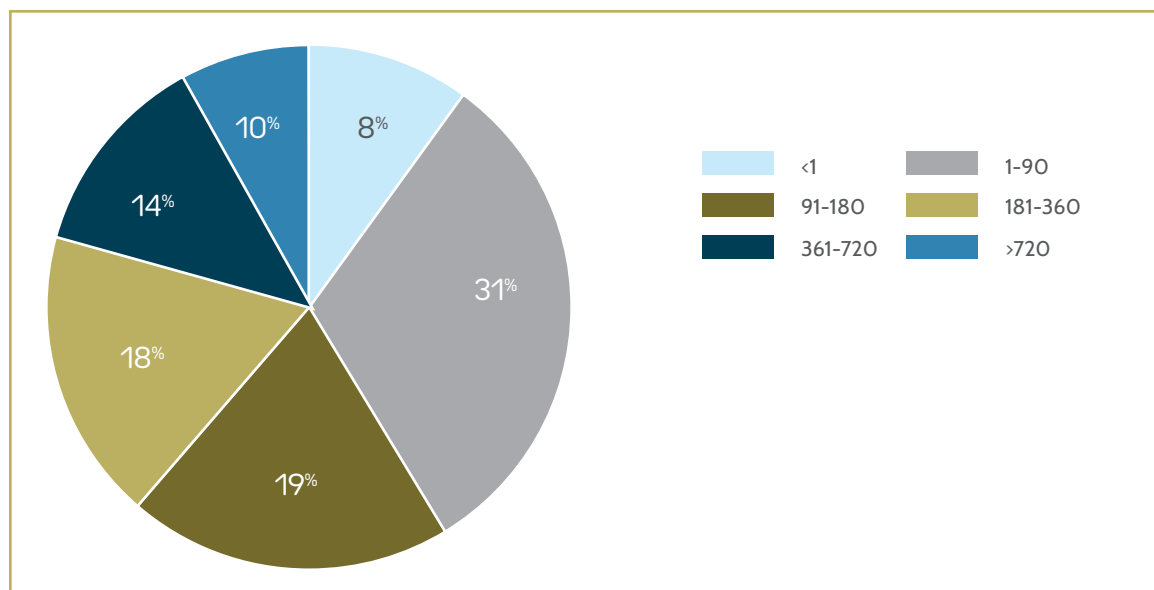


Table 3(f) displays the cumulative percentages which are the percentage of cases disposed up to a certain timeframe. Over 90% of cases were disposed of within 2 years in the Magistrates Courts in general and this was the case for all individual jurisdictions represented except for the Commonwealth of Dominica which had 83.98% of cases disposed within that time. Noteworthy is that Anguilla had over 60% of their cases disposed within 3 months.

TABLE 3(F) CUMULATIVE PERCENTAGES (% OF CASES DISPOSED WITHIN GIVEN TIMEFRAMES), MAGISTRATES COURTS 2021

Time to disp. of all cases	Anguilla	Antigua and Barbuda	Comm. of Dominica	St. Kitts	Territory of the Virgin Islands	Overall
90 days/ 3 months	60.74	43.74	50.78	20.60	27.51	39.32
180 days/ 6 months	85.19	62.00	62.18	46.61	47.96	58.38
360 days/12 months/ 1 year	95.85	78.89	72.43	72.35	72.99	76.06
720 days/24 months/ 2 years	98.07	92.72	83.98	91.05	92.69	90.26

Table 3(g) gives information on the average time to disposition in days, by case type for the jurisdictions as obtained from JEMS.

TABLE 3(G) AVERAGE TIME TO DISPOSITION IN DAYS BY CASE TYPE, MAGISTRATES COURTS 2021

Case Types	Anguilla		Antigua and Barbuda		Comm. of Dominica		St. Kitts		TVI	
	# of Cases	Avg. Time to Disp.	# 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	104	146	357	144	505	851	732	416	180	209
Criminal	326	141	1,763	225	754	582	302	373	275	424
Dom. Violence/ Family	38	13			97	45				
Juvenile	19	136			63	414	4	409	2	503
Maint./Aff.	49	90			319	216	542	168	41	529
Traffic	139	73	930	242	946	125	1,046	278	309	220

Section 4: Family Courts

There were 2,355 cases lodged or filed in the St. Lucia Family Court and the Saint Vincent and the Grenadines Family Court in the year 2021. These are the only two official Family Courts within the ECSC jurisdiction. More information on the caseload of these two Courts is given in this section. 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

Table 4(a) shows data on cases filed from 2019 to 2021 in the Saint Vincent and the Grenadines Family Court. Total filed cases declined over the three-year period and was lowest at 1,926 in 2021. From the year 2019 to 2021, there was a 30.59% decrease in total filed cases. Arrears and Maintenance cases were the more numerous case types filed.

TABLE 4(A) NUMBERS OF CASES FILED IN THE SAINT VINCENT AND THE GRENADINES FAMILY COURT: 2019 TO 2021

Case Type	2019		2020		2021	
	No. of cases	% of total	No. of cases	% of total	No. of cases	% of total
Adoption	13	0.47	12	0.54	13	0.67
Arrears	1,054	37.98	902	40.78	773	40.13
Criminal Offences	387	13.95	209	9.45	182	9.45
Custody/ Access	346	12.47	286	12.93	278	14.43
Legal Guardianship	0	0	20	0.90	34	1.77
Maintenance	762	27.46	583	26.36	458	23.78
Protection Order	213	7.68	200	9.04	188	9.76
Total	2,775	100.00	2,212	100.00	1,926	100.00

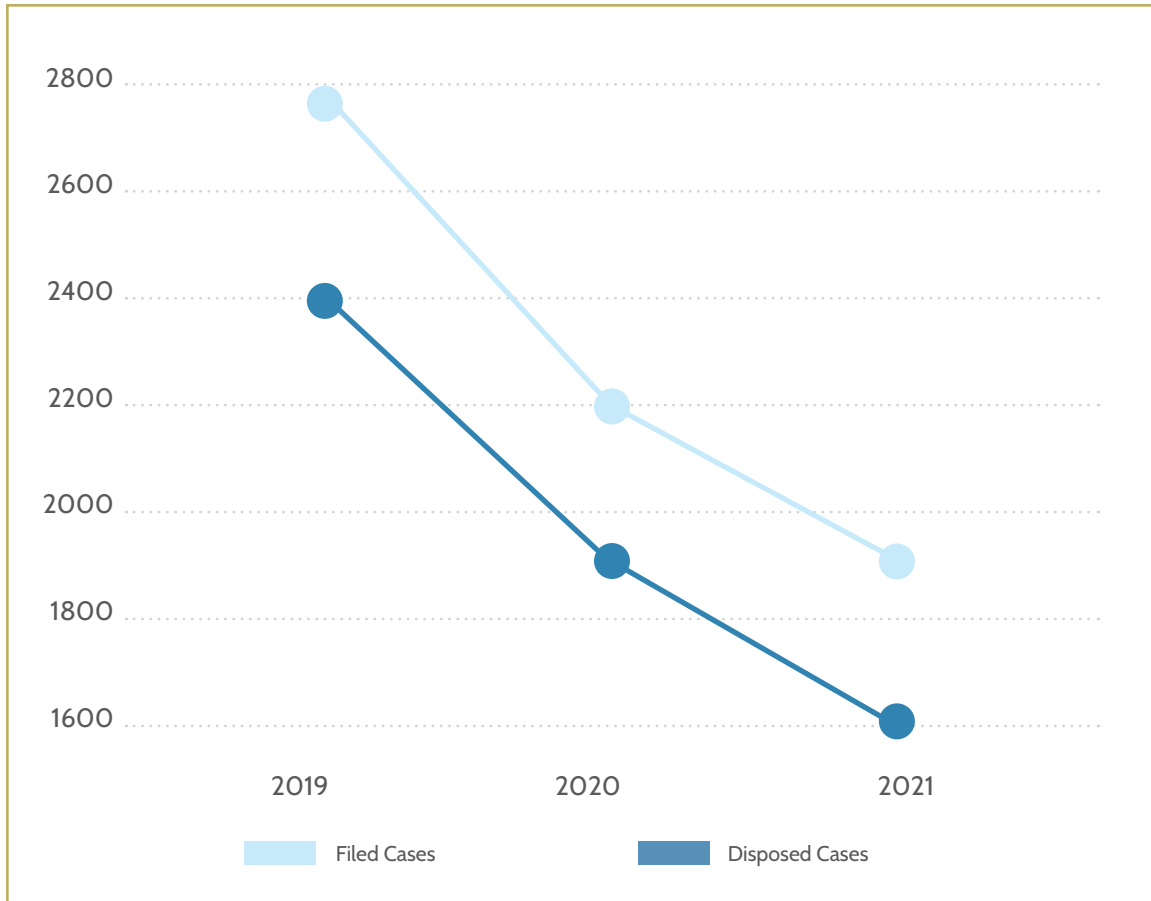
Information is given in Table 4 (b) on the numbers of disposed cases by case type, from 2019 to 2021. Total disposed cases declined by 33.03% from 2019 to 2021 and was lowest at 1,604 in 2021. Arrears and Maintenance cases were the more prevalent disposed case types.

TABLE 4(B) NUMBERS OF CASES DISPOSED IN THE SAINT VINCENT AND THE GRENADINES FAMILY COURT: 2019 TO 2021

Case Type	2019		2020		2021	
	No. of cases	% of total	No. of cases	% of total	No. of cases	% of total
Adoption	12	0.50	11	0.57	12	0.75
Arrears	1,036	43.26	707	36.73	685	42.71
Criminal Offences	120	5.01	148	7.69	118	7.36
Custody/ Access	308	12.86	292	15.17	217	13.53
Legal Guardianship	1	0.04	27	1.40	27	1.68
Maintenance	726	30.31	531	27.58	373	23.25
Occupation Order	5	0.21	5	0.26	0	0.00
Protection Order	187	7.81	204	10.60	172	10.72
Total	2,395	100.00	1,925	100.00	1,604	100.00

The continuous declines in both the total filed and total disposed cases in the SVG Family Court from 2019 to 2021 are observed in Figure 8 below.

FIGURE 8: CASES FILED AND DISPOSED IN THE SVG FAMILY COURT, 2019 TO 2021



The clearance rates of cases in the Saint Vincent and the Grenadines Family Court are observed in Table 4(c). The overall rates were below 100% in all 3 years and was lowest at 83.26% in 2021. One notable observation is the improvement in the clearance rate of Criminal cases from 31.01% in the year 2019 to 70.81% and 64.84% in the latter years 2020 and 2021.

TABLE 4 (C) CLEARANCE RATES IN THE SAINT VINCENT AND THE GRENADINES FAMILY COURT: 2019 TO 2021

Country	2019			2020			2021		
	Cases Filed	Cases Disposed	Clearance Rate (%)	Cases Filed	Cases Disposed	Clearance Rate (%)	Cases Filed	Cases Disposed	Clearance Rate (%)
Adoption	13	12	92.31	12	11	91.67	13	12	92.31
Arrears	1,054	1,036	98.29	902	707	78.38	773	685	88.62
Criminal Offences	387	120	31.01	209	148	70.81	182	118	64.84
Custody/ Access	346	308	89.02	286	292	102.10	278	217	78.06
Legal Guardianship	0	1	na	20	27	135.00	34	27	79.41
Maintenance	762	726	95.28	583	531	91.08	458	373	81.44
Occupation Order	0	5	-na	0	5	na	0	0	na
Protection Order	213	187	87.79	200	204	102.00	188	172	91.49
Total	2,775	2,395	86.31	2,212	1,925	87.03	1,926	1,604	83.28

The Criminal offences are broken down into subtypes which are listed in Table 4 (d). Criminal cases in relation to Assault/Indecent Assault and Sexual Offences such as Unlawful Sexual Intercourse and Rape formed the majority of the filed and disposed caseload.

TABLE 4 (D) CASES FILED AND DISPOSED: BREAKDOWN OF CRIMINAL OFFENCES, 2021

Case Type	2021			
	Cases Filed	% of total filed	Cases Disposed	% of total disposed
Abandonment causing endangerment	0	0.00	2	1.69
Abduction	6	3.30	5	4.24
Assault/intent to commit assault	20	10.99	12	10.17
Buggery	3	1.65	1	0.85
Child Abuse	0	0.00	1	0.85
Damage to Property	4	2.20	0	0.00
Disobeying court order	1	0.55	0	0.00
Grievous Bodily Harm	2	1.10	0	0.00
Incest/intent to commit incest	10	5.49	0	0.00
Indecent assault	43	23.63	43	36.44
Kidnapping	2	1.10	0	0.00
Murder	0	0.00	1	0.85
Possession of controlled drug	2	1.10	0	0.00

Possession of offensive weapon	1	0.55	0	0.00
Rape/ intent to commit rape	33	18.13	13	11.02
Theft/ Intent to commit theft/ Removal of stolen goods	9	4.95	2	1.69
Throwing of missile	1	0.55	0	0.00
Trespassing offences	8	4.40	4	3.39
Unlawful and malicious wounding, actual bodily harm	2	1.10	3	2.54
Unlawful exposure/Gross Indecency	3	1.65	1	0.85
Unlawful Sexual intercourse/ attempt (also includes Intercourse with a girl 13 to 15/ under 13)	32	17.58	30	25.42
Total	182	100.00	118	66.10

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

The Saint Vincent and the Grenadines Family Court which was established in 1992 and which came into operation in 1995, has sole jurisdiction to adjudicate on matters such as custody, access, child and spousal support, domestic violence, adoption, sexual offences, and criminal matters involving juvenile offenders.

The court is equipped with an excellent social support unit consisting of three counsellors, two of whom are trained mediators. The court places great emphasis on mediation and conciliation, with a significant number of matters being settled through mediation. During the period October 2020 – July 2021, 370 matters were referred to mediation and 364 were effectively resolved, without proceeding to trial.

The court is also involved in continuous training for staff in areas relevant to the

department. In June 2021 the President conducted a one-day in-house training workshop with members of staff, in case flow management, with a view to re-enforcing the need for timely and efficient management of cases through the system, from filing to disposition and when necessary to compile and prepare the record of appeal for onward transmission to the High Court office.

The court encountered tremendous challenges in the scheduling of matters during the Covid-19 pandemic and had to significantly reduce the number of matters which were heard daily in order to limit the number of litigants on the premises, in keeping with the mandated health protocols. There were many unavoidable requests for adjournments since litigants as well as Counsel, would often be self-isolating or in quarantine.

Staffing issues also plagued the department during this period since the court operated on a shift system with only a skeleton staff to assist. Most hearings continued in person, with a few being facilitated virtually for those litigants with legal representation. This too proved to be very challenging and time consuming since we encountered tremendous setbacks because of poor and faulty internet connection.

The explosive eruption of the La Soufriere volcano in April 2021 also created major challenges for the court's bailiffs and the process servers in serving summonses and executing warrants since several litigants were displaced and relocated to shelters or other areas of the country and accordingly could not be located. These combined factors created a minor backlog in the disposition of matters.

Despite these adverse circumstances, the work of the court steadfastly progressed mainly because of our dedicated and hardworking staff. The department was also the recipient of a laptop for use in the courtroom, as well as several pieces of equipment which greatly assisted in making virtual hearings possible.

The court therefore takes this opportunity to express heartfelt thanks to the Ministry of Finance and to all the generous persons who contributed to making virtual hearings a reality.

Saint Lucia Family Court

The flow of cases within the Saint Lucia Family Court in 2021 is summarized in Table 4(e) which follows. The data shows that there were 429 cases lodged and 338 cases disposed in 2021. Total disposed cases are derived by adding the categories; cases heard and final orders given, cases discharged, cases withdrawn and cases transferred to another court. Additionally, 180 cases which were heard with interim orders given, formed part of the workload of the Court.

Affiliation, Separation and Maintenance cases combined with Domestic Violence cases were a significant 80.65% of total filed and 81.07% of total disposed cases.

TABLE 4 (E) CASES FILED AND DISPOSED IN THE SAINT LUCIA FAMILY COURT, 2021

Categories	Juvenile		Affiliation, Separation & Maintenance	Domestic Violence	Total
	Criminal	Care & Protection			
New Cases Lodged	49	34	189	157	429
Cases Heard and Interim Orders Given	-	33	-	147	180
Cases Heard and Final Orders Given	18	19	69	54	160
Cases Discharged	12	5	47	56	120
Cases Withdrawn by Applicant	5	2	23	25	55
Cases Transferred to Another Court	3	-	-	-	3
Total Cases Disposed	38	26	139	135	338

FIGURE 9: CASES LODGED AND DISPOSED IN THE SAINT LUCIA FAMILY COURT, 2021

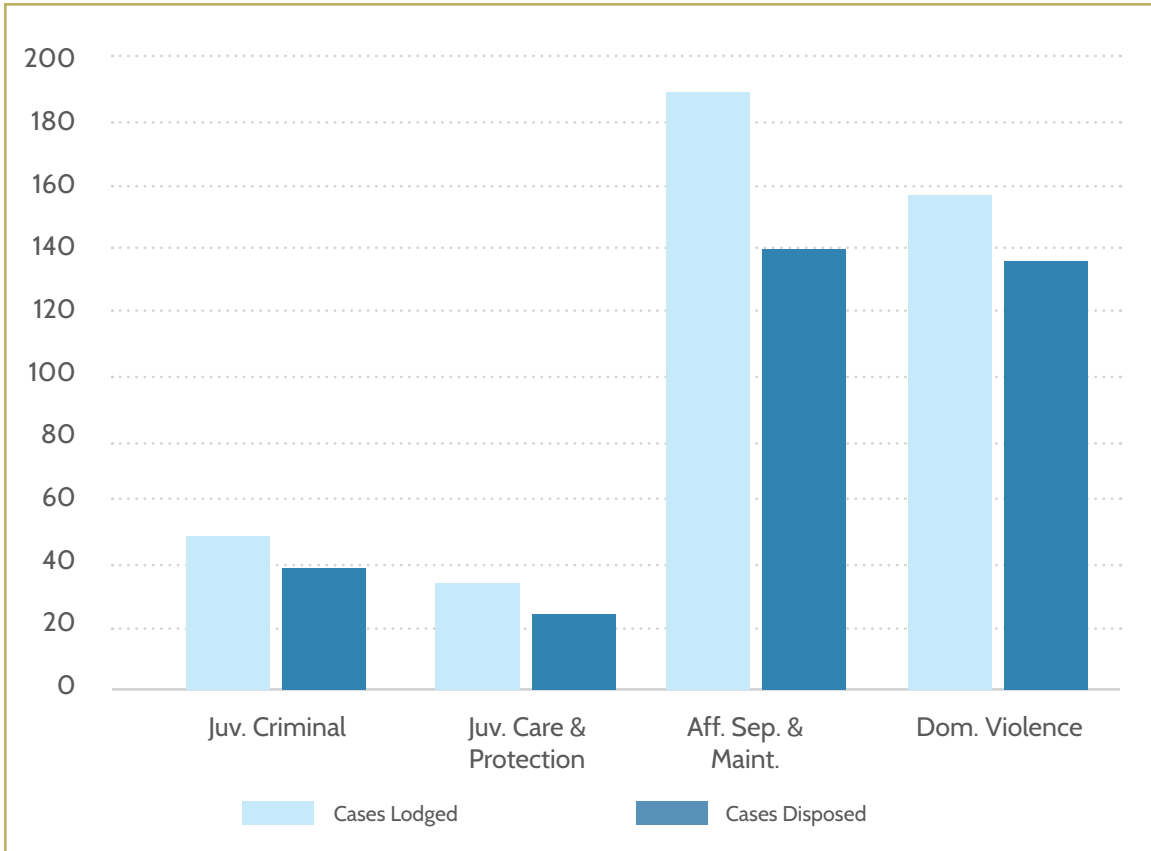


Table 4 (f) shows that the Saint Lucia Family Court recorded an overall clearance rate of 78.79%. The clearance rates for the various case types are also given.

TABLE 4 (F) CLEARANCE RATES OF CASES BY CASE TYPE IN THE SAINT LUCIA FAMILY COURT, 2021

Categories	Juvenile		Affiliation, Separation & Maintenance	Domestic Violence	Total
	Criminal	Care & Protection			
New Cases Lodged	49	34	189	157	429
Total Cases Disposed	38	26	139	135	338
Clearance Rates	77.55	76.47	73.54	85.99	78.79

Conclusion

Despite the continued challenges with COVID 19, there were still very high numbers of cases filed within the OECS Courts in 2021. Courts are encouraged to continue to aim for clearance rates of cases above 100% which would be indicative of case backlog reduction. The E-Litigation Portal continues to be used in the various High Courts and by the Court of Appeal with the Implementation within the Magistracies and Family Courts scheduled to commence in the next calendar year.

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
ERMIN
MOISE

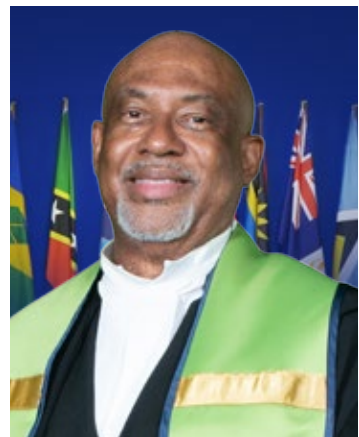
ANTIGUA & BARBUDA



THE HON. JUSTICE
ANN-MARIE
SMITH



THE HON. JUSTICE
MARISSA
ROBERTSON



THE HON. JUSTICE
COLIN
WILLIAMS



THE HON. JUSTICE
JAN
DRYSDALE

DOMINICA



THE HON. JUSTICE
BIRNIE
STEPHENSON



THE HON. JUSTICE
WYNANTE ADRIEN
ROBERTS

GRENADA



THE HON. JUSTICE
PAULA
GILFORD



THE HON. JUSTICE
VICTORIA
CHARLES-CLARKE



THE HON. JUSTICE
RAULSTON
GLASGOW



THE HON. JUSTICE
AGNES
ACTIE

ST. KITTS AND NEVIS



THE HON. JUSTICE
TREVOR MCDONALD
WARD



THE HON. JUSTICE
IAIN CHARLES
MORLEY



THE HON. JUSTICE
PATRICK
THOMPSON JR

SAINT LUCIA



THE HON. JUSTICE
MARGARET
PRICE-FINDLAY



THE HON. JUSTICE
CADIE
ST ROSE-ALBERTINI



THE HON. JUSTICE
VIVIAN GEORGIS
TAYLOR-ALEXANDER

SAINT LUCIA CONT.



THE HON. JUSTICE
KIMBERLY
CENAC-PHULGENCE



THE HON. JUSTICE
ROHAN
PHILLIP



THE HON. JUSTICE
SHAWN
INNOCENT

ST. VINCENT AND THE GRENADINES



THE HON. JUSTICE
BRIAN
COTTLE



THE HON. JUSTICE
NICOLA PETRA
BYER



THE HON. JUSTICE
ESCO
HENRY

ST. VINCENT AND THE GRENADINES CONT.



THE HON. JUSTICE
ANGELICA
TEELUCKSINGH

TERRITORY OF THE VIRGIN ISLANDS



THE HON. JUSTICE
VICKI-ANN
ELLIS



THE HON. JUSTICE
RICHARD
FLOYD



THE HON. JUSTICE
ADRIAN
JACK [AG.]

TERRITORY OF THE VIRGIN ISLANDS CONT.



THE HON. JUSTICE
GERHARD
WALLBANK [AG.]

Masters



MASTER
TAMARA
GILL



MASTER
CHARON
GARDNER-HIPPOLYTE



MASTER
ALVIN
PARIAGSINGH

Administrative Support Staff

COURT ADMINISTRATION



Mr. Gregory Girard
Court Administrator



Mr. Francis Letang
Deputy Court Administrator

OFFICE OF THE CHIEF JUSTICE



Mr. Stephen Corrington-
Executive Legal Assistant
to the Chief Justice



Ms. Natacha James
Administrative Assistant
to the Chief Justice



Ms. Alana Simmons
Programme Coordinator
Judicial Education Institute



Ms. Debra J. Maloney
Regional Mediation
Coordinator

ACCOUNTS DEPARTMENT



Ms. Marcellina
St. Edward-Preville
Financial Controller



Mrs. Rita Bastien
Accounts Assistant



Ms. Benedicta
St. John- Dussiel
Accounts Clerk

COURT OF APPEAL REGISTRY



Mrs. Michelle
John-Theobalds
Chief Registrar



Mr. Carlos Michel Jr.
Deputy Chief Registrar



Ms. Tamara Mathurin
Judicial Research
Assistant



Mrs. Jodi-Ann
Masters-Singh
Judicial Research Assistant



Ms. Desiree Valentine
Judicial Research Assistant



Mr. K-Wani Roberts
Judicial Research
Assistant



Mrs. Stephine Narcisse-Lionel
Judicial Research Assistant



Ms. Amanda De Freitas
Judicial Research Assistant



Ms. Jovelle Lewis
Judicial Research Assistant



Ms. Michelle d'Auvergne
Judicial Research Assistant



Ms. Sheron Baptiste
Senior Case Manager



Mr. Craig Gabriel
Case Manager



Mr. John Dwite Joseph
Case Manager



Ms. Maria Edmund
Case Manager



Mr. Baldwin Paul
Case Manager



Ms. Abigail Lansiquot
Case Manager

HUMAN RESOURCE DEPARTMENT



Mr. Dylan Billy
HR Manager



Mrs. Natasha
Fitz - Christophe
Human Resource Officer



Ms. Lindel Joseph
Administrative
Assistant (HR)

INFORMATION MANAGEMENT



Mr. Dwaymian Brissette
Information Services
Manager- Library and
Communications



Ms. Anselma Fadlin
Library & Information
Services Officer



Ms. Myrtene Cenac
Statistician



Mrs. Reine James
Records & Archives
Manager



Mrs. Sandra Augier
Records &
Archives Clerk



Mrs. Francisca Polius
Records &
Archives Officer

OFFICE MANAGEMENT & ADMINISTRATION



Ms. Lenore St. Croix
Office Manager



Ms. Florentina Nelson
Administrative
Secretary



Mrs. Genevieve
Francis-Lewis
Secretary



Mrs. Zannia Plummer-
Gabriel
Secretary



Ms. Anna Joseph
Secretary



Mr. Guy Stava
Office Assistant

IT DEPARTMENT



Mr. Mark Ernest
Information Technology
Manager



Mr. Anderson Henry
Systems Administrator



Mr. Augustus Marcellin
Network Administrator



Mrs. Cynthia Ramjeawan
Project Coordinator/
Application Support
Officer



Mr. Demetrius Charles
Website Administrator



Ms. Raejean Montoute
Website Content
Officer



P. O. Box 1093 | 2nd Floor Heraldine Rock Bldg | Castries | Saint Lucia
Tel : 1-758-457-3600 | Fax: 1-758-457-3601 | Web: www.eccourts.org