



## **MONITORING REPORT ON MITROVICA BASIC COURT**

**Advocacy Center for Democratic Culture**

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**Advocacy Training and Resource Center**

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**Title: MONITORING REPORT ON MITROVICA BASIC COURT, detached in  
VUČITRN/VUSHTRRI**

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**Abbreviations** *(please use abbreviations as less as you can and define all abbreviations you used in abbreviation list at the beginning of the report)*

**KJC – Kosovo Judicial Council**

**ACDC – Advocacy Center for Democratic Culture**

## **Summary/abstract**

This report presents findings that NGO Advocacy Center for Democratic Culture (ACDC) reached through implementation of the project “Enhancing Awareness of Citizens and Their Participation in Judicial System”. Information and findings presented in the report are dealing with following: Presentation of working conditions in Basic Court and Basic Prosecution Office in Mitrovica, where it was pointed out that is very difficult, first of all due to limited space for optimal functioning.

Further, huge backlog of cases is mentioned, a consequence of poor working conditions in Court building in Vučitrn/Vushtrri, as well as insufficient number of judges and support staff. The report, further on, presents findings on respect of parties’ rights in court procedures, where it was pointed out that the right to use own language, except some announcement being published in court only in Albanian language, was respected. The report also presents challenges related to eviction processes and certain property cases, where one of parties is absent and represented by an appointed representative. Finding of ACDC is that appointed representatives do not represent rights – interests of parties in a proper way.

Finally, the report sums up conclusions from the court monitoring process, and provides some recommendations for resolution of noticed challenges and problems. The report also presents results achieved by the project, and benefits the project brought to participants.

## **Introduction/Executive summary**

During period February to July 2014, NGO ACDC implemented a project “Enhancing Awareness of Citizens and Their Participation in Judicial System”. The project was supported by USAID, through Advocacy Training and Resource Center (ATRC). Also, NGO ACDC owes its gratitude to lawyers from North Mitrovica, who helped implementation of the project with their advices.

During the project implementation, one of significant segments was monitoring of work of Vuçitrn/Vushtrri Branch Court of Basic court in Mitrovica. The purpose of monitoring work was to establish - what are conditions for work, both for judges and other staff in the Court, as well as level of respecting rights of parties during court procedures.

Finally, goal of monitoring was also to reach certain conclusions, and suggest certain recommendations for improvement of work of the Court. Consequently, this report presents information and conditions of court work, and provides certain recommendations for remedying deficiencies and addressing challenges in court’s work regarding certain cases.

During the implementation of this project, NGO ACDC established very good cooperation with both Basic Court in Mitrovica and Basic Prosecution Office, which were transferred to Vuçitrn/Vushtrri. Good cooperation is a result of professional performance and support from President of the Court Ms. Kada Perquku Bunjaku, Chief Prosecutor Mr. Shyqyri Sylja, Deputy Chief Prosecutor Mr. Ismet Ujkani, and prosecutor Naim Beka. Also, very good cooperation was established with the court and prosecution administrations, and they provided support to NGO ACDC within areas of their expertise.

With regard to cooperation with Kosovo Judicial Council and Kosovo Prosecution Council, contacts are established, and it should lead to specific forms of cooperation. NGO ACDC will propose to these institutions to sign a memorandum of Understanding, aiming at cooperation and advancement of further projects related to rule of law in northern Kosovo.

## **Methodology and Limitations**

Implementation and management of this project involved three persons, as follows: Project Manager, Expert Consultant, and administrative/financial Associate. The Manager was responsible for organization of visits to Court and prosecution Office, and for regular monitoring of operations of the Court, while the Expert Consultant was in charge for providing expert advices and guidelines on project implementation, particularly the process of monitoring. Project Manager was Mr. Besim Parduzi, Lawyer (MA) from Vučitrn/Vushtrri, who has previous experience in working in Basic Court trough USAID projects, and Expert Consultant was North Mitrovica Lawyer Dejan Vasić.

The methodology of data collection for this report consists of several methods. Basic method of data collection was interviews with judges, prosecutors and support staff in Basic Court in Mitrovica. Interviews were performed during the monitoring of court cases, as well as during visits organized by NGO ACDC. During each of interviews, representatives of ACDC asked already prepared, targeted questions, with the aim to obtain relevant information, significant for the report. This information primarily related to functioning of the Court, working conditions, and efficiency in resolving cases. Study visits were also used as a method of data collection, when, in conversation with judges, prosecutors and administrative staff, they gathered information related and significant for the report.

Second method in monitoring process was following certain cases in procedures before Basic Court in Mitrovica. The purpose of following those cases was to establish certain patterns in resolutions of certain type of cases, as well as respecting rights of parties in specific cases. During the project implementation, the Project Manager visited almost 50 times, in fact two times per week, and reported on 15 ongoing cases. Further, NGO ACDC organized 4 visits to Basic Court and Basic Prosecution Office in Vučitrn/Vushtrri, and two visits and talks with EULEX Judges in Mitrovica North. Finally, there were six roundtables organized on topic of rule of law in Kosovo, with participation of young lawyers and civil society activists from various communities in Kosovo.

Main challenge, or obstacle, during the monitoring process were poor working conditions in Basic Court. Lack of room, as well as lack of appropriate courtroom where members of public could be present, made the monitoring process difficult. Still, the support from Court President and from representatives of prosecution Office, made possible the monitoring process and study visits to the Court and Prosecution.

## **Findings**

*Monitoring of Basic Court in Mitrovica (Vučitrn/Vushtrri), which covered following certain court cases and study visits and interviews with judges and prosecutors in Mitrovica, presented following findings:*

- a) *Basic court in Mitrovica operates in very poor conditions, and this inevitably has impact on efficiency of court processes. Poor conditions are primarily related to insufficient space and rooms for work of judges and other staff. During the process of monitoring, ACDC learned that one room in the court is being shared among twelve (12) employees, precisely four (4) judges and support staff. In conversations with the Court President and the judges, ACDC learned that lack of rooms significantly influences the work of this Court, since the Court operates in present conditions from year 2008. The Court also does not have an appropriate courtroom, so hearings are being held in improvised courtroom in a metal container box, or in judges' offices.*

*Same as the Court, Basic prosecution Office in Mitrovica faces the problem of insufficient space for work of prosecutors and support staff. As many as ten (10) prosecutors share one office in their building. On the other side, prosecution administration also works in only one office. Through talks with prosecutors, ACDC was informed that limited space influences performance of prosecution, especially during hearings and interrogation of suspects in the Prosecution office.*

- b) *Number of backlog cases in Basic Court in Mitrovica is high. According to statistical report on work of courts, in first half of 2014, number of backlog cases before the Basic Court in Mitrovica, with branches in Vučitrn/Vushtrri and Srbica/Skenderaj is 64.385. According to this statistics, total number of backlog cases before courts in Kosovo at the end of first half of 2014 is 438,383. Just for comparison, according to Back Log Strategy 2013 adopted by Kosovo Judicial Council, number of unresolved cases before courts in Kosovo is approximately 142.000, while some 91.000 cases are executive cases. This Strategy envisages strategic goals to achieve for reducing the backlog of cases, and implementation plan that should lead to its realization. However, implementation of the Strategy in Basic Court in Mitrovica seems difficult due to unfavorable working conditions.*
- c) *NGO ACDC has, during the monitoring process, followed also respect of parties' rights to use of official languages in Kosovo. During the monitoring, it was established that this right is respected within court procedures, since interpretation is provided for cases that require so. Also, the various forms that are being used in the court are translated in official languages of Kosovo.*



*The only exception related to use of languages, noticed by NGO ACDC while monitoring, was translation of notices for the notice board inside the court building. Notices are only in Albanian, and there are none in Serbian language.*

- d) *There are certain challenges in cases of eviction of illegal occupants of apartments and other real estate. These challenges are related to lack of human resources and insufficient coordination between judicial institutions and law enforcement agencies. During the monitoring, NGO ACDC learned that in some cases illegal occupants return to the place not long after eviction, while legitimate owners are not in position and do not have possibility to enter or sale their possession due to security reasons.*

*In certain number of cases, out of the limited number ACDC followed, the problem was physical absence from Kosovo of one of the parties, so they were not in position to participate in proceedings. In these cases, Court is not in position to deliver call notice to the party, since most of those are being published in Kosovo newspapers, which cannot be found anywhere in Serbia. Also, in these cases, the absent party are represented by appointed representatives, and it was noticed that they do not represent interests of the absent party in an adequate manner.*

## **Conclusions**

*Conclusions synthesize and interpret findings, and bring decisions supported by one or more recommendations.0*

*During the monitoring process in Basic Court in Mitrovica, NGO ACDC came to following conclusions:*

- *The court operates in very difficult conditions, first of all related to lack of adequate space for work of judges and support staff, as well as for performing hearings.*
- *Backlog number is high.*
- *Number of judges is insufficient in relation to the backlog and new cases.*
- *Right to use of languages is respected, with limited exceptions.*
- *Eviction procedures are, in many instances, inefficient.*
- *Options and possibilities for absent parties to protect their right and interests are almost inexistent.*

## **Recommendations**

- **It is necessary to ensure better conditions for work of Basic Court in Mitrovica. First of all, it goes for provision of necessary rooms and space for work of judges and support staff. The same goes for Basic Prosecution Office in Mitrovica.**
- **It is needed to work on more efficient implementation of the backlog Strategy. One of ways could be better cooperation with organizations that provide mechanisms for alternative resolution of conflicts, such as Mediation Centers. Thus, stronger cooperation is needed between Basic Court and Mediation Center in Mitrovica. However, in order to strengthen this cooperation, so the bigger number of cases gets resolved through mediation, it is necessary to improve capacities of**

**Mediation center in Mitrovica, first through number of mediators. The Ministry of Justice is very important factor for realization of this recommendation.**

- **Number of judges needs to increase, which is expected after implementation of Brussels agreement in judicial area.**
- **Judicial notices need to be translated into Serbian language.**
- **It is necessary to improve eviction processes. In this regard, what is needed is better cooperation between judicial institutions, police and other relevant agencies.**
- **Necessary to apply a mechanism through which, in property cases, absent parties would be informed on state of proceedings, so they could have the opportunity to protect their rights and interests. One of options would be use of media in Serbia, both printed and electronic.**

**Literature** (*List all sources you referred to in the main body of this report.*)

1. KJC Backlog Strategy 2013, available at [http://kgjk-ks.org/repository/docs/final---backlog-reduction-strategy-\(1\)-ENG\\_849137.pdf](http://kgjk-ks.org/repository/docs/final---backlog-reduction-strategy-(1)-ENG_849137.pdf)
2. Statistic Report on Work of Courts in First Half of 2014, available at [http://kgjk-ks.org/repository/docs/STATISTICS\\_REPORT\\_ON\\_THE\\_WORK\\_OF\\_THE\\_COURTS\\_Mid-year-2011\\_638768.pdf](http://kgjk-ks.org/repository/docs/STATISTICS_REPORT_ON_THE_WORK_OF_THE_COURTS_Mid-year-2011_638768.pdf)
3. Interview with President of Basic Court in Mitrovica, Ms. Kada Bunjaku Perquku
4. Interview with Deputy Chief Prosecutor in Basic Prosecution Office in Mitrovica, Mr. Ismet Ujkani
5. Interviews with judges, prosecutors and administrative staff.

**Annexes.**

**The list of annexes contains the following:**

- **Photos of study visits to the Court.**
- **Lists of participants in study visits.**
- **Lists of participants in roundtables related to rule of law.**

**Glossary** *(less familiar words and terms used in the report)*

KJC – Kosovo Judicial Council

Increasing Citizens' Awareness and Participation in the Justice System

Statistics Report on the Work of Cases Mid-Year 2014

## Report checklist

- What is the purpose of this report and did the report meet the purpose?
- Does the report cover all key points? Did you offer sufficient evidence to „prove“ your points?
- Did you analyze your evidence/data deep enough?
- Do your logical conclusion follow your arguments, and do your recommendations logically come from your conclusions?
- Is the language, tone, and style, pitch, clear, direct and formal, suitable for reader and topic?
- Are grammar, punctuation and spelling correct?
- Is the layout simple, clear, logical and consistent, with usual parts, chapters, paragraphs and numbers? Is the material in its adequate segments?
- If you used illustrations such as graphs and tables, are those clear and relevant, integrated and subscribed in adequate manner?
- Did you use adequate number and scope of sources? Are all sources and references listed at the bottom in the references list?
- Are Annexes clearly marked? Is the reader directed to each annex from the main body of the report?
- Did you leave this report aside for a period of time, before reconsidering and editing it?

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