



## **STRATEGY AND ACTION PLAN FOR THE REDUCTION OF JUDICIAL PROPERTY BACKLOGS**

Prishtinë/Priština, 16 March 2007

### **Introduction**

Kosovo institutions are making promising steps towards developing a judicial system which guarantees effective protection of property rights in compliance with the rule of law and the EU standards. The courts of Kosovo are evolving towards a well functioning modern court system which ensures that the execution of decisions in property related cases is timely, effective and observes due process safeguards. In order to be successful, the completion of this transition process requires a strategic planning involving all stakeholders and co-ordinating the efforts of the international institutions and the local authorities towards achieving a strategic objective – reducing the judicial property backlogs in Kosovo.

The current Strategy and Action Plan for the Reduction of Judicial Property Backlogs focuses on:

- Identification of existing property backlogs;
- Identification of possible ways for reduction of existing property backlogs;
- Actions for preventing the occurrence of new backlogs in the future.

It aims to provide the competent institutions and courts with an operational tool assisting them in their efforts to provide effective protection of the property rights of inhabitants and legal entities and to guarantee security and predictability of the real estate market in Kosovo.

### **Background**

The current situation with the judicial protection of property rights in Kosovo is marked by a trend of a growing number of property related cases pending in the courts. Currently, there are more than 10,000 cases pending resolution in the courts of Kosovo. The proceedings in some of these cases, from the initiation of the court proceedings to the final determination and/or execution of the decisions, have been unreasonably prolonged, resulting in violations of the right to a fair trial (Article 6, European Convention on Human Rights).

In order to deal with the property backlogs, it is important to determine the magnitude of the issues, to identify the main causes for the delays, to identify the pitfalls in the case-flow management process and to allocate the geographic concentration of cases (50 per cent of all property related cases are currently pending in Prizren and Prishtinë/Priština Municipal Courts).<sup>1</sup> While policy and legislative changes might be

---

<sup>1</sup> Kosovo Judicial Council, Report on Statistical Data Regarding Standard 6, Action 3.2, January 2007.



## **STRATEGY AND ACTION PLAN FOR THE REDUCTION OF JUDICIAL PROPERTY BACKLOGS**

necessary, management issues such as the reallocation of cases to different courts or increase of court staff and resources might be equally important for improving the situation.

In addition to the cases mentioned above, there is a distinct case-load of more than 18,000 cases which are currently not being processed by the courts following instructions by the international community. The vast majority of these cases are compensation claims against UNMIK, KFOR, PISG and individuals and were lodged by members of the Kosovo Serb community.<sup>2</sup> In addition, there are more than 2,900 cases of a similar nature which were lodged by Kosovo Albanian individuals which are also not being processed. These specific groups of cases are in need of an adequate solution which is in line with international standards.

The objectives of the current Strategy and Action Plan for the Reduction of Judicial Property Backlogs are to:

- a) Identify the nature and the scope of the unresolved property related cases in the Kosovo courts;
- b) Suggest legislative reforms and case management reforms in order to improve processing by the courts with full respect for the independence of the judiciary;
- c) Improve the efficiency of the regular courts when dealing with property matters;
- d) Contribute towards finding a mechanism for resolving the conflict related compensation cases suspended in August 2004; and
- e) Prevent new property disputes through mediation, awareness raising and policing.<sup>3</sup>

The Strategy and Action Plan for the Reduction of Judicial Property Backlogs will serve as a guiding document for the Kosovo institutions and the international community in the process of the future implementation of the relevant Standards and European Partnership Action Plan requirements (EPAP). Oversight of its implementation should be undertaken by the Standards and the European Partnership process structures and/or their successors.

---

<sup>2</sup> These are mainly claims for damages lodged against UNMIK, KFOR and PISG by Kosovo Serbs and are temporarily suspended at the request of the UNMIK Department of Justice (DoJ).

<sup>3</sup> The Strategy and Action Plan for the Reduction of Judicial Property Backlogs is the result of the coordinated efforts of relevant stakeholders, such as the Kosovo Judicial Council (KJC)<sup>3</sup>, the Ministry of Justice (MoJ), the Ministry of Environment and Spatial Planning (MESP), the Kosovo Property Agency (KPA); the UNMIK DoJ, the European Union Planning Team (EUPT), the United States Agency for International Development (USAID)/ National Centre for State Courts (NCSC) and the OSCE Mission in Kosovo.



## STRATEGY AND ACTION PLAN FOR THE REDUCTION OF JUDICIAL PROPERTY BACKLOGS

	Actions	Timeline	Actors involved	Mid-term targets (6 months-1 year)	Long-term targets (2-3 years)
<b>Goal 1</b>	<b>Identification of the nature and scope of the problems relating to resolution of property related cases.</b>				
	1.1. Identify the types and current status of immovable property cases pending before the courts including identifying cases that fall within identified time standards for case-flow management	Jan – August 2007	KJC (lead), USAID/NCSC, OSCE, UNMIK DoJ, EU	Identification completed	Reassessment as appropriate
	1.2. Conduct an assessment of the reasons for delay, such as the delivery of court documents and institutional co-operation with the Republic of Serbia, and identify opportunities for improving management of property related cases	Ongoing	KJC (lead), USAID/NCSC, OSCE, EU, UNMIK DoJ	Assessment drafted	Recommendations implemented
<b>Goal 2</b>	<b>Ensure legal reform and assistance on improving the processing of property related cases.</b>				
	2.1. Analysis of relevant civil procedure laws in	June 2007 – June 2008	EU (lead), DoJ, KJC, USAID/NCSC	Analysis drafted	Amendments proposed and adopted



## STRATEGY AND ACTION PLAN FOR THE REDUCTION OF JUDICIAL PROPERTY BACKLOGS

	<b>Actions</b>	<b>Timeline</b>	<b>Actors involved</b>	<b>Mid-term targets (6 months-1 year)</b>	<b>Long-term targets (2-3 years)</b>
	order to draft amendments needed to improve case management and court efficiency				
	<b>2.2.</b> Draft and adopt necessary amendments into relevant legislation	June 2007 – June 2008	EU, UNMIK, OPM, Kosovo Assembly	Amendments proposed.	Amendments proposed and adopted
<b>Goal 3</b>	<b>Improve the efficiency of the regular courts in property matters.</b>				
	<b>3.1.</b> Monitor statistical trends in property related cases	Ongoing	KJC (lead), USAID/NCSC	Statistics are being produced quarterly	Statistics continue to be produced as needed
	<b>3.2.</b> Identify needs of courts to improve case management based on analysis of current practices and recommendations for best practices		KJC (lead), USAID, EU, EAR, DoJ (Audit Section)	Analysis drafted	Recommendations implemented
	<b>3.3.</b> Provide judges and court staff with training on current civil procedure code and case management practices	Begin Jan 2007 (Ongoing)	Kosovo Judicial Institute (lead), KJC, USAID/NCSC	Training developed	Training takes place as appropriate
	<b>3.4.</b> Develop specific	(Ongoing)	KJC (lead), USAID/NCSC	Guidelines drafted	Guidelines implemented



## STRATEGY AND ACTION PLAN FOR THE REDUCTION OF JUDICIAL PROPERTY BACKLOGS

	Actions	Timeline	Actors involved	Mid-term targets (6 months-1 year)	Long-term targets (2-3 years)
	guidelines for the Courts in order to improve case-flow management practices for all civil cases <sup>4</sup>				
<b>Goal 4</b>	<b>Solve the conflict related cases suspended in August 2004 and related cases.</b>				
	<b>4.1.</b> Identify current status and number of property related cases filed by Kosovo Serbs against KFOR, UNMIK, Municipalities and individual persons stayed by DOJ in August 2004 as well as related cases	(Ongoing)	KJC (lead), USAID/NCSC, EU, KPA, UNMIK	Identification completed	Reassess if needed
	<b>4.2.</b> Develop a proposal to expeditiously adjudicate the property related cases filed by Kosovo Serbs against KFOR, UNMIK, Municipalities and individuals	March 2007-June 2007	EU (lead), KPA, OSCE, UNMIK	Strategy drafted	Cases solved

<sup>4</sup> These guidelines will refer exclusively to case management and judicial administration within the legally mandated competencies of the Kosovo Judicial Council, and will not interfere with the independence of the judiciary.



**STRATEGY AND ACTION PLAN FOR THE REDUCTION OF JUDICIAL PROPERTY BACKLOGS**

	<b>Actions</b>	<b>Timeline</b>	<b>Actors involved</b>	<b>Mid-term targets (6 months-1 year)</b>	<b>Long-term targets (2-3 years)</b>
	suspended in 2004 (and related cases), including assistance to courts and judges and elimination of legal impediments				
<b>Goal 5</b>	<b>Prevent new property cases.</b>				
	<b>5.1.</b> Ensure effective action by Police and Prosecutors in cases of unlawful occupation of immovable property	(Ongoing)	Office of the Public Prosecutor of Kosovo (lead), Police	Guidelines implemented	Qualitative assessment
	<b>5.2.</b> Assess existing mediation mechanisms and needs in order to prevent disputes from reaching the judicial system	(Ongoing)	KJC (lead), USAID/NCSC, MoJ	Assessment drafted	Assessment completed, recommendations implemented
	<b>5.3.</b> Conduct awareness raising activities to promote legal remedies and deter future illegal occupants	March 2007 – December 2008	MESP (lead), OSCE	Proposal drafted	Activities conducted regularly