



ENSURING ACCESSIBILITY TO COURTHOUSES AND COURT SERVICES

For persons
with disabilities

**ENSURING ACCESSIBILITY TO
COURTHOUSES AND SERVICES
FOR PERSONS WITH DISABILITIES**

Tirana, December 2010

ACKNOWLEDGEMENTS

The Albanian Disability Rights Foundation (ADRF) would like to acknowledge the work of all those individuals who made this study possible:

The study task team Ms Sidita Fortuzi and Eng. Bardhylka Kospiri.

ADRF would like to acknowledge the assistance provided by the following attorneys at law: Ms Luiza Popja, Ms. Eftali Xoga, Ms Edlira Grabova and Ms Fatmira Caci.

Special thanks go to the staff of ADRF that provided assistance throughout the process of the formulation of this study with its valuable advice and suggestions, Mrs Blerta Çani, Mrs Flora Kalemi and Mrs Narbis Ballhysa.

Furthermore, we would like to appreciate the assistance provided by all persons contacted in the courts of all instances for the opportunity and the necessary facilities provided in the course of the conduct of the surveys and data collection.

A special role in the conduct of this study was played by the Judiciary Budget Management Office (JBMO). To this end, particular thanks go to the Executive Director of JBMO, Mrs Luljeta Laze for her understanding, cooperation and offering of the necessary facilities with regard to any information, and to Mrs Monika Zhebo for technical consultation provided during the process, and for her commitment in taking immediate measures for the findings of the study, even though not yet complete, to catch up with the pace of the process for ensuring accessibility in some courts.

At the end, particular thanks go to Civil Rights Defenders without whose support this study would have not been possible.

TABLE OF CONTENTS

	Page
List of graphs	5
List of tables	6
List of acronyms	7
Executive Summary.....	9
Introduction	13
Methodology	15
1. General Data.....	17
1.1 Description of the Judiciary System.....	17
1.2 Organization of court administration and its services	18
1.3 Judiciary Budget Management Office	21
1.4 Description of the overall engineering situation of court buildings	21
2. Legal Framework	25
2.1 International instruments	26
2.2 Albanian policies and legal framework	29
3. Results	35
3.1 Results of the questionnaires regarding the levels of awareness and service delivery	35
3.2 Results of the surveys regarding building accessibility.....	38

4. Analyses and Conclusions.....49

5. Recommendations.....51

6. References53

LIST OF GRAPHS

Graph nr. 1	Courts organ gram.....	20
Graph nr. 2	Planning of buildings and reconstructions of the courts, in percentage versus the general number.....	23
Graph nr. 3	The knowledge about the legal obligation to build accessible environments	35
Graph nr. 4	The representation of people with disabilities in courts	36
Graph nr. 5	The knowledge about ensuring accessible formats and means in terms of accessible communication and information.....	37
Graph nr. 6	Services provided according to categories	38
Graph nr. 7	The number of courts according to their actual construction intervention	39

LIST OF TABELS

Table nr. 1	Three levels of the judicial system	21
Table nr. 2	Courts in planning, projection or implementation for reconstruction or new buildings.....	44

LIST OF ACCRONYMS

DRC	Disability Rights Convention
ECHR	European Convention on Human Rights
MoJ	Ministry of Justice
HCJ	High Council of Justice
NSDR	National Strategy on Disability Rights
JBMO	Judiciary Budget Management Office
ADRF	Albanian Disability Rights Foundation

EXECUTIVE SUMMARY

The study on “Ensuring accessibility to court facilities and services for persons with disabilities” is the first of its kind in the country. The purpose of this study was: a) to make an evaluation of the accessibility of communication and information provided to persons with disabilities, in order to ensure their access to courts; b) to make an assessment of the building/construction accessibility level for courts buildings for use by persons with disabilities and the elderly, in order to enable the direct participation of the persons with disabilities in the court processes; c) raising awareness regarding physical and communication barriers encountered by persons with disabilities; d) raising awareness regarding the national and international disability rights legal framework. The assessment identified the level of knowledge of the responsible court personnel regarding the following issues: what is the current access level in the utilization of courthouses by persons with disabilities and what are the possibilities offered by the courts to enable communication with persons with disabilities during administrative, and judiciary processes, and to ensure access to judiciary information; the reasons for the failures, as well as the challenges that each court will have to face for improving the situation.

The report data cover the period between September- December 2010, through interviews with the administrative staff of 23 first and second instance courts, direct observation in eight courts and review of the technical documentation in 29 out of 31 courts in the country.

The main findings of the survey as regards the level of communication and information provided to persons with disabilities speak of good command of the existing legislation as regards the right of persons with disabilities for equal access to courts. The representatives of 80% of the contacted courts (n=18), mainly chancellors respond that they are familiar with the disability legislation. Meanwhile, 83% of the courts (n= 19) cannot ensure accessible information for persons with

visual, hearing and development impairments. The reasons for these missing links, in most of the cases, in terms of physical accessibility and communication are inter-related, with the study for the reconstruction of courts, prior to the approval of the law. Consequently, according to court sources, in 94% of the cases, persons with disabilities are represented in court by their representatives. These representatives are mainly their caregivers, who in most of the cases are their family members. We must point out that the caretakers are persons qualified for the specific difficulties and complexity presented by the particular type of disability, meaning that these are persons that provide care to persons with disabilities to help them tend to their daily needs. They are not informed about the court procedures, nor do they possess legal information in general.

Meanwhile, the alternative solutions for persons with physical disability in the absence of accessible premises have been lifting the wheelchair to the first floor, and the judges descending/coming down for holding sessions in that floor, in the event when the persons with disabilities have shown up themselves in court. Of course such sights are not at all dignifying, first because the person with disability is put in a difficult embarrassing position, and second because it requires physical, but not professional involvement of several persons. There have also been instances when the judges have gone to the houses of the persons with disabilities.

In the context of improving their services, and in the times of increased internet information, the courts now have started to create their own webpage. These are elements that help in increasing access of all citizens, including persons with disabilities, to these institutions. In the interviewed courts, only 5 out of 23 courts had a website, while none of them offers accessibility elements for persons with disabilities.

It goes without saying that the right for equal access to justice should be promoted also within the group of persons with disabilities. On the other hand, there is need to plan for funds and investments for advanced technologies and for ensuring accessible and safe facilities for all categories of persons.

Introduction of new policies which should serve the purpose of informing and raising awareness of all groups of citizens represents another aspect for enabling access to justice.

The findings of the survey about the assessment of the level of accessibility of the court premises speak about a very low level of access to entry and utilization of the courthouses by the persons with disabilities. Only 8 courts had sloping ramps at their entrance and only 6 had elevators. There were 5 detailed designs

for the new buildings or those that will be rehabilitated, which had provided for elements of partial accessibility. In terms of accomplishment of standards, the most accomplished, but not fully so, was only in two courts – Court of Appeal and Court of Serious Crimes, and in one of the detailed designs for a new building (Elbasan District Court). The courts are not familiar with, and therefore had not reflected or implemented the standards for accessibility for persons with visual and hearing impairments etc. In addition, standards for accessible refurbishing/furniture inside the courts were neither known, nor reflected yet.

The recommendations of the study serve to guide the improvements related to court access for persons with disabilities in terms of accessible communication, as well as in terms of creation of possibilities in the court premises and their adjacent facilities. These elements serve the purpose of ensuring respect for the rights of persons with disabilities in terms of equal access for direct participation in the court procedures. The right for court access of persons with disabilities is no different from that of other citizens. Lack of information by these institutions on the disability issues constitutes a problem when persons with disabilities could be a party, witness or alternatively the victim. There is a general tendency of the representation of the persons with disabilities by other persons, i.e. caregivers or any other person assigned by the courts because of absence of physical and communication accessibility. To this end, courts are encouraged to urge the citizens for a direct participation in the court processes through enabling the possibility for access.

Recommendations are firstly about raising the awareness of courts with regard to disability issues, better knowledge of the concepts and international instruments, as well as the most recent developments in the disability area. This can be achieved by providing training for the court personnel. Assigning a person from within the court personnel to take care about internal orientation/guidance and assistance for persons with disabilities would lead to practical solutions, and enable real access inside the courts. To this end, it would be necessary to post the information in order to guide the persons with disabilities from the very first moments of contacting the court. Also, part of the recommendations were about the audio and vision systems (in some of the courts, the audio systems were operational), simplified information for persons with mental health problems, information in big letter or in Braille for persons with visual impairment. Assigning sign language interpreters is a must. In the interviewed courts, we observed that in such events they had hired sign language interpreters in the quality of interpreters or experts. In other cases it is again the relatives of persons with hearing impairment that have facilitated the communication.

As regard ensuring building accessibility of courthouses, the recommendations are oriented towards the necessity for drafting an action plan for making each existing court building and the new ones accessible, with concrete objectives and measures for intervention in: establishing the capacities of the court personnel and the budgetary structures; completion of detailed designs underway with elements of accessibility; potential review of the projects that have been completed and are pending approval of funds; improvement planning for accessibility in the facilities where there will be no full rehabilitation; more detailed requests towards entities that will be involved in the continuation of the detailed designs, in cooperation with the Judiciary Budget Management Office.

It is therefore important that the information obtained by the administrative staff of the courts, as well as from the observations in the court premises, in the construction and rehabilitation detailed design enable the creation of a general informational picture about the level of knowledge about rights of access for persons with disabilities, and in terms of the accessibility situation in the courthouses.

But most important of all is building the communication relations, as a first awareness raising step with the administrative and professional staff in these courts, and the budget planning officers in the office of Judiciary Budget Management. This communication yielded immediate results, and this meant that three courts already in their detailed design stage, upon the request of JBMO, included the recommendations in the design works for these courts.

This relationship will help more the future developments, in terms of awareness raising for ensuring accessible communication of persons with disabilities in the judiciary services, and more generally in the aspect of respecting their rights, and ensuring a more comprehensible and qualitative level of building access in the courthouses, so that persons with disabilities can participate directly in the court processes.

INTRODUCTION

The courts are part of a system that has direct daily contact with a large number of individuals. Persons with disabilities, like the rest of us, could be involved in judiciary processes as parties, attorneys at law, witnesses or representatives of the public. However, because of their disabilities, they might not be able to have physical access or to participate fully in the judiciary procedures or to have access to judiciary information.

The courthouses, same like all other construction/building facilities must be subject to the same legal obligations (see Chapter on “The Legal Framework”, Decision of Council of Ministers of 19.11.2008 “Regulation for utilization of space by persons with disabilities”), while also being accessible to offer possibility of access and use for all individuals, including persons with disabilities.

The evaluation/assessment of the level of access for persons with disabilities in the courthouses, judicial services and related activities is the focus of the monitoring reports of different countries. The countries attention on justice services is mainly about making sure that the services are accessible and affordable since they are important for building and sustaining the public trust in the legal system.¹

Furthermore, these reports point out that accessibility in courts is not related only to the architectural barriers. It is therefore important to improve the assistance in terms of securing the interpreters, accessible materials for blind persons etc. (Justice Malcolm M. Lucas in March 1994).²

Different countries ensure access in courts inter alia through the formulation, implementation and monitoring of specific action plans. Hence, the Swedish National Courts Administration has approved an action plan that ensures access to

¹ Ministry of Justice of New Zealand, Annual Report 1 July 2008 - 30 June 2009.

² Summary of Survey and Public Hearing Reports of the Access for Persons with Disabilities Subcommittee of the California Judicial Council's Access and Fairness Advisory Committee.

Swedish courts. The purpose of the action plan is for visitors with disabilities to be able to have physical access to the premises of the court and court chambers.³

The requirement for ensuring access of persons with disabilities to buildings and services in Albania is now legally binding for all decision-making and enforcement structures in the field of construction. By the same token, it is binding for all public service providers (see Chapter on the Legal Framework). Improving court conditions is part of the judiciary system reform in Albania. This is one of the issues analyzed in the European Commission Progress Reports, whereby a special chapter constitutes the Political Criteria- Democracy and the rule of law/the judiciary system.⁴ However, in these reports the analyses regarding courts is only about the assessment of the fact whether the spaces are enough or not for holding a hearing session. In no instant has this analyses included the evaluation of the access for persons with disabilities.

However, even in the event when the reports go into the analyses of the courthouses (CEELI, 2006),⁵ in terms of making an assessment of the intern accommodation of courts for holding its sessions, this analyses does not include the assessment of the access that they offer for persons with disabilities.

Some fragmented results about the level of accessibility of courts come through the monitoring reports⁶ for the implementation of the National Strategy for Disability Rights (NSDR) by the civil society (ADRF, 2009). The NSDR in its Area I provides for a measure for ensuring access to courts (see chapter on “Legislation”).

³ www2.ohchr.org/english/issues/disability/docs/study/Sweden.doc

⁴ www.mie.gov.al

⁵ CEELI, 2006, Judicial Reform Index for Albania, American lawyers association

⁶ ADRF, 2009 Raporti i monitorimit të zbatimit të SKPAK, 2008-2009

THE METHODOLOGY

The evaluation/assessment methodology was construed in such a way so as to be able to obtain results for building a clear picture regarding the current status in the delivery of judiciary services for persons with disabilities inside court premises and in terms of direct communication with the administrative personnel and judges.

The evaluation is descriptive, mainly a qualitative and quantitative methodology based on materials collected by primary and secondary resources. The instruments used in the collection of the primary data were structured questionnaires, semi structured interviews or unstructured interviews. The primary data included also the technical information obtained from the results of the feasibility studies, construction detailed designs, and blueprints for the facilities planned either for rehabilitation or for construction, under the auspices of the Judiciary Budget Management Office, thanks to whose cooperation and support the necessary information was made available.

Information from contemporary literature, reports, studies, field legislation also served as secondary data. The evaluation/survey included courts of all instances (see table 2), 29 courts, except for the courts of the judicial districts of Dibra and Saranda.

For obtaining information regarding the level of court services were used the same communication media, i.e. questionnaires, direct contacts and telephone contacts. Whereas the technical information regarding the level of building accessibility in courts was obtained through direct observation in the courthouses/facilities, on site observation of newly built or rehabilitated facilities. For some of the courts, this survey was double fold – in terms of the current status of the facilities and also for the designs and blueprints for the rehabilitation or construction of the facilities, both underway and in the pipeline.

The sources of information were all contact points in the courts, assigned by the heads of the institutions that extended their cooperation through exchange of correspondence and via e-mails.

For gathering the information, the starting point was the training of experts that conducted the direct observation in the field. The Judiciary Budget Management Office was the main source of information with regard to the general construction situation in the courts and in terms of the detailed designs. There was a review of the detailed designs and onsite inspection of eight of them. The collected information was processed from the statistical and engineering view point, and the results were reflected in the final report. 29 reports were drafted containing technical construction recommendations and findings for improvements in each of the courts, 14 of which are attached to the ANNEX.⁷

The questionnaires were disseminated via official mail, email, while the answers were possible through telephone calls with heads and representatives of the courts, and direct interviews.

⁷ In the Annex of the study were attached the reports only for 14 courthouses that have planned for reconstruction or new buildings in the near future.

1. GENERAL DATA

1.1 A description of the Judiciary System

Organization of the Judiciary System in the Republic of Albania

The judiciary power in Albania is exercised through the Supreme Court, the courts of Appeal (appellate courts) and the first instance courts.⁸

The law “On the organization of the judiciary in the Republic of Albania” is the basis for the functioning of the overall justice system, while the activity of the Supreme Court is regulated by the law “On the organization and operation of the Supreme Court in the Republic of Albania.”

First instance courts

The first instance courts constitute the foundation of the judiciary system. They are organized and operate in the judiciary districts throughout the country. The territorial competencies and the centre for the exercise of their activity gets assigned by a decree of the President of the Republic, with the proposal of the Minister of Justice, after getting the opinion of the High Council of Justice. In general, sessions are held with one member, but in the specific cases specified in the law, sessions may be held in colleges composed of three judges. This depends on the value of the court suit or type of case, i.e. civil, administrative or commercial, whereas for the criminal cases this is applied only for criminal offences, in difference from violations which are reviewed by one judge.

⁸ The Constitution of the Republic of Albania, Article 135.

Courts of Appeal

The Courts of Appeal have the competency to review cases heard in the courts of first instance, whose parties appeal the rulings of the first instance courts. The verdict/ruling is always issued by the collegial group composed of 3 judges. The territorial jurisdiction of the Appellate Courts, same like in the instance of the first instance courts gets assigned by a decree of the President of the Republic, with the proposal of the Minister of Justice, after getting the opinion of the High Council of Justice. We can also mention the military courts of first instance that handle hearing of military cases within the system of the first instance courts in the form of special “Colleges”, as well as the Military Court of Appeal, which is unique in the whole territory of the Republic of Albania, and handles cases appealed in the military courts of first instance.

The Supreme Court

The Supreme Court is the highest judiciary authority. Its seat is in Tirana, and it is composed of 17 judges who are nominated from the ranks of judges, and must have at least 10 years working experience or are chosen from the ranks of renowned lawyers who have been exercising the profession for not less than 15 years. The Supreme Court exercises original and review jurisdiction. The Supreme Court exercises original jurisdiction in the events provided for in the Constitution, in case of criminal accusation against the President of the Republic, Prime Minister or other members of the Council of Ministers, MPs, judges of the Supreme Court or judges of the Constitutional Court.⁹ The Supreme Court has review jurisdiction in the cases provided for in the Code of Criminal Procedure and Civil Procedure Code. The Supreme Court is organized in two Chambers, one for handling Criminal cases and the other for handling civil cases, according to the rules provided for in the Civil Procedures Code and the Criminal Procedure Code. The judges of this court are appointed by the President of the Republic, with the consent of the Parliament. The mandate in this Court is 9 years, and it is not renewable.

1.2 The description of the judiciary administration and the court services

The structures of the first instance courts and the Appellate courts include: 1) Judicial Secretariat; 2) Judicial Secretary and 3) the judicial employee that form the

⁹ Constitution of the Republic of Albania, Article 141.

judicial administration that includes other offices as well. As can be seen from the table below, other offices include: the Archives office, Media and Public Relations Office, the Budget Office etc.

The Chancellor is appointed and is dismissed by the Minister of Justice.¹⁰ The Chairman/President, in cooperation with the Chancellor handles the process of employment of the administration.

The Court Secretariat inter alia is like an admission office for the documents and procedural acts. The Secretariat handles the complaints on lot basis, receives the files upon completion of the hearing process, and files the court files in the Archive.

The Judicial Secretary exercises procedural tasks stipulated in the provisions of the Civil and Criminal Procedure Codes, and the procedural provisions provided for by a special law. In the exercise of his procedural function, the Judicial Secretary concomitantly exercises administrative activities.

The courts also have an Office for Public and Media Relations.¹¹ This office exercises its activity, under the auspices of the Chancellor of the Court and its scope of activity is the following:

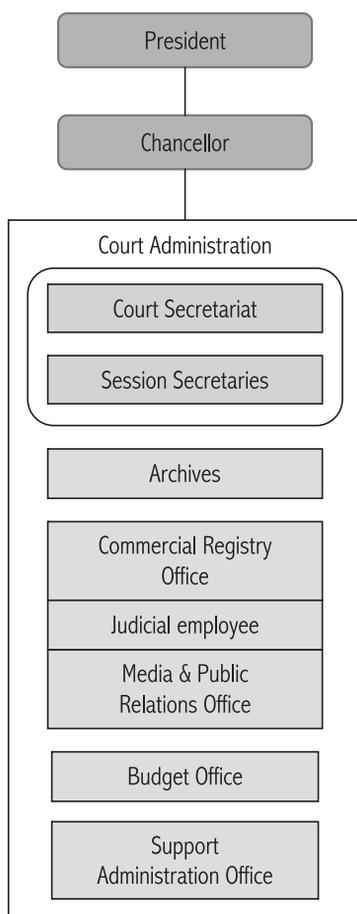
- Informing the Public and the Media about the activity of the Court;
- Promoting the image of the Court and its personnel in the public;
- Administering the relations of the court with the public;
- Defending the court and its employees against any public accusation;
- Organization of internal information in the Court
- Handling the complaints from the Public and the Media for failure to respect their requests by the Court personnel;
- Creation of the necessary facilities for obtaining information by the public in an accurate, full, appropriate and expedited fashion;
- Prepares and posts signs for guiding the Public while in Court premises, and takes care about announcing information which is made available to the Public.

Also, the Media and Public Relations Office/Sector takes care and the appropriate measures for the formulation and making public the information regarding:

¹⁰ Law nr.8546, date 05.11.1999 "For amendments in the law 8436, date 28.12.1998 "On the organization of the judiciary system in Albania"

¹¹ Not all the courts have this office. The Secretariat takes over the it's duties in these cases.

- Position and names of staff from whom the Public can obtain information, file requests or get an answer;
- Working procedures for the Court and the judges;
- Explanation about the work of those court staff, whose work is related with the Public and the Media;
- Different deadlines related to the work of the Court;
- The list of court hearings.¹²



Grapf 1: The organ gram of the courts

¹² <http://www.gjykatatirana.gov.al/>

1.3 The Judiciary Budget Management Office

The Judiciary Budget Management Office (JBMO) is established in support of the financial activities of the courts. JBMO's activity is based on law no 8363 "On the establishment of the Judiciary Budget Management Office". The JBMO is in charge of administering the budgetary funds and donations by potential donors for the courts. In the context of its general activity, the JBMO proposes policies for a fair and efficient administration of the budget or donor funds allocated for the courts. Also, this office is involved in research and development (R&D) and activities, which are aimed at ensuring the professional development of the administrators and specialists of the finance offices in the courts. This office is also responsible for the organization of studies and workshops for the professional enhancement of the employees in these offices. Some of the duties of this Office include: to review the status and the needs of each court unit, in close cooperation with the courts offices; it processes the draft budget of the courts and drafts the budget for the whole judiciary system; it drafts and recommends economic and financial policies. The office is run by the Executive Board, which is composed by President of the Supreme Court, one judge from the Supreme Court, one representative from the Ministry of Justice, two representatives from the Appellate courts and four Presidents of the first instance courts.

1.4 A description of the general construction of the courthouses

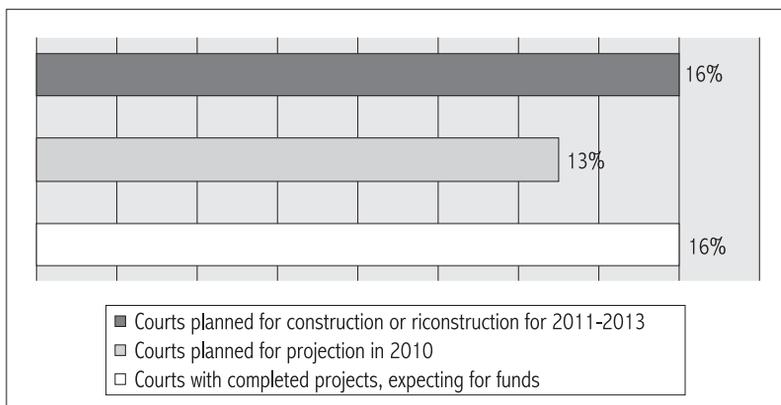
The Albanian judiciary system is composed of the Supreme Court, 7 Appellate Courts and 23 judicial District Court (see table 2)

Table 1: Three levels of judicial system

Supreme Court	
Courts of Appeal	1 Durrës Court of Appeal
	2 Court of Appeal of Gjirokastra
	3 Korça Court of Appeal
	4 Shkodra Court of Appeal

	5 Tirana Court of Appeal
	6 Vloa Court of Appeal
	7 Court of Appeal for Serious Crimes
Judicial District Courts	1 District Court of Berat
	2 District Court of Dibra
	3 District Court of Durrës
	4 District Court of Elbasan
	5 District Court of Fier
	6 District Court of Gjirokastra
	7 District Court of Kavaja
	8 District Court of Korça
	9 District Court of Kruja
	10 District Court of Kukës
	11 District Court of Kurbin
	12 District Court of Lezha
	13 District Court of Lushnja
	14 District Court of Mat
	15 District Court of Përmet
	16 District Court of Pogradec
	17 District Court of Puka
	18 District Court of Saranda
	19 District Court of Shkodra
	20 District Court of Tirana
	21 District Court of Tropoja
	22 District Court of Vloa
	23 First instance court of Serious Crimes

The buildings of the courts have been built and reconstructed during different time periods. In the course of the years, these buildings have suffered changes. So far eight new courthouses have been built, while seven other have been fully reconstructed. The detailed designs are ready, pending the funding for their implementation in about 16% of the courthouses. The technical design has already been finalized for five courthouses, three of which will be new buildings, whereas the other two will undergo full reconstruction. For 13% of the buildings of the judiciary the implementation work will start in the current year, and they are already in the procurement phase. The draft budget for 2011-2013 provides for new construction and full rehabilitation of an additional five buildings for the judiciary, which constitute 16% of the overall number of the courthouses.¹³ See graph 2.



Grapf 2: Planning for construction and reconstruction, in percentage against the overall number

Reconstruction or building of courts is funded by the state budget and the donors. This budget, in addition to the total budget is managed by the Judiciary Budget Management Office. Recent courthouse rehabilitations and the construction of the new courthouses for the District Courts of Dibra and Saranda,¹⁴ as well as the construction of the new buildings for the Appellate courts of Vlora and Korça were funded by the EU CARDS programme funds.

The courthouses have two, three and four floors. The architects and design

¹³ Information from the Judiciary Budget Management Office.

¹⁴ The courthouses of Dibra and Saranda have not been part of the survey. Information obtained by JBMO.

teams involved in the construction and rehabilitation of these buildings are all locals. In 2004, two international firms/studios, Nicholas O'Dwyer&Company Ltd. Ireland and Iproplan Planungsgesellschaft mbH GERMANY were involved in an evaluation survey about the general status of courts, including the status of buildings in use by them. According to these surveys, the courthouses had defaults, lacked necessary equipments, and problems in terms of their operation vis-à-vis holding of court processes. It was also pointed out that none of these buildings offered access for persons with disabilities. This finding, in difference from the rest of the findings in this survey, was not accompanied with details regarding the absence of technical elements that ensure the physical accessibility of the external and internal premises of the courthouses.

This assessment survey that included all courts in the country served as a starting point for all design groups that developed projects for the full or partial rehabilitation of the courthouses, as well as a basis for the detailed designs for the new facilities in the pipeline.

2. THE LEGAL FRAMEWORK

The legal framework in the disability area has been developing gradually. It has been more of a process which has required approval of new pieces of legislation or updating and fine-tuning of the existing ones, as well as signing or ratification of international conventions, and a series of regulations. The legal framework aims at ensuring enjoying of the rights of persons with disabilities in order to achieve the final goal, which is inclusion of persons with disabilities in the social, cultural and economic walks of life. Still there is a long way to go. In the context of the Stabilization-Association Agreement (SAA) obligations and responsibilities, the Government of Albania has launched a series of initiatives for improving the situation of persons with disabilities. The justice system is one the priority areas for the Government. A series of reforms have been undertaken in the course of the years, but the process of improving and ensuring efficiency of services is an ongoing one. The right for equal access to justice is a constitutional right, which in the international documents of human rights is established as a fundamental right. Hence, the right for equal access in courts involves a whole range of procedural and functional aspects. Referring to the Manual for the judicial administration, the components of access are: public hearings, which must be open; security, access and accessibility, which means that courts should be accessible and adapted for use; effective participation, so that anyone who appears before the courts have the opportunity to participate effectively; affordable cost of access, which means that costs must be reasonable.

Considering financial aspect of the process, as one of the elements of access to courts, the financial costs often times are not affordable, and therefore the introduction of mechanisms for legal support provided for in the “Law on Legal

¹⁵ Administration of law courts; Manual for the chancellors and employees of the judicial administration, Tirana, 2005.

Assistance” would help in ensuring access also for persons with disabilities, while admitting that they belong to poor and marginalized strata. It is in this context that it is used in the Law on Legal Assistance here.

As will be seen further in this material, in addition to the Civil Procedure Code and the Criminal Procedure Code there are more specific laws and regulations that regulate more directly or indirectly the access of persons with disabilities in the official institutions, including courts. All of these legal acts are inter-related, and also provide for several aspects of the access of persons with disabilities. From the view point of a number of legal obligations, coordination among different institutions, both in terms of the exchange of information, experience or/and official inter-institutional communication should be strengthened and take a concrete shape, in order to ensure their enforcement. Of course this requires the involvement of a series of actors from the central and local government, as well as of the responsible institutions.

This study is focused on the above mentioned aspects in terms of access to courts.

Following is a list of a number of national and international documents that provide for the right of access to justice for persons with disabilities on equal bases with others.

2.1 International instruments

2.1. a European Convention on Human Rights

2.1. b Council of Europe Plan

2.1. c Convention on the rights of persons with disabilities

2.1. a European Convention on Human Rights

Article 6 of this convention speaks about the right for a fair trial.

- 1. In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law. Judgment shall be pronounced publicly by the press and public may be excluded from all or part of the trial in the interest of morals, public*

order, or national security in a democratic society, where the interests of juveniles, or the protection of the private life of the parties so require, or the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice.

2. *Everyone charged with a criminal offence shall be presumed innocent until proved guilty according to law.*
3. *Everyone charged with a criminal offence has the following minimum rights:*
 - a. *to be informed promptly, in a language which he understands, and in detail, of the nature and cause of the accusation against him;*
 - b. *to have adequate time and facilities for the preparation of his defense;*
 - c. *to defend himself in person or through legal assistance of his own choosing, or, if he has not sufficient means to pay for legal assistance, to be given it free when the interests of justice so require;*
 - d. *to examine or have examined witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him;*
 - e. *to have the free assistance of an interpreter if he cannot understand or speak the language used in court.*

Article 6 of the European Convention on Human Rights (ECHR) provides not only about the right for fair hearing, which is the right of everyone according to this article, but also about the obligation of the countries to ensure fair and equal access of all their citizens, including persons with disabilities in the institutions of justice.

Therefore, the purpose of this article is proper administration of the system of justice. The goal is to enable full participation of all individuals on equal basis in the judiciary process. For the realization of this right should be considered all measures for managing the flow of work, ensuring the effectiveness of the procedures, their duration and the measures to reduce this in reasonable time, and to create the appropriate conditions for preparing the defense.

2.1. b Convention on the Rights of Persons with Disabilities

The Government of Albania signed the Convention on the Rights of Persons with Disabilities (CRPD) on December 13, 2009. This Convention is the ultimate expression about the disability issues and persons with disabilities. For the first

time, following a number of strategic documents, declarations and rules, this Convention addresses this issue in terms of human rights. The CRPD serves as a roadmap for the governments for the implementation/enforcement of all of its provisions. Article 13 of this Convention stipulates that: *States Parties shall ensure effective access to justice for persons with disabilities on an equal basis with others, including through the provision of procedural¹⁶ and age-appropriate accommodations, in order to facilitate their effective role as direct and indirect participants including as witnesses, in all legal proceedings, including at investigative and other preliminary stages.*

As can be seen, great importance is attached to the access to justice as one of the rights of the persons with disabilities, on an equal basis with others. The convention reiterates the particular importance for enabling inclusive access of persons with disabilities, as one of the primary goals of this Convention. Article 13 is about access to justice, including not only the physical aspects of barriers, but also the procedural aspects for enabling access.

2.1. c Council of Europe Plan

The objectives of the European Disability Strategy aim at creating equal conditions and opportunities for persons with disabilities on equal basis with others.

The European Community on 2007 signed the Convention on the Rights of Persons with Disabilities (CRPD). This Convention is a roadmap for the European Disability strategy.

The action plan for persons with disabilities stipulates that these persons should be entitled to the possibility of making use of the justice system on equal basis with the others. The legal protection stipulated in Measure 12 of the Council of Europe Plan covers a whole range of measures for the elimination of discrimination against persons with disabilities.

To this end, it is necessary to introduce and develop an adequate legal and administrative framework. During its formulation, this plan has taken into consideration all international instruments such as: Standard Rules of United Nations for ensuring Equal Opportunities for Persons with Disabilities and the Convention on the Rights of Persons with Disabilities. Also, it is worth mentioning that the priorities of the European Disability Strategies are about access to

¹⁶ Further down we will refer more specifically to the concept of “reasonable accommodation”

accessible infrastructure, goods, and services, in order to eliminate discriminatory behaviors and promoting inclusive behaviors of persons with disabilities during 2010-2020.¹⁷

2.2 National Policies and Legal Framework

- 2.2. a The Constitution of the Republic of Albania
- 2.2. b National Strategy on Disability Rights, Decision of the Council of Ministers Nr. 08, dated 07.01.2005
- 2.2. c Law on Protection against Discrimination (non-discrimination law), Nr. 10221, dated 04.02.2010
- 2.2. d Law on territorial planning Nr. 10 119, dated 23.04.2009
- 2.2.dh Decision Nr. 1503 of the Council of Ministers, dated 19.11.2008 “Regulation about utilization of space by persons with disabilities”
- 2.2.e Decision of the Council of Ministers No 401, 25.06.2004 “Urban and Architectonic Norms and Rules for Persons with Disabilities”
- 2.2. f Law no 8098, dated 28.03.1996 “On the status for blind persons”
- 2.2. g Law no 7889 dated 14.12.1994 “On the Status of the Labor Invalids”
- 2.2. gj Law no 8626 dated 22.6.2000 “On the Status of Paraplegic and Tetraplegic Individuals”
- 2.2. i Law no 10039, dated 22.12.2008 “On legal assistance”

The Constitution

Article 42 of the Constitution of the Republic of Albania provides that: Everyone, to protect his constitutional and legal rights, freedoms, and interests...has the right to a fair and public trial ...by an independent and impartial court specified by law.

The National Strategy on Disability Rights

The National Strategy on Disability Rights (NSDR) is one the main documents that lays out the national strategic directions in the realization and protection of disability rights. NSDR is a very important instrument, which is fully harmonized

¹⁷ Communication from the commission to the European Parliament, the council, the European Economic and Social Committee and the Committee of the Regions; European Disability Strategy 2010-2020:

A Renewed Commitment to a Barrier-Free Europe.

with the principles of the Convention on the Rights of Persons with Disabilities, which was signed by the Government of Albania, but which has not yet been ratified by the Parliament. The principles of this Strategy inter alia include the principle of inclusiveness, equal opportunities and a life free of barriers. A life free of barriers in the context of this strategy shall be understood to mean that the buildings, services, transportation, technical equipments and information processing instruments, sound and vision resources can be used by persons with disabilities, without special difficulties and as a rule without help from others. There are two mechanisms in place for the implementation and monitoring of this Strategy:

The National Council on Disability Issues which was established in 2005¹⁸ for the purpose of the implementation of this strategy. The Council is an inter-ministerial unit, with the participation of NGOs, and it has been established for ensuring the implementation of the NSDR.

The Technical Secretariat¹⁹ was established in 2006, and is in charge of promoting and monitoring NSDR implementation.

The Monitoring Report of the Action Plan of the National Disability Rights Strategy for 2008-2009 rates the progress regarding the efforts to guarantee accessibility to ballot centers, other institutions and courts as “somewhat progress”.²⁰

This strategy, inter alia, provides that it is the duty of the State to make sure that all its institutions respect the disability rights, to ensure accessibility of information, and to make sure that the communication methods for the public at large take into consideration and reflect the needs of the persons with disabilities.

Law on Protection Against Discrimination No 10 221, dated 04.02.2010

This law provides for the implementation and respecting the principle of equality of gender, race, color, ethnicity, sexual identity, sexual orientation, political, religious or philosophical beliefs, economic, education or social status, pregnancy, parental affiliation, age, family status, civil status, residence, health status, genetic predisposition, disability, affiliation in any particular group, or any other reason. For the first time, in the Albanian legislation appears the concept of reasonable accessibility.

This is a new concept not only in our legislation, but as well in that of many

¹⁸ Established by Order of Prime Minister No. 196, dated 12.12.2005.

¹⁹ Established by Order of Prime Minister No. 40, dated 23.03.2006.

²⁰ Implementation of National Plan on Disability Rights , Tirana 2010.

other countries. Reasonable accessibility shall mean any necessary and appropriate change or modification, without imposing an excessive burden in order to guarantee the enjoyment and exercise of disability rights. In the context of this law, refusal/denial of reasonable accessibility constitutes discrimination.

The concept of excessive burden is another novelty which is directly related with the concept of reasonable accessibility. As such, it is necessary to determine the size of excessive burden, and to clarify its meaning vis-à-vis the financial resources available to subjects for which it is legally binding to apply the concept of reasonable accessibility. It is important to point out that the concept of reasonable accessibility, in terms of modification and change does not include only the physical barriers, but as well the procedural ones, which prevent the enforcement of the disability rights.

Law on Territorial Planning, no 10119, dated 23.04.2009

The law on territorial planning addresses the disability issue as a matter of national importance. The law also provides for the creation and guaranteeing of the territories, while giving priority to all economic and social strata, accessible infrastructure, facilitation of public utility services, transportation, communication, including accessible territories. Furthermore, the law pursues with guaranteeing equal benefits from services under usual and emergency circumstances for disabled persons as well.

Decision of Council of Ministers no 1503 dated 19.11.2008 “Regulation on utilization of space by Persons with disabilities”

The Regulation is composed of two parts.

Part I includes all rules for the elimination of barriers

Part II determines the technical rules for the elimination of these barriers, accessibility and sight view of the buildings.

The regulation is binding for all private and public entities, and includes two lines of action. One is about elimination of barriers in the existing buildings, which could be either reconstructed or change their destination. In this case, the regulation puts on these entities the legal obligation for making the buildings/facilities accessible according to this regulation.

The second line of action is about prohibition of creation of barriers in the new constructions. To this end, the regulation provides for the introduction of qualified monitoring in the responsible institutions for issuing the construction permits,

which have not yet been established. In its Chapter IV, regarding implementation of accessibility rules, the regulation in Point 4 provides for the buildings used for administrative purposes, and whereby specifically mentioning the courts.

The responsible institutions at large are not informed about this regulation, and consequently the degree of its enforcement leaves to desire. Another factor which hampers the implementation of this regulation is failure to provide for sanctions in case of failure to implement the standards and rules stipulated by this regulation.

Law on legal assistance no 10 039, dated 22.12.2008

The approval of the Law on Legal Assistance was not only welcome, but indispensable for ensuring equal access of all citizens to justice. This law provides for the type and conditions for eligibility to free legal assistance, giving the possibility of access to justice to all citizens in need, to defend their rights and freedoms in a legal way. The main principles of legal assistance inter alia include equality of rights for all citizens, the principle of professionalism in providing legal assistance, quality, efficiency, and effectiveness. Now, there is in place a Commission for provision of Legal Assistance, which is trying to enable its implementation in practice.

Special status for persons with disabilities

Law no 8098, dated 28.03.1996 "On the Status for Blind Persons"

The Law on the status for blind persons, in its Article 7 provides that the Territorial Adjustment Council and the urban planning institutions shall not approve any detailed design for public roads and premises, if they do not take into account the necessary and possible adaptations for blind persons.

Law no 7889 dated 14.12.1994 "On the Status of the Labor Invalids"

This Law, in its article 13 provides that all new constructions after the effectiveness of this law (1994) should offer the possibility for use by different categories of persons with disabilities.

Furthermore, in line with this law, a further Instruction was issued (instruction no 199, dated 030.5.1995) "On facilities for Invalids in public facilities" which introduces the obligation for all physical and legal entities to provide for conditions fit for persons with disabilities in their external premises.

Law no 8626 dated 22.6.2000 "On the Status of Paraplegic & Tetraplegic Invalids"

Article 20 of this law provides that public places such as: airports, train stations, stadiums, hotels etc. should have spaces fit for the movement, permanence and services for paraplegic individuals, as specified in this law.

It is important to point out that persons with hearing impairment and those with mental health problems do not enjoy a special status. The NGOs and communities of persons with hearing impairment are pursuing with their efforts to ensure respect of their rights, on equal footing with other disability groups. The current legal practice is discriminatory against these persons, while creating differentiations within different disability groups.

In line with its law on the Organization and Functioning of the Ministry of Justice,²¹ this Ministry carries out functions with regard to the administration of the Judiciary System, including inter alia organization of services in the Judiciary, follow-up and supervision of the activity of the judiciary administration through inspections.

According to the law On the organization and functioning of the High Council of Justice (HCJ), the competencies of the HCJ²² include the defense, appointment, transfer, firing, education, professional evaluation, career and supervision of the first instance and Appellate courts.

The preparations for this project have taken into consideration the above mentioned pieces of legislation as well, for addressing the recommendations of this study to these institutions as well.

²¹ Law on the Organization and operation of the Ministry of Justice no 8678, dt.14.5.2001.

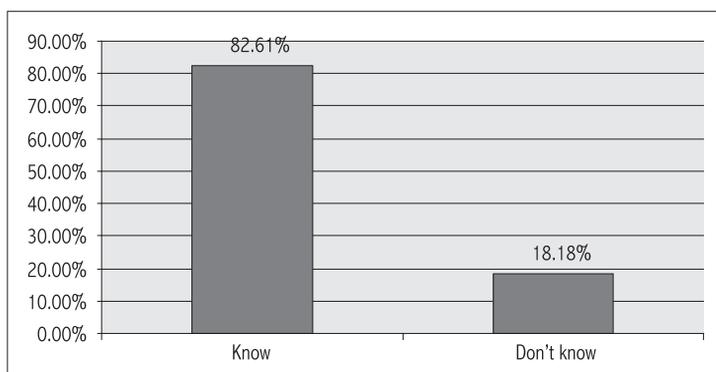
²² Law on the Organization and operation of the High Council of Justice no.8811, dated. 17.5.2001.

3. RESULTS

3.1 The level of delivery of services of judicial procedures

The Questionnaires for the courts were aimed at determining the level of awareness regarding building accessibility and the delivery of assisting services (including assistive equipments) for persons with disabilities. In addition, based on the level of awareness of the personnel regarding disability issues legal framework, the questionnaires were tailored to determine the predisposition of the courts to make court facilities/premises accessible, both in physical terms and in terms of services that they deliver. The persons that filled in the answers for the questionnaires were mainly the chancellors. Following are some of the results of these questionnaires:

Thus, in responding to the question about awareness regarding the legal obligation for creating accessible premises, 83% of the courts (n=19) responded positively. It goes without saying, that this percentage is an indication of the high level of awareness of the existing legislation.

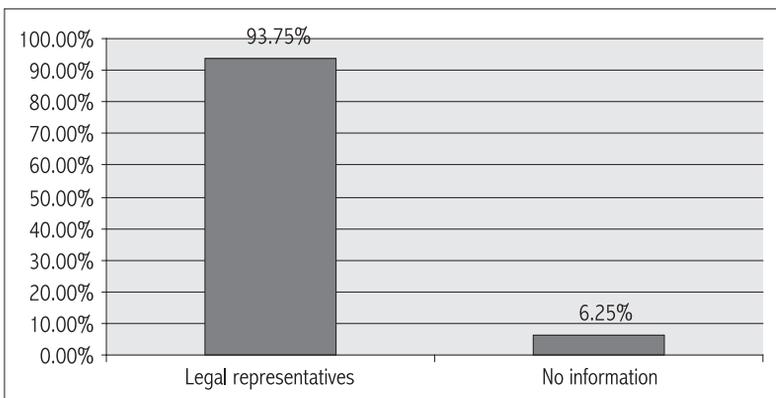


Gráf 3: Knowledge of the legal obligation to build accessible environments

While, in responding to the question whether there has been a request for the enforcement of this legal obligation, 25% (n=6), the reply was that there had been no rehabilitation/reconstruction of the buildings, and hence no such requirement, whereas for 23% (n=5) this had been a legal obligation; for the rest, meaning approximately half of the interviewed courts responded that they had not had such requirement in place because for the most part (75%) the reconstruction of the buildings had taken place before the effectiveness of the legal obligation.

78% of the interviewed courts (n=17) had been involved in court hearings with persons with disabilities. The said disability categories included: paraplegic and tetraplegic individuals, persons with hearing and visual impairment, persons with speech impairment, and persons with mental health problems. In most of these instances, as will be seen further, these persons were represented in the court by their caretakers. The alternative solutions for persons with disabilities, in the absence of accessible premises and accessible equipments or information, varied. For instance, the persons with movement disability had been lifted or dragged, in the event that they had shown up themselves in the court. In the case of persons with visual impairment, they had been accompanied by relatives or caretakers, who had played the role of the moderator. In the case of persons with hearing impairment, two courts had provided a sign language interpreter, whereas in all instances the caretakers of these persons had played the role of the moderator-interpreter.

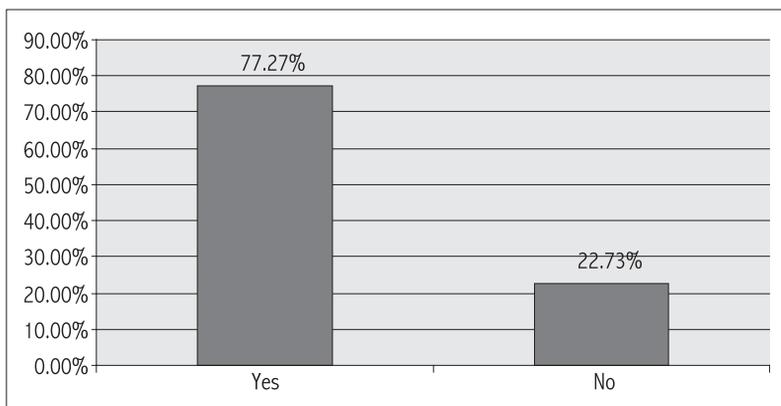
From among persons in a court conflict, 94% of them had been represented by third parties, i.e. their legal representatives.



Graph 4: The representation by third parties of people with disabilities having problems in terms of communication

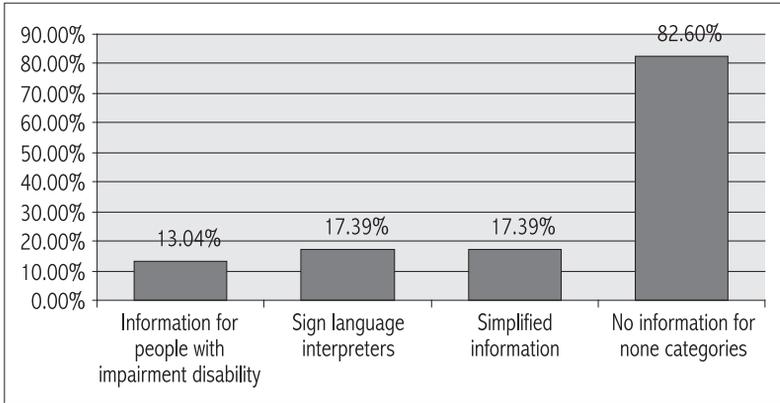
It is worth pointing out that the third parties of the legal representatives in most of the cases were relatives of the persons with disabilities. These caretakers are informed about the needs for care for the persons with disabilities, i.e. they are specialized in care services to tend to the daily needs of these persons. However, they are not familiar with the court procedures, and nor do they possess other legal information.

In responding to the question regarding communication with persons with mental health problems, or persons with visual, hearing or speech impairments, 78% of the courts (n=17) said that they were familiar with the requirement for ensuring accessible means for this category of persons.



Grapf 5: Knowledge on the legal obligation to ensure accessible means communication/ information

While 82% of the courts (n= 19) did not have simplified information or in Braille, sign language interpreters or other supporting equipments; the rest of the courts had provided this service on case by case basis. In all the rest of the cases, the family members (caretakers) had served as moderators. The reasons for these problems were again related with the reconstruction of buildings or lack of a budgetary planning.



Grarf 6: Services offered to different categories of disabled people

While asked about planning made for inclusion of accessibility elements, 95% of the interviewed courts (n=22) expressed their willingness/availability to plan for accessible facilities and communication for all disability categories; 60% of these courts (n=15) had plans for after 2011, while the rest had plans for the current year.

In the context of improving delivery of services, increasing information dissemination via internet, the courts had already begun creating their web sites. These elements are expected to have an impact in increasing access to justice of all citizens, including persons with disabilities. In the interviewed courts, out of 23, only 5 had a webpage, while none had accessibility elements for persons with disabilities, such as audio system or enlarged letters.

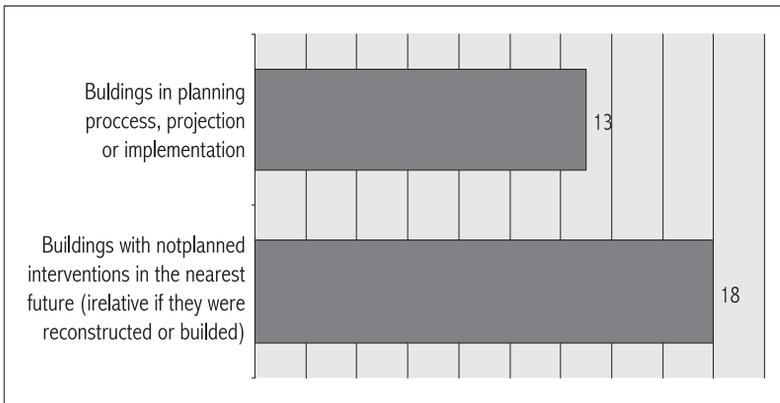
3.2 Results of surveys regarding building accessibility

3.2.1 Respecting rules of building accessibility in the courthouses

The most comprehensive process of evaluation of the general status of courthouses was that of 2004. The study of 2004 did a detailed analyses of the situation from the building and functional perspective of these buildings. But, the studies only refer to the lack of access for persons with disabilities, without going into a detailed analysis. These studies served as further bases for the formulation of detailed design regarding rehabilitation or construction of new courthouses.

With reference to the process progress rates for the inclusion in the detailed design elements for ensuring accessibility of premises for use by persons with disabilities in the courthouses, there was positive tendency for achieving them. However, these positive steps were mainly taken for ensuring building accessibility for persons with physical disability, while bypassing the implementation of rules for other disability categories such as: blind persons, persons with hearing impairment, persons with mental health problems etc.

Depending on the construction interventions in the courthouses, they can be grouped into: a) courthouses for which there are no plans for interventions in the near future: courts where there have been no interventions and buildings which have either been rehabilitated or built from scratch. There are in total 18 courts, of which eight are accessible at different levels; b) There are 13 courthouses for which there has been an assessment already, and are in the planning, design or implementation process for rehabilitation or construction. For five of them are ready the detailed technical designs, three are in the project design phase, and five others in the process of obtaining the construction site. Graph. Nr. 7.



Grarf 7: Number of courthouses according to current status of building intervention

- a). 1 The following are some of the findings with regard to the courthouses for which there were plans for interventions in the near future, and which had no elements of accessibility. These courts are: Durres Court of Appeal, Tirana Court of Appeal, Gjirokastra Court of Appeal, Judicial district Court of Durrës, Judicial district Court of Kavaja, Judicial district Court of Kruja, Judicial district Court of

Lezha, Judicial district Court of Lushnja, Judicial district Court of Përmet. All of these buildings had stairs at their entrance, and no sloping ramps. Only in the district court of Lezha, because of the not leveled land, one of the three entrances to the court led, with no stairs, to the first floor, and thus enabled direct access to the court chambers. None of these buildings was plain level, and all had several floors, while none of them had an elevator, as well as no plans for parking for persons with disabilities. None of these courthouses had toilets for persons with disabilities (accessible toilette), both in terms of space between the doors, nor in terms of internal space; the space between the doors varied from 70 to 60 cm, while the minimal standard requirement is 90 cm. The Durrës judicial district court had stairs on the floor with no ramp on their sides.



Gjirokastra Court of Appeal



Tirana judicial district court

- a). 2 The following are the findings of the survey for the court buildings which were subject to an assessment and reconstruction or building from scratch, and which are accessible at different levels. The courts are the following: Supreme Court , Courts of Appeal of Korça, Vlora, the District Court of Korça, and Mat, the Serious Crimes Court (court of Appeal and judicial district court):

All of these courts were either recently rehabilitated, or recently built, after the approval of the law in 2004, which is legally binding for ensuring accessibility elements for all new or rehabilitated buildings. However, from direct on site observa-

²³ The Supreme Court is addressed under letter b) since there are plans for a new building.

²⁴ There are also two courts, namely those of the judicial districts of Dibër and Saranda which have been built and reconstructed in the recent years, for which the information was provided by JBMO. No field observation and no technical documentation.

tion in these court buildings or from the review of their technical detailed designs, there were positive results, but which were partial, and at different levels from one building to the other, and from one year to the other. There were differences in the results between different architectural design studies which had been involved in the construction or rehabilitation of these buildings, regarding respect of accessibility rules, in line with the law.

With reference to this group of courthouses, the highest level of accessibility was found in the Serious Crimes Court of Appeal, and first instance Serious Crimes Court of Tirana. This building was designed in the last three years, and was inaugurated in the beginning of 2010. The building had provided for space for parking for persons with disabilities (accessible parking slots); a sloping ramp at the main entrance; installation of elevators accessible for persons with disabilities, both in terms of space and sign elements; accessible spaces for the movement of persons with disabilities; toilet for persons with disabilities (accessible toilette), but only on the ground (first) floor; there were elements of accessibility in the inside doors; elements of accessibility in the staircase etc. in both parallel sections of the building. However, even here were found limitations with regard to respect for standards in terms of particular/specific elements of accessibility, inside and outside the building (please refer to Chapter 3.2.b).



Court of Appeal and Serious Crimes Court in Tirana



Entrance of the Supreme Court

None of the buildings of the courts of Appeal of Korça, Vlora, the Judicial District Court of Korça and Mat had planned for parking for persons with disabilities (accessible parking slots). Elevators had been installed in courts of Appeal of Korça and Vlora, as well as in the judicial Court of Korça, while there was no elevator in

the building of the judicial district court of Mat. Ramps had been placed in all four of these buildings, however not in conformity with the respective standards. (see Chapter 3.2.b).



Court of Appeal in Korça

- b) There are 13 courthouses for which there has been an assessment already, and are in the planning, and design process, or pending implementation for reconstruction or new buildings, including: Supreme Court, courts of Appeal of Shkoder, Judicial District Courts of Berat, Elbasan, Fier, Gjirokastra, Kukës, Laç, Pogradec, Puka, Shkoder, Tirana and Vloara. An assessment was carried out for all of these courts about their current status in terms of access that they offer for persons with disabilities, and hence recommendations were drafted in line with the respective legislation.

This is the group where the interventions with the recommendations of this study will be more efficient to enable accessibility for persons with disabilities since they will be reflected immediately in the projects (see annex).

- b). 1 the premises of the Judicial Districts Court of Gjirokastra, Laç, and Puka were not at all accessible – no ramps at entrance, no elevators, no toilets for persons with disabilities (accessible toilettes). The court of Puka had 5 toilets, none of which was accessible. However, on a positive note, these courts are in the process of full reconstruction, and upon the request, and in cooperation with the Judiciary Budget Management Office, they are going to reflect the recommendations, before the report is finalized, in line with the respective standards, and forward them to the

technical design team to include them in the technical detailed design (see annex).

- b). 2 there are plans for construction of new buildings for the following courts: Supreme Court, District Court of Berat, Fier, Kukës and Tirana, while there are plans for the rehabilitation of the court of Tropoja. The Supreme Courthouse, as it is, had an elevator, but which did not provide for elements of accessibility for persons with disabilities; the entrance to the District Court of Berat had no ramps at the entrance, but there were stairs within the ground floor, with no ramps on their sides and the not leveled land were also present in the Fier District Court. In the District Court of Tropoja, in both entrances to the building there were no staircases, but the whole site of the courthouse was differentiated with the road level to reach there. Therefore, climbing to the site of the facility could only be done through the stairs. All these courthouses, together with district courts of Kukës and Tirana had no elevators, toilets for persons with disabilities, no room for movement and no space between the doors in conformity with the standards. For these courts as well were prepared the reports with the respective recommendations that can be used at the time of the preparation of their technical detailed design. (see annex).
- b). 3 In this group, we also looked at the finalized technical detailed designs for the courthouses which are pending approval for the funding – the court of Appeal of Shkodra, the District Courts of Elbasan, Pogradec, Shkodra and Vlora (under implementation). The technical detailed designs for these facilities were not fully consistent with the accessibility requirements. Even though the detailed design for the court of Pogradec was done in 2009, it did not provide for a ramp at the entrance, and neither did it provide for an elevator; whereas the design for the district court of Shkodra provided for both, as well as for toilets for persons with disabilities (accessible toilettes) in every floor, but which however were not fully compliant with the respective standards. An exception would be the new district court building of Elbasan, which not only provides for full accessibility in terms of ramps, accessible toilette in every floor, three elevators (two in line with the disability standards), but as well has presented the graph of the detailed design in full compliance with the respective accessibility standards.

Table 2: Courts which are in the process of planning, designing or implementing rehabilitation works or construction of new buildings

Nr	Court name	Process stage
1	Supreme Court	New courthouse
2	Court of Appeal Shkoder	Technical detailed design finalized, pending approval of funding
3	Judicial District Court of Berat	New courthouse
4	Judicial District Court of Elbasan	Technical detailed design finalized, pending approval of funding
5	Judicial District Court of Fier	New courthouse
6	Judicial District Court of Gjirokastra	Works are underway
7	Judicial District Court of Kukës	New courthouse
8	Judicial District Court of Laç	Works are underway
9	Judicial District Court of Pogradec	Pending funding for the implementation
10	Judicial District Court of Puka	works underway
11	Judicial District Court of Shkodra	Pending funding for the implementation
12	Judicial District Court of Tropoja	Pending funding for the start of works
13	Judicial District Court of Tirana	New courthouse
14	Judicial District Court of Vlora	Works are underway

3.2.2 Respecting building accessibility standards in the courthouses

The observation in the courthouses was also focused on finding out whether the rules for their physical accessibility were in line with the respective standards. In general, it can be said that neither in the existing buildings, nor in the designs for the new projects the standards had been taken fully into consideration. Here we refer to standards for parking for persons with disabilities, for the main entrances, for the ramps, for the elevators, the staircases, toilets and signs for persons with disabilities.

With the exception of the Court for Serious Crimes, no other court had allocated special parking space for persons with disabilities. However, in the above mentioned court, the space element of width 370cm had been respected, while it did not provide for the appropriate horizontal signage with the borders and the disability signage.

The staircase at the main entrance of the courthouses had no side railings, and neither the intermediate handrails to lean on, in the case when their width is more than 250cm. This finding was true also for the new courthouses such as in the Court of Appeal in Korça, and the building of the Serious Crimes Court in Tirana.



The stairs at the entrance of the Serious Crimes Court in Tirana

Ramps had been placed at the entrance in 5 courts (17% of the surveyed courthouses) while provisions had been made for ramps in the detailed designs for the courthouses that will either be rehabilitated or in the new buildings. None of the existing ramps was fully consistent with the standards/ or had higher gradient than 8%; or had no railings or mid-floors for heights more than 6 meters, or had sliding layers. None of the ramps had the rough tape signage for blind persons in the beginning and at the end.

The stairs in all buildings also were not in full conformity with the standards/ height of the stair varied from 15- 21cm; they had no mid-resting floor; did not respect the element of the accessible guardrail and the non sliding layer

The accessibility of toilets has been taken into considering only in the interventions of the recent years. Only 4 courts had accessible toilets, but even there accessibility was not fully in conformity with the standards. The Court for Serious Crimes had

secured the highest level of standards in terms of toilets for persons with disabilities, together with the respective signage, and accessible equipments, and accessories. The same can also be said regarding the detailed design for the new courthouse in Elbasan, for which the design was ready but was pending approval of funds to carry out the works. While there were other courthouses which not only did not have toilets for persons with disabilities (accessible toilette) but the accessories were old type.

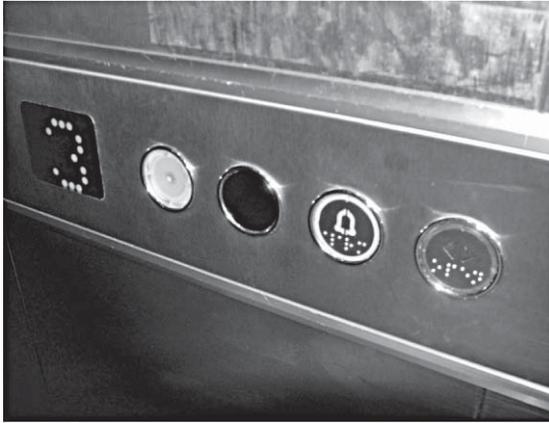


Toilets per persons with disabilities in the premises of the Court for Serious Crimes



Toilet for persons with disabilities found in some courts

The elevators in the courts that had them had respected the door space standard and that of the space inside the elevator. In the Court of Serious Crimes in Tirana, the elevator commands were in Brail signage for blind persons, but without the rough tape which serve for their orientation.



Command in Braille signage in the elevator of the Court for Serious Crimes

Respecting the space standard in the spaces between doors in the courthouses is one of the elements which has an influence on the utilization or not of the courthouses by persons with disabilities, and hence in access to justice. In all courthouses (except for the courthouse of the Serious Crimes Court) and for the pending designs (except for the designs for the Courthouse of Elbasan), the doors of the toilets were not in line with the appropriate standards, i.e. width 60, 65 and 70 cm.

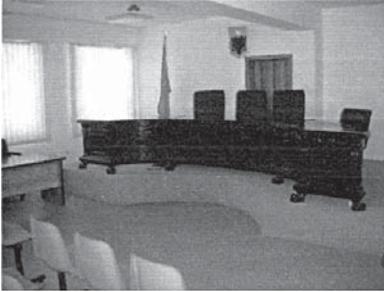
None of the major courthouses had the rough orientation tapes on the floor for blind persons, on every floor.



Model of rough tape that serves for the orientation of blind persons

From the perspective of ensuring accessibility of furniture and equipments in the court chambers, the findings of the survey indicate that there has not been the proper attention regarding access in this aspect for persons with disabilities. None of the courthouses had assigned places in the court chambers for wheelchair users. The slots for the judges were in raised panels and with no ramps in the court chambers. This finding was also true for the courthouses

which have been rehabilitated or built anew after the approval of the law. But, they were also present in the finalized detailed designs for the courthouses whose rehabilitation is in the pipeline.



Inaccessible positions for people with disabilities as public audience²⁵



Accessible positions



Accessible podium models for the judges and the witnesses²⁶



²⁵ Pictures taken from the Report, November 15, 2006: Justice for All: Designing Accessible Courthouses Recommendations from the Courthouse Access Advisory Committee.

²⁶ Pictures taken from the Report, November 15, 2006: Justice for All: Designing Accessible Courthouses Recommendations from the Courthouse Access Advisory Committee.

4. ANALYSES AND CONCLUSIONS

The findings speak of a low level of building and communication accessibility in courts. But, we must point out that there has been progress regarding improvement of the situation in terms of planning for reconstruction or building of courthouses of all levels, in line with the accessibility standards.

Based on the above mentioned data, the level of information of relevant court staff about physical and communications accessibility for persons with disabilities is satisfactory. However, the court personnel are aware of the existing problems in this aspect, and the reasons for them. Part of the buildings is not reconstructed or their reconstruction has taken place before the approval of legislation in this area. But even after the approval of the legislation, specialists were informed rather late about it and this has led to the low level of demands for its implementation. Another reason for failures in ensuring the physical and communications accessibility is the budgetary aspect. Often times the funding requests for the courts either do not get approved, or the funding gets reduced. In general the budget is not sufficient. Another reason that we cannot neglect is also the absence of a tradition or culture in this aspect, meaning in ensuring building accessibility or the supportive technologies in the courthouse premises, in particular considering that the disability issues evolve with time.

The low level of building accessibility in the courthouses is the result of a series of factors. Among the main factors is insufficient information and knowledge about the legislation of the decision-making, administrative, designing and implementation structures. Furthermore, even in the instances when there was some degree of knowledge about the legislation, it did not go up to the level of information regarding the standards. Incomplete information regarding disability issues had led to an orientation of the disability rights requirements only for persons movement disability, leaving outside the attention the requests and rights of other disability groups.

A limited and differentiated understanding of the accessibility concept by design and implementation entities, accompanied with a lack of accountability for respecting norms and standards has consequently led to a different level of achievements in the designs for the courthouses between those realized in the recent years, but by different studios.

It is therefore unacceptable that all detailed designs for the construction of new courthouse buildings or for those that have gone through full rehabilitation which have gone through the procedures for obtaining the construction permit after 2004, namely after the approval of the law on accessibility have not encountered any obstacles by the local territorial adjustment councils in obtaining the construction permits.

Restrictions of budgets for planning for reconstruction of courthouses remain one of the factors that have diverted the attention from meeting the accessibility requirements (not planning for installing elevators etc). Problems in terms of internal design of the courthouse buildings are again due to lack of knowledge and respect for standards by investors and designers.

Inclusion of accessibility requirements for premises of courthouses is delayed compared to the approval of the legislation in this area. However, it is worth pointing out that there is positive progress regarding ensuring accessibility of courthouse premises in order to enable access to entry and to services of courthouses for persons with disabilities. This is reflected partially in the introduction of ramps in 8 courthouses, which enable access of persons with movement disability to the ground floor, while 6 other courthouses are accessible at all levels thanks to the elevators. Both elevators and ramps have been introduced only in 5 courthouses. These achievements are mainly thanks to the role of the JBMO in the inclusion of these requirements in the detailed designs for full or partial rehabilitation of the existing courthouses or for the construction of new courthouses.

²⁷ DCM no 405, dated 25.06.2004

5. RECOMMENDATIONS

The following recommendations, based on the findings in the field, technical documentation and interviews aim at guiding the plans for changes within the justice system reform in Albania in the aspect of accessibility of premises and communications of courts of all instances.

In order to realize physical accessibility of the courthouses is necessary to draft an action plan for every existing building and also for the new ones with objectives and concrete measures for intervention:

- To raise the awareness of professional and administrative personnel of courts through training sessions on disability rights, in the context of human rights, ensuring integration of persons with disabilities in society, and offering them equal opportunities for participation.
- Establishment of capacities and training of staff by assigning one person in the staff to assist persons with disabilities when they present themselves in court.
- Ensuring sign language interpreters for persons with hearing and speech impairments.
- Training of persons specialized in the mental disability area for the instances of receiving persons with mental health problems. They are so-called “neutral” persons who clarify the legal procedures in a more simplified way for the persons with disabilities. (This role may be played by the Psychologist of the Court)
- Provision of leaflets with information in Braille and with big letters for persons with visual impairment.
- Information about the concept of reasonable accessibility, the legal obligation for ensuring it, and starting its application.
- To look into the possibility of developing a module for the cases of persons

with disabilities or for including it in one of the current regulations for the court administration about handling cases of persons with disabilities.

- Adopting the internet pages with audio system or big letters.
- Introducing accessible audio and visual systems in the courts.
- Establishing the necessary staff capacities in the budget offices in the courts to ensure implementation of the legislation on accessibility, and in line with all standards. To look into the possibility of establishing an advisory committee for supporting the staff of JBMO.
- To establish the capacities and raise the awareness of professional and administrative court staff, while seeking the model for the implementation of accessibility requirements for persons with disabilities, in line with respective legislation and standards.
- To raise the awareness and establish capacities of the design studios, which have contractual relations with JBMO, in the process of reconstruction and construction of new courthouses.
- Despite the fact that for a group of courthouses there are no near future plans for full or partial reconstruction it is necessary to provide for budgets for interventions for beginning their accessibility process, by introducing the most indispensable elements, despite full reconstruction.
- To introduce the accessibility requirements in the terms of reference for all detailed designs for the facilities planned for reconstruction or new buildings.
- To explore the opportunity for interventions for improvements in all detailed designs that have been finalized and are about to be implemented.
- To explore the possibility for interventions in the facilities under implementation and which have not been finalized yet.
- To furnish with accessibility elements in line with the standards the facilities which have been rehabilitated or built in the recent years, and have taken into account elements of building accessibility, but not fully so.
- To provide for budgets for accessible furniture and signage within the courthouses, in line with the disability requirements.

Within the budgetary planning, to plan for budget items for services for communication with persons with hearing, and visual impairment, persons with mental health problems, in order to ensure direct receipt of information from the court before, during and after the court process.

REFERENCES

- Ministry of Justice of New Zealand, Annual Report 1 July 2008 - 30 June 2009
- Summary of Survey and Public Hearing Reports of the Access for Persons with Disabilities Subcommittee of the California Judicial Council's Access and Fairness Advisory Committee,
- CEELI, Judicial Reform Index for Albania, American lawyers association, 2006
- ADRF, Monitoring Report on Implementation of NSPWD, 2008-2009
- The Constitution of the Republic of Albania
- Communication from the commission to the european parliament, the council, the european economic and social committee and the committee of regions; European Disability Strategy 2010-2020: A Renewed Commitment to a Barrier-Free Europe, 2010
- Implementation of National Plan on Disability Rights , Tirana 2010
- Law on the Organization and operation of the Ministry of Justice no 8678, dt.14.5.2001
- Law on the Organization and operation of the High Council of Justice no. 8811, dated. 17.5.2001
- The Report: Justice for All: Designing Accessible Courthouses Recommendations from the Courthouse Access Advisory Committee, November 15, 2006
- Administration of law courts; Manual for the chancellors and employees of the judicial administration , Tirana, 2005
- Law no 8098, dated 28.03.1996 "On the Status for Blind Persons"
- Law no 7889 dated 14.12.1994 "On the Status of the Labor Invalids"
- Law no 8626 dated 22.6.2000 "On the Status of Paraplegic and Tetraplegic
- National Strategy on Disability Rights

- Law on Protection against Discrimination (non-discrimination law)
- Law on territorial planning Nr. 10 119, dated 23.04.2009
- Decision of the Council of Ministers, dated 19.11.2008 “Regulation about utilization of space by persons with disabilities”

Internet sources

- www2.ohchr.org/english/issues/disability/docs/study/Sweden.doc
- www.mie.gov.al
- <http://www.gjykatatirana.gov.al>
- www.justice.gov.al
- www.ec.europa.eu

