

KJI NEWSLETTER November/December 2004

This newsletter is published to fully inform the magistrates in Kosovo on the activities of the KJI. This publication is distributed to judges and prosecutors throughout Kosovo. The Monthly KJI Newsletter features articles from KJI Staff relating to issues of interest to judges and prosecutors working in Kosovo.

Updated Information on the KJI's Yearly Training Program for 2005

This document describes the content of the proposed trainings for the year 2005. It is based on the needs assessment, the input of KJI and the results of the program conference that took place on 18 October 2004. Most of the trainings are expected to last two days and will take place in premises located in all the five regions of Kosovo. Transportation costs, meals and accommodation of participants could be provided depending on the available financial means. All judges and prosecutors are encouraged to select trainings which they intend to participate in advance. The final training program, subject to a quarterly update, will be set up according to the communicated needs and the submitted applications for participation.

I. Trans-sectoral training

1. Seminar: Ethic in practice: independence and impartiality of the judiciary. *Target group: judges.* The training aims to give a deeper look into practical experiences where independence of the judges may be of concern. The seminar shall be focused on the position of the judge as a single decision maker or as a decision maker in the panel. The seminar shall highlight the responsibility of the judge in regard to the Rule of Law and social order in the context of the Codes of conduct and disciplinary sanctions. The seminar shall be based on the experiences gained during the previous training on the same topic and the last training session organized by the KJI Institution Building Project and the

National Centre for State Courts that took place in November 2004. New element to be introduced to the participants is the behaviour techniques in communication with the journalists and media.

Methods: lecturers, case studies and work group exercises.

2. Workshop: Interpretation of conflicting laws. *Target group: prosecutors and judges.* The objective of the training is that judges and prosecutors obtain guidance concerning conflicts of laws that were in power before 1989 and the newly adopted legislation, including UNMIK regulations. The workshop shall raise discussions related to the application of the International Law by the judiciary in Kosovo. The participants shall be tasked to provide their inputs on

possible subjects of conflict of laws and shall be encouraged to develop a proposal for a manual on the applicable conflicting laws.

3. Seminar: Science and technology in courts. The seminar would provide judges and prosecutors with information regarding the technical opportunities applicable in the courts. After the completion of the seminar, the participants would obtain deeper understanding on the possible techniques for investigation and proof and on the role of experts in the case proceedings.

4. Seminar circle and activity: European Union law. In the context of the future commitments of Kosovo to the EU, the judiciary would need an overall view on subjects such as Copenhagen Criteria implementation of the “acquis communautaire” etc. The group of trainees shall consist of judges/prosecutors coming from every district. Participants of this training could be given an opportunity to become an EU law trainer at KJI and may be offered a study trip abroad if they have attended both activities.

5. Seminar: Human rights in criminal procedure law in practice. *Target group: criminal judges and prosecutors.* The objective of the seminar is to develop a firmer understanding of the participants on the concepts of “due process” and “fair trial”. Participants would be able to identify possible breaches of the international conventions for the protection of human rights by the applicable laws, and would obtain new skills on decision making and reasoning on cases resulting from

such breaches. The training method shall concentrate on practical cases.

II. Criminal law

6. Seminar: War crimes. The seminar shall be focused on war crimes committed in Kosovo and not addressed by the ICTY. The seminar aims to enhance the judges’/prosecutors’ understanding on the active role they shall play to gradually overtake these kinds of procedures.

7. Seminar: Juvenile law. The training shall cover the new Juvenile Justice Code and the court proceedings involving juveniles, especially focussing on aspects like competencies, probation and educational measures.

8. Seminar: Money Laundering and Economic crimes. *Target group - prosecutors and judges with previous knowledge or specializing in the field.* The Seminar will also present other economic crimes. The event 2005 will be organized in close cooperation with international experts.

9. Seminar: International cooperation in criminal matters and extradition. A seminar on the new provisions related to international judicial assistance is scheduled for November 2005 as a repetition of a Seminar on the same topic held in 2004. The event planned for November 2005 shall be organized in close cooperation with international experts.

10. Workshop: Cooperation in pre-trial procedures. *Target group – prosecutors, pre-trial judges and judicial police from all districts.* The objective of the workshop is to establish together with trainers of the police school a

common understanding about the preparation of documents during the pre-trial procedure and the handling of investigation at the scene of the crime.

Methods: lecturers and workgroups.

11. Workshop: Unclearness and contradictions in applying the new Criminal and Criminal Procedure Codes. *Target group: prosecutors and judges.* Some subjects have already been discussed in cooperation with the Association of Judges, Association of Prosecutors and Chamber of Advocates in October 2004 (confirmation of indictment), November 2004 and December 2004 (detention on remand). New subjects in the workgroups shall be added accordingly and may include protection of witnesses, alternative and conditional punishment and release, suspended sentences, house imprisonment as new sanction, role of the victim or damaged person and fixing the detention date in arrest cases. The first workshop in January 2005 will focus on the main hearing in accordance with the New Provisional Criminal Procedure Code.

12. Seminar: Combating organized crimes, trafficking of human beings, drugs. *Target group: prosecutors and judges hearing criminal cases.* The Seminar aims to examine some of the practical aspects of the combat against the organized crimes such as trafficking of persons, crimes related to distribution of drugs and illegal possession of weapons. The programme of the Seminar would be focused on the practical aspects of the investigation, confiscation of assets, international cooperation, protection of witnesses

and court staff, handling trials with uncooperative advocates.

13. Workshop on Minor Offences: *Target group: judges in Minor Offences Courts.* Participants shall look at possibilities to reduce the work at the Minor Offences Courts by developing proposals supported by their practical experience for handling specific cases.

14. Activity: Police visit: Participants shall get familiar with the latest technological developments in the field of police investigation. The attention of the participants shall be focused on the technical investigation methods (telephone tapping, DNA) and crime developments (internet crimes).

15. Seminar: Recent developments in criminal and criminal procedure law. The training programme shall focus on the newly promulgated UNMIK regulations and on the latest developments in the field of Criminal and Criminal Procedure Law (e.g. criminal proceedings involving perpetrators with mental disorders, execution of penal sanctions, eventual amendments to the Criminal Code and Criminal Procedure Code.)

III. Civil law

16. Seminar: Non discrimination law. The law on Anti-Discrimination has been recently promulgated and has entered into force in Kosovo. The seminar shall have an informative role and shall present the issues related to discrimination in both private and public sector. European and regional experiences and possible practical problems shall be presented by local experts, experts from OSCE and

experts coming from the neighbouring countries.

17. Seminar: Recent developments in the Civil law and Civil Procedure Law:

The seminar shall provide information on the recent developments and pending promulgation regulations in the field of civil law in Kosovo. The seminar shall be focused on the draft legislation in the fields of family and inheritance law and the law on obligations and developments on EU level. In Addition participants shall be given an opportunity to attend group exercises on practical cases. Topics such as settlements, mediation and alternative dispute resolutions shall also be presented.

18. Workshop on property, cadastral and mortgage law:

Target group: judges hearing property cases. The workshop would offer the participants a discussion on the main obstacles judges face in handling property related cases such as: data necessary for property registration is incomplete or missing; difficulties in cooperation with the Housing and Property Directorate (HPD) etc. The workshop shall provide an opportunity to the participants to exchange experiences with colleagues and aims to develop a list of issues which need to be solved in practice. As practical exercise the remedies for protection of private property and the transfer of state property to private ownership and other forms of property shall be presented.

19. Seminar: Execution of civil judgements:

Target group: judges. The seminar aims to present in details the new obligations and responsibilities of the judges under the newly adopted

regulations. The Seminar shall offer an assessment of the possibilities for inter-institutional cooperation in execution of the civil judgements.

20. Seminar circle: Business law.

Target group: judges hearing civil and/or commercial cases. The seminar shall present to the participants “*the investor’s world*”. Information regarding the investments and future economic development of Kosovo shall be presented as a supplementary topic of the seminar. The broad variety of the topics of the seminar shall cover subjects like commercial, trade, corporation, investment, banking and finance law; antitrust, copyright and balance-sheets related topics. The Seminar circle shall be organized in modules which could be attended independently without having heard the previous ones.

21. Seminar: Labour law.

Target group: judges hearing labour cases. The seminar shall provide information about recent developments regarding labour legislation in Kosovo and in EU countries including anti-discrimination issues in relation to the employment and labour.

IV. Skills training

22. Work techniques in civil cases.

The seminar shall present a system for better organization of the workload. The aim of the seminar is to help judges and prosecutors to be more efficient in managing the workload and to better handle and prevent work related stress.

23. Finding facts and evaluating evidence:

Judges and prosecutors participating in the training shall

enhance their knowledge about the form of evidence, the burden of proof, admissible and inadmissible evidence and obtain a psychological and sociological introduction on the techniques of investigation, the role of experts and in evaluating statements of witnesses etc.

24. How to write convincing, predictable judgements in considering case law in civil cases:

The training shall provide the participants with a firmer understanding on the techniques of convincing decision writing. They shall learn more how previous decisions could be used and how different instances decisions could be harmonized.

25. How to write convincing, predictable judgements in considering criminal cases:

Target group: judges hearing criminal cases and prosecutors. The training aims to improve the participants' legal paper drafting skills. The participants shall receive practical training on determination of the sentence, consideration of evidence, litigation of criminal cases etc. Participants shall be given an opportunity to discuss typical situations of the day to day court life like missing witnesses, inactive experts or uncooperative advocates.

26. Interpretation and development of law by judges: The training shall provide practical knowledge to the judges on the harmonization of the applicable law in Kosovo. The training be

active attendants in the annual training program of KJI. The conditions for participation and the details of the study trips shall be communicated separately.

shall develop the judges' knowledge about the practical aspects of legal research and its implementation in the decisions. The training shall evaluate the circumstances in which new interpretations of laws are applicable.

27. Computer and internet training for beginners:

The training aims to open the "IT world" to those magistrates who so far have no experience with computers, MS Word, Office and Internet. The training shall provide further information on the possibilities to publish judgements through Internet in order to inform other judges how courts are solving similar cases and how a better harmonization of the decisions could be achieved.

V. Career training

28. Career training court administration and leadership: *Target group: people aiming further career development.* Participants in this training shall obtain basic administration skills including staff management skills, skills in budgeting and cooperation with international bodies. The objective of the training is to provide the necessary management, communication and team leader skills.

29. Study trips abroad. *Target group: judges and prosecutors.* In order to be selected for a Study trip abroad and to be given an opportunity to learn from foreign experiences, the participants shall

Project activities November/December 2004

November 2004

- Seminar on Combating Trafficking in Persons
- Workshop on the Provisional Procedure Code of Kosovo
- Seminar on civil matters
- Seminar on International Legal Assistance;
- Workshop on the Juvenile Justice Code for Prishtinë/Priština region

Seminar on Combating Trafficking in Persons under Domestic Law and International Standards

The Kosovo Judicial Institute (KJI) held a seminar on Combating Trafficking in Persons under Domestic Law and International Standards on 4 and 5 November 2004, at KJI's premises. This seminar is the second session organized this year within the framework of the Comprehensive Programme for Training, Exchange and Co-operation of the Stability Pact Force on Trafficking in Human Beings, based on an anti-trafficking training manual developed for judges and prosecutors. This two-day training covered the phenomenon of trafficking in human beings, the development and progress of international law related to this matter and the applicable legislation in Kosovo. The seminar was also focused on investigation, prosecution of trafficking cases in Kosovo, and other specific aspects of criminal proceedings in trafficking cases. The subjects of victim assistance and protection during investigation, prosecution and trial, as well as international cooperation and mutual legal assistance against trafficking were also presented and discussed. The experts contributing to this seminar were coming from various

international and local agencies and institutions. This training session addresses Criminal Law Judges and Prosecutors from the Supreme Court, District and Municipal Courts and Prosecutors' offices.

Workshop on the Provisional Criminal Procedure Code of Kosovo

The KJI, together with the Kosovo Judges Association, the Kosovo Prosecutors Association and the Kosovo Chamber of Advocates, organised a workshop on the Provisional Criminal Procedure Code of Kosovo on 9 and 10 November in Pejë/Pec. This workshop was focused on detention on remand. Judges and prosecutors from Pejë/Pec were invited to work and discuss judicial decisions which demonstrate dilemmas that could be experienced in the application of the Criminal Procedure Code, on the pre-trial detention. The objective of the workshop was to achieve standardisation on the interpretation of the new criminal provisions and to help in developing better practices for addressing provisions causing difficulties in this area of the law. Some guidelines on the interpretation were drawn from the discussions and common stand points on how to apply these provisions will be published by the KJI. Three moderators led the workshop, the chief prosecutor of Pejë/Peć District Court, a judge from Pejë/Peć District Court and a lawyer from Pejë/Peć. An expert of the Council of Europe, an international prosecutor

and an international judge participated in providing their professional input and recommendations.

Seminar on civil matters

The KJI held, on 18 November, a seminar on liabilities related to damage caused by vehicles. The topics covered dealt with the compensation of material damage, third party liability and the insurance for the vehicle liability. Some cases, examining the practice of Prishtinë/Priština Municipal Court on this matter, were presented and discussed. The experts contributing to this seminar were: a Professor from the Law Faculty of Prishtinë/Priština, two judges respectively from the District Court of and the Municipal Court of Prishtinë/Priština and one trainer from KJI. This training session addressed Civil Law Judges from the Supreme Court, District Courts and Municipal Courts.

Seminar on International Legal Assistance

Following a request of the UNMIK Department of Justice (DoJ), along with the Council of Europe KJI organized a seminar on the new provisions related to International Legal Assistance. The Seminar was held on 25 and 26 November at the premises of the Grand Hotel Prishtinë/Priština. This two-day training session was focused on the new provisions related to international judicial assistance. During the first day of the seminar the following topics were covered: Requests for International Legal Assistance to Foreign Authorities (service of documents, rogatory requests), Execution of Judgments and the Transfer of Sentenced Persons, the principal features of the European Arrest Warrant (legal and practical aspects regarding its implementation), the International Arrest Warrant

(applicable law in Kosovo and practical elements). On 26 November, during the first half of the day the topics like Transfer of Proceedings, Extradition and Human Rights from the perspective of the European Court Human Right's Case Law and the applicable law and practical elements of Extradition in Kosovo were discussed. The experts contributing to this seminar were: the Head of the Legal Policy Unit of UNMIK's Department of Justice, representatives from this same unit and two experts from the Council of Europe. The training session addressed international and Kosovan judges, prosecutors and legal officers.

Workshop on the Juvenile Justice Code for Prishtina region

On 30 November 2004, the KJI, in collaboration with UNICEF, Terre des Hommes, and the Probation Service of Kosovo, organized a training session on the new Juvenile Justice Code in Prishtinë/Priština. The objective of the workshop was to present an analysis of the recent implementation of the new Code and to improve the coordination and interaction of all stakeholders involved in the proceedings of this Code. The agenda dealt with the following topics: the respective roles and responsibilities of probation officers and social workers according to the Juvenile Justice Code, as well as their cooperation with the magistrates; the duties undertaken by the Probation Service of Kosovo and the proceedings initiated by the public prosecutor against minors in conflict with the law. Some case studies were presented and discussed during the training. The experts contributing to this seminar were: a judge from the District Court of

Mitrovicë/Mitrovica, the Director of the Probation Service in Kosovo and a prosecutor from the Municipal Prosecutor's office of Prishtina. This training session addressed the judges and prosecutors from the Municipal and District Courts/Prosecutors Office of Prishtina. Probation officers, social workers, police officers and lawyers.

December 2004

- Seminar on Administration of Evidence in Civil Procedure
- Seminar on Civil Law: Servitudes the Right to an Object
- Seminar for Judges of Minor Offences Courts;
- Workshop on the Provisional Criminal Procedure Code of Kosovo

Seminar on Administration of Evidence in Civil Procedure

On 2 December 2004 KJI organized a seminar on administration of evidence in civil procedure. The training focused on the role and importance of this issue, the procedure during the main hearing and the proofs during the appeal. One professor from the Law Faculty in Prishtinë/Priština, the President of Kosovo Chamber of Advocates and the President of the District Court of Prishtinë/Priština made presentations during the training session.

Seminar on Civil Law: Servitudes – the Right to an Object

On 7 December 2004 KJI organized a seminar on servitudes. The training programme focused on servitudes of objects and personal servitudes. One of the presentations gave a general

overview of the current judicial practice. An international judge presented the practical overview of the servitudes in Germany. The other experts contributing to the training session were the President of the District Court of Prishtinë/Priština and two KJI judicial trainers. Twenty nine judges attended this seminar.

Seminar for Judges of Minor Offences Courts

The KJI has a specific legal education programme for judges working in the various Minor Offences Courts throughout Kosovo. The seminar on 9 December 2004 was the last one for 2004 and closed the training cycle for Kosovo Minor Offence Court judges. The training programme addresses legal and procedural matters for which Minor Offences Courts are competent, including traffic matters, public peace and order. One of the presentations focused on the new Provisional Criminal Procedure Code of Kosovo and the Minor Offences Court Procedure. Three judges coming from the High Court of Minor Offences in Kosovo and one criminal law expert made presentations. Twenty four judges were invited to attend the training.

Workshop on the Provisional Criminal Procedure Code of Kosovo

The KJI, together with the Council of Europe and in collaboration with the Kosovo Judges Association, the Kosovo Prosecutors Association and the Kosovo Chamber of Advocates organised a workshop on the Provisional Criminal Procedure Code of Kosovo on 13 and 14 December for the

judges and prosecutors from Prishtinë/Priština. This workshop was focused on detention on remand. Judges and prosecutors were invited to analyse and discuss judicial decisions which demonstrate dilemmas that can be experienced in the application of the criminal procedure code, on the issue of pre-trial detention. The objective of the workshop was to achieve standardisation on the interpretation of the new criminal provisions and to help develop better practices for addressing provisions causing difficulties in this area of the law. Some guidelines of interpretation were drawn from the discussions and common approaches on how to apply these provisions will be published by the KJI.

Forthcoming Events

Seminar on Civil Law – Inheritance Law

The first training event for 2005 will be a seminar on Inheritance Law on 19 January. The training will focus on the practical implementation of the law provisions. Several cases will be presented by the experts – one lawyer and one KJI programme coordinator. Twenty five civil law judges are invited to attend the training session

Workshop on the Provisional Criminal Procedure Code of Kosovo

The KJI, in collaboration with the Kosovo Judges Association, the Kosovo Prosecutors Association and the Kosovo Chamber of Advocates will organize on 26 and 27 January 2005 a workshop on the Provisional Criminal Procedure Code of Kosovo for the

judges and prosecutors from Mitrovica region. The workshop will focus on the main hearing. The participants will have a simulation of trial and will present different cases giving a possibility for discussion on the specific problems regarding the main hearing.

Workshop on property, cadastral and mortgage law:

The workshop would offer the participants a discussion on the main obstacles judges face in handling property related cases such as: data necessary for property registration is incomplete or missing; difficulties in cooperation with the Housing and Property Directorate (HPD) etc. The workshop shall provide an opportunity to the participants to exchange experiences with colleagues and aims to develop a list of issues which need to be solved in practice. As practical exercise the remedies for protection of private property and the transfer of state property to private ownership and other forms of property shall be presented.

*Kosovo Judicial
Institute Wishes
You a Successful
2005 year!*