



# Newsletter

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**March 2020**

## Activities from Continuous Training Program (CTP)

### Judicial protection in cases of property rights, servitudes and obstruction to possession

On 03-04 March 2020, the Academy of Justice, in the framework of the Continuous Training Program (CTP), in cooperation with the EU financial project "Support to the Civil Code Phase 2" organized a training on: "Judicial protection in cases of property rights, servitudes and obstruction to possession".

The purpose of this training was to advance the knowledge of the participants regarding the judicial protection from obstruction of possession and servitudes.

On the first day of the training, were elaborated the authorizations of the property rights, ownership and property, the characteristics of the right to ownership, the restrictions of the right of ownership, the neighboring right, the missions, importance of protecting the right to ownership, the lawsuits for protection of property rights, types of lawsuits, re-indictment lawsuit, public lawsuit, negative lawsuit, nature of possession, notion of possession, object to possession, elements of possession, types of possession, profit and loss of possession, protection of possession and competence.

On the second day, were discussed the deadlines for compulsory execution of the decision, the servitude as a real right over the foreign

thing, the object of the servitude, the subjects of the servitude, the division of servitudes, the ways of acquisition of the servitude, the sharing of the servitude, termination of personal servitude.

During the training it was emphasized that in the procedure developed for disputes due to obstruction to possession, as a special contentious procedure that is regulated by the provisions of the Law on Contested Procedure, the court provides judicial protection to the person whose property was taken from possession or whose are obstructed during its use. With the mentioned legal provisions, it is possible to quickly and efficiently restore the disturbed factual situation, where the examination of the case according to the lawsuit due to obstruction to possession by the court will be limited only to ascertaining and proving the facts of the last state of possession and obstruction.

The training methodology was combined with interactive discussion and elaboration of cases, group work, and practical cases.

The beneficiaries of this training were Judges from the Special Chamber of the Supreme Court, the Court of Appeals, the Basic Courts of all regions of Kosovo and the Professional Associate



## Mediation in criminal, civil and economic terms Mitrovica region

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On March 4, 2020, the Academy of Justice within the Continuous Training Program and in cooperation with the USAID Program - Commercial Justice, implemented by CHECCHI and COMPANY, conducted training on: "Mediation, in civil, criminal and economic terms".

The purpose of this training was to advance the knowledge of the participants regarding the novelties brought by the Law No. 06 / -009 on Mediation, as well as the easier identification of suitable subjects to be referred to in the mediation procedure.

During this training, the following principles were elaborated: principles of mediation, initiation of mediation procedure, compulsory mediation, procedure and obligations of judges, development of mediation procedure, mediation agreement and its effects, rights and obligations of the parties to the mediation procedure.

It was also discussed the referral of cases in the mediation procedure that is at the discretion of judges, not ignoring the will of the parties to the dispute and in accordance with the relevant legal provisions.

This training served as a guide for judges and other staff of courts and prosecutors' offices to more easily identify appropriate disputes to be processed in the mediation procedure, as well as other cases for which compulsory mediation is envisaged.

The methodology applied was of a combined with theoretical explanations and interactive discussions.

Beneficiaries of these trainings were: Judges, prosecutors, professional associates and mediators from the Mitrovica region.



## Criminal proceedings involving perpetrators of mental disorders

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On March 10, 2020, the Academy of Justice, in cooperation with GIZ - LARP, within the Continuous Training Program, conducted a training on: "Criminal proceedings involving perpetrators with mental disorders."

The purpose of the training was to advance the professional skills of judges and prosecutors in the fair application of specific procedures in cases involving perpetrators of criminal offenses with mental disorders and in terms of conditions related to the ability of these persons to undergo trial.

During this training was treated: the local legal framework regulating this area, the conditions for imposing measures for compulsory treatment. Whereas, in particular was discussed

compulsory psychiatric treatment with detention in a health care institution and compulsory psychiatric treatment in freedom.

Also, the implementation of the psychiatric examination by the expert, the purpose of this examination and the stages of issuing the order for psychiatric examination were elaborated, in which case the unsatisfactory level of expertise prepared by the experts was emphasized. Attention was also paid to detention and the special conditions that must be met to determine detention of persons with mental disorders.

The beneficiaries of this training were judges, prosecutors and professional associates from all regions of Kosovo.





## Mediation in criminal, civil and economic terms Peja region

On March 4, 2020, the Academy of Justice within the Continuous Training Program and in cooperation with the USAID Program - Commercial Justice, implemented by CHECCHI and COMPANY, conducted training on: "Mediation, in civil, criminal and economic terms".

The purpose of this training was to advance the knowledge of the participants regarding the novelties brought by the Law No. 06 / -009 on Mediation, as well as the easier identification of suitable subjects to be referred to in the mediation procedure.

During this training, the following principles were elaborated: principles of mediation, initiation of mediation procedure, compulsory mediation, procedure and obligations of judges, development of mediation procedure, mediation agreement and its effects, rights and obligations of the parties to the mediation procedure.

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This training served as a guide for judges and other staff of courts and prosecutors' offices to more easily identify appropriate disputes to be processed in the mediation procedure, as well as other cases for which compulsory mediation is envisaged.

The methodology applied was of a combined with theoretical explanations and interactive discussions.

Beneficiaries of these trainings were: Judges, prosecutors, professional associates and mediators from the Peja region.



## Activities from Initial Training Program (ITP)

### Initial Training program activities for the newly appointed prosecutors

During March, the theoretical and practical training continued to be developed according to the training calendar. Within the theoretical training for newly appointed prosecutors, (8) training sessions were conducted under the module: Criminal Procedure Code, National and International Legal Order and Personal and Interdisciplinary Skills.

From the sub-module “Control and confiscation” three (3) training sessions were conducted, where prosecutors had the opportunity to deepen their knowledge about: The law on extended competence of confiscation by elaborating it with case studies from the local courts.

Within the sub-module “ECHR”, three (3) training sessions were held, where participants had the opportunity to advance their knowledge regarding: Article 6.1, Articles 6.2 and 6.3 of this Convention, the right to access the court, the principle of equality of arms, reasoned decisions and adequate time and the necessary fa-

cilities to prepare the defense, considering the case such as: *Lauz v. Austria* and *Artico v. Italy*.

Prosecutors also conducted two (2) sessions under the module "Professional Ethics" on which occasion were treated: History of codes of ethics, historical evolution and the main schools of philosophy of ethics, code of ethics-instrument which guarantee the integrity of judges / prosecutors and an instrument to their discipline and judicial and non-judicial activities of judges and lay judges, as well as an independent and impartial court established by law.

During this period, the newly appointed prosecutors have conducted (6) days of practical training in the prosecution offices.

The initial training is being attended by 12 newly appointed prosecutors (Generation VIII).



## Initial Training program activities for the newly appointed judges

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The theoretical training component, for this period, is fulfilled by carrying out the following activities: a total of 8 training sessions were conducted within the modules: Criminal Procedural Code, legislation and additional skills.

Within the sub-module "Trial advocacy skills", three (3) training sessions were conducted, where newly appointed judges had the opportunity to gain new knowledge related to: opening statement, strategic considerations and those related to evidence, meaning, and rules and cross examination techniques, as well as the closing argument.

Under the sub-module "Initial, second and the main trial" three (3) training sessions were held, where judges had the opportunity to address: judicial hearing, preconditions, adjournment, termination and time of completion of the main trial, minutes and commencement of the main trial and the testimony of the accused.

During the theoretical training, the judges con-

ducted two (2) sessions from the sub-module "Evidence in criminal proceedings" where participants advanced their knowledge about: General rules of evidence and their evaluation and proof of the defendant's statement and testimony of the witness during the criminal proceedings.

Also, during the initial training - fulfillment of the practical trainings within the "Trial advocacy skills", the newly appointed judges have conducted a "Simulation for interrogation techniques" in the Basic Court of Prishtina.

During this period, the newly appointed judges have conducted (6) days of practical training in the respective courts as provided by the training program.

The initial training is being attended by 37 newly appointed judges (generation VII), 7 of whom are from the Serb community.



## Activities for Administrative Staff of Courts and Prosecution Offices

### Judicial and prosecutorial system, structures and competencies

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On March 6, 2020, the Academy of Justice within the Continuous Training Program (CTP) conducted a training on: "Judicial and prosecutorial system, structures and competencies."

The main purpose of this training was to advance the knowledge of the participants regarding the competencies, mandate, planning, organizing the control and the legal framework for the management of the judicial and prosecutorial administration.

During this training, the current developments regarding the work of the KJC and the KPC, their most important decisions, the main normative acts and the various policies for the ad-

ministration of the systems were discussed, including the challenges in exercising the mandate of the two councils.

The training was conducted through theoretical explanations and interactive discussions, in which case the participants had the opportunity to ask different questions about the issues that were in the focus of the training.

Beneficiaries of this training were administrative staff from all levels of courts and prosecutor's offices, namely legal officials, administrative clerks, as well as media and public relations officials.





## Other Activities

### **Practical program of ENM candidates in Kosovo organized by the Academy of Justice**

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On 03-13 March 2020, the Academy of Justice organized the internship program in judicial institutions in Kosovo for the candidates of the French School of Magistrates (ENM). This program is part of the cooperation that the Academy of Justice has had for several years now with the School of Magistrates through the French Embassy in Kosovo.

On the first day of the practical program, the candidates were welcomed at the meeting by

the Executive Director of the Academy of Justice, Mr. Enver Fejzullahu and the Program Coordinator Mrs. Valmira Pefqeli, on this occasion, to the candidates from the School of Magistrates of France (ENM) was introduced the organization and the program system of the Academy of Justice, the judicial system in general in Kosovo and were instructed to their stay in the relevant institutions depending on the topics of their interest.

During this visit, ENM candidates attended a training session in the Initial Program for newly appointed prosecutors (Generation VIII). A meeting was also organized with the Chief Prosecutor of the Basic Prosecution of Prishtina, Mr. Kujtim Munishi, who welcomed and expressed his readiness to be the host institution for a week of their internship in the offices of the Basic Prosecution of Prishtina.



## Training Needs Assessment of Commercial Justice



On March 12, 2020, within the Academy of Justice in the presence of judges from the economic department and the fiscal division of the administrative department were elaborated the analysis of training needs in commercial law for judges and administrative staff from the USAID Program - Commercial Justice implemented by Checchi and Company Consulting.

The purpose of this presentation was the analysis and key findings on training needs as well as confirmation of findings and agreement on the training program by judges of the economic department and fiscal division of the administrative department and administrative staff of the court from the economic department.

On the occasion of the presentation, it was

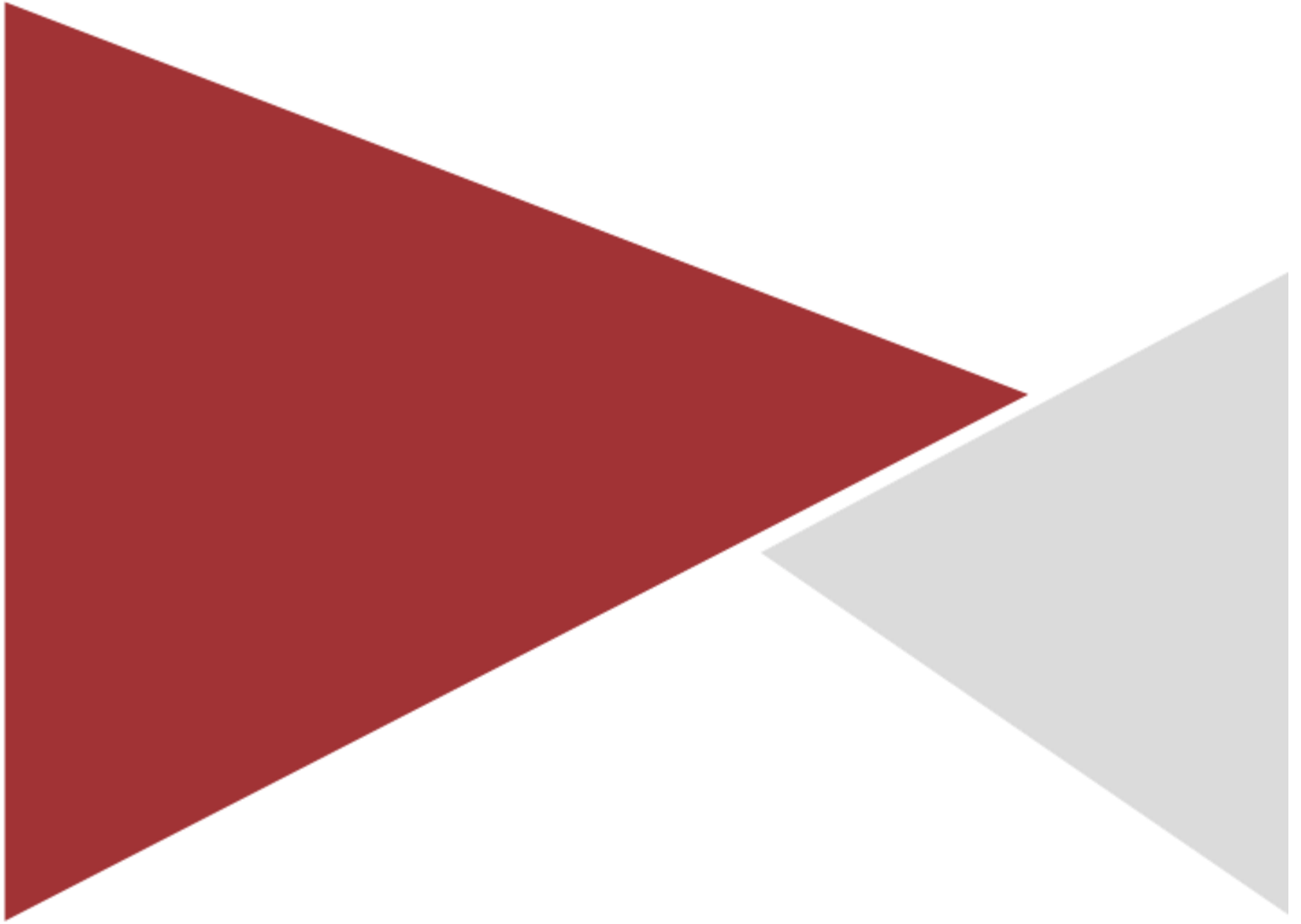
pointed out that the USAID program is in support of the establishment of the Economic Court and the empowerment of judges and its staff with special emphasis, through the implementation of training programs within the Academy of Justice. Further, the main findings were presented, highlighting competency-based trainings, comprehensive programs with modular structure, specialized trainings, case-based methodology and training of trainers.

It was further stated that the program aims in addition to knowledge on professional competence to provide also knowledge on commercial justice in terms of writing and legal reasoning, ethics and information technology.

After the presentation of these analysis by USAID project experts, the participating judges expressed their readiness to participate in these trainings, confirming the need to increase their capacities and the need to prepare new judges in this field.

Participants in this meeting were judges and administrative staff of the economic department and the fiscal division of the administrative department.s





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