



Organization for Security and Co-operation in Europe
MISSION IN KOSOVO

**Remarks of Dr. Jens Modvig,
Deputy Head of OSCE Mission in Kosovo,**

Remarks on the Eighth "Review of the Criminal Justice System in Kosovo"

Prishtinë/Priština, 14 December 2006

Ladies and gentlemen

I have the pleasure to present to you today the eighth in the series of criminal justice reviews made by the OSCE.

This is part of the OSCE's ongoing work to not only monitor the justice system in Kosovo, but to pro-actively monitor all the Provisional Institutions of Self-Government (PISG) for adherence to applicable local laws, the Kosovo Standards Implementation Plan and also relevant international standards, such as the European Partnership Action Plan.

The OSCE follows up on these recommendations in meetings with relevant local responsible parties in the PISG and issues later reports on the progress, or lack thereof, that occurs.

This report highlights three important sectors within the justice system: the protection of witnesses, how justice is administered in minor offices courts, and the manner in which juveniles are treated in the criminal justice when they are either defendants or victims.

We wish to support the justice system at all levels as it develops into a more professional system, a system where all can go to if they feel justice needs to be served.

Indeed, we all agree that Kosovo needs a reliable and functioning justice system working. This is essential for the establishment and respect for the rule of law. This is why we, the OSCE, monitor the justice system from a human rights perspective.

The challenges faced by the courts, which result more from the current context in Kosovo than more oversights of the law, are not unsurpassable. To ensure the rule of law, it is important to have an effective system that can mete out justice and have the confidence of the public.

The report identifies a series of challenges, problematic issues, and these are meant to encourage the relevant authorities to implement these recommendations and take all steps necessary to correct what ails the system.

First, witness protection. The OSCE is concerned that the failure of authorities to effectively protect witnesses prevents the effective prosecution of alleged criminals. However, it is not just about protecting witnesses, it also about regular incidents of intimidation of witnesses.

It is the moral and legal duty of people to provide testimony and bring criminals to justice. People need to co-operate with the police. But intimidation leads to suspects being released, it results in cases not going to trial or being solved. Sadly members of the justice community are also being intimidated.

This culture of fear means even if people are willing to testify or co-operate, the public does not have confidence that the authorities could effectively protect them.

Our overarching recommendations are that witnesses are protected prior to, during, and after the trial, that existing witness protection methods are fully put into place, and the individuals who threaten or intimidate witnesses are prosecuted and punished.

Second, justice in minor offences courts. Justice must be given out fairly at all levels. The broad scope of their jurisdiction makes it an important part of the judiciary but if charges are not defined, if decisions are not well reasoned, if there are collective punishments, then justice is not served.

Third, juvenile justice. The goal of the juvenile justice system, according to international human rights law, is the child's rehabilitation and reintegration into society. The Juvenile Justice Code now in place is meant to do just that, bringing standards in cases where juveniles are either defendants or victims.

Yet in cases OSCE has observed, there are procedural violations of the law, delays which can cause undue harm. What is clear is that those who are underage need to be treated differently; otherwise they may be victimized by the system.

And so to conclude, the OSCE monitoring and our recommendations are not simply to highlight what is wrong with the justice system. Many of Kosovo's institutions have at most seven years of experience, they are not perfect. But no justice system in the world is perfect.

Our work is meant to show the challenges faced by the average person to ensuring justice, a justice in line with basic human rights standards, is served. These are challenges to be faced not just by those working in the justice system but also by those who go before the courts. This is how people will gain confidence in courts, in the police, as the rule of law takes a further hold on Kosovo.