

NEWSLETTER



REPUBLIC OF SERBIA
OFFICE FOR KOSOVO
AND METOHIJA



Promotion & Protection of Property Rights
of IDPs, Refugees & Returnees upon
Readmission Agreements



Project funded by the
European Union

No. **01** / July 2017



About the project

Project "Promotion and Protection of Property Rights of Internally Displaced Persons, Refugees and Returnees upon Readmission Agreements" represents a continuation of a number of free legal aid projects used by the Office for Kosovo and Metohija and funded by the European Union pre-accession funds since 2008.

The beneficiaries of the project are internally displaced persons, refugees and returnees from the EU, based on the provisions of the readmission agreements between the EU and Serbia. The project promotes and protects their property rights by providing information, legal advice and other expert assistance, including advocacy. Legal representatives provide services in cooperation with skilled trainees and legal advisors.

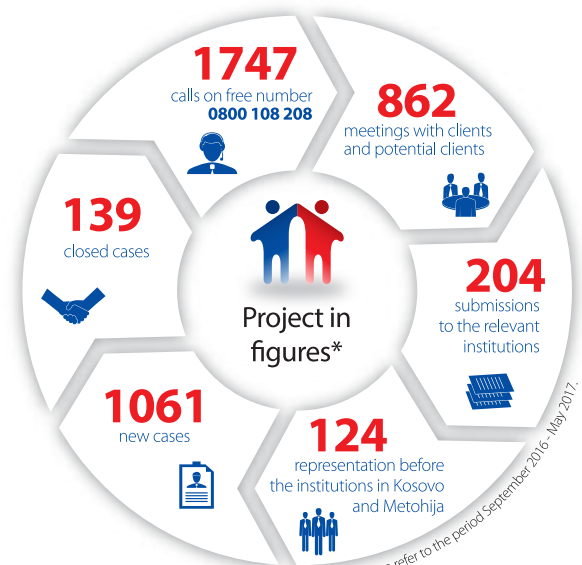
The work of lawyers, trainee lawyers and advisors is coordinated by the project, and all activities are funded by the EU and the Government of the Republic of Serbia. The project is realized by the Consortium led by European Consulting Group. The total value of the project, which lasts two years, is EUR 3,651,630.

The advantages of this project are numerous, however, the formation of a team of trainees and their intensive training stand out, as well as the establishment of an integrated system of case management that contains a database of beneficiaries, documents, resources and data, and enables experts to handle cases in a proper way with higher prospects for finding efficient solutions and producing favourable outcomes for beneficiaries.

Refugees, returnees and IDPs interested in support or information on how to exercise their rights in Serbia or

at the place of their origin can contact the project on free phone number **0800 108 208**.

Important documents resulting from the work of the previous free legal aid projects, as well as all the activities of the current project, are presented on the website www.pravnapomoc.org.



Vasilije Arsić, a legal expert

We talked to a legal expert, Vasilije Arsić, who, with his wife and five children, lives and works in Gnjilane.

As a lawyer, who passed the bar exam, Arsić worked in the field of combating economic crime in Gnjilane Police Administration of the Ministry of Interior of the Republic of Serbia in the period between 1991 and 2013. After having retired, Arsić opened his law office in Gnjilane and now represents fellow citizens before the institutions in Kosovo and Metohija. He has gained his great experience while living and working in Kosovo and Metohija, and the fact that he is familiar with the people, situations and the system, has qualified him as a legal advisor of this project. Since the beginning of the project, together with colleagues Dejan Vasić, Žarko Gajić and Vlastimir Petrović, he is a part of a four-member team who lives and works in Kosovo and Metohija and on a daily basis represents internally displaced persons before Kosovo institutions, and Vasilije Arsić is currently dealing with more than 35 cases, and is representing the IDPs from Gnjilane, Uroševac, Prizren, Peć, Dečani and other places.

I: According to the project statistics, the general number of cases that have not been decided upon and the number of cases you are dealing with, we can conclude that legal teams are really necessary. How do you see the results so far?

V. Arsić: It all depends on our initiative. I think that this project is being very successfully implemented because we, who are vitally interested in making property and human rights in Kosovo and Metohija respected, have gathered to work together, and therefore, we are ready to insist that the institutions respect these rights and we remind them of cases which have not yet been considered on a daily basis. Also, we all work as a team. We have great support from the offices in Belgrade, Niš, Vranje, Kraljevo, in which

experienced lawyers, young lawyers and trainees, who receive new requests and prepare documentation for the cases, work.

I: It looks like you are working on two fronts?

V. Arsić: Exactly. On the one hand, there is a rapid increase in the number of requests for free legal aid, and new cases are regularly opened and submissions are submitted to institutions, and on the other hand, we solve cases, quite successfully, in the courts.

I: How do institution representatives react to your initiative?

V. Arsić: We are fighting a great battle to initiate proceedings, and some cases take years to be taken into consideration. By the nature of the work, we encounter various resistance, as well as the professional approach of judges during evidence hearings during which we are very successful in proving the factual situation. A much larger problem is execution, and the help of international community institutions would be very significant here.

I: Would you single out any case?

V. Arsić: We have one verdict that became valid on April 18, 2017. In cooperation with the authorized workers of the court in Gnjilane, who deal with certification of contracts, and cadastre officials in Novo Brdo, eight hectares of land were taken away from three brothers in the village of Makreš, Novo Brdo municipality. R.K., who due to fraudulent transactions came to the property of the aforementioned three brothers, divided up the land and sold it to other

people, but he first transferred the ownership to himself and thus earned more than EUR 200,000, damaging the owners for that amount. During the proceedings, the prosecutor's office dropped the criminal prosecution of the accused cadastral and court workers, and only R.K. was persecuted, and the court sentenced him to two years in prison. The proceedings lasted for five years. Now, the litigation procedure for the annulment of all contracts that he signed for the purpose of the sale of property shall follow because the contracts in question are the result of a criminal offense and as such shall become absolutely null and void under the Law of Contract and Torts. Since there is no statute of limitations, the injured parties may initiate lawsuit at any time so as to nullify the previous contracts and the project prepared a lawsuit for the Basic Court in Gnjilane, branch Novo Brdo, for the annulment of all transactions the convicted person did regarding the property in question, in order to return the legal and factual ownership of the property seized by falsifying documents and fraudulent transactions to the affected IDPs.

I: What do you actually encounter in the field?

V. Arsić: Most cases usually deal with the usurpation of property due to fraudulent transactions, which usually involve abuse of trust and authority and forgery. In addition to fraudulent transactions, direct usurpations are frequent, which are, due to self-will, i.e., self-imposed occupation of someone else's real estate, treated as criminal offenses. Internally displaced persons often give powers of attorney to their acquaintances or neighbours and thus authorise

them to sell their property in Kosovo and Metohija, especially in places where there is no more non-Albanian population, because they cannot return. And, most often, these people deceive them and thus they are left without the assets and without the possibility to solve housing and other issues. The project protects the right of IDPs to possess property and restores their trust in justice. Therefore, legal experts involved in the project need to take the initiative, urge that cases be solved, and send submissions to various institutions more often, referring to the European Convention on Human Rights that prescribes fairness and a reasonable deadline for a fair trial, which would mean a year or two, while justice takes a lot more time today.

I: Is it possible to improve the project?

V. Arsić: Improvement is always possible. I think that the project has a great organization, we know exactly what our goals are, and we can see the benefits of our teamwork, however, the only thing that is missing, and it is beyond the scope of the project, is the greater involvement of the international community. I think that, in order to satisfy justice, it is really important to re-establish international institutions that would arbitrate in many proceedings, and thus the transfer of responsibility due to time "holes" occurring when international institutions have become competent, would be avoided, and no new protection mechanisms have been established.

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Conference

categories of population in the Republic of Serbia to recover its illegally usurped, damaged or destroyed property. With this support, beneficiaries can find lasting solutions for the unique problems they are facing because they have been displaced or due to their place of origin.

During the presentation of the project, a model of involvement of young lawyers in the system was presented; these lawyers shall be trained to help deal with and end real court proceedings, and they shall thus gain an invaluable work experience.

The conference brought together a large number of domestic and foreign experts in the field of protection and promotion of property and human rights, representatives of the EU Delegation and a large number of relevant institutions and persons who are in direct contact with the beneficiaries of the project.

EVENTS

First Conference

At the first project conference, held in December 2016, the intention of the Office for Kosovo and Metohija and the Delegation of the European Union in Serbia to, in good faith, in a constructive way and timely manner, and with joint efforts, continue to support the provision of free legal aid to vulnerable groups, was presented. It was then pointed out that a particular importance of this project, the fifth in a row, is in the representation of internally displaced persons in the courts in Kosovo and Metohija, which allows one of the most vulnerable



Training in Niš

EVENTS

Trainers' training

In order to strengthen the capacity of legal teams to provide free legal aid, a two-day training for mentors was held in December 2016 in Niš.

Senior legal advisors and legal advisors, who were preparing to become mentors to trainee lawyers at the time, completed an intensive training programme,

which provided them with an effective model for transfer of knowledge to younger colleagues. Mentor training was led by experienced international experts, including world-renowned human rights expert Marek Novicki.

This approach is very important because legal advisors are responsible for the development of professional skills of young trainees and they help young lawyers get prepared to adequately deal with cases and represent vulnerable population categories in courts and other institutions. After a comprehensive two-year project-based training, young lawyers will be fully trained to get prepared to end important court proceedings successfully, and, more importantly, by taking part in the development of cases directly, they will gain an invaluable experience.

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EVENTS

Regular trainee lawyers' trainings

In the period between February and June 2017, four multi-day trainings of trainees involved in the free legal aid project were held. The training is a part of the training programme for young lawyers from Kosovo and Metohija, Croatia and Bosnia and Herzegovina in the field of protection of basic human rights of vulnerable groups.

In the previous training programme, trainees have had the opportunity to listen to relevant educators on topics that are closely related to the application of public international law and international standards in Kosovo and Metohija.

It is planned that during the project trainees have regular trainings during which they will be introduced in detail to the work of the relevant institutions and challenges these institutions encounter in the application of human rights standards.



Trainees' training



Panel discussion

EVENTS

Presentation of the first thematic report

On June 5, 2017, the project presented the Report "Destroyed and Damaged Property of Internally Displaced Persons from Kosovo and Metohija", which is the result of the work of the legal team headed by the social and legal issues expert, Branislav Ristić. This report concluded that the protection of property rights in all their forms continues to be a major challenge.

The meeting was opened by the Assistant Director of the Office for Kosovo and Metohija, Zoran Bojović, who highlighted that the issue of destroyed and damaged property of IDPs from Kosovo and Metohija is one of the key issues which should be the starting point in the quest for lasting solutions for improving the position of this vulnerable group.

While presenting the report, the social and legal issues expert Branislav Ristić said that potential solutions should be sought at the level of the international community and at the regional level. "Comprehensive and sustainable solutions require an improved level of trust and active co-operation in the region. Programmes that support any form of permanent solutions should develop in different directions and encourage joint action of partners, along with the potentials of internally displaced persons. We should fully promote the Skopje initiative, which should aim to ensure that all those whose property has been destroyed or damaged, if are unable to execute a natural restitution, receive adequate compensation," Ristić emphasised.

Igor Popović, the Head of the Kosovo and Metohija Judiciary Group, pointed out that professional legal assistance is necessary in order to protect the rights of applicants, as the nature of the proceedings increases the need for legal counselling and court representation in any system.

In addition to the representatives of the Office for Kosovo and Metohija and the project, panel discussion was attended by representatives of the Commissioner for Refugees and Migration (KIRS), the United Nations High Commissioner for Refugees (UNHCR), representatives of the Association of IDPs from Kosovo and Metohija "Sveti spas" /Holy Saviour/, the Balkan Centre for Migration, Danish Refugee Council "Praxis" etc.



Zoran Popović in NS

EVENTS

Connecting to KIRS

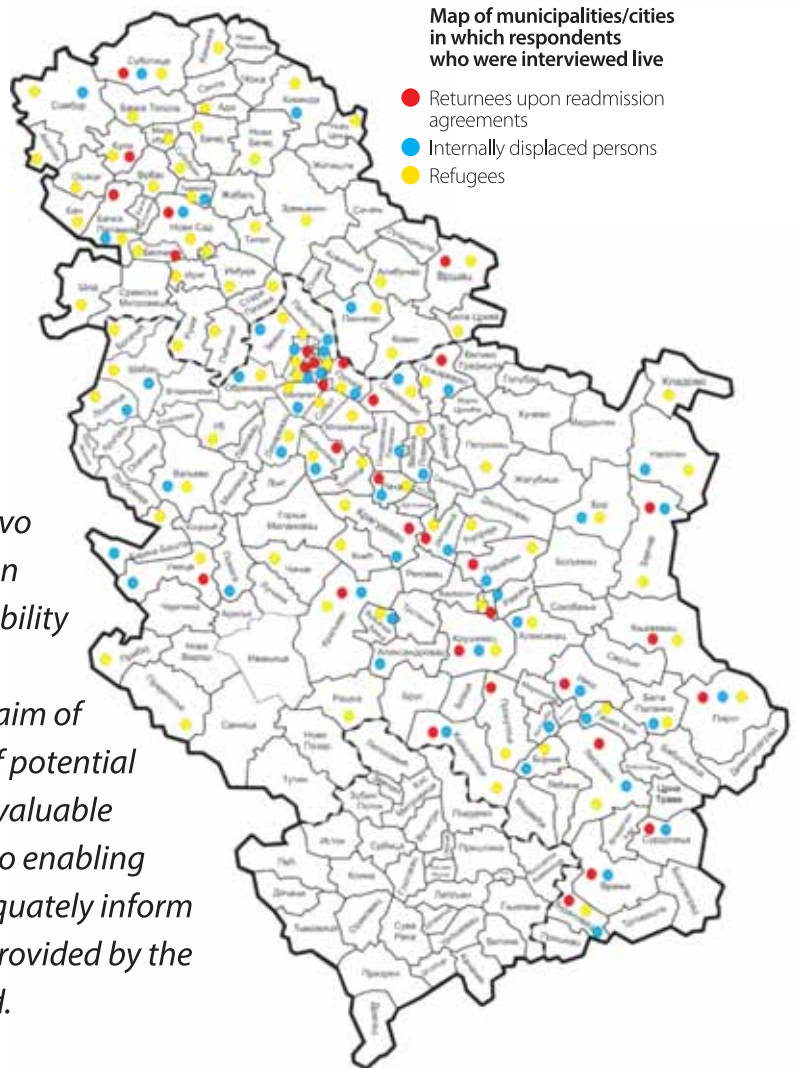
At the invitation of the Commissioner for Refugees and Migration, the free legal aid project took part in the 12th annual meeting of city and municipal trustees in Novi Sad at the end of February 2017. The project of protection and promotion of property rights of IDPs from Kosovo and Metohija, refugees and returnees upon readmission agreements was presented by Senior Legal Advisor Zoran Popović.

In this meeting, the initiative for creating mobile teams was officially launched, and these teams aim to give free legal aid to as many threatened groups as possible through joint efforts of the project and the KIRS.

Survey

One of the objectives of the project is to improve the knowledge of IDPs from Kosovo and Metohija, refugees and returnees upon readmission agreements about the availability of free legal aid.

Therefore, in February 2017, a survey, the aim of which was to determine the percentage of potential clients and check how beneficiaries learn valuable information, was carried out with a view to enabling the project to use these mechanisms, adequately inform the target groups about the possibilities provided by the project and offer help to those in dire need.



All three beneficiary categories filled in questionnaires specially designed for each target group by phone with the support of professional interviewers. Samples in each target group were determined on the basis of previous surveys and with the support of the KIRS.

The interviews were anonymous, in accordance with the Law on Personal Data Protection, and the procedure was strictly defined in advance because the respondents belonging to vulnerable groups have become suspicious of organizations doing surveys due to their long-lasting exile and displacement.

A total of 500 families were interviewed, and 72 respondents heard for the free legal aid programme.

Internally displaced persons from Kosovo and Metohija

There are 203.006 internally displaced persons who are currently living in the Republic of Serbia, and the basis for

the sample of 250 interviewed families in this population was the study conducted by the KIRS and UNHCR, the aim of which was to identify the problems of IDPs and according to which 3,456 households expressed the need for legal aid, mostly regarding the return of property. Of 250 respondents, 135 respondents still possess some property, and 45% do not have any information on the current state of the property. Of 51 persons who were informed about the state of the property, only 15 started proceedings during 2001, 2003 and 2009 and all ended with a negative outcome. 58 respondents heard for the free legal aid programme through the media or at the recommendation of trustees and friends, while 192 were not familiar with the programme. Of 58 respondents who are familiar with the project, only five of them are beneficiaries of the project, and seven have the intention to contact one of the project offices. They are most often informed via television channels with a national frequency, and they read Politika and Večernje novosti, and to a lesser extent, Blic, Informer and Kurir. 18 respondents were informed in direct interviews with the trustees.

Returnees upon the readmission agreement

In this target group, which, according to the KIRS database, has about 12,000 registered returnees, 60 families, usually returnees from the EU – mostly from Germany, were interviewed. Out of the total number of respondents, 95% are not familiar with the rights they can exercise as returnees upon readmission agreements, and only two respondents heard of the free legal aid programme. Everybody is mostly informed via television channels that have a national frequency, and most read daily newspapers Politika and Večernje novosti.

Refugees from Croatia and Bosnia and Herzegovina

At the moment, there are 29,457 refugees in the Republic of Serbia who, according to the KIRS survey, need support in obtaining documentation from the country of their origin, resolving property issues and problems regarding the realization of pensions and the regulation of years of service.

For the purposes of this research, 190 refugee families were singled out, 24.8% of whom have the need for some type of legal assistance. Of 29 persons who tried to obtain missing documents, 23 successfully performed the procedure, while six refugees from Croatia failed to obtain documents and need help. 12 respondents heard about the free legal aid programme, while 178 were not familiar with the programme.

They are most often informed via television channels with a national frequency, and most read the following newspapers: Blic, Kurir and Večernje novosti.

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Belgrade, Francuska 5/5
Niš, Strahinjića Bana 8
Kraljevo, Hajduk Veljkova 1/2

Vranje, Vula Antića 25
K. Mitrovica, Filipa Višnjića 4
Gračanica, Kneza Lazara bb



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Mobile teams in Kragujevac

ACTIVITIES

Mobile teams

Free legal aid is available to internally displaced persons, refugees and returnees upon readmission agreements, who are in a very difficult financial and health situation, through mobile teams, which have been formed by the project in order to facilitate vulnerable groups to access justice. A firm cooperation has been established with the Commissioner for Refugees and Migration and trustee offices throughout Serbia, and with their logistic support, legal mobile teams patrol the municipalities, hold meetings with clients at the premises of the trustees and visit vulnerable clients at their homes.

It has been planned that mobile teams visit Aleksinac, Bujanovac, Vladičin Han, Vlasotince, Čuprija, Čačak, Gornji Milanovac, Doljevac, Kuršumljija, Leskovac, Medvedja, Novi Pazar, Paraćin, Požarevac, Prokuplje, Raška, Smederevo, Svilajnac, Svrlijig and city municipalities of the City of Belgrade, Čukarica, Palilula and Zemun.

Mobile teams have so far visited Jagodina, Kruševac, Knjaževac and Kragujevac and after they had received the requests from beneficiaries displaced in these cities, they initiated cases.

EXAMPLES OF SUCCESSFULLY ENDED CASES

Illegal alienation of immovable property by forgery PRIZREN / Ž.N.

The party Ž.N is an internally displaced person residing in Kraljevo who asked for aid from the project experts regarding the immovable property that was the subject of a fraudulent transaction carried out by falsifying the owner's signature on the power of attorney used for the transfer of immovable property. Based on such power of attorney, a purchase contract was first concluded, and then a transfer of ownership rights in the Cadastre office in Prizren was carried out. The buyer involved in this purchase contract, having illegally acquired the ownership of the property in question, concluded a loan agreement with a bank. Furthermore, as the new "owner" did not settle liabilities towards the bank, which in meantime announced the sale of the property of the party Ž. N., the project initiated a litigation procedure to determine the nullity of the purchase contract before the Prizren Basic Court. The aforementioned procedure was finally terminated in favour of the party of the project by adopting the claim and by establishing the absolute nullity of the purchase contract concluded on the basis of the forged power of attorney. On the basis of the final judgment, the property in question was registered in Cadastre register in the name of IDP Ž.N., and thus the bank was prevented from settling its claims by selling illegally acquired real estate.

Usurpation of property in Prizren PRIZREN / Z.G, Z.S and R.S.

After unlawful alienation of immovable property by falsification of documents, the usurper built three houses on the property of IDPs Z.G, Z.S. and R.S. in Prizren. After the litigation procedure against the usurper was initiated in order to determine the absolute nullity of the purchase contract conducted by the previous project, which lasted almost 10 years, the current project managed to return the ownership to the plaintiff and re-register the ownership right of the real estate in question in the Cadastre register. However, since the usurper, even after the final verdict, did not follow the orders of the court, the project's clients shall be forced to initiate an enforcement proceedings in which they will demand the liberation of immovable property from the person and transfer of the real estate in question to the injured parties. Bearing in mind that in the meantime that the usurper erected three buildings on the property of the parties, the parties, shall

face additional problem in addition to almost 10 years invested in proceedings with a view to returning illegally alienated property, and this shall include the costs of enforcement proceedings and other forms of possible obstruction in the execution.

Usurpation of property in Djakovica DJAKOVIĆA / B.Z.

Internally Displaced Person B.Z. contacted the project because during the 1999 NATO aggression she was forced to leave her 40 m² - apartment in Djakovica. After she had left the apartment, the apartment in question was unscrupulously usurped by the neighbour she knows. The party, with the help and representation of the project experts, filed a complaint against the usurper. Although initially initiated during the previous project, the criminal proceedings are still pending and the parties are represented by the current project. During the proceedings, the defendant defended himself saying that he received an oral consent from the injured party when she left Djakovica to use the apartment, and that he would leave it in case of sale. Due to the severely poor health, the injured party was not able to come to the court and testify against the defendant. The termination of the proceedings was prolonged until January 2017, when the injured party, with the support of the project's legal team, managed to testify, and this was the evidence on the basis of which the court found the usurper guilty and suspended him to sentences by 6 months in prison. Regarding the property and legal claim in this criminal proceedings, the Court sent the injured party to its realisation in the civil procedure.

Court settlement PRIZREN / Lj.N. and B.N.

In Prizren, the family house of brothers Lj. and B. N. was usurped and they, during the previous project (2014), initiated the property restitution procedure before the Prizren Basic Court. In April 2017, the project legal team achieved a court settlement before the Prizren Basic Court by which the usurpers were obliged to leave the house and return the keys to the owners. The settlement in question was realised regarding one floor of the house and the keys of that floor were returned to the parties, while the keys of the second floor should be handed over to the owners by the end of June 2017, when the settlement between the parties to the dispute before the Basic Court in Prizren shall be concluded.