



TOWARDS CREATING E-ENVIRONMENT IN JUSTICE

**COMMON STANDARDS
ON PROMOTING QUALITY
OF JUDICIAL TRAINING
AND REGIONAL CROSS-BORDER
COOPERATION IN SEE**

good.
better.
regional.

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Trg Bosne i Hercegovine 1/V, 71000 Sarajevo
Bosnia and Herzegovina
Tel: +387 33 561 700; Fax: +387 33 561 701
E-mail: rcc@rcc.int
Website: www.rcc.int

Author: Aneta Arnaudovska

Editor: Ivana Goranic and Jorida Shytaj, RCC

Consulting editor: Amer Kapetanovic, RCC

Design & Layout: Šejla Dizdarević

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Sarajevo, September 2019

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*This designation throughout this document is without prejudice to positions on status, and is in line with UNSCR 1244/1999 and the ICJ Opinion on the Kosovo declaration of independence

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FOREWORD

Regional cooperation is of utmost importance for enhancing mutual trust among the judiciaries through exchange of trainees, trainers, mentors, training materials and know-how. The judicial training institutions in the region are among key factors for advancing the independence, competence and professionalism of judges and prosecutors, but as well of other legal professionals. Nowadays, the judicial training should enable establishing, enhancing and further promoting knowledge and skills of the judicial and prosecutorial officials such as preparation and managing the case before the court, judicial thinking and reasoning, and improve oral and written skills, decision-making process and legal argumentation.

In this regard, identification of the potential areas of regional cooperation is a prerequisite for creating standards and programme of cooperation, study visits and exchange by the Regional Cooperation Council, aiming to strengthen the European perspective of WB economies and, at the same time, improve the rule of law in EU MS in the region. As

an integral part of this programme, a comparative study is provided in order to detect the possible common basic standards for enhancing the quality of judicial training and its components in the main phases of the training cycle, thus creating the base for exchange of trainers and mentors, materials and methodologies among the SEE JTIs. In parallel, this document will propose the possible modalities of regional and international cooperation (conferences, roundtables, bilateral and multilateral peer-to-peer meetings, exchange of trainers, trainees and know-how) for achieving these common standards by judiciaries striving to achieve and implement the international standards of independent, efficient and accountable judiciary. We shall propose the content of a database to support regional exchanges of trainers and mentors, to enable better use of existing materials, e-learning courses and platforms and other existing results of different projects in judicial training in SEE as well as the other activities based on objective criteria and under equal conditions.



CHAPTER I

1. NOTION AND COMPONENTS OF QUALITY OF THE JUDICIARY

1.1 THE NOTION OF QUALITY OF THE JUDICIARY AND ITS ELEMENTS

Improving the organisation and strength of training institutions is a continuous process representing an integral part of the process of enhancing the quality of judiciary in general in their interconnectivity. Regional cooperation is seen as one of the possible supportive elements in these processes of institu-

tional building which is included in the plan of future activities in all the participating judiciaries.

The training should meet the needs of its target groups participating in the training events, as well as of other stakeholders, users of the court services, other legal professionals, society in general and -most importantly - the citizens. This training should be of such a quality to be able to produce fair and efficient court processes, court decisions written in a clear language, well-reasoned and issued by an independent and impartial court. The

international documents define efficiency as delivering quality decisions in a reasonable time, after fair consideration of all issues and with efficient managing of the cases. Individual judges are obliged to ensure the efficient management of cases for which they are responsible¹.

1.1.1. THE ROLE OF TRAINING INSTITUTIONS IN ENHANCING THE QUALITY OF JUDICIARY

The training institutions have been established in most of the EU MS and in SEE and have been functional for more than 10 years. They have all introduced a process for selection and initial training of future judges and prosecutors, some of them following the model of the French National School for the Judiciary (Ecole Nationale de la Magistrature) and others some other established system. Some of the judiciaries introduced initial training as one of the preconditions for entering the profession and some introduced initial training as obligatory training after the appointment process.

The key factor for promoting quality training is the independence of the training institution itself. Consultative Council of the European Judges Opinion No 4 on training for judges states that “any authority responsible for supervising the quality of the training programme should be independent of the Executive and the Legislature and that at least half its members should be judges. Training is a matter of public interest, and the independence of the authority responsible for drawing up syllabuses and deciding what training should be provided must be preserved. This is a corollary of the general principle of judicial independence”².

Judicial training institutions in Western Balkans have established and promoted good regional cooperation through direct links, joint meetings, conferences and participation in joint networks (RCC, EJTN, IOJT). Unfortunately, despite many efforts, the JTIs have not succeed in maintaining

¹ CM Recommendation CM-Rec 2010 (12) of the Committee of Ministers to member states on judges: independence, efficiency and responsibilities, para 31, <https://rm.coe.int/16807096c1>

² CCJE Opinion No 4 on training for judges (para 13- 15), <https://www.coe.int/en/web/ccje/opinion-n-4-on-training-for-judges>

consistent and regular cooperation in between the meetings and conferences (mostly due to the lack of financial means) on their own initiative and without the support of the networks and international projects.

More regular direct bilateral or multilateral links should be strengthened through facilitation of the networks. Regional Cooperation Council is well positioned to support such activities and to develop database and statistics of the regional judicial training in EU law and other common topics in close cooperation with the existing networks and relevant national, regional and European institutions. The quality and consistency of regionally organised judicial training and as a result more competent, efficient and independent judiciaries will gain trust of citizens which is the common interest of judiciaries, training institutions, governments and citizens.

1.1.2. THE CRUCIAL ROLE OF TRAINERS AND MENTORS IN ENHANCING THE QUALITY OF JTIs

Trainers and mentors (coaches, tutors) bear the basic activity of the training institution - that of education defined as a process of receiving or giving systematic instruction, especially at a school or university. But the judicial training, as an adult learning process, has its specificities as being addressed to a specific target group composed of several sub-groups. Those are the trainees and in sitting judges and prosecutors, who are subjected to certain national and international standards and guarantees on independence, accountability and autonomy. Here the trainers should possess large scale of skills and abilities (professional and andragogic), which should be constantly updated, evaluated and modernised. According to Malcolm Knowles, there are several features of adult learning: self-concept- adults direct their own learning, prefer discussion or problem-solving exercises that allow them to draw on their life experiences, believe the information will assist them in dealing with real-life tasks or problems, perceive education as a way of obtaining knowledge

that can be used immediately to resolve problems (problem centred), and the fact that most potent motivators for adult learning are internal³.

There is a need to improve the cooperation between JTIs and law faculties in both directions with facilitation of the RCC and in cooperation with SEELS and other relevant institutions which could give strong support to this process based on expressed needs of the stakeholders. The database developed by GIZ ORF LR hosted by the RCC will be a useful tool to support this process in EU law.

1.1.3. MAIN AREAS TOWARDS ESTABLISHING COMMON CRITERIA FOR ENHANCING THE QUALITY OF THE TRAINING PROCESS

- To identify conditions and procedures for selection and update of the pool of trainers and mentors and to agree on the best practices of evaluation process (importance of exchange of experiences between EU MS and non-EU judiciaries).
- To identify specialised programmes focused on use of IT tools, motivating and ensuring pro-active participation of the participants, at the same time using experiences and existing tools developed by European organisations and JTIs.
- To start the process of development, selection and IT storage of quality training materials and of the information management system based on the common standards, to support development of new audio-visual techniques and methodologies in training institutions and identify which are to be shared with the RCC (to start functioning as a hub for regional activities in EU law and other common topics).

³ Malcolm Knowles Adult learning theory - Andragogy, 1980



2. COMPARATIVE REVIEW OF BEST PRACTICES IN DETECTED AREAS FOR ESTABLISHING COMMON STANDARDS

2.1. WB JUDICIAL TRAINING

Comparative data have been collected based on the Questionnaire distributed to the JTIs in the region containing a set of selected questions in areas where common regional standards could be established. Data are presented in three different areas of common interest: existence of a centralised database for storage and selection of training materials; building the capacities of the training staff; and development of specific programmes and methodologies. This information will serve as a basis for development of a regional e-platform and database, but also as a foundation of enhanced cooperation and mutual trust among the SEE judicial training institutions and judiciaries.

2.1.1. EXISTENCE OF A CENTRALISED DATABASE IN THE RESPECTIVE TRAINING INSTITUTIONS

2.1.1.1. ALBANIA - SCHOOL OF MAGISTRATES

Training materials are usually selected and made available for the training activities by the training experts/facilitators, who are part of the training panel for every training seminar for judges and prosecutors, or other training categories. Every expert submits the training materials to the continuous training department at least 10 days before the training activity takes place. The materials address the topics to be treated during the training activity including doctrinal issues, Albanian case-law, case-law of different EU courts, comparative materials with EU law, etc. Study visits and internships are prepared usually in cooperation with the Council of Europe, and as the case may be with other coun-

terpart judicial training institutions. The training materials are made available in the Moodle platform (e-learning platform), which is accessible by all judges and prosecutors and project information is made available through the website and Facebook page, but participants also take a hard copy for the training activity. Training materials are not visible on the website, for other JTIs, they are only made accessible in the e-learning platform and only for judges and prosecutors in the system, for legal assistants, and candidates for magistrates. The persons responsible for proposing the materials to be published online are heads of different departments, such as responsible persons from the Initial Training and Continuous Training Department.

2.1.1.2. BOSNIA AND HERZEGOVINA

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The selection and categorisation of training materials is conducted by the trainer based on the inputs provided by the JTI (for example, to enhance the practical approach of the training - to prepare an ECHR verdict or a hypothetical case). Training materials are delivered to the target groups via e-mail after completion of the training or upon their request. The training materials and project data (including regional projects) are accessible to the other WB training institutions only on their request and with permission of the Director of Centre. There is no person assigned particularly for the process of selection and publishing the materials and other useful info and data on the website, but every person in charge of organisation and conducting the training is responsible for delivering the material to training participants.

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The process of selection and categorisation of the training materials depends on the objectives and type of training being undertaken (initial or continuous). Trainers use relevant laws, manuals, commentaries, compilations and legal opinions by the

highest courts, as well as the court practice of the international courts including the ECHR case-law. Training and project materials are published on the website of the Centre (the documentation centre), they are sent to the participants via e-mail and if necessary in printed copies. The list of the library literature is published on the Centre's website. Trainers identify the materials to be used in specific educational process in agreement with the authorised staff from the Centre. The procedure for publishing materials and other useful information is performed by the senior programme staff.

2.1.1.3 KOSOVO* - ACADEMY OF JUSTICE

The Kosovo* Academy of Justice does not have any formal process for selecting training materials. This is left to the discretion of trainers as each trainer determines which training material should be used during the training, including practical cases that should be used, whether they are national or international case-laws. However, the Academy has defined a format that should be respected by all trainers, and before being used these training materials are checked by Academy staff for their compliance with the format criteria. The training materials are mainly used only for the specific training for which the materials have been prepared. But according to the needs and requirements of the categories that benefit from these training activities of the Academy, the materials in question may also be distributed to other beneficiaries who did not attend the training. The Academy has an internal database where all training materials are stored and archived; however, it has not yet managed to offer online access for beneficiaries outside the Academy. Currently, other WB training institutions cannot access the website for these training materials. Each training programme (continuous training programme, initial training programme, etc.) has assigned officials who are engaged in the preparation, distribution and maintenance of training materials. The training material is not published on the website.

2.1.1.4. MONTENEGRO - CENTRE FOR TRAINING IN JUDICIARY AND STATE PROSECUTION

The Centre for Training in Judiciary and State Prosecution has not developed a process of selection and categorisation of training material. By amending the Rulebook⁴, it is envisaged that the trainer is obliged to prepare the programme/agenda and the training material and submit them to the Centre minimum 5 days prior to the scheduled training activity. Training material consists of the Power Point presentation, examples from practice or hypothetical cases, and possibly, scientific papers. Trainers quite often submit their material to the Centre and it is sent via e-mail to the participants before or after the training activity. All material, publications and handbooks considered to be useful are published on the website of the Centre. There is no assigned person for selection of materials and their quality.

2.1.1.5. SERBIA - JUDICIAL ACADEMY

The Judicial Academy is in a process of developing an advanced web portal - e-Academy with a lot of hub services, including e-cases, e-exams, e-learning, etc. The interesting novelty is designing of the so-called 'cross reference' icon, where a link has been established between the relevant national legislation in a way that the specific article is interpreted in the light of relevant EU law and other international instruments, linked to the specific field of human rights protection (asylum and migration, child protection, protection of disable persons, etc.), particular ECHR articles (1, 3, 6.8 Protocol 1 Article 1), and the relevant case-law of the ECtHR (Serbian and other referent judgments). Some of the services are not accessible by the wider audience and require a specific password. The e-Academy represents an advanced management of the internal procedures, seminars, communication services, management and storage of documents with sophisticated engine services,

⁴ Rulebook on the manner of selection of trainers, period for which they are selected and remuneration for lectures, 16 October 2018

available on permission only and is maintained by an external company.

Depending on the subject matter, the training materials are chosen in line with the training content, but always a combination of theoretical presentation and related jurisprudence. Also, if the seminar is organised in cooperation with other projects, project materials and findings are used in addition to the relevant law provisions.

Giving the fact that documentation centre is under construction and that the new website has just been launched, the system of different types of study materials for different user groups has not been established yet. At the moment, the JTI is in the process of establishing comprehensive library and e-library that can be accessed via website, as well as a system that could identify different target groups and prepare different materials based on a particular group. There is no system for identifying the type of website visitors (target groups member or external user); the content on the website and all its parts, including e-library is open to general public. There is a person appointed as programme coordinator responsible for selection of materials and a web administrator responsible for publishing those materials in e-library.

2.1.1.6. REPUBLIC OF NORTH MACEDONIA - ACADEMY FOR JUDGES AND PUBLIC PROSECUTORS "PAVEL SHATEV"

Relevant materials for specific training are prepared by the trainers in coordination with the Academy staff and often on the suggestions of the Academy Director. They usually submit the materials immediately before or on the day of the training. The materials are delivered to the participants via e-mail through the contact person from the respective court/other institution. The materials are also uploaded to the Academy website in the folder designated for the given training and are made available without restriction. There is no designated person responsible for the process of selection and uploading of the training materials. The IT department prepares the technical

part without entering in the process of selection of relevant materials. The Programme Council has no responsibility in the process of selection, revision and determination of the relevance of the training materials, their update and quality. There is no centralised database with general or advanced search engine (by key words, etc.). There is no systematisation of teaching materials by particular subject (textbooks) in the initial or in the continuous training. The e-learning has been developed for several courses.

2.1.2. PROCESS OF SELECTION AND CONDITIONS FOR BECOMING A TRAINER AND/OR MENTOR

2.1.2.1. ALBANIA - SCHOOL OF MAGISTRATES

Training experts are appointed by the Steering Council and the candidates must meet the following criteria: experience of more than 15 years as a jurist, teaching experience at universities or at the School of Magistrates for more than 10 years, professional experience specifically in the area where they are requesting to be experts, or experience of more than 10 years as a judge or prosecutor, teaching experience at universities or at the School of Magistrates for more than 5 years, professional experience specifically in the area where they are requesting to be experts. The two councils appoint mentor magistrates on a period of three years, with the right to be reappointed. Each mentor magistrate must meet these criteria: have at least five years of experience as a judge or prosecutor, is appraised in accordance with the law, appraised at least 'very good' in the latest ethical and professional assessment, have successfully completed the mentors' training in the last three years at the Magistrates' School, have not been subject to disciplinary measures, have respected the legal deadlines for investigating or adjudicating cases, at least in the previous year before being appointed as a mentor.

Mentor magistrates are assigned by the High Judicial Council for candidates for judges and from the High Prosecutorial Council for candidates for prosecutors and there is no need for any decision from any other institution. Trainers are, in general, appointed by the Steering Council after first being approved by the Pedagogical Council of the School. The selection of experts is based on the applications submitted by different interested persons regarding the public call published by the School inviting them to apply for experts/facilitators. Each applicant is selected as an expert after meeting the requirements set by the School Internal Regulations. Train-the-trainer activities are periodically delivered by the SoM. Also, in the last two years, training activities also for mentor magistrates were organised on their obligations as mentors and on the methods of evaluation. The list of trainers and mentors is published on the JTI website. The mentor magistrate, assigned to a magistrate candidate, is excluded from the 10th draw of the lottery at the court or prosecutor's office where he/she exercises his/her office. The trainers and mentors are evaluated by their trainees through a questionnaire. At the end of every training activity, a questionnaire is distributed, which is used to evaluate not only the training activity but also the trainers. The components for which the trainers are evaluated are: knowledge of the respective law topic; how encouraging the expert was in the debates during the seminar; how motivating the expert was, urging the participants to do research in the respective area; how coherent were expert's materials and how much the materials help participants in their daily work. Based on the information obtained from the questionnaire, a final report is developed for each expert/facilitator and is taken into consideration when selecting the experts for the following year. Regular contacts with trainers and mentors are kept by the respective professional training departments: through meetings in the school premises and official communication regarding different issues to be addressed as the particular case may be.

2.1.2.2. BOSNIA AND HERZEGOVINA

CENTRE FOR JUDICIAL AND PROSECUTORIAL TRAINING OF FEDERATION OF BOSNIA AND HERZEGOVINA

Trainers can be selected on permanent and ad-hoc basis. The list is approved by the Steering Board, upon the approval of the Judicial and Prosecutorial Council (this is the case almost in all of the WB economies, meaning that the councils have the final say in the process of selection, where professional experience and good working results are more important than the teaching skills). Trainers are selected for particular training fields. Criteria for selection of trainers are: previous experience in the training field for which they are applying, performance evaluation results, positive evaluation as trainers, master's or PhD degree, papers and publications published, participation in conferences, completed training of trainers in Bosnia and Herzegovina or abroad. Each of these criteria is evaluated with certain scores. The Commission, composed of 3 members, selects the candidates for trainers. The trainers for particular training are appointed according to the list of trainers and the area for which they had applied. There is a developed uniform train-the-trainer programme, conducted by the European Union in 2015 and 2016. There is no such consistent programme developed by the institution itself. The lists of the permanent and ad-hoc trainers with their names and area of specialisation are published on the website. Evaluation criteria are in the evaluation forms the participants fill out independently. The regular contacts with the trainers and mentors are assured via e-mail, phone and consultations when they lecture or when they are participants in training.

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Qualifications of trainers depend on specific training activities for which he/she would be in charge (functional qualifications). The selection criteria

are: previous professional work experience and knowledge; previous experience in the field of training and professional training of judges and prosecutors; scientific experience, expert and scientific papers published in and cooperation with legal journals, the ability to develop a training scenario in accordance with the Centre's work programme, teaching skills and abilities, communication and exposure skills, assessment of previous work as a trainers of the Centre, good knowledge of IT and modern methods of learning; preparation of PPP, video link, videoconferencing, distance learning.

In accordance with the Rulebook on categories, selection, rights and obligations of trainers, trainers are divided into permanent, temporary trainers and trainers of trainers.

The Centre's Steering Board appoints a three-member Commission to conduct the process of selection of trainers. The Commission consists of a representative of the Centre, Judge of the Supreme Court, and the Prosecutor's Office. The Steering Board establishes the list of trainers based on the proposal of the Commission. Trainers are classified according to the legal areas based on their applications. Based on the aforementioned criteria, the Commission revises and confirms the list of the existing trainers to the Steering Committee which will extend their mandate for additional 4 years. The new trainers will be selected through public competition. The Centre publishes a public call on its website and in print media. Persons who meet the basic conditions for performing judicial and prosecutorial functions in accordance with the relevant law can apply. The list of permanent trainers becomes final when approved by the High Judicial and Prosecutorial Council.

In the process of selecting a trainer for a particular training, the type of training is taken into account, (initial, professional development), the legal area, the availability of the trainer, the trainer's previous assessment by the participants if he/she acted as a coach, etc. Also, Presidents of the Courts and Chiefs of Prosecutor's Offices submit registration forms for judges and prosecutors, based on individual requests and needs of courts and prosecutor's offices.

Most of the Centre's trainers completed basic and thematic training for trainers. There is a permanent obligation for trainers to educate themselves in new transfer methodologies, especially through distance learning. The lists of permanent and ad hoc trainers have not been published on the website of the Centre.

While participating in the professional development and initial training programmes conducted by the Centre, trainers are entitled for teaching and preparation of materials, to paid leave, to compensation of necessary and justified expenses and per diem, the right to use the equipment and funds of the Centre. The activities of the trainers are taken into account when considering their promotion to a higher position.

Different sources of information are used to assess the trainers: their contribution to defining the strategic plan, annual plan and training programme, preparation of calendar of seminars, contacts and coordination with lecturers, identification of objectives and methodology of training, collection of materials, etc. participation in training needs analysis, work as a coordinator, moderator or lecturer in specific training; and in evaluation of training. The trainer submits a written report to the Centre with an evaluation of the effect of the training and the conclusions of the participants. Reports containing training assessments are prepared and completed at the end of the training, which include assessments and/or observations concerning the effect of a trainer on the preparation of the programme/agenda, quality of the material, methodology used, trainer's communication skills, relevance of the selected topic, etc. High evaluation grades contribute to the decision-making process regarding selection of trainers for the next year.

2.1.2.3. KOSOVO* - ACADEMY OF JUSTICE

Permanent trainers among judges and state prosecutors fulfil the following criteria: have work experience as judge or prosecutor with a permanent mandate in the field for which he/she applies as a trainer; have didactical knowledge

(training methodology), are creative in designing, developing and implementing of the training programmes, have high communication skills, knowledge of one foreign language is considered an advantage, and have computer skills. They can be engaged with the approval of the Managing Board of the Academy. Permanent trainers who are not judges or state prosecutors fulfil the following criteria: graduated from law school/faculty, passed the bar exam, have at least 8 years of work experience out of which at least 5 years of professional experience in justice field, have didactical knowledge (training methodology), have excellent communication skills, knowledge of one foreign language is considered an advantage, have high professional and moral qualities, computer literate. Temporary trainers are engaged according to the implementation needs of the training programme. The criteria for selecting temporary trainers are less formal and in accordance with the necessity to engage experts with specific expertise. Mentors have to be permanent judges and prosecutors in the general department of the basic instance, creative in designing and using the methodology, have to provide a detailed plan of the practical programme, have shown good working performance, and previous good performance as mentors. The selection process is developed by the Academy independently, with the exception of permanent trainers who are judges and prosecutors appointed by the Judicial Council or the Prosecutorial Council to work in the Academy for a period of three years. Trainers who are approved by the Academy's Managing Board, are further selected by the Academy's Executive Director for their engagement in specialized trainings, based on their experience and expertise. All Academy trainers should attend training for trainers. The Academy has developed a good training structure for trainers, but has failed to develop a comprehensive curriculum for the training of trainers. The list of trainers and their CVs are not been published on the website. Motivation of the trainers regarding carrier promotion, performance evaluation, additional payments, study visits, specialisation abroad, are issues outside the scope of the Academy's mandate, and their engagement as a trainer has no impact on these aspects.

The assessment of work performed by trainers and mentors is based on the following indicators: contribution to designing the annual training plan and programme, preparing and delivering training which involves coordination with other trainers, identification and achievement of objectives, training methodology, preparation of training material, level of professionalism during training, participation in and results of the procedures for training needs assessment, trainers' performance as moderator or lecturer in specific training, their assessment after each training session or module, and contribution provided upon issuance of conclusions or recommendations after training sessions or modules. Assessment of trainers and mentors is conducted by the training participants and by the Academy as stipulated in the law. Regular contacts are held with the trainers and the mentors for the implementation of the training programmes.

2.1.2.4. MONTENEGRO - CENTRE FOR TRAINING IN JUDICIARY AND STATE PROSECUTION

In October 2018 a new Rulebook was adopted⁵. Persons with minimum five years of work experience as judges, state prosecutors, attorneys at law, persons with academic title, notaries public, mediators, public bailiffs and civil servants may be appointed as trainers. Trainers are appointed for a 4-year period. Steering Committee determines the number of trainers in the specific areas. A public call is published in at least one daily newspaper and on the website of the Centre. Notification of an open call is submitted to all courts and state public prosecutor's offices via e-mail. Applications received under the call are considered twice a year as a rule. The candidates need to submit relevant documents evidencing their specialised post-graduate and doctoral studies (if applicable), occupation, meeting other requirements, other professional experience, if the candidate has published scientific papers, if the candidate participated in working groups for drafting laws and bylaws, if the candidate was engaged in projects, field of law and topic they apply for,

⁵ Rulebook on the manner of selection of trainers, period for which they are selected and remuneration for lecturers

if he/she was a trainer previously, if he/she has passed the train-the-trainers course, if he/she speaks a foreign language. Documents required are prescribed in detail. Proposal for appointment of the Centre's trainer is given by a three-member Programming Council Commission, which evaluates the documentation and data submitted by the candidates and conducts an interview with the candidates, with the exception of those from the ranks of Supreme Court judges and state prosecutors in the Supreme State Prosecutor's Office. When proposing candidates, the Commission evaluates professional knowledge, experience, as well as information on the average grade candidates achieved if previously engaged by the Centre. Steering Committee provides the list of trainers, based on a proposal received by the Programming Council Commission. The Programme Council selects and engages trainers from the list of trainers for particular training, while ensuring observance of the principle of equal access, and evaluates their work.

Practical part of the initial training is implemented by mentors, who are selected from the ranks of judges and prosecutors with at least five years of work experience as judges or state prosecutors. The list of mentors defined by the Judicial/Prosecutorial Council is submitted to the Steering Committee of the Centre, which defines a list of mentors and, on the proposal of the Programming Council, the criteria for their evaluation. However, the current Rulebook does not envisage actions in situations where mentors disorderly/incorrectly perform their mentoring duties. Knowledge and skills of the participants in the training activity are evaluated continuously throughout the period of duration of initial training by the mentors with regard to practical work and by the trainers in the classes held in the Centre.

2.1.2.5. SERBIA - JUDICIAL ACADEMY

The Programme Council nominates the permanent trainers among judges and prosecutors on approval by the Judicial and Prosecutorial Council, determines the conditions for appointment of mentors and nominates mentors and ad-hoc trainers.

It is prescribed that the mentors and trainers are selected among the qualified judges and prosecutors and other professionals.

Lecturers of the Academy could be judges, public prosecutors and deputy prosecutors, as well as experts of various professions. In addition to general terms, the lecturers must meet the following criteria: professional work experience of at least three years, previous experience in the area of education and professional advancement of judges and prosecutors, previous research experience (writing of books, articles and other material, presentation of essays at scientific and professional events, participation in symposiums, conferences, etc.), participation in editing of legal magazines and other scientific and professional literature, capability to draft educational programmes on specific topic in line with acts of the Academy, developed organisational and communication skills. Lists of both trainers and mentors have to be approved by the Programme Council, according to the Law on Judicial Academy. In addition to this obligation, mentors have to obtain approval on their engagement from presidents of their courts and from their superior public prosecutors. In addition to the appointed members of the Programme Council, the Council also has programme groups established to manage educational programmes in various legal areas. The programme groups manage lecturers within their legal area. The lecturers are being delegated depending on the topic and the place where the concrete training is being organised. In order to cut transportation costs, first choice for a lecturer is always someone from that appellate territory. Training for trainers and mentors is standardised and is being permanently advanced in cooperation with the Faculty of Philosophy, Department for Pedagogy and Andragogy. In addition to that, new trends in adult learning are being implemented. The Academy's new website will publish the data on lecturers and mentors. Evaluations are being performed at every training event, and also training participants evaluate the lecturers. Also, mentorship, mentors, initial training candidates and the mentor relation are all being evaluated. The evaluations show the adequacy of work and possibilities for improvement. Criteria for evaluation

are related to relevancy of the content, ability to influence the improvement of work of the participants and skills related to transfer of knowledge. The evaluation results influence the future engagement of lecturers and mentors, either through improvements of their work or through replacement of that particular lecturer or mentor. Programme groups are regularly organising meetings and at least one employee of the Academy is a member of the programme group, ensuring therefore, the continuous contact. Regarding the mentors, contacts are maintained and meetings held in appellate territories, where the Academy employees are in daily contact with them.

2.1.2.6. REPUBLIC OF NORTH MACEDONIA - ACADEMY FOR JUDGES AND PUBLIC PROSECUTORS "PAVEL SHATEV"

The criteria for selecting trainers and mentors are regulated by the Law and relevant bylaws (Statute and Rulebook for continuous and initial training). To be a trainer it is necessary to meet the formal criteria - trainers are appointed from among the active and retired judges, public prosecutors, with positive grades in the evaluation process, the Chambers, university professors, heads of departments in the public administration, with 8 years of professional experience. Related to the selection process, a call for applications is published on the websites of the Academy and respective institutions with an invitation to make it accessible for those interested. Upon the candidates' application, the director prepares a draft list of trainers and delivers it to the Judicial and Prosecutorial Council and finally to the Programme Council for approval. The draft list accompanied with the relevant documents is subject to approval by the Managing Board. The Managing Board and the Programme Council have never rejected the draft list or denied any of the candidates for trainers. The number of mentors is determined by the Judicial and Prosecutorial Council based on the number of trainees in the respective appellate regions (the mentorship is decentralised). The draft list of mentors, selected from among the active judges and public prosecutors who work on a specific matter and have high grades in the evaluation process,

is submitted to the Managing Board for approval. The Supreme Court and presidents of the courts are not involved in this process, but they receive the list of approved trainers and mentors. There is no selection process of the candidate trainers involving preparation of a presentation or a moot trial in front of a commission, etc. The latest Law on Courts introduced a novelty, prescribing that the trainers will have reduced workload, but no further conditions are prescribed. In coordination with the Academy Director, trainers are identified for specific training while for the ad-hoc trainers the Academy contacts a relevant institution through a written communication. The Academy regularly organises training for trainers on general and specific topics, but they are not structured or standardised. The list of permanent and ad-hoc trainers as well as their engagements and honoraria are not published on the website. A process of preparation of training cards for each trainer and mentor has been launched. Trainers receive a fee from the Academy, their engagement counts as a day spent in a training (it is compulsory for judges and public prosecutors to attend a specified number of days of training), and have the possibility to participate in study visits or training abroad. When applying for a certain position (e.g. in a higher court, for head of court, member of judicial and prosecutorial council, the ECtHR), trainers or mentors receive a certificate about their involvement in the training. The attendance at training (not an active participation) is a formal criterion prescribed for career promotion but has never been recognised as an important one.

An evaluation form is used for assessment of the quality of trainers based on several questions related to the usefulness of the materials, quality of transfer of knowledge, methodology and learning techniques used, but there is no evaluation of the effectiveness and the effects of the training on practical work of judges and prosecutors (no higher level of measuring the quality of the trainers) developed. The results of the evaluations are systematised and distributed to the particular trainers, and to the Managing Board, but have never had an impact on further engagements of the trainers. There are specific criteria for evaluation of the mentors, work performed in

the process of mentoring, methodology used, and ranking the candidates. Regular meetings are held in the Academy with the trainers and mentors to discuss the gaps, problems as well as methods for improvements. There is no prescribed time limitation for being a trainer or for renewal or termination of the status of a trainer or a mentor.

2.1.3. PROCESS OF SELECTION OF TRAINING PARTICIPANTS/EXISTENCE OF INTERACTIVE PROGRAMMES AND METHODOLOGIES

2.1.3.1. ALBANIA - SCHOOL OF MAGISTRATES

After the approval of the continuous training programme, the School sends it to every court and prosecutor's office and every judge/prosecutor expresses their interest for certain topics of this programme. Then the court presidents and the head prosecutors approve the topics selected by the judges and prosecutors. Participation at the relevant training sessions is approved by the High Judicial Council for judges and by the High Prosecutorial Council for prosecutors. Also, the School maintains close contacts with the court presidents and head prosecutors and also contacts the participants directly, whenever there is a need. The School has been careful to make the continuous training programme very inclusive when it comes to different topics in order to fully meet the needs of judges and prosecutors, including not only general topics but also very specific ones. The programme is regularly updated to include the latest changes in civil law, criminal law, law procedures, property law, copyright, intellectual property, juveniles, etc.

2.1.3.2. BOSNIA AND HERZEGOVINA

CENTRE FOR JUDICIAL AND PROSECUTORIAL TRAINING OF FEDERATION OF BOSNIA AND HERZEGOVINA

At the beginning of the year, the Centre invites judges and prosecutors to apply for training from the Annual Training Programme of the Centre. The applications submitted must be signed by the president of the court or chief prosecutor. Proactive participation of the participants in a concrete training activity is assured by sending a request to judicial institutions to send questions and dilemmas regarding the topic. There is no practice of conducting pre-testing (or post-testing) of the knowledge on a specific topic. Special programmes are designated for different categories of participants (newly appointed judges and prosecutors, associates and advisers at the courts and prosecutor's offices, presidents and chief prosecutors as well as heads of court departments).

REPUBLIKA SRPSKA - CENTRE FOR JUDICIAL AND PROSECUTORIAL TRAINING

Initial training includes training of trainees, professional associates and employees in courts and prosecutor's offices, and training of newly appointed judges and prosecutors. Professional training includes continuous training of judges and prosecutors. Judges and prosecutors, with the consent of the head of the judicial institution, apply to participate in consultations, individual seminars, workshops, etc. The Centre is obliged to provide at least three days, and a maximum of ten days of compulsory professional training for judges and prosecutors on topics related to the areas in which they work. For compulsory training, the training records should be kept by the judicial institution from which the participant comes. Based on the records, and in accordance with the Law, the Centre issues annual certificate on the fulfilment of minimum conditions of professional development.

Proactive participation of participants in the specific training activity is ensured through coordination with the presidents of the courts and the chief prosecutors, and in direct contact with the participants through an invitation to present a concrete case or to send in advance controversial issues related to the selected topic to the Centre or directly to the trainer. In accordance with the Peer Review recommendations of the European Commission, newly appointed judges and public prosecutors are tested in advance on a specific seminar topic. Also, proactive participation of participants is provided through a questionnaire at the beginning and at the end of the seminars, prepared by trainers on the training topic.

The interactive method has been confirmed in practice as the most suitable for most activities with practical examples for study, audio/video demonstration, study visits, distance learning. New technologies, which are being introduced in courts and prosecutor's offices (computer, online access, wide-area WAN) provide great potential for distance learning and self-training. The Centre facilitated distance learning through the CoE HELP portal and the module of distance learning to the newly appointed public prosecutors. The specialised programmes contain: specialised training for juvenile justice; topics for judges dealing with commercial disputes; specific topics for the presidents of courts and the heads of departments.

2.1.3.3. KOSOVO* - ACADEMY OF JUSTICE

Participants in ongoing training are judges and prosecutors, but there are no criteria as to who should attend these training sessions. The initial training, however, involves newly appointed judges and prosecutors in accordance with the applicable legal procedures. The Academy does not apply any test or pre-test for training participants. Participants apply to participate in the training, while during the training they actively engage in discussing issues of interest. The training programme includes the needs of each category of beneficiaries, whereas participation in each training session is done through an application where judges and prosecutors apply to attend training that mainly relates to their day- to day work.

2.1.3.4. MONTENEGRO - CENTRE FOR TRAINING IN JUDICIARY AND STATE PROSECUTION

Pursuant to the Law on the Centre⁶, judges and state prosecutors have the right and obligation to attend in-service training to which they apply in accordance with their own interest, at least two working days per year. In case a judge/state prosecutor, due to justified reasons, cannot attend the in-service training to which he/she has applied for, there is an obligation of informing the Court President/Head of the Prosecutor's Office, who then informs the Centre in writing. There are no methods developed for ensuring the proactive participation of participants (pre-testing of previous knowledge, etc.). It is upon the trainers to involve participants in the training through group work, case studies, or case scenarios. The Centre has developed the following programmes: the Initial Training Programme for future judges and state prosecutors, In-service Training Programme which is being implemented annually; the Programme for Trainees in Courts and State Prosecutor's Offices and other specialized programmes. There are no specialised train-the-trainer programmes for enhancing the skills for categorisation of the training sessions and training materials.

2.1.3.5. SERBIA - JUDICIAL ACADEMY

Continuous training is provided as compulsory and voluntarily programme. The Judicial and Prosecutorial Councils can introduce compulsory training in case of change of department, legislative amendments, introduction of new technologies, in case of deficiencies detected in the work of judges or prosecutors, for newly appointed judges and prosecutors who have not attended the initial training. The training is compulsory in case of promotion in higher instances. As regards the selection, the participants submit their applications for the following year. The Academy selects the participants and sends information to the courts and prosecutor's offices.

⁶ Law on the Centre for Training in Judiciary and State Prosecution

In accordance with the Law on Judicial Academy and relevant bylaws, the Academy selects participants for specific training having in mind different categories of participants, their professional experience, court or prosecutorial work experience, type of legal area and education, if the target group should be composed of position holders elected for the first time. The Academy takes special care of the representatives of new legal professions - public notaries and public enforcement agents, their training being organised based on memorandums of cooperation signed with their respective Chambers. When new laws are adopted, the Academy organises obligatory training for judges and prosecutors processing cases in that legal area (e.g. the Criminal Procedure Code, the Law on Enforcement and Security, the Law on Whistleblowers). Interaction with participants is obligatory requirement for lecturers at all advanced training sessions. Therefore, direct contact with participants is being achieved through more active engagement of lecturers, through carefully prepared work on case studies, hypothetical cases, workshops, and sometimes, through contact with court presidents and public prosecutors in order to ensure preparation of participants prior to the training. Pre-testing of participants has also been introduced. The Academy has developed training programmes for different categories of participants - initial training candidates, judges/prosecutors elected for the first time, judge's and prosecutorial assistants, judicial staff, public notaries and public enforcement agents, training for trainers and mentors, court presidents and chief public prosecutors. Joint training for judicial office holders and the police, social welfare centres, state attorneys, etc. is also being organised.

2.1.3.6. REPUBLIC OF NORTH MACEDONIA - ACADEMY FOR JUDGES AND PUBLIC PROSECUTORS "PAVEL SHATEV"

There are no prescribed criteria for pre-selection of the participants for the training. The target groups are selected in the Annual Calendar of activities in line with their field of specialisation, specific position (heads of courts, members of

budgetary bodies) and work experience (newly appointed judges, including mixed target groups with lawyers or representatives of relevant institutions, etc.). The presidents of courts are requested to select the participants with previous experience and/or knowledge or training attended on the specific topics (especially on the topics such as EU law, ECtHR, international cooperation, cybercrime, etc.). The proactive participation of the participants in a great extent depends on the

skills of the trainers. The newly appointed judges and prosecutors, younger trainers with affiliation for IT and e-learning are engaged in the training such as that provided under the HELP programmes, legal search and other activities necessary for enhancing the IT management of the institution. There is a need to assign a skilled person responsible for electronic storing, selection and categorisation of the training and training materials. It could be supported by an external source.



3. GOOD PRACTICES OF EU MEMBER STATES AND OTHER STATES JUDICIAL TRAINING INSTITUTIONS (JTIs)

In order to determine the most adequate and realistic methodology for selection, centralisation and publication of sources of the judicial knowledge (training materials, case-law, bibliography, publications, study visit reports, etc.), which will be easily accessible by the members of the judiciary in the WB economies, it is important to present some good practices from the EU Member States and some other states. These examples will further determine the components towards establishing a regional database platform which will be created and maintained by the JTIs themselves as their own product, with the facilitation of RCC.

3.1. EXISTENCE OF A CENTRALISED DATABASE - BEST PRACTICES

3.1.1. BULGARIA - NATIONAL INSTITUTE FOR JUSTICE

The National Institute for Justice of Republic of Bulgaria has developed computerisation of the educa-

tional process through the extra net system - linking the judges, coordinators on EU law, financed by EC; Human Rights Portal, current practice on ECJ case-law with no translation for external users. The Institute established the E-learning and Information Resources Directorate which plans, organises and is responsible for e-learning in line with the Law on Judiciary. It conducts training of trainers for the needs of the training courses, collects statistical data and performs analysis and evaluation of the activities and training needs; works on preparation and publication of training materials for the needs of the training, prepares and keeps the documentation, performs the activity of a specialised library fund, maintains an electronic catalogue of libraries; performs the activities of the NIJ as a European Documentation Centre; participates in the planning, preparation and implementation of projects in which the Institute is a beneficiary. The training materials on e-learning portal are categorised based on thematic areas, in a chronological order, but with restricted access.

3.1.2. CROATIA - JUDICIAL ACADEMY

Training materials are produced for the purpose of various training activities. Depending on the topic, their authors decide which national legislation and national case-law and/or European legislation and the case-law of the European courts to include in the training materials. All training materials are then collected and placed in electronic folders of the Judicial Academy under the topics for the purpose of which they have been developed. The Judicial Academy's electronic archive includes all training materials developed since 2006. The training materials and project data (including regional projects) are accessible for the target groups via the website. There is no e-library or electronic documentation centre developed.

3.1.3. MOLDOVA - NATIONAL INSTITUTE OF JUSTICE

The training materials are specifically adapted to each training course including also the case-law, EU law, relevant matters of international law as well as the pertinent jurisprudence of the ECtHR. The e-learning study courses developed by the National Institute of Justice of Republic of Moldova are placed on the e-learning platform called ILIAS. Announcements regarding the e-learning study courses to be delivered are periodically published on the NIJ website⁷ with a link to Guide about the course and study materials which may be downloaded. The library offers direct access to a book comprised of approx. 1332 chapters for which an access account may be requested from the ILIAS Platform.⁸ The next step is to evaluate the results and certify the participants who have passed the course tests. All information published on the NIJ website and on the ILIAS Platform is placed by a responsible person assigned from the Centre for Legal Information.

⁷ www.inj.md

⁸ biblioteca@inj.gov.md

3.1.4. SPAIN - THE SPANISH JUDICIAL SCHOOL

The Spanish judiciary has gone far with the process of digitalisation and use of IT in promoting the efficiency and managing the quality of judicial services. The objective of the Judicial Documentation Centre (CENDOJ) is to optimise the management of judicial knowledge via the use of ICT. It is the technical body of the General Council of the Judiciary (GCJ) charged with the official publication of case-law, documentation and knowledge management services. It also offers support and information services to members of the judiciary, providing them with access to all types of document sources used when carrying out their judicial activity. It has references to the national case-law, judgments of the highest courts, electronic library, dial net for searching the materials, judicial library network, *collections published by the GCJ: monographs,⁹ journal articles, collective works*, training materials. It serves to select, handle, disseminate and publish judicial information, as well as information regarding legislation, case-law and doctrine. It designs, processes and corrects texts, making them consistent in their digital format. Via legal analysis, values are given to the judicial decisions, as part of the CENDOJ Documentary Collection, the database that is available in a restricted environment for members of the judiciary. The legal analysis of the judicial decisions provides significant added values, such as: assessment of the importance of the judgment based on standard documentary criteria, classification of the ruling, identification of the matter/s raised, overview of the judicial decisions analysed, classification, links to other sources of information of a jurisprudential and legislative nature.

3.1.5. UK: ENGLAND AND WALES

UK judiciary is a specific one due to the characteristics of a common law system. The UK judiciary portal named Courts and Tribunals Judiciary contains a lot of documents and information, such as

⁹ <http://www.poderjudicial.es/abnetportal/abnetcl.exe/07301/ID3dd01d9b/NT2?ACC=120&FORM=04>

laws, guides, judgements, consultations, practice directions, speeches, sentencing remarks, publications as a result of the openness and the impact of the expression of the personality of judges. Increased digitalisation via HMCTS reforms requires greater IT capability and enhanced judicial leadership skills in areas such as change management. The court reform, aimed at enhancing the accessibility of court services, resulted in developing online digital services, such as online case tracking, launching new online services (online civil money claim services), online plea, online divorce services, web page to better inform the disabled court users. Event page is created to gather views and feedback from those who use the justice system and for those working within it, and features international conferences, online courts, live online events. Also there is the Inside HMCTS blog which encourages two-way engagement on reform progress, also through E-mailing open for suggestions, issues or questions, HMCTS Youtube, SgouvK, LinkedIn. Online courts forum enables connections with other countries.

3.2. PROCESS OF SELECTION AND CRITERIA FOR BECOMING A TRAINER/ MENTOR IN OTHER JURISDICTIONS

3.2.1. BULGARIA - NATIONAL INSTITUTE FOR JUSTICE

In Bulgaria the trainers are elected by the members of the Programme Council in line with their thematic areas and on the basis of the classification grade given by its Commission, which evaluates the conditions to be fulfilled by the candidates, the accompanying documents, their moral qualities, teaching and presentation skills, ability to solve conflict situations, their motivation, professional qualifications, the way they deliver training. It is important that the trainers participate in the work of the Programme Council in a consultative function. Permanent trainers should fulfil the following conditions: high professional qualities, at least

8 years of service in the judiciary, at least having the position in a regional or administrative court, previous experience in judicial training, and train-the-trainer course successfully completed. The candidates need to submit necessary documents, including certificate from the Judicial Council on the results of the evaluation process, possible disciplinary violations, and certificate on the ethical characteristics issued by the Ethical Committee. Commissions are formed for each of the fields candidates apply for. Candidates are tasked to prepare a presentation on an identical topic, to solve an ethical dilemma and concrete cases for the profile required. In case of equal scores, the candidate with longer professional and previous training experience has a priority. The trainers are appointed for a period of one year by the decision of the High Council and on the proposal of the NIJ. This period can be prolonged depending on the evaluation result up to maximum five years. There are clear provisions for ceasing the engagement of a trainer. The Managing Board evaluates the trainers on a basis of six-score system. Trainers with a grade of five may be recommended to continue their engagement as a trainer on the proposal of the director. The director can also submit a proposal to cease the engagement of a trainer in case of: violation of the organisation and the order of the training process; inability to fulfil the obligations taken for more than one month; and on the request of the trainer for a leave longer than two months. Trainers must complete train-the-trainer programme in the NIJ focused on preparing the training curriculum, using practical methods, simulations, case solving, multimedia presentations, performing periodical assessment of the knowledge and skills acquired. The NIJ also selects mentor-judges who need to fulfil similar conditions as the permanent trainers. These mentors promote professional development of newly appointed judges, their abilities for critical and analytical reasoning, social skills and principles of professional and ethical codex, and also follow progress of the candidates, prepare regular semi-annual months reports and submit them to the High Council.

3.2.2. CROATIA - JUDICIAL ACADEMY

Based on a proposal and permission given by the president of the court or public prosecutor's office, judges and public prosecutors apply to the Judicial Academy for the position of the trainer. Prerequisites are that candidates should be judges or public prosecutors with good work results, appreciated in the local judiciary community and persons of high ethical and moral standards of conduct. Having a list of potential trainers, the Judicial Academy provides specific basic training that is focused on gaining teaching abilities and presentation skills. Through oral exercises and with professional help of trainers or psychologists, the candidates are given different tasks through which they test the resistance to the public presentation stress and become comfortable in managing teaching process. The Judicial Academy has developed basic and advanced programme as well as thematic training on legal issues for trainers. The tutoring workshops are organised as the activity within a new legal topic to prepare trainers for the unified approach to teaching, to test the quality of training material and to discuss all outstanding issues or dilemmas regarding the implementation of a specific legal norm. Trainers are assessed by the participants right after the workshop or seminar. The assessment tool is a questionnaire in which the participants evaluate the following elements of teaching, among others: knowledge of the teaching content, clarity of presentation, good balance between lecture and active participation of participants, use of different teaching methods and technical aids, keeping the interest of participants in the topic, correct response to participants' needs and reactions. Based on the expressed preference of the trainers, the Programme Council makes a final decision on their teaching engagement. Trainers are required to prepare a report on the teaching. With evaluation of the teaching given by the participants, the teaching effects of the trainer are evaluated and the report is sent to the trainers.

Mentors in judicial bodies are recruited on a voluntary basis with approval of the president of the court or public prosecutor's office. Prior to commencing work with a trainee, the mentor must un-

dergo a mentor training provided by the Judicial Academy. In order to work uniformly with trainees in all judicial bodies, the Judicial Academy, together with the Municipal Court in Zagreb, prepared recommendations for working with trainees. The recommendations consist of introducing mentors and trainees through conversation, work schedule, mentor duties, skills adopted by a trainee and the process of evaluation.

3.2.3. MOLDOVA - NATIONAL INSTITUTE OF JUSTICE

The selection of trainers is based on the following criteria: didactic experience in specified training fields approved by the Council of the NIJ; professional experience; published works; reputation in the field in which they operate; and integrity. The application form must contain the required documents for fulfilling the formal criteria (CV, motivation letter, work license reference from the workplace). Candidate's knowledge of a foreign language, use of IT, participation in professional training, possession of scientific or didactic titles, published works in the training field, completed training for trainers courses constitute an advantage. The competition consists of two phases: evaluation of application forms and the interview. The Commission validated by the NIJ Council evaluates the candidate through an interview of maximum 45 minutes, based on the interview evaluation sheet on in-depth knowledge of the specific field of training, actual practice; ability to relate and communicate; knowledge of adult learning methodology (training methods and techniques); ability to develop educational materials; knowledge of evaluation methods and techniques; ability to use modern training technologies; ability to document in another language spoken in the EU; ability to self-assess and to develop continuously. The persons validated by the Council of the NIJ are included in the Network of Trainers. The list of trainers is published on the NIJ's website¹⁰. The list includes the name and surname of the trainer, the act by which the trainer was appointed, the institution and function and the field of training.

¹⁰ <https://www.inj.md/sites/default/files/FF/Reteaua%20formatorilor%20alfabetic%C4%83%20a%2006.09.18.pdf>

The trainers are subject to periodic and complex assessment. Regular assessment of trainers' performance is done annually, in accordance with the Methodology for Training Programme Quality Assessment. The complex evaluation is carried out every two years and aims to verify the compliance of trainers' performance with the requirements. It will be done by presenting/supporting in front of the standing competition commission a demonstration of a seminar sequence of up to 30 to 45 minutes on a topic of own choice. The evaluation criteria are: centring the training on the acquisition of practical skills and attitudes; logical segmentation of thematic content; suitability of training methods; respecting the learning characteristics of adults; logic and correctness of expression in the specific field; use of adequate material resources; novelty in approach and information; ability to plan; etc. The trainers who do not show up for the complex assessment are excluded from the Network of Trainers. The regular contact with the trainers is maintained through meetings and working groups.

3.2.4. SLOVENIA - JUDICIAL TRAINING CENTRE

JTC is responsible for implementing training of judicial trainees, organising bar exams and other exams required in the justice system (for enforcement officers, receivers in bankruptcy and compulsory winding-up proceedings (official receivers), court experts and court appraisers, court interpreters, mediators and refugee advisers), organising and providing for the implementation of various forms of continuing training of judges, technical assistants and court staff, implementing the obligatory professional training of court presidents and directors and for issuing publications. The JTC also edits a publication entitled Judicial Bulletin which contains articles in the field of the judiciary, mostly lectures given at various training sessions. Three to four volumes are published annually.

The JTC is also the body responsible for carrying out international exchange of judicial officials by organising the participation of Slovenian judicial officials in international training courses. Within its training activities, the JTC exclusively engages

external lecturers and examiners as the Centre's setup does not allow for employment of its own experts. Experts/lecturers are found mainly among judges, state prosecutors and state attorneys with many years of successful practice in judicial bodies. The participation of professors from law faculties in training and examination is very important as well. In this way, practical experience is enriched with theoretical knowledge and vice versa - theory is complemented with practice from courtrooms. Lecturers for specialised courses organised by the JTC in other fields (e.g. psychology, communication skills, medicine, economics, accounting, ethics, integrity, etc.) or in relation to activities carried out by other state authorities (e.g. money laundering, corruption, matters pertaining to inspection services, etc.) are recruited from those areas which are, in one way or another, essential for the effective, legal and correct functioning of judicial authorities.

3.2.5. SPAIN - THE SPANISH JUDICIAL SCHOOL

A special feature of the Judicial School is to have a team of full-time trainers (judges, jurists or university professors). Many external collaborators, such as judges, lawyers and experts lecture at the School throughout the year. The Law on the Judiciary provides that the General Council must guarantee that all judges receive individual, specialised, high-quality continuous training. The training actions are currently based on three main pillars: the State Plan, decentralised programmes, and online training. The school has an international vocation, with more than two thousand jurists and judges from Ibero-America who have participated in its training programmes.

3.2.6. UK ENGLAND AND WALES - JUDICIAL COLLEGE

UK Judicial College has a panel of 44 experts recruited from the judicial office holders with experience in training design and delivery. They have all self-tested themselves against the criteria outlined in the selection exercise as having a high-level of experience in dealing with equal treatment and

diversity issues. This has been gained from their personal and/or professional lives including knowledge and experience from occupation outside of their judicial role, still their expertise remains untested outside of the written applications submitted and the sifting process. The whole process and philosophy of the judicial training is a result of a common-law long-standing tradition of a self-estimated and self-respected judiciary, but also a result of the very high-level of confidence in the UK judges and trust in their integrity and professionalism among the citizens¹¹.

3.3. THE PROCESS OF SELECTION OF PARTICIPANTS/EXISTENCE OF SPECIFIC INTERACTIVE PROGRAMMES AND METHODOLOGIES

3.3.1. CROATIA - JUDICIAL ACADEMY

The Academy did not develop a formal set of criteria for the selection of participants other than those set in the Act on Judicial Academy which define its target groups: judicial officials, advisors in judicial bodies, other civil servants in the judiciary and trainees preparing for the bar exam. For a particular training the target group is set by the Programme Council depending on the aim and the topic of the training. Various techniques have been used to ensure pro-active participation (pre-testing of knowledge, asking if the participants have topic related questions before the training, testing using online tools during the training, etc.) The trainers are instructed to design an interactive workshop in line with the European best experiences (Handbook on training methodology by EJTN). For every workshop the participants are invited via the heads of institutions, i.e. presidents of courts and heads of prosecutor's offices. E-learning is a common training method used for all target groups. A train of

mentors on e-learning has been developed as well as a special non-legal programme (management, court administration and leadership) for presidents of courts and heads of prosecutor's offices.

There are no specific training for developing electronic storing and management of the internal processes in the institution. There are no specific criteria indicated for identification and selection of training materials to be posted on the website or criteria for determination of the quality of the training materials.

3.3.2. MOLDOVA - NATIONAL INSTITUTE OF JUSTICE

The acting judges and prosecutors are obliged to attend at least 40 training hours per year, where 24 hours should be specialised study courses depending on the NIJ possibilities and organisational resources. The activities included in the study plans are integrated in the Informational System (IS) of the NIJ. The judges and prosecutors have direct and personal access to the IS of NIJ, being entitled to select the courses they are interested in, apply online and attend 40 to 80 training hours per year. In general, the participants select the training courses based on their preferences. Superior Council of Magistracy (SCM) and the Superior Council of Prosecutors (SCP) delegate judges and prosecutors to continuous training, taking into account their preferences. The requests to the SCM for delegating the judges for specific training are sent exclusively through the NIJ, no matter which entity organises the event. The other beneficiaries are appointed/delegated by the relevant institutions. Each module of continuous training programme, which is adopted each year for two semesters, is designated to a specific target group of judges, prosecutors, presidents of courts, judicial experts, registrars, judiciary assistants, heads of court secretariats, prosecutor's consultants, probation counsellors, lawyers who provide guarantee state legal assistance and other persons working in the justice sector.

3.3.3. THE NETHERLANDS - TRAINING AND STUDY CENTRE FOR THE JUDICIARY (SSR)

In SSR every training course has its e-learning environment. They make use of course pages in Moodle for both initial and continuous training. This course page serves two goals: provides course information, e.g. location, time schedule, literature, and offers learning tools, e.g. questionnaires, web lectures, quizzes. With this setup, SSR courses have a 'blended' format, meaning that classroom training is combined with e-learning. In most cases e-learning is used as preparation for classroom training. The overall purpose is to facilitate course preparation anytime, anywhere and to make course preparation more attractive and effective by using different tools instead of only reading materials. This preparation saves time during classroom training, thus creating space for interactive training methods, which are considered more effective from an educational point of view. SSR offers a number of e-learning courses without classroom training or guided instructions from a trainer online. With these e-learning courses employees in the judiciary or prosecution can learn with maximum flexibility. SSR has its own studio to record and edit different types of video productions like web lectures, interviews and webinars. These videos are mainly produced for use as course preparation (blended learning) or as part of an e-learning course. Most of the videos are accessible through the SSR website.

3.3.4. SLOVENIA - JUDICIAL TRAINING CENTRE

Since Slovenia's accession to the EU, the cooperation and participation of lecturers from various EU institutions, other EU Member States and international structures have been constantly increasing. English language workshops, with a focus on legal terminology, using the European criminal law and civil law instruments, provide knowledge of the relevant vocabulary and terminology in the field of international and European affairs. Their purpose is to improve the abilities to understand expert texts and to communicate effectively in the field of constitutional, civil, criminal, admin-

istrative, commercial, labour and social law, with the emphasis on EU legislation, EU institutions, EU operation, terminology and euro speak. It organises participation of Slovenian judicial officials in international training (EJTN seminars, seminars within several linguistic and criminal law projects, and train-the-trainers seminars) and study visits to international courts, publishes e-bulletin as a professional handbook for judges, state prosecutors, state attorneys, other officials and employees in the judicial authorities, and lawyers and notaries. It has been published by the Ministry of Justice for several decades. The scope and content of Judicial Bulletin is determined by the Editorial Board, consisting of representatives of the JTC, judicial authorities, the Bar Association and the Chamber of Notaries. Contributions by legal experts are published, who first submit them to the Editorial Board for approval. The number of volumes published annually (either three or four) depends on the number and size of contributions.

3.3.5. UK: ENGLAND AND WALES - JUDICIAL COLLEGE

The Judicial College is directly responsible for training full (salaried) and part-time (fee-paid) judges and members of tribunals. Judicial College courses, domestically and internationally, use a range of well-tried teaching methods, starting from the principle of 'judges teaching judges' and 'exploiting participants' experience of law and life, judicial work and legal practice, to develop judicial skills. The courses are intense and fast-moving in order to make the best use of resources. Fictitious cases are presented and discussed. Individuals are encouraged to explore and share ideas in small groups, and to participate in learning rather than just being observers. Examples of transnational subjects include those which fall within the realm of 'judge craft', improving judges' skills in the tasks which are common to judges in all jurisdictions. The College also has considerable experience in training Course Directors and Trainers in educational and training methods such as preparing a course, course materials, leading discussion, facilitating small groups, video review, distance learning, and responding to participants' feedback. All programmes are available online.

¹¹ See the GRECO Fourth Evaluation Report on UK, <https://www.coe.int/en/web/greco/evaluations>

Due to the budgetary constraints, the College delivers cost-effective training. Judicial training has three elements: substantive law, evidence and procedure and other expertise; acquisition and improvement of judicial skills including leadership and management skills in the context of the IT court reform, social context of judging, meaning including diversity and equality integral to the training programmes. All newly appointed and newly assigned judicial office holders receive induction training. All judicial office holders undertake continuing training which meets their training needs. Training is designed and delivered by prac-

ticing judicial office holders or by trainers with professional skills under judicial direction and they receive help and advice. Face-to-face training and e-learning are core methods of judicial training and may be stand alone or blended. Training will be evaluated proportionately with a view to development, improvement, and value for money. The College develops its Learning Management System. On international level, the College designs, and delivers programmes and materials, particularly in the areas of judicial conduct and ethics, judicial skills and training the trainers.



CHAPTER II

1. COMMON FINDINGS IN THE IDENTIFIED AREAS

1.1. BENEFITS OF CREATING IT MANAGEMENT/PLATFORM OF JUDICIAL DATA, ESTABLISHING REGIONAL DATABASE IN JUSTICE

Judicial activity is based on knowledge, therefore, it is not only necessary to access information, but

to manage and use such information. Thus, the management of judicial training contributes to the modernisation of the justice system, as it establishes more efficient work methodologies in the exercise of the judicial function, drawing both on the information contained on the portal, which comes from different sources, such as judicial decisions, reports, both in national and international publications, applications, etc. Centralisation and harmonisation of data lead to greater efficiency of court activities.

Related to the process of developing the quality and accessible training materials and project data (including regional projects), from the JTIs replies, it appears there is no designated person in JTIs responsible for selection, annotation, classification and publication of materials and other useful documents. There are no standard internal procedures for improved quality of training materials. Selection and categorisation of training materials and evaluation of particular training is conducted by the trainers (or Academy staff), after which the materials are delivered to the target groups via e-mail before or after completion of the training and/or published on the website before or after the training. The JTI in Serbia has introduced sophisticated software on management of internal processes, including training materials (the e-Academy). It represents an advanced management of internal procedures, seminars and communication services, management and storage of documents with sophisticated engine services, with user recognition possibility. Training materials and project data (including regional projects) of one JTI are not fully displayed and are not easily accessible on the website, and are available for another training institution only on request, which minimises transparency and openness of the institutions and processes.

Most of the training operations are handled in a traditional manner without using IT search engine tools, due to the fact that the processes of computerisation, automation and management of ICT security in the judiciary are very expensive and they need to be constantly modernised. Also, software development requires specialised Academy staff or additional external experts and is time consuming.

Computerisation of the training materials will save paper, resources and more importantly it will enable transparency of the teaching materials, their availability (not only for the participants of the training, but also for the wider legal audience), and will enable the internal and also external control of the quality of materials, and competence and developed skills of the trainers. Computerisation and streamlining the management of all training processes will improve the efficiency and accessibility of judicial services in general.

Steps are undertaken to strengthen practical approach in the training methodology. Trainers are

imposed to reduce the theoretical presentations in favour of elaboration and study of concrete hypothetical or real cases. Training based on presentation and theory has been practiced for years in the SEE JTIs, mainly as a result of the traditional legal education in the continental law system the SEE judiciaries are part of as a system derived from the Corpus Juris Civilis, known as continental law system. This methodology has been criticised as one of the main deficiencies by many EU projects. This approach in the SEE judicial systems has started to change (still very slowly) with the process of incorporation of the European Convention on Human Rights (ECHR) case-law, EU law and international courts case-law in the national legislation and practice, and introduction of adversarial procedural systems inspired by the common law traditions.

Digital knowledge management means not only enabling access, but better and smooth management of the collected data and less paperwork in the judiciary. Good practices from the EU MS (especially Spain, UK, Bulgaria) show the benefits of establishing an e-Academy, e-Judiciary, which means storage and management of training materials and other sources of knowledge in a centralised, systematic manner. That means less use of paper, copies of presentations and judgements, replies from the evaluation forms, case-studies and all kinds of documents distributed to the participants in printed form and all kinds of judicial and other documents which overburdened the training institutions, courts and prosecutor offices. Furthermore, such a system supports the harmonisation of courts' practice to the desirable extent. Judges and prosecutors face the pressure of dealing with cases competently and in a reasonable time (Art.6 ECHR). They have no time to spend on legal search and selection of useful documents for their everyday judicial activities. Establishing and regularly updating a centralised source of information with easy and comprehensible general and advanced search engine is cost-effective and improves the efficiency of judicial activities as an imperative for improving the quality of the judiciary.

This database (documentation centre, e-platform), both on national and regional level, could be created as an interactive forum which will enable two-way communication in order to obtain opinion, proposals and suggestions from the users. This

platform could also be open to the social media to enable better interconnectivity, with all guarantees for preserving judicial independence and impartiality and the personal data protection. This would enable obtaining information from inside (the main users of the training services - judges, prosecutors), but also getting an input from the external stakeholders about the effectiveness of the training and will enable keeping the pace with the current needs of the judiciary. The JTI mostly rely on the replies from the evaluation forms, results from the TNA but with no participation of the external partners and users. Creating a possibility to follow the training online will make the training more open to all legal professionals, contribute to stronger responsibility for the quality of the training delivered, and finally, will result in more objective evaluation of the effects of the training.

All these advantages and good practices could be used in the process of development and maintenance of the regional database with the facilitation of the RCC. The platform could be filled with data gathered from the JTI coordinators assigned for that purpose, with a task to submit useful information on the list of trainers, their biography, narrow specialisation, special IT and legal research skills, and other documents which could result in a common list of trainers, training materials of common interest for judiciaries in the region which in a mid-term could be upheld in a regional e-documentation centre and wider.

1.2. FINDINGS RELATED TO COMMON STANDARDS IN THE PROCESS OF SELECTION OF TRAINERS AND OTHER EXPERTS

The trainers could be permanent, temporary or ad-hoc. The trainers and mentors in all JTI institutions receive award and/or daily fees (with an exemption in the UK). It is obvious from the comparative review that there are systems with very strict formal conditions and prescribed formal procedure

for selection of trainers with an obligation for the candidates to make a presentation in front of evaluation commission. Usually, the list of permanent trainers (as the core training body of the JTI) is approved by the Managing Board of the JTI or other judicial body (e.g. High Council for the Judiciary), based on the proposal of the Commission.

In some of the judiciaries there is a kind of semi-formal procedure, with requirements for the candidates to fulfil several conditions, among them, good work results (defined or not), high professional and ethical behaviour and integrity, and on the other side, there are conditions which are considered an advantage such as previous experience as a trainer, completed train-the-trainers course, scientific titles, publishing activity, knowledge of foreign languages.

In other judiciaries there is no formal procedure for selection of trainers; they are engaged for the particular training among most experienced and professional judges (or on the principle of self-testing against the criteria as having a high-level of experience in dealing with equal treatment and diversity issues).

The trainers are usually appointed for a period of one year with possibility of extension and with no or some limitation, depending on the results of the evaluation sheets or a presentation in front of a commission.

From a perspective of the JTIs, a good balance should be achieved between the frequency of engagement of the same trainers and the necessity for maintenance of a high quality of the training. Public perception that the institution is not favouring some of the trainers is extremely important for the confidence of the participants and the judicial community. The evaluation process of the trainers usually starts and ends at the first level of evaluation - satisfaction of the participants with the training content, methodology and training materials.

The list of trainers is not published on the websites of the JTIs, and, if it is, there are limited data and/or restricted access to it. The specialisation, expertise, completed training, study visits, internships,

evaluation results and other useful data regarding the trainers are not visible even to the members of the national judiciary. Almost all of the JTIs established practice of organising ToTs, but not in a comprehensive or a systematic way. Some of the JTIs developed a good synergy between the judiciary and the Academia (faculty of philosophy, andragogy, law, etc.) in development of modern, multidisciplinary ToT courses, constantly updated with the novelties in the adult learning practice.

For these reasons, there is a good opportunity for RCC to establish a platform of regional experts in EU law and other common topics (e-register of the trainers and mentors; training cards with their specific expertise and skills) based on minimum common criteria to be developed and recognised by RCC as a basis for regional exchange. For the future, it would be desirable to design and implement common regional ToT based on mutually agreed criteria for the newly appointed as well as for the experienced trainers, with RCC's facilitation.

A prototype of regional platform for trainers, mentors and other experts skilled in EU approximation process could be facilitated by RCC with a possibility of establishing an open forum where they could exchange views, experiences, problems, opportunities for using new technologies and training methods. They could be discussed at RCC organised roundtables, including the most problematic issues, methods to increase motivation, pro-activeness and commitment of the participants to the training and reducing the fatigue with too many training sessions, which are considered as criteria for career promotion, reduction of backlog, performance evaluation, etc. Also, on the level of SEE judiciaries, it is important to promote new methods for enhancing the skills of trainers and mentors, such as coaching, mentoring, guiding the newly appointed mentors, combination of new and experienced trainers, combination of various skills of trainers, as well as various methods of mentoring and coaching the newly appointed judges and prosecutors.

RCC could also promote a dialogue between the trainers and the relevant experts on the best meth-

ods for implementing the EC progress report recommendations and benchmarks and on the methods for effective preparation and participation in the negotiation processes for the aspirants, in close coordination with the EU MS contact persons who have already had such experience.

In this regard, the RCC could proactively participate and facilitate assistance of experts included in the regional database in enhancing the skills and abilities of the representatives of SEE judiciaries and particularly the aspirants to be better prepared for designation and implementation of the judicial reform strategy in line with the EC benchmarks and to be better positioned in the negotiation processes with the EC. In this respect the RCC could serve as a link between the SEE judiciaries and the EU.

1.3. FINDINGS RELATED TO ESTABLISHING NEW TRAINING PROGRAMMES AND METHODOLOGIES WHICH COULD BE USED AT REGIONAL LEVEL

The JTIs develop different regular and specialised programmes for different categories of participants. There is no evidence that large number of fragmented training sessions lead to better quality of judicial training. The selection of participants by using the method of pre-testing and personal invitations is not common in the JTIs due to the sensitiveness and independence of the judicial profession. In most of the judiciaries it appears that there is no procedure for ensuring pre-selection of candidates using the methods of quizzing and sending questionnaires, and the interactivity is left to the creativity and commitment of the trainers. These methods are usually implemented in case of seminars financed by international projects. The burden of promoting proactive participation is left to the trainers and their creativity.

The presidents of the courts and the heads of the public prosecutors offices as immediate supervi-

sors of everyday work of judges and prosecutors have no or little role in promoting the quality of the training. They should be more active in the selection of the participants, but with respect to all guarantees for preserving judicial independence, judicial expertise, and freely expressed interest.

It is a fact that many of the SEE JTIs have introduced e-learning courses most often with the financial support of the donors and projects. In some of the judiciaries, the e-learning system is in a rudimentary form and in some other it has been developed for years. It is important that these courses should involve trainers with affiliations to the IT and communication technologies (Twitter,

Facebook, Chats) and to combine them with the experienced judicial practitioners. These e-modules need to be constantly updated and financed, but most of JTIs do not have sufficient financial resources available for this (also there is a syndrome of lack of constant motivation and energy for upgrading these modules into a system).

For these reasons, some good practices should be used and made sustainable on regional level, and e-learning could be combined with traditional teaching methods. Also, video conferences, web lectures, interviews, webinars, video recordings of trials could encourage more proactive involvement of the participants.



CHAPTER III

1. PROPOSALS FOR IMPROVEMENTS ON INDIVIDUAL-ECONOMY AND REGIONAL LEVEL

1.1. IMPROVEMENTS ON INDIVIDUAL-ECONOMY LEVEL

1.1.1. CONDITIONS AND PROCEDURE FOR SELECTION AND REAPPOINTMENT OF TRAINERS AND MENTORS AND OTHER EXPERTS

- In general, there are many conditions to be fulfilled such as work experience, previous experience as trainer or mentor, good grades in the process of performance evaluation by the Councils, published articles and publications, master's or PhD degree, active knowledge of EU languages, train-the-trainer or mentor course completed. Detailed, precise and objective indicators for meeting all these conditions (on paper) and the accompanying documents should be defined.
- The RCC is well positioned as a relevant institution in the region to establish common

standards and create a database of trainers in different legal fields, with a focus on those of relevance for the approximation process (EU law, ECHR and international treaties), and also experts involved in the drafting of judicial reform strategies and in the negotiation process for different Chapters (especially chapters 23 and 24). These experts could be assigned in close coordination with the national governments and ministries responsible for European integration. There is a need to further define some criteria more clearly, including completed train-the-trainer course and to find a common denominator for all these conditions to be used regionally;

- Clear conditions for engagement of trainers should be developed in order to avoid possible conflict of interest and nepotism, e.g. members from the institution proposing and/or selecting the trainers should not act as trainers themselves;
- Transparency of the procedure for selection of trainers and mentors should be ensured by visibility and accessibility of the public calls for trainers and mentors providing detailed objective criteria to be fulfilled;
- Clear distinction between the formal and informal criteria should be established;
- System for career promotion should be adopted by the Councils and judges and prosecutors motivated to be involved in the training process as trainers and mentors, thus providing better quality of the training;
- Minimum standards for ceasing the engagement as a trainer or mentor should be established at the regional level in different common topics agreed upon by WB JTIs and other stakeholders;
- The WB JTIs should be involved in the process of selection of trainers at regional level and should strictly follow previously approved rules.

1.1.2. IMPROVING THE QUALITY OF TRAINERS AND MENTORS AND THEIR PERFORMANCE

- To develop a system of measuring judicial training quality, at the same time safeguarding that implementation of its components and measurement indicators do not violate the independence of judiciary;
- To improve evaluation of the quality of trainers and implement it on the regional level - define basic standards of quality of trainers and its elements, using Kirkpatrick levels of evaluation of the effectiveness of the training (reaction, learning, behaviour and results - in a form of long-term evaluation);
- To develop a process of continuous assessment of trainers and mentors in short, mid and long-term by internal and external factors (cross-check of the information collected, thus minimising the subjectivism in the evaluation process¹²);
- To create e-file for each of the trainers to be constantly updated and to share the list of trainers in agreed common topic with the RCC (based on regionally accepted criteria) which will include it in the database of regional legal experts;
- To establish common standards for train-the-trainer programmes;
- RCC should organise joint meetings of WB trainers and mentors in cooperation with EJTN and other relevant networks and institutions to discuss the problems and challenges;
- To ensure more active involvement of the graduated candidates in the training institutions' activities especially as trainers and mentoring in the fields of IT, legal research, EU and international law;
- To create minimum standards for mentors at regional level on the methods and techniques for carrying out basic judicial and prosecutorial tasks such as: writing techniques, legal reasoning and argumentation, ethical behaviour and judicial excellency, enhanced skills for evaluation of the progress of candidates and recording of the results achieved.

¹² Document adopted at the 28th Plenary meeting of the CEPEJ on 7 December 2016

1.1.3. QUALITY MANAGEMENT OF THE TRAINING CYCLE

- To develop guidelines for successful planning, designing and delivering of the training, developing and using materials (including IT management);
- To establish and update regional e-database for trainers and mentors in specific fields and experts in specific skills (communication skills, presentation skills, solving conflicts in a group, international law, ECtHR case-law, functioning of international courts, implementing international conventions);
- To develop common standards on how to categorise training and register training for the purpose of analysis and research;
- To support the judicial training centres' institutional building by developing a system of quality management, developing standard procedures and categorisation of all internal acts in the institution (protocols, guides, rules of procedure);
- To develop methodology for implementation of the training evaluation outcomes, coming from the external users (NGO, lawyers, other legal professionals).

1.2. CREATING A REGIONAL E-JUSTICE PLATFORM AS THE FIRST STEP TOWARDS ESTABLISHING REGIONAL E-JUSTICE DOCUMENTATION CENTRE

1.2.1. DEVELOPMENT OF A REGIONAL DATABASE OF TRAINERS AND MENTORS AND OTHER RELEVANT EXPERTS

- To create and update a central pool of trainers, skilled in IT, communication and new

teaching methods (video-simulations, IT legal research, video-conferencing);

- To develop and update a regional e-database of trainers and mentors in specific fields trained in specific skills (communication/presentation skills, solving conflicts in a group, etc.);
- To establish a common regional pool of trainers in basic judicial skills (writing techniques, critical thinking, legal reasoning and argumentation, decision-making process, structuring judgments, using the structure and classification of arguments of the case-law of international and national courts, when applicable);
- To develop a common pool of trainers on specific topics such as: use of electronic evidence, cross-border cooperation in combating organised crime, ethics and judicial integrity, freezing and confiscation orders, fighting fraud and counterfeiting of non-cash means of payment, reading financial documents and understanding financial expertise, use of digital evidence, cross-border access to e-justice, cross-border cooperation in criminal, commercial, family and civil matters;
- To develop a pool of experts actively involved and experienced in drafting strategic reform documents, negotiation process and implementing the EC progress report recommendations;
- To motivate and facilitate the use of e-learning opportunities;
- To establish a regional e-learning platform and use the learning courses among the WB economies, exchange training materials on the topics which are not based solely on the national legislation, and establish an e-forum to discuss some legal issues, exchange experiences and good practice;
- To develop a pool of course designers, facilitators, specialists on pedagogy and andragogy and training coordinators;
- To create a joint database of training materials and case-law in specific topics - to develop an open catalogue of training ac-

tivities in specific common topics, open for participation for judges, prosecutors and trainees from the region;

- Due to its role as a hub of judicial training institutions in SEE, RCC should be and function as a link between the EJTN and WB related to all kinds of documents of relevance for EU integration and facilitation of networking;
- To constantly update the established regional e-database which should grow into a regional e-documentation centre.

1.2.2. JOINT MEETINGS AND PEER-TO-PEER SESSIONS AND MISSIONS

- To organise regular roundtables of the highest courts in the region and discuss the most effective mechanisms for harmonising court practices and promoting the use of case-law, as a legal source for lower courts;
- To enable regional meetings focused on topics such as: budgetary issues, effective use of IT resources, foreign project results, especially when adopting new procedural laws which burden considerably the JTIs resources;
- To organise regional meetings of the presidents of courts and chief public prosecutors to encourage their more active participation

and involvement in the training process and evaluation of the effectiveness of training in daily work of judges and prosecutors and to motivate them to work on development of training modules in line with the gaps identified in practice. Such meetings could also be used as an opportunity to improve cross-border cooperation and enhance mutual trust;

- To enable exchange of trainees, trainers and mentors during the initial training - thus creating alumni network and organise moot court activities on ECHR and ECJ case-law at regional level;
- All these meetings and gatherings should be posted on the e-database.

1.2.3. QUALITY OF TRAINING MATERIALS

- Developed standards on the components of quality of training materials, regional applicability of the selected case-law, continuous selection and storing of training materials, developed method for selection of quality and useful materials for the website and access to these documents granted to all SEE JTIs;
- Developed standards for revising and updating of the training materials and adequate case-law delivered.



CHAPTER IV

1. TOWARDS ESTABLISHING COMMON STANDARDS FOR DEVELOPING AN EU LAW TRAINING CURRICULUM

1.1. EU LAW TRAINING IN THE SEE JURISDICTIONS - CURRENT SITUATION AND DEFICIENCIES

Training is one of the tools for improving the quality of EU and international law application by domestic courts. It means providing adequate professional training and ensuring availability of court jurisprudence. Another instrument is a mechanism

for uniform application of domestic laws which is the responsibility of the highest national court. Judges should be granted an access to information suitably indexed and annotated; the information provided should be comprehensive and available promptly; appropriate measures - including allocation of grants - should assure that judges gain full proficiency in foreign languages; additionally, courts should have translation and interpretation services available apart from the ordinary cost of the functioning of courts¹³.

¹³ see CCJE Opinion 9

Change of the mentality of non-EU judicial practitioners and developing EU friendly approach is one of the key factors for planning and organising successful EU law training. The training curricula in the EU member states differ from the same curricula in the non-EU, namely WB economies. The success of whole effort of Europeanisation of the WB judiciaries will largely depend on whether a gradual shift in the minds of the national judges would occur from pure legal formalism towards adopting features of genuine European legal culture (EU law application by national courts /Skopje, 2014, SEELS/GIZ, see conclusions).

The international documents foster the mutual cooperation and dialogue regarding proper application of EU law by national judges. The knowledge in EU law could be developed in a comprehensive and consistent manner, starting with the law faculties, together with enhancing the skills of judicial practitioners towards EU-friendly approach. Prior knowledge of international and European law and case-law should be ensured by inclusion of these topics in the curricula of law faculties. Appropriate knowledge of international and European law should be one of the conditions that appointees to judicial posts should meet before taking up their duties and judicial training in this area would benefit from international cooperation between national judicial training institutions. International documents in justice area, indicate the importance of cooperation among the court documentation services, libraries and judicial assistants. In the same manner judges from the region could benefit from development of direct contacts and dialogue between the judicial training institutions through conferences, seminars and bilateral meetings. Judges and prosecutors, as well as legal associates in charge of legal research and drafting judicial decisions could benefit from development of regional websites and platforms where they can exchange relevant EU information and materials and make use of having centralised management of EU knowledge.

1.1.1. INITIAL TRAINING

- There are differences in the content and methodology of the EU law presentation and

coverage in the initial and continuous training programmes. EU law comprehensive and consistent curricula, regularly updated for each new generation of candidates has been developed in the initial training programme in all training institutions;

- Trainees have the main obligation to learn and study and as a result this programme is scheduled as full-time or part-time programme;
- In some jurisdictions active knowledge of IT and a foreign language are prerequisites for participating in initial training;
- Initial training is in general more oriented to international cooperation (study visits, self-presentation, exchange of trainers, trainees, internships, e-learning tools);
- Trainees usually have certain level of knowledge in EU law (law faculties, bar exam or entrance exam for initial training at the academies);
- Trainees are motivated to become judges or prosecutors, have IT skills and knowledge of modern communication technologies, foreign languages, online courses, social media and they incline to transparency, joint cooperation and networking inside the group as well as with external factors;
- On the other side, newly appointed judges and prosecutors most often suffer from the so-called Lake Woebegone Effect¹⁴ and thus a balance needs to be struck and all these circumstances taken into consideration.

1.1.2. CONTINUOUS TRAINING (COMPREHENSIVE/PARTICIPATIVE COVERAGE OF EU LAW)

The situation is quite different when it comes to continuous training. Namely, the respective lifelong judicial education does not have practice of devel-

¹⁴ The Lake Woebegone effect, which means a *natural human tendency to overestimate one's capabilities*, was coined by Professor David G Myers, the Journal of Dispute Resolution, Volume 2015 | Issue 1 Article 7, 2015, Writing Reasoned Decisions and Opinions: A Guide for Novice, Experienced, and Foreign Judges S. I. Strong

oping comprehensive EU training curricula (basic and advanced) which will be attended by the same group of participants and which will be obligatory for judges and prosecutors. The particular topics of EU law are elaborated in a limited number of non-comprehensive seminars and workshops, most often financed by the international projects and regional or EU networks.

It is not clear whether these topics are selected on a basis of realistic training needs assessment, on the proposals of the judges (that happens very rarely or never) or imposed by different benchmarks in Chapters 23 and 24 or by EC progress reports regarding the respective economies. Some of the EU law issues are incorporated in different law fields such as criminal, civil and administrative law.

In WB jurisdictions sitting judges and prosecutors in parallel with their daily obligations attend training as an obligation with some differences in the number of obligatory training days. Therefore they perceive training as a kind of pressure and very often react with enmity and exaggerated criticism, especially when it comes to the quality of the national and foreign experts engaged in the EU and international law training. This training demands more proactive, modern approach of the trainers, access to the EU law websites, legal research in which young judges and prosecutors are more linked to and very often take a role of a trainer. Judges at higher level courts and/or with longer experience are not keen towards using IT learning tools, learning foreign languages or attending international seminars. All these and other specificities should be taken into account when planning and implementing EU law curricula or regarding particular topics towards changing the legal culture, starting with gradual reforms of education at the level of law schools.

The regional seminars and workshops in EU law for judges and prosecutors with longer experience should be developed and organised in order to achieve common level of knowledge of WB judges in EU law, thus preparing them for active participation in more specialised training in EU law organised by EJTN.

1.2. GOOD PRACTICES OF THE EU MEMBER STATES WHICH COULD BE USED FOR ESTABLISHING A REGIONAL DATABASE ON EU LAW¹⁵

The EU Member States demonstrate different progress of training on EU law before and after the accession. For example, in some jurisdictions prior to membership learning activities were focused on raising awareness about the EU law amongst judges and prosecutors followed by regular activities on basic EU law for all judicial practitioners while after entering the EU, training on EU law and international judicial cooperation became interconnected and included in courses related to domestic branches of law already harmonised with the EU *acquis* (criminal law, civil law, commercial law, administrative law) with consistent application under the leadership of the highest national courts being ensured. Much more efforts are still needed in order to secure further quality application of the EU law in the region. Training needs should be properly analysed and used as a basis for intensified obligatory training in the framework of continuous judicial training.

1.2.1. ITALY

Within the wider context of decentralised training, GAIUS system relies on a network of local trainers who specialise in several areas of European law and who are also competent to organise training activities in several judicial districts and satisfy those training needs. Their task also includes implementation of databases and data collection and indexes of case-law of the ECJ and the ECHR. This network is integrated in the decentralised training structures as part of the Italian School for the Judiciary. The goals of this system is to increase the number of centralised and decentralised courses on European law; to provide specific training for judges who exercise jurisdiction in areas connected with European law; and to develop a webpage

¹⁵ European EU- justice portal EU- https://e-justice.europa.eu/content_good_training_practices-311-en.do?clang=en#n04

(electronic Gaius) capable of providing quick and easy access to past and ongoing training courses, teaching materials and national and European legislation.

1.2.2. THE NETHERLANDS

Eurinfra model consists of three sub-projects, with the following objectives: improving the accessibility of European law information resources using web technology; improving knowledge of European law amongst the Dutch judiciary; setting up and maintaining a network of court coordinators for European law (GCE). Court coordinators have been given the task of improving the information and internal coordination within their own courts, and maintaining contacts with other courts on the subject of European law. The three pillars of the project have achieved a permanent status and will be reinforced with new activities.

1.2.3. PORTUGAL

The JTC directly links training activities to providing access to EU law via electronic means. Along with the documentation delivered to participants in any continuous training action on legal issues, the TC also puts together a special folder gathering all EU legal instruments that are in any way connected with that same topic. The folder is prepared by an EU law trainer. It is available online in an open area of the TC's website along with all other training materials on this topic.

1.2.4. ROMANIA

National Institute of Magistracy (NIM) in Romania established EuRoQuod - Romanian national network of court coordinators in the field of European Union law. The goal was to improve knowledge of European law within the Romanian judiciary and ensure accessibility of European law information resources using web technology. EuRoQuod is now a functional network composed of 43 court coordinators, most of them very active, and with a very useful website containing three sections: one dedicated to the network, another for preliminary requests and a section dedicated to specific areas that raise

questions in the court's case-law. In its first year of operation, NIM organised four conferences dedicated to the training of EuRoQuod members. The fourth EuRoQuod conference was broadcasted online in English and was thus accessible to Dutch and Italian magistrates, establishing a connection between the three networks.

1.2.5. SPAIN

The combination of training in EU law and international cooperation courses comprises three phases: theoretical phase, led by a judge and a linguist that includes training in language terminology and discourse (French and English), training in the legal systems of France and England and in EU law (including substantive and procedural law, judicial cooperation instruments and the corresponding jurisprudence of the ECJ); practical and theoretical training is combined as participants carry out practical exercises, such as presenting arguments on proceedings or simulations of hearings based on the French and British systems; and a one-week internship in a court in France or England in order to acquire first-hand knowledge of the functioning of local institutions and of the legal systems where judges from the host countries act as tutors to the participants in this practical phase. As a follow-up, a secured internet forum is available to course participants in order to allow them to maintain contact with each other and continue exchanging their experiences.

1.2.6. VISEGRAD GROUP COUNTRIES (V4)

The judicial training institutions of Visegrad group (V4) countries have established a close regional cooperation, involving organisation of training activities on judicial cooperation in Europe, including in Poland, Czech Republic, Slovak Republic, and Hungary. One of the projects is the language training focusing on the legal terminology of general European Union law and Union legal acts, and especially on the legal terminology used in the field of judicial cooperation in criminal matters, extradition and surrender: EAW. Each partner can appoint 10 participants, judges or prosecutors, for each event. The training events (apart from the trav-

el costs) are financed by the host institutions. The working languages are English and the language of the host institution. Besides these training events, the project has resulted in the development of a pool of experts in the region in this area of law.

1.3. RECOMMENDATIONS RELATED TO THE DEVELOPMENT OF A REGIONAL E-PLATFORM ON EU LAW WITH RCC FACILITATION

The economies in the region have specific responsibilities especially due to their obligations deriving from the EU accession as a common goal. These economies believe that historical reasons, their geographical closeness, common language, and their similar experiences with EU integration mean they share the same needs in the training of judges and prosecutors in the area of European judicial cooperation. JTIs should set realistic objectives for developing training in EU law in line with their available resources and make the best use of EU projects, not only in their respective economies, but also in the wider regional environment. They should work in close cooperation with training providers in the region, with the Member States, especially from the region, and the existing networks (EJTN, RCC, HELP). They could designate staff members to be responsible for strengthening EU-wide contacts and overseeing the implementation of EU training development strategy.

With the RCC facilitation, Ministries of justice as well as ministries responsible for European integration processes should be more actively included in managing the development of the regional e-platform and in gathering EU legislation and all other relevant documents and materials for the judiciary and in assigning the relevant experts in drafting judicial strategies and action plans in line with the negotiation process policies and measures. In this regard, RCC could establish closer cooperation with the EU MS, especially with those in the SEE region with fresh experience of the approximation process.

Judicial training providers should ensure that training necessary for the implementation of projects is linked to the judicial reforms. They should establish common regional standards for identifying the training needs of judges and prosecutors of each level and in the specialised departments who work on international legal cooperation. Podcasts and webcasts can also be used to reach more people.

JTIs from the region should be able to use the benefits of all available platforms of EU law learning, web pages, e-learning, blended learning, video links, relevant regional EU training materials related to particular topic, databases, data collection and indexes of case-law of the ECJ and the ECHR, which provide quick and easy access to past and ongoing training courses, teaching materials and national and European legislation. All these materials and data need to be somehow digested and systematised.

The first step could be to establish a regional list (register) of national EU trainers, with data on their field of specialisation (general and in the specific area of criminal, civil, commercial, administrative, financial law, etc.), reports on study visits, internships, participation in exchange programmes. Regional coordinators should be assigned to gather EU knowledge and their coordination and regular meetings as well as their training should be encouraged, including sharing e-learning linguistic courses and creating an internet forum. Fostering cross-border cooperation could be in a form of indication of the contact persons in charge of international legal cooperation in the WB, mastering specialised vocabulary related to judicial cooperation in criminal and civil matters, in order to facilitate their direct contacts and enhance mutual trust.

This regional e-platform will be a perfect tool towards enhancing mutual understanding among judges and prosecutors from the region, creating a functional regional judicial network, and also establishing links and partnerships/cooperation with the other EU networks (Eurinfra, Gaius and EuRoQuod networks), providing possibilities for online discussions on particular topics and sharing the problems in court practice. Regular meetings and dialogue between the regional coordinators

are welcome, as well as connections between the regional coordinators and the responsible persons from other EU networks towards continuous advancement of their knowledge in maintaining and updating the established e-database.

The e-register could include the experts experienced in the whole package of reform processes for EU integration together with their colleagues from EU MS with similar experience and skills.

1.4. RECOMMENDATIONS TOWARDS ESTABLISHING COMMON REGIONAL STANDARDS ON ENSURING GOOD QUALITY OF JUDICIAL TRAINING ON INTERNATIONAL AND EU LAW IN THE WB ECONOMIES

- To define and analyse common strengths, weaknesses, threats and opportunities in the planning and delivery of EU training and methods for their overcoming/reducing;
- To define clear, understandable and focused questions in the preparation of the EU law training needs assessment for judges and prosecutors in close consultations with EU law experienced experts/law professors and EJTN experts;
- To prepare a common Questionnaire for TNA at the level of the SEE, to identify frequent topics in the national judiciaries for which there appears to be more interest among judges in the last 3 years, which could be addressed as regional topics;
- To share knowledge and skills acquired from international EU training and study visits among the judges and prosecutors and to enable posting easily accessible information on the RCC website;
- To organise meetings on best practices in teaching IT tools for accessing EU law in e-networks;
- To organise regular roundtables in order to select best methods for interpretation of EU law, using the arguments of the case-law of WB national courts, other national courts and the ECtHR and ECJ;
- To encourage effective dialogue between national and European courts, regular exchange of information and direct contacts between institutions;
- To create e-learning courses in EU law, specifically for judges and prosecutors working in close contact with international and European institutions and MoJ officials dealing with the international legal cooperation;
- To organise roundtables and meetings of the highest courts to discuss legal opinions on issues regarding the applicability of EU law sources in the WB jurisdictions as guidance to the lower courts on the effect and content of standard clauses and indirect consultation of the relevant EU instruments and ECJ's jurisprudence, thus ensuring access to these decisions for the judges from the region;
- To develop **guidelines adopted by the highest courts in line with the national constitutional legal order** and methods for developing domestic case-law in consistency with European law and international and European principles, standards and concepts, as well as on making better use of the EU law training in the workplace and everyday work;
- To ensure continuous and accessible information on international and European law available to all judges (legal texts and case-law, complete and up to date digested, indexed and annotated information), access to legal journals or special legal circulars and texts;
- To enable joint discussions on court cases in the region which involved international legal cooperation and the possibilities of using prosecutorial networks, joint investigation teams, European arrest warrant and their implementation in those cases;
- To develop common standards on capacity building of the institutions, preparation of

the e-learning platform, categorisation and storing the training materials on EU law and their accessibility for all JTIs in SEE, and also in the EU;

- To establish EU focal points at the training institutions in order to constantly systematise and follow the progress of the EU law and case-law and to communicate with the RCC as regards activities and information of regional relevance;
- To balance the level of knowledge on EU law in the law faculties curricula and link it to the bar exam;
- To identify and develop appropriate tests in EU law for the entrance exam for initial training group;
- To improve planning and preparation of the EU training and testing the knowledge of the participants in order to ensure their active participation, thus identifying participants who already have experience in the EU law;
- To establish a platform at RCC website to be managed by the RCC and supported by European funds for posting regional list of experienced trainers (creating their trainers cards) and relevant experts mentioned

above. The platform should be constantly updated to finally introduce obligatory training in EU law for the appellate court judges, given their immediate role in streamlining judicial practice, and for the highest court judges in the form of regular compulsory training courses on selected topics of relevance related to domestic application of EU law. In this regard, joint roundtables on EU topics for harmonisation of the judicial practice with participation of the highest courts should be organised on ad hoc basis;

- To translate summaries of selected ECHR's judgments into regional languages and publish them on appropriate judicial network website;
- To make use of the materials relevant for the judiciaries, judges and prosecutors, posted on the webpages of the ministries of justice and ministries in charge of European affairs;
- To establish institutional monitoring of application of the EU law by national courts as a basis for developing appropriate EU law training curricula.

-EDUCATION-



CHAPTER V

1. CONCLUSIONS/RECOMMENDATIONS - FUTURE RCC ACTIVITIES AS A LEADING REGIONAL FACILITATOR IN EU JUDICIAL NETWORKING

- Regular meetings of the SEE JTI Network should be more frequent due to the importance of direct exchange of experiences and know-how; members of the councils for the judiciary should participate at these meetings taking into account their crucial role in the management and preserving the independence of training institutions, as well as in judicial training as a key factor for enhancing the proficiency of judges and prosecutors, and due to their important role in the recruitment and appointment process;
- Regular meetings of the supreme courts and highest prosecutor's offices should be facilitated to discuss the problems in uniform application of laws, enhancing rule of law and the efficiency of criminal justice systems as most vulnerable to the infringement of human rights and to discuss implementation of the ECtHR case-law in this regard.

- Regular meetings could be organised with participation of other legal professions since all WB JTIs have a practice of organising multidisciplinary trainings or exams for the other legal professions (notaries, lawyers, enforcement agents);
- As the SEE Judicial Training Institutions Network strives to promote effective and independent justice systems, regular meetings could be organised with participation of the representatives of other powers to discuss the threats to judicial independence and to enhance the dialogue between the powers in line with the CCJE Opinion 18 to discuss the necessity of undertaking joint efforts to reduce the negative impacts of the external and internal pressure on the decision-making process;
- As the independence of the judiciaries is an important precondition for creating business-friendly environment, regional meetings could be organised between the representatives of WB judiciaries and the representatives of business communities in the respective economies to discuss the obstacles and the problems in the judiciaries and in the legislation to business climate and measures for their overcoming/reducing;
- Organise more activities (workshops and technical assistance) focusing on the implementation of newest documents on prevention of judicial corruption and on judicial integrity (Consultative Council of European Judges (CCJE) Opinion no.21 (2018) “Preventing corruption among judges”, comparative experiences of the GRECO Fourth Evaluation Round on prevention of corruption among judges and prosecutors, including RAI documents on whistleblowers) and on intensifying the activities in the area of protection of human rights in business, while at the same time strengthening cooperation with the CCJE, GRECO, RAI;
- Since the RCC is perceived as a link to the EC at regional level, RCC should take the leading role in organising regional meetings which will gather representatives of

the judiciary, executive bodies responsible for EU integration process and representatives of EU Delegations in WB economies, and focus on the topics related to the negotiation process; better structuring and fulfilling the benchmarks in Chapter 23 and 24 as crucial for accession; better structuring the EC progress reports; enhancing the skills and abilities for drafting and preparing strategic documents and action plans for judicial reforms and their implementation, and for well-prepared participation in the negotiation procedures with the EC; while identifying persons with the highest possible professional and ethical skills and dignity in this regard;

- RCC could assist in strengthening the independency, sustainability and capacity of the JTIs, MoJs and ministries for European integration, by improving staff skills in drafting national plans and strategies, monitoring their implementation and on implementation of the recommendations coming from IPA projects and other EU funded actions.
- RCC’s database of trainers and mentors should be gradually broadened with other content (materials in EU law, modules, guidelines, list of mentors, systems of evaluation);
- Establish cooperation with CoE Human Rights Programme for Legal Professionals (HELP) and Commission for Efficiency of Justice (CEPEJ) and host e-learning platform (HELP), make better use of indicators and recommendations given by in the area of quality of judicial training and ADR in SEE, introduce CEPEJ tools on judicial time and quality management;
- Participants should nominate a person at the working level in JTI to an informal contact group for exchanging information about the relevant activities via e-mail, keeping in mind that RCC serves as a focal point and will disseminate the information and/or support some of these activities;
- Although the participating training institutions have different status in relevant European networks and other international in-

stitutions, regional seminar(s) for judges on cross-border cooperation in civil, commercial and family matters should be organised by RCC;

- RCC should support regional activities on improving the core elements of organisation and basic activities of JTI as a prerequisite for sustainable institution building process (training needs assessment, external evaluation, selection and training of trainers);
- Invite representatives from SEE Judicial Training Institutions to RCC-organised regional meetings to present their activities undertaken between the meetings towards promoting the work and activities of the RCC SEE Judicial Training Institutions Network and measures for increasing its visibility, and discuss its further improvement.

- RCC should ask JTIs to provide contact points at working level who will share information on regionally relevant activities, materials and reforms with the RCC Expert on Rule of Law.

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Regional Cooperation Council

Trg BiH 1/V, Sarajevo
Bosnia and Herzegovina

Fax. +387 33 561 701
Tel. +387 33 561 700

mail: rcc@rcc.int
website: www.rcc.int



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