

# Newsletter

**September 2016**

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## Activities from Continuous Training Program (CTP)

### Novelties and amendments of the judges Code of Ethics and Professional Conduct

On August 5, 2016, KJI in cooperation with the USAID program, JSSP conducted training on "Novelties and amendments of the judges Code of Ethics and Professional Conduct".

The purpose of this training was for judges to identify novelties and amendments contained in the new Code of Ethics for judges and recognize Rules that determine misconduct, as adopted by the Kosovo Judicial Council.

The training focused on detailed elaboration of provisions of the Code of Professional Conduct for judges, novelties and amendments of this code in addition to the

actual applicable code, general principles and structuring, as well as the behavior standards as determined by the Code of Professional Conduct for judges.

Further was discussed the regulation determining misconduct, its purpose, the definition of misconduct, their categorization and determination of sanctions contained in this Regulation.

Beneficiaries of this training were judges of the Special Chamber of the Supreme Court.



## Joint Investigation Teams

On 5-7 September 2016, KJI in cooperation with the "International Legal Cooperation in Criminal Matters" founded by EU Network and implemented Western Balkans Prosecutor's Network, conducted the workshop on: "Joint Investigation Teams".

Within this workshop were elaborated issues concerning the establishment of joint investigation teams and of mutual international legal assistance, up to date practices, with the emphasis on collection and exchange of evidence of criminal offenses related to organized crime and financial matters.

During this workshop also were addressed

issues regarding the role and function of Interpol, Europol and other important institutions that deal with the exchange of information and investigation of organized crime with international elements.

The methodology applied was combined with theoretical explanations and interactive discussions and working groups.

Beneficiaries of this training were prosecutors from the Office of the Chief State Prosecutor, Special Prosecutors of the Republic of Kosovo, prosecutors of basic instances, as well as police investigators from all regions of Kosovo.



## Joint property of spouses, co-ownership and division

On September 6 2016, Kosovo Judicial Institute within Continuous Training Program (CTP) has conducted training on the topic "Joint Property of spouses, co-ownership and division".

The training has aimed to evaluate entirely the theoretical and practical aspect that deals with the issue of joint property of spouses, co- ownership and division of this property, and in this way to contribute towards the advancement of professional knowledge and skills of participating judges in order to unify judicial standards.

Within this training there were elaborated the legal nature of co-ownership and joint ownership, the differences between these two forms of ownership and specific distinguishing elements of these institutes. Further there were treated joint ownership of spouses, their particular ownership, administering of these properties, mutual obligations of spouses in relation to this

property, the division of this property, as well as applicable legislation regulating this issue. It was especially treated judicial proceeding and the competencies of the courts when deciding, on the request of spouses, for the division of joint property.

Among other things, there were also elaborated the criteria based on which the court made the division of joint property of spouses in accordance with provisions of the Kosovo's Family Law.

The training was conducted through interactive discussions at its every stage by participating judges, who have raised dilemmas and uncertainties about interpretation and implementation in the decision-making process by the courts.

The beneficiaries of this training were judges of basic courts and professional associates in the courts



## Criminal offenses against official duty

On September 8 2016, Kosovo Judicial Institute in the framework of continuous trainings has conducted training on the topic "Crimes against official duty".

The purpose of this training was to explain thoroughly criminal offenses against official duty under the Criminal Code of the Republic of Kosovo, as well as to analyse some of the forms of these offenses that often appear in judicial practice.

Initially there were presented characteristics and essential elements of these criminal offenses. Further on, the following offenses were treated: Abuse of the post or authorisation, accepting and giving bribes and the relations between these criminal offenses.

Other criminal offenses that were elabo-

rated, from chapter of criminal offenses against official duty, were the offense of exercising influence and issuing unlawful judicial decisions.

The comparison of domestic legislation with the ones of some countries in the region, were also part of the treatment and discussion within the training.

The methodology applied in this training was of interactive character and convenient for participants who developed debate and presented challenges when treating criminal offences against official duty.

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



## Cross-border confiscation of assets

From 8 to 9 September 2016, KJI in cooperation with the "International Legal Cooperation in Criminal Justice" financed by the EU and implemented by the Western Balkan Prosecutors' Network, conducted a workshop on the topic "Cross-border confiscation of assets".

Issues that were treated during the workshop were related with the specifics of mutual judicial assistance and with respect to modern methods of assessment in the context of cross-border organized crime and asset recovery by undertaking complex inter-actions in the confiscation of revenues acquired by crime.

At the same time, it was treated and

demonstrated the structure and drafting of requests for cross-border freezing of asset and confiscation of assets acquired by criminal offense with international element.

The methodology applied was combined with theoretical explanations and interactive discussions and working in groups of participants.

The beneficiaries of these trainings were judges and prosecutors of basic level, investigative police, customs officials, officials from the Financial Intelligence Unit from all regions in Kosovo



## ECHR and the use of HUDOC data base

On 9-10 September 2016, KJI in cooperation with UNDP within CTP, conducted training on "ECHR and the use of HUDOC data base."

The purpose of this training was to deepen the knowledge of participants on the role,



structure, and positive obligations of the ECHR and its protocols, ways of implementation in practice, jurisprudence and standards set by the European Court of Human Rights (ECHR) concerning the implementation by national courts.

During this training were addressed the meaning of rights, interpretation and procedures for their protection guaranteed by the Convention, with a focus on cases from the ECHR case law which were subject to interpretation of important issues, related to the recognition and practical application of the rights and fundamental freedoms. Another topic of importance was the "Prohibition of discrimination from the ECHR perspective (Article 14 of ECHR) and legal protection against discrimination in the Republic of Kosovo, as well as HUDOC (ECHR) portal- how the HUDOC can be used with the purpose of implementing ECHR and its case law.

Also, during this training was debated

about the issue on how the national courts will be able to refer to the precedents of the ECHR and at the same time the constitutional obligation laid down in Article 53 of the Constitution of the Republic of Kosovo, that the interpretation of the constitutional rights to be consistent with the decisions of the respective court. Versatile, through discussion and study examples trainers elaborated the rights set out by the ECHR and important decisions of the ECHR jurisprudence that will be quite useful guidance to judges and prosecutors during their daily work.

It was the general assessment that the two-day training at its conclusion reached its objectives in terms of explaining properly the basic concept of the European Convention on Human Rights, the role and its impact on the protection of human rights, the meaning of the ECHR jurisprudence in interpreting and setting standards for implementation of human rights its case law, as well as the precedents of the ECHR by national courts.

Beneficiaries of this training were judges of basic and appellate level, as well as prosecutor of basic instance.



## Specialized training program on professional capacity building in combating money laundering- Session II

From 9 to 10 September 2016, KJI with the support of GIZ has realized training “Specialized training program on professional capacity building in combating money laundering- Session II.

This training session was intended to contribute in further advancement of knowledge regarding implementation of national legal regulations that covers this area and the comparison with EU legislation in terms of establishing best practices in combating money laundering.

Within this session there were treated techniques of examination of frauds at money laundering, modes of gathering information and their assessment, concrete examples of preparation of the personal profile, tracking of funds by the recipient and by the payer and the return the proper-

ty acquired illegally.

Further on, there were elaborated international resources in this area such as: FATF's recommendations, Convention of the Council of Europe for money laundering, Raid, sequestration and confiscation of the property acquired from crime and financing of terrorism, as well as it was analysed the legislation on money laundering in the context of its compliance with international and comparative sources in some EU countries.

Within this specialized training program there will also be conducted one (1) other training session.

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



## Covert measures of investigation and surveillance

On 13 September 2016 Kosovo Judicial institute within CTP has realized training with the topic “Covert measures of investigation and surveillance”.

The purpose of this training was to treat in details the legal framework that regulates the mode of issuing the covert measures of investigation and surveillance, the procedure of implementation and application of these measures in terms of clarifying the dilemmas that exist in judicial practice.

During this training it was stressed the importance of these measures and their proper implementation in practice, all kinds of measures and stages of investigation during which they can be authorized.

Further on, there were treated legal condi-

tions persons authorized to issue covert measures, the drafting of orders for the implementation of these measures and the content of the request for taking these orders on authorization of these measures.

In this context there were elaborated the competencies of the police, state prosecutor and pre- trial judge.

The training methodology was a combination of theory and practical cases submitted by trainers with the aim of contributing to the unification of judicial practice associated with this field.

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



## Educational measures imposed on juveniles

On September 14 2016, Kosovo Judicial Institute within the continuous trainings program has conducted training in the field of juvenile justice-criminal aspect, on the topic "Educational measures imposed on juveniles".

The training aimed that by analysing the applicable legislation in this field to clarify issues that appear as dilemmas in imposing and implementation of educational measures, as well as offer best practices in the application of educational measures provided by Juvenile Justice Code (JJC).

Within this training there were treated the purpose of educational measures and the benefits of their application, types of these measures, wherein were discussed in detail each of disciplinary measures, measures of

intensive supervision as well as institutional educational measures. Further on there were discussed legal conditions and criteria assessed by the court in imposing one of the measures, determining their duration, as well as their role in avoiding the stigmatization of the juveniles.

The training was of interactive format, with discussion by participants on issues that training was focused on, as well as there were presented practical and hypothetical cases by trainers, on which occasion the participants were divided into groups to tackle the submitted tasks.

The beneficiaries of this training were prosecutors of basic level as well as professional associates.



## The object of administrative conflict and characteristics of the administrative act

On September 15 2016, Kosovo Judicial Institute within the Continuous Training Program (CTP), has conducted training on the topic "The object of administrative conflict and characteristics of the administrative act".

The objective for treatment of this topic was that the beneficiaries acquire knowledge regarding the initiation of administrative conflict with the lawsuit at the competent court, which reviews the legality of the administrative act contested by lawsuit.

Within this training there were elaborated the principles and basic rules of the Law on Administrative Conflicts, the characteristics

of an administrative act, the commencing of administrative conflict, the object of administrative conflict, cases when an administrative conflict not be commenced, the procedure as per the lawsuit and court actions regarding the lawsuit as well as the completion of the administrative conflict.

During the training the dilemmas and questions were addressed through partial theoretical explanation, by being based on cases and by utilising concrete examples from current judicial practice.

The beneficiaries of this training were judges of the administrative departments of the Basic Court and Court of Appeal.



## Implementation of the Law on the Establishment of the Register on Immovable Property Rights

On 16 September 2016, KJI within the continuous training, conducted training on "Implementation of the Law on the Establishment of the Register of Immovable Property Rights".

The training aimed to handle the legal aspects dealing with instruments relating to registration of immovable property in the Municipal Cadastral Office (MCO), and the procedure of initiating administrative dispute in the competent court against the decision of the ACK.

During this training, in detail was elaborated the Law on the Establishment of the

Register of Immovable Property Rights, the terms and conditions of registration of immovable property rights, as well as main principles and rules of the Law on Administrative Procedure, in case of initiating administrative conflict in court against the decision of the ACK.

The training was developed through discussions and practical scenarios that contain potential dilemma and how to erase them in practice.

Beneficiaries of this training were judges of Basic and Appellate instances.



## Procedure according to the complaint

On September 22 2016, Kosovo Judicial Institute within the continuous trainings has conducted training for judges on civil field, on the topic "Procedure according to the complaint".

The purpose of the training was to analyse the provisions of the contested procedure regarding the complaint, procedure according to the complaint, the limits in reviewing the complaint and its establishing modes.

The training was focused mainly on elaboration of the proper complaint's content as a regular legal remedy, causes of the complaint's appearance, the procedure of receiving and reviewing the complaint in the first instance court and legal deadlines regarding the procedure of sending the com-

plaint to the second instance.

Further on, there were elaborated the forms of decision on complaint by the second instance court, cases when the complaint is rejected, the content of reasoning the decision of the second instance court and the actions of this court after decision-making.

The discussion at training were conducted in a manner that provided answers to all the questions and dilemmas related to the complaint as the means of parties to strike the decisions of first instance court.

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



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

From 23 to 24 September 2016, Kosovo Judicial Institute, supported by GIZ, has conducted session II of the training program "Specialized Training Program for Public Procurement in Kosovo".

The purpose of this session was further advancement of professional skills of judges and prosecutors as regards to necessary knowledge in organizing of public procurement system in Kosovo and the scope of work of relevant institutions in terms of successful detection and investigation of corruption in the procurement field.

Topics in the focus of this session have mainly consisted on fair implementation of the applicable legislation and public procurement procedures, the risks and consequences of corruption in this process, as well as possible schemes of bid fixing and

corruption in public procurement.

Further on, it was treated the mode of functioning of the electronic public procurement platform.

In addition, in this training session there were elaborated the investigation planning, the content of investigation and prosecution plan, as well as the importance of creating an investigation's structure.

The training was conducted in an interactive way, with discussions, where participants raised and discussed challenges faced in this area.

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



## Compensation of material and immaterial damage

On 27 September 2016, Kosovo Judicial Institute within the CTP, conducted training on "Compensation of material and immaterial damage".

This training aimed at advancing the knowledge of judges in the field of compensation of damage and implementation of provisions of the Law on Obligation Relationship on compensation of material and immaterial damage.

During this training were treated topics related to forms of material and immaterial damage, the amount of damage compensation, extrajudicial arrangements for damage compensation, the amount of interest and its calculation.

The training was associated with the comprehensive review of cases of judicial practice, particularly on forms of immaterial damage such as: physical distress suffered, fear, the pain caused due to decreased activity in general living, the pain caused due to physical disfigurement, pain caused due to disability, pain caused by the death of a close relative, and the pain caused due to the violation of the dignity and integrity.

Beneficiaries of this training were judges from General Department - Civil Division of the Court of Appeal and general departments of Basic Courts.



## Measuring of punishment

On 27 September 2016, Kosovo Judicial Institute within Continuous Training Program (CTP) conducted training on "Measuring of the punishment".

The aim of the training was to explicitly treat the general rules of measuring of punishment and provide a contribution to judges in unifying punitive policies take into account the rules for calculation of punishment, especially when dealing with mitigation of judicial punishments.

As part of this training were also elaborated the criteria for measuring the length of the punishment, mitigating and aggravating circumstances and their assessment in case

measuring the punishment, mitigation and aggravation of sentence for recidivism, measuring of the punishment when dealing with joining of criminal offences and calculation of punishments for convicted persons and in custody.

Through the analysis of practical issues, participants held interactive discussions and presented their views on how much the general rules on measuring of punishment are being applied in judicial practice.

Beneficiaries of this training were judges of basic level.



## Protecting the rights of children in case of changing their status

On 29 to 30 September 2016, KJI conducted training on "Protection of children's rights in cases of changing their status", which is the third training session of the module: Justice for children - civil aspect.

This training is intended to contribute to the advancement of theoretical and practical knowledge of the judges concerning the interpretation and application of legal provisions dealing with the rejection procedure and the procedure for recognition of paternity and maternity, in terms of protection of the best interest of the child when changing their status and domestic violence cases.

This training was focused on topics such as the status of the child and proof of marital status, extramarital and marital children,

and ways of proving extramarital relationship, consequences for the child in case of rejection of paternity and maternity, and legal effects of the recognition of paternity and maternity in judicial procedure. Also within this training were discussed the rights of children in cases of domestic violence, protection orders and types of protective measures against domestic violence, determined by the court.

The methodology developed in this training was combined with theoretical discourse, cases and practical tasks and discussions on the problems and challenges encountered in practice.

Beneficiaries of this training were judges of basic courts.



## Activities from Research and Publications Program (RPP)

### Editorial Board meeting

On 09 September 2016, at Kosovo Judicial Institute was held the editorial council meeting on KJI publications.

The purpose of this meeting was to review and select their paper work and for publication on "Opinion Juris" magazine.

The Editorial Council during the review of eleven paper work of different authors and based on the priorities set for publication of this edition of the "Opinion Juris" magazine, selected for publication only those paper work which have been designed in the spirit of judicial practice and referred to the decision taken by the court and were subject to their paper work.

In this meeting also were given recommendations and suggestions for completion of some of the paper work, providing though the chance for them to be included, if their authors will make amendments as required by the Editorial Council.

During the discussion it was highlighted the importance of the magazine and the criteria to be met, so that this magazine serve as a source of supply in addition to the theoretical aspect of the case law on the Kosovo judiciary.



# Training of Trainers

## Advancement of training methodology

On 14-15 September 2016, Kosovo Judicial Institute in cooperation with Twinning Project "Support to further legal education reform" funded by the EU, conducted training of trainers on: "Advancement of



training methodology."

The purpose of the training was to develop of monitoring skills of participants and advancement of training methodology for successful implementation of the training programs.

During two-days of training, trainers had the opportunity to get familiar with the techniques that should be used to keep participants active in the training, including active listening, how to manage communication and discussion during a workshop.

Also during this training were explained

the characteristics of a good trainer, intensity of learning and training methods, as well as development of communication skills.

The training was characterized by teamwork, in which case the trainer worked on preparing presentations where they had to play roles and develop case studies based on the practice.

Beneficiaries of the training were the judge, court administrators, communication managers and records management officer, all trainers at KJI.

This training was conducted by the German expert in the field of judicial training.



## Other activities

### Training of Trainers – Development of Curricula, Adult Learning

On 27-29 September 2016, in the framework of the Regional Justice Sector, "Strengthening criminal justice institutions and the rule of law in Central and Eastern Europe". Organized by the State Overseas Department of Prosecutor Development, Assistance and Training (OPDAT), US Department of Justice, Office of International Narcotics and Law Enforcement Affairs and the Ministry of Justice of Croatia, Dubrovnik, provided training of trainers on "Curriculum development – Adult learning".

The purpose of this training course was to strengthen training institutions and development of trainer's skills on development of strategic plans, preparation of curricula and use of methodologies of adult learning and training of trainer's component in developing sustainable projects in more effective way.

This training focused on the guidelines on

effective facilitating training practices such as: opening the discussion, managing and engaging in discussion, closing the discussion, effective techniques of questioning, guidance for managing difficult participant and moderation techniques.

The work on this training was done in groups where initially were distributed topics on the area of corruption, trafficking in human beings and gender equality, whereas had to be presented by representatives of all participating states.

In this training program participated judges, prosecutors, lawyers and representatives from training institutions of the regional countries.

Kosovo delegation attended one judge, one prosecutor, two lawyers and Acting. KJI Director and Head of ITP Program of KJI.

<http://igjk.rks-gov.net>

Address: Lagja e Spitalit  
"Muharrem Fejza" str. n.n.  
Prishtina, Republic of Kosovo

Tel: + 381 38 200 18 660  
Fax: + 381 38 512 095  
E-mail: [infokji@rks-gov.net](mailto:infokji@rks-gov.net)