

# Newsletter

**October 2016**

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## Activities from Continuous Training Program (CTP)

### Crimes against life and body - aggravated murder and murder

On 04 October 2016, Kosovo Judicial Institute, within CTP conducted training on: "Crimes against life and body - Aggravated murder and murder".

The training aimed that through presentation of practical judicial cases and group discussions, to provide alternatives for problems and difficulties faced in practice toward offenses against life and body.

During this training were discussed in detail the provisions of the Criminal Code of the Republic of Kosovo on crimes against life and body with a special focus on offenses of aggravated murder and murder, general aspects of these offences, the forms of aggravated murder and murder, the motive for committing such offences, as well as their legal qualification. During this training were stressed out the difficulties in the current judicial practice regard-

ing this segment. Whereas, comparisons with the legislation of some countries in the region regarding the legal treatment of these offences as were part of this training.

The methodology applied in this training was combined. Initially, was applied the theoretical method of elaboration of specific acts of murder and aggravated murder, followed by interactive discussion as appropriate to encourage participants in debating and presenting challenges faced by them while handling cases of this nature.

Beneficiaries of this training were judges and prosecutors of basic level.



## Eestablishment and protection of servitudes

On 06 October 2016, Kosovo Judicial Institute within CTP conducted training on: "Establishment and protection of servitudes".

The main purpose of this training was to advance the knowledge of judges in the field of establishment and protection of servitudes, as well as proper implementation of legal provisions in force.

During this training in general were addressed topics related to provisions dealing with the object, subjects and division of the servitudes, ways acquiring servitudes and their termination, as well as claims on protection of the subjective rights on the occasion of the establishment, modification or termination the servitudes.

The training focused on the comprehensive review of the ways of acquisition of servitudes and their termination, ways of

acquiring the right of servitudes under the applicable law on property and other real rights within the context of this issue as well as servitude issue as a real right over a foreign object.

During this training were discussed provisions of the Law on Property and Other Real Rights (LPORR) in terms of comparison with the provisions of the Law on Fundamental Legal and Property Rights (1980), concentrating also on the Law on Energy, this due to the fact that by this law was established the servitude of energy enterprises on the property of other persons, all of which associated with court cases from local and regional practices.

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



## International standards in relation to measures to ensure the presence of the juvenile in the proceeding

On 06 October 2016, within CTP, Kosovo Judicial Institute conducted training on: "International standards in relation to measures ensuring the presence of the juvenile".

This training was intended to assist judges and prosecutors in implementing the international standards, in particular the Convention on the Rights of the Child and the European Convention on Human Rights and other international instruments in the criminal proceedings against juvenile.

The training focused mainly on topics such as: best interests of the child, deprivation of liberty as a last resort, detention

and characteristics of international standards, human treatment and legal assistance.

This training was conducted in an interactively, where judges and prosecutors discussed issues on international and national judicial practices.

Beneficiaries of this training were judges and prosecutors of the basic level - Juvenile Department.



## The main trial in juvenile proceedings

On 07 October 2016, Kosovo Judicial Institute within CTP conducted training on: "Main trial in juvenile proceedings".

The purpose of this training was to establish best practices for the implementation of legislation on main trial as an important stage of the criminal procedure and the trial stages of the proceedings against juveniles.

The training focused on taking and drafting judicial decisions in proceedings against minors, presentation of evidence,

and cases when decided by a ruling, when against the juvenile are issued diversion measures, educational measures and cases when the procedures is terminated.

The training was conducted interactively where judges and prosecutors discussed the challenges faced by them in reviewing these cases.

Beneficiaries of this training were judges and prosecutors from the basic level - Juvenile Department.



## Means of appeal of the Special Chamber of the Supreme Court

On 11 October 2016, Kosovo Judicial Institute within the CTP conducted training on: "Means appeal of Special Chamber of the Supreme Court".

The purpose of this training was to advance the knowledge of judges regarding ordinary and extraordinary legal remedies that can be used in the Special Chamber of the Supreme Court.

This training aimed at addressing the appeals and its content, the causes for challenging the judgment and decisions, admissibility of an appeal, reviewing boundaries on the deadline for filing an appeal to the special chamber, as well as extraordinary legal remedies.

The training focused on the means of appeal that can be used in the Special Chamber of the Supreme Court under the Law on Contested Procedure and the Law on the Special Chamber, followed by the res-

judicata decisions under the LCP and LSCHSC, similar and distinguishing points between the judgments on contract of exchange by LCP and LSCHSC, facts and dilemmas associated with causes of the appeal by elaborating the Article 181, 190, 197 and 198 of the LCP.

Also during this training were addressed the facts, dilemmas and challenges associated with the causes of the Audit and Request for Protection of Legality. Within this area were also discussed in detail the provisions referring to revision as an extraordinary legal remedy-rejection of decisions of the second instance court and dilemmas relating to its implementation in the judicial practice. It was also widely debated about causes for the appearance of the extraordinary legal remedy.

Beneficiaries of this training were judges of the special chamber of the Supreme Court.



## The importance of the European Convention on Protection of Human Rights and Fundamental Freedoms (ECHR) and its effects on the constitutional system of the Republic of Kosovo

On 13 October 2016, Kosovo Judicial Institute with the support of the Council of Europe Office in Pristina, within the CTP conducted training on: "The importance of the European Convention on Protection of Human Rights and Fundamental Freedoms (ECHR) and the effects on the constitutional system of the Republic of Kosovo".

The purpose of this training was to deepen the knowledge of judges regarding the importance of the European Convention on Protection of Human Rights and Fundamental Freedoms and its effect on the Constitution of the Republic of Kosovo and constitutional system of the country.

The topics covered were: the structure and interpretation of the European Convention and the obligations arising from this document to member states - parties to the Convention, the structure of the ECHR,

and interpretation of the provisions of followed by practical cases of European Court of Human Rights (ECHR) and ways to implement its provisions by the national courts.

During this training were also treated cases from Constitutional Court practice having effect on the regular judiciary. Whereas with the broad explanation and substantive debate was reached to elaborate the role of the ECHR jurisprudence and the Constitutional Court on the implementation of the ECHR provisions. Through discussion and examples were also elaborated the rights deriving from ECHR and important decisions of ECHR jurisprudence that have value and are mandatory for judges and prosecutors of the Republic of Kosovo as an European legal circle.

Beneficiaries of this training were judges of the Appellate Court and Basic Courts.



## Criminal liability for copyright infringement

On 13-14 October 2016, KJI in cooperation with the Office of Copyright and Related Rights within Ministry of Culture, Youth and Sports of Kosovo and with the support of TAIEX conducted training on: "Criminal liability for copyright infringement".

The purpose of this training was to explain in detail the offenses against copyright infringement under the Criminal Code of the Republic of Kosovo, and to analyze some of the forms of these offenses that often appear in the court practice.

Issues addressed during this training dealt with the concept of protection of intellectual property, copyright and related rights. At the same time, were made analytical and substantive reviews regarding the im-

pact of digital technology on copyright and the opportunities that creates technology for people that risk and violate the copyright. Whereas, special attention was paid to the alternative approach in investigating and prosecuting copyright infringement.

The methodology applied was combined with theoretical explanations and interactive discussions followed by group work of participants.

Beneficiaries of this training were judges and prosecutors' of basic level, police investigators, customs officials from Kosovo, officials from the Ministry of Culture, Youth and Sports, lawyers from all regions of Kosovo.



## Specialized Training Program on Capacity Development in Combating Corruption Session III

On 14-15 October 2016, the Kosovo Judicial Institute with the support of GIZ conducted the third training session on: "Specialized Training Program on Capacity Development in Combating Corruption".

The training aimed to advance the knowledge of participants on preparation of criminal cases by the prosecutor when representing in court, as well as judges in analyzing, preparing and conducting the trial.

In this session were elaborated the method of preparation of materials related to covert measures of technical surveillance and investigation in detection of corruption, types, conditions and persons competent to issue these measures, the content and duration of orders for issuing such measures, as well as the assistance of other bodies toward implementation of these measures, the manner of submission of the file - reports to the parties regarding these

measures.

Also during this training was discussed about the persons who should be notified if they have been subject to the technical measures of investigation and surveillance, cases dealing with cooperative witnesses and protected witnesses. As part of this training was also the comparison of EU legislation with national legislation and international best practices in combating corruption.

The training was conducted in an interactive form, where were discussed challenges and difficulties in practice faced by judges and prosecutors in their work. The training was conducted with the help of local and international experts.

Beneficiaries of this training were judges and prosecutors of basic level from different regions.



## Limitations in execution of the search Order

On 18 October 2016, Kosovo Judicial Institute, within CTP conducted training on: "Limitations on execution of the search order".

The purpose of the training consisted on the importance of advancing knowledge on implementation of the search order and consequences in case of non-implementation of legal provisions in this field, with the focus on the elaboration of the dilemmas associated with the limitations in execution of the search order.

Initially, was elaborated the issue of the right to privacy and respect of private life during the search, the request for search and its contents, procedure before the starting the search, enforcement and limitations

of state authorities during the search and search cases without court order.

Furthermore, were elaborated the evidences unrelated to the search basis and the admissibility of evidence obtained during the search.

During the training was applied combined method of presentation, theoretical explanations, experiences and interactive discussions on practical problems and division into groups for presenting case studies to identify violations of the order while applying the search.

Beneficiaries of this training were judges of basic level, professional associates and officials from Kosovo Police.



## Extraordinary legal remedies of the appeal

On 20 October 2016, Kosovo Judicial Institute within CTP conducted training on: "Extraordinary legal remedies of the appeal" in civil proceedings.

The training aimed to provide clarification regarding the right and opportunity to exercise extraordinary legal remedies of appeal and other concrete issues associated with these means as a last instance court for parties in civil litigation.

As part of this training was elaborated revision as an extraordinary legal remedy against the decision and judgment of the second instance and cases where revision is permitted or not. Further, in detail was also elaborated the request for retrial, the ratio

between revision and proposal for retrial, reasons based on which the party can propose repetition of the procedure and request for protection of the legality. Also during the training were addressed types of decisions when deciding on these legal remedies.

The training was conducted in an interactive form, with discussions on practical issues related to the possibility of taking action by courts of first instance on some of exceptional remedies.

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



## Specialized training program to strengthen professional capacities in combating cybercrime - Session II

On 21-22 October 2016, Kosovo Judicial Institute within the Continuous Training Program and with the support of GIZ conducted a second training session on: "Specialized training program to strengthen professional capacities in combating cybercrime".



The purpose of the training was to familiarize participants with electronic evidence,

importance and their features, how to identify and evaluate electronic evidence and how helpful are the electronic evidence in defining a criminal offense.

Within this session were addressed electronic evidence, procedure and practice, obtaining electronic evidence, risk assessment and management, combating virtual security risks as email, viruses etc.

Also during training were used methods for comparison of national legislation with international sanctions of cybercrime and international best practices in combating this phenomenon.

Beneficiaries of this training were judges and prosecutors of basic level from different regions as well as police investigators from Kosovo Police.



## Stress Management

On 25 October 2016, Kosovo Judicial Institute within CTP conducted training on: "Stress Management".

The purpose of this training was to elaborate methods and techniques for overcoming stressful situations that occur at work and during the work.

During this training were explained the methods on how to keep all emotions under control, how to limit excessive demands on an institution, how to manage unreasonable anger and frustration. During the training was also explained the role of criticism and negative opinions, coping with situations when things go wrong, the effect of the unwanted work and commitment, consequences for not using daily breaks, the impact of the lack of priorities related to with workload, how does reflect the work that is in discrepancy with the skills of a worker and the effect of using the product of work by others.

As very useful were considered handling of habits, approaches and their effects such as abandoning hobbies and individual interests, burdening with many tasks at work, delays in work, action on reasonable terms,

non-adaptation to changes, non-expression of true feelings, the effects of anger with those who are important for the employee, the ratio of bad things good things, coping with work pressure and the effect of time for recuperation.

Versatile were addressed the stress, stressors, pressure, frustration, conflict, adaptation as an attempt to deal with stress and frustration as a physical barrier, social and psychological aspect, that an individual could wield with great pain, fails to possess or to achieve the objective, which fulfills his motive.

During the training were also elaborated changes following human behavior frustration that lead to positive and negative changes. On the other hand for positive changes was emphasized that understanding that obstacles in the process of realizing its goals are common and does not lead to failure and depressing behaviors. While negative changes to a frustrated human are part of his frustrated situation.

Beneficiaries of this training were judges of basic level and KJI staff.



## Training - Alternative Punishments in Kosovo (session II)

On 25-26 October 2016, KJI in cooperation with EU Twinning Project on Strengthening of Probation and Correctional Services in Kosovo, conducted training on: "Alternative Penalties in Kosovo" (session II).

The purpose of this training was to explain in detail the alternative punishment the alternative punishments, and their effect on the socialization of the convicted person.

Within this training was elaborated the domestic legal framework for the imposition and implementation of alternative sanctions, judicial procedures to be followed in

the imposition of these sanctions, the role of the Probation Service of Kosovo and the use of alternative sentences in Kosovo and European standards and practices to alternative punishments in the EU.

The methodology applied was combined with theoretical explanations and interactive discussions between participants and trainers.

Beneficiaries of this training were judges and officials from the Kosovo Probation Service.



## Lawsuit, changing the claim and counter claim

On 27 October 2016, Kosovo Judicial Institute within CTP conducted training on: “Lawsuit, changing the claim and counter claim”.

The purpose of this training was to advance the knowledge of judges regarding the lawsuit, changing the claim and counterclaim. During this training were discussed legal provisions that regulate the lawsuit, its content, changing the claim and counterclaim, methods of application of these provisions by judges based on the case law.

Were also discussed situations and cases where the claim is incomplete and must apply Article 99 of the LCP, in which case the judge must allow filing of a counterclaim, and to what stage of the proceedings is permitted to change the claim.

During the training were addressed the content of the lawsuit, the claim assigned to the main issue and accessing requests, facts upon which the plaintiff based the request and the involvement of several claims in a lawsuit. Whilst, regarding the change of the claim were discussed issues connected with the extension of the lawsuit and filing of another request apart from the existing one, followed by explanation of cases when permitted the change the claim.

The training methods used in the training were a combination of theoretical and practical explanations accompanied by practical examples.

Beneficiaries of the training were judges of the civil division of general department of Basic Courts.



## Arbitration and the role of the court in arbitration matters

On 27 October 2016, within the Continuous Training Program (CTP), KJI organized training on "Arbitration and the role of the court in arbitration matters".

The training aimed to advance the knowledge of judges in terms of arbitration as an alternative commercial dispute resolution and to recognize the role of the court in relation to arbitration proceedings.

As part of this training was elaborated the legal framework regulating the procedure for resolving disputes through arbitration and legal protection enjoyed by the parties under national legislation. Also were addressed issues of recognition and enforce-

ment of arbitral tribunals as those local and foreign one. Special attention was paid to remedies and enforcement procedure for recognition of arbitral decisions, respectively the possibility of contesting, cancellation or refusal of the arbitration decision by the courts in Kosovo.

The methodology applied in this training was combined with theoretical explanations, and interactive discussions about dilemmas and difficulties encountered in cases of this nature handled by judges.

Beneficiaries of this training were judges of basic-level department for economic affairs and



## Bankruptcy Proceedings

On 28 October 2016, KJI within the Continuous Training Program (CTP) conducted training on: "Bankruptcy proceedings".

The training aimed to provide a detailed interpretation of the basic concepts and provisions of the new Law on Liquidation.

On this occasion were highlighted provisions governing the reorganization of legal persons in bankruptcy, bankruptcy proceedings, other entities involved in this procedure with particular emphasis on adminis-

trator bankruptcy, creditors' claims and their review, the plan of reorganization, liquidation and closure of the bankruptcy case.

Upon cleavage of the provisions of this law were provided clarification on the scope of its activity, new elements and definitions contained in this law as a priority.

Beneficiaries of this training were judges of basic and appellate level- Department on Commercial Affairs and legal officials.



## Activities from Research and Publications Program (RPP)

### EBSCO data base training

On 24 October 2016, with the support of the Association of Electronic Libraries (AEL), at the Kosovo Judicial Institute was conducted training on the access and use of data base EBSCO.

The purpose of this training was to present resources provided by this database, as well as inquiry and research techniques.

In this training, the senior expert for Cen-

tral Europe support to this database were highlighted services and information that this database provides, techniques for research and access to the full text of library materials.

The training was attended by program staff, the officials responsible for information technology and KJI librarian staff.



# Training for Administrative staff of Courts and Prosecution

## Management of the case flow

On 05 October 2016, KJI conducted training on: "Management of the case flow" for the management officials of the court and prosecution administration.

The purpose of the training was for the participants to understand the effect of good management and the importance of fair management of cases in the judicial institutions, how to avoid non-desirable scenarios, how to eliminate useless loss of time, enhance work efficiency, create a good environment at of peer and increase the level of accountability at work.

this training focused on the following topics: regulations, legal rules and practices applicable to case management, existing dilemmas and practical problems, specifics on managing the case flow in courts and prosecution offices, procedural aspects and

the practical management of the case flow and the role of each category of the staff, processing and reporting of data, respecting deadlines, monitoring and ensuring uniformity in administrative practices, the number of cases and reduce of the backlog.

The training was characterized by group work of participants. All participants have been involved in the debate, presenting their teamwork and sharing their opinions depending on the practical elements of the case.

Beneficiaries of the training were: administrators of prosecution offices, administrators and assistant administrators of the courts and their branches, heads of registry and senior clerks.



## Court administrative management

On 26-27 October 2016, Kosovo Judicial Institute, as part of a training program for the administrative staff of courts and prosecution, conducted training on: "Court administrative management".

This training aimed at capacity building of participants on the implementation of their key competencies toward court administrative management, principles of a successful and great leader, the nature and importance of management and management styles as a precondition for effective management.

On the second day of training were also discussed the leadership, team building and problem solving, as well as the main characteristics of successful leaders.

During the training, participants were divided into groups and worked on practical cases based on SMART formula.

Beneficiaries of the training were the court and prosecution administrators.



## Other activities

### Learning by doing

On 04 October 2016, Kosovo Judicial Institute in cooperation with the Twinning Project "Further support to legal education reform", conducted a workshop on: "Learning by doing".

The purpose of this workshop was to gather information on participant's expectations regarding judicial training in Kosovo and earlier identification of problems and ideas for future improvements.

On the occasion of this workshop by international experts as well as by the partici-

pants of this workshop was highlighted the importance of lifelong learning which for courts was deemed as necessary. Furthermore, participants were divided into working groups where they worked on the strategic development of human resources with adequate training and successful formats of adequate training for newly appointed judges and prosecutors, training needs assessment, means and training methods.

Participants in this workshop were trainers and KJI staff.



## Regional workshop for judicial training curricula on cybercrime, electronic evidence and proceeds of crime via Internet

On 11-12 October 2016 in Zagreb, Croatia, within the IPROCEEDS project was conducted a "Regional workshop for judicial training curricula on cybercrime, electronic evidence and proceeds of crime via Internet".

The purpose of this workshop was to present and discuss the current state of judicial training curricula on cybercrime, electronic evidence and the income via the Internet in countries of Southeast Europe and Turkey.

Initially, the participating countries in this workshop presented the current state of training curricula in the field of cybercrime and electronic evidence related to financial investigations and measures against money laundering and online income. Also during this workshop were presented the achievements, challenges and the actual needs of judicial training institutions in providing adequate trainings in the respective field.

Furthermore, the work of this workshop focused on the elaboration of training courses on cybercrime, electronic evidence and proceeds of crime via Internet, as basics as also the advanced one, which were prepared and presented by experts from the Council of Europe. The content of these modules was discussed together with the delegations of the participating countries, where were given recommendations for additional elements that would complete the training curricula.

This workshop was attended by regional country teams from Southeast Europe and Turkey, while the as part of the Kosovo team was also a representative of the Kosovo Judicial Institute, which presented the KJI training curriculum, challenges and current needs in terms of promotion and provision of appropriate training programs in this field.



## Coordination between KJI and KPC on the initial training for prosecutors

On 13 October 2016, in the framework of institutional cooperation, Mr. Besim Morina Act. Director of Kosovo Judicial Institute,



tute, held a meeting with the Head of Kosovo Prosecutorial Council Mr. Blerim Isufaj and Director of the Secretariat Mr.

Lavdim Krasniqi.

The topic of discussion was cooperation in coordinating activities between the Kosovo Judicial Institute and the Kosovo Prosecutorial Council, where in particular was discussed the preparation of the initial training program for the new prosecutors to be recruited by the KPC.

Representatives of both institutions agreed to prepare a training program based on the needs of prosecutors and recommendations by Kosovo Prosecutorial Council and State Prosecutor's office.

## Internship program at the Kosovo Judicial Institute

In the context of cooperation between Kosovo Judicial Institute and institutions of higher education in Kosovo, two students from the "Illyria" University have attended and successfully completed the internship program,

Throughout the internship period the students had the opportunity to learn closely the activities of KJI, get acquainted with

the functioning of the judicial and prosecutorial system, benefit from participation in KJI's trainings as well as to assist in drafting of reports, preparation of trainings and various activities organized by KJI.

Upon successful completion of the internship, Acting Director of KJI has distributed certificates to the student interns.



## International Congress for Justice

On 17-19 October 2016, under the organization of the Ministry of Justice of Turkey, Istanbul has been developed an "International Congress for Justice", the purpose of which was to increase judicial cooperation and facilitate the functioning of the judiciary.

Among the topics that were discussed by European justice experts were: alternative dispute resolution, acceleration or reduction of court proceedings, judicial training, constitutional structure, prosecution and effective investigation, international, bilateral and multilateral treaties, legal reme-

dies in criminal proceedings, international justice immunity, the rights of victims and many other topics.

This three-day program was attended by judges, prosecutors, lawyers and representatives of the justice system institutions of 48 countries.

The work of this congress was also attended by a delegation of representatives from the justice institutions of Kosovo, such as the President of the Supreme Court, Chairman of the Kosovo Judicial



## Workshop on Development of Training Program for 2017

On 28-29 October 2016, KJI with the support of UNDP conducted a workshop on: "Development of Training Program for 2017".

The purpose of this workshop was that based on the needs assessment process for training conducted by KJI, to set the topics that have been proposed to be part of the training program and to develop KJI training program for 2017.

KJI training program will be a one-year program and will include topics of legal, professional and interdisciplinary character. This program reflects the needs of judges and prosecutors as well as raised policies and strategies for the judiciary.

During the workshop trainers initially analyzed the proposals issued by KJI mecha-

nisms used for training needs assessment, and based on the request of KJI on general structure of the training program defined priority topics to be addressed during 2017.

Based on the structure defined for the annual training program has been drafted the concept of each training based on the challenges and problems encountered in judicial practice. The concept of each topic includes the aim which describes the topic, highlights dilemmas and describes the approach in addressing these dilemmas during the training. It also contains the concept of training content and the beneficiaries.

Participants in this workshop were KJI trainers among the judges and the prosecutors.



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

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