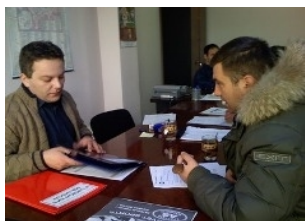




## Danish Refugee Council Legal Aid Programme Newsletter

### Legal Aid Programme reached the caseload of 500 cases

In March 2009 the EU-funded and Danish Refugee Council-implemented Free Legal Aid Project reached a caseload of 500 opened cases where IDP clients



DRC Lawyer interviewing a client in the field

are provided with legal information, advice, assistance and representation before judicial and quasi-judicial bodies in Kosovo. Despite the sensitivities and a variety of challenges, there are already few milestones.

#### Fraudulent property transactions

The issue of fraudulent property transactions have been a priority focus for the Project since its start. The fraudulent ways in which residential, agricultural and commercial properties belonging to IDPs are carried out generally include powers of attorney signed to a third party to sell the property, contracts of sale fraudulently drafted, fake identification cards used during the signing of contracts. In some instances, for example, the defendants falsified documents by attaching a replacement photograph to an identity card and imposing a false signature on the card for the purpose of taking possession of private immovable property. In other instances, the defendants falsified the powers of attorney by using false court

verification stamps for the purpose of being authorized to take possession of private immovable property. In March, the Project won a verdict in the Municipal Court in Klina which, following four hearings, annulled a fraudulent contract. This is the second positive decision in a case of fraudulent property transaction, where a DRC lawyer represented an IDP client before the Klina court.

**"All refugees and displaced persons have the right to have restored to them any housing, land or property of which they were arbitrarily or unlawfully deprived..."**

**- The second Pinheiro Principle**

### Civil claims for compensation for destruction of private immovable property

About 20,000 compensation claims arising from damage and destruction of property belonging to Kosovo Serb IDPs were filed in 2000 and 2004 against UNMIK, KFOR and local authorities under art 180 of the Yugoslav Law on Contracts and Torts. These claims – whose processing have been suspended by the UNMIK ever since – have been "unfrozen" in September 2008 through a letter addressed by the UNMIK Department of Justice to all

court presidents. As a result, Kosovo courts recently began scheduling court hearings, to start with Srbica municipal court which scheduled 46 court hearings in the period 18-24 February. The Legal Aid team activated a task force to locate and inform the concerned plaintiffs and represented 18 of them before the municipal court (18-20 February). Due to the sizeable number of claims, there is a concern that a high number of IDP plaintiffs may be scheduled

to appear before the municipal courts at a very short notice. Close cooperation with all concerned actors is therefore needed to locate the whereabouts of the IDPs and offer them free legal representation. Interested parties are invited to contact the DRC Legal Aid Offices in Belgrade, Niš, Kraljevo and Kragujevac as well as the DRC support office in Priština.



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**DRC Belgrade**  
Dubljanska 86  
+ 381 (0) 11 3087 948  
+ 381 (0) 11 3087 949  
+ 381 (0) 11 2459 044

**DRC Kraljevo**  
Cara Dušana 33  
+ 381 (0) 36 235 225

**DRC Niš**  
Generala Tranjica 4  
+ 381 (0) 18 254 993

**DRC Kragujevac**  
Svetozara Markovića 7  
+ 381 (0) 34 335 891

**DRC support office in Priština**  
Marka Isaka 30  
+ 381 (0) 38 243 793

**e-mail:** legal@drc.org.rs



## Lawyers' consultation session

On 24 March, a lawyers' consultation session was organized within the framework of the Project on the topic "Using anti-discrimination and other international human rights law as part of advocacy strategies to resolve housing and property restitution claims in Kosovo". Legal Aid officers, together with representatives of Serbian



Mr. Greg Fabian, human rights expert, together with DRC staff facilitates the event

tution claims in Kosovo". Legal Aid officers, together with representatives of Serbian



The session enabled interaction between participants

government institutions dealing with refugees and IDPs, local NGOs (EHO, Grupa 484, IDC, PRAXIS), IDP Associations, OSCE and UNHCR participated to a combination of presentations and practical group work, meant to assist them in applying European, international, and Kosovo human rights law, and anti discrimination law in particular, as

part of strategic litigation to address housing and property restitution claims of IDPs. As a follow up, a presentation was held on 25 March in the premises of the Commissariat for Refugees, where the Commissioner had positive remarks regarding the initiative and the overall progress in the Legal Aid project



Participants work on case study

## Facts about Legal Aid Programme

**Who?** The Danish Refugee Council has a long-standing presence in the Balkans (since 1993 and, in Serbia, since 1997) and works to promote peace and stability by supporting durable solutions for refugees and IDPs.

**What?** Through the funds provided by the European Union, the Danish Refugee Council implements a free legal aid programme to assist vulnerable Internally Displaced Persons (IDPs) protecting their property rights. At the same time, the programme aims at building capacities within the Government of Serbia in this field.

**Why?** The Guiding Principles on Internal Displacement provide that IDPs should not be arbitrarily deprived of property or possessions through pillage, direct or indiscriminate attacks or acts of violence. Nor, their properties may be destroyed or appropriated as a form of collective punishment. The responsible authorities are under an obligation to protect the properties of IDPs from arbitrary and illegal appropriation, occupation or use and to assist IDPs recovering their properties and possessions as well as provide, when recovery and restitution are not possible, appropriate compensation or another form of just reparation. Further guidance on property restitution is provided by the Principles on

Housing and Property Restitution for Refugees and Displaced Persons (the "Pinheiro Principles") which provide the relevant human-rights framework through which the programme operates. In Kosovo, the overall caseload of property-related cases and issues which remain to date unaddressed or unsettled is estimated at about of 60,000, the majority of which concerning Kosovo Serbs, whose properties were damaged, destroyed or illegally occupied as a result of the conflict.



**How?** IDP claimants can access the Danish Refugee Council offices during official working hours and, following an appointment - are thoroughly interviewed. Depending on the needs, the Legal Aid Team provide various forms of free

legal assistance, ranging from legal information, advice and in-court representation to referral of cases to other organizations dealing with issues falling outside the Programme's mandate. The property-related caseload dealt by the Programme include cases related to the Housing and Property Directorate, the Kosovo Property Agency, fraudulent property transactions, compensation for damaged and destroyed properties, illegal property expropriations, inheritance procedures, cadastral changes, etc.

**Where?** Four Legal Aid offices operate in Serbia (Belgrade, Niš, Kraljevo and Kragujevac), all staffed with qualified and experienced lawyers who assist IDPs in addressing their legal claims to the competent bodies. However, through the Danish Refugee Council office in Priština, the network of partner organizations and regular mobile teams, the Legal Aid Programme is able to outreach areas with high concentration of IDPs and to have legal cases referred by a variety of stakeholder organizations.

**When?** The Danish Refugee Council Legal Aid Programme is expected to end in December 2009. However, the EU will continue funding free-legal assistance for IDPs through the Instrument for Pre-Accession (IPA)

