

1. Continuous Training Program

Continuous Training Program is a training program foreseen by the Law on the Academy of Justice and includes the organization of trainings and various activities for judges, prosecutors and administrative staff of courts and prosecution offices.

The purpose of continuous training is professional, ethical and practical capacity building of the judicial functions. Continuous training also contribute to the independence and impartiality of judges, prosecutors and other professionals of the judicial system.

CTP content includes topics of pure professional character, including also topics of inter-personal character.

Within professional aspects are included subjects such as: Criminal Law, Civil Law and Justice for Children European Law and International Law, Human Rights, Gender Equality and Non-Discrimination, Minor Offence field. All mentioned fields will be followed by material and procedural aspect, including the execution of criminal sanctions, as well as criminal and civil aspect of justice for children.

For drafting of the Continuous Training Program 20128, have been developed various mechanisms such as:

- Evaluation forms after each training;
- Needs assessment questionnaires filled by judges and prosecutors;
- Recommendations of KJC, KPC, Supreme Court, State Prosecution, Judges Association and Prosecutors Association;
- Meetings with judges, prosecutors, court presidents and chief prosecutors;
- Recommendations of national and international institutions and organizations;
- Proposals of AJ trainers (during special meetings);
- Working reports of judges and prosecutors;
- Recommendations of the Office for Evaluation of Judges and Prosecutors performance;
- Analysis of the instructions agenda for drafting and amendment of the laws;
- Research of regional and international training institutions program;
- Proposals of the staff, Program Council and AJ Managing Board;
- Strategies and documents adopted by the institutions which contain recommendations pertaining to the judiciary and the rule of law;
- Monitoring of press and electronic media;
- National strategy against human trafficking in Kosovo 2015 2019 Prishtina, March 2015;
- State strategy on the Approval of the Action Plan 2013-2018;
- National Plan for the implementation of MSA;
- Progress Report; OSCE –Department of human rights and rule of law;



CRIMINAL LAW

1.1 Criminal Law

Criminal training included in the Annual Program 2018 includes material, procedural, international criminal law, international legal cooperation, as well as specialized programs where will be treated, cybercrime, criminal offenses through public procurement, organized crime and money laundering. This program contains in total 29 topics and 4 specialized training programs.

1.1.1 Collaboration in commission of criminal offences

Criminal Code of the Republic of Kosovo provides criminal liability in situations where two or more people cooperate in commission of a criminal offence, participate, or contribute to the commission in any other way. The legislator has foreseen that depending on the form of collaboration, each perpetrator of the offence should be liable for commission or omission of the offence, so that during criminal proceedings to ensure and clearly identify by which criminal offence was committed by omission or commission.

Are criminal offences of collaboration in committing the offences identified properly in practice? How should be identified collaboration forms in concrete cases? How to determine individual liability of each perpetrator? These issues and others will be addressed by analyzing cases of collaboration in commission of criminal offence, and cases dealing with incitement and assistance.

Objectives

After completion of this training, participants will be able to:

- Distinguish forms of collaboration;
- Analyze incitement and assistance in commission of a criminal offence;
- Apply properly the procedure related to co-perpetration;
- Evaluate limits of criminal liability and punishment for collaboration.

Content

- Co-perpetration;
- Incitement and assistance in commission of a criminal offence;
- Criminal association and agreement to commit criminal offense;
- Limits of criminal liability and punishment for collaboration.

Training methodology

All raised questions will be analyzed in detail, including forms of cooperation and providing cases from the judicial practice as well as interactive approach with participants. There will be analyzed in details all situations pertaining the co-perpetration in commission of criminal offence.

Beneficiaries: Judges and prosecutors of basic and appeal instances.

Duration: One day

1.1.2 Ordinary legal remedies in criminal procedure

According to the applicable legislation, parties dissatisfied with judicial decision in criminal proceedings are entitled under certain conditions to use ordinary and extraordinary legal remedies. The purpose of using legal remedies is to avoid legal and factual mistakes allegedly being made by the respective court. In this regard, during the judicial practice, difficulties were encountered when exercising legal remedies, both by structure and by procedure.

What are the substantial elements of legal remedies? What are the grounds for exercising these remedies? What is the procedure to be respected when submitting ordinary and extraordinary legal remedies? Who are the authorized persons who have the right to file legal remedies?

These and other issues will be addressed through this training by analyzing cases dealing with legal remedies and elaborating legal provisions referring to this nature.

Objectives

After completion of this training, participants will be able to:

- Implement properly general rules regarding legal remedies;
- Evaluate the grounds for exercising legal remedies; and
- Avoid possible dilemmas encountered in judicial practice;

Content

- General rules regarding legal remedies;
- Ordinary legal remedies;
- Extraordinary legal remedies;

Training methodology

This training has been drafted to answer all questions and dilemmas encountered in judicial practice, regarding legal remedies in criminal proceeding. Whereas, through practical cases and interactive approach with participants, will be analyzed in detail all issues related to legal remedies in criminal proceeding.

Beneficiaries: Judges and prosecutors of basic and appeal instances.

Duration: One day

1.1.3 Criminal liability of legal persons

According to the current legislation, in addition to natural persons, legal persons may also be subject to criminal offenses. Legal persons may respond to criminal offenses from the special part of the Criminal Code of the Republic of Kosovo, for other criminal offenses, if the conditions for the liability of a legal person provided for by the Law on Liability of Legal Persons are met. According to the abovementioned law, legal person is liable for criminal offense of the responsible person acting on behalf of the legal entity, who under the authorizations, has committed a criminal offense in order to benefit or to cause damages. The liability of a legal person exists even when the action of that legal person has been in contradiction with business policy, or orders of a legal person. However, despite these legal provisions, there are frequent problems in judicial practice in determining the criminal liability of legal persons.

What is criminal liability of legal persons? What is the limit of this liability? What are criminal sanctions imposed to legal persons?

This training program through practical cases responds to questions by analyzing the institution of criminal liability of legal persons and legal provisions referring to this institution.

Objectives

After completion of this training, participants will be able to:

- Apply properly the institution of criminal liability of legal persons according to the law;
- Understand the properly in what cases and what kind of sanctions may be imposed to legal persons;
- Interpret properly legal norms of criminal liability of legal persons;

Content

- Grounds and limits of criminal liability of legal persons;
- Legal procedure for imposing sanctions against legal persons;
- Types of sanctions that may be imposed on legal persons;

Training methodology

During this training will be used a combined methodology of interactive discussion with participants, followed by group discussions and cases form national judicial practice and other jurisdictions case law, as well as PowerPoint presentations.

Beneficiaries: Judges and prosecutors of basic and appeal instances.

Duration: One day

1.1.4 Criminal procedure involving offenders with mental disorders

People with mental disorders are a separate category of offenders, although CPC provides a specific procedure covering the category of these persons as perpetrators of criminal offences. Handling of these cases require special attention because of their mental condition, during the development of criminal procedure. Also the decisions taken on these cases undoubtedly need to be adapted to their mental state, so the imposing measures improve the situation of these persons.

How these persons can be identified? What initial procedural action should be taken against them? What examinations should be performed? What measures are imposed on them and in what institution should be placed? What is the duration of supervision to the application of these measures by the court?

This program is designed to answer questions by analyzing the procedure against offenders with mental disorders, the expertise which determines whether a person suffers from mental disorder, when these person shall be subject to detention, criteria's to be considered when imposing mandatory and monitored treatment.

Objectives

After completion of this training, participants will be able to:

- Expand their knowledge related to the characteristics of criminal procedure involving persons with mental disorders;
- Asses the imposition of detention as a measure against persons with mental disorders;
- Analyze types of mandatory treatment in medical health institutions and psychiatric mandatory treatment in freedom;

Content

- characteristics of criminal procedure involving persons with mental disorders;
- detention of persons with mental disorders;
- implementation of psychiatric examination;
- mandatory treatment in medical health institutions and psychiatric mandatory treatment in freedom

Training methodology

During this training will be used a combined methodology of interactive discussion with participants, followed practical cases

Beneficiaries: Judges and prosecutors of basic and appeal instances.

Duration: One day

1.1.5 Evidence in criminal procedure

In this training, participants will be informed about the evidence in the criminal procedure, their type and classification, obtaining pre-trial evidence- means of evidence and general rules regarding the evidence. In particular, participants will be informed about inadmissible evidence and the obligation of a judge when such evidence is found in the case file, and whether a court decision may be based on inadmissible evidence. This due to the fact that in our judicial practice, there are many dilemmas regarding inadmissible evidence and it has also happened that court decisions have been based on these evidence.

What are evidences in criminal procedure? What are types of evidences? What is the source of evidence and means of evidence?

These and other issues will be addressed through this training by distinguishing admissible and inadmissible evidence and by elaborating legal provisions referring to the evidence and the evidence procedure.

Objectives

After completion of this training, participants will be able to:

- Identify inadmissible evidence and implement legal provisions related to these evidence;
- Make a distinction between admissible and inadmissible evidence;
- Asses when previous statements can be used in the main trial;

Content

- Source of evidence;
- Classification of evidence;
- Inadmissible evidence;
- Admissibility of witness and defendant testimony;

Training methodology

During this training, a combined methodology will be used, where, in addition to PowerPoint presentations, participants will interactively discuss practical cases presented during the training.

Beneficiaries: Judges and prosecutors of basic and appeal instances.

Duration: One day

1.1.6 Initial hearing, second hearing and the main trial

CPC, among others, have undergone major changes also on provisions regulating the procedure after filing the indictment by state prosecutor, taking in to consideration the initial and second hearing. On the other hand, after entering into force of CPC, many difficulties and confusions were faced while implementing legal provisions referring to initial and second hearing. In addition, the provisions regulating judicial hearing have undergone significant changes as well.

In what situations the second hearing should be determined and in what situations can be required only the suspension of the indictment or rejection of evidence? How to act if the defendant pleads guilty during the second reading? What is the role of a single trial judge or the presiding judge during the initial hearing or during the second reading? How the hearing for establishing relevant facts look like?

All these and other situations will be addressed by elaborating the initial hearing and second hearing, and the main trial procedure, through presentation of practical cases and analyzation of legal procedures regarding this matter.

Objectives

After completion of this training, participants will be able to:

- Organize properly the procedural development of initial and second hearing;
- Asses the role of the judge and state prosecutor during initial and second hearing;
- Develop properly the session of initial hearing, second hearing and main trial

Content

- Development and the flow of the procedure during initial and second hearing;
- Role of the judge and state prosecutor during second hearing;
- The session for proving of relevant facts related to punishment
- Judicial hearing;

Training methodology

Through presentation of practical cases and group discussion, various situations will be analyzed in which judges could be found during the initial and second hearing or the main trial.

Beneficiaries: Judges and prosecutors of basic and appeal instances.

Duration: One day

1.1.7 Terrorism

Terrorism poses a serious threat as a global phenomenon which violates the constitutional order and the rule of law. The Republic of Kosovo has drafted necessary legislation in combating and preventing criminal acts of this nature. There is also a strategy for preventing and combating terrorism. On the other hand, inclusion of Kosovo citizens to various terrorist organizations and participation in foreign wars, requires special attention from the relevant institutions on investigation, prosecution and punishment of such persons. Due to the specific importance of this issue and due to the fact that Kosovo currently is facing such offences, the elaboration of this topic is of a great importance.

What is the applicable legislation in this field? What are the forms of terrorism offences? How can be strengthen the local capacities in the successful fight against this phenomenon?

This topic addresses the forms of the terrorism offenses, its characteristics, as well as elaborates legal provisions referring the respective offences.

Objectives

After completion of this training, participants will be able to:

- Extend their knowledge on terrorism offences;
- Analyze forms of terrorism offences;
- Implement suitable instruments for combating terrorism offences.

Content

- Criminal offences of terrorism;
- Forms of commission of terrorism offences;
- Best practices in combating this phenomenon

Training methodology

During this training, a combined methodology will be used, where, in addition to PowerPoint presentations, participants will interactively discuss national case law and judicial practice of other countries in this regard.

Beneficiaries: Judges and prosecutors from serious crime department, and special prosecutors.

Duration: One day

1.1.8 Criminal offences against life and body

The right to life is an absolute and the most important human right which falls within the group of fundamental freedoms. This right is absolute, regardless of the individual's vital interests and regardless his/her capability to life, his/her age and health condition. Therefore, this right is guaranteed by the most important international acts, and by the Constitution and laws of Kosovo. Criminal Code sanctions murder offences, and foresees certain forms of murder offences. Among others, apart from the right to life, a special attention should be paid also to the protection of the human integrity.

How is the murder qualified? What are essential elements of the murder crime? In what circumstances of a murder crime has been committed? What are the characteristics and what qualifies the aggravated murder? What are other forms of murder according to CPC? What are other criminal offences that fall under the category of criminal offences against life and body?

This program has been designed to address cases from judicial practice and discuss in groups the alternatives provided in order to properly qualify criminal offences arising from this chapter.

Objectives

After completion of this training, participants will be able to:

- Extend knowledge relating criminal offences of murder and aggravated murder;
- Apply properly legal provisions relating criminal offences of light and severe bodily harm;

Content

- Murder and aggravated murder;
- Light and severe bodily harm;
- Other criminal offence of this CPC chapter.

Training methodology

Training methodology will focus on interactive discussion, so participants will have the opportunity to discuss in groups practical cases, aiming to provide legal qualification of respective criminal offences.

Beneficiaries: Judges and prosecutors of basic and appeal instance.

Duration: One day

1.1.9 Criminal offences of narcotics

Due to the dangerousness and serious consequences of the commission of these offenses, the CCRK pays a particular importance to narcotic offenses. In this regard, the CCRK dedicates a whole chapter to narcotics, where are provided some offenses related to narcotics and their special forms. Therefore, the foreseen punishments for this category of offences are also higher, compared with previous criminal legislation.

What is the legal definition of these criminal offences? What are circumstances that make these offences more specific? What sanctions are foreseen for these criminal offences?

These and other issues will be dressed during the training, through analyzation of practical cases and elaboration of legal provisions related to the respective offences.

Objectives

After completion of this training, participants will be able to:

- Implement properly legal provisions arising from the chapter of narcotic offences;
- Identify essential elements of each form of these offences;
- Explain consequences and dangerousness of these criminal offences.

Content

- Narcotic offences according to CCRP;
- Circumstances that make these offences more specific;
- Types of sanctions imposed to perpetrators of these offences.

Training methodology

During this training, a combined methodology will be used, where, in addition to PowerPoint presentations, participants will interactively discuss national case law and judicial practice. Also participants will be divided in groups in order to discuss relevant case law.

Beneficiaries: Judges and prosecutors of basic and appeal instances.

Duration: One day

1.1.10 Official corruption and criminal offences against official duty

Fighting official corruption and criminal offenses against official duty are one of the biggest challenges not only in our country but also in the legal practice of other states, and in particular of countries in transition. In order to advance and strengthen the rule of law and a progressive society, no doubt, in addition to the various international acts and instruments, our legislation, namely the CCK, in its chapter provides sixteen (16) criminal offenses against the official duty pertaining to official persons during the exercise of the official duty. Commission of these offenses by official persons violates the rule of law, economic development and the country's perspective. In combating this crime, from the investigation to the meritorious adjudication, the prosecutorial system, the judiciary together with the other investigative bodies, have a crucial role in this regard. Therefore, successful investigation of these offences is very complex, and depends on provision of sufficient resources for investigation and close cooperation between state bodies competent for combating and adjudicating these offenses.

How effective is the legal framework in place for combating this crime? How much is achieved in practice to make adequate qualification of incriminating actions of criminal offense from this chapter? How to distinguish the dividing line between the offense of misusing official position or authority and the offense of conflict of interest?

These and other issues will be the focus of the training, where participants will have the opportunity, through elaboration of the legal framework, case studies and discussions, to advance their practices toward proper implementation of the law.

Objectives

After completion of this training, participants will be able to:

- Assess the exciding the line of the official authorizations;
- Analyze criminal offences against official duty;
- Develop effective investigations and make proper legal qualification in relation to incriminating acts.

Content

- Misuse of the official position and authorization;
- Misuse of the official information;
- Conflict of interest;
- Acquisition and fraud in official duty;
- Fraud in official duty;
- Unauthorized property use;
- Taking and giving bribe, giving bribe to an foreign public official;
- Trading in influence;
- Unlawful issue of judicial decisions;
- Disclosure of official secrecy;
- Counterfeiting official documents;
- Unlawful collection an unlawful payment;
- Unlawful acquisition of property during house search and execution of judicial decisions;
- Not reporting or reporting of false property, incomes, other material assets, or financial obligations.

Training methodology - During this training, a combined methodology will be used, which will be followed by practical cases and case studies. Whereas, participants will be provided with hypothetical cases and will be divided in groups in order to work on these cases. PowerPoint presentation will also be used.

Beneficiaries: Judges and prosecutors from SCD, of basic and appeal instances. **Duration:** One day

1.1.11 Effective protection in criminal procedure and guaranteeing of quality of parties - determining of defense council with public expenses

Effective protection in criminal proceedings is one of the essential conditions guaranteed by the Constitution and the positive laws. In this regard, CCRP has created a range of remedies at all stages of criminal proceedings. Undoubtedly, the defendants' freedom to engage and select a lawyer at his own expense is a right which at any time and stage of the criminal proceedings shall be provided to him. In this regard, in order not to come to a discriminatory position of citizens, and to have effective protection in criminal proceedings, precisely due to financial inadequacy, the CCRP has foreseen the appointment and engagement of the defense counsel at public expense in situations where the defense is not mandatory, or at the request of the defendant under the conditions provided for by this Code, in particular when the interests of justice requires the defense, regardless of the foreseen punishment.

Certainly, in our practice, there are not many cases when defendants have been assigned a defense counsel with public expense, even when the defense was not obliged. Why doesn't this apply in practice? What are the dilemmas and obstacles to the implementation of this legal requirement by law respective institutions?

During the training, participants will be notified with the legal provision of Article 58 of the CCRK and best practices in meeting this legal requirement in order to provide effective protection of defendants in criminal proceedings. Also, will be elaborated procedural consequences in cases of not notifying defendants of the possibility for having a defense counsel even when the defense is not obliged.

Objectives

After completion of this training, participants will be able to:

- Recognize the legal infrastructure for assigning a defense council even when the defense is not obliged;
- Identify cases in practice for implementation of this provision;
- Fulfill this legal obligation during criminal procedure;

Content

- Conditions for mandatory protection;
- Criminal procedure to be developed for an offense punishable up to 8, or more years imprisonment;
- The interest of justice; justice interest requirement;
- Financial incapability and its argumentation as a condition for assigning a defense council at public expense, the decision for assigning a defense at public expenses;

Training methodology

During this training, a combined methodology will be used, where, in addition to PowerPoint presentations, participants will interactively discuss the case law and hypothetical cases.

Beneficiaries: Judges and prosecutors

Duration: One day

1.1.12 International legal cooperation

Combating crime is not just a need and a duty of a particular state or society. With the development of information technology, free movement and migration of the population in different countries around the world, brought the need for state cooperation in civil and criminal matters, with the purpose of preventing and combating all forms of crimes. In this regard, our state also promulgated the law on international legal cooperation, in order to facilitate and implement the principle of reciprocity between different countries and our country, it also approved and ratified agreements on issues of international legal cooperation. In our day-to-day practice, in courts and the prosecutor offices, more and more cases are provided with minimum legal assistance, various pleadings for obtaining a witness statement or submitting documents/invitations or various rulings, up to the extradition of the wanted person, according to the request of the requesting state.

Is legal infrastructure needed for international legal co-operation? Are judges and prosecutors regularly informed on state-level agreements signed in this area? How to deal with cases of confiscation of property claims according to the request of the requested state?

During the training, participants will be introduced with the legal infrastructure of international legal cooperation, will analyze the situation of the possibility for extending detention measure for the wanted person, according to the request of the requesting state.

Objectives

After completion of this training, participants will be able to:

- Advances their knowledge in the field of international legal assistance;
- Draft requests for international legal assistance;
- Analyze the requirements submitted by the requesting state and
- Draft decisions to allow extradition of wanted persons.

Content

- Orders issued for detention of wanted for persons;
- Requests for detention of wanted persons required by the requesting state;
- Decisions for determining detention and its duration and the decision for granting the extradition of the requested person;
- Recognition and execution of foreign judgments.

Training methodology

During this training, a combined methodology will be used, where, in addition to PowerPoint presentations, participants will interactively discuss the case law and hypothetical cases.

Beneficiaries: Judges and prosecutors

Duration: One day

1.1.13 Alternative and additional punishments

Criminal Code of the Republic of Kosovo in addition to main punishments, a special attention has paid to alternative and additional punishments, by determining conditions for their imposition and the category of criminal offenses according to their sustainability and the procedure for their imposition. Given that these types of punishments are not being properly imposed during court practice, and on the other hand, there are quite a few dilemmas toward imposition of these sentences and at the same time their revocation, it is necessary for this training program to pay attention to the imposition of these punishments. Particularly to adults of the younger age, where these measures would effectively influence both the prevention of the commission of other criminal offenses and the educational effect to this age category of our society.

Are there many dilemmas in practice, if alternative sentences are being executed? How do they include the obligation and revocation procedure?

Participants will be informed about the legal infrastructure for the imposition of alternative and additional punishments, the type of alternative and additional punishments and procedure for their imposition.

Objectives

After completion of this training, participants will be able to:

- Advancing their knowledge about legal infrastructure;
- Analyze proposals for imposition of these sentences;
- Apply the procedure for imposition of these punishments and their revocation as well;
- Draft the judgments for imposition of alternative and additional punishments;

Content

- Conditional punishment, half-freedom, the order for community service work;
- Abolishing the right to choose;
- The order for compensation of loss or damages;
- Prohibition for exercising functions in public administration or public service;
- Prohibition for exercising a profession, activity or duty;
- Prohibition of driving;
- Taking away the driving license;
- seizure;
- the order for the publication of the Judgment and
- Deportation of a foreigner from the territory of the Republic of Kosovo.

Training methodology- During this training, a combined methodology will be used, where, in addition to PowerPoint presentations, participants will interactively discuss the case law and hypothetical cases.

Beneficiaries: Judges and prosecutors

Duration: One day

1.1.14 Organized crime

Organized crime is among the worst criminal offences, which is sanctioned by the Criminal CCRK. This form of criminality is the most serious crime committed by a structured group with a purpose of benefiting directly or indirectly and financially. Organized crime seriously threatens the development of democracy, the rule of law and human rights, as well state security and economic development. For this form of criminality can be consulted the international Convention in combating organized crime, which means that this criminal offence tackles the internal and external market, respectively damages the state economic development. Prevention and punishment of organized crime is based on having deep knowledge on the organized crime phenomenon, on clear and decisive political will, on professional judiciary and on a strategy against organize crime in line with European and International standards.

What is the legal infrastructure for combating organized crime? What forms or actions are taken to prevent organized crime? How can relevant mechanism be effectively implemented?

Dilemmas and questions raised from this topic will be addressed through presentation and elaboration of practical cases.

During the training, participants will be informed about the legal structure of organized crime and forms of its appearance.

Objectives

After completion of this training, participants will be able to:

- Implement applicable legal provisions;
- Increase professional capacities for investigation of this criminal offence;
- Demonstrate high professional standards

Content

- Legal definition of organized crime;
- National and international legal framework;
- Identifying elements of this criminal offence.

Training me methodology

During this training, the trainer will apply a combined methodology, where, in addition to PowerPoint presentations, participants will interactively discuss the case law and hypothetical cases.

Beneficiaries: Judges and prosecutors

Duration: One day

1.1.15 Seizure and confiscation

Seizure and sequestration chapter under the Criminal Procedural Code, represents a substantial change in national legislation, whereas, global trends are moving in the direction that through seizure and confiscation crimes can be prevented, since by removing the assets from the hands of criminals, multiple effects can be achieved. Therefore, The Law on extended Competences on Confiscation of Property Acquired by Criminal Offence is the best opportunity for seizure and confiscation.

What is the importance of asset confiscation as evidence, as a mean by which the crime was committed or material benefit obtained by a criminal offense? What measures could be proposed to ensure the property and what freezing measures after the indictment? How can be enhanced the implementation of provisions of the Law on extended competence for confiscation of property obtained by crime?

By comparing the national and international legislation, the case law and presentation of global trends in this area, is aimed to increase professional capacities and explain uncertainties of the actual legal framework.

Objectives

After completion of this training, participants will be able to:

- Apply properly existing legislation related to tracing, seizure and confiscation of assets of crime;
- Identify key methods for disclosure of assets acquired by commission of criminal offences; and
- Apply the sequestration and confiscation process of illegal assets

Content

- Legal framework on tracing, freezing and confiscation of assets acquired by commission of criminal offence;
- Methods for identification of assets and the process for seizure and confiscation of assets acquired from commission of criminal offence;
- Freezing of assets - orders for confiscation of the assets acquired by criminal offence
- Administration of sized property.

Training methodology

During the training a combined methodology will be used, where will be included theoretical and practical explanation, followed by study cases and judicial practice.

Beneficiaries: Judges, prosecutors and other professionals involved in tracing, freezing and asset confiscation.

Duration: One day

1.1.16 Measures to ensure the presence of the defendant in criminal procedure

CPCCK provides measures to ensure the presence of the defendant in criminal proceedings, as an instruments for restricting the freedom of movement, and determines legal requirements for developing successful criminal procedure. Whereas, one of the most severe measure in the context, is the detention. According to international instruments, but also with our legislation, detention should be applied only when all other measures are exhausted. Measures to ensure the presence of the defendant in criminal proceedings are often not implemented in the manner and conditions provided by law, thus, in practice there are still difficulties in identifying, evaluating and analyzing the circumstances regarding the issuance of each of these measures. However, in judicial practice are often found difficulties in preparing requests for these measures, especially for detention, and the reasoning of the request, since according to legal provisions, it is required to provide a founded concrete and not abstract reasoning.

What is the basis for determining-continuation of these measures? Where are the difficulties in identifying circumstances that justify the request on these measures and their assignment?

Through this training is intended to analyze measures to ensure the presence of defendant in criminal proceedings and to overcome dilemmas that arise in the judicial practice.

Objectives

After completion of this training, participants will be able to:

- Evaluate properly the elements of imposing measures to ensure the presence of the defendant;
- Determine the type of measures;
- Decide on detention or other measure;
- Draft and provide founded reasoning for imposition of this measures.

Content

- Legal conditions for imposing measures to ensure the presence of the defendant;
- Bail and house arrest;
- Detention and reasoning of the decision on detention;
- Detention and other measures in relation with human rights.

Training methodology

During the training a combined methodology will be used, where will be included theoretical and practical explanation, followed by study cases and judicial practice.

Beneficiaries: Judges of basic and appeal courts, prosecutors from basic and appeal prosecution office and special prosecutors of the Republic of Kosovo.

Duration: One day

1.1.17 Criminal offences against sexual integrity

The sensitivity of criminal offenses against sexual integrity requires more detailed treatment to remove dilemmas from the fact that legal provisions leave plenty of room for interpretation and confusion. Also, within the chapter of offenses against sexual integrity, among other issues, it also provides some offenses affecting the sexual integrity of children. Fair application of the legal provisions of this chapter is often a challenge for judges and prosecutors.

What are criminal offences against child sexual integrity according to Criminal Code of Kosovo? What are the elements and characteristics of criminal offences against child sexual integrity?

Through presentation of practical cases and discussion groups, will be provided various alternatives on issues dealing with offenses against sexual integrity. Addressing these issues will create an interactive participation and discussion with participants, with the purpose of answering the questions and problems that may arise in judicial practice.

Objectives

After completion of this training, participants will be able to:

- Extend their knowledge relating to criminal procedure when the victim is a child;
- Analyze forms of appearance of rape and other similar offences relating to sexual integrity;
- Implement properly provisions regarding these offences.

Content

- Criminal offences against sexual integrity according to Criminal Code;
- Elements and characteristics of criminal offences against sexual integrity of children;

Training methodology

Working groups and case studies from judicial practice will characterize the training methodology on this subject.

Beneficiaries: Judges of basic courts, basic prosecutors and police investigators.

Duration: One day

1.1.18 Covert measures

From the point of view of procedural regulation, covert and technical measures of investigation and surveillance are relatively new. The reason for drafting of these provisions, as well as provisions regarding the protection of injured parties, witnesses and cooperative witnesses, lies in the social necessity for increasing procedural efficiency in combating serious crime, organized crime and corruption.

With the application of covert technical measures of investigation and surveillance is interfered, or are violated human rights and freedoms as a constitutional category, and in particular the right of privacy of persons. Therefore, the Criminal Procedural Code of Kosovo in Chapter IX, provides conditions, methods and ways of using the order and the implementation of these measures. Any violation of these legal provisions constitutes a violation of individual, private and personal rights foreseen by the Constitution of the Republic of Kosovo, as well as other international Conventions and instruments.

How to increase professional efficiency of judges and prosecutors, as well as of police officers in this field? How to establish judicial practice in line with international standards? How to learn about the experiences and best practices of regional states? How to apply national instruments regulating this field? What are provisions that must be applied to ensure the covert measures?

Addressing of this issue shall provide participant the opportunity to exchange their experiences by referring to practical cases.

Objectives

After completion of this training, participants will be able to:

- Advances their knowledge on the types of investigative actions;
- Recognize the conditions to be met for issuing these measures;
- Apply terms for issuing these measures;
- Recognize the rights of the affected parties by these measures.

Content

- Conditions for issuing these measures;
- Time limits for issuing these measures;
- The rights of the affected parties by these measures;
- Technical possibilities for overseeing the technical-practical implementation of these measures.

Training methodology - Working groups and case studies from judicial practice will characterize the training methodology on this subject.

Beneficiaries: Judges, prosecutors and police investigators.

Duration: One day

1.1.19 Human trafficking

Human trafficking represents a very complex criminal offense and a global phenomenon, which in itself includes elements of several offenses and more serious violations of human rights. Endangered by trafficking in human beings can be all people regardless of age, gender, race or nationality, but especially the most vulnerable are women and children for sexual exploitation purposes. Responsible institutions are fully aware of the diversity of human exploitation. Based on this, it is necessary to further build the professional capacities of judges and prosecutors in the proper implementation of the legislation in force and strengthen cooperation with other relevant institutions for successful combating of this phenomenon.

What are the elements of the criminal offense of human trafficking and other trafficking related offenses? How can the victims of trafficking be identified? What are the rights of trafficked victims? How are victims of trafficking protected? How to prevent human trafficking? How is the rehabilitation and reintegration of trafficked victims? What are the adequate ways of cooperation between institutions responsible for preventing and combating human trafficking? What are the elements of the offense of smuggling of migrants?

In order to answer the above-mentioned questions during the training, participants will have the opportunity to access case studies from where they can see the challenges and problems regarding proper implementation of the legislation on prevention and combating human trafficking, as well as the ways of how these challenges and problems can be overcome or solved.

Objectives

After completion of this training, participants will be able to:

- Implement legislation related to human trafficking;
- Identify the human trafficking elements;
- Distinguish the elements of the human trafficking offense from the elements of other criminal offenses;
- Implement and respect the rights of victims of trafficking in criminal proceedings;
- Apply the procedure for compensation of damage.

Content

- Understanding and elements of human trafficking;
- Criminal offenses related to human trafficking;
- The rights of trafficked victims during criminal proceedings;
- Protection and assistance to victims of trafficking;
- Strengthening cooperation and coordination among key stakeholders;
- Compensation of victims of trafficking.

Training methodology -Interactive methods, case simulations, group work on case studies, questions and discussions on topics covered in this training will be used during the training.

Beneficiaries: Judges and prosecutors of the first and second instance.

Duration: One day

1.1.20 Alternative procedures

Alternative proceedings have been subject to many changes compared to previous code of criminal procedure. These procedures provide an opportunity to resolve cases without sending them to court. Lately, the alternative procedure has found its implementation particularly in diversion measures proceeding and in mediation, but also the suspension of the prosecution started to take an important place in more effective implementation of criminal procedure.

How to increase the professional efficiency of judges and prosecutors in this area? How to establish judicial practice in line with international standards? What are the experiences and best practices of regional states? How to apply national instruments regulating this field?

Addressing these dilemmas will provide participants the opportunity to share their experience in this regard by referring to practical cases.

Objectives

After completion of this training, participants will be able to:

- Apply properly legal provisions regarding alternative procedures;
- Advances their knowledge on these types of alternative procedures;
- Recognize the effective methods for implementing these procedures;
- Recognize the advantages of alternative procedures.

Content

- Alternative procedure;
- Implementation of the alternative procedure;
- Advantages of the alternative procedure.

Training methodology

During the training, will be used interaktive method, case simulation, working groups, cases from judicial practice and group discussion related to the subject matter.

Beneficiaries: Judges of basic instances and other relevant institutions.

Duration: One day

1.1.21 Witness protection

Taking into consideration that CPCK recognizes the witnesses and injured party as a special category, due to the threat imposed to them or their families. In practice there are many cases when witnesses or injured do not testify because of the risk to their health, life or their property, or their family members. Therefore, a special attention should be paid to the protection of witnesses and injured parties, so they will not be afraid to testify and cooperate with law authorities, and that their health, life and property is safeguarded by the respective authorities.

Since in court practice there are still dilemmas on how to deal with witnesses and protected defendants, during the training, the following questions will be asked: What do we mean with a serious risk? What is anonymity? What is the difference between witnesses protected by the public and anonymous witnesses? What is the difference between the provisions of the CPCK, on necessary measures to protect the injured and witnesses in relation to the provisions of the Law on Protection of Witnesses? Which procedures should be followed to protect the injured party and the witness, etc.? Providing accurate and clear answers to such questions will lead to a better and proper implementation of the legal provisions on protection of witnesses and injured parties.

Participants will be provided with practical cases prepared specifically for this training, where the successes and failures in witness protection and defendants can be seen.

Objectives

After completion of this training, participants will be able to:

- Draft a requests for protection measures or anonymity and protection order;
- Draft protection orders;
- Properly conduct the procedure for announcing a protected witness;
- Interpret correctly the benefits of a protected witness under the law.

Content

- The request for protection measure or anonymity and issuance of a protection order by the judge;
- Order for anonymity and its forms;
- Procedure for declaring a protected witness and his benefits under the law

Training methodology

During the training, will be used interaktive method, case simulation, working groups, cases from judicial practice and group discussion related to the subject matter.

Beneficiaries: Judges and prosecutors of first and second instance. **Duration:** One day

1.1.22 Criminal offences against the economy

Crimes against the economy fall under criminal offenses related to fraud, misuse, falsification, conclusion of harmful contracts, falsification of valuable marks, breach of the right of patents, money counterfeiting etc. These offenses may also be committed by an official who, by abusing his official duty or authority, limits the free movement of capital, people, goods, services, labor or reproduction means in the territory of the Republic of Kosovo.

Within this chapter are included the criminal offense of misuse of economic authorizations, which offense is committed by the responsible person during the exercise of economic activity, for the purpose of the unlawful benefit for himself or for any other person.

How to increase professional efficiency of judges and prosecutors in this area? How to establish judicial practice in line with international standards? How to learn about the experience and best practices of states in the region? How to apply local instruments that regulating this field? What are measures for preventing these criminal offenses?

During this training, dilemmas about the uncertainties that have emerged in practice between the distinctions of the responsible person in public institutions and between the responsible person of private company should be eliminated. Addressing these dilemmas will provide participants the opportunity to exchange experiences by referring to practical cases.

Objectives

After completion of this training, participants will be able to:

- Apply properly legal provisions regarding criminal offenses against the economy;
- Advance their knowledge on these types of criminal offenses;
- Make a difference between responsible person in public institutions and between responsible person in private company.

Content

- Measures to prevent informal economy;
- The role of the judge and prosecutor in combating these crimes;
- Notion of the responsible person.

Training methodology

During the training, will be used interaktive method, case simulation, working groups, cases from judicial practice and group discussion related to the subject matter.

Beneficiaries: Judges and prosecutors of basic instance and other relevant institutions.

Duration: One day

1.1.23 Financial investigation

Financial crimes are included among the most serious crimes, which aimed to attack the economic development of society. As a form of criminality manifests itself in different forms such as: corruption with all its characteristics, money laundering, tax evasion, public procurement, etc. In order to efficiently combat financial crime, with a particular emphasis on money laundering and financing of terrorism in the Republic of Kosovo, based on the Law on Money Laundering, Prevention and Financing of Terrorism, has been established the FIU a central, independent institution for information-analysis of money laundering and terrorist financing.

How to increase the professional efficiency of judges and prosecutors in this area? How to establish judicial practice in line with international standards? How to learn about the experiences and best practices of regional states? How to apply national instruments regulating this area? What are the measures for prevention of money laundering, what is public procurement - with particular emphasis on distinction between administrative offense and criminal offense and fiscal evasion?

During this training, will be eliminated dilemmas regarding uncertainties that have arisen in practice, the distinction between the administrative violation and the criminal offense and the difference between the official person and the responsible person. Addressing these dilemmas will provide participants the opportunity to exchange experiences by referring to practical cases.

Objectives

After completion of this training, participants will be able to:

- Apply correctly the legal provisions regarding criminal offenses against financial crime;
- Advances their knowledge of these types of criminal offenses;
- Implement efficient methods for preventing informal economy;
- Gain sufficient knowledge about who should report suspicious transactions

Content

- Public procurement with special emphasis on the difference between administrative violation in the procurement procedure and criminal offense;
- The difference between the official person and the responsible person;
- Tax evasion.

Training methodology - Interactive methods, working groups, case studies, questions and discussions on relates to the subject matter will be used during the training.

Beneficiaries: Judges and prosecutors of basic instances and other relevant institutions.

Duration: One day

1.1.24 International Criminal Law remedies for criminal prosecution of war crimes within Kosovo jurisdiction – practical approach

This training will focus on applicable forms of Criminal Responsibility for War Crimes, as addressed by international criminal tribunals. Participants will enrich their theoretical background and practice with concrete case studies, in order to gain additional remedies to investigate and prosecute war crimes within Kosovo's jurisdiction. Recognition of such legal remedies will help prosecute and adjudicate war crimes cases, targeting not only perpetrators but also individuals holding higher positions in the military and political hierarchies that decided or allowed the commission of international crimes.

In which cases a military commander or a political leader may be held responsible for war crimes committed by subordinates? How to build an investigation for war crimes against senior military and political leaders when war crimes perpetrators cannot be identified? How to apply the experience and jurisprudence of international criminal tribunals to prosecute war crimes within Kosovo's jurisdiction? How to obtain and use the evidence collected by international criminal tribunals and findings made by international courts for the purpose of prosecuting and adjudicating war crimes within Kosovo's jurisdiction?

The training will be developed through case studies, practical examples and drafting of legal documents in order to increase the capacity of judges and prosecutors toward implementation of legal concepts processed by international criminal tribunals for evidence collection in concrete cases.

Objectives

After completion of this training, participants will be able to:

- Gain knowledge in dealing with war crimes cases;
- Recognize the applicable forms of criminal liability for war crimes;
- Identify joint criminal groups;
- Recognize command responsibility;
- Recognize the key concepts of international criminal law.

Content

- National and international war crimes legal grounds;
- Applicable forms of criminal liability for war crimes;
- Decisions of the Supreme Court and Appeal on the Applicability of International Criminal Law to Kosovo Jurisdiction;
- Case studies;
- Joint criminal groups;
- Command Responsibility.

Training methodology

Following a brief overview of legal concepts, the training will focus on case studies, application of legal categories in factual scenarios and the design of operational templates.

Beneficiaries: Kosovo prosecutors – particularly, SPRK assigned prosecutors, judges from Serious Crime Department, Appeal Court and Supreme Court judges

Duration: Three days

1.1.25 Strengthening of capacities in criminal prosecution against corruption with Criminal Justice Partners of Mitrovica region

This training aims to advance the capacity of prosecutors in the Mitrovica region and increase their ability to work in cooperation with the police and other law enforcement agencies. It will also serve them in the management of unsolved cases of corruption and related crimes. Other targeted outcomes include the improvement of the Mitrovica Basic Prosecution office for monitoring and notifying at an early stage, the corruption and related crime cases.

How is the cooperation with police and other law enforcement agencies in corruption cases?
How is the approach to criminal investigation and prosecution of corruption and related crimes?
How is the prosecution of high profile cases involving corruption and related cases?

These and other issues will be addressed during this training through interactive discussion, case studies, the use of best practices of the EU and International Standards

Objectives

After completion of this training, participants will be able to:

- Expand capacities in investigating and prosecuting corruption and related crimes;
- Coordinate the work with the police and other law enforcement agencies in corruption cases;
- Advances knowledge in the management of unsolved corruption cases and related crimes;
- Monitor and warn in early stages of corruption and related crime cases

Content

- Use of defined objectives and indicators of the determined performance in the Anti-Corruption Strategy for 2012 - 2016 (Anti-Corruption Strategy after 2016 is being drafted by the Anti-Corruption Agency).
- Effective Management of Corruption Cases and Related Crimes.

Training methodology

Interactive discussion including facilitators, speakers and integration of group participants in the presentation session, working groups and closing session.

Beneficiaries: Criminal Justice Partners at Basic Prosecution Office, Kosovo Special Police, Tax Administration, Customs, Anti-Corruption Agency from Mitrovica Municipalities

Duration: One day

1.1.26 Training on media communication for prosecutors and prosecution officials

The State Prosecutor's Action Plan of 2017 clearly sets out one of its objectives "Communication with Media and the Public". This shows that media communication for prosecutors is seen as an area where trainings on specific skills are needed, in order to increase overall capacities. The mandate of EULEX has, among other things, the gradual transfer of competencies to local prosecutors. Capacity building of local counterparts through provision of knowledge and experience regarding best practices in a sensitive area such as communication, makes the ultimate goal of gradual transfer of competencies over all prosecutorial issues to Kosovo prosecutors more attainable.

What are the key concepts of communication with the media? What are the skills of communication and journalistic interviewing?

These and other issues will be addressed in this training through providing an impact to the limitation or elimination of incidents and bad public perceptions, caused by opposing and uncoordinated communication approaches, therefore this training will provide new tools to prosecutor offices for dealing with such delicate situations.

Objectives

After completion of this raining, participants will be able to:

- Recognize the importance of dialogue between the media and prosecutorial bodies
- Have a proper approach to communication with the media
- Identify information provided to the public
- Recognize journalistic interviewing techniques and public communication techniques;

Content

- The importance of dialogue between the Media and Prosecution Bodies;
- Effective communication with the media;
- Public access to information;
- Journalistic interviewing techniques;
- Public communication techniques.

Training methodology

Presentation, practical examples of journalistic interviewing skills and techniques and the practice of interviewing by the media.

Beneficiaries: Kosovo prosecutors and other officials from communication sector working at prosecution offices.

Duration: Two days

1.1.27 Evidence issue related to criminal prosecution of offences related to terrorism: Specific case analysis and sharing of best practices on digital forensics, use of internet and converging revealed information into evidence

Through the National Strategy against Terrorism 2012-2017, Kosovo aims at prosecuting, investigating and bringing to justice individuals or groups posing a terrorist threat or committing terrorist acts, by establishing and strengthening competent institutions in the process of identification, prevention, detection and prosecution of these offences.

While Kosovo's legislative framework to a large extent seems sufficient to investigate and prosecute terrorist activities, prosecutors still lack the experience to deal with specific investigative techniques and prosecution strategies that relate to terrorism cases. That is why Kosovo prosecutors expressed their need to be trained on the techniques of prosecution of terrorism, during the Annual Prosecutors Conference in 18 January 2017 and the Kosovo State Prosecutor's Action Plan for 2017. One of the most important aspects for prosecution of terrorism relates with the assessment and use of evidence, which often come as a results of special investigative techniques or sensitive information based on intelligence. In order to ensure real results in the fight against terrorism in Kosovo, it is vital for local prosecutors to get acquainted with these matters of evidence.

What are specialized investigative techniques? How do I collect these evidence? How is prosecution in terrorism cases? What are the tools available to conduct internet crime investigation investigations?

These and other issues will be addressed through this training, which will have an impact on combating terrorism from a perspective of digital forensics and intelligence.

Objectives

After completion of this training, participants will be able to:

- Recognize specialized investigative techniques;
- Apply properly the insurance, collection, maintenance and admissibility of evidence in terrorist offenses;
- Apply correctly the investigation and prosecution;
- Advances knowledge on terrorism detection techniques through the Internet.

Content

- Specialized investigative techniques;
- Ensuring, collection, maintenance and admissibility of evidence in terrorist offenses;
- Investigating and prosecuting cases involving terrorism;
- Internet use for terrorist purposes;
- Available tools to conduct investigations on terrorist activities through internet;

Training methodology

During the training, combined methods of explanation, including theoretical and practical explanations will be used and will be followed by practical examples so that each participant will have the opportunity to actively participate in the training.

Beneficiaries: Kosovo prosecutors

Duration: Two days

1.1.28 Interviewing skills of witnesses/war crime victims with the focus on sexual violence and gender violence in armed conflict

Improving the skills of interviewing techniques is a fundamental tool for investigating and prosecuting criminal offenses. This applies especially to war crimes since most of them, if not all, rely on witness testimonies or indirect evidence. Among them, there are cases where women reported being victims of sexual violence and gender-based violence.

In contacting a witness, prosecutors leading the investigations should have the knowledge and skills, in order to be able to provide information/evidence to victims in the most effective manner. This implies the need for prosecutors to improve their understanding the elements of the crime, that are essential when contacting the witness, as well as to improve prosecutors' ability to interview, including planning and preparation, establishing relationship and managing of information. In order to overcome these challenges, participants will be familiar with techniques for understanding verbal and nonverbal communication, address communication barriers such as challenging behaviors during the interview, as well as reviewing of the factors that reflect on obtaining details and preserving them in short and long-term memory.

Objectives

After completion of this training participants will be able to:

- Implement techniques for planning and interviewing witnesses and victims of war crimes with a focus on sexual violence and gender-based violence;
- Recognize verbal and non-verbal communication techniques;
- Overcome the challenges posed by concrete crime under investigation, as well as personal and security issues;

Content

- War Crime Analysis including elements that need to be verified in accordance with Kosovo's legislation and international law
- Planning the interview where participants will learn the steps to be taken during the planning of the interview, taking into account various factors such as age and gender of interviewer, ethnicity, social and cultural background, as well as security issues
- Exercise the witness/victim testimony, in a war crime cases based on case studies where participants will have the opportunity to put into practice the knowledge and skills acquired during the workshop.
- This section will focus on interviewing women, victims of sexual violence and gender-based violence in armed conflict.

Training methodology - During this training, a combined methodology will be used, where participants will be interactively engaged in the training. They will be also provided with specific internal technical issues such as, witness protection measures and the witness protection program, the use of forensic experts and so on. At the end of the workshop, participants will be given a "Handbook on Witness War Victim Interviewing Technique" for their daily work use, which can be read and approved also by other prosecutors in the respective work units. Particular attention will be paid to women as sexual victims and gender violence in armed conflict.

Beneficiaries: SPRK prosecutors working in war crime unit and 2 or 3 war crime police officer.

Duration: Two days

1.1.29 Strengthening the implementation of the European Convention on Human Rights

The European Convention on Human Rights (ECHR), as well as the jurisprudence of the European Court of Human Rights (ECtHR), are the source of the law in Kosovo. Pursuant to Articles 22 and 53 of the Constitution of the Republic of Kosovo, the ECHR and the ECtHR jurisprudence are directly applicable in Kosovo and in case of non-compliance, prevail the provisions of the law and other acts of public institutions. The ECHR, enshrined by the ECtHR jurisprudence, sets out the legal framework of the rights and freedoms that are respected by the criminal proceedings, in particular, the right to liberty and security (Article 5), the right to a fair trial (Article 6) and the basic rule that there is no punishment without a law (Article 7).

Over the decades, the ECtHR has developed a constructive jurisprudence for the interpretation and implementation of human rights related to criminal proceedings. In general, national jurisdictions do not have laws, regulations and/or jurisprudence for consultation in order to resolve any legal problem that may result from criminal proceedings. Therefore, the ECHR jurisprudence has been a key source of interpretation and implementation of human rights for various judicial stakeholders such as lawyers, prosecutors and judges.

This is of a great importance, since Kosovo legal system does not contain any collection of legal practice that could be consulted by judicial stakeholders, in order to clarify difficulties related to interpretation of the law.

Objectives

After completion of this training, participants will be able to:

- Recognize the ECHR jurisprudence regarding interpretation and application of human rights in criminal proceedings;
- Apply ECtHR jurisprudence directly by citing the ECtHR jurisprudence in order to interpret the norms regulating the criminal procedure.

Content

- Duties and obligations of prosecutors during investigation, arrest and detention;
- Detention, collection of evidence; interrogation;
- Termination of investigation procedures;
- The phase of judicial review;
- Burden of proof, witnesses, expert witnesses;
- Eligibility of evidence, the rights and victim compensation;
- Concept of reasonable timing;

Training methodology

During the training will be used methods such as: lecturing, interactive discussion, Strasbourg case law analysis

Beneficiaries: Prosecutors from all instances.

Duration: Two days

1.1.30 Introductory Cybercrime, Electronic Evidence and Online Crime Proceeds Training

Given the reliance of societies worldwide on information and communication technologies, judges and prosecutors must be prepared to deal with cybercrime and electronic evidence. Experience suggests that in most cases, judges and prosecutors encounter difficulties in coping with the new reality of the cyber world. With the increase in the number of incidence of crimes that have an element of cybercrime or electronic evidence increases the need for judges and prosecutors to be properly trained to understand the nature of these crimes and to also be aware of the legislation and the instruments for international cooperation available to handle such cases.

In general, the activities of criminals and criminal organizations are designed to generate profits. The total amount of criminal proceeds in 2009 was approximately USD2.1 trillion, or 3.6% of global GDP, but only a very small proportion of those funds is ever recovered. Money laundering allows criminal organizations to benefit from their illegal activities and maintain their operations.

The concept of targeting online crime proceeds presented in this training course brings together the approaches of cybercrime, financial and money laundering investigations with the purpose of increasing efficiency and success of criminal investigations and criminal proceedings from the perspective of both prosecuting a criminal and targeting proceeds of crime. Financial investigation and money laundering prevention and investigation can be related to any profit generating crime, however special attention is devoted to cybercrime (as defined by the Budapest Convention, Articles 2-11) and other types of online crime, where electronic evidence, anonymity and borderless cyberspace are a common challenge.

The issues of cybercrime, electronic evidence, crime proceeds and money laundering cut across different institutions and involve, in particular, cybercrime units, financial investigation units, Financial Intelligence Units (FIUs) and prosecution services. However, cybercrime investigations are rarely accompanied by financial investigations and vice versa, investigations of financial or other crimes are rarely accompanied by cybercrime investigations.

The course is designed to provide judges and prosecutors an introductory level of knowledge on cybercrime, electronic evidence and search, seizure and confiscation of online crime proceeds. The course will provide legal as well as practical information about the subject matters and concentrate on how these issues impact on the day-to-day work of judges and prosecutors.

Objectives

After completion of this training, participants will be able to:

- Gain basic knowledge on cybercrime and electronic evidence;
- Implement financial investigation for cybercrime benefits;
- Gain knowledge on substantial and procedural laws, as well as the technology to be applied; and
- Assess how fast an action can be taken and what is the efficiency level of the extensive international cooperation.

Content

The training is combined and based on two special courses: The introductory course on search, seizure and confiscation of online crime proceeds and the introductory course on cybercrime and electronic evidence.

The Module will cover the following subjects:

- Introduction to cybercrime – trends and tools
 - Technology involved in cybercrime
 - Cybercrime as a criminal offence in domestic legislation
 - Electronic evidence practice, procedure and legislation
 - Procedural law/ investigative measures in domestic legislation
 - International cooperation
 - Cooperation with the industry
 - The basics of financial investigations
 - The role and function of a Financial Intelligence Unit (FIU)
 - Introduction to cybercrime and cybercrime specific challenges and opportunities
 - Introduction to the crime of money laundering
 - Understanding online money laundering typologies
 - International cooperation methodologies for both cybercrime and financial investigations

Training methodology

The course as currently structured is designed to be delivered in classroom setting using classroom based trainer instruction. The use of case studies to inform the learning is considered suitable for this type of training and is more in keeping with adult learning styles than purely didactic teaching. Use of physical examples of technology referred to and use of the Internet may also enhance learning.

Trainers should consider incorporating exercises and other teaching methods in to the program at the national level. Trainers should check the knowledge of students during the course, by questioning, quizzes or other methods to ensure that the learning objectives are being achieved.

The Lesson Plan documents included in the training materials also contain important information aimed at guiding the trainers during each lesson/session/topic.

Beneficiaries: Judges and prosecutors that have not yet attended this course.

Duration: Four days



SPECIALIZED PROGRAMS

1.2 Specialized programs

1.2.1 Specialized Training Program for Capacity Development in Combating Corruption

This specialized training program aims at detailed and comprehensive way to address professional development needs of judges and prosecutors involved in combating corruption offenses. The program will address the challenges related to effective implementation of national legislation in combating corruption by focusing on specific aspects that appear to be problematic in practice. Alongside them will be treated the international legislation in this field with a focus on the EU, including the standards and practices of successful countries that have succeeded in combating this phenomenon. The case law of the European Court of Freedoms and Human Rights will be part of this program.

Also, the training will focus on advancing the laws. Forms of inter-institutional cooperation and coordination of the institutions mandated to combat corruption are among the topics included in this program, which will anyway treat efficient management of corruption cases. A very important part of the program is also the discussion about judges and prosecutors code of ethics aspects.

Objectives

After completion of this training, participants will be able to:

- Demonstrate correct use of concepts and principles more effective in combating corruption offenses;
- Implement laws and theories to practical situations;
- Assess the relevance of data and resources in approaching this phenomenon.

Structure

Structure of this program will be conducted in three sessions with two-day duration each.

Beneficiaries

Judges of Basic and Appeals Courts, prosecutors of basic and appeal prosecution offices, Special Prosecutors of Kosovo, police officers from anti-corruption departments, customs officers.

Content

Session I

1. Identification and evaluation of possible official corruption

- National and international legal structure and practices;
- Recognition and evaluation of potential corruptive issues.

2. Available public information analysis

- Investigation plan and initial steps;
- Development of the investigation plan;
- Access to non-public documents and information;
- Obtaining and search of electronic evidence.

Duration: Two days

Session II

1. Forensic analysis

- Use of relevant institutions in combating corruption in access to financial data.

2. Analyzing high risk transactions

- Use of relevant institutions tools for combating corruption from access to financial records;
- Analyzing high risk transactions.

3. Interviews and preparation for the trial

- Interviewing techniques and challenges;
- Interviewing potential witness;
- Interviewing potential targets;
- Alignment of evidence;
- Possible arguments of the defense and challenges in trial.

Duration: Two days

Session III

- Solving cases of official corruption;
- Going to trial – presenting the case;
- Possible alternative solutions;
- Prevention measures end exposure to official corruption.

Duration: Two days

1.2.2 Specialized Training on Public Procurement of Kosovo

Based on reports of institutions and organizations that monitor judiciary in Kosovo, it is assessed that public procurement is one of the areas where there is corruption and that it needs development of judges and prosecutors knowledge on this area. Also, it is a continuous request of judges and prosecutors to discuss with all relevant stakeholders in country related to public procurement procedures and problems of their implementation in practice.

This program addresses the aforementioned requests focusing on practical elaboration of all stages of public procurement. In this sense, practical cases will be elaborated, related to the way of needs assessment and determination of requests, the tender file and process of evaluation of a file. Focus of this program will be the implementation phase of the contract, as well as investigation and trial of criminal offences of this nature.

Objectives

After completion of this training, participants will be able to:

- Analyze the process of procurement planning;
- Understand and elaborate on tender file;
- Assess technical specifications and indicative notification;
- Understand elements for selection of contractor and issuing the price;
- Identify corruption indicators related to public procurement;
- Draft a plan for investigation of corruption crimes in public procurement.

Structure

Structure of this program is realized in two sessions with (2) duration each.

Beneficiaries

Judges of basic and appeal courts, prosecutors of basic and appeal prosecution offices, Special Prosecutor of Kosovo, police investigators, customs officers, and KTA and FIU officials.

Content

Session I

Needs assessment/ Determining requests

- Procurement planning;
- Indicative notification;
- Technical specification.

Preparation/ Design process and preparation of the bidding documentation

- Tender file;
- Submission of the tender file (explanations);

- Public opening.

Selection of the contractor and the stage of issuing the price

- Assessment committees;
- Assessment criteria;
- Recommendation of the winning operator.

Duration: Two days

Session II

Contract implementation phase

Indicative risks of corruption in procurement stages

- Needs assessment/ determining requests;
- Preparation/ process of design and preparation of bidding documentation;
- Selection of the contractor and the stage of issuing the price;
- Contract implementation stage.

Corruptive schemes and problems related to fraud

- Paying the bribe;
- Conflict of Interest;
- The bid-fixing schemes;
- Bidding conspiracy;
- Fraud schemes.

Investigation plan and prosecution

- The content of the investigation plan;
- Identify sources of information;
- Search planning and house surveillance;
- Planning the use of informants;
- Planning asset tracking system.

Duration: Two days

1.2.3 Specialized Training Program on Strengthening Professional Capacities in Combating Cyber Crime

Use of new information technology, particularly of internet has taken a special importance in our lives. This phenomenon effects not only state or private organizations, but it is also involved in the business area or non-profit activities, and it can also effect simple persons in their daily activities, in both, private and professional areas. As every new technology made available for a large number of users, internet presents not only goods and benefits but, at the same time it presents a series of problems. Cybercrime is a complex phenomenon and the only way to face it would be global treatment of this problem. This requires cooperation of all relevant institutions and experts of different fields, in order to avoid segment solutions. Therefore it is important to conceptualize a global architecture of information security that would consider the technical and operational dimension, the legal and regulatory dimension, as well as the organizational and economic segments not letting aside the human dimension.

What is cybercrime? Where it comes from? What is helping to be so widespread? How to combat and prevent cybercrime? To what extent are we endangered by this crime? Who are potential victims of cybercrime? What is local and international legislation that sanctions the cybercrime?

This training program is prepared in a way to provide knowledge for judges and prosecutors related to actual tendencies of cybercrime and main techniques for successful combating offences of this nature.

Objectives

After completion of this training, participants will be able to:

- Assess the potential risk of cybercrime and develop combating techniques;
- Manage cyber-crime investigation;
- Identify and provide better prevention of criminal offences of this nature;
- Know the trends of cybercrime.

Structure

Structure of this program is conducted in three (2) sessions.

Beneficiaries

Judges of Basic and Appeals Courts, prosecutors of basic and appeal prosecution offices, Special Prosecutors of Kosovo, police officers from cybercrime department.

Content

Session I

- Technology and crime;
- Internet and crime;
- Threats, tendencies and challenges of cybercrime;

- Cybercrime as criminal offence and challenges in combating it.

Duration: Two days

Session II

- Risk assessment and management;
- Combating risks of virtual safety, email, viruses and hackers;
- Discovering and preventing money laundering;
- Role of forensic in discovering cybercrime;
- Obtaining electronic evidence;
- Electronic evidence - procedure and practice.

Duration: Two days

Session III

- Cross-border and international cooperation in combating cybercrime;
- Possibility of successful prosecution of the international e-crime and of the cybercrime.

Duration: Two days

1.2.4 Specialized training program for professional capacity strengthening in combating money laundering

Money laundering is a criminal offence that enters the group of economic crimes and poses permanent risk to the economy of all countries. Money laundering operations are designed to accrue profit from illicit activities, like profit from fraud, hiding the existence, source or application of these funds and make it appear as they derive from a legitimate source. In other words, “the dirty money” is made to become clean. As the illicit money is cleaned, the perpetrator is able to spend or invest the illicit funds in legal assets. Kosovo, as a country coming from a post-war situation and with its specifics, has difficulties in combating informal economy where majority of transactions is performed in cash, disregarding and not going through financial institutions. This poses particular difficulty in the work of institutions that are obliged to report transactions. Another contributor to this situation is the poor international cooperation in this area and inconsistency of local legislation with the EU Directive.

What are factors for identification of informal economy? What is the role of FIU? What is relation of local legislation with the EU legislation?

Training will focus on addressing these dilemmas and questions raised by analyzing in details the local legislation with the EU one including their best practices.

Objectives

After completion of this training participants will be able to:

- Classify crimes of money laundering;
- Compare local legislation with the EU legislation;
- Acquaint and analyze the work of financial institutions and obligations that they have for combating this phenomenon;
- Use techniques for examination of fraud in money laundering cases;
- Acquaint with forms of international cooperation;
- Analyze presentation of these cases in court.

Structure

Structure of this program is to be delivered in three two-day sessions each.

Beneficiaries: Judges of Basic Courts and of the Appeals Court, Prosecutors of Basic Prosecution, the Appeals Prosecution and of the Special Prosecution, and police officers from anti-corruption departments.

Content

Session I

- Crimes of money laundering, terrorism financing and sanctions;
- Weaknesses of financial institutions in the aspect of money laundering and terrorism financing;
- Combating money laundering and terrorism in practice;

- Combating money laundering and terrorism financing – legal structure;
- Financial investigation unit and reporting entities.

Duration: Two days

Session II

- Examination techniques of fraud in money laundering cases;
- Information collection;
- Preparing personal profiles;
- Tracking funds by the receivers;
- Tracking funds by the financier;
- Returning hidden assets.

Duration: Two days

Session III

- Cross-border cooperation and international cooperation in combating money laundering;
- Going to trial – case presentation;
- Possible alternative solutions;
- Prevention measures of money laundering.

Duration: Two days



CIVIL
LAW

1.3 Civil Law

1.3.1 Parties in the proceeding, litigants intermediates in the procedure

The parties in the proceedings and their unification in one or other side of the parties, or the court practice as a subject matter, may be presented in a very complex manner, which consequently could have an impact on the wrong implementation of the court proceedings if the parties and the court do not pay a proper attention to the matter. In this context, it is important to determine the capacity of the parties, respectively the possibility for a subject to have the capacity of the party in the procedure.

It is also important the establishment of litigation in court proceedings and the participation of third persons in the proceedings. In addition to litigation, it happens that on the side of the plaintiff or respondent, may interfere the third parties, as the main interference with a special request to challenge the claims of both parties.

This topic has been designed in such a way as to give answers to all questions related to litigation, the types, the effects of each type of litigation in the contested procedure, the manner of decision making for each form, the participation of third persons in the contested procedure, types of interference and actions that can be taken by intermediates.

Objectives

After completion of this training, participants will be able to:

- Identify who may have the capacity of the party in the procedure;
- Analyze litigants and its types;
- Asses the roles and effects of litigants Actions in the procedure; and
- Apply legal provisions related to participation of the third persons in the proceeding.

Content

- Parties, procedural capability of the parties;
- Litigants and types of litigations;
- Effects of litigants procedural actions;
- Participation of the third persons in civil disputes.

Training methodology

During this training, combined methods of theoretical and practical explanations will be used, followed by practical examples, so that each participant will have the opportunity to actively participate in the training, in order to fully achieve the training objectives.

Beneficiaries: Judges of basic courts and professional associates.

Duration: One day

1.3.2 Preliminary review of the lawsuit

The purpose of this topic lies on the fact that the preliminary review of the lawsuit marks the commencement of the court's activity for the preparation of the main trial. Often, in judicial practice happens not to pay very much attention to this phase of the procedure, or that the appropriate measures are not taken by the court to ascertain whether the procedural presumptions for the conduct of the contested procedure have been met. The preliminary review of the lawsuit is considered as a filter that helps the court to eliminate all obstacles, in order to proceed with other stages of the proceedings. In this sense, it is important for civil judges to advance their knowledge regarding the preliminary review of the lawsuit, in order to correctly apply provisions of the Law on Contested Procedure regarding verification of completion of procedural presumptions such as: the court, parties and the object of the dispute, as well as the presumptions regarding regularity of the lawsuit.

What procedural presumptions are related to the court, parties and the subject matter and the regularity of the dispute? What actions should be taken by the court, depending on findings of the preliminary review of the lawsuit? What is the impact of the preliminary review of the lawsuit on judicial proceeding?

The training has been drafted to answer all questions and uncertainties raised above, through analysis of all procedural presumptions that should be evaluated in case of preliminary review of the lawsuit.

Objectives

After completion of this training, participants will be able to:

- Interpret and apply properly LCP provisions, related to preliminary review of the lawsuit;
- Determine actions regarding court decisions;
- Recognize and distinguish decisions taken in this stage of the procedure;

Content

- Lawsuit and its content;
- Provisions of the Law on Contested Procedure, on preliminary review of the lawsuit;
- Actions and court decisions on preliminary review of the lawsuit;
- Types of decisions in this stage of the procedure;

Training methodology

During this training, combined methods of theoretical and practical explanations will be used, followed by practical examples, so that each participant will have the opportunity to actively participate in the training, in order to fully achieve the training objectives.

Beneficiaries: Judges of basic courts and professional associates.

Duration: One day

1.3.3 Ensuring the claim

At the moment the claim is filed, until the decision is taken, it may be a long time, and this is due to the actions of the parties in the proceedings, or various obstacles faced by the court during the process. These circumstances make it difficult for the plaintiff to file a claim therefore, in order to ensure the plaintiff's claim has been conducted and in order to avoid irreparable damages that the plaintiff may have, the LCP provides measures to ensure the claims, which ensure the plaintiff's claim up to conclusion of the procedure by a final decision.

Who can file a proposal for ensuring the claim? At which stage of the procedure can the proposal be presented? Which court is competent to decide on measure to ensure the claim, depending on the stage when the proposal has been submitted? What is the difference between the provision on ensuring the claim and temporary measures for ensuring the claim? How should be applied the provisions for ensuring these measures?

This and other issues will be addressed in this training, followed by practical cases which provides best alternatives for ensuring the claim.

Objectives

After completion of this training, participants will be able to:

- Distinguish types of measures for ensuring the claim;
- Determine the competent court who decides on this measures;
- Distinguish temporary measures from measures to ensure the claim, and
- Evaluate cases when the warranty shall be ensured;

Content

- Types of measure for ensuring the claim;
- Competency to decide on these measures;
- Temporary measures and their duration;
- Distinguish temporary measures from measures to ensure the claim, and
- Warranty in case of determining the measure to ensure the claim.

Training methodology

During this training, combined methods of theoretical and practical explanations will be used, followed by practical examples, so that each participant will have the opportunity to actively participate in the training, in order to fully achieve the training objectives.

Beneficiaries: Judges of basic courts and professional associates.

Duration: One day

1.3.4 Main hearing and decision-taking

Main hearing is the most important stage of the contested procedure. This stage is the central part of the entire contested procedure in which the evidence is taken to decide meritoriously on a concrete matter. The Law on Contested Procedure sets out the obligations of litigants to prove the facts upon which their claims are based. The evidence includes all the facts that are important for the decision making, while the court decides which evidence will be taken in order to establish the decisive facts.

What actions should be taken at the main hearing? What are the actions and powers of the court at the main hearing? What are the types of means of evidence in the contested procedure? What does the burden of prove mean in the contested procedure? How is done the obtaining of evidence (pre-evidence)?

This training is designed and structured in order to analyze and elaborate the procedure conducted by the court at the main hearing, obtaining of evidence, or means of evidence, since in practice there are difficulties regarding means of evidence, and when the court is empowered to obtain the evidence that parties did not propose, if it finds that the parties tend to poses requests that have no rights to dispose of.

Objectives

After completion of this training, participants will be able to:

- Advance their skills for the main hearing;
- Identify means of evidence in civil procedure;
- Evaluate facts to be or not to be proven and in civil procedure, including court authorization for obtaining evidence ex officio;
- Implement properly legal provisions regarding the time to present evidence, and the burden of proof;

Content

- Convoking and holding the main hearing;
- Means of evidence and obtaining of evidence;
- Types of means of evidence in contested procedure;
- Burden of proofs in contested procedure, and ensuring of evidence (pre-evidence);

Training methodology

During this training, combined methods of theoretical and practical explanations will be used, followed by practical examples, so that each participant will have the opportunity to actively participate in the training.

Beneficiaries: Judges of basic and appeal courts (civil division), professional associates.

Duration: One day

1.3.5 Judgements and its types according to legal provisions of Contested Procedure

Law on contested procedure foresees different forms of proper decision making rendered by the court on specific circumstances and under compliance of special procedural conditions. Evaluation of specific conditions for each type of judgment, has created dilemmas and has affected the proper evaluation of these conditions by the court, whereas as a result, very often drawing of conclusions or while rendering a judgment, judges may make mistakes on evaluation and infringe the Law on Contested Procedure.

What are the types of judgments under the provisions of the Law on Contested Procedure? What conditions should be met when issuing each type of the judgment? What should be the content of the reasoning of each type of judgment?

The above-mentioned issues to be addressed in this training are among the essential questions where efforts will be made to provide an adequate response to the judgment as a form of merit on a contentious legal matter and types of judgments issued by the court on a contentious legal matter. Participants will have the opportunity, through the material provided by the trainer, to develop discussions, make analysis of case studies, as well as elaborate and apply provisions of the contested procedure concerning the judgments and its types.

Objectives

After completion of this training, participants will be able to:

- Elaborate and analyze the judgment as a form of merit;
- Evaluate conditions to issue different types of judgments;
- Draft proper reasoning for each type of judgment;

Content

- Judgment;
- Types of judgments and their conditions;
- Content of a judgment and reasoning of each type of judgment.

Training methodology

During this training, combined methods of theoretical and practical explanations will be used, followed by practical examples, so that each participant will have the opportunity to actively participate in the training, in order to fully achieve the training objectives.

Beneficiaries: Judges of basic courts and professional associates.

Duration: One day

1.3.6 Acquisition of property and its protection

The right to ownership is one of the fundamental rights guaranteed by the Constitution and other international acts. For the acquisition of the property right in movable and immovable items, the legal doctrine and legal provisions in force determine the conditions and ways of acquisition of property. The applicable law on property and other property rights has introduced novelties regarding the ways of acquiring ownership, what make a distinction from the previous the law.

Any infringement of this right, gives the owner the right to seek judicial protection of the right to ownership. Therefore, addressing this topic had been considered as a necessity for the judiciary, due to changes of national legislation and standards set by the Protocol 1 of the ECHR

How to acquire the right to ownership on immovable items according to the legislation in force? What protection of property rights is granted under the Constitution, laws and international acts? What are the powers and limitations of the right to ownership? What is the difference between claims for protection of the right to ownership? What is practical implementation of material provisions in concrete cases of this nature?

This training also aims to clarify dilemmas that arise in the case law regarding manners for acquisition of property and claims for property protection.

Objectives

After completion of this training, participants will be able to:

- Expand their knowledge on property right, limitations, authorizations, protection;
- Distinguish manners of acquisition of property right according to the applicable law;
- Compare types of claims for protection of the ownership; and
- Refer to ECtHR case law, regarding cases of protection of the right to ownership.

Content

- Acquisition of property right;
- Protection of the right to ownership in general;
- Lawsuit on property protection;
- “Actio negatoria, “actio publiciana”, “actio negatoria”
- Protocol I of ECtHR;

Training methodology

During this training, combined methods of theoretical and practical explanations will be used, followed by practical examples, so that each participant will have the opportunity to actively participate in the training, in order to fully achieve the training objectives. There will be used power-point presentation method.

Beneficiaries: Judges of basic and appeal courts, and professional associates.

Duration: One day

1.3.7 Judicial protection regarding obstruction to possession and servitudes

Possession is the actual power over the item, ownership is the legal power over the item. That a person is an owner at first sight, can be ascertained, while as a possessor of an item can be immediately noticed, since the factual power over the item is required. In Roman law, there was a distinction between ownership and possession that required two conditions to be fulfilled: factual power over the possessions or “Corpus Possessions”, and the will to keep the possessor as the owner of the thing. All civil codes make the difference between possession and ownership.

Real rights and the right to servitude enjoy judicial protection, from obstruction of the right of servitude. Servitudes, as a real rights enjoy legal protection, whereas the positive legislation provides the protection of servitudes. Judicial practice has dilemmas about the lawsuit for the protection of servitudes and issues related to the verification of the existence of the real servitude and its constitution.

Who enjoys judicial protection from the act of obstruction to possession and the right to use the servitude? What should the claim for obstruction of possession contain? What are the facts that must be established in disputes of possession and servitude? What is the deadline of the dispute to obstruction to possession?

Objectives

After completion of this training, participants will be able to:

- Distinguish the specifics of the obstruction to possession disputes and the right to possession;
- Distinguish the dispute regarding obstruction to possession from other disputes;
- Identify conditions for protection from the obstruction to possession act;
- Implement properly the deadlines for legal protection in disputes for obstruction to possession and for servitudes;
- Implement properly the judicial practice relate to these disputes;

Content

- Procedure on obstruction to possession disputes and the right to servitude;
- Elements of the obstruction to possession act and servitude;
- Deadlines for legal protection for obstruction to possession disputes and servitude;
- Judicial practice related to these disputes;

Training methodology

During this training, combined methods of theoretical and practical explanations will be used, followed by practical examples, so that each participant will have the opportunity to actively participate in the training.

Beneficiaries: Judges of basic courts and professional associates.

Duration: One day

1.3.8 Determining compensation to expropriation

Since the expropriation in practice appears frequently, regular implementation of the legal provisions, guarantee the right to ownership of the owner, whose property has been expropriated due to the public interest. Therefore, it is necessary for judges to gain more knowledge regarding this legal institution, with the purpose of providing their contribution to the unification of the case law in Kosovo courts.

When and under what conditions can an immovable property be expropriated? Which body conducts the expropriation procedure? Who assigns compensation for expropriated immovable property? What are the criteria for determining compensation for expropriated immovable property?

This training was designed and structured in order to analyze and elaborate the expropriation procedure, to identify the prerequisites for expropriation, the criteria that apply to expropriation, such as when an expropriating body is the municipality, and even when an expropriating body is the government.

Objectives

After completion of this training, participants will be able to:

- Distinguish legal conditions to be fulfilled for expropriation;
- Apply properly provisions of the Law on Expropriation, when it comes to Government, or the Municipality as an expropriation body ; and
- Identify the manner and criteria for determining compensation in expropriation cases;

Content

- Legal conditions for expropriation;
- Expropriation procedure in cases when the expropriating body is the Government of Municipality;
- Preliminary decision and final decision on expropriation, and legal remedies;
- Manner and criteria for determining compensation in expropriation cases;

Training methodology

During this training, combined methods of theoretical and practical explanations will be used, followed by practical examples (from the case law), so that each participant will have the opportunity to actively participate in the training.

Beneficiaries: Judges of basic and appeal courts (civil division), and professional associates.

Duration: One day

1.3.9 Compensation of material and immaterial damage

The civil legal protection of goods and the existence of civil legal liability (if one infringes these goods) is an important segment in the context of ensuring a higher level of protection of legally protected human goods. The accurate determination of the liability of the cause of the damage and the implementation of the injured party's right to damage compensation in the non-contractual civil relationship, is considered as one of the challenges of civil judges. Although judicial practice is relatively developed on this subject, however, the large number of cases in Kosovo courts, the dynamic of increasing number of cases filed for damage compensation, has affected differences in court practice, especially as regard to the criteria for determining the amount of material and immaterial damage, but also the way of establishing the actual situation in these cases is often followed by mistakes.

The liability grounds for the compensation of material and immaterial damage? What are the criteria for determining the amount of material and immaterial damage? How the factual situation in material and immaterial compensation procedure is proved? How is the practical implementation of material provisions in concrete cases of litigation for material and immaterial damage compensation? What is the practice for determining the amount of material and immaterial damage compensation?

The training topic is structured in a way to answer the questions and dilemmas raised above by analyzing all legal material provisions that refer to the compensation of material and immaterial damage.

Objectives

After completion of this training, participants will be able to:

- Interpret and apply properly provisions related to liability toward material and immaterial damage;
- Evaluate properly the criteria for determining the material and immaterial damage; and
- Apply properly provisions related to determining the compensation amount for material and immaterial damage;

Content

- Material and immaterial damage according LOR;
- Liability for compensation of material and immaterial damage;
- Criteria for determining the amount of material and immaterial damage;
- Proving manner in material and immaterial damage compensation proceeding;
- The practice for determining the amount of material and immaterial compensation;

Training methodology - During this training, combined methods of theoretical and practical explanations will be used, followed by practical examples, so that each participant will have the opportunity to actively participate in the training, in order to fully achieve the training objectives.

Beneficiaries: Judges of basic courts and professional associates

Duration: One day

1.3.10 Renting, types and its determination

In our judicial practice disputes arise very often due to the damage compensation, whereas renting falls under the category of material damage. Renting as a form of restitution is often a challenge for the court in terms of assessing the need for determining the rent and its capacitance. In addition, challenges have appeared in evidencing and its definition. In terms of the difficulties that arise in practice, its elaboration of this topic will help judges to decide on such cases taking into account the specificities of this form compensation.

What conditions need to be fulfilled in determining the rent? Who may benefit from the rent? How to prove the right to renting? What can the rent be conducted?

This topic has been structured to answer all questions and dilemmas raised above, through analysis of all legal provisions referring the rent as a material damage category, also referring to judicial practice.

Objective

After completion of this training, participants will be able to:

- Evaluate necessary conditions for defining the form of this compensation;
- Understand and identify proofing manner and decision making on this category;
- Implement properly legal provisions of the Law on Obligation.

Content

- When the rent shall be determined;
- The manner to determine the rent and its types;
- Capitalized rent and conditions for its determination;
- Beneficiaries of the rent;

Training methodology

During this training, combined methods of theoretical and practical explanations will be used, followed by practical examples, so that each participant will have the opportunity to actively participate in the training.

Beneficiaries: Judges of basic and appeal courts and professional associates

Duration: One day

1.3.11 Pre-contract and its validation

In everyday life it happens that the parties in a civil legal relationship before formalizing such a contract, decide to conclude a pre-contract by which they stipulate the obligation of concluding the main contract. Practically, situations occur when the parties after the pre-contract term, fail to formalize the main contract, which consequently bring litigation. In this context, it is important for judges to increase their knowledge, in order to correctly understand and interpret the effects of the contracts.

In addition to matter, the importance of contracts and their effects is also the validation of the contract. In the case law, there are cases where courts have to assess whether a contractual legal relationship for which a contract term is not respected can be validated. It is therefore estimated that judges should have the appropriate knowledge to evaluate the legal conditions regarding the validation of contracts.

What conditions should be met for the conclusion of a pre-contract? What effects does the pre-contract create for the parties? What do we mean by validation of the contract? How should the enacting clause of a judgment look like in cases when it is decided on the validation of the pre-contract?

This topics has been structured to answer all questions and dilemmas raised above, through analysis of all legal provisions taking into account different factual situations in relation to which legal material norms should be applied.

Objectives

After completion of this training, participants will be able to:

- Recognize differences between pre-contract and contract;
- Interpret and implement legal provisions upon the effect of the contract;
- Implement provisions for validation;

Content

- Pre-contract, conditions for its conclusion;
- Pre-contract effects;
- Pre-contract validity.

Training methodology

During this training, combined methods of theoretical and practical explanations will be used, followed by practical examples, so that each participant will have the opportunity to actively participate in the training.

Beneficiaries: Judges of basic courts and professional associates.

Duration: One day

1.3.12 Insurance contract – damage compensation and regression

For proper handling of insurance cases, sufficient knowledge is required not only in terms of addressing the damages arising from insurance cases, but also on the nature of insurance, the specifics of insurance contracts, its conclusion and interpretation, the procedure for treating the damage, as well as ways of assessing the damage in terms of accountability and adequate compensation. Since in court practice the largest number of disputes arise from damage caused by traffic, the focus of the training will be on mandatory auto insurance coverage, including: ways of treating the damage, damage compensation, liability grounds and regression in casco insurance cases.

How to increase professional expertise of judges in this field? How to establish judicial practice in accordance with international European standards? What are the experiences and best practices of regional countries?

The program is designed to address dilemmas and difficulties encountered in actual court practice, through partial theoretical discussions, and interactive discussions between participants, followed by presentation of practical cases.

Objectives

After completion of this training, participants will be able to:

- Recognize insurance contract specifics – general and special conditions;
- Distinguish damage compensation, out of judicial procedure;
- Implement properly the judicial procedure for damage compensation;
- Recognize liability grounds in cases of damage;
- Identify types of adequate compensation in cases of damage appearance;
- Recognize regression of damage in casco insurances cases”.

Content

- Insurance law subjects;
- Insurance from auto – liability;
- Insurance policy TPL and coverage limits;
- Request for damage compensation;
- Material and immaterial damage compensation from insurance policy;
- The right to rent;
- Damage regression;

Training methodology

The program is designed to address dilemmas and difficulties encountered in actual court practice, through partial theoretical discussions, and interactive discussions related to judicial practice on decision taking in concrete cases of this nature.

Beneficiaries: Judges of Basic and Appeal Courts, and judges of Supreme Court

Duration: One day

1.3.13 Grounds for inheritance and inheritance legal ordering

The Law on Inheritance has foreseen grounds for inheritance, legal order of inheritance, as well as judicial procedure for examination of the hereditary estate of the decedent. Also, this law foresees the compulsory heirs of the hereditary property, while in court practice there are difficulties and dilemmas about determining the volume of the necessary share and the persons who enjoy this right, but also on issues related to the grounds of inheritance and inheritance legal ordering.

What are the grounds for inheritance? What is the legal order of inheritance? What is the compulsory share of the inheritance? What is the circle of heirs who are entitled to the compulsory share of inheritance? Who has the right to decide on the conduct of the proceeding for the examination of the hereditary estate?

Among other issues, this training will provide a contribution in erasing dilemmas or difficulties, or unifying the judicial practice related to issues mentioned above, especially the part as who has the right to decide in relation to performing a procedure for the examination of hereditary estate, courts or notaries (due to non-harmonization of the legal provisions of the Law on Inheritance and the Law on Uncontested Procedure, with the Law on Notary).

Objectives

After completion of this training, participants will be able to:

- Identify and distinguish the inheritance grounds and legal ordering of inheritance;
- Evaluate legal conditions of the validity of the will;
- Apply properly legal provisions relates to inheritance grounds, legal ordering of inheritance and the reviewing procedure of hereditary estate.

Content

- Inheritance by law;
- Testamentary succession;
- Legal ordering of inheritance;
- Compulsory heirs and exclusion from inheritance;
- Inheritance proceeding.

Training methodology

During this training, combined methods of theoretical and practical explanations will be used, followed by practical examples, so that each participant will have the opportunity to actively participate in the training.

Beneficiaries: Judges of basic and appeal courts (civil division), and professional associates.

Duration: One day

1.3.14 Judicial protection in cases of defamation and insult

In nowadays, there are various definitions on defamation. In some modern laws regulating human rights, defamation is defined as "unlawful attack" against the "honor and reputation" as defined in article 17 of the International Covenant on Civil and Political Rights. The European Convention on Human Rights does not grant the right to honor or reputation, but in some special verdicts, it accepts its protection in terms of privacy, family life and respect of the home and correspondence, from Article 8 of the European Convention on Human Rights. The law on defamation and insult, defines the publication of a false facts that the publisher knows or should have known that the fact and the statement is false, the meaning of which damages the reputation of another person," while insult is defined as "humiliating declaration, a conduct, of false publication of a statement addressed to another person. "Due to the fact that there is an increasing number of cases of compensation for defamation and insult in our courts, therefore elaboration of this issue for judges is very necessary, due to the lack of the case law in this regard.

What is the notion of defamation and insult? What conditions should be met for the prosecution of defamation and insult? Can a false statement or publication be accounted as defamation? What kind of damage is caused to a person who was insulted? What is the practice of the European Court of Human Rights regarding defamation and insult?

These and other issues will be addressed in this training.

Objectives

After completion of this training, participants will be able to:

- Distinguish the liability for defamation and insult;
- Implement properly the determination of the compensation for defamation and insult;
- Recognize the ECHR case law on defamation and insult;

Content

- Filing of a lawsuit against defamation and insult;
- The right to immaterial damage compensation in cases of defamation and insult ;
- European Convention on Human Rights case law;

Training methodology

During this training, combined methods of theoretical and practical explanations will be used, followed by practical examples, so that each participant will have the opportunity to actively participate in the training.

Beneficiaries: Judges of basic and appeal courts and professional associates.

Duration: One day

1.3.15 Legal grounds for determining enforcement

During the enforcement procedure, the competent organ has the obligation to pay attention to the protection of the debtor dignity and that the enforcement is likely to be the least harmful for the debtor. The timely enforcement procedure has a direct impact on the protection of the rights and interests of citizens, as well as increases the efficiency of the judiciary, and other state organs regarding the enforcement of final decisions issued by them in the respective cases.

Who has the capacity of the enforcement organ and what are their duties assigned by law? What is the legal ground for determining and implementing enforcement? What conditions should be met for granting and implementation of enforcement? What should the enforcement proposal contain? Which enforcement organ issues the decision on enforcement and which the enforcement order? What should be the content of the enforcement decision and what the enforcement order?

The content of the training is structured in a way that through analyzing of legal provisions of the Law on Enforcement Procedure and the current judicial practices, not excluding interactive discussions, will respond to all dilemmas faced by the enforcement organs during their work and provides more approximate alternatives relating proper implementation of the provisions of the Law on Enforcement Procedure.

Objectives

After completion of this training, participants will be able to:

- Asses properly the legal grounds for determining enforcement;
- Distinguish enforced documents from reliable documents; and
- Asses which cases of enforcement can be determined by the court and which by private bailiff.

Content

- Enforcement organ and decisions;
- Remedies and the object of enforcement;
- Legal grounds for determining enforcement;
- Actions of enforcement organ;

Training methodology it

During this training, combined methods of theoretical and practical explanations will be used, followed by practical examples from the case law.

Beneficiaries: Judges of Supreme Court, Appeal Court, Basic Court – Civil Division, professional associates and private bailiffs.

Duration: One day

1.3.16 Enforcement of judicial decisions in family matters and labor disputes

Upon the entry into force of the Law on Enforcement Procedure, it is foreseen that the enforcement procedure in the first instance is led and decided by the private bailiff, whereas in exceptional cases, the individual judge by law is assigned to determine and implement enforcement as a court of first instance. In terms of this law, the capacity of the enforcement organ falls upon the private bailiff and the court of first instance. This matter was not foreseen with the previous law on enforcement procedure. However, this law, due to the urgent nature of the enforcement procedure, intends to handle enforcement cases in a short period of time, which would directly have a positive impact on the protection of citizens' rights for the timely conduction of their claims.

Who has the capacity of the bailiff organ at first instance? What are the competencies and duties of the bailiff's organ provided by law? What are decisions issued by the enforcement organ in the first instance? In which cases is the competent court of the first instance exclusive jurisdiction for decision making according to the enforcement proposal based on enforcement document?

The content of this training is structured that through analysis of the legal provisions of the Law on Enforcement Procedure and current judicial practice, to answer all questions and dilemmas raised above regarding the subject matter.

Objectives

After completion of this training, participants will be able to:

- Asses properly In which cases is the competent court of the first instance exclusive jurisdiction for decision making according to the enforcement proposal based on enforcement document;
- Assess that based on what document, the first instance court as an enforcement organ can decide based on the enforcement proposal;
- Implement enforcement procedure in cases of return of the employee to working place and handing over the child to the parent, other person, or to the institution trusted to guard the child, keep the child or provide education.

Content

- Enforcement organ and its competencies;
- Enforcement decision and its content;
- Legal grounds for determining enforcement in cases of returning the employee to the working place, or handing over the child;
- Actions of the enforcement organ and implementation of enforcement;

Training methodology - During this training, combined methods of theoretical and practical explanations will be used, followed by practical examples from the case law.

Beneficiaries: Judges of Supreme Court, Appeal Court, Basic Courts of Civil Division, professional associates and private bailiffs.

Duration: One day

1.3.17 Judicial protection in labor disputes according to the Labor Law

In recent years, the number of labor disputes has increased. This, due to the reason that the legislation in force has deficiencies and judicial protection is not adequate, therefore, the rights of the employees have been violated. Consequently, provisions that regulated this area have been distributed in many laws and regulations, which have been issued and adopted in different economic, social and political circumstances. As a result, judges have had difficulties in proper implementation of these laws, referring to protection of employees rights.

What is the scope of the implementation of the Labor Law? What are types of labor contracts under the Labor Law? What are the causes of termination of labor relations under the Labor Law? What is the procedure before the employer terminates the employment relationship? What are the means of the employee to seek for judicial protection? What are legal deadlines for seeking judicial protection in labor disputes? What are court judgments in labor disputes?

This training is designed and structured in order to analyze and elaborate the procedure initiated by employees in cases of breach of labor relation by the employers, including identification of preliminary conditions that must be met by the petitioner, before heading to the court with a lawsuit to seek for judicial protection in cases respective.

Objectives

After completion of this training, participants will be able to:

- Distinguish disputes of civil servants and work relation according to the Labor Law;
- Implement properly legal provisions by assessing legal terms for judicial protection;

Content

- Work contract and its types;
- Disputes deriving from work relation according to Labor Law;
- Judicial procedure for protection of working rights;
- Respecting deadlines in order to seek judicial protection;

Training methodology

During this training, combined methods of theoretical and practical explanations will be used, followed by practical examples from the case law, so the participants will actively participate during the whole training.

Beneficiaries: Judges of basic and appeal courts (civil division), and professional associates.

Duration: One day

1.3.18 Protection at work and compensation for injuries caused at work place

Labor-related disputes, which are subject to compensation, as a result of occupational accidents and occupational diseases related to work, are recent characteristics in the field of labor relations. This due to the fact, that the legislation in force has deficiencies, and protection of the rights of employees, including judicial protection is inadequate. However, this has also been a result of non-recognition of the duties and responsibilities of the competent body of legal person in labor relation field.

What are the rights of employees in cases of work injuries or occupational diseases? What are the responsibilities of a legal person in cases of occupational accidents or occupational diseases? What is the employer's legal liability in the cases of occupational accidents and occupational diseases? What is the applicable law in the case of occupational accidents or occupational diseases?

This training has been designed and structured in order to analyze and elaborate the procedure initiated by the employee in cases of occupational injuries or occupational diseases occurring at work place, including identification of preconditions which to be met by the applicant before addressing the court with a lawsuit for compensation of injuries caused at work place.

Objectives

After completion of this training, participants will be abler to:

- Distinguish the employee's rights and employer responsibility in cases of occupational accidents or occupational diseases;
- Implement properly the material laws, including collective contract and internal acts of a legal person, applicable in cases of occupational accidents or occupational diseases;

Content

- Rights of employee in cases of occupational accidents or occupational diseases;
- Liability of the legal person in cases of occupational accidents or occupational diseases; legal liability of the employer in cases of occupational accidents or occupational diseases;
- Internal legislation in cases of occupational accidents or occupational diseases;

Training methodology

During this training, combined methods of theoretical and practical explanations will be used, followed by practical examples from the case law, with the purpose of achieving in general the training objectives.

Beneficiaries: Judges of basic and appeal courts (civil division), and professional associates.

Duration: One day

1.3.19 Ordinary and extraordinary legal remedies according to LCP

In case of rendering of decision by the lower instance court, very often formal and material mistakes are made, which may have an impact on the legal guarantees of the parties' rights in the contested procedure. Therefore, by using ordinary and extraordinary legal remedies, parties may appeal against these decisions and seek respect for their claims and protection of their rights in this proceeding.

What should be the content of ordinary and extraordinary legal remedies? What are the most common causes for their presence? What is the procedure for submission and reviewing of these remedies? What are the decisions taken by the court regarding ordinary and extraordinary legal remedies?

This training has been designed and structured to provide analysis and elaborate ordinary and extraordinary legal remedies proceeding by the authorized parties, as well as decisions of higher instance courts in this regard.

Objectives

After completion of this training, participants will be able to:

- Analyze legal conditions for submission and deciding according to these legal remedies; and
- Implement legal provisions referring preliminary review of these legal remedies by the first instance court;

Content

- Complaint;
- Revision;
- Proposal for submission of a procedure;
- Relation between revision and the proposal for repetition of the procedure;
- Request for legality protection;

Training methodology

During this training, combined methods of theoretical and practical explanations will be used, followed by practical examples from the case law, with the purpose of achieving in general the training objectives.

Beneficiaries: Judges of basic and appeal courts (civil division), and professional associates.

Duration: One day



JUSTICE FOR CHILDREN

1.4 Justice for children

1.4.1 Criminal Justice for children

1.4.1.1 Diversion measures

In cases of rendering any decision concerning the administration of juvenile justice, initially should be taken into account the best interest of the child. Children are distinguished by adults in terms of physical and psychological development, as well as emotional and educational needs. Taking into account the best interest of the juvenile, the Juvenile Justice Code provides diversion measures that may be imposed on juvenile offenders, with the purpose of preventing the commencement of the juvenile preparatory proceedings, exclusively in cases where juvenile offenders have committed a criminal offense punishable by a fine or imprisonment up to three years, or for a criminal offense committed by negligence, for which a punishment up to five (5) years of imprisonment is foreseen, with the exception of those offences that lead to death.

What are the conditions for imposing diversion measures? What are the types of diversion measures? Should court proceedings developed for the imposition of diversion measures? How do these measures affect the reintegration of the juvenile?

This subject will provide participants the knowledge and skills for adequate implementation of legal provisions when imposing diversion measures on juvenile offenders, in the spirit Conventions and international standards for protection of children's rights.

Objectives

After completion of this training, participants will be able to:

- Interpret properly the provisions of Juvenile Justice Code;
- Implement legal conditions for imposing diversion measures;
- Asses the effect of diversion measures in practice.

Content

- Legal conditions for imposing diversion measures;
- Types of diversion measures;
- Benefits from diversion measures;
- Imposition of these measures by the court, or prosecutor;

Training methodology

The training aims to provide answers related to this issue by analyzing and explaining legal provisions regulating the imposition of diversion measures. During the training, through discussions and study cases, practical problems will be analyzed.

Beneficiaries: Judges and prosecutors from juvenile department.

Duration: One day

1.4.1.2 Educational measures and punishments

Educational measures and punishments that may be imposed on perpetrators of criminal offenses have some legal limitations, so any minor who has reached the age specified by the JJC may be subject to this measure. Although, according to the JJC principles, imposing of these measures should be considered as the first alternative, even though in practice this measure is not always applicable. As one of the factors for non-implementation of this measure, often is considered the incomplete, or not professional social survey, and improper assessment of the benefits of this measure. Juvenile justice in Kosovo excludes a large number of principles, some of which are universal. Whereas, among specific principles, is that against juvenile perpetrators, if necessary, should be imposed various educational measures and punishments.

How is the selection of these measures or punishments? What are the types of educational measures and punishments that can be imposed on juveniles? What are the benefits of these measures and punishments? How can be assessed the purpose of educational measures or punishments?

Main objective of this training is to address the problematic issues faced in practice. Whereas, the training itself has been designed to provide answers to questions raised about the subject matter, by analyzing and clarifying all relevant legal provisions.

Objectives

After completion of this training, participants will be able to:

- Evaluate properly the conditions for imposing educational measures and punishments;
- Implement properly educational measures and punishments foreseen by JJC;
- Determine the duration of educational measures and types of punishments determined against juveniles;

Content

- Types of educational measures and punishments that may be imposed on juveniles;
- Which are conditions to be fulfilled in order to issue the educational measures or punishments;
- Determining the duration of educational measures and punishments imposed against juveniles;

Training methodology

The training aims to answer questions about this issue by analyzing and clarifying the relevant legal provisions. Practical problems will also be analyzed through discussion and case studies from judicial practice.

Beneficiaries: Judges and prosecutors from Juvenile Department and Kosovo Probation Officers.

Duration: One day

1.4.1.3 Criminal offences against sexual integrity of children

Criminal Code of the Republic of Kosovo, within the chapter of criminal offenses against sexual integrity, among others, foresees some offenses affecting the sexual integrity of children. Children are the most sensitive category of society for which the state with its mechanisms is obliged to take care of and provide protection.

What are the elements and characteristics of offenses against child sexual integrity? What are the criminal offenses against sexual integrity of children under the Criminal Code of Kosovo?

These criminal offenses are frequent in practice, therefore with the purpose of detecting the investigation and adjudication of these criminal offenses, an increased commitment of the involved stakeholders is required. Professional capacity building of judges and prosecutors in addressing these issues will be discussed in an interactive manner with the training beneficiaries in order to properly implement the legal provisions.

Objectives

After completion of this training, participants will be able to:

- Interpret properly legal provisions relate to these offences;
- Advance their knowledge related to criminal procedure when the child is a victim;
- Analyze the manners of rape and other similar criminal offences related to child sexual integrity;

Content

- Types of criminal offences against sexual integrity of children according to Criminal Code;
- Elements and characteristics of criminal offences of child sexual integrity;
- Sexual abuse of the persons under sixteen years and sexual insult against children.

Training methodology

Presentation of case law and group discussions will provide alternatives to many issues pertaining to criminal offenses against child sexual integrity. Handling of these issues will be done inter alia, with an interactive participation and discussion with the participants, aiming to answer all questions and dilemmas that may arise in court practice.

Beneficiaries: Judges and prosecutors from Juvenile Department.

Duration: One day

1.4.1.4 Measures for ensuring presence of the juvenile in the proceeding

Juvenile judge may impose measures for ensuring presence of the juvenile in the proceeding, based on his/her finding, and based on the terms set forth by Juvenile Justice Code (JJC) and the Criminal Procedure Code of Kosovo. With the purpose of ensuring presence of the juvenile and efficiency of the criminal proceeding, the juvenile may be imposed measures that are foreseen by the Criminal Procedure Code. According to this Code, the juvenile that has violated the law may be imposed the temporary arrest, police detention and detention on remand as a last resort for as short time period as possible. In the juvenile proceedings, deprivation of liberty as a last resort often was imposed not as stated and required by the JJC.

In what cases the measures for ensuring presence of the juvenile are imposed? What are the terms that shall be met in order to impose measures for ensuring presence of the juvenile?

Aim of this training is to have the beneficiaries analyze measures for ensuring presence of the juvenile in the proceeding and to overcome the dilemmas that occur in the court case-law by discussing the best practices related to these measures.

Objectives

After completion of this training, participants will be able to:

- Apply correctly the rules upon selection of measures for ensuring presence of the juvenile in the proceeding;
- Determine correctly the measure of liberty deprivation;
- Assess correctly duration of the liberty deprivation measures;

Content

- Types of measures for ensuring presence of the juvenile in the proceeding;
- Cases when the court imposes the detention measure against the juvenile;
- Legal terms that shall be met in cases when imposing these measures;

Training methodology

The training will make analysis of practical cases from the case-law pertaining to imposing and reasonability of these measures for ensuring presence of the juvenile in the proceeding, with particular emphasis on deprivation of liberty measures.

Beneficiaries: Judges and prosecutors from the Juvenile Departments.

Duration: One day

1.4.1.5 Execution of measures and punishments against juveniles

The court has a great role in execution of measures and punishments imposed against juveniles. The Juvenile Justice Code stipulates clear provisions related to execution of diversity measures, educational measures and punishments for juveniles. The court case-law detected difficulties while executing punishments for juveniles, therefore elaboration of this topic is indeed important for unifying practices for execution of measures and punishments against juveniles.

How does the procedure for execution of measures and punishments against juveniles develop?
Role of the Probation service in execution of measures and punishments against juveniles?

Various situations from the judge's practical experiences will be analyzed through presentation of practical cases and group discussions. Therefore, this training will address the issues faced in practice and provide solutions for overcoming the obstacles.

Objectives

After completion of this training participants will be able to:

- Analyze correctly role of the juvenile judge in the execution procedure of measures and punishments for juveniles;
- Apply correctly provisions of review and substitution of measures and punishments;
- Identify cases when the execution of measures and punishments for juveniles should terminate;

Content

- Execution of diversity and educational measures;
- Execution of the fine and order for community service work;
- Execution of imprisonment for juveniles;

Training methodology

The training will make analysis of practical cases from the case-law pertaining to imposing and reasonability of these measures for ensuring presence of the juvenile in the proceeding.

Beneficiaries: Judges and prosecutors from the juveniles department and officials from the Probation Service of Kosovo.

Duration: One day

1.4.2 Civil Justice for Children

1.4.2.1 Protection of the children rights in cases of changing their status

The states obligation to use its mechanisms that create conditions for children growth and wellbeing derives from the international treaties that are adopted by various international organizations that deal with protection of human rights in general and of the children rights in particular, as well as from the legal infrastructure of each state separately.

Who is entitled to file the claim at the court for verifying paternity and maternity of the child, and the claim objecting the paternity or maternity? Is there any deadline for filing the claims for the aforementioned matters? What are effects of recognition/ objection of paternity/ maternity in relation to the child? What is the applicable legislation for the aforementioned cases? What is the role of the Custodian Body in the judicial proceeding in cases of changing their status?

This program is prepared with the aim to respond to all the queries and dilemmas, analyzing local and international legislation on the matter of protecting the children rights in cases of changing their status. At the same time, practical cases from the court case law will be presented in order to help participant overcome their uncertainties when deciding related to these matters.

Objectives

After completion of this training, participants will be able to:

- Analyze legal provisions related to paternity and maternity;
- Apply the principle of the child's best interest;
- Apply correctly ways and methods of the court communication with children participating in the judicial proceeding.

Content

- Maternity and paternity;
- Protection of the rights of children involved in the procedure for objecting and verification of paternity or maternity;
- Protection of the rights of children in case of domestic violence;
- The principle of the best interest for the child;
- Ways and methods of communication of the court with the children involved in judicial proceedings;

Training methodology

This training will use combined methods of lecturing, including theoretical and practical explanations, work in groups followed up by practical cases from the court case-law, enabling the participants to be active during the trainings and ultimately meet all the training objectives.

Beneficiaries: Judges of the Appeals Court – Civil Division, Judges of Basic Courts – Civil Division, professional associates, and officials of the Custodian Body.

Duration: two days

1.4.2.2 Protection of the rights of children without parental care

Kosovo is one of the states greatly involved in the area of protecting children rights, initially by sanctioning it in the Constitution, and besides international agreements and other tools the Convention on Children Rights is also directly applicable in Kosovo and it has priority. This program, among others, will treat issues about protection of the rights of children without parental care (adoption, custody, etc.), which are stipulated in the Law on Family (LFK) and which refers to the Convention on Children Rights (CCR). The training will also cover the ways and methods of communication of the court with children involved in judicial proceeding, the principle of the best interest for the child, role of the court and the Custodian Authority in proceedings related to protection of the rights of children without parental care, as well as local and international applicable legislation.

Who is considered a child without parental care according to the applicable law? What are special forms for protection of children without parental care? What are terms and criteria to be met in order to allow adoption of the child? What is the legal procedure to be followed by the adopting parent in pursuing the child adoption? What court has jurisdiction over establishing adoption? Can children that are citizens of Kosovo be adopted by foreign citizens? What are international acts applicable in the procedure for establishing adoption?

This program is prepared in order to respond to the queries and dilemmas, analyzing the applicable legislation that refers to the judicial proceeding for providing legal remedies for the rights of children without parental care.

Objectives

After completion of this training participants will be able to:

- Assess cases related to protection of the rights of children without parental care;
- Analyze legal provisions on adoption;
- Determine criteria for placing a child to another family;
- Apply correctly legal provisions on custody and the parental right in the sense of the principle for the child's best interest.

Content

- Protection of the rights of children without parental care;
- Adoption;
- Placing the child to another family;
- Custody;
- Practicing, suspension, limitation, removal and extension of the parental right;
- Ways and methods of communication of the court with the children involved in judicial proceedings.

Training methodology - This training will use combined methods of lecturing, including theoretical and practical explanations, work in groups followed up by practical cases from the court case-law, enabling the participants to be active during the trainings and ultimately meet all the training objectives.

Beneficiaries: Judges of the Appeals Court and of Basic Courts – Civil Divisions, professional associates, officials for the Custodian Body.

Duration: Two days

1.4.2.3 Protection of the rights of children in matrimonial-family disputes

Number of matrimonial-family disputes is increasing continuously in our courts. It is important to treat this topic for the reason that matrimonial-family relations and consequently the matrimonial-family disputes are very complex and role of the court in these disputes is not only reviewing but also investigative. Besides analyzing role of the court in matrimonial-family disputes it is important to elaborate also on the topic of Child Abduction, as this is a phenomenon that has happened also in the past but it is regulated by law only in 2010, and as such it is a novelty in our judicial system.

What are the principles for protection of the right of children according to applicable legislation? What is the international legislation applicable in these cases? On what criteria does the court decide upon? What judgments can the court bring in these cases? What is the role of the Custodian Body in protection of the children rights in matrimonial disputes?

This program is prepared with the aim to respond to all queries and dilemmas, analyzing local and international legislation on protection of the rights of children in matrimonial-family disputes. Also through practical cases from the court case-law it targets to enable the participants overcome uncertainty for bringing judgments in these matters.

Objectives

After completion of this training participants will be able to:

- Apply efficient protection of the children rights during the divorce procedure;
- Interpret and apply correctly the law in cases of entrusting, custody and care of children;
- Decide on alimony respecting the objectivity.

Content

- Principles for protection of children rights according to local and international legislation;
- Criteria that the court takes into account in cases of entrusting the children;
- Principles for deciding on the alimony;
- Active role the court shall have in these cases/ disputes;
- International child abduction in civil cases – the procedure.

Training methodology - This training will use combined methods of lecturing, including theoretical and practical explanations, work in groups followed up by practical cases from the court case-law, enabling the participants to be active during the trainings and ultimately meet all the training objectives.

Beneficiaries: Judges of the Appeals Court – Civil Division, Judges of Basic Courts – Civil Division, professional associates, officials of the Custodian Body.

Duration: Two days



COMMERCIAL LAW

1.5 Commercial Law

1.5.1 Construction Contracts

Construction contracts and the Engineering contracts actually have a great use in the area of construction having in mind the country's reconstruction stage. Also, public contracts are widely spread in the public area. While business associations, in their business affairs in international arena often apply contracts for which the Convention on International Sales of Goods is applied. These contracts have their specifics and require particular knowledge when applying and interpreting contracting provisions, requiring competence of not only legal nature but also knowhow on the areas that these contracts cover, in order to solve disputes that arise from business relations established by these contracts. In judicial practice, number of disputes deriving from these contracts is considerable, with a growing tendency, therefore elaboration of this topic is really important in order to extend the judges knowledge for handling these cases.

How to increase the professional expertise of judges in this area? How to create a judicial practice compliant with international and European standards? What are the best experiences and practices of the regional countries? How to apply international instruments that regulate this area?

The program is prepared in the form to address dilemmas and difficulties that occur in actual judicial case-law, through partial theoretical presentations, interactive discussions among participants and presentation of practical cases.

Objectives

After completion of this training, participants will be able to:

- Recognize specifics, special clauses and other characteristics of construction contracts, engineering contracts and the public contracts;
- Apply correctly the Convention on International Sale of Goods in comparison with business relations with foreign elements;
- Apply correctly legal provisions for protecting the rights of business parties in disputes that arise from non-completion of these contracts;
- Recognize the ways and criteria for assessing specific elements in cases of allegation for non- completion or dispute of validity of these contracts.

Content

- Characteristics of the public construction contract and their specifics;
- General terms and special conditions of the contract;
- The “keys at hand” clause;
- Price changes due to changes in the market;
- Legal procedure for protecting the rights of business parties in disputes that arise from non- completion of these contracts;
- Ways and criteria for assessing specific elements in cases if allegation for contract non-completion or in cases of disputing the contract validity;

Training methodology- This training will apply interactive methodology of learning which consists of presentation of hypothetical and actual cases from the judicial case-law, and discussions on the ways for bringing merit based judgments for concrete cases, as well as offer solution to the problems and opinions.

Beneficiaries: Judges of Commercial Departments within Basic Courts, and of the Appeals Court.

Duration: One day

1.5.2 Bankruptcy

New Law on Bankruptcy occurred as a necessity to regulate the bankruptcy procedure and reorganization of business organizations, as the previous law was incomplete, it had reference to regulation that were never adopted and as such this law became inapplicable. The New Law on Bankruptcy is a comprehensive law on bankruptcy and insolvency, which reflects the best international practices but it contains many institutes and other specifics that are almost unfamiliar to our justice system.

This law regulates procedures of liquidation and reorganization of all business organizations, including individual businesses, general partnerships and limited partnerships, which consists the crucial change from the old law. After entry of this law into force, it is expected to have an obvious increase of cases, and considering novelties that this law brings and the increase of cases expected to occur before courts, elaboration of this topic is really important in order to extend the knowledge of judges.

How to raise the professional expertise of judges in this field? How to create a judicial practice compliant with international and European standards? What are experiences and best practices of the regional countries? How to apply international instruments that regulate this area?

The program is prepared in the form that addresses dilemmas and difficulties occurring in practice in courts, through partial theoretical presentations, interactive discussions among participants and presentation of practical cases.

Objectives

After completion of this training, participants will be able to:

- Recognize expedited proceedings and their specifics;
- Recognize specifics of opening a bankruptcy case, legal procedures, timelines and court decisions;
- Assess properly consequences of opening the case;
- Debtors claims, way of filing them, timelines and prioritization of claims;
- Recognize legal terms for individual discharge and case closure;
- Recognize cross-border provisions;

Content

- General provisions of the law;
- Expedited procedures (SME's and pre-agreed plans);
- Initiation, opening of cases and consequences of opening the case;
- Debtor's claims;
- Reorganization;
- Liquidation;
- Individual discharge and case closure;
- Cross-border provisions;

Training methodology - This training will apply interactive methodology of learning which consists of presentation of hypothetical and actual cases from the judicial case-law, and discussions on the ways for bringing merit based judgments for concrete cases.

Beneficiaries: Judges of the Commercial Departments of Basic Courts and of the Appeals Court.

Duration: Two days.

1.5.3 The Intellectual Property Law– the Copyright

The copyright law is continuously proving to be an important development factor in the market economy and economic growth of the country, therefore respecting and correctly applying the copyright law is of particular significance. Besides the economic growth, application of the copyright law also stimulates cultural creativity. Economic system and system for protecting the copyright are indicators of economic development in a country.

Although Kosovo has legal infrastructure for protecting the copyright, in both the civil and criminal aspects, still it has not reached to the point of creating functional mechanisms for preventing violation of this right, therefore for holders of these rights the only possibility for effective protection of their right is the judicial protection. Considering all that is said above, the court received a certain number cases and this number is expected to increase in the near future.

How to increase professional expertise of judges in this field? How to create judicial practice compliant with international and European standards? What are the experiences and best practices of regional countries? How to apply international instruments that regulate this area?

The program is prepared in the form to address dilemmas and difficulties that occur in actual judicial case-law, through partial theoretical presentations, interactive discussions among participants and presentation of practical cases.

Objectives

After completion of this training participants will be able to:

- Assess allegations for violation of the copyright;
- Familiarize with legal procedures and their application in protection of this right;
- Apply the ways and legal steps for transfer of the copyright from one holder to another;

Content

- Legal protection if civil and criminal aspects;
- Alternative protection of the copyright – professional associations;
- Judicial procedure for protection of the copyright;
- Contracts for transfer of the copyright ownership;

Training methodology

This training will apply interactive methodology of learning which consists of presentation of hypothetical and actual cases from the judicial case-law, and discussions on the ways for bringing merit based judgments for concrete cases.

Beneficiaries: Judges of the Commercial Department, judges and prosecutors of the criminal law.

Duration: One day

1.5.4 Industrial property law – trademarks

Trademarks are a key category of the intellectual property rights that have an important role in the market economy, as the enterprises while carrying out their business use the trademarks with the purpose of distinguishing their products and services from the products and services of others, and for protection of their products.

Trademark protection is guaranteed by Law on Trademarks, the Criminal Code and other administrative measures including the customs measures. Still, the judicial practice faces many difficulties in applying legal provisions and provision of effective protection. The court case-law number of trademark disputes is considerable with a growing tendency, therefore elaboration of this topic is particularly important for increasing knowledge of judges in handling these cases.

How to increase professional expertise of judges in this field? How to create judicial practice compliant with international and European standards? What are the experiences and best practices of regional countries? How to apply international instruments that regulate this area?

The program is prepared in the form to address dilemmas and difficulties that occur in actual judicial case-law, through partial theoretical presentations, interactive discussions among participants and presentation of practical cases.

Objectives

After completion of this training participants will be able to:

- Identify trademarks and the need for judicial protection;
- Distinguish types of trademarks and their corresponding judicial protection;
- Recognize the rights of the trademark holders;
- Familiarize with registration ways and loss of rights conferred by the trademark;
- Apply correctly legal procedures in protection of the right conferring from the trademark;
- Apply correctly the assessment criteria in cases when the holder claims for violation of his/her trademark;

Content

- Understanding the trademarks;
- Trademarks as source identification – types: individual, collective, reserved, quality, defensive;
- Trademarks according to their scope of distinctiveness – types: imaginary, suggestive, descriptive, generic;
- Conditions for registering trademarks and respective legal protection;
- Judicial protection and procedure for maintaining trademarks;
- Assessment criteria for breaching trademarks;

Training methodology- This training will apply interactive methodology of learning which consists of theoretical training and presentation of hypothetical and actual cases from the judicial case-law, as well as discussions on the ways for bringing merit based judgments for concrete cases.

Beneficiaries: Judges of Commercial departments, judges and prosecutors of criminal area.

Duration: One day

1.5.5 Commercial contracts

In the economy of developed business markets that deal with specific activities they use contracts specific for their business and which are distinctive by their structure and the rights and obligation that they establish for the contracting parties.

How to increase professional expertise of judges in this field? How to create judicial practice compliant with international and European standards? What are the experiences and best practices of regional countries? How to apply international instruments that regulate this area?

The program is prepared in the form to address dilemmas and difficulties that occur in actual judicial case-law, through partial theoretical presentations, interactive discussions among participants and presentation of practical cases.

Objectives

After completion of this training, participants will be able to:

- Recognize the franchise contract, assignment contract, leasing contract, the know-how contracts, license, etc. and their specifics;
- Recognize the public contracts and their specifics;
- Recognize contracts for international sales of goods and their specifics;
- Apply correctly the Convention on International Sale of Goods, its characteristics and its implementation in Kosovo;

Content

- The franchise contract and its particulars;
- The Assignment contracts and its particulars;
- Leasing contracts and its particulars;
- Know-how contracts and its particulars;
- Licensing contracts and its particulars;
- Public contracts, their types, specifics and other features;
- International Convention for Sale of Goods, its characteristics and its application in business relations with foreign elements;
- Legal procedure for protection of the business parties' rights, in the disputes that arise from non-completion of these contracts;
- Assessment manner and criteria of specific elements in cases of claims for non-completion or dispute of the validity of these contracts;

Training methodology - This training will apply interactive methodology of learning which consists of theoretical training and presentation of hypothetical and actual cases from the judicial case-law, as well as discussions on the ways for bringing merit based judgments for concrete cases.

Beneficiaries: Judges of Commercial departments of Basic Courts and of the Appeals Court.

Duration: Two days

1.5.6 Law on Business Organizations

Business organizations carry out economic activities in countries with market economy. Kosovo in its efforts for economic growth has undertaken various measures to ensure the necessary infrastructure to create preconditions for business development. In this light, Kosovo has approved the Law on Business organizations that serves a good basis for business environment and enables foreign investments in Kosovo. This law sets forth types of business organizations, registration requirements, establishment and cease of organizations, rights and obligations of the owners, officials and their representatives.

How to increase professional expertise of judges in this field? How to create judicial practice compliant with international and European standards? What are the experiences and best practices of regional countries? How to apply international instruments that regulate this area?

The program is prepared in the form to address dilemmas and difficulties that occur in actual judicial case-law, through partial theoretical presentations, interactive discussions among participants and presentation of practical cases.

Objectives

After completion of this training participants will be able to:

- Apply properly provisions of this law;
- Familiarize with organizational ways of business organizations and their representatives and organization of third persons;
- Apply correctly legal procedures for application in protection of the rights deriving from business organizations;

Content

- Organizational ways, structure of capital and the rights and obligations of owners, officials and their representatives and of the third parties;
- Legal procedures and their application in protection of the rights pertaining to business organizations.

Training methodology

The program includes presentations that use actual and hypothetical cases. This methodology is based on exercises, discussions, simulation and activities that are prepared for applying concepts of business structures in practical situations. The training material that will be distributed includes comments, notes, presentations and examples on principles and main rules of business organizations, as examples that illustrate application of these rules.

Beneficiaries: Judges of the commercial departments of Basic Courts and the Appeals Court.

Duration: One day

1.5.7 Alternative dispute resolution - Arbitrage

Despite advantages of the alternative dispute resolution systems, parallel to judicial one, in practice these two systems interfere one another. Consequently, there are situations that require responses from the judicial doctrine and judicial practice. Also, the court case-law has disputes with international elements which raises the need to analyze the compatibility of national legislation with international rules, in order to ensure that their interpretation during application is in compliance with international practices. Therefore, elaboration of this topic is of particular significance for increasing the judge's knowledge on handling these cases.

How to increase professional expertise of judges in this field? How to create judicial practice compliant with international and European standards? What are the experiences and best practices of regional countries? How to apply international instruments that regulate this area?

The program is prepared in the form to address dilemmas and difficulties that occur in actual judicial case-law, through partial theoretical presentations, interactive discussions among participants and presentation of practical cases.

Objectives

After completion of this training participants will be able to:

- Recognize court competencies pertaining to arbitration and mediation;
- Apply correctly the procedure if recognition and execution of the arbitration decisions and of mediation agreements;
- Apply correctly the procedure upon requests for annulling the arbitration decisions;
- Recognize the procedure and court competencies for reviewing validity of the arbitration agreement;

Content

- General review related to arbitration and mediation;
- Recognition and execution of the Arbitration Tribunal decisions;
- Contesting decisions of the Arbitration Tribunal in the procedure for recognition and execution;
- Contesting decisions of the Arbitration Tribunal and request to annul them in judicial proceeding;
- Court competencies in reviewing validity of the arbitration agreement;
- Court competencies in relation to mediation;
- Mediation agreement;
- Reaching mediation agreement and its execution;

Training methodology- This training is designed to consist of theoretical training and presentation of hypothetical and actual cases from the judicial case-law, as well as discussions on the ways for bringing merit based judgments for concrete cases

Beneficiaries: Judges of the Commercial Departments from Basic Courts and the Appeals Court.

Duration: One day



ADMINISTRATIVE LAW

1.6 Administrative Law

1.6.1 Practical implementation of the Law on the Protection of Personal Data

Purpose of the training on this topic is to enhance the judges knowledge on the rights, responsibilities and measures related to protection of personal data and how to extent their knowledge on correct implementation of the Law on Protection of Personal Data.

How to elaborate the legal basis and legal processing of personal data? How are personal data protected?

These and topics that will arise during the training will be addressed through partially theoretical explanations, relying on actual cases and examples through exercises, discussions and practical examples on principles and main rules of the Law on protection of Personal Data.

Objectives

After completion of this training participants will be able to:

- Analyze institutional protection of personal data;
- Recognize the right and responsibilities of personal data controllers;
- Apply correctly provisions of the Law on Personal Data;

Content

- Legal basis of legitimate personal data processing;
- Institutional protection of personal data;
- Rights and obligations of data controllers.

Training methodology

Methods to be used in carrying out this training are partially theoretical lecturing, exercises, discussions and practical examples on principles and main rules of the Law on Protection of personal Data, then interactive discussion, questions and answers and cases from the case-law.

Beneficiaries: Judges of Administrative department of Basic Curt of Prishtina and the appeals Court, as well as officials of the National Agency for Protection of Personal Data.

Duration: One day

1.6.2 Commencement and conduct of administrative conflict proceeding

Training on administrative conflict procedure will elaborate topics that relate to judicial protection and address lawfulness of decisions issued by public administration bodies in the Administrative Department of the basic Court of Prishtina and the Appeals Court. In handling these cases, the courts are facing different professional, procedural and material dilemmas on how to decide about these cases. This training aims to provide practical solutions based on the law and which would ease the work of this court, and in the higher court instance, as well as contribute to reduction of the total number of cases in courts.

What is the procedure for initiating administrative conflicts and how is it conducted in competent court against decisions of public administration bodies and of governing bodies in Kosovo? What are the cases with more significant problems?

This training will address the dilemmas and queries partially through theoretical lecturing, relying on cases and using concrete examples that usually appear in judicial proceedings.

Objectives

After completion of this training, participants will be able to:

- Interpret correctly legal provisions on the administrative conflict procedure;
- Understand the role and importance of legal remedies against decisions of the Basic Court's Administrative Department;
- Apply correctly provisions of the Administrative conflict procedure;

Content

- Legal provisions on the Administrative conflict procedure;
- Legal procedure in the Administrative Department of the Basic Court and legal remedies against its decisions;
- Enforcement of the decisions of the Prishtina Basic Court's Administrative Department;

Training methodology

Dilemmas and issues raised during this training will be addressed through exercises, discussion and practical examples on main principles and rules of the Law on Administrative Conflicts, and through the work in groups.

Beneficiaries: Judges of the Kosovo Supreme Court, Judges of the Administrative Department at the Prishtina Basic Court, and Judges of the Administrative Department within the Appeals Court.

Duration: One day

1.6.3 Review of the lawsuit in administrative conflict in conformity with Article 6 of the ECHR

Purpose of this training is to extend the knowledge related to the form, the content and conditions for filing a lawsuit in the administrative conflict procedure. It also aims to elaborate on the preliminary review of the lawsuit as a mandatory and very important sub-phase for preparing the main review of a legal matter.

What is the form, content and requirements to file a lawsuit in the administrative conflict procedure? Have the procedural presumptions been met for conducting the administrative conflict procedure, if they can be concluded at the reading of the lawsuit?

Approach for addressing the dilemmas and issues raised during the training will be the explanations and recommendations of trainers related to elaboration of important issues in general. Then the training will be mostly covered by elaboration on legal aspects about the form, content and requirements for filing a lawsuit.

Objectives

After completion of this training participants will be able to:

- Understand the object, ways of its submission and form of the lawsuit;
- Apply correctly legal provisions in cases of withdrawing the lawsuit;
- Elaborate on issuing another administrative act after initiation of the administrative conflict, as well as submission of the lawsuit as a response to the lawsuit by the accused party;

Content

- Role of the lawsuit, the object, submission way and its form;
- Correct application of legal provisions in cases of withdrawing from the lawsuit; and
- Issuing the administrative act after initiation of the administrative conflict

Training methodology

This program will use combined method of explanation including theory and practice through practical examples.

Beneficiaries: Judges of the administrative department of Prishtina's Basic Court, judges of Administrative department at the Appeals Court and judges of the Kosovo Supreme Court.

Duration: One day

1.6.4 Extraordinary legal remedies in administrative conflicts

Purpose of this training is extending the judges knowledge on legal remedies in administrative conflicts, particularly on extraordinary remedies like the following: request for extraordinary review of the legal decision, request for protection of lawfulness, request for review, and actions and decisions of the court related to these legal remedies.

What is the difference between procedures when deciding with regular legal remedies and extraordinary legal remedies? What is the difference between the following extraordinary remedies: request for extraordinary review of the legal decision, request for protection of lawfulness, and the Request for review?

The issues raised will be addressed through partially theoretical explanations, based on cases and using actual examples from the court case-law.

Objectives

After completion of this training participants will be able to:

- Distinguish extraordinary legal remedies like: request for extraordinary review of legal decision, request for protection of lawfulness and the Request for review;
- Analyze procedural actions and decisions related to legal remedies in administrative conflicts;

Content

- Procedures for deciding with extraordinary legal remedies;
- Distinction between extraordinary legal remedies, the Request for extraordinary review of legal decision, Request for protection of lawfulness, and the Request for review;
- Procedural actions and decisions related to extraordinary legal remedies in administrative conflicts;

Training methodology

The training will make use of discussions and practical examples on extraordinary legal remedies that are foreseen in the Law on Administrative Conflicts.

Beneficiaries: Judges of the Administrative Department of the Prishtina's Basic Court, judges of the Appeals Court, and judges of the Kosovo Supreme Court.

Duration: One day

1.6.5 Court Practice of the Supreme Court, the appeals Court and of the Basic Court in Administrative cases

Main purpose of this roundtable is to review actual issues that are appearing in relation to administrative conflicts from the court practice and harmonization of this practice between judges of the Basic Court of Prishtina, the Appeals Court and of the Kosovo Supreme Court.

This roundtable will elaborate on actual issues from the court practice of the Administrative Department of Prishtina's Basic Court, the Appeals Court and of the Kosovo's Supreme Court. Focusing on harmonization of the court practice between these three judicial instances where they decide about cases of the administrative law area.

At this roundtable, participants will be able to discuss and brainstorm on experiences pertaining to various actual topics from the judicial practice of the Basic Court's Administrative Department, the Appeals Court and of the Supreme Court.

Objectives

After completion of this training participants will be able to:

- Overcome dilemmas that have occurred in judicial practice in the basic and the appellate instance;
- Harmonize judicial practice of these three judicial instances;

Content

- Review of the lawsuit;
- New facts in administrative conflict;
- Public hearings in administrative conflict cases;
- Mandatoriness of court decisions;
- Procedures according to legal remedies with the actual practice of the Kosovo Supreme Court;

Training methodology

The queries and dilemmas raised at this roundtable will be addressed through explanations by panelists, focusing on issues that have occurred in practice.

Beneficiaries: Judges of the administrative department at the Basic Court, the Appeals Court and the Kosovo Supreme Court.

Duration: One da

1.6.6 International Law on Refugees

Based on some statistics data until the end of 2016, 65.6 million persons were forcefully displaced in the entire world as a consequence of persecution, armed conflicts, violence or breach of human rights. This marks an increase of 300,000 people displaced in comparison with the data of 2015. Every year there is an increase of the total number of displaced people for the aforementioned reasons. Kosovo has also experienced a raise of the asylum seekers number. At the end of 2016 a record figures have been registered since the 2008, having total of 307 persons request international protection in Kosovo. Also, in the first six months of 2017 we have an increase of the number of asylum seekers in Kosovo compared with the same period of the previous year.

Observing the global trends of the number of displaced people from their homes, very soon Kosovo will be facing a large number of refugees. Therefore it is necessary to continuously organize trainings focusing of the refugee's rights, so that local capacities of all decision makers are at the required level of to cope with possible challenges in this area.

What are the principles and policies in relation to protection of person seeking international protection?
What is the court practice for protection of the refugee's rights?

These and other issues will be addressed through this training about the ways of bringing merit-based decisions for actual cases.

Objectives

After completion of this training participants will be able to:

- Apply principles and policies related to protection of persons in need for international protection;
- Extend their knowledge in application of domestic legislation in compliance with principles of the International law on the rights of refugees;
- Extend their skills to develop and apply local legislation pursuant to principles of the international law for protection of the stateless people.

Content

- Principles and policies related to protection of persons in need for international protection;
- Apply local legislation in compliance with principles of the international law for protection of refugees, respectively principles of the Convention for Protection of Refugees Rights of 1951 and its Protocol of 1967;
- Promoting principles and policies related to protection of stateless people for international protection, respectively the principles of the 1954 Convention in relation to the Status of Stateless persons, and the 1961 Convention on Reduction of Statelessness;
- Developing and applying local legislation in compliance with the international law principles for protection of stateless persons.

Training methodology- Training is designed to consist of theoretical part and presentation of practical examples on main principles and rules of the international law, as well as discussions about the ways to bring merit-based decisions for actual cases.

Beneficiaries: Judges of the administrative department of Pristina's Basic Court, and judges of the Appeals Court, and officials of the MIA Department on Citizenship, Asylum and Migration.

Duration: Two days

1.6.7 Implementation of the Tax Legislation in Kosovo

Considering that judicial proceedings sent before a court are very important especially in regard to their impact in the country's economy and not only to the directly concerned parties, ongoing and specialized judicial training in the taxation area is a key requirement of judicial competence. By increasing the competences of the judges in taxation areas, these trainings assist judicial independence which in turn increases taxpayers and investors' confidence in the judicial system. Consequently, it will result in a positive impact in the country's economy as a whole.

The purpose of the training is to complement judge's knowledge and skills by providing an adequate tax training on how to deal effectively with tax matters. These knowledge and skills are essential for judges who, in their daily work, must read and analyze accounting experts' reports and documents prepared by tax authorities. The judge's legal expertise is complemented by his or her ability to digest tax and economic analysis prepared by experts in relation to specific judicial proceedings.

Objectives

After completion of this training participants will be able to:

The principal objective of the training is to develop and deliver a practical, vocationally-oriented module of judicial training on tax matters for judges in Kosovo, in both live seminar and e-learning format, so as to enable judges to deal more effectively with relevant cases.

Content

The training will cover both Kosovar tax legislation and some developments on EU scale which may have local impact and thus, would be of interest to the participants in view of their current vocational role. Also, a module for some general economic and financial concepts will also be provided considering the increasing need of judges to be able to formulate questions for, read and analyze economic/finance reports and expert opinions.

Training methodology

Training modules will be delivered in live seminar format. Delivery of training would include also training materials, including handouts, slides and other necessary documents and materials. The module will be developed also in e-learning format for the e-learning platform. All concepts, rules and requirements of the law covered in the training will be presented both from theoretical perspective (i.e. as technical matters) and based on practical case studies and illustrations which will be developed specifically for the needs of the participants.

Beneficiaries: judges and licensed administrators who are or will be involved in tax matters.

Duration: Two days

1.6.8 Public procurement contracts

Public procurement is defined as process of purchase of goods, work and services financed with public funds or donations. Public procurement is a strategic mechanism that efficiently manages governmental expenses in purchase of goods, services and various work.

Developed countries see the public procurement as a broader aspect, which includes purchase, rent, licensing, leasing, exclusivity if work, services and equipping with goods that are financed by the state's budget or of international organizations.

Public procurement includes 3 main stages:

- Planning – needs determination and decision-making for purchase of goods, work or services;
- Determining rules for contracts that ensure buyers of these goods, works or services, and
- Process of the contract administration to ensure effective performance.

Although in appearance, Kosovo legislation in this area is advanced and in conformity with international standards, only existence of the legislation is not sufficient because it depends from its application in practice. In many cases, the legal framework is complex and is subject to individual interpretations which gives space to abuse and corruption.

Particular issue in this area is the fact that in court case-law there are cases when judges and prosecutors interpret the parties' actions and legal provisions from this prism and it happens that in their efforts to combat negative phenomena's they violate the rights of the involved parties.

How to increase professional expertise of judges in this area? How to create a court case law compliant with international and European standards? What are experiences and best practices of regional countries?

The program is prepared in the form to address dilemmas and difficulties that occur in the actual court practice, through theoretical presentations, interactive discussions between participants and presentation of practical cases.

Objectives

After completion of this training participants will be able to:

- Assess the process of public procurement planning;
- Elaborate the tender file;
- Assess technical specifications and indicative notice;
- Understand elements for selection of the contractor and awarding;
- Assess effects of the contract after signature;
- Understand contract exceeding and work compensation.

- Identify additional work, the necessary work and changes to the work.

Content

- General review on public procurement.
- Tendering procedure and reaching contract.
- Rights and obligation of parties after reaching the contract.
- Contract administration and selection of the supervisory body.
- Acceptance of work and compensation.
- Issues occurring during the contract implementation stage.
- Handling work that exceeds the contract and compensation.
- Additional work, the necessary work and changes to the work.

Training methodology

This course will apply an interactive learning methodology that consist of lectures, exercises and discussions, involving theoretical training on arbitrage and mediation, presentation of hypothetical cases and concrete cases from the judicial case-law and discussion about the ways of merit-based decisions for actual cases. The Training material that will be delivered includes comments, notes, presentations and practical examples on principles and main rules of public procurement and other examples that illustrate application of these rules.

Beneficiaries: judges of Basic Courts and of the Appeals Court, prosecutors of Basic Prosecutions and of the Appeals Prosecution.

Duration: Two days



**MINOR
OFFENCE
AREA**

1.7 Minor offences area

1.7.1 Correct conduct of the procedure according to the Law on Minor Offences and evidence processing in minor offences procedure

Considering that the new Law on Minor Offences contains many novelties in relation with the previous law, there is a need to elaborate the minor offences procedure and how it is conducted according to this law and how the evidence processing takes place. The claimants who request initiation of the minor offence procedure not always propose or even provide the necessary evidence that identifies the actual committed minor offence. Also, the practice so far indicates that claims for initiation of minor offence procedure are filed by incompetent body, or the claims are incomplete or even filed after the legal timeline. Based on the novelties of the law and other practical issues, it is necessary to provide training also on requirements for setting the minor offences and minor offence sanctions, the parties and liability for minor offence, special procedure for juveniles and, particularly change of the procedure regarding minor offence sanctions.

What are competencies to decide? What are legal requirements to bring decisions? What evidence is admissible? How is evidence processed? What types of evidence can be administered for concrete cases? What is competent authority to file the claim for initiation of minor offence procedure? What are the court's concrete steps after receiving the claim? When can the minor offence procedure be initiated? What are legal terms to be met for initiating the procedure? How is the minor offence procedure conducted for repeated offences and how do they merge? These are among topics to be addressed in this training by providing alternatives and solutions to cases of this nature.

Objectives

After completion of this training participants will be able to:

- Apply novelties of the law on minor offences;
- Assess legal requirements for initiating minor offences procedure;
- Correctly apply legal provisions related to conducting minor offence procedure;
- Apply correctly special minor offence measures;
- Apply correctly the minor offence procedure for juveniles;
- Distinguish admissible from inadmissible evidence in minor offence procedure;
- Correctly assess evidence;
- Apply correctly principles on handling evidence in the procedure;
- Apply correctly the minor offence sanctions;

Content

- Conditions for determining minor offences and minor offence sanctions;

- Minor offence liability;
- Special minor offence measures;
- Juvenile procedure according to this law;
- Distinction between admissible and inadmissible evidence;
- Understanding proof and evidence;
- Legal conditions for initiating minor offence procedure;
- Court actions after receiving the claim;
- Presentation of summary data related to initiation and conduct of the minor offence procedure, focusing on repeated minor offences and their integration.

Training methodology Detailed elaboration of the Minor Offence provisions through practical examples and interactive discussions, providing alternatives for uncertainties and difficulties in practical application.

Beneficiaries: Judges of minor offence divisions in Basic courts.

Duration: One day.

1.7.2 Violation of the public order and peace

The applicable Law on Public Order and Peace as such is very poor and does not include the majority of offenses in this area, even though they manifest in daily life. Based on the case law, and in the court decisions, it was noted that often there was no distinction made between offenses of "arrogant behavior (Article 4)" and "verbal assault (Article 5)". Also, the minor offense "Violation of the authorized officials' order" often is confused with violation of the Law on Road Traffic Safety "Failure to comply with the order of the traffic officer". Taking into account these dilemmas in practice this topic needs to be elaborated.

What is the difference between a minor offence and a criminal offence? Where are the differences between Article 4 and Article 5 of the Law on Public Order and Peace? What does the order of an official person mean?

These will be among other issues to be addressed at this training elaborating them in details through practical cases.

Objectives

After completion of this training participants will be able to:

- Identify minor offences from the area of public order and peace;
- Determine clearly minor offences in the area of public order and peace;
- Apply correctly legal provisions on public order and peace.

Content

- Minor offence against public order and peace;
- Arrogant behavior and verbal assault;
- Disobedience of the order of authorized person according to LPPO;
- Sanctions for offenders of public order and peace;

Training methodology

Detailed elaboration of provisions of the Law on Public order and peace through practical examples and interactive discussions that will provide alternatives to uncertainties and difficulties appearing in practice.

Beneficiaries: Judges of Minor offences Divisions in Basic Courts.

Duration: One day.

1.7.3 Legal persons as offenders of minor offence perpetrators

In court practice there have been deficiencies in some cases when first instance courts do not conduct properly the minor offences procedure against legal persons when they appear as parties in the proceeding. Often there is no distinction made between the business entity as legal person and a business entity as individual business, and consequently there is a need to elaborate these uncertainties emphasizing the liability of the person responsible at the legal entity.

What is the difference between the business entity as legal person and the business entity as individual business? In which cases the responsible person at the legal entity is not held liable? How is the minor offence procedure conducted against business entities as individual businesses?

The program aims to elaborate legislation that addresses the aforementioned issues and to provide merit based solutions through practical examples.

Objectives

After completion of this training participants will be able to:

- Clearly determine and define the business entities as legal persons and the responsible person at the legal entity;
- Conduct properly and lawfully the minor offence proceeding against the legal person and the responsible persons at the legal entity;
- Apply correctly legal provisions against business entities as individual businesses.

Content

- The ways for conducting minor offences procedure against business entities in the quality of the legal person;
- Liability of the legal entity and of the responsible person at the legal entity;
- Business entities as individual businesses and ways to conduct minor offence procedure against them;
- Liability of natural persons;

Training methodology

Elaboration of the legislation that regulates the legal status of business entities in judicial proceeding, through practical examples and interactive discussions that will provide alternatives for uncertainties and difficulties faced in practice.

Beneficiaries: Judges of minor offence divisions in basic courts.

Duration: One day

1.7.4 Law on Road Traffic Provisions and Law on Road Traffic Safety

By application of the Law on Road Traffic Provisions and the court practice so far, there are many changes in relation to the Law on Road Traffic Safety. Also there are many unclear provisions notices, particularly in the part related to minor offences sanctioning by this law, and which present dilemmas for the minor offence procedure judge.

What are the differences between the Law on Road Traffic provisions and the Law on Road Traffic Safety? What are minor offence sanctions in cases of bypass and side pass? What are discrepancies between the minor offences sanctions between this law and the Law on Road Traffic Safety?

The training will address the aforementioned issues by elaborating legal provisions of this law and giving practical examples which will provide alternatives for merit based solutions of this nature.

Objectives

After completion of this training, participants will be able to:

- Apply correctly legal provisions of the road traffic area in cases of repeated minor offences;
- Determine clearly and precisely provisions pertaining to traffic accidents;
- Apply correctly legal provisions in determining minor offence liability for road traffic offences;

Content

- Elaborating dilemmas occurring in practice while implementing the Law on Road Traffic Provisions and Law on Road Traffic Safety;
- By passing and side passing – correct application of legal provisions in cases of traffic accidents;

Training methodology

Elaboration of the law, power point presentation, case study practice, interactive discussions, work in groups, etc.

Beneficiaries: Judges of minor offence divisions in basic courts.

Duration: One day.

1.7.5 Law on Forests in Kosovo, nature and environment protection

Being witnesses to the fact of environment degradation, ruthless harm to the forests, national parks and nature in general - which all has impact to human health and life quality in general- it is necessary to elaborate this topic with particular emphasis on importance and priority that the minor offences divisions should give to this area.

What are basic principles of this law? What body initiates the minor offences procedure? How is the minor offence procedure conducted? What are minor offences sanctions?

The training will address the aforementioned issues by elaborating legal provisions of this law and giving practical examples which will provide alternatives for merit based solutions of this nature.

Objectives

After completion of this training, participants will be able to:

- Apply correctly provision of the Law on Forests;
- Determine clearly and precisely minor offence competencies and minor offence sanctions of the Law for Protection of Nature and Law for Protection of Environment, in relation with Courts – the minor offences body;

Content

- Law on Forests in Kosovo;
- Law for Protection of Nature, with emphasis on protection of national parks; and
- Law on Protection of Environment;

Training methodology

Elaboration of the law, power point presentation, case study practice, interactive discussions, work in groups, etc.

Beneficiaries: Judges of minor offence divisions in basic courts.

Duration: One day



CONSTITUTIONAL LAW

1.8 Constitutional Law

1.8.1 Adequate application of the Constitutional Court Decisions

Procedures taking place at the constitutional court are concluded with decisions which legal effect is determined by procedural admission and review of the referral grounds. Main purpose of this roundtable is to present and acquaint with the actual practice of this court based on the referral about judicial decisions. Also, goal of this training is to extend the judges knowledge about admissibility of referrals, relation of the Kosovo Constitutional Court in relation with regular courts in the context of constitutional provisions, experience of this court according to referrals, and role of the incidental control of constitutionality. As it is known, from item 8 of Article 113 of the Constitution the right of courts to refer to Constitutional Court is recognized for issues of constitutional compatibility of a law, but based on the data there is hesitation to use such right. Approach in addressing dilemmas and issues raised during the training will be in form of explanations and recommendations of trainers on elaborating the issue in general. Therefore, the training will be dominated by comprehensive elaboration of the actual practice of this court based in referrals in the civil law area. This roundtable will treat also issues that relate to the normative staff in the Constitutional Court and legal effects of its decisions.

Are the courts obliged to rely on jurisprudence of the Kosovo Constitutional Court in order to make sure that the issued decision is in compliance with the Constitutional Court's practice? Can the Constitutional Court decisions be considered precedence from the viewpoint of legal obligation for the future? How do courts act pertaining to article 53 of the Kosovo Constitution that obliges judges to reflect interpretation of Strasburg in their judicial decisions? What is the methodology for pretrial referral in the context of constitutional and legal provisions of Kosovo?

In addressing dilemmas and queries this training will pay particular attention to legal instruments and the case law of courts and of the Kosovo Constitutional Court itself. In this aspect, it will be aimed to discuss on the raised issues and offer their professional opinions about the elaborated topics.

Objectives

After completion of this training participants will be able to:

- Understand legal effects of constitutional court decisions;
- Assess relation between regular court and the Kosovo constitutional Court;
- Define the scope of the constitutional review of judicial decisions;
- Obtain knowledge on the methodology in drafting pretrial referrals;
- Assess the legal nature and obligation of the judiciary and all persons and institutions of the Republic of Kosovo to apply the constitutional court's decisions;

Content

- Relation between the regular courts and constitutional court;
- Adequate practice of applying constitutional court decisions;
- Pretrial referral;
- Relation of the Kosovo constitutional court with regular courts in the context of constitutional provisions;
- Apply incidental referral of constitutionality;

Training methodology -This training will focus on theoretical and normative analysis in relation with regular courts and the Constitutional Court. Furthermore, particular attention will be paid to judicial practice and participants will be divided in groups and work on case studies, to demonstrate their legal and judicial skills.

Beneficiaries: Judges of basic courts, the Appeals court and of the Supreme Court.

Duration: One day



TRAINING FOR
THE SPECIAL CHAMBER
OF THE SUPREME COURT

1.9 Trainings for the Special Chamber of the Supreme Court

1.9.1 *Judicial proceeding based on competencies of the Special Chamber of the Supreme Court and the Kosovo Privatization Agency*

Article 4 of the Law on SCSC (Law No. 04/L-033) sets forth the exclusive jurisdiction of the Special Chamber. This provision gives the SC competence to decide on all cases and procedures pertaining to objections of a decision or action of the Kosovo Trust Agency – no Kosovo Privatization Agency, or parties' requests that claim a right, title or interest that are under the KPA administration. The issue of competence is also important to be discussed as lately there were cases when the Basic court returned cases to the Special Chamber, although the SC has previously issued its decision related to absence of jurisdiction for that matter. According to the Law No.04/L-034 on Kosovo Privatization Agency, the Agency exclusive competencies to administer socially owned enterprises, no matter if they have undergone the transformation process or not. This means all assets in Kosovo's territory, disregarding their form of organization, that were socially owned until or after March 22 of 1989. This authority includes every action that agency considers reasonable and adequate within the administrative sources of the Agency, in order to enable better sale, liquidation, transfer or another form of enterprise, asset or interest in the state's ownership.

What is the exclusive competence under Article 4 of this law? What persons should file claims and be litigants before the Special Chamber? Does the agency have the right to practice its administrative authority for enterprises that undertook transformation after March of 1989? In what cases the KPA would consider that transformation took place in compliance with the law? Is the transformation considered discriminatory if it took place after 1990?

The training will focus of discussions and issues raised by the participants related to dilemmas on competencies of the SCSC, respectively for requests that may raise dilemmas of judges themselves if a matter falls under the Special Chamber's jurisdiction.

Objectives

After completion of this training participants will be able to:

- Apply correctly the legal provisions related to competence;
- Identify competent persons that may be claimants and litigants in proceedings before the Special Chamber;
- Recognize what are the exclusive competencies of the Agency for administration of the socially owned enterprises;
- Assess in which cases the SOE transformation was or want discriminatory;
- Recognize the Agency's role on the possibility to transform SOE's to corporations;

Content

- Functional competence focusing on the Special Chamber;
- Claimants and litigants in the Special Chamber;
- Scope of the Agency's administrative competence;
- Transformation of enterprises in one or more corporations;
- Asset sale

Training methodology Interactive discussion with participants, practical cases and their elaboration, power point presentations.

Beneficiaries: Judges of the Special Chamber, judges of Basic courts – Civil Division and the KPA officials.

Duration: One day.

1.9.2 Evidence and hearing in the Special Chamber, Judicial proceeding and parties protection in proceedings before the Special Chambers

Proceeding before the Special Chamber consists of written and oral procedure, the claim or the appeal is submitted in writing at the Special Chamber. Such claim or complaint shall consist besides the personal data of the claimant and the respondent or every person that is identified as respondent, also of the case and all material evidence that is related to the claim or appeal, the basis for principle jurisdiction of the Special Chamber on the claim or the appeal, legal arguments on which the claim or appeal is relied on and a list of evidence that the claimant aims to present, if the financial compensation is required then a list of damages that determines nature of the loss or damage, and the amount that is required for any kind of loss or damage.

Collection of evidence by a specialized panel, sub-panel or a single judge is made in compliance with the appendix to the Law on SCSC. Article 36 is the one that sets forth the general rules on evidence. This provisions determines the way how parties' ca submit evidence.

How is the proceeding before the SC conducted? What shall a claim consist? What are consequences of parties if they do not comply with rules for presenting evidence? What are consequences for not presenting the defense? Who is eligible to present evidence? Who has the legal right to carry out the evidence presentation to the judge or to the panel? Who has the burden of proof to testify in the oral proceeding conclusion, etc?

The training will focus on discussion on collection of evidence and issues raised by participants at the training.

Objectives

After completion of this training participants will be able to:

- Identify persons that can present evidence;
- Apply correctly rules for hearing of witnesses;
- Conduct correctly the proceeding at the SC;
- Recognize the consequences for nonappearance of the defense;
- Identify what shall a claim consist of;

Content

- Orders for hearing of witnesses at the Special Chamber;
- Objection of witnesses and experts in the Special Chamber;
- Criteria for the claim admissibility;
- Defense of the respondent, response of the claimant, counter-response of the respondent, and the counterclaim.

Training methodology

Interactive discussions with participants, practical cases and their elaboration, power point presentations, etc.

Beneficiaries: Judges of the Special Chamber, judges of Basic Courts – Civil Division and professional associates.

Duration: One day.

1.9.3 Procedures upon appeal at the special Chamber

After issuance of written judgment or decisions by a Specialized panel the dissatisfied party in compliance with Article 10 paragraph 10 of the Law on Special Chamber has the right to directly file the appeal at the Appeals Panel for any kind of decision or judgment of a single judge, a sub-panel or case in support of paragraph 4 of Article 4 of the Law on Special Chamber. The appeal is filed with the court, the specialized panel, the sub-panel or a single judge that issues the respective decision or judgment within twenty one (21) days. In principle this appeals timeline against a judgment or decision is longer than the timeline foreseen by the LCP.

To whom shall the appeal be addressed to? What are cause for filing an appeal? What shall it contain? What are boundaries of appeals examination?

That training will focus on discussions, practical cases and issues raised by participant on dilemmas related to limits of the appeals examination.

Objectives

After completion of this training, participants will be able to:

- Understand to whom the appeals may be addressed to;
- Identify what are legal timelines for filing the appeal;
- Assess what shall an appeal contain;

Content

- Appeals examination limits of the first instance;
- Response and counter response;
- Timeline for filing an appeal;

Training methodology

Interactive discussions with participants, practical cases and their elaboration, power point presentations.

Beneficiaries: Judges of the Special Chamber, judges of Basic courts – Civil division and professional associates.

Duration: One day.

TRAININGS ON THE EUROPEAN
CONVENTION ON HUMAN RIGHTS
(ECHR) AND THE EU LEGISLATION

1.10 Trainings on the European Convention on Human Rights (ECHR) and the EU legislation

1.10.1 Article 2 of ECHR – *The right to life*

Article 2 of the Convention guarantees that everyone's right to life shall be protected by law. No one shall be deprived of his life intentionally save in the execution of a sentence of a court following his conviction of a crime for which this penalty is provided by law. While deprivation of life shall not be regarded as inflicted in contravention of this Article when it results from the use of force which is no more than absolutely necessary in defense of any person from unlawful violence, in order to effect a lawful arrest or to prevent the escape of a person lawfully detained, in action lawfully taken for the purpose of quelling a riot or insurrection.

There are dilemmas on what are the substantive aspects of the right to life? What are positive obligations of the state to protect individuals under their supervision or protection, particularly when the individual enjoys a good health and is under control of the police and afterwards s/he dies?

These will be among other topics addressed at this training through practical case of the European Court on Human Rights, with particular emphasis on ways how the Court solved similar cases, in order to provide merit based solutions for cases of this nature.

Objectives

After completion of this training participants will be able to:

- Familiarize with the criteria set forth in Article 2 of ECHR on the right of individuals that his/her life is protected by law;
- Assess when deprivation of life is not considered to have taken place in contradiction with this article;
- Assess criteria for the use of force, made when absolutely necessary by the state.

Content

- The right to life;
- Substantive aspects of the right to life;
- Governmental acts pertaining to limitation of liberty;
- Efficiency of investigation conducted by the government;
- The right to die;

Training methodology- The training will make use of the following methods: lecturing, interactive discussion, and analysis of case of the Strasbourg Court, comparative analysis of local cases and the ways of their solution with similar case in the Court of Strasbourg.

Beneficiaries: Judges of Basic courts, the Appeals Court, prosecutors and professional associates.

Duration: One day

1.10.2 Article 5 of the ECHR – The right to liberty and security

Article 5 of the Convention treats the person's right to liberty and security. Based on this article, no one shall be deprived of his liberty save in the following cases and in accordance with a procedure prescribed by law: the lawful detention after conviction by a competent court, lawful arrest or detention, lawful arrest or detention for the purpose of bringing him before the competent legal authority, detention of a minor by lawful order, the lawful detention of persons for the prevention of the spreading of infectious diseases, the lawful arrest or detention to prevent his unauthorized entry into the country.

There are dilemmas when deprivation of liberty is considered unlawful? What is the procedure applicable in cases of deprivation of liberty or detention by competent authorities? What is the time duration of the person's detention, deprivation of liberty or imprisonment? What is the difference between the procedure for depriving of liberty a minor and the procedure for depriving from liberty an adult?

These will be among other topics addressed at this training through practical case of the European Court on Human Rights, with particular emphasis on ways how the Court solved similar cases, in order to provide merit based solutions for cases of this nature.

Objectives

After completion of this training participants will be able to:

- Analyze correctly provisions of the ECHR Article 5;
- Recognize effects deriving from Article 5 of the Convention;
- Assess principles and criteria foreseen by the Human Rights Convention in cases when depriving a person of their liberty;
- Integrate these principles in practical case in court;
- Assess the balance between the Convention and national legislation in cases of deprivation of liberty.

Content

- Foreseen cases by law for deprivation of liberty;
- When is a person deprived of liberty lawfully, after a conviction imposed by a competent court;
- When is a person lawfully deprived of liberty for noncompliance of an order issued by court;
- When a person is arrested or detained to be sent before the competent court;
- Lawful deprivation of liberty of a minor for whom a supervised education measure is imposed;
- Lawful deprivation of liberty of a person for preventing spread of infectious disease;
- Deprivation of liberty for preventing unauthorized entry into a country, or conducting the procedure of expatriation or extradition.

Training methodology- The training will make use of the following methods: lecturing, interactive discussion, analysis of case of the Strasbourg Court, comparative analysis of local cases and the ways of their solution with similar case in the Court of Strasbourg.

Beneficiaries: Judges of Basic courts, the Appeals Court, prosecutors and professional associates.

Duration: One day

1.10.3 Article 6 of the ECHR – The right to a fair trial

Article 6 of the Convention elaborates the right to a everyone is entitled to a fair trial. This article contains the principle that every person is entitled to a public hearing within a reasonable time by an independent and impartial tribunal established by law, which will decide in relation with civil rights and obligations and about the grounds of every charge of criminal nature.

There are dilemmas on what are the rights of persons provided under Article 6 on civil rights and obligations and on fundability of every charge against him? Which are “the civil rights and obligations”? What does “criminal charge” stand for? What do we mean with “access to court”? What does “presumption of innocence mean”?

These will be among other topics addressed at this training through practical case of the European Court on Human Rights, with particular emphasis on ways how the Curt solved similar cases, in order to provide merit based solutions for cases of this nature.

Objectives

After completion of this training participants will be able to:

- Recognize criteria set forth in Article 6 of the ECHR for a fair trial;
- Analyze correctly provisions of ECHR Article 6;
- Recognize effects that derive from ECHR Article 6;
- Integrate these principles in their practical cases in court.

Content

- The right for access to court;
- Reasonable time for preparing the legal matter;
- The right to prompt information;
- Presumption of innocence;
- Adequate time and facilities to prepare defense;
- Selection of the defense and legal assistance;
- Summon and examine witnesses;
- Free assistance of an interpreter.

Training methodology

The training will make use of the following methods: lecturing, interactive discussion, and analysis of case of the Strasbourg Court, comparative analysis of local cases and the ways of their solution with similar case in the Court of Strasbourg.

Beneficiaries: Judges of Basic courts, the Appeals Court, prosecutors and professional associates.

Duration: One day.

1.10.4 Article 8 of the ECHR – The right to respect for private and family life

Article 8 of the Convention guarantees that everyone has the right to respect for his private and family life, his home and his correspondence, has the right to marry and found a family and equality of spouses, and it guarantees for noninterference of the public authority to exercise of this right, except in cases when interference is foreseen by law.

What are the rights of persons provided in Article 8 in protection of the safeguards coming from this Article? What are the civil rights of spouses and their relation with the children? What does the family nature life mean? What are family relations when parents are not married? What are the rights when marriage has dissolved?

These will be among other topics addressed at this training through practical case of the European Court on Human Rights, with particular emphasis on ways how the Court solved similar cases, in order to provide merit based solutions for cases of this nature.

Objectives

After completion of this training will be able to:

- Recognize criteria set forth in Article 8 of the ECHR for respect of private and family life and correspondence;
- Apply the right provided in this article about the concept of the right to marry, found a family and equality of spouses;
- Analyze correctly provisions of the ECHR Article 8.

Content

- Respect of the private and family life, the home and correspondence;
- Interference of the public authorities in practice of this right to the extent foreseen by law;
- Necessity for interference in this right in a democratic society;
- The right for personal life and personal documents;
- The rights of homosexuals;

Training methodology

The training will make use of the following methods: lecturing, interactive discussion, analysis of case of the Strasbourg Court, comparative analysis of local cases and the ways of their solution with similar case in the Court of Strasbourg.

Beneficiaries: Judges of Basic courts, the Appeals Court, prosecutors and professional associates.

Duration: One day.

1.10.5 The European Legislation in function of the SAA implementation

Purpose of organizing this training is to extend the knowledge on effect of the European Union Law and analysis of implementation aspects of this principle before accession to EU. Also, another purpose is to raise the judges knowledge on effect of the European legislation after entering into force of the Stabilization Association Agreement.

What are difficulties and dilemmas related to interpretation of the European law effect in national level? What will be the impact of EU legislation after the Stabilization Association Agreement enters into force?

Main methods utilized during this training will be: partial theoretical explanations and cases from the judicial practice, interactive discussions divided in groups, that will defend and argue on different positions and case law analysis.

Objectives

After completion of this training participants will be able to:

- Acquaint with the EU legislation and its effect into internal legislation during SAA implementation;
- Break down effect of the EU law after the Stabilization-Association Agreement enters into force;
- Apply EU principles and standards that relate to the Stabilization-Association Agreement.

Content

- The EU legislation and its effect into internal legislation during SAA implementation;
- Implementation of principles and EU standards related with the SAA; **Beneficiaries:** Judges and prosecutors of all instances in the Republic of Kosovo. **Duration:** One day.



INTERDISCIPLINARY COMPETENCE

1.11 Interdisciplinary competence

1.11.1 Code of Ethics

In modern and democratic societies, where human rights and freedoms are respected, the functioning of the justice system in general is one of the fundamental conditions of social development. The functioning of the justice system is primarily based on sound grounds for building democratic societies and international acts for the protection of human rights and freedoms. In this sense, a very important mechanism for building and functioning of the justice system in general is the code of ethics.

Considering the importance of ethics in general, and in particular the judicial ethics, this training will specifically address the general principles of judicial ethics compared with the principles of Bangalore and the Code of Ethics in Kosovo. Specific provisions of the Code of Ethics will be elaborated, of course, by looking at ethical dilemmas as well as the Regulation for Judges Misconduct.

What standards of professional conduct should judges and prosecutors represent? What are general principles of the Code of Ethics? How should ethical dilemmas be resolved? How do the improper conduct categorize? What are the disciplinary measures that may be imposed depending on the type of misconduct?

The training is designed to answer the questions and uncertainties raised above by analyzing all ethical principles and rules presenting concrete cases that are identified with ethical dilemmas.

Objectives

After completion of this training participants will be able to:

- Recognize and apply basic rules of judicial ethics as envisaged in the Code of Professional Ethics for Judges and Prosecutors;
- Elaborate on principles and rules of the code in different real-life situations;
- Identify and solve ethical problems;
- Recognize the rules for determining misconduct;
- Recognize the measures and types of measures for misconduct;

Content

- Code of Professional Ethics for Judges and Prosecutors - Basic Principles;
- Regulation on Defining Misconduct;
- Definition of misconduct;
- Categorization of misconduct;
- Disciplinary measures;
-

Training methodology

Theoretical elaboration of the norms as in the Code of Professional Ethics for Judges and Prosecutors, and the Regulation on Professional Misconduct. For demonstration purposes will mainly be used the form of discussions – conversation to ensure that participants are active at all times by giving their contribution by raising questions, providing solutions and suggestions.

Beneficiaries: Judges of all instances and professional associates.

Duration: One day

1.11.2 Legal writing and reasoning

Legal writing and reasoning is an assessment standard of the work of judges and prosecutors. In this sense, legal writing and reasoning in the work of judges and prosecutors represents a not easily achievable objective. Legal writing and reasoning is intended to assist judges and prosecutors in raising analytical skills and skills to write effectively when drafting judicial acts and decisions.

The quality of court decisions depends largely on the quality of reasoning. Reasoning of decisions not only enables parties to easily understand and accept decisions, but first of all it presents protection from arbitrariness. First of all, the reasoning obliges the judges to respond to parties' claims, to present approaches that justify and make the decision lawful, reasoning enables the society to understand the functioning of the judicial system.

Through the IRAC method, there is a possibility that the problem is treated logically, consistently and thoroughly. Initially identifying the court case or the problem to be addressed, then the legal norm is explained (first premise), continuing with its application on the specific facts of the case situation (secondary premises), to reach the conclusion with the answer to the question posed in the step first.

What are the types of legal reasoning? What are the principles of good writing and good reasoning? What are the methods of legal writing and reasoning? How should the requirements of procedural laws / codes respect the content of justification of court decisions?

The training is designed to respond to the questions and uncertainties raised above through the theoretical treatment and practical cases for all components included within this training like: types of legal reasoning, principles of good writing, writing methods and legal reasoning and legal requirements for the reasoning content of judicial decisions.

Objectives

After completion of this training participants will be able to:

- elevates application of the writing methodology of decisions, indictments and other legal documents;
- Develop the legal writing and reasoning skills;
- Compile judicial decisions according to the highest standards;
- Apply IRAC method when drafting court decisions;

Content

- Types of legal reasoning;
- Principles of good writing;
- Legal requirements for writing and reasoning of court decisions;
- Implement IRAC method for writing criminal decisions;

Training methodology

Theoretical and practical discussion on the methods of legal analysis in concrete cases, conversation in order to have all participants active all the time by having them provide their contribution in asking questions and providing solutions with their suggestions. Participants in addition to their contribution to the discussions also challenge trainers' ideas regarding ways of solving and resolution of many alternative or even problematic issues.

Beneficiaries: Judges of basic courts and professional associates.

Duration: One day

1.11.3 Trial advocacy skills

Development of trial advocacy skills is essential not only for prosecutors representing cases in court but also for judges who rule in trials. Given the procedural provisions applied by judges and prosecutors, it is most essential for prosecutors to be professionally prepared for case presentation in trials, and judges for conducting trials.

The Criminal Procedure Code has foreseen specific techniques of introducing the opening statement, direct examination, cross examination, redirect and closing argument, these techniques are not yet being implemented as provided in the CPCR and as applied in Anglo-Saxon countries from which these techniques have been modeled. In the judicial practice many deficiencies have been noticed in application of the opening statement part, and in the direct examination, but also in other advocacy skills, because very often while delivering the opening statement the case argument is made, like it is the closing argument, and very rarely the cross examination is done properly, while still there is no clear distinction made between the direct or cross examination.

In order to avoid these dilemmas the training will use interactive methods including simulation of these techniques and video recording, so that participants are able to make themselves the video critiques and to improve the potential inaccuracies.

Objectives

After completion of this module participants will be able to:

- Present the opening statement using adequate techniques;
- Apply the direct examination;
- Present evidence that prove facts before the court;
- Apply rules and principles of cross-examination;
- Apply the impeachment through the following steps (confirm, credit and confront);
- Demonstrate the redirect examination;
- Present the closing argument; argue on factual state through evidence administered in the proceeding;

Content

- Opening statement using the adequate techniques;
- Direct examination;
- Cross examination and impeachment;
- Redirect;
- Closing argument;

Training methodology- Interactive method, case simulation, video camera recording, critiques and self-critique.

Beneficiaries: Prosecutors and judges of the first and second instance.

Duration: Two days and a half.

1.11.4 Case management

Use of efficient systems of case management by judges and prosecutors in comparison with the management of the case flux that courts and prosecutorial offices handle, present challenges that are pretty problematic in the daily work. Changes to organizational structure have impacted to this problem, and these changes will have positive effect in improving case management.

What is nature and importance of case management in practical work of courts and prosecutorial offices? What are difficulties that are related to case management? What are the most efficient ways of case management?

This training is prepared to answer questions that are directly related to case management and administration in courts and prosecutorial offices. Focus is on addressing problems and new strategies, with the purpose of continuous improvement of work efficiency and avoiding practical problems.

Objectives

After completion of this training participants will be able to:

- Apply principles of case management;
- Apply case management knowledge;
- Apply case management techniques.

Content

- Case management;
- Basic principles of case management;
- Main techniques of case management;

Training methodology

The training will use combined methods of explanation, theoretical and practical explanations, work in groups followed by practical examples, power point presentation.

Beneficiaries: judges and prosecutors of basic instance.

Duration: One day.

1.11.5 Time management as a prerequisite for stress management

It is almost impossible to think of daily lives in “modern world” with the stress as integral part of it.

Stress is an total of emotional, bodily, and behavioral responses to those demands, challenges, and burdens to which the individual is subjected to in different circumstances of life and work. In general, stress is a consequence and an indication of a "suffocation" of the spiritual life at the level of dominance of the techno sphere towards the socio sphere. The frequent presence of stress in an individual's daily life causes demotivation, reduces productivity, deteriorates performance, causes physical mental problems, changes individual's behavior, etc.

Good time management and prioritization of needs are good predispositions and continuous control of stress as a precondition for maintaining the health and well-being of the individual. Many studies of this problematic prefer setting limits as a technique of preventing the negative effect of stress.

Establishing material and formal boundaries as well as the content of emotional boundaries are the elements of this technique. The needs identification is also a prerequisite to stress management.

What should I be is the question we shall pose to ourselves to learn the answer of I will be happy? What do I want versus to what I need? What would I do if I would not have problems with...?

These are some of the questions that individuals shall pose to themselves in order to be in advantage of time and stress management with the purpose of achieving better wellbeing.

Objectives

After completion of this training session participants will be able to:

- Recognize the characteristics and distinctive features of the personalities that will be in relation to them in different qualities;
- Distinguish positive influencing factors and factors and degenerative negative factors in socium and work environment;
- Identify determinants of the individual in deviant and illegal behavior;
- Learn the best ways to overcome stressful situations;
- Develop skills on good time and stress management;

Content

- Stress factors;
- Types of stress;
- Signs and warning symptoms of stress;
- Stress at work;
- Time administration;

Methodology

Participants will have an exercise on priorities of activities, interference of the philosophy professor's anecdote and two packages of coffee.

Beneficiaries: Judges and Prosecutors of all instances.

Duration: One da

1.12 Non-discrimination trainings

1.12.1 Gender equality in judicial proceeding in general and in cases of domestic violence in particular

There is general agreement that gender issues in every democratic society represent values for which the state and society shall take care and promote and protect through respective legal mechanisms. Certainly, gender equality is an important parameter that measures the democratic level of a society and the level of functioning of a rule of law. Also, the assessment reports of different organizations that deal with gender issues emphasize that gender equality in our society is not at desirable level, and this way also the efficiency of judicial proceedings to provide adequate judicial protection in gender equality cases. On the other hand, domestic violence is among the most harming factors that violates the human rights and jeopardizes the precious values of individuals and the society. Domestic violence is every intentional violence than can be done to one family members by a person or persons members of this family.

What are international acts that refer to gender equality? How is gender equality regulated by law in Kosovo? How is gender equality determined in relation to judicial procedures? How is domestic violence regulated? How the judicial proceeding is conducted in domestic violence cases and what measures can be imposed for preventing domestic violence? What are protective measures that may be imposed in ceases of domestic violence? What are consequences of the domestic violence? Who is provided with judicial protection according to the Law on Protection from Domestic Violence? What shall the request for protection order contain? Who should be notified about the protection order? What are the protection orders?

Training is drafted with the purpose of responding to questions and uncertainties raised above through analysis of all international and national acts on gender equality in general and about the gender equality in judicial proceeding focusing specifically on cases of domestic violence.

Objectives

After completion of this training participants will be able to:

- Recognize main principles of international conventions of gender equality;
- Assess conditions and the need for setting the protection order;
- Assess conditions and the need for setting the protection order;
- Decide to impose adequate protection orders for protection of victims from repeated violence;
- Apply correctly procedures of action for cases of protection from domestic violence;
- Draft judicial decisions according to specifics that domestic violence cases have.

Content

- International and local legislation of gender equality;
- Domestic violence and forms of its occurrence focusing on gender and the protection order;
- Conditions for setting the protection order;
- Judicial procedures for deciding upon request for protection order;

- Drafting and reasoning of decisions according to specifics of the matter respecting legal provisions
- Execution of the protection order and consequences for violation of the protection order.

Training methodology- The training will use the following methods: theoretical training about international and local acts on gender equality, and in order to reach the objectives practical cases will be presented for opened discussion which are expected to produce models for certain situation and bringing merit based decisions.

Beneficiaries: Judges of the appeals court and of basic courts, prosecutors of basic prosecution offices, professional associates, victim advocates, etc.

Duration: One day

1.12.2 Gender equality in family cases – the joint property of spouses

In court practice, the issues of common property of spouses appear to be quite complex due to the difficulties to accurately determine the common property, the contribution and the division of property. In such procedures, there are also difficulties in establishing the decisive facts that are determining for assessing what is common property and what is the contribution of spouses to its creation. Regarding the difficulties in the procedure, the way how the court should approach the calculation of each spouse's contribution to the creation of common property and, consequently, the criteria to be assessed for the way of sharing the common property is also addressed.

What is meant by the common property of spouses? How is the contribution to the creation of common property valued? What are the types of contribution that are taken into account in the creation of common property? How is the common property divided? Can compensation be made instead of dividing the property for the contribution? How should the enacting clause of the verdict appear in such cases? How should the judgment on the division of common property be justified?

The training is designed in order to answer the questions and ambiguities raised above by analyzing all legal provisions referring to common property and court practice for such cases

Objectives

After completion of this training participants will be able to:

- Make distinctions between the special and common property of spouses;
- Assess whether there is shared wealth, or increase of any property with the spouse's contribution;
- Recognize the types and ways of assessing the contribution to the creation of common property;
- Issues fair and lawful decisions;
- Draft decisions in accordance with legal requirements, case specifications and standards of judicial practice;

Content

- Gender Equality in Family Matters;
- Special wealth of spouses;
- Mutual wealth of spouses;
- Contribution to the creation of common property;
- Legal nature of common property;
- Common property registration;
- Sharing of common property;
- Drafting and reasoning of the court decision on the division of common property;

Training methodology- The following methods will be used in this training: theoretical treatment of international and local acts related to gender equality and in order to achieve the objectives practical cases will be offered for discussion and, consequently, models for certain procedural situations and merit based decision.

Beneficiaries: Judges of basic court and professional associates.

Duration: One day

1.12.3 Gender equality in disputes over the right to inheritance and in labor disputes

An important role in the right to inheritance is the procedure for granting judicial protection in cases of violation of the right to inheritance on a gender basis and consequently the legal possibilities to provide adequate protection. Also, the procedure for granting judicial protection in cases of discrimination at work is important given the elimination of gender-based discrimination. The way of dealing with such issues due to the sensitivity of these issues to the court is very complex and requires prudence and professionalism.

What do we mean by the right to inheritance? What is the indispensable part? How is it done in cases of violation of the indispensable part? How does it work if the heirs do not declare? How does it work in case of non-inclusion in the inheritance decision of all heirs? What do we mean by discrimination at work? How can gender discrimination be detected? How can judicial protection be provided in such cases? What measures can be taken in this procedure?

The training is designed to answer the questions and uncertainties raised above through the analysis of all legal provisions referring to the right to inheritance and protection in labor disputes due to discrimination.

Objectives

After completion of this training participants will be able to:

- Apply correctly the legal provisions on gender equality in inheritance;
- Develop the procedure efficiently and make fair decisions in cases of violation of the indispensable part;
- Develop the procedure and provide adequate protection in cases of non-declaration of the heirs on a gender basis;
- Develop the procedure with the right efficiency and make the right decisions for the judicial protection required;
- Develop and justify decisions according to specifications that represent issues of inheritance and discrimination at work;

Content

- Violation of the indispensable part and litigation in cases of violation;
- Non-declaration of heirs and procedure after declaration of inheritance;
- Discrimination in the right to inheritance in other forms such as the violation of the law or factual separation;
- Discrimination at work, the manner of manifesting gender-based discrimination;
- Judicial protection in cases of gender-based discrimination;
- Drafting and reasoning of court decisions according to the procedures and cases specifications;

Training methodology In the course of the training, the following methods will be used: theoretical treatment of legislation and judicial practice regarding the right to inheritance and against discrimination in labor relations and in order to achieve the objectives practical cases will be provided for discussion and result with models for certain procedural situations and how to bring merit-based decisions.

Beneficiaries: Judges of basic courts and professional associates.

Duration: One day



ORIENTATION PROGRAM
FOR PROMOTIOD JUDGES
AND STATE PROSECUTORS

2. Orientation program for promoted judges and state prosecutors

For judges and state prosecutors who have been advanced from one instance to another or who are re-appointed from one department to another, adequate training will be provided to meet their professional, interdisciplinary and personal needs and requirements. The orientation program defined for this category prepares the beneficiaries for successful work immediately after taking up the new assignment.

2.1 Judges and prosecutors appointed from one department to another within the same instance

Promotion of judges and prosecutors from one department of the courts or prosecutors' offices to another raises the need for these changes to be accompanied with tailored trainings for judges and prosecutors that will fit their work specifics. In this regard, the Academy provides orientation programs that are ready to be implemented at any time when these promotions occur within the judicial and prosecutorial system.

Orientation program for judges and prosecutors who are promoted from one department to another focus on developing the following skills and practices:

- Facing new procedures and jurisdiction;
- Role of the judge or prosecutor according to department of competencies;
- Issue and reasoning of fair decisions;

2.2 Judges and prosecutors promoted from the basic instance to the Appeals instance

Contains modules that focus on professional competence like:

- Competence and jurisdiction in the appeals instance;
- Competence and jurisdiction in the respective department.

2.3 Judges and prosecutors promoted from the Appeals Court to the Supreme Court

Contains modules focusing on professional competence like:

Competence and jurisdiction at the level of the Supreme Court;
Competence and jurisdiction in the relevant field;