



**National Program for the Republic of Serbia IPA 2013
Funded by the European Union**

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

Agreement No. 48-00-133/2014-28

Thematic Report

**"Judicial and administrative fees levied by provisional
institutions in Pristina as an aggravating factor in the exercise
of property rights of internally displaced persons"**

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This Project is implemented by European Consulting Group in
cooperation with Human Dynamics, IBC and PDC Serbia

This project is funded by
the European Union



LIST OF ACRONYMES

IDP – Internally Displaced Persons

HPD –Housing and Property Directorate of PIS in Pristina

KPA – Kosovo Property Agency of PIS in Pristina

KPCVA – Kosovo Property Comparison and Verification Agency of PIS in Pristina

CC – Criminal Code

OSCE – Organization for Security and Cooperation in Europe

EPL – Law on Enforcement Procedure of Kosovo

MCO – Municipal Cadastre Offices of PIS in Pristina

CPC – Civil Procedure Code

PNL – Law on Notaries Public



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**This name is without prejudice to status and is in line with United Nations Security Council Resolution 1244 and the opinion of the International Court of Justice on the Kosovo declaration of independence*



INTRODUCTION

When discussing legal system established by the provisional institutions of self-government in Kosovo and Metohija, internally displaced persons (IDPs) are particularly vulnerable group of persons. Having lost their homes and immovable property after several waves of pogroms in Kosovo and Metohija, usually with violence or threat of violence, they are currently living displaced from their earlier homes, mostly with insufficient means of subsistence. Even today, their status as regards the exercise of rights over their usurped property is largely unresolved.

The reasons for such unresolved status are numerous: from fear for security, if they return, through various administrative barriers that currently exist in the exercise of rights of Serbs and other non-Albanians in Kosovo and Metohija, to the usurpation of property that is often followed by crimes and other types of manipulations by which they have been deprived of their right to enjoy their own property.

The issue of usurped property of IDPs has been further reinforced by the unwillingness of institutions in Pristina to tackle this problem more seriously. Although many decisions of various international and local institutions have been issued since the end of the war (HPD, the Kosovo Property Agency of PISG in Pristina, as well as regular courts in KiM), there are still some problems regarding the implementation of such decisions. In other words, although their rights were formally recognized, due to the intricate and inert legal system making it more difficult to implement the issued decisions, IDPs are still unable to enter into possession of their property.

In an attempt to exercise their property rights, IDPs often face another barrier, and these are court and administrative fees paid in regular legal actions. In addition to such fees, other costs accompanying such actions are also to be taken into consideration, also including the costs of the enforcement procedure (which in legal system in K&M is no longer strictly a matter of courts), as well as costs of lawyers and notaries.

This study aims to review legal system in Kosovo and Metohija in terms of administrative and other fees and costs potentially faced by the IDPs in an attempt to exercise their rights to their property in various legal actions they may take before institutions in Kosovo and Metohija. It will also provide an overview of associated costs that may arise in legal actions in which IDPs try to exercise their rights: attorney's costs and bailiff costs. Although these costs are not strictly related to the institutions of the judicial system of Kosovo and Metohija, we consider them an integral part of legal actions taken in such system and are necessary for the consideration of all costs IDPs may have in exercising their rights, if institutions in Kosovo and Metohija fail to do their job. In addition, any tariff book of the Kosovo* Chamber of Advocates as well as of the Chamber of Notaries or Bailiffs of Kosovo* has to be approved by the Ministry of Justice of PIS in Pristina, so that these costs may be counted not only as necessary, but also as the costs approved by provisional institutions in Pristina, burdening IDPs in exercising their rights in the system in Kosovo and Metohija.



We will also try to show by case studies the amount of costs IDPs have to face, whose financial situation is usually very poor. It will show how high costs of legal actions are, and that they are so discouraging for IDPs to represent a genuine barrier for them in exercising their rights. As a reminder, this is about internally displaced persons, for which Kosovo and Metohija have committed by numerous documents not only to enable them to return, but also to do everything to facilitate their fight for rights.

In addition, this study will also look at some of the proposed solutions in this aspect. Finally, it will also provide some possible solutions to overcome this situation, all in order to help IDPs exercise their rights with as little cost as possible.

APPLICABLE LEGAL FRAMEWORK IN KOSOVO AND METOHİJA REGARDING THE RESOLUTION OF PROPERTY ISSUES

With all the specifics of the post-war environment, the system in Kosovo and Metohija is also specific for a large number of ad-hoc solutions by which the international community created a new legal system, at the time of UNMIK¹ administration. Although conceived as temporary solutions to specific situations, the consequences of such temporary solutions can be felt even today. Thus, the agencies such as Housing and Property Directorate of PIS in Pristina (HPD) or the Kosovo Property Agency of PIS in Pristina (KPA) used to issue some decisions about the property of IDPs, which still have the power not only of the resolved matter, but also of the enforceable decision in legal system in Kosovo and Metohija.

HPD was established by UNMIK Resolution no. 1999/23², its mandate was, inter alia, to review filed property claims, perform the inventory of abandoned property, supervise temporary use or lease of abandoned property, as well as two other jurisdictions not directly related to IDPs.

The interesting thing in the mandate of this agency was that its decisions were exempt from the jurisdiction of regular courts, and were not subject to further review of any judicial or administrative instance.

In other words, this was an administrative agency with powers that were above judicial ones, and its decisions were final and enforceable.

KPA was established by UNMIK Regulation No. 2006/10³. By this regulation, all personnel and equipment of HPD were transferred to the newly established KAI. Although the relationship between KPA and courts was different, the process of issuing

¹United Nations Mission in Kosovo* (UNMIK) is the administration of the United Nations that was established shortly after the end of the conflict. Although today it is reduced just to formal existence, UNMIK administration was virtually the supreme authority in Kosovo* all the way to the transfer of jurisdiction to the newly established Kosovo institutions.

²UNMIK Regulation no. 1999/23, issued on 15 November 1999

³UNMIK Regulation no. 2006/10, adopted on 04 March 2006



decisions was more complicated, and the ultimate instance in resolving such claims was the Appeals Chamber of the Supreme Court in Pristina, according to the KPA records, a total of 42.749 cases was resolved, whereas there are currently 540 pending cases before the Appeals Chamber the Superior Court of Pristina⁴. According to UNIMK Regulation no. 2006/10 and subsequent Law on the Kosovo Property Agency of PIS in Pristina replacing such Regulation⁵, decisions are also enforceable⁶. In addition, it is worth mentioning that according to the applicable regulations, KPA's job was to implement its decisions, i.e. verified decisions⁷, but it never happened, both due to lack of cooperation between the institutions in KiM that never wanted to provide a budget for these purposes, and because of inactivity and absence of interest of subsequent KAI administrations.

KPA got its successor in the Kosovo Property Comparison and Verification Agency of PISG in Pristina (KPCVA) in 2016⁸. Although the agency has not yet started its work, its mandate is to compare cadastral data from cadastral documents in Kosovo and Metohija and large part of Serbia and adopt decisions upon the claims of the parties. Unlike KPA, KPCVA decisions can be reviewed in the appeal procedure only by the Supreme Court in Pristina.

According to the Criminal Code in force in KiM (CC)⁹, usurpation and re-usurpation, as well as the destruction of someone else's property, are designated as criminal offenses¹⁰. Although there are no data on how many of the usurpers so far have been prosecuted for these crimes, there is the information from the Organization for Security and Cooperation in Europe (OSCE) that the average duration of these proceedings is two years and three months, and penalties are such that they do not deter potential offenders from committing or repeating such criminal offenses (usurpation and re-usurpation).

According to the Criminal Procedure Code¹¹ in force in Kosovo and Metohija, the investigation and the trial of the defendant is exclusively conducted by the prosecutor, whereas the injured in the criminal procedure is entitled to ask questions and propose evidence, which has to be approved by the prosecutor. Also, as will be relevant for later presentation, the defense counsel of the defendant, as well as the attorney of the injured, can be solely a lawyer, a member of the Chamber of Advocates in Pristina.

Civil Procedure Code (CPC)¹² in force in Kosovo and Metohija is predominantly the same as Civil Procedure Code applicable in large part of Serbia regarding the procedural part, as well as rights and obligations of the parties to the dispute. Also, this law provides for the obligation to pay court fees, which is subsequently concretized by an administrative instruction, which will be discussed in more detail at a later stage.

⁴OSCE data, as of 02 June 2015

⁵The Law no.03/L- 079, adopted by the Assembly in Pristina on 13 June 2008

⁶Article 15. of UNMIK Regulation No. 2006/10

⁷Article 15.5 of UNMIK Regulation No. 2006/10

⁸The Law no. 02/L-010, adopted by the Assembly in Pristina on 09 June 2016

⁹The Law no. 04/L-082, adopted by the Assembly in Pristina on 20 April 2012

¹⁰Article 332. of CC of Kosovo*

¹¹The Law no. 04/L-123, adopted by the Assembly in Pristina on 13 December 2012

¹²The Law no. 03/L- 006, adopted by the Assembly in Pristina on 30 June 2008



According to the Law on Enforcement Procedure¹³ (EPL) in force in Kosovo and Metohija, except for deviations which has to be provided for by the law, a private (i.e. public) bailiff shall be competent for the implementation of enforcement. Pursuant to Article 13 of the above law, enforcement costs shall be borne by the enforcement creditor in advance, whereas the enforcement debtor shall compensate them for such costs at the end of the enforcement proceedings.

There is an interesting question arising in professional publications that deal with this topic in Kosovo and Metohija - what is the status of decisions of KPCVA, i.e. its legal predecessors, in the enforcement procedure? According to the Law on KPCVA, the Agency shall be responsible for the implementation of its own decisions once, as well as if the re-usurpation occurs within 72 hours. However, if there is a subsequent usurpation or usurpation that occurs after a 72-hour period, the rules of general enforcement procedure shall be implemented, i.e. EPL shall apply. Although some professional publications have raised doubts as to whether the decisions of KPA i.e. KPCVA are enforceable decisions pursuant to Article 13. of EPL, since these are the decisions adopted in specific proceedings not listed in Article 13. of EPL itself, we consider that this issue was concluded in Article 19.7 of the Law on KPCVA itself, which states that the rules of general administrative procedure shall be implemented according to the rules on enforcement based on the verdict, i.e. the eviction order, as well as enforcement documents.

Administrative Instruction on the Implementation of the Law on Cadastre, adopted by the Ministry of Environment and Spatial Planning¹⁴, municipal cadastre offices (MCO) shall be responsible for the registration and maintenance of cadastre in connection with all immovable property notes, as well as for issuing documents from their records to interested parties.

It is interesting to mention that the correction of cadastral data, both for the owners of the real estate as well as for the data related to the parcel, is filed to the competent MCO, which, on the basis of documents eligible for title registration, adopts the decision to change - either the owner, or any technical data on the parcel itself. In the administrative instruction itself, the term "data correction" is used, that is, it is about the documents that prove that "there is a mistake" and that one is entitled to correct the data in the cadastre¹⁵. Further, in the event that the correction of data may have some impact on third parties, such parties are notified either.

According to the Law on Free Legal Aid in Kosovo and Metohija¹⁶, the right to free legal aid in criminal, administrative, civil and misdemeanor procedures belongs to persons who meet the legal criterion, eligibility criterion and financial criterion. The eligibility criterion, in relation to IDPs, means that persons are either residents of Kosovo and

¹³The Law no. 04/L-139, adopted by the Assembly of Kosovo on 20 December 2012

¹⁴Number Administrative Instruction on the Implementation of the Law on Cadastre, adopted by the Ministry of Environment and Spatial Planning on 11 February 2013

¹⁵Article 19. Administrative Instruction on the Implementation of the Law on Cadastre

¹⁶The Law no. 04/L-017, adopted by the Assembly of Kosovo on 02 February 2012



Metohija or have permanent domicile in the territory of Kosovo and Metohija. The financial criterion implies that the legal aid applicant is a beneficiary of social assistance or is in a similar situation as persons receiving social assistance, that is, the total family income of the applicant is lower than the average family income. Finally, the legal criterion includes the value of the claim, the applicant's argument and the possibility of success in the dispute. Legal aid is provided through the Agency for Free Legal Aid, which operates at central and regional levels in Kosovo and Metohija, then through NGOs affiliated with the Agency, and through attorneys. In order for a lawyer to provide free legal aid, they need to be a member of the Kosovo* Chamber of Advocates and to conclude a contract with the Kosovo* Chamber of Advocates on the provision of free legal aid.

In order for the beneficiary to exercise their right to free legal aid, they need to file an application for free legal aid to the central or regional office, to which the staff of the Agency has to respond within five days. If the Agency's staff assesses that the applicant meets the criteria for provision of free legal aid, such aid will be provided to them by persons authorized for specific procedures, depending on the type of legal aid they need.

Finally, according to the Law on Notaries Public (PNL)¹⁷, notary public service was established in Kosovo and Metohija. In addition to verifying documents and preparing contracts, what is potentially important for IDPs is that other authorities of courts have been transferred to notaries, as well. Thus, for example, notaries conduct probate procedures when contentious, i.e. when there is nothing disputable about such procedures.

What is also important for us is that authority for tasks related to the transfer of rights to immovable property kept in public books (transfer of ownership, constitution of mortgages, usufruct, registration of someone else) has been completely transferred to notaries public. Additionally, the authority to draw up statements for certification has also been transferred to notaries public. For example, when a statement of residence at a particular address is made or other statements for which it is stipulated by the law to be certified by signatures of witnesses or owners of immovable property, such statements has to be made before the notary public and as such be certified by the notary public.

TARIFFS, FEES AND OTHER COSTS FOR EXERCISING RIGHTS IN KOSOVO AND METOHIJA

Tariffs and costs in enforcement procedure

Taking into account the state of all proceedings so far, from the point of view of fees and tariffs, the enforcement procedure is perhaps the most important for IDPs. Since a large number of IDPs have had enforcement documents issued by the Directorate and its successors so far, or in small number of cases by regular courts in KiM, it is important to

¹⁷The Law no. 03/L- 010, adopted by the Assembly of Kosovo on 10 October 2008



look at the possible costs that they might have in such proceedings. If we consider that according to the current legislation KPCVA has no obligation, after the first time, to carry out the evacuation of the usurper from the disputed immovable property, except in cases when re-usurpation occurs within 72 hours, it is realistic to expect that unless legislation changes, these costs will be borne by IDPs holding enforcement documents as evidence of their ownership right.

In such cases, enforcement will be carried out by public bailiffs. Public bailiffs work according to the tariff prescribed by the Administrative Instruction of the Ministry of Justice of PISG in Pristina¹⁸. It is important to point out that the creditor bears all enforcement costs until successful implementation, except a fee for the successful implementation of enforcement. When the enforcement is successfully implemented, the creditor charges the enforcement debtor with the fee for successful enforcement and all costs incurred by the creditor in such proceedings, which are then refunded to the creditor. Although it is true that in the entire enforcement procedure the fee for successful enforcement is the highest individual cost, other costs are far from negligible, as we will see below.

In order to show in the easiest manner what kind of costs are concerned, we will make a hypothetical case study on property worth 100.000 Euros. The case study was conducted according to the official tariff of the Public Bailiffs Chamber of Kosovo*¹⁹.

CASE STUDY 1: ENFORCEMENT ON IMMOVABLE PROPERTY

For the purposes of this study, we will assume that the value of the immovable property is 100.000 Euros, and that the enforcement creditor, who is an IDP, has already obtained enforcement documents that allow them to evict the usurper from the immovable property.

As first, it will be necessary to prepare 60 Euros for processing the case. After that, since it is realistic to expect that the bailiff will copy the entire case and identity documents of the creditor, it is necessary to prepare another 10 Euros more or less. After that, an application for obtaining information on the property of the enforcement debtor will have to be made, as well as (in most cases) an application to the competent authority for the identity and address of the executing debtor, which will cost the enforcement debtor another 25 Euros. In the course of the legal action, the public bailiff will adopt at least one decision and one conclusion (decision on enforcement and conclusion on the implementation of enforcement), which together amounts to another 40 Euros. If a complaint is lodged about the enforcement, it will be necessary to allocate another 40 Euros to respond to such complaint. If the enforcement on the immovable property starts immediately after that, without a court hearing (where every appearance of a notary in the court would cost 40 Euros), which also implies the evacuation of people and objects from the immovable property, a fee amounts to 100 Euros per hour. It is realistic to expect

¹⁸Administrative Instruction of the Ministry of Justice of PISG in Pristina, no. 06/2014, adopted on 27 March 2014

¹⁹Tabulation of expenses of the Chamber is provided at the end of this report as Annex 1



that such a job cannot be done in less than 5 hours, in the event that the enforcement debtor does not make any obstruction, which means that the enforcement creditor will have to pay another 500 Euros for these purposes. After that, the enforcement creditor remains with their immovable property, and hope that the enforcement debtor will not immediately occupy the same immovable property, which from the existing practice is not impossible²⁰. For the purposes of this case study, however, we will take the most favorable option, that is, the usurper will no longer return to the occupied immovable property.

In this hypothetical case, which in practice will never take place as quickly and with such little actions and expenses, the enforcement creditor, who is an IDP, will have to account for the costs of about 700 Euros. However, it is more realistic to expect that the enforcement process will be followed by obstructions, lawsuits, re-usurpation, and other forms of obstruction, some of which may be even systemic²¹. All of this will mean that the costs per an enforcement case will amount to at least 1.500 Euros on average, taking into account that the whole procedure will end up before a public bailiff, that is, it will not be taken to regular courts.

Costs of civil procedure

There are no data available on how many civil procedures are currently being conducted before the courts in KiM in which IDPs participate. From field experience, those are usually procedures where the usurpers of their property file fictitious lawsuits in which they seek the recognition of rights to immovable property they occupied, on various grounds. Most often there are lawsuits for recognition based on informal sales contracts (which have never existed, and are proven solely by testimonies), or on the basis of sustainability (which could never exist without a conscientious possession, that is, without a valid legal basis for the possession)²². In addition to these, there is also the possibility that IDPs not having enforcement documents sue usurpers in regular proceedings before courts in KiM, which precedes the enforcement procedure that has already been processed from the point of view of the procedure costs.

When it comes to court fees in civil proceedings, they are regulated by the Administrative Instruction of the Judicial Council in Pristina²³. It is envisaged to charge for submissions,

²⁰In addition, it is known from practice that usurpers of immovable property usually have nowhere else to settle, since they settled in occupied immovable property more than a decade ago and have established families in such property. In fact, the most realistic scenario is that, for these reasons, usurpers will try to return to the already occupied immovable property, especially considering the slowness of the system and high costs that the enforcement creditor would have to bear.

²¹The scenario is also possible in which courts will also adopt absolutely groundless complaints, from which the proceedings will continue to be instituted before regular courts and last for several years, with high costs.

²²Thus, for example, entire lawsuits are based on a simple fact that a particular person has held a parcel for over twenty years, that they "inherited" it from their legal predecessor and witnesses are listed who confirm that the person has lived at that location for ten years or longer, without engagement in the original acquisition of property or other rights over the immovable property being the subject of litigation.

²³Administrative Instruction no. 01/2017 on the equalization of court fees, issued by Judicial Council of Kosovo* on 22 March 2017



as well as certain actions during the procedure. However, in addition to fees in administrative procedures, there are also fees to lawyers, which are provided for by the Regulation of the Kosovo* Chamber of Advocates²⁴.

In order to perceive possible costs in civil proceedings in the best possible manner, we will make a case study, this time from practice.

CASE STUDY: CIVIL PROCEDURE (Practice case)

After finding out that their neighbor was registered in cadastre of Kosovo and Metohija, the IDP filed a lawsuit to establish ownership, with an injunction prohibiting the immovable property sale for the duration of court proceedings. He also proposed witnesses, as well as site visit. The injunction was approved. In the first instance, the trial lasted four years, with six hearings held. The total costs incurred by the IDP were 100 Euros for the lawsuit, and 100 Euros for the case injunction, as well as 720 Euros for attorney's fees, totaling about 1000 Euros. One should take into account that this is a man who had to prove that he owns his own house and garden, which he had to protect from the usurper.

Costs of criminal procedure

Although it is not something that first comes to mind, criminal proceedings are a potentially important part of IDPs struggle for their rights. In the first place, criminal charges are instituted against potential usurpers of property, which are later dealt with by the police and the prosecutor's office. Unfortunately, in the field, it is becoming increasingly common practice that returnees are included in the so-called "secret war crimes indictments", which serve to intimidate and discourage returnees. Also, neighbors report returnees for alleged war crimes in order to put pressure on them to sell their immovable property. Finally, returnees are often victims of property criminal offences - theft of property or livestock, hay burning, theft of agricultural machinery. Although physical attacks on returnees are now quite rare, they still occur sporadically, as another form of pressure.

Although in most aforementioned cases the Office for Kosovo and Metohija helps returnees in criminal proceedings by providing them with counsels at the expense of the office, costs still exist. The costs are not paid by the one who incurred them - the neighbor who falsely reported the returnee or Kosovo and Metohija which included their returnees in a secret indictment through their bodies and then processed them for two or more years. Therefore, these are realistic costs, and they directly affect returnees i.e. internally displaced persons who have decided to return to their homes, regardless of who may possibly help them to bear such costs. Also, in cases in which IDPs are injured parties, they generally do not have lawyers, in large part because they could not bear the costs of

²⁴Regulation on Lawyers' Tariff of the Kosovo Chamber of Advocates, issued on 20 December 2014 (attached hereto as Annex 2)



such lawyers, and the cases are simply left aside since when there is no one to show any interest in them or exert some pressure for them to be processed.

Finally, in cases where individual owners institute private criminal charges, usually for usurpation, they most frequently bear the costs of the proceedings.

CASE STUDY: CRIMINAL PROCEDURE (Practice case)

An Albanian for Kosovo and Metohija usurped a parcel near the city center of the person who was IDP. Since the usurper did not want to leave the parcel even after several warnings, the IDP, through a lawyer in KiM institute criminal charges against the usurper. As the usurper had acquaintances in local institutions, the lawyer needed to go to the prosecutor's office and the police several times, in order to get the police to come and remove the usurper from the parcel. A trial was subsequently conducted against the usurper before the courts, conducted by a public prosecutor, where the lawyer was present as a representative of the injured. The usurper was convicted in the first instance, filed an appeal, and now the decision of the Appellate Court is pending.

In the system established in KiM, no charges are levied for prosecutions undertaken by the public prosecutor. However, the IDP had to pay every appearance of the lawyer before the KiM authorities, every held hearing, as well as the writing of two criminal charges - to the police and to the court. The total cost to which the IDP was exposed was about 900 Euros.

Even though he achieved the goal and thrown the usurper out from his parcel, he will have to wait for the decision of the Appellate Court, which in Kosovo and Metohija means at least two years, in order to collect his costs from the usurper, if the usurper has anything to collect from, and if the IDP has time, money and will to conduct civil procedure and then enforcement procedure, either, which would all entail additional costs.

Other costs

Depending on the situation and the type of case that the IRL took, the possible costs in the subsequent procedure may be costs for notary services or for registration or change of data in the competent MCO. Although these costs are not at the level of the previous ones, they can bring together up to 200 Euros, if it is necessary to change data in the cadastre or to conduct a procedure before a notary (for example, probate procedure).

In such situations, huge costs already incurred by IDPs in order to protect their right to property ranging from a thousand Euros and up, an additional two hundred Euros is an additional disincentive cost for persons who do not have the money even to conduct



proceeding that would precede procedures of data change in the cadastre or procedures before the notary.

SOME OF POSSIBLE SOLUTIONS TO THE PROBLEM OF HIGH COURT AND OTHER COSTS

As we could see from case studies, costs for exercising basic rights IDPs have in the legal system in Kosovo and Metohija are extremely high. Not only are fees for civil procedures high, given that these are relatively high value items, they are also high, but the costs of other taxes and tariffs (a procedure before the cadastre, procedures before notaries, etc.) are also high. Furthermore, almost no case may end without calculating attorneys' costs, and finally, what was adjudicated needs to be enforced, too, which incurs additional costs, which in cases of eviction of persons and objects from immovable property are extremely high.

In the end, costs that IDPs need to pay to exercise their rights, due to the reluctance of institutions in Kosovo and Metohija that have undertaken the commitment of return of the displaced persons, may amount to even several thousands of Euros. As property usurpers are usually not persons of good financial standing, it may easily happen that at the end of the proceedings IDPs will not be able to collect this money.

On the other hand, as IDPs are mostly persons with unresolved housing issues, and live on some kind of assistance or minimum income or minimum pensions, all these costs are a factor that deters them from seeking their rights before institutions in Kosovo and Metohija.

Taking this into account, solutions need to be sought that would in no way burden IDPs either financially or logistically, yet again to enable IDPs to exercise their rights and regain their property. To this end, this paper will offer a set of solutions aimed at facilitating the position of IDPs in procedures of exercising their rights to quiet enjoyment of their property.

Exercise pressure on institutions in KiM to implement their decisions, in accordance with undertaken their commitments

The legal system of Kosovo and Metohija accepts a whole range of international documents which guarantee certain rights to property owners. In the first place, since this is mainly about IDPs that have the right to return, it is necessary to mention the Pinheiro Principles²⁵, which in the first place guarantee the return of the displaced to their homes as a topmost principle in post-conflict societies. Furthermore, the European

²⁵"Housing and Property Restitution in the Light of Return of Refugees and Displaced Persons: Final Report" of special rapporteur Paulo Sérgio Pinheiro: E/CN/Sub.2/2005/17, 28.06.2005



Convention for the Protection of Human Rights and Fundamental Freedoms²⁶ taken over by Kosovo and Metohija by the constitution adopted in Pristina as an international legal act, which is an integral part of domestic legislation²⁷ guarantees to all property owners the right to quiet enjoyment of such property.

Further, by the decision of the Constitutional Court in Pristina in the case of Nadezda Jovanovic²⁸, it was stipulated that the authorities in KiM shall implement the decisions of institutions verifying the right to property, which also included the decisions of HPD and KPA. According to this decision, the failure to enforce of the KPCC (Kosovo Property Claims Commission) decision by KPA because of the lack of funds, according to such decision "contradicts the principle of rule of law and violates basic human rights guaranteed by the Constitution." Finally, according to the Law on KPCVA, KPCVA is obliged to implement its decisions in a way of performing the eviction of the property usurper of the property with the assistance of the police²⁹.

However, this is not implemented in Kosovo and Metohija. The excuse of institutions in KiM is that there are no funds in the budget for the enforcement of such decisions. Nevertheless, since it is a matter of undertaken commitments that guarantee a superior principle in law - quiet enjoyment of property and the return of refugees and displaced persons to their homes, this reasoning in fact means that it is a lack of political will.

The first and most logical solution would be that the Serb representatives in institutions of KiM raise this issue, especially at the Ministry of Justice of PIS in Pristina, the Ministry of Finance of the PISG in Pristina and at the sessions of the Government in Pristina. Since these are legal obligations of institutions in Kosovo and Metohija, which have been late with enforcement for years, there is no justification for this.

Since this issue has to do with the rule of law, it would also need to be raised before international community representatives to whom the issue of the rule of law is essential, judging by reports about Kosovo and Metohija and the criteria set out in the European Agenda for Kosovo and Metohija.

Also, this issue would also need to be found as a criterion of MPs of the Serb List in the next budget vote in Kosovo and Metohija, unless the budget provides for the funds for the enforcement of existing decisions.

Further, given the importance of this issue, it would also need to be found in talks between the representatives of the Serbian Government and all foreign representatives, as this represents not only the non-compliance of the undertaken commitments and the absence of the rule of law, but also the attitude towards the Serbs and other non-Albanians in Kosovo and Metohija, as well as those Serbs and non-Albanians who are not citizens of Kosovo and Metohija, but are the owners of immovable property in the

²⁶European Convention for the Protection of Human Rights and Fundamental Freedoms, issued in Rome on 04 November 1950

²⁷Article 22. of the Constitution adopted in Pristina

²⁸Constitutional Court in Pristina, KI187/13, 16 April 2014

²⁹Article 19. of the Law on KPCVA



territory of Kosovo and Metohija. We believe that the insistence of the representatives of the Republic of Serbia on this issue would lead to its faster resolution.

Special treatment of IDPs in legislation in relation to fees of courts and other public institutions of Kosovo and Metohija

For some of the costs to which IDPs are exposed in the system in Kosovo and Metohija, it is not realistic that they can be abolished. First of all we mean the costs of notaries public and bailiffs, who are natural persons performing public functions, and charging for it. There are also costs of various expertise in criminal or civil proceedings, because it is again a matter of natural persons charging for services provided to courts and parties in the proceedings.

However, we consider that there are some conditions for writing off various levies burdening IDPs, and adding to them the costs that are not at all negligible beyond such additional costs.

Considering the social environment in Kosovo and Metohija, it is not realistic to expect that it is possible to adopt a special law in the Pristina Assembly which would deal with this matter, or which would define the status of IDPs in the legislation³⁰ in Kosovo and Metohija.

However, these issues could be solved by amending administrative instructions by which the Government of Pristina addresses such issues. If there were political will, which would come with efforts of the Serbian representatives in the Government of Pristina, and with the mediation of representatives of international community, by simple changes to the administrative instructions at the level of ministries, IDPs could be exempted from all administrative and court fees that burden the actions taken by IDPs for the purpose of exercising their rights in the KiM system.

It would be thus possible to exempt them not only from court fees, but also from fees before cadastral authorities during the change of cadastral data³¹, fees in municipal bodies, before the administrative court, as well as for appeals to the Special Chamber of the Supreme Court in Pristina and the Appeals Chamber of the Special Chamber of the Supreme Court in Pristina.

Changing laws and allowing multiple enforcement by institutions in Kosovo and Metohija

³⁰According to recent experience with voting the Kosovo Law on Taxes on Immovable Property, and great struggle and lobbying that was required to exempt IDPs from paying the tax for the property they do not have access to, the resolution of this issue in the Assembly in Pristina is not realistic at this time.

³¹According to Article 20. of the Law on KPCVA, KPCVA shall request the change of cadastral data. However, as this does not work in practice, it is more realistic to expect interested IDPs to struggle for the exercise of their rights, exemption from all fees in cadastral offices would be an additional incentive in this regard.



According to current provisions of laws applicable in Kosovo and Metohija, KPCVA has the possibility (among other things) of the eviction of the usurper. If the usurper re-occupies the immovable property within 72 hours, KPCVA staff is obligated to re-enforce the decision. After that, the owner is obliged to carry out a regular enforcement procedure against the usurper³². This solution means that if the property is re-usurped after 72 hours, or if no other enforcement by KPCVA staff prevents the usurper from re-occupying the immovable property, the only possibility that remains to the immovable property owner is to initiate enforcement proceedings by the public bailiff which incurs huge costs.

In our opinion, the Law on KPCVA needs be amended so as to enable multiple evictions of usurpers, until the owners finally secure the right to quiet enjoyment of their property. In addition, the law also needs to include some provisions according to which the staff of the Agency would be obliged to institute criminal charges against usurpers to the competent police office and the prosecutor's office in each case of re-usurpation. Another provision of the Law on KPCVA could also concern the obligation of the police to act within 48 hours and enable quiet enjoyment of the property to the owner, in case of re-usurpation by a person being illegally located there³³.

We believe that it is vital that the issue of implementation of these decisions, which constitute the majority in the legal system in Kosovo and Metohija, should not be transferred from institutions to public bailiffs because the amount of costs before these institutions would discourage the implementation of already existing decisions and impair their effect. On the other hand, as this is an existing commitment of Kosovo and Metohija, not been carried out for years, there is not even the slightest reason that persons who are expelled from their homes, and who are not allowed to return to them, or persons who cannot use their assets for economic benefit, are forced to pay for the inefficiency of such institutions.

In addition to amending the Law on KPCVA, the same or similar effect could also be achieved by administrative instructions to the police and prosecutor's offices in Kosovo and Metohija to deal with urgency in the event of re-usurpation, with the ultimate goal of allowing the owner to immediately enter the undisturbed possession of their own immovable property.

Providing access to free legal aid system in Kosovo and Metohija to IDPs

As already mentioned, free legal aid under the K&M laws is realized through the Free Legal Aid Agency of PIS in Pristina, which through its regional offices provides free legal aid to persons meeting the criteria for the provision of free legal aid, through Agency staff

³²Article 19. of the Law on KPCVA

³³At the time of writing this study, the Government of Pristina made a decision to amend the Law on KPCVA according to the Ombudsman's recommendations in Kosovo and Metohija. Although it is currently unknown what that draft law will include, it is vital that one of the modalities proposed here should be included on one hand, and on the other hand to avoid the trap of extending KPCVA's mandate to cases being before regular courts, as envisaged in the Kosovo National Strategy for Property Rights.



or through lawyers. In addition, there are so-called mobile offices for the provision of free legal aid for those environments where there are no regional offices for the provision of free legal aid.

According to so far field experience, the Serbian population does not use free legal aid system. Although the Serbian population meets all the criteria for free legal aid, because of the lack of access to free legal aid system, they do not use the opportunities available to them. A large number of IDP members have "Kosovo* personal documents", meet economic criteria, and procedures they lead before the courts meet legal criteria.

In our opinion, representatives of Serbs in the KiM institutions should strive to secure the opening of several regional legal aid offices in the Serb-inhabited areas, with the request that such offices employ persons with Serbian nationality who graduated at the faculty of law. In addition to the fact that the constitutional obligation of institutions to employ Serbian nationals, especially in those areas where they are majority, IDPs, who are mostly Serbian and speak Serbian, need to communicate with persons whose native language is Serbian and who are well familiar with the problems of this community.

In case of successful opening of regional free legal aid offices, this could greatly contribute to facilitating the position of IDPs in seeking their rights, in the majority of proceedings before the Kosovo institutions. This would gradually lead to better overall legal protection and greater legal certainty both for the entire Serb community residing in Kosovo and for IDPs who are outside KiM but meet the conditions for obtaining legal protection.

Last but not least, this would unburden the budget of the Office for Kosovo and Metohija to a great extent, and release funds for other types of assistance to Serbs and other non-Albanians from the territory of Kosovo and Metohija.

Considering the possibility of collecting funds that would solve the problems of IDPs in the existing system

The above presented possibilities include the cooperation of institutions in Kosovo and Metohija in the field of exercising property rights of IDPs. However, one needs to take into account that the KiM institutions are mostly not interested in resolving the issues of rights of IDPs, for several reasons. In the first place, everything regarding the exercise of rights of Serbs faces some obstacles in institutions, and the exercise of even the smallest rights of Serbs from Kosovo and Metohija, which are guaranteed by existing legal documents, is sabotaged at every step. Also, one of the major reasons is problems that will arise in public opinion in KiM the moment when the problems of IDPs, mostly Serbs, begin to be addressed systematically and in greater numbers.

Taking this into account, it is necessary to consider the establishment of an aid fund for IDPs seeking to exercise their rights before the institutions in Kosovo and Metohija. This fund would pay the costs that need to be paid in advance, in the first place the costs in



enforcement procedures and the costs of lawyers representing IDPs before the institutions in Kosovo and Metohija.

Money for these purposes could be allocated both from the funds of the Serbian Government, and through donations from various international organizations that support projects concerning the rule of law. A large number of such foundations operate in the territory of Kosovo and Metohija.

The advantage of this solution, in addition to being a systematic approach, would be to take away any justification from the institutions in KiM when they are asked why they do not meet their obligations towards non-Albanians and do not enforce decisions, contrary to the law. Also, if this was the job of a foundation that would have both cash and logistics at its disposal, after completing the enforcement procedure, it could also file recourse claims for the costs to the usurpers of Serbian property and thus collect at least part of its costs and provide funds for another enforcement.

In addition to the above-mentioned benefits for IDPs and the non-Albanian community in Kosovo and Metohija as a whole, this approach would also exert some pressure on institutions, as it would reveal to the whole world that they simply do not do their job, and that it is therefore necessary someone else to do this job for them. We believe that, due to pressure of the domestic public and international institutions, this approach would, in a relatively short period of time, lead to the decision of the institutions in KiM to do their job, instead of still finding excuses for their reluctance and non-compliance with their own laws, constitution and international commitments they undertook as well as guarantees they granted innumerable times.

This approach would finally make the KiM institutions not only allocate the budgetary funds for the enforcement of already existing decisions, but also show the political will to really approach this problem in a quality and systematic way, once they see that they cannot avoid undertaken commitments, and that their avoidance will not imply non-implementation of such commitments.

FINAL CONSIDERATIONS

As we could see from the above presentation, the problem of fees and other costs awaiting IDPs in the exercise of their property rights is huge. Even so great that it can influence them as a factor repelling them from the struggle to exercise the right to their own property.

On the other hand, we could also see that the reason for such high costs, which should not be paid by IDPs, was that the Government in Pristina and competent agencies did not meet the undertaken commitments nor they still do. Such commitments derive both from the law and the Constitution adopted in Pristina, and from the commitments undertaken before the international community. If the Government in Pristina and the relevant institutions had met their obligations, IDPs would not need to pay any taxes or bear any



costs in the proceedings, except perhaps minor administrative fees (deed issuing fees etc.)

However, in a situation where it is clear that the Government in Pristina has no genuine intention of enforcing the laws it adopted, the Serbs themselves, whether they are representatives of Serbs in the Assembly and Pristina, or the staff of the Serbian Government or the Office for Kosovo and Metohija are to try and find solutions to this great problem.

To that end, this report also offers specific solutions that aim to have IDPs bear as little cost as possible and thus be stimulated to seek their rights before the KiM institutions. Solutions are not merely the ways to change the current state, but also offer ways to act within the already existing system.

We believe that by the implementation of some or all of the solutions simultaneously (do not exclude each other), the position of IDPs in these proceedings would be far easier from the financial point of view. This would eventually lead to a large number of successfully repatriated Serbian property, which is the ultimate goal of all those involved in the protection of IDPs.

Otherwise, should all be left to the KiM institutions, they would do the same thing as they have done so far - actively disturb the enforcement of decisions they previously recognized as decisions with enforcement power. This would lead to the final loss of IDPs' rights to their own property, firstly the factual one - by the failure to exercise their rights, after which there would certainly come some formal recognition of the existing situation.

The fact that this is not an unfounded fear is also evident in the National Strategy for Kosovo* on property rights of PISG in Pristina, which for the most part deals with the legalization of "factual situation".

We hope that competent Serbian institutions will not allow these intentions to be achieved and will make every effort to help IDPs exercise their rights to property in cooperation with representatives of the Serbs in the provisional institutions of self-government in Kosovo and Metohija.

To begin with, allowing them to fight in the legal system in Kosovo and Metohija, by reducing their costs.



ANNEX 1

COSTS IN ENFORCEMENT PROCEDURE IN KOSOVO LEGAL SYSTEM

No.	Value of enforcement in EUR	Tariff for processing cases in EUR	Tariff for effective execution in EUR
1.	Up to 50 EUR	5 EUR	15 EUR
2.	From 51 to 100 EUR	6 EUR	20 EUR
3.	From 101 to 300 EUR	7 EUR	30 EUR
4.	From 301 to 500 EUR	8 EUR	50 EUR
5.	From 501 to 1000 EUR	9 EUR	60 EUR
6.	From 1 001 to 2 000 EUR	15 EUR	15% of the enforcement value
7.	From 2 001 to 3 000 EUR	17 EUR	13 % of the enforcement value
8.	From 3 001 to 4 000 EUR	20 EUR	11.5 % of the enforcement value
9.	From 4 001 to 5 000 EUR	25 EUR	10 % of the enforcement value
10.	From 5 001 to 7 000 EUR	30 EUR	08.5 % of the enforcement value
11.	From 7 001 to 9 000 EUR	35 EUR	07 % of the enforcement value
12.	From 9 001 to 11 000 EUR	40 EUR	5.5 % of the enforcement value



13.	From 11001 to 15 000 EUR	45 EUR	5 % of the enforcement value
14.	From 15001 to 25 000 EUR	50 EUR	4 % of the enforcement value
15.	From 25001 to 40 000 EUR	55 EUR	3.2 % of the enforcement value
16.	From 40 001 to 60 000 EUR	57 EUR	2.5 % of the enforcement value
17.	From 60 001 to 100 000 EUR	60 EUR	2 % of the enforcement value
18.	From 100 001 to 200 000 EUR	63 EUR	1,6 % of the enforcement value
19.	Over 200 000 EUR	65 EUR	1,2 % of the enforcement value

No.	Undertaken action	Amount
1.	Additional file photocopying	0.2 EUR per page
2.	Photocopying of a personal document	0.2 EUR per page
3.	Departure to the enforcement site, by the transportation not provided by parties, if such site is further than 5 km of the private bailiff's seat	1 EUR per each km



4.	Compilation of the application for obtaining information about the debtor's property	10 EUR per application but not more than 50 EUR for all applications
5.	Compilation of the application to the state authority for obtaining information about the debtor's identity and address	10 EUR
6.	Obtaining an excerpt from the public register, a certificate or file from the court or other state authority	15 EUR
7.	Delivery of documents arising from the work of private bailiffs, cases when delivery is performed by private bailiffs	5 EUR per file
8.	Review of court files and files of other state bodies	10 EUR per package
9.	Compilation and proposing the implementation of enforcement and other proposals, orders for enforcement and conclusion	20 EUR
10.	Compilation of applications	10 EUR
11.	Compilation of minutes	30 EUR
12.	Compilation of responses to complaints	40 EUR
13.	Compilation of official notes	20 EUR
14.	Attending public sales and taking actions to conduct enforcement outside the office	40 EUR per each hour
15.	Inspection of movable and immovable property	15 EUR



16.	Attending a court debate in connection with the application for termination of irregularities if the application is rejected	40 EUR
17.	Issue of certificates in relation to cases in which the bailiff acts	5 EUR per application
18.	Court and administrative fee	In actual value
19.	Actual costs incurred by undertaking enforcement actions	In actual value
20.	Undertaking actions pursuant to article 282-289 EPL*	100 EUR for the first hour of work, and for each hour to follow 50 EUR per hour

* These are the articles stipulating the evacuation of immovable property, the transfer of movable property to the enforcement creditor, and the transfer of movable property for safekeeping to third parties.

ANNEX 2: REGULATION ON LAWYERS' TARRIF OF THE KOSOVO* CHAMBER OF ADVOCATES of PISG IN PRISTINA



ODA E AVOKATËVE TË KOSOVËS
KOSOVO CHAMBER OF ADVOCATES
ADVOKATSKA KOMORA KOSOVA

According to Article 21, Paragraph 1 and 41, paragraph 3 point 3 of Law on the Bar no. 04/L-193 "Official Gazette of the Republic of Kosovo" no. 20, dated 31 May 2013, Assembly of Kosovo Chamber of Advocates in Pristina, at the session held on 20 December 2014, adopts the following

REGULATION on Lawyers' Tariff

I GENERAL PROVISIONS

Article 1.

This Regulation determines fees and compensation of expenses for the work of lawyers.

Article 2.

For the provision of legal aid in a foreign country, the lawyer may apply this tariff or lawyers' tariff to that country for their fees and compensation of expenses.

For the provision of legal aid to foreign legal or natural persons, for their fees and compensation of expenses they may apply this Regulation or relevant provisions of lawyers of the party's country of origin.

Provisions for paying fees and compensation of expenses for the work of foreign lawyers may be applied to the local natural or legal person, if such work is to be accomplished in a foreign country.



The lawyer may also apply the payment of fees and compensation of expenses for the work of the foreign lawyers may be applied even in case of the representation abroad in written.

Article 3.

If the lawyer is engaged for representation and defense of legal and natural persons and for provision of legal services on permanent basis, they may enter into contract with such party about the monthly lump sum fee.

Article 4.

Regardless of other provisions of this tariff, the Lawyer and the Client or an authorized person may arrange a fee for their work and compensation of expenses through a free arrangement between them.

The agreement referred to in the above paragraph shall be applied on basis of:

- a. Written agreement between the Lawyer and the Client or the authorized person,;or
6. Receipt issued by the Lawyer.

II COMPENSATION OF EXPENSES

Article 5.

For the work provided outside the lawyer's office, the lawyer shall be entitled to a fee for transport, accommodation, absence from the lawyer's office and daily allowance:

The Lawyer shall be entitled to:

- a. for intercity transport, in the amount of the ticket
- b. for city transport, in the amount of taxi fare;



- c. for using private vehicle, in the amount of 30% of the price of the most expensive fuel per each 1 km passed;
- d. for absence from the office, the lawyer shall be entitled to a compensation of 25% of the foreseen compensation provided for by this tariff;

The lawyer shall be entitled to daily allowance and accommodation expenses in the amount as stipulated by the law for judges of Basic Courts.

III COLLECTION

Article 6.

Payments are generally effected in cash or via bank account.

Based on the agreement with the party, the lawyer may be paid in advance and after accomplishing their work. The lawyer shall be entitled to request for payment in advance.

The Lawyer shall be entitled to collect in advance the amount of expenses referred to in the above article of this tariff.

Upon the request of the party, on the occasion of payment, the lawyer shall issue a receipt indicating the specific charged amount.

Article 7.

Compensation for the work accomplished is determined in line with the tariff applicable or which was applicable at the time the work was accomplished. The lawyer shall be entitled to determine the tariff they will apply, at the time of accomplishing their work or providing a service.

IV FEE FOR THE WORK OF THE LAWYER

1. CRIMINAL PROCEDURE



Defense of the defendant/accused

Tariff Number 1.

For the defense of the defendant/accused, for each day of assistance at the initial and second hearing, at trial, assistance in the previous proceedings, hearings, the juvenile preparation process, assistance in the audit of the scene (scene investigation), reconstructions, and expertise in all procedures applied outside the police building, prosecutor's office and court buildings, the attorney is entitled to the fee as follows:

- for criminal offenses under the jurisdiction of the General Department, a fee in the amount of 120 Euros
- for criminal offenses under the jurisdiction of the Department for Indictable Offenses, for criminal offenses for which a sentence of up to 10 years in prison is imposed, in the amount of 150 Euros.
- for criminal offenses under the jurisdiction of the Department for Indictable Offenses, for criminal offenses for which a sentence of over 10 years in prison is imposed, in the amount of 200 Euros, and

For certain procedures that were not held i.e. were delayed without the fault of the lawyer, the lawyer shall be entitled to a 50% fee from the above mentioned amounts.

Representation of the injured

Tariff Number 2.

For the representation of the injured, the lawyer shall be entitled to the fee defined by Tariff Number 1 (one).

Compilation of criminal submissions

Tariff Number 3.

For the preparation of criminal charges, the lawyer shall be entitled to the fee in accordance with the initial principals specified in Tariff Number 1,

For the compilation of all other submissions in criminal procedures, the lawyer shall be entitled to 50 % of the fee as defined by the above paragraphs of this tariff number.



Legal remedies in criminal matters

Tariff Number 4.

For the compilation of remedies, the lawyer is entitled to the fee in double amount stipulated under tariff number 1 (principal).

Tariff Number 5.

For the compilation of an appeal against the decision ordering or extending detention or against the decision to reject the application to reopen the proceedings, the lawyer shall be entitled to the fee in the amount of tariff number 1.

1. OTHER CIVIL PROCEDURES

Compilation of submissions

Tariff Number 6.

For the compilation of submissions initiating To prepare submissions initiating any proceedings before a court or other body, the lawyer shall be entitled to the fee according to the value of the dispute (legal issue), as follows:

- for legal matters the value of which does not exceed the amount of a small value dispute, in the amount of 60 Euros
- ☐ for legal matters the value of which exceeds the amount of a small value dispute, up to the value of 100.000 Euros, in the amount of 80 Euros,
- ☐ for legal matters the value of which exceeds 100.000 Euros, in the amount of 160.00 Euros;

For the compilation of responses to claims, complaints to decisions on a permit for enforcement and provisional measures and other justified submissions that constitute allegations based on facts and laws, the lawyer shall be entitled to the fee referred to in paragraph 1 of this tariff number.



If multiple requests are cumulatively covered by a single claim or proposal, the lawyer shall be entitled to a full amount of the fee for the compilation of submissions, which is increased by 50%.

Representation during sessions of civil cases and other cases

Tariff Number 7.

For representation in civil cases and other cases, the lawyer shall be entitled to the following fees:

- For each session, the same fee as the one for submission is defined, as provided for under tariff number 6. for initial submissions,
- For each delayed session, the amount of 50% of the fee referred to in the preceding paragraph of this tariff number.

The fee referred to in paragraph 1 of this tariff number shall also be granted to a lawyer for their professional aid in the case, scene investigation (on-site inspection) i.e. procedural actions taken outside the court.

Representation in other procedures

Tariff Number 8.

In cases of commercial disputes, commercial, administrative, administrative and fiscal issues, customs or before appropriate committees, fees shall be applied in the amount specified in tariff number 6 and 7.

For the defense of the defendant in disciplinary or misdemeanor proceedings, the lawyer shall be entitled to the fee in the amount of 60 Euros. (principal).

Legal remedies

Tariff Number 9.



For the compilation of remedies, the lawyer shall be entitled to a doubled fee of the fee stipulated for submissions initiating the proceedings (for the claim, application, complaint, etc.)

Representation of several parties

Tariff Number 10.

When the lawyer represents two or more parties, or if there are more than one person in the opposing party, for the compilation of all submissions and representation in court sessions, the lawyer shall be entitled to an increased 50% fee for the second party and the next party, but not more than the triple amount stipulated hereby.

1. COMPILATION OF DOCUMENTS

Tariff Number 11.

For the compilation of all documents for unilateral or bilateral or multilateral legal issues throughout life or in the event of death, contract, agreement, will, attorney-in-fact, the lawyer may apply the fee stipulated by tariff number 6 or charge a fee in a proportional amount with the market value of the property being the subject matter of the legal action, but not more than up to 1% of such value.

When temporary or occasional means are subject matter of the legal action, such as rent, lease, etc. the market value is determined by the collection of temporary funds from 1 - 5 years.

For the compilation of documents for legal matters when the value is not defined, the lawyer shall be entitled to the fee in the amount stipulated by tariff number 6, point 1 of this tariff.

2. COMMON PROVISIONS

Advice with legal opinion

Tariff Number 12.

For verbal legal advice and opinion, the lawyer shall be entitled to 30% whereas in complex cases they shall be entitled to 50% of the fee stipulated by tariff number 1, 2. and 8 of this tariff.



For written council or legal opinion, the lawyer shall be entitled to the fee stipulated by tariff number 3, 4, 6. and 9. hereof.

Defense and representation during debates, hearings, etc.

Tariff Number 13.

For defense and representation during debates, hearings, on-site inspections, expertise, updates and all the actions implemented by the competent body within their head office or outside such head office, the lawyer shall be entitled to the fee for each hour of work in the amount of 30% of principal tariff, counting the specific time from the moment the action commenced.

The lawyer shall also be entitled to the fee referred to in the above paragraph of this tariff number in case of their assistance in sessions of administrative authorities or legal persons or sessions with natural and legal persons when factual or legal matters are discussed.

For consultations with the defendants, accused or convicted, the lawyer shall be entitled to the fee in the amount of 50% of the fee defined by tariff number 1. hereof.

Review of files

Tariff Number 14.

The lawyer shall be entitled to the following fees:

- 1) For the review of files worth of 50% of the fee stipulated by tariff number 1, 7. and 8. hereof.
- 2) For the examination of cadastral records and other public records, for the issue of excerpts from public records, for the determination of validity and applicability of relevant decisions, the lawyer shall be entitled to the fee in the amount of 50% as defined by tariff number 1, 2, 6. and 8. hereof.

Letters and admonitions

Tariff Number 15.

For the compilation of admonitions or letters to the opposing party requesting the performance of certain action or refraining from certain action, in assessable items, the



lawyer shall be entitled to the fee in the amount of 50% of the fee referred to in point 1. of tariff number 7. hereof.

Lump sum for side actions

Tariff Number 16.

The lawyer shall be entitled to the collection of the lump sum amounting to 30% of the total amount, provided for specific activities (actions) as stipulated by principal tariff number, whereas for actions referred to by tariff number 11, pro rata (proportional) percentage amount shall be applied.

Article 8.

This tariff shall come into effect on the date of the adoption thereof by the Assembly of the Kosovo* Chamber of Advocates and was implemented on 01 January 2015.

Date: 20 December 2014

Chairman of KCA
Ibrahim Dobruna