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**“Increasing Citizens’ Awareness and Participation in the Justice System”
Project**

**Findings and Recommendations of Local Organizations from
Court Monitoring Activities**

January, 2014

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INTRODUCTION

On February, 2013, Advocacy Training and Resource Center (ATRC) signed contract with USAID to implement project “Increasing Citizens’ Awareness and Participation in the Justice System” with overall goal to improve the functioning of courts and the justice system through the support of local organizations on court monitoring and public awareness, thereby increasing transparency and fairness among justice institutions in Kosovo.

Striving to contribute in improving the judicial system in Kosovo up to the end of November 2015, ATRC will provide sub-grant support for up to 40 local organizations on performing court monitoring activities and public awareness activities. Up to 32 local organizations will be supported on court monitoring activities and up to eight local organizations will be supported on public awareness and outreach activities.

On May 2013, ATRC launched Request For Application (RFA) for Round I, therefore awarded grants to 13 local organizations for performing court monitoring activities. The value of these grants ranged from US\$3,000 to US\$10,000, and their implementation period ranged from five to eight months.

The objectives of the grant issued under this RFA were to expand the community of organizations and individuals carrying out court monitoring initiatives in Kosovo, as well as the nature, uses, and tools used to monitor initiatives in the courts with the overall goal of exposing more people to the court system and creating avenues for citizens to promote justice-sector reforms and improve court performance. Local organizations funded through this project were expected to: Increase citizen awareness and participation in the justice system; Increase the overall number of community members engaged in court monitoring initiatives; Use the information gathered through court monitoring to recommend improvements and/or advocate change, and Increase knowledge in local communities about courts.

ATRC during this period of time organized formal meetings between local organizations and Kosovo justice institutions: Kosovo Judicial Council (KJC) and Kosovo Prosecutorial Council (KPC), and Office of Disciplinary Counsel in addressing grantees’ issues and concerns, and sharing information between parties as well. Throughout this meetings local organizations had chance to directly forward their concerns and daily findings on their respective issues, while monitoring courts, as well as get advice on the tangible issues they should consider while implementing monitoring activities in courts.

As a result these local organizations came up with court monitoring reports. These reports contain the observation of the grantees work on monitoring the courts in their communities, presentation of findings and recommendations regarding the issues they addressed. During this round grantees were focusing in monitoring issues concerning their communities mostly on: heritage cases that were concerning women, domestic violence concerning rights of women and children, logging the forestry and degradation of the nature, how is communication between courts and citizens, in what level courts

consider non-majority rights, level of anti- tobacco law implementation, and are the cases of corruption prioritized or left aside by courts. These reports were also presented to the wider public by each grantee through roundtables, public debates and press conferences. Most of the report presentations were followed and covered by local and national media.

BACKGROUND INFORMATION

Since January, 2013, Kosovo's court system has gone through a significant restructuring process as foreseen by the new Law on Courts. The reform prescribed by the subject Law, includes restructuring of the court system to assist in streamlining court operations and procedures in seven (7) Basic Courts of first instance with general jurisdiction; one (1) Court of Appeals with country wide jurisdiction located in Pristina and the Supreme Court as the final judicial authority in Kosovo. By clarifying the lines of authority, responsibility and accountability, this new structure is set to improve the functioning of the judiciary, improve public access, transparency, efficiency, and accountability of courts in Kosovo.

A justice system that is fully transparent serves the public's right to learn about the justice system's results, successes and challenges. The media, civil society and other interest groups help build a democratic foundation when they monitor and inform the public. It is important of conveying project findings to relevant stakeholders, including the Kosovo Judicial Council, Kosovo Prosecutorial Council, Ministry of Justice and government at-large, and the Kosovo Assembly. The information gathered throughout project implementation process will help local organizations design and undertake effective advocacy campaigns that can bring positive change to particular sectors in the justice system.

Many local organizations in Kosovo have been active in advocating for justice reform, with many organizations designing and implementing monitoring and public awareness campaigns. By monitoring and public awareness activities about courts and judicial system in general, civil society increases the level of transparency and accountability of Kosovo judicial institutions and encourages a better informed public to actively participate in reform efforts.

Striving to improve the judicial system in Kosovo, "Increasing Citizens' Awareness and Participation in the Justice System" project supported by USAID and implemented by Advocacy Training and Resource Center (ATRC), supported the direct involvement of local organizations in performing court monitoring activities aimed at increasing transparency and fairness among justice sector institutions in Kosovo.

KOSOVO LOCAL ORGANIZATIONS THAT CONDUCTED COURT MONITORING ACTIVITIES

1) Active Women of Gjakova AWGJ (Gjakova)

AWGJ monitored the efficiency, effectiveness, and transparency of the Gjakova Basic Court proceedings that involve women's inheritance rights. AWGJ prepared report that provide data and recommendations to the court system designed to overcome identified problems identified and change existing practices.

2) POLIS (Lipjan)

POLIS monitored all court proceedings in the Lipjan Branch Court of Prishtina Basic Court that concern property inheritance, concerning women inheritance rights. As a final result they produced the monitoring report.

3) Prehja (Skenderaj)

Prehja monitored domestic violence court cases on the Skenderaj Branch Court of Mitrovica Basic Court. As well as Prehja continued to encourage domestic violence victims to report violence and, through monitoring activities, safeguarded fair trials for victims and effective punishment of perpetrators of violence. The final report based on court monitoring is produced by the organization.

4) Venera (Peja)

Venera monitored property inheritance cases in the Peja Basic Court regarding women if they are treated as an equal legatee in terms of property shared within families. Venera developed a court monitoring report based on the findings

5) Women's Committee for the Protection of Human Rights – WCPHR (Fushe Kosove/Kosovo Polje)

The WCPHR monitored the basic court in Prishtina on level of communication between non- majority citizens and court, and level of communication between women of non-majority and courts. Project aimed to increase participation of non-majority citizens from in Fushe Kosove with the Kosovo justice system, as well as improve the group's knowledge of the function and the role of Kosovo courts. The organization prepared document on findings from monitoring: on level of communication between non-majority citizens and court, the other one issue focusing more on level of communication between women of non- majority and courts.

6) Council of Congress of Bosnian Intellectuals of Kosovo – VKBIK (Prizren)

VKBIK monitored the Prizren Basic Court as a constant neutral public presence. VKBIK monitored court proceedings and provided feedback and recommendations to court

administration aimed at improving court proceedings. As the final product they came up with report based on findings from court monitoring.

7) Green Art – GA (Prizren)

Green Art monitored the use of modern media by the Basic Court in Prizren. Green Art, compiled a report with suggestions on how to improve the court's interaction with citizens and media through use of modern communication tools to improve the overall image of the courts.

8) Elita (Viti)

Elita monitored level of transparency of Viti Branch Court of Gjilan Basic Court towards citizens. As a final result the organization came up with report from court monitoring.

9) Progressive Youth Initiative - PYI (Ferizaj)

Progressive Youth Initiative monitored handling cases related to illegal logging of forests in the Ferizaj Basic Court. PYI issued a report based on findings from court monitoring.

10) Proactive (Kamenica)

Proactive monitored efficiency of the Kamenica Branch Court of Gjilan Basic Court in handling cases related to illegal logging of forests in the Kamenica area. Proactive concluded findings and recommendation in report based on court monitoring.

11) Kosovo Advocacy and Development Center – KADC (Kosovo Wide)

KADC monitored the implementation of the anti-tobacco law within court buildings, including courtrooms and facilities and by the court personnel, in courts Kosovo wide. KADC monitored the execution of fines issued by different inspectorates responsible for the implementation of the new Law on Tobacco as well. KADC prepared report based on findings from court monitoring. KADC monitored basic Courts of Kosovo - Pristina, Prizren, Gjakova, Peja, Ferizaj, Gjilan and Mitrovica.

12) FOL movement (Gjakova and Podujeva)

FOL's monitored if there is any case issued related to corruption cases in Gjakova Basic Court and Podujeva Branch Court of Prishtina Basic Court. Monitoring report has been prepared by organization as a final product.

FINDING AND RECOMMENDATIONS FROM COURT MONITORING ACTIVITIES

Active Women of Gjakova, Monitored basic court in Gjakova, court cases on heritage, with focus on women.

Findings

- Lack of a judge who only deals with inheritance cases,
- Summons are not properly delivered,
- Summons are accepted by unauthorized persons,
- Parties are located abroad,
- Failure to ensure accurate records, for example, name, surname (name of the father) address ,
- Naming of new roads (whereas case file has the old address)
- In villages especially a lot of people have the same first and last name and for this reason it is necessary that the summons indicates the name of the father,
- Interest of particular persons to delay stall the proceedings,
- Cases are old,
- Late start of hearings (parties not coming on certain time)
- Deceased persons are not de-registered,
- For the same case several hearings are held and case remains unresolved (this is due to the parties in the procedure not appearing at a certain time),
- Inaccurate presentation of value of property during determination of court tariff,
- Municipal administration issues death certificate based on the statement of the party,
- Concealment of descendants,
- Evidences of death are not complete or have inaccurate data,
- Head of the family acknowledges and signs on behalf of all members of the family summons for judicial hearing,
- Married daughters are not notified at all for the session of division of heritage,
- Women voluntarily forgo the inheritance despite being notified that this declaration is given only once and is irrevocable.

Recommendations

- To establish effective and practical functioning between Basic Courts and Municipal Registry Offices regarding the practical implementation of the provisions of the Law on Inheritance in the sense of completion of official documentation upon which the inheritance procedure is initiated.
- Increase the number of judges for inheritance issues,
- Provide legal aid in institutionalized manner,
- Courts should have access to existing maps at central and local level. These maps contain the updated names of roads and house numbers that will improve the ability of court staff to find parties.

- Summons should include contact details including email address and telephone number of persons to be contacted in case of delays or impossibilities to participate in judicial proceedings,
- Establishment of a legal obligation by taking measures for participants in the trial, to inform the court if they are not available,
- Summons should include name of the father for easy identification,
- Inheritance proceedings should consist of no more than two sessions, from which the first one is preliminary and the second to provide statements and render decisions.
- Establish a system of verification in the registrar during the issuance of death certificate,
- To raise awareness of wider public on the rights and obligations upon the death of the deceased,
- Women to raise voice for using their rights of inheritance,
- Analysis should be done of different profiles of an operational policy with the aim of a full awareness by cooperating closely with civil society, institutions and all stakeholders that have an impact for this issue,
- To organize awareness meetings and monitoring of courts, notaries, and the municipality on issues such as inheritance and to organize debates on TV as well as radio, with a long term strategy for the advancement of position of women.

Polis, monitored Lipjan branch court of Prishtina basic court, heritage court cases, focusing on women

Findings

- Sessions are held without summons by the court, arguing that the claimants respectively legal heirs, appear in court without summons to participate in inheritance proceedings;
- Publication of the hearings on inheritance is not done on court monitors (other than criminal and civil cases);
- During the monitoring and review of cases by monitors it was noted that the death certificate delivered to the court does not include all the legal heirs especially females;
- From the statistics available to the Basic Court Pristina - Branch in Lipjan, for 2012, reported to the Kosovo Judicial Council, a total of 194 cases were reviewed, whereas we managed to collect data for only 151 cases;
- None of the cases monitored and reviewed from 2012 and 2013 was not initiated ex officio by the court, but it was only done on the initiative of the heirs;
- Total monitored trials to date are 15. Persons who have participated in these sessions are 45, 21 of them are women, of whom 6 were declared heiress. But these heiress are mainly declared as heirs of the first instance, in this case mainly spouse/daughter;

- Of all the monitored sessions, it was observed that women refuse to inherit their share attributable under the law, while those who accept the inheritance, are mainly those whose children are minors.
- The data of cases reviewed in 2012 indicates a low percentage of women who inherit, compared with men. While for other minorities a higher proportion of women who enjoy the right of inheritance is observed.
- In the focus group held with women, it was concluded that the situation of women in society can only change with economic and social independence. When Kosovo women reach equality in assets inherited from the predecessor, it means greater empowerment, better education for their children, creating a sense of equality in relation to men. In this way emancipation of women in the society will be easier.
- It was ascertained that only the awareness rising of woman is not sufficient, since women can be well informed, but it should also be supported further. Thus, it was agreed that men should also be more aware, for example, the father should equally divide property between the legal heirs, brothers are to be more solidary to sisters and respect the legal regulations in force before customary law, etc., in relation to allowing unhindered access of women to inheritance.
- A statement that came from a focus group was for the Law on Inheritance to undergo some changes. The law should not only recognize the right of woman to receive the inherited family wealth, but it should be sanctioned by law to stimulate women to take their share of the inheritance.
- From the side of male representatives, it was generally accepted that all these opportunities will contribute to economic independence and social welfare. However, all this defect of the current situation in Kosovo is a result of misinterpretation occasionally carried by the common law, which still seems to keep the society un-liberated from this mentality and to trust the positive law.
- A different view of the men was that the problem of this nature exists only for women, who are not able to be persistent and take the initiative to seek and defend their rights, and that it creates a favor to men to dominate and not to apply the right of woman pursuant to the Law on Inheritance.

Recommendations

- Based on our research and meetings with women community, we have concluded that this state of inheritance should be changed in favor of empowerment of women and their socio - economic situation. This is not sufficient with current legislation in force. Therefore. Law on Inheritance needs to incur some change so that rights of women in inheritance are further supported by law and justice. Modalities of change can be discussed further with experts in this area.
- Amendment of the law must be done in a way that it will give women unalienable right to inheritance enjoyed by the family. In this case we consider that these cases need to continue to be examined only by the Court and not by the Notary. As we consider that the Court must decide even when a woman waives the right

to inheritance, the judiciary itself is to ascertain its economic situation and then decide whether this right should be applied or not.

- In cases where the heir is still alive, the issue of division of wealth is always easier. Therefore a solution to this problem would be if the heir would divide wealth equally to all its legal descendants. For example, equal share between daughters and sons. This option would eliminate the possibility that the brothers use any means of pressure towards sister to forgo her share.
- Greater involvement of civil society, in the role of raising awareness and empowerment of women rights associated with their rights and equalities that belong under the Law on Inheritance of Kosovo. Also impacting the men to accept this fact.
- A better relation should be established between the Office of Civil Registry in Lipjan and the Court to ascertain the exact situation presented in the death certificate. Judiciary reviews the case based on heirs named in the death certificate, but neither the Court nor the Civil Office does not verify the situation on the ground. In this sense there are times when the heir may not be included in the death certificate and especially women, and as consequence they will not be a part of inheritance.

Prehja, monitored branch court Skenderaj of basic court Mitrovica, court cases focusing on domestic violence and overall performance of the branch court in Skenderaj

Findings

- Regarding domestic violence cases, at least the ones we have observed, they are treated with priority. It is worth noting that in one of the cases of domestic violence, which was handled by this court case, was recurring. During this period there were several hearings, in which protective order, detention on remand, and punishment was imposed against the perpetrator for his violent actions against his wife, the mother of three children.
- In spite of this, creating a momentary reconciliation in the family, the case was repeated again and the woman left the family, and her whereabouts are unknown.
- In other cases the results were better and by the time of completion of monitoring, were not repeated.
- During the monitoring of civil cases in the Basic Court in Skenderaj, observed were phenomena related to family property and inheritance relationships.
- Another area of consideration was the compensation of damages, especially from the former public company KEK and insurance companies.
- In the area of criminal cases, offences of theft were prevailing, mainly illegal cutting of forest and damage to forests, disputes, bodily injury, etc.
- Regarding the findings identified by the monitor of the NGO “Prehja”, it is worth mentioning the improper transparency of the Basic Court, ranging from not updating the schedule announced on its monitor, lack of public reporting (quarterly and annual) for the work of the Basic Court.
- During this six month period, we have observed a lack of administrative staff, judges, prosecutors which has caused postponement of hearings.

- Basic Court suffers lack of sufficient rooms for hearings, as a result of which some hearings were held in judges' offices, which are very small and unsuitable for the hearing.
- Monitoring has resulted in finding some cases that were sent to retrial by higher judicial instances, but the Basic Court in Skenderaj , although it has been a long time, has not initiated review hearings.
- Another finding was that a criminal case was unlawfully terminated due to statute of limitation and competent bodies have returned the case for reconsideration.
- Also it is worth noting the improper information to the general public and NGOs for their right to participate in hearings.

Venera, monitored basic court in Peja, on heritage court cases, focusing on women

Findings

- A total of 19 hearings were monitored for division of inheritance and from these hearings only three women were heirs while other heirs were male. All hearings were held in the office of the Court.
- Hearings are rarely published in the public notice board.
- During monitoring there have been such cases when the hearing on inheritance was not conducted because the authorization issued by the notary was not issued at the appropriate professional level, because it contained no statement on the transfer of inheritance.
- Also in one physical copies of the death certificate which monitor took from the judge after the hearing was ascertained that it was not registered at the protocol of the registry of the Municipality of Peja, although it had the seal of the municipality. During monitoring of the hearings, the presence of the monitor has never been an obstacle for the party. Before the initiation of the hearing, parties have always been informed of the presence of the monitor, and this has contributed that parties felt more secure during the hearing.
- As an achievement of monitoring it is considered the fact that the judge initially advised women not to take inheritance from the brothers, in those cases when they are married and have good economic state in their families, but over time the judge has starting to comply with the law and to consider both genders as equal in division of inheritance. The trial judge has respected the code of professional ethics and the law and procedure on the division of inheritance.
- During monitoring of the Civil Service of the Municipality of Peja we had a mutual cooperation with the registrar officer. She informed us of all the procedures of issuing the death certificate. During monitoring she has provided us with death certificates where we took notes and in many cases she provided us with physical copies of death certificates. Based on these certificates, after numerous conversations with citizens (relatives of the decedent), we have managed to prove whether all legal heirs were included in the certificate. During verification of death certificates we have ascertained that two of those do not include all the names of legal heirs.

- Monitoring in the Municipal Service in Peja influenced that the official was more cautious in issuing the death certificates.
- From conversations with citizens we found out that they are informed with the reality that is happening, but due to the preservation of family relations many are reluctant to take any action.
- From the official of Cadastral Service from the Municipality of Peja, we received a physical copy where we concluded that the number of women who had property was higher in comparison to that of men.
- From conversations with bank officials realized that situation is same in all banks. During conversation we came to the conclusion that with the implementation of the Law on joint property there will be changes in the status of women as owner of property and business.
- As through project implementation we were enabled to monitor the administrative procedures for issuing documents based on which court divides the inheritance we came to the conclusion that:
- During the verification of death certificates we found that the right to inheritance was not respected for both genders without distinction.

Recommendations

- Creation of a database on the family situation which will ease difficulties of citizens to gather unnecessary documentation and to pay municipal taxes several times for the same documentation.
- This database simplifies the work of officials by reducing the volume of official documentation required and reduces unnecessary administrative costs.
- On the basis of this database, municipal services become more efficient for citizens
- The municipality should have a separate office for the registration of births and de-registration of deceased.
- Based on these recommendations the Municipality of Peja will be equipped with accurate statistical data to complete the death certificate and the request for the same becomes unnecessary
- Increased cooperation in higher level between the Municipality, Court and notary.
- Judge to rely on the law.
- Inheritance is to be divided based on the legal order, while for those persons who wish to renounce the right to inheritance, to conduct a separate hearing.

SZO – Women’s Committee for protection and human rights –WCPHR monitored basic court in Prishtina, on heritage court cases, focusing on women of non-majority community, and general performance of basic court in Prishtina

Findings

- Women in Municipality of Kosovo Polje/Fushë Kosovë, members of minority communities, need to cooperate with Kosovo judiciary, for several reasons, and mostly with regard to domestic violence and property issues. The domestic violence in this analysis covers women from all communities, but it is coming predominantly from Roma community (7 cases, 4 reported to the Police, 1 positive outcome in the Court. Two women from Serbian community; after contacting the Police, they gave up from filing a criminal complaint).

Non-reporting crimes:

- Tradition and culture in 75 % of surveyed women represent an obstacle to report domestic violence;
- Non-reporting of crimes happens due to lack of trust in protection that State is obliged to provide, as well as because of the treatment of victim of the crime;
- First contact with the police, in 7 cases of domestic violence, for women that reported it, was additionally traumatic because of lack of sensitivity by officials during contact and evidence gathering;
- None of the women from 7 cases who reported domestic violence were interviewed in presence of a psychologist;
- Cases take too much time in courts and are not dealt with in reasonable time, which delays justice and increases distrust;
- Mild sanctions for perpetrators of domestic violence, combined with problems to prove it, make women suffer the violence and not reporting it.
- Victim's hesitation to report domestic violence can lead to losing evidences and proofs;
- Women from Roma community, who reported violence, claim they were treated not seriously enough, and without expected normal respect from police officers.

Recommendations

- When we are talking about “legal capacity” of women, we mean their right to undertake all actions related to what can be called “law”, “legal system”, including the right:
 - to be treated fairly by police, support staff, judges and lawyers;
 - in cases where woman reports a perpetrator/s, to have a psychologist present,
 - to conclude and officially register a contract;
 - To see increased and stricter sanctions for crimes of domestic violence;
 - To ensure that protection measures are seen as an unique form of victim protection, separate from sanctioning a perpetrator.
- Women have to enjoy equal legal status as men before all legal entities.
- Consider, within laws on protection, envisaging of minimum of standards of proof for imposition of protection measures, which should be different from standards of proof as to sentencing the culprit.
- Offices for legal aid, and Office for protection and support for victims – State prosecution should increase its visibility also in areas where minorities live;

- Support activities of women NGOs and associations in all areas with minority population in Kosovo, in efforts to bring justice closer to women.

Council of Congress of Bosnian Intellectuals- VKBIK, monitored basic court in Prizren, on heritage court cases, focusing on women rights and rights of Bosnian community

Findings

- During first meetings with judges and judicial staff there was certain reservation and lack of trust, which was later remedied, especially after the meeting with President of Basic Court, Mr. Ymer Hoxha and his deputies, and after signing the MoU.
- As time passed, the transparency was better and bigger, so we were receiving the schedule on time for all, or almost all, trials, at the display in the main hall. However, sometimes it happened that the administrator did not announce all the scheduled trials, so we had to intervene.

Recommendations

- With regard to women's rights, we can say that women are usually excluded as inheritors of family inheritance (parents' property, house, land, etc).
- A woman is present at the trial only when she is needed to declare that she waives of heritage.
- As a woman and a mother she is also legally damaged, because due to poor material situation, in case of divorce, she is not capable to take care of the child and to realize other rights related to divorce.
- We should here point out the strong influence of tradition and customs.
- This could be remedied through better legal education of women, which is something our NGO tried to do.
- As for rights of Bosnian community, we should note that there is simultaneous interpretation into Bosnian language at all levels, from the Judge, to prosecutors, defendant, witnesses, and all participants in judicial procedures.
- One objection is the fact that minutes and stenographic records are taken in Albanian language, and the party in the process needs to translate it later with authorized court translator, or to return it to the Court for translation. We hope these observations of ours will be accepted and that in future, the Basic Court in Prizren will have all decisions (minutes, judgment, etc) concerning Bosnians, have also in Bosnian language.
- The good side of the Court is the fact that there are Albanians, Bosnians, Turks And others working as judges and officials, so citizens can talk to them in their native languages.
- If the judge is, for example, Albanian, and if he can't speak the language of the party, he calls an interpreter for easier communication. The party has the right to use their own language.

- The good side of judges (not all, though) is that all present persons, both prosecution and defendant, have the right to give a statement.
- However, along with good things, there is something that, in our opinion, is not right. Certain judges interrupt the parties during their giving of statements, so they can't finish whatever they wanted to say. They feel confused and lose focus.
- Some judges are a bit too strict to defendants, even though it was not yet proven whether they were guilty or not.
- Quite often, sessions take place in judges' offices instead of courtrooms. Their offices are small, and when more people are present, there is not enough space for all.

Green Art, monitored basic court in Prizren, heritage court cases, focusing on the communication between the court and citizens

Findings

- The communication between the court and citizens lags when it comes to getting the citizens to court. The notification of their interaction with the court becomes problematic when the invitation needs to be hand delivered.
- The communication between the court and citizens functions well once the citizens reach the court premises.
- Within the court, citizens receive enough information from the receptionists, as well as from monitors that provide up-to-date information on the session calendar.
- The change of mailing addresses several times since after the war causes additional problems for the court staff to find the right person and deliver the invitation.
- Citizens are reluctant to point the court courier to the right house, especially when they know the invitee. They see the interaction with the court as a negative phenomenon and believe to help the neighbor and/or relative by denying help to the court official.
- Even when the court couriers know the address, they face difficulties reaching the locations due to lack of vehicles.
- There is lack of telephone communication between courts and the citizens. The court couriers could have no phone credit to initially call citizens and identify their current address, or even in which part of the city they live.
- The court of Prizren doesn't use much its website and other social network media to promote its work, or even publish the session calendar.

Recommendations

- Digital monitors on to three times a week give information for session's agenda. Monitors should be placed in front of check control, in order that citizens do not have to pass the check control to gain basic information.
- Change of mailing addresses. Often change of home addresses due to migration of the population cause difficulties to find persons, as often they

could not be found. Often couriers are referring to addresses from bills from post office and other public utilities services. This way court administration finds the right addresses.

- Difficulties in finding the addresses also are due to lack of cooperation of citizens.
- For court couriers motorizing vehicles are necessary, for a better and efficient communication. Also there is lack of unified municipal map.
- Court couriers should be provided with court uniform, badges and briefcases, in order to represent with dignity the court. This way they would be more accepted and respected by citizens.
- Court couriers should have their own space. They do not have their premise, as it is needed for efficiency, mutual coordination and communication, especially for finding the right addresses and for other issues that will increase their performance.
- Court couriers should be provided with cell phones or basic amount of scratch cards. This way they will communicate with people and will considerably increase efficacy of communicating with people called for court sessions.
- Court couriers should be provided with training for communication skills and other relevant trainings, as they are the only court personnel facing citizens outside court premises.
- Delivering court calls not in person. Family members as receiver of those calls often forget to present the call to family member who is called for a court session.
- Citizens are convinced that non-receiving the call avoids responsibility.
- Person dealing with court starts with its own legal representative, whereas due to lack of financial means he continues without the lawyer, resulting to lack of further information and the work is neglected.
- Notary personnel are stating that citizens have very few information for competences of notary services and opportunities citizens can have from this personnel.
- Offence court states that there is insufficient communication and/or collaboration between the police, bank and the court. Even though citizens pay court services, they are called in court to confirm payment.
- The court should utilize more the internet to communication with citizens. The session calendar could be published on the web.
- Court staff should be encouraged to use more the telephone and/or email to notify citizens about their interaction with citizens.
- The court of Prizren should promote its work through its official website and other social media.

ELITA, monitored Viti branch court of Gjilan basic court about heritage court cases, focusing on the communication between the court and citizens, and overall performance of the branch court

Findings

- The small number of judges engaged in the fundamental court in Viti – In the Branch Court in Viti are engaged six judges, three of whom are engaged to review criminal cases (2 for civil cases and 1 for minor offenses)
- The small numbers of prosecutors – In the Branch Court in Viti are engaged three prosecutors who engage in this courts court sessions only 2 days a week (Tuesdays and Wednesdays).
- The large number of pending cases such as criminal and civil nature – The branch court in Viti, at the end of the third quarter of this year, has remained without reviewing 2070 criminal cases, 1262 civil cases, 2,895 cases that have to do with civil executions, 705 cases for criminal executions, 43 cases of imprisonment executions, and 34 cases of out contentious issues executions.
- The lack of properly preparation of the hearing prosecutors – The small number of prosecutors and the days that are engaged in branch court in Viti, made that a prosecutor to have up to 15 subject to review for an intraday and this has an impact for them not to reach the sufficient preparation for the court hearings.
- Lack of information about the schedule of hearings on the notice board (The display) – The display for public announcements sessions and other information about the court, is recently activated and it is not constantly updated with necessary information for citizens.
- Holding hearings in offices and not in the court halls – from 52 monitored hearings, 34 of them are held in judges' offices and 18 in the court halls which are prepared for court hearings.
- Lack of judges uniforms at court hearings - Judges and prosecutors, with the exception of 6 cases, during court hearings were not wearing court uniforms as prescribed in the rules of court.
- Frequent postpone of court sessions - From 52 sessions monitored, 13 are postponed because of the lack of prosecutors, witnesses, or accused parties.
- The parties of which their case sessions are postponed are notified only orally for the next session - In 13 cases, when proceedings were postponed the parties are notified only orally and not in writing, which makes possible for the parties to forget the scheduled time for the next session
- Failure to submit mail to competent persons who must appear in court - Subpoenas are often not accepted by the parties to be present in court, and in most cases it affects the parties to miss their court hearings.
- Interventions during court hearings - Although not permitted by the regulations, in some cases, court staff intervened in court session.
- The non-presence of public in the court hearings - Except for the monitors and court staff, the 52 monitored sessions were not attended by the public.
- Failure to submit minutes of hearings for the pair - In all concluded sessions the parties were not given the minutes, but they have just signed.
- Lack of administrative staff - A judicial secretary works for 2 or 3 judges
- Numerous language mistakes in drafting decisions and verdicts - In three released court decisions and records to parties, the expert involved in the project has encountered numerous linguistic errors which cause confusion among citizens in their interpretation.

- Lack of a database where all court decisions are stored in an electronic form
- The non-functioning information office inside the court.

Recommendations

- To constantly update the display for public announcements with information necessary to inform citizens about hearings and other necessary information for the public
- Judicial and Prosecutorial Council of Kosovo to make a quick solution about the commitment of additional prosecutors and judges in order to reduce the number of backlog
- Court hearings to be held in halls prepared for the event and not in the judges offices.
- To have a complete administrative staff of the court
- To give the parties the copies of the minutes at the end of the session
- The prosecutors to review the cases in advance, not only to read the introductory section, but the elaboration of evidence released
- In case of sessions postpone, to inform the parties in writing
- To coordinate the progress of judicial proceedings
- The plan the weekly agenda of the Court
- To plan the resolving strategy of the backlog in years
- To activate the information office (spokesperson) of the Public Relations Court, where every court work and activity will be published
- To mobilize the implementation of the reform in court
- To plan the removal of barriers that affect the progress of the hearings held
- With urgency, to resolve technical issues that are in the normal function of the functioning of the performance of the court (computers, sound system, projectors etc., electronic tables for schedule information sessions, etc..)
- To organize special training for administrative staff how to draw up legal acts and documents arising from court
- The court should have the database itself which will electronically maintain all decisions issued by courts

IRP monitored basic court in Ferizaj on logging the forestry cases, in Ferizaj region.

Findings

- IRP has taken notes for each session and has well analyzed all its reports that they received during monitoring and other activities.
- IRP has found some irregular issues. In the beginning organizing sessions that were held in the offices of the court, with a small space which prevented the entry monitoring persons.
- IRP has found irregular issues in cases where the representatives of the Agency of Forests were absent.

- IRP has found irregular issues also on the sessions' schedule which was postponed for the no reason absence of the judge.
- All these inconsistencies which were mentioned above have changed for better as a result of the IRPs pressure, reporting to the chief judge and discussed in the first tables organized by the IRP.

Recommendations

- Organizing meetings with citizens from the Basic Court to provide information about the importance of the basic court which would have an impact on the information of many cases
- 3 monthly reports publication, in solving cases.
- Co-operation and greater civil society organizations in their call for hearings which are public.
- Even greater co-operation with civil society organizations. Invite them at public court hearings.

ProActive monitored branch court Kamenica of basic court Gjilan on logging the forestry cases, in Ferizaj region.

Findings

- *The obsolescence of cases.* One of our important findings is the large number of un-reviewed cases of illegal logging dating since 2008 which makes the biggest concern for the civil society. We believe that a large number of court cases that have not been reviewed in time diminish the work in the court in the context of efficiency and time processing of cases. Naturally, we can not know all the circumstances that have brought us to this situation, but from the angle of an average citizen it can be assessed as an opportunity or 'case obsolescence' attempt or even as overdue justice when the damaged party is a private person.
- *Lack of Prosecutors.* Another relevant fact forms the lack of prosecutors during a court hearing where according to our attendees' observations the prosecutor is present only twice a week. This issue is clearly observed and it is also confirmed by the court staff. This 'phenomenon' must be addressed in higher levels of decision-making in Kosovo, since it will directly impact on minimizing the limitation of cases.
- *The small number of judges.* In the Basic Court in Gjilan - Kamenica Branch there are only 2 judges. This number court staff we consider as insufficient to address the large number of pending cases.

Recommendations

- Increasing the number of judges to 8,
- Active Pressure in the Basic Court (Branch in Kamenica) for the presence of prosecutors during court hearings,
- Material compensation for the evidence of Forestry workers,

- Addressing the issue that has to do with 'swelling' of the seized number quantity,
- Conduct all hearings in courtrooms

ProActive came out with additional recommendations:

- Increasing the number of court interpreters as well as offering language courses,
- Increase the Municipality-Court cooperation in material compensation cases, - Full functioning monitor information for the parties,
- Harmonization of laws between the Court and the Law on Local Self-government
- Encourage the court staff for citizen participation,
- Cooperation with municipal and postal services for localization, distribution, and confirmation of invitations to parties,
- Increased Public Relations (PR) through media and organizing Open Days for the local community

KADC, monitored Basic Courts of Kosovo - Pristina, Prizren, Gjakova, Peja, Ferizaj, Gjilan and Mitrovica, regarding the respect of the smoking ban within the court buildings, including courtrooms and facilities, by the court personnel themselves.

Findings

- Each basic court is monitored by at least 75 (five) times and total 66 interviews were conducted with judges and court staff.
- Smoking ban signs were noted in all courts, in visible areas such as their entrance with the exception of the Basic Court in Peja, Offences Division, which was in the restructuring phase. KADC has distributed smoking ban signs to each judge and administrative officials with their phone number for reporting the cases for violation of tobacco control law. These signs are placed in all the areas and offices of the courts.
- In the Prishtina Basic Court inside a judge office and two other Offences division offices was noticed tobacco smell while the guard was noticed two times smoking tobacco inside the court.
- Tobacco smell was also noticed in a judge office at the Gjilan Basic Court.
- In the office of the administrator in the basic court Peja, without the presence of the administrator, but in the presence of assistant administrator and other administrative officials, tobacco smoke was observed. Meanwhile, in the meeting hall was observed the presence of an ashtray but there was no odor or other signs of tobacco consumption.
- The administrator of the basic court in Ferizaj submitted to the secretariat of the KJC 4 (four) cases of violation of the law on tobacco control and four administrative staff persons were stopped by the wage penalty amount of 50 euros. A judge in Ferizaj decided to stop smoking the day the Law on tobacco control will entry into force.

- From the administrative staff has been noted that due to the hierarchy, the administration staff often go out and smoke tobacco whereas judges secretly smoke within their offices.
- All interviewees stated that they have reduced the amount of tobacco consumption since the law on tobacco has entry into force.
- During the monitoring period sanitary inspectorate has raised a total of 9 (nine) cases in for minor offenses court in Pristina basic, 7 (seven) in Prizren whereas in other basic courts there is no case raised.

In conclusion, from 66 monitoring visits to uphold law on tobacco control across the courts of the Republic of Kosovo are recorded total nine (9) cases of violation of law by administrative personnel and judges themselves.

Recommendations

- For fulfilling the goal that the Kosovo courts to be a model of the rule of law by respecting to ban tobacco smoking in the first place in the premises of courts and not remain or become into spaces where the violation of law by court personnel, need determination and persistence of presidents, court administrators, and Chairperson of the Judicial courts. Frequent and unannounced monitoring is one of the tools that will give concrete results in the respect of the law in court premises.
- The announcement by the citizens and court personnel in free public number is much needed and necessary for the law enforcement. This should precede the raising awareness of the unalienable right of the court personnel for a free tobacco smoke workplace environment and breaking taboos for denoting the colleagues for smoking tobacco the workplace to the administrator, the chief judge, or inspector labor.
- To strengthen the weakest link of the chain for tobacco control law requires active support of the inspection authorities in building capacities through training for the right compilation of cases, ongoing monitoring and tracking of court cases for a more efficient of their proceedings, publication of decisions, and the number of court decisions against punished business entities.
- In order to prevent the spread of the phenomenon of violations of the law on tobacco control and sending a clear message that those entities that violate the law are for sure sanctioned and sanctioned without delays. All the courts need to handle with priority the subjects dealing with the non-compliance of the law, especially in the winter season when the tendency and frequency of violations in closed spaces is much higher.
- To assign the unique code for the mandatory fines for unifying the forms of mandatory fines for all the law enforcement officers for tobacco control including the Kosovo Police.

FOL, monitored basic court in Gjakova and branch court Podujeva of basic court Prishtina on cases related to corruption

Findings

- Monitoring the court hearings of cases related to corruption and misuse of official position or authority is a great challenge. FOL Movement in collaboration with an expert of human rights has developed the methodology and a questionnaire based on this methodology for monitoring the court sessions in the context of the right to a "Fair Trial".
- Despite that according to the official data of Kosovo Judicial Council, during the period from January to September 2013, with regard to offenses of corruption and misuse of official position or authority, in the Basic Court of Gjakova, 3 cases are disposed from the past years and during this period 1 case was received, so far none of the cases has been resolved and no court hearing were held by any court. This is a very negative indicator for performance or importance given to these ongoing cases by the Court in Gjakova. The court officials have consistently been reasoning themselves that they are dealing with serious cases of murder and that the large backlog of cases do not allow them time to deal with the scheduling of hearings for these cases.
- Besides the above mentioned cases, according to Basic Prosecution Office in Gjakova, there are 6 cases that deal with non-declaration of assets which are pending in the prosecutorial procedure, on the other hand Kosovo Police reports that 3 cases of official abuse position or authority over local elections have been sent to Prosecution Office.
- As far as Podujevo Municipality is concerned, with the new Law on Courts, in Podujeva operates a Branch of Prishtina Basic Court. Also according to the new Law in force, Podujeva does not possess residential prosecutors but functions within the Basic Prosecution Office in Prishtina. Cases related to corruption and official position misuse, from January 1 2013 are carried by the Basic Court of Prishtina-Podujevo Branch, in the Serious Crimes Unit in the Basic Court of Prishtina. Despite the methodology described above Movement Fol has attempted to monitor the development of these cases carried in Prishtina.
- According to Kosovo Judicial Council official data, during the period of January-September 2013, related to the cases with corruption offenses and official position misuse or authority, in the Basic Court of Prishtina – in the branch of Podujeva, 4 inherited cases were disposed from previous years, no case has been resolved and no court hearing have been held by any court.
- Same as the case of Gjakova, this is an indicator that has a negative impact regarding to the performance and importance that these cases attain, and justifications are almost identical.

Recommendations

- FOL Movement during their attempts to monitor hearings has identified several problems in the functioning of the two relevant municipalities, and the problems

are included in this report: achieving the information even if its very basic is extremely difficult in the court because there are bureaucratic procedure; delays in processing and reviewing cases is also another problem as discussed in above paragraphs, this often affects the quality of court's work, lack of human and technical resources in court etc. All these elements are negative indicators, which lead with low level of transparency and accountability in the courts as well as not adequate implementation of a "Fair Trial" during the review of these cases.

- Fol movement recommends that: the cases related to the corruption and official position misuse or authority should have the attention and be treated with high importance because this issue is considered to be a big problem in our country, citizens should have an easier Access on Court Information; justice institutions should be more transparent and accountable, courts should be facilitated with human and capacity resources; as well as technical support on the trainings for officials in the field of a “ FAIR TRIAL” and human rights in general.