

**KOSOVO JUDICIAL INSTITUTE****NEWSLETTER****Content**Activities of  
November -  
December**1-18**

Calendar

**19****Protection of the Ownership**

On 01 November 2007 on Kosovo Judicial Institute was held a roundtable discussion on civil field with the topic "Protection of the Ownership". The beneficial's of this roundtable were the judges of civil field of all the regions of Kosovo.

The subjects that will be presented for discussion during this roundtable will be mainly focused on the issues related to the protection of ownership respectively Law suit on protection of ownership composed with positive legislation in Kosovo, also was discussed about judicial practice on concerning this field. From a curtain discussions were given these conclusions:

- The ownership right is one of the substantial parts of the civil law right, in particular a part of a property Law. The ownership right is regulated by the national law and international norms (The European Convention of Human Rights and fundamental freedom, protocol I, and the fundamental right of the human being).
- The objectives of the ownership right are the movable property and no movable property but not the properties that are exclusively public property.
- The legal protection of civil law makes possible a full protection of the ownership which is in accordance with the deterrence of this right.
- The right of the ownership besides the civil right has the protection also from the other parts of its right as, criminal right, administrative, constituent etc.
- The indictments in general are divided on: legal procedure and legal assets. With the legal procedure it's realized the legal protection of a curtain deterrence of the

The court and judicial experts the intensity of the pain have staggered as high intensity, middle and low, the compensation should be conducted as a unique, not in every level of pain intensity.

The compensation of the damage was foreseen by provision of the Article 200 pr. 1 of Law on Obligations, by which the level of the compensation was determined depending on circumstances under what the timing intensity and fear intensity are considered as

special circumstances. This provision branch out the opportunity to determine the compensation in with regard to judicial practice was compensation applies only if the fear was of the continuing intensity and has left the consequences. Regarding the form of determination should be considered also the psychological equilibrium of the injured party.

**Ethic Code**

On 13 December 2007 KJI organized a training related to the Ethic Code. This training was dedicated to judges and prosecutors of all levels of Gjilani region.

The interpretation of the provisions that are incorporated on this Code and by respecting these provisions, we will have a very rightful justice, objective and impartial justice, whereas all conduction that are against the rules, results with the negative occurrence and that cause the lost of public trust which is the worst event that judiciary and society may face. Therefore was required that judges and prosecutors to be more conscious on their work and duties.

In this training session were raised a curtain concerns from judges and prosecutor side, because of overload-

ed work and great number of cases that is the main issue why they can't be hemstitch on hearing of the cases, which present one of the violation of the Code of Ethic. Also concerning the case managing till finalizing the case, the judge and prosecutor should have very active role in particular, but also the conductor staff should be informed for every request that have been hand it to the court or prosecution in order to have better coordination which will bring the great success on the work.

In the and of the training, form judicial inspection unit point of view were presented curtain cases from practice that expresses some bad behaviors of judges.

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to maintain all the other possibilities in order to avoid the minor punishment.

**Peja region** – the same topic was treated on 07 December 2007 on Peja region. Where were given these conclusions:

- In Peja region in any case when the minor get into the conflict with the law, the guardianship authority should be informed immediately.
- Usually is required from the po-

lice that for every criminal offence to do a report which should be sent at the prosecutor office who is the one to decide that if the procedure should be suspense, to impose a diversity measure or to send the case in the court.

- During the procedure should avoid the derogatory proceedings toward the minor

### Simulation of the trial on civil field

On 11 December 2007 Kosovo Judicial Institute at Prishtina District Court organized a simulation of the trial with the topic "Compensation of the material and immaterial damage". The procedural actions presented on this simulation have given to the participants very useful recommendations. During the debate were analyzed each procedural action of the parties with pro et contra arguments. The damage was treated in general as one of the obligatory relation sources, where were stated that legal obligatory relations for the compensation of the damage come from the fact that damage that was caused to certain person should be compensated.

The judicial practice has presented how the circumstances can affect on fixing the punishment a priori to the physical pain and the persecutions during the cure (ex. lost of conscience, hospitalization, binding to the bed, different mobilization, radio-

graphic recording, operations, infusions, transfusions, injections, rollerbandage, using the individual carriage, sick leave, ambulatory visit, physiotherapy) which happens to the injured party in the contest of physical pain.

The court issue that on the court opinion to present all the occasions which affected on the statement of compensation the material and immaterial damage pursuant to Article 200 par. 1 Law on Obligations represents the fundamental violation of the procedure, for what the ruling should be annulled and to return the case to the court of the first instance for retrial.

subjective right which in fact present the main part of the statement of claim, whereas the legal assets are adapted to the curtain parts of the civil field as: family law, labour law etc, whoever in the frame of the curtain parts are distinguished the special indictments depending on the relevant legal institutions as: property claim, possessor claim.



• From the statement of the law it has been stated that for the protection of the ownership according to the claim of the influence there should exist three presumptions: ownership, claimant, identity of the item and possession of the item from the claimant.

• On the Kosovo's courts are a lot of contest that are developed according to the *revendicatio*. The specific problem related to the these contests present the fact of the demonstrating the right of the ownership, especially on the movable property on such a situation when the claimant doesn't possess any prove for the right of the ownership, and for the fact that Kosovo institutions doesn't have on disposal the cadastre book based on what will be demonstrated the relevant facts related to the curtain contests.

• The purpose of the nugatory claim (*Actio negatoria*) is the suspense and the detention of prohibition which is present in this case and the detention of the prohibition in the future, under the intimidation of the detention with money. With such indictment is requested: returning to the same condition that was before

(when with the action was composed a new material situation), the suspension of the conduct with what is made the detention or disturbance (detention of passing through the claimant yard), and the detention of the disturbance and further prohibition.

• In cases of over *imitations* (noisiness, great dust, and terrible wind) the owner can ask for establishment of the adequate measures, technical measures, where the *imitations* return into the indulgent level, (ex. Installation of the technique in order to not cause the diffusion of the dust, the noise and poisoned gas).

• Even that the LMBPJ doesn't say expressively, it should comprehend for the determination of the detention in the future.

• On the contest between the supposed owner and the possessor, will confront with the legal basis of the item. It will benefit the protection of the ownership the one who has the stronger basis for the possession of the item.

• The public claim is the contested instrument between two members in relation with the possession of the item in which neither of them can argue that which has the right on the item, but the item will be given to the possessor with the stronger basis. The possessor, who

### Roundtable discussion with the experts of the criminal field

On 02 November 2007 KJI organized a roundtable discussion, the present members of this roundtable were judges of the Supreme Court of Kosovo, prosecutors of the Public Prosecution of Kosovo, Special Prosecution, representatives from the Judges Association of Kosovo, representatives of the Prosecutors Association of Kosovo and judicial trainers of KJI, The purpose of this roundtable was the collection of the proposals for the topics of civil field which will be included on the continuing program of the trainings of 2008.

Besides the proposed topics for the training of 2008, the participants together with the representatives of the KJI came with the conclusion

that to be successful, the training program should have the following:

- To establish much more the cooperation with the superiors of the relevant institutions.
- The designated topics to be defined on the special institution
- The trainers should meet at least once before the training and
- The trainings to be mostly practical.

### Simulation for the lay judges

On 06 November 2007, KJI organized a seminar dedicated to the lay judges for the Gjilani region. For the fact that without lay judges, for certain civil issues and for some of criminal offences, can not maintain the judicial hearing shows that how important they are for the function of the courts. Therefore it is considered that as well as professional judge also the lay judge should give their contribution in order to achieve the correct application of the law and taking the right legal decision. Among the issues that can be considered as a lay judges concern, from this training can be mentioned:

- Not knowing the case preliminarily,
- Non delivery of the regular invitations,
- Non compensation in time,
- Absent of the officials that ensue with the long waiting of the clients through the corridors,
- Needs for the training (to maintain the trainings at least twice for one year).

- The defendant shall be sit always near the defense council, in order to conduct a protection function, because during the application of criminal procedure the defendant is in a special sensitive condition.

- Beside the Article 72 of PCPCK, the *ex officio* court can made an exception of the defense council in cases when the defense is inactive and it is not interested to maintain an effective defense.



person or in detention, it is necessary especially when the arrested person is deaf-mute or if he has a mentally disorders, whereas in other cases the protection is not obligatory, the statement taken form the police or public prosecutor without

defense council presence are effectual and admissible poof, with purpose with condition that the arrested person or in detention shall be informed with this right in order to give up from

this right by his own will.

On this roundtable were presented two different opinions related to the protection issue. According to the first opinion, during the entire time while the defendant is under the temporary arrest or police detention shall have protection. Whereas concerning to the second opinion, the protection for arrested

### Juvenal Justice

**Prizren region** – KJI in cooperation with NICEF on 06 December 2007 organized a seminar with the topic Juvenile Justice. The main purpose of this the harmonization and better cooperation of the bodied that are part of juvenile procedure, in favor to protect the interest of the minor. The final conclusions of this seminar were as it follows:

- The lack of cooperation between these authorities, since very often the guardianship authority has been informed from the prosecutor, but was

malpractice by the court.

- The needs of imposing more often the diversity measures which according to the statistics data these measures are not imposed at all by the prosecutor in this region.

- The needs to change the law in order to increase the other diversity measures.

- Specialization of judges, prosecutors and police who deal with minor cases.



For any achieved agreement between the prosecutor and the defender, the court should be very careful on respecting of legal provisions and the rights of the defendant.

Form participants was proposed that the institution of negotiation plea

agreement to be appointed as *institution of negotiation plea agreement*. This was justified by the fact that this was in the interest of defendant to include also the sentence, because the defendant will feel more secure to admit the guilt, when he doesn't know the price of the sentence.

### European Convention on Human Rights

On 04-05 December 2007 KJI organized a seminar on European Convention on Human Rights on Prishtina region. The main topic of this seminar was Article 5 and 6 of this Convention. The beneficial's of this seminar were judges and prosecutors of this region.

while interpreting these Articles was emphasized that this Article are applicable in particular on daily work of judges and prosecutors, the similar content we face also in provisions of Criminal Procedure Code, therefore the Strasburg court



conduct a very wide interpretation for the fact that they have a very great importance. As conclusion came out that Strasburg court doesn't change the local decision of the court, but only finds the violations and gives a recommendation to the state for compensation of the damage.

### Legal Protection

Kosovo Judicial Institute on 06 December 2007 organized a roundtable discussion related to the legal protection. From the analytic point of view that was made to the legal protection came out these conclusions:

- The defendant, as a main subject on criminal procedure, is in the same level with the authorized claimant.

The equilibrium it is noticed by the fact that the defendant obtained the presumption of guilt.

- Despite the difficulties that courts faced, when the protection is determined according to official duties, the defendant should be informed with the case.

### Roundtable discussion with the experts of the civil field

The Kosovo Judicial Institute on 07 November 2007 held a meeting with the experts of the civil field (judges from Supreme Court, judges from district court, municipal courts and well-known advocates) in function of identifying of the needs for the judges of civil field, with purpose of increasing their professionalism.

During the meeting was developed a constructive debate which gave a certain proposals, suggestion with the concrete topics, also was suggested some of the skills of KJI actions, as we can mentioned:

- Supreme Court of Kosovo shall be incorporated on the composition of planning trainings.
- In cooperation with the presidents of the courts, to affect on training of the judges that never attended the trainings.
- KJI during the year 2007 has given a substantial contribution on continuing training for judges and prosecutors of Kosovo.
- In the future to attend the training

will be invited also the advocates with the experience which will be able to contribute with their experience and professionalism.

- The respect to KJI for delivering the materials in time as; programs, the questioners for necessary needs, monthly newspaper, invitation etc.

Supporting of the direct conversation within KJI and judges for their needs on the training field.

From the KJI representatives on methodology field, was required much more engagement from the experts on using the modern methodology, better coordination and cooperation between the experts.

### Statutory Limitation on Criminal Prosecution

The roundtable discussion with the topic Statutory Limitation on Legal Prosecution was the regular training event which was organized from KJI on 08 November 2007. From the curtain discussion of this roundtable can be divided:

- In practice it occurred to be a confusion on the absolute limitation and the relative limitation,

- If it is in question the cessation of the statutory limitation on criminal prosecution, than the term of limitation will extended as long as the statutory limitation on criminal prosecution was on cessation,

- In order that if the invitation can be considered as procedural

action which will suspend the prescription or not, then was defended the decision that the suspended invitation of the prescription term is the procedural action that has to do with the criminal prosecution,

- The legal basis in order to not derive the prescription can be obtained at the immunity of the deputy, stay of punishment according to the law on execution of the penal sanction, than the chance of the stay of execution of the punishment because of the child's age or the stay of execution according to the PCPCK or the court decision in front of extraordinary judicial means,
- As the actions which interrupt the statutory limitation, can be mentioned the invitation which was delivered to the judge, for the initiation of the punishment, issuance of international and national wanted notices,

- The execution of the sentence with fine is described in term of 2 years, whereas concerning to the Statutory limitation of the supplemental punishment and obligatory training measures was emphasized that the obligatory training can not be proceeded after three years expiration of the period, from the day when the ruling pronouncement of these measures was done in effect,
- The existing of the problems as the non affectivity of the judicial administration, non application of the order from the police, non delivery in time of the rulings and curtain technical issues.

### Roundtable discussions for judges of Minor offence court

On 13 November 2007 in Kosovo Judicial Institute was held a roundtable discussion from the minor offence field, the beneficial's of this roundtable were the minor offence judges. During this training were achieved curtain conclusions as:

- The law on minor offences include only curtain Articles that has to do with the minor, therefore the law for the minors should be applied as well as international Convention that are dedicated to this category.
- With the minor offences law it is

foreseen the replacement of the punishment with fine, prison sentence, but this is not foreseen by the minor offences law because it always should be considered what is the best for the minor.

- The guardianship authority should give their professional opinion that to for the minor to be executed the educative measures and to respect the procedure by taking in consideration the psycho-physical

During this seminar were presented also a documentary movie, where were presented the evidences of two trafficking victims, and a movie who treated also the trafficking victims, persons who deal with trafficking, methods that they use, and their main scopes.

In the end of this training, the certificates were given to the participants.

### Roundtable related to the Provisional Criminal Code

Kosovo Judicial Institute on 29-30 November, 01 December and 13-14-15 December 2007, organized roundtables on level of experts related to the Provisional Criminal Code.

The needs and requirement of judicial practice to clarify the dilemmas that are faced on application of material right, stimulated the KJI to organize these roundtables, the purpose of these roundtables is after the discussions and analyzing the provisions of PCK to come with the concrete pro-

posals and eventual changes of this Code. Such a roundtable will be organized also on 2008, with purpose to finalize these important projects with the concrete results, which after will be delivered to the competent institutions to make the decisions.

### Negotiated Plea Agreements

The Kosovo Judicial Institute in cooperation with US Justice Department US office Prishtina on 3 December 2007 organized a practical training related to the Plea negotiation agreements. During the training were emphasized that this institution will affect on:

- Diminish of burden cases in the court.

- Economy procedure.
- Rehabilitation of perpetrator of a crime.
- Elimination the insecurity of the perpetrator related to the termination of the procedure, etc.

on a very high level. The lack of the legal protection from the uninformed persons was justified upon the lack of the legal infrastructure.

This issue now is regulated by the Law on Copyright and the other approximated rights Nr. 2004/45 approved by the Kosovo Assembly on 29.06.2006.

During the discussions was treated the legal nature of the copyright comes from how the region state legislation is treated, what does the Law on Copyright foreseen and the Approximated Rights, other Legal Provisions referred to this category of rights.

The copyright was treated in general, the capacity and bases of the bearing the copyrights, contracts and general rules of the copyright contracts, contract types of the copyrights, special contracts of the copyright, edition contract, contract for presentation – execution of copyright contract of cinematography right, the bearing of copyright on inheritance basis, the infringement of copyright objectives, the property copyright, moral right of the copyright, the persons who have the right on the compensation of the damage, legal basis on compensation of the damage, the level of the compensation of the damage, etc.

### Trafficking in persons

On 29 and 30 November 2007 KJI in cooperation with IOM organized a two days training session with the topic, "Trafficking in Persons".

According to the participants trafficking in persons is caused by certain factors as: impoverishment, lack of perspective for the future, economic conditions, lack of education and necessary information, domestic violence. In this training also were made a comparison between prostitution and trafficking. Based on statistic analysis from IOM we have an increase of the local victims for 150% compare to the previous years, in 2000 were 6, in 2006 were 30, whereas till September of 2007 were evidenced 15 cases. From the IOM field

of activities in Kosovo assisted on returning and reintegration of the foreign and local victims (566 cases), collection of information's and researches on increasing the capacity of the institutions and non-governmental sector, as well as prevention of trafficking through information and other activities.

Regarding to this topic the participants made a view on interpretation provisions of Criminal Procedure Code that deals with protected witness, anonymous and collaborated witness, provisions that gives a big help on successful fight of trafficking in persons.

site and the sensitivity of the minor The representative of a minor should be registered advocate in ACK, pedagogue, psychologist, etc.

- In case when the minor is suffering from a spiritual disease, the procedure shall be stopped immediately.

- Especial attention shall be paid not violating the principal of the publicity of the procedure toward the minor also shall not use the term guilty for the minor, but in stead of that should be used the term responsible.



- In cases when the minor commit two offences, should only to prescribe the minor offences whereas to the minor will be pronounce a highest punishment for the one of the offences,

- When the educative measures are imposed they should be time limited, as well as when to the minor will be imposed the educative measure.

### Domestic Violence

On 14 November 2007 Kosovo Judicial Institute held a roundtable with the topic "Domestic Violence" The beneficial's of this roundtable were judges of the civil field of all the regions of Kosovo, KPS officers who deal with this field, Social Center officers, advocates, etc.

The topics that were discussed during this roundtable were the family concept and family agreement, also the protection of the family person from the arbitrary cases, in which cases should interfere on private life and with what purpose.

Also was mentioned that mostly the victims are woman and children's, therefore for this category is paid a spe-

cial attention in the Convention for elimination of all discrimination form toward woman (ECWD – was approved by the resolution of general assembly of UN Nr. 34/180 on 18.12.1979) and the Convention for the right of the children's (CRCH approved by the resolution of general assembly of UN Nr. 44/25 on 20.11.1989). The undertaking of necessary measures from states to fight the domestic violence it has been required also from the European Convention of Human Rights (ECHR).



In accordance with the obligations from this Convention, on 09.05.2003 came into force the UNMIK regulation Nr. 2003/12 for protection of the Domestic Violence, according to what the victims of domestic violation can ask from the court the statement of the protection measures with purpose avoiding the violence in order to applying the right and to fulfill the duties toward the family law in Kosovo. In this manner and with such a reason should be consulted the provisions from the aforementioned conventions, the Family Law in Kosovo and the Contested Procedure Law is applicable for the curtain cases when this regulation doesn't provide a special provisions.

During the discussions were taken the conclusions as:

- It is necessary for the curtain cases to decide with the temporary measures in the contest initiated by the court, whether in marital contest or the contest for the food,
- The protection measures can be appointed by the court with protection order or urgent measure also with the temporary urgent measures issued by custodian commander or acting commander in the regional police unit.
- If with regulation was not foreseen special procedural regulation, than the regulation will be applied from the Contested Procedure Law (CPL). The foreseen procedure according civil law procedure.
- By violating the rules in general or partly of one of the orders foreseen by

this regulation, the responsible party commits a criminal offence which will be persecuted according to the official duties.

- The best solution to fight the domestic violence, is by applying with the efficient manner the contest of the provisions of this regulation and by doing this will diminish most of the problems of domestic in Kosovo.

During the debate was emphasized also the omissions and impotence that are obvious in the courts as: delay on appointment of the judicial hearing legal representation and inadequate social protection of the children during legal procedures, the right for public trial, inappropriate moderation of the jury, insufficient arguments of the decision for imposing the protection measures, etc.

On 26-27 November 2007, two day session training was held on Mitrovica region on European Convention on Human Rights, the main topic of this seminar was Article 5 and 6 of the Convention. During the interpretation of the European Convention of Human Rights except the other topics was emphasized the paragraph 1 of this Article which has an presumption in complaisance of the freedom that is incorporated in Criminal Procedure Code of Kosovo, with matter of insurance of the defendant on the procedure. From the point of view of the OSCE report on monitoring the Kosovo judicial system where was stated that many violation were committed concerning the detention, by unrecognizing the resumption of detention comes out that:

To extend the detention also should obtain the request; otherwise without the request the presumption of the detention can not be preceded.

- There is no detention unless it is certified that the criminal offence was committed.

- The detention can not be assigned more than 30 days.

By analyzing the Article 6 of the Convention, the burden of the responsibilities fall on the judges which during the séance should be ensures that:

- was the a quality of arms respected,
- was the defendant represented in the right way,
- was the defendant informed in time for the charge,
- does the facilities were offered for his defense,

From these topics was emphasized that Article 6 is applied on all procedures phases, starting from those that precede the judicial process till those that follows after the judicial process.

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### Copyrights

The Kosovo Judicial Institute on 29 November 2007 held aw seminar on civil field with the topic the "Copy Rights". The special attention was paid to the cases that has to do with the right that wait upon the rights of the author, bearing the right of the author compensation of the damage caused by infringement of copyright, etc.

The copyright has the local and international legal protection, the protection of this right besides the legal rules depends from curtain circumstances, first of all from the right application of the laws.

The in infringement of the copyright in Kosovo had existed the

**Roundtable discussion from civil field**

Property Law Mortgage and Pledge was the topic of the roundtable organized by Kosovo Judicial Institute on 22 November 2007. The beneficial's of this training were judges of civil field of all regions of Kosovo.

The topics that were elaborated during this roundtable were mainly focused on issues related mortgage and its importance on the insuring the request, temporary measures, execution of real estate and judicial practice that are related to these issues.

Was emphasized that in every judicial system where the market economy does exist, the mortgage has a very important place which gives the possibility to ensure the mortgage request. The mortgage as a judicial institution develops a standard economy by creating confident conditions for investment.

During the discussions were treated judicial nature of the right of pledge in Kosovo and the capacity of this right on the legislation of the regional states. There where also emphasized that in Kosovo besides the juridical property relation, the applicable law is also the UNMIK regulation on mortgage upon the movable property Nr.2001/05, The law on mortgage stated by UNMIK regulation 2002/21 and other provisions that provides the law on obligations and law on executive procedure.

The actual internal and international legislation, advanced the mortgage whereas in the past was the opposite, the advanced one was the mortgager.

The most interesting issue was the presentation of the fact that the new law on mortgage was stated on 20.12.2002 and is hardly applied five years from now.

On this roundtable also was elaborated the new concept of mortgage, its importance, the objectives, its distinctive qualities from the other property rights.

Also was elaborated the gain of the mortgage, gearing the right of the mortgage, extinction of mortgage, common, the right of the mortgage and the rights of the owner of the property.

In the end were treated the cases where the exception on execution, the assessment of the real estate, the conditions of sailing the real estate, the right of pre-emption and fulfilling curtain requests.

**Trafficking in persons**

Kosovo Judicial Institute in cooperation with UNDP have organized a two days training session related to the trafficking in persons, that was held on 14-15 November 2007 in Struga Macedonia, where was emphasized that:

- According to PCPCK, all the Criminal Code does not cover all the areas that were regulated with the UNMIK/4 Regulation. This indicates that the issues which are not covered by PCPCK, the provisions of the Regulation should be applied by UNMIK 2001/4 (Article 354 of PCPCK).

- There were made a distinction between the criminal offence of trafficking in persons and contraband with the emigrants by this was emphasized that the law doesn't recognize the term trafficking with emigrants; the law recognize it as contraband with emigrants.

- The other dilemmas was illegal crossing of the border, whoever the contraband can be done also on the border line without being illegal, ex. Passing through with the falsification passport.

- In situation when the victims doesn't provide the "protection", because he has the "representative" from division of protection of the victims was emphasized that this is not considered as violation of the rights of the victim and violation of provisions of PCPCK. Whoever the judgment of the Supreme Court of Kosovo and Prosecution of Kosovo, is that this is considered as relative violation and if this had reflected on taking the decision, than

based on this violation the decision can be break and to return the case for retrial.

- During the interrogation of the victim the minutes should be written exactly what the victim will declare,

- The legal-property request is the right of the victim that was trafficking,

- Related to the provision of Article 143 of LPMK, was emphasized that this provision will not be respected than actual evidence may be considered as unacceptable,

- At criminal offence of trafficking in persons when the victim is a minor, the compliance will not be grounded.

- By the provision of Article 143 par. 2 of LPMK it shows that the child can not be interrogated more than twice, because it is considered violation from the moment of the initiation of criminal procedure.

- The imposed detentions are not adequate and in the same level with the criminal offence, however, was concluded that Supreme Court of Kosovo has the main role for changing such a politic.



9 **Public hearing at the second instance (simulation of a trial)**

On 20 November 2007 KJI organized training on civil field, with the topic. The second instance where the beneficial's of this training were judges and prosecutors of Mitrovica region.

The first part of the training was the simulation of the second instance, whereas after that the participants discussed about the simulated case.

During the discussions were given these conclusions:

- The ruling maintained the essential violation of the criminal procedure provision, because there were no reason for the determinant facts,
- The clamor of the municipal public prosecutor on aggravating circumstances, point out the main criminal offences. Meanwhile regarding to the injured appeal it has been noticed that the part that has to do with the detention should be dropped because it is not allowed by law, but if the defendant who précised the damage that was caused and lodged a legal-property request, in this case the decision of the court it is not legal.
- Concerning the defendant attorney, against the fact that the claim of the defendant doesn't exist, was called

on several essential violation of provisions of the criminal procedure, the final conclusions of the participants was the defendant can not appear from general framework of the claim, but whoever, if the president of the trial panel allowed this, the defender on indirect way had remind to the court for those violation that has to be reviewed necessarily.

- When the defendant admits the guilt and the court agree with such a confession, whereas from the matter official document comes out there were no grounds for the acceptance, the court shouldn't accept the confession.
- Usually on the decision of first instance are not being reasonable the primary elements of the criminal offence.

During this training were raised a lot of questions and were discussed for curtain issues that characterize the Mitrovica region.

### Juvenile Justice

**Prishtina region** – KJI in cooperation with UNICEF on 22 November 2007 organized a roundtable discussion with the topic Juvenile Justice. The beneficial's of this roundtable were judges, prosecutors, Probation Service

and KPS members from Prishtina region.

On this roundtable were discussed the aspect of juvenile delinquency

starting from notification of the case till execution of punishment and measures when the minor is perpetrator of the crime.

From this roundtable were emphasized these issues:

- All the authorities that are part of the juvenile procedure shall have better cooperate, because the prosecutor is obliged to inform the guardianship authorities for every case in order to have an evidence, also the probation service to collect the information about the minor, his family, etc. in this contest the policy should send the report to the prosecutor, than the prosecutor shall develop the other necessary actions.
- If the procedure will be suspended by the prosecutor, all the other authorities included on the juvenile procedure,



- There is a few hesitations on imposing the diversity measures that are very new on the juvenile justice code.

**Mitrovica region** – A similar roundtable was organized on 23 November 2007 for judges, prosecutors, and Probation Service and KPS members of Mitrovica region. From these participants came out these conclusions:

- The social service work, as measure is not applicable in this region, therefore should work on finding the

reason for not applying this measure.

- Limited work on the social service work should be regulated by this provision because it is considered as deficient the fact of 30 minimum and 120 maximum working hours, where there is a possibility for abridge the working hours depending on the value of the criminal offence and the age of the perpetrator.

- The purpose of diversity measures is to not initiate the preparatory procedure,

- It is necessary the establishment of the special fond for application of this measures,

In practice have curtain difficulties on application of the juvenile justice, because of the lack of the judges, prosecutors and specialized police for the juveniles, also the disciplinary centers.

All though the records for the juvenile delinquency who are in Social Center work responsibilities are confidential they can be hand it to the competent bodies which develop the criminal procedure for their requests.