

NEWSLETTER



Instituti Gjyqësor i Kosovës
Kosovski Institut za Pravosudje
Kosovo Judicial Institute



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**We don't do justice
We do justice better**

Activities from the Continuous Training Program (CTP)

Trainings on the Code of Criminal Procedure of Kosovo

KJI in the beginning of 2013 drafted the Mid-Term plan regarding the training on the CCPK. Several training sessions on the topic: “Code of Criminal Procedure of Kosovo” were conducted on the dates **May 7, 8, 16, 24 and 30** based on this plan.

During these training sessions were discussed the novelties of the CCPK as well as were presented the recommendations and comments of the working group committed in identifying the challenges regarding the practical application of CCPK, where additional explanations were given for many articles of this code.

Participants in these trainings had an opportunity to raise their dilemmas regarding the relevant provisions and also at the same time receive additional clarification regarding the implementation of the CCPK.

The beneficiaries of these programs were mainly judges and prosecutors from the General Department, Serious Crimes Department and the Juvenile Department of Courts and Prosecution Offices, but in some cases also professional associates of courts and prosecution offices attended these trainings.



Seminar – European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) – second cycle



On **May 14, 2013**, KJI conducted a one-day training from the module on the ECHR.

During the seminar were highlighted the fundamental concepts of the European Convention as a mechanism for balancing the legal standards regarding human rights and freedoms and the impact of decisions made for countries that are members of the Council of Europe

and ratifying parties of the Convention. The main focus of this training was in addressing the Article 6, paragraph 2 and 3 and Article 8 paragraph 2 of the ECHR. During the training some cases were reviewed from the case-law of the Court in Strasbourg focusing on the violations of the rights guaranteed with particular emphasis from Article 6 and 8 of the Convention. The beneficiaries of this training were judges of the Basic Courts of Kosovo.



Mock Trial Servitudes (real and personal)

On May 15, 2013, KJI organized a Mock Trial from the civil field on the topic: “Real and Personal Servitudes”.

The training was conducted through a mock trial, in which participants had the opportunity to receive practical knowledge on real and personal servitudes in terms of the Kosovo Law on Ownership and Other Real Rights.

In this training were practically demonstrated how to distinguish a proof of the right of servitude and its constitution, the modes of creation and the destruction or termination of the servitude, as well as ways of protecting the right of the servitude.

Beneficiaries of this training were judges of the civil division of the Basic Court from all the regions.



Roundtable with experts - “Challenges of the Law on Obligations Relations”

On May 17, 2013, KJI conducted a roundtable discussion on the topic “**Challenges of the Law on Obligations Relations - LOR**”. The main purpose of this roundtable was to enhance the knowledge of judges regarding the proper implementation of the legal provisions of the LOR which deal with the prescription and the invalidity of contracts.

During this roundtable were addressed issues related to statutory limitation, absolute and relative invalidity of contracts, solution of legal and practical problems of limitations, the period of limitation, and its termination. The rights of the injured party in seeking compensation were discussed and the possibility of compensation as prescribed in request. During the training was reviewed and discussed several special cases from the case-law.

The beneficiaries of this training were judges at the Civil Division of the Court of Appeal and of the General Departments of the Basic Courts.



Workshop: “The right to Justice and Facing the Past in Kosovo”

On May 17, 2013, Kosovo Judicial Institute and the Centre for Research, Documentation and Publication (CRDP) organized a workshop on the abovementioned topic.

At the opening of this workshop Mr. Lavdim Krasniqi, Director of the Kosovo Judicial Institute stated that “KJI in support of international organizations has managed to offer valuable expertise in the capacity building of judges and prosecutors, with special emphasis on specific topics”.

In this case, the Dutch ambassador in Kosovo, Mr. Robert Bosch said that “Those who have had a difficult past, which have been the target of violence and great injustice, dealing with the past for them is not easy”.

The main issues discussed during this workshop in panel of experts and as groups of participants were the challenges in the fight against impunity - in the context of international examples (such as the example of Guatemala) and the example of Kosovo.

Experts of this workshop were: Mr. Carlos Castesana-Fernandez, a prosecutor at the Supreme Court in Spain, Mr. Besim Kelmendi prosecutor from the Special Prosecution Office of Kosovo, Ms. Katia Dominique, EULEX judge, Erik Larson EULEX prosecutor and Jonathan Sisson regional advisor in dealing with the past in Switzerland.

Participants of this workshop were judges and prosecutors from different levels and the staff from KJI, CRDP and Office of the State Prosecutor.

Seminar: Strengthening International Legal Cooperation



On May 13-14, and 20 to 21, 2013 KJI in cooperation with the Twinning Project funded and managed by the European Union Office in Kosovo conducted two two-day trainings with two groups of participants (judges, prosecutors and police officers) on the topic “Strengthening International Legal Cooperation”

The purpose of this training was to establish contacts and focal points (liaison officers) from Kosovo, on issues of International Legal Cooperation.

During these training sessions, international experts presented and discussed the functioning of the international legal cooperation, the present stage and where it should

be in the future. On this occasion were highlighted organizations such as EUROPOL, EUROJUST and the European Judicial Network, which are established to provide international legal cooperation between states. There were also presented the obstacles to cooperation in the first years prior to the consolidation of these organizations and the developments that have recently taken place in this context.

The Director of the Department for International Cooperation of the Kosovo Police also provided information regarding other organizations such as FRONTEX, SELEC and CEPOL in which THE Kosovo Police through EULEX has international cooperation.

Participants in these trainings indicated their willingness to establish links and involvement of Kosovo in these organizations with the purpose of providing or seeking legal aid in cases where perpetrators are outside the territory of Kosovo or vice versa. Upon completion of the training, the assigned participants as contact persons on International Legal Cooperation issues have conducted regional meetings to coordinate and consolidate the contact point for international legal cooperation.

Workshop: “Inheritance Law”

On May 20 and 21, 2013, KJI conducted a two-day training on the topic “**Inheritance Law**”. The main purpose of this workshop was to enhance the knowledge of judges regarding grounds of inheritance, transactions between the living and the proper application of the provisions of the Inheritance Law.

During this training, through lectures and case analysis of the cases from the case-law were addressed issues related to the grounds of inheritance and the transactions between the living persons. The overall assessment was that the regulation of the inheritance issues at the moment in Kosovo is in a very important stage of its development. Problematic issues in this field of law are the existence of relics of the customary law in everyday life in some less developed regions of Kosovo, the further existence of the common property of large families in the village and the advancement of issues of women’s rights to inherit.

The beneficiaries of this training were judges of the Civil Division of the Court of Appeal and the General Departments of the Basic Courts.

Roundtable discussion –“Criminal Offences against life and body”

On May 22, 2013, KJI organized a roundtable discussion on the topic Criminal Offenses against life and body.

This roundtable addressed issues related to criminal offenses such as murder, aggravated murder and other criminal acts in order to identify the problems and challenges that arise in practice.

In this roundtable was emphasized that life and human body pose particular social values for which there is individual and social interest of protection.

Protection of human life has absolute character and crimes against life are the most serious offenses because they violate the right to life as a fundamental right, which is also guaranteed by the Constitution and international acts. The training was marked by practical handling of cases and exchange of experiences between trainers and participants in order to avoid the dilemmas.

Beneficiaries of this roundtable were judges of the basic courts and prosecutors of the basic prosecution offices from all regions of Kosovo.



Roundtable discussion -“Legal Writing and Reasoning”

On May 28, 2013, KJI conducted the roundtable discussion on the topic: “Legal Writing and Reasoning”. This roundtable was supported by USAID Effective Rule of Law Program. The main purpose of this roundtable was to enhance the knowledge of judges in the field of practical application of modern methods of legal writing and reasoning in solving various issues during the decision-making process.

This roundtable addressed topics related to the IRAC method which presents a four-step analytical process, the application of this method in practical cases at the court. Judges after this roundtable will have the opportunity to develop a form of legal writing and reasoning a method which promotes clear and logical thinking and a form of verbal and written expression which supports findings in a respectful and responsible way. The roundtable was as-

sociated with reviewing cases and solving practical tasks assigned in this field.

This roundtable was of a regional character and beneficiaries were judges of the Basic Courts from Pristina and Mitrovica region.



Workshop: “Continuation and termination of the parental right”

On May 29, 2013, KJI conducted a workshop on the topic “Continuation and termination of parental rights”. The main purpose of this workshop was to enhance the skills of judges regarding the proper application of legal provisions in force concerning the continuation and termination of parental rights.

During this workshop were addressed issues relating to the continuation of procedure and the termination of the parental rights, the removal and return of parental rights and granting permission for marriage. It was also discussed in details the parental right as legal rules regulating relationships between children and parents, between the adoptee and the adopter, among relatives and other persons in the genre. Some cases from the case-law were addressed among them a typical case of the European Court of Human Rights in Strasbourg.

Beneficiaries of this workshop were judges from the general departments of the basic courts and officials from the centers for social work.



Module: Legal Writing and Reasoning



In this training were presented and discussed the content and the importance of legal writing and reasoning. Also there were highlighted the disadvantages regarding the reasoning of decisions in the criminal as well as civil field in practice. To avoid these disadvantages the IRAC method was presented (Identification of the issue, identification of the order, analysis and conclusion) and the way of its application in practice through hypothetical examples.

From the cases presented in the civil and criminal field, participants evaluated the usefulness of this method which helps in organizing the work and identifying the legal problem. Beneficiaries of this training were judges from the Basic Courts of Gjilan and Ferizaj.

On May 29, 2013, KJI in cooperation with USAID/EROL-Effective Rule of Law Program conducted a one-day training on the module on Legal Writing and Reasoning.

The purpose of this training was to establish best practices in terms of drafting and full reasoning of judicial decisions through the application of the IRAC method to identify issues, the applicable law, the analysis and conclusions regarding the application of the law when making decisions.



Workshop: “Proof means and gathering of the evidence”

On May 30, 2013, KJI conducted a workshop on the topic “Proof means and gathering of the evidence”. The main purpose of this workshop was to enhance the skills of judges regarding the proper application of the provisions of the Law on Contentious Procedure - LCP regarding the proof means and gathering of the evidence.

During this workshop were addressed issues related to legal and practical problems regarding the proof means and the gathering of evidence according to the LCP, the role and importance of the proof means, the burden of proof in the contentious procedure and insurance of the evidences. Participants analyzed different cases from the case-law and worked in separate groups on tasks selected by the experts.

The beneficiaries of this workshop were judges in general departments of Basic Courts.



Seminar: “International Cooperation in Criminal Matters in the European Union”



On May 30-31, 2013, KJI in cooperation with the European Institute for Public Administration/European Centre for Judges and Lawyers - EIPA, funded by the Ministry of Foreign Affairs of Luxembourg and the School of Magistrates of the Republic of Albania, organized a two-day seminar on the topic: “International Legal Cooperation in Criminal Matters in the European Union” which was held in Tirana.

The purpose of this seminar was the intensification of international legal cooperation in criminal matters in the European Union, recognition of foreign court decisions based on the European Convention on the International Validity of Criminal Judgments as well as the

information on the latest developments of EU policies in this field.

This seminar addressed the process of gradual transition from the classical regime of mutual legal assistance (MLA) to the instruments of mutual recognition (MR) and recent developments in legislation and the case law, cross-border issues, transmission, collection and the admissibility of evidences. Special sessions were dedicated to European Freezing Warrant, the European Evidence Warrant and the European Investigation Warrant, EU bodies, networks and agencies (EUROPOL, EUROJUST, EJN), in support of cooperation in criminal matters and how they interact with other regional and national judicial structures. Participants in this training were judges of the Supreme, Appellate and Basic Courts of Kosovo and judges and prosecutors from Albania.



Activities from Training Program for Promotion (TPP)

Seminar – “Communication”



On May 23, 2013, KJI in cooperation with USAID / EROL conducted the training from the training module on the topic “Communication”.

The purpose of this training was to enhance the skills of effective and clear communication, the use of different methods of communication, the complete transfer of information and the establishment of best communication practices in promoting and providing efficient, effective and transparent communication services.

The training presented and addressed elements, ways, methods and forms of communication both within and outside the court, in order to improve the image of the court.

During this training were also used case studies, where participants had the opportunity to give their opinions on issues of communication. Beneficiaries of this training were mainly new judges and prosecutors from the Basic

Courts and Prosecution Offices as well as the professional associates from the Special Prosecution Office of Kosovo.



Module: Trial practice – criminal



On May 27, 2013, KJI in cooperation with USAID/EROL conducted a one-day training from the module on “Trial practice” in which a trial is simulated on a hypothetical case from the criminal field.

The purpose of this training was to establish the best practices in the organization of work, management of the hearings sessions and fair trial.

A case study was presented at this training dealing with a criminal offence of ordinary murder where the prosecutor and the defendant have reached the plea-bargaining agreement and the issue is raised in the court.

Participants shared the role of a judge, prosecutor and defense counsel and simulated the trial in this case.

The prosecutor and the defense counsel presenting their arguments regarding the concrete case that the agreement is in conformity with the legal provisions concerning the judge and then the decision and what arguments support the decision to grant or not to grant agreement.

During this simulation were highlighted also the admissible and inadmissible evidences as well as the arguments for the exclusion of evidence. Beneficiaries of this training were young judges from the Basic Courts from all regions of Kosovo.



Other activities

Workshop - “Identification of training needs of judges and prosecutors on serious crimes”



In order to identify the training needs, participants were divided into working groups to discuss the needs for trainings. Therefore they identified the problematic issues in the case law in this field, and compiled a list of topics for the beneficiaries and trainings, and they recommended the most useful forms for the organization of the trainings in this field. Participants in the workshop were the Presidents of Courts, Chief Prosecutors, Judges and Prosecutors from the Serious Crimes Department, Special Prosecutors from the Special Prosecution Office of Kosovo and EULEX, Kosovo police official, and representatives from the OSCE and KJI.

On **May 8, 2013**, KJI in cooperation with OSCE conducted a workshop to identify the training needs of judges and prosecutors within the Department for Serious Crimes in the Courts and Prosecution Offices and the Special Prosecution Office.

During the workshop participants were informed about the KJI Work Program for 2013, namely the trainings in the criminal field relevant to the Serious Crime Department and there were discussions as well regarding the implementation of the most effective forms of trainings for judges and prosecutors.



Study Visit to the European Court of Human Rights (ECHR) and to the Council of Europe in Strasbourg – France (May 12 – 16, 2013)



Kosovo Judicial Institute in cooperation and financial support from the DEUTSCH STIFTUNG FÜR INTERNATIONALE RECHTLICHE Zusammenarbeit (IRZ), from **May 12 until May 16, 2013** organized a study visit to the European Court of Human Rights (ECHR) and the Council of Europe in Strasbourg. The visiting delegation was consisted of five KJI Trainers among them judges, prosecutors and KJI official such (**KJI Director, Deputy Chief Special Prosecutor, a Judge of the Basic Court, a Prosecutor from the Basic Persecution Office and the Permanent KJI Trainer**).

The visit was intended the advancement of the content of the curricula and the training methodology of the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR) and other legislation on human rights which are part of the Kosovo Judicial Institute.

First the delegation conducted a visit to the Council of Europe, where they met with senior officials who discussed the steps that should be taken by the judicial authorities of Kosovo in preparation of the capacities to meet the criteria and standards required by the CoE, before the membership.

Of particular benefit were the meetings conducted with judges and professional from Albania employed at the European Court of Human Rights (ECHR). During their presentation were highlighted the main features of the ECHR, the work through all the cases referred to Albania by resolving those cases according to articles and protocols of the ECHR. Also the work of the ECHR in recent years was introduced, including the challenges that accompanied the court and in detail were introduced the obligations of the Member States of CoE in the process of execution of judgments of the ECHR through some typical cases that involved Albania.



Besides the meetings, the KJI trainers followed also a trial conducted at the Grand Chamber of the ECHR. This case was followed with great interest because the decision that will be issued will have effects for other member states-parties to the ECHR.

Quite valuable was also the presentation of the ECHR judge from Germany who explained the complicated cases decided by the ECHR concerning different countries such as cases from the UK, France, Italy, Ukraine, Kosovo, etc.

Participants of this visit had the opportunity to visit the library of the ECHR, where its director explained in details the work and achievements of this library, methods of classification of books, magazines and other publications in the library.

Meeting with the presidents of the courts

On May 24, 2013, within the regular coordination and cooperation, KJI organized the next meeting with the presidents of basic courts.

The purpose of this meeting was to discuss the participation of judges and judicial staff in the KJI activities as well as the assessment of training needs in the future.

At this meeting were presented the lists of applicants and participants attending the trainings until July of this year where Presidents expressed the readiness for the promotion of cooperation and confirmed the commitment to be part of the proper needs assessment at meetings with the judges which KJI is expected to develop during June of 2013.

Participants at this training were the President of the Court of Appeal, Presidents of the Basic courts, the Director and KJI staff.

