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July 2019

Activities from Continuous Training Program (CTP)

Law on Business Organizations

On July 02, 2019, the Academy of Justice within the framework of CTP organized a training on "Law on Business Organizations".

The purpose of this training was to enhance the knowledge of judges on the effective implementation of the Law on Business Organizations.



The first part of the training covered: the main purposes of the law and its scope, ways of establishing and extinction of business organizations and the legal consequences they create. The second part dealt with: the organizational manner, capital structure, and the rights and obligations of owners, company officials, their representatives and third parties, as well as legal procedures and their application to the protection of the resulting rights from business organizations.

On the occasion of this training it was emphasized that business organizations are the bearers of economic development in countries with market economies. In this regard, the Republic of Kosovo has taken various measures to provide the necessary infrastructure to create the preconditions for business development by adopting the Law on Business Organizations which constitutes a good basis for establishing a market economy and enabling foreign investments in Kosovo. This law defines the types of business organizations, conditions of registration, estab-

lishment and extinction of the organizations, the rights and obligations of owners, officials of companies, their representatives.

It was further emphasized that the case law shows that the number of disputes arising from the business activity of business organizations is considerable, with a tendency to increase and despite the adoption of adequate legislation, the implementation of this legislation in force in this area presents a challenge, both for enterprises and businesses, as well as practitioners of the legal profession and the judicial system. In the course of these continued efforts, a number of commercial and economic laws are now applied in Kosovo.

In addition to the domestic legal framework, international legal frameworks were also highlighted in the area, such as: The United Nation Convention on Contracts for the International Sale of Goods (CISG), the New York Convention of 1958 on the Recognition and Enforcement of Foreign Decisions on Arbitration, Paris Convention for Protection of Industrial Property (20 March 1883) - the world industrial property organization, the TRIPS Agreement (world trade organization) and other international instruments.

During this training were used methods of partial and theoretical explanation, based on the case-law accompanied by exercises, interactive discussions, material provided by the trainers, case studies, analysis and elaboration of the applicable legal provisions governing this area.

Beneficiaries of this training were: judges from the Department of Commercial Affairs of the Basic Court and the Court of Appeal.

Statutory limitation under the LOR provisions

On July 03, 2019, the Academy of Justice within the CTP organized a training on “Statutory limitation under the LOR provisions”

The purpose of this training was to advance the judges' knowledge on statutory limitation as a legal institute of the Law on Obligation.

During the training were covered the following topics: General rules of statutory limitation, calculation of commencement, termination, the course of statutory limitation, withdrawing from statutory limitation and statutory limitation for specified requirements and prohibition of statutory limitation.

At first was pointed out that statutory limitation is a legal institute of the law on obligations according to which the creditor's claim cannot be fulfilled through judicial process, due to the expiry of the time within which the lawsuit had to be filed. The statutory limitation period is intended to guarantee legal certainty for creditors to protect their claims within a fixed time because it may be impossible to protect their rights through litigation, due to the expiration of their legal time. defined by law.

It was further emphasized that the legal institute of statutory limitation is considered one of the most important institutes of the law on obligation, as it ensures that mandatory legal relations are more sustainable. Creditors must be very careful that their claims are met and not allow the statutory limitation affect their binding relationships. Therefore, the statute of limitation is one of the ways of extinguishing the obligation that comes with the passive behavior of the creditor and the active behavior of the debtor.

Another conclusion was that the provisions of the LOR set out the general rule for the commencement of the statute of limitation; the statutory limitation shall commence on the first day following the day on which the creditor has been entitled to seek the fulfillment of the obligation unless otherwise provided by law for special cases. This rule has exceptions (eg requirements for one year - Article 360 of the LOR).

It was also concluded that by legal affair cannot be prescribed a longer or shorter period of statutory limitation, nor can it prescribe that the statutory limitation can stop running for a period of time. If the parties to the contract determine that the debtor has waived the statute of limitations without the expiry of the time prescribed by law, or the statute of limitations shall cease to be valid for a specified period, this clause shall have no legal effect. The debtor may not waive the statutory limitation before the statutory limitation period has exceeded.

This training used the methods of partial theoretical explanation, based on case-law, cases accompanied by exercises, interactive discussions, material provided by the trainers, case study analysis and breakdown of the applicable legal provisions governing this area.

Beneficiaries of this training were: basic court judges, Court of Appeal judges, and professional associates.

Protection of injured parties and witnesses

On July 05, 2019, the Academy of Justice within the framework of the CTP conducted a training on “Protection of injured parties and witnesses”.

The purpose of this training was to enhance the knowledge of the participants by discussing and presenting best practices, as well as by elaborating the aforementioned dilemmas in contributing to more effective protection of injured and witnesses during the trial.

During this training, the protection of the injured and witnesses was treated as a special category that is regulated by the Criminal Procedure Code of Kosovo and the Law on Witness Protection, which represent important categories in the criminal process. Primary attention was given to cases from practice, where the injured and wit-

nesses did not testify because of a sense of danger to their health, their lives and family members. It was precisely this reason that drawn the conclusion that in a criminal proceeding, the protection of the injured party and the witnesses should be given a special attention so that they do not have any outside or internal interference or concern.

The training took place in the form of interactive discussions, where participants had the opportunity to present challenges and difficulties encountered in practice.

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



Procurement procedures under the Law on Public Procurement in Kosovo in particular disputes with PRB

On July 11, 2018, the Academy of Justice, in the framework of the Continuous Training Program, organized a training on the topic: “Procurement Procedures under the Law on Public Procurement in Kosovo in particular Disputes with PRB”.

The purpose of this training was to advance the participants' knowledge of public procurement procedure, international, European standards and tendering procedures in the PRB.

The training focused on the provisions of the Law on Public Procurement, the importance of public procurement, tendering procedure, contract award, general provisions regarding the rights and obligations of the parties after the contract is concluded, as well as the administra-

tion of the contract and selection of the supervisory body.

The training also covered the conduct of procurement procedures - general provisions, initiation and initial implementation of the review procedure as well as initial review of the memo by the reviewing expert and recommendations to the PRB.

During the training, participants were able to address the dilemmas and difficulties encountered in current case law.

Beneficiaries of this training were Basic Court judges, prosecutor of Basic Prosecution and professional associates.



Specialized training program on capacity building in combating Cybercrime - Session 1

On 16-17 July 2019, the Academy of Justice in cooperation with UNDP and within the framework of the Continuous Training Program, organized the first specialized training session on capacity building in combating cybercrime.

The purpose of this training was to enhance the professional knowledge of judges and prosecutors about the nature and forms of cybercrime and offenses related to cybercrime.

The first training session began with informing participants about the brochure being prepared in cooperation with UNDP on combating cybercrime and proceeded with the legal infrastructure and relevant institutions that can help combating this phenomenon, at the local level as the National Council within the

MIA against Cybercrime, which has drafted a Strategy for 2016-2019, then the Cyber Forensics within the Kosovo Police, as well as institutions and mechanisms of international domain such as the Convention of Council of Europe on Cybercrime (Budapest Convention of 23 November 2001) and many international organizations and regional initiatives active in combating cybercrime.

The training covered cybercrime and challenges in combating it, the dilemmas and difficulties of trying cybercrime, linking this crime or using the information system to commit other related offenses.

Beneficiaries of the training were judges and prosecutors of basic instances from different regions of Kosovo.



Criminal Code and Criminal Procedure Code

On July 19-21, 2019, the Academy of Justice in cooperation with the US Legal Department / OPDAT, within the framework of the Continuous Training Program, conducted a training on “Criminal Code and Criminal Procedural Code”.



The purpose of this training was to discuss challenges that have arisen as a result of the trainings conducted so far as well as the way of organizing trainings in the future.

During the three days of training, was discussed about summarizing all the trainings on the substantive changes to the Criminal Code and the Criminal Procedural Code, taking further steps on completing the follow-up trainings and eventually changing the current training agenda as well as discussing concrete proposals and reasoning. Also during the training specific articles of the CPCR were discussed.

The training indicated that there is still a need to organize training on the Criminal Code and the Criminal Procedure Code due to the large number of judges and prosecutors and the inability to get everyone involved in the first round of training.

Beneficiaries of this training were: judges, prosecutors, law professors and lawyers.



Activities from Initial Training Program (ITP)

Activities carried out within the initial training for newly appointed judges (VII generation)

Within the initial training program for newly appointed judges (7th generation), 16 training sessions were held in July, 2 training sessions were conducted in the module: "National and International Legal Order", 14 sessions were conducted in the module: "Civil, administrative and commercial law".



From the sub module: Organization of the Judicial and Prosecutorial System, two (2) training sessions were delivered: the Council of Europe, the European Court of Human Rights and the European Convention on Human Rights, Article 2 of the European Convention on Human Rights, Article 4 of Protocol 7 of the European Convention on Human Rights, and Article 5 par.1 of the ECHR - Presumption in favor of freedom.

Within the sub module: "Property Law and Other Related Rights - Part Two, two (2) training sessions were held where judges were able to gain new insights from: loss of property rights, and right of construction (Superficies).

During the implementation of the sub module: "Non-contentious procedure" three (3) training sessions were conducted, where were discussed: General provisions of the Law on non-contentious procedure, announcement of disap-

pearance of a person, declaration of death of a person and the procedure of confirmation of death, determination of the amount of compensation for expropriated immovable property, adjustment of limbs and physical separation.

In addition to completing the theoretical training, during this period, three (3) training sessions were organized from the sub-module: "Labor Law" where the judges had the opportunity to be more widely acquainted with the topics: Labor Law Disputes under Labor Law, Labor Disputes under the Civil Servants Law, Occupational Safety and Compensation for Harm Caused at Work.

Within the sub module: "Obtaining and administering evidence in civil procedure" three (3) training sessions were conducted through a combined methodology including theoretical lectures and interactive discussions about objectives on: burden of proofs and the object of evidence, taking evidences, ensuring evidences and site inspection.

Whereas the component of the practical training for this period was implemented through the continuation of the practice by the newly appointed judges in the respective courts in accordance with the schedule set by the program. Initial training for newly appointed judges is being attended by (39) newly appointed judges, seven (7) of whom are from Serbian community.

Also, in order to fulfill the practical training program, newly appointed judges have attended training at the Kosovo Police Institution.

Activities conducted within the initial training for newly appointed prosecutors (VIII generation)

During this period, within the theoretical training, a total of 20 (twenty) training sessions were conducted, including 12 (twelve) sessions of the module: Criminal Code of the Republic of Kosovo, and 8 (eight) sessions of the module: "Criminal Procedural Code".

From the sub module: "Criminal Code - General Part" were conducted six (6) training sessions where newly appointed prosecutors had the opportunity to gain new knowledge on the following issues: Place and time of commission of the offense, unlawfulness, criminal liability, stages of the commission of the offense, function and system of criminal sanctions, the main characteristics of the execution of criminal sanctions.

While under the sub module: "Criminal Code – special part" 6 (six) training sessions were held where newly appointed prosecutors expanded their knowledge on the criminal offense and its elements.

During this period under the module: "Initial Hearing, second hearing and the main trial" 4

(four) training sessions were conducted elaborating issues such as: Preliminary procedure - filing criminal report, initiation and duration of investigation, suspension and termination of investigation, extension and re-initiation of investigations, covert and technical measures of surveillance and investigation.

Also from the sub module: "Expertise and Analysis" 4 sessions were conducted, and the following topics were discussed: Expertise as a procedural action in criminal procedure, expert and its procedural position in criminal procedure, the expertise (expert opinion) as evidence in criminal proceedings.

During this period, there were 12 days of practical training in the prosecution office in accordance with the set schedule, and 1 day visit to the Kosovo Police Institution in accordance with the schedule.

Initial training is being attended by (12) newly appointed prosecutors.



Practical training/ visit of the newly appointed judges and state prosecutors to the Kosovo Police

July 24 2019, Academy of Justice within its Initial Training Program for the newly appointed judges and prosecutors organized practical training in the Kosovo Police.



Training in this institution aimed to extend the newly appointed judges and prosecutor's knowledge about the mandate, role, structure and practical work of the Kosovo Police.

In this visit the newly appointed judges and prosecutors were initially informed about the legal basis and organizational structure of the Kosovo Police, its role, types of investigation, international cooperation in the law enforcement area,

capacity increase, and challenges that police officers face related to the work of the judge and prosecutor.

This training focused on cases of narcotics and psychotropic substances, the frequent cases that occur in border points, investigation of trafficking in human beings, and international cooperation that Kosovo has with other states.

Based on the fact that work of judges and prosecutors is closely related to the work of police, the prosecutors as well as judges had the opportunity to raise issues of interest for their work in practice, for actual cooperation and the adequate forms of future cooperation between the police and courts as well and prosecution offices on the other side.

Beneficiaries of this training were the newly appointed judges (generation VII) and the newly appointed state prosecutors (generation VIII).



Activities of the Research and Publication Program (RPP)

Legal publication launching ceremony

July 2 2019, Academy of Justice under the auspices of GIZ organized the launching ceremony of the following legal publications: Introduction to the legal system, Legal Dictionary, Guideline for the Administrative Procedure, and the Human Rights Handbook.



The present ones were addressed with opening speeches from Mr. Valon Kurtaj- Executive Director of the Academy of Justice, and GIZ Director for Kosovo - Mr. David Oberhuber.

On behalf of the authors of these publications, the audience was addressed by Prof. Dr. Haxhi Gashi, Prof. Dr. Iset Morina, President of the Appeals Court Mr. Hasan Shala, and Prof. Dr. Iliriana Islami.

Mr. Valon Kurtaj, stated among others, that these four publications will contribute to the capacity development of the judiciary and of new lawyers, particularly will facilitate the practical work. He continued with expressing gratitude to GIZ that provided support for publications and the authors work, enabling this way enrichment of the Academy of Justice's library and of our legal literature.

GIZ Director for Kosovo, Mr. David Oberhuber

in his speech talked about the four publications highlighting importance of each of them, and the opportunity for their utilization in practice by legal profession practitioners.

Authors of these publications also emphasized the significance of these publications for the entire legal community, and said that they represent a good opportunity for professional development and establishment of good practices when drafting various writs during their practical work and in the process of bringing justice. They further continued with expression of appreciation for the Academy of Justice and GIZ that enabled these publications, particularly the co-authors who have contributed in writing them.

This ceremony was attended by representatives of the German Embassy, GIZ Director for Kosovo, Court Presidents, supervisory judges, prosecutors, university professors, legal officials from different justice system institutions, students, GIZ officials and representatives of the Academy of Justice.



Activities for Administrative Staff of Courts and Prosecution Offices

Key developments in the administration of the prosecution system

On 04 and 05 July 2019, the Academy of Justice, within the framework of trainings for the judicial and prosecutorial administrative staff, conducted a training on: "Main developments in the administration of the prosecutorial system".



tem".

The purpose of this training was for the participants to understand the main developments related to the implementation of the Law on Salaries, the Law on Public Officials and to familiarize them with the developments and reform

regarding the administration of the prosecution.

During the training, participants were introduced to the concrete steps that are being taken in the framework of the reform of the prosecutorial system administration, internal and external work processes as well as the most ideal ways to have high efficiency at work.

Participants also had the opportunity to get acquainted with the reforms and developments in the administration of the State Prosecutor's Office through discussions and had the opportunity to exchange experiences and provide ideas for the functioning and strengthening of the administration of the prosecutorial system.

Beneficiaries of this training were the Administrator of the Appellate Prosecution, the Special Prosecution Office and the Administrators of Basic Prosecutions



Other Activities

Meeting of the Managing Board of the Academy of Justice

Prishtina, 05 July 2019 – were held eighteenth consecutive meetings of the Managing Board of the Academy of Justice, chaired by Mr. Alexander Lumezi, Chairman of the Managing Council - Chief State Prosecutor.

The Managing Board at this meeting, initially at the request of the Executive Director of the Academy of Justice, approved his resignation, following his appointment by the Kosovo Judicial Council as a Special Department judge within the Basic Court in Pristina.

Members of the Managing Board thanked Mr. Valon Kurtaj for his contribution over two years as Executive Director in developing AJ work process for efficient functioning and implementation of its legal mandate.

On the other hand, Mr. Kurtaj thanked the members of the AJ Board members for their continuous cooperation and support in organizing and leading the work at the Academy.

Further, the Managing Board decided on the appointment of Ms. Luljeta Hetemi - Head of Research and Publications Program in AJ as Acting Executive Director of AJ.

Also, during this meeting, the Managing Board decided to initiate the procedure for the recruitment of the Executive Director of the Academy.

At this meeting, besides the highlights, the Managing Board discussed also other important issues for the good functioning of the Academy of Justice.



Report on the first meeting of national trainers on cybercrime and electronic evidence of the Council of Europe

On July 10-12 2019, the first meeting of the Judicial Training Network on Cybercrime and electronic evidence was conducted in Strasbourg, France. This meeting was supported by the Council of Europe and was attended by judicial trainers and representatives of training institutions from over 20 countries of Europe, Africa, Latin America and Asia.



Purpose of this meeting was for judicial trainers to:

Acquaint with current international challenges and responses regarding cybercrime and electronic evidence, including relation to the Budapest Convention and the work of the T-CY;

Adjust the needs of countries that have been part of the CoE Project on judicial training on cybercrime and electronic evidence;

Determining the needs, feasibility and steps that will be undertaken on the national judicial trainer's network on cybercrime and electronic evidence.

This meeting focused on provision of the necessary skills for judges and prosecutors in the cybercrime area particularly through trainings and establish networks. Purpose of this concept is to help the judicial training institutions to develop training programs on cybercrime and electronic evidence for judges and prosecutors and integrate such programs in regular trainings of professional development.

Participants during this training shared their experiences and priority needs that relate to the area, and presented steps that shall be undertaken in relation to the national judicial trainer's network on establishing cybercrime and electronic evidence.

Beneficiaries of this training were judges and two prosecutors also trainers at the Academy of Justice, and the Acting Program Coordinator.



The Justice Academy and the GIZ sign a Memorandum of Understanding for development of joint activities for 2019-2020 and a Memorandum of Understanding on the Transfer of Ownership and Other Copyright Rights for 4 legal publications

Prishtina, 29 July 2019, A meeting was held between Ms. Luljeta Hetemi, - Acting Executive Director of the Academy of Justice and Mr. Karl Weber – Head of GIZ - Legal and Administrative Reform Project (GIZ-LARP).

At the beginning of this meeting, Mr. Weber congratulated Mrs. Luljeta for taking over the position of the Acting Executive Director of the Academy of Justice, pointing out that GIZ and he personally are available to support her during the exercise of this function.

Mrs. Hetemi thanked GIZ for the continued support that GIZ has provided to the Academy in the accomplishment of its functions.

Whereas, as a main topic of this meeting was the discussion on joint activities and the sign-

ing of the Agreement for the implementation of these activities during 2019-2020, as well as signing of several Memorandums of Understanding between AJ, GIZ and authors of publications such as: Introduction to the legal system in Kosovo, Legal Dictionary, General Administrative Procedure Handbook and the recently published Human Rights Handbook on the transfer of copyright owned by the Academy of Justice. The purpose of all this is for the accessibility of these publications to the Academy's beneficiaries and the possibility of reprint for the needs of the judiciary.

At the end of the meeting, Mr. Weber informed Ms. Hetemi that GIZ is in the process of printing some copies of these publications, due to the enormous demands of the judiciary and the legal community in general.



Internship Program at the Academy of Justice

On July 31, 2019, three new interns who have been beneficiaries of this internship program for five months have successfully completed internships at the Academy of Justice, thanks to the genuine cooperation between the Academy of Justice and UNDP.



During the internship, the young lawyers had the opportunity to learn more closely the ac-

tivities of the Academy and to get acquainted with the functioning of the judicial and prosecutorial system with a focus on the continuing and initial legal education section, as well as benefit from trainings organized by the Academy. During the internship, they also assisted the Academy staff in the preparation of various trainings and activities, contributing to efficiency and quality of the Academy's work.

After completing the internship, the Acting The Executive Director of the Academy during a cocktail, distributed certificates thanking them for their contribution and wishing them career advancement and academic preparation.



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