



# INITIAL TRAINING PROGRAM

FOR THE NEWLY APPOINTED JUDGES

2019 / 2020





**INITIAL TRAINING PROGRAM**  
(FOR THE NEWLY APPOINTED JUDGES)  
**2019/2020**

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This training program is approved by the Managing Board of  
the Academy of Justice on the date February 22<sup>nd</sup> 2019.



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## 1. Introduction

Academy of Justice (herein: AJ), within the scope of its mandate organizes the initial training for the newly appointed judges and state prosecutors. Relying on this, AJ develops the Initial Training Program (ITP) for the newly appointed judges and state prosecutors which aims development of professional capacities and practical skills of the newly appointed judges and state prosecutors.

ITP duration is 12 months and its structure is divided in two parts: the theoretical training which is conducted in combination with review of cases from the judicial case law, simulations and other forms of training, whereas the practical part of the training is conducted in courts or prosecutorial offices where they are appointed under supervision of mentors.

This training is focused on developing professional competencies, ethical values and inter-personal skills of the newly appointed judges, with particular emphasis on the following: professional capacity increase on the national and international legislation, drafting of judicial decisions based on fact analysis, application of ethical rules, developing trial advocacy skills and social skills, exchange of experiences with the related in-

stitutions, developing the research, organizational and managing skills, as well as increase of the cross-disciplinary skills.

ITP, for the seventh generation of the newly appointed judges 2019/2020, primarily targets developing professional capacities and practical skills of the newly appointed judges, relying on the principles of transparency, nondiscrimination, cooperation, law application and based on legal education set standards.

Particular attention will be paid to the training methodology, which involves adults learning techniques, in particular the case-based training which means that everything is structured around court cases, and that training are also provided through the distance learning platform.

Implementation of this training program, will require accompanying documents like: the training modules, training calendar and presentation materials on concrete topics.

This training program is approved by the AJ Managing Board.

## 2. Main Goals of the Training Program

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

Main goals of the initial training program for 2019 are:

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

## 3. Legal Basis

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

With the aim of practical implementation of this training program, AJ besides the coordination with the Kosovo Judicial Council, also issues internal rules.

For this purpose AJ is based on the following:

- Law on Academy of Justice (No. 05/L-095);
- Law on Courts (No. 06/L- 054)
- Law No. 06/L-055 on the Kosovo Judicial Council;
- Law on Amendment and Supplementing of the Law No. 03/L-223 on the Kosovo Judicial Council (No. 05/L-094);
- Regulation on the Initial Training Program No. 03/2017;
- Regulation No.07/2017 on Amending and Supplementing the Regulation 03/2017 on the Initial Training;
- AJ Work Plan for the 2019 (approved by the AJ Managing Board on December 26th 2018);



## 4. Drafting Methodology of Training Programs

For drafting of this training program AJ conducted discussions with leading representatives of the judicial and prosecutorial system, with judges, prosecutors, trainers and former ITP candidates. Also it assessed reports of local and international institutions in Kosovo, followed by a number of mechanisms developed for the purpose of assessing training needs.

Some of the steps taken in order to establish this program are as following:

- Consultation with the Supreme Court President,
- Consultation with Head of Kosovo Judicial Council,
- Discussions with ITP trainers,
- Alumni Conference – with ITP former candidates,
- Evaluation of the formerly KJI Initial Training Program (conducted by the Magistrate School of France, in January 2015),
- Questionnaires distributed to ITP candidates,
- Analysis of the applicable legal framework,
- Practices of the international training institutions etc.

## 5. ITP Structure and Content

### 5.1 The aim for qualification

General concept for aiming professional qualification of ITP participants is:

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

### 5.2 ITP Structure

Initial Training Program duration is 12 months. This duration foreseen by law enables an intensive training structure of the initial training program for the 2019/2010, and it is divided in two parts. The first part includes theoretical training combined with case review from judicial practice, simulations, etc. whereas, the second part is a practical training accompanied with judicial training at institutions not related to the work of judge and prosecutors.

For determining the initial training structure, it is required to initially determine what competencies of the newly appointed judges and prosecutors have to be developed, respectively we shall know what qualities that a judge and prosecutor shall possess.

To develop competencies of the training participants, AJ is based on the following scheme:

<b>Personal Integrity and professional conduct</b>	<ul style="list-style-type: none"> <li>• Independence and impartiality</li> <li>• Self-confidence and authenticity</li> <li>• Honest commitment to a fair trial</li> </ul>	<ul style="list-style-type: none"> <li>- Is convinced about the legal system and its quality;</li> <li>- Represents its decision;</li> <li>- Shows individuality and stability to the impact of its actions;</li> <li>- When necessary dare to go against the prevailing views;</li> <li>- Is clear about the expectations, set boundaries.</li> </ul>
<b>Legal and judicial skills</b>	<ul style="list-style-type: none"> <li>• Determination, adjudication;</li> <li>• Obedience;</li> <li>• Analytic ability and ability to judge;</li> <li>• Managerial Responsibility;</li> <li>• Leadership;</li> </ul>	<ul style="list-style-type: none"> <li>- Take decisions based on available information;</li> <li>- Acts decisively when the pressure raises;</li> <li>- Provides a clear and complete meaning to the decision-making structure and the process followed by drafting of the decisions;</li> <li>- Takes the consent of the parties about decision;</li> <li>- Provides a full meaning to a formulated text;</li> <li>- Percepts options to bring the parties together and to mediate in resolving their dispute;</li> <li>- Processes and solve a variety of data;</li> <li>- Systematically reviews and evaluates;</li> <li>- Poses questions based on understanding;</li> <li>- Discuss issues based on situations;</li> <li>- Use logical thoughts deriving to establishment of statements up to clear and transparent reasoning;</li> <li>- Planes and organizes its work on the case;</li> <li>- Involve others in different important topics;</li> <li>- when possible allows others to add their expertise;</li> <li>- Organize the work of employees in most efficient way;</li> <li>- Informs others about the progress of the work;</li> <li>- Regulate procedures (content, quality and timing) if required.</li> </ul>

<b>Professional commitment</b>	<ul style="list-style-type: none"> <li>• Ability to manage the office,</li> <li>• Ability to learn and self-reflect;</li> <li>• Ability to cooperate;</li> <li>• Flexibility and ability to deal with the work load;</li> </ul>	<ul style="list-style-type: none"> <li>- Develop organizational and leading capacities to lead interrogation sessions and meetings</li> <li>- Is open for feedback from others and dedicated to learning;</li> <li>- Is curious, actively seeks new innovations and/or new situations;</li> <li>- Ready to take part in professional education and engages in regular training to enhance professional capacities for national and international legislation;</li> <li>- Is open to collaboration with others;</li> <li>- Take initiatives and uses the opportunity to share knowledge, support and consults with others to improve the quality and efficiency of justice;</li> <li>- Exchange practices with work-related institutions of the courts and prosecution offices;</li> </ul>
<b>Social awareness</b>	<ul style="list-style-type: none"> <li>• Listening and communication;</li> <li>• Suitability;</li> <li>• Obedience;</li> <li>• Awareness of social environment;</li> </ul>	<ul style="list-style-type: none"> <li>- Understand the situation of others, makes personal contact and motivates - active listening</li> <li>- gives the impression to others that their contribution is received;</li> <li>- Adjusts the approach when the situation changes or when it leads, adapt to specific circumstances and situations;</li> <li>- Gives a clear and full understanding to the structure of decision-making and to the process followed in the drafting of the decisions;</li> <li>- Gives full meaning to the formulated text;</li> <li>- Takes into consideration the options to bring parties together and to mediate in resolving the dispute;</li> <li>- Have tendencies for social development and establish its own image under the law;</li> <li>- Seeks for old, new and contradictory information, as well as different perspectives that may affect the decision and the procedure;</li> <li>- Shows awareness to the impact of different circumstances and parties;</li> <li>- Assess the impact of their role and position in social context, takes that into consideration and maintains distance;</li> <li>- Has knowledge on socio-economic context, where functions are practiced;</li> </ul>

ITP is conceptualized and framed as a professional qualification program, based on competence, modules and work oriented, which integrates elements of theoretical and practical learning. It is designed especially for initial professional development of judges and prosecutors. ITP is a combination of theoretical and practical, guiding and self-learning stages, including e-learning elements<sup>1</sup>.

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### 5.3 ITP Content

ITP content reflects on the development of competencies of the participants, focusing on development of practical skills of newly appointed judges and state prosecutors, after being assessed that the beneficiaries possess theoretical knowledge relevant to the function of the judge.

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

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

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

#### 5.3.1 Theoretical Training Part

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

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

- Content of training module;
- Nature and complexity of the module;
- The type of module and its importance to judicial / prosecutorial practice;

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

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

### 5.3.2 Practical Training Part

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

Practical training program is implemented based on “Practical Training Manual” which contains a training program that should be followed by newly appointed judges, and specifies the duties and responsibilities of mentors and beneficiaries during the implementation of practical training. The manual is part of this training program.

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

Mentors also have been provided with ideas on how to expose the beneficiaries to a wide range of topics that will prepare them to take over official duties, after completion of the Initial Training Program. The focus of the manual and the internship program is to highlight the importance of providing real practical experience to beneficiaries in developing their professional skills, ranging from legal writing, critical thinking, ethics, communication rules, case management and many others issues of practical character to the interest of beneficiaries.

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

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

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

### 5.4 Training Program at Non-Judicial Institutions

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

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

- Constitutional Court
- Chamber of Advocates
- Ombudsman
- Kosovo Police
- Correction Service
- Probation Service
- Center for Social Work
- Anti-Corruption Agency
- Kosovo Customs
- Mediation Committee
- Privatization Agency
- Kosovo Cadastral Agency
- Kosovo Property Agency
- Public Procurement Regulatory Commission
- Independent Oversight Board
- General Audit Office
- Kosovo Tax Administration
- Personal Data Protection Agency
- Forensic Legal Institution
- The Agency for Administration of Sequestered and Confiscated Assets

### **5.5 Trial simulation**

Besides traditional training methods, like interactive discussions and practical case studies, beneficiaries of initial training will be involved also in mock trials.

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

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

### **5.6 Research Work**

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

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

## 6. Evaluation

The evaluation process for successful completion of the training program from newly appointed judges is determined by the Regulation of the Initial Training Program which is approved by AJ Managing Board. This process is accomplished but not limited to, training attendance report, trainers report, mentors report, and evaluation of the research papers that will be summarized in a final report prepared by AJ and then submitted to KJC and KPC.

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

- ITP final testing consists of the test results of each module;
- Modular testing can be implemented in various forms: written tests, verbal tests, written elaboration and presentations;
- The prerequisite for participation in modular testing is a regular participation in training and autonomous fulfillment of the ITP requirements during training sessions;

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

### 6.1 Sample of evaluation by the trainer

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

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

Date: \_\_\_/\_\_\_/\_\_\_

Name & Signature of the Trainer \_\_\_\_\_

## 6.2 Sample of evaluation by the Mentor

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



## 7. Calendar and Training Schedule

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

Theoretical and practical training will be implemented in combination by the model consisting of 2 days of theoretical training at AJ and 3 days practical training at courts. This schedule will be flexible in order to meet the theoretical training program as specified in each training module.

Hours of training and number of training sessions have been defined in close consultation with all relevant stakeholders.

Conditions for participation in training and the absence during the training will be regulated by the Regulation on the Initial Training Program.

## 8. ITP Training Modules of 2019/2020 for the newly appointed judges

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

Training Modules				
No.	Name of the module	Training hours	Sub-module /subpart	No. of sessions
1.	National and international legal order	60 h	1.1 Constitutional Law	1
			1.2 Organization of the judicial and prosecutorial system	2
			1.3 International legal cooperation in criminal matters	2
			1.4 EU Law	5
			1.5 ECHR – legislation on Human Rights	10
2.	Criminal Code of the Republic of Kosovo	78 h	2.1 Criminal Code of Kosovo – general part	10
			2.2 Criminal Code of Kosovo – special part	10
			2.3 Criminal offences of the official corruption and against official duty	2
			2.4 Serious crimes	1
			2.5 Statutory limitation	3
3.	Criminal Procedural Code of the Republic of Kosovo	153 h	3.1 Expertise and analysis	4
			3.2 Search and seizure	5
			3.3 Covert measures of investigation and surveillance	4
			3.4 Measures to ensure the presence of the defendant in the procedure	5
			3.5 The defendant in criminal procedure	5

			3.6 Witnesses and injured parties in criminal proceeding	5
			3.7 Negotiation on plea bargaining agreements	3
			3.8 Administration of criminal procedure	2
			3.9 Initial hearing, second hearing and main trial	6
			3.10 Obtaining and communication of the decisions, submission of requests	1
			3.11 Procedural expenses and property legal request	1
			3.12 Procedure according to legal remedies	2
			3.13 Special Procedure according to CPCK	2
			3.14 Evidence in criminal procedure	6
4.	Civil Law, Administrative and Commercial Law	237 h	4.1 Civil Law	6
			4.2 Contested Procedure – first part	10
			4.3 Contested Procedure – second part	10
			4.4 Uncontested procedure	3
			4.5 Enforcement procedure	4
			4.6 Administrative Law	5
			4.7 The Obligational Law	10
			4.8 Commercial Law	5
			4.9 Property law and other related rights	10
			4.10 The inheritance Law	2
			4.11 Labor Law	3
			4.12 Family Law	6
			4.13 Obtaining and administration of evidence in civil procedure	5
5.	Personal and interdisciplinary skills	90 h	5.1 Communication rules	2
			5.2 Professional ethics	10
			5.3 Case management	3
			5.4 Social capacity building of judges and prosecutors	3
			5.5 Reasoning of decisions	10
			5.6 Stress management	2
6.	Legislation and additional skills	24 hrs+6 training days (three groups)	6.1 Justice for Children Code	3
			6.2 Mediation	2
			6.3 Trial advocacy skills	
			6.4 Law on Minor Offences	3
7.	Distance learning		7.1 English language	
			7.2 Information Technology	
			7.3 Stress management	

## 9. ITP Training Modules for 2019/2020

### 9.1 National and International Legislation

#### 9.1.1 Constitutional Law

This module, provides the opportunity for participants to be informed about the Constitutional sources of the Republic of Kosovo, the normative framework on the Constitutional Court, composition of the court, its competences, the process of constitutional control and decisions of the Constitutional Court and their effects.

Targeted competences regarding development of this module are as following:

- Being convinced on the democracy and the rule of law as the highest values and guiding principles of the state of Kosovo and the ability to represent them while exercising the judges' function;
- Understand the constitution as the highest norm in the national legal system and being aware of the impact of international law in the national legal system;
- Being aware of the impact of fundamental rights in the state and the judicial system and being able to apply it in practical work as judges;
- Being extremely well informed about the judicial system, its organs, the structure of the work and the status of the judges tasks and being able to implement all of them in their work;
- Being extremely well informed about the Constitutional Court, its working structure and procedures and legal effects of its decisions to the courts, especially on courts of lower instances;

**Duration:** 1 training session (3 hours training)

#### 9.1.2 Organization of the Judicial and Prosecutorial System

This module contains the basic knowledge on understanding and viewing the organizational structure of the judicial system in Kosovo, after the entry into force of the Law on Courts and State Prosecutor, it also provides knowledge on court and prosecution competences and their territorial extension.

With the implementation of the respective laws, the entire judicial and prosecutorial system has been reformed, abandoning though the old system consisting of mixed competences which at some point was not clearly defined, therefore a new system on the organization of courts and state prosecutor was built, creating as such a complete separation of competences between various judicial instances, in a vertical line, which system is consisted of three judicial levels.

The new court system has also a new territorial organizational structure comparing to the previous system, whereas, the new organization structure represents the next segment of judicial reform, aimed at rationalizing the court system, making it more efficient and facilitating access to justice for the citizens.

**Duration:** 2 training sessions (6 training hours)

### 9.1.3 International Legal Cooperation in Criminal and Civil Matters

Criminality of almost all profiles, in particular the organized crime, more and more is being internationalized. Due to the nowadays circumstances faced by human society, especially due to the expansion of the possibilities of the offenders to cross borders, judges and prosecutors must be familiar with the effective practices of international legal cooperation in civil and criminal matters.

During presentation of this module will be presented the basic knowledge to understand what is international legal cooperation in civil and criminal matters, and its role and importance.

Beneficiaries during the exercise part will see sample forms required in the practice of international legal cooperation in criminal or civil matters.

**Duration:** 2 training sessions (6 training hours)

### 9.1.4 The European Union Law

Although Kosovo is not a member of the European Union, the recognition of its institutions and the law of the European Union is very important for future integration process, which in general is a legal reform toward harmonization of the Kosovo laws with the so-called *acquis communautaire*, which could be translated as “our common achievements,” or in other words with European political and legal standards. In addition, European law is very interesting and intellectually challenging, because it combines many legal disciplines, including public international law, constitutional law, administrative law and commercial law.

In April 2006, the Stabilization and Association Agreement between Kosovo and the EU entered into force. This binding international contract between the two sides provides partial harmonization of the laws in accordance with the *acquis* and partial presentation of the four freedoms in market within the next five years. This requires adequate skills and legal knowledge of the judiciary.

In this regard, apart from the knowledge gained in this area during basic studies or specialized ones, at the same time it is essential that the judiciary of Kosovo gradually increases its knowledge on the European Union Law.

**Duration:** 5 training sessions (15 training hours)

### 9.1.5 Human Rights Legislation – ECHR

Human rights are the foundation of human existence and co-existence. They are universal, indivisible and interdependent. They are basically a foundation of the United Nations goal in reaching global mission of peace and development. The European Court of Human Rights based in Strasbourg, is established under the European Convention that with the seriousness and commitment of its judges has been transformed into an important and prestigious institution for the standardization of the legal systems of the member states of the Council of Europe in the field of human rights. Court decisions, which are generally marked by rationality and emancipation, have special authority for countries with developed democracy, faced with the variety of challenges and dilemmas of modern civilization. European Convention on Human Rights is the greatest achievement of the Council of Europe. The same has not only formulated a catalog of human rights, but also provide the control system for its implementation.

Through these modules is aimed at expanding the knowledge of participants on international standards of human rights and on the other hand the content of the modules will be a valuable resource for all those involved in the promotion and protection of human rights, which are part of the judicial system in Kosovo.

**Duration:** 10 training sessions (30 training hours)

## 9.2 Criminal Code of the Republic of Kosovo

### 9.2.1 Criminal Code - General Part

Criminal offence is an offence unlawfully committed by human under guilt and is determined by the law as a criminal offence, which at the same time is considered as dangerous offence. According to the Criminal Code of the Republic of Kosovo, a criminal offence is an unlawful act as defined by law, whereas its characteristics are determined by law to which criminal sanctions or mandatory treatment are foreseen.

Participants during the training will be informed about the criminal offence, including its basic elements and its figure. Also they will be notified which criminal offence are committed intentionally or by negligence, the similarities and differences of the criminal offence deriving from the same chapter and other chapters as well.

**Duration:** 10 training sessions (30 training hours)

### 9.2.2 Criminal Code – Special part

Taking into account the volume of criminal offences contained in the special part of the Criminal Code of the Republic of Kosovo, during this training participants will be notified about most characteristic criminal offences, which in nowadays are more frequent in the Republic of Kosovo and are more actual in the work of judges and prosecutors.

Participants during this training will be notified with several criminal offences from each chapter, the elements of criminal offence and who may be the perpetrator. Also they will be notified which criminal offences are committed intentionally or negligently.

**Duration:** 10 training sessions (30 training hours)

### 9.2.3 Criminal Offences of Official Corruption and against Official Duty

Corruption is an old phenomenon, which has always presented a serious problem for the society. Throughout history, many countries are trying to find ways to combat this dangerous phenomenon. The problem of corruption today are faced by almost all countries of the world. Although there is not yet a unique definition for corruption, many countries have established in their legislation, corruption offenses. From a legal standpoint, corruption is not a single offense, but a general set of specific crimes. It follows that the legal definition of corruption can be defined as a group of various criminal acts contained in a chapter under the common title “*corruption*”. A group of corruption offenses is essential to identify the various acts that fall under the general classification of corruption.

Participants during the training will be notified with criminal offences of corruption one by one, elements of criminal offences, as well as who may be perpetrator of these criminal offences.

**Duration:** 2 training session (6 training hours)

### 9.2.4 Serious crimes

Serious crime in general, trafficking in human beings, money laundering and cybercrime, in particular, today represent a challenge for all European Union countries, also for Kosovo as aiming to be part of it, therefore treatment of these crimes during this module has a special significance due to the fact that a successful preventing and combating of these crimes paves the way for Kosovo to join the EU and provides a legal security for all citizens of Kosovo.

**Duration:** 1 training session (3 training hours)

### 9.2.5 Statutory limitation

Statutory limitation as a legal institute means that due to the expiration of the legal deadline a criminal offense cannot be prosecuted, criminal sanctions cannot be imposed or executed which are mandatory and derive from the type of offense, including the amount of punishment. On the other side, there are some criminal offenses that are never subject to statutory limitation.

This module will include, but not be limited to matters such as; the beginning of the flow of statutory limitation, termination of statutory limitation of criminal prosecution, stopping of statutory limitation of criminal prosecution, statutory limitation of execution of sanctions including the absolute one, stoppage and interruption of statutory limitation of execution of the sentence, statutory limitation for execution of additional sanctions and measures of mandatory treatment, not statutory limitation of genocide and war crime offences.

**Duration:** 3 training sessions (9 training hours)

## 9.3 Criminal Procedural Code of the Republic of Kosovo

### 9.3.1 Expertise and analysis

Many facts would have remained unexplained in the modern criminal procedure, if the expertise would have not been accepted as an evidence in criminal proceedings. Admission and its adaptation to the needs of the criminal procedure, has confirmed that facts that can be proved in nowadays, in the past were seen only as a dream. With the use of this evidence in criminal proceedings follows also the rhythm of development in various fields of science, especially the use of these scientific achievements helps the detection of criminal activities. These are only some of the records which show the importance of this evidence to contemporary criminal procedure. This issue, like many other professional legal literature was reviewed slightly, but, even when was lectured about it, is was done in a comprehensive and inadequate manner.

Participants will have the opportunity to learn about all relevant issues related to the expertise and cases when the expert should be required, as well as cases when certain analysis are required, how and when the outcome of that expertise or analysis can be used. Participants will also learn from this training how to apply these institutes in practice.

**Duration:** 4 training sessions (12 training hours)

### 9.3.2 Search and Seizure

This module will treat in general and specifically the procedural actions that are envisaged by the Criminal Code of the Republic of Kosovo, the Code of Criminal Procedure, the Law on Extended Powers on Seizure, Management and administration of seized property, as well as other legal provisions for confiscation of assets as profits of crime or property which has been used for commission of criminal offense.

**Duration:** 5 training sessions (15 training hours)

### 9.3.3 Covert and Technical Measures of Investigation and Surveillance

In Chapter XXIX of the Criminal Provisional Procedural Code of Kosovo have been covered the Covert and Technical Measures of Investigation and Surveillance which does not have a long history of application within the criminal system in Kosovo, since as investigative actions were not foreseen by the previous criminal procedural law, but due to the technical and social development, they have been applied under the Criminal Procedural Code.

According to the Criminal Procedural Code are foreseen 14 covert technical measures of surveillance, so that the pre-trial judge, at the request of the state prosecutor can order any of these measures.

The purpose of the implementation of these measures has been and is to prevent the commission of criminal offenses, more efficient detection of criminal offenses and prosecution of offenders in cases that could be detected with other investigative actions.

These measures undoubtedly affect the privacy of human life and freedoms, therefore, ordering of these measures is limited by law, but for the sake of preventing the perpetrators of these offences, these measures will be applied, in cases when with other measures certain information cannot be reached, or perpetrators cannot be disclosed, always trying not to affect human rights.

The purpose of this module is to provide participants the theoretical and practical knowledge in case of application of the relevant provisions for obtaining information during the investigation stage, or enforcement of covert and technical measures of investigations and surveillance. Thus, the training objective in these lectures are legal provisions that regulate the institution of covert and technical measures of surveillance and investigation in the criminal procedure, during the investigation phase, or as called by CPCK obtaining information in the investigation phase.

**Duration:** 4 training sessions (18 training hours)



### 9.3.4 Measures to Ensure the Presence of the Defendant in the Procedure

In order to implement judicial proceedings conform to the highest standards for protection of human rights and freedoms under the Criminal Procedural Code of the Republic of Kosovo, the presence of the defendant in criminal proceedings is demanded. In this regard, Criminal Procedural Code of the Republic of Kosovo has foreseen a series of measures to ensure the presence of the defendant in the proceeding.

Through this module is aimed to provide participant's with the knowledge on practical implementation of these measures and to get familiar with problems that arise in case of failure or improper implementation of these provisions and their effect on the proceedings.

This module is based on the provisions of the Criminal Procedural Code, as they have been adapted to the module and will be explained by through examples and interpretations based on the case law.

**Duration:** 5 training sessions (15 training hours)

### 9.3.5 Defendant in Criminal Procedure

During the presentation of this module will be provided the basic knowledge clarifying what is the meaning of the definition of "defendant", when and in what cases a person can be treated as a defendant, what are the differences of the terms "suspect", "defendant" "accused" and "convicted". The presentation will provide participants the opportunity to understand the role and importance of the defendant in criminal proceedings, from the beginning until the end of procedure.

Participants will be given the opportunity that during the presentation of this module to understand what are the rights of the accused during all stages of criminal proceedings, what is the legal framework that guarantees the rights of the defendant, in which case his/her rights may be restricted under the law and what is the liability of defendant in criminal proceedings.

During this module, training participants will understand which authorities have the power to implement the procedures that will ensure the protection and implementation of the rights of the defendant, what are their responsibilities for the protection of those rights and the consequences in case of violation or disregard of the defendant rights. Whilst, this module part of the exercise will be implemented by providing participants practical examples regarding the position of the defendant in various stages of the procedure, so that participants through discussions will identify each stage of the procedure, as well as will identify the position of defendant in the concrete stage of the proceedings.

**Duration:** 5 training sessions (15 training hours)

### 9.3.6 Witnesses and Injured Parties in Criminal Proceeding

One of the important evidence that serves to prove a proper and complete factual state in a criminal case is the testimony of the witness and the injured party as a witness.

Also the issue of great importance in the criminal procedure is the treatment of witnesses and injured parties who need protection because of the serious threat to the witness or his/her family, therefore in these cases there is a need to take actions by all institutions implicated in criminal proceedings such as the police, prosecution and courts.

Through this module is intended to provide knowledge on types of witnesses, the difference between them, witness protection, witness interrogation manners, writing of minutes on interrogation of witnesses and cases when the testimony of the witness is considered inadmissible in criminal proceeding.

A special attention in this module will be paid to the injured party who may not be only a party to the proceeding but also a witness. Attention will be paid also to the rights of the victim, such as the right to compensation and many other rights foreseen by the new Code of Criminal Procedure of the Republic of Kosovo.

**Duration:** 5 training sessions (15 training hours)

### 9.3.7 Negotiation on plea bargaining agreement

Negotiation on plea bargaining agreement is a relatively new legal institution foreseen by the Code of Criminal Procedure of the Republic of Kosovo, which raises the need for discussion and elaboration of this institute, specifically for young lawyers, respectively for newly appointed judges.

This module aims to provide knowledge on the legislation which regulates the negotiation on plea bargaining agreement, the underlying reasons for the application of this institute, disputable issues appearing during the practice, practical implementation of the various solutions often provided with skepticism, expressed even by the legal community to this new institute.

During the training, participants will be provided with examples and forms of proper application of this institute, which somehow will also help, especially the newly appointed judges that for the first time will face the need to apply these provisions and the need for unification of practice, respecting at the same time the specifics of each case in particular.

To the participants will be presented current judicial practice in Kosovo, in the region and abroad regarding the plea bargaining institution and will be given specific tasks-exercises in order to enhance their practical skills in the application of this institute.

**Duration:** 3 training sessions (9 training hours)

### 9.3.8 Administration of criminal procedure

Taking into account the importance of the topics that will be developed in this module, the time limit for presentation and difficulties mostly faced by courts and prosecution offices in their work, topics that will be discussed during the training will make participants familiar and will clarify for them as much as possible these institutes of CPCK.

Within this module will be elaborated the claims, obtaining and communication of the decisions, delivery of requests, execution of the decisions and other provisions of CPCK.

**Duration:** 2 training sessions (6 training sessions)

### 9.3.9 Initial hearing, second hearing and main trial

Criminal Procedural Code (hereinafter CPC) with a considerable number of the legal provisions regulates the initial hearing second hearing and the main trial. The initial hearing and second hearing are new institutions provided by CPC.

In this regard, this module will treat topics related to the initial hearing, rejection of evidences, the request for dropping the indictment, decisions of the single judge or the president of the panel, second hearing, preparation of the main trial, the publicity of the main trial, implementation of the main trial, preconditions for holding of the main trial, termination and deadlines of the completion of the main trial, minutes of the main trial and the flow of the main trial.

**Duration:** 6 training sessions (18 training hours)

### 9.3.10 Obtaining and communication of decisions and submission of requests

In this training module will be discussed types of decisions taken by courts, the procedures for making decisions, their communication and submission of requests. Also will be explained the submission of requests, personal and alternative submission of requests, delivery procedure, requests to be submitted in person, submission of request in special circumstances and submission of the request to other participants in the proceedings.

**Duration:** 1 training session (3 training hours)

### 9.3.11 Procedural Expenditures and Property Claims

Topics that will be discussed in this module are related to the procedural expenses and property claims in criminal proceedings. It is well known that any criminal or civil proceedings has also its expenses, for which must be found sources to cover these expenses.

In criminal proceedings the issue of procedural expenses is more complicated than in other procedures, because the procedural actions are taken by the competent authorities within the official duty and every procedural action has also its cost. This module will address issues of what is included in the procedural expenditure, when should be decided on the mentioned expenses and who should be obliged to pay procedural expenditure.

Also within this module will be treated the property claim, which is also a subject of particular importance, because in principle in a criminal matter, often happens to apply provisions of civil procedure, which in this case the court is obliged decide in applying a property claim. In this regard, will be discussed upon the establishment a property claim resulting from the commission of the offense for which the parties present their requests in criminal proceedings.

**Duration:** 1 training session (3 training hours)

### 9.3.12 Procedure According to Legal Remedies

Judgement is one of the most important decisions taken by the court. The entire procedure which takes place against a person suspected for commission of a criminal offense, in the first instance ends with the judgement, apart from cases when the procedure fails at the stage of trial and ends in any other form. This decision have a great importance for the court, as well as for the parties in the proceedings. Due to this fact, the Criminal Procedural Code contains a series of provisions concerning the ways of submission and announcement of the judgment, its content, types of judgment, how it should be drafted, deadlines, etc.

However, the judgment of first instance is not an undertaken final decision. Rather, the judgment of first instance may be challenged on appeal as an ordinary legal remedy. This is reasonable because the judgment may have legal gaps which, according to the lodged appeal, it should be reviewed by the court of second instance, so if the judgment will not be verified, it can be changed or turned back to the Court of the first instance. The appeal is the only ordinary legal remedy exercised against the judgment which has not been final. However, there are other legal remedies, called as extraordinary legal remedies, which can be exercised against the decision, which has become final.

Therefore, all these legal remedies, due to their importance, deserve a special place in training of the newly appointed judges.

**Duration:** 2 training sessions (6 training hours)

### 9.3.13 Special Proceedings according to CPCK

Special proceedings under the Criminal Procedural Code differ from regular procedures in criminal proceedings, so as such require extra attention by professionals when applying these procedures, particularly by newly appointed judges.

This module will address procedures dealing with punitive order, procedure against persons who have committed a criminal offense under the influence of alcohol or drugs, for offenders with mental disorder, revocation of alternative sanctions, the decision on expungement of conviction, damage compensation, rehabilitation, and exercise other rights of persons convicted or detained without a cause and the procedure for issuing a wanted notice and public announcement.

**Duration:** 2 training sessions (6 training hours)

### 9.3.14 Evidence in Criminal Procedure

The circumstances of the criminal offense and the guilt of the defendant can be determined only by evidence. In order to render a proper and legal decision in a criminal procedure, the proving process (argumentation) in the direction of establishing relevant legal facts in a criminal case is very important. Therefore, part of this module, in general will be elaborated the process of proving during the investigation, the role of evidence in the criminal proceedings, case lighting, procedural subjects that can collect and secure evidence at this stage of the proceedings, inadmissible evidence.

Participants in the training will be familiar with the types of evidence that can be obtained during the investigation of certain investigative actions, with their special specifications, type and classification of their evidence in the preliminary proceedings and the general rules of evidence. Also during the training participants will be introduced to the novelties and amendments that have resulted in the entry into force of the Criminal Procedural Code.

**Duration:** 6 training sessions (18 training hours)

## 9.4 Civil, Administrative and Commercial Law

### 9.4.1 Civil Law

Science on civil law is part of the oldest and most developed science of Justice, which regulates social relations by determining norms, meaning that we are dealing with the norms of civil law. Any civil legal relationship is a concrete, vital relation, namely social relation.

Within this module will be treated the sources of civil law – judicial case law, the object of the civil law, commencement and completion of legal relations – distinction of legal facts, modification of legal work – condition and deadline, possession, types and its protection, absolute and relative rights, invalid legal work, impermissible action (delicts), unfounded enrichment and protection of rights.

**Duration:** 6 training sessions (18 training hours)

### 9.4.2 Contested Procedure – first part

This module is drafted to provide explanation of the main concept of the Civil procedure, its first part, which as a part of the positive law includes all legal rules, based on which the is established and developed the subjective law, deriving from legal-civil agreement in everyday life.

A special attention will be paid to the basic principles of the contested procedure, parties and their representatives in the proceeding, procedural action forms, deadlines for completion of certain procedural actions and other important issues to be faced by legal professionals during their practical work.

**Duration:** 10 training sessions (30 training hours)

### 9.4.3 Contested Procedure – second part

Contested procedure – second part, contains legal provisions which regulates the issue of the flow of the procedure in the first instance court, starting from the submission of the lawsuit, litigants, participation of the third person in the disputable procedure, termination and suspension of the contested procedure, legal aid, disrespect of the court, ensuring of claim, proofing means, obtaining of evidence, preparation of the main trial, mediation and judicial settlement, main trial and contested procedural expenses.

By using the combination method of lecturing and interaction with the participants, including practical work and buy using other legal sources, participants will gain knowledge and professional skills for practical implementation of the Law on Contested Procedure – second part.

**Duration:** 10 training sessions (30 training hours)

#### 9.4.4 Non-contested procedure

The non-contested procedural law is a set of the procedural rules, regulating the structure of non-contested procedure, the position and the role of procedural subjects, procedural activities and mutual reports between them. It is not an entirely unique and homogenous, because it consists of differentiated procedural rules, regulating the provision of legal protection in certain matters of the civil law, which are not resolved by the rules of civil procedure.

In this module will be treated general provisions of the law on non-contested procedure, announcement of the disappearance of a person – the procedure for announcing a missing person as dead and the procedure for death verification, determining the amount of compensation for the expropriated property and regulation of the servitude – physical portioning.

**Duration:** 3 training sessions (9 training hours)

#### 9.4.5 Enforcement Procedure

The Law on Enforcement Procedure regulates the procedure through which the courts and private bailiffs determine and implement the enforcement based on the reliable and enforcement documents. Unless provided differently by a special law. In this regard, derives that apart from the competent courts, private bailiffs are also competent for the enforcement. Kosovo during its justice system reform, conducted the harmonization of the laws with the EU Law, therefore while drafting the law on enforcement procedure were taken into consideration also the recommendations of the Council of Europe. The recommendations (and directives) are based on the efficiency, transparency and better understanding.

Private enforcement system has the advantage of removing the management responsibility of the enforcement process by judges and court enforcement agents. These responsibilities are transferred to private bailiffs. The role of the courts remains very important due to the most sensitive issues such family matters remain the exclusive competence of the courts, as well as legal remedies remains as the courts competence. Whereas another important issue is also the supervision, since the parties who think that the private bailiff has violated any of their rights may return to the court.

**Duration:** 4 training sessions (12 training hours)

### 9.4.6 Administrative Law

Administrative law, is defined as the set of legal norms that include regulation of the position and functioning of the administrative bodies, relation of administration with other organs of state power, administrative work, administrative organizations, administrative control and political control of the administration bodies, etc.

Provisions by which the administrative procedure is regulated, contains norms that regulate the competencies of public administrative bodies, deciding in an administrative issue.

In this module will be treated the administrative procedure, issuance of administrative act, the appeal and execution of final decisions, administrative conflict and preliminary procedure in administrative conflict, main trial session, judgment, legal remedies in administrative conflict proceeding.

Kosovo tax system has been established during the last decade and is still under development. During 2015 the Kosovo tax legislation has been changed and harmonized with EU legislation. Based on this fact, within this module will be treated also the competences and procedures to Fiscal Division within Administrative Department of the Basic Court in Prishtina.

**Duration:** - 5 training sessions (-15 training hours)

### 9.4.7 Law on Obligations

Within this module are included fundamental principles of the Law on Obligation which have decisive impact relating to special part of the Law on Obligation. The essence of the fundamental principles refers to the fact that by respecting the fundamental principles accurately, the possibility for filing judicial appeal is minimal. Also, during this module will be treated different important legal institutions of the law on obligation, starting from the damage compensation relating to subjective and objective liability, the objective and subjective liability, as well other forms of damage compensation.

Participants during this training will have the opportunity through practical examples to draft lawsuits and judgments regarding different legal basis.

**Duration:** 10 training sessions (30 training hours)



### 9.4.8 Commercial Law

Commercial law has been presented and developed as a necessity of the needs and practices of the commercial community, respectively the possibilities that should be used and problems to be solved. In nowadays, the commercial law is one of the most important branches of the law and abroad.

Disagreements or disputes presented in commercial life, which eventually cannot be resolved through negotiations, agreements or other alternative methods, usually are dealt by the Department of Commercial Affairs. Taking into account the importance of these cases, their reflection in commercial life of the country, often by high values of these disputes, derives the conclusion that judges should be very professional and effective.

While drafting this training program, was considered the fact that the audience has a very general knowledge on the subject. This training program includes topics and main issues that are related to the current practices of the Department of Commercial Affairs, with the purpose that newly appointed judges to deepen their knowledge and gain necessary information.

Within this module will be treated the commercial law and judicial practice, construction contracts, intellectual property, commercial sale contract, enforcement procedure against business companies, arbitrary and judicial procedure and liquidation of business companies.

**Duration:** 5 training sessions (15 training hours)

### 9.4.9 Property law and other related rights

Within the general social relations were generated and developed the social property relations with their characteristics and special content, regulated by special legal norms. Therefore, the property law may be defined as a special branch of the law which consists of entirety legal norms by which the property relation is regulated.

Participants during this training will be informed about the techniques that are related to property right, joint co-ownership and joint property, neighborhood right, emissions and acquisition of the property in general. Among others, will be also treated issues related to the ownership protection, actio reivindicatio, actio reivindicatio, protection of possession, termination of the servitudes and loss of the property.

**Duration:** 10 training sessions (30 training hours).

#### 9.4.10 Inheritance Law

The matter of inheritance regulation in Kosovo is in very important stage of its development. This area has an issue of the customary law relicts in the daily lives in some of the less developed regions of Kosovo, like existence of common property of larger families in villages, issue of promoting the women right to inherit, the need for raising awareness and legal culture among citizens, delay for resolution of court cases because of the large number of cases, the need for application of mediation methods. etc. For all the aforementioned matters, our legal science, case law and lawmaking institutions shall provide adequate solution.

This module is drafted in a form to serve to newly appointed judges to enhance their knowledge on the basis for claiming inheritance, transfer of wealth while alive, exemption from inheritance, descendant's debts, the necessary inheritance and inheritance by will.

**Duration:** 2 training sessions (6 training hours).

#### 9.4.11 Labor Law

Working relationship is conceptualized as an agreement in writing or contractual regulation between an employee and employer for performing the tasks and specific responsibilities by the employee under supervision of the employer, against an agreed payment, usually in form of money.

The rights from the working relationship represent among others, one of the basic human rights. These rights are often violated by employers and it is necessary that the court provides protection.

This module will elaborate on judicial protections provided by court in cases that initiate upon lawsuit and are regulated by the Labor Law, procedure that is applied in relation to the category of civil servants, competencies of the Independent Oversight Board and the court competence related to these matters, safety and protection at work, as well as compensation of the damage caused from injury at the working place.

**Duration:** 3 training sessions (9 training hours)

### 9.4.12 Family Law

Legal protection of family has special importance, and Constitution of the Republic of Kosovo contains provisions that refer to the family law and marriage, that aligns our state in the group of countries with family law regulation harmonized with international legislation. Also, Kosovo has approved the Law on Family, which is considered as an effort to create a new legal basis that will respect basic principles of international standards for regulating family relations. With this law, the state and society in general are obliged to respect the rights that derive from the family law area.

This module will elaborate on the family law, meaning of the family notion, the marriage rights, divorce procedure, obligation on alimony and the parental right, objection and proving of maternity or paternity, adoption, wealth relations between spouses, and domestic violence.

**Duration:** 6 training sessions (18 training hours)

### 9.4.13 Obtaining and administration of evidence in civil procedure

The evidence procedure is one of the key stones of the judicial process. Without sufficient evidence and proving evidence in one dispute, the judge will not be able to make fact finding on which s/he will rely the clearly reasoned and careful judgment. Proving consists of procedural actions of main subjects with which the following can be made, the proposal, solution, collection, examination and evaluation of proving remedies with the purpose of proving relevant facts in which the parties' rely their requests.

This module will elaborate on the burden of proof, facts that do not need to be proved, obtaining evidence, ensuring evidence (preliminary proof), proving remedies like: site inspection, letters, witnesses, experts and hearing of parties.

**Duration:** 5 training sessions (25 training hours).

## 9.5 Personal and Interdisciplinary Skills

### 9.5.1 Communication Rules

The context of communication in court varies, but seems to come in two basic categories, which are described below: *internal communication* and *external communication*. This training module will discuss on characteristics of an effective communicator, a self-assessment of the participants' communication skills will be made, and a review of relevant case studies to enable participants in applying best practices of communication in a real working environment.

**Duration:** 2 training sessions (6 training hours) and 4 training hours in distance learning.

### 9.5.2 Professional Ethics

In every country, judges and prosecutors belongs to the elite of the society. Every day, these people perform actions and make important decisions about the fate of their fellow citizens. Obviously, this great power cannot be trusted to those who do not provide sufficient guarantees of professional integrity. Therefore, this is considered as the origin of legal regulation of professional judicial and prosecutorial ethics to which the entire legal system is based.

The module on professional ethics for judges, in addition to knowledge, intends to convey some of the basic skills for thinking and acting of the newly appointed judges, without which the correct exercising of the respective profession would be impossible. In this format, judges and prosecutors take into account the ethical problems and how they are manifested in their professional lives and discuss the most effective ways to prevent ethical violations. Training of newly appointed judges on the content and meaning of the professional ethical norms helps them create a conceptual tools by which can be analyzed and resolve ethical issues they will face at the end of studies.

Since, professional ethics is not only a derivative of ethics and moral of the society in general, it is also essential that training of judges is focused as much as possible on concrete cases drawn from the reality of the life in Kosovo.

**Duration:** 10 training sessions (30 training hours)

### 9.5.3 Case management

Management is a planning process of activities for achievement of certain goals in different areas of life. From this very simple definition we can see how important this process is also for judges. The courts exist to provide a fair and timely solution of disputes that are brought before them. Therefore the most crucial function of any court is case management. Modern theory of case management is that judges together with the support staff, shall actively monitor and control movement of pending cases before the court.

This module will elaborate on purpose of court work and basic methods in case planning and management, as well as control of postponing, leadership and court performance measures, in order that participants benefit from the best practices in this area.

**Duration:** 3 training sessions (9 training hours)

### 9.5.4 Social capacity building of judges

Considering the need of prosecutors to be equipped with information, data and instructions from the social area, as a necessary element for providing a better performance while exercising their duty, this module is considered as good opportunity of completing this dimensional subject as necessary educational contemporary profile for prosecutors.

Participants during this training will be introduced with the concept, categories of psychosocial content, features and types of personalities, features and segments of social life of the individual in the social environment, interfering social factors in stable social environment and degenerating factors in society.

Therefore, they will gain information and will be able to develop their social communication capacities with individuals and different subjects, while exercising their sensitive profession as judges.

**Duration:** 3 training sessions (9 training hours)

### 9.5.5 Reasoning of Judicial Decisions

This module aims to help newly appointed judges in building their professional capacities in terms of reasoning of acts compiled by judge. Besides theoretical instructions provided in general part for reasoning the acts drawn up by the judge, a separate session also will discuss practical cases prepared based on certain methods of legal writing and reasoning.

Through concrete cases, of criminal and civil area, judges will be able while implementing legal requirements of criminal procedure, to provide their conclusions in establishing the alleged decision on merits. Therefore, this module is being provided due to the identification of the judges needs in general, especially those of enhancing their professional capacities in the field of legal writing and reasoning.

Legal writing and reasoning presents an assessment standard of the work of judges. In this sense, legal writing and reasoning for judges represents a not easily reachable target. Therefore, this module aims to improve the quality of legal writing and reasoning in the work of the newly appointed judges.

**Duration:** 10 training sessions (30 hours of training)

### 9.5.6 Stress Management

This module addresses the broader subject of personal well-being and stress management. The judiciary constantly face the workload, criticism from the public, severe budget restrictions, as well as hectic and exceptional responsibility.

Studies have shown that work-related stress is a determinant cognitive, emotional and behavioral symptom, that effects low concentration, decision making, and expressing annoyance to lawyers and litigants. Studies have also identified psycho-physiological symptoms associated with stress, such: problems with the functioning of the digestive tract (digestive problem), including nausea, chest pain usually prescribed by heart malfunctioning; difficulty in breathing or insufficient air in the lungs; difficulty in sleeping, and a feeling of being tense or anxious. Symptoms associated with interpersonal conflicts such as: unusual outbursts, temper, frequent arguments, a sense of isolation and a sense of increase of awareness in social situations.

This interactive program provides participants the opportunity to identify the degree of stress in their lives, their strengths, risk factors, and areas for the implementation of better opportunities for their welfare. Among other things, the training is intended to improve the health, cognitive skills, sustainability, creativity and happiness.

**Duration:** 2 training sessions (6 training hours) and 5 hours of distance learning training

## 9.6 Legislation and Additional Skills

### 9.6.1 Juvenile Justice Code

This training module is designed with the aim of providing basic knowledge to beneficiaries of the Initial Training Program regarding practical implementation of the Juvenile Justice Code of Kosovo (JJCK). This training is aimed to define basic principles of JJCK, its interpretation, the purpose, types of measures and sanctions applicable against minors, measures and penalties imposed against adults with regard to offenses committed as juveniles, diversion measures when conditions are met, interpretation of the purpose, type and duration of educational measures, educational-institutional measures, analyzation of alternative measures to juvenile imprisonment, punishment by fine, community service work, conditions for imposing juvenile imprisonment.

**Duration:** 3 training sessions (9 training hours)

### 9.6.2 Mediation

Mediation is an extrajudicial activity carried out by a third party (mediator) for resolution of disputes between subjects of law in accordance with the conditions provided by law. Implementation of mediation in handling disputes in criminal and civil matters constitutes a constructive extrajudicial alternative to achieve a satisfactory solution of the dispute of the involved parties, in which cases the parties are provided alternative resolutions to their disputes. With the legislative changes now we have the mandatory mediation in which cases the court obliges parties to try solving the matter with mediation.

Inclusion of mediation as a legal institution and its application in the proceeding, is a relevant and very important possibility in solving many cases that overload the courts, and it would achieve court efficiency by releasing them from cases that can possibly be solved in mediation agreement, and leave more time for judges to handle complex cases and adjudicate them with quality and within a reasonable time.

**Duration:** 2 training sessions (6 training hours)

### 9.6.3 Trial Advocacy Skills

Taking into account changes in the Criminal Procedural Code regarding interrogation and conducting judicial hearings, it is necessary that newly appointed prosecutors to be trained on development of judicial skills in line with these changes. Specifically development of judicial skills will be conducted through opening statement, direct and indirect examination, impeachment, rehabilitation and final statement.

**Duration:** 12 training days (4 groups)

### 9.6.4 Law on Minor Offences

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

**Duration:** 3 training sessions (9 training hours)

## 9.7 Distance Learning

### 9.7.1 English Language

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

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

**Duration:** 5 training hours in distance

### 9.7.2 Information Technology

This module helps beneficiaries who have basic knowledge of information and communication technology. Working with computer and good knowledge on application of programs has become essential for every job, efficient computer work is the key success for every individual.

Information Technology helps the judiciary to carry out its responsibilities in the right, efficient and transparent way, i.e. the use of IT decreases the possibility to multiply documents. If a court has an automated computer system of case recording, then it is sufficient for this case to be once registered and the data to be used whenever are needed at later stages. For example, in order to generate a case report, to generate a summons and trial reports etc.

By using IT we will be able to constantly monitor cases, and release different statistics. Through computers, by default we can conduct more prompt and efficient statistical analysis in comparison with the manual systems. Court management can use these analysis in order to improve judicial operation, planning and other issues assigned by court.

Use of the Information technology, the judicial system is more reachable for all those who seek judicial services, as well as provides a higher quality in justice by catalyzing accountability and transparency, not only in decision making but also in the rule of law.

Use of IT helps the judiciary to meet its objectives by increasing judicial capacity, as well as increase access and quality in justice.

**Duration:** 4 training sessions in distance learning



## 10. Conclusion

Initial Training Program represents the training needs of newly appointed judges and prosecutors and expectations of the judicial and prosecutorial system institutions in preparation and development of professional, ethical and practical skills, in order that at the end of this training beneficiaries are able to fully exercise the judges function in professional, independent and efficient manner.

Program structure, training modules and practical training, reflect the set goals of AJ for competence growth, relying on duration of the training set forth by law and taking into account preparation and professional experience of beneficiaries who have already passed all testing stages and professional competence assessments by the Kosovo Judicial Council, respectively certain committees.





