

# Newsletter

**April 2016**

Activities from Continuous Training Program (CTP),  
Other Activities

## Activities from Continuous Training Program (CTP)

### Obstruction to possession and judicial protection from the act of obstruction to possession

On April 1, 2016, Kosovo Judicial Institute within the Continuous Training Program has conducted training on the topic "Obstruction to possession and judicial protection from the act of obstruction to possession".

In the focus of the training was the elaboration of obstruction to possession and its types, the elements of the act of obstruction of possession, proceedings in disputes of obstruction to possession, judicial protection from the act of obstruction of possession, etc.

Within the training was addressed the nature of possession, acquiring and loss of the possession, protection of the posses-

sion as well as deadlines for the mandatory execution of the decision.

The training was conducted through participants' discussions concerning difference between the legal and factual power over objects, defining the elements of obstruction to possession, proper application of procedures on protection from obstruction to possession and other specifics of their disputes.

The beneficiaries of this training were judges and professional associates of Kosovo's basic level courts.



## Specialized Training Program for Public Procurement in Kosovo - Session I

From 1 to 2 April 2016, Kosovo Judicial Institute, with the support of GIZ, has conducted training "Specialized Training Program for Public Procurement in Kosovo - Session I".

This training session has intended the elaboration of positive legislation, development of the country's judges and prosecutors knowledge about the procedures and phases of public procurement and identifying the indicators of corruption related to public procurement.

Initially, within this training session there was treated primary and secondary legislation that regulates this area, legislative changes, public procurement procedures and functioning mode of the electronic public procurement platform. In this context, there were elaborated rules and technical specifications, tender dossier, drafting of the tender dossier, evaluation pro-

cess of a tender as well as notification, signing and execution of public contracts.

Furthermore, the training was focused on the elaboration of corruption schemes and the problems related to fraud, bid-fixing schemes and the factors that affect the appearance of these criminal acts of corruption in public procurement.

During the final phase of this session, there were discussed the investigation's planning, the content of the investigation plan, prosecution, identification of sources of information and the importance in creating of an investigation structure.

The beneficiaries of this training were judges and prosecutors of basic and appellate level.



## Judgment and types according to the Law on Contested Procedure

On April 5, 2016, Kosovo Judicial Institute has organized training for judges on



the topic "Judgment and types according to the Law on Contested Procedure".

The aim of this training was to advance the knowledge of participants in the evaluation of circumstances for righteous deciding, proper implementation of the provisions related to making judgment in the session and outside it and drafting of reasoning for various types of judgments.

Within this training there were addressed

issues such as judgments and conditions for deciding, types of judgment, the content of the judgment, making judgment in the session and out of the session and deciding upon procedural aspects (types of rulings).

In the focus of the training was the evaluation of facts based on the evidences that are administered in the judgment's reasoning and application of legal material provisions in the proven factual situation.

The training was conducted through theoretical presentations, case study analysis and discussion of the problems encountered in practice.

The beneficiaries of this training were judges of civil field from all regions of Kosovo.



## **Criminal offenses against the constitutional order and security of the Republic of Kosovo with special emphasis on terrorism**

From 5 to 7 April 2016, KJI within the Continuous Training Program (CTP), with the support of the EU project “Strengthening criminal investigation capacities against organised crime and corruption” has conducted training on the topic “Criminal offenses against the constitutional order and security of the Republic of Kosovo with special emphasis on terrorism”.

The training was focused on the elaboration of investigative actions, the importance of the police investigation phase, proactive and reactive investigation as a form of gathering information in the stage of exchanging information about the revealing, investigation and prosecution of terrorist criminal offenses.

It was also addressed the capacity building of institutions on collecting, analysing of intelligence so as to identify timely and understand terrorist threats as well as ca-

capacity building for response and investigate such criminal offenses.

At the same time, it was discussed for raising the bilateral cooperation with neighbouring countries as well as international cooperation, including relevant international law enforcement agencies to strengthen efforts for intelligence exchange with the purpose of preventing or destruction of terrorist activities inside and outside the Republic of Kosovo.

The training was conducted in an interactive form, wherein through theoretical explanations and discussions are addressed all topics’ dilemmas that were in the focus of training.

The beneficiaries of this training were judges, prosecutors and officials from the Kosovo Police.



## Definition of the jurisdiction of the Special Chamber of Supreme Court in relation to regular courts

On April 7 2016, Kosovo Judicial Institute within CTP conducted training on the topic "The definition of the jurisdiction of the Special Chamber of the Supreme Court in relation to regular courts".

The purpose of this training was to deepen the knowledge of judges on the legislation in force, in particular on the Law on the Special Chamber of the Supreme Court (SCSC) namely the scrutinising of Article 4, which defines as exclusive competence areas dealing with objecting the decisions of the former KTA and KPA, as well as the possibility of sending cases to the regular courts under Article 5 of the law on SCSC.

In the training were also addressed different claims for financial losses from these agencies, claims against an enterprise or social corporation, demands claiming any right, title or interest in any property, or the property on which the KPA or KTA has or has proclaimed administrative authority, ownership of an enterprise and ownership on social owned enterprises' capital, all these being associated with cases from practice.

Comprehensively were addressed the dilemmas in practice regarding the entities that could lodge a lawsuit as defined by Article 5 of the Law on SCSC. During the training were given answers to the following questions: if the accused party does not fall under the definition of Article 5 of the Law on SCSC, whether the SCSC should take over the case or the regular court? Who can be sued at the SCSC? Whether the Articles 4 and 5 of the Law on SCSC should be applied simultaneously so as to restrict the competence, or they should be applied separately? The training was focused on the elaboration of the dilemmas raised through discussions with participants and analysis of current problems in practice.

The beneficiaries of this training were Judges of the Special Chamber of the Supreme Court, judges from the Administrative Affairs Department of the Basic Court in Prishtina and General Departments (civil division) from all Basic Courts.



## Handling of claims in reorganization procedure of SOEs

On April 08, 2015, Kosovo Judicial Institute within the CTP has conducted training on "Handling of claims in reorganization procedure of SOEs".

The purpose of this training was to deepen the knowledge of judges regarding the Moratorium, Reorganization Plan and Creditors Committee.

In the focus was the reorganization, that is to say, a procedure where trade associations with financial difficulties can have a renewed start and be an aid in their recovery.

It was clarified that Law on PAK envisages that PAK is authorised for administering, including the authority to sell, transfer and liquidate enterprises and assets of socially owned enterprises.

In this training were also addressed the matter concerning who shall issue the de-

cision for moratorium on the reorganization of SOEs? Can a temporary moratorium freeze actions at Kosovo courts and prevent payment and execution of appeals requested by the courts outside Kosovo against the company?

During this training there were applied methods of partial theoretical explanation, interactive conversation as well as questions and answers. In addition, it is utilised the commenting of legal provisions that were deemed to have deficiencies and examples from judicial practice.

The beneficiaries of this training were judges of the Special Chamber of the Supreme Court, judges of the Administrative Affairs Department of the Basic Court in Prishtina and general departments (civil division) from all basic courts.



## Protection of children's rights in marital-family disputes

From 14 to 15 April 2016, the Kosovo Judicial Institute, with the support of UNICEF, has conducted two days training on the topic "Protection of children's rights in marital-family disputes".

The purpose of this training was that both judges and other professionals involved, be able with professional competence to implement the highest local and international standards and procedures where there is a need for the protection of children's rights so that the children be provided with protection of rights according to the principle the best interest for the juvenile, in each case and proceedings.

Training was focused on addressing the protection of children's rights according to positive legislation in Kosovo, specifically under the Family Law but also other significant normative acts, comparison with international standards on protection of

children's rights, in particular with the Convention on the children's rights in terms of creating effective practices based on which should be given professional assessment and decision in protecting the rights of children in marital disputes.

Furthermore, there was elaborated the protection of children's rights during divorce proceedings, the criteria that court takes into account in cases of entrustment of the child, protection and care of children and the role of Custodian Body in the entrustment of the child proceedings. It was also elaborated the issue of alimony, the establishing of the children contacts with parents and court decision on these cases in ex officio mode.

The beneficiaries of this training are judges were judges of basic level and professional associates.



## Construction contract and related disputes

On 19 April 2016, Kosovo Judicial Institute within the Continuous Training has conducted training on: “Construction contracts and related disputes”.

The training focused on discussion related to general aspects of the construction contracts, its forms, characteristics and main elements of the contract, applicable law to construction contract, etc.

During the training were also addressed issues related to the contractor obligations as stipulated in the contract, the liability of the contracting authority, working price as well as judicial procedure in disputes arising

from construction contracts.

The training was developed through discussions of the participants about the establishment of the court proceedings in construction disputes, based on the current judicial practice.

The training continued by elaborating cases of judicial practice, discussion on practical issues when deciding on construction contract disputes follow up by presentations of trainers.

Beneficiaries of this training were judges and professional associates of basic level.



## Obtaining and admissibility of evidences

On 18-20 April 2016, Kosovo Judicial Institute in cooperation with the Twinning Project “Straightening of capacities in criminal investigation against organized crime and corruption”. Founded by EU conducted training on: “Obtaining and admissibility of evidences”.

This training aimed at raising the professional capacities of the person’s participants during the investigation and trial proceeding regarding the evaluation of evidence, with special focus on the admissibility of evidences and issues related to witness testimony.

Initially, during the training were elaborated the evidence, analyzing methods of evidence, types of evidence, including: documents, experts, facility inspection and statements of the defendant or the accused. Furthermore, the training was focused on witnesses, their types, claims and

causes of perjury by them. In this context it was also discussed the role of witness credibility of their statement as reliable or not and initiation of criminal proceedings for false testimony.

In the final phase of training was elaborated the examination of witnesses, interrogation techniques and the importance and ways of preparing the witness in advance for questioning.

In the capacity of the trainer in this training was an expert from Germany, who had an interactive approach to the participants discussing together about the German practice in this field, and challenges faced in national judicial practice.

Beneficiaries of this training were judges and prosecutors of basic level, and officials from the Kosovo Police.



## Ownership

On 22 April 2016, Kosovo Judicial Institute in cooperation with the Council of Europe Office in Prishtina, through the Project on “Support to Implementation of the European Standard on Human Rights and Ombudsperson Institution Reform”, has conducted training on: “Ownership”.

The purpose of this training was to deepen the knowledge of judges on legislation in force and especially on how to handle the ownership law and its protection, due to the inherent problems in this area. This topic was important for judges because of the changes and legislative reforms as well requirements contained therein.

During the training were addressed the original and derivative ways on acquisition of ownership, novelties of the Law on Property and Other Real Rights regarding ways of acquiring ownership rights, authorizations and limitations of the owner

and the registration of the ownership, accompanied by cases of judicial practice.

In general were also addressed the standards set by Article 1 of Protocol 1 of the ECHR and the jurisprudence of the European Court of Human Rights, associated with cases from the practice in the area of ownership.

The training also focused on the elaboration of dilemmas appear in court practice regarding ways of acquiring ownership, with the special emphasis on acquisition of ownership based on prescription. Whereas, through comparative methods were elaborated the original derivative ways of obtaining ownership under the applicable law and other legal acts.

Beneficiaries of this training were judges of basic and appeal court, professional associates and legal officers from the Office of the Ombudsman.



## Specializes Training Program for Capacity Development in combating corruption – Session II

On 22-23 April 2016, Kosovo Judicial Institute, with the support of GIZ has conducted training on: "Specialized training program for capacity development in the fight against corruption - Session II".

This training aimed at the advancement of knowledge related to forensic analysis, capacity building on preparation of the investigation plan in coordination with relevant institutions in combating offenses of this nature.

Initially, during the training was presented the structure, role and function of the Kosovo Forensic Agency, its working methods, possibilities provided by the Agency when the forensic analysis are requested by judges and prosecutors.

Further, were elaborated the use of covert

technical measures of surveillance and investigation for detection of corruption, types, conditions, persons competent to issue these measures, the content and duration of orders for issuing such measures, as well as the assistance of other entities to implement the respective measures.

The training was held in interactive form, where participants discussed specific challenges and difficulties that appear to be problematic in practice towards proper implementation of legal provisions and combating corrupt offences.

Beneficiaries of this training were judges of basic and appeal level and prosecutors of basic level, who attended and the first session of the program.



## Combating the informal economy

From 26 to 28 April 2016, Kosovo judicial Institute in cooperation with the Twinning Project: “Strengthening Criminal Investigation Capacities against Organised Crime and Corruption” has conducted training on the topic "Combating the informal economy".

The training aimed to advance knowledge about the phenomena of fraud in the economy, treatment of effective methods to prevent this phenomenon and deepening the cooperation of relevant law enforcement institutions in this area.

In the context of this training it was elaborated legal framework that covers this field, financial investigations as the first pillar in the fight against the informal economy, the forms of these offenses such as: money laundering, tax evasion, fiscal

evasion including smuggling, organization of pyramid schemes and illegal gambling. Furthermore, there were treated modes and forms of committing these acts through cyber-crime as well as prevention activities for the acts of this nature.

The training was conducted through interactive approach of German experts engaged in this training as trainers and participants who held discussions regarding German practices and comparisons with local practice as well as have shared challenges and difficulties that appear in fighting economic and financial crimes.

The beneficiaries of this training were judges and prosecutors of basic level, police officers as well as officials from Financial Intelligence Unit.



## “Witness Protection - Challenges in practical implementation of legislation”

On April 26, 2016, Kosovo Judicial Institute in cooperation with the Kosovo Prosecutorial Council and the Kosovo Police as well as with the support of the EU’s WINPRO II Project, implemented by NI\*CO, has organized a round table on the topic: "Protection witnesses - Challenges in practical implementation of legislation.

The purpose of the roundtable was to discuss the current challenges, problems and practices in the Witness Protection Program and the role of judges, prosecutors and police in the implementation of this program.

In their opening speech the KJI’s ACT Director Mr. Besim Morina, ACT. Chief Prosecutor of special prosecution office Mr. Reshat Millaku and Sam Black expert from WNIPRO III project have stressed the importance of this roundtable which aims to serve as a forum where it will be evidenced the problems and proposed solutions for eliminating the ambiguities regarding the protection of witnesses, in particular inclusion of witness in Witness Protection Program.

In their presentations, the Prosecutor in the Chief State Prosecutor’s office Mr. Lulzim Sulejmani and Director of the Witness Protection Directorate Mr. Skender Rrahmani have presented the current situation concerning witnesses within the Witness Protection Program. It was emphasized that the Witness Protection Directorate is fully functional and possesses the latest technology in the implementation of the program, and all the measures provided by the law can be applied.

Participants in the roundtable assessed capabilities of the Witnesses Protection Directorate and stressed that this program is very important to combat serious criminal offenses. In particular, courts’ presidents and chief prosecutors vowed to encourage judges and prosecutors to submit applications for inclusion into the witness program.

The Participants in this roundtable were presidents of courts, chief prosecutors, Kosovo Police and Correctional Service.



## The procedures and preliminary ruling of the European Court of Justice

On 28 April 2016, Kosovo Judicial Institute within PTV and with the support of UNDP conducted training on "Procedure and Preliminary Ruling of the European Court of Justice".

The purpose of this training was to deepen the knowledge of judges on how to put into motion the procedure of preliminary ruling, which issues can be addressed through this decision, what are the procedures before EJC, how operates the referring court after receiving preliminary ruling?

During the training were also treated the effects of these decisions and their implementation by national courts and procedures that take place in the European Court of Justice and including its features.

The training also focused on the elaboration

of the dilemmas that arise in the practice of national courts concerning the preliminary reference when hearing cases of EJC concerning interpretation of European Union law. This aims to prepare judges and prosecutors and provide them knowledge on the EU Law and procedures developed in the relevant institutions of the EU, since the Republic of Kosovo currently is in the phase of the European integration process which besides harmonization of the legislation with the EU standards is paying a special attention also to the reforms in the judicial system.

Beneficiaries of this training were judges of basic courts and the Court of Appeal, and professional associates.



## Other activities

### The launching of the EU funded Twinning Project, "Further Support to legal education reform in Kosovo"

On April 5, 2016, there has been organised a kick off ceremony of the EU funded Twinning Project, "Further Support to legal education reform in Kosovo". The beneficiaries of the project are Kosovo Judicial Institute and the partner countries such as Germany and the Netherlands.



The aim of the project is to strengthen the rule of law in Kosovo by improving legal education, in particular by enhancing the capacities in the justice sector and thus empowering the capacities of the Kosovo Judicial Institute.

The participants in the ceremony were addressed by Mr. Ymer Hoxha, president of the KJI's Managing Board, Mr. Christoff Stock from EU office and KJI' A. Director Mr. Besim Morina.

Mr. Ymer Hoxha in his speech, inter alia, pointed out "This twinning project is very important for KJI, by advancing its services and at the same time by assisting the transformation into Justice Academy, which is expected to take place during the lifetime of this project".

In his speech, Mr. Christoff Stock emphasized that "this project is different due to the fact that it will focus on specialization of

judges, prosecutors and judicial staff, by providing trainings tailored to their needs in their day-to-day work. By introducing competency-based training this twinning project will facilitate the transformation of KJI in the Justice Academy".

Mr. Besim Morina emphasised that "by this project, the KJI aims to empower further its role, but also to prepare the necessary infrastructure for transformation into Justice Academy, in order to preserve the continuation of the support on development of the judicial system by strengthening professional values, independence, impartiality and working efficiency of judges, prosecutors and other professionals in the justice system in Kosovo.

The project was presented by Mrs. Christine Jacobi – Team leader of the partner state Germany, whereas presentation in legal education was made by Eric Vincken - Team leader of the junior partner state Netherlands.

The expectation of the project's results are focused in strengthening of the training system for judges and prosecutors, including new training curricula based on professional competence.



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## Workshop on the compilation of a draft training curriculum of the Initial Training Program

From 06 to 09 April 2016, KJI has conducted a workshop for the compilation of draft training regulation and draft training curriculum for Initial Training Program.

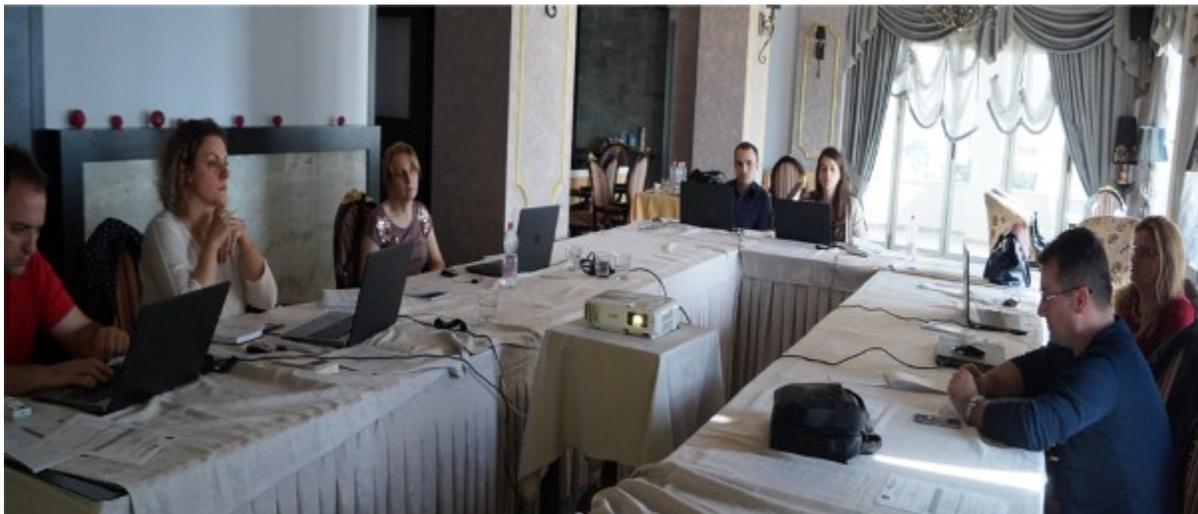
Pursuant to legislative amends, KGI has estimated that there are required amending and supplementing of the sub legal acts that regulates the content, duration of theoretical and practical training and the creation of a system for evaluating the adequate implementation of the training program by newly appointed judges and prosecutors during training in initial training at KJI.

The purpose of this roundtable was to determine the framework of the draft - training curricula, identification of training needs/modules and compilation of ITP's draft regulation, which will regulate the organization of training in ITP, rights and obligations of the trainers/mentors, reports

of newly appointed judges/state prosecutors by KJI as well as the criteria for successful completion of the training program.

During this workshop, besides drafting of these acts it is also discussed the challenges that would be faced by KJI in the implementation of the initial training for newly appointed judges and state prosecutors. Regarding this issue there were offered the ideas about coordination and cooperation between KJC and KPC and the determination of criteria for evaluating the results of initial training.

As a result of this roundtable there were compiled; draft Regulation for Initial Training Program as well as draft - training curriculum for sixth generation. The working group of these acts were comprised by KJI's staff.



## Forum “Establishment of the Network of Judicial Training Institution of South-east Europe Countries”

On 13-14 April 2016, Council on Regional Cooperation GIZ and Rumanian National Institute of Magistracy organized a forum on: “Establishment of the Judicial Training Institution Network of South-east Europe Countries”.

The training focused on presentation of the report on best practices on training judges and prosecutors in the member countries of the EU and the Network of European Judicial Training Institutions (EJTN).

Within this forum, KJI presented its insti-

tutional capacities and its role in the judiciary the cooperation with judges and prosecutors, advantages and challenges, its programs, decision-making process, best practices and regional cooperation.

Also, in this forum which was attended by judicial training institutions of Eastern Europe countries, was discussed and proposed the scope of the network, the structure, its role and activities.

In the forum in addition to KJI representatives, participated also a representative of the Ministry of Justice.



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