



Organization for Security and Co-operation in Europe

MISSION IN KOSOVO

Remarks of Ambassador Werner Wnendt,
Head of OSCE Mission in Kosovo,

on the Report on Legal Representation in Civil Cases in the Kosovo Judicial System

Prishtinë / Priština, 8 June 2007

Ladies and Gentlemen:

I have the pleasure to present to you today the latest of many OSCE reviews of Kosovo's judicial system – Legal Representation in Civil Cases. Following the first review of the Civil Justice System, this one focuses on legal representation in civil court proceedings.

Legal representation is an important area because lawyers, like judges and prosecutors, play an important role in promoting justice in any legal system. Through skilful representation and professionalism, lawyers defend the interests of their clients and ensure that courts and other attorneys respect the law.

Sadly, there are challenges and problematic issues regarding legal representation in civil cases. We highlight three areas.

First, an overarching challenge. Kosovo does not have a functioning legal aid system for civil cases. Thus, parties often have to represent themselves although they do not understand substantive and procedural aspects of the proceedings. This raises serious concerns regarding the rights to free and effective legal representation.

Second. We have noticed recurring problems related to legal representation in property transactions. Here, the OSCE has observed cases where a lawyer has assisted a client in fallaciously purchasing property from an absent owner whose authorization has been forged. Thus, the owners – who are typically members of minority communities displaced after the conflict – actually have never consented to the selling of their properties.

Finally. Some lawyers violate the Code of Lawyers' Professional Ethics. Observed violations relate to poor performance by lawyers, representation of clients despite conflicts of interest, and activities incompatible with their profession. For example, the

OSCE observed that a lawyer represented the plaintiff and the defendant in different stages of the same case. This is a clear conflict of interest.

But there are possible ways and means to overcome these challenges. As always, the OSCE makes a number of recommendations addressed to lawyers, to the Kosovo Chamber of Advocates, to the judges and to other relevant Kosovo authorities and encourage them to take all necessary steps to remedy the highlighted shortcomings.

While the OSCE is the third pillar, the "institution building" pillar, of UNMIK, lawyers are the third pillar – after judges and prosecutors – of the justice system in Kosovo. Clients deserve professional and zealous representation that is an essential part of any legal system.