

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

**The Mitrovicë/Mitrovica Justice System: Status update
and continuing human rights concerns**

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Introduction

For almost three years now, the justice system in the Mitrovicë/Mitrovica region has been only functioning in a limited capacity.

The Organization for Security and Co-operation in Europe Mission in Kosovo (OSCE), following close monitoring of developments in northern municipalities in Kosovo, has, since 2008 issued regular reports outlining human rights violations resulting from a limited or non-functioning justice system in the Mitrovicë/Mitrovica region.¹ The OSCE has repeatedly stressed the negative impact which a non-fully functioning justice system in the Mitrovicë/Mitrovica region has on both the rule of law and the observance of fundamental human rights including the right to liberty, the right of access to justice, and the right to trial within a reasonable time.²

Despite intensive efforts by both international and local stakeholders, there has been no major progress in the operation of the justice system and ancillary rule of law institutions in the region. This report presents a status update on the current functioning of the judiciary in the Mitrovicë/Mitrovica region, reiterates concerns over continuing human rights violations and the difficult working conditions in some judicial offices, which impact the proper delivery of justice.³

Status update

The Mitrovica/Mitrovicë court compound located in the northern part of Mitrovica/Mitrovicë has been inaccessible for local judges and public prosecutors and their support staff following the events of February and March 2008.⁴ Since their official deployment on 9 December 2008, this court compound has been administered by the staff of the European Union Rule of Law Mission in Kosovo (EULEX), currently composed of six judges, four prosecutors, local staff (both Kosovo Serb and Kosovo Albanian), and international support staff.⁵

All local judges and prosecutors who used to work at the court compound in the northern part of Mitrovica/Mitrovicë continue to operate in a limited capacity from the premises of Vushtrri/Vučitrn municipal court.

¹ See the OSCE Report, *Reactions to Kosovo's declaration of independence severely impact the justice system in Mitrovicë/Mitrovica and negatively affect courts in other regions, resulting in human rights violations*: (March 2008); the report can be accessed at: http://www.osce.org/documents/mik/2008/03/30871_en.pdf; OSCE Report, *Continuing Human Rights Concerns and Recent Developments* (December 2008), http://www.osce.org/documents/mik/2008/12/39198_en.pdf; OSCE Thematic Report, *The Use of Detention in Criminal Proceedings in Kosovo: Comprehensive Review and Analysis of Residual Concerns* (Part I), pages 22-23, http://www.osce.org/documents/mik/2009/12/41722_en.pdf. Also OSCE Report, *Mitrovicë/Mitrovica Justice System: status update and continuing human rights concerns* (February 2010), http://www.osce.org/documents/mik/2010/02/42804_en.pdf.

² Articles 5 and 6 of the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR).

³ This report covers the period February 2008 through October 2010.

⁴ Starting on 21 February 2008, a group of 50 to 200 protestors, among them employees of the pre-1999 justice system, staged daily protests outside the Mitrovicë/Mitrovica court complex on weekday mornings demanding entry to the building to return it to the Serbian court system. Protestors forcibly entered court premises on 14 March 2008. On 17 March 2008, UNMIK police, in an operation supported by KFOR, entered the building, arrested the occupants and re-established control over the courthouse. Serious civil unrest followed, leading to the death of one international civilian police officer.

⁵ According an EULEX Legal Officer for the Office of the Head of Justice, there are more EULEX judges and prosecutors in Mitrovicë/Mitrovica than in any other district.

District court level

The Mitrovicë/Mitrovica district court, relocated to the premises of the Vushtrri/Vučitrn municipal court, holds hearings in criminal cases requiring the imposition, extension and/or termination of measures foreseen to ensure the presence of defendants, to prevent re-offending and to ensure successful conduct of criminal proceedings. This court also holds confirmation of indictment hearings in cases when some of the most severe above-mentioned measures are imposed on defendants. As the second-instance court in criminal matters, the district court recently started to deal with some cases where a statutory limitation is about to expire or has already expired.⁶

As the first-instance court for civil cases, Mitrovicë/Mitrovica district court handles divorce cases and processes requests to recognize judgments issued by courts outside Kosovo. From January to September 2010, this court recognized 286 judgments issued by courts outside Kosovo. As the second instance court for civil cases, the court deals with appeals involving temporary measures, domestic violence, interference with possession of property and labor cases.⁷ Mitrovicë/Mitrovica district court deals with appeals from the municipal courts of Skenderaj/Srbica and Vushtrri/Vučitrn; these municipal courts are affected by a limited functioning of the justice system at the district court level, i.e., by obstacles in processing of cases on appeal.

Municipal court level

The Mitrovicë/Mitrovica municipal court (covering Mitrovicë/Mitrovica and Zvečan/Zveçan) also operates in a limited capacity from the premises of the Vushtrri/Vučitrn municipal court. This court handles hearings in criminal cases requiring the imposition, extension and/or termination of the measures foreseen to ensure the presence of defendants, to prevent re-offending and to ensure successful conduct of criminal proceedings. The court also holds confirmation of indictment hearings and trials of juveniles' criminal cases. It has also held trials in a limited number of other criminal cases.

In civil cases, the Mitrovicë/Mitrovica municipal court only holds trials in so-called emergency cases, which include interference with possession of property, domestic violence, cases regarding the amendment of a first instance court judgment on child custody, and inheritance cases.⁸

From February 2008 through October 2010, Mitrovicë/Mitrovica municipal court conducted and completed trials in 46 criminal cases⁹ (two of which were completed by EULEX judges) and 484 civil cases.¹⁰ The court still provides minimal legalization services, which include contracts and amendments to contracts, authorizations, and criminal record certificates.

⁶ The court commenced dealing with approximately 40 appealed cases from Vushtrri/Vučitrn municipal court, as per their ordinary registration number. Moreover, the court dealt with a few appeal cases from Skenderaj/Srbica municipal court following submissions by interested parties.

⁷ This is not done on a regular basis. Usually, interested parties would file submissions with the court and a panel of judges would decide whether it was grounded or not. This would be followed by a decision on the matter.

⁸ As of 1 January until the end of September 2010, Mitrovicë/Mitrovica municipal court received four property cases related to the obstruction of possession and six labor cases.

⁹ From February 2008 to February 2010, Mitrovicë/Mitrovica municipal court conducted and completed trials in 17 criminal cases and has handled 18 civil cases.

¹⁰ Specifically 432 inheritance cases, 35 domestic violence cases, four cases of obstruction of possession, two labor disputes and 11 alimony cases.

The Mitrovicë/Mitrovica minor offences court still functions in a limited capacity on the premises of the Vushtrri/Vučitrn municipal court. Between the end of February 2008 and the end of October 2010, this court received 31,715 cases, including cases from the northern part of Mitrovica/Mitrovicë and Zvečan/Zveçan.¹¹ The backlog of cases is increasing. By comparison, from the end of February 2008 until the end of December 2008, this court had received 8,400 cases originating from the southern part of Mitrovicë/Mitrovica municipality (the court did not receive any cases from the northern part), whereas from January 2009 to November 2009, this court received more than 9,700 cases, including those from northern Mitrovica/Mitrovicë and Zvečan/Zveçan.

Zubin Potok and Leposavić/Leposaviq municipal and minor offences courts remain non-functional since February 2008. Criminal cases requiring the imposition, extension and/or termination of measures foreseen to ensure the presence of defendants, to prevent re-offending and to ensure successful conduct of criminal proceedings, are handled through transfers to another municipal court in the region.

Municipal and minor offences courts in Skenderaj/Srbica and Vushtrri/Vučitrn are, as of the end of October 2010, still the only courts in the Mitrovicë/Mitrovica region that operate more or less normally.

Public prosecution at the district and municipal levels

The Mitrovicë/Mitrovica district and municipal public prosecution offices, covering all six municipalities in the region, are still operating from the premises of the Vushtrri/Vučitrn municipal court, exercising limited prosecutorial functions. The Mitrovicë/Mitrovica district public prosecution office performs all duties up to and including filing of indictments and participation in district court confirmation of indictment hearings. The Mitrovicë/Mitrovica municipal public prosecution office performs all duties up to and including filing of indictments and participation in confirmation hearings in cases within the competence of the Mitrovicë/Mitrovica municipal court. Prosecutors also attend some trial sessions.

Prosecutors are also representing prosecution cases falling under the competence of Leposavić/Leposaviq and Zubin Potok municipal courts; whenever needed, a request is filed with the president of the Mitrovicë/Mitrovica district court to transfer the competence to another court of the same material jurisdiction in the Mitrovicë/Mitrovica region. Municipal prosecutors continue to perform the full spectrum of prosecutorial duties in the cases falling under the competence of the Vushtrri/Vučitrn and Skenderaj/Srbica municipal courts.

EULEX judges and prosecutors

The deployment of EULEX judges and prosecutors brought limited improvements to the functioning of the justice system in the Mitrovicë/Mitrovica region, insofar as the limited capacities of EULEX allow for some of the most serious cases to be effectively prosecuted and tried. Up to the end of October 2010, EULEX judges sitting at the district court of Mitrovicë/Mitrovica had completed 40 criminal cases. Twenty-four of these cases were

¹¹ Because of the current difficult working conditions, the court accepts and files all incoming cases. However, it handles only those with summary procedure as well as urgent cases such as cases of grave disturbance of public peace and order, traffic accidents, seizure of documents by the police, when parties are foreign citizens, cases involving juveniles and those that need to be transferred to other courts in Kosovo.

completed by means of verdict, with 16 criminal proceedings terminated for other reasons. Two of these forty cases fell under the jurisdiction of Mitrovicë/Mitrovica municipal court.

EULEX still holds special sessions to take over cases from the local judiciary. From its deployment in 2008 to Mitrovicë/Mitrovica to the end of October 2010, EULEX took over a total of 37 cases from local judges. It is noteworthy to mention that such hearings, attended by the president of the Mitrovicë/Mitrovica district court together with local judges and prosecutors, are held in the premises of the court compound in northern Mitrovica/Mitrovicë. Security arrangements at such hearings are provided by EULEX. The hearings so far have proceeded without incident.

EULEX has also taken steps to complete the processing of all other pending cases. To that aim, in mid-July 2009 EULEX, with support of local staff, started the inventory of all criminal and civil case files located in the courthouse in northern Mitrovica/Mitrovicë. The total number of criminal and civil case files retrieved and organized by the inventory team for the Mitrovicë/Mitrovica district court is approximately 3,500.¹² There are another approximately 5,200 case files in the public district prosecution office. The total number of criminal and civil case files retrieved and organized by the inventory team for the Mitrovicë/Mitrovica municipal courts is approximately 4,600 with another 3,893 active and 21,711 archived cases in the municipal public prosecution offices.¹³

Of the criminal case files inventoried and archived in the courthouse in northern Mitrovica/Mitrovicë, approximately 50 were identified by EULEX as a priority cases. Most of these 50 involve defendants held in detention on remand. These cases, which are at different procedural stages, were given priority over all other cases and were the first to be dealt with by EULEX judges.

Initially, it was envisaged that, at some later stage, cases would be handled by a mixed group of judges and prosecutors, composed of five Kosovo Albanians, five Kosovo Serbs and five EULEX judges and prosecutors. Later on, the plan changed to two international judges, two Kosovo Serb judges and two Kosovo Albanian judges and a similar number of prosecutors. However, to date this plan has been not realized. When this composition of judges and prosecutors will commence its work remains un-determined at the time of this report.

Continuing human rights violations

The absence of a fully-functioning justice system in the Mitrovicë/Mitrovica region leads to serious human rights violations of:

- the right to access to justice;
- the right to trial within a reasonable time; and
- the right to liberty.

The right to access to justice

The European Court of Human Rights (ECtHR) case-law establishes that “[e]veryone [has] the right to have any claim relating to his civil rights and obligations brought before a court

¹² Report of the Secretary-General on the United Nations Interim Administration Mission in Kosovo, S/2010/5, 5 January 2010, page 13. In addition, in its Press Release of 14 October 2009, EULEX gives an estimated number of more than 3,000 case files that have been found, organized, registered and classified.

¹³ Information obtained through interviews conducted with members of the inventory team in late October 2010.

or tribunal”,¹⁴ and that a “hindrance, even of a temporary character, may contravene the [European] Convention [on Human Rights].”¹⁵ The ECtHR has construed the right to access to justice as a key feature of a more general concept of “rule of law”, which is part of the “[...] common heritage” of the Council of Europe states,¹⁶ and has commented that “[...] one can scarcely conceive of the rule of law without there being a possibility of having access to the courts.”¹⁷

Since 20 February 2008, the residents of Mitrovicë/Mitrovica, Zvečan/Zvečan, Zubin Potok and Leposavić/Leposaviq have had their right to access to justice continuously hampered. Only in cases which were considered urgent, individuals from these municipalities have been able to seek justice before the relocated courts, which are functioning in a limited capacity. EULEX has handled a very limited number of criminal cases, while the vast majority of proceedings in both criminal and civil trials continue to remain suspended to an unspecified date. In the vast majority of cases, the absence of a fully functioning district court still prevents processing of appeals filed against judgments of municipal courts from the Mitrovicë/Mitrovica region.

Another serious problem arising out of the absence of a fully functioning justice system in the Mitrovicë/Mitrovica region is the possible lapse of the statute of limitations for many of the criminal offences and minor offences that occurred in Mitrovicë/Mitrovica, Zvečan/Zvečan, Zubin Potok and Leposavić/Leposaviq.¹⁸ As mentioned earlier in this report, the great majority of criminal and minor offence cases involve crimes allegedly committed in the territory of these municipalities which are classified as non-urgent. These cases are not being processed, and as such, there is the risk that the statute of limitations will expire before the cases are completed.¹⁹ This risk is particularly high in minor offences cases, for which the law provides a rather short period of statutory limitation.²⁰

The inability to properly complete these criminal and minor offences cases continues to frustrate victims’ pursuit of justice. This has implications for the rights of victims, has a serious effect on the rule of law in the region and severely undermines public trust in law enforcement and the efficacy of the justice system.²¹

¹⁴ ECtHR, *Golder v. United Kingdom*, 4451/70, Judgment of 21 February 1975, paragraph 36.

¹⁵ *Ibid*, paragraph 26.

¹⁶ *Ibid*, paragraph 34.

¹⁷ *Ibid*, paragraph 34.

¹⁸ This threat of the period of statutory limitation expiring before cases are effectively handled concerns also the cases on which the files are in the courthouse in northern Mitrovica/Mitrovicë, in particular the cases involving minor offences and crimes falling under the jurisdiction of the municipal court, for which the law provides shorter statutes of limitations. See Article 27 paragraph 1 of the Law on Minor Offences (Official Gazette of the Socialist Autonomous Province of Kosovo, no. 23/79) and Article 90 paragraph 1 item 6 of the Criminal Code of Kosovo (CCK).

¹⁹ The non-full functioning of the courts and prosecution services from the northern municipalities may however justify the interruption of the period of statutory limitation on criminal prosecution, under Article 91(2) CCK.

²⁰ See Article 27 paragraph 1 of the Law on Minor Offences (Official Gazette of the Socialist Autonomous Province of Kosovo, no. 23/79).

²¹ One of the consequences of a non-fully functioning justice system is the growing perception of impunity, especially among youngsters.

The right to a trial within a reasonable time

The ECtHR has held that an individual's right to a trial within a reasonable time generates a correlative positive obligation on the part of authorities to organize their legal system in such a way as to enable the courts to comply with the "reasonable time" requirement.²² It further notes that "[...] public unrest in a region where a trial is held can justify delays in proceedings only insofar as public authorities undertake steps to transfer the caseload to another jurisdiction."²³ In general, whenever public authorities are faced with a temporary backlog of business, they must undertake, with requisite promptness, remedial action to deal with an exceptional situation of that kind.²⁴

Confronted with the disruption in the functioning of courts in Mitrovicë/Mitrovica, Zubin Potok and Leposavić/Leposaviq, the justice system in Kosovo has taken only limited steps to address the situation. The currently relocated Mitrovicë/Mitrovica district, municipal and minor offences courts handle only urgent, priority criminal, civil and minor offences cases. Many of those cases are not completed but are left pending at some procedural stage, as described above.

Urgent criminal cases from the non-functioning municipal courts in Zubin Potok and Leposavić/Leposaviq began being transferred to same-level jurisdiction courts for the first time a year after those courts stopped functioning. The processing of such urgent criminal, civil and minor offences cases, whether at the relocated courts or through transfers of jurisdiction, is a positive development. But the vast majority of cases before the Mitrovicë/Mitrovica, Zubin Potok and Leposavić/Leposaviq courts remain delayed or suspended indefinitely.

EULEX, within its mandate²⁵ and current staffing levels, helps with the processing of the most serious cases, but it cannot compensate for the absence of a fully-functioning judiciary in the region. Consequently, unreasonable delays in the processing of most cases before the Mitrovicë/Mitrovica, Zubin Potok and Leposavić/Leposaviq courts are likely to continue to be the norm, not the exception. Particularly troublesome is the situation at the Mitrovicë/Mitrovica district court, which by virtue of its jurisdiction should be handling cases involving the most serious crimes. At the end of October 2010, there were more than 200 indictments pending confirmation before Mitrovicë/Mitrovica district court, and it is still not clear when those indictments will be confirmed and cases referred for trial.

On 26 May 2008, a Mitrovicë/Mitrovica district prosecutor filed an indictment against a Kosovo Albanian police officer, charged with attempted aggravated murder²⁶,

²² See, e.g., ECtHR, *Spentzouris v. Greece*, 47891/99, Judgment of 7 May 2002, paragraph 27. See also *Eckle v. Germany*, 8130/78, Judgment of 15 July 1982, paragraph 92. In another case the Court held that a temporary backlog of business does not involve liability on the part of the institutions "provided that they take, with the requisite promptness, remedial action to deal with an exceptional situation" (ECtHR, *Milasi v. Italy*, 10527/83, Judgment of 25 June 1987, paragraph 18).

²³ See ECtHR, *Foti v. Italy*, 7604/76, 7719/76, 7781/77 and 7913/77, Judgment of 10 December 1982, paragraph 61.

²⁴ See ECtHR, *Baggetta v. Italy*, 10256/83, Judgment of 25 June 1987, paragraph 23.

²⁵ See Article 3, European Council Joint Action 2008/124/CFSP of 4 February 2008 on the European Union Rule of Law Mission in Kosovo, EULEX KOSOVO. In part, EULEX is mandated to "mentor, monitor, and advise the competent Kosovo institutions on all areas related to the wider rule of law (including a customs service), whilst retaining certain executive responsibilities." These responsibilities include, *inter alia*, investigating, prosecuting and adjudicating certain cases.

²⁶ Article 147, CCK.

unauthorized ownership, control, possession, or use of a weapon,²⁷ accepting bribes²⁸, abusing official position or authority²⁹, fraud³⁰, and two counts of mistreatment in exercising duties.³¹ Almost two and a half years have passed and no confirmation hearing has yet been scheduled in this case, despite the fact that the law requires courts to schedule confirmation of indictment hearings immediately and no later than two months from the date the indictment is filed.³²

The OSCE was also in the course of monitoring a number of civil cases, including inter-ethnic property cases, when the functioning of courts in the Mitrovicë/Mitrovica region was interrupted in February 2008. At that time there were already considerable delays in the processing of those cases; some of them dating from as far back as 2001. According to information available to the OSCE, these cases remain stalled, waiting for the courts in northern Kosovo to resume proper functioning.

The right to liberty

Both ECtHR jurisprudence and the legal framework in Kosovo require the periodic review of detention by a court.³³ In the case of prolonged detention, the competent authorities have a duty to show that grounds for detention continue to exist, and must display “special diligence in the conduct of the proceedings.”³⁴ Detention should last no longer than necessary³⁵, otherwise, it becomes unlawful. A detained person is “entitled to trial within a reasonable time or to be released pending trial.”³⁶

The lack of a fully-functioning judicial and prosecution system in the northern municipalities leads to serious violations of the right to liberty. At the end of October 2010, the list of detainees before the Mitrovicë/Mitrovica district court indicated that 39 persons were held in detention on remand, and a further 18 persons in house detention. A similar list from the Mitrovicë/Mitrovica municipal court showed two persons in detention on remand. Detention orders against many of these defendants have been continuously extended throughout the period that the courts have been functioning in a limited capacity.

In one case before the Mitrovicë/Mitrovica district court, a defendant charged with murder³⁷ and with unauthorized ownership, control, possession, or use of weapons³⁸ has been held in detention since 1 October 2007.

In another case before the Mitrovicë/Mitrovica district court, a defendant charged with murder³⁹ has been held in detention since 5 November 2007. The case has now been transferred to EULEX judges.

²⁷ Article 328(2), CCK.

²⁸ Article 343, CCK.

²⁹ Article 339, CCK.

³⁰ Article 261, CCK.

³¹ Article 164, CCK.

³² Articles 309(1) and 312(2), CPCK.

³³ Articles 212(4) and 284-287, CPCK.

³⁴ Article 285(1), CPCK; see also ECtHR, *Dobrev v. Bulgaria*, Judgment of 10 August 2006, paragraph 79.

³⁵ Article 5(3), CPCK; see also ECtHR, *Labita v. Italy*, Judgment of 6 April 2000, paragraph 152.

³⁶ Article 5(3), ECtHR.

³⁷ Article 146, CCK.

³⁸ Article 328(2), CCK.

³⁹ Article 30(1), Criminal Law of Socialist Province of Kosovo. The information has been obtained by the registry of the Mitrovicë/Mitrovica Detention Center, October 2010.

Many other persons, detained based on rulings issued by the Mitrovicë/Mitrovica district or a municipal court, are in a similar position. This situation raises serious concerns with regard to the observance of their fundamental right to liberty.

Operational difficulties for the currently temporarily relocated judges and prosecutors

A report on the justice system of the Mitrovicë/Mitrovica region would not be complete without mentioning the very difficult conditions under which the judges, prosecutors and support staff of the relocated courts and prosecution offices currently operate.

As discussed earlier in this report, the Vushtrri/Vučitrn municipal court in addition to its own staff, currently houses the personnel of the Mitrovicë/Mitrovica district court, municipal court, and minor offences court, as well as the staff of the Mitrovicë/Mitrovica district and municipal public prosecution offices. The premises of the Vushtrri/Vučitrn municipal court are thus severely overcrowded and the officials currently working in that court, as well as the litigants and witnesses who appear before them, are faced with a very trying environment.⁴⁰ In this context, it must be noted that the situation has not evidently improved since the OSCE last reported on the rule of law situation in the region.

Such working conditions fall far short of established international standards⁴¹ and undermine not only the performance and efficiency of the court but also the dignity which should be inherent in the functioning of judicial bodies. Having to operate in such an environment makes it almost impossible for judges and prosecutors to discharge their duties effectively, and gives rise to a host of daily logistical problems and hardships. The following may serve as an example.

As of May 2010, Mitrovicë/Mitrovica public district prosecution office has started to receive only cases requiring imposition of one of the measures envisaged in Chapter XXX of the Kosovo Code of Criminal Procedure (KCCP),⁴² cases filed by the Kosovo Anti-corruption Agency, cases involving foreign citizens in the capacity of suspects or injured parties, and cases where officials (especially police officers) appear as injured parties.

All other case-files are not accepted because of a lack of space needed for their storage.

Conclusion

There have been a few encouraging developments in the functioning of the justice system in the Mitrovicë/Mitrovica region since the OSCE's last report on this matter, in February 2010 until now. As pointed out in this report, these include: an increase of the number of both civil

⁴⁰ OSCE Report, *Mitrovicë/Mitrovica Justice System: status update and continuing human rights concerns* (February 2010). http://intranet/n/s/documents/monitoring/6/10022235_1455_en.pdf.

⁴¹ See Principle V (2), Recommendation No. R (94) 12, of the Council of Europe to Member States on the Independence, Efficiency and Role of Judges, Adopted by the Committee of Ministers, on 13 October 1994 at the 518th meeting of the Ministers' Deputies.

⁴² Provisional Criminal Procedure Code of Kosovo, promulgated by UNMIK Regulation No. 2003/26, 6 July 2003, with subsequent amendments. On 27 November 2008, Kosovo promulgated the Law No. 03/L-003 on Amendment and Supplementation of the Kosovo Provisional Code of Criminal Procedure No. 2003/26, which left the code substantially the same as the 2003 law, though a section on guilty plea agreements was added, an article on the length of police-ordered detention was amended, and the name of the code was changed to Kosovo Code of Criminal Procedure.

and criminal court cases conducted and completed at the municipal and district court level; an increase in the number of cases with pressing statute of limitation issues being dealt with at the district court level; and an increase at the district court level of the handling of appeals involving temporary measures, domestic violence, interference with possession of property and labor cases.

However, despite these positive developments, much of the region's judiciary remains paralyzed.

The currently relocated courts and prosecution offices cannot effectively handle the cases and claims brought before them, leaving the residents of the Mitrovicë/Mitrovica region with very limited access to justice. Most criminal, civil and minor offences cases continue not to be processed and run the risk of having their statute of limitation expire. When cases do get processed, unreasonable delays and indefinite suspensions often occur. Many defendants held in detention on remand still have their detentions extended continuously, and the relocated courts and prosecution offices clearly continue to be unable to handle cases involving detention with the special diligence required of them by international and domestic law.

Given the current staffing capacity, limited jurisdiction and space constraints, the impact of EULEX judges and prosecutors, while encouraging, is still modest. EULEX has completed 23 criminal cases in Mitrovicë/Mitrovica district court over two years since their deployment to date.⁴³

The absence of a fully functioning judicial system in northern Kosovo has grave adverse repercussions on individuals' rights of access to justice, to trial within a reasonable time, and to liberty. This has been ongoing for almost three years now and significantly eroded people's trust in law enforcement and judicial institutions and in the rule of law in general. To prevent further undermining of the rule of law and to put an end to continuing violations of human rights, all the actors involved need to step up their efforts in order to restore a functioning justice system in the Mitrovicë/Mitrovica region as soon as possible.

⁴³ Information obtained by the OSCE court monitors through direct court monitoring and through interviews with the EULEX court officials, in October 2010.