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May 2017

Activities from Continuous Training Program (CTP)

War crimes

On May 3-4th 2017, Academy of Justice conducted training on the topic of War Crimes.

Purpose of this training was that through presentation of best practices, discussions and elaboration of cases, to increase and extend the participant's professional knowledge and capacities in matters related to investigation and trial of war crime cases.

The training elaborated on issues related to investigation and trial of war crime cases, the commanding criminal liability in the war crime cases, as well as investigation and obtaining of evidence on war crimes.

It was also discussed about issues pertaining to investigation of war crimes according to the international criminal law, liability in the international criminal legislation, obstacles and challenges in the investigation stage and in the stage

of evidence collection, and trial of these crimes. During the training participants discussed on cases from the court case law, focusing on utilization of evidence, their definition according to categories, selection of targets, building cases and use of witnesses.

The training was provided in form of interactive discussions, where the participants could present their challenges and difficulties they face in practice during investigation and trial of war crime cases.

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

This training was delivered with the support of international experts, EULEX prosecutors who were engaged as trainers



Monetary annuity - its types and determination

On May 5th 2017, Academy of Justice within its Continuous Training Program conducted training on the monetary annuity, its types and determination.

This training aimed to extend the civil law



judges knowledge related to the monetary annuity and correct application of legal provisions related to it.

First part of the training elaborated on understanding the monetary annuity and terms to be met for this category of the damage and beneficiaries of the monetary annuity. While second part of the training, elaborated on ways of assessment, setting the amount and form of the monetary annuity realization, and on the case law.

This training also elaborated on correct application of the Law on Obligational Relationship provisions (LOR) that regulate types of damages, with particular emphasis on the monetary annuity, terms to be met for this damage category, beneficiaries of the monetary annuity, setting its weight, and forms of realizing the monetary annuity.

This topic was of high interest for the participants, considering the fact that in case law there are frequent disputes because of damage compensations, and one of the material damage categories is the monetary annuity as well. The Monetary annuity as a form of damage compensation is often a challenge for the court, in the sense of setting its weight. Besides this, another challenge is ways of proving and forms of its execution.

The training was delivered using combined forms of teaching, using theoretical and practical explanations followed by examples from the case law.

Beneficiaries of the training were judges of the Appeals Court, judges of civil divisions of Basic Courts, and professional Associates.



Joint investigation teams

On May 10-12th 2017, Academy of Justice in cooperation with the EU funded project “International Legal Cooperation in Criminal Justice”, implemented by the Western Balkans Prosecutors' Network conducted the workshop on Joint Investigation Teams.

Purpose of the workshop was to enable the participants acquaint with the legal terms to be met in order to reach an agreement between two or more states or authorities competent for investigation of specific criminal offence.

The first session talked about basic elements for investigation teams, how to estimate the international element of a cross-border criminal activity, how to prepare and sign formal agreement by competent authorities, how to conduct joint investigations, what are existing methods of joint investigation for combating effectively serious cross-border crimes, as well as ways of prompt and more efficient international cooperation between authorities of different states.

The second session elaborated on the time element of joint investigation teams, establishing investigation teams for certain time periods, covert measures limited with set timelines and different time periods, then how these limitations reflect on the agreement of joint investigation teams, as well as the operational plan.

This session also covered the procedure for establishing a joint investigation team, how to determine the criminal offence, as well as how to contact with foreign authorities – agreement for the main element.

This was an interactive workshop, with few simulated cases for provision of cooperation between two or more states or other authorities competent for investigation of a specific criminal offence.

Beneficiaries of this training were prosecutors of serious crime’ departments, as well as investigation police official from the Kosovo Police.



Diversion Measures

On May 11th 2017, Academy of Justice with the support of UNICEF conducted training on the criminal area of Justice for Children on the topic of Diversion Measures.

The training took place with the purpose of enabling participants to increase their knowledge and skills in correct application of domestic legal provisions, and familiarization with international standards that derive from the UN Convention on the Rights of the Child, in the sense of harmonizing the court practices when imposing diversion measures.

This training initially elaborated on the purpose of diversion measures, terms for imposing them, against whom and for what offences they are imposed, adequate diversion measures for specific situations, types of diversion measures and competent bodies for imposing diversion

measures.

Furthermore, it was discussed about the age limit of criminal liability, the procedure, the possibility of imposing sanctions – punishment or measures against children, as well as novelties and proposed changes for the Juvenile Justice Code.

Training was delivered in form of interactive discussions of participating judges and prosecutors, who raised their dilemmas and uncertainties pertaining to interpretation and implementation of provisions in the process of bringing judgment by courts, including examples from the case law.

Beneficiaries of this training were judges and prosecutors of the basic instance from the Juvenile departments.



Specialized Training Program for Strengthening Professional Capacities in Combating Cyber Crime - Session I

On May 12-13 2017, Academy of Justice within its Continuous Training Program conducted Specialized Training for Strengthening Capacities in Combating Cybercrime – Session I”.

Purpose of this training was to increase and strengthen the participant’s knowledge with key elements and tendencies of the cybercrime in order to build and empower professional capacities in combating this negative phenomenon.

First day of the training was dedicated to legal framework on cybercrime, risks and threats in front of the nowadays society from the cybercrime. Focus of this session was elaboration of the computer systems and its functioning in general, malware computer programs and difficul-

ties in tracking and discovery of cybercrime.

Furthermore, this training presented forms of criminal offences in the area of cybercrime, which according to the presented data for Kosovo, mainly target user accounts, banking system and web pages on Internet.

It was also discussed about main problems related to prosecution of these crimes, child pornography as one form of offences of this nature, and computer terrorism as a global phenomenon.

Beneficiaries of this training were judges and prosecutors from the basic and appellate instances.



Stress management

On May 17-18 2017, Academy of Justice within its Continuous Training Program conducted training on Stress Management.

Purpose of this training was to apply best practices related to successful stress management which has direct impact on the working results.

First day of the training session elaborated on the meaning and importance of the time management, identification of bad elements which increase the stress level. The trainers put particular emphasis on the role of critiques and negative opinions, facing situations when things don't go well, effect of the unwanted tasks and assignments, consequences of not using the daily breaks, how does lack of priorities impact on the work overload, what is reflection of situations when the work does not match the employees skills, and effect when the work product is used by others.

Second day of this training elaborated on the stress, stress factors, pressure, disappointment, conflict, and adjusting as an effort to face stress and disappointment as obstacles of physical, social and psychological nature, that the individual may master - or does not master them - with huge efforts in order to achieve the goal which fills his/her motive.

It was also discussed about changes that come as a result of demoralized person, which may be positive changes or negative changes. Related to positive changes – it was highlighted that they have to do when a person learns that obstacles in the process of accomplishing their goals are ordinary and it doesn't mean that they hinder you, or bring any failure. Whilst, the negative changes occur from the persons' demoralized state.

Beneficiaries of this training were judges and prosecutors of the basic instance.



Investigation and Adjudication of Cases Involving Foreign Terrorist Fighters (FTF) in South-Eastern Europe

On May 17-18 2017, Academy of Justice with the support of the US Embassy and in cooperation with the United Nations Office on Drugs and Crime – UNODC, conducted training on Investigation and Adjudication of Cases Involving Foreign Terrorist Fighters (FTF) in South-Eastern Europe.

Purpose of this training is to increase professional capacities and extend knowledge of participants related to investigation and trial of cases involving foreign terrorist fighters.

National and international experts at this training elaborated on the legal framework and domestic and international practices pertaining to terrorism, challenges and difficulties, elements of the foreign terrorist fighters' offences, as well as investigation of offences that are related to foreign terrorist fighters.

Particular attention was paid to international le-

gal cooperation, as the crime has exceeded internal borders and has taken international dimensions. As such, it cannot be fought alone effectively considering the freedom of movement, where persons travel from one state to another with the purpose of committing, planning or preparation of terrorist acts. As a result, countries need to take additional measures in order to prevent it, and undertake administrative measures, investigate, adjudicate and pay particular attention to resocialization and rehabilitation of these persons after serving the punishment.

The training was interactive, and particular parts of the training were accompanied with videos and different case studies.

Beneficiaries of this training were judges and prosecutors of the basic instance, as well as investigation police officials from the Kosovo Police.



Handling cases of domestic violence

On May 18-19 2017, Academy of Justice within its Continuous Training Program with the support of OSCE conducted two regional trainings on the topic of “Handling cases of domestic violence”.



Purpose of these trainings was to increase knowledge of the participants about legal provisions of the Law on domestic Violence, and on handling cases of domestic violence in the most professional way.

At the trainings it was elaborated on ways to create the case at the investigation stage by the police, inclusion of the Victims Advocates and Assistance Office, investigation by the State Prosecutor, and the trial stage. It was further elaborat-

ed on dilemmas that judges have during examination of these cases, particularly in relation to the standard operation procedures for protection from domestic violence, precise application of legal provisions related to the procedure and timelines to decide upon writs and requests for protection order.

Furthermore, it was discussed about procedures for bringing judgments on requests for protection orders, types of protection measures and their extent, execution and consequences of not executing the protection order.

Through presentation of practical examples from the case law, and the group discussions, participants were provided alternatives to their problems and practical difficulties, with adequate elaboration of the domestic violence cases.

Beneficiaries of these trainings were judges, prosecutors and professional associates, police representatives that deal with domestic violence, as well as victim protection officials from Mitrovica and Prizren regions.



Administration of evidence in minor offence proceeding – leading principles

On May 24th 2017, Academy of Justice within its Continuous Training Program conducted a training in the minor offence area with the following topic “Administration of evidence in minor offence proceeding – leading principles”.

Purpose of this training was to explain in details the evidence administration in minor offence proceedings, identify and assess evidence in these proceedings and their effect in bringing a just and legally grounded decision.

The training focused on the following: initiation of the minor offence proceeding, administration of evidence, legal leading principles during administration of evidence, understanding the facts, the evidence and arguments, obtaining evi-

dence, the scene, interrogation of the defendant, interrogation of witnesses, questions related to crucial facts, confrontation, the purpose and planning of confrontation.

Training involved the participants into working groups. All the participants were involved in discussions, presentation of the group’s work providing their opinions depending on elements of the practical case.

Beneficiaries of this training were judges from the minor offence departments of Basic Courts from different regions of Kosovo.



Cross-border asset confiscation

During May 25-26th 2017, Academy of Justice in cooperation with the EU funded project “International Legal Cooperation in Criminal Justice”, implemented by the Western Balkans Prosecutors' Network, conducted the workshop on Cross-border Asset Confiscation.

The workshop focused on national and international legal framework pertaining to administration and determination of the frozen or confiscated assets with international element, including the methodology to be used in confiscating proceeds of crime.

Initially, the national trainers presented an overview of the actual situation of asset confiscation in Kosovo, and it continued further by international trainers who elaborated on developments of the cross-border crimes and confiscations, as well as on issues of confiscation in cases on non-punishment. Also, particular emphasis was given to the Law No.04/L-140 on Extended Powers for Confiscation of Assets Acquired by Criminal Offence, the actual practices and difficulties of

applying this law in practice, as well as distinctions of the extended powers between the national and German legislations, with the purpose of unifying practices for asset confiscation cases. The workshop was delivered through theoretical lecturing parts and analysis of the case law, as well as in working group assignments.



Beneficiaries of this workshop were judges of the Appeals Court, judges and prosecutors of the basic instance and Kosovo Police officials, Kosovo Customs and the Financial Investigation Unit.



Indictment

On May 26th 2017, Academy of Justice within its Continuous Training Program conducted training on the Indictment.

Purpose of this training was that through discussions and presentation of best practices, to extend the participants knowledge how to write and present in court the accusatory act in the highest possible professional level.



This training elaborated on the indictment which is a procedural act that the state prosecutor practices against perpetrators of criminal offences when there is a well-grounded suspicion as a result of the conducted investigation. Main emphasis was given to importance of this accusatory

act, which is the fact that it puts the criminal proceeding into motion and opens the way for the court to sanction the criminal offence perpetrators.

Initially, at the training it was discussed about the fact that a large number of indictments are dismissed by courts, because they are not in compliance with the foreseen legal terms therefore, elaboration of this topic is of particular importance for the work of prosecutors, for the fact that their entire work is finalized with the filing of the accusatory act.

The training was conducted in form of interactive discussions, where participants could present their challenges and difficulties they face in practice for drafting the qualitative indictment which will be accompanied with the proposed evidence with the accusatory act.

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



Pretrial reference (incidental) and the procedure according to Article 113 par. 8 of the Kosovo Constitution

On May 31st 2017, Academy of Justice with the support of UNDP conducted training on Pretrial reference (incidental) and the procedure according to Article 113 par. 8 of the Kosovo Constitution.

Purpose of this training was extending the judges knowledge related to constitutional referral, its theoretical and normative analysis focusing on provisions of the Republic of Kosovo Constitution, Law on Constitutional Court of Kosovo, Working regulation of the Constitutional Court, as well case law of the Constitutional Court and other courts in the region and other countries.

First part of the training treated the definition of the “pretrial (incidental) referral” in the constitutional doctrine, authorized subjects to refer pretrial cases, as well as timelines and referring criteria. While the second part elaborated on effects of the Constitutional Court decisions and its case

law.

This training comprehensively elaborated the constitutional referral procedure. This constitutional control mechanism, in the constitutional review theory is known as case referral or incidental referral. According to the constitutional law model in Kosovo, judges cannot decide themselves about constitutionality of a law that is necessary for their judgment. Therefore, the court can only stop the judicial proceedings and pass the case to the Constitutional Court, which will later decide if the contested law is constitutional.

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



Activities from Initial Training Program (ITP)

Activities implemented in ITP

The Academy of Justice, in terms of completing the training program, has continued to implement the planned activities within the Initial Training Program, which are being followed by newly appointed state prosecutors.

Within the activities carried out during this period, three (3) training sessions were conducted from the sub-module "Crime scheme and Forensics", where were addressed: the place of the event, the meaning and the first steps to be taken; securing the crime scheme and stages of conducting site inspection and forensics. Also, five (5) training sessions were conducted from the sub-module "Search and seizure", elaborating: Case study - Judgments of the European Court of Human Rights, provisions of the CPC and CCRK regarding seizure and sequestration, extended competencies for confiscation of assets gained through commission of a criminal offence and case studies from national case law.

Within the theoretical training, five (5) training sessions were conducted from the sub-module "Measures to ensure the presence of the defendant in the procedure", where were discussed topics such as: the summon, arrest warrant and

the promise of the defendant not to abandon the residence, forbidding the defendant to approach the designated place and certain persons, the obligation of the defendant for the nearest appearance at the police station and bail, house arrest, diversion and detention.

The constitutional law module was implemented through one (1) training, elaborating the sources of constitutional law in the Republic of Kosovo.

Sub-module "Evidence in Criminal Procedure" commenced by conducting two (2) trainings, whilst, other sessions will be conducted in the forthcoming month. Also in this period commenced the training from sub-module "Trial Advocacy Skills".

Within the framework of practical training, newly appointed prosecutors continued their practice in the respective prosecution offices according to the program schedule, under the supervision of their mentors and attended training at the following institutions: National Agency for Protection of Personal Data, Kosovo Chamber of Advocates, Kosovo Probation Service and Ombudsperson Institution.



Practical Training at the State Agency for the Protection of Personal Data

On 03 May 2017, the Academy of Justice, in cooperation with the State Agency for the Protection of Personal Data, conducted practical training for newly appointed prosecutors who are attending training within the Initial Training Program.

The purpose of this training was to deepen the knowledge of newly appointed prosecutors on the principles, the role and scope of the State Agency for Protection of Personal Data.

During the training, was presented a brief history of the establishment and development of the State Agency for the Protection of Personal Data, the legal basis and organizational struc-

ture on which the Agency performs its activities. Further, the training focused on the elaboration of issues related to the data subject's rights, sensitive personal data, the transfer of personal data, as well as the duty and role of the Personal Data Protection Officer, which functions within the frame of other institutions. The AHMDHP's official approach was of interactive character providing the opportunity to newly appointed prosecutors to present and discuss issues of common interest.

Beneficiaries of this training were the ITP newly appointed prosecutors generation IV.



Practical training at Kosovo Chamber of Advocates

On 10 May 2017, the Academy of Justice within the Initial Training Program, conducted training of newly appointed prosecutors at the Kosovo Chamber of Advocates.

The purpose of this training was to inform newly appointed prosecutors about the forms of internal organization and functioning of the Kosovo Chamber of Advocates as an independent public organization.

Initially, the Director of Kosovo Chamber of Advocates presented the duties of staff administration practitioners of the Chamber, by meeting each and discussing and presenting the functions and duties they perform.

Further, the training continued in the training center for advocates, whereby the legislation /

legal basis of establishment and functioning, the regional bodies and branches, as well as the competencies of the Council were presented for participants. Also during this training was elaborated the role and functioning of the Training Center for advocates, as well as training programs provided by this center.

Newly appointed prosecutors, in the latter part of the training, were divided into working groups, and worked on a practical case from Professional Ethics.

The training was interactive, where newly appointed prosecutors raised discussions and questions about issues of common interest. Beneficiaries of this training were the ITP newly appointed prosecutors generation IV.



Practical Training at Kosovo Probation Service

On 17 May 2017, within the framework of practical training in non-judicial institutions, the Academy of Justice in cooperation with the Kosovo Probation Service conducted training for newly appointed prosecutors in for this institution.

The purpose of this training was to deepen the knowledge of newly appointed prosecutors about the mandate, organizational structure and practical work developed by the Kosovo Probation Service.

Officials delegated by the Kosovo Probation Service initially presented a short history of the establishment and development of the KPS, the legal framework of its mandate and the organi-

zational structure, including the role and organization of the Central Directorate and KPS Regional Offices. Furthermore, statistics on processed materials were presented by the KPS in general, addressing comparative aspects for different categories in recent years. Also, within this training was discussed the current cooperation of KPS with the prosecution offices and other institutions, whereby newly appointed prosecutors, together with KPS officials, discussed about the possibilities of mutual cooperation in the future.

Beneficiaries of this training were the ITP newly appointed prosecutors generation IV.



Practical Training at Ombudsperson Institution

On 24 May 2017, the Academy of Justice in cooperation with the Ombudsperson Institution organized training in this institution for the newly appointed prosecutors of ITP, IV generation.

The purpose of the training was to provide newly appointed prosecutors with a clear view of the mandate, the role, organizational structure and challenges faced by the OPI.

Initially, the Ombudsperson presented a brief history on the establishment and development of the People's Advocate Institution, the legal framework and the competencies of the OPI according to the applicable legislation on which this institution exercises its mandate, as well as the challenges they face and difficulties encountered in inter-institutional cooperation and the respect of the recommendations given by the OPI to public institutions.

In addition, was elaborated the internal appeals procedure lodged to OPI, including citizen complaints directed against the judiciary, the work of the National Mechanism for Prevention of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishments, and the relationship of the People's Advocate Institution with the judicial and prosecutorial system.

Newly appointed prosecutors during the course of this training were given the opportunity to discuss and ask questions about issues related to the work of the People's Advocate Office and the work of the prosecutor's office. In this context, they were divided into groups where they had to work on a practical case.

Beneficiaries of this training were the ITP newly appointed prosecutors generation IV.



Activities of the Research and Publication Program (RPP)

Roundtable with Judges of the Appeal Court

On 17-18 May 2017, the Academy of Justice, with the support of UNDP, conducted a roundtable discussion with judges of the Court of Appeal for reviewing the Court of Appeal case law, particularly procedural and material civil cases, where the courts of the first instance fail to make fair and lawful decision.



This round table intended to provide a contribution in changing the course of the cases which are returned to the court review, through

a manual or summary that will come as result of a research and identification of problematic issues from a group of judges who are engaged in respective research project.

For two days, judges from these departments individually presented the most common cases coming from first instance courts which, due to procedural and substantive violations, should be returned to court review. In this context were identified topics that will be discussed, summarized in a document that will serve the first instance judges as a case-by-case reference.

This round table was attended by the President of the Court of Appeal and other judges from the General Department - Civil Division, Department for Administrative Affairs and Department for Commercial Affairs.



Other Activities

Legal Writing and Reasoning

On 19 May 2017, the Academy of Justice, within the framework of trainings for the administrative staff of courts and prosecution offices, organized a training on "Legal Writing and Reasoning".

The purpose of this training was to assist participants in drafting various legal decisions and providing access and unified standards for drafting of all types of acts and documents of courts and prosecution offices.

This training focused on drafting, clear, logical and well-summarized documents based on IRAC methods, as a simple and logical methods for solving legal matters in order to communicate verbal and written legal reasoning during all phases of court proceedings.

During this training were elaborated the types decisions, documents and court and prosecution press releases, procedures for their elaboration, standards, forms and applicable procedures, gap

analysis, case work, record keeping, communication flow and reporting, as well as the importance of using correct language and official standard correspondence.

During this training were elaborated the types of acts, documents and press releases of courts, prosecution offices and procedures for their elaboration, standards, formats and applicable procedures - gap analysis, case work, record keeping, communication flow and reporting, And the importance of using the correct language and the standard of official correspondence.

Training methodology was based on interactive discussions by discussing cases other than judicial practice.

Beneficiaries of this training were professional associates and legal officers of courts and prosecution offices of various levels.



Workshop for drafting by laws of the Academy

On 22, 23 and 24 May 2017, the Academy of Justice conducted a workshop for drafting by laws resulting from the entry into force of the Law on the Academy of Justice.

During this workshop, the Commission together with the working group from the Academy's staff identified the bylaws determined by the Law on the Academy of Justice and were initially defined in the following first acts: Regulation on the Work of the Managing Board, Regulation on the Initial Training Program and the Regulation on Trainers and Mentors.

Other bylaws defined by this law were decided to be the focus of the next workshop in order to

respect the time limit set by the law.

After analyzing and discussing numerous issues, the commission took into account the principles and standards for drafting legal norms for the purpose of better functioning and their practical implementation.

Bylaws that were finalized to be submitted for approval by the Managing Board are the Regulation on the Work of the Managing Board, Regulation on the Initial Training Program, whereas the draft of the Regulation for Trainers and Mentors remained to be completed during the forthcoming workshop.



Advancement of the performance on the administration of the prosecutorial system

On 30-31 May 2017, the Academy of Justice in cooperation with the Kosovo Prosecutorial Council conducted training on: “Advancing the performance on the administration of the prosecutorial system”.

The purpose of the training was to raise the awareness of the beneficiaries regarding the new management concepts adopted with the spirit of legal changes and the restructuring of the Prosecutorial Council Secretariat which has created a new vision for the policy-making process and the provision of services within the prosecutorial system.

Through group work and discussions, were elaborated principles such proactive approach to service delivery, effective and efficient planning, including policy proposals discussions for advancement of the effective administration of

the prosecutorial system.

Moreover, the focus of the training lied on further advancement of the performance evaluation system which presents one of the crucial aspects in the efficient administration of the justice system and which directly impacts the accountability and motivation of the staff in providing qualitative services.

Beneficiaries of this training were heads of organizational units of the Secretariat (departments, divisions and offices) and administrators of prosecution offices.

Beneficiaries of this training were the leaders of the organizational units of the Secretariat (departments, divisions and offices) as well as prosecutors' offices.



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