Instituti Gjyqësor i Kosovës
Kosovski Institut za Pravosudje
Kosovo Judicial Institute

NEWSLETTER

Newsletter no.2 **February 2012**

CONTENT

1. ACTIVITIES FROM THE CONTINUOUS LEGAL EDUCATION PROGRAM (CLEP)

2. ACTIVITIES FROM THE TRAINING PROGRAM FOR PROMOTION (TPP)

3. ACTIVITIES FROM THE INITIAL LEGAL EDUCATION PROGRAM (ILEP)

4.

We don't do justice, We make justice better

Address: Lagja e Spitalit,
Str."Muharrem Fejza" n.n. Prishtina,
Republic of Kosovo
http://igjk.rks-gov.net

1. Activities from the Continuous Legal Education Program (CLEP)

Roundtable discussion: Criminal—Measurement and Determination of punishment

On February 2, 2012, KJI conducted the roundtable discussion from the criminal field on the topic: "Measurement and Determination of Punishment".

Analyzing practical cases dealing with the criteria for measuring the sentence Mitigating and aggravating circumstances, general rules for the aggravation and mitigation of the sentence as well as aggravation of the sentence for multiple recidivism was the purpose of this training.

Main objectives of this training were:

- Distinguishing the main criteria for the measurement of the amount of the punishment;
- Interpretation and proper application of the legal provisions regarding mitigating and aggravating circumstances as well as the personal qualities of the perpetrator of the criminal offence;
- Determination of cases when the punishment against the perpetrator of the criminal offence can be mitigated;
- Identification of circumstances when the punishment against the perpetrator of the criminal offence can be mitigated;

Part of discussions during this roundtable were also cases from the case-law and the exchange of experiences in order to eliminate dilemmas which appear in practice.

Beneficiaries of this training

Training—Civil

EU Law in practice—Introduction and focus on civil law KJI/Twinning

From February 06 until February 10, 2012, KJI within the Continuous Legal Education Program and the Training Program for Promotion in co-operation with the Twinning Program (EU-LER), conducted a five day training on the topic: "EU Law in practice—Introduction and focus on civil law".

The purpose of this training was the capacity building of judges regarding EU Law as well as its organizational structure, with special emphasis on civil law.

The main objectives of this training were:

- The Introduction and interpretation of EU Law and its sources;
- The difference of the role of the institutions of the European Union, European Council and Council of Europe;
- Understanding the role of the European Court of Justice in Luxembourg;
- Explaining the role and function of the European Court of Human Rights in Strasbourg.
- The difference between the European Court of Justice in Luxemburg and the European Court of Human Rights in Strasbourg. .
- The interpretation of European regulations and directives and their influence in domestic law.
- Use of cases from the European Court of Justice in Luxemburg on local practice.

This training addressed issues concerning EU Law, its history and principles, organizational structure of the EU, the relationship between EU law and the ECHR, the Court of Justice of the EU as well as cases from the case-law of this court and national courts were demonstrated .

This training was conducted by international and local trainers prepared to conduct trainings on the EU Law.

The beneficiaries of this training were the judges of the civil field at all levels, minor offence judges and judges that for the first time exercise of their function and those who are promoted in function .

Roundtable discussion—civil Mediation KJI/SEAD

On February 14, 2012, KJI in cooperation with USAID/SEAD (The Program for the System of execution of decisions and agreements), organized a round table discussion on the topic "Mediation".

The purpose of this roundtable was to clarify the principles and provisions governing mediation under the Law on Mediation in particular the relationship between mediation and other mechanisms for alternative dispute resolution, national and international legal provisions for mediation, the legal consequences of liability for mediation, mediation agreement and its legal effects and the role and responsibility of mediators.

The main objectives of this training were:

- To explain the notion of “Conflict” and its various types;
- To Implement "alternative dispute resolution" and their various forms;
- To recognize the advantages and disadvantages of mediation;
- To understand the "mediation" and different kinds of mediation. .
- To understand and implement the rules of confidentiality as such foreseen in the Law on Mediation by comparing this with the similar provisions determined in the model Law of UNCITRAL and in the Directive 2008/52EC.
- To explain the role of the mediation in the mediation process.
- To explain the structure and the responsibilities of the Mediation Commission.

Beneficiaries of this roundtable were judges of all levels and from all regions of Kosovo.

Roundtable Discussion—Civil: Adoption

On February 16, 2012, KJI within the Continuous Legal Education Program organized a roundtable discussion on the topic "Adoption".

The purpose and focus of the roundtable discussions was to address the topic of the adoption institute as one of the forms of protection of children without parental care, the role of the Guardianship in the adoption procedure and the conditions that must be fulfilled for the establishment of adoption in accordance with the legal provisions.

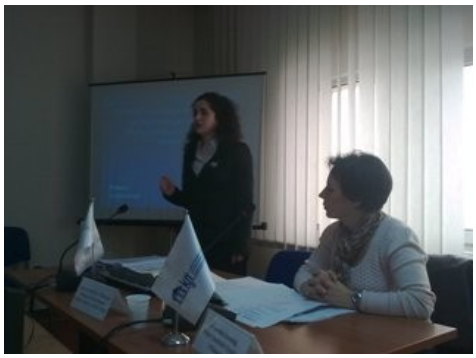
The objectives of this roundtable were that judges after its completion will be bale to:

- Professionally apply the applicable legal provisions and international conventions that are applicable
- In the Republic of Kosovo during the procedure for the adoption of children;
- To distinguish the conditions for the establishment of the adoption and modes for the termination of adoption
- To understand the composition of request for the establishment of the adoption;
- To draft qualitative decisions after the completion of the procedure on the establishment of the adoption;
- To distinguish properly the importance of the interest of the child in the adoption procedure, the role of the Guardianship authority;
- To apply the most efficient forms of cooperation with the Centers for Social Work;
- To advance the knowledge regarding the procedure of the adoption with international elements.

During this workshop, special attention was paid to cases when deciding for abandoned children as the most sensitive category without parental care and also cases from the judicial practice were analyzed by exchanging experiences from courts of different regions. Beneficiaries of this roundtable were municipal and district court judges from all the regions of Kosovo.

Training—civil

United Nations Convention on Contracts for the International Sale of Goods - CISG KJI/SEAD



On February 20, 2012, KJI in cooperation with the project of USAID / SEAD, System for the execution of Agreements and Decisions in Kosovo organized the training on the above-mentioned topic. The purpose of this training was to provide to participants about the United Nations Convention on the International Sale of Goods applicable in the Republic of Kosovo.

During this training addressed issues related to; legal remedies of the buyer, safeguarding of contract and avoidance of damage, implementation of the obligation including general requirements, replacement of the goods, the right to require the repair of damage, overall demand for performance, burden of proof, the cancellation of the contract, price reduction, damages obligations of the buyer, passing of risk and legal remedies of the seller.

The training took place in the form of interactive discussion, being accompanied by examples and cases from court practice, in order for the participants to be familiar with the effect of the CISG in national law and case-law.

Beneficiaries of this training were municipal and minor offence level judges and prosecutors from all the regions of Kosovo.

Roundtable discussion: Pre-trial detention including pre-trial detention in a short procedure and other measures to ensure the presence of the defendant in the proceedings

On **February 23, 2012,** KJI conducted the training session from the criminal field on the aforementioned topic.

Issues covered in this training were those dealing with pre-trial detention starting from the public prosecutor's request for the appointment, continuation and abolition of pre-trial detention, including pre-trial detention in summary proceedings.

Meanwhile, the content, form, the reasoning of the decision for pre-trial detention, the procedure for making this decision and the appeal against the decision on pre-trial detention were the issues that were analyzed within this training session.

Parallel to the discussion of these topics, there was a review of cases from practice and exchange of experiences through interactive discussions in order to eliminate the dilemmas and ambiguities that arise in practice.

The objectives of this roundtable were that participants after its completion will be able to:

- Identify for which cases the pre-trial detention can be determined;
- Be familiar with the procedure that the prosecutor should follow and the pre-trial judge should follow regarding pre-trial detention;
- Give better reasoning on pre-trial detention;
- Distinguish the specifics of pre-trial detention and other measures to ensure the presence of the defendant in the proceedings;

Beneficiaries of this roundtable were judges and prosecutors from all levels and regions of Kosovo.

2. TRAINING ACTIVITIES OF TRAINING PROGRAM FOR PROMOTION (TPP)

Training - Professional Associates - KJI

On 3 February 2012, KJI within the program for other professionals of judicial and prosecutorial system, implemented the first round of trainings organized within the module for professional associates.

The purpose of this training to provide professional associates knowledge on their professional work in the judicial and prosecutorial system of Kosovo.

- Main objectives of this training session were: understand the role of professional associates;
- Familiarity with the legal basis which regulates the activity of professional associates;
- Understand the duties in providing professional services in courts and prosecution offices of Kosovo.

The issues that were treated during this session were: the role of the professional associates in judicial and prosecutorial system, the importance of the judicial independence, international standards for the status of the judicature Independence and impartiality of the judiciary and relation between the judicature bodies and legislative and executive power.

During this session the participants had the opportunity to work in small groups where they presented their practical knowledge on compiling different rulings such as: the ruling on initiation of the investigations, ruling on the announcement of missing persons as deceased and other rulings based on the Law on Contested Procedure.

The beneficiaries of this roundtable were professional associates of courts and prosecution offices from all levels of Kosovo.

European Convention on Human Rights and Fundamental Freedoms - TPP and CLEP +

On 23 and 24 February 2012, KJI in cooperation with Twinning Project (EU-LER), within ILEP and TPP program KJI implemented a two days training on the Convention of Human Rights, this session was delivered by national and international trainers.

The purpose of training was to prepare judges and prosecutors in practical application of the European Convention of Human Rights and Fundamental Freedoms.

The objective of this session was that the after the training the participants to be able to:

- Understand the importance of the Convention on Human Rights and fundamental freedoms,
- Know the rights guarantied with the Convention,
- Know the competence and jurisdiction of the Strasburg Court,
- Know about the admissibility or inadmissibility of the applications in Strasburg Court and understand the effect of the judicial decisions declared by the Council of Europe toward member states of Europe.

The topics that were discussed during this session were focused on: the importance of ECHR in Kosovo today and in the future, the competencies and jurisdiction of Strasburg Court, today's practice of article 5 and 6 of the Convention.

When addressing these issues, the international trainers presented a video recording which had in focus the formation history of the Court as a mechanism for interpreting the Convention and decisions of the Court for violations of human rights by various countries which have resulted with the compensation of the damages caused by the violations and the amendment of the national legislation.

During this training were given explanations about differences between the Council of Europe and EU and other issues regarding this nature.

The participants had the opportunity to work in groups in order to demonstrate their experiences by using practical cases where they had to identify violations of human rights guarantied especially by the article 5, 6 and 8 of the Convention. At the and to the participants were distributed certificates for completion of a successful training.

3. Aktivitetet nga Programin Fillestar për Arsimim Ligjor (PFAL)

Workshop - KJI Mentors - Preparation of the Handbook for the third phase of the third phase of ILEP

On 13 and 14 February 2012, was organized a two days workshop with the ILEP mentors which support the implementation of the third phase ILEP trainings.

This workshop was organized with the support of GIZ.

In the capacity of experts were present: Thomas Zwiebler, judge, head of the judicial trainings in the regional in Karlsruhe, Prof. Charlotte Schulze, Layer, Expert for judicial trainings, Prof. Dr. Jürgen Fischer, Psikolog, Developer of the curriculum and expert for adult learning and Mary Aguirre Shahin, OSCE Special Adviser to KJI.

The organization of this workshop was made after several working meetings conducted by the experts engaged by GIZ, representatives of KJI and mentors, the aim of this meeting was the identification of the training needs and providing the German expertise in realization of the ILEP third phase

As a result of these meetings was drafted a handbook for the third phase of the trainings that falls within this training program.

The main objectives of this workshop were as following:

- Presentation and discussion about the handbook;
- Discussion and feedback about the mentoring phase;
- Findings and recommendations of the mentors for supplementation of the handbook

On the first day of work , the participants discussed about the importance of the mentors work, the main objectives of the handbook working method during the mentoring phase, the feedback received during the mentoring process, whereas on the second day the participants were brake out into working groups based on their profile, such as civil judges, criminal judges and prosecutors, on this phase were discussed general and professional competences foreseen in the handbook.

This workshop is considered as very important for several reasons as following;

- All mentors had the opportunity to express their opinions and to share their experiences gained during the implementation of the training program dedicated for this phase,
- Great impact on the improvement of the professional skills regarding the fulfillment of the mentors duties,
- Discussions with the German experts and exchanging experiences with the professionals of this field,
- Active participation in the handbook during the third phase of ILEP which will also have a positive impact on its application,

At the end, the representatives of KJI and the representatives of GIZ discussed about the results of the workshop and identified the next steps which should be taken until the end of the handbook for the ILEP third phase.

Training - Trial Advocacy Skills

On 20 to 24 February 2012, KJI in cooperation with the Department of Justice of US, the OP-DAT Pro-gram and National Institute for Trial Advocacy (NITA), within the Initial Legal Education Program conducted workshop on Trial Advocacy Skills".

The main purpose of this training was presentation and application of the most advanced techniques of trial advocacy.

During this session the candidates had the opportunity to elaborate study cases and to demonstrate their practical skills in working groups using video recording and techniques presented by KJI trainers.

During this session the candidates had the opportunity to demonstrate their skills regarding the direct examination,

Cross examination, impeachment, re-examination (rehabilitation), opening statement and closing argument.

Because of the big number of participants and the nature of this session, the training was held in two groups, two days for each group. The beneficiaries of this training were 41 ILEP IV candidates for the position of a judge, and 15 for the position of

ILEP IV Training

The Initial Legal Education Program for the fourth generation was completed in February.

During this month the candidates undergone through trainings according to the training schedule for the second and third phase

The trainings were organized for fife days in a row, full time according to the fixed schedule, the training was attended by 56 candidates.

With the purpose of preparing the final exam of the second phase of the ILEP IV that will be held in February and March, the trainers complied the exam for the candidates for each module, applying so the rules set for the preparation of the exams.

ILEP Exams

After completing the second phase of trainings, the candidates took exams for each module. The exam was conducted and evaluated by the trainers and was administrated by KJI

The exam was organized into two groups, due to the large number of the candidates and because of the different profile of the candidates. The exam was held for 6 days (six) in KJI, five of which were held in February. The entire process has been monitored by the OSCE monitors.

56 candidates took the exam, this test marks the completion of the trainings in the Initial Legal Education Program.

4. OTHER ACTIVITIES

Workshop –Training of Trainers

Development of the Training Skills, Implementation of the trainings in 2012 KJI

On 3 - 4 and 10, 11 February 2012, KJI organized two roundtable discussions for its trainers. the subject treated during these session were focused on: "Developing Training Skills, the Handbook for KJI trainers and development of the Working Plan for 2012".

The purpose of this roundtable was to present the Handbook for trainers which was darted by KJI, this handbook contains the implementation of different programs for legal education, refreshment of the training knowledge upon the interactive training techniques and preparation for implementation of the working program for 2012.

The objectives of this roundtable were that the participants will be able to:

- Understand the content of the training handbook;
- Indentify interactive teaching methods;
- Develop and apply the content of the KJI working program of 2012;

Within the frame of these roundtables, despite the exchange of the knowledge regarding the advanced teaching methods, the trainers were equipped with the handbook for trainers which aims to support the proper implementation of the CLEP and TPP programs. This handbook contains also general instructions, explains daily working practices and unifies the engagement and evaluation of the national and international trainers. during these roundtable the trainers drafted all the agendas and the structure of the training modules foreseen by the CLED and TPP training programs in 2012. the beneficiaries of this workshop were KJI trainers.