



# NEWSLETTER

October 2011

Number 8/2011

## 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. Other activities

PROFES-  
SIONAL JU-  
DICIAL DE-  
VELOPMENT

Address: Lagja e Spitalit, Str.  
"Muharrem Fejza" n.n. no.  
Prishtina, Republic of Kosovo  
Tel&fax: +381 (0) 38 512 069 +381  
(0) 38 512 081 +381 (0) 38 512 095  
www.kjijudicial.org in-  
fo@kjijudicial.org

## 1. Activities from the Continuous Legal Education Program

### Roundtable discussion: Corruption



On October 3, 2011, KJI conducted a training from the criminal field on the topic: "Corruption".

The purpose of this training was to address issues concerning corruption, such as:

The violation of official duties of liable persons legal entities in any event of initiators or beneficiaries of such conduct, the compensation that directly or indirectly was promised, offered, requested, received or expected to receive for itself or

for another person.

Objectives of this training were that participants will be able:

- To recognize the areas where corruption is present;
- To Identify the forms and means of corruption;
- To apply the contemporary forms of detecting corruption;
- To identify forms and ways of preventing corruption;
- To deepen the knowledge regarding institutions that combat corruption;

During this training was also discussed for the identification of criminal offenses that are related to corruption since regarding their legal qualification there are still uncertainties in the case law.

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

## Workshop - Civil Law, Arbitration - KJI /SEAD

On 05 October 2011, KJI in cooperation with SEAD/ USAID program, organized a workshop on: "Arbitration".

The purpose of this workshop was to explain the competencies and main principles relating to the solving disputes through arbitration procedure and other applicable legal instruments.

Another purpose of this workshop was for judges to gain deep knowledge about the Law on Arbitration and to build up their capacities on solving commercial disputes deriving from contracts. The main objective of this session was that the participants at the end of this session will be able to:

- Explain court jurisdiction, where parties chose the arbitration form for solving their disputes;
- Distinguish the validity and non-effective relation of arbitration;



- Explain the flow of the arbitration procedure and the fulfillment of the conditions during the pretrial procedure;
- Apply properly the rules on knowing and executing the arbitration decisions;

The beneficiaries of this session were civil judges from all levels and all regions of Kosovo.

## Roundtable Discussion: Law on Property and other Real Rights KJI / OSCE



On 06 October 2011, KJI in cooperation with OSCE Mission in Kosovo organized a roundtable discussion on: Law on Property and other Real Rights.

The purpose of this roundtable was to discuss about the issues related to the acquisition and termination of ownership according to the LPORR, challenges during the application of this law, similarities and differences with the previous laws of Kosovo with the laws of other countries.

The learning objective of this session was that the participants at the end of this session will be able to:

- Explain the concept of the property according to LPORR;
- interpret properly and in time the scope of the Law on Property and other Real Rights (LPORR);
- Explain the regulation and solving of property disputes in Kosovo;
- Explain the ways of acquisition of property in movable and immovable properties;
- Interpret the legal titles about the acquisition of property in movables;
- apply properly legal provisions of acquisition of property in movable through prescription;
- apply properly legal provisions relating to ways of acquisition of property with intention of abandoning the ownership and building on foreign property.

During this roundtable were also presented judicial practical cases related to the property disputes.

The beneficiaries of this session were civil judges

## Roundtable discussion The right to a fair trial (Article 6 of ECHR)

On October 7, 2011, KJI conducted the roundtable discussion on the topic: “The right to a fair trial “(Article 6)” of the European Convention on Protection of Human Rights and Freedoms.

The purpose of this roundtable was to increase the knowledge about the right and efficient implementation of Article 6 of the ECHR.

Objectives of roundtable were that participants after its completion will be able to:

- Interpret and implement paragraph 1 of Article 6 of the European Convention on Human Rights;
- Evaluate the reasonable duration of a court proceedings;
- Advance knowledge regarding the key elements of paragraph 1 article 6 of ECHR.
- This roundtable addressed issues concerning the concrete rights of the defendants, the right to be informed



within the shortest period of time, adequate time and necessary facilities for the protection, legal representation in criminal procedure and free help regarding translation. There will be a short theoretical presentation, interactive discussion and examples from practice.

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

## Roundtable discussion Law on Environmental Protection



The purpose of this roundtable was to provide in-depth knowledge about the Law on Environmental Protection, domestic and international laws in terms of environmental protection creating best practices in this area.

This training addressed in details the history, basic concepts and guiding principles of international environmental Convention, EU legislation on environment and obligations of the Acquis Communautaire on environment protection and Kosovo legislation on environmental protection.

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

On October 10, 2011 KJI, organized a roundtable discussion on the topic: “ Law on Environmental Protection”.

## Roundtable discussion International Standards on Civil Execution KJI/SEAD

On October 12, 2011, KJI in cooperation with the Program for the System of Execution of Agreements and Decisions in Kosovo (SEAD) of USAID mission, organized a roundtable on the aforementioned topic. Issues which were addressed in this roundtable were mainly related to: Recommendations 16 / 2003, 17 / 2003 and guidelines for better implementation of the existing recommendations for execution of the Council of Europe (CEPEJ 2009 instruction), access for UIHJ executive officers, the role of the Hague Conference on private international law, European Union a European judicial area, the professional development of executive officers in Europe and the implementation of international standards in the Draft Law on Execution Procedure Execution. There were short theoretical presentations in this roundtable



group work, interactive discussion and review of cases from court practice regarding civil execution.

Beneficiaries of this roundtable were: civil judges from all regions of Kosovo and executive officers

## Roundtable discussion KJC Disciplinary Procedure



On 17 October 2011, KJI held a regional roundtable on: "KJI Disciplinary Procedure".

The objective of this roundtable is that at the end of this session the participants will be able to:

- to respect the rules and basic principles of the Code of Ethics for judges and prosecutors;

- to know the flow of the KJC proceedings in cases of violation of the aforementioned rules, and
- to identify the violations of the Code of Ethics.

The topics that were treated during this roundtable were related to the procedure before disciplinary commission, initiation of this procedure based on the submission, opening of the investigation and the flow of the procedure (oral hearing, administration of evidences of DC, claims, legal terms and KJC decisions).

During the discussion were also presented judicial practical cases that passed through the disciplinary prosecutor office, these cases were related to the violations of the Code of Ethics.

The beneficiaries of this session were judges and prosecutors from all levels and all regions of Kosovo as well as professional associates

## Seminar Organization of the Courts according to the New Law on Courts



On October 19, 2011, KJI conducted the roundtable on the topic: “Organization of Courts according to the New Law on Courts”. The main purpose of this roundtable was the explanation concerning the organization of courts in the Republic of Kosovo under the New Law on Courts and the preparations for the implementation of this Law.

The objectives of this seminar were that the participants at the end of this seminar will be able to:

- distinguish key concepts and principles of the New Law on Courts;
- interpret properly the purpose of the scope of the New Law on Courts;
- distinguish the new organizational structure of the courts;
- understand the functioning and jurisdiction of the courts based on the New Law ;
- enlist the qualifications, rights and obligations of judges and lay-judges;
- apply properly the transitional provisions of the New Law on Courts.

In this roundtable judges were notified with the preparatory and planning activities that were undertaken for the implementation of this Law by the competent bodies.

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

## Seminar Law on State Prosecution

On October 21, 2011, KJI conducted the training session on the topic: “Law on State Prosecution”. The purpose of this training was to interpret and analyze the legal provisions dealing with the Law on State Prosecution.

Learning objectives of this training were that the beneficiaries after this roundtable will be able to:

- identify the tasks and the competences of the State Prosecutor;
- distinguish the organizational structure and the jurisdiction of the State Prosecutor;
- deepen the knowledge about the competences that the public prosecutor enjoys;
- deepen the knowledge about Basic Prosecution Office and Appellate Prosecution Office according to the New Law on State Prosecution;



The purpose of this training was to analyze the practical application of the law which will pass through two phases: the planning phase which started from January 1, 2011 and will last until December 31, 2011, and the implementation phase, scheduled to commence from January 1, 2012 until December 31, 2012, where the Prosecutorial Council will continue with its plan of implementation. The beneficiaries of this training were judges and prosecutors at all levels and from all regions of Kosovo.

## Roundtable discussion: Arrest, detention and juvenile imprisonment

On October 24, 2011, KJI conducted a roundtable discussion from the criminal field for juveniles on the aforementioned topic.

The purpose of this training was to analyze the issues related to preliminary procedure, duties and powers of police and public prosecutor, the arrest and police detention, juvenile detention and the problems encountered in practice.

Learning objectives of this training were that participants after this roundtable will be able to:

- identify the role of the prosecutor and the police in juvenile;
- be acquainted with juvenile proceedings
- demonstrate in which cases the police detention or arrest of a juvenile who violated the law;
- assess which cases can be assigned to a juvenile detention



In order to unify the implementation of the legal provisions regulating this area an interactive discussion through improvised examples, regarding the problems that arise in practice was held.

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

## Workshop: Development of Trial Advocacy Skills



From October 26 until October 28, 2011, KJI in cooperation with Department of Justice of US, OPDAT and National Institute for Trial Advocacy (NITA) from USA, conducted a three day workshop on the topic: **“Building of Trial Advocacy Skills”**.

The topics addressed in this training session mainly dealt with the techniques of Direct Examination, Cross Examination, Impeachment and re-direct examination of the defendants, witnesses, experts, as well the techniques of the Opening Statement and Closing Argument, both from the defense counsel’s side as well as from the prosecutor’s side. The participants through group work were able to demonstrate their trial advocacy skills, by working on a practical case and by using the techniques introduced from the trainer in this training.

All the presentations of the participants were recorded, in order to get suggestions and instructions for their presentation and at the end certificates were delivered for the successful completion of the training.

Beneficiaries of this training were judges, prosecutors, lawyers and legal officers from the Ministry of Justice.

## Seminar: “European Law in Practice - Introduction European Union Civil Law”



On 24-28 October 2011, KJI in cooperation with twinning project “Legal Education System Reform” in Kosovo organized a five days seminar on the EU Civil Law.

During this seminar the certified international and national experts treated topics related to EU law, its background, organization structure of the EU, relation between EU and the ECHR and the European Court of Justice.

At the end of this seminar the participants from all regions of Kosovo will be able to:

- interpret the structure and the role of the “European Union”,
- to distinguish the Council of Europe and European Council ”.
- To explain the role of the European Court of Justice in Luxemburg.
- To understand the role and the function of European Court for Human Rights in Strasburg.
- To know the competencies and to distinguish the ECJ in Luxemburg and ECHR in Strasburg.
- To interpret the legal sources of the European Union.
- To interpret the European directives and its legal effect over the national laws.
- To interpret study cases from the case law of the European Court of Justice in Luxemburg.

The beneficiaries of this seminar were judges from all levels.

## Regional roundtables Topic:“Functioning and the Support of Informal Consultative Groups for Juvenile Justice” KJI+UNICEF

From October 07 until October 17, 2011 KJI, in cooperation with UNICEF, conducted roundtable discussion on five regions of Kosovo, on the topic: “Functioning and the Support of Informal Consultative Groups on Juvenile Justice”.

These roundtables addressed issues concerning the challenges and problems arising in practice in the implementation of legality in the juvenile justice field, the need for a better inter-institutional local level coordination for the more efficient implementation of the Juvenile Justice Code and the formation of informal consultative groups in regional level.

Objectives of these roundtables were that juvenile judges and prosecutors as well as other participants from other relevant institutions from the juvenile justice field such as lawyers,



Probation Service Officers, Kosovo Police Service and Guardianship Authority to:

- implement in an effective and professional way the Juvenile Justice Code.
- Increase communication between relevant institutions in the field of juvenile justice on local level.
- Create contacts between these institutions.
- Meet on regular basis these institutions.

## 2. Training Program for Promotion Activities (TPP)

### Module: Legal Writing and Reasoning



On 11 October 2011, KJI within the Training Program for Promotion organized a training session on: “Legal Writing and Reasoning”.

The purpose of this training was the establishment of the best practices in drafting legal writing and reasoning of the judicial decisions.

The objective of this session was that at the end of this training the participants will be able to:

- know the role and importance of the legal writing and its categories;
- apply IRAC methods (issue/problems; rule/ law; analyze; closure/conclusion) in indentifying and solving the legal problems;

- draft judicial decisions that are coherent in all their parts;  
Draft judicial decisions that have more capacity in writing and legal reasoning;
- justify judicial decisions based on the factual state;

During this session were also treated the theoretical and practical aspect of legal writing, the characteristics and categories of legal writing, legal reasoning elaboration of the IRAC formula (issue/problems; rule/ law; analyze; closure/conclusion) and defects and eventual disadvantages of the reasoning and enacting clause of the judgment.

The beneficiaries of this session were judges and prosecutors of municipal and minor offence level from all regions of Kosovo.

### 3. Initial Legal Education Program Activities (ILEP)

#### Graduation Ceremony of the ILEP III candidates

On 03 October 2011, the Kosovo Judicial Institute held the solemn ceremony on the Graduation of the Kosovo Judicial Institute Third Generation of Candidates for Judges and Prosecutors, which occasion notes the completion of the 15 months training program organized and implemented by the Institute.

The candidates for judges and prosecutors have attended a 15 months training program within the Initial Legal education parted in three phases.

Mr. Krasniqi the Director of the Kosovo Judicial Institute during its speech said the following: “As you know KJI is running ILEP courses at the Institute six days a week to meet the need for more judges and prosecutors.

The fourth generation of 56 candidates was added to the 2011 ILEP when this urgent need was brought to our attention by the KJC and KPC.

We have subsequently worked with our judicial partners to overcome the many challenges presented by the need for more candidates through cooperation, mutual support and respect.



This ceremony was attended by: President of the Republic of Kosovo Ms. Atifete Jahjaga, President of the Supreme Court of Kosovo, Mr. Fejzullah Hasani; Head of the Judicial Council of Kosovo, Mr. Enver Peci; Mr. Ismet Kabashi, State Chief prosecutor and Head of Prosecutorial Council of Kosovo; Mr. Christopher Dell (Michael J. Murphy), (dp.) US Ambassador in Kosovo, Mr. Khaldoun Sinno, D.p of the liaison office of European Commission in Kosovo and Mr. Robert Bosch, Ambassador of Netherland in Kosovo.

At the end of the ceremony the President of the Republic of Kosovo Ms. Atifete Jahjaga, the President of the Kosovo Supreme Court, State Chief Prosecutor, the Head of the Kosovo Judicial Council and the Director of the Kosovo Judicial Institute distributed the diplomas within them success in completion and implementation of their mission toward justice.

## ILEP IV Trainings

The ILEP IV training sessions continued also during the October according to the training program.

The candidates have attended intensive training (6 days a week), where three days of training of the first phase were attended at KJI and 3 days practical training of the third phase were attended in courts and prosecution offices depending on their profile.

The participants during the third phase followed 12 training modules, specialized trainings and roundtable discussions. During the third phase, under the supervision and with cooperation of mentors the participants completed their practical part in court and prosecution office, with the purpose of dealing with real situations and concrete cases, which will make the candidates to demonstrate their practical skills while they exercise their function as judge or prosecutor.



During this month the candidates prepared and conducted a simulation of the trial which was considered very successful and necessary for the candidates.

56 candidates have attended the training.

## European Union in practice: Introduction of EU Criminal Law



On 3 until 7 October 2011, in cooperation with twinning project “Legal Education System Reform” in Kosovo organized a five days seminar on: “EU Criminal in practice: Introduction of EU Criminal Law”.

The issues presented during this training were European Law and its background, organization structure of the European Union, the procedures before the European Union Court, courses of the European Law, etc.

During this training were engaged certified international and national experts of the respective field. The beneficiaries of this training were ILEP IV generation.

The objective of this training was that at the end of this training the participants will be able to:

- Know the EU law and its sources,
- To gain more knowledge on EU background and EU organization structure,
- Understand the content, duties and competencies of the European Court of Justice,
- Understand the European Arrest Warrant,
- Identify the preliminary ruling and other issues of the EU law.

This training had very positive effect on the participants, this was shown by the evaluation forms filed by the participants which were candidates of the ILEP IV generation.

## Roundtable Discussion - Protection of Victims

In continuation of its activities during the week of victim rights (19 to 21 October 2011). The Kosovo Judicial Institute in cooperation with US Embassy in Prishtina, on 18 October 2011, organized a roundtable discussion on protection of victims.

During this roundtable was discussed about the victims its treatment and the rights in general.

The discussion during this session was focused on identification of the role of judges and prosecutors in relation to victims, how to notify victims about legal sources, the term victim, institutions dealing with protection of the victims, the services offered by this institutions, etc.

Joye Frost Acting Director of Crime Victims Office (OVC) appointed by the President Barack Obama, and Michelle Scott, Victim Coordinator in the US Chief Prosecutor Office, District North Caroline, were present at this session, where they made a presentation on protection of the victim protection in general.



During this roundtable were also present national experts of this field, these experts are also trainers of KJI.

This activity falls within the Initial Legal Education Program organized for the candidates for judges and prosecutors in addition to their regular trainings.

The beneficiaries of this training were ILEP IV generation.

## Meeting with the trainers of ILEP IV, second phase

This activity marks the end of the October of the ILEP. Despite the regular trainings on 28 October was also held a meeting with ILEP IV trainers for second phase.

The purpose of this meeting was to inform the trainers about the date of the commencement of the trainings for the second phase, training schedule, training methodology and other important issues related to the training sessions.

The main topics discussed during this meeting were as following:

- Completion of the training modules with new cases and topics, training

- Training methodology, with the focus on practical cases and simulation of the trials,
- Following legislative changes at the candidates during the flow of the trainings

During this meeting the participants discussed about the challenges that they face in KJI during the implementation of their trainings.

#### 4. Other activities

##### Other Activities of KJI, Study Visits - International Tribunal for War Crimes of ex-Yugoslavia



On 5 and 6 October, a group of judges and prosecutors of the Republic of Kosovo, conducted a study visit at the International Tribunal for War Crimes –ICTY, Hague, Netherland.

This study visit was conducted by the EU Project for War Crime Justice, by OSCE, Institutional Office for Human Rights (ODIHR), ICTY and sub-regional Research Institution for Crimes and Justice of EU (UNICRI).

The purpose of this visit was to strengthen the cooperation with the Tribunal and to exchange experiences and expertise's of Kosovo judges and prosecutors relating with tried cases of war crime.

Within this visit was also conducted a seminar were the Kosovo delegation had the opportunity to discuss with ICTY judges and prosecutors and to hear presentations made by the Tribunal staff

The discussion made during this visit were related to: protection of the witnesses, drafting of the judgments and indictments, challenges faced while adjudicating war crimes, procedural means in speeding the procedure on war crimes and the access to database and legal documents of the Tribunal.

This visit was conducted in cooperation with Kosovo Judicial Institute, where the beneficiaries were presidents and judges of district level, prosecutors form district prosecution, State prosecutors, special prosecutors and KJI staff.