



REPORT

**THE ROLE OF THE PSYCHOLOGIST AND THE SOCIAL WORKER FOR
INCREASING CITIZEN'S ACCESS TO THE JUSTICE SYSTEM AND PROTECTING
THE CHILD'S BEST INTEREST.
(CASE OF ALBANIA)**

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Conclusions and suggestions

The psychologist ought to respect the basic standards such as justice, impartiality, professionalism, correctness, as a guarantee to the right of the individual to be heard during a process.

The high cost of a judicial process (paying for the lawsuit, the lawyer's fee, paying for the expert, paying the legal notifications during the process) is often charged and paid in advance by the damaged party, who is usually the poorest and thus is obliged to give up its right. Under these conditions, given that divorce, domestic violence and criminal offenses against children cases which require a psychologist are increasing, we should seek an alternative solution for lowering the social cost of realizing the right of the individual.

The integration of the psychologist in the court helps this target group, which is unable to pay the expenses of the judicial process, guaranteeing a quality service, coordinating the work with other actors of social services, in order to continue monitoring the problem, to solve it and to guarantee the social integration of the child and avoiding following trauma.

In several courts, the psychologist was requested by NGOs' that are offering social services, but in most cases it has been limited to sporadic collaborations and the good will of the judges for guaranteeing a regular process because parties could not pay the fees.

Establishing psychologists and social workers as an internal structure in the courts, would refresh the process, would offer new solutions to the problem and avoid the indifference of the community and of competent institutions' regarding social issues.

Psychologists and social workers in the justice system need to be trained and qualified further, in order to enrich their experience, evaluation method and their range of questions, which they ask based on the individual's characteristics and typology of the case. In this situation, the collaboration of the Orders with the justice institutions is necessary.

The professional competences of the psychologists are insufficient. Qualifications, training, similar experiences and the observation of children facilities, family psychopathologies, measuring the impact of the divorce towards the minors etc., should significantly help the preparation of evaluations.

The evaluation reports of the psychologists need improvements. They should contain interpretations based on law, which regulate the combination of capacities of parenting by protecting the children; they should also contain proposals for intervention based on existing social schemes that offer parents the required knowledge for supporting the child.

We should categorize cases for psychologists in the judiciary, in order to increase quality, for instance those who will work with divorce, custody, physical and psychological damage assessment etc. The clinical treatments of psychologists in the judiciary should aim at perfecting their investigative techniques regarding factors, which define conditions, the status, capacities, the family's dynamic and communication, the cultural environment, the behavior and above all the physical, psychological well-being of the children.

Suggestions

External psychology experts and social works should be institutionalized, just like other experts, in order to offer their services as soon as the court or parties request them. However, we suggest the creation of the following structures for improving the quality of professional qualification and increasing access for people who are unable to pay the court fees:

The integration of the psychologist/social worker in the internal structure of the court

After making an overview of the actual situation in our courts with regard to the commitment of psychologists during proceedings, it would be convenient to attach a limited structure of experts near the courts of first instance. The group may consist of several experts (psychologists) as part of the judiciary, who can be appointed for instance, by the National Social Service, which monitors the work of the expert. His job will be evaluated according to the number of cases appealed because of the poor work of the psychologist, thus deciding whether he will continue working. The creation of this team in the court's structure makes it possible to follow the case since the beginning until the conclusion of the psychologist, which is reached after continuous meetings with the parties, using information from the Social Service Office and local authorities, in order to know the problem better. The psychologists, as part of the judiciary, will be able to offer their services during criminal investigation and will assist the Prosecutor, Police or the Judicial Police in cases involving minors, thus formulating a comprehensive opinion about the case and consequently increasing the efficiency and effectiveness of this

service. Internal experts will be appointed through a draw by the President of the court. They will earn the “expert” title, based on the corresponding qualifications and/or after successfully obtaining the State Exam for “Psychologists”. These professionals may offer their services near the rehabilitation center for minors, the probation center, local or national social service offices. They will monitor several cases from the beginning, during the punishment and rehabilitation, creating a complete framework on the progress of the minor and his social and character changes.

The strong/weak points of this position

The integration of the psychologists in the court’s structure can lead to a lot of problems and advantages, as mentioned below.

Positive Elements:

- Lower financial cost for Albanian families having problems with the law, particularly helping minors;
- Offering a professional service for treating issues and helping them by appointing qualified persons in this position based on merit;
- Guaranteeing a comfortable position for the psychologist, as an expert in treating and monitoring a case;
- Protecting the psychologist from “preferences of the judge”;
- Ensuring the collaboration between the police, the prosecutor and the court, in favor of the child;
- Minimizing conflict of interests between the judge and the psychologists (the psychologist may get cases from the judge through bribery);
- Coordinating, collaborating and monitoring problematic cases in relevant institutions (healthcare, education, social services, public and private host centers)

Weak Points:

- Loading the finances of the judiciary or the Ministry of Social Welfare with a burden (cost) regarding:
 - A. Salaries (which can be paid by the parties in cases of small amounts)
 - B. Special Facilities
 - C. Appropriate qualifications of psychologists increase expenses.

- Requires an improvement and adapting the legal framework on the role and functioning of the psychologist in the justice system.
- Infringes interests set between actors of the judicial process and the rest of the chain of legal proceedings.

Summoning psychologists and social workers of regional social services offices before the court

Another important option would be the preparation of structures with psychologists and social workers that are already working in Municipalities' offices or other local authorities. This would strengthen the service of the psychologist/social worker in the court and also minimize the costs.

Improving the procedural legislation

This is needed for regulating the tasks of the psychologist/social worker with regard to protecting the best interest of the child. It is important that the legislation provides the possibility for an expertise from the psychologist/social worker in favor of the parties. Moreover, two registers of experts should be created by the court: one containing experts available in the court and the other containing experts brought by the litigants.

- Urgent need for institutionalizing experts (psychologists/social workers), listing them and setting the admission criteria;
- Creating the network of experts at the court, who can be summoned with moderate fees.
- Creating a special list with all the network of psychologists (brought by the parties);
- Setting up units of psychologists and social workers near the local authorities, in order to provide expertise for the court when the litigant cannot afford the fee.
- Creating qualification, training and testing programs;
- Continuous training regarding the principles and requirements for the due process of law, as well as ethics in their relation with the litigants and the court.
- Setting criteria and procedures for admissions.
- Making changes to the Civil and Criminal Procedural Codes, for defining the duties of the psychologists and social workers and their registration methods.

- These changes cannot be made under the regulative framework for all experts, they must be particularly addressed instead.
- Proposing legal amendments, in case there is need for legal basis in order to fulfill the recommendations.