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Republika Kosova - Republic of Kosovo
Akademia e Drejtësisë - Akademija Pravde - Academy of Justice

INITIAL TRAINING PROGRAM
Generation VIII of newly appointed judges
2020-2021

Pristina, 2020

Initial Training Program
For newly appointed judges
2020/2021

This training program is approved by the Managing Board of the Academy of Justice on 23.06.2020



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Table of content

1. Introduction	6
2. Main Goals of the Training Program	7
3. Legal Basis	7
4. Drafting Methodology of the Training Programs	8
5. ITP structure and content	8
5.1 Aim and qualification	8
5.2 ITP Structure	8
5.3 ITP Content.....	11
5.3.1 Theoretical Training Part.....	11
5.3.2 Practical training part.....	12
5.4 Training program at non-judicial institutions	12
5.5 Mock Trials	13
5.6 Research work.....	13
6. Evaluation	13
6.1 Evaluation sample by the trainer	14
6.2 Evaluation Sample by the Mentor	15
7. Calendar and training Schedule	16
8. ITP Training Modules 2020/20210 for newly appointed judges	16
9. National and international legal order	18
9.1.1 Constitutional Law	18
9.1.2 Organization of the judicial and prosecutorial system	18
9.1.3 International Legal Cooperation in Criminal and Civil Matters	19
9.1.4 The European Union Law	20
9.1.5 European Convention on Human Rights and Freedoms.....	21
9.2 Criminal Code of the Republic of Kosovo.....	21
9.2.1 Criminal Code – General part.....	21
9.2.2 Criminal Code – special part	22
9.2.3 Cybercrime	23
9.2.4 Punitive Policy Guide	23
9.2.5 Liability of the legal persons	24
9.3 Criminal Procedural Code of the Republic of Kosovo	25
9.3.1 Pretrial Procedure	25
9.3.2 The role of the judge in pretrial procedure	26
9.3.3 Covert Measures of Investigation and Surveillance.....	27

9.6.3 Trial advocacy skills	48
9.6.4 Law on minor offences	49
9.7 Distance learning	49
9.7.1 English language.....	49
9.7.2 Information technology	49
10. Conclusion.....	50

1. Introduction

Preliminary preparation of the newly appointed judges is of particular importance. Initial training for these professionals before they begin exercising their judicial functions is considered one of the key factors in guaranteeing the independence, impartiality, professional and ethical competence of the judiciary.

Within the framework of its Mandate, the Academy of Justice organizes the initial training for the newly appointed judges and state prosecutors. The Initial Training Program (ITP) for newly appointed judges aims at developing professional capacities and practical skills of newly appointed judges and state prosecutors.

The ITP lasts 12 months and its structure is divided into two parts: theoretical training which is conducted combined with case studies from case law, simulations and other forms while the practical part is conducted in courts and prosecution offices where they are appointed under the supervision of a mentor.

The program focuses on professional capacity building of domestic and international legislation, drafting court decisions based on fact analysis, application of ethical rules, development of judicial and social skills, exchange of practices with institutions related to the work of the courts, research, organizational and management capacity, as well as development of interdisciplinary skills.

The curriculum for the eighth generation of newly appointed judges 2019/2020, will reflect developments in the judicial system, having as main objective the development of professional capacity and practical skills. The implementation of the program objectives will be based on the principle of transparency, non-discrimination, cooperation, application of the law and standards set for legal education.

The interactive methodology at the Academy of Justice will aim at least the:

- Practical training of the most important institutes in the respective fields of law,
- Discussion regarding relevant provisions in positive legislation and relevant areas,
- Discussions of cases from case law and their selection by newly appointed judges;
- Training will also include adult learning techniques, especially case-based training deriving that everything is structured around court cases.

For the implementation of this training program, accompanying documents will be drafted such as: training modules, training calendar, training schedule and presentation materials on specific topics.

This training program has been approved by the AJ Managing Board.

2. Main Goals of the Training Program

Judicial training is essential to the functioning of a professional judicial and prosecutorial system. Whereas, training for newly appointed judges is of the same importance and has been assessed as very useful and necessary, known as initial training in the judicial training terminology and is considered one of the key factors in ensuring the independence, impartiality and professional, ethical competence of the judiciary

Main goals of the initial training program for 2020 are:

- Provide an adequate training program for initial judges, based on existing knowledge of the beneficiaries;
- Establishing a training program that on competencies and duties in exercising judicial profession;
- Trainers/mentors serve as facilitators in the teaching-learning process by considering a court as an educational institution;
- Information on the work of other institutions of the justice system;
- Enable beneficiaries to be engaged in teamwork, conduct research for their professional development and make researches for development of the judicial and prosecutorial system.

3. Legal Basis

The Law on the Academy of Justice is the basic law for organizing initial training. Other provisions that define and support initial training are also found in other laws that regulate the functioning of the judicial system.

In order to implement this training program AJ, in addition to coordinating with the Kosovo Judicial Council, issues also internal rules.

Due to this purpose, AJ is based on the following:

- Law on the Academy of Justice (No. 05/L-095)
- Law on Courts (Law No. 06/L - 054)
- Law No. 06/L-055 on the Kosovo Judicial Council
- Law on Amendment and Supplementing the Law No. 03/L-223 on Kosovo Judicial Council (No. 05/L-094)
- Regulation on Initial Training Program No.03/2017
- Regulation No. 07/2017 on Amendment and Supplementing the Regulation 03/2017 on the Initial Training
- AJ Work Plan for 2020 (approved by the AJ Managing Board on: 24 December 2019);

4. Drafting Methodology of the Training Programs

For drafting of this training program were developed discussions with leading representatives of the judicial and prosecutorial system, with trainer judges, and newly appointed judges of the previous generations. Also were assessed reports of local and international institutions in Kosovo, followed by a number of mechanisms developed for training needs assessment.

Some of the steps taken to design this program are as follow:

- Consultations with the President of the Supreme Court;
- Consultations with the Head of the Kosovo Judicial Council;
- Discussions with ITP trainers;
- Questionnaires' distributed to ITP judges and prosecutors;
- Analysis of the legal structure in force;
- Practices of the training international institutions, etc.

5. ITP structure and content

5.1 Aim and qualification

General concept of aiming professional qualification of ITP participants is:

- Meeting the general requirements for the function of a judge in Kosovo;
- Competencies (knowledge, skills and attitudes) necessary for successful professional performance as judges in the judicial system in Kosovo;
- Ability to cope with demands and constant changing challenges;
- Ability to use and apply directly competencies required at work (professional, methodical, social and personal), emphasis on social and personal competencies, independent reflection on court cases, taking into account alternative procedures, convincing argumentation;
- Orientation on practical issues and awareness on the relation between legal, social and economic dimensions;
- Requirements for successful finalization (self-organization and discipline, ability to cope with high workload);

5.2 ITP Structure

The Initial Training Program duration is twelve (12) months. This duration foreseen by law enables the training to be intensive, whereas the structure of the initial training program for 2019/2020 is divided into two parts. The first part includes theoretical training combined with case studies from case law, simulations, etc., whilst the second part is the practical training accompanied by training in non-judicial institutions related to the work of judges and prosecutors.

In order to determine the structure of the initial training, it is required to initially determine the competencies of the newly appointed judges that need to be developed, respectively it is essential to know the qualities that a judge should have.

For development of the competencies of training participants, AJ is based on the following scheme:

Personal integrity and professional conduct	<ul style="list-style-type: none"> • Independence and impartiality s • Self-confidence and authenticity • Honest commitment to fair trial 	<ul style="list-style-type: none"> - Is convinced about the legal system and its quality ; - Represents its decision ; - Shows individuality and stability to the impact of its decision ; - When necessary dare to go against the prevailing views; - S clear about its expectations, sets boundaries .
Legal and judicial skills	<ul style="list-style-type: none"> • determination, adjudication, • Obedience, • Analytic abilities and the ability to judge, • Managerial responsibility, • Leadership 	<ul style="list-style-type: none"> - Take decisions based on available information; - Acts decisively when the pressure raises. <ul style="list-style-type: none"> - Provides a clear and complete meaning to the decision-making structure and the process followed by drafting of the decision; - takes the consent of the parties about the decision; - provides a full meaning to the formulated text; - percepts opinions to bring parties together and to mediate in dispute resolution; - proceeds and solve a variety of data; - systematically reviews and evaluates; - asks questions based on understanding; - discuss issues based on situations; - use logical thoughts deriving to establishment of statements up to clear and transparent reasoning; - plans and organizes its work on the case; - involve others in different important topics; - when possible allows others to add their expertise; - organize the work of the employees in most efficient way; - inform others about the progress of the work; - regulates procedures (content, quality and timing) if required.
Professional commitment	<ul style="list-style-type: none"> • Ability to manage the office, 	<ul style="list-style-type: none"> - Develop organizational and leading capacities to lead interrogation sessions and meetings.

- Ability to learn and self-reflect
 - Ability to cooperate
 - Flexibility and ability to deal with the workload
- Is open to feedback from others and dedicated to learning;
 - Is curious, actively seeks new innovations and/or new situations;
 - Ready to take part in professional education and engages in regular training to enhance professional capacities on national and international legislation,
 - Is open to collaboration with others;
 - Takes initiatives and uses the opportunity to share knowledge, supports and consults with others to improve the quality and efficiency of the justice; e
 - Change practices with work-related institutions of courts and prosecution offices;

Social awareness

- Listening and communication
 - Suitability
 - Obedience
 - Awareness of social environment
- Understands the situation of others, makes personal contact and motivates, - active listening – gives the impression to others that their contribution is received;
 - Adjusts the approach when the situation changes or it dictates, adopts to specific and different circumstances;
 - Gives a full and clear understanding to the structure of decision making and to the process followed in drafting of decision;
 - Gives a full meaning to the formulated text;
 - percepts opinions to bring parties together and to mediate in dispute resolution.
 - Has a tendency for social developments and forms its own image under the law;
 - Seeks for old, new and contradictory information, different perspectives that may affect the decision and the procedure;
 - Shows awareness to the impact of different circumstances and parties;
 - Assesses the impact of their role and position in social context, takes that into consideration and keeps the distance;
 - Has knowledge on socio-economic context, where functions are practiced.

The ITP is conceptualized and framed as a professional qualification program, based on competence, modulated and workplace oriented, which integrates theoretical and practical teaching elements. It is specially designed for the initial professional development of judges. It is a combination of practical and theoretical phases as well as instructional and self-learning phases, including elements of e-learning.

5.3 ITP Content

The content of the initial training will focus on the development of professional competencies, ethical and interdisciplinary values of the newly appointed judges with special emphasis on:

- Professional capacity building on domestic and international legislation;
- Drafting of judicial decisions based on fact analysis;
- Application of ethical rules;
- Compliance with specific circumstances and situations in performing the function of a judge/prosecutor;
- Development of judicial skills;
- Development of social skills;
- Change of practices with institutions related to the work of courts and prosecution offices;
- Development of research, managerial and organizational capacities;
- Development of interdisciplinary skills.

These competencies will be developed through modules which are attached as an annex to this program, practical training, programs in non-judicial institutions related to the work of courts and prosecutors as well as practical work assigned by trainers or mentors.

5.3.1 Theoretical Training Part

This part, the training takes place in a theoretical way combined with cases from judicial practice, based on training modules and including training for all branches of law, as well as national positive laws, Acquis Communautaire, the European Convention on Human Rights and other international Acts.

The amount of working hours scheduled for each of the modules that will be conducted through a combination of practical training is determined by:

- Content of the training module;
- The nature and difficulty of the module;
- Type of module and its relevance to judicial/ prosecution case law;

In general training program of each module contains at least a certain number of training sessions implemented in accordance with the work plan.

Within professional training program, besides professional modules and those of interdisciplinary character, additional modules have been included that will be implemented through distance learning platform.

5.3.2 Practical training part

The practical training takes place at the courts. Whereas, the training is conducted under the supervision of a mentor (judge), who supervises implementation of the training program as outlined in this manual and training program evaluating also the beneficiary during the training. The program includes practical professional issues in terms of the rules of communication, case management, ethics and other issues of interest to the practical character of the beneficiary. During this training, the newly appointed judge may assist the judge in exercising his or her function, participate in judicial activities in the course of his / her practice, but always under the guidance of a mentor.

The practical training program is implemented based on the "Practical Training Manual" which contains the training program to be followed by the newly appointed judges and specifies the duties and responsibilities of mentors and beneficiaries during the practical training. The manual is part of this training program.

The purpose of this manual is to outline the role and responsibilities of mentors and beneficiaries during the ITP practice (mentoring phase). The manual also describes some of the legal, ethical and interdisciplinary competencies that internship program participants should acquire during the internship.

Mentors were also have been provided with ideas on how to expose beneficiaries to a wide range of topics that would prepare them to take up their official duties upon completion of the initial training. The focus of the manual and internship program is to emphasize the importance of providing real practical experience to beneficiaries in developing their skills, ranging from professional, legal writing, critical thinking, ethics, communication rules, case management and many others of a practical nature of interest to the beneficiaries.

Also during the internship, newly appointed judges will attend a special training module which is to be implemented alongside the practical training. This module deals with the development of beneficiaries' judicial skills based on the amendments of the Criminal Procedural Code regarding the interrogation and managing the main trial. In particular, special attention will be paid to increasing capacities on the opening statement, direct, indirect and cross examination, impeachment, rehabilitation and closing statement.

During this part of the training, participants may also follow trainings on distance learning platform and various practical programs to non-judicial institutions.

At the end of this training, the mentors provide an assessment of the beneficiaries, including their overall performance during the training, and practical work in terms of professionalism adhering to the schedule, etc.

5.4 Training program at non - judicial institutions

In addition to practical training in courts, newly appointed judges will also attend training in various institutions of the justice system and outside, as related to their work. This will be possible due to the cooperation established between AJ and respective institutions.

Institutions where newly appointed judges will attend the training are as following:

- Constitutional Court
- Ombudsperson
- Kosovo Police
- Correctional Service
- Probation Service
- Kosovo Customs
- Personal Data Protection Agency
- Forensic Legal Institution

5.5 Mock Trials

In addition to traditional training methods such as interactive discussions, case studies, beneficiaries of initial training will also be involved in mock trials.

Mock trials are accomplished through selection of cases from the case law on criminal / civil field, including also elements from other areas of law.

The purpose of the mock trial is to increase abilities and expression skills, increase self-esteem, develop critical thinking and team work. Also through mock trial participants can improve the analysis and reasoning of facts, develop listening and cooperative skills, better understand the judicial system, and advance the knowledge of proving rules before the trial panel.

5.6 Research work

The research work is included within the initial training competencies; this function is implemented either through practical cases during training or in the legal magazine “Justicia”. This magazine contains different topics that address different institutes of law and various aspects of national and international legislation.

The purpose of this legal magazine, in addition to training and capacity building of beneficiaries in the field of legal writing and research, is also to provide professional support to young lawyers, judges, prosecutors and other legal professionals.

6. Evaluation

This process is carried out but not limited to, through the training attendance report, the trainers' report, the mentors' report, and the evaluation of the research papers which are summarized in a final report prepared by the AJ, which is submitted to the KJC and KPC, at the end of the training program.

Examination of the participants should be conducted according to the following system.

- ITP final testing consists of the test results of each module;

- Modular testing can be applied in different forms: written tests, verbal tests, written elaboration and presentations;
- Prerequisite for participation in the modular test is regular participation in the training and autonomous fulfillment of the requirements of the ITP during the training sessions;

The evaluation during theoretical training will be based on the above mentioned scheme regarding development of competences of the participants and based on the following scheme, while the entire process of evaluation will be based on the criteria established by law for the evaluation of judges.

6.1 Evaluation sample by the trainer

Evaluation form by the trainer for the practical work or practical cases of participants in the training, in addition to exam evaluations.

Name and last name of the judge/ state prosecutors in ITP:			Training module: Defendant in the criminal procedure		
Identification of facts	Law recognition and implementation of the law	Fact analysis	Conclusion and reasoning	Language use	General evaluation
Insufficient	Insufficient	Insufficient	Insufficient	Insufficient	Insufficient
Sufficient	Sufficient	Sufficient	Sufficient	Sufficient	Sufficient
Good	Good	Good	Good	Good	Good
Very good	Very good	Very good	Very good	Very good	Very good
The trainer's comments and recommendations where does the beneficiary need improvement:					

Date: ___ / ___ / ___

Name & Signature of the Trainer: _____

6.2 Evaluation Sample by the Mentor

	<u>Level</u>	
Ability to identify and use the deontology rules (Competence “ Personal integrity and professional conduct ”)	Achieved In progress Not achieved	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
Ability to analyze and describe a case or situation (Competence “ Legal and judicial skills ”)	Achieved In progress Not achieved	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
Ability to identify, respect and guarantee legal rules (Competence “ Legal and judicial skills ”)	Achieved In progress Not achieved	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
Ability to adjust and adapt (Competence “ Social awareness ”)	Achieved In progress Not achieved	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
Ability to adapt and show authority in specific circumstances and situation (competence “ Social awareness ”)	Achieved In progress Not achieved	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
Ability to have meaningful relationship, active listening and exchange of information (Competence “ Social awareness ”)	Achieved In progress Not achieved	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
Ability to monitor the court audience, respecting the opposing party (Competence “ Legal and judicial skills ”)	Achieved In progress Not achieved	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
Ability to find solutions and reconcile the parties (competence “ Professional integrity and professional conduct ”)	Achieved In progress Not achieved	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
Ability to take decisions based on justice and facts (Competence “ Legal and judicial skills ”)	Achieved In progress Not achieved	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
Ability to motivate, formality and explanation of decisions (Competence “ Social awareness ”)	Achieved In progress Not achieved	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
Ability to take into account institutional and national and international circumstances (Competence “ Social awareness ”)	Achieved In progress Not achieved	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
Ability to work in groups (Competence “ Professional engagement ”)	Achieved In progress Not achieved	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>
Ability to organize, manage and take initiatives (Competence “ Professional engagement ”)	Achieved In progress Not achieved	<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>

7. Calendar and training Schedule

For implementation of this program will be drafted a calendar of training activities. Initial training will be held 5 days a week. Theoretical part of the training will be conducted at AJ, while the practical training will be conducted in courts accompanied by trainings in other non-judicial institutions.

Theoretical and practical training will be conducted in a combined manner according to the model, 2 days of theoretical training in AJ and 3 days of practical training in courts. This schedule will be flexible in order to meet the theoretical training program as defined in each training module.

Training schedule and the number of training sessions have been determined in close consultation with all relevant stakeholders.

The conditions of participation in the training and absences during the training are regulated by the Regulation on Initial Training.

8. ITP Training Modules 2020/2021 for newly appointed judges

Initial training modules for newly appointed judges and sessions for each module are as follows:

Training Modules				
No.	Name of the module t	Training hours	Sub-module / subpart	No. of sessions
1.	National and international legal order	51 h	1.1 E Constitutional Law	2
			1.2 Organization of the judicial and prosecutorial system	2
			1.3 International legal cooperation in criminal and civil matters e	2
			1.4 EU Law	4
			1.5 KEDNJ a	7
2.	Criminal Code of the Republic of Kosovo	111 h	2.1 Criminal Code of Kosovo – general part	14
			2.2 Criminal Code of Kosovo – special part	13
			2.3 Cybercrime	4
			2.4 Punitive Policy Guide	4
			2.5 Liability of legal persons	2
3.	Criminal Procedural Code of the Republic of Kosovo	150 h	3.1 Pre-criminal procedure	2
			3.2 The role of the judge in criminal procedure	5
			3.3 Covert measure of surveillance and investigation	3

			3.4 General provisions – Principles, competencies and expulsion of the judge in criminal proceedings	2
			3.5 Measures to ensure the presence of the defendant in criminal procedure	1
			3.6 State prosecutor, defense counsel, defendant in criminal procedure	3
			3.7 Witnesses and injured party in criminal procedure	3
			3.8 Initial and second hearing	3
			3.9 Main trial	6
			3.10 Procedural expenses and legal property claims	1
			3.11 Procedure according to legal remedies	3
			3.12. Judgment and its types	3
			3.13 Criminal procedure of perpetrators with mental disorders	4
			3.14 Special procedures according to CPOK	3
			3.15 Evidence in criminal procedure	4
			3.16 Alternative Procedure	5
4.	Civil, administrative and commercial law	261 h	4.1 Civil Law	4
			4.2 Contested procedure – first part	12
			4.3 Contested procedure – second part	12
			4.4 Con-contested procedure	4
			4.5 Enforcement procedure	4
			4.6 Administrative Law	10
			4.7 Law on Obligation	10
			4.8 Commercial Law	9
			4.9 Property Law and other Real Rights	7
			4.10 Law on Inheritance	4
			4.11 Property Law	5
			4.12 Family Law	6
5.	Personal and interdisciplinary skills	60 h	5.1 Communication Rules	2
			5.2 Professional Ethics	4
			5.3 Case management	2
			5.4 Improving judges' social skills and stress management	4
			5.5 Reasoning of judicial decisions	8
6.	Legislation and additional skills	27 h+ 6/ (2 groups)	6.1 Juvenile Justice Code	6
			6.2 Mediation in civil matters	1
			6.3 Trial advocacy skills	
			6.4 Law on minor offence	2
7.	Distance learning		7.1 English language	
			7.2 Information Technology	

9. National and international legal order

9.1.1 Constitutional Law

This module will address the normative framework for the Constitutional Court of Kosovo, constitutional sources in Kosovo, the competencies of the Constitutional Court and the proceedings in this Court separately the procedure of incidental review of constitutionality. Also subject to this matter will be the decisions of the Constitutional Court, legal nature, types, effect and manner of their execution. All this accompanied by practical cases of the Constitutional Court of Kosovo. As provided by the Constitution and the Law on the Constitutional Court of Kosovo, the constitutional judiciary operates in only one instance and no complaint or other regular or extraordinary legal remedy can be appealed against its decisions. Decisions of the constitutional courts are binding for the judiciary and all persons and institutions of the Republic of Kosovo, therefore there is a need for their comprehensive treatment.

Among the main methods that will be used during the development of this module will be: partial theoretical explanations, cases from judicial practice; interactive discussions in separate groups, which will support and argue different positions and critical analysis of court cases. This module aims at engaging an active participation of judges and prosecutors.

This sub-module will address: Sources of constitutional law and the role of the Constitutional Court of the Republic of Kosovo, Procedure in the Constitutional Court of the Republic of Kosovo and its decisions.

Duration: Two training sessions (6 hours of training)

9.1.2 Organization of the judicial and prosecutorial system

This module will address the organization of the judicial and prosecutorial system according to the legislation in force. In this context, the role, function and competencies of the basic courts, the Basic Court of Prishtina, the Court of Appeals, the Supreme Court and the Special Chamber of the Supreme Court of Kosovo will be addressed. The module will also address the organization and structure of the prosecutorial system focusing on the role, function and competencies of the state prosecutor, the mandate, composition and election of members of the Kosovo Prosecutorial Council, following the latest legislative amendments related to the mentioned topic.

Addressing issues that are important to the newly appointed judges from the mentioned topic will be done through partial theoretical explanation, followed by practical cases, mainly related to the substantive and territorial jurisdiction, as well as the conflict of jurisdiction. Also through interactive discussions is aimed at achieving a proactive approach of the participants.

The module in its content will address: Organization of the Judicial System according to the Law on Courts, and organization of the prosecutorial system.

Duration: Two training sessions (6 hours of training).

9.13 International Legal Cooperation in Criminal and Civil Matters

International legal cooperation is considered as a necessity in nowadays as crime has transcended domestic borders and taken on an international dimension. In this increasingly interdependent world, no country can fight crime effectively without cooperation between states to prevent and detect crime. So the ability of states to help each other quickly and efficiently is of great importance.

When speaking of international legal cooperation in criminal matters, it means any form of assistance requested or provided by another state, organization or institution, in order to support criminal proceedings in matters such as: (extradition, transfer of criminal proceedings from a foreign state to the Republic of Kosovo, transfer of convicted persons from other states to the Republic of Kosovo, recognition and execution of foreign judgments in the Republic of Kosovo, domestic requests for mutual legal assistance to another state and the appearance of witnesses, experts and defendants, etc.).

While, considering the international legal cooperation in the civil field, it means the issues related to the recognition and enforcement of foreign court decisions or equivalent decisions. This topic includes, inter alia, the procedure of international legal cooperation in the civil field for requests deriving from the Republic of Kosovo, or from foreign countries to Kosovo, the role of the court and the Department for International Legal Cooperation (HRD) in this procedure, jurisdiction based of the Law on Contested Procedure and jurisdiction under the law on arbitration, international conventions governing the issue of international legal cooperation in civil matters, such as the Lugano Convention, the Hague Convention, as well as some of the most important conventions governing the issue mentioned above.

Every day more and more cases are being submitted in the courts and the prosecutor's office, starting from the provision of minimum legal aid - various petitions for obtaining a witness statement or submitting various documents / summonses or rulings, up to the extradition of wanted persons according to the request of the requesting state. Whereas, in civil matters such as - difficulties in applying foreign law, procedural issues related to cross-border document services, international legal aid and recognition and enforcement of foreign court decisions, etc.

Addressing these dilemmas in practice is of a great importance for newly appointed judges will be done through the partial theoretical explanation of the basic notions containing the legal provisions in force nationally and internationally and their application through the elaboration of practical cases. Also through interactive discussions in separate groups of participants, who will support and and argue different positions and analysis of court cases. This module also aims to encourage participants in a pro-active learning approach.

This sub-module will address: The legal basis of international legal cooperation in Kosovo in civil and criminal matters and the importance of international legal cooperation in these matters, international and EU legislation on international legal cooperation in civil and criminal matters, the role of judges and prosecutors in the proceedings in these cases, proper implementation of legal provisions in force regarding international legal cooperation in civil and criminal matters; the necessary skills of judges and prosecutors in enforcing appropriate laws on international legal cooperation in civil and criminal matters; and cases from the practice of international legal cooperation in civil and criminal matters.

Duration: Two training sessions (6 hours training)

9.1.4 The European Union Law

This sub-module aims to address cases and provide knowledge to the newly appointed judges of the Republic of Kosovo on the effect of European Union law. The focus will also be on the analysis of aspects of the application of the EU Law principles before EU membership, particularly after the entry into force of the Stabilization and Association Agreement. How will the effect of EU law be elaborated after the entry into force of the Stabilization and Association Agreement?

The Republic of Kosovo as a country of the European legal circle is currently in the phase of the European integration process where in addition to the adoption of legislation with EU standards (aque communitare) it is paying attention to reforms in the judicial system, especially that of training newly appointed judges and providing them knowledge on the European law and procedures developed e in the relevant institutions of the European Union.

This module will address the integration processes (both in terms of in-depth integration as well as enlargement) as well as in more detail the origin of the EU; familiarity with the institutions of the European Union, their role and responsibility, the nature of the EU competencies; basic knowledge of EU law (structure of the European Union Treaty, objectives and values of the European Union) familiarity with the establishment of EU law, the relation of this law with the national and international laws, as well as trial hearing procedures. The difficulties and dilemmas related to the interpretation of the effect of European law at the national level (direct and indirect effect) as well as the implementation of this law by the courts of the Republic of Kosovo after the entry into force of the Agreement on Stabilization - Association.

Addressing the dilemmas in practice, that are considered important for the newly appointed judges on the mentioned topic will be done by explaining the institutions of the European Union, their role and responsibility, clarifying the competencies of the EU; familiarity with EU law, and the relation of this law with national and international laws, as well as through the breakdown of trial hearing procedures, especially those that take place in the Court of Justice of the European Union (ECJ).

While developing this module, the methods that will be used will be as follows: partial theoretical explanations and cases from judicial practice; interactive discussions in separate groups, which will support and argue different positions and analysis of court cases. It is also intended to achieve an active participation of participants, so that they also contribute to the implementation of the objectives of the module.

This sub-module will address: The role and competencies of the institutions of the European Union, Sources of European Union Law, The Four Fundamental Freedoms in the Internal Market of the European Union, and Trial Hearings in European Union

Duration: Four training sessions (12 training hours).

9.1.5 European Convention on Human Rights and Freedoms

The European Convention on Human Rights was the first international human rights instrument aspiring a protection of a wide range of civil and political rights, both in the form of a legally binding treaty for the High Contracting Parties and by establishing an oversight system for the implementation of rights within the country.

The ECHR, as an international instrument contained in the Constitution of Kosovo, is also an integral part of the legal order of Kosovo. Interpretation and implementation of national legal norms according to the case law of the European Court of Human Rights and within the meaning of the ECHR in the Republic of Kosovo is conducted in accordance with the Constitution of the Republic of Kosovo. In the case of Kosovo, although it is not yet a party to the Convention, this is not only one of the international agreements from which certain obligations arise for the signatory states, but it is one of the most important constitutional principle as well, with which Kosovo in the Constitution has defined that: “Human rights and freedoms guaranteed by the following international agreements and instruments, are guaranteed by this Constitution, are directly applicable in the Republic of Kosovo and have priority, in case of conflict, over the provisions of laws and other acts of public institutions .

Addressing these dilemmas in practice is of a great importance for newly appointed judges will be done through the partial theoretical explanation of the basic notions contained in Articles 2, 5, 6, 8 and 10 of the ECHR and their application through the elaboration of the practical cases of the ECHR and its interpretations. Also through interactive discussions in separate groups of participants, who will support and argue different positions and analysis of court cases by the ECHR. This module also aims to achieve a pro-active approach of the participants.

This module will address: The role and importance of the Council of Europe, the European Court of Human Rights and the European Convention on Human Rights. There will also be treated comprehensively: The right to life, the right to liberty and security, the right to a fair trial, the right to respect for private and family life, and freedom of expression under the ECHR.

Duration: seven training sessions (seven hours of training).

9.2 Criminal Code of the Republic of Kosovo

9.2.1 Criminal Code – General part

The general part of the Criminal Code is the most important criminal material part. This section will address and elaborate provisions related to the basic principles of substantive criminal law. These premises aim to understand and advance the skills of newly appointed judges on the implementation of the most favorable law, the meaning of the criminal offense and the forms of criminal liability, the reasons for exclusion of liability, forms of criminal cooperation, types of criminal sanctions provided by the criminal code and their application in practice. Statutory limitation as a very important institute, legal rehabilitation and implementation of criminal legislation in terms of scope of effect and protection of legal assets of the country. Simply, the meaning and possibility of applying the provisions of the general part in practice by the newly

appointed judges would greatly facilitate the implementation of the special part of the criminal code as well as specific criminal offenses in the legal system of the country.

This training will focus on interpretation of these provisions, paying attention to the application of such provisions in practical cases, and analyzing them in the context of the elements of the concrete criminal offense that would be taken as a practical case.

It will be intended that the implementation of the general part of the criminal code be applied based on cases which raises dilemmas concerning the part of the general provisions, so that the newly appointed judges have a better understanding of how to approach the application of this part of the Criminal Code during their work.

Of crucial importance will be handling of dilemmas that arise in the practice of forms of guilt that also involve criminal liability. Then the sense of intent, carelessness, knowledge, and the purpose, these issues constantly raise dilemmas in practice, in particularly when faced by the newly appointed judges. On the other hand, sanctions and their application also raise dilemmas to some of them, whether the judge can impose some of the additional sentences without the proposal of the prosecutor. This part will be implemented in the context of practice, together with the problems encountered in practice.

This part will include the most important provisions of the general part of the code as follows: Grounds and limits of sanctions, criminal offenses and criminal liability, cooperation in the commission of criminal offenses, criminal sanctions - penalties and measures, rehabilitation and statutory limitation, as well as implementation of criminal legislation.

Duration: 14 training sessions (42 training hours)

9.2.2 Criminal Code – special part

Taking into account the volume of criminal offenses contained in the special part of the Criminal Code of the Republic of Kosovo, during this training participants will be notified about the criminal offenses which are of the greatest importance from the first moment when the newly appointed judge start working in court, so it will focus on criminal offenses that fall within the competence of handling cases by the initial judges, with special emphasis on those offenses that are more frequent in practice, in addition to the offenses that in practice are not often committed. During the training, participants will be introduced to some criminal offenses of several chapters separately, the elements of criminal offenses and who may be the perpetrator of criminal offense. They will also be notified of which criminal offenses are committed intentionally and the cases when they are committed by negligence. They will also understand the distinguishing elements in the criminal offense of the qualified form in relation to the basic qualification of each offense. It will be intended to approach these topics through combined methods of interpretive aspect and application of practical cases.

The most necessary clarifications of practical problems that consist of general problems in the application of norms, starting with understanding the specific elements of how they are met in

each case with each offense to be dealt with, building the case by presenting the dilemmas at work in order to understand how to eliminate them so that there is no unfair application of the concrete norm that incriminates the concrete criminal offense.

The special part will include some criminal offenses that fall under the competence of the initial judges, with the special emphasis on the offenses that appear most in practice, as follows: Criminal offenses against life and body, criminal offenses against freedoms and human rights, criminal offenses against employment rights, criminal offenses against sexual integrity, criminal offenses against marriage and family, criminal offenses against public health, criminal offenses against narcotics, criminal offenses against the economy, criminal offenses against property, environment, animals, plants and cultural objects, criminal offenses against the general safety of people and property, criminal offenses against weapons, general safety in public traffic, the administration of justice and administration, against public order and criminal offenses against official duty.

Duration: 13 sessions respectively 39 hours of training.

9.2.3 Cybercrime

Experience suggests that in most cases, judges and prosecutors face difficulties in coping with the new realities of the cyber world. For this reason, special efforts are needed to build the capacity of judges and prosecutors to be able to legally prosecute and adjudicate cybercrime and use electronic evidence through training, networking and specialization.

This sub-module is designed to equip judges and prosecutors with a basic level of knowledge about cybercrime and electronic evidence. The course will provide both practical and legal information on the topic and will focus on how these issues affect the day-to-day work of judges and prosecutors.

Judges and prosecutors play an important role in investigating and prosecuting individuals or groups who commit crimes. As the number of crimes containing elements of cybercrime or electronic evidence increases, so does the need for judges and prosecutors to be properly trained and understand the nature of these crimes and also to be up-to-date with legislation and instruments of international cooperation available to address these issues.

This sub-module will contain guidelines and instruments of international cooperation, which can be used during the investigation of cybercrime cases, including 24/7 use of contact points, MLA, Judicial Cooperation Activity, Judicial Cooperation Platforms, etc.

Duration: 4 training sessions or 18 hours of training.

9.2.4 Punitive Policy Guide

The Punitive Policy Guide is intended to enable the application of the methodology established by the Supreme Court of Kosovo to achieve a just purpose of the court decision when it comes

to sentencing the accused who is found guilty of the criminal offense charged. Through this guide, judges will be able to apply and weigh the circumstances of sentencing to achieve two main principles of criminal law that are also embodied in the constitutional provisions as fundamental human rights and freedoms. The first principle that will be implemented is the principle of legality, since by applying a standard methodology of aggravating and mitigating circumstances, every citizen will be equal before the law without having to apply different circumstantial standards to different accused. The second principle that will be achieved will be the proportionality of the sentence in criminal law imposed on the accused when they are found guilty of the criminal offenses, therefore having a standard methodology of applying the circumstances to measure the sentence, as incorporated in the guide, the principle of proportionality of the criminal offense will be implemented, as also being one of the fundamental human right incorporated in the Constitution of the Republic of Kosovo.

This sub-module aims at clarifying the application of the sentencing circumstances by taking into account specific practical cases, the so-called "positive cases and negative cases", on which will be incorporated the specific explanation as appropriate which are the circumstances that argue such a sentence, how to justify them in order for the court decision to be satisfactory for the parties but also for the general public, by convincing each party that the court was maximally attentive to the circumstances that influenced such a sentence.

The dilemmas that have continuously followed the work of the new judges, but not only, have been whether there should be a starting point where the mitigating and aggravating circumstances are weighed, therefore the clarification of the application of the starting point of sentencing will be aimed. The application of aggravating circumstances and not doubling the assessment of aggravating or mitigating circumstances will also be addressed, this would enable the new judges to eliminate doubts on the solid argument that such a sentence is proportional to the criminal offense but would also enable the proper application of the principle of legality, above all these will address the problems and practical dilemmas that dominate the judicial system currently in the implementation of the guide for punitive policy, always in accordance with the principles of the purpose of sentences under the Criminal Code of the Republic of Kosovo.

This sub-module will address: Understanding the implementation of the guide, aggravating and mitigating of circumstances, starting point of sentencing, the possibility of applying a milder sentence according to the circumstances and the specific case, not doubling of assessment of aggravating and mitigating circumstances.

Duration: 4 training sessions (12 hours of training).

9.2.5 Liability of the legal persons

Given that the general social development has advanced in Kosovo and since the legal system of the country has defined judicial protection even when the goods protected by incriminating actions are violated by the legal person, where the protection of goods is incorporated in the special law which is the Law on the liability of legal persons for criminal offenses, it is

considered necessary and imperative that the newly appointed judges have knowledge on the aspects of legal regulation of criminal liability of legal persons for commission of criminal offenses, which is different from natural persons. Therefore, this sub-module aims to address the manner of criminal liability of legal persons, as such sanctions are diametrically opposed to the sanctions provided by the Criminal Code for natural persons, but on the other hand these provisions apply to the criminal liability of legal persons and notions of the criminal code, such as criminal offenses, necessary protection, extreme necessity, etc., even to legal persons when criminal proceedings are conducted against them.

Kosovo in the past years, part of the legal system had rules that have been defined as economic crimes, now since legal persons can be used as cover in various criminal activities of the responsible persons, the law on the liability of legal persons for criminal offenses has been adopted, always in order to protect the goods that criminal law aims at. Even legal persons based on practice most often come to the fore when incriminated in some chapters of criminal offenses, such as, criminal offenses against the economy, criminal offenses against the administration of justice, criminal offenses against official duty, criminal offenses against employment, criminal offenses against the environment, etc., but not excluding incriminating actions in other criminal offenses, therefore the approach will be a combination of findings of legal person and how the liability of the legal person is assumed towards the actions of the responsible person.

Dilemmas that will be elaborated in practice are, the alleged responsibility of the responsible person, given that the law on business organizations but also other laws that allow the organization and establishment of legal persons have ways of functioning, following the separation of responsible persons within the legal entities established and registered in Kosovo. What are the types of sanctions that can be imposed on legal persons, what way of conducting the procedure should be done, is it possible to conduct parallel criminal proceedings and how is it done when there is a reason to separate the procedures of the responsible person and the legal person, how the general provisions of the Criminal Code apply, does the Constitution of the country allow the trial and imposition of a criminal sanction on the basis of alleged liability and why such a solution exist, as well as case studies from practice.

This sub-module will address the meaning of the responsible person depending on the organization of the legal person, the alleged liability of the legal person over the responsibility of the certified responsible person, the types of sanctions and security measures that can be imposed on legal persons, statute of limitations of the prosecution and measures and the criminal proceedings.

Duration: 2 sessions respectively (6 hours of training)

9.3 Criminal Procedural Code of the Republic of Kosovo

9.3.1 Pretrial Procedure

During the criminal proceedings, can be developed several pre-trial actions, which actions should have a legal basis in the provisions of the CPC. In order for these pre-trial actions to be

lawful it is necessary for the pre-trial judge to have knowledge about the respective actions, since some actions are related to the granting of the prior permission by the pre-trial judge.

Important at this stage of the criminal proceedings is the fact that the judge intends to guarantee the development of a regular judicial process which may be due to the fact that there may be deprivation of liberty of persons against whom a criminal proceeding is not yet developed, or it may be in the phase of detention or arrest. The role of the pre-trial judge is also related to the rights of the injured party in the proceedings and other aspects that are important for the next stages of the procedure.

Elaboration of this topic is of particular importance considering that at this stage of the criminal procedure there may be errors in the bodies dealing with this subject and the judge has a role of guarantor and controller that the procedure is conducted in harmony with the provisions of the CPC.

This module will address: The role of the pre-trial judge at this stage of the criminal proceedings, court decisions in order to prevent violations of the provisions of the CPC and other rights guaranteed by the Constitution of the Republic of Kosovo and ECHR.

Duration: Two training sessions (6 hours of training).

9.3.2 The role of the judge in pretrial procedure

According to the Code of Criminal Procedure [CPC], the pre-trial judge has an important role in pre-trial proceedings. The judge in each case serves from the beginning of the criminal proceedings until the stage of filing of the indictment.

Article 23 of the CPC stipulates that the pre-trial judge oversees the criminal proceedings during the investigation phase. In this regard, through decisions and orders issued by the pre-trial judge, he supervises and controls the legality and implementation of the law during the investigations conducted by the prosecution.

The pre-trial judge, during the investigation phase, is competent to decide on measures to ensure the presence of the defendant in criminal proceedings, to order the search of the person, things and objects, order covert investigative measures, conduct the extraordinary investigation opportunity, order the seizure, freezing and interim measures on the property, as well as to order the expertise which is in the exclusive competence of the court.

Therefore, this training will focus on the role of the pre-trial judge, his orders and decisions, at this stage of the criminal proceedings, in terms of control of items, person and objects, temporary seizure and temporary measures and expertise which are ordered at the request of the prosecution, which at this stage of the procedure only the court has the power to issue such order.

This sub-module will address: The role of the pre-trial judge, the extraordinary investigation opportunity, the control of the person, items and objects, the order for expertise, the expertise, its content and probative value, the temporary seizure / freezing of property, temporary measures for safekeeping of property and items and permanent confiscation.

Duration: 5 sessions or 15 hours.

9.3.3 Covert Measures of Investigation and Surveillance

The Criminal Procedure Code of Kosovo (CPC) in order to establish a good basis for the investigation of perpetrators of criminal offenses, has provided a range of means with the purpose of securing evidence, including, among others, covert technical measures of investigation and surveillance. These covert measures provided in the CPC as such are intended to prosecute the perpetrators of serious criminal offenses, especially against corruption and organized crime, the code provides a temporary restriction of the rights guaranteed by the Constitution of the Republic of Kosovo and the Convention. European Commission on Human Rights. However, these measures present an extremely important and effective opportunity for securing evidence in criminal proceedings.

The Code of Criminal Procedure defines the types of covert measures and the competent body for their issuance. The conditions on the basis of which the order for these measures is given are also defined, the competent body that must submit the request for these measures, the content of the request, the content of the order for covert measures, the period within which that order must be implemented, the legal remedy (appeal) against the unjust measure as well as the body which should review this appeal.

The provisions of the CPC also set the standards for the admission of material gathered through covert measures. The right to challenge the legality of court orders and their enforcement is also guaranteed, as well as the right to challenge evidence provided by covert investigative measures. In addition, the right to damage compensation is regulated in cases where a person has been subjected to a covert measure, when it turns out that the order has been unlawfully implemented.

Therefore, this training will focus on the type of covert measures, legal conditions and criteria for their application, procedures for their issuance and the admissibility of evidence provided through covert measures. During the elaboration of the module will be presented practical cases that have been handled and have become final, the combination of the practical case with the legal provisions, followed by the practical approach of interpreting the law or legal provisions.

The content of this sub-module will include: Basic principles for ordering covert investigative measures, meaning, type and legal criteria or conditions for issuing such measures, Court orders and their content and admissibility, the number of materials provided through covert measures of the investigations.

Duration: 3 training sessions or 9 hours of training.

9.3.4 Principles , Jurisdiction and Exclusion of a judge in criminal proceedings

This sub-module will address aspects of the provisions that apply throughout the phase of criminal proceedings, above this standard is aiming to treat these provisions in the context of practical cases that will be taken to be elaborated.

Principles of the Procedure - will be interpreted in terms of their role and importance in criminal proceedings, how they create a formal procedural standard to help the court itself to come to the truth and to maintain the credibility of a judicial system, how they preserve and protect human rights and freedoms in criminal proceedings.

Jurisdiction of the court - will be interpreted in terms of the relationship between the efficiency of the procedure and the legitimacy of the court that makes the decision, ie to result in a lawful and legitimate decision by the court.

Exclusion of a judge and prosecutor - will give the candidate the opportunity to understand accurately the mandatory and optional exclusion from a court case in the process, will also understand the circumstances of the reasons for exclusion, the exclusion procedure, protection of the integrity of the process in the case of exclusion, the implication of the ethics and integrity of the judge in the case of exclusion.

The approach will be completely interactive with the sole purpose of better understanding the legal provisions, whereas concerning the practical case, how they should be implemented to what extent and for what reasons.

The interpretation will be as concise as possible as to when the principles of procedure can be avoided, under what circumstances and for what reasons, what are the stages of control and how to control competence and how to act. What circumstances cause the exclusion and how should those circumstances be revealed in order to maintain the integrity of the judicial process before the public, but also to avoid any inadequacy of the judge, with special emphasis will be treated the dilemmas and optional circumstances causing the exclusion of the judge.

This sub-module will address: Principles of Procedure, jurisdiction of the court, and dismissal of the judge and prosecutor.

This sub-module will address: Principles of Procedure, jurisdiction of the court, and exclusion of the judge and prosecutor.

Duration: 2 sessions or 6 hours of training.

9.3.4 Measures for ensuring presence of the defendant in the criminal proceeding

Measures for ensuring presence of the defendant in the criminal proceeding, as limitation of the freedom of movement with the purpose of successful conduct of the criminal procedure, are foreseen in the criminal procedure code, which also determines conditions that shall be met in order to set these measures, always relying on the crucial conditions that is the grounded suspicion for a certain criminal offence. Detention is a heavier measure within the group of these measures, and according to international instruments as well as according to our legislation, detention is required to be applied only when other alternative measures do not

reach the purpose according to this chapter. These measures in the criminal proceeding often were not applied in compliance with the ways and terms foreseen in the criminal procedure code, therefore in our practice there are still difficulties in analysis and assessment of circumstances related to decision on these measures. In practice, these measures - particularly the detention, there are difficulties in reasoning the basis for imposing these measures, because legal provisions require that each legal basis is concrete rather than have abstract reasoning.

In order to approach and address the dilemmas in practice, the newly appointed judges besides presentation of the materials, discussion, and presentation of cases from the case law, they will also be divided in groups to discuss on hypothetical cases expressing their opinions for solving them in practice.

This module will elaborate on the following: the summon, arrest warrant; pledge of the defendant not to flee the residing place, forbidding to approach a certain place or person, presentation to the police station, bail, house arrest, diversion and detention.

Duration: (One training session (3 hours of training)).

9.3.5 The state prosecutor, defense, injured party and the defendant as parties in the criminal proceeding

Legal maxime “*nemo iudex sine actore*” clearly states that there is no trial without procedural subjects. Therefore, this module will elaborate on their role in a criminal proceeding. Which is the role and obligations of the state prosecutor in a criminal proceeding, who may be the defense in a criminal proceeding and what are their rights and obligations, is the procedural position of the injured party in a certain criminal case respected in our judicial practice, is the injured party informed at all stages of the criminal proceeding, and in what procedural position is the defendant from the beginning until completion of a criminal procedure.

All these questions and other dilemmas occurred in our judicial practice, will be addressed under this module with the purpose of correct and complete application of the criminal procedure provisions pertaining to the role and position of the parties in a criminal proceeding.

This sub-module will cover the following: Competencies and structure of the state prosecutor, independence of the state prosecutor, obligation of the state prosecutors towards the defendant, duties and competencies of the state prosecutor, territorial competence of prosecutors, prosecutors competence in urgent cases, withdrawal from criminal prosecution, the right of the defendant to defense, qualifications of the defense, limitation to representation by the defense, exclusion of the defense, defense in cases of mandatory defense, the rights of the injured party, defense of the injured party, defendant as a subject in the criminal procedure, statement of the defendant as evidence, the rights and obligations of the defendant during criminal proceeding and procedural position of the defendant from the raise of the indictment to completion of the court hearing, respectively completion of the criminal proceeding with a binding decision against him.

Duration: three training sessions (3 hours of training).

9.3.6 Witnesses and injured parties in criminal proceedings

One of the most important evidence that serves to prove a factual situation in complete and correct manner in a criminal case is also the witness's testimony, and testimony of the injured party in the witness quality. Another important issue in the criminal procedure is treatment of witnesses and injured parties that need protection because of the threat of serious risk for that witness or his family, and in these cases arises the need for undertaking measures by all implied institutions, like: the police, prosecution and the court.

This module's aim is to extend the participants knowledge on types of witnesses, distinction between them, protection and ways of interviewing witnesses, drafting minutes of the witness interviewing, as well as cases when the witness testimony is considered as inadmissible evidence in a criminal proceeding.

Also, part of this module will be dedicated to the injured party that can be not only a party in the procedure but a witness as well. This module will pay attention to the rights of injured parties, like the right to damage compensation and many other rights foreseen in the Criminal Procedure Code of the Republic of Kosovo.

Duration: Three training sessions (3 hours of training).

9.3.7 Initial and second hearings

After the indictment is raised, a single trial judge or president of the trial panel shall appoint an initial hearing, in which case after the indictment is read, the defendant is given the possibility to plead guilty or to declare innocent. If the defendant pleads guilty then, the single trial judge, or president of the trial panel have three possibilities: to continue with imposing the sanction against the defendant; appoint a session for proving a relevant fact for the punishment, or to suspend the sanction until completion of cooperation of the defendant with the state prosecutor. If the defendant does not plead guilty then the single trial judge or president of the trial panel with a decision rejects pleading of guilt, then during the initial hearing the judge has the following two possibilities: to appoint the second hearing not earlier than thirty days after the initial hearing and not later than forty days after the initial hearing, or to request only presentation of objections (claims) until the date set, which cannot be later than thirty days after the initial hearing. These and many other aspects related to the initial hearing and second hearing, as well as aspects on objection and evidence as well as the request to drop the charges, will be object of the training through this sub-module.

Also, during elaboration of these topics, the newly appointed judges will have the possibility to analyze many situations that may arise during their work and which relate to preliminary check of the indictment, how should a judge act in cases when the indictment has considerable deficiencies, how should they act when deciding on pleading of guilt or not, as well as on other issues relating to second hearing, including here also decision on objection of evidence and request to drop the charges.

This module will elaborate on the following topics: preliminary check of the indictment, initial hearing, judgment based on pleading of guilt, objection of evidence and request to drop the charges, second hearing and decision of the single trial judge or president of the trial panel related to objection of evidence and request to drop the charges.

Duration: 3 training sessions (3 hours of training).

9.3.8 Main trial

Main trial is considered as most important stage of the criminal proceeding where all the activities of the judicial review is summarized in: initiation of the court hearing and statement of the defendant, presentation of evidence and closing statement of the parties. But, it has to be emphasized that if the defendant pleads guilty, then after commencement of the court hearing and statement of the defendant immediately the procedure passes to the closing statements of the parties. In order to conduct a successful main trial without obstacles, then it is needed that the single trial judge or the presiding panel judge to make the certain preparations. These preparations relate to appointing the main trial, and to other preparatory issues. The single trial judge, or the presiding judge of the panel lead the main hearing, take care for comprehensive and correct handling of the case in compliance with evidence administration requirements as set forth in the CPC, and they decide on proposals of the parties. This sub-module will elaborate on the aforementioned aspects as well as on other issues pertaining to the main trial.

The newly appointed judges will particularly be able to address all the issues that they face during their practice in courts and that relate to preparation of the main trial, publicity of the main trial, implementation of the main hearing, preconditions for holding the main trial, postponement, cease and timelines for completing a main trial, minutes of the main trial, flow of the main trial, etc.

This module will elaborate on the following: preparations for the main trial, publicity of the main trial, carrying out a main trial, reading the indictment and pleading of the defendant, flow of the main trial, minutes of the main trial as well as the session for counseling and voting.

Duration: 6 training sessions (18 training hours).

9.3.9 Procedural expenses and property claims

For every criminal procedure, that started and is finalized against a defendant, no matter its outcome, the same decision shall decide about the expenses of the criminal procedure and related to the legal/ property claim. But, the court practice shows that often we have situations when a certain judgment does not decide about expenses of the criminal procedure, and instead this is left to be decided by a separate judgment as soon as the necessary data is obtained for calculating the criminal procedure expenses. Also, pertaining to legal/ property claim in criminal procedure often the accurate value and height of expenses cannot be determined

therefore, the injured party is advised to realize this request in a civil procedure. It remains particularly challenging the decisions and respective reasoning for cancellation of certain legal actions. This way, all the questions and dilemmas that occur in practice will be addressed in this sub-module, with the aim of correct and complete application of the criminal procedure provisions pertaining to criminal procedure expenses and of other legal-property claims.

For approaching and addressing these dilemmas in practice, the newly appointed judges, besides presentation and the training material will be able to express their experiences during their practice and the ways how to solve these dilemmas. Also, through hypothetical cases they will be enabled to extend their knowledge and express their opinions on how they would approach them in practice.

This sub-module will address the following: type of procedural expenses, judgment of criminal procedure expenses, payment of expenses depending to culpability of the person that caused them, compensation and necessary expenses of the defense or of the authorized representative, regulations on expenses, property/ legal claims, authorized persons for filing property claims, review and decision of proposal for filing the legal claim, cancellation of certain legal act, changes to the binding decisions related to a property claim, provisional measures for insuring the legal property claim against third persons.

Duration: 1 training session (3 hours of training).

9.3.10 Procedure according to legal remedies

Considering that the Criminal Procedure Code treats regular and extraordinary legal remedies, and since the sub-module is designed for newly appointed judges we consider that regular legal remedies will be essentially treated in this sub-module, whereas the extraordinary legal remedies will be covered only when they relate to decisions that newly appointed judges will need in relation with their work.

Focus will be on the appeal, respectively on objection in the criminal procedure. Also, it will elaborate on content elements of legal remedies in compliance with criminal procedure provisions knowing exactly from the practical aspect of judge's work what shall such legal remedies contain in their essence, as well as their forms, since the procedural aspect in deed requires also the formal aspect.

Approach in this sub-module will be built from the angle of basic categorization of legal remedies like, the Appeal and Objections, legal basis and causes for raising these remedies, ways of deciding and who has competence to decide.

This module aims to eliminate dilemmas by highlighting the content of decisions and judgments that potentially have basis to be attacked, so merging the practical aspect of judgments or decisions and legal remedies that would potentially hit such a court decision. Importance will be given to several aspects of competence to decide, like the basis from Article 98 paragraph 5 of the Criminal Procedure Code, which in a form creates ambiguity of competencies, also the training will interpret legal basis for attacking decisions when the decision is allegedly infringing constitutional rights – so it will be clarified which categorization of the rights shall be considered, then understanding different timelines for

appealing a decision. It will also address several aspects of dilemmas that relate to extraordinary legal remedies, for which the first instance court has decided referring to Article 434. It will aim addressing dilemmas on decision of the review college or by the investigation and surveillance panel, respectively by the second instance court.

This sub-module will cover: objections, appeals, and extraordinary legal remedies.

Duration: 3 training sessions (9 hours of training).

9.3.11 Judgments and the types

Aim of this sub-module is that newly appointed judges understand the role and importance of a judgment on standards requested by the Criminal procedure code. It will explain which are the types of judgments, what are the substantial parts of the judgment and technical aspects. Also, particular importance will be paid to construction of the judgment depending on its type in order to have a sustainable and clear structure for every person, particularly importance that the judgment shall include the material and procedural aspects of the criminal case, and be comprehensive and with logical and chronological flow.

This sub-module will address specifics of the sentencing judgment, the acquittal judgment and the dismissal judgment, as well as legal basis supporting these types of judgments.

Approach in this sub-module will be built in the form that the newly appointed judges are able from the beginning of their work as judges to build a judgment with all its elements, and this shall be achieved relying on procedural provisions and in material deposits that are made on basis of practical cases.

Focus will be on the aspect of enactment part, being aware of the fact that many judgments in practice have basic flaws in the most substantial part of the judgments – the dispositive of the judgment. Also, it will elaborate on aspects of the content of the reasoning in relation with the dispositive part with the purpose of reaching the legal requirement for content of the judgments, that at the same time shall be answered within the judgments, to the claims of the parties in the process, ways of legal solutions that the case shall reach.

This sub-module will elaborate on the sentencing judgments, acquittal judgments with all legal sub basis, and rejection judgment with all its legal basis.

Duration: 3 training sessions (9 training hours).

9.3.12 Criminal procedure for perpetrators with mental disorders

Criminal procedure involving perpetrators with mental disorders presents a special procedure according to the Criminal Procedure Code of Kosovo. This special criminal procedure is applied in cases when the perpetrator of criminal offences at the time of commitment has

suffered from mental disorders of permanent or temporary nature, that resulted with diminished essential mental capacity, or complete incapacity (irresponsibility).

This type of procedure is applied also in cases when to the perpetrator with mental disorders, temporary or permanent mental disorders have occurred during the criminal proceeding or during the trial.

It is important to mention that similarly like in the regular criminal procedure, this special procedure applies general justice principles that are guaranteed by the Criminal Procedure Code of Kosovo. In one word, this criminal procedure is different from the regular criminal procedure because of its content, wo the way of initiating criminal procedure, conducting the procedure, its conclusion and the final court decisions.

Therefore, this module will focus on the following: psychiatric examination, mental inability and the diminished capacity, decision on the inability to undertake the trial, detention for persons with mental disorders, types of measures for mandatory treatment, criminal procedure and imposing measures of mandatory treatment, and monitoring implementation of the psychiatric treatment measures.

Duration: 4 training sessions (12 training hours).

9.3.13 Special procedures according to the CPCK

Special procedures according to the Criminal Procedure Code distinguish from the regular procedures and as such require additional attention for professionals that apply these procedures, particularly for the newly appointed judges.

This module will elaborate on procedure related to the issuance of a punitive order, the issuance of a court reprimand, the procedure against persons who have committed a criminal offense under the influence of alcohol or drugs, perpetrators of criminal offenses with mental disorders, revocation of alternative sentences, the decision on the expulsion from the records of convicts, compensation for damage, rehabilitation, and the exercise of other rights of persons convicted or arrested without reason, and the procedure for issuing warrants and public announcements.

Duration: 3 training sessions (12 training hours).

9.3.14 Evidence in the criminal procedure

The process of proving has the central place in the criminal procedure. This process itself covers a series of issues that later determine the entire criminal case and its essence.

During the criminal procedure, the parties can present their evidence are administered by the court in an opened and transparent process, with the aim of proving the contested facts of crucial importance from which a conclusion on a concrete issue depends.

In principle, the parties have the right that until a certain stage of the procedure they present evidence before the court, with the purpose of proving the facts that they find important for the process. Besides the parties, also the court can issue and review evidence on ex officio basis and upon proposal of parties until completion of the judicial hearing.

This training will focus on the process of proving, evidence and their types, proving remedies, obtaining evidence in preliminary procedure and general rules for administration and assessment of the proving, lawfulness and their admissibility.

Content of this module will be on: Source of evidence, classification of evidence, obtaining and ensuring evidence, lawfulness of evidence, and admissibility of evidence.

Duration: 4 training sessions or 12 training hours.

9.3.15 Alternative procedures

Chapter XIV of the CPC, regulates some of the alternative procedures for solving criminal cases. These procedures regulate the aspect of action when applying these alternative procedures, and their characteristic is that they rely on the principle of reciprocity and excludes the principle of legality.

Alternative procedures are important for the fact that they are foreseen by modern legislation and by choosing them, parties of the procedure are enabled to be directly involved in their application and in this way it avoids prolonged procedures through the regular court procedure.

Treatment of this topic for the newly appointed judges will be very useful during their work, since application of alternative procedures will increase productivity and their performance and also be useful for the parties in the procedure with the purpose of solving their cases on timely manner. Although involvement of judges in the alternative procedures is at later stages, still the judges have an important role for taking final decisions about agreements of the parties in the procedure, which role will be treated through training sessions that are planned to take place.

Special focus of the training will be importance of applying alternative procedures and role of the judge in application of the mediation procedure, as well as the plea bargaining agreement.

This sub-module will elaborate on importance of alternative procedures and their implementation, as well as role of the judge in processing cases to alternative procedures, mediation and the plea bargaining agreement from the judge's perspective.

Duration: Five training sessions (15 training hours).

9.4 The civil, administrative and commercial laws

9.4.1 The civil law

The sub-module on the “Civil Law” is designed in such a way to include up-to-date treatment of principles, as basis for all other parts of the civil law. In this sense, this sub-module is given particular importance because besides the civil law principles as basis for all other parts of the civil law, it treats also sources of the civil law; civil-legal relations; classification of the rights of civil law; legal affairs and their modification; representation, and invalidity of legal affairs. Topics involved in this module are basis for assessment and interpretation of legal situations from any part of the civil law and help the newly appointed judges to have professional assessments for interpretation and implementation of the objective law in any case will be object or review in the court.

This sub-module addresses in comprehensive way all basic issues that are not included to be treated un other sub-modules of the civil law, but ensuring connection of the sub0-modules within the Civil Law and in harmony with each sub-module serving as basis for each sub-module. All the sub-modules in the Civil Law are generally harmonized and unique, filling this way all branches of the civil law.

The sub-module is designed to be conducted in interactive environment of discussions directly reconsolidating knowledge on basic principles of the civil law. One important part of addressing challenges is giving the participants tasks/ practical examples that involve the factual situation of cases and requiring them to present their viewpoints, and analytical process for the factual and legal grounds of the case. This sub-module will cover the following: Principles and sources of the civil law, legal-civil affairs ad classification of the subjective civil rights, legal affairs, their modification and division of legal affairs, and representation and invalidity of legal affairs.

Duration: Four training sessions (12 training hours).

9.4.2 Contested procedure – first part

Civil procedure is part of the positive law and as such it includes all the legal norms according to which protection and claiming of the civil rights is made in relation to civil-legal relations. In this sense, the initial training program – civil procedure, respectively the sub-modules on the civil procedure, are important part of the curriculum for development and increase of capacities in general, and for adjudication skills of the newly appointed judges. This sub-module is designed to present the ways how should the provisions of the Law on Contested Procedure be applied in the judicial practice. Therefore, important part of this section are practical cases that rely on a comprehensive and unified court practice.

This sub-module is presented in continuous reference to the judicial practice pertaining to challenges of unique application of the Law on Contested Procedure, as a guarantee of lawfulness of the judicial process and promotion of the standards for fair and timely trial. The

sub-module is designed to be conducted in interactive environment of discussions and practical exercises, to include also two special sessions on the judicial case law and it means that the trainer should present the selected practices on all the topics of discussion based on a genuine researches and supported with respective materials from the higher instance court's case law.

This sub-module will elaborate on the following: principles of the contested procedure, general review on competence, regular constituency of the court and exclusion of the judge, parties in the contested procedure, filings and delivery of writs, sessions, timelines and return to the previous state, completion of the procedure by a court decision, and the court case law on issues from the contested procedure.

Duration: 12 training session (36 training hours).

9.4.3 Contested procedure – second part

The sub-module on civil procedure is an important part of the curriculum for development and capacity development and adjudication skills of new judges.

Contested procedure – second part, contains legal provisions that regulate issues of the flow of procedure in the first instance starting from filing of the indictment in the court, joint litigation, participation of the third person in the dispute – procedure, preparatory hearing and court conciliation, main hearing, etc. This sub-module is presented by referring continuously to the court case law related to challenges of unified application of the Law on Contested Procedure, as a guarantee of lawfulness of the judicial process and promotion of the standards for fair and timely trial.

Important part for addressing challenges is the individual assignments to participants with tasks/ practical examples (practical cases that include the factual situation of the case), requiring them to present their viewpoints in an analytical process for factual and legal establishment of the case.

Topics to be elaborated in this sub-module are: filing of indictment in the first instance court, preliminary review of the indictment and response to the indictment, joint litigation and participation of third persons in the trial, preparatory session and court conciliation, main hearing session, proving remedies and obtaining evidence, witnesses, experts and parties, insuring of the claim, termination and cease of the contested procedure, special contested procedure, as well as trial simulation of the preparatory session and the main hearing.

Duration: Twelve training sessions (36 training hours).

9.4.4 Uncontested procedure

Uncontested procedure is part of the positive law and as such it includes all legal norms that regulate the structure of contested procedure, positions and roles of entities in the uncontested procedure, procedural activities as well as their reciprocal relation between them. Relation of the uncontested procedure with the contested procedure is large because the uncontested

procedure uses provisions of the contested procedure, but also it instructs that in several cases from the uncontested procedure move/ are initiated in the contested procedure. In this sense, the sub-module on uncontested procedure is part of an entirety that makes up the civil procedure and as such it is presented as essential content for the initial program. Besides this, the uncontested procedure contains many types of procedures, like the statutory and property procedures, and consequently it has many specifics that are addressed within this sub-module.

This sub-module is designed to present the ways how shall provisions of the Law on uncontested procedure be applied in practice, giving an important place to practical cases that are supported by a genuine and unique practice of the uncontested procedure.

The sub-module will include: general provisions of the Law on uncontested procedure, regulation of personal and family status, regulation of the property relations, writing decision in the uncontested procedure and legal remedies.

Duration: Four training sessions (12 training hours).

9.4.5 Enforcement procedure

Enforcement procedure is the procedure that guarantees coercive application of enforcement according to court decisions and other executive titles, therefore number of enforcement cases is extremely large, which as such justifies the need for inclusion of this sub-module in the initial training program curriculum for the newly appointed judges.

The sub-module contains the most crucial issues of the enforcement procedure like for cases when the procedure is initiated to the private bailiff, also for cases when the procedure is initiated in courts, without excluding issues that relate to implementation of the enforcement, as well as procedure upon appeal. This sub-module is designed to present the way how provisions of the Law on Enforcement Procedure shall be applied in practice. Therefore, important part of this module are practical cases that rely on a genuine and unique enforcement procedure.

The sub-module on Enforcement Procedure is presented in reference to practice related to challenges of the unique implementation of the Law on Enforcement Procedure, as a guarantee of the lawfulness of the enforcement process on the rights of creditors and protection of the debtor from wrongful actions in the enforcement procedure. This module is designed to be developed in an interactive environment of discussions and practical exercise.

This sub-module will cover the following aspects: initiating the enforcement procedure, competence and decisions of the enforcement entity, legal basis for determining enforcement, remedies, object and implementation of enforcement, regular and extraordinary remedies in the enforcement procedure, procedure for returning the employee at work, and the procedure for receiving and handing over the child.

Duration: 4 training sessions (12 training hours).

9.4.6 Administrative Law

This sub-module will include the General Administrative Procedure and the Law on Administrative Conflict which separately mean the following:

The law on administrative procedure is defined as an entirety of provisions that regulate activities of administrative bodies, other state bodies and organizations that exercise public authorizations when in administrative issues directly and in compliance with provisions, decide on the rights of individuals or of legal persons and other persons. This results that these provisions regulate the form of activities of the administrative bodies related to issuing of administrative acts.

The Law on General Administrative Procedure, contains not only basic principles but also legal institutes and procedural legal rules that ensure lawfulness and objectivity of the work and deciding, protection of the subjective rights of parties, and it inspires rationalization of the proceeding, and at the same time prevent arbitrariness of administrative bodies that develop this procedure.

Administrative Conflict – is a judicial procedure that is led by the judiciary including the three-instances in courts, at the same time, besides review of the lawfulness of the decisions issued by administrative bodies which procedure is conducted through indictment filed by unsatisfied parties, against a final decision in an administrative procedure, and at the same time it's a procedure that serves also as a tool for work control of administrative bodies when deciding about claims of the parties when reviewing the lawfulness of administrative acts, which also gives importance to the special institution of the Administrative Conflict, as a guarantee for accomplishing the citizens' rights and interests in a special procedure and by an independent judicial body and a judicial procedure.

This sub-module will tackle all the dilemmas that we as judges have faced during our long experience in cases solved in practice, as well as in those that relate to the general administrative procedure which is conducted before and administrative body, as well as with the procedure that is conducted in court – the administrative conflict, also will be reviewed and if possible explained, and every dilemma raised by the judges during the training sessions.

This module will elaborate on the following: subjects of the administrative procedure, competence and administrative help, the claim and its filing, initiation of administrative processing, review, timelines and conclusion of the administrative proceeding, administrative act, annulment and repeal, statute of limitation and enforcement of an administrative act, administrative legal remedies, principles of the Law on Administrative conflicts, competence, parties and the conflict, parties and competence in the administrative conflict procedure, initiation of the administrative conflict procedure, main hearing in the administrative conflict, and merit based decision, judgment and the ruling in the administrative conflict procedure, legal remedies and enforcement of the judgment.

Duration: Ten training sessions (30 training hours).

9.4.7 The Law on obligations

This sub-module is given the right importance because of the large volume of civil legal relations that are subject to regulation by the Law on Obligations, but also due to the fact that the judicial practice according to statistics has a large number of judicial cases coming from this area.

Topics included in this sub-module refer to the material sources of the law on obligations as basis for establishing legal civil relations – contractual and non-contractual, as well as legal effects, respectively legal consequences that derive from these legal civil relations.

This sub-module addressed in a comprehensive way all basic issues that are included/ normed in the Law on Obligational Relationships, paying special attention to the existing judicial practice for cases that have basis on the Law on Obligational Relationships.

Presentation of topics will be made through presentation of one or several practical cases directly related to the topic that shall be treated in the respective session. For presenting the case, the trainer shall have in mind factual and legal aspects of the case, present several questions/ dilemmas upon which the discussion will be based, and consume the topic.

This sub-module will elaborate on the following: Principles, characteristics and classification of obligations, contract as source of obligations, annulment and termination of the contract, responsibility for causing the damage and types of damage, compensation of damage, unjust enrichment, expansion of foreign affairs without order and unilateral expression of will, statute of limitations, real and personal means to ensure the execution of claims, usury contracts, excessive damage and interest, contracts on perpetual maintenance, contracts on sale and lease contracts.

Duration: Ten training sessions (30 training hours).

9.4.8 Commercial law

This module elaborates on the content of the “Commercial Law” that mainly includes what is known as a trade law, covering also the legal position of the commercial entities. This is a complex legal branch that deals with legal positions of legal entities and their legal way of doing business in the market.

The Kosovo’s need to rapid and sustainable economic development presented the need for additional efforts in legal regulation of this area, therefore institutions of the Republic of Kosovo in coordination with stakeholders and relevant international institutions have undertaken series of measures for developing and implementing a commercial legislation that enables a sustainable economic development.

Despite the presence of the adequate legislation, implementation of this legislation remains a challenge, for enterprises and businessmen, as well as for practitioners of legal profession and the judicial system. In continuation of efforts, Kosovo already applies several trade and commercial laws. But, except the applicable laws that are published in the Official Gazette of

the Republic of Kosovo, the commercial law area applies also international instruments like: the United Nations Convention on Contracts and International Sales of Goods (CISG), the New York Convention of 1958 for acknowledgment and implementation of foreign decisions of Arbitration, the Paris Convention for industrial property protection (March 20th 1883) – Industrial Property World Organization, the Trips Agreement (World Trade Organization), as well as other international tools for which lawyers working in this areas must have sufficient knowledge.

The Module on Commercial Law aim to help the newly appointed judges in their capacity development in the area of commercial law. This module will be developed through interactive methods with the purpose of including the participants directly, and help them in practical application of their legal knowhow and development of analytical skills of judges. Besides theoretical instructions, it will be discussed also about the practical cases in order to understand specifics of complicated cases and ways of solving them.

This sub-module will elaborate on the following: commercial contracts, banking and insurance affairs, loan contracts, insurance contract – damage compensation and regression, construction contracts, effects of terminating the contract, intellectual property law – the copyright & trademarks, bankruptcy, and alternative dispute resolution – arbitration.

Duration: Nine training sessions (27 training hours).

9.4.9 Property law and other related rights

Property issues in our country draw a series and wide range of issues starting from the legal aspect to the judicial practice and challenges faced by the courts. Starting from importance of property legal relations, not only for the citizens themselves but for the country as well, and from the complexity and challenges of this area, this sub-module is given the proper significance in the initial training curriculum.

Judicial practice that shall be part of this sub-module is an irreplaceable source of this sub-module, not only to clarify ideas on central institutes but also to understand ways of action, and in general the existing judicial practice on the uncertainties, dilemmas or legal gaps. This module addresses in a comprehensive way all core basis that are included/ regulated by the Law on Property and other related rights, paying particular attention to the judicial practice for cases of this nature. This module is designed to be conducted in an interactive environment of discussions and practical exercises.

This module will elaborate on the following: the property law, joint ownership and common property, ways of acquiring property – derivative and original acquiring the property, judicial protection of the property rights, real rights, real rights to foreign items, certification, constitution and cease of real servitudes, and protection of real servitudes, possession and protection of possessions, collateral, mortgage, preliminary purchase, real burden, and the right of construction (superficies).

Duration: 7 training sessions (21 training hours).

9.4.10 Inheritance law

The sub-module on the Inheritance Law includes the most crucial issues within the inheritance law that covers legal provisions that regulate inheritance relations that deal with transfer of property from the testator to other persons that are called heirs.

In 2019, there were some changes to the Inheritance Law related to competence of the body to review the inheritance, but at the same time the court practice has recognized its development in treating cases of inheritance relations and which will be covered also within this sub-module.

Inheritance issues have their complexity both as a procedure to review the inheritance but also as a right that faces its denial in real life. Legal consequences of the issues in inheritance relations in many cases shall be determined with a judicial decision, which needs devotion and professionalism of a high level to be treated by the court, therefore this module has its importance as part of the initial training curriculum.

The module will serve as good basis of providing knowledge to newly appointed judges who at their work face different issues of inheritance relations; also it relies on the legal concepts of regulating the inheritance rights enriched with standards of the court case law on cases of this nature, which are truly important for cases of denial of inheritance, infringement of the necessary part, etc.

Topics included in this sub-module are a careful selection of the most important issues and the most actual. The court case law that shall be part of this sub-module is an irreplaceable source not only for purposes of clarifying ways of legal implementation but also for recognizing standards of this area.

This sub-module will cover the following: Inheritance based on the law and the inheritance lines, inheritance by will, the necessary part, infringement of the necessary part, unworthiness and exemption from inheritance, and transfer of inheritance wealth to the heirs.

Duration: 4 training sessions (12 training hours).

9.4.11 Labor Law

Labor relations have had many developments and changes in the legal aspect as well as in the court practice aspects as well, whereas number of court cases is extremely high, which dictates the need that this sub-module is included in the initial training program curriculum.

The module will serve as good basis for providing the newly appointed judges the knowhow for their daily work when facing different cases of the labor relation's area. This submodu le relies on the legal concepts and regulation of labor relations accompanied with the standards of the court case law for cases of this nature.

This module comprehensively addresses all basic issues that are included/ regulated in the Labor Law and in the Law on civil Servants, including also some other issues from protection and compensation of damage at work; it will also focus on the issue of the competence for

judicial protection, having in mind that the employee is civil servant or and employee hired based on the Labor law. The court case law that shall be part of this submodule, is an irreplaceable source not only for purposes of clarifying implementation but also for recognizing standards that have been developed in this area.

Content of this submodule will cover the following: establishment of the working relation (Labor law – LL; and Law on Civil Service – LCS); labor disputes from the Labor Law; labor disputes from the Law on Civil Service; protection at work; and compensation of the damage caused at work.

Duration: 5 training sessions (15 training hours).

9.4.12 Family Law

The Family rights as a whole are regulated by the Family Law that in 2019 has had some changes with regard to ways of calculating the spouse's contribution, but at the same time the court practice had a recognizable development in handling cases of marital and family relations which are treated also within this sub-module.

Family issues usually are sensitive and require devotion and high level professionalism to be handled by the court, therefore this sub-module is important as part of the initial program curriculum.

The module will serve as basis for providing knowledge to the newly appointed judges who will be handling different cases from the marital and family relations.

This sub-module will elaborate on the issue of the domestic violence with its complexity and specific nature, as an important issue worth paying particular attention. The court case law that shall be part of this submodule is an irreplaceable source not only for purposes of clarification on implementing legal provisions but also for acknowledging standards that have been developed in this area.

Addressing each issue/ topic summarized in this submodule shall be made through a brief theoretical presentation on the notions and other meanings for each issue that is raised, and at the same time is followed with examples on Each issue/ topic. These examples shall be carefully chosen and shall rely on the consolidated court case law.

This sub-module will elaborate one the following: The Family Law, sources of the family law gender and types of gender, the marital right, solution of marriage, divorce procedure, alimony and parental rights, special forms of protection of children without parental care, opposition and proof of maternity or paternity, property relations between spouses and domestic violence.

Duration: 6 training sessions (18 training hours).

9.5 Personal and interdisciplinary skills

9.5.1 Communication rules

Communication in general is a skill and ontological and ethical-social attribute of human beings. Rapid developments in the social-economic, technical-technological aspects have been followed also with standardization in communication, sometimes saving the national, ethnic, cultural and subcultural finesses, and sometime synchronizing these institutionalized standardizations in respective areas, particularly in the area of information technology an in the legal area.

The legal profession, particularly the judge's profession in Kosovo, and in other places as well, requires development of qualitative, delicate and consequent normative and professional communication, within the court institution as well as outside with other structures and the public in general. Besides the required professional qualification, education and preparation of modern judges nowadays means also their training and development of communication skills.

This sub-module will focus on communication skills within the internal rules, i.e. communication skills development by learning and mastering rules of internal communication within the court institution in the vertical subordinating line, and the horizontal line of cooperation; and external communication skills development, meaning communication with other structures, institutions and the public in general.

This module will elaborate on the following: basis of communication and its types, specifics of verbal and non-verbal communication, distinctions between verbal and no verbal communication, interpersonal communication, listening and speaking, active listening skills, problems with interpersonal communication and rules of good communication.

Duration: Two training sessions (6 training hours).

9.5.2 Professional ethics

A judge is expected to protect important constitutional values with the aim of creating an institutional environment that will improve the citizens trust in the judicial system of Kosovo. In this sense, the sub-module on Professional Ethics is an important part of the initial program and its goal is that the newly appointed judges increase the level of caution for behavior that may damage image of the judge's figure and the judicial integrity in general.

Code of ethics and professional conduct for judges approved by the Kosovo Judicial Council, is thought to be a commitment for professionalism rather than a plan for punishment. The Code also serves as e recognition (acceptance) of the large responsibility that accompanies the public service in the Kosovo judicial system. Respecting the Code of Ethics precisely, is a demonstration of the highest level of professionalism. This is particularly true in countries like Kosovo, where the Code of Ethics reflects the main principles of the citizen rights. If a judge understands the purposes and conditions of the code of ethics, that knowledge will help him/her to avoid the disciplinary risks, in contrary the judges may face disciplinary procedures.

The sub-module on professional ethics is presented by constant reference to the established practices with implementation of the Code of Ethics and professional conduct for judges, as a guarantee for objective, professional and reliable judicial processes, and also a safeguard to the general integrity of the judicial system. Important basis of this sub-module are the training concepts built over years and international expertise on the ethics in general.

This sub-module is designed to be conducted in an interactive environment of discussions and practical exercises. The trainer shall be prepared and opened for discussing the case/s related to the topics of respective session, always providing the perspective on the Professional Ethics developed in years.

An important part for addressing the challenges is individual assignments for the participants with tasks/ examples (practical cases that include the factual state of the case), requiring them to present their viewpoints on dilemmas that may exist.

The content: Code of professional ethics for judges, principles of the Professional code of ethics for judges, disciplinary liability – violations and disciplinary measures, and the disciplinary procedure for judges.

Duration: Four training sessions (12 training hours).

9.5.3 Case management

Management is a process of planned activities for achieving certain purposes in respective area. From this simple definition it can be seen how important is this process for courts in general and for judges particularly. The courts exist to provide a fair and prompt solution for the parties in a procedure. Therefore, more centralized functioning of the court is management of the cases that they have. Modern theory for case management is that judges together with the support staff shall actively monitor and control movement of the unfinished cases in court.

In order to approach and address the dilemmas of the practice, the newly appointed judges, besides presentation of materials, they will be divided in groups to discuss on hypothetical cases and expressing their opinions for their solution in practice.

This sub-module will elaborate on the following: modern principles of case management, methods in planning and case management, control of the case flow, leadership and performance measures of the court.

Duration: 2 training sessions (6 training hours).

9.5.4 Increase of the judges' social skills and stress management

The need for completion of flexible and qualitative new judges, resulted with insertion into the initial program the sub-modules of interdisciplinary nature that enables the newly appointed judges to acquaint with notions and categories, content and other important information from the social and psychological areas.

This sub-module aims to increase the judges' social skills and equip them with basic psychological-social knowledge, an important component for completing a modern judge who besides the volume of knowledge and professional experiences from the justice area, is equipped with this knowledge, information and new experiences from the social and psychological area and is prepared for a more qualitative performance while practicing their important and delicate profession. The structural thematic diversity of this sub-module like the topics on individuals and the society, social impact of the individual on the others, conflicts, stress and management, etc., offer a wide range of information from the wide sociological and psychological areas necessary for a newly appointed judge.

This sub-module elaborates topics like: individual and the social environment, conflicts, social skills development a prerequisite for professional performance advancement, motivation, stress and body health, social psychology and criminality, psycho-social sources of criminality and criminality as social phenomenon.

Duration: Four training sessions (12 training hours).

9.5.5 Reasoning of court decisions (in the criminal and civil law areas)

Reasoning of court decisions is one of the most important issues of the judicial decision making, through which the judges give their arguments in a summarized way on why have they precisely decided on certain way instead of several alternative options. Besides the methodological aspect, reasoning of the court decision is also a legal and constitutional obligation, and a relevant aspect of the right to a fair trial as set forth in Article 6 of the ECHR. The ECtHR jurisprudence continuously reflects a principle of good administration of justice, that court decisions shall show sufficient reasons on which they are based on (Papon vs. France).

Reasoning of decisions aims to show the parties that they have been listened and, in this way, provide help by making the decision more acceptable by them. Besides this, it obliges the judge to rely his/her reasoning on objective arguments and preserves the rights of defense. Nevertheless, scope of the duty for reasoning of a decisions may change depending on the nature of the later one, and shall be analyzed in light of the case circumstances (Ruiz Torija vs. Spain, § 29).

This module will cover the rules and methodologies on how a court decision shall be written, how to present arguments and analyze in the proper way, etc. sufficient explanation of the standards on the right to a reasoned court decision, and the court obligation to provide sufficient and crucial reasons for the decision. Structure of the court decisions and methodologies of writing court decision, explanation and application of the legal writing methods like IRAC and TREAC, will be elaborated and adjusted in our judicial practice, incorporate into reasoning of the decisions, and at the same time increasing and empowering the analytical component of the decisions, making them sufficient in the aspect of problem identification, explanation of the legal norm, analysis and conclusions from a logical and structural process of legal writing.

Main dilemma of the newly appointed judges is how to draft a court decision that is structured, regular content wise, clear in meaning and which does not have procedural and material violations on which it may be attacked. Court decision writing and reasoning for the judges is an objective not easily achieved, therefore, this module aims to develop the judges' capacity and increase the quality of reasoning and legal writing in the work of new judges.

Understanding and practical implementation of the legal writing methods like IRAC and TREC, is substantial issues for promotion of the legal writing in general in country, in order to build standards for decisions that will increase the quality of reasoning and consequently of the court decisions in general. The approach is that the use of these methods of legal writing turn into a usual and daily practice of the judges work when writing court decisions. In this aspect, in order to prepare them for effective use, practical examples from the judicial practice will be prepared and used in the training sessions. Developing analytical skills of the newly appointed judges is one of the initial raining program challenges which is dictated from the needs of the court practice.

This module will elaborate on the following: the right to a reasoned court decision, principles of legal writing, methodology odd using the IRAC and TREAC formulas, the structure and methodology of writing criminal and civil judgments.

Duration: 8 training sessions (24 training hours).

9.6 Legislation and additional skills

9.6.1 Juvenile Justice Code

Juvenile justice code entered into force in April of 2019 (JJC), and as the previous Code, it regulates the general part, the procedure against a juvenile, trial of adults committed against children, protection of children as witnesses and injured parties in criminal procedures, as well as enforcement of sanctions against juveniles.

The JJC contains provisions that are incorporated from the Principles of the European Convention on the Children Rights, and with every change, it has novelties that follow the changes to the most advanced international standards. This time, the Chapter for protection of children as witnesses and injured parties in a criminal procedure has been added.

The best interest of the juvenile is the most important principle of the JJC, expressed not only in the special provision, but also in many other provisions in the general part as well in the part on the criminal procedure against juveniles; whereas the best interest for the children victims is a dominant principle in the Chapter for protection of children as witnesses and injured parties with a criminal offence.

The JJC is combined with other principles of the procedures against juveniles, like the urgency of the procedure, its confidentiality, professional protection obliged in every stage of the proceeding, age of the criminal liability, measures and special sanctions, judges and prosecutors specialized on juvenile justice areas, the possibility of changing the decision and

eventual non enforcement of the measure, application of the opportunity principle in criminal prosecution, and many others aspects that guarantee the prompt, just and fair procedure against the juvenile perpetrator of a criminal offence.

Addressing practical dilemmas in practice that are important for the newly appointed judges on the aforementioned topic will be made through theoretical explanations on basic notions of the Juvenile Justice Code, and their concrete application through practical cases from the national court case law. Also addressing will be made through interpretation of the provisions of the European Convention on Children Rights.

The sub-module will include the following: guiding principles, definitions, measures and punishment of juveniles and their solutions, communicating measures and sentences to adults for criminal offences committed as juveniles, effect of the punishment in the educational measure, diversion measures and mediation, educational measures and punishments, preparatory procedure, judicial review, decisions and legal remedies, and protection of the children as victims in a criminal procedure.

Duration: 6 training sessions (18 training hours).

9.6.2 Mediation in civil cases

Mediation is an extrajudicial activity that is conducted by a third person (mediator) for resolution of disputes between subjects of the law in compliance with the conditions foreseen by law. Implementation of the mediation in handling disputes in civil cases constitutes a constructive extrajudicial alternative for reaching a satisfactory solution for the parties involved in the dispute, where besides being an alternative resolution, with the recent legislative changes the mandatory mediation has been set forth, in which case the court obliges the parties to try resolution of the case by mediation.

Inclusion of the mediation as legal institution and its application in judicial proceeding is a relevant opportunity and very important for solving of many cases that overburden the court, and through this institute the court efficiency would increase by being released of the potential cases that can be solved by agreement, and the judges will have sufficient time to deal with more complicated cases and close them in a reasonable time.

Duration: 1 training session (3 training hours).

9.6.3 Trial advocacy skills

Having in mind the changes to the Criminal Procedure Code on examination and conducting a court hearing, it is necessary that the newly appointed judges are trained on trial advocacy skills in compliance with these changes. Specifically, skills development will be made on the aspects of opening statement, direct and indirect examination, impeachment, rehabilitation and the closing statement.

Duration: 6 training days (2 groups)

9.6.4 Law on minor offences

Having in mind that minor offences are offences committed in many areas, their importance, and limited time for training, we will aim to acquaint participants with the minor offences, distinctions with other offences, principles of according to applicable legal provisions. Participants during this training will be informed with the minor offence, what distinguishes it from other crimes and what elements are in common with other crimes (criminal offences, economic crimes, etc.)

Also the participant will be acquainted with the principle of lawfulness and its importance in defining the minor offence.

Duration: 2 training sessions (6 training hours).

9.7 Distance learning

9.7.1 English language

E-module related to Legal English is educational module to be used by legal professionals who wish to improve their communication skills in English language in their daily activities within the judiciary. It is designed to meet the communication needs and provides legal professionals with the basics legal terminology in English.

This module has been developed and placed on the online distance learning platform and will be available for beneficiaries of the initial training.

Duration: 3 sessions of distance learning.

9.7.2 Information technology

This module helps the beneficiaries to have basic knowledge on the information and communication technology.

Working on computers and good knowledge of application programs has become necessary for every working place, efficient work with computer is a key of success for every individual.

Information technology helps the judiciary to perform its responsibilities in the proper, efficient and transparent way, i.e. use of IT diminished the possibility of duplication of documents, if a court has an automated computer system for registration of cases then it is sufficient that this case is registered once and it will be used as many times as needed, for example, for generating the case report, generating summons or trials, different papers etc. in this case access to documents will be more prompt.

The use of IT in cases that we need to have under constant monitoring by issuing different statistics. With computer digitalization we can make statistical analysis with a large speed and

accuracy in comparison with the manual systems. Court management can use this analysis to improve judicial operations, planning and other work that belong to the judiciary.

With the use of information technology, the judicial system is reachable for all those who seek judicial services, and it will provide higher quality of justice by eliciting accountability and transparency not only decisions taken under the rule of law.

Use of IT helps the judiciary to meet objectives of the judicial system by increasing the efficiency of the judiciary, increasing access to justice, and increasing the justice quality.

Duration: 4 distance training sessions.

10. Conclusion

This training program reflects the needs for training of newly appointed judges and expectations of the judicial and prosecutorial system institutions in preparing and development of professional, ethical and practical skills, with the purpose that upon completion of this training, the beneficiaries are capable for full exercise of the judges' profession in professional, independent and efficient manner.

Structure of the program, training modules and the practical training, reflect the goals set by AJ for developing competencies, relying on duration of the training set by law and taking into account the qualifications and the previous professional experience of the beneficiaries who have already passed all stages of testing and assessment of professional competencies by the Kosovo Judicial Council, respectively the designated committees.

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