

Courts Monitor



Duke Mbështetur Qeverisjen e Mire dhe Qytetarinë Aktive

Supporting Good Governance and Active Citizenry

# Courts Monitor

Monitoring report on the hearing sessions in  
Gjakova and Podujeva

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### Introduction

Justice system is the key pillar and of a substantial importance for establishing a country with a functional democracy and rule of law. Unfortunately, justice system in Kosovo faces many different challenges such as lack of citizens' confidence as a consequence of various reasons, then problems which could be considered result of the lack of human capacities, technical or logistical problems, and finally all these affect the quality of justice system as a whole.

The law no. 03/L-199 on courts in Kosovo, which was approved in 2012, began to be applied since January 1, 2013. This law brought substantial transformation and reforms in the judicial system, but the results of improving the quality of the work, the level of transparency and accountability, remains to be seen yet.

Movement FOL, in order to contribute on the improvement of the situation of the justice system, in May 2013, with a support from the American people through USAID / ATRC started implementing the project "Getting closer citizens and justice institutions."

The main goal of the activities of this project is to monitor the implementation of the right for a "Fair Trial", a right which is guaranteed by the European Convention on Human Rights of 1953 and International Convention on Civil and Political Rights of 1966 and finally guaranteed by the Constitution and laws of Kosovo, in hearing sessions on cases related to corruption and abuse of public authority. In spite of this, Movement FOL has aimed that through advocacy activities within the project to create new means of communication between citizens and justice institutions, in

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order to increase the transparency and accountability of the institutions and increase the citizens' confidence in justice system.

The advocacy campaign which was realized within the project, contained TV and radio programs where representatives of justice system have been invited discussing problems and challenges in justice system, organizing round tables with representatives from institutions, civil society and media, publishing information through social network Facebook, continuing meetings between representatives of justice institutions and Movement FOL and the establishment of the "Justice Access Forum".

"Justice Access Forum" in Gjakova and Podujeva was initiated and established by Movement FOL in order to serve as a facilitator of communication between citizens and justice institutions. Also "Justice Access Forum" is intended to serve as a platform and meeting point where different interested parties, including representatives from court, prosecution, police, civil society and media and above all citizens to discuss the problems they encounter every day in justice system and to come up with ideas for their solution. Also, Movement FOL representatives, in Forum' meetings, which were tried to be held regularly in the two municipalities, showed the problems identified during Court monitoring.



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### Monitoring Hearing Sessions

Monitoring hearing sessions on cases related to corruption and abuse of authority was a real challenge. Movement FOL in collaboration with an expert of human rights has developed a methodology and a questionnaire for monitoring sessions in question, in the context of the right for a "Fair Trial".

Despite the fact that, according to the official data of Kosovo Judicial Council for the period January - September 2013, regarding offenses of corruption and abuse of authority in Basic Court in Gjakova, that there are 3 cases filed, which were transferred from the last years, and 1 case is filed during this period. None of the cases is solved and no hearing sessions were held regarding the cases of corruption and abuse of authority. This is a very negative indicator for the procedure or the importance of these cases and attention paid by the Court in Gjakova. The justification of the court officials for not holding these hearings was that they are dealing with other serious murder cases and that the large number of the cases they are dealing with, makes it impossible for them to deal with the scheduling of hearings for these cases.

Besides the above mentioned cases, according to the Prosecution Office in Gjakova, there are 6 cases of non-declaration of assets which are being processed in prosecution, and on the other hand Kosovo Police in Gjakova reports that they sent to prosecution 3 three cases of abuse authority during local elections.

Regarding Podujeva Municipality, according to the new law on Function of Courts in Kosovo, there is a Branch of the Basic Court of Prishtina in

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Podujeva. Also, according to the new Law Podujeva does not have a residential Attorney but it functions within the Prosecution Office in Prishtina. Cases related to corruption and abuse of authority from January 1, 2013 are carried from the Basic Court of Pristina - Podujeva Branch to Serious Crimes Unit in the Basic Court of Pristina. Despite this, Movement FOL tried to monitor the ongoing of these cases carried in Pristina through the methodology mentioned above.

According to the official data of Kosovo Judicial Council, despite that during the period January-September 2013, regarding corruption offenses and abuse of authority in Pristina Basic Court - Branch in Podujeva there are 4 cases filed, which were transferred from the last year. None of the cases is solved and no hearing sessions were held regarding the cases of corruption and abuse of authority. Likewise in Gjakova this is a very negative indicator for the procedure or the importance of these cases and attention paid to these cases, and justifications are almost the same.

Kosovo Police in Podujeva reports that there are six open cases related to corruption and abuse of authority, five are related with abuse of authority during local elections and one is a case of taking bribe. As it is mentioned above there is no a Prosecution office in Podujeva but cases are forwarded through Prishtina Prosecution.



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### Conclusions and recommendations

Movement FOL, during the attempts to monitor hearing sessions has identified several problems in courts function of the two relevant municipalities, including: getting the information, even if it was a simple one, it is really difficult to get that information in court because of the bureaucratic procedures, delays in processing cases is also another problem as mentioned above, often affects the quality of the performance of the court, lack of human and technical capacities in court etc.. All these are negative indicators for the level of transparency and accountability in the court but also for the implementation of the standard "Fair Trial" during the review of these cases.

Movement FOL recommends that: cases related to corruption and abuse of public authority should be given a proper attention and importance as this is a major issue of our country, access to court information should be easier for interested parties and consequently the justice institutions should be more transparent and accountable, courts should be supported both in terms of human and technical capacities, especially training of the officials regarding the standard "Fair Trial" and human rights in general.



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### About Movement FOL

The organization was established to support active citizenry, to increase the transparency and accountability of public institutions in order to contribute to a good governance and prevention of corruption. Organization meet its goal by carrying out activities such as debates and trainings, conferences, seminars and roundtables, publications and researches, advocacy and technical and institutional support, monitoring public institutions, mobilization and networking. Expenditure of public funds, conflict of interest, negligence, institutional responsibility and access to official information, are the main components of FOL.

